

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1513*

Short Title: Juvenile Law Revision.

(Public)

Sponsors: Senator Gulley.

Referred to: Judiciary.

May 28, 1998

A BILL TO BE ENTITLED

1 AN ACT TO REWRITE THE JUVENILE CODE TO UPDATE THE LAW ON
2 ABUSE, NEGLECT, AND DEPENDENCY, TO CONFORM THIS LAW TO
3 FEDERAL ADOPTION LAW, TO INCORPORATE THE RECOMMENDATIONS
4 OF THE GOVERNOR'S COMMISSION ON JUVENILE CRIME AND JUSTICE
5 INTO THE LAW ON UNDISCIPLINEDNESS AND DELINQUENCY, TO MAKE
6 CONFORMING CHANGES, AND TO APPROPRIATE FUNDS TO IMPLEMENT
7 THESE CHANGES.
8

9 The General Assembly of North Carolina enacts:

10
11 **PART I. RECODIFICATION AND REWRITING OF THE LAW ON ABUSED,
12 NEGLECTED, AND DEPENDENT CHILDREN.**

13
14 Section 1. The General Statutes are amended by adding a new chapter,
15 Chapter 7B, titled "The Juvenile Code". Subchapter XI of Chapter 7A of the General
16 Statutes is recodified as Subchapter I of new Chapter 7B of the General Statutes and
17 reads as rewritten:

18 **"CHAPTER 7B.**
19 **"THE JUVENILE CODE.**

1 "SUBCHAPTER I. NORTH CAROLINA JUVENILE CODE. CODE ON ABUSE,
2 NEGLECT, AND DEPENDENCY OF CHILDREN.

3 "ARTICLE "PURPOSE; DEFINITIONS.

4 **"§ 7A—This Subchapter shall be interpreted and construed so as to implement the**
5 **following purposes and policies:**

6 (1) ~~To divert juvenile offenders from the juvenile system through the intake~~
7 ~~services authorized herein so that juveniles may remain in their own~~
8 ~~homes and may be treated through community-based services when this~~
9 ~~approach is consistent with the protection of the public safety;~~

10 (1) To provide that the health and the safety of the child shall be of
11 paramount concern;

12 (2) To provide procedures for the hearing of juvenile-children's cases that
13 assure fairness and equity and that protect the constitutional rights of
14 juveniles-children and parents;

15 (3) To develop a disposition in each juvenile-child's case that reflects
16 consideration of the facts, the needs and limitations of the child, and the
17 strengths and weaknesses of the family, and the protection of the public
18 safety; family;

19 (4) To provide for services for the protection of juveniles-children by means
20 that respect both the right to family autonomy and juveniles'-children's
21 needs for safety, continuity, and permanence; and

22 (5) To provide standards for the removal, when necessary, of juveniles
23 children from their homes and for the return of juveniles-children to
24 their homes consistent with preventing the unnecessary or inappropriate
25 separation of juveniles-children from their parents.

26 **"§ 7A-517. 7B-101. Definitions.**

27 Unless the context clearly requires otherwise, the following words have the listed
28 meanings:

29 (1) Abused juveniles-child – Any juvenile-child less than 18 years of age
30 whose parent, guardian, custodian, or caretaker:

31 a. Inflicts or allows to be inflicted upon the juvenile-child a serious
32 physical injury by other than accidental means; or

33 b. Creates or allows to be created a substantial risk of serious
34 physical injury to the juvenile-child by other than accidental
35 means; or

36 b1. Uses or allows to be used upon the juvenile-child cruel or grossly
37 inappropriate procedures or cruel or grossly inappropriate
38 devices to modify behavior; or

39 c. Commits, permits, or encourages the commission of a violation
40 of the following laws by, with, or upon the juvenile-child: first
41 degree rape, as provided in G.S. 14-27.2; second degree rape as
42 provided in G.S. 14-27.3; first degree sexual offense, as provided
43 in G.S. 14-27.4; second degree sexual offense, as provided in

- 1 G.S. 14-27.5; sexual act by a custodian, as provided in G.S. 14-
2 27.7; crime against nature, as provided in G.S. 14-177; incest, as
3 provided in G.S. 14-178 and 14-179; preparation of obscene
4 photographs, slides or motion pictures of the ~~juvenile-child~~, as
5 provided in G.S. 14-190.5; employing or permitting the ~~juvenile~~
6 ~~child~~ to assist in a violation of the obscenity laws as provided in
7 G.S. 14-190.6; dissemination of obscene material to the ~~juvenile~~
8 ~~child~~ as provided in G.S. 14-190.7 and G.S. 14-190.8; displaying
9 or disseminating material harmful to the ~~juvenile-child~~ as
10 provided in G.S. 14-190.14 and G.S. 14-190.15; first and second
11 degree sexual exploitation of the ~~juvenile-child~~ as provided in
12 G.S. 14-190.16 and G.S. 14-190.17; promoting the prostitution of
13 the ~~juvenile-child~~ as provided in G.S. 14-190.18; and taking
14 indecent liberties with the ~~juvenile-child~~ as provided in G.S. 14-
15 202.1, regardless of the age of the parties; or
- 16 d. Creates or allows to be created serious emotional damage to the
17 ~~juvenile-child~~. Serious emotional damage is evidenced by a
18 ~~juvenile's-child's~~ severe anxiety, depression, withdrawal or
19 aggressive behavior toward himself or others; or
- 20 e. Encourages, directs, or approves of delinquent acts involving
21 moral turpitude committed by the ~~juvenile-child~~.
- 22 (2) ~~Aftercare. The supervision of a juvenile who has been returned to the~~
23 ~~community on conditional release after having been committed to the~~
24 ~~Division of Youth Services.~~
- 25 (3) ~~Administrator for Juvenile Services. The person who is responsible~~
26 ~~for the planning, organization, and administration of a statewide system~~
27 ~~of juvenile intake, probation, and aftercare services.~~
- 28 (4) ~~Director of the Division of Youth Services. The person responsible for~~
29 ~~the supervision of the administration of institutional and detention~~
30 ~~services.~~
- 31 (2) Aggravated circumstances. – Any circumstance attending to the
32 commission of an act of abuse or neglect that increases its enormity or
33 adds to its injurious consequences, including but not limited to
34 abandonment, torture, chronic abuse, or sexual abuse.
35 guardian, or custodian who has responsibility for the health and welfare of a
36 ~~juvenile-child~~ in a residential setting. A person responsible
37 for ~~juvenile's child's~~ health and welfare means a stepparent, foster
38 parent, an adult member of the ~~juvenile's-child's~~ household, an adult
39 relative entrusted with the ~~juvenile's-child's~~ care, or any person such as a
40 house parent or cottage parent who has primary responsibility for
41 supervising a ~~juvenile's-child's~~ health and welfare in a residential child
42 care facility or residential educational facility. 'Caretaker' also means
43 any person who has the responsibility for the care of a juvenile in a

1 child care facility as defined in Article 7 of Chapter 110 of the General
2 Statutes and includes any person who has the approval of the care
3 provider to assume responsibility for the juveniles under the care of the
4 care provider. Nothing in this subdivision shall be construed to impose
5 a legal duty of support under Chapter 50 or Chapter 110 of the General
6 Statutes. The duty imposed upon a caretaker as defined in this
7 subdivision shall be for the purpose of Chapter ~~7A-7B~~ of the General
8 Statutes only.

9 ~~(6) Chief Court Counselor. — The person responsible for administration and~~
10 ~~supervision of juvenile intake, probation, and aftercare in each judicial~~
11 ~~district, operating under the supervision of the Administrator for~~
12 ~~Juvenile Services.~~

13 ~~(4) Child. — Any person who has not reached the eighteenth birthday and is~~
14 ~~not married, emancipated, or a member of the armed services of the~~
15 ~~United States. Wherever the term 'child' is used with reference to rights~~
16 ~~and privileges, this term encompasses the attorney or guardian ad litem~~
17 ~~for the child as well.~~

18 ~~(7) (5) Clerk. — Any clerk of superior court, acting~~
19 ~~clerk, or assistant or deputy clerk.~~

20 ~~(8) Community-based program. — A program providing nonresidential or~~
21 ~~residential treatment to a juvenile in the community where his family~~
22 ~~lives. A community-based program may include specialized foster care,~~
23 ~~family counseling, shelter care, and other appropriate treatment.~~

24 ~~(9) (6) Court. — The District Court Division of the~~
25 ~~General Court of Justice.~~

26 ~~(7) Court of Competent Jurisdiction. — A court having the power and~~
27 ~~authority of law to act at the time of acting over the subject matter of the~~
28 ~~cause.~~

29 ~~(10) Court counselor. — A person responsible for probation and aftercare~~
30 ~~services to juveniles on probation or on conditional release from the~~
31 ~~Division of Youth Services under the supervision of the chief court~~
32 ~~counselor.~~

33 ~~(11) (8) Custodian. — The person or agency that has~~
34 ~~been awarded legal custody of a juvenile child by a court.~~

35 ~~(12) Delinquent juvenile. — Any juvenile less than 16 years of age who has~~
36 ~~committed a crime or infraction under State law or under an ordinance~~
37 ~~of local government, including violation of the motor vehicle laws.~~

38 ~~(13) (9) Dependent Juvenile Child. — A juvenile child~~
39 ~~in need of assistance or placement because the juvenile child has no~~
40 ~~parent, guardian, or custodian responsible for the juvenile's child's care~~
41 ~~or supervision or whose parent, guardian, or custodian is unable to~~
42 ~~provide for the care or supervision and lacks an appropriate alternative~~
43 ~~child care arrangement.~~

- 1 (14) ~~Detention.—The confinement of a juvenile pursuant to an order for~~
2 ~~secure custody pending an adjudicatory or dispositional hearing or~~
3 ~~admission to a placement with the Division of Youth Services.~~
- 4 (15) ~~Detention home.—An authorized facility providing secure custody for~~
5 ~~juveniles.~~
- 6 (15a)(10) ~~District. — Any district court district~~
7 ~~as established by G.S. 7A-133.~~
- 8 (16) ~~Holdover facility.—A place in a jail which has been approved by the~~
9 ~~Department of Health and Human Services as meeting the State~~
10 ~~standards for detention as required in G.S. 153A-221 providing close~~
11 ~~supervision where the juvenile cannot converse with, see, or be seen by~~
12 ~~the adult population.~~
- 13 (16.1) (11) ~~In loco parentis. — A person acting in~~
14 ~~loco parentis means one, other than parents or legal guardian, who has~~
15 ~~assumed the status and obligation of a parent without being awarded the~~
16 ~~legal custody of a juvenile child by a court.~~
- 17 (17) ~~Intake counselor.—A person who screens a petition alleging that a~~
18 ~~juvenile is delinquent or undisciplined to determine whether the petition~~
19 ~~should be filed.~~
- 20 (18) ~~Interstate Compact on Juveniles.—An agreement ratified by 50 states~~
21 ~~and the District of Columbia providing a formal means of returning a~~
22 ~~juvenile, who is an absconder, escapee or runaway, to his home state.~~
- 23 (19) (12) ~~Judge. — Any district court judge.~~
- 24 (19a) (13) ~~Judicial district. — Any district court district as established by G.S.~~
25 ~~7A-133.~~
- 26 (20) ~~Juvenile.—Any person who has not reached his eighteenth birthday and~~
27 ~~is not married, emancipated, or a member of the armed services of the~~
28 ~~United States. For the purposes of subdivisions (12) and (28) of this~~
29 ~~section, a juvenile is any person who has not reached his sixteenth~~
30 ~~birthday and is not married, emancipated, or a member of the armed~~
31 ~~forces. A juvenile who is married, emancipated, or a member of the~~
32 ~~armed forces, shall be prosecuted as an adult for the commission of a~~
33 ~~criminal offense. Wherever the term "juvenile" is used with reference to~~
34 ~~rights and privileges, that term encompasses the attorney for the juvenile~~
35 ~~as well.~~
- 36 (21) (14) ~~Neglected Juvenile Child. — A juvenile child~~
37 ~~who does not receive proper care, supervision, or discipline from the~~
38 ~~juvenile's child's parent, guardian, custodian, or caretaker; or who has~~
39 ~~been abandoned; or who is not provided necessary medical care; or who~~
40 ~~is not provided necessary remedial care; or who lives in an environment~~
41 ~~injurious to the juvenile's child's welfare; or who has been placed for~~
42 ~~care or adoption in violation of law. In determining whether a juvenile~~
43 ~~child is a neglected juvenile child, it is relevant whether that juvenile~~

1 child lives in a home where another juvenile-child has been subjected to
2 abuse or neglect by an adult who regularly lives in the home. In
3 determining whether a child is a neglected child, it is relevant whether
4 the mother or the child or both had controlled substances present in in
5 their bodily systems at the birth of the child.

6 (22) ~~(15)~~ Petitioner. – The individual who initiates
7 court action, whether by the filing of a petition or of a motion for review
8 alleging the matter for adjudication.

9 (23) Probation. — ~~The status of a juvenile who has been adjudicated~~
10 ~~delinquent, is subject to specified conditions under the supervision of a~~
11 ~~court counselor, and may be returned to the court for violation of those~~
12 ~~conditions during the period of probation.~~

13 (24) Prosecutor. — ~~The assistant district attorney assigned by the district~~
14 ~~attorney to juvenile proceedings.~~

15 (25) Protective supervision. — ~~The status of a juvenile who has been~~
16 ~~adjudicated delinquent or undisciplined and is under the supervision of a~~
17 ~~court counselor.~~

18 (25a) ~~(16)~~ Reasonable efforts. – The diligent use
19 of preventive or reunification services by a department of social services
20 when a ~~juvenile's~~ child's remaining at home or returning home is
21 consistent with achieving a safe, permanent home for the ~~juvenile-child~~
22 within a reasonable period of time. ~~time~~ or, when the child is not to be
23 returned home, the diligent and timely use of permanency planning
24 services by a department of social services to develop and implement a
25 permanent plan for the child.

26 (26) Regional detention home. — ~~A state supported and administered regional~~
27 ~~facility providing detention care.~~

28 (26a) Safe home. — ~~A home in which the child is not at substantial risk of~~
29 ~~physical or emotional abuse or neglect.~~

30 (27) Shelter care. — ~~The temporary care of a juvenile in a physically~~
31 ~~unrestricting facility pending court disposition.~~

32 (28) Undisciplined juvenile. — ~~A juvenile less than 16 years of age who is~~
33 ~~unlawfully absent from school; or who is regularly disobedient to his~~
34 ~~parent, guardian, or custodian and beyond their disciplinary control; or~~
35 ~~who is regularly found in places where it is unlawful for a juvenile to~~
36 ~~be; or who has run away from home.~~

37 (29) ~~(17)~~ Director of the department of social services.

38 – The director of the county department of social services in the county
39 in which the ~~juvenile-child~~ resides or is found, or ~~his~~ the director's
40 representative as authorized in G.S. 108A-14.

41 The singular includes the plural, the masculine singular includes the feminine singular
42 and masculine and feminine plural unless otherwise specified.

43 "ARTICLE 42-2.

"JURISDICTION.**"§ ~~7A-523-7B-200.~~ Jurisdiction.**

(a) The court has exclusive, original jurisdiction over any case involving a juvenile child who is alleged to be ~~delinquent, undisciplined,~~ abused, neglected, or dependent. This jurisdiction does not extend to cases involving adult defendants alleged to be guilty of abuse or neglect. For purposes of determining ~~jurisdiction, with the exception of~~ ~~[subsection] (c) below,~~ jurisdiction, the age of the juvenile child either at the time of the ~~alleged offense or~~ when the conditions causing the juvenile child to be abused, neglected, or dependent arose, governs. There is no minimum age for ~~juveniles children~~ alleged to be abused, dependent or neglected. ~~For juveniles alleged to be delinquent or undisciplined, the minimum age is six years of age.~~

The court also has exclusive original jurisdiction of the following proceedings:

- (1) Proceedings under the Interstate Compact on Placement of Children; Juveniles and the Interstate Parole and Probation Hearing Procedures for Juveniles;
- (2) ~~Proceedings to determine whether a juvenile who is on conditional release and under the aftercare supervision of the court counselor has violated the terms of the juvenile's conditional release established by the Division of Youth Services;~~
- (3) (2) Proceedings involving judicial consent for emergency surgical or medical treatment for a juvenile child when the ~~juvenile's~~ child's parent, guardian, legal custodian, or other person standing in loco parentis refuses to consent for treatment to be rendered;
- (4) (3) Proceedings to determine whether a juvenile child should be emancipated;
- (5) (4) Proceedings to terminate parental rights;
- (6) (5) Proceedings to review the placement of a juvenile child in foster care pursuant to an agreement between the ~~juvenile's~~ child's parents or guardian and a county department of social services;
- (7) (6) Proceedings in which a person is alleged to have obstructed or interfered with an investigation required by G.S. ~~7A-544-7B-302;~~ and
- (8) (7) Proceedings involving consent for an abortion on an unemancipated minor pursuant to Article 1A, Part 2 of Chapter 90 of the General Statutes.

(b) The court shall have jurisdiction over the parent of a juvenile child who has been adjudicated ~~delinquent, undisciplined,~~ abused, neglected or dependent, as provided by G.S. ~~7A-564, 7A-940,~~ provided the parent has been properly served with ~~notice~~ summons pursuant to G.S. ~~7A-564-7B-406.~~

(c) ~~When the court has not obtained jurisdiction over a juvenile before the juvenile reaches the age of eighteen, for a felony and any related misdemeanors the juvenile allegedly committed on or after the juvenile's thirteenth birthday and prior to the~~

1 juvenile's sixteenth birthday, the court has jurisdiction for the sole purpose of conducting
2 proceedings pursuant to Article 49 of this Chapter and either transferring the case to
3 superior court for trial as an adult or dismissing the petition.

4 **~~§ 7A-524. 7B-201. Retention of jurisdiction.~~**

5 When the court obtains jurisdiction over a juvenile, child, jurisdiction shall continue
6 until terminated by order of the court or until the juvenile-child reaches the age of
7 eighteen. ~~When delinquency proceedings cannot be concluded before the juvenile reaches~~
8 ~~the age of eighteen, the court retains jurisdiction for the sole purpose of conducting~~
9 ~~proceedings pursuant to Article 49 of this Chapter and either transferring the case to~~
10 ~~superior court for trial as an adult or dismissing the petition. Any juvenile who is under~~
11 ~~the jurisdiction of the court and commits a criminal offense after the juvenile's sixteenth~~
12 ~~birthday is subject to prosecution as an adult. Any juvenile who is transferred to and~~
13 ~~sentenced by the superior court for a felony offense shall be prosecuted as an adult for all~~
14 ~~other crimes alleged to have been committed by the juvenile while the juvenile is under~~
15 ~~the active supervision of the superior court. Nothing herein shall be construed to divest~~
16 ~~the court of jurisdiction in abuse, neglect, or dependency proceedings.~~

17 **~~§§7A.ARTICLE 43.~~**

18 **~~SCREENING OF DELINQUENCY AND UNDISCIPLINED PETITIONS.~~**

19 **~~§ 7Ar The Chief Court Counselor, under the direction of the Administrator of~~**
20 **~~Juvenile Services, shall establish intake services in each judicial district of~~**
21 **~~the State for all delinquency and undisciplined cases.~~**

22 The purpose of intake services shall be to determine from available evidence whether
23 there are reasonable grounds to believe the facts alleged are true, to determine whether
24 the facts alleged constitute a delinquent or undisciplined offense within the jurisdiction of
25 the court, to determine whether the facts alleged are sufficiently serious to warrant court
26 action and to obtain assistance from community resources when court referral is not
27 necessary. The intake counselor shall not engage in field investigations to substantiate
28 complaints or to produce supplementary evidence but may refer complainants to law-
29 enforcement agencies for those purposes.

30 **~~§ 7Aa When a complaint is received, the intake counselor shall make a preliminary~~**
31 **~~determination as to whether the juvenile is within the jurisdiction of the~~**
32 **~~court as a delinquent or undisciplined juvenile. If the intake counselor~~**
33 **~~finds that the facts contained in the complaint do not state a case within~~**
34 **~~the jurisdiction of the court, that legal sufficiency has not been established,~~**
35 **~~or that the matters alleged are frivolous, he shall, without further inquiry,~~**
36 **~~refuse authorization to file the complaint.~~**

37 When requested by the intake counselor, the prosecutor shall assist in determining the
38 sufficiency of evidence as it affects the quantum of proof and the elements of offenses.

39 If the intake counselor finds reasonable grounds to believe that the juvenile has
40 committed one of the following offenses, he shall, without further inquiry, authorize the
41 complaint to be filed as a petition: murder; first or second degree rape; first or second
42 degree sexual offense; arson; any violation of Article 5, Chapter 90 of the North Carolina
43 General Statutes which would constitute a felony if committed by an adult; first degree

1 burglary; crime against nature; or any felony which involves the willful infliction of
2 serious bodily injury upon another or which was committed by use of a deadly weapon.

3 ~~§7Ad Upon a finding of legal sufficiency, except in the nondivertible offenses set out
4 in G.S. 7A-531, the intake counselor shall determine whether a complaint
5 should be filed as a petition, the juvenile diverted to a community
6 resource, or the case resolved without further action. He shall consider
7 criteria which shall be provided by the Administrator of Juvenile Services
8 in making his decision. The intake process shall include the following steps
9 if practicable:~~

- 10 (1) Interviews with the complainant and the victim if someone other than
11 the complainant;
12 (2) Interviews with the juvenile, his parent, guardian, or custodian;
13 (3) Interviews with persons known to have information about the juvenile
14 or family which information is pertinent to the case.

15 Interviews required by this section shall be conducted in person unless it is necessary to
16 conduct them by telephone.

17 ~~§ 7A The evaluation of a particular complaint shall be completed within 15 days,
18 with an extension for a maximum of 15 additional days at the discretion of
19 the Chief Court Counselor. The intake counselor must decide within this
20 time period whether or not a complaint will be filed as a juvenile petition.
21 If the intake counselor determines that a complaint should be filed as a
22 petition, he shall assist the complainant when necessary with the
23 preparation and filing of the petition, or help with the preparation and
24 filing of the petition, shall endorse on it the date and the words "Approved
25 for filing," shall sign it beneath such words, and shall transmit it to the
26 clerk of superior court. If the intake counselor determines that a petition
27 should not be filed, he shall immediately notify the complainant in writing
28 with reasons for his decision and shall include notice of the complainant's
29 right to have the decision reviewed by the prosecutor. The intake
30 counselor shall then sign his name on the complaint beneath the words
31 "Not approved."~~

32 Any complaint not approved for filing as a juvenile petition shall be destroyed by the
33 intake counselor after holding the complaint for a temporary period to allow follow up
34 and review as provided in G.S. 7A-534 and 7A-536.

35 ~~§7AG The intake counselor may refer any case to an appropriate public or private
36 resource unless the offense is one in which a petition is required as set out
37 in G.S. 7A-531. After making a referral, the intake counselor shall
38 ascertain that the juvenile actually contacted or was seen by the resource
39 to which he was referred. In the event that the juvenile does not contact or
40 visit the community resource, the intake counselor may reconsider his
41 decision to divert and may authorize the filing of a complaint as a petition
42 within 60 days from the date of the referral. If the juvenile contacts or is
43 seen by the resource, the intake counselor shall close the file.~~

1 ~~§ 7A0 The complainant has five calendar days, from receipt of the intake~~
2 ~~counselor's decision not to approve the filing of a complaint, to request~~
3 ~~review by the prosecutor. The intake counselor shall notify the prosecutor~~
4 ~~immediately of such request and shall transmit to the prosecutor a copy of~~
5 ~~the complaint. The prosecutor shall notify the complainant and the intake~~
6 ~~counselor of the time and place for the review.~~

7 ~~§ 7Aafiled:~~

8 ~~The prosecutor shall review the intake counselor's determination, that a juvenile~~
9 ~~petition should not be filed, no later than 20 days after the complainant is notified.~~
10 ~~Review shall include conferences with the complainant and the intake counselor. At the~~
11 ~~conclusion of the review, the prosecution shall: (i) affirm the decision of the intake~~
12 ~~counselor or direct the filing of a petition and (ii) notify the complainant of his action.~~

13 **"ARTICLE 44-3.**

14 **"SCREENING OF ABUSE AND NEGLECT COMPLAINTS.**

15 **"§ 7A-542-7B-300. Protective services.**

16 The Director of the Department of Social Services in each county of the State shall
17 establish protective services for ~~juveniles~~ children alleged to be abused, neglected, or
18 dependent.

19 Protective services shall include the investigation and screening of complaints,
20 casework or other counseling services to parents or other caretakers as provided by the
21 director to help the ~~parents or other parents, guardians, custodians, or caretakers~~ and the
22 court to prevent abuse or neglect, to improve the quality of child care, to be more
23 adequate ~~parents or parents, guardians, custodians, or caretakers~~, and to preserve and
24 stabilize family life.

25 ~~The provisions of this Article shall also apply to child care facilities as defined in G.S.~~
26 ~~110-86.~~

27 **"§ 7A-543-7B-301. Duty to report child abuse, neglect, dependency, or death due to**
28 **maltreatment. maltreatment; report.**

29 (a) Any person or institution who has cause to suspect that any ~~juvenile child~~ is
30 abused, neglected, or dependent, as defined by G.S. ~~7A-517, 7B-101~~, or has died as the
31 result of maltreatment, shall report the case of that ~~juvenile child~~ to the Director of the
32 Department of Social Services in the county where the ~~juvenile child~~ resides or is found.
33 ~~The report may be made orally, by telephone, or in writing. The report shall include~~
34 ~~information as is known to the person making it including the name and address of the~~
35 ~~juvenile; the name and address of the juvenile's parent, guardian, or caretaker; the age of~~
36 ~~the juvenile; the names and ages of other juveniles in the home; the present whereabouts~~
37 ~~of the juvenile if not at the home address; the nature and extent of any injury or condition~~
38 ~~resulting from abuse, neglect, or dependency; and any other information which the person~~
39 ~~making the report believes might be helpful in establishing the need for protective~~
40 ~~services or court intervention. If the report is made orally or by telephone, the person~~
41 ~~making the report shall give the person's name, address, and telephone number. Refusal~~
42 ~~of the person making the report to give a name shall not preclude the Department's~~

1 ~~investigation of the alleged abuse, neglect, dependency, or death as a result of~~
2 ~~maltreatment.~~

3 Upon receipt of any report of child sexual abuse in a child care facility, the Director
4 shall notify the State Bureau of Investigation within 24 hours or on the next work day. If
5 child sexual abuse in a child care facility is not alleged in the initial report, but during the
6 course of the investigation there is reason to suspect that child sexual abuse has occurred,
7 the Director shall immediately notify the State Bureau of Investigation. Upon notification
8 that child sexual abuse may have occurred in a child care facility, the State Bureau of
9 Investigation may form a task force to investigate the report.

10 (b) The report of suspected child abuse, neglect or dependency as defined by
11 G.S. telephone, or in writing. The report shall include information known to the person
12 making it, including:

13 (1) The name and address of the child;

14 (2) The name and address of the child's parent, guardian, custodian or
15 caretaker;

16 (3) The age of the child;

17 (4) The names and ages of other children in the home;

18 (5) The present whereabouts of the child if not at the home address;

19 (6) The nature and extent of any injury or condition resulting from abuse,
20 neglect, or dependency;

21 (7) Any other information which the person making the report believes
22 might be helpful in establishing the need for protective service or court
23 intervention.

24 The person making the report shall give the person's name, address, and telephone
25 number. Refusal of the person making the report to give a name shall not preclude the
26 Department's investigation of the alleged abuse, neglect, or dependency.

27 **"§ 7A-544. 7B-302. Investigation by Director; access to confidential information;**
28 **notification of person making the report.**

29 (a) Investigation by Departments of Social Services. – When a report of abuse,
30 neglect, or dependency is received, the Director of the Department of Social Services
31 shall make a prompt and thorough investigation in order to ascertain the facts of the case,
32 the extent of the abuse or neglect, and the risk of harm to the juvenile-child, in order to
33 determine whether protective services should be provided or the complaint filed as a
34 petition. When the report alleges abuse, the Director shall immediately, but no later than
35 24 hours after receipt of the report, initiate the investigation. When the report alleges
36 neglect or dependency, the Director shall initiate the investigation within 72 hours
37 following receipt of the report. The investigation and evaluation shall include a visit to
38 the place where the juvenile-child resides. All information received by the Department of
39 Social Services, including the identity of the reporter, shall be held in strictest confidence
40 by the Department.

41 When a report of a child's death as a result of suspected maltreatment or a report of
42 suspected abuse, neglect, or dependency of a juvenile-child is received, the Director of
43 the Department of Social Services shall immediately ascertain if other juveniles-children

1 ~~remain~~ reside in the ~~home,~~ family home of the alleged perpetrator, and, if so, initiate an
2 investigation in order to determine whether they require protective services or whether
3 immediate removal of the ~~juveniles~~ children from the home is necessary for their
4 protection.

5 The department of social services shall complete its investigation within 30 days of
6 the receipt of the report or shall ensure that there are fully documented reasons for delay
7 in the Child Protective Services record.

8 (b) Removal of Child From Home. – If the investigation indicates that abuse,
9 neglect, or dependency has occurred, the Director shall decide whether immediate
10 removal of the ~~juvenile child~~ or any other ~~juveniles children~~ in the home is necessary for
11 their protection. If immediate removal does not seem necessary, the Director shall
12 immediately provide or arrange for protective services. If the ~~parent or parent,~~ guardian,
13 custodian, or other caretaker refuses to accept the protective services provided or
14 arranged by the Director, the Director shall sign a complaint seeking to invoke the
15 jurisdiction of the court for the protection of the ~~juvenile or juveniles~~ child or children.

16 If immediate removal seems necessary for the protection of the ~~juvenile child~~ or other
17 ~~juveniles children~~ in the home, the Director shall sign a ~~complaint~~ petition which alleges
18 the applicable facts to invoke the jurisdiction of the ~~court.~~ court and seek a nonsecure
19 custody order. Where the investigation shows that it is warranted, a protective services
20 worker may assume temporary custody of the ~~juvenile child~~ for the ~~juvenile's~~ child's
21 protection pursuant to Article 46 of this Chapter.

22 (c) Access to Confidential Information. – In performing any duties related to the
23 investigation of the ~~complaint report~~ or the provision or arrangement for protective
24 services, the Director may consult with any public or private agencies or individuals,
25 including the available State or local law-enforcement officers who shall assist in the
26 investigation and evaluation of the seriousness of any report of abuse, neglect, or
27 dependency when requested by the Director. The Director ~~or the Director's representative~~
28 may make a written demand for any information or reports, whether or not confidential,
29 that may in the Director's opinion be relevant to the investigation of or the provision for
30 protective services. Upon the Director's ~~or the Director's representative's request~~ and
31 unless protected by the attorney-client privilege, any public or private agency or
32 individual shall provide access to and copies of this confidential information and these
33 records to the extent permitted by federal law and regulations. If a custodian of criminal
34 investigative information or records believes that release of the information will
35 jeopardize the right of the State to prosecute a defendant or the right of a defendant to
36 receive a fair trial or will undermine an ongoing or future investigation, it may seek an
37 order from a court of competent jurisdiction to prevent disclosure of the information. In
38 such an action, the custodian of the records shall have the burden of showing by a
39 preponderance of the evidence that disclosure of the information in question will
40 jeopardize the right of the State to prosecute a defendant or the right of a defendant to
41 receive a fair trial or will undermine an ongoing or future investigation. Actions brought
42 pursuant to this paragraph shall be set down for immediate hearing, and subsequent
43 proceedings in the actions shall be accorded priority by the trial and appellate courts.

1 (d) Notice to Reporter. – Within five working days after receipt of the report of
2 abuse, neglect, or dependency, the Director shall give written notice to the person making
3 the report, unless requested by that person not to give notice, as to whether the report was
4 accepted for investigation and whether the report was referred to the appropriate State or
5 local law enforcement agency.

6 Within five working days after completion of the protective services investigation, the
7 Director shall give subsequent written notice to the person making the report, unless
8 requested by that person not to give notice, as to whether there is a finding of abuse,
9 neglect, or dependency, whether the county Department of Social Services is taking
10 action to protect the ~~juvenile, child,~~ and what action it is taking, including whether or not
11 a petition was filed. The second notification shall inform the person making the report
12 shall be informed of procedures necessary to request a review by the prosecutor of the
13 Director's decision not to file a petition. A request for review by the prosecutor shall be
14 made within five working days of receipt of the second notification. The second
15 notification shall include notice that, if the person making the report is not satisfied with
16 the Director's decision, he may request review of the decision by the prosecutor within
17 five working days of receipt.–The person making the report may waive the person's right
18 to this notification and no notification is required if the person making the report does not
19 identify himself to the Director.

20 **"§ 7A-544.1-7B-303. Interference with investigation.**

21 (a) If any person obstructs or interferes with an investigation required by G.S. ~~7A-~~
22 ~~544, 7B-302,~~ the Director may file a petition naming ~~said this~~ person as respondent and
23 requesting an order directing the respondent to cease ~~such this~~ obstruction or interference.
24 The petition shall contain the name and date of birth and address of the ~~juvenile-child~~
25 who is the subject of the investigation, shall specifically describe the conduct alleged to
26 constitute obstruction of or interference with the investigation, and shall be verified.

27 (b) For purposes of this section, obstruction of or interference with an
28 investigation means refusing to disclose the whereabouts of the ~~juvenile, child,~~ refusing
29 to allow the director to have personal access to the ~~juvenile, child,~~ refusing to allow the
30 director to observe or interview the ~~juvenile-child~~ in private, refusing to allow the
31 Director access to confidential information and records upon request pursuant to G.S. ~~7A-~~
32 ~~544, 7B-302,~~ refusing to allow the director to arrange for an evaluation of the ~~juvenile~~
33 ~~child~~ by a physician or other expert, or other conduct that makes it impossible for the
34 director to carry out the duty to investigate.

35 (c) Upon filing of the petition, the court shall schedule a hearing to be held not less
36 than five days after service of the petition and summons on the respondent. Service of
37 the petition and summons and notice of hearing shall be made as provided by the Rules of
38 Civil Procedure on the respondent; the ~~juvenile's-child's~~ parent, guardian, custodian, or
39 caretaker; and any other person determined by the court to be a necessary party. If at the
40 hearing on the petition the court finds by clear, cogent and convincing evidence that the
41 respondent, without lawful excuse, has obstructed or interfered with an investigation
42 required by G.S. ~~7A-544, 7B-302,~~ the court may order the respondent to cease ~~such this~~
43 obstruction or interference. The burden of proof shall be on the petitioner.

1 (d) If the director has reason to believe that the ~~juvenile-child~~ is in need of
2 immediate protection or assistance, ~~he~~the director shall so allege in the petition and may
3 seek an ex parte order from the court. If the court, from the verified petition and any
4 inquiry the court makes of the director, finds probable cause to believe both that the
5 ~~juvenile-child~~ is at risk of immediate harm and that the respondent is obstructing or
6 interfering with the director's ability to investigate to determine the ~~juvenile's-child's~~
7 condition, the court may enter an ex parte order directing the respondent to cease ~~such~~
8 this obstruction or interference. The order shall be limited to provisions necessary to
9 enable the Director to conduct an investigation sufficient to determine whether the
10 ~~juvenile-child~~ is in need of immediate protection or assistance. Within 10 days after the
11 entry of an ex parte order under this subsection, a hearing shall be held to determine
12 whether there is good cause for the continuation of the order or the entry of a different
13 order. An order entered under this subsection shall be served on the respondent along
14 with a copy of the petition, summons, and notice of hearing.

15 (e) The Director may be required at a hearing under this section to reveal the
16 identity of any person who made a report of suspected ~~abuse or neglect~~abuse, neglect, or
17 dependency as required by G.S. ~~7A-543-7B-301~~.

18 (f) An order entered pursuant to this section is enforceable by civil or criminal
19 contempt as provided in Chapter 5A of the General Statutes.

20 **~~"§ 7A~~ In all cases in which a petition is filed, the Director of the Department of**
21 **Social Services shall prepare a report for the court containing a home**
22 **placement plan and a treatment plan deemed by the Director to be**
23 **appropriate to the needs of the ~~juvenile-child~~. The report shall be**
24 **available to the judge immediately following the adjudicatory hearing.**

25 **~~"§ 7A~~o The person making the report shall have ~~five-10~~ working days, from receipt**
26 **of the decision of the Director of the Department of Social Services not to**
27 **petition the court, to notify the prosecutor that ~~he is requesting a review, a~~**
28 **review is being requested. The prosecutor shall notify the person making**
29 **the report and the Director of the time and place for the ~~review and the~~**
30 **~~Director shall immediately transmit to the prosecutor a copy of the~~**
31 **investigation report. review. The review shall be pursuant to G.S. 143-**
32 **576.1(a)(1)c.**

33 **~~"§ 7A~~—The prosecutor shall review ~~the Director's determination that a petition~~**
34 **~~should not be filed within 20 days after the person making the report is~~**
35 **~~notified. The review shall include conferences with the person making the~~**
36 **~~report, the protective services worker, the juvenile, if practicable, and~~**
37 **~~other persons known to have pertinent information about the juvenile or~~**
38 **~~the juvenile's family. the report and recommendations of the Community~~**
39 **Child Protection Team made pursuant to G.S. 143-576.1(a)(1)c. At the**
40 **conclusion of the conferences, the prosecutor may ~~Within five days of~~**
41 **receiving the Team's report, the prosecutor shall (i) affirm the decision**
42 **made by the Director, may ~~Director not to file a petition,~~ (ii) request the**

1 appropriate local law enforcement agency to investigate the allegations, or
2 ~~may~~ iii) direct the Director to file a petition.

3 "~~§ 7A-548. 7B-307.~~ Duty of Director to report evidence of abuse, neglect;
4 investigation by local law enforcement; notification of Department of
5 Health and Human Services and State Bureau of Investigation.

6 (a) If the Director finds evidence that a ~~juvenile-child~~ may have been abused as
7 defined by G.S. ~~7A-517(1), 7B-101,~~ the Director shall make an immediate oral and
8 subsequent written report of the findings to the district attorney or the district attorney's
9 designee and the appropriate local law enforcement agency within 48 hours after receipt
10 of the report. The local law enforcement agency shall immediately, but no later than 48
11 hours after receipt of the information, initiate and coordinate a criminal investigation with
12 the protective services investigation being conducted by the county Department of Social
13 Services. Upon completion of the investigation, the district attorney shall determine
14 whether criminal prosecution is appropriate and may request the Director or the
15 Director's designee to appear before a magistrate.

16 If the Director receives information that a ~~juvenile-child~~ may have been physically
17 harmed in violation of any criminal statute by any person other than the ~~juvenile's-child~~
18 parent, guardian, custodian, or caretaker, the Director shall make an immediate oral and
19 subsequent written report of that information to the district attorney or the district
20 attorney's designee and to the appropriate local law enforcement agency within 48 hours
21 after receipt of the information. The local law enforcement agency shall immediately, but
22 no later than 48 hours after receipt of the information, initiate a criminal investigation.
23 Upon completion of the investigation, the district attorney shall determine whether
24 criminal prosecution is appropriate.

25 If the report received pursuant to G.S. ~~7A-543-7B-301~~ involves abuse or neglect of a
26 ~~juvenile-child~~ in child care, the Director shall notify the Department of Health and
27 Human Services within 24 hours or on the next working day of receipt of the report.

28 (a1) If the Director finds evidence that a juvenile has been abused or neglected as
29 defined by G.S. ~~7A-517-7B-101~~ in a child care facility, the Director shall immediately so
30 notify the Department of Health and Human Services and, in the case of child sexual
31 abuse, the State Bureau of Investigation, in such a way as does not violate the law
32 guaranteeing the confidentiality of the records of the Department of Social Services.

33 (a2) Upon completion of the investigation, the Director shall give the Department
34 written notification of the results of the investigation required by G.S. ~~7A-544-7B-302.~~
35 Upon completion of an investigation of child sexual abuse in a child care facility, the
36 Director shall also make written notification of the results of the investigation to the State
37 Bureau of Investigation.

38 The Director of the Department of Social Services shall submit a report of alleged
39 abuse, neglect, or dependency cases or child fatalities that are the result of alleged
40 maltreatment to the central registry under the policies adopted by the Social Services
41 Commission.

42 (b) ~~Repealed by Session Laws 1991, (Reg. Sess. 1992), c. 923, s. 4.~~

43 "~~§ 7A-549. 7B-308.~~ Authority of medical professionals in abuse cases.

1 (a) Any physician or administrator of a hospital, clinic, or other medical facility to
2 which a suspected abused ~~juvenile-child~~ is brought for medical diagnosis or treatment
3 shall have the right, when authorized by the chief district court judge of the district or his
4 designee, to retain physical custody of the ~~juvenile-child~~ in the facility when the
5 physician who examines the ~~juvenile-child~~ certifies in writing that the ~~juvenile-child~~ who
6 is suspected of being abused should remain for medical treatment or that, according to his
7 ~~the~~ medical evaluation, it is unsafe for the ~~juvenile-child~~ to return to ~~his~~ ~~the child's~~ parent,
8 guardian, custodian, or caretaker. This written certification must be signed by the
9 certifying physician and must include the time and date that the judicial authority to
10 retain custody is given. Copies of the written certification must be appended to the
11 ~~juvenile's-child's~~ medical and judicial records and another copy must be given to the
12 ~~juvenile's-child's~~ parent, guardian, custodian, or caretaker. The right to retain custody in
13 the facility shall exist for up to 12 hours from the time and date contained in the written
14 certification.

15 (b) Immediately upon receipt of judicial authority to retain custody, the physician,
16 the administrator, or ~~his~~ designee shall so notify the director of social services for the
17 county in which the facility is located. The director shall treat this notification as a report
18 of suspected abuse and shall immediately begin an investigation of the case.

19 (1) If the investigation reveals (i) that it is the opinion of the certifying
20 physician that the ~~juvenile-child~~ is in need of medical treatment to cure
21 or alleviate physical distress, or to prevent the ~~juvenile-child~~ from
22 suffering serious physical injury, and (ii) that it is the opinion of the
23 physician that the ~~juvenile-child~~ should for these reasons remain in the
24 custody of the facility for 12 hours, but (iii) that the ~~juvenile's-child's~~
25 parent, guardian, custodian or caretaker cannot be reached or, upon
26 request, will not consent to the treatment within the facility, the director
27 shall within the initial 12-hour period file a ~~juvenile-child~~ petition
28 alleging abuse and setting forth supporting allegations and shall seek a
29 nonsecure custody order. A petition filed and a nonsecure custody order
30 obtained in accordance with this subdivision shall come on for hearing
31 under the regular provisions of this Subchapter unless the director and
32 the certifying physician together voluntarily dismiss the petition.

33 (2) In all cases except those described in subdivision (1) above, the director
34 shall conduct ~~his~~ ~~the~~ investigation and may initiate ~~juvenile~~
35 proceedings and take all other steps authorized by the regular provisions
36 of this Subchapter. If the director decides not to file a petition, the
37 physician, the administrator or ~~his~~ designee may ask the prosecutor to
38 review this decision according to the provisions of G.S. ~~7A-546 and~~
39 ~~G.S. 7A-547. 7B-305.~~

40 (c) If, upon hearing, the court determines that the child is found in a county other
41 than the county of legal residence, in accord with G.S. 153A-257, the child may be
42 transferred, in accord with G.S. ~~7A-647(2), 7B-903(2),~~ to the custody of the department
43 of social services in the county of residence.

1 (d) If the court, upon inquiry, determines that the medical treatment rendered was
2 necessary and appropriate, the cost of that treatment may be charged to the parents,
3 guardian, custodian, or caretaker, or, if the parents are unable to pay, to the county of
4 residence in accordance with G.S. ~~7A-647(3) and 7A-650. 7B-903~~ and G.S. 7B-904.

5 (e) Except as otherwise provided, a petition begun under this section shall proceed
6 in like manner with petitions begun under G.S. ~~7A-544. 7B-302.~~

7 (f) The procedures in this section are in addition to, and not in derogation of, the
8 child abuse and neglect reporting provisions of G.S. ~~7A-543-7B-301~~ and the temporary
9 custody provisions of G.S. ~~7A-571. 7B-500.~~ Nothing in this section shall preclude a
10 physician or administrator and a director of social services from following the procedures
11 of G.S. ~~7A-543 and 7A-571-7B-301~~ and G.S. 7B-500 whenever these procedures are
12 more appropriate to the juvenile's child's circumstances.

13 **"§ ~~7A-543~~ in an investigation.**

14 Anyone who makes a report pursuant to this Article, cooperates with the county
15 department of social services in a protective services inquiry or investigation, testifies in
16 any judicial proceeding resulting from a protective services report or investigation, or
17 otherwise participates in the program authorized by this Article, is immune from any civil
18 or criminal liability that might otherwise be incurred or imposed for ~~such~~ this action
19 provided that the person was acting in good faith. In any proceeding involving liability,
20 good faith is presumed.

21 **"§ ~~7A-551. 7B-310.~~ Privileges not grounds for failing to report or for excluding**
22 **evidence.**

23 No privilege shall be grounds for any person or institution failing to report that a
24 juvenile-child may have been abused, neglected, or dependent, even if the knowledge or
25 suspicion is acquired in an official professional capacity, except when the knowledge or
26 suspicion is gained by an attorney from that attorney's client during representation only in
27 the abuse, neglect or dependency case. No privilege, except the attorney-client privilege,
28 shall be grounds for excluding evidence of abuse, neglect, or dependency in any judicial
29 proceeding (civil, criminal, or juvenile) in which a juvenile's-child's abuse, neglect, or
30 dependency is in issue nor in any judicial proceeding resulting from a report submitted
31 under this Article, both as this privilege relates to the competency of the witness and to
32 the exclusion of confidential communications.

33 **"§ ~~7A-552. 7B-311.~~ Central registry.**

34 The Department of Health and Human Services shall maintain a central registry of
35 abuse, neglect, and dependency cases and child fatalities that are the result of alleged
36 maltreatment that are reported under this Article in order to compile data for appropriate
37 study of the extent of abuse and neglect within the State and to identify repeated abuses
38 of the same juvenile-child or of other juveniles-children in the same family. This data
39 shall be furnished by county directors of social services to the Department of Health and
40 Human Services and shall be confidential, subject to policies adopted by the Social
41 Services Commission providing for its use for study and research and for other
42 appropriate disclosure. Data shall not be used at any hearing or court proceeding unless
43 based upon a final judgment of a court of law.

1 ~~§§7Aw~~ "ARTICLE 45.4.

2 "VENUE; PETITION; SUMMONS.

3 "~~§ 7A~~ (a) ~~A proceeding in which a juvenile is alleged to be delinquent or~~
4 ~~undisciplined shall be commenced and adjudicated in the district in which~~
5 ~~the offense is alleged to have occurred.~~

6 When a proceeding in which a juvenile is alleged to be delinquent or undisciplined is
7 commenced in a district other than that of the juvenile's residence, the judge shall proceed
8 to adjudication in that district. After adjudication, these procedures shall be available to
9 the court:

- 10 (1) The judge may transfer the proceeding to the court in the district where
11 the juvenile resides for disposition.
- 12 (2) Where the proceeding is not transferred under subsection (1), the judge
13 shall immediately notify the Chief District Judge in the district in which
14 the juvenile resides. If the Chief District Judge requests a transfer within
15 five days after receipt of notification, the judge shall transfer the
16 proceeding.
- 17 (3) Where the proceeding is not transferred under (1) or (2), the judge, upon
18 motion of the juvenile, shall transfer the proceeding to the court in the
19 district where the juvenile resides for disposition. The judge shall advise
20 the juvenile of the juvenile's right to transfer under this section.

21 (b) A proceeding in which a juvenile child is alleged to be abused, neglected, or
22 dependent may be commenced in the district in which the juvenile child resides or is
23 present. When a proceeding is commenced in a district other than that of the juvenile's
24 child's residence, the judge, in ~~his~~ the judge's discretion or upon motion of ~~the juvenile,~~
25 any party, may transfer the proceeding to the court in the district where the juvenile child
26 resides. A transfer under this subsection may be made at any time.

27 "~~§ 7Ai~~ The pleading in a juvenile child abuse, neglect, or dependency action is the
28 petition. The process in a juvenile child abuse, neglect, or dependency
29 action is the summons.

30 "~~§ 7A~~ The petition shall contain the name, date of birth, address of the juvenile,
31 child, the name and last known address of his the child's parent, guardian,
32 or custodian and shall allege the facts which invoke jurisdiction over the
33 juvenile. Except in cases in which delinquency or undisciplined behavior is
34 alleged, the child. The petition may contain information on more than one
35 juvenile, child, when the juveniles children are from the same home and
36 are before the court for the same reason. In cases of alleged delinquency
37 or undisciplined behavior, the petitions shall be separate.

38 A petition in which delinquency is alleged shall contain a plain and concise statement,
39 without allegations of an evidentiary nature, asserting facts supporting every element of a
40 criminal offense and the juvenile's commission thereof with sufficient precision clearly to
41 apprise the juvenile of the conduct which is the subject of the accusation.

42 Sufficient copies of the petition shall be prepared so that copies will be available for
43 each juvenile, for each parent if living separate and apart, for the court counselor or

1 guardian ad litem, social worker, and for any person determined by the court to be a
2 necessary party.

3 **"§ 7Apetition.**

4 (a) All reports concerning a juvenile alleged to be delinquent or undisciplined
5 shall be referred to the intake counselor for screening. Thereafter, if it is determined by
6 the intake counselor that a petition should be drawn and filed, the petition shall be drawn
7 by the intake counselor or the clerk, signed by the complainant and verified before an
8 official authorized to administer oaths. If the circumstances indicate a need for immediate
9 attachment of jurisdiction and if the intake counselor is out of the county or otherwise
10 unavailable to receive a complaint and to draw a petition when it is needed, the clerk
11 shall assist the complainant in communicating his complaint to the intake counselor by
12 telephone and, with the approval of the intake counselor, shall draw a petition and file it
13 when signed and verified. A copy of the complaint and petition shall be transmitted to the
14 intake counselor. Procedures for receiving delinquency and undisciplined complaints and
15 drawing petitions thereon, consistent with this Article and Article 43, shall be established
16 by administrative order of the chief judge in each judicial district under G.S. 7A-146(3).

17 (b)(a) All complaints reports concerning a juvenile child alleged to be abused,
18 neglected, or dependent shall be referred to the Director of the Department of Social
19 Services for screening. Thereafter, if it is determined by the Director that a complaint
20 report should be filed as a petition, the petition shall be drawn by the Director, verified
21 before an official authorized to administer oaths, and filed by the clerk, recording the date
22 of filing.

23 (e) (b) All complaints, and any decision of the intake counselor or Any decision of
24 the director of social services not to authorize that a complaint be filed as file a petition
25 shall be reviewed by the prosecutor, Community Child Protection Team, if review is
26 requested pursuant to G.S. 7A-535 or G.S. 7A-546. G.S. shall authorize a complaint to be
27 filed as a petition, he shall prepare the complaint to be filed by the clerk as a petition,
28 recording the day of filing.

29 (c) If any court orders a child into the custody of the Department of Social
30 Services in any action other than an action for abuse, neglect, or dependency, the Director
31 shall file a petition pursuant to the order and all procedures applicable to this section shall
32 apply.

33 **"§ 7Anoffice is closed.**

34 (a) All complaints which may arise when the office of the clerk of superior court is
35 closed shall be referred to the intake counselor or the Director of Social Services
36 according to the nature of the complaint.

37 (b) (a) When the office of the clerk of superior court is closed, a magistrate may be
38 authorized by the Chief District Judge to draw, verify, and issue accept for filing petitions
39 as follows:

40 (1) When an intake counselor requests a petition alleging a juvenile to be
41 delinquent or undisciplined, or

42 (2)(1) When the Director of the Department of Social

Services requests a petition alleging a juvenile child to be abused, neglected, or dependent, or

(3)(2) When the Director of the Department of Social

Services requests a petition alleging the obstruction of or interference with an investigation required by G.S. ~~7A-544.7B-302~~.

(e) (b) The authority of the magistrate under subsection (b)(a) is limited to emergency situations when a petition is required in order to obtain a ~~secure or nonsecure~~ custody order or an order under G.S. ~~7A-544.1.7B-303~~. Any petition ~~issued~~ accepted for filing under this section shall be delivered to the clerk's office for processing as soon as that office is open for business.

"§ 7Ae An action is commenced by the filing of a petition in the clerk's office when that office is open, or by the issuance of a juvenile acceptance of a petition by a magistrate when the clerk's office is closed, which issuance acceptance shall constitute filing.

"§ 7B-406. Concurrent court proceedings.

During the pendency of an action under this Chapter, a party to the action is estopped from litigating concurrently the custody, guardianship, placement, or visitation of a child who is subject of the action, in an action under Chapter 50 of the General Statutes. A judge, upon notice of the pendency of an action under this Chapter, shall not issue an order, finding, or decision relating to the custody, guardianship, placement, or visitation of the child who is subject of the action, under any Chapter 50 action. Upon termination of the court's jurisdiction under this Chapter, a copy of the order terminating jurisdiction shall be filed in any pending Chapter 50 action.

"§ 7A-564.7B-407. Issuance of summons.

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

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

(1) Notice of the nature of the proceeding;

(2) ~~Notice of any right to counsel and information about how to seek the appointment of counsel prior to a hearing; For any parent named as respondent in a petition alleging child abuse, neglect, or dependency, the name, address, and phone number of the appointed counsel;~~

(3) Notice that, if the court determines at the hearing that the allegations of the petition are true, the court will conduct a dispositional hearing to consider the needs of the juvenile child and enter an order designed to meet those needs and the objectives of the State; and

(4) Notice that the dispositional order or a subsequent order:

a. May remove the juvenile child from the custody of the parent, guardian, ~~or custodian~~ custodian, or caretaker.

- b. May require that the juvenile child receive medical, psychiatric, psychological, or other treatment and that the parent-parent, guardian, custodian, or caretaker participate in the treatment.
- c. May require the parent-parent, guardian, custodian, or caretaker to undergo psychiatric, psychological, or other treatment or counseling for the purpose of remedying the behaviors or conditions that are alleged in the petition or that contributed to the removal of the juvenile child from the custody of the parent-parent, guardian, custodian, or caretaker or to facilitate placement of the child with the Parent, guardian, custodian, or caretaker.
- d. May order the parent or other responsible party to pay for treatment that is ordered for the juvenile or the parent-child.
- e. May order the parent, guardian, custodian, or caretaker to pay for own psychiatric, psychological, or other treatment or counseling if ordered by the court.
- f. May upon proper notice and a finding based on the criteria set out in G.S. 7A-289.32, terminate the parental rights of the respondent parent.

(c) The summons shall advise the parent-parent, guardian, custodian, or caretaker that upon service, jurisdiction ~~over the parent~~ is obtained and that failure ~~of the parent~~ to comply with any order of the court pursuant to G.S. ~~7A-650-7B-1007~~ may cause the court to issue a show cause order for contempt.

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

"§ 7A—The summons shall be personally served upon the parent, the guardian, custodian, or caretaker, and the ~~juvenile or counsel or guardian ad litem~~, not less than five days prior to the date of the scheduled ~~hearing~~-hearing except for the first nonsecure custody hearing, if applicable. The time for service may be waived in the discretion of the judge.

~~If Service shall be as authorized by G.S. 1A-1, Rule 4(j), if the parent, guardian, or custodian-custodian, or caretaker entitled to receive a summons cannot be found by a diligent effort, the judge may authorize service of the summons and petition by mail or by publication.~~The cost of the service by publication shall be advanced by the petitioner and may be charged as court costs as the judge, in ~~his~~-the judge's discretion, may direct.

If the parent, guardian, ~~or custodian-custodian~~, or caretaker is personally served as herein provided and fails without reasonable cause to appear and to bring the juvenile child before the court, ~~he~~-this person may be proceeded against as for contempt of court.

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

"ARTICLE 46-5.

"Temporary Custody, ~~Secure and Nonsecure Custody~~; Custody Hearings.

"§ 7A-571-7B-500. Taking a juvenile child into temporary custody.

1 (a) Temporary custody means the taking of physical custody and providing personal
2 care and supervision until a court order for ~~secure or nonsecure~~ custody can be obtained.
3 A juvenile child may be taken into temporary custody under the following circumstances:

- 4 (1) A ~~juvenile~~ may be taken into temporary custody by a law enforcement
5 officer without a court order if grounds exist for the arrest of an adult in
6 identical circumstances under G.S. 15A-401(b).
- 7 (2) A ~~juvenile~~ may be taken into temporary custody without a court order
8 by a law enforcement officer or a court counselor if there are reasonable
9 grounds to believe that the juvenile is an undisciplined juvenile.
- 10 (3) A ~~juvenile~~ may be taken into temporary custody without a court order
11 by a law enforcement officer or a Department of Social Services worker
12 if there are reasonable grounds to believe that the juvenile child is
13 abused, neglected, or dependent and that the juvenile child would be
14 injured or could not be taken into custody if it were first necessary to
15 obtain a court order. If a Department of Social Services worker takes a
16 juvenile child into temporary custody under this ~~subdivision, section,~~
17 the worker may arrange for the placement, care, supervision, and
18 transportation of the juvenile child.
- 19 (4) A ~~juvenile~~ may be taken into custody without a court order by a law
20 enforcement officer, by a court counselor, by a member of the Black
21 Mountain Center, Alcohol Rehabilitation Center and Juvenile
22 Evaluation Center Joint Security Force established pursuant to G.S.
23 122C-421, or by personnel of the Division of Youth Services as
24 designated by the Department of Health and Human Services if there are
25 reasonable grounds to believe the juvenile is an absconder from any
26 State training school or approved detention facility.

27 (b) A law enforcement officer may take physical custody of a juvenile who is 16
28 or 17 years of age without a court order, at the request of the juvenile's parent, guardian,
29 or custodian if there are reasonable grounds to believe the juvenile is beyond the
30 disciplinary control of the juvenile's parent, guardian, or custodian and has been absent
31 from the home without permission for 48 consecutive hours.

32 **"§ 7A-572. 7B-501. Duties of person taking juvenile child into temporary custody.**

- 33 (a) A person who takes a juvenile child into custody without a court order under G.S.
34 7A-571(a)(1), (a)(2), or (a)(3) ~~G.S.~~ (1) Notify the juvenile's child's
35 parent, guardian, ~~or custodian~~ custodian, or caretaker that the juvenile
36 child has been taken into temporary custody and advise the parent,
37 guardian, ~~or custodian~~ custodian, or caretaker of the right to be
38 present with the juvenile child until a determination is made as to the
39 need for ~~secure or nonsecure~~ custody. Failure to notify the ~~parent~~
40 parent, guardian, custodian, or caretaker that the juvenile child is in
41 custody shall not be grounds for release of the ~~juvenile;~~ child;
- 42 (2) Release the juvenile child to the juvenile's child's parent, guardian, ~~or~~
43 custodian custodian, or caretaker if the person having the juvenile child

1 in temporary custody decides that continued custody is unnecessary. In
2 the case of a juvenile unlawfully absent from school, if continued
3 custody is unnecessary, the person having temporary custody may
4 deliver the juvenile to the juvenile's school or, if the local city or county
5 government and the local school board adopt such a policy, to a place in
6 the local school administrative unit.

7 (3) If the juvenile is not released under subsection (b) of this section, the
8 person having temporary custody shall proceed as follows:

9 a. In the case of a juvenile alleged to be delinquent or
10 undisciplined, the person having temporary custody shall request
11 a petition be drawn pursuant to G.S. 7A-561 or if the clerk's
12 office is closed, the magistrate pursuant to G.S. 7A-562. Once
13 the petition has been drawn and verified, the person shall
14 communicate with the intake counselor who shall consider
15 prehearing diversion. If the decision is made to file a petition, the
16 intake counselor shall contact the judge or person delegated
17 authority pursuant to G.S. 7A-573 if other than the intake
18 counselor for a determination of the need for continued custody.

19 b.

20 (3) In the case of a juvenile alleged to be abused, neglected, or dependent,
21 the person having temporary custody shall communicate Communicate
22 with the Director of the Department of Social Services who shall
23 consider prehearing diversion. Services. If the decision is made to file a
24 petition, petition and seek nonsecure custody, the director shall contact
25 the judge or person delegated authority pursuant to G.S. 7A-573-7B-502
26 for a determination of the need for continued custody.

27 (4) A juvenile child taken into temporary custody under this Article shall
28 not be held for more than 12 hours, or for more than 24 hours if any of
29 the 12 hours falls on a Saturday, Sunday, or legal holiday, unless:

30 a. A petition or motion for review has been filed by an intake
31 counselor or by the Director of the Department of Social
32 Services, and

33 b. An order for secure or nonsecure custody has been entered by a
34 judge.

35 (b) A person who takes a juvenile into custody under G.S. 7A-571(a)(4) shall,
36 after contacting a judge and receiving an order for secure custody, transport the juvenile
37 to the nearest approved facility providing secure custody. The person shall then contact
38 the administrator of the training school or detention facility from which the juvenile
39 absconded, who shall be responsible for returning the juvenile to that facility.

40 (c) A person who takes a juvenile into custody under G.S. 7A-571(b) shall return
41 the juvenile to the custody of the juvenile's parent, guardian, or custodian or notify the
42 parent, guardian, or custodian that the juvenile has been taken into custody unless there
43 are reasonable grounds to believe the juvenile is abused, neglected, or dependent and

1 would be injured if returned to the custody of the parent, guardian, or custodian, in which
2 case the person shall proceed pursuant to G.S. 7A-571(a)(3) and subsection (a) of this
3 section.

4 "§ 7Aedelegation.

5 In the case of any juvenile child alleged to be within the jurisdiction of the court,
6 when the judge finds it necessary to place the juvenile child in custody, ~~he the judge~~ may
7 order that the juvenile child be placed in ~~secure or nonsecure~~ custody pursuant to criteria
8 set out in G.S. ~~7A-574. 7B-503.~~

9 Any district court judge ~~shall have the authority to~~ may issue ~~secure and nonsecure~~
10 custody orders pursuant to G.S. ~~7A-574. 7B-503.~~ The chief district judge may delegate
11 the court's authority to ~~persons other than district court judges~~ the magistrate by
12 administrative order which shall be filed in the office of the clerk of superior court. The
13 administrative order ~~shall may~~ specify which ~~persons~~ magistrate shall be contacted for
14 approval of a ~~secure or nonsecure~~ custody order pursuant to G.S. ~~7A-574 G.S. 7B-503.~~
15 ~~and may include intake counselors and other members of the chief court counselor's staff.~~
16 The authority to issue a ~~nonsecure or secure~~ custody order is limited to a judge or the
17 chief court counselor or his counseling staff when a juvenile is alleged to have committed
18 a delinquent or undisciplined act.

19 "**§ 7Aa (a)** ~~When a request is made for nonsecure custody, the judge shall first~~
20 **consider release of the juvenile child to his the child's parent, relative,**
21 **guardian, eustodian-custodian, caretaker, or other responsible adult. adult**
22 **if it is safe to do so. An order for nonsecure custody shall be made only**
23 **when there is a reasonable factual basis to believe the matters alleged in**
24 **the petition are true, and**

- 25 (1) The juvenile child has been abandoned; or
26 (2) The juvenile child has suffered physical injury or sexual abuse; or
27 (3) The juvenile child is exposed to a substantial risk of physical injury or
28 sexual abuse because the parent, guardian, ~~or eustodian-custodian,~~ or
29 caretaker has created the conditions likely to cause injury or abuse or
30 has failed to provide, or is unable to provide, adequate supervision or
31 protection; or
32 (4) The juvenile child is in need of medical treatment to cure, alleviate, or
33 prevent suffering serious physical harm which may result in death,
34 disfigurement, or substantial impairment of bodily functions, and ~~his the~~
35 child's parent, guardian, ~~or eustodian-custodian,~~ or caretaker is unwilling
36 or unable to provide or consent to the medical treatment; or
37 (5) The parent, ~~guardian or eustodian-guardian,~~ custodian, or caretaker
38 consents to the nonsecure custody order;
39 (6) The juvenile child is a runaway and consents to nonsecure ~~eustody; or~~
40 custody.
41 (7) ~~The juvenile meets one or more of the criteria for secure custody but~~
42 ~~the court finds it in the best interest of the juvenile that the juvenile be~~
43 ~~placed in a nonsecure placement.~~

1 A ~~juvenile child~~ alleged to be abused, neglected, or dependent shall be placed in
2 nonsecure custody only when there is a reasonable factual basis to believe that there is no
3 other reasonable means available to protect the ~~juvenile child~~. In no case shall a ~~juvenile~~
4 ~~child~~ alleged to be abused, neglected, or dependent be placed in secure custody.

5 ~~-(b) When a request is made for secure custody, the judge may order secure custody~~
6 ~~only where he finds there is a reasonable factual basis to believe that the juvenile actually~~
7 ~~committed the offense as alleged in the petition, and~~

8 (1) ~~That the juvenile is presently charged with a felony, and has~~
9 ~~demonstrated that he is a danger to property or persons; or~~

10 (1.1) ~~The juvenile is presently charged with a misdemeanor at least one~~
11 ~~element of which is assault on a person; or~~

12 (2) ~~That the juvenile has willfully failed to appear on a pending~~
13 ~~delinquency charge or on charges of violation of probation or~~
14 ~~conditional release, providing the juvenile was properly notified; or~~

15 (3) ~~That a delinquency charge is pending against the juvenile and there~~
16 ~~is a reasonable cause to believe the juvenile will not appear in court;~~
17 ~~or~~

18 (4) ~~That the juvenile is an absconder from any State training school or~~
19 ~~detention facility in this or another state; or~~

20 (5) ~~That there is reasonable cause to believe the juvenile should be~~
21 ~~detained for his own protection because the juvenile has recently~~
22 ~~suffered self-inflicted physical injury or recently attempted to do so;~~
23 ~~in such case, the juvenile must have been refused admission by one~~
24 ~~appropriate hospital and the period of secure custody is limited to 24~~
25 ~~hours to determine the need for inpatient hospitalization; if such a~~
26 ~~juvenile is placed in secure custody, he shall receive continuous~~
27 ~~supervision while in secure custody and a physician shall be notified~~
28 ~~immediately; or~~

29 (6) ~~That the juvenile is alleged to be undisciplined by virtue of his being~~
30 ~~a runaway and is found to be inappropriate for nonsecure custody~~
31 ~~placement or because he refuses nonsecure custody and the court~~
32 ~~finds that the juvenile needs secure custody for up to 24 hours,~~
33 ~~excluding Saturdays, Sundays, and State holidays, or where~~
34 ~~circumstances require for a period not to exceed 72 hours to evaluate~~
35 ~~the juvenile's need for medical or psychiatric treatment or to~~
36 ~~facilitate reunion with his parents; or~~

37 (7) ~~That the juvenile is alleged to be undisciplined and has willfully~~
38 ~~failed to appear in court after proper notice; such a juvenile shall be~~
39 ~~brought to court as soon as possible and in no event should be held~~
40 ~~more than 24 hours, excluding Saturdays, Sundays, and State~~
41 ~~holidays or where circumstances require for a period not to exceed~~
42 ~~72 hours.~~

1 (e) When a juvenile has been adjudicated delinquent, the judge may order secure
2 custody pending the dispositional hearing or pending placement of a delinquent juvenile
3 pursuant to G.S. 7A-649. The judge may also order secure custody for a juvenile who is
4 alleged to have violated the conditions of his probation or conditional release only if the
5 juvenile is alleged to have committed acts that damage property or injure persons.

6 (d) If the criteria for secure custody as set out in subsections (b) or (c) are met, the
7 judge may enter an order directing an officer or other authorized person to assume
8 custody of the juvenile and to take the juvenile to the place as is designated in the order.

9 **"§ 7A-575. 7B-504. Order for secure or nonsecure custody.**

10 The custody order shall be in writing and shall direct a law-enforcement officer or
11 other authorized person to assume custody of the juvenile-child and to make due return
12 on the order. A copy of the order shall be given to the juvenile's-child's parent, guardian,
13 or custodian-custodian, or caretaker by the official executing the order. ~~If the order is for~~
14 ~~secure custody, copies of the petition and custody order shall accompany the juvenile to~~
15 ~~the detention facility or holdover facility of the jail. A DCI message, which is a message~~
16 ~~of the Division of Criminal Information, State Bureau of Investigation, stating that a~~
17 ~~juvenile petition and secure custody order relating to a specified juvenile is on file in a~~
18 ~~particular county shall be authority to detain the juvenile in secure custody until a copy of~~
19 ~~the juvenile petition and secure custody order can be forwarded to the juvenile detention~~
20 ~~facility. In such case, however, the copies of the juvenile petition and secure custody~~
21 ~~order shall be transmitted to the juvenile detention facility no later than 72 hours after the~~
22 ~~initial detention of the juvenile.~~

23 An officer receiving an order for custody which is complete and regular on its face
24 may execute it in accordance with its ~~terms and~~ terms, need not inquire into its regularity
25 or continued validity, ~~nor does he and shall not~~ incur criminal or civil liability for its due
26 service.

27 **"§ 7A-576. 7B-505. Place of secure or nonsecure custody.**

28 (a) A juvenile-child meeting the criteria set out in G.S. 7A-574, ~~7B-503,~~
29 subsection (a), may be placed in nonsecure custody with the Department of Social
30 Services or a person designated in the order for temporary residential placement in:

- 31 (1) A licensed foster home or a home otherwise authorized by law to
32 provide ~~such~~ this care or
- 33 (2) A facility operated by the Department of Social Services or
- 34 (3) Any other home or ~~facility-facility, including a relative's home~~
35 approved by the court and designated in the order.

36 In placing a juvenile-child in nonsecure custody under this ~~section and under G.S. 7A-~~
37 ~~629 and G.S. 7A-651, section,~~ the court shall first consider whether a relative of the
38 juvenile-child is willing and able to provide proper care and supervision of the juvenile
39 child in a safe home. If the court finds that the relative is willing and able to provide
40 proper care and supervision in a safe home, then the court shall order placement of the
41 juvenile-child with the relative-relative unless the court finds that the placement is
42 contrary to the best interests of the child. ~~Prior to placement~~ Placement of a juvenile-child

1 with a relative outside of this State, the placement State must be in accordance with the
2 Interstate Compact on the Placement of Children.

3 (b) ~~A juvenile meeting the criteria set out in G.S. 7A-574(b) may be temporarily~~
4 ~~detained in an approved county detention home or a regional detention facility which~~
5 ~~shall be separate from any jail, lockup, prison, or other adult penal institution. It shall be~~
6 ~~unlawful for a county or any unit of government to operate a juvenile detention home~~
7 ~~unless the facility meets the standards promulgated by the Department of Health and~~
8 ~~Human Services.~~

9 (e), (d) ~~Expired.~~

10 "~~§ 7A-577.~~ **7B-506. Hearing to determine need for continued secure or nonsecure**
11 **custody.**

12 (a) ~~No juvenile shall be held under a secure custody order for more than five~~
13 ~~calendar days or under a nonsecure custody order for more than seven calendar days,~~
14 ~~without a hearing on the merits or a hearing to determine the need for continued custody.~~
15 ~~A hearing on secure custody conducted under this subsection may not be continued or~~
16 ~~waived. A hearing on nonsecure custody conducted under this subsection may be~~
17 ~~continued for up to 10 business seven calendar days with the consent of the juvenile's~~
18 ~~child's parent, guardian, or custodian, custodian, or caretaker, and, if appointed, the~~
19 ~~juvenile's child's guardian ad litem. In addition, the court may require the consent of~~
20 ~~additional parties or may schedule the hearing on nonsecure custody despite a party's~~
21 ~~consent to a continuance. In every case in which an order has been entered by an official~~
22 ~~exercising authority delegated pursuant to G.S. 7A-573, 7B-502, a hearing to determine~~
23 ~~the need for continued custody shall be conducted on the day of the next regularly~~
24 ~~scheduled session of district court in the city or county where the order was entered if~~
25 ~~such this session precedes the expiration of the applicable time period set forth in this~~
26 ~~subsection: Provided, that if such this session does not precede the expiration of the time~~
27 ~~period, the hearing may be conducted at another regularly scheduled session of district~~
28 ~~court in the district where the order was entered.~~

29 (b) ~~Any juvenile who is alleged to be delinquent shall be advised of the right to~~
30 ~~have legal representation as provided in G.S. 7A-584 if the juvenile appears without~~
31 ~~counsel at the hearing.~~

32 (e) (b) At a hearing to determine the need for continued custody, the judge shall
33 shall:

34 (1) Advise the parties of their rights;

35 (2) Explain the nature and purpose of the hearing;

36 (3) Review the adequacy of notice and service of process;

37 (4) Attempt to ascertain the identity and whereabouts of any parent,
38 guardian, custodian, or caretaker of the child who is not present,
39 whether that person has been served, and what steps need to be taken
40 to identify, locate, or serve this person;

41 (5) Receive testimony aimed at determining:

42 a. What condition is alleged in the petition;

- 1 b. What condition or risk precipitated the nonsecure custody order,
2 including the result's of the petitioner's risk assessment;
3 c. Whether a condition or risk justifying nonsecure custody under
4 G.S. exists; and
5 d. What efforts that the petitioner has made to prevent or eliminate
6 the need for nonsecure custody or why efforts were not
7 necessary.

8 The judge shall receive testimony and shall allow the ~~juvenile, child,~~ and the ~~juvenile's~~
9 ~~child's~~ parent, guardian, ~~or custodian~~ custodian, or caretaker an opportunity to introduce
10 evidence, to be heard in their own behalf, and to examine witnesses. ~~The State shall bear~~
11 ~~the burden at every stage of the proceedings to provide clear and convincing evidencee~~
12 ~~that restraints on the juvenile's liberty are necessary and that no less intrusive alternative~~
13 ~~will suffice.~~ The judge shall not be bound by the usual rules of evidence at ~~such~~ these
14 hearings.

15 ~~(d)~~ (c) The judge shall be bound by criteria set forth in G.S. ~~7A-574-7B-503~~ in
16 determining whether continued custody is warranted.

17 ~~(e)~~ The judge ~~shall impose the least restrictive interference with the liberty of a~~
18 ~~juvenile who is released from secure custody including:~~

- 19 (1) ~~Release on the written promise of the juvenile's parent, guardian, or~~
20 ~~custodian to produce the juvenile in court for subsequent~~
21 ~~proceedings; or~~
22 (2) ~~Release into the care of a responsible person or organization; or~~
23 (3) ~~Release conditioned on restrictions on activities, associations,~~
24 ~~residence or travel if reasonably related to securing the juvenile's~~
25 ~~presence in court; or~~
26 (4) ~~Any other conditions reasonably related to securing the juvenile's~~
27 ~~presence in court.~~

28 ~~(f)(d)~~ If the judge determines that the ~~juvenile~~ child meets the criteria in G.S. ~~7A-~~
29 ~~574-7B-503~~ and should continue in nonsecure custody, the judge shall issue an order to
30 that effect. The order shall be in writing with appropriate findings of fact. The findings of
31 fact shall include ~~the evidence relied upon in reaching the decision and the purposes~~
32 ~~which continued custody is to achieve.~~ the following:

- 33 (1) Placement options for the child, including possible placements with
34 relatives and efforts to keep siblings together;
35 (2) Efforts needed to ensure that a school-aged child's school placement
36 and attendance are not disrupted;
37 (3) Parental visitation;
38 (4) Sibling visitation;
39 (5) Service needs and referrals;
40 (6) Financial support for the child; and
41 (7) The child's immediate needs, such as an immediate need for medical
42 treatment or evaluation.

1 Any order authorizing the continued nonsecure custody of a child shall also comply with
2 the requirements of G.S. ~~(g)-(e)~~ Pending a hearing on the merits, further hearings to
3 determine the need for continued secure custody shall be held at intervals of no more than
4 seven calendar days. A subsequent hearing on continued nonsecure custody shall be held
5 within seven business days, excluding Saturdays, Sundays, and legal holidays, calendar
6 days of the initial hearing required in subsection (a) of this section and hearings thereafter
7 shall be held at intervals of no more than 30 calendar days.

8 ~~(g1)~~ (f) Hearings conducted under subsection ~~(g)-(e)~~ of this section may be waived
9 as follows:

- 10 (1) ~~In the case of a juvenile alleged to be delinquent, only with the~~
11 ~~consent of the juvenile, through counsel for the juvenile; and~~
12 (2) ~~In only in the case of a juvenile child alleged to be abused,~~
13 ~~neglected, or dependent, only with the consent of the juvenile's~~
14 ~~child's parent, guardian, or custodian, custodian, or caretaker, and, if~~
15 ~~appointed, the juvenile's child's guardian ad litem.~~

16 The court may require the consent of additional parties or schedule a hearing despite a
17 party's consent to waiver.

18 ~~(h) Any order authorizing the continued nonsecure custody of a juvenile who is~~
19 ~~alleged to be abused, neglected, or dependent shall include findings as to whether~~
20 ~~reasonable efforts have been made to prevent or eliminate the need for placement of the~~
21 ~~juvenile in custody and may provide for services or other efforts aimed at returning the~~
22 ~~juvenile promptly to a safe home. A finding that reasonable efforts have not been made~~
23 ~~shall not preclude the entry of an order authorizing continued nonsecure custody when~~
24 ~~the court finds that continued nonsecure custody is necessary for the protection of the~~
25 ~~juvenile. Where efforts to prevent the need for the juvenile's placement were precluded~~
26 ~~by an immediate threat of harm to the juvenile, the court may find that the placement of~~
27 ~~the juvenile in the absence of such efforts was reasonable. If the court finds through~~
28 ~~written findings of fact that efforts to eliminate the need for placement of the juvenile in~~
29 ~~eustody clearly would be futile or would be inconsistent with the juvenile's safety and~~
30 ~~need for a safe, permanent home within a reasonable period of time, then the court shall~~
31 ~~specify in its order that reunification efforts are not required or order that reunification~~
32 ~~efforts cease.~~

33 ~~(i)~~ (g) At each hearing to determine the need for continued nonsecure custody, the
34 court shall:

- 35 (1) Inquire as to the identity and location of any missing parent. The
36 court shall include findings as to the efforts undertaken to locate the
37 missing parent and to serve that parent. The order may provide for
38 specific efforts aimed at determining the identity and location of any
39 missing parent;
40 (2) Inquire as to whether a relative of the juvenile child is willing and
41 able to provide proper care and supervision of the juvenile child in a
42 safe home. If the court finds that the relative is willing and able to
43 provide proper care and supervision in a safe home, then the court

1 shall order temporary placement of the ~~juvenile child~~ with the
2 ~~relative relative~~ unless the courts makes specific findings that the
3 ~~placement is contrary to the best interests of the child. Prior to~~
4 ~~placement~~ Placement of a ~~juvenile child~~ with a relative outside of
5 this State, the ~~placement State~~ must be in accordance with the
6 Interstate Compact on the Placement of Children; and

- 7 (3) Inquire as to whether there are other ~~juveniles children~~ remaining in
8 the home from which the ~~juvenile child~~ was removed and, if there
9 are, inquire as to the specific findings of the investigation conducted
10 under G.S. ~~7A-544-7B-302~~ and any actions taken or services
11 provided by the Director for the protection of the other ~~juveniles-~~
12 ~~children.~~

13 **"§ 7B-507. Reasonable efforts.**

14 (a) In determining reasonable efforts to be made with respect to a child who is
15 placed in foster care and in making these reasonable efforts, the child's health and safety
16 shall be the paramount concern. Reasonable efforts to preserve or reunify families may
17 also be made concurrently with efforts to place the child for adoption, with a legal
18 guardian, or in another planned and permanent placement.

19 (b) An order placing or continuing the placement of a child in the custody or
20 placement responsibility of a county department of social services, whether an order for
21 continued nonsecure custody, a dispositional order, or a review order:

- 22 (1) Shall contain a finding that the child's continuation in or return to the
23 child's own home would be contrary to the child's best interest.
24 (2) Shall contain findings as to whether a county department of social
25 services has made reasonable efforts to prevent or eliminate the need
26 for placement of the child, unless the court has previously
27 determined under subsection (b) of this section that these efforts are
28 not required or shall cease.
29 (3) Shall contain findings as to whether a county department of social
30 services shall continue to make reasonable efforts to prevent or
31 eliminate the need for placement of the child, unless the court has
32 previously determined or determines under subsection (b) of this
33 section that these efforts are not required or shall cease.
34 (4) Shall specify that the child's placement and care are the
35 responsibility of the county department of social services and that
36 the agency is to provide or arrange for the foster care or other
37 placement of the child.
38 (5) May provide for services or other efforts aimed at returning the child
39 to a safe home or at achieving another permanent plan for the child.

40 A finding that reasonable efforts have not been made by a county department of social
41 services shall not preclude the entry of an order authorizing the child's placement when
42 the court finds that placement is necessary for the protection of the child. Where efforts
43 to prevent the need for the child's placement were precluded by an immediate threat of

1 harm to the child, the court may find that the placement of the child in the absence of
2 these efforts was reasonable.

3 (c) In any order placing a child in the custody or placement responsibility of a
4 county department of social services, whether an order for continued nonsecure custody,
5 a dispositional order, or a review order, the court may direct that reasonable efforts to
6 eliminate the need for placement of the child shall not be required or shall cease if the
7 court makes written findings of fact that:

8 (1) These efforts clearly would be futile or would be inconsistent with
9 the child's health, safety, and need for a safe, permanent home within
10 a reasonable period of time.

11 (2) A court of competent jurisdiction has determined that the parent has
12 subjected the child to aggravated circumstances as defined in G.S.
13 7B-101.

14 (3) A court of competent jurisdiction has terminated involuntarily the
15 parental rights of the parent to another child of the parent.

16 (4) A court of competent jurisdiction has determined that the parent has
17 committed murder or voluntary manslaughter of another child of the
18 parent; has aided, abetted, attempted, conspired, or solicited to
19 commit murder or voluntary manslaughter of the child or another
20 child of the parent; or has committed a felony assault resulting in
21 serious bodily injury to the child or another child of the parent.

22 (d) At any hearing at which the court finds that reasonable efforts to eliminate the
23 need for the child's placement are not required or shall cease, the court shall direct that a
24 permanency planning hearing as required by G.S. 7B-1011 be held within 30 calendar
25 days after the date of the hearing and, if practicable, shall set the date and time for the
26 permanency planning hearing.

27 (e) In determining reasonable efforts to be made with respect to a child and in
28 making these reasonable efforts, the child's health and safety shall be the paramount
29 concern. Reasonable efforts to preserve or reunify families may be made concurrently
30 with efforts to plan for the child's adoption, to place the child with a legal guardian, or to
31 place the child in another permanent arrangement.

32 **§7A. All communications, notices, orders, authorizations, and requests authorized**
33 **or required by G.S. 7A-572, 7A-574, and 7A-575 7B-501, G.S. 7B-503, and**
34 **G.S. 7B-504 may be made by telephone when other means of**
35 **communication are impractical. All written orders pursuant to telephonic**
36 **communication shall bear the name and the title of the person**
37 **communicating by telephone, the signature and the title of the official**
38 **entering the order, and the hour and the date of the authorization.**

39 **§§7Aa "ARTICLE 47-6.**

40 **"BASIC RIGHTS.**

41 **§ 7A (a) A juvenile alleged to be within the jurisdiction of the court has the right to**
42 **be represented by counsel in all proceedings. In any proceeding in which**

1 ~~delinquency is alleged, the judge shall appoint counsel unless counsel is~~
2 ~~retained for the juvenile.~~

3 (b) ~~All juveniles shall be conclusively presumed to be indigent, and it shall not be~~
4 ~~necessary for the court to receive from any juvenile an affidavit of indigency.~~

5 **"§ 7A-585.7B-600. Appointment of guardian.**

6 In any case when no parent appears in a hearing with the ~~juvenile-child~~ or when the
7 judge finds it would be in the best interest of the ~~juvenile-child~~, the judge may appoint a
8 guardian of the person for the ~~juvenile-child~~. The guardian shall operate under the
9 supervision of the court with or without bond and shall file only ~~such~~ those reports as the
10 court shall require. The guardian shall have the care, custody, and control of the ~~juvenile~~
11 ~~child~~ or may arrange a suitable placement for the ~~juvenile-child~~ and may represent the
12 ~~juvenile-child~~ in legal actions before any court. The guardian may consent to certain
13 actions on the part of the ~~juvenile-child~~ in place of the parent including (i) marriage, (ii)
14 enlisting in the armed forces, and (iii) enrollment in school. The guardian may also
15 consent to any necessary remedial, psychological, medical, or surgical treatment for the
16 ~~juvenile-child~~. The authority of the guardian shall continue until the guardianship is
17 terminated by court order, until the ~~juvenile-child~~ is emancipated pursuant to Article 56
18 of this Chapter, or until the ~~juvenile-child~~ reaches the age of majority.

19 **"§ 7A-586.7B-601. Appointment and duties of guardian ad litem.**

20 (a) When in a petition a ~~juvenile-child~~ is alleged to be abused or neglected, the
21 judge shall appoint a guardian ad litem to represent the ~~juvenile-child~~. When a ~~juvenile~~
22 ~~child~~ is alleged to be dependent, the judge may appoint a guardian ad litem to represent
23 the ~~juvenile~~. ~~The child.~~ The child is a party and the guardian ad litem and attorney
24 advocate have standing to represent the juvenile-child in all actions under this Subchapter
25 where they have been appointed. The appointment shall be made pursuant to the program
26 established by Article 39 of this Chapter Chapter 7A of the General Statutes unless
27 representation is otherwise provided pursuant to G.S. 7A-491 or G.S. 7A-492. The
28 appointment shall terminate at the end of two years. Upon motion of any party including
29 the guardian ad litem, or upon the judge's own motion, the guardian ad litem may be
30 reappointed upon a showing of good cause. In every case where a nonattorney is
31 appointed as a guardian ad litem, an attorney shall be appointed in the case in order to
32 assure protection of the child's legal rights through the dispositional phase of the
33 proceedings, and after disposition when necessary to further the best interests of the
34 child-rights. The duties of the guardian ad litem program shall be to make an
35 investigation to determine the facts, the needs of the ~~juvenile-child~~, and the available
36 resources within the family and community to meet those needs; to facilitate, when
37 appropriate, the settlement of disputed issues; to offer evidence and examine witnesses at
38 adjudication; to explore options with the judge at the dispositional hearing; to conduct
39 follow-up investigations to ensure that the orders of the court are being properly executed
40 and to report to the court when the needs of the child are not being met; and to protect
41 and promote the best interest of the juvenile-child until formally relieved of the
42 responsibility by the judge.

1 (b) The judge may order the Department of Social Services or the guardian ad
2 litem to conduct follow-up investigations to insure that the orders of the court are being
3 properly executed and to report to the court when the needs of the juvenile are not being
4 met. The judge may also authorize the guardian ad litem to accompany the juvenile child
5 to court in any criminal action wherein ~~he~~ the child may be called on to testify in a matter
6 relating to abuse.

7 (c) The judge may grant the guardian ad litem the authority to demand any
8 information or reports whether or not confidential, that may in the guardian ad litem's
9 opinion be relevant to the case. ~~Neither the physician-patient privilege nor the husband-~~
10 ~~wife privilege. No privilege other than the attorney-client privilege~~ may be invoked to
11 prevent the guardian ad litem and the court from obtaining ~~such~~ this information. The
12 confidentiality of the information or reports shall be respected by the guardian ad litem
13 and no disclosure of any information or reports shall be made to anyone except by order
14 of the judge or unless otherwise provided by law in Chapter 7A.

15 **"§ 7Aa In cases where the juvenile petition alleges that a juvenile child is abused,**
16 **neglected or dependent, the parent has the right to counsel and to**
17 **appointed counsel in cases of indigency unless the parent waives the right.**
18 **The court shall appoint counsel immediately upon the receipt of the**
19 **petition for all parents whose whereabouts are known. All parents shall**
20 **be conclusively presumed to be indigent for the purposes of appointed**
21 **counsel for the first nonsecure hearing or conference, whichever occurs**
22 **first. Following the first nonsecure hearing or conference, the parent shall**
23 **be screened and if the parent is indigent, then the appointed counsel shall**
24 **continue to provide representation throughout the remainder of the**
25 **proceeding unless the parent waives counsel or ceases to be indigent. If**
26 **the parent is determined not be indigent after the first hearing or**
27 **conference, the parent may be ordered to reimburse the state for the cost**
28 **of counsel pursuant to the provisions of G.S. 7B-603. In no case may the**
29 **judge appoint a county attorney, prosecutor or public defender.**

30 **"§ 7Aoguardian ad litem.**

31 An attorney or guardian ad litem appointed pursuant to G.S. ~~7A-584, 7A-586 or 7A-~~
32 ~~587-7B-601~~ and G.S. 7B-602 of this Article, pursuant to any other provision of the
33 ~~Juvenile Code, Code on the Abuse, Dependency, or Neglect of Children,~~ or pursuant to
34 G.S. 7A-289.23 shall be paid a reasonable fee fixed by the court in the same manner as
35 fees for attorneys appointed in cases of indigency or by direct engagement for specialized
36 guardian ad litem services through the Administrative Office of the Courts. The judge
37 may require payment of the attorney or guardian ad litem fee from a person other than the
38 juvenile child as provided in G.S. 7A-450.1, 7A-450.2 and 7A-450.3. In no event shall
39 the parent or guardian be required to pay the fees for an appointed attorney or guardian ad
40 litem in an abuse, neglect, or dependency proceeding unless the juvenile child has been
41 adjudicated to be abused, neglected, or dependent, or, in a proceeding to terminate
42 parental rights, unless the parent's rights have been terminated. A person who does not

1 comply with the court's order of payment may be punished for contempt as provided in
2 G.S. 5A-21.

3 ~~§§7Ae~~ **ARTICLE 48.**

4 ~~LAW-ENFORCEMENT PROCEDURES IN DELINQUENCY PROCEEDINGS.~~

5 ~~§ 7A-594. Role of the law-enforcement officer.~~

6 ~~A law-enforcement officer, when he takes a juvenile into temporary custody, should~~
7 ~~select the least restrictive course of action appropriate to the situation and needs of the~~
8 ~~juvenile from the following:~~

9 (1) ~~To divert the juvenile from the court by~~

10 a. ~~Release;~~

11 b. ~~Counsel and release;~~

12 c. ~~Release to parents;~~

13 d. ~~Referral to community resources;~~

14 (2) ~~To seek a petition;~~

15 (3) ~~To seek a petition and request a custody order.~~

16 ~~§-7Aâ (a) Any juvenile in custody must be advised prior to questioning:~~

17 (1) ~~That he has a right to remain silent; and~~

18 (2) ~~That any statement he does make can be and may be used against~~
19 ~~him; and~~

20 (3) ~~That he has a right to have a parent, guardian or custodian present~~
21 ~~during questioning; and~~

22 (4) ~~That he has a right to consult with an attorney and that one will be~~
23 ~~appointed for him if he is not represented and wants representation.~~

24 (b) ~~When the juvenile is less than 14 years of age, no in-custody admission or~~
25 ~~confession resulting from interrogation may be admitted into evidence unless the~~
26 ~~confession or admission was made in the presence of the juvenile's parent, guardian,~~
27 ~~custodian, or attorney. If an attorney is not present, the parent, guardian, or custodian as~~
28 ~~well as the juvenile must be advised of the juvenile's rights as set out in subsection (a);~~
29 ~~however, a parent, guardian, or custodian may not waive any right on behalf of the~~
30 ~~juvenile.~~

31 (c) ~~If the juvenile indicates in any manner and at any stage of questioning pursuant~~
32 ~~to this section that he does not wish to be questioned further, the officer shall cease~~
33 ~~questioning.~~

34 (d) ~~Before admitting any statement resulting from custodial interrogation into~~
35 ~~evidence, the judge must find that the juvenile knowingly, willingly, and understandingly~~
36 ~~waived his rights.~~

37 ~~§-7Awwhere juvenile alleged to be delinquent.~~

38 ~~Nontestimonial identification procedures shall not be conducted on any juvenile~~
39 ~~without a court order issued pursuant to this Article unless the juvenile has been~~
40 ~~transferred to superior court for trial as an adult in which case procedures applicable to~~
41 ~~adults as set out in Articles 14 and 23 of Chapter 15A shall apply. A nontestimonial~~
42 ~~identification order authorized by this Article may be issued by any judge of the district~~
43 ~~court or of the superior court upon request of a prosecutor. As used in this Article,~~

1 "nontestimonial identification" means identification by fingerprints, palm prints,
2 footprints, measurements, blood specimens, urine specimens, saliva samples, hair
3 samples, or other reasonable physical examination, handwriting exemplars, voice
4 samples, photographs, and lineups or similar identification procedures requiring the
5 presence of a juvenile.

6 ~~§ 7A order.~~

7 A request for a nontestimonial identification order may be made prior to taking a
8 juvenile into custody or after custody and prior to the adjudicatory hearing.

9 ~~§ 7A-598. Grounds for order.~~

10 An order may issue only on affidavit or affidavits sworn to before the judge and
11 establishing the following grounds for the order:

- 12 (1) That there is probable cause to believe that an offense has been
13 committed which if committed by an adult would be a felony
14 offense; and
- 15 (2) That there are reasonable grounds to suspect that the juvenile named
16 or described in the affidavit committed the offense; and
- 17 (3) That the results of specific nontestimonial identification procedures
18 will be of material aid in determining whether the juvenile named in
19 the affidavit committed the offense.

20 ~~§ 7A Upon a showing that the grounds specified in G.S. 7A-598 exist, the judge may
21 issue an order following the same procedure as in the case of adults under
22 G.S. 15A-274, 15A-275, 15A-276, 15A-277, 15A-278, 15A-279, 15A-280,
23 and 15A-282.~~

24 ~~§ 7A-600. Nontestimonial identification order at request of juvenile.~~

25 A juvenile in custody for or charged with an offense which if committed by an adult
26 would be a felony offense may request that nontestimonial identification procedures be
27 conducted upon himself. If it appears that the results of specific nontestimonial
28 identification procedures will be of material aid to the juvenile's defense, the judge to
29 whom the request was directed must order the State to conduct the identification
30 procedures.

31 ~~§ 7A identification procedures.~~

32 The results of any nontestimonial identification procedures shall be retained or
33 disposed of as follows:

- 34 (1) If a petition is not filed against a juvenile who has been the subject
35 of nontestimonial identification procedures, all records of the
36 evidence shall be destroyed.
- 37 (2) If in the district court or superior court pursuant to a transfer a
38 juvenile is found not guilty, all records resulting from a
39 nontestimonial order shall be destroyed. Further, in the case of a
40 juvenile who is under 13 years of age and who is adjudicated to have
41 committed a delinquent act, which would be less than a felony had
42 the juvenile been an adult, all records shall be destroyed.

1 ~~The court after notice, hearing, and a finding of probable cause may transfer~~
2 ~~jurisdiction over a juvenile to superior court if the juvenile was 13 years of age or older at~~
3 ~~the time the juvenile allegedly committed an offense that would be a felony if committed~~
4 ~~by an adult. If the alleged felony constitutes a Class A felony and the court finds probable~~
5 ~~cause, the court shall transfer the case to the superior court for trial as in the case of~~
6 ~~adults.~~

7 ~~§ 7A*court.~~

8 ~~When jurisdiction over a juvenile is transferred to the superior court, the juvenile shall~~
9 ~~be fingerprinted and his fingerprints shall be sent to the State Bureau of Investigation.~~

10 ~~§ 7A(a) The court shall conduct a hearing to determine probable cause in all felony~~
11 ~~cases in which a juvenile was 13 years of age or older when the offense was allegedly~~
12 ~~committed. Counsel for the juvenile may waive in writing the right to the hearing and~~
13 ~~stipulate to a finding of probable cause. The court may exclude the public from the~~
14 ~~hearing unless the juvenile moves that the hearing be open, which motion shall be~~
15 ~~granted.~~

16 ~~(b) At the probable cause hearing,~~

17 ~~(1) A prosecutor must represent the State;~~

18 ~~(2) The juvenile shall be represented by counsel in accordance with G.S.~~
19 ~~7A-584;~~

20 ~~(3) The juvenile may testify as a witness in his own behalf and call and~~
21 ~~examine other witnesses and produce other evidence in his behalf;~~
22 ~~and~~

23 ~~(4) Each witness must testify under oath or affirmation and be subject to~~
24 ~~cross-examination.~~

25 ~~(c) The State must by nonhearsay evidence, or by evidence that satisfies an~~
26 ~~exception to the hearsay rule, show that there is probable cause to believe that the offense~~
27 ~~charged has been committed and that there is probable cause to believe that the juvenile~~
28 ~~committed it, except:~~

29 ~~(1) A report or copy of a report made by a physicist, chemist, firearms~~
30 ~~identification expert, fingerprint technician, or an expert or~~
31 ~~technician in some other scientific, professional, or medical field,~~
32 ~~concerning the results of an examination, comparison, or test~~
33 ~~performed by him in connection with the case in issue, when stated~~
34 ~~by that person in a report made by him, is admissible in evidence;~~

35 ~~(2) If there is no serious contest, reliable hearsay is admissible to prove~~
36 ~~value, ownership of property, possession of property in another than~~
37 ~~the juvenile, lack of consent of the owner, possessor, or custodian of~~
38 ~~property to the breaking or entering of premises, chain of custody,~~
39 ~~and authenticity of signatures.~~

40 ~~(d) The juvenile's attorney has the right to examine any court or probation records~~
41 ~~considered by the court in exercising its discretion to transfer the case.~~

42 ~~§ 7A0 (a) If probable cause is found and transfer to superior court is not required by~~
43 ~~G.S. 7A-608, the prosecutor or the juvenile may move that the case be transferred to the~~

1 superior court for trial as in the case of adults. The judge may proceed to determine
2 whether the needs of the juvenile or the best interest of the State will be served by
3 transfer of the case to superior court for trial as in the case of adults. When the case is
4 transferred to superior court, the superior court has jurisdiction over that felony, any
5 offense based on the same act or transaction or on a series of acts or transactions
6 connected together or constituting parts of a single scheme or plan of that felony, and any
7 greater or lesser included offense of that felony.

8 (b) If probable cause is not found, the judge shall dismiss the proceeding.

9 (c) Any order of transfer shall specify the reasons for transfer.

10 (d) A finding of no probable cause shall not preclude the judge from adjudicating
11 the juvenile delinquent for the commission of a lesser included offense.

12 ~~§ 7Af Once the order of transfer has been entered, the juvenile has the right to~~
13 ~~pretrial release as provided in G.S. 15A-533 and 15A-534. The release~~
14 ~~order shall specify the person or persons to whom the juvenile may be~~
15 ~~released. Pending release under this Article, the judge shall order that the~~
16 ~~juvenile be detained in a local detention home as defined by G.S. 7A-~~
17 ~~517(15) or a regional detention home as defined by G.S. 7A-517(26) while~~
18 ~~awaiting trial. The judge may order the juvenile to be held in a holdover~~
19 ~~facility as defined by G.S. 7A-517(16) at any time the presence of the~~
20 ~~juvenile is required in court for pretrial hearings or trial, if the judge finds~~
21 ~~that it would be inconvenient to return the juvenile to the local or regional~~
22 ~~detention home.~~

23 Should the juvenile be found guilty, or enter a plea of guilty or no contest to criminal
24 offenses in superior court and the juvenile receives an active sentence, then immediate
25 transfer to the Department of Correction shall be ordered. Until such time as the juvenile
26 is transferred to the Department of Correction, the juvenile may be detained in a holdover
27 facility as defined by G.S. 7A-517(16). The juvenile may not be detained in a local
28 detention home as defined by G.S. 7A-517(15) or a regional detention home as defined
29 by G.S. 517(26) [G.S. 7A-517(26)] pending transfer to the Department of Correction.
30 The juvenile may be kept by the Department of Correction as a safekeeper until the
31 juvenile is placed in an appropriate correctional program.

32 ~~§ 7A Jeopardy attaches in an adjudicatory hearing when the judge begins to hear~~
33 ~~evidence.~~

34 ~~§§7Ae "ARTICLE 50-7.~~

35 "DISCOVERY.

36 ~~§ 7A (a) Statement of the Juvenile. — Upon motion of a juvenile alleged to be~~
37 ~~delinquent, the judge shall order the petitioner:~~

38 (1) To permit the juvenile to inspect and copy any relevant written or recorded
39 statements within the possession, custody, or control of the petitioner made by the
40 juvenile or any other party charged in the same action; and

41 (2) To divulge, in written or recorded form, the substance of any oral statement
42 made by the juvenile or any other party charged in the same action.

1 (b) Names of Witnesses.—Upon motion of the juvenile, the judge shall order the
2 petitioner to furnish the names of persons to be called as witnesses. A copy of the record
3 of witnesses under the age of 16 shall be provided by the petitioner to the juvenile upon
4 his motion if accessible to the petitioner.

5 (c) Documents and Tangible Objects.—Upon motion of the juvenile, the judge
6 shall order the petitioner to permit the juvenile to inspect and copy books, papers,
7 documents, photographs, motion pictures, mechanical or electronic recordings, tangible
8 objects, or portions thereof:

9 (1) Which are within the possession, custody, or control of the
10 petitioner, the prosecutor, or any law enforcement officer conducting
11 an investigation of the matter alleged; and

12 (2) Which are material to the preparation of his defense, are intended for
13 use by the petitioner as evidence, and were obtained from or belong
14 to the juvenile.

15 (d) Reports of Examinations and Tests.—Upon motion of a juvenile, the judge
16 shall order the petitioner to permit the juvenile to inspect and copy results of physical or
17 mental examinations or of tests, measurements or experiments made in connection with
18 the case, within the possession, custody, or control of the petitioner. In addition upon
19 motion of a juvenile, the judge shall order the petitioner to permit the juvenile to inspect,
20 examine, and test, subject to appropriate safeguards, any physical evidence or a sample of
21 it or tests or experiments made in connection with the evidence in the case if it is
22 available to the petitioner, the prosecutor, or any law enforcement officer conducting an
23 investigation of the matter alleged and if the petitioner intends to offer the evidence at
24 trial.

25 (e) Except as provided in subsections (a) through (d), this Article does not require
26 the production of reports, memoranda, or other internal documents made by the
27 petitioner, law enforcement officers, or other persons acting on behalf of the petitioner in
28 connection with the investigation or prosecution of the case or of statements made by
29 witnesses or the petitioner to anyone acting on behalf of the petitioner.

30 (f) Nothing in this section prohibits a petitioner from making voluntary
31 disclosures in the interest of justice.

32 **§7As (a) Names of Witnesses.—Upon motion of the petitioner, the judge shall order**
33 **the juvenile to furnish to the petitioner the names of persons to be called**
34 **as witnesses.**

35 (b) Documents and Tangible Objects.—If the court grants any relief sought by the
36 juvenile under G.S. 7A-618, subsection (c), upon motion of the petitioner the judge shall
37 order the juvenile to permit the petitioner to inspect and copy books, papers, documents,
38 photographs, motion pictures, mechanical or electronic recordings, tangible objects, or
39 portions thereof which are within the possession, custody, or control of the juvenile and
40 which the juvenile intends to introduce in evidence.

41 (c) Reports of Examinations and Tests.—If the court grants any relief sought by
42 the juvenile under G.S. 7A-618, subsection (d), upon motion of the petitioner, the judge
43 shall order the juvenile to permit the petitioner to inspect and copy results of physical or

1 mental examinations or of tests, measurements or experiments made in connection with
2 the case within the possession and control of the juvenile which he intends to introduce in
3 evidence or which were prepared by a witness whom he intends to call if the results relate
4 to the witness's testimony. In addition, upon motion of a petitioner, the judge shall order
5 the juvenile to permit the petitioner to inspect, examine, and test, subject to appropriate
6 safeguards, any physical evidence or a sample of it if the juvenile intends to offer the
7 evidence or tests or experiments made in connection with the evidence in the case.

8 ~~§ 7Ae (a) Upon written motion of a party and a finding of good cause, the judge may
9 at any time order that discovery or inspection be denied, restricted, or
10 deferred.~~

11 (b) The judge may permit a party seeking relief under subsection (a) to submit
12 supporting affidavits or statements to the court for in camera inspection. If thereafter, the
13 judge enters an order granting relief under subsection (a), the material submitted in
14 camera must be available to the Court of Appeals in the event of an appeal.

15 ~~§ 7Ah If a party, subject to compliance with an order issued pursuant to this Article,
16 discovers additional evidence prior to or during the hearing or decides to
17 use additional evidence, and if the evidence is or may be subject to
18 discovery or inspection under this Article, he shall promptly notify the
19 other party of the existence of the additional evidence or of the name of
20 each additional witness.~~

21 "§ 7B-700. Discovery in abuse, neglect and dependency cases.

22 The chief district court judge in each distirct shall designate by standing order what
23 procedure shall be followed and what orders may be entered to allow parties discovery
24 of records including records of the Department of Social Services and records of other
25 parties and agencies which may be necessary in the representation of any party to the
26 petition.

27 "ARTICLE "PRE-ADJUDICATION CONFERENCE.

28 "§ 7B-800. Purpose.

29 The purposes of the conference shall be to explore the possibility of settlement, to
30 narrow the issues as much as possible, and to stipulate those facts that are not in dispute.

31 "§ 7B-801. Time of conference.

32 The clerk shall schedule and notify all parties of the pre-adjudication conference that
33 shall be held within thirty days of the filing of the petition unless the judge, for good
34 cause, orders that it be held at a later time. All parties and their attorneys shall attend the
35 pre-adjudication conference. Failure to appear may result in sanctions by the court.

36 "§ 7B-802. Procedures for conference.

37 (a) At or before the conference, each party shall provide to all other parties a
38 written list of prospective witnesses and exhibits and copies of all available listed exhibits
39 intended for use at the hearing. Any listed exhibit that is not available for distribution at
40 or before the conference shall be distributed as soon as it is available.

41 (b) At the conference parties shall:

42 (1) Share witness lists, exhibitg lists, and exhibits;

43 (2) Define the issues;

1 (3) Identify matters that can be stipulated and making stipulations, and

2 (4) Consider any proposed consent order.

3 (c) At the conclusion of the conference, a pretrial order shall be prepared
4 reflecting the outcome of the conference and each party shall be provided a copy of the
5 order.

6 (d) If a parent's identity or whereabouts remain unknown or the paternity of the
7 child has not been legally established, the order shall specify any steps that are to be
8 taken to identify the parent, locate the parent, or establish paternity.

9 **"§ 7B-803. Adjudicatory stipulation before judge.**

10 Before accepting a stipulation to findings, conclusions, or provisions of the court's
11 adjudication order, the judge, in open court, shall determine that the parties understand
12 the content and consequences of the stipulation, including, if applicable, the possibility
13 that the child may be removed permanently from the home, and that they voluntarily
14 consent of the stipulation. The judge shall inquire of the parties in order to determine that
15 the stipulation is voluntary and knowing. The court's findings shall be set forth on the
16 record.

17 **"ARTICLE 51.9.**

18 **"HEARING PROCEDURES.**

19 **"§ 7B-900. Open hearings.**

20 All hearings under this Subchapter shall be held in open court unless the judge, upon
21 motion of a party or upon the court's own motion, determines that the possibility of
22 damage or harm to the child outweighs the public interest in having an open hearing, and
23 that it is in the child's best interest to exclude the public from the hearing. Upon closing
24 the hearing to the public, the court may admit those persons who have direct interest in
25 the case or in the work of the court.

26 ~~"§ 7A At The judge may permit a petition to be amended when the amendment does
27 not change the nature of the offense alleged or the conditions upon which
28 the petition is based. If a motion to amend is allowed, the juvenile shall be
29 given a reasonable opportunity to prepare a defense to the amended
30 allegations.~~

31 In an child abuse, neglect, or dependency proceeding, the judge may permit a petition to
32 be amended under the conditions allowing amendment in G.S. 1A-1, Rule 15.

33 ~~§ 7A temporary commitment; temporary orders.~~

34 ~~The provisions of G.S. 15A-1001, 15A-1002, and 15A-1003 apply to all cases in
35 which a juvenile is alleged to be delinquent. No juvenile committed under this section
36 may be placed in a situation where he will come in contact with adults committed for any
37 purpose.~~

38 ~~"§ 7A. The adjudicatory hearing shall be held in the district at such the time and
39 place as the chief district judge shall designate. The judge may exclude the
40 public from the hearing unless the juvenile moves that the hearing be
41 open, which motion shall be granted. designate but no later than 60 days
42 from the filing of the petition, unless the judge, pursuant to G.S. orders
43 that it be held at a later time.~~

1 ~~§ 7Ai A prosecutor from the District Attorney's office shall represent the State in~~
2 ~~contested delinquency hearings including detention, probable cause,~~
3 ~~adjudicatory, dispositional, probation revocation and conditional release~~
4 ~~hearings.~~

5 "§ 7Aa The adjudicatory hearing shall be a judicial process designed to adjudicate
6 the existence or nonexistence of any of the conditions alleged in a petition.
7 In the adjudicatory hearing, the judge shall protect the following rights of
8 the juvenile child and his the child's parent to assure due process of law:
9 the right to written notice of the facts alleged in the petition, the right to
10 counsel, the right to confront and cross-examine witnesses, the privilege
11 against self-incrimination, the right of discovery and ~~all rights afforded~~
12 ~~adult offenders except the right to bail, the right of self-representation,~~
13 ~~and the right of trial by jury. the right of self-representation.~~

14 "~~§ 7A juvenile court.~~

15 The judge may, for good cause, continue the hearing for as long as is reasonably
16 required to receive additional evidence, reports, or assessments that the court has
17 requested, or other information needed in the best interest of the juvenile child and to
18 allow for a reasonable time for the parties to conduct expeditious discovery. Otherwise,
19 continuances shall be granted only in extraordinary circumstances when necessary for the
20 proper administration of justice or in the best interest of the juvenile child. Juvenile
21 court shall have priority over all other district court sessions. Orders granting a
22 continuance shall appear on the record and shall state supporting reasons for granting the
23 continuance.

24 ~~§ 7A (a) A judge may accept an admission from a juvenile only after first~~
25 ~~addressing him personally and~~

- 26 (1) ~~Informing him that he has a right to remain silent and that any~~
27 ~~statement he makes may be used against him;~~
28 (2) ~~Determining that he understands the nature of the charge;~~
29 (3) ~~Informing him that he has a right to deny the allegations;~~
30 (4) ~~Informing him that by his admissions he waives his right to be~~
31 ~~confronted by the witnesses against him;~~
32 (5) ~~Determining that the juvenile is satisfied with his representation; and~~
33 (6) ~~Informing him of the most restrictive disposition on the charge.~~

34 (b) ~~By inquiring of the prosecutor, the juvenile's attorney, and the juvenile~~
35 ~~personally, the judge shall determine whether there were any prior discussions involving~~
36 ~~admissions, whether the parties have entered into any arrangement with respect to the~~
37 ~~admissions and the terms thereof, and whether any improper pressure was exerted. The~~
38 ~~judge may accept an admission from a juvenile only after determining that the admission~~
39 ~~is a product of informed choice.~~

40 (c) ~~The judge may accept an admission only after determining that there is a~~
41 ~~factual basis for the admission. This determination may be based upon any of the~~
42 ~~following information: a statement of the facts by the prosecutor; a written statement of~~

1 the juvenile; sworn testimony which may include reliable hearsay; or a statement of facts
2 by the juvenile's attorney.

3 ~~"§ 7A (a) Where delinquent or undisciplined behavior is alleged and the allegation
4 is denied, the court shall proceed in accordance with the rules of evidence
5 applicable to criminal cases. In addition, no statement made by a juvenile
6 to the intake counselor during the preliminary inquiry and evaluation
7 process shall be admissible prior to the dispositional hearing.~~

8 (b) ~~Where~~ When the juvenile child is alleged to be abused, neglected or dependent,
9 the rules of evidence in civil cases shall apply.

10 ~~"§ 7A ♦ The allegations of a petition alleging the juvenile is delinquent shall be
11 proved beyond a reasonable doubt. The allegations in a petition alleging
12 abuse, neglect, dependence, or undisciplined behavior or dependence shall
13 be proved by clear and convincing evidence.~~

14 ~~"§ 7Ai All adjudicatory and dispositional hearings and hearings on transfer to
15 superior court shall be recorded by stenographic notes or by electronic or
16 mechanical means. Records shall be reduced to a written transcript only
17 when timely notice of appeal has been given. The judge may order that
18 other hearings be recorded.~~

19 ~~"§ 7An If the judge finds that the allegations in the petition have been proved as
20 provided in G.S. 7A-635, 7B-906, he the judge shall so state. If the judge
21 finds that the allegations have not been proven, he the judge shall dismiss
22 the petition with prejudice and the juvenile child shall be released from
23 secure or onsecure custody.~~

24 ~~§-7Ad An adjudication that a juvenile is delinquent or commitment of a juvenile to
25 the Division of Youth Services shall neither be considered conviction of
26 any criminal offense nor cause the juvenile to forfeit any citizenship rights.~~

27 ~~§-7Af The judge shall proceed to the dispositional hearing upon receipt of sufficient
28 social, medical, psychiatric, psychological, and educational information.
29 No predisposition report shall be submitted to or considered by the judge
30 prior to the completion of the adjudicatory hearing. The judge shall
31 permit the juvenile to inspect any predisposition report to be considered
32 by him in making his disposition unless the judge determines that
33 disclosure would seriously harm his treatment or rehabilitation or would
34 violate a promise of confidentiality. Opportunity to offer evidence in
35 rebuttal shall be afforded the juvenile and his parent, guardian, or
36 custodian at the dispositional hearing. The judge may order counsel not to
37 disclose parts of the report to the juvenile or the juvenile's parent,
38 guardian, or custodian if the judge finds that disclosure would seriously
39 harm the treatment or rehabilitation of the juvenile or would violate a
40 promise of confidentiality given to a source of information.~~

41 "ARTICLE "DISPOSITIONS.

42 "§ 7B-1000. Purpose.

1 The purpose of dispositions is to design an appropriate plan to meet the needs of the
2 child and to achieve the objectives of the State in exercising jurisdiction. If possible, and
3 if consistent with protecting the child's safety, the initial approach should involve
4 working with the child and the child's family in their own home so that the appropriate
5 community resources may be involved in care, supervision, and treatment according to
6 the needs of the child. In these cases, the judge should determine the appropriate
7 community level services to be provided to the child and the child's family in order to
8 strengthen the home situation.

9 **"§ 7B-1001. Predisposition reports.**

10 (a) Whenever the director of the department of social services files a petition, the
11 department of social services shall prepare a predisposition report that includes, but is not
12 limited to, the the following:

- 13 (1) A description of the placement plan for the child and how that plan
14 is appropriate to the child's needs;
15 (2) A description of the plan of services for the child and the child's
16 family, and how that plan is appropriate to meet the child's needs;
17 (3) A statement of changes in parental behavior that are needed to
18 correct the conditions that led to the abuse, neglect, or dependency,
19 and the actions the parents must take;
20 (4) If there is a recommendation that the child be removed from the
21 home;
- 22 a. A statement of the efforts by the department of social services to
23 prevent the need for placing the child outside the home or a
24 statement of why these efforts are not necessary pursuant to
25 statute;
26 b. A description of the efforts by the department of social services
27 to reunify the family, including the services that have been
28 offered, provided or rejected, or a statement of why these efforts
29 are not necessary pursuant to statute;
30 c. A statement o why the child cannot be protected from the
31 identified problems while remaining in the home;
32 d. The identity of all relatives and friends who have been contacted
33 about providing a placement for the child, and a description and
34 the nature and results of those contacts;
35 e. A summary of visitation that has occurred and a plan for future
36 visitation with the child;
37 f. A statement of the child's special needs and how they may be
38 met;
39 g. The identity and location of the child's siblings if they are not
40 placed together; and
41 h. If applicable, description of the child's school or day-care
42 situation and efforts to maintain the same placement.

1 (b) The guardian as litem for the child shall prepare a predisposition report to
2 assist the court in reaching a disposition that will best serve the child's needs. The report
3 shall identify the persons contacted and provide a factual basis for any recommendations.

4 (c) The department of social services and the child's guardian as litem shall
5 provide copies of their predisposition reports to all parties and their counsel before the
6 pre-adjudication conference.

7 (d) Predisposition reports shall not be submitted to or considered by the court until
8 the adjudication is completed or the parties have settled all adjudication issues.

9 **"§ 7B-1002. Pre-disposition conference.**

10 (a) The purposes of the conference shall be to explore the possibilities of
11 settlement, to narrow the issues as much as possible, and to stipulate those facts or
12 provisions of the dispositional order that are not in dispute.

13 (b) If settlement is reached at the pre-adjudication conference, a pre-disposition
14 conference shall be held immediately following the pre-adjudication conference. If
15 disposition occurs on a date after the adjudication, a predisposition conference shall be
16 held no more than two weeks before the dispositional hearing. The clerk shall schedule
17 and notify all parties of the pre-disposition conference. All parties and their attorneys
18 shall attend the pre-disposition conference failure to appear may result in sanctions by the
19 court.

20 (c) The conference procedures shall be the same as those set forth in G.S. 7B-802.

21 **"§ 7B-1003. Dispositional stipulation before judge.**

22 Before accepting a stipulation to findings, conclusion, or provisions of the court's
23 disposition order, the judge, in open court, shall determine that the parties understand the
24 content and consequences of the stipulation and that they voluntarily consent to the
25 stipulation. The judge shall inquire of the parties in order to determine that the
26 stipulation is voluntary and knowing. The court's finding shall be set forth on the record.

27 **"§ 7A* The dispositional hearing may be informal, and the judge may consider**
28 **written reports or other evidence concerning the needs of the juvenile.**
29 **child. The juvenile and his child and the child's parent, guardian, or**
30 **eustodian custodian, or caretaker shall have an opportunity to present**
31 **evidence, and they may advise the judge concerning the disposition they**
32 **believe to be in the best interest of the juvenile child. The dispositional**
33 **hearing shall take place immediately after the adjudication unless, for**
34 **good cause, the judge orders that it should be continued. The judge may**
35 **exclude the public from the hearing unless the juvenile moves that the**
36 **hearing be open, which motion shall be granted.**

37 **"§ 7A dependency proceeding.**

38 Nothing in this Article precludes the judge from entering a consent order or judgment
39 on a petition for abuse, ~~neglect~~ neglect, or dependency when all parties are present,
40 present and agree to the entry of a consent judgment, the juvenile child is represented by
41 counsel and all other parties are either represented by counsel or have waived counsel,
42 and sufficient findings of fact are made by the judge.

43 **ARTICLE 52.**

DISPOSITIONS.**§ 7A-646. Purpose.**

The purpose of dispositions in juvenile actions is to design an appropriate plan to meet the needs of the juvenile and to achieve the objectives of the State in exercising jurisdiction. If possible, the initial approach should involve working with the juvenile and the juvenile's family in their own home so that the appropriate community resources may be involved in care, supervision, and treatment according to the needs of the juvenile. Thus, the judge should arrange for appropriate community-level services to be provided to the juvenile and the juvenile's family in order to strengthen the home situation.

In choosing among statutorily permissible dispositions for a delinquent juvenile, the judge shall select the least restrictive disposition both in terms of kind and duration, that is appropriate to the seriousness of the offense, the degree of culpability indicated by the circumstances of the particular case and the age and prior record of the juvenile. A juvenile should not be committed to training school or to any other institution if the juvenile can be helped through community-level resources. Article 81B of Chapter 15A of the General Statutes does not apply to juvenile dispositions, except as provided in G.S. 7A-652(e).

"§ 7A-647. ~~7B-1006.~~ Dispositional alternatives for delinquent, undisciplined, abused, neglected, or dependent juvenile-child.

The following alternatives for disposition shall be available to any judge exercising jurisdiction, and the judge may combine any of the applicable alternatives when ~~he~~ the judge finds such this disposition to be in the best interest of the ~~juvenile-child~~:

- (1) The judge may dismiss the case, or continue the case in order to allow the ~~juvenile, parent, parent~~ or others to take appropriate action.
- (2) In the case of any ~~juvenile-child~~ who needs more adequate care or supervision or who needs placement, the judge may:
 - a. Require that ~~he~~ the child be supervised in ~~his~~ the child's own home by the Department of Social Services in ~~his~~ the child's county, a court counselor county or other personnel as may be available to the court, subject to conditions applicable to the parent or the ~~juvenile-child~~ as the judge may specify; or
 - b. Place ~~him~~ the child in the custody of a parent, relative, private agency offering placement services, or some other suitable person; or
 - c. Place ~~him~~ the child in the custody of the Department of Social Services in the county of ~~his~~ the child's residence, or in the case of a ~~juvenile-child~~ who has legal residence outside the State, in the physical custody of the Department of Social Services in the county where ~~he~~ the child is found so that agency may return the ~~juvenile-child~~ to the responsible authorities in ~~his~~ the child's home state. If the child is placed in the custody of the Department of Social Services:

- 1 1. The Director shall not return physical custody of the child
2 to the parent or other person standing in loco parentis
3 without a hearing at which the court finds that the child
4 will receive proper care and supervision in a safe home;
5 and
6 2. The Director may, unless otherwise ordered by the judge,
7 arrange for, provide, or consent to, needed routine or
8 emergency medical or surgical care or treatment. In the
9 case where the parent is unknown, unavailable or unable
10 to act on behalf of ~~their~~the child or children, the Director
11 may, unless otherwise ordered by the judge, arrange for,
12 provide or consent to any psychiatric, psychological,
13 educational, or other remedial evaluations or treatment for
14 the ~~juvenile~~child placed by a judge or ~~his~~the judge's
15 designee in the custody or physical custody of a county
16 Department of Social Services under the authority of this
17 or any other Chapter of the General Statutes. Prior to
18 exercising this authority, the Director shall make
19 reasonable efforts to obtain consent from a parent or
20 guardian of the affected child. If the Director can not
21 obtain ~~such~~this consent, the Director shall promptly
22 notify the parent or guardian that care or treatment has
23 been provided and shall give ~~him~~this person frequent
24 status reports on the circumstances of the child. Upon
25 request of a parent or guardian of the affected child, the
26 results or records of the aforementioned evaluations,
27 ~~findings~~findings, or treatment shall be made available to
28 ~~such~~this parent or guardian by the Director unless
29 prohibited by ~~G.S. 122C-53(d)~~G.S. 122C-53(d); or
30 d. Appoint a guardian of the person pursuant to G.S. 7B-600.
31 (3) In placing a child in out-of-home care under this section, the court
32 shall first consider whether a relative of the child is willing and able
33 to provide proper care and supervision of the child in a safe home. If
34 the court finds that the relative is willing and able to provide proper
35 care and supervision in a safe home, then the court shall order
36 placement of the child with the relative unless the court finds that the
37 placement is contrary to the best interests of the child. Placement of
38 a child with a relative outside of the State must be in accordance
39 with the Interstate Compact on the Placement of Children.
40 (3)(4) In any case, the judge may order that the ~~juvenile~~child be examined by
41 a physician, psychiatrist, psychologist or other qualified expert as may
42 be needed for the judge to determine the needs of the ~~juvenile~~child.

- 1 a. Upon completion of the examination, the judge shall conduct a
2 hearing to determine whether the juvenile-child is in need of
3 medical, surgical, psychiatric, psychological, or other treatment
4 and who should pay the cost of the treatment. The county
5 manager, or ~~such the person who shall be~~ designated by the
6 chairman of the county commissioners, of the juvenile's county
7 of the child's residence shall be notified of the hearing, and
8 allowed to be heard. If the judge finds the juvenile-child to be in
9 need of medical, surgical, psychiatric, psychological or other
10 treatment, the judge shall permit the parent or other responsible
11 persons to arrange for treatment. If the parent declines or is
12 unable to make necessary arrangements, the judge may order the
13 needed treatment, surgery or care, and the judge may order the
14 parent to pay the cost of the care pursuant to G.S. ~~7A-650. 7B-~~
15 1007. If the judge finds the parent is unable to pay the cost of
16 treatment, the judge shall order the county to arrange for
17 treatment of the juvenile-child and to pay for the cost of the
18 treatment. The county department of social services shall
19 recommend the facility that will provide the juvenile-child with
20 treatment.
- 21 b. If the judge believes, or if there is evidence presented to the
22 effect that the juvenile-child is mentally ill or is developmentally
23 disabled, the judge shall refer the juvenile-child to the area
24 mental health, developmental disabilities, and substance abuse
25 services director for appropriate action. A juvenile-child shall not
26 be committed directly to a State hospital or mental retardation
27 center; and orders purporting to commit a juvenile-child directly
28 to a State hospital or mental retardation center except for an
29 examination to determine capacity to proceed shall be void and
30 of no effect. The area mental health, developmental disabilities,
31 and substance abuse director shall be responsible for arranging an
32 interdisciplinary evaluation of the juvenile-child and mobilizing
33 resources to meet the juvenile's—child's needs. If
34 institutionalization is determined to be the best service for the
35 juvenile-child, admission shall be with the voluntary consent of
36 the parent or guardian. If the parent, guardian, ~~or custodian~~
37 custodian, or caretaker refuses to consent to a mental hospital or
38 retardation center admission after ~~such this~~ institutionalization is
39 recommended by the area mental health, developmental
40 disabilities, and substance abuse director, the signature and
41 consent of the judge may be substituted for that purpose. In all
42 cases in which a regional mental hospital refuses admission to a
43 juvenile-child referred for admission by a judge and an area

1 mental health, developmental disabilities, and substance abuse
2 director or discharges a ~~juvenile-child~~ previously admitted on
3 court referral prior to completion of ~~his-the~~ treatment, the
4 hospital shall submit to the judge a written report setting out the
5 reasons for denial of admission or discharge and setting out the
6 ~~juvenile's-child's~~ diagnosis, indications of mental illness,
7 indications of need for treatment, and a statement as to the
8 location of any facility known to have a treatment program for
9 the ~~juvenile-child~~ in question.

- 10 (4) ~~[Effective October 1, 1999] In any case in which a juvenile, who~~
11 ~~was at least eleven years of age at the time of the offense, is~~
12 ~~adjudicated delinquent for committing a violation of G.S. 14-27.2~~
13 ~~(first degree rape), G.S. 14-27.3 (second degree rape), 14-27.4 (first~~
14 ~~degree sexual offense), 14-27.5 (second degree sexual offense), or~~
15 ~~G.S. 14-27.6 (attempted rape or sexual offense), the judge, upon a~~
16 ~~finding that the juvenile is a danger to the community, may order~~
17 ~~that the juvenile register in accordance with Part 4 of Article 27A of~~
18 ~~Chapter 14 of the General Statutes.~~

19 **§ 7A undisciplined juvenile.**

20 In the case of any juvenile who is delinquent or undisciplined, the judge may:

- 21 (1) ~~Continue the case for no more than six months in order to allow the~~
22 ~~family an opportunity to meet the needs of the juvenile through more~~
23 ~~adequate home supervision, through placement in a private or~~
24 ~~specialized school or agency, through placement with a relative, or~~
25 ~~through some other plan approved by the court;~~
26 (2) ~~Place the juvenile under the protective supervision of a court~~
27 ~~counselor for no more than one year so that the court counselor may~~
28 ~~assist the juvenile in securing social, medical, and educational~~
29 ~~services and may work with the family as a unit to insure the~~
30 ~~juvenile is provided proper supervision and care;~~
31 (3) ~~Excuse the juvenile from compliance with the compulsory school~~
32 ~~attendance law when the judge finds that suitable alternative plans~~
33 ~~can be arranged by the family through other community resources~~
34 ~~for one of the following: an education related to the needs or abilities~~
35 ~~of the juvenile including vocational education or special education; a~~
36 ~~suitable plan of supervision or placement; or some other plan that the~~
37 ~~judge finds to be in the best interest of the juvenile.~~

38 **§ 7A-649. Dispositional alternatives for delinquent juvenile.**

39 In the case of any juvenile who is delinquent, the judge may:

- 40 (1) ~~Suspend imposition of a more severe, statutorily permissible~~
41 ~~disposition with the provision that the juvenile meet certain~~
42 ~~conditions agreed to by him and specified in the dispositional order.~~

- 1 ~~The conditions shall not exceed the maximum criminal sanction~~
2 ~~permissible for the offense;~~
- 3 (2) ~~Require restitution, full or partial, payable within a 12-month period~~
4 ~~to any person who has suffered loss or damage as a result of the~~
5 ~~offense committed by the juvenile. The judge may determine the~~
6 ~~amount, terms, and conditions of the restitution. If the juvenile~~
7 ~~participated with another person or persons, all participants should~~
8 ~~be jointly and severally responsible for the payment of restitution;~~
9 ~~however, the judge shall not require the juvenile to make restitution~~
10 ~~if the juvenile satisfies the court that he does not have, and could not~~
11 ~~reasonably acquire, the means to make restitution;~~
- 12 (3) ~~Impose a fine related to the seriousness of the juvenile's offense. If~~
13 ~~the juvenile has the ability to pay the fine, it shall not exceed the~~
14 ~~maximum fine for the offense if committed by an adult;~~
- 15 (4) ~~Order the juvenile to perform supervised community service~~
16 ~~consistent with the juvenile's age, skill, and ability, specifying the~~
17 ~~nature of the work and the number of hours required. The work shall~~
18 ~~be related to the seriousness of the juvenile's offense and in no event~~
19 ~~may the obligation to work exceed 12 months;~~
- 20 (5) ~~Order the juvenile to a supervised day program, requiring him to be~~
21 ~~present at a specified place for all or part of every day or of certain~~
22 ~~days. The judge also may require the juvenile to comply with any~~
23 ~~other reasonable conditions specified in the dispositional order that~~
24 ~~are designed to facilitate supervision;~~
- 25 (6) ~~Order the juvenile to a community-based program of academic or~~
26 ~~vocational education or to a professional residential or nonresidential~~
27 ~~treatment program. Participation in the programs shall not exceed 12~~
28 ~~months;~~
- 29 (7) ~~Impose confinement on an intermittent basis in an approved~~
30 ~~detention facility. Confinement shall be limited to not more than five~~
31 ~~24-hour periods, the timing of which is determined by the court in its~~
32 ~~discretion. Confinement in such a case shall be completed within a~~
33 ~~period of 90 days from the date of disposition;~~
- 34 (8) ~~Place the juvenile on probation under the supervision of a court~~
35 ~~counselor. In any case where a juvenile is placed on probation, the~~
36 ~~court counselor shall have the authority to visit the juvenile where he~~
37 ~~resides. The judge shall specify conditions of probation that are~~
38 ~~related to the needs of the juvenile including any of the following:~~
- 39 a. ~~That the juvenile shall remain on good behavior and not violate~~
40 ~~any laws;~~
- 41 b. ~~That the juvenile attend school regularly;~~
- 42 b1. ~~That the juvenile maintain passing grades in up to four courses~~
43 ~~during each grading period and meet with the court counselor~~

- 1 and a representative of the school to make a plan for how to
2 maintain those passing grades;
- 3 e. That the juvenile not associate with specified persons or be in
4 specified places;
- 5 d. That the juvenile report to a court counselor as often as required
6 by a court counselor;
- 7 e. That the juvenile make specified financial restitution or pay a
8 fine in accordance with subdivisions (2) and (3);
- 9 f. That the juvenile be employed regularly if not attending school.
- 10 An order of probation shall remain in force for a period not to exceed
11 one year from the date entered. Prior to expiration of an order of
12 probation, the judge may extend it for an additional period of one year
13 after a hearing if he finds that the extension is necessary to protect the
14 community or to safeguard the welfare of the juvenile;
- 15 (9) Order that the juvenile shall not be licensed to operate a motor
16 vehicle in the State of North Carolina for as long as the court retains
17 jurisdiction over the juvenile or for any shorter period of time;
- 18 (10) Commit the juvenile to the Division of Youth Services in accordance
19 with G.S. 7A-652.

20 **"§ 7A-650. 7B-1007. Authority over ~~parents~~ parents, guardians, custodians, and**
21 **caretakers of juvenile child adjudicated as delinquent, undisciplined,**
22 **abused, neglected, or dependent.**

23 (a) If the court orders medical, surgical, psychiatric, psychological, or other
24 treatment pursuant to G.S. 7A-647(3), 7B-1006, the court may order the ~~parent or other~~
25 ~~responsible parties~~ parent, guardian, custodial, or caretaker to pay the cost of the
26 treatment or care ordered.

27 (b) ~~The court may order the parent to provide transportation for a juvenile to keep~~
28 ~~an appointment with a court counselor.~~

29 (b1) (b) At the dispositional hearing or a subsequent hearing in the case of a
30 juvenile child who has been adjudicated ~~delinquent, undisciplined,~~ abused, neglected, or
31 dependent, if the court finds that it is in the best interest of the juvenile child for the
32 parent-parent, guardian, custodian, or caretaker to be directly involved in the juvenile's
33 child's treatment, the court may order the parent to participate in medical, psychiatric,
34 psychological, or other treatment of the juvenile child. The cost of the treatment shall be
35 paid pursuant to G.S. ~~7A-647(3)a.~~ 7B-1006.

36 (b2) (b1) At the dispositional hearing or a subsequent hearing in the case of a
37 juvenile child who has been adjudicated ~~delinquent, undisciplined,~~ abused, neglected, or
38 dependent, the court may determine whether the best interest of the juvenile child
39 requires that the parent-parent, guardian, custodian, or caretaker undergo psychiatric,
40 psychological, or other treatment or counseling directed toward remediating or
41 remedying behaviors or conditions that led to or contributed to the juvenile's-child's
42 adjudication or to the court's decision to remove custody of the juvenile child from the
43 parent-parent, guardian, custodian, or caretaker or to facilitate placement of the child

1 with a parent, guardian, custodian, or caretaker. If the court finds that the best interest of
2 the ~~juvenile child~~ requires the ~~parent~~ a parent, guardian, custodian, or caretaker undergo
3 treatment, it may order the ~~parent~~ a parent, guardian, custodian, or caretaker to comply
4 with a plan of treatment approved by the court or condition legal custody or physical
5 placement of the ~~juvenile child~~ with the ~~parent~~ upon the ~~parent's~~ parent, guardian,
6 custodian, or caretaker upon the ~~parent's~~, guardian's, custodian's, or caretaker's
7 compliance with the plan of treatment.

8 (b2) The court may order the ~~parent~~ parent, guardian, custodian, or caretaker to pay
9 the cost of treatment ordered pursuant to ~~this subsection~~ subsection (b1) of this section.
10 In cases in which the court has conditioned legal custody or physical placement of the
11 ~~juvenile child~~ with the ~~parent~~ parent, guardian, custodian, or caretaker upon the ~~parent's~~
12 ~~this person's~~ compliance with a plan of treatment, the court may charge the cost of the
13 treatment to the county of the ~~juvenile's child's~~ residence if the court finds the ~~parent~~
14 ~~parent, guardian, custodian, or caretaker~~ is unable to pay the cost of the ~~treatment~~.
15 ~~treatment and the treatment is not currently available from the area mental health~~
16 ~~program that serves the parent, guardian, custodian, or caretaker~~. In all other cases, if the
17 court finds the ~~parent~~ parent, guardian, custodian, or caretaker is unable to pay the cost of
18 the treatment ordered pursuant to this subsection, the court may order the ~~parent~~ parent,
19 ~~guardian, custodian, or caretaker~~ to receive treatment currently available from the area
20 mental health program that serves the ~~parent's~~ parent's, guardian's, custodian's, or
21 caretaker's catchment area.

22 (c) Whenever legal custody of a ~~juvenile child~~ is vested in someone other than the
23 ~~juvenile's child's~~ parent, after due notice to the parent and after a hearing, the court may
24 order that the parent pay a reasonable sum that will cover in whole or in part the support
25 of the ~~juvenile child~~ after the order is entered. If the court requires the payment of child
26 support, the amount of the payments shall be determined as provided in G.S. 50-13.4(c).
27 If the court places a ~~juvenile child~~ in the custody of a county department of social
28 services and if the court finds that the parent is unable to pay the cost of the support
29 required by the ~~juvenile, child~~, the cost shall be paid by the county department of social
30 services in whose custody the ~~juvenile child~~ is placed, provided the ~~juvenile child~~ is not
31 receiving care in an institution owned or operated by the State or federal government or
32 any subdivision thereof.

33 (d) Failure of a parent who is personally served to participate in or comply with
34 subsections (a) through (c) may result in a ~~civil proceeding~~ proceedings for ~~contempt~~.
35 ~~contempt pursuant to Chapter 5A of the General Statutes~~.

36 **"§ 7B-1008. Authority over public agencies.**

37 At any time after adjudication, if it appears that the best interest of the child may
38 require that the child receive services from a public agency, the court may direct the clerk
39 or a party to serve the director or other appropriate representative of the agency with a
40 written notice of the hearing and of the issues to be addressed that involve that agency. At
41 the hearing for which the agency has been served with notice, the agency shall have the
42 opportunity to be heard. The court may hear evidence relating to the level and type of
43 services that the agency can provide to meet the child's needs. The court shall have

1 authority to order the public agency to provide or arrange for the provision of services to
2 meet the child's needs. The failure of the public agency to comply with this order may
3 result in contempt proceedings pursuant to Chapter 5A of the General Statutes.

4 **"§ 7A-651. 7B-1009. Dispositional order.**

5 ~~(a) The dispositional order shall be in writing and shall contain appropriate~~
6 ~~findings of fact and conclusions of law. The judge shall state with particularity, both~~
7 ~~orally and in the written order of disposition, the precise terms of the disposition~~
8 ~~including the kind, duration and the person who is responsible for carrying out the~~
9 ~~disposition and the person or agency in whom custody is vested.~~

10 ~~(b) A dispositional order under which a juvenile is removed from the custody of a~~
11 ~~parent or person standing in loco parentis shall direct that the review hearing required by~~
12 ~~G.S. 7A-657 be held within six months of the date of the juvenile's placement in custody~~
13 ~~and, if practicable, shall set the date and time for the review hearing.~~

14 ~~(c) Any order directing placement of a juvenile in foster care shall also contain:~~

15 ~~(1) A finding that the juvenile's continuation in or return to his own~~
16 ~~home would be contrary to the juvenile's best interest; and~~

17 ~~(2) Findings as to whether reasonable efforts have been made to prevent~~
18 ~~or eliminate the need for placement of the juvenile in foster care. A~~
19 ~~finding that reasonable efforts were not made shall not preclude~~
20 ~~entry of a dispositional order authorizing placement in foster care~~
21 ~~when the court finds that such placement is needed for protection of~~
22 ~~the juvenile. When efforts to prevent the need for the juvenile's~~
23 ~~placement are precluded by an immediate threat of harm to the~~
24 ~~juvenile, the court may find that placement of the juvenile in the~~
25 ~~absence of such efforts is reasonable.~~

26 ~~The order may provide for services or other efforts aimed at returning the juvenile~~
27 ~~promptly to a safe home. If the court finds through written findings of fact that efforts to~~
28 ~~eliminate the need for placement of the juvenile in custody clearly would be futile or~~
29 ~~would be inconsistent with the juvenile's safety and need for a safe, permanent home~~
30 ~~within a reasonable period of time, the court shall specify in its order that reunification~~
31 ~~efforts are not required or order that reunification efforts cease.~~

32 ~~(d) An order that places a juvenile in the custody of a county department of social~~
33 ~~services for placement shall specify that the juvenile's placement and care are the~~
34 ~~responsibility of the county department of social services and that the county department~~
35 ~~is to provide or arrange for the foster care or other placement of the juvenile.~~

36 ~~(e) An order that commits a juvenile to the Division of Youth Services shall recite~~
37 ~~detailed findings that support commitment to the Division as the least restrictive~~
38 ~~alternative in light of the circumstances. These findings shall state that all alternatives to~~
39 ~~commitment prescribed in G.S. 7A-647, 7A-648, and 7A-649 have been attempted~~
40 ~~unsuccessfully or were considered and found to be inappropriate and that the juvenile's~~
41 ~~behavior constitutes a threat to persons or property in the community. These findings~~
42 ~~shall be supported by substantial evidence in the record that the judge determined the~~
43 ~~needs of the juvenile, determined the appropriate community resources required to meet~~

1 ~~those needs, and explored and exhausted or considered inappropriate those resources~~
2 ~~prior to committing the juvenile to the Division.~~

3 (a) The dispositional order shall be in writing and shall contain appropriate
4 findings of fact and conclusions of law. The judge shall state with particularity, both
5 orally and in the written order of disposition, the precise terms of the disposition
6 including the kind, duration and the person who is responsible for carrying out the
7 disposition and the person or agency in whom custody is vested.

8 (b) The dispositional order shall contain a description of the placement plan for the
9 child, and, if appropriate, a statement of the changes in parental behavior that are needed
10 to correct the conditions that led to the abuse, neglect or dependency, and the specific
11 actions the parents must take to correct these conditions.

12 (c) A dispositional order under which a child is removed from the custody of a
13 parent or person standing in loco parentis shall:

14 (1) Comply with the requirements of G.S. 7B-507;

15 (2) Contain findings whether a relative of the child is willing and able to
16 provide proper care and supervision of the child in a safe home. If
17 the court finds that the relative is willing and able to provide proper
18 care and supervision in a safe home, then the court shall order
19 placement of the child with the relative unless the court finds that the
20 placement is contrary to the best interests of the child. Prior to the
21 placement of a child with a relative outside of this State, the
22 placement must be in accordance with the Interstate Compact on the
23 Placement of Children.

24 (3) Provide for appropriate visitation as may be in the best interests of
25 the child and consistent with the child's safety. If the child is placed
26 in the custody of the Department of Social Services, the court may
27 order the Director to arrange, facilitate and monitor a visitation plan
28 expressly approved by the court, and the court may order that the
29 Department supervise any such visitation.

30 (4) If practicable, set the date and time for the review hearing required
31 by G.S. 7B-1010.

32 **Services.**

33 ~~(a) A delinquent juvenile 10 years of age or more may be committed to the~~
34 ~~Division of Youth Services for placement in one of the residential facilities operated by~~
35 ~~the Division if the judge finds that the alternatives to commitment as contained in G.S.~~
36 ~~7A-647, 7A-648, and 7A-649 have been attempted unsuccessfully or were considered~~
37 ~~and found to be inappropriate and that the juvenile's behavior constitutes a threat to~~
38 ~~persons or property in the community. These findings shall be supported by substantial~~
39 ~~evidence in the record that the judge determined the needs of the juvenile, determined the~~
40 ~~appropriate community resources required to meet those needs, and explored and~~
41 ~~exhausted or considered inappropriate those resources prior to committing the juvenile to~~
42 ~~the Division.~~

43 ~~(b) Commitment shall be for:~~

1 ~~(1) An indefinite term not to exceed the eighteenth birthday of the~~
2 ~~juvenile; or~~

3 ~~(2) A definite term not to exceed two years if the judge finds that the~~
4 ~~juvenile is 14 years of age or older, has been previously adjudicated~~
5 ~~delinquent for two or more felony offenses, and has been previously~~
6 ~~committed to a residential facility operated by the Division of Youth~~
7 ~~Services. The Division may reduce the duration of the definite~~
8 ~~commitment by an amount not to exceed twenty five percent (25%)~~
9 ~~if the juvenile has not committed any major infractions of the~~
10 ~~regulations of any facility to which he is assigned, and the Division~~
11 ~~of Youth Services may move for a reduction of more than twenty-~~
12 ~~five percent (25%) pursuant to G.S. 7A-664.~~

13 ~~(e) In no event shall commitment of a delinquent juvenile be for a period of time~~
14 ~~in excess of the maximum term of imprisonment for which an adult in prior record level~~
15 ~~VI for felonies or in prior conviction level III for misdemeanors could be sentenced for~~
16 ~~the same offense. A juvenile committed only for an offense that would be a Class 3~~
17 ~~misdemeanor if committed by an adult shall be assigned to a local detention home as~~
18 ~~defined by G.S. 7A-517(15) or a regional home as defined by G.S. 7A-517(26).~~

19 ~~(d) The Chief Court Counselor shall have the responsibility for transporting the~~
20 ~~juvenile to the residential facility designated by the Division of Youth Services. The~~
21 ~~juvenile shall be accompanied to the residential facility by a person of the same sex.~~

22 ~~(d1) The Chief Court Counselor shall insure that the records requested by the~~
23 ~~Director of Youth Services accompany the juvenile upon transportation for admittance to~~
24 ~~a training school or, if not obtainable at the time of admission, are sent to the training~~
25 ~~school within 15 days of the admission. If records requested by the Division of Youth~~
26 ~~Services for admission do not exist, to the best knowledge of the Chief Court Counselor,~~
27 ~~he shall so stipulate in writing to the training school. If such records do exist, but the~~
28 ~~Chief Court Counselor is unable to obtain copies of them, a district court judge may order~~
29 ~~that the records from public agencies be made available to the training school. Records~~
30 ~~that are confidential by law shall remain confidential and the Division of Youth Services~~
31 ~~shall be bound by the specific laws governing the confidentiality of these records. All~~
32 ~~records shall be used in a manner consistent with the best interest of the juvenile.~~

33 ~~(e) The Division of Youth Services shall accept all juveniles who have been~~
34 ~~committed for delinquency when the order of commitment appears on its face to contain~~
35 ~~the findings required by G.S. 7A-651(e) but may decline to do so otherwise. A~~
36 ~~commitment order accompanied by information requested by the Director shall be~~
37 ~~forwarded to the Division. The Director shall place the juvenile in the residential facility~~
38 ~~that would best provide for his needs and shall notify the committing court. The Secretary~~
39 ~~of the Department of Health and Human Services may assign a juvenile committed for~~
40 ~~delinquency to any institution or other program of the Department or licensed by the~~
41 ~~Department, which program is appropriate to the needs of the juvenile.~~

1 (f) When the judge commits a juvenile to the Division of Youth Services, the
2 Director shall prepare a plan for care or treatment within 30 days after assuming custody
3 of the juvenile.

4 (g) Commitment of a juvenile to the Division of Youth Services does not terminate
5 the court's continuing jurisdiction rights over the juvenile and his parent or guardian.
6 Commitment of a juvenile to the Division of Youth Services transfers only physical
7 custody of the juvenile to the Division. Legal custody remains with the parent, guardian,
8 agency or institution in whom it was vested.

9 **~~§ 7A-653. Transfer authority of Governor.~~**

10 The Governor may order transfer of any person less than 18 years of age from any jail
11 or penal facility of the State to one of the residential facilities operated by the Division of
12 Youth Services in appropriate circumstances, provided the Governor shall consult with
13 the Department of Health and Human Services concerning the feasibility of the transfer
14 in terms of available space, staff, and suitability of program.

15 When an inmate, committed to the Department of Correction, is transferred by the
16 Governor to a residential program operated by the Division of Youth Services, the
17 Division of Youth Services may release the juvenile based on the needs of the juvenile
18 and the best interests of the State. Transfer shall not divest the probation parole officer of
19 his responsibility to supervise the inmate on release.

20 **~~§ 7A-654. The Director of the Division of Youth Services shall be responsible for~~**
21 **~~evaluation of the progress of each juvenile at least once every six months~~**
22 **~~as long as the juvenile remains in the care of the Division. If the Director~~**
23 **~~determines that a juvenile is ready for release, he shall initiate a prerelease~~**
24 **~~planning process. The prerelease planning process shall be defined by~~**
25 **~~rules and regulations of the Division of Youth Services, but shall include~~**
26 **~~the following:~~**

- 27 (1) Written notification to the judge who ordered commitment;
- 28 (2) A prerelease planning conference shall be held involving as many as
29 possible of the following: the juvenile, his parent, court counselors
30 who have supervised the juvenile on probation or will supervise him
31 on aftercare, and staff of the facility that found the juvenile ready for
32 release. The prerelease planning conference shall include personal
33 contact and evaluation rather than telephonic notification.
- 34 (3) The prerelease planning conference participants shall consider,
35 based on the individual needs of the juvenile, and pursuant to rules
36 adopted by the Division, placement of the juvenile in any program
37 under the auspices of the Division, including the Community Based
38 Alternatives programs, or under the Administrative Office of the
39 Courts, that, in the judgment of the Division, may serve as a
40 transitional placement, pending release under G.S. 7A-655.

41 **~~§ 7A-655. Conditional release and final discharge.~~**

42 The Division of Youth Services shall release a juvenile either by conditional release
43 or by final discharge. The decision as to which type of release is appropriate shall be

1 made by the Director based on the needs of the juvenile and the best interests of the State
2 under rules and regulations governing release which shall be promulgated by the Division
3 of Youth Services, according to the following guidelines:

4 (1) Conditional release is appropriate for a juvenile needing supervision
5 after leaving the institution. As part of the prerelease planning
6 process, the terms of conditional release shall be set out in writing
7 and a copy given to the juvenile, the juvenile's parent, the
8 committing court, and the court counselor who will provide aftercare
9 supervision. The time that a juvenile spends on conditional release
10 shall be credited toward the juvenile's maximum period of
11 commitment to the Division of Youth Services.

12 (2) Final discharge is appropriate when the juvenile does not require
13 supervision, has completed a maximum commitment for the
14 juvenile's offense, or is 18 years of age.

15 (3) Notwithstanding G.S. 7A-675, before the Division of Youth Services
16 considers for release a juvenile who is serving a commitment for a
17 Class A or B1 felony, the Division shall notify, at least 30 days in
18 advance of considering the release, by first class mail at the last
19 known address:

- 20 a. The juvenile;
21 b. The juvenile's parent, guardian, or custodian;
22 c. The district attorney of the district where the juvenile was
23 adjudicated;
24 d. The head law enforcement agency that took the juvenile into
25 custody; and
26 e. The victim, and any of the victim's immediate family members
27 who have requested in writing to be notified.

28 The notification shall include only the juvenile's name, offense, date of
29 commitment, and date of consideration for release.

30 **§ 7A. If a juvenile does not conform to the terms of his conditional release, the court**
31 **counselor providing aftercare supervision may make a motion for review**
32 **in the court in the district where the juvenile has been residing during**
33 **aftercare supervision. The judge shall hold a hearing to determine**
34 **whether there has been a violation. With respect to any hearing pursuant**
35 **to this section, the juvenile:**

36 (1) Shall have reasonable notice in writing of the nature and content of
37 the allegations in the petition, including notice that the purpose of
38 the hearing is to determine whether the juvenile has violated the
39 terms of his conditional release to the extent that his conditional
40 release should be revoked;

41 (2) Shall be permitted to be represented by an attorney at the hearing;

42 (3) Shall have the right to confront and cross-examine any persons who
43 have made allegations against him;

1 (4) ~~May admit, deny, or explain the violation alleged and may present~~
2 ~~proof, including affidavits or other evidence, in support of his~~
3 ~~contentions. A record of the proceeding shall be made and preserved~~
4 ~~in the juvenile's record.~~

5 ~~If the judge determines that the juvenile has violated the terms of his conditional~~
6 ~~release, the judge may revoke the conditional release or make any other disposition~~
7 ~~authorized by this Subchapter.~~

8 ~~If the judge revokes the conditional release, the Chief Court Counselor shall have the~~
9 ~~responsibility for returning the juvenile to the facility specified by the Division of Youth~~
10 ~~Services.~~

11 "~~§ 7A-657. 7B-1010. Review of custody order.~~

12 ~~(a) In any case where custody is removed from a parent, Except as specified in~~
13 ~~subsection (b) of this section, the judge shall conduct a review within six months of the~~
14 ~~date the order was entered, 90 days from the disposition hearing and shall conduct a~~
15 ~~second review within six months after the first review, and shall conduct a subsequent~~
16 ~~reviews-review at least every year thereafter. every six months thereafter.~~

17 ~~(b) The Director of Social Services shall make timely requests to the The clerk to~~
18 ~~shall calendar the case in a timely manner at a session of court scheduled for the hearing~~
19 ~~of juvenile matters within six months of the date the order was entered. hearings under~~
20 ~~this Subchapter. The Director shall make timely requests for calendaring subsequent~~
21 ~~reviews. The clerk shall give 15 days' notice of the review and its purpose to the parent or~~
22 ~~the person standing in loco parentis, the juvenile if 12 years of age or more, the guardian,~~
23 ~~foster parent, custodian or agency with custody, the guardian ad litem, and any other~~
24 ~~person the court may specify, indicating the court's impending review. The Director of~~
25 ~~Social Services shall give 15 days notice of the review to any relative, foster parent or~~
26 ~~preadoptive parent providing care for the child and to the child if the child is at least 12~~
27 ~~years of age and has not been appointed a guardian ad litem. The Director of Social~~
28 ~~Services shall document delivery of the notice in the social services' case record.~~
29 ~~Nothing in this provision shall be construed to make any foster parent, relative, or~~
30 ~~preadoptive parent providing care for the child a party to the proceeding solely based on~~
31 ~~receiving the notice and an opportunity to be heard.~~

32 ~~(c) The Director of Social Services shall deliver a written court summary to all~~
33 ~~counsel, unrepresented parties, and the administrator of the guardian ad litem program at~~
34 ~~least 10 days before each review hearing. The summary shall describe the progress in the~~
35 ~~case since the last hearing and include current recommendations.~~

36 ~~(d) At least five days prior to the review hearing, the court shall conduct a~~
37 ~~prehearing conference. The administrator of the guardian ad litem program shall provide~~
38 ~~a written court summary to the Director of Social Services, all counsel, and unrepresented~~
39 ~~parties at or before the prehearing conference. The report shall identify the persons~~
40 ~~contacted and provide a factual basis for any recommendations. The prehearing~~
41 ~~conference shall be conducted pursuant to the General Rules of Practice in the applicable~~
42 ~~district court adopted pursuant to G.S. 7A-34.~~

1 ~~(b)~~ (e) Notwithstanding other provisions of this Article, the court may waive the
2 holding of review hearings required by subsection ~~(a)~~, (a) and G.S. 7B-1011, may require
3 written reports to the court by the agency or person holding custody in lieu of review
4 hearings, or order that review hearings be held less often than every ~~12~~ six months, if the
5 court finds by clear, cogent and convincing evidence that:

- 6 (1) The ~~juvenile-child~~ child has resided with a relative or has been in the
7 custody of another suitable person for a period of at least one year;
8 and
9 (2) The placement is stable and continuation of the placement is in the
10 ~~juvenile's-child's~~ child's best interest; and
11 (3) Neither the ~~juvenile's-child's~~ child's best interests nor the rights of any party
12 require that review hearings be held every ~~12~~ six months; and
13 (4) All parties are aware that the matter may be brought before the court
14 for review at any time by the filing of a motion for review or on the
15 court's own motion; and
16 (5) The court order has designated the relative or other suitable person
17 as the ~~juvenile's-child's~~ child's permanent caretaker or guardian of the
18 person.

19 The court may not waive or refuse to conduct a review hearing if a party files a motion
20 seeking the review.

21 ~~(e)~~ (f) At every review hearing, the court shall consider information from ~~the~~
22 ~~Department of Social Services, the court counselor, the juvenile, the parent or person~~
23 ~~standing in loco parentis, the custodian, the foster parent, the guardian ad litem, and any~~
24 ~~public or private agency which~~ the parent, any person standing in loco parentis, the child,
25 the guardian, any foster parent, relative or preadoptive parent providing care for the child,
26 the custodian or agency with custody, the guardian ad litem, and any other person or
27 agency that will aid it in its review.

28 In each case the court shall consider the following criteria and make written findings
29 regarding those that are relevant:

- 30 ~~(1) Services which have been offered to reunite the family, or whether~~
31 ~~efforts to reunite the family clearly would be futile or inconsistent~~
32 ~~with the juvenile's safety and need for a safe, permanent home~~
33 ~~within a reasonable period of time;~~
34 ~~(2) Where the juvenile's return home is unlikely, the efforts which have~~
35 ~~been made to evaluate or plan for other methods of care;~~
36 ~~(3) Goals of the foster care placement and the appropriateness of the~~
37 ~~foster care plan;~~
38 ~~(4) A new foster care plan, if continuation of care is sought, that~~
39 ~~addresses the role the current foster parent will play in the planning~~
40 ~~for the juvenile;~~
41 ~~(5) Reports on the placements the juvenile has had and any services~~
42 ~~offered to the juvenile and the parent;~~
43 ~~(6) When and if termination of parental rights should be considered;~~

- 1 ~~(7)~~ Any other criteria the court deems necessary.
2 (1) Whether the agency's efforts to locate, notify, and work with all
3 parties not currently active in the litigation have been sufficient, and
4 what further actions are necessary.
5 (2) Whether the parents are able or have contributed financially to the
6 child's support.
7 (3) A summary of parental visitation that has occurred since the last
8 hearing.
9 (4) A brief description of the services and assistance that have been
10 offered or provided to the family since the previous hearing if the
11 previous hearing found reunification to be the case objective.
12 (5) The extend to which problems necessitating State intervention have
13 been remedied and, if reunification continues to be the case
14 objective, the actions that should be taken by the parents to permit
15 the return of the child.
16 (6) Whether efforts to reunite the family clearly would be futile or
17 inconsistent with the child's safety and need for a safe, permanent
18 home within a reasonable period of time.
19 (7) Where efforts to reunite the family have been previously found to be
20 futile or inconsistent with the child's safety and the need for a safe,
21 permanent home within a reasonable period of time, the efforts that
22 have been made to evaluate or plan for other permanent placement.
23 (8) An assessment of compliance by the agency and parents with the
24 Department of Social Services case plan and with previous orders
25 and recommendations of the court.
26 (9) Reports on the placements the child has had and the appropriateness
27 of the current placement, and any services offered to the child.
28 (10) The location of any siblings, and if siblings are separated, a
29 statement of the reasons for the separation, and whether steps have
30 been and will be taken to unite them and to maintain regular contact
31 during the separation.
32 (11) A proposed timetable for the child's return home or other permanent
33 placement.
34 (12) If the child is 16 or 17 years of age, a report on an independent
35 living assessment of the child, and, if appropriated, an independent
36 living plan for the child.
37 (13) An appropriate visitation plan.
38 (14) Any other criteria the court considers necessary.

39 ~~(d)~~ (g) The judge, after making findings of fact, may appoint a guardian of the person
40 for the ~~juvenile child~~ pursuant to G.S. ~~7A-585-7B-600~~ or may make any disposition
41 authorized by G.S. ~~7A-647~~, including the authority to place the child in the custody of
42 either parent or any relative found by the court to be suitable and found by the court to be
43 in the best interest of the ~~juvenile child~~. ~~If the juvenile is placed in or remains in the~~

1 eustody of the department of social services, the court may authorize the department to
2 arrange and supervise a visitation plan. Except for such visitation, the juvenile shall not
3 be returned to the parent or person standing in loco parentis without a hearing at which
4 the court finds sufficient facts to show that the juvenile will receive proper care and
5 supervision.—The court may enter an order continuing the placement under review or
6 providing for a different placement as is deemed to be in the best interest of the juvenile.
7 child If at any time custody is restored to a parent, the court shall be relieved of the duty
8 to conduct periodic judicial reviews of the placement.

9 (d1) ~~At a hearing designated by the court, but at least within 12 months after the~~
10 ~~juvenile's placement, a review hearing shall be held under this section and designated as a~~
11 ~~permanency planning hearing. The purpose of the hearing shall be to develop a plan to~~
12 ~~achieve a safe, permanent home for the juvenile within a reasonable period of time.~~
13 ~~Notice of the hearing shall inform the parties of the purpose of the hearing. At the~~
14 ~~conclusion of the hearing, if the juvenile is not returned home, the judge shall make~~
15 ~~specific findings as to the best plan of care to achieve a safe, permanent home for the~~
16 ~~juvenile within a reasonable period of time and shall enter an order consistent with those~~
17 ~~findings.~~

18 (e) (h) ~~The provisions of subsections (b), (c), and (d) of G.S. 7A-651-7B-507 shall~~
19 ~~apply to any order entered under this section which continues the foster care placement of~~
20 ~~a juvenile. section.~~

21 **"§ 7B-1011. Permanency planning hearing.**

22 (a) At a hearing designated by the court, but at least 12 months after the filing of
23 the petition, a review designated as a permanency planning hearing shall be held under
24 this section and may be combined with a review designated as a permanency planning
25 hearing shall be held under this section and may be combined with a review hearing
26 required under G.S. 7B-1010.

27 (b) The purpose of the hearing shall be to develop a plan to achieve a safe,
28 permanent home for the child within a reasonable period of time.

29 (c) Subsequent permanency planning hearings shall be held at least every six
30 months thereafter, or earlier as set by the court, to review the progress made in finalizing
31 the permanency plan for the child, or if necessary, to make a new permanency plan for
32 the child.

33 (d) The clerk shall calendar in a timely manner the case at a session of court
34 scheduled for hearings under this Subchapter. The clerk shall give 15 days notice of the
35 permanency planning hearing to the parent or the person standing in loco parentis, the
36 guardian, custodian or agency with custody, the guardian ad litem, and any other person
37 the court may specify, indicating the court's impending hearing. The director of social
38 services shall give 15 days notice of the hearing to any relative, foster parent or
39 preadoptive parent providing care for the child, and the child if 12 years of age or more
40 and not appointed a guardian ad litem. The director of social services shall document
41 delivery of this notice in the social services' case record. Nothing in this provision shall
42 be construed to make any foster parent, relative or preadoptive parent providing care for

1 the child a party to the proceeding solely based on receiving this notice and an
2 opportunity to be heard.

3 (e) The director of social services shall deliver a written court summary to all
4 counsel, unrepresented parties, and the Guardian ad Litem Program Administrator at least
5 ten days before the permanency planning hearing. The summary shall state the
6 permanent plan of care recommended by the department and the basis for its
7 recommendation. At least five days prior to the permanency planning hearing, there shall
8 be a prehearing conference. The Guardian ad Litem Program Administrator shall provide
9 a written court summary to the director of social services, all counsel, and unrepresented
10 parties at or before the prehearing conference. The prehearing conference shall be
11 conducted pursuant to the General Rules of Practice in the applicable district court,
12 adopted pursuant to G.S. 7A-34.

13 (f) At any permanency planning hearing, the court shall consider information from
14 the parent, any person standing in loco parentis, the child, the guardian, any foster parent,
15 relative or preadoptive parent providing care for the child, the custodian or agency with
16 custody, the guardian ad litem, and any other person or agency which will aid it in its
17 review.

18 (g) At the conclusion of the hearing, if the child is not returned home, the court
19 shall consider the following criteria and make written findings regarding those that are
20 relevant:

- 21 (1) Whether it is possible for the child to be returned home immediately
22 or within the next six months and, if not, the reasons why it is not in
23 the child's best interests to return home;
24 (2) Where the child's return home is unlikely within six months, whether
25 guardianship or custody with a relative or some other suitable person
26 should be established, and if so, the rights and responsibilities which
27 should remain with the parents;
28 (3) Where the child's return home is unlikely within six months, whether
29 adoption should be pursued and, if so, any barriers to the child's
30 adoption;
31 (4) Where the child's return home is unlikely within six months, whether
32 the child should remain in the current placement or be placed in
33 another permanent living arrangement, and why;
34 (5) Any other criteria the court considers necessary; and
35 (6) A specific time frame for implementing the permanent placement
36 plan.

37 (h) At the conclusion of the hearing, the judge shall make specific findings as to
38 the best plan of care to achieve a safe, permanent home for the child within a reasonable
39 period of time. The judge may appoint a guardian of the person for the child pursuant to
40 G.S. 7B-600 or make any disposition authorized by G.S. 7B-1006, including the authority
41 to place the child in the custody of either parent or any relative found by the court to be
42 suitable and found by the court to be in the best interest of the child. If the child is not
43 returned home, the court shall enter an order consistent with its findings that directs the

1 department of social services to make reasonable efforts to place the child in a timely
2 manner in accordance with the permanent plan, to complete whatever steps are necessary
3 to finalize the permanent placement of the child, and to document these steps in the
4 child's case plan. If the court continues the foster care placement of the child, and to
5 document these steps in the child's case plan. If, at any time, custody is restored to a
6 parent or findings are made in accordance with G.S. 7B-1010(b), the court shall be
7 relieved of the duty to conduct periodic reviews of the placement. If the court continues
8 the child's placement in the custody or placement responsibility of a county department of
9 social services, the provisions of G.S. 7B-507 shall apply to any order entered under this
10 section.

11 (i) In the case of a child who is in the custody or placement responsibility of a
12 county department of social services and has been in placement outside the home for 15
13 of the most recent 22 months, or a court of competent jurisdiction has determined that the
14 parent has abandoned the child; or has committed murder or voluntary manslaughter of
15 another child of the parent; or has aided, abetted, attempted, conspired, or solicited to
16 commit murder or voluntary manslaughter of the child or another child of the parent, the
17 court shall order the director of the department of social services to initiate a proceeding
18 to terminate the parental rights of the parent, unless the court finds that:

19 (1) The permanent placement plan is guardianship or custody with a
20 relative or some other suitable person; or

21 (2) The court makes specific findings of fact why filing of the petition to
22 terminate parental rights is not in the best interests of the child; or

23 (3) The department has not provided to the family of the child the
24 services the department considers necessary for the safe return of the
25 child to the child's home, if reasonable efforts to reunify are required
26 to be made with respect to the child.

27 (j) If a proceeding to terminate the parental rights of the child's parents is
28 necessary in order to perfect the permanency plan for the child, the court shall order the
29 director of the department of social services to file such a petition within 60 calendar
30 days from the date of the permanency planning hearing unless the court makes written
31 findings why the petition cannot be filed within 60 days. If the court makes findings to
32 the contrary, the court shall specify the time frame in which any needed petition to
33 terminate parental rights shall be filed.

34 ~~§-7Ai The judge may review the progress of any juvenile on probation at any time~~
35 ~~during the period of probation or at the end of probation. The conditions~~
36 ~~or duration of probation may be modified only as provided in this~~
37 ~~Subchapter and only after there is notice and a hearing. If a juvenile~~
38 ~~violates the conditions of his probation, he and his parent after notice, may~~
39 ~~be required to appear before the court and the judge may make any~~
40 ~~disposition of the matter authorized by this Subchapter. At the end of or~~
41 ~~at any time during probation, the judge may terminate probation by~~
42 ~~written order upon finding that there is no further need for supervision.~~
43 ~~The finding and order terminating probation may be entered in chambers~~

1 ~~in the absence of the juvenile and may be based on a report from the court~~
2 ~~counselor or at the election of the judge, it may be entered with the~~
3 ~~juvenile present after notice and a hearing.~~

4 "**§ 7A**placement court review.

5 (a) The purpose of each placement review is to insure that every reasonable effort
6 is being made to provide for a permanent placement plan for the child who has been
7 placed in the custody of a county director or licensed child-placing agency, which is
8 consistent with the child's best interest. At each review hearing the court may consider
9 information from the Department of Social Services, the licensed child-placing agency,
10 the guardian ad litem, the child, ~~the any~~ foster parent, relative, or preadoptive parent
11 providing care for the child, and any other person or agency the court determines is likely
12 to aid in the review.

13 (b) The court shall conduct a placement review not later than ~~six~~three months
14 from the date of the termination hearing when parental rights have been terminated by a
15 petition brought by any person or agency designated in G.S. 7A-289.24(2) through (5)
16 and a county director or licensed child-placing agency has custody of the child. The court
17 shall conduct reviews every six months thereafter until the child is placed for adoption
18 and the adoption petition is filed by the adoptive parents.

19 (1) No more than 30 days and no less than 15 days prior to each review,
20 the clerk shall give notice of the review to the child if ~~he~~the child is
21 at least 12 years of ~~age,~~age if not appointed a guardian ad litem, the
22 legal custodian of the child, ~~the any~~ foster parent, relative, or
23 preadoptive parent providing care for the child, the guardian ad
24 litem, if any, and any other person or agency the court may specify.
25 ~~Only the child if he is at least 12 years of age, the legal custodian of~~
26 ~~the child, the foster parent, and the guardian ad litem shall attend the~~
27 ~~review hearings, except as otherwise directed by the court. Nothing~~
28 ~~in this provision shall be construed to make any foster parent,~~
29 ~~relative, or preadoptive parent a party to the proceeding solely based~~
30 ~~on receiving this notice and an opportunity to be heard.~~

31 (2) If a guardian ad litem for the child has not been appointed previously
32 by the ~~court in the termination proceeding,~~court, the court, at the
33 initial ~~six month~~three-month review hearing, may appoint a
34 guardian ad litem to represent the child. The court may continue the
35 case for ~~such~~ the time ~~as is~~ necessary for the guardian ad litem to
36 become familiar with the facts of the case.

37 (3) The department of social services shall deliver a written court
38 summary to all counsel and unrepresented parties at least ten days
39 before each review hearing. The summary shall include the
40 following:

- 41 1. The child's eligibility for adoption subsidy;
- 42 2. When adoptive parents have been identified, a schedule and
43 description of steps to be taken to finalize the adoption;

- 1 3. When adoptive parents have not been identified, a discussion of
2 the department's efforts to locate an adoptive placement;
- 3 4. What educational and other services the child is receiving; the
4 child's present behaviors, and any changes in the child's
5 placement since the last hearing; and
- 6 5. The progress in the case since the last hearing and
7 recommendations.

8 (4) At least five days prior to the review hearing, there shall be a
9 prehearing conference. The Guardian ad Litem Program
10 Administrator shall provide a written court summary to the director
11 of social services, all counsel, and unrepresented parties at or before
12 the prehearing conference. The prehearing conference shall be
13 conducted pursuant to the General Rules of Practice in the applicable
14 district court, adopted pursuant to G.S. 7A-34.

15 (c) The court ~~shall consider at least the following~~ in its review: review shall
16 consider the following criteria and make written findings regarding those that are
17 relevant:

- 18 (1) The adequacy of the plan developed by the county department of
19 social services or a licensed child-placing agency for a permanent
20 placement relative to the child's best interest and the efforts of the
21 department or agency to implement ~~such~~ this plan;
- 22 (2) Whether the child has been listed for adoptive placement with the
23 North Carolina Adoption Resource Exchange, the North Carolina
24 Photo Adoption Listing Service (PALS), or any other ~~specialized~~
25 ~~adoption agency; State, regional, and national adoption exchanges,~~
26 including electronic exchange systems; and and
- 27 (3) The efforts previously made by the department or agency to find a
28 permanent home for the child.

29 (d) The court, after making findings of fact, shall affirm the county department's or
30 child-placing agency's plans or require specific additional steps which are necessary to
31 accomplish a permanent placement which is in the best interests of the child.

32 (e) If ~~the child has been placed for adoption~~ an adoption petition has been filed
33 prior to the date scheduled for the review, written notice of ~~said placement~~ the petition
34 shall be given to the clerk to be placed in the court file and the review hearing shall be
35 cancelled, with notice of ~~said the~~ cancellation given by the clerk to all persons previously
36 notified.

37 (f) The process of selection of specific adoptive parents shall be the responsibility
38 of and within the discretion of the county department of social services or licensed child-
39 placing agency. The guardian ad litem ~~may request~~ shall be given notice of any adoption
40 selection meeting not less than 10 days prior to the meeting and shall receive information
41 from and consult with the county department or child-placing agency concerning the
42 selection process. the issues raised at the selection meeting. If the guardian ad litem
43 requests information about the selection process, the county shall provide the information

1 within five days. Any issue of abuse of discretion by the county department or child-
2 placing agency in the selection process must be raised by the guardian ~~ad litem~~ within 10
3 days following the date the agency notifies the court and the guardian ~~ad litem~~ in writing
4 of the filing of the adoption petition. The guardian ad litem shall be entitled to present
5 any information relevant to the selection process at the adoption selection meeting.

6 (g) The county department of social services shall file notice with the court within
7 10 days of specific adoptive parents being selected. Within 10 days of the filing of the
8 notice, the guardian ad litem may file a motion seeking review of the selection decision.
9 A hearing on the motion shall be held within 30 days. The selection of adoptive parents
10 by the county department of social services shall be upheld unless the court makes
11 specific findings, by clear, cogent, and convincing evidence, that the county department's
12 selection decision is not in the best interests of the child.

13 **"§ 7A-660. 7B-1013. Review of agency's plan for child placement.**

14 (a) The director of social services or the director of the licensed private child-
15 placing agency shall promptly notify the clerk to calendar the case for review of the
16 department's or agency's plan for the child at a session of court scheduled for the hearing
17 of juvenile matters in any case where:

18 (1) One parent has surrendered a child for adoption under the provisions
19 of Part 7 of Article 3 of Chapter 48 of the General Statutes and the
20 termination of parental rights proceedings have not been instituted
21 against the non-surrendering parent within ~~six~~ two months of the
22 surrender by the other parent, or

23 (2) Both parents have surrendered a child for adoption under the
24 provisions of Part 7 of Article 3 of Chapter 48 of the General
25 Statutes and that child has not been placed for adoption within ~~six~~
26 three months from the date of the more recent parental surrender.

27 (b) In any case where an adoption is dismissed or withdrawn and the child returns
28 to foster care with a department of social services or a licensed private child-placing
29 agency, then the department of social services or licensed child-placing agency shall
30 notify the clerk within 30 days from the date the child returns to care to calendar the case
31 for review of the agency's plan for the child at a session of court scheduled for the
32 hearing of juvenile matters.

33 (c) Notification of the court required under subsections (a) or (b) of this section
34 shall be by a petition for review. The petition shall set forth the circumstances
35 necessitating the review under subsections (a) or (b). The review shall be conducted
36 within 30 days following the filing of the petition for review unless the court shall
37 otherwise direct. The court shall conduct reviews every six months until the child is
38 placed for adoption and the adoption petition is filed by the adoptive parents. The initial
39 review and all subsequent reviews shall be conducted pursuant to G.S. ~~7A-659. 7B-1012.~~

40 **"§ 7As (a) A child placed under a voluntary agreement between the child's parent or**
41 **guardian and the county department of social services shall not remain in**
42 **placement more than 90 days without the filing of a petition alleging**
43 **abuse, neglect, or dependency. The court shall review the placement of**

~~any juvenile in foster care made pursuant to a voluntary agreement between the juvenile's parents or guardian and a county department of social services and shall make findings from evidence presented at a review hearing with regard to:~~

- ~~(1) The voluntariness of the placement;~~
- ~~(2) The appropriateness of the placement;~~
- ~~(3) Whether the placement is in the best interests of the juvenile; and~~
- ~~(4) The services that have been or should be provided to the parents, guardian, foster parents, and juvenile, as the case may be, either (i) to improve the placement or (ii) to eliminate the need for the placement.~~

~~(b) The court may approve the continued placement of the juvenile in foster care on a voluntary agreement basis, disapprove the continuation of the voluntary placement, or direct the department of social services to petition the court for legal custody if the placement is to continue.~~

~~(c) An initial review hearing shall be held not more than 180 days after the juvenile's placement and shall be calendared by the clerk for hearing within such period upon timely request by the director of social services. Additional review hearings shall be held at such times as the court shall deem appropriate and shall direct, either upon its own motion or upon written request of the parents, guardian, foster parents or director of social services. A child placed under a voluntary agreement between the juvenile's parent or guardian and the county department of social services shall not remain in placement more than 12 months without the filing of a petition alleging abuse, neglect, or dependency.~~

~~(d) The clerk shall give at least 15 days advance written notice of the initial and subsequent review hearings to the parents or guardian of the juvenile, to the juvenile if 12 or more years of age, to the director of social services, and to any other persons whom the court may specify.~~

~~§§7As" ARTICLE 53-11.~~

**"MODIFICATION AND ENFORCEMENT OF DISPOSITIONAL ORDERS;
APPEALS.**

"§ 7At (a) Upon motion in the cause or petition, and after notice, the judge may conduct a review hearing to determine whether the order of the court is in the best interest of the juvenile, child and the judge may modify or vacate the order in light of changes in circumstances or the needs of the juvenile-child.

~~(b) In a case of delinquency, the judge may reduce the nature or the duration of the disposition on the basis that it exceeds the statutory maximum, was imposed in an illegal manner or is unduly severe with reference to the seriousness of the offense, the culpability of the juvenile, or the dispositions given to juveniles convicted of similar offenses.~~

~~(c) (b) In any case where the judge finds the juvenile-child to be delinquent, undisciplined, abused, neglected, or dependent, the jurisdiction of the court to modify any~~

1 order or disposition made in the case shall continue during the minority of the juvenile
2 child or until terminated by order of the court.

3 ~~"§ 7A~~services.

4 If the Director of the Division of Youth Services finds that any juvenile committed to
5 the Division's care is not suitable for its program the Director may make a motion in the
6 cause so that the judge may make an alternative disposition."

7 **"§ 7Aa Upon motion of a proper party as defined in G.S. 7A-667, 7B-1103, review of
8 any final order of the court in a juvenile matter under this Article shall be
9 before the Court of Appeals. Notice of appeal shall be given in open court
10 at the time of the hearing or in writing within 10 days after entry of the
11 order. However, if no disposition is made within 60 days after entry of the
12 order, written notice of appeal may be given within 70 days after such
13 entry. A final order shall include:**

- 14 (1) Any order finding absence of jurisdiction;
- 15 (2) Any order which in effect determines the action and prevents a
16 judgment from which appeal might be taken;
- 17 (3) Any order of disposition after an adjudication that a juvenile child is
18 delinquent, undisciplined, abused, neglected, or dependent; or
- 19 (4) Any order modifying custodial rights.

20 ~~"§ 7A~~An appeal may be taken by the juvenile, child the juvenile's child's parent,
21 guardian, or custodian; the State or county agency. The State's appeal is
22 limited to the following:

- 23 (1) ~~Any final order in cases other than delinquency or undisciplined cases;
24 any final order.~~
- 25 (2) ~~The following orders in delinquency or undisciplined cases:~~
 - 26 a. ~~An order finding a State statute to be unconstitutional;~~
 - 27 b. ~~Any order which terminates the prosecution of a petition by
28 upholding the defense of double jeopardy, by holding that a
29 cause of action is not stated under a statute, or by granting a
30 motion to suppress."~~

31 ~~"§ 7A~~Pending disposition of an appeal, the release-return of the juvenile, child to
32 the child's parent, guardian, custodian, or caretaker, with or without
33 conditions, should issue in every case unless the judge orders otherwise.
34 For compelling reasons which must be stated in writing, the judge may
35 enter a temporary order affecting the custody or placement of the juvenile
36 child as ~~he~~ the judge finds to be in the best interest of the juvenile or the
37 State. The provisions of subsections (b), (c), and (d) of G.S. ~~7A-651-7B-~~
38 ~~1009~~ shall apply to any order entered under this section which provides
39 for the placement or continued placement of a juvenile child in foster care.

40 ~~"§ 7A~~I Upon the affirmation of the order of adjudication or disposition of the court
41 by the Court of Appeals or by the Supreme Court in the event of such an
42 appeal, the judge ~~shall have authority to~~ may modify or alter his ~~the~~
43 original order of adjudication or disposition as ~~he~~ the judge finds to be in

1 the best interest of the juvenile-child to reflect any adjustment made by
2 the juvenile-child or change in circumstances during the period of time
3 the appeal was pending. If the modifying order is entered ex parte, the
4 court shall give notice to interested parties to show cause within 10 days
5 thereafter as to why the modifying order should be vacated or altered.

6 §§7Ae "ARTICLE 54-12.

7 "~~Juvenile Records and Social Reports.~~ Records and Social Reports in Cases of Abuse,
8 Neglect, and Dependency.

9 "~~§ 7A-675, 7B-1200.~~ Confidentiality of records.

10 (a) The clerk of superior court shall maintain a complete record of all juvenile
11 cases filed in the clerk's office ~~to be known as the juvenile record, which alleging abuse,~~
12 neglect, or dependency. The record shall be withheld from public inspection and, except
13 as provided in this subsection, may be examined only by order of the judge. The record
14 shall include the summons, petition, custody order, court order, written motions, the
15 electronic or mechanical recording of the hearing, and other papers filed in the
16 proceeding. The recording of the hearing shall be reduced to a written transcript only
17 when notice of appeal has been timely given. After the time for appeal has expired with
18 no appeal having been filed, the recording of the hearing may be erased or destroyed
19 upon the written order of the judge.

20 The following persons ~~may examine the juvenile's record without an order of the~~
21 ~~judge:~~

22 (1) ~~The juvenile, the juvenile's parent, guardian, or custodian, or another~~
23 ~~authorized representative of the juvenile.~~

24 (2) ~~The prosecutor in a subsequent criminal proceeding against the juvenile.~~

25 ~~The juvenile's record of an adjudication of delinquency for an offense that would be a~~
26 ~~Class A, B1, B2, C, D, or E felony if committed by an adult may be used in a subsequent~~
27 ~~criminal proceeding against the juvenile either under G.S. 8C-1, Rule 404(b), or to prove~~
28 ~~an aggravating factor at sentencing under G.S. 15A-1340.4(a), G.S. 15A-1340.16(d), or~~
29 ~~G.S. 15A-2000(e). The record may be so used only by order of the judge in the~~
30 ~~subsequent criminal proceeding, upon motion of the prosecutor, after an in camera~~
31 ~~hearing to determine whether the record in question is admissible.~~

32 (b) ~~The Chief Court Counselor shall maintain a record of the cases of juveniles~~
33 ~~under supervision by court counselors which shall include family background~~
34 ~~information; reports of social, medical, psychiatric, or psychological information~~
35 ~~concerning a juvenile or his family; a record of the probation reports of a juvenile;~~
36 ~~interviews with his family; or other information which the judge finds should be~~
37 ~~protected from public inspection in the best interest of the juvenile.~~

38 (c) (b) ~~The Director of the Department of Social Services shall maintain a record~~
39 ~~of the cases of juveniles-children under protective custody by his-the Department or under~~
40 ~~placement by the court. This file shall include material similar in nature to that described~~
41 ~~in subsection (b)-family background information; reports of social, medical, psychiatric,~~
42 ~~or psychological information concerning a child or the child's family; interviews with the~~
43 ~~child's family; or other information that the judge finds should be protected from public~~

1 inspection in the best interests of the child. The records maintained pursuant to this
2 subsection may be examined only by order of the court, except that the child, the child's
3 parent, guardian, custodian, caretaker, or the child's guardian ad litem may examine the
4 record without the order of the judge.

5 ~~(d) The records maintained pursuant to subsections (b) and (c) may be examined~~
6 ~~only by order of the judge except that the juvenile shall have the right to examine them.~~

7 ~~(e) Law enforcement records and files concerning a juvenile shall be kept~~
8 ~~separate from the records and files of adults except in proceedings when jurisdiction of a~~
9 ~~juvenile is transferred to superior court. Law enforcement records and files concerning~~
10 ~~juveniles shall be open only to the inspection of the prosecutor, court counselors, the~~
11 ~~juvenile, his parent, guardian, and custodian.~~

12 ~~(f) All records and files maintained by the Division of Youth Services shall be~~
13 ~~withheld from public inspection and shall be open only to the inspection of the juvenile,~~
14 ~~professionals in that agency who are directly involved in the juvenile's case, and court~~
15 ~~counselors. The judge authorizing commitment of a juvenile shall have the right to~~
16 ~~inspect and order the release of records maintained by the Division of Youth Services on~~
17 ~~that juvenile.~~

18 ~~(g) (c) Disclosure of information concerning any juvenile under investigation or~~
19 ~~child alleged to be within the jurisdiction of the court that would reveal the identity of~~
20 ~~that juvenile child is prohibited except that publication of pictures of runaways is~~
21 ~~permitted with the permission of the parents.~~

22 ~~(h) (d) The chief district court judge in each district shall designate by standing~~
23 ~~order certain agencies in the district as 'agencies authorized to share information'.~~
24 ~~Agencies so designated shall share with one another, upon request, information that is in~~
25 ~~their possession that is relevant to any case in which a petition is filed alleging that a~~
26 ~~juvenile child is abused, neglected, or dependent, and shall continue to do so until the~~
27 ~~juvenile child is no longer subject to the juvenile jurisdiction of the court. Agencies that~~
28 ~~may be designated as 'agencies authorized to share information' include local mental~~
29 ~~health facilities, local health departments, local departments of social services, local law~~
30 ~~enforcement agencies, local school administrative units, the district's district attorney's~~
31 ~~office, the Division of Juvenile Services of the Administrative Office of the Courts, and~~
32 ~~the Office of Guardian ad Litem Services of the Administrative Office of the Courts. Any~~
33 ~~information shared among agencies pursuant to this subsection shall remain confidential,~~
34 ~~shall be withheld from public inspection, and shall be used only for the protection of the~~
35 ~~juvenile child. Nothing in this section or any other provision of law shall preclude any~~
36 ~~other necessary sharing of information among agencies. Nothing herein shall be deemed~~
37 ~~to require the disclosure or release of any information in the possession of a district~~
38 ~~attorney.~~

39 ~~(i) (e) In the case of a child victim, a judge may order the sharing of information~~
40 ~~among such public agencies as the judge deems necessary to reduce the trauma to the~~
41 ~~child victim.~~

42 ~~(j) (f) Notwithstanding subsection (a) of this section, the court's entire record of a~~
43 ~~proceeding involving consent for an abortion on an unemancipated minor under Article~~

1 1A, Part 2 of Chapter 90 of the General Statutes is not a matter of public record, shall be
2 maintained separately from any juvenile record, shall be withheld from public inspection,
3 and may be examined only by order of the court, by the unemancipated minor, or by the
4 unemancipated minor's attorney or guardian ad litem.

5 **"§ ~~7A-675.1-7B-1201~~. Disclosure in child fatality or near fatality cases.**

6 (a) The following definitions apply in this section:

7 (1) 'Child fatality' means the death of a child from suspected abuse, neglect,
8 or maltreatment.

9 (2) 'Findings and information' means a written summary, as allowed by
10 subsections (c) through (f) of this section, of actions taken or services
11 rendered by a public agency following receipt of information that a
12 child might be in need of protection. The written summary shall include
13 any of the following information the agency is able to provide:

14 a. The dates, outcomes, and results of any actions taken or services
15 rendered.

16 b. The results of any review by the State Child Fatality Prevention
17 Team, a local child fatality prevention team, a local community
18 child protection team, the Child Fatality Task Force, or any
19 public agency.

20 c. Confirmation of the receipt of all reports, accepted or not
21 accepted by the county department of social services, for
22 investigation of suspected child abuse, neglect, or maltreatment,
23 including confirmation that investigations were conducted, the
24 results of the investigations, a description of the conduct of the
25 most recent investigation and the services rendered, and a
26 statement of basis for the department's decision.

27 (3) 'Near fatality' means a case in which a physician determines that a child
28 is in serious or critical condition as the result of sickness or injury
29 caused by suspected abuse, neglect, or maltreatment.

30 (4) 'Public agency' means any agency of State government or its
31 subdivisions as defined in G.S. 132-1(a).

32 (b) Notwithstanding any other provision of law and subject to the provisions of
33 subsections (c) through (f) of this section, a public agency shall disclose to the public,
34 upon request, the findings and information related to a child fatality or near fatality if:

35 (1) A person is criminally charged with having caused the child fatality or
36 near fatality; or

37 (2) The district attorney has certified that a person would be charged with
38 having caused the child fatality or near fatality but for that person's prior
39 death.

40 (c) Nothing herein shall be deemed to authorize access to the confidential records
41 in the custody of a public agency, or the disclosure to the public of the substance or
42 content of any psychiatric, psychological, or therapeutic evaluations or like materials or
43 information pertaining to the child or the child's family unless directly related to the

1 cause of the child fatality or near fatality, or the disclosure of information that would
2 reveal the identities of persons who provided information related to the suspected abuse,
3 neglect, or maltreatment of the child.

4 (d) Within five working days from the receipt of a request for findings and
5 information related to a child fatality or near fatality, a public agency shall consult with
6 the appropriate district attorney and provide the findings and information unless the
7 agency has a reasonable belief that release of the information:

8 (1) Is not authorized by subsections (a) and (b) of this section;

9 (2) Is likely to cause mental or physical harm or danger to a minor child
10 residing in the deceased or injured child's household;

11 (3) Is likely to jeopardize the State's ability to prosecute the defendant;

12 (4) Is likely to jeopardize the defendant's right to a fair trial;

13 (5) Is likely to undermine an ongoing or future criminal investigation; or

14 (6) Is not authorized by federal law and regulations.

15 (e) Any person whose request is denied may apply to the appropriate superior
16 court for an order compelling disclosure of the findings and information of the public
17 agency. The application shall set forth, with reasonable particularity, factors supporting
18 the application. The superior court shall have jurisdiction to issue such orders. Actions
19 brought pursuant to this section shall be set down for immediate hearing, and subsequent
20 proceedings in such actions shall be accorded priority by the appellate courts. After the
21 court has reviewed the specific findings and information, in camera, the court shall issue
22 an order compelling disclosure unless the court finds that one or more of the
23 circumstances in subsection (d) of this section exist.

24 (f) Access to criminal investigative reports and criminal intelligence information
25 of public law enforcement agencies, and confidential information in the possession of the
26 State Child Fatality Prevention Team, the local teams, and the Child Fatality Task Force,
27 shall be governed by G.S. 132-1.4 and G.S. 143-578 respectively. Nothing herein shall be
28 deemed to require the disclosure or release of any information in the possession of a
29 district attorney.

30 (g) Any public agency or its employees acting in good faith in disclosing or
31 declining to disclose information pursuant to this section shall be immune from any
32 criminal or civil liability that might otherwise be incurred or imposed for such action.

33 (h) Nothing herein shall be deemed to narrow or limit the definition of 'public
34 records' as set forth in G.S. 132-1(a).

35 ~~"§ 7A-675.2. Notification of schools when juveniles are alleged or found to be
36 delinquent.~~

37 ~~(a) Notwithstanding G.S. 7A-675, the juvenile court counselor shall deliver verbal
38 and written notification of the following actions to the principal of the school that the
39 juvenile attends:~~

40 ~~(1) A petition is filed under G.S. 7A-560 that alleges delinquency for an
41 offense that would be a felony if committed by an adult;~~

42 ~~(2) The judge transfers jurisdiction over a juvenile to superior court under
43 G.S. 7A-608;~~

- 1 (3) The judge dismisses under G.S. 7A-637 the petition that alleges
2 delinquency for an offense that would be a felony if committed by an
3 adult;
- 4 (4) The judge issues a dispositional order under Article 52 of Chapter 7A of
5 the General Statutes including, but not limited to, an order of probation
6 that requires school attendance, concerning a juvenile alleged or found
7 delinquent for an offense that would be a felony if committed by an
8 adult; or
- 9 (5) The judge modifies or vacates any order or disposition under G.S. 7A-
10 664 concerning a juvenile alleged or found delinquent for an offense
11 that would be a felony if committed by an adult.

12 Notification of the school principal in person or by telephone shall be made before the
13 beginning of the next school day. Delivery shall be made as soon as practicable but at
14 least within five days of the action. Delivery shall be made in person or by certified mail.
15 Notification that a petition has been filed shall describe the nature of the offense.
16 Notification of a dispositional order, a modified or vacated order, or a transfer to superior
17 court shall describe the judge's action and any applicable disposition requirements. As
18 used in this subsection, the term "offense" shall not include any offense under Chapter 20
19 of the General Statutes.

20 (b) If the principal of the school the juvenile attends returns any notification as
21 required by G.S. 115C-404, and if the juvenile court counselor learns that the juvenile is
22 transferring to another school, the juvenile court counselor shall deliver the notification to
23 the principal of the school to which the juvenile is transferring. Delivery shall be made as
24 soon as practicable and shall be made in person or by certified mail.

25 (c) Principals shall handle any notification delivered under this section in
26 accordance with G.S. 115C-404.

27 (d) For the purpose of this section, "school" means any public or private school in
28 the State that is authorized under Chapter 115C of the General Statutes."

29 **~~"§ 7A-675.3. Juvenile recidivism rates.~~**

30 (a) On an annual basis, the Administrative Office of the Courts shall compute the
31 recidivism rate of juveniles who are adjudicated delinquent for offenses that would be
32 Class A, B1, B2, C, D, or E felonies if committed by adults and who subsequently are
33 adjudicated delinquent or convicted and shall report the statistics to the Joint Legislative
34 Commission on Governmental Operations by December 31 each year.

35 (b) The Chief Court Counselor of each judicial district shall forward to the
36 Administrative Office of the Courts relevant information, as determined by the
37 Administrative Office of the Courts, regarding every juvenile who is adjudicated
38 delinquent for an offense that would be a Class A, B1, B2, C, D, or E felony if committed
39 by an adult for the purpose of computing the statistics required by this section."

40 **~~"§ 7A-676. Expunction of records of juveniles alleged or adjudicated delinquent and~~**
41 **~~undisciplined.~~**

1 (a) Any person who has attained the age of 16 years may file a petition in the court
2 where the person was adjudicated undisciplined for expunction of all records of that
3 adjudication.

4 (b) Any person who has attained the age of 16 years may file a petition in the court
5 where the person was adjudicated delinquent for expunction of all records of that
6 adjudication provided:

7 (1) The offense for which the person was adjudicated would have been a
8 crime other than a Class A, B1, B2, C, D, or E felony if committed by
9 an adult.

10 (2) The person has not subsequently been adjudicated delinquent or
11 convicted as an adult of any felony or misdemeanor other than a traffic
12 violation under the laws of the United States or the laws of this State or
13 any other state.

14 Records relating to an adjudication for an offense that would be a Class A, B1, B2, C,
15 D, or E felony if committed by an adult shall not be expunged.

16 (c) The petition shall contain, but not be limited to, the following:

17 (1) An affidavit by the petitioner that he has been of good behavior since
18 the adjudication and, in the case of a petition based on a delinquency
19 adjudication, that he has not subsequently been adjudicated delinquent
20 or convicted as an adult of any felony or misdemeanor other than a
21 traffic violation under the laws of the United States, or the laws of this
22 State or any other state;

23 (2) Verified affidavits of two persons, who are not related to the petitioner
24 or to each other by blood or marriage, that they know the character and
25 reputation of the petitioner in the community in which he lives and that
26 his character and reputation are good;

27 (3) A statement that the petition is a motion in the cause in the case wherein
28 the petitioner was adjudicated delinquent or undisciplined.

29 The petition shall be served upon the district attorney in the district wherein
30 adjudication occurred. The district attorney shall have 10 days thereafter in which to file
31 any objection thereto and shall be duly notified as to the date of the hearing on the
32 petition.

33 (d) If the judge, after hearing, finds that the petitioner satisfies the conditions set
34 out in subsections (a) or (b), he shall order and direct the clerk of superior court and all
35 law enforcement agencies to expunge their records of the adjudication including all
36 references to arrests, complaints, referrals, petitions, and orders.

37 (e) The clerk of superior court shall forward a certified copy of the order to the
38 sheriff, chief of police, or other law enforcement agency.

39 (f) Records of a juvenile adjudicated delinquent or undisciplined being maintained
40 by the Chief Court Counselor, an intake counselor or a court counselor shall be retained
41 or disposed of as provided by the Juvenile Services Division.

1 (g) Records of a juvenile adjudicated delinquent or undisciplined being maintained
2 by personnel at a residential facility operated by the Division of Youth Services, shall be
3 retained or disposed of as provided by the Department of Health and Human Services.

4 (h) Any juvenile or any person who has attained the age of 16 years may file a
5 petition in the court in which he was alleged to be delinquent or undisciplined for
6 expunction of all juvenile records of his having been alleged to be delinquent or
7 undisciplined if the court dismissed the juvenile petition without an adjudication that the
8 juvenile was delinquent or undisciplined. The petition shall be served on the chief court
9 counselor in the district where the juvenile petition was filed. The chief court counselor
10 shall have 10 days thereafter in which to file a written objection in the court. If no
11 objection is filed, the judge may grant the petition without a hearing. If an objection is
12 filed or the judge so directs, a hearing shall be scheduled and the chief court counselor
13 shall be notified as to the date of the hearing. If the judge finds at the hearing that the
14 petitioner satisfies the conditions specified herein, the judge shall order the clerk of
15 superior court and the appropriate law enforcement agencies to expunge their records of
16 the allegations of delinquent or undisciplined acts including all references to arrests,
17 complaints, referrals, juvenile petitions, and orders. The clerk of superior court shall
18 forward a certified copy of the order of expunction to the sheriff, chief of police, or other
19 appropriate law enforcement agency, and to the chief court counselor, and these specified
20 officials shall immediately destroy all records relating to the allegations that the juvenile
21 was delinquent or undisciplined."

22 ~~"§ 7Ao (a) Whenever a juvenile's record is expunged, with respect to the matter in
23 which the record was expunged, the juvenile who is the subject of the
24 record and his parent may inform any person or organization including
25 employers, banks, credit companies, insurance companies, and schools
26 that he was not arrested, he did not appear before the court, and he was
27 not adjudicated delinquent or undisciplined.~~

28 (b) Notwithstanding subsection (a), in any delinquency case if the juvenile is the
29 defendant and chooses to testify or if he is not the defendant and is called as a witness,
30 the juvenile may be ordered to testify with respect to whether he was adjudicated
31 delinquent."

32 ~~"§ 7A Upon expunction of a juvenile's record, the clerk of superior court shall send
33 a written notice to the juvenile at his last known address informing him
34 that the record has been expunged and with respect to the matter
35 involved, the juvenile may inform any person that he has no record. The
36 notice shall inform the juvenile further that if the matter involved is a
37 delinquency record, the juvenile may inform any person that he was not
38 arrested or adjudicated delinquent except that upon testifying in a
39 delinquency proceeding, he may be required by a judge to disclose that he
40 was adjudicated delinquent."~~

41 §§7Aa

42 ARTICLE 55.

43 INTERSTATE COMPACT ON JUVENILES.

~~"§ 7Aâ The Governor is hereby authorized and directed to execute a Compact on behalf of this State with any other state or states legally joining therein in the form substantially as follows: The contracting states solemnly agree:"~~

~~"§ 7A^t That juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others. The cooperation of the states party to this Compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to~~

- ~~(1) Cooperative supervision of delinquent juveniles on probation or parole;~~
- ~~(2) The return, from one state to another, of delinquent juveniles who have escaped or absconded;~~
- ~~(3) The return, from one state to another, of nondelinquent juveniles who have run away from home; and~~
- ~~(4) Additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake cooperatively.~~

~~In carrying out the provisions of this Compact the party states shall be guided by the noncriminal, reformative, and protective policies which guide their laws concerning delinquent, neglected, or dependent juveniles generally. It shall be the policy of the states party to this Compact to cooperate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this Compact. The provisions of this Compact shall be reasonably and liberally construed to accomplish the foregoing purposes."~~

~~"§ 7Aⁿ That all remedies and procedures provided by this Compact shall be in addition to and not in substitution for other rights, remedies, and procedures, and shall not be in derogation of parental rights and responsibilities."~~

~~"§ 7A That, for the purposes of this Compact, "delinquent juvenile" means any juvenile who has been adjudged delinquent and who, at the time the provisions of this Compact are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court; "probation or parole" means any kind of conditional release of juveniles authorized under the laws of the states party hereto; "court" means any court having jurisdiction over delinquent, neglected, or dependent children; "state" means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and "residence" or any variant thereof means a place at which a home or regular place of abode is maintained."~~

~~"§ 7Aâ (a) That the parent, guardian, person, or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person, or agency may~~

1 petition the appropriate court in the demanding state for the issuance of a
2 requisition for his return. The petition shall state the name and age of the
3 juvenile, the name of the petitioner and the basis of entitlement to the
4 juvenile's custody, the circumstances of his running away, his location if
5 known at the time application is made, and such other facts as may tend to
6 show that the juvenile who has run away is endangering his own welfare
7 or the welfare of others and is not an emancipated minor. The petition
8 shall be verified by affidavit, shall be executed in duplicate, and shall be
9 accompanied by two certified copies of the document or documents on
10 which the petitioner's entitlement to the juvenile's custody is based, such
11 as birth certificates, letters of guardianship, or custody decrees. Such
12 further affidavits and other documents as may be deemed proper may be
13 submitted with such petition. The judge of the court to which this
14 application is made may hold a hearing thereon to determine whether for
15 the purposes of this Compact the petitioner is entitled to the legal custody
16 of the juvenile, whether or not it appears that the juvenile has in fact run
17 away without consent, whether or not he is an emancipated minor, and
18 whether or not it is in the best interest of the juvenile to compel his return
19 to the state. If the judge determines, either with or without a hearing, that
20 the juvenile should be returned, he shall present to the appropriate court
21 or to the executive authority of the state where the juvenile is alleged to be
22 located a written requisition for the return of such juvenile. Such
23 requisition shall set forth the name and age of the juvenile, the
24 determination of the court that the juvenile has run away without the
25 consent of a parent, guardian, person, or agency entitled to his legal
26 custody, and that it is in the best interest and for the protection of such
27 juvenile that he be returned. In the event that a proceeding for the
28 adjudication of the juvenile as a delinquent, neglected, or dependent
29 juvenile is pending in the court at the time when such juvenile runs away,
30 the court may issue a requisition for the return of such juvenile upon its
31 own motion, regardless of the consent of the parent, guardian, person, or
32 agency entitled to legal custody, reciting therein the nature and
33 circumstances of the pending proceeding. The requisition shall in every
34 case be executed in duplicate and shall be signed by the judge. One copy of
35 the requisition shall be filed with the Compact Administrator of the
36 demanding state, there to remain on file subject to the provisions of law
37 governing records of such court. Upon the receipt of a requisition
38 demanding the return of a juvenile who has run away, the court or the
39 executive authority to whom the requisition is addressed shall issue an
40 order to any peace officer or other appropriate person directing him to
41 take into custody and detain such juvenile. Such detention order must
42 substantially recite the facts necessary to the validity of its issuance
43 hereunder. No juvenile detained upon such order shall be delivered over

~~to the officer whom the court demanding him, shall have appointed to receive him, unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer to whom the court demanding him shall have appointed to receive him. The judge however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.~~

~~Upon reasonable information that a person is a juvenile who has run away from another state party to this Compact without the consent of a parent, guardian, person, or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for his own protection and welfare, for such a time not exceeding 90 days as will enable his return to another state party to this Compact pursuant to a requisition for his return from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this Compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this Compact, without interference. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.~~

~~(b) That the state to which the juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.~~

~~(c) That "juvenile" as used in this Article means any person who is a minor under the law of the state of residence of the parent, guardian, person, or agency entitled to the legal custody of such minor."~~

~~§ 7A (a) That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody or~~

1 supervision, and the location of such delinquent juvenile, if known, at the
2 time the requisition is made. The requisition shall be verified by affidavit,
3 shall be executed in duplicate, and shall be accompanied by two certified
4 copies of the judgment, formal adjudication, or order of commitment
5 which subjects such delinquent juvenile to probation or parole or to the
6 legal custody of the institution or agency concerned. Such further
7 affidavits and documents as may be deemed proper may be submitted
8 with such requisition. One copy of the requisition shall be filed with the
9 Compact Administrator of the demanding state, there to remain on file
10 subject to the provisions of the law governing records of the appropriate
11 court. Upon the receipt of a requisition demanding the return of a
12 delinquent juvenile who has absconded or escaped, the court or the
13 executive authority to whom the requisition is addressed shall issue an
14 order to any peace officer or other appropriate person directing him to
15 take into custody and detain such delinquent juvenile. Such detention
16 order must substantially recite the facts necessary to the validity of its
17 issuance hereunder. No delinquent juvenile detained upon such order shall
18 be delivered over to the officer whom the appropriate person or authority
19 demanding him shall have appointed to receive him, unless he shall first
20 be taken forthwith before a judge of an appropriate court in the state, who
21 shall inform him of the demand made for his return and who may appoint
22 counsel or guardian ad litem for him. If the judge of such court shall find
23 that the requisition is in order, he shall deliver such delinquent juvenile
24 over to the officer whom the appropriate person or authority demanding
25 him shall have appointed to receive him. The judge, however, may fix a
26 reasonable time to be allowed for the purpose of testing the legality of the
27 proceeding.

28 Upon reasonable information that a person is a delinquent juvenile who has
29 absconded while on probation or parole, or escaped from an institution or agency vested
30 with his legal custody or supervision in any state party to this Compact, such person may
31 be taken into custody in any other state party to this Compact without a requisition. But
32 in such event, he must be taken forthwith before a judge of the appropriate court, who
33 may appoint counsel or guardian ad litem for such person and who shall determine after a
34 hearing, whether sufficient cause exists to hold the person subject to the order of the court
35 for such a time, not exceeding 90 days, as will enable his detention under a detention
36 order issued on a requisition pursuant to this Article. If, at the time when a state seeks the
37 return of a delinquent who has either absconded while on probation or parole or escaped
38 from an institution or agency vested with his legal custody or supervision, there is
39 pending in the state wherein he is detained any criminal charge or any proceeding to have
40 him adjudicated a delinquent juvenile for an act committed in such state, or if he is
41 suspected of having committed within such state a criminal offense or an act of juvenile
42 delinquency, he shall not be returned without the consent of such state until discharged
43 from prosecution or other form of proceeding, imprisonment, detention, or supervision

1 for such offense or juvenile delinquency. The duly accredited officers of any state party
2 to this Compact, upon the establishment of their authority and the identity of the
3 delinquent juvenile being returned, shall be permitted to transport such delinquent
4 juvenile through any and all states party to this Compact, without interference. Upon his
5 return to the state from which he escaped or absconded, the delinquent juvenile shall be
6 subject to such further proceedings as may be appropriate under the laws of that state.

7 (b) That the state to which a delinquent juvenile is returned under this Article shall
8 be responsible for the payment of transportation costs of such return."

9 ~~"§ 7Ac That any delinquent juvenile who has absconded while on probation or
10 parole, or escaped from an institution or agency vested with his legal
11 custody or supervision in any state party to this Compact, and any
12 juvenile who has run away from any state party to this Compact, who is
13 taken into custody without a requisition in another state party to this
14 Compact under the provisions of G.S. 7A-688(a) or 7A-689(a), may
15 consent to his immediate return to the state from which he absconded,
16 escaped or ran away. Such consent shall be given by the juvenile or
17 delinquent juvenile and his counsel or guardian ad litem, if any, by
18 executing or subscribing a writing in the presence of a judge of the
19 appropriate court, which states that the juvenile or delinquent juvenile
20 and his counsel or guardian ad litem, if any, consent to his return to the
21 demanding state. Before such consent shall be executed or subscribed,
22 however, the judge, in the presence of counsel or guardian ad litem, if any,
23 shall inform the juvenile or delinquent juvenile of his rights under this
24 Compact. When the consent has been duly executed, it shall be forwarded
25 to and filed with the Compact Administrator of the state in which the
26 court is located and the judge shall direct the officer having the juvenile or
27 delinquent juvenile in custody to deliver him to the duly accredited officer
28 or officers [of the state demanding his return, and shall cause to be
29 delivered to such officer or officers] a copy of the consent. The court may,
30 however, upon the request of the state to which the juvenile or delinquent
31 juvenile is being returned, order him to return unaccompanied to such
32 state and shall provide him with a copy of such court order, in such event
33 a copy of the consent shall be forwarded to the Compact Administrator of
34 the state to which said juvenile or delinquent juvenile is ordered to
35 return."~~

36 ~~"§ 7Ai (a) That the duly constituted judicial and administrative authorities of a state
37 party to this Compact (herein called "sending state") may permit any
38 delinquent juvenile within such state, placed on probation or parole, to
39 reside in any other state party to this Compact (herein called "receiving
40 state") while on probation or parole, and the receiving state shall accept
41 such delinquent juvenile, if the parent, guardian, or person entitled to the
42 legal custody of such delinquent juvenile is residing or undertakes to
43 reside within the receiving state. Before granting such permission,~~

~~opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this Compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian, or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted, the sending state may transfer the supervision accordingly.~~

~~(b) That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.~~

~~(c) That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in such state or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention, or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this Compact, without interference.~~

~~(d) That the sending state shall be responsible under this Article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state."~~

~~"§ 7A (a) That the provisions of G.S. 7A-688(b), 7A-689(b), and 7A-609(4) [7A-691(d)] of this Compact shall not be construed to alter or affect any internal relationship among the departments, agencies, and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.~~

~~(b) That nothing in this Compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency, or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to G.S. 7A-688(b), 7A-689(b), or 7A-609(4) [7A-691(d)] of this Compact."~~

1 ~~"§ 7A] That, to every extent possible, it shall be the policy of states party to this~~
2 ~~Compact that no juvenile or delinquent juvenile shall be placed or~~
3 ~~detained in any prison, jail, or lockup nor be detained or transported in~~
4 ~~association with criminal, vicious or dissolute persons."~~

5 ~~"§ 7Au That the duly constituted administrative authorities of a state party to this~~
6 ~~Compact may enter into supplementary agreements with any other state~~
7 ~~or states party hereto for the cooperative care, treatment, and~~
8 ~~rehabilitation of delinquent juveniles whenever they shall find that such~~
9 ~~agreements will improve the facilities or programs available for such care,~~
10 ~~treatment, and rehabilitation. Such care, treatment, and rehabilitation~~
11 ~~may be provided, in an institution located within any state entering into~~
12 ~~such supplementary agreement. Such supplementary agreements shall:~~

- 13 (1) ~~Provide the rates to be paid for the care, treatment, and custody of such~~
14 ~~delinquent juveniles taking into consideration the character of facilities,~~
15 ~~services, and subsistence furnished;~~
- 16 (2) ~~Provide that the delinquent juvenile shall be given a court hearing prior~~
17 ~~to his being sent to another state for care, treatment, and custody;~~
- 18 (3) ~~Provide that the state receiving such a delinquent juvenile in one of its~~
19 ~~institutions shall act solely as agent for the state sending such delinquent~~
20 ~~juvenile;~~
- 21 (4) ~~Provide that the sending state shall at all times retain jurisdiction over~~
22 ~~delinquent juveniles sent to an institution in another state;~~
- 23 (5) ~~Provide for reasonable inspection of such institutions by the sending~~
24 ~~state;~~
- 25 (6) ~~Provide that the consent of the parent, guardian, person, or agency~~
26 ~~entitled to the legal custody of said delinquent juvenile shall be secured~~
27 ~~prior to his being sent to another state; and~~
- 28 (7) ~~Make provisions for such other matters and details as shall be necessary~~
29 ~~to protect the rights and equities of such delinquent juveniles and of the~~
30 ~~cooperating states."~~

31 ~~"§ 7Aà That any state party to this Compact may accept any and all donations, gifts,~~
32 ~~and grants of money, equipment, and services from the federal or any~~
33 ~~local government, or any agency thereof and from any person, firm, or~~
34 ~~corporation, for any of the purposes and functions of this Compact, and~~
35 ~~may receive and utilize, the same subject to the terms, conditions, and~~
36 ~~regulations governing such donations, gifts, and grants."~~

37 ~~"§ 7Ae That the governor of each state party to this Compact shall designate an~~
38 ~~officer who, acting jointly with like officers of other party states, shall~~
39 ~~promulgate rules and regulations to carry out more efficiently the terms~~
40 ~~and provisions of this Compact."~~

41 ~~"§ 7Ae That this Compact shall become operative immediately upon its execution by~~
42 ~~any state as between it and any other state or states so executing. When~~
43 ~~executed it shall have the full force and effect of law within such state, the~~

1 ~~form or (of) execution to be in accordance with the laws of the executing~~
2 ~~state."~~

3 ~~"§ 7Aa That this Compact shall continue in force and remain binding upon each~~
4 ~~executing state until renounced by it. Renunciation of this Compact shall~~
5 ~~be by the same authority which executed it, by sending six months' notice~~
6 ~~in writing of its intention to withdraw from the Compact to the other~~
7 ~~states party hereto. The duties and obligations of a renouncing state under~~
8 ~~G.S. 7A-691 hereof shall continue as to parolees and probationers residing~~
9 ~~therein at the time of withdrawal until retaken or finally discharged.~~
10 ~~Supplementary agreements entered into under G.S. 7A-694 hereof shall be~~
11 ~~subject to renunciation as provided by such supplementary agreements,~~
12 ~~and shall not be subject to the six months' renunciation notice of the~~
13 ~~present section.~~

14 ~~"§ 7Au That the provisions of this Compact shall be severable and if any phrase,~~
15 ~~clause, sentence, or provision of this Compact is declared to be contrary to~~
16 ~~the constitution of any participating state or of the United States or the~~
17 ~~applicability thereof to any government, agency, person, or circumstances~~
18 ~~is held invalid, the validity of the remainder of this Compact and the~~
19 ~~applicability thereof to any government, agency, person, or circumstances~~
20 ~~shall not be affected thereby. If this Compact shall be held contrary to the~~
21 ~~constitution of any state participating therein, the Compact shall remain~~
22 ~~in full force and effect as to the remaining states and in full force and~~
23 ~~effect as to the state affected as to all severable matters."~~

24 ~~"§ 7Ae Administrator:~~

25 ~~Pursuant to said Compact, the Governor is hereby authorized and empowered to~~
26 ~~designate an officer who shall be the Compact Administrator and who, acting jointly with~~
27 ~~like officers of other party states, shall promulgate rules and regulations to carry out more~~
28 ~~effectively the terms of the Compact. Said Compact Administrator shall serve subject to~~
29 ~~the pleasure of the Governor. The Compact Administrator is hereby authorized,~~
30 ~~empowered, and directed to cooperate with all departments, agencies, and officers of and~~
31 ~~in the government of this State and its subdivisions in facilitating the proper~~
32 ~~administration of the Compact or of any supplementary agreement or agreements entered~~
33 ~~into by this State hereunder."~~

34 ~~"§ 7Aa supplementary agreements:~~

35 ~~The Compact Administrator is hereby authorized and empowered to enter into~~
36 ~~supplementary agreements with appropriate officials of other states pursuant to the~~
37 ~~Compact. In the event that such supplementary agreement shall require or contemplate~~
38 ~~the use of any institution or facility of this State or require or contemplate the provision~~
39 ~~of any service by this State, said supplementary agreement shall have no force or effect~~
40 ~~until approved by the head of the department or agency under whose jurisdiction said~~
41 ~~institution or facility is operated or whose department or agency will be charged with the~~
42 ~~rendering of such service."~~

43 ~~"§ 7Agor agreement:~~

1 ~~The Compact Administrator, subject to the approval of the Director of the Budget,~~
2 ~~may make or arrange for any payments necessary to discharge any financial obligations~~
3 ~~imposed upon this State by the Compact or by any supplementary agreement entered into~~
4 ~~thereunder."~~

5 ~~"§ 7Ae The courts, departments, agencies, and officers of this State and subdivisions~~
6 ~~shall enforce this Compact and shall do all things appropriate to the~~
7 ~~effectuation of its purposes and intent which may be within their~~
8 ~~respective jurisdictions."~~

9 ~~"§ 7Atprecluded.~~

10 ~~In addition to any procedure provided in G.S. 7A-688 and 7A-690 of the Compact for~~
11 ~~the return of any runaway juvenile, the particular states, the juvenile or his parents, the~~
12 ~~courts, or other legal custodian involved may agree upon and adopt any other plan or~~
13 ~~procedure legally authorized under the laws of this State and the other respective party~~
14 ~~states for the return of any such runaway juvenile."~~

15 ~~"§ 7AeCompact; "juvenile" construed.~~

16 ~~The judge of any court in North Carolina to which an application is made for the~~
17 ~~return of a runaway under the provisions of G.S. 7A-688 of the Interstate Compact on~~
18 ~~Juveniles shall hold a hearing thereon to determine whether for the purposes of the~~
19 ~~Compact the petitioner is entitled to the legal custody of the juvenile, whether or not it~~
20 ~~appears that the juvenile has in fact run away without consent, whether or not he is an~~
21 ~~emancipated minor and whether or not it is in the best interest of the juvenile to compel~~
22 ~~his return to the state. The judge of any court in North Carolina finding that a requisition~~
23 ~~for the return of a juvenile under the provisions of G.S. 7A-688 of the Compact is in~~
24 ~~order shall upon request fix a reasonable time to be allowed for the purpose of testing the~~
25 ~~legality of the proceeding. The period of time for holding a juvenile in custody under the~~
26 ~~provisions of G.S. 7A-688 of the Compact for his own protection and welfare, subject to~~
27 ~~the order of a court of this State, to enable his return to another state party to the~~
28 ~~Compact pursuant to a requisition for his return from a court of that state, shall not~~
29 ~~exceed 30 days. In applying the provisions of G.S. 7A-688 of the Compact to secure the~~
30 ~~return of a runaway from North Carolina, the courts of this State shall construe the word~~
31 ~~"juvenile" as used in this Article to mean any person who has not reached his or her~~
32 ~~eighteenth birthday."~~

33 ~~"§ 7A juveniles.~~

34 ~~Where supervision of a parolee or probationer is being administered pursuant to the~~
35 ~~Interstate Compact on Juveniles, the appropriate judicial or administrative authorities in~~
36 ~~this State shall notify the Compact Administrator of the sending state whenever, in their~~
37 ~~view, consideration should be given to retaking or reincarceration for a parole or a~~
38 ~~probation violation. Prior to the giving of any such notification, a hearing shall be held in~~
39 ~~accordance with this Article within a reasonable time, unless such hearing is waived by~~
40 ~~the parolee or probationer. The appropriate officer or officers of this State shall as soon as~~
41 ~~practicable, following termination of any such hearing, report to the sending state, furnish~~
42 ~~a copy of the hearing record, and make recommendations regarding the disposition to be~~
43 ~~made of the parolee or probationer by the sending state. Pending any proceeding pursuant~~

1 to this section, the appropriate officers of this State may take custody of and detain the
2 parolee or probationer involved for a period not to exceed 10 days prior to the hearing
3 and, if it appears to the hearing officer or officers that retaking or reincarceration is likely
4 to follow, for such reasonable period after the hearing or waiver as may be necessary to
5 arrange for retaking or the reincarceration."

6 ~~"§ 7A. Any hearing pursuant to this Article may be before the Administrator of the~~
7 ~~Interstate Compact on Juveniles, a deputy of such Administrator, or any~~
8 ~~other person authorized pursuant to the juvenile laws of this State to hear~~
9 ~~cases of alleged juvenile parole or probation violations, except that no~~
10 ~~hearing officer shall be the person making the allegation of violation."~~

11 ~~"§ 7Ar With respect to any hearing pursuant to this Article, the parolee or~~
12 ~~probationer:~~

13 (1) ~~Shall have reasonable notice in writing of the nature and content of the~~
14 ~~allegations to be made, including notice that the purpose of the hearing~~
15 ~~is to determine whether there is probable cause to believe that he has~~
16 ~~committed a violation that may lead to a revocation of parole or~~
17 ~~probation;~~

18 (2) ~~Shall be permitted to advise with any persons whose assistance he~~
19 ~~reasonably desires, prior to the hearing;~~

20 (3) ~~Shall have the right to confront and examine any persons who have~~
21 ~~made allegations against him, unless the hearing officer determines that~~
22 ~~such confrontation would present a substantial present or subsequent~~
23 ~~danger of harm to such person or persons;~~

24 (4) ~~May admit, deny, or explain the violation alleged and may present~~
25 ~~proof, including affidavits and other evidence, in support of his~~
26 ~~contentions.~~

27 ~~A record of the proceedings shall be made and preserved."~~

28 ~~"§ 7A outside State.~~

29 ~~In any case of alleged parole or probation violation by a person being supervised in~~
30 ~~another state pursuant to the Interstate Compact on Juveniles, any appropriate judicial or~~
31 ~~administrative officer or agency in another state is authorized to hold a hearing on the~~
32 ~~alleged violation. Upon receipt of the record of a parole or probation violation hearing~~
33 ~~held in another state pursuant to a statute substantially similar to this Article, such record~~
34 ~~shall have the same standing and effect as though the proceeding of which it is a record~~
35 ~~was had before the appropriate officer or officers in this State, and any recommendations~~
36 ~~contained in or accompanying the record shall be fully considered by the appropriate~~
37 ~~officer or officers of this State in making disposition of the matter."~~

38 ~~"§ 7A concerning interstate rendition of juveniles alleged to be delinquent.~~

39 (a) ~~This amendment shall provide additional remedies, and shall be binding only~~
40 ~~as among and between those party states which specifically execute the same.~~

41 (b) ~~All provisions and procedures of G.S. 7A-689 and 7A-690 of the Interstate~~
42 ~~Compact on Juveniles shall be construed to apply to any juvenile charged with being a~~
43 ~~delinquent by reason of a violation of any criminal law. Any juvenile, charged with being~~

1 a delinquent by reason of violating any criminal law, shall be returned to the requesting
2 state upon a requisition to the state where the juvenile may be found. A petition in such
3 case shall be filed in a court of competent jurisdiction in the requesting state where the
4 violation of criminal law is alleged to have been committed. The petition may be filed
5 regardless of whether the juvenile has left the state before or after the filing of the
6 petition. The requisition described in G.S. 7A-689 of the Compact shall be forwarded by
7 the judge of the court in which the petition has been filed."

8 ~~"§ 7Ae (a) The Out-of-State Confinement Amendment to the Interstate Compact on~~
9 ~~Juveniles is hereby enacted into law and entered into by this State with all~~
10 ~~other states legally joining therein in the form substantially as follows:~~

11 (1) ~~Whenever the fully constituted judicial or administrative authorities in a~~
12 ~~sending state shall determine that confinement of a probationer or~~
13 ~~reconfinement of a parolee is necessary or desirable, said officials may~~
14 ~~direct that the confinement or reconfinement be in an appropriate~~
15 ~~institution for delinquent juveniles within the territory of the receiving~~
16 ~~state, such receiving state to act in that regard solely as agent for the~~
17 ~~sending state.~~

18 (2) ~~Escapees and absconders who would otherwise be returned pursuant to~~
19 ~~G.S. 7A-689 of the Compact may be confined or reconfined in the~~
20 ~~receiving state pursuant to this amendment. In any such case the~~
21 ~~information and allegations required to be made and furnished in a~~
22 ~~requisition pursuant to G.S. 7A-689, the sending state shall request~~
23 ~~confinement or reconfinement in the receiving state. Whenever~~
24 ~~applicable, detention orders as provided in G.S. 7A-689 may be~~
25 ~~employed pursuant to this paragraph preliminary to disposition of the~~
26 ~~escapee or absconder.~~

27 (3) ~~The confinement or reconfinement of a parolee, probationer, escapee, or~~
28 ~~absconder pursuant to this amendment shall require the concurrence of~~
29 ~~the appropriate judicial or administrative authorities of the receiving~~
30 ~~state.~~

31 (4) ~~As used in this amendment: (i) "sending state" means sending state as~~
32 ~~that term is used in G.S. 7A-691 of the Compact or the state from which~~
33 ~~a delinquent juvenile has escaped or absconded within the meaning of~~
34 ~~G.S. 7A-689 of the Compact; (ii) "receiving state" means any state,~~
35 ~~other than the sending state, in which a parolee, probationer, escapee, or~~
36 ~~absconder may be found, provided that said state is a party to this~~
37 ~~amendment.~~

38 (5) ~~Every state which adopts this amendment shall designate at least one of~~
39 ~~its institutions for delinquent juveniles as a "Compact Institution" and~~
40 ~~shall confine persons therein as provided in Paragraph (1) hereof unless~~
41 ~~the sending and receiving state in question shall make specific~~
42 ~~contractual arrangements to the contrary. All states party to this~~
43 ~~amendment shall have access to "Compact Institutions" at all~~

1 reasonable hours for the purpose of inspecting the facilities thereof and
2 for the purpose of visiting such of said State's delinquents as may be
3 confined in the institution.

4 (6) Persons confined in "Compact Institutions" pursuant to the terms of this
5 Compact shall at all times be subject to the jurisdiction of the sending
6 state and may at any time be removed from said "Compact Institution"
7 for transfer to an appropriate institution within the sending state, for
8 return to probation or parole, for discharge, or for any purpose permitted
9 by the laws of the sending state.

10 (7) All persons who may be confined in a "Compact Institution" pursuant to
11 the provisions of this amendment shall be treated in a reasonable and
12 humane manner. The fact of confinement or reconfinement in a
13 receiving state shall not deprive any person so confined or reconfined of
14 any rights which said person would have had if confined or reconfined
15 in an appropriate institution of the sending state; nor shall any
16 agreement to submit to confinement or reconfinement pursuant to the
17 terms of this amendment be construed as a waiver of any rights which
18 the delinquent would have had if he had been confined or reconfined in
19 any appropriate institution of the sending state except that the hearing or
20 hearings, if any, to which a parolee, probationer, escapee, or absconder
21 may be entitled (prior to confinement or reconfinement) by the laws of
22 the sending state may be had before the appropriate judicial or
23 administrative officers of the receiving state. In this event, said judicial
24 and administrative officers shall act as agents of the sending state after
25 consultation with appropriate officers of the sending state.

26 (8) Any receiving state incurring costs or other expenses under this
27 amendment shall be reimbursed in the amount of such costs or other
28 expenses by the sending state unless the states concerned shall
29 specifically otherwise agree. Any two or more states party to this
30 amendment may enter into supplementary agreements determining a
31 different allocation of costs as among themselves.

32 (9) This amendment shall take initial effect when entered into by any two or
33 more states party to the Compact and shall be effective as to those states
34 which have specifically enacted this amendment. Rules and regulations
35 necessary to effectuate the terms of this amendment may be
36 promulgated by the appropriate officers of those states which have
37 enacted this amendment.

38 (b) In addition to any institution in which the authorities of this State may
39 otherwise confine or order the confinement of a delinquent juvenile, such authorities
40 may, pursuant to the Out of State Confinement Amendment to the Interstate Compact on
41 Juveniles, confine or order the confinement of a delinquent uvenile in a Compact
42 Institution within another party state."

43 ~~§§7Aa~~"ARTICLE 57-13.

1 A judge's authorization for treatment under this Article, shall have the same effect as
2 parental consent for treatment.

3 Following a judge's authorization for treatment and after giving notice to the
4 juvenile's child's parent, the judge shall conduct a hearing in order to provide for payment
5 for the treatment rendered. The judge may order the parent or other responsible parties to
6 pay the cost of ~~such~~ this treatment. If the judge finds the parent is unable to pay the cost
7 of treatment, ~~such~~ this cost shall be a charge upon the county when so ordered.

8 This Article shall operate as a remedy in addition to the provisions in G.S. 7A-647(3)-
9 7B-1006.

10 ~~§§7A-ARTICLE 58.~~

11 ~~JUVENILE LAW STUDY COMMISSION.~~

12 ~~"§ 7A vacancies.~~

13 (a) ~~The Juvenile Law Study Commission is hereby created. It shall consist of 18~~
14 ~~voting members, 14 to be appointed by the Governor, two by the President Pro Tempore~~
15 ~~of the Senate, and two by the Speaker of the House of Representatives. The members~~
16 ~~appointed by the President Pro Tempore of the Senate shall be members of the Senate at~~
17 ~~the time of their appointment; the members appointed by the Speaker of the House of~~
18 ~~Representatives shall be members of the House of Representatives at the time of their~~
19 ~~appointment. Of the members appointed by the Governor, two shall be district court~~
20 ~~judges, one from an urban district, one from a rural. Three shall be a chief court~~
21 ~~counselor and two court counselors representing the Intake Division, one from an urban~~
22 ~~district, one from a rural. Two shall be from Social Services, one from the State level and~~
23 ~~one from the county. One shall be from the Division of Youth Services. One shall be~~
24 ~~from a local facility of Community Based Alternatives. One shall be a youth member~~
25 ~~representing the youth of the State who shall be a person under the age of 21 at the time~~
26 ~~of the appointment, who shall serve for one year. One shall be a State or local~~
27 ~~representative of the Guardian Ad Litem Services of the Administrative Office of the~~
28 ~~Courts, who shall serve for two years. One shall be from Law Enforcement. One shall~~
29 ~~be from the North Carolina Juvenile Detention Association. One shall be the member of~~
30 ~~the Juvenile Justice Planning Committee of the Governor's Crime Commission~~
31 ~~recommended for appointment by the Juvenile Justice Planning Committee and shall~~
32 ~~serve for three years. The district court judges and the Social Services members shall~~
33 ~~serve for three years. The chief court counselor and the court counselors shall serve for~~
34 ~~two years. The representatives from the Division of Youth Services, Law Enforcement,~~
35 ~~Community Based Alternatives, and the Juvenile Detention Association shall serve for~~
36 ~~one year. The legislative members shall serve for two year terms. All initial terms shall~~
37 ~~begin July 1, 1980.~~

38 (b) ~~A vacancy in membership shall be filled by the appointing authority who made~~
39 ~~the initial appointment. When the members' terms expire, their successors shall serve for~~
40 ~~the same length of time their predecessors served. A member whose term expires may be~~
41 ~~reappointed. If, when a term expires, the appointing authority has not filled the vacancy,~~
42 ~~the member whose term has expired shall continue to serve until the appointment is~~
43 ~~made."~~

~~"§ 7A^o It shall be the duty of the Commission to make continuing studies of the law, both statutory and judicial, as it pertains to juveniles, of agency services available to juveniles and their families, and of any other matters the Commission identifies as being of importance to State consideration of juveniles. The Commission shall report to the Governor and the General Assembly on or before the first day of each full session. The report shall be in writing and shall set forth the Commission's findings, conclusions, and recommendations including any proposed legislation."~~

~~"§ 7A* The Governor shall appoint a chairman. The term of the chairman is two years and he may be reappointed. The Commission shall meet at such times and places as the chairman shall designate. The facilities of the State Legislative Building shall be available to the Commission, subject to approval of the Legislative Services Commission. Legislative members of the Commission shall be reimbursed for subsistence and travel expenses at the rates set out in G.S. 120-3.1. Members of the Commission who are not officers or employees of the State shall receive compensation and reimbursement for travel and subsistence expenses at the rates specified in G.S. 138-5. Members of the Commission who are officers or employees of the State shall receive reimbursement for travel and subsistence expenses at the rate set out in G.S. 138-6."~~

~~§ 7A^â" § 7Ad The Commission may solicit, employ, or contract for technical assistance and clerical assistance, and may purchase or contract for the materials and services it needs. Subject to the approval of the Legislative Services Commission, the staff resources of the Legislative Services Commission shall be available to this Commission without cost except for travel, subsistence, supplies, and materials."~~

ARTICLE 59.

~~§§7A-Article 14. Reserved for future codification.~~

PART II. REWRITING OF THE LAW ON TERMINATION OF PARENTAL RIGHTS, OF CERTAIN PROVISIONS OF THE CHILD FATALITY TASK FORCE LAW, AND OF THE ADOPTION LAW.

Section 2. Article 24B of Chapter 7A of the General Statutes reads as rewritten:

"ARTICLE 24B.

"TERMINATION OF PARENTAL RIGHTS.

"§ 7A-289.22. Legislative intent; construction of Article.

The General Assembly hereby declares as a matter of legislative policy with respect to termination of parental rights:

- 1 (1) The general purpose of this Article is to provide judicial procedures for
2 terminating the legal relationship between a child and ~~his or her~~ the
3 child's biological or legal parents when ~~such~~ these parents have
4 demonstrated that they will not provide the degree of care which
5 promotes the healthy and orderly physical and emotional well-being of
6 the child.
- 7 (2) It is the further purpose of this Article to recognize the necessity for any
8 child to have a permanent plan of care at the earliest possible age, while
9 at the same time recognizing the need to protect all children from the
10 unnecessary severance of a relationship with biological or legal parents.
- 11 (3) Action which is in the best interests of the child should be taken in all
12 cases where the interests of the child and those of ~~his or her~~ the child's
13 parents or other persons are in conflict.
- 14 (4) This Article shall not be used to circumvent the provisions of Chapter
15 50A, the Uniform Child Custody Jurisdiction Act.

16 **"§ 7A-289.23. Jurisdiction.**

17 The district court shall have exclusive original jurisdiction to hear and determine any
18 petition relating to termination of parental rights to any child who resides in, is found in,
19 or is in the legal or actual custody of a county department of social services or licensed
20 child-placing agency in the district at the time of filing of the petition. The court shall
21 have jurisdiction to terminate the parental rights of any parent irrespective of the age of
22 the parent. ~~The parent has the right to counsel and to appointed counsel in cases of~~
23 ~~indigency unless the parent waives the right. The fees of appointed counsel shall be borne~~
24 ~~by the Administrative Office of the Courts. In addition to the right to appointed counsel~~
25 ~~set forth above, a guardian ad litem shall be appointed in accordance with the provisions~~
26 ~~of G.S. 1A-1, Rule 17, to represent a parent in the following cases:~~

- 27 (1) ~~Where it is alleged that a parent's rights should be terminated pursuant~~
28 ~~to G.S. 7A-289.32(7); or~~
- 29 (2) ~~Where the parent is under the age of 18 years.~~

30 ~~The fees of the guardian ad litem shall be borne by the Administrative Office of the~~
31 ~~Courts when the court finds that the respondent is indigent. In other cases the fees of the~~
32 ~~court appointed guardian ad litem shall be a proper charge against the respondent, if the~~
33 ~~respondent does not secure private legal counsel. Provided that, before exercising~~
34 ~~jurisdiction under this Article the court shall find that it would have jurisdiction to make a~~
35 ~~child custody determination under the provisions of G.S. 50A-3. Provided further, that~~
36 ~~the clerk of superior court shall have jurisdiction for adoptions under the provisions of~~
37 ~~G.S. 48-2-100 and Chapter 48 of the General Statutes generally.~~

38 **"§ 7A-289.23A. Pending child abuse, neglect and dependency proceedings.**

39 In any termination of parental of parental rights proceeding in which there is a
40 pending child abuse, neglect or dependency proceeding for the same child, the petition
41 for termination of parental rights may be filed as a motion in the pending child abuse,
42 neglect and dependency proceeding. Any parent who has been served in the pending

1 child abuse, neglect, or dependency action in accordance with G.S. 7A-565 shall be
2 served with the petition to terminate parental rights in accordance with G.S. 1A-1, Rule 5.

3 **"§ 7A-289.23B. Parent's right to and appointment of counsel.**

4 (a) The parent has the right to counsel and to appointed counsel in cases of
5 indigency unless the parent waives the right. The fees of appointed counsel shall be
6 borne by the Administrative Office of the Courts.

7 (b) When a petition to terminate parental rights is filed as a motion in a pending
8 child abuse, neglect, or dependency action, any counsel representing a respondent parent
9 pursuant to G.S. 7A-587 shall continue this representation through the termination of
10 parental rights proceeding.

11 (c) In addition to the right to appointed counsel set forth above, a guardian ad
12 litem shall be appointed in accordance with the provisions of G.S. 1A-1, Rule 17, to
13 represent a parent in the following cases:

14 (1) Where it is alleged that a parent's rights should be terminated pursuant
15 to G.S. 7A-289.32(7); or

16 (2) Where the parent is under the age of 18 years.

17 The fees of the guardian ad litem shall be borne by the Administrative Office of the
18 Courts when the court finds that the respondent is indigent. In other cases the fees of the
19 court appointed guardian ad litem shall be a proper charge against the respondent, if the
20 respondent does not secure private legal counsel.

21 **"§ 7A-289.24. Who may petition.**

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

24 (1) Either parent seeking termination of the right of the other parent; or

25 (2) Any person who has been judicially appointed as the guardian of the
26 person of the child; or

27 (3) Any county department of social services, consolidated county human
28 services agency, or licensed child-placing agency to whom custody of
29 the child has been given by a court of competent jurisdiction; or

30 (4) Any county department of social services, consolidated county human
31 services agency, or licensed child-placing agency to which the child has
32 been surrendered for adoption by one of the parents or by the guardian
33 of the person of ~~such~~ the child, pursuant to G.S. 48-9(a)(1); or

34 (5) Any person with whom the child has resided for a continuous period of
35 two years or more next preceding the filing of the petition; or

36 (6) Any guardian ad litem appointed to represent the minor child pursuant
37 to G.S. ~~7A-586, 7B-601~~ who has not been relieved of this ~~responsibility~~
38 ~~and who has served in this capacity for at least one continuous year;~~
39 ~~responsibility;~~ or

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

1 (b) Any person or agency having the authority to file a petition pursuant to 7A-289.24(a)
2 may intervene in a pending abuse, neglect, or dependency proceeding for the purpose of
3 filing a petition to terminate parental rights.

4 **"§ 7A-289.25. Petition.**

5 The petition shall be verified by the petitioner and shall be entitled "In re (Last name
6 of child), a minor child"; and shall set forth ~~such~~those of the following facts as are
7 known; and with respect to the facts which are unknown the petitioner shall so state:

- 8 (1) The name of the child as it appears on the child's birth certificate, the
9 date and place of birth, and the county where the child is presently
10 residing.
- 11 (2) The name and address of the petitioner and facts sufficient to identify
12 the petitioner as one entitled to petition under G.S. 7A-289.24.
- 13 (3) The name and address of the parents of the child. If the name or address
14 of one or both parents is unknown to the petitioner, the petitioner shall
15 set forth with particularity the petitioner's efforts to ascertain the identity
16 or whereabouts of the parent or parents. ~~Such~~This information may be
17 contained in an affidavit attached to the petition and incorporated
18 therein by reference.
- 19 (4) The name and address of any person appointed as guardian of the
20 person of the child pursuant to the provisions of Chapter 35A of the
21 General Statutes, or of G.S. 7A-585.
- 22 (5) The name and address of any person or agency to whom custody of the
23 child has been given by a court of this or any other state; and a copy of
24 ~~such~~this custody order shall be attached to the petition.
- 25 (6) Facts which are sufficient to warrant a determination that one or more of
26 the grounds for terminating parental rights exist.
- 27 (7) That the petition has not been filed to circumvent the provisions of
28 Chapter 50A, the Uniform Child Custody Jurisdiction Act.

29 **"§ 7A-289.26. Preliminary hearing; unknown parent.**

30 (a) If either the name or identity of any parent whose parental rights the petitioner
31 seeks to terminate is not known to the petitioner, the court shall within 10 days from the
32 date of filing of the petition, or during the next term of court in the county where the
33 petition is filed if there is no court in ~~said~~the county in that 10-day period, conduct a
34 preliminary hearing to ascertain the name or identity of ~~such~~the parent.

35 (b) The court may, in its discretion, inquire of any known parent of the child
36 concerning the identity of the unknown parent and may appoint a guardian ad litem for
37 the unknown parent to conduct a diligent search for the parent. Should the court ascertain
38 the name or identity of the parent, it shall enter a finding to that effect; and ~~such~~the
39 parent shall be summoned to appear in accordance with G.S. 7A- 289.27.

40 (c) Notice of the preliminary hearing need be given only to the petitioner who
41 shall appear at the hearing; but the court may cause summons to be issued to any person
42 directing ~~him~~that person to appear and testify.

1 (d) If the court is unable to ascertain the name or identity of the unknown parent,
2 the court shall order publication of notice of the termination proceeding and shall
3 specifically order the place or places of publication and the contents of the notice which
4 the court concludes is most likely to identify the child to ~~such~~the unknown parent. The
5 notice shall be published in a newspaper qualified for legal advertising in accordance
6 with G.S. 1-597 and 1-598 and published in the counties directed by the court, once a
7 week for three successive weeks. Provided, further, the notice shall:

- 8 (1) Designate the court in which the petition is pending;
9 (2) Be directed to "the father (mother) (father and mother) of a male
10 (female) child born on or aboutin
11 (date)
12County,,
13 (city)
14, respondent";
15 (State)

- 16 (3) Designate the docket number and title of the case (the court may direct
17 the actual name of the title be eliminated and the words "In Re Doe"
18 substituted therefor);
19 (4) State that a petition seeking to terminate the parental rights of the
20 respondent has been filed;
21 (5) Direct the respondent to answer the petition within 30 days after a date
22 stated in the notice, exclusive of ~~such~~this date, which date so stated
23 shall be the date of first publication of notice, and be substantially in the
24 form as set forth in G.S. 1A-1, Rule 4(j1); and
25 (6) State that the respondent's parental rights to the child will be terminated
26 upon failure to answer the petition within the time prescribed.

27 Upon completion of the service, an affidavit of the publisher shall be filed with the
28 court.

29 (e) The court shall issue the order required by G.S. 7A-289.26(b) and (d) within 30
30 days from the date of the preliminary hearing unless the court shall determine that
31 additional time for investigation is required.

32 (f) Upon the failure of the parent served by publication pursuant to G.S. 7A-
33 289.26(d) to answer the petition within the time prescribed, the court shall issue an order
34 terminating all parental rights of the unknown parent.

35 **"§ 7A-289.27. Issuance of summons.**

36 (a) Except as provided in ~~G.S. 7A-289.26~~, G.S. 7A-289.26 and G.S. 7A-289.23A,
37 upon the filing of the petition, the court shall cause a summons to be issued, directed to
38 the following persons or agency, not otherwise a party petitioner, who shall be named as
39 respondents:

- 40 (1) The parents of the child;
41 (2) Any person who has been judicially appointed as guardian of the person
42 of the child;

- 1 (3) The custodian of the child appointed by a court of competent
2 jurisdiction;
- 3 (4) Any county department of social services or licensed child-placing
4 agency to whom a child has been released by one parent pursuant to Part
5 7 of Article 3 of Chapter 48 of the General Statutes; Statutes or any
6 county department of social services to whom placement responsibility
7 for the child has been given by a court of competent jurisdiction; and
- 8 (5) The child, if ~~he or she~~ the child is 12 years of age or older at the time the
9 petition is filed.

10 Provided, no summons need be directed to or served upon any parent who has
11 previously surrendered the child to a county department of social services or licensed
12 child-placing agency, nor to any parent who has consented to the adoption of the child by
13 the ~~petitioner~~ petitioner, nor to any parent or guardian who has been served pursuant to
14 G.S. 7B-408 when the petition is being filed as a motion in the cause in a pending child
15 abuse, neglect, or dependency proceeding pursuant to G.S. 289.23A. The summons shall
16 notify the respondents to file a written answer within 30 days after service of the
17 summons and petition. Service of the summons shall be completed as provided under the
18 procedures established by G.S. 1A-1, Rule 4(j); but the parent of the child shall not be
19 deemed to be under disability even though ~~such~~ this parent is a minor.

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

- 22 (1) The name of the minor child;
- 23 (2) Notice that a written answer to the petition must be filed with the clerk
24 who signed the petition within 30 days after service of the summons and
25 a copy of the petition, or the parent's rights may be terminated;
- 26 (3) Notice that if they are indigent, the parents are entitled to appointed
27 counsel. The parents may contact the clerk immediately to request
28 counsel;
- 29 (4) Notice that this is a new case. Any attorney appointed previously will
30 not represent the parents in this proceeding unless ordered by the court;
- 31 (5) Notice that the date, ~~time~~ time, and place of the hearing will be mailed
32 by the clerk upon filing of the answer or 30 days from the date of
33 service if no answer is filed;
- 34 (6) Notice of the purpose of the hearing and notice that the parents may
35 attend the termination hearing.

36 (c) If a county department of social services that is not otherwise a party petitioner
37 is served with a petition alleging that a parent's parental rights should be terminated
38 pursuant to G.S. 7A-289.32, the department shall file a written answer and shall be
39 considered a party to the proceeding.

40 **"§ 7A-289.28. Failure of respondents to ~~answer~~ answer or reply.**

41 Upon the failure of the respondents to file ~~written answer~~ a responsive pleading to the
42 petition with the court within 30 days after service of the summons and petition, or within
43 the time period established for a defendant's reply by G.S. 1A-1, Rule 4(j1) if service is

1 by publication, or within the time period established for a defendant's reply by G.S. 1A-1,
2 Rule 5, if the petition is filed as a motion in the cause in a pending child abuse, neglect,
3 or dependency proceeding, the court shall ~~may~~ issue an order terminating all parental and
4 custodial rights of the respondent or respondents with respect to the child; provided the
5 court shall order a hearing on the petition and may examine the petitioner or others on the
6 facts alleged in the petition.

7 **"§ 7A-289.29. Answer of respondents.**

8 (a) Any respondent may file a ~~written answer~~ responsive pleading to the petition.
9 The ~~answer responsive pleading~~ shall admit or deny the allegations of the petition and
10 shall set forth the name and address of the answering respondent or ~~his or her~~ the
11 respondent's attorney.

12 (b) If ~~an answer a responsive pleading~~ denies any material allegation of the
13 petition, the court shall appoint a guardian ad litem for the child to represent the best
14 interests of the child, unless the petition was filed by the guardian ad litem pursuant to
15 ~~G.S. 7A-289.24(6).~~ G.S. 7A-289.24(6) or unless a guardian ad litem has been appointed
16 pursuant to G.S. 7B-601. A licensed attorney shall be appointed to assist those guardians
17 ad litem who are not attorneys licensed to practice in North Carolina. The appointment,
18 duties and payment of the guardian ad litem shall be the same as in G.S. 7A-586 and 7A-
19 588. 7B-601 and G.S. 7B-603. The court shall conduct a special hearing after notice of
20 not less than 10 days nor more than 30 days to the petitioner, the answering
21 respondent(s), and the guardian ad litem for the child, to determine the issues raised by
22 the petition and answer(s). Notice of the hearing shall be deemed to have been given
23 upon the depositing thereof in the United States mail, first class postage prepaid, and
24 addressed to the petitioner, respondent, and guardian ad litem or their counsel of record,
25 at the addresses appearing in the petition and responsive pleading.

26 (c) In proceedings under this Article, the appointment of a guardian ad litem shall
27 not be required except, as provided above, in cases in which ~~an answer a responsive~~
28 pleading is filed denying material allegations, or as required under ~~G.S. 7A-289.23;~~ G.S.
29 7A-289.23, or in cases where the petition to terminate parental rights is a motion in the
30 cause in a pending child abuse, neglect, or dependency proceeding and a guardian ad
31 litem has been appointed pursuant to G.S. 7B-601, but the court may, in its discretion,
32 appoint a guardian ad litem for a child, either before or after determining the existence of
33 grounds for termination of parental rights, in order to assist the court in determining the
34 best interests of the child.

35 (d) If a guardian ad litem has previously been appointed for the child under G.S.
36 ~~7A-586, 7B-601, and the appointment of a guardian ad litem could also be made under~~
37 ~~this section,~~ the guardian ad litem appointed under G.S. ~~7A-586, 7B-601,~~ and any
38 attorney appointed to assist that guardian, shall also represent the child in all proceedings
39 under this Article and shall have the duties and payment of a guardian ad litem appointed
40 under this section, ~~unless the court determines that the best interests of the child require~~
41 ~~otherwise.~~ section.

42 **"§ 7A-289.29A. Prehearing conference.**

1 (a) The court shall convene a prehearing conference no more than 30 days after
2 the date a responsive pleading is due, as set forth in G.S. 7A-289.28.

3 (b) At the conference:

4 (1) The court shall review the adequacy of notice and service of process;

5 (2) The court shall advise unrepresented parties of their right to counsel and
6 to appointment of counsel. If any party requires counsel, the court may
7 reconvene the conference to a later date;

8 (3) The court shall establish a discovery plan and timetable;

9 (4) The court shall hear prehearing motions if reasonable advance notice
10 has been given to the parties and the court; and

11 (5) The court shall estimate the length of the hearing and set the date of the
12 hearing, which shall be held within 60 days of this conference unless the
13 court makes specific findings as to why the hearing cannot be held
14 within 60 days.

15 **"§ 7A-289.30. Adjudicatory hearing on termination.**

16 (a) The hearing on the termination of parental rights shall be conducted by the
17 district court sitting without a jury. Reporting of the hearing shall be as provided by G.S.
18 7A-198 for reporting civil trials.

19 (a1) The court shall inquire whether the child's parents are present at the hearing
20 and, if so, whether they are represented by counsel. If the parents are not represented by
21 counsel, the court shall inquire whether the parents desire counsel but are indigent. In the
22 event that the parents desire counsel but are indigent as defined in G.S. 7A-450(a) and are
23 unable to obtain counsel to represent them, the court shall appoint counsel to represent
24 them. The court shall grant the parents ~~such an~~ the extension of time ~~as is~~ reasonable to
25 permit their appointed counsel to prepare their defense to the termination petition. In the
26 event that the parents do not desire counsel and are present at the hearing, the court shall
27 examine each parent and make findings of fact sufficient to show that the waivers were
28 knowing and voluntary. This examination shall be reported as provided in G.S. 7A- 198.

29 (b) The court may, upon finding that reasonable cause exists, order the child to be
30 examined by a psychiatrist, a licensed clinical psychologist, a physician, a public or
31 private agency, or any other expert in order that the child's psychological or physical
32 condition or needs may be ascertained or, in the case of a parent whose ability to care for
33 the child is at issue, the court may order a similar examination of any parent of the child.

34 (c) The court may for good cause shown continue the hearing for ~~such~~ the time as
35 ~~is~~ required for receiving additional evidence, any reports or assessments which the court
36 has requested, or any other information needed in the best interest of the child.

37 (d) The court shall take evidence, find the facts, and shall adjudicate the existence
38 or nonexistence of any of the circumstances set forth in G.S. 7A-289.32 which authorize
39 the termination of parental rights of the respondent.

40 (e) ~~All findings of fact shall be based on~~ The burden shall be on the petitioner to
41 prove the facts justifying the termination by clear, cogent, and convincing evidence. No
42 husband-wife or physician-patient privilege ~~privilege~~ except the attorney-client privilege
43 shall be grounds for excluding any evidence regarding the existence or nonexistence of

1 any circumstance authorizing the termination of parental ~~rights.~~ rights, both as the
2 privilege relates to the competency of the witness and to the exclusion of confidential
3 communications.

4 **"§ 7A-289.31. Disposition.**

5 (a) Should the court determine that any one or more of the conditions authorizing
6 a termination of the parental rights of a parent exist, the court shall issue an order
7 terminating the parental rights of ~~such~~ the parent with respect to the child unless the court
8 shall further determine that the best interests of the child require that the parental rights of
9 ~~such~~ the parent not be terminated.

10 (b) Should the court conclude that irrespective of the existence of one or more
11 circumstances authorizing termination of parental rights, the best interests of the child
12 require that ~~such~~ these rights should not be terminated, the court shall dismiss the
13 petition, but only after setting forth the facts and conclusions upon which ~~such~~ this
14 dismissal is based.

15 (c) Should the court determine that circumstances authorizing termination of
16 parental rights do not exist, the court shall dismiss the petition, making appropriate
17 findings of fact and conclusions.

18 ~~(c1) Repealed by Session Laws 1983, c. 607, s. 3, effective October 1, 1983.~~

19 ~~(c2)~~ (d) Counsel for the petitioner shall serve a copy of the termination of parental
20 rights order upon the guardian ad litem for the child, if any, and upon the child if ~~he~~ the
21 child is 12 years of age or older.

22 ~~(d)~~ (e) The court may tax the cost of the proceeding to any party.

23 **"§ 7A-289.32. Grounds for terminating parental rights.**

24 The court may terminate the parental rights upon a finding of one or more of the
25 following:

26 ~~(1) Repealed by Session Laws 1979, c. 669, s. 2.~~

27 ~~(2)~~ (1) The parent has abused or neglected the child.

28 The child shall be deemed to be abused or neglected if the court finds
29 the child to be an abused child within the meaning of G.S. 7A-517(1),
30 7B-101, or a neglected child within the meaning of G.S. 7A-517(21)-
31 7B-101.

32 (3) The parent has willfully left the child in foster care or placement outside
33 the home for more than 12 months without showing to the satisfaction
34 of the court that reasonable progress under the circumstances has been
35 made within 12 months in correcting those conditions which led to the
36 removal of the child. Provided, however, that no parental rights shall be
37 terminated for the sole reason that the parents are unable to care for the
38 child on account of their poverty.

39 ~~(3a) The burden in such proceedings shall be upon the petitioner to prove the~~
40 ~~facts justifying such termination by clear and convincing evidence.~~

41 (4) The child has been placed in the custody of a county Department of
42 Social Services, a licensed child-placing agency, a child-caring
43 institution, or a foster home, and the parent, for a continuous period of

- 1 six months next preceding the filing of the petition, has willfully failed
2 for ~~such~~this period to pay a reasonable portion of the cost of care for
3 the child although physically and financially able to do so.
- 4 (5) One parent has been awarded custody of the child by judicial decree, or
5 has custody by agreement of the parents, and the other parent whose
6 parental rights are sought to be terminated has for a period of one year
7 or more next preceding the filing of the petition willfully failed without
8 justification to pay for the care, support, and education of the child, as
9 required by ~~said~~the decree or custody agreement.
- 10 (6) The father of a child born out of wedlock has not prior to the filing of a
11 petition to terminate ~~his~~the father's parental rights:
- 12 a. ~~Establish(ed)~~Established paternity judicially or by affidavit
13 which has been filed in a central registry maintained by the
14 Department of Health and Human Services; provided, the court
15 shall inquire of the Department of Health and Human Services as
16 to whether ~~such~~an affidavit has been so filed and shall
17 incorporate into the case record the Department's certified reply;
18 or
- 19 b. Legitimated the child pursuant to provisions of G.S. 49-10, or
20 filed a petition for this specific purpose; or
- 21 c. Legitimated the child by marriage to the mother of the child; or
- 22 d. Provided substantial financial support or consistent care with
23 respect to the ~~child and mother~~child.
- 24 (7) ~~That the~~The parent is incapable of providing for the proper care and
25 supervision of the child, such that the child is a dependent child within
26 the meaning of G.S. ~~7A-517(13)~~7B-101, and that there is a reasonable
27 probability that ~~such~~this incapability will continue for the foreseeable
28 future. Incapability under this subdivision may be the result of substance
29 abuse, mental retardation, mental illness, organic brain syndrome, or
30 any other similar cause or condition.
- 31 (8) The parent has willfully abandoned the child for at least six consecutive
32 months immediately preceding the filing of the petition. For the purpose
33 of this subdivision, a child may be willfully abandoned by ~~his or her~~the
34 child's natural father if the mother of the child had been willfully
35 abandoned by and was living separate and apart from the father at the
36 time of the child's birth, although the father may not have known of
37 ~~such~~the birth; but in any event the child must be over the age of three
38 months at the time of the filing of the petition.
- 39 (9) The parent has committed murder or voluntary manslaughter of another
40 child of the parent or has aided or abetted such a murder or voluntary
41 manslaughter; has aided or abetted in committing, or attempted,
42 conspired, or solicited to commit, the murder or voluntary manslaughter
43 of the child or another child of the parent; or has committed felony

1 assault that results in serious bodily injury to the child or another child
2 of the parent.

3 (10) The parent is imprisoned when the petition is filed and is unlikely to be
4 released for a period of five or more years from the date the petition is
5 filed.

6 (11) A court of competent jurisdiction has terminated parental rights with
7 respect to another child of the parent and the parent lacks the ability or
8 the willingness to establish a safe home.

9 **"§ 7A-289.33. Effects of termination order.**

10 An order terminating the parental rights completely and permanently terminates all
11 rights and obligations of the parent to the child and of the child to the parent, arising from
12 the parental relationship, except that the child's right of inheritance from ~~his or her~~ the
13 parent shall not terminate until ~~such the time as that~~ a final order of adoption is issued.
14 ~~Such~~ The parent is not thereafter entitled to notice of proceedings to adopt the child and
15 may not object thereto or otherwise participate therein.

16 (1) If the child had been placed in the custody of or released for adoption by
17 one parent to, a county department of social services or licensed child-
18 placing agency and is in the custody of the agency at the time of the
19 filing of the petition, including a petition filed pursuant to G.S. 7A-
20 289.24(6), that agency shall, upon entry of the order terminating
21 parental rights, acquire all of the rights for placement of the child as the
22 agency would have acquired had the parent whose rights are terminated
23 released the child to that agency pursuant to the provisions of Part 7 of
24 Article 3 of Chapter 48 of the General Statutes, including the right to
25 consent to the adoption of the child.

26 (2) Except as provided in subdivision (1) above, upon entering an order
27 terminating the parental rights of one or both parents, the court may
28 place the child in the custody of the petitioner, or some other suitable
29 person, or in the custody of the Department of Social Services or
30 licensed child-placing agency, as may appear to be in the best interest of
31 the child.

32 **"§ 7A-289.34. Appeals; modification of order after affirmation.**

33 Any child, parent, guardian, ~~custodian~~ custodian, or agency who is a party to a
34 proceeding under this Article may appeal from an adjudication or any order of disposition
35 to the Court of Appeals, provided that notice of appeal is given in open court at the time
36 of the hearing or in writing within 10 days after the hearing. Pending disposition of an
37 appeal, the court may enter ~~such a~~ a temporary order affecting the custody or placement of
38 the child ~~as that~~ the court finds to be in the best interest of the child or the best interest of
39 the State. Upon the affirmation of the order of adjudication or disposition of the district
40 court in a juvenile case by the Court of Appeals, or by the Supreme Court in the event of
41 such an appeal, the district court ~~shall have authority to~~ may modify or alter its original
42 order of adjudication or disposition as the court finds to be in the best interest of the ~~child~~
43 child. This modification shall ~~to~~ reflect any adjustment made by the child or change in

1 circumstances during the period of time the case on appeal was ~~pending~~, pending.
2 ~~provided that if such~~ If the modifying order ~~be~~ is entered ex parte, the court shall give
3 notice to interested parties to show cause, if any there be, within 10 days thereafter, as to
4 why ~~said~~ the modifying order should be vacated or altered.

5 ~~§ 7A*effective October 1, 1983.~~ " "

6 Section 3. (a) G.S. 143-576.1 reads as rewritten:

7 "**§ 143-576.1. Community Child Protection Teams; Child Fatality Prevention**
8 **Teams; creation and duties.**

9 (a) Community Child Protection Teams are established in every county of the
10 State. Each Community Child Protection Team shall:

11 (1) Review, in accordance with the procedures established by the director of
12 the county department of social services under G.S. 143-576.4:

13 a. Selected active cases in which children are being served by child
14 protective services; ~~and~~

15 b. Cases in which a child died as a result of suspected abuse or
16 neglect, and

17 1. A report of abuse or neglect has been made about the child
18 or the child's family to the county department of social
19 services within the previous 12 months, or

20 2. The child or the child's family was a recipient of child
21 protective services within the previous 12 ~~months~~.
22 months;

23 c. Cases in which the director of the department of social services
24 has decided not to file a petition and the person making the report
25 has appealed the director's decision in accordance with G.S. 7B-
26 305. The Team shall review the case and submit a report and
27 recommendations to the District Attorney within 20 days of the
28 appeal by the person reporting. The Team may recommend that
29 the District Attorney:

30 1. Affirm the case decision of the director not to file a
31 petition;

32 2. Request the appropriate law enforcement agency to
33 investigate the allegations; or

34 3. Direct the director to file a petition;

35 d. Selected cases when the second or subsequent substantiated
36 report of abuse, neglect, or dependency occurs without the
37 director's filing a petition;

38 e. Selected cases when the department of social services has
39 substantiated a report of abuse, neglect, or dependency and has
40 provided services for a period longer than 12 months from the
41 time the investigative assessment was completed, without the
42 director's filing a petition; and

1 f. Selected cases when the county department of social services has
2 not completed the investigative assessment within the 30 days of
3 the complaint, as required by G.S. 7A-544.1; and

- 4 (2) Submit annually to the board of county commissioners
5 recommendations, if any, and advocate for system improvements and
6 needed resources where gaps and deficiencies may exist.

7 In addition, each Community Child Protection Team may review the records of all
8 additional child fatalities and report findings in connection with these reviews to the
9 Team Coordinator.

10 (b) Any Community Child Protection Team that determines it will not review
11 additional child fatalities shall notify the Team Coordinator. In accordance with the plan
12 established under G.S. 143-576.3(1), a separate Child Fatality Prevention Team shall be
13 established in that county to conduct these reviews. Each Child Fatality Prevention Team
14 shall:

- 15 (1) Review the records of all cases of additional child fatalities.
16 (2) Submit annually to the board of county commissioners
17 recommendations, if any, and advocate for system improvements and
18 needed resources where gaps and deficiencies may exist.
19 (3) Report findings in connection with these reviews to the Team
20 Coordinator.

21 (c) All reports to the Team Coordinator under this section shall include:

- 22 (1) A listing of the system problems identified through the review process,
23 and recommendations for preventive actions;
24 (2) Any changes that resulted from the recommendations made by the Local
25 Team;
26 (3) Information about each death reviewed; and
27 (4) Any additional information requested by the Team Coordinator."

28 (b) G.S. 143-576.2 reads as rewritten:

29 "**§ 143-576.2. Local Teams; composition.**

30 (a) Each Local Team shall consist of representatives of public and nonpublic
31 agencies in the community that provide services to children and their families and other
32 individuals who represent the community. No single team shall encompass a geographic
33 or governmental area larger than one county.

34 (b) Each Local Team shall consist of the following persons:

- 35 (1) The director of the county department of social services, and a member
36 of the director's staff;
37 (2) A local law enforcement officer, appointed by the board of county
38 commissioners;
39 (3) An attorney from the district attorney's office, appointed by the district
40 attorney;
41 (4) The executive director of the local community action agency, as defined
42 by the Department of Health and Human Services, or the executive
43 director's designee;

- 1 (5) The superintendent of each local school administrative unit located in
- 2 the county, or the superintendent's designee;
- 3 (6) A member of the county board of social services, appointed by the chair
- 4 of that board;
- 5 (7) A local mental health professional, appointed by the director of the area
- 6 authority established under Chapter 122C of the General Statutes;
- 7 (8) The local guardian ad litem coordinator, or the coordinator's designee;
- 8 (9) The director of the local department of public health; and
- 9 (10) A local health care provider, appointed by the local board of health.

10 (b1) In addition, a Local Team that reviews the records of additional child fatalities
11 shall include the following four additional members:

- 12 (1) An emergency medical services provider or firefighter, appointed by the
- 13 board of county commissioners;
- 14 (2) A district court judge, appointed by the chief district judge in that
- 15 district;
- 16 (3) A county medical examiner, appointed by the Chief Medical Examiner;
- 17 (4) A representative of a local child care facility or Head Start program,
- 18 appointed by the director of the county department of social services;
- 19 and
- 20 (5) A parent of a child who died before reaching the child's eighteenth
- 21 birthday, to be appointed by the board of county commissioners.

22 (b2) The Team Coordinator shall serve as an ex officio member of each Local Team
23 that reviews the records of additional child fatalities. The board of county commissioners
24 may appoint a maximum of five additional members to represent county agencies or the
25 community at large to serve on any Local Team. Vacancies on a Local Team shall be
26 filled by the original appointing authority.

27 (c) Each Local Team shall elect a member to serve as chair at the Team's pleasure.
28 Neither the director of the local department of social services nor any member of the
29 director's staff shall serve as the chair of the Team.

30 (d) Each Local Team shall meet at least ~~four~~ six times each year.

31 (e) The director of the local department of social services shall call the first
32 meeting of the Community Child Protection Team. The director of the local department
33 of health, upon consultation with the Team Coordinator, shall call the first meeting of the
34 Child Fatality Prevention Team. Thereafter, the chair of each Local Team shall schedule
35 the time and place of meetings, in consultation with these directors, and shall prepare the
36 agenda. The chair shall schedule Team meetings no less often than once ~~per quarter~~ every
37 other month and often enough to allow adequate review of the cases selected for review.
38 Within three months of election, the chair shall participate in the appropriate training
39 developed under this Article."

40 Section 4. (a) G.S. 48-1-101 is amended by inserting a new subdivision to read:

41 "(5a) 'Criminal history' means a county, State, or federal criminal history of
42 conviction or a pending indictment of a crime, whether a misdemeanor
43 or a felony, that bears upon an individual's fitness to have responsibility

1 for the safety and well-being of children, including the following North
2 Carolina crimes contained in any of the following Articles of Chapter 14
3 of the General Statutes: Article 6, Homicide; Article 7A, Rape and
4 Kindred Offenses; Article 8, Assaults; Article 10, Kidnapping and
5 Abduction; Article 13, Malicious Injury or Damage by Use of Explosive
6 or Incendiary Device or Material; Article 26, Offenses Against Public
7 Morality and Decency; Article 27, Prostitution; Article 39, Protection of
8 Minors; Article 40, Protection of the Family; and Article 59, Public
9 Intoxication. Such crimes also include possession or sale of drugs in
10 violation of the North Carolina Controlled Substances Act, Article 5 of
11 Chapter 90 of the General Statutes, and alcohol-related offenses such as
12 sale to underage persons in violation of G.S. 18B-302 or driving while
13 impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In
14 addition to the North Carolina crimes listed in this subsection, such
15 crimes also include similar crimes under federal law or under the laws
16 of any other state."

17 (b) G.S. 48-3-203 is amended by inserting a new subsection to read:

18 "(d1) A minor who is in the custody or placement responsibility of a county
19 department of social services shall not be placed with a selected prospective adoptive
20 parent prior to the completion of an investigation of the individual's criminal history
21 pursuant to G.S. 48-3-309 or G.S. 131D-10.3A and, based on the criminal history, a
22 determination as to the individual's fitness to have responsibility for the safety and well-
23 being of children."

24 (c) G.S. 48-3-303(d) reads as rewritten:

25 "(d) The agency shall conduct an investigation for any criminal record as permitted
26 by law. If a prospective adoptive parent is seeking to adopt a minor who is in the custody
27 or placement responsibility of a county department of social services, this county
28 department of social services shall have the individual's criminal history investigated
29 pursuant to G.S. 48-3-309, and based on the criminal history, make a determination
30 pursuant to subsection (e) of this section as to the individual's fitness to have
31 responsibility for the safety and well-being of children."

32 (d) Chapter 48 of the General Statutes is amended by adding a new section to
33 read:

34 "**§ 48-3-309. Mandatory preplacement criminal checks of prospective adoptive**
35 **parents seeking to adopt a minor who is in the custody or placement**
36 **responsibility of a county department of social services.**

37 (a) Effective January 1, 1999, the Department shall ensure that the criminal
38 histories of all prospective adoptive parents seeking to adopt a minor who is in the
39 custody or placement responsibility of a county department of social services are checked
40 prior to placement and, based on the criminal history, a determination is made as to the
41 individual's fitness to have responsibility for the safety and well-being of children. The
42 Department shall ensure that, as of the effective date of this act, all prospective adoptive
43 parents seeking to adopt a minor who is in the custody or placement responsibility of a

1 county department of social services are checked prior to placement for county, State,
2 and federal criminal histories.

3 (b) A county department of social services may issue an unfavorable preplacement
4 assessment to a prospective adoptive parent if the county department of social services
5 determines pursuant to G.S. 48-3-303(e) that the individual is unfit to have responsibility
6 for the safety and well-being of children based on the criminal history.

7 (c) The Department of Justice shall provide to the Department of Health and
8 Human Services the criminal history of such a prospective adoptive parent obtained from
9 the State and National Repositories of Criminal Histories as requested by the Department.
10 The Department shall provide to the Department of Justice, along with the request, the
11 fingerprints of the prospective adoptive parent to be checked, any additional information
12 required by the Department of Justice, and a form consenting to the check of the criminal
13 record and to the use of fingerprints and other identifying information required by the
14 State or National Repositories signed by the individual to be checked. The fingerprints of
15 the prospective adoptive parent shall be forwarded to the State Bureau of Investigation
16 for a search of the State's criminal history record file, and the State Bureau of
17 Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for
18 a national criminal history record check.

19 (d) At the time of the request for a preplacement assessment or at a subsequent
20 time prior to placement, a prospective adoptive parent whose criminal history is to be
21 checked shall be furnished with a statement substantially similar to the following:

22
23 **'NOTICE**

24 **MANDATORY CRIMINAL HISTORY CHECK**

25 NORTH CAROLINA LAW REQUIRES THAT A CRIMINAL HISTORY
26 CHECK BE CONDUCTED PRIOR TO PLACEMENT ON PROSPECTIVE
27 ADOPTIVE PARENTS SEEKING TO ADOPT A MINOR WHO IS IN THE
28 CUSTODY OR PLACEMENT RESPONSIBILITY OF A COUNTY
29 DEPARTMENT OF SOCIAL SERVICES.

30
31 'Criminal history' includes any county, state, and federal convictions or
32 pending indictments of any of the following crimes: the following Articles of
33 Chapter 14 of the General Statutes: Article 6, Homicide; Article 7A, Rape and
34 Kindred Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction;
35 Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device
36 or Material; Article 26, Offenses Against Public Morality and Decency; Article
37 27, Prostitution; Article 39, Protection of Minors; Article 40, Protection of the
38 Family; and Article 59, Public Intoxication; violation of the North Carolina
39 Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and
40 alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-
41 302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-
42 138.5; or similar crimes under federal law or under the laws of other states. Your

1 fingerprints will be used to check the criminal history records of the State Bureau
2 of Investigation (SBI) and the Federal Bureau of Investigation (FBI).

3
4 If it is determined, based on your criminal history, that you are unfit to have
5 responsibility for the safety and well-being of children, you shall have the
6 opportunity to complete, or challenge the accuracy of, the information contained
7 in the SBI or FBI identification records.

8
9 If you are denied a favorable preplacement assessment by a county
10 department of social services as a result of the criminal history check, you may
11 request a review of the assessment pursuant G.S. 48-3-308(a).

12
13 Any prospective adoptive parent who intentionally falsifies any information
14 required to be furnished to conduct the criminal history is guilty of a Class 2
15 misdemeanor.'

16
17 Refusal to consent to a criminal history check is grounds for the issuance by a county
18 department of social services of an unfavorable preplacement assessment. Any
19 prospective adoptive parent who intentionally falsifies any information required to be
20 furnished to conduct the criminal history is guilty of a Class 2 misdemeanor.

21 (e) The Department shall notify the prospective adoptive parent's supervising
22 county department of social services of the results of the criminal history check in
23 accordance with the federal and state law regulating the dissemination of the contents of
24 the criminal history file. The Department shall not release nor disclose any portion of the
25 prospective adoptive parent's criminal history to the prospective adoptive parent. The
26 Department shall also ensure that the prospective adoptive parent is notified of the
27 prospective adoptive parent's right to review the criminal history information, the
28 procedure for completing or challenging the accuracy of the criminal history, and the
29 prospective adoptive parent's right to contest the preplacement assessment of the county
30 department of social services.

31 A prospective adoptive parent who disagrees with the preplacement assessment of the
32 county department of social services may request a review of the assessment pursuant to
33 G.S. 48-3-308(a).

34 (f) All the information that the Department receives through the checking of the
35 criminal history is privileged information and is not a public record but is for the
36 exclusive use of the Department and those persons authorized under this section to
37 receive the information. The Department may destroy the information after it is used for
38 the purposes authorized by this section after one calendar year.

39 (g) There is no liability for negligence on the part of a State or local agency, or the
40 employees of a State or local agency, arising from any action taken or omission by any of
41 them in carrying out the provisions of this section. The immunity established by this
42 subsection shall not extend to gross negligence, wanton conduct, or intentional
43 wrongdoing that would otherwise be actionable. The immunity established by this

1 subsection shall be deemed to have been waived to the extent of indemnification by
2 insurance, indemnification under Article 31A of Chapter 143 of the General Statutes, and
3 to the extent sovereign immunity is waived under the Tort Claims Act, as set forth in
4 Article 31 of Chapter 143 of the General Statutes.

5 (h) The Department of Justice shall perform the State and national criminal history
6 checks on prospective adoptive parents seeking to adopt a minor in the custody or
7 placement responsibility of a county department of social services and shall charge the
8 Department of Health and Human Services a reasonable fee only for conducting the
9 checks of the national criminal history records authorized by this section. The Division
10 of Social Services, Department of Health and Human Services, shall bear the costs of
11 implementing this section."

12 (e) Chapter 114 of the General Statutes is amended by adding a new section to
13 read:

14 "**§ 114-4-19.7. Criminal record checks prior to placement of prospective adoptive**
15 **parents seeking to adopt a minor who is in the custody or placement**
16 **responsibility of a county department of social services.**

17 The Department of Justice may provide to the Division of Social Services,
18 Department of Health and Human Services, the criminal history from the State and
19 National Repositories of Criminal Histories as defined in G.S. 48-1-101(5a). The
20 Division shall provide to the Department of Justice, along with the request, the
21 fingerprints of the prospective adoptive parent seeking to adopt a minor who is in the
22 custody or placement responsibility of a county department of social services, any
23 additional information required by the Department of Justice, and a form consenting to
24 the check of the criminal record and to the use of fingerprints and other identifying
25 information required by the State or National Repositories signed by the individual to be
26 checked. The fingerprints of the prospective adoptive parent shall be forwarded to the
27 State Bureau of Investigation for a search of the State's criminal history record file, and
28 the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau
29 of Investigation for a national criminal history record check. The Division shall keep all
30 information pursuant to this section privileged, as provided in G.S. 48-3-309(f). The
31 Department of Justice shall charge a reasonable fee only for conducting the checks of the
32 national criminal history records authorized by this section."

33
34 **PART III. RECODIFICATION AND REWRITING OF THE LAW OF**
35 **UNDISCIPLINED AND DELINQUENT JUVENILES, AS RECOMMENDED BY**
36 **THE GOVERNOR'S COMMISSION ON JUVENILE CRIME AND JUSTICE,**
37 **AND OF THE EMANCIPATION LAW, WHICH APPLIES BOTH TO ABUSED,**
38 **NEGLECTED, AND DEPENDENT CHILDREN AND TO UNDISCIPLINED AND**
39 **DELINQUENT JUVENILES.**

40
41 Section 5. Chapter 7B of the General Statutes, created in Section 1 of this act
42 and titled "The Juvenile Code", is amended by adding two new Subchapters to read:

43 "**SUBCHAPTER II. UNDISCIPLINED AND DELINQUENT JUVENILES.**

"ARTICLE 15.
"PURPOSES; DEFINITIONS.

"§ 7B-1500. Purpose.

This Subchapter shall be interpreted and construed so as to implement the following purposes and policies:

- (1) To protect the public from acts of delinquency.
- (2) To deter delinquency and crime, including patterns of repeat offending:
 - a. By providing swift, effective sanctions that emphasize the juvenile offender's accountability for the juvenile's actions; and
 - b. By providing appropriate rehabilitative services to juveniles and their families.
- (3) To provide an effective system of intake services for the screening and evaluation of complaints and, in appropriate cases, where court intervention is not necessary to ensure public safety, to refer juveniles to community-based resources.
- (4) To provide uniform procedures that assure fairness and equity; that protect the constitutional rights of juveniles, parents, and victims; and that encourage the court and others involved with juvenile offenders to proceed with all possible speed in making and implementing determinations required by this Subchapter.

"§ 7B-1501. Definitions.

In this Subchapter, unless the context clearly requires otherwise, the following words have the listed meanings:

- (1) Administrator. – The Administrator of the Division of Juvenile Services in the Administrative Office of the Courts who is responsible for planning, organizing, and administering a statewide system of juvenile probation and post-release supervision as authorized by this Subchapter.
- (2) Chief court counselor. – The person responsible for administration and supervision of juvenile intake, probation, and post-release supervision in each judicial district, operating under the supervision of the Administrator of the Division of Juvenile Services.
- (3) Clerk. – Any clerk of superior court, acting clerk, or assistant or deputy clerk.
- (4) Community-based program. – A program providing nonresidential or residential treatment to a juvenile under the jurisdiction of the juvenile court in the community where the juvenile's family lives. A community-based program may include specialized foster care, family counseling, shelter care, and other appropriate treatment.
- (5) Court. – The district court division of the General Court of Justice.
- (6) Court counselor. – A person responsible for probation and post-release supervision to juveniles under the supervision of the chief court counselor.

- 1 (7) Custodian. – The person or agency that has been awarded legal custody
2 of a juvenile by a court.
- 3 (8) Delinquent juvenile. – Any juvenile who, while less than 16 years of
4 age but at least 6 years of age, commits a crime or infraction under State
5 law or under an ordinance of local government, including violation of
6 the motor vehicle laws.
- 7 (9) Department. – The North Carolina Department of Health and Human
8 Services.
- 9 (10) Detention. – The secure confinement of a juvenile pursuant to a court
10 order.
- 11 (11) Detention facility. – A facility authorized to provide secure confinement
12 and care for juveniles. Detention facilities include both State and
13 locally administered detention homes, centers, and facilities.
- 14 (12) Director of the Division of Youth Services. – The person responsible for
15 the supervision of the administration of institutional and detention
16 services.
- 17 (13) District. – Any district court district as established by G.S. 7A-133.
- 18 (14) Division of Juvenile Services. – The Division of Juvenile Services of
19 the Administrative Office of the Courts.
- 20 (15) Division of Youth Services. – The Division of Youth Services of the
21 Department of Health and Human Services.
- 22 (16) Extended jurisdiction. – Juvenile court jurisdiction, pursuant to a court
23 order, over a person who is at least 18 years of age and has not reached
24 the person's nineteenth birthday.
- 25 (17) Holdover facility. – A place in a jail which has been approved by the
26 Department of Health and Human Services as meeting the State
27 standards for detention as required in G.S. 153A-221 providing close
28 supervision where the juvenile cannot converse with, see, or be seen by
29 the adult population.
- 30 (18) House arrest. – A requirement that the juvenile remain at the juvenile's
31 residence unless the court or the juvenile court counselor authorizes the
32 juvenile to leave for specific purposes such as employment, counseling,
33 a course of study, or vocational training. The juvenile may be required
34 to wear a device that permits the supervising agency to monitor
35 electronically the juvenile's compliance.
- 36 (19) In loco parentis. – A person acting in loco parentis means one, other
37 than parents or legal guardian, who has assumed the status and
38 obligation of a parent without being awarded the legal custody of a
39 juvenile by a court.
- 40 (20) Intake counselor. – A person who screens and evaluates a complaint
41 alleging that a juvenile is delinquent or undisciplined to determine
42 whether the complaint should be filed as a petition.

- 1 (21) Interstate Compact on Juveniles. – An agreement ratified by 50 states
2 and the District of Columbia providing a formal means of returning a
3 juvenile, who is an absconder, escapee, or runaway, to the juvenile's
4 home state, and codified in Article 28 of this Chapter.
- 5 (22) Judge. – Any district court judge.
- 6 (23) Judicial district. – Any district court district as established by G.S. 7A-
7 133.
- 8 (24) Juvenile. – Except as provided in subdivisions (8) and (32) of this
9 section, any person who has not reached the person's eighteenth
10 birthday and is not married, emancipated, or a member of the armed
11 services of the United States. Wherever the term 'juvenile' is used with
12 reference to rights and privileges, that term encompasses the attorney
13 for the juvenile as well.
- 14 (25) Juvenile court. – Any district court exercising jurisdiction pursuant to
15 this Chapter.
- 16 (26) Petitioner. – The individual who initiates court action by the filing of a
17 petition or a motion for review alleging the matter for adjudication.
- 18 (27) Post-release supervision. – The supervision of a juvenile who has been
19 returned to the community after having been committed to the Division
20 of Youth Services.
- 21 (28) Probation. – The status of a juvenile who has been adjudicated
22 delinquent, is subject to specified conditions under the supervision of a
23 court counselor, and may be returned to the court for violation of those
24 conditions during the period of probation.
- 25 (29) Prosecutor. – The district attorney or assistant district attorney assigned
26 by the district attorney to juvenile proceedings.
- 27 (30) Secretary. – The Secretary of the Department of Health and Human
28 Services.
- 29 (31) Teen court program. – A community resource for the diversion of cases
30 in which a juvenile has allegedly committed certain offenses not
31 involving violence or personal injury for hearing by a jury of the
32 juvenile's peers, which may assign the juvenile to counseling,
33 restitution, curfews, community service, or other rehabilitative
34 measures.
- 35 (32) Undisciplined juvenile. –
- 36 a. A juvenile who, while less than 16 years of age but at least 6
37 years of age, is unlawfully absent from school; or is regularly
38 disobedient to and beyond the disciplinary control of the
39 juvenile's parent, guardian, or custodian; or is regularly found in
40 places where it is unlawful for a juvenile to be; or has run away
41 from home; or
- 42 b. A juvenile who is 16 or 17 years of age and who is regularly
43 disobedient to and beyond the disciplinary control of the

1 juvenile's parent, guardian, or custodian; or is regularly found in
2 places where it is unlawful for a juvenile to be; or has run away
3 from home.

4 (33) Wilderness program. – A rehabilitative residential treatment program in
5 a rural or outdoor setting.

6 The singular includes the plural, unless otherwise specified.

7 **"ARTICLE 16.**

8 **"JURISDICTION.**

9 **"§ 7B-1600. Jurisdiction over undisciplined juveniles.**

10 (a) The court has exclusive, original jurisdiction over any case involving a juvenile
11 who is alleged to be undisciplined. For purposes of determining jurisdiction, the age of
12 the juvenile at the time of the alleged offense governs.

13 (b) When the court obtains jurisdiction over a juvenile under this section,
14 jurisdiction shall continue until terminated by order of the court, the juvenile reaches the
15 age of 18 years, or the juvenile is emancipated.

16 (c) The court has jurisdiction over the parent, guardian, or custodian of a juvenile
17 who is under the jurisdiction of the court pursuant to this section, if the parent, guardian,
18 or custodian has been served with a summons pursuant to G.S. 7B-1805.

19 **"§ 7B-1601. Jurisdiction over delinquent juveniles.**

20 (a) The court has exclusive, original jurisdiction over any case involving a juvenile
21 who is alleged to be delinquent. For purposes of determining jurisdiction, the age of the
22 juvenile at the time of the alleged offense governs.

23 (b) When the court obtains jurisdiction over a juvenile alleged to be delinquent,
24 jurisdiction shall continue until terminated by order of the court or until the juvenile
25 reaches the age of 18 years, except as provided otherwise in this Article.

26 (c) When delinquency proceedings cannot be concluded before the juvenile
27 reaches the age of 18 years, the court retains jurisdiction for the sole purpose of
28 conducting proceedings pursuant to Article 22 of this Chapter and either transferring the
29 case to superior court for trial as an adult or dismissing the petition.

30 (d) When the court has not obtained jurisdiction over a juvenile before the juvenile
31 reaches the age of 18, for a felony and any related misdemeanors the juvenile allegedly
32 committed on or after the juvenile's thirteenth birthday and prior to the juvenile's
33 sixteenth birthday, the court has jurisdiction for the sole purpose of conducting
34 proceedings pursuant to Article 22 of this Chapter and either transferring the case to
35 superior court for trial as an adult or dismissing the petition.

36 (e) The court has jurisdiction over delinquent juveniles in the custody of the
37 Division of Youth Services and over proceedings to determine whether a juvenile who is
38 under the post-release supervision of the court counselor has violated the terms of the
39 juvenile's post-release supervision.

40 (f) The court has jurisdiction over persons 18 years of age or older who are under
41 the extended jurisdiction of the juvenile court.

1 (g) The court has jurisdiction over the parent, guardian, or custodian of a juvenile
2 who is under the jurisdiction of the court pursuant to this section if the parent, guardian,
3 or custodian has been served with a summons pursuant to G.S. 7B-1805.

4 **"§ 7B-1602. Extended jurisdiction over a delinquent juvenile under certain**
5 **circumstances.**

6 If the court orders that jurisdiction be extended pursuant to G.S. 7B-2513, jurisdiction
7 over a juvenile shall continue after the juvenile reaches the age of 18 years until (i)
8 jurisdiction is terminated by order of the court or (ii) the juvenile reaches the
9 age of 19 years.

10 **"§ 7B-1603. Jurisdiction in certain circumstances.**

11 The court has exclusive original jurisdiction of the following proceedings:

- 12 (1) Proceedings under the Interstate Compact on the Placement of Children
13 set forth in Article 38 of this Chapter;
- 14 (2) Proceedings involving judicial consent for emergency surgical or
15 medical treatment for a juvenile when the juvenile's parent, guardian,
16 custodian, or other person standing in loco parentis refuses to consent
17 for treatment to be rendered; and
- 18 (3) Proceedings to determine whether a juvenile should be emancipated.

19 **"§ 7B-1604. Limitations on juvenile court jurisdiction.**

20 (a) Any juvenile, including a juvenile who is under the jurisdiction of the court,
21 who commits a criminal offense after the juvenile's sixteenth birthday is subject to
22 prosecution as an adult. A juvenile who is emancipated shall be prosecuted as an adult
23 for the commission of a criminal offense.

24 (b) A juvenile who is transferred to and convicted in superior court shall be
25 prosecuted as an adult for any criminal offense the juvenile commits after the superior
26 court conviction.

27 **"ARTICLE 17.**

28 **"SCREENING OF DELINQUENCY AND UNDISCIPLINED COMPLAINTS.**

29 **"§ 7B-1700. Intake services.**

30 The chief court counselor, under the direction of the Administrator of the Division of
31 Juvenile Services, shall establish intake services in each judicial district of the State for
32 all delinquency and undisciplined cases.

33 The purpose of intake services shall be to determine from available evidence whether
34 there are reasonable grounds to believe the facts alleged are true, to determine whether
35 the facts alleged constitute a delinquent or undisciplined offense within the jurisdiction of
36 the court, to determine whether the facts alleged are sufficiently serious to warrant court
37 action, and to obtain assistance from community resources when court referral is not
38 necessary. The intake counselor shall not engage in field investigations to substantiate
39 complaints or to produce supplementary evidence but may refer complainants to law
40 enforcement agencies for those purposes.

41 **"§ 7B-1701. Preliminary inquiry.**

42 When a complaint is received, the intake counselor shall make a preliminary
43 determination as to whether the juvenile is within the jurisdiction of the court as a

1 delinquent or undisciplined juvenile. If the intake counselor finds that the facts contained
2 in the complaint do not state a case within the jurisdiction of the court, that legal
3 sufficiency has not been established, or that the matters alleged are frivolous, the intake
4 counselor, without further inquiry, shall refuse authorization to file the complaint as a
5 petition.

6 When requested by the intake counselor, the prosecutor shall assist in determining the
7 sufficiency of evidence as it affects the quantum of proof and the elements of offenses.

8 The intake counselor, without further inquiry, shall authorize the complaint to be filed
9 as a petition if the intake counselor finds reasonable grounds to believe that the juvenile
10 has committed one of the following nondivertible offenses:

11 (1) Murder;

12 (2) First-degree rape or second degree rape;

13 (3) First-degree sexual offense or second degree sexual offense;

14 (4) Arson;

15 (5) Any violation of Article 5, Chapter 90 of the General Statutes that
16 would constitute a felony if committed by an adult;

17 (6) First degree burglary;

18 (7) Crime against nature; or

19 (8) Any felony which involves the willful infliction of serious bodily injury
20 upon another or which was committed by use of a deadly weapon.

21 **"§ 7B-1702. Evaluation.**

22 Upon a finding of legal sufficiency, except in cases involving nondivertible offenses
23 set out in G.S. 7B-1701, the intake counselor shall determine whether a complaint should
24 be filed as a petition, the juvenile diverted pursuant to G.S. 7B-1706, or the case resolved
25 without further action. In making the decision, the counselor shall consider criteria
26 provided by the Administrator of the Division of Juvenile Services. The intake process
27 shall include the following steps if practicable:

28 (1) Interviews with the complainant and the victim if someone other than
29 the complainant;

30 (2) Interviews with the juvenile and the juvenile's parent, guardian, or
31 custodian;

32 (3) Interviews with persons known to have relevant information about the
33 juvenile or the juvenile's family.

34 Interviews required by this section shall be conducted in person unless it is necessary to
35 conduct them by telephone.

36 **"§ 7B-1703. Evaluation decision.**

37 (a) The intake counselor shall complete evaluation of a complaint within 15 days
38 of receipt of the complaint, with an extension for a maximum of 15 additional days at the
39 discretion of the chief court counselor. The intake counselor shall decide within this time
40 period whether a complaint shall be filed as a juvenile petition.

41 (b) If the intake counselor determines that a complaint should be filed as a petition,
42 the counselor shall file the petition as soon as practicable, but in any event within 15 days
43 after the complaint is received, with an extension for a maximum of 15 additional days at

1 the discretion of the chief court counselor. The intake counselor shall assist the
2 complainant when necessary with the preparation and filing of the petition, shall include
3 on it the date and the words 'Approved for Filing', shall sign it, and shall transmit it to the
4 clerk of superior court.

5 (c) If the intake counselor determines that a petition should not be filed, the intake
6 counselor shall notify the complainant immediately in writing with reasons for the
7 decision and shall include notice of the complainant's right to have the decision reviewed
8 by the prosecutor. The intake counselor shall sign the complaint after indicating on it:

9 (1) The date of the determination;

10 (2) The words 'Not Approved for Filing'; and

11 (3) Whether the matter is 'Closed' or 'Diverted and Retained'.

12 Except as provided in G.S. 7B-1706, any complaint not approved for filing as a
13 juvenile petition shall be destroyed by the intake counselor after holding the complaint
14 for a temporary period to allow review as provided in G.S. 7B-1705.

15 **"§ 7B-1704. Request for review by prosecutor.**

16 The complainant has five calendar days, from receipt of the intake counselor's
17 decision not to approve the filing of a petition, to request review by the prosecutor. The
18 intake counselor shall notify the prosecutor immediately of such request and shall
19 transmit to the prosecutor a copy of the complaint. The prosecutor shall notify the
20 complainant and the intake counselor of the time and place for the review.

21 **"§ 7B-1705. Review of determination that petition should not be filed.**

22 No later than 20 days after the complainant is notified, the prosecutor shall review the
23 intake counselor's determination that a juvenile petition should not be filed. Review shall
24 include conferences with the complainant and the intake counselor. At the conclusion of
25 the review, the prosecutor shall: (i) affirm the decision of the intake counselor or
26 direct the filing of a petition and (ii) notify the complainant of the prosecutor's action.

27 **"§ 7B-1706. Diversion plans and referral.**

28 (a) Unless the offense is one in which a petition is required by G.S. 7B-1701, upon
29 a finding of legal sufficiency the intake counselor may divert the juvenile pursuant to a
30 diversion plan, which may include referring the juvenile to any of the following
31 resources:

32 (1) An appropriate public or private resource;

33 (2) Restitution;

34 (3) Community service;

35 (4) Victim-offender mediation;

36 (5) Regimented physical training;

37 (6) Counseling;

38 (7) A teen court program, as set forth in subsection (c) of this section.

39 As part of a diversion plan, the intake counselor may enter into a diversion contract
40 with the juvenile and the juvenile's parent, guardian, or custodian.

41 (b) Unless the offense is one in which a petition is required by G.S. 7B-1701, upon
42 a finding of legal sufficiency the intake counselor may enter into a diversion contract
43 with the juvenile and the parent, guardian, or custodian; provided, a diversion contract

1 requires the consent of the juvenile and the juvenile's parent, guardian, or custodian. A
2 diversion contract shall:

- 3 (1) State conditions by which the juvenile agrees to abide and any actions
4 the juvenile agrees to take;
- 5 (2) State conditions by which the parent, guardian, or custodian agrees to
6 abide and any actions the parent, guardian, or custodian agrees to take;
- 7 (3) Describe the role of the court counselor in relation to the juvenile and
8 the parent, guardian, or custodian;
- 9 (4) Specify the length of the contract, which shall not exceed six months;
- 10 (5) Indicate that all parties understand and agree that:
 - 11 a. The juvenile's violation of the contract may result in the filing of
12 the complaint as a petition; and
 - 13 b. The juvenile's successful completion of the contract shall
14 preclude the filing of a petition.

15 After a diversion contract is signed by the parties, the intake counselor shall provide
16 copies of the contract to the juvenile and the juvenile's parent, guardian, or custodian.
17 The intake counselor shall notify any agency or other resource from which the juvenile or
18 the juvenile's parent, guardian, or custodian will be seeking services or treatment
19 pursuant to the terms of the contract. At any time during the term of the contract if the
20 court counselor determines that the juvenile has failed to comply substantially with the
21 terms of the contract, the court counselor shall file the complaint as a petition. Unless the
22 court counselor has filed the complaint as a petition, the counselor shall close the
23 juvenile's file in regard to the diverted matter within six months after the date of the
24 contract.

25 (c) If a teen court program has been established in the district, the intake
26 counselor, upon a finding of legal sufficiency, may refer any case in which a juvenile has
27 allegedly committed an offense that would be an infraction or misdemeanor if committed
28 by an adult to a teen court program. However, the counselor shall not refer a case to a
29 teen court program (i) if the juvenile has been referred to a teen court program
30 previously, or (ii) if the juvenile is alleged to have committed any of the following
31 offenses:

- 32 (1) Driving while impaired under G.S. 20-138.1, 20-138.2, 20-138.3, 20-
33 138.5, or 20-138.7, or any other motor vehicle violation;
- 34 (2) A Class A1 misdemeanor;
- 35 (3) An assault in which a weapon is used; or
- 36 (4) A controlled substance offense under Article 5 of Chapter 90 of the
37 General Statutes, other than simple possession of a Schedule VI drug or
38 alcohol.

39 (d) The intake counselor shall maintain diversion plans and contracts entered into
40 pursuant to this section to allow intake counselors to determine when a juvenile has had a
41 complaint diverted previously. Diversion plans and contracts are not public records
42 under Chapter 132 of the General Statutes, shall not be included in the clerk's record
43 pursuant to G.S. 7B-3000, and shall be withheld from public inspection or examination.

1 Diversion plans and contracts shall be destroyed when the juvenile reaches the age of 18
2 years or when the juvenile is no longer under the jurisdiction of the court, whichever is
3 longer.

4 (e) No later than 60 days after the intake counselor diverts a juvenile, the intake
5 counselor shall determine whether the juvenile and the juvenile's parent, guardian, or
6 custodian have complied with the terms of the diversion plan or contract. In making this
7 determination, the intake counselor shall contact any referral resources to determine
8 whether the juvenile and the juvenile's parent, guardian, or custodian complied with any
9 recommendations for treatment or services made by the resource. If the juvenile and the
10 juvenile's parent, guardian, or custodian have not complied, the intake counselor shall
11 reconsider the decision to divert and may authorize the filing of the complaint as a
12 petition within 10 days after making the determination. If the intake counselor does not
13 file a petition, the intake counselor may continue to monitor the case for up to six months
14 from the date of the diversion plan or contract. At any point during that time period if the
15 juvenile and the juvenile's parent, guardian, or custodian fail to comply, the intake
16 counselor shall reconsider the decision to divert and may authorize the filing of the
17 complaint as a petition. After six months, the intake counselor shall close the diversion
18 plan or contract file.

19 "ARTICLE 18.

20 "VENUE; PETITION; SUMMONS.

21 "§ 7B-1800. Venue.

22 A proceeding in which a juvenile is alleged to be delinquent or undisciplined shall be
23 commenced and adjudicated in the district in which the offense is alleged to have
24 occurred. When a proceeding is commenced in a district other than that of the juvenile's
25 residence, the court shall proceed to adjudication in that district. After adjudication, these
26 procedures shall be available to the court:

- 27 (1) The court may transfer the proceeding to the court in the district where
28 the juvenile resides for disposition.
- 29 (2) Where the proceeding is not transferred under subdivision (1) of this
30 section, the court shall immediately notify the chief district judge in the
31 district in which the juvenile resides. If the chief district judge requests a
32 transfer within five days after receipt of notification, the court shall
33 transfer the proceeding.
- 34 (3) Where the proceeding is not transferred under subdivision (1) or (2), the
35 court, upon motion of the juvenile, shall transfer the proceeding to the
36 court in the district where the juvenile resides for disposition. The court
37 shall advise the juvenile of the juvenile's right to transfer under this
38 section.

39 "§ 7B-1801. Pleading and process.

40 The pleading in a juvenile action is the petition. The process in a juvenile action is the
41 summons.

42 "§ 7B-1802. Petition.

1 The petition shall contain the name, date of birth, and address of the juvenile and the
2 name and last known address of the juvenile's parent, guardian, or custodian. The
3 petition shall allege the facts which invoke jurisdiction over the juvenile. The petition
4 shall not contain information on more than one juvenile.

5 A petition in which delinquency is alleged shall contain a plain and concise statement,
6 without allegations of an evidentiary nature, asserting facts supporting every element of a
7 criminal offense and the juvenile's commission thereof with sufficient precision clearly to
8 apprise the juvenile of the conduct which is the subject of the allegation.

9 Sufficient copies of the petition shall be prepared so that copies will be available for
10 the juvenile, for each parent if living separate and apart, for the court counselor, for the
11 prosecutor, and for any person determined by the court to be a necessary party.

12 **"§ 7B-1803. Receipt of complaints; filing of petition.**

13 (a) All complaints concerning a juvenile alleged to be delinquent or undisciplined
14 shall be referred to the intake counselor for screening and evaluation. Thereafter, if the
15 intake counselor determines that a petition should be filed, the petition shall be drawn by
16 the intake counselor or the clerk, signed by the complainant, and verified before an
17 official authorized to administer oaths. If the circumstances indicate a need for immediate
18 attachment of jurisdiction and if the intake counselor is out of the county or otherwise
19 unavailable to receive a complaint and to draw a petition when it is needed, the clerk
20 shall assist the complainant in communicating the complaint to the intake counselor by
21 telephone and, with the approval of the intake counselor, shall draw a petition and file it
22 when signed and verified. A copy of the complaint and petition shall be transmitted to the
23 intake counselor. Procedures for receiving delinquency and undisciplined complaints and
24 drawing petitions thereon, consistent with this Article and Article 17 of this Chapter shall
25 be established by administrative order of the chief judge in each judicial district.

26 (b) If review is requested pursuant to G.S. 7B-1704, the prosecutor shall review a
27 complaint and any decision of the intake counselor not to authorize that the complaint be
28 filed as a petition. If the prosecutor, after review, authorizes a complaint to be filed as a
29 petition, the prosecutor shall prepare the complaint to be filed by the clerk as a petition,
30 recording the day of filing.

31 **"§ 7B-1804. Commencement of action.**

32 (a) An action is commenced by the filing of a petition in the clerk's office when
33 that office is open, or by a magistrate's acceptance of a petition for filing pursuant to
34 subsection (b) of this section when the clerk's office is closed.

35 (b) When the office of the clerk is closed and an intake counselor requests a
36 petition alleging a juvenile to be delinquent or undisciplined, a magistrate may draw and
37 verify the petition and accept it for filing, which acceptance shall constitute filing. The
38 magistrate's authority under this subsection is limited to emergency situations when a
39 petition is required in order to obtain a secure or nonsecure custody order. Any petition
40 accepted for filing under this subsection shall be delivered to the clerk's office for
41 processing as soon as that office is open for business.

42 **"§ 7B-1805. Issuance of summons.**

1 (a) Immediately after a petition has been filed alleging that a juvenile is
2 undisciplined or delinquent, the clerk shall issue a summons to the juvenile and to the
3 parent, guardian, or custodian requiring them to appear for a hearing at the time and place
4 stated in the summons. A copy of the petition shall be attached to each summons.

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

7 (1) Notice of the nature of the proceeding and the purpose of the hearing
8 scheduled on the summons.

9 (2) Notice that a parent, guardian, or custodian who fails without reasonable
10 cause to appear and to bring the juvenile before the court may be
11 proceeded against for contempt of court.

12 (3) Notice of any right to counsel and information about how to seek the
13 appointment of counsel prior to a hearing.

14 (4) Notice that, if the court determines at the adjudicatory hearing that the
15 allegations of the petition are true, the court will conduct a dispositional
16 hearing and will have jurisdiction to enter orders affecting substantial
17 rights of the juvenile and of the parent, guardian, or custodian, including
18 orders that:

19 a. Affect the juvenile's custody;

20 b. Impose conditions on the juvenile;

21 c. Require that the juvenile receive medical, psychiatric,
22 psychological, or other treatment and that the parent, guardian, or
23 custodian participate in the treatment;

24 d. Require the parent, guardian, or custodian to undergo psychiatric,
25 psychological, or other treatment or counseling;

26 e. Order the parent to pay for treatment that is ordered for the
27 juvenile or the parent; and

28 f. Order the parent to pay support for the juvenile for any period the
29 juvenile does not reside with the parent or to pay attorneys' fees
30 or other expenses as ordered by the court.

31 (5) Notice that the parent, guardian, or custodian shall be required to attend
32 scheduled hearings.

33 (6) Notice that the parent, guardian, or custodian shall be responsible for
34 bringing the juvenile before the court at any hearing the juvenile is
35 required to attend.

36 (c) The summons shall advise the parent, guardian, or custodian that upon service,
37 jurisdiction over the parent, guardian, or custodian is obtained and that failure of the
38 parent, guardian, or custodian to appear or bring the juvenile before the court without
39 reasonable cause or to comply with any order of the court pursuant to Article 27 of this
40 Chapter may cause the court to issue a show cause order for contempt. The summons
41 shall contain the following language in bold type:

1 **'TO THE PARENT, GUARDIAN, OR CUSTODIAN: YOUR FAILURE TO**
2 **APPEAR IN COURT FOR A SCHEDULED HEARING OR TO COMPLY WITH**
3 **AN ORDER OF THE COURT MAY RESULT IN A FINDING OF CONTEMPT.'**

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

6 **"§ 7B-1806. Service of summons.**

7 The summons and petition shall be personally served upon the parent, the guardian, or
8 custodian and the juvenile not less than five days prior to the date of the scheduled
9 hearing. The time for service may be waived in the discretion of the court.

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

14 The court may issue a show cause order for contempt against a parent, guardian, or
15 custodian who is personally served and fails without reasonable cause to appear and to
16 bring the juvenile before the court.

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

20 **"§ 7B-1806.1. Notice to parent and juvenile of scheduled hearings.**

21 The clerk shall give to all parties, including both parents of the juvenile, five days
22 written notice of the date and time of all scheduled hearings unless the party is notified in
23 open court or the court orders otherwise.

24 **"§ 7B-1807. First appearance for felony cases.**

25 (a) A juvenile who is alleged in the petition to have committed an offense that
26 would be a felony if committed by an adult shall be summoned to appear before the court
27 for a first appearance within 10 days of the filing of the petition. If the juvenile is in
28 secure or nonsecure custody, the first appearance shall take place at the initial hearing
29 required by G.S. 7B-1906. Unless the juvenile is in secure or nonsecure custody, the
30 court may continue the first appearance to a time certain for good cause.

31 (b) At the first appearance, the court shall:

32 (1) Inform the juvenile of the allegations set forth in the petition;

33 (2) Determine whether the juvenile has retained counsel or has been
34 assigned counsel and, if the juvenile is not represented by counsel,
35 appoint counsel for the juvenile;

36 (3) If applicable, inform the juvenile of the date of the probable cause
37 hearing, which shall be within 15 days of the first appearance; and

38 (4) Inform the parent, guardian, or custodian that the parent, guardian, or
39 custodian is required to attend all hearings scheduled in the matter and
40 may be held in contempt of court for failure to attend any scheduled
41 hearing.

42 **"ARTICLE 19.**

43 **"TEMPORARY CUSTODY; SECURE AND NONSECURE CUSTODY;**

CUSTODY HEARINGS.**"§ 7B-1900. Taking a juvenile into temporary custody.**

Temporary custody means the taking of physical custody and providing personal care and supervision until a court order for secure or nonsecure custody can be obtained. A juvenile may be taken into temporary custody without a court order under the following circumstances:

- (1) By a law enforcement officer if grounds exist for the arrest of an adult in identical circumstances under G.S. 15A-401(b).
- (2) By a law enforcement officer or a court counselor if there are reasonable grounds to believe that the juvenile is an undisciplined juvenile.
- (3) By a law enforcement officer, by a court counselor, by a member of the Black Mountain Center, Alcohol Rehabilitation Center, and Juvenile Evaluation Center Joint Security Force established pursuant to G.S. 122C-421, or by personnel of the Division of Youth Services as designated by the Department if there are reasonable grounds to believe the juvenile is an absconder from any residential facility operated by the Division of Youth Services or from an approved detention facility.

"§ 7B-1901. Duties of person taking juvenile into temporary custody.

(a) A person who takes a juvenile into custody without a court order under G.S. 7B-1900(1) or (2) shall proceed as follows:

- (1) Notify the juvenile's parent, guardian, or custodian that the juvenile has been taken into temporary custody and advise the parent, guardian, or custodian of the right to be present with the juvenile until a determination is made as to the need for secure or nonsecure custody. Failure to notify the parent, guardian, or custodian that the juvenile is in custody shall not be grounds for release of the juvenile.
- (2) Release the juvenile to the juvenile's parent, guardian, or custodian if the person having the juvenile in temporary custody decides that continued custody is unnecessary. In the case of a juvenile unlawfully absent from school, if continued custody is unnecessary, the person having temporary custody may deliver the juvenile to the juvenile's school or, if the local city or county government and the local school board adopt a policy, to a place in the local school administrative unit.
- (3) If the juvenile is not released, request that a petition be drawn pursuant to G.S. 7B-1803 or G.S. 7B-1804. Once the petition has been drawn and verified, the person shall communicate with the intake counselor. If the intake counselor approves the filing of the petition, the intake counselor shall contact the judge, or the person delegated authority pursuant to G.S. 7B-1902 if other than the intake counselor, for a determination of the need for continued custody.

(b) A juvenile taken into temporary custody under this Article shall not be held for more than 12 hours, or for more than 24 hours if any of the 12 hours falls on a Saturday,

1 Sunday, or legal holiday, unless a petition or motion for review has been filed and an
2 order for secure or nonsecure custody has been entered.

3 (c) A person who takes a juvenile into custody under G.S. 7B-1900(3), after
4 receiving an order for secure custody, shall transport the juvenile to the nearest approved
5 facility providing secure custody. The person then shall contact the administrator of the
6 facility from which the juvenile absconded, who shall be responsible for returning the
7 juvenile to that facility.

8 **"§ 7B-1902. Authority to issue custody orders; delegation.**

9 In the case of any juvenile alleged to be within the jurisdiction of the court, when the
10 court finds it necessary to place the juvenile in custody, the court may order that the
11 juvenile be placed in secure or nonsecure custody pursuant to criteria set out in G.S. 7B-
12 1903.

13 Any district court judge may issue secure and nonsecure custody orders pursuant to
14 G.S. 7B-1903. The chief district court judge may delegate the court's authority to the
15 chief court counselor or the chief court counselor's counseling staff by administrative
16 order filed in the office of the clerk of superior court. The administrative order shall
17 specify which persons may be contacted for approval of a secure or nonsecure custody
18 order. The chief district court judge shall not delegate the court's authority to detain or
19 house juveniles in holdover facilities pursuant to G.S. 7B-1905 or G.S. 7B-2509.

20 **"§ 7B-1903. Criteria for secure or nonsecure custody.**

21 (a) When a request is made for nonsecure custody, the court shall first consider
22 release of the juvenile to the juvenile's parent, guardian, custodian, or other responsible
23 adult. An order for nonsecure custody shall be made only when there is a reasonable
24 factual basis to believe the matters alleged in the petition are true, and that:

25 (1) The juvenile is a runaway and consents to nonsecure custody; or

26 (2) The juvenile meets one or more of the criteria for secure custody, but
27 the court finds it in the best interests of the juvenile that the juvenile be
28 placed in a nonsecure placement.

29 (b) When a request is made for secure custody, the court may order secure custody
30 only where the court finds there is a reasonable factual basis to believe that the juvenile
31 committed the offense as alleged in the petition, and that:

32 (1) The juvenile is charged with a felony and has demonstrated that the
33 juvenile is a danger to property or persons;

34 (2) The juvenile is charged with a misdemeanor at least one element of
35 which is assault on a person;

36 (3) The juvenile has willfully failed to appear on a pending delinquency
37 charge or on charges of violation of probation or post-release
38 supervision, providing the juvenile was properly notified;

39 (4) A delinquency charge is pending against the juvenile, and there is
40 reasonable cause to believe the juvenile will not appear in court;

41 (5) The juvenile is an absconder from (i) any residential facility operated by
42 the Division of Youth Services or any detention facility in this State or
43 (ii) any comparable facility in another state;

1 (6) There is reasonable cause to believe the juvenile should be detained for
2 the juvenile's own protection because the juvenile has recently suffered
3 or attempted self-inflicted physical injury. In such case, the juvenile
4 must have been refused admission by one appropriate hospital, and the
5 period of secure custody is limited to 24 hours to determine the need for
6 inpatient hospitalization. If the juvenile is placed in secure custody, the
7 juvenile shall receive continuous supervision and a physician shall be
8 notified immediately;

9 (7) The juvenile is alleged to be undisciplined by virtue of the juvenile's
10 being a runaway and is inappropriate for nonsecure custody placement
11 or refuses nonsecure custody, and the court finds that the juvenile needs
12 secure custody for up to 24 hours, excluding Saturdays, Sundays, and
13 State holidays, or where circumstances require, for a period not to
14 exceed 72 hours to evaluate the juvenile's need for medical or
15 psychiatric treatment or to facilitate reunion with the juvenile's parents;
16 or

17 (8) The juvenile is alleged to be undisciplined and has willfully failed to
18 appear in court after proper notice; the juvenile shall be brought to court
19 as soon as possible and in no event should be held more than 24 hours,
20 excluding Saturdays, Sundays, and State holidays or where
21 circumstances require for a period not to exceed 72 hours.

22 (c) When a juvenile has been adjudicated delinquent, the court may order secure
23 custody pending the dispositional hearing or pending placement of the juvenile pursuant
24 to G.S. 7B-2504.

25 (d) The court may order secure custody for a juvenile who is alleged to have
26 violated the conditions of the juvenile's probation or post-release supervision, but only if
27 the juvenile is alleged to have committed acts that damage property or injure persons.

28 (e) If the criteria for secure custody as set out in subsection (b), (c), or (d) of this
29 section are met, the court may enter an order directing an officer or other authorized
30 person to assume custody of the juvenile and to take the juvenile to the place designated
31 in the order.

32 **"§ 7B-1904. Order for secure or nonsecure custody.**

33 The custody order shall be in writing and shall direct a law enforcement officer or
34 other authorized person to assume custody of the juvenile and to make due return on the
35 order. The official executing the order shall give a copy of the order to the juvenile's
36 parent, guardian, or custodian. If the order is for secure custody, copies of the petition
37 and custody order shall accompany the juvenile to the detention facility or holdover
38 facility of the jail. A message of the Division of Criminal Information, State Bureau of
39 Investigation, stating that a juvenile petition and secure custody order relating to a
40 specified juvenile are on file in a particular county shall be authority to detain the
41 juvenile in secure custody until a copy of the juvenile petition and secure custody order
42 can be forwarded to the juvenile detention facility. The copies of the juvenile petition and

1 secure custody order shall be transmitted to the detention facility no later than 72 hours
2 after the initial detention of the juvenile.

3 An officer receiving an order for custody which is complete and regular on its face
4 may execute it in accordance with its terms and need not inquire into its regularity or
5 continued validity, nor does the officer incur criminal or civil liability for its execution.

6 **"§ 7B-1905. Place of secure or nonsecure custody.**

7 (a) A juvenile meeting the criteria set out in G.S. 7B-1903(a), may be placed in
8 nonsecure custody with a department of social services or a person designated in the
9 order for temporary residential placement in:

10 (1) A licensed foster home or a home otherwise authorized by law to
11 provide such care;

12 (2) A facility operated by a department of social services; or

13 (3) Any other home or facility approved by the court and designated in the
14 order.

15 In placing a juvenile in nonsecure custody, the court shall first consider whether a
16 relative of the juvenile is willing and able to provide proper care and supervision of the
17 juvenile. If the court finds that the relative is willing and able to provide proper care and
18 supervision, the court shall order placement of the juvenile with the relative. Placement
19 of a juvenile outside of this State shall be in accordance with the Interstate Compact on
20 the Placement of Children set forth in Article 38 of this Chapter.

21 (b) A juvenile meeting the criteria set out in G.S. 7B-1903(b), (c), or (d) may be
22 temporarily detained in an approved detention facility which shall be separate from any
23 jail, lockup, prison, or other adult penal institution, except as provided in subsection (c)
24 of this section. It shall be unlawful for a county or any unit of government to operate a
25 juvenile detention facility unless the facility meets the standards and rules adopted by the
26 Department of Health and Human Services.

27 (c) A juvenile who has allegedly committed an offense that would be a Class A,
28 B1, B2, C, D, or E felony if committed by an adult may be detained in secure custody in
29 a holdover facility up to 72 hours, if the court, based on information provided by the
30 court counselor, determines that no acceptable alternative placement is available and the
31 protection of the public requires the juvenile be housed in a holdover facility.

32 **"§ 7B-1906. Secure or nonsecure custody hearings.**

33 (a) No juvenile shall be held under a secure custody order for more than five
34 calendar days or under a nonsecure custody order for more than seven calendar days
35 without a hearing on the merits or an initial hearing to determine the need for continued
36 custody. A hearing conducted under this subsection may not be continued or waived. In
37 every case in which an order has been entered by an official exercising authority
38 delegated pursuant to G.S. 7B-1902, a hearing to determine the need for continued
39 custody shall be conducted on the day of the next regularly scheduled session of district
40 court in the city or county where the order was entered if the session precedes the
41 expiration of the applicable time period set forth in this subsection. If the session does not
42 precede the expiration of the time period, the hearing may be conducted at another
43 regularly scheduled session of district court in the district where the order was entered.

1 (b) As long as the juvenile remains in secure or nonsecure custody, further
2 hearings to determine the need for continued secure custody shall be held at intervals of
3 no more than 10 calendar days. A subsequent hearing on continued nonsecure custody
4 shall be held within seven business days, excluding Saturdays, Sundays, and legal
5 holidays, of the initial hearing required in subsection (a) of this section and hearings
6 thereafter shall be held at intervals of no more than 30 calendar days. In the case of a
7 juvenile alleged to be delinquent, further hearings may be waived only with the consent
8 of the juvenile, through counsel for the juvenile.

9 (c) The court shall determine whether a juvenile who is alleged to be delinquent
10 has retained counsel or has been assigned counsel; and, if the juvenile is not represented
11 by counsel, appoint counsel for the juvenile.

12 (d) At a hearing to determine the need for continued custody, the court shall
13 receive testimony and shall allow the juvenile and the juvenile's parent, guardian, or
14 custodian an opportunity to introduce evidence, to be heard in their own behalf, and to
15 examine witnesses. The State shall bear the burden at every stage of the proceedings to
16 provide clear and convincing evidence that restraints on the juvenile's liberty are
17 necessary and that no less intrusive alternative will suffice. The court shall not be bound
18 by the usual rules of evidence at the hearings.

19 (e) The court shall be bound by criteria set forth in G.S. 7B-1903 in determining
20 whether continued custody is warranted.

21 (f) The court may impose appropriate restrictions on the liberty of a juvenile who
22 is released from secure custody, including:

23 (1) Release on the written promise of the juvenile's parent, guardian, or
24 custodian to produce the juvenile in court for subsequent proceedings;

25 (2) Release into the care of a responsible person or organization;

26 (3) Release conditioned on restrictions on activities, associations, residence,
27 or travel if reasonably related to securing the juvenile's presence in
28 court; or

29 (4) Any other conditions reasonably related to securing the juvenile's
30 presence in court.

31 (g) If the court determines that the juvenile meets the criteria in G.S. 7B-1903 and
32 should continue in custody, the court shall issue an order to that effect. The order shall be
33 in writing with appropriate findings of fact. The findings of fact shall include the
34 evidence relied upon in reaching the decision and the purposes which continued custody
35 is to achieve.

36 (h) The court may conduct a hearing to determine the need to continue custody by
37 audio and video transmission between the court and the juvenile in which the parties can
38 see and hear each other. If the juvenile has counsel, the juvenile may communicate fully
39 and confidentially with the juvenile's attorney during the proceeding. Prior to the use of
40 audio and video transmission, the procedures and type of equipment for audio and video
41 transmission shall be submitted to the Administrative Office of the Courts by the chief
42 district court judge and approved by the Administrative Office of the Courts.

43 **"§ 7B-1907. Telephonic communication authorized.**

1 All communications, notices, orders, authorizations, and requests authorized or
2 required by G.S. 7B-1901, 7B-1903, and 7B-1904 may be made by telephone when other
3 means of communication are impractical. All written orders pursuant to telephonic
4 communication shall bear the name and the title of the person communicating by
5 telephone, the signature and the title of the official entering the order, and the hour and
6 the date of the authorization.

7 **"ARTICLE 20.**

8 **"BASIC RIGHTS.**

9 **"§ 7B-2000. Juvenile's right to counsel; presumption of indigence.**

10 (a) A juvenile alleged to be within the jurisdiction of the court has the right to be
11 represented by counsel in all proceedings. The court shall appoint counsel for the
12 juvenile, unless counsel is retained for the juvenile, in any proceeding in which the
13 juvenile is alleged to be (i) delinquent or (ii) in contempt of court when alleged or
14 adjudicated to be undisciplined.

15 (b) All juveniles shall be conclusively presumed to be indigent, and it shall not be
16 necessary for the court to receive from any juvenile an affidavit of indigency.

17 **"§ 7B-2001. Appointment of guardian.**

18 In any case when no parent, guardian, or custodian appears in a hearing with the
19 juvenile or when the court finds it would be in the best interests of the juvenile, the court
20 may appoint a guardian of the person for the juvenile. The guardian shall operate under
21 the supervision of the court with or without bond and shall file only such reports as the
22 court shall require. Unless the court orders otherwise, the guardian:

- 23 (1) Shall have the care, custody, and control of the juvenile or may arrange
24 a suitable placement for the juvenile.
25 (2) May represent the juvenile in legal actions before any court.
26 (3) May consent to certain actions on the part of the juvenile in place of the
27 parent, guardian, or custodian, including (i) marriage, (ii) enlisting in
28 the armed forces, and (iii) enrollment in school.
29 (4) May consent to any necessary remedial, psychological, medical, or
30 surgical treatment for the juvenile.

31 The authority of the guardian shall continue until the guardianship is terminated by court
32 order, until the juvenile is emancipated pursuant to Subchapter IV of this Chapter, or until
33 the juvenile reaches the age of majority.

34 **"§ 7B-2002. Payment of court-appointed attorney.**

35 An attorney appointed pursuant to G.S. 7B-2000 or pursuant to any other provision of
36 this Subchapter shall be paid a reasonable fee fixed by the court in the same manner as
37 fees for attorneys appointed in cases of indigency through the Administrative Office of
38 the Courts. The court may require payment of the attorneys' fees from a person other
39 than the juvenile as provided in G.S. 7A-450.1, 7A-450.2, and 7A-450.3. A person who
40 does not comply with the court's order of payment may be found in civil contempt as
41 provided in G.S. 5A-21.

42 **"ARTICLE 21.**

43 **"LAW ENFORCEMENT PROCEDURES IN DELINQUENCY PROCEEDINGS.**

"§ 7B-2100. Role of the law enforcement officer.

A law enforcement officer who takes a juvenile into temporary custody should select the most appropriate course of action to the situation, the needs of the juvenile, and the protection of the public safety. The officer may:

- (1) Release the juvenile, with or without first counseling the juvenile;
- (2) Release the juvenile to the juvenile's parent, guardian, or custodian;
- (3) Refer the juvenile to community resources;
- (4) Seek a petition; or
- (5) Seek a petition and request a custody order.

"§ 7B-2101. Interrogation procedures.

(a) Any juvenile in custody must be advised prior to questioning:

- (1) That the juvenile has a right to remain silent;
- (2) That any statement the juvenile does make can be and may be used against the juvenile;
- (3) That the juvenile has a right to have a parent, guardian, or custodian present during questioning; and
- (4) That the juvenile has a right to consult with an attorney and that one will be appointed for the juvenile if the juvenile is not represented and wants representation.

(b) When the juvenile is less than 14 years of age, no in-custody admission or confession resulting from interrogation may be admitted into evidence unless the confession or admission was made in the presence of the juvenile's parent, guardian, custodian, or attorney. If an attorney is not present, the parent, guardian, or custodian as well as the juvenile must be advised of the juvenile's rights as set out in subsection (a) of this section; however, a parent, guardian, or custodian may not waive any right on behalf of the juvenile.

(c) If the juvenile indicates in any manner and at any stage of questioning pursuant to this section that the juvenile does not wish to be questioned further, the officer shall cease questioning.

(d) Before admitting into evidence any statement resulting from custodial interrogation, the court shall find that the juvenile knowingly, willingly, and understandingly waived the juvenile's rights.

"§ 7B-2102. Fingerprinting and photographing juveniles.

(a) A law enforcement officer or agency may fingerprint and photograph a juvenile in custody who is alleged to have committed an offense that would be a felony if committed by an adult.

(b) If a law enforcement officer or agency does not take the fingerprints or a photograph of the juvenile pursuant to subsection (a) of this section or the fingerprints or photograph have been destroyed pursuant to subsection (e) of this section, a law enforcement officer or agency shall fingerprint and photograph a juvenile who has been adjudicated delinquent if the juvenile was 10 years of age or older at the time the juvenile committed an offense that would be a felony if committed by an adult.

1 (c) A law enforcement officer or agency who fingerprints or photographs a
2 juvenile pursuant to this section shall do so in a proper format for transfer to the State
3 Bureau of Investigation and the Federal Bureau of Investigation. Fingerprints obtained
4 pursuant to this section shall be transferred to the State Bureau of Investigation and
5 placed in the Automated Fingerprint Identification System (AFIS) to be used for all
6 investigative and comparison purposes. Photographs obtained pursuant to this section
7 shall be placed in a format approved by the State Bureau of Investigation and may be
8 used for all investigative or comparison purposes. Fingerprints of a juvenile who has
9 been adjudicated delinquent for an offense that would be a Class A, B1, B2, C, D, or E
10 felony if committed by an adult, and who was 10 years of age or older at the time the
11 juvenile committed the offense, shall be transferred to the Federal Bureau of
12 Investigation to be used for all investigative or comparison purposes.

13 (d) Fingerprints and photographs taken pursuant to this section are not public
14 records under Chapter 132 of the General Statutes, shall not be included in the clerk's
15 record pursuant to G.S. 7B-3000, shall be withheld from public inspection or
16 examination, and shall not be eligible for expunction pursuant to G.S. 7B-3200.
17 Fingerprints and photographs taken pursuant to this section shall be maintained
18 separately from any juvenile record, other than the electronic file maintained by the State
19 Bureau of Investigation.

20 (e) If a juvenile is fingerprinted and photographed pursuant to subsection (a) of
21 this section, the custodian of records shall destroy all fingerprints and photographs at the
22 earlier of the following:

23 (1) The intake counselor or prosecutor does not file a petition against the
24 juvenile;

25 (2) The court does not find probable cause pursuant to G.S. 7B-2202; or

26 (3) The juvenile is not adjudicated delinquent.

27 The chief court counselor shall notify the local custodian of records, and the local
28 custodian of records shall notify any other record-holding agencies, when a decision is
29 made not to file a petition, the court does not find probable cause, or the court does not
30 adjudicate the juvenile delinquent.

31 **"§ 7B-2103. Authority to issue nontestimonial identification order where juvenile**
32 **alleged to be delinquent.**

33 Except as provided in G.S. 7B-2102, nontestimonial identification procedures shall
34 not be conducted on any juvenile without a court order issued pursuant to this Article
35 unless the juvenile has been charged as an adult or transferred to superior court for trial as
36 an adult in which case procedures applicable to adults, as set out in Articles 14 and 23 of
37 Chapter 15A of the General Statutes, shall apply. A nontestimonial identification order
38 authorized by this Article may be issued by any judge of the district court or of the
39 superior court upon request of a prosecutor. As used in this Article, 'nontestimonial
40 identification' means identification by fingerprints, palm prints, footprints, measurements,
41 blood specimens, urine specimens, saliva samples, hair samples, or other reasonable
42 physical examination, handwriting exemplars, voice samples, photographs, and lineups or
43 similar identification procedures requiring the presence of a juvenile.

1 **"§ 7B-2104. Time of application for nontestimonial identification order.**

2 A request for a nontestimonial identification order may be made prior to taking a
3 juvenile into custody or after custody and prior to the adjudicatory hearing.

4 **"§ 7B-2105. Grounds for nontestimonial identification order.**

5 (a) Except as provided in subsection (b) of this section, a nontestimonial
6 identification order may issue only on affidavit or affidavits sworn to before the court and
7 establishing the following grounds for the order:

8 (1) That there is probable cause to believe that an offense has been
9 committed that would be a felony if committed by an adult;

10 (2) That there are reasonable grounds to suspect that the juvenile named or
11 described in the affidavit committed the offense; and

12 (3) That the results of specific nontestimonial identification procedures will
13 be of material aid in determining whether the juvenile named in the
14 affidavit committed the offense.

15 (b) A nontestimonial identification order to obtain a blood specimen from a
16 juvenile may issue only on affidavit or affidavits sworn to before the court and
17 establishing the following grounds for the order:

18 (1) That there is probable cause to believe that an offense has been
19 committed that would be a felony if committed by an adult;

20 (2) That there is probable cause to believe that the juvenile named or
21 described in the affidavit committed the offense; and

22 (3) That there is probable cause to believe that obtaining a blood specimen
23 from the juvenile will be of material aid in determining whether the
24 juvenile named in the affidavit committed the offense.

25 **"§ 7B-2106. Issuance of order.**

26 Upon a showing that the grounds specified in G.S. 7B-2105 exist, the judge may issue
27 an order following the same procedure as in the case of adults under G.S. 15A-274, 15A-
28 275, 15A-276, 15A-277, 15A-278, 15A-279, 15A-280, and 15A-282.

29 **"§ 7B-2107. Nontestimonial identification order at request of juvenile.**

30 A juvenile in custody for or charged with an offense which if committed by an adult
31 would be a felony offense may request that nontestimonial identification procedures be
32 conducted. If it appears that the results of specific nontestimonial identification
33 procedures will be of material aid to the juvenile's defense, the judge to whom the request
34 was directed must order the State to conduct the identification procedures.

35 **"§ 7B-2108. Destruction of records resulting from nontestimonial identification**
36 **procedures.**

37 The results of any nontestimonial identification procedures shall be retained or
38 disposed of as follows:

39 (1) If a petition is not filed against a juvenile who has been the subject of
40 nontestimonial identification procedures, all records of the evidence
41 shall be destroyed.

42 (2) If the juvenile is not adjudicated delinquent or convicted in superior
43 court following transfer, all records resulting from a nontestimonial

1 order shall be destroyed. Further, in the case of a juvenile who is under
2 13 years of age and who is adjudicated delinquent for an offense that
3 would be less than a felony if committed by an adult, all records shall be
4 destroyed.

5 (3) If a juvenile 13 years of age or older is adjudicated delinquent for an
6 offense that would be a felony if committed by an adult, all records
7 resulting from a nontestimonial order may be retained in the court file.
8 Special precautions shall be taken to ensure that these records will be
9 maintained in a manner and under sufficient safeguards to limit their use
10 to inspection by law enforcement officers for comparison purposes in
11 the investigation of a crime.

12 (4) If the juvenile is transferred to and convicted in superior court, all
13 records resulting from nontestimonial identification procedures shall be
14 processed as in the case of an adult.

15 (5) Any evidence seized pursuant to a nontestimonial order shall be retained
16 by law enforcement officers until further order is entered by the court.

17 (6) Destruction of nontestimonial identification records pursuant to this
18 section shall be performed by the law enforcement agency having
19 possession of the records. Following destruction, the law enforcement
20 agency shall make written certification to the court of the destruction.

21 **"§ 7B-2109. Penalty for willful violation.**

22 Any person who willfully violates provisions of this Article which prohibit
23 conducting nontestimonial identification procedures without an order issued by the court
24 shall be guilty of a Class 1 misdemeanor.

25 **"ARTICLE 22.**

26 **"PROBABLE CAUSE HEARING AND TRANSFER HEARING.**

27 **"§ 7B-2200. Transfer of jurisdiction of juvenile to superior court; direct filing in**
28 **superior court.**

29 (a) Except as provided in subsection (b) of this section, after notice, hearing, and a
30 finding of probable cause the court may, upon motion of the prosecutor or the juvenile's
31 attorney or upon its own motion, transfer jurisdiction over a juvenile to superior court if
32 the juvenile was 13 years of age or older at the time the juvenile allegedly committed an
33 offense that would be a felony if committed by an adult. If the alleged felony constitutes
34 a Class A felony and the court finds probable cause, the court shall transfer the case to the
35 superior court for trial as in the case of adults.

36 (b) Notwithstanding G.S. 7B-1601, the prosecutor may file charges in superior
37 court against a juvenile who was 15 years of age at the time the juvenile allegedly
38 committed an offense that would be a Class A, B1, B2, C, D, or E felony if committed by
39 an adult.

40 **"§ 7B-2201. Fingerprinting juvenile transferred to superior court.**

41 When jurisdiction over a juvenile is transferred to the superior court, the juvenile shall
42 be fingerprinted and the juvenile's fingerprints shall be sent to the State Bureau of
43 Investigation.

1 **"§ 7B-2202. Probable cause hearing.**

2 (a) The court shall conduct a hearing to determine probable cause in all felony
3 cases in which a juvenile was 13 years of age or older when the offense was allegedly
4 committed. The hearing shall be conducted within 15 days of the date of the juvenile's
5 first appearance. The court may continue the hearing for good cause.

6 (b) At the probable cause hearing:

7 (1) A prosecutor shall represent the State;

8 (2) The juvenile shall be represented by counsel;

9 (3) The juvenile may testify, call, and examine witnesses, and present
10 evidence; and

11 (4) Each witness shall testify under oath or affirmation and be subject to
12 cross-examination.

13 (c) The State shall by nonhearsay evidence, or by evidence that satisfies an
14 exception to the hearsay rule, show that there is probable cause to believe that the offense
15 charged has been committed and that there is probable cause to believe that the juvenile
16 committed it, except:

17 (1) A report or copy of a report made by a physicist, chemist, firearms
18 identification expert, fingerprint technician, or an expert or technician in
19 some other scientific, professional, or medical field, concerning the
20 results of an examination, comparison, or test performed in connection
21 with the case in issue, when stated by that person in a report made by
22 the juvenile, is admissible in evidence;

23 (2) If there is no serious contest, reliable hearsay is admissible to prove
24 value, ownership of property, possession of property in a person other
25 than the juvenile, lack of consent of the owner, possessor, or custodian
26 of property to the breaking or entering of premises, chain of custody,
27 and authenticity of signatures.

28 (d) Counsel for the juvenile may waive in writing the right to the hearing and
29 stipulate to a finding of probable cause.

30 (e) If probable cause is found and transfer to superior court is not required by G.S.
31 7B-2200, upon motion of the prosecutor or the juvenile's attorney or upon its own
32 motion, the court shall either proceed to a transfer hearing or set a date for that hearing.
33 If the juvenile has not received notice of the intention to seek transfer at least five days
34 prior to the probable cause hearing, the court shall continue the transfer hearing.

35 (f) If the court does not find probable cause for a felony offense, the court shall:

36 (1) Dismiss the proceeding, or

37 (2) If the court finds probable cause to believe that the juvenile committed a
38 lesser included offense that would constitute a misdemeanor if
39 committed by an adult, either proceed to an adjudicatory hearing or set a
40 date for that hearing.

41 **"§ 7B-2203. Transfer hearing.**

1 (a) At the transfer hearing, the prosecutor and the juvenile may be heard and may
2 offer evidence, and the juvenile's attorney may examine any court or probation records,
3 or other records the court may consider in determining whether to transfer the case.

4 (b) In the transfer hearing, the court shall determine whether the protection of the
5 public and the needs of the juvenile will be served by transfer of the case to superior
6 court and shall consider the following factors:

7 (1) The age of the juvenile;

8 (2) The maturity of the juvenile;

9 (3) The intellectual functioning of the juvenile;

10 (4) The prior record of the juvenile;

11 (5) Prior attempts to rehabilitate the juvenile;

12 (6) Facilities or programs available to the court prior to the expiration of the
13 court's jurisdiction under this Subchapter and the likelihood that the
14 juvenile would benefit from treatment or rehabilitative efforts;

15 (7) Whether the alleged offense was committed in an aggressive, violent,
16 premeditated, or willful manner; and

17 (8) The seriousness of the offense and whether the protection of the public
18 requires that the juvenile be prosecuted as an adult.

19 (c) Any order of transfer shall specify the reasons for transfer. When the case is
20 transferred to superior court, the superior court has jurisdiction over that felony, any
21 offense based on the same act or transaction or on a series of acts or transactions
22 connected together or constituting parts of a single scheme or plan of that felony, and any
23 greater or lesser included offense of that felony.

24 (d) If the court does not transfer the case to superior court, the court shall either
25 proceed to an adjudicatory hearing or set a date for that hearing.

26 **"§ 7B-2204. Right to pretrial release; detention.**

27 Once the order of transfer has been entered, the juvenile has the right to pretrial
28 release as provided in G.S. 15A-533 and G.S 15A-534. The release order shall specify
29 the person or persons to whom the juvenile may be released. Pending release, the court
30 shall order that the juvenile be detained in a detention facility while awaiting trial. The
31 court may order the juvenile to be held in a holdover facility at any time the presence of
32 the juvenile is required in court for pretrial hearings or trial, if the court finds that it
33 would be inconvenient to return the juvenile to the detention facility.

34 Should the juvenile be found guilty, or enter a plea of guilty or no contest to a
35 criminal offense in superior court and receive an active sentence, then immediate transfer
36 to the Department of Correction shall be ordered. Until such time as the juvenile is
37 transferred to the Department of Correction, the juvenile may be detained in a holdover
38 facility. The juvenile may not be detained in a detention facility pending transfer to the
39 Department of Correction.

40 The juvenile may be kept by the Department of Correction as a safekeeper until the
41 juvenile is placed in an appropriate correctional program.

42 **"§ 7B-2205. When jeopardy attaches.**

43 Jeopardy attaches in an adjudicatory hearing when the court begins to hear evidence.

"ARTICLE 23."DISCOVERY."§ 7B-2300. Disclosure of evidence by petitioner.

(a) Statement of the Juvenile. – Upon motion of a juvenile alleged to be delinquent, the court shall order the petitioner:

(1) To permit the juvenile to inspect and copy any relevant written or recorded statements within the possession, custody, or control of the petitioner made by the juvenile or any other party charged in the same action; and

(2) To divulge, in written or recorded form, the substance of any oral statement made by the juvenile or any other party charged in the same action.

(b) Names of Witnesses. – Upon motion of the juvenile, the court shall order the petitioner to furnish the names of persons to be called as witnesses. A copy of the record of witnesses under the age of 16 shall be provided by the petitioner to the juvenile upon the juvenile's motion if accessible to the petitioner.

(c) Documents and Tangible Objects. – Upon motion of the juvenile, the court shall order the petitioner to permit the juvenile to inspect and copy books, papers, documents, photographs, motion pictures, mechanical or electronic recordings, tangible objects, or portions thereof:

(1) Which are within the possession, custody, or control of the petitioner, the prosecutor, or any law enforcement officer conducting an investigation of the matter alleged; and

(2) Which are material to the preparation of the defense, are intended for use by the petitioner as evidence, or were obtained from or belong to the juvenile.

(d) Reports of Examinations and Tests. – Upon motion of a juvenile, the court shall order the petitioner to permit the juvenile to inspect and copy results of physical or mental examinations or of tests, measurements, or experiments made in connection with the case, within the possession, custody, or control of the petitioner. In addition upon motion of a juvenile, the court shall order the petitioner to permit the juvenile to inspect, examine, and test, subject to appropriate safeguards, any physical evidence or a sample of it or tests or experiments made in connection with the evidence in the case if it is available to the petitioner, the prosecutor, or any law enforcement officer conducting an investigation of the matter alleged and if the petitioner intends to offer the evidence at trial.

(e) Except as provided in subsections (a) through (d) of this section, this Article does not require the production of reports, memoranda, or other internal documents made by the petitioner, law enforcement officers, or other persons acting on behalf of the petitioner in connection with the investigation or prosecution of the case or of statements made by witnesses or the petitioner to anyone acting on behalf of the petitioner.

(f) Nothing in this section prohibits a petitioner from making voluntary disclosures in the interest of justice.

1 **"§ 7B-2301. Disclosure of evidence by juvenile.**

2 (a) Names of Witnesses. – Upon motion of the petitioner, the court shall order the
3 juvenile to furnish to the petitioner the names of persons to be called as witnesses.

4 (b) Documents and Tangible Objects. – If the court grants any relief sought by the
5 juvenile under G.S. 7B-2300, upon motion of the petitioner, the court shall order the
6 juvenile to permit the petitioner to inspect and copy books, papers, documents,
7 photographs, motion pictures, mechanical or electronic recordings, tangible objects, or
8 portions thereof which are within the possession, custody, or control of the juvenile and
9 which the juvenile intends to introduce in evidence.

10 (c) Reports of Examinations and Tests. – If the court grants any relief sought by
11 the juvenile under G.S. 7B-2300, upon motion of the petitioner, the court shall order the
12 juvenile to permit the petitioner to inspect and copy results of physical or mental
13 examinations or of tests, measurements, or experiments made in connection with the case
14 within the possession and control of the juvenile which the juvenile intends to introduce
15 in evidence or which were prepared by a witness whom the juvenile intends to call if the
16 results relate to the witness's testimony. In addition, upon motion of a petitioner, the court
17 shall order the juvenile to permit the petitioner to inspect, examine, and test, subject to
18 appropriate safeguards, any physical evidence or a sample of it if the juvenile intends to
19 offer the evidence or tests or experiments made in connection with the evidence in the
20 case.

21 **"§ 7B-2302. Regulation of discovery; protective orders.**

22 (a) Upon written motion of a party and a finding of good cause, the court may at
23 any time order that discovery or inspection be denied, restricted, or deferred.

24 (b) The court may permit a party seeking relief under subsection (a) of this section
25 to submit supporting affidavits or statements to the court for in camera inspection. If
26 thereafter the court enters an order granting relief under subsection (a) of this section, the
27 material submitted in camera must be available to the Court of Appeals in the event of an
28 appeal.

29 **"§ 7B-2303. Continuing duty to disclose.**

30 If a party, subject to compliance with an order issued pursuant to this Article,
31 discovers additional evidence prior to or during the hearing or decides to use additional
32 evidence, and if the evidence is or may be subject to discovery or inspection under this
33 Article, the party shall promptly notify the other party of the existence of the additional
34 evidence or of the name of each additional witness.

35 **"ARTICLE 24.**

36 **"HEARING PROCEDURES.**

37 **"§ 7B-2400. Amendment of petition.**

38 The court may permit a petition to be amended when the amendment does not change
39 the nature of the offense alleged. If a motion to amend is allowed, the juvenile shall be
40 given a reasonable opportunity to prepare a defense to the amended allegations.

41 **"§ 7B-2401. Determination of incapacity to proceed; evidence; temporary**
42 **commitment; temporary orders.**

1 The provisions of G.S. 15A-1001, 15A-1002, and 15A-1003 apply to all cases in
2 which a juvenile is alleged to be delinquent. No juvenile committed under this section
3 may be placed in a situation where the juvenile will come in contact with adults
4 committed for any purpose.

5 **"§ 7B-2402. Open hearings.**

6 All hearings authorized or required pursuant to this Subchapter shall be open to the
7 public unless the court closes the hearing or part of the hearing for good cause, upon
8 motion of a party or its own motion.

9 **"§ 7B-2403. Adjudicatory hearing.**

10 The adjudicatory hearing shall be held within a reasonable time in the district at the
11 time and place the chief district judge designates.

12 **"§ 7B-2404. Participation of the prosecutor.**

13 A prosecutor shall represent the State in contested delinquency hearings including
14 first appearance, detention, probable cause, transfer, adjudicatory, dispositional,
15 probation revocation, post-release supervision, and extended jurisdiction hearings.

16 **"§ 7B-2405. Conduct of the adjudicatory hearing.**

17 The adjudicatory hearing shall be a judicial process designed to determine whether the
18 juvenile is undisciplined or delinquent. In the adjudicatory hearing, the court shall protect
19 the following rights of the juvenile and the juvenile's parent, guardian, or custodian to
20 assure due process of law:

- 21 (1) The right to written notice of the facts alleged in the petition;
- 22 (2) The right to counsel;
- 23 (3) The right to confront and cross-examine witnesses;
- 24 (4) The privilege against self-incrimination;
- 25 (5) The right of discovery; and
- 26 (6) All rights afforded adult offenders except the right to bail, the right of
27 self-representation, and the right of trial by jury.

28 **"§ 7B-2406. Continuances.**

29 The court for good cause may continue the hearing for as long as is reasonably
30 required to receive additional evidence, reports, or assessments that the court has
31 requested, or other information needed in the best interests of the juvenile and to allow
32 for a reasonable time for the parties to conduct expeditious discovery. Otherwise,
33 continuances shall be granted only in extraordinary circumstances when necessary for the
34 proper administration of justice or in the best interests of the juvenile.

35 **"§ 7B-2407. When admissions by juvenile may be accepted.**

36 (a) The court may accept an admission from a juvenile only after first addressing
37 the juvenile personally and:

- 38 (1) Informing the juvenile that the juvenile has a right to remain silent and
39 that any statement the juvenile makes may be used against the juvenile;
- 40 (2) Determining that the juvenile understands the nature of the charge;
- 41 (3) Informing the juvenile that the juvenile has a right to deny the
42 allegations;

1 (4) Informing the juvenile that by the juvenile's admissions the juvenile
2 waives the juvenile's right to be confronted by the witnesses against the
3 juvenile;

4 (5) Determining that the juvenile is satisfied with the juvenile's
5 representation; and

6 (6) Informing the juvenile of the most restrictive disposition on the charge.

7 (b) By inquiring of the prosecutor, the juvenile's attorney, and the juvenile
8 personally, the court shall determine whether there were any prior discussions involving
9 admissions, whether the parties have entered into any arrangement with respect to the
10 admissions and the terms thereof, and whether any improper pressure was exerted. The
11 court may accept an admission from a juvenile only after determining that the admission
12 is a product of informed choice.

13 (c) The court may accept an admission only after determining that there is a
14 factual basis for the admission. This determination may be based upon any of the
15 following information: a statement of the facts by the prosecutor; a written statement of
16 the juvenile; sworn testimony which may include reliable hearsay; or a statement of facts
17 by the juvenile's attorney.

18 **"§ 7B-2408. Rules of evidence.**

19 If the juvenile denies the allegations of the petition, the court shall proceed in
20 accordance with the rules of evidence applicable to criminal cases. In addition, no
21 statement made by a juvenile to the intake counselor during the preliminary inquiry and
22 evaluation process shall be admissible prior to the dispositional hearing.

23 **"§ 7B-2409. Quantum of proof in adjudicatory hearing.**

24 The allegations of a petition alleging the juvenile is delinquent shall be proved beyond
25 a reasonable doubt. The allegations in a petition alleging undisciplined behavior shall be
26 proved by clear and convincing evidence.

27 **"§ 7B-2410. Record of proceedings.**

28 All adjudicatory and dispositional hearings and hearings on probable cause and
29 transfer to superior court shall be recorded by stenographic notes or by electronic or
30 mechanical means. Records shall be reduced to a written transcript only when timely
31 notice of appeal has been given. The court may order that other hearings be recorded.

32 **"§ 7B-2411. Adjudication.**

33 If the court finds that the allegations in the petition have been proved as provided in
34 G.S. 7B-2409, the court shall so state. If the court finds that the allegations have not been
35 proved, the court shall dismiss the petition with prejudice and the juvenile shall be
36 released from secure or nonsecure custody if the juvenile is in custody.

37 **"§ 7B-2412. Legal effect of adjudication of delinquency.**

38 An adjudication that a juvenile is delinquent or commitment of a juvenile to the
39 Division of Youth Services shall neither be considered conviction of any criminal offense
40 nor cause the juvenile to forfeit any citizenship rights.

41 **"§ 7B-2413. Predisposition investigation and report.**

42 The court shall proceed to the dispositional hearing upon receipt of sufficient social,
43 medical, psychiatric, psychological, and educational information. No predisposition

1 report shall be submitted to or considered by the court prior to the completion of the
2 adjudicatory hearing. The court shall permit the juvenile to inspect any predisposition
3 report to be considered by the court in making the disposition unless the court determines
4 that disclosure would seriously harm the juvenile's treatment or rehabilitation or would
5 violate a promise of confidentiality. Opportunity to offer evidence in rebuttal shall be
6 afforded the juvenile and the juvenile's parent, guardian, or custodian at the dispositional
7 hearing. The court may order counsel not to disclose parts of the report to the juvenile or
8 the juvenile's parent, guardian, or custodian if the court finds that disclosure would
9 seriously harm the treatment or rehabilitation of the juvenile or would violate a promise
10 of confidentiality given to a source of information.

11 **"ARTICLE 25.**
12 **"DISPOSITIONS.**

13 **"§ 7B-2500. Purpose.**

14 The purpose of dispositions in juvenile actions is to design an appropriate plan to
15 meet the needs of the juvenile and to achieve the objectives of the State in exercising
16 jurisdiction, including the protection of the public. The court should develop a
17 disposition in each case that:

- 18 (1) Promotes public safety;
- 19 (2) Emphasizes accountability and responsibility of both the parent,
20 guardian, or custodian and the juvenile for the juvenile's conduct; and
- 21 (3) Provides the appropriate consequences, treatment, training, and
22 rehabilitation to assist the juvenile toward becoming a nonoffending,
23 responsible, and productive member of the community.

24 **"§ 7B-2500.1. Dispositional hearing.**

25 (a) The dispositional hearing may be informal, and the court may consider written
26 reports or other evidence concerning the needs of the juvenile.

27 (b) The juvenile and the juvenile's parent, guardian, or custodian shall have an
28 opportunity to present evidence, and they may advise the court concerning the disposition
29 they believe to be in the best interests of the juvenile.

30 (c) In choosing among statutorily permissible dispositions, the court shall select
31 the most appropriate disposition both in terms of kind and duration for the delinquent
32 juvenile. Within the guidelines set forth in G.S. 7B-2505, the court shall select a
33 disposition that is designed to protect the public and to meet the needs and best interests
34 of the juvenile, based upon:

- 35 (1) The seriousness of the offense;
- 36 (2) The need to hold the juvenile accountable;
- 37 (3) The importance of protecting the public safety;
- 38 (4) The degree of culpability indicated by the circumstances of the
39 particular case; and
- 40 (5) The rehabilitative and treatment needs of the juvenile.

41 (d) The court may dismiss the case, or continue the case for no more than six
42 months in order to allow the family an opportunity to meet the needs of the juvenile
43 through more adequate home supervision, through placement in a private or specialized

1 school or agency, through placement with a relative, or through some other plan
2 approved by the court.

3 **"§ 7B-2500.2. Evaluation and treatment of undisciplined and delinquent juveniles.**

4 (a) In any case, the court may order that the juvenile be examined by a physician,
5 psychiatrist, psychologist, or other qualified expert as may be needed for the court to
6 determine the needs of the juvenile.

7 (b) Upon completion of the examination, the court shall conduct a hearing to
8 determine whether the juvenile is in need of medical, surgical, psychiatric, psychological,
9 or other evaluation or treatment and who should pay the cost of the evaluation or
10 treatment. The county manager, or any other person who is designated by the chair of the
11 board of county commissioners, of the county of the juvenile's residence shall be notified
12 of the hearing, and allowed to be heard. If the court finds the juvenile to be in need of
13 medical, surgical, psychiatric, psychological, or other evaluation or treatment, the court
14 shall permit the parent, guardian, custodian, or other responsible persons to arrange for
15 evaluation or treatment. If the parent, guardian, or custodian declines or is unable to make
16 necessary arrangements, the court may order the needed evaluation or treatment, surgery,
17 or care, and the court may order the parent to pay the cost of the care pursuant to Article
18 27 of this Chapter. If the court finds the parent is unable to pay the cost of evaluation or
19 treatment, the court shall order the county to arrange for evaluation or treatment of the
20 juvenile and to pay for the cost of the evaluation or treatment. The county department of
21 social services shall recommend the facility that will provide the juvenile with evaluation
22 or treatment.

23 (c) If the court believes, or if there is evidence presented to the effect that the
24 juvenile is mentally ill or is developmentally disabled, the court shall refer the juvenile to
25 the area mental health, developmental disabilities, and substance abuse services director
26 for appropriate action. A juvenile shall not be committed directly to a State hospital or
27 mental retardation center; and orders purporting to commit a juvenile directly to a State
28 hospital or mental retardation center except for an examination to determine capacity to
29 proceed shall be void and of no effect. The area mental health, developmental disabilities,
30 and substance abuse director shall be responsible for arranging an interdisciplinary
31 evaluation of the juvenile and mobilizing resources to meet the juvenile's needs. If
32 institutionalization is determined to be the best service for the juvenile, admission shall
33 be with the voluntary consent of the parent or guardian. If the parent, guardian, or
34 custodian refuses to consent to a mental hospital or retardation center admission after
35 such institutionalization is recommended by the area mental health, developmental
36 disabilities, and substance abuse director, the signature and consent of the court may be
37 substituted for that purpose. In all cases in which a regional mental hospital refuses
38 admission to a juvenile referred for admission by the court and an area mental health,
39 developmental disabilities, and substance abuse director or discharges a juvenile
40 previously admitted on court referral prior to completion of the juvenile's treatment, the
41 hospital shall submit to the court a written report setting out the reasons for denial of
42 admission or discharge and setting out the juvenile's diagnosis, indications of mental

1 illness, indications of need for treatment, and a statement as to the location of any facility
2 known to have a treatment program for the juvenile in question.

3 **"§ 7B-2501. Dispositional alternatives for undisciplined juveniles.**

4 The following alternatives for disposition shall be available to the court exercising
5 jurisdiction over a juvenile who has been adjudicated undisciplined. The court may
6 combine any of the applicable alternatives when the court finds it to be in the best
7 interests of the juvenile:

8 (1) In the case of any juvenile who needs more adequate care or supervision
9 or who needs placement, the judge may:

10 a. Require that the juvenile be supervised in the juvenile's own
11 home by a department of social services in the juvenile's county
12 of residence, a court counselor, or other personnel as may be
13 available to the court, subject to conditions applicable to the
14 parent, guardian, or custodian or the juvenile as the judge may
15 specify; or

16 b. Place the juvenile in the custody of a parent, guardian, custodian,
17 relative, private agency offering placement services, or some
18 other suitable person; or

19 c. Place the juvenile in the custody of a department of social
20 services in the county of the juvenile's residence, or in the case of
21 a juvenile who has legal residence outside the State, in the
22 physical custody of a department of social services in the county
23 where the juvenile is found so that agency may return the
24 juvenile to the responsible authorities in the juvenile's home
25 state. The director may, unless otherwise ordered by the judge,
26 arrange for, provide, or consent to, needed routine or emergency
27 medical or surgical care or treatment. In the case where the
28 parent is unknown, unavailable, or unable to act on behalf of the
29 child or children, the director may, unless otherwise ordered by
30 the judge, arrange for, provide or consent to any psychiatric,
31 psychological, educational, or other remedial evaluations or
32 treatment for the juvenile placed by a judge or the judge's
33 designee in the custody or physical custody of a county
34 department of social services under the authority of this or any
35 other Chapter of the General Statutes. Prior to exercising this
36 authority, the director shall make reasonable efforts to obtain
37 consent from a parent or guardian of the affected child. If the
38 director cannot obtain consent, the director shall promptly notify
39 the parent or guardian that care or treatment has been provided
40 and shall give the parent or guardian frequent status reports on
41 the circumstances of the child. Upon request of a parent or
42 guardian of the affected child, the results or records of the
43 aforementioned evaluations, findings, or treatment shall be made

1 available to the parent or guardian by the director unless
2 prohibited by G.S. 122C-53(d).

3 (2) Place the juvenile under the protective supervision of a court counselor
4 for no more than one year.

5 (3) Excuse the juvenile from compliance with the compulsory school
6 attendance law when the court finds that suitable alternative plans can
7 be arranged by the family through other community resources for one of
8 the following: an education related to the needs or abilities of the
9 juvenile including vocational education or special education; a suitable
10 plan of supervision or placement; or some other plan that the court finds
11 to be in the best interests of the juvenile.

12 **"§ 7B-2502. Conditions of protective supervision for undisciplined juveniles.**

13 The court may place a juvenile on protective supervision pursuant to G.S. 7B-2501 so
14 that the court counselor may (i) assist the juvenile in securing social, medical, and
15 educational services and (ii) visit and work with the family as a unit to ensure the juvenile
16 is provided proper supervision and care. The court may impose any combination of the
17 following conditions of protective supervision that are related to the needs of the juvenile,
18 including:

19 (1) That the juvenile shall remain on good behavior and not violate any
20 laws;

21 (2) That the juvenile attend school regularly;

22 (3) That the juvenile maintain passing grades in up to four courses during
23 each grading period and meet with the court counselor and a
24 representative of the school to make a plan for how to maintain those
25 passing grades;

26 (4) That the juvenile not associate with specified persons or be in specified
27 places;

28 (5) That the juvenile abide by a prescribed curfew;

29 (6) That the juvenile report to a court counselor as often as required by a
30 court counselor;

31 (7) That the juvenile be employed regularly if not attending school; and

32 (8) That the juvenile satisfy any other conditions determined appropriate by
33 the court.

34 **"§ 7B-2503. Contempt of court for undisciplined juveniles.**

35 Upon motion of the court counselor or on the court's own motion, the court may issue
36 an order directing a juvenile who has been adjudicated undisciplined to appear and show
37 cause why the juvenile should not be held in contempt for willfully failing to comply
38 with an order of the court. The first time the juvenile is held in contempt, the court may
39 order the juvenile confined in an approved detention facility for a period not to exceed 24
40 hours. The second time the juvenile is held in contempt, the court may order the juvenile
41 confined in an approved detention facility for a period not to exceed three days. The
42 third time and all subsequent times the juvenile is held in contempt, the court may order

1 the juvenile confined in an approved detention facility for a period not to exceed five
2 days.

3 **"§ 7B-2504. Dispositional alternatives for delinquent juveniles.**

4 The court exercising jurisdiction over a juvenile who has been adjudicated delinquent
5 may use the following alternatives in accordance with the dispositional structure set forth
6 in G.S. 7B-2505:

7 (1) In the case of any juvenile who needs more adequate care or supervision
8 or who needs placement, the judge may:

9 a. Require that a juvenile be supervised in the juvenile's own home
10 by the department of social services in the juvenile's county, a
11 court counselor, or other personnel as may be available to the
12 court, subject to conditions applicable to the parent, guardian, or
13 custodian or the juvenile as the judge may specify; or

14 b. Place the juvenile in the custody of a parent, guardian, custodian,
15 relative, private agency offering placement services, or some
16 other suitable person; or

17 c. Place the juvenile in the custody of the department of social
18 services in the county of his residence, or in the case of a juvenile
19 who has legal residence outside the State, in the physical custody
20 of a department of social services in the county where the
21 juvenile is found so that agency may return the juvenile to the
22 responsible authorities in the juvenile's home state. The director
23 may, unless otherwise ordered by the judge, arrange for, provide,
24 or consent to, needed routine or emergency medical or surgical
25 care or treatment. In the case where the parent is unknown,
26 unavailable, or unable to act on behalf of the child or children,
27 the director may, unless otherwise ordered by the judge, arrange
28 for, provide, or consent to any psychiatric, psychological,
29 educational, or other remedial evaluations or treatment for the
30 juvenile placed by a judge or his designee in the custody or
31 physical custody of a county department of social services under
32 the authority of this or any other Chapter of the General Statutes.
33 Prior to exercising this authority, the director shall make
34 reasonable efforts to obtain consent from a parent or guardian of
35 the affected child. If the director cannot obtain such consent, the
36 director shall promptly notify the parent or guardian that care or
37 treatment has been provided and shall give the parent or guardian
38 frequent status reports on the circumstances of the child. Upon
39 request of a parent or guardian of the affected child, the results or
40 records of the aforementioned evaluations, findings, or treatment
41 shall be made available to such parent or guardian by the director
42 unless prohibited by G.S. 122C-53(d).

- 1 (2) Excuse the juvenile from compliance with the compulsory school
2 attendance law when the court finds that suitable alternative plans can
3 be arranged by the family through other community resources for one of
4 the following: an education related to the needs or abilities of the
5 juvenile including vocational education or special education; a suitable
6 plan of supervision or placement; or some other plan that the court finds
7 to be in the best interests of the juvenile.
- 8 (3) Order the juvenile to cooperate with a community-based program or a
9 professional residential or nonresidential treatment program.
10 Participation in the programs shall not exceed 12 months.
- 11 (4) Require restitution, full or partial, payable within a 12-month period to
12 any person who has suffered loss or damage as a result of the offense
13 committed by the juvenile. The court may determine the amount, terms,
14 and conditions of the restitution. If the juvenile participated with another
15 person or persons, all participants should be jointly and severally
16 responsible for the payment of restitution; however, the court shall not
17 require the juvenile to make restitution if the juvenile satisfies the court
18 that the juvenile does not have, and could not reasonably acquire, the
19 means to make restitution.
- 20 (5) Impose a fine related to the seriousness of the juvenile's offense. If the
21 juvenile has the ability to pay the fine, it shall not exceed the maximum
22 fine for the offense if committed by an adult.
- 23 (6) Order the juvenile to perform supervised community service consistent
24 with the juvenile's age, skill, and ability, specifying the nature of the
25 work and the number of hours required. The work shall be related to the
26 seriousness of the juvenile's offense and in no event may the obligation
27 to work exceed 12 months.
- 28 (7) Order the juvenile to participate in the victim-offender reconciliation
29 program.
- 30 (8) Place the juvenile on probation under the supervision of a court
31 counselor, as specified in G.S. 7B-2506.
- 32 (9) Order that the juvenile shall not be licensed to operate a motor vehicle
33 in the State of North Carolina for as long as the court retains jurisdiction
34 over the juvenile or for any shorter period of time and notify the
35 Division of Motor Vehicles of that order.
- 36 (10) Impose a curfew upon the juvenile.
- 37 (11) Order the juvenile to cooperate with placement in a residential treatment
38 facility or in a group home other than a multipurpose group home
39 operated by a State agency.
- 40 (12) Order the juvenile to cooperate with placement in a wilderness program.
- 41 (13) Impose confinement on an intermittent basis in an approved detention
42 facility. Confinement shall be limited to not more than five 24-hour
43 periods, the timing of which is determined by the court in its discretion.

- 1 (14) Place the juvenile on intensive probation under the supervision of a
2 court counselor.
- 3 (15) Order the juvenile to cooperate with a supervised day program requiring
4 the juvenile to be present at a specified place for all or part of every day
5 or of certain days. The court also may require the juvenile to comply
6 with any other reasonable conditions specified in the dispositional order
7 that are designed to facilitate supervision.
- 8 (16) Order the juvenile to participate in a regimented training program.
- 9 (17) Order the juvenile to submit to house arrest.
- 10 (18) Suspend imposition of a more severe, statutorily permissible disposition
11 with the provision that the juvenile meet certain conditions agreed to by
12 the juvenile and specified in the dispositional order. The conditions shall
13 not exceed the allowable dispositions for the level under which
14 disposition is being imposed.
- 15 (19) Order that the juvenile be confined in a secure juvenile detention facility
16 for a term of up to 14 24-hour periods, which confinement shall not be
17 imposed consecutively with intermittent confinement pursuant to
18 subdivision (13) of this section at the same dispositional hearing.
- 19 (20) Order the residential placement of a juvenile in a multipurpose group
20 home operated by a State agency.
- 21 (21) Commit the juvenile to the Division of Youth Services in accordance
22 with G.S. 7B-2509 for a period of not less than six months.

23 **"§ 7B-2504.1. Delinquency history levels.**

- 24 (a) Generally. – The delinquency history level for a delinquent juvenile is
25 determined by calculating the sum of the points assigned to each of the juvenile's prior
26 adjudications and to the juvenile's probation status, if any, that the court finds to have
27 been proved in accordance with this section.
- 28 (b) Points. – Points are assigned as follows:
- 29 (1) For each prior adjudication of a Class A through E felony offense, 4
30 points.
- 31 (2) For each prior adjudication of a Class F through I felony offense or
32 Class A1 misdemeanor offense, 2 points.
- 33 (3) For each prior adjudication of a Class 1, 2, or 3 misdemeanor offense, 1
34 point.
- 35 (4) If the juvenile was on probation at the time of adjudication, 2 points.
- 36 (c) Delinquency History Levels. – The delinquency history levels are:
- 37 (1) Low – 0 points.
- 38 (2) Medium – At least 1, but not more than 3 points.
- 39 (3) High – At least 4 points.

40 In determining the delinquency history level, the classification of a prior offense is the
41 classification assigned to that offense at the time the juvenile committed the offense for
42 which disposition is being ordered.

1 (d) Multiple Prior Adjudications Obtained in One Court Session. – For purposes of
2 determining the delinquency history level, if a juvenile is adjudicated delinquent for more
3 than one offense in a single session of district court, only the adjudication for the offense
4 with the highest point total is used.

5 (e) Classification of Prior Adjudications From Other Jurisdictions. – Except as
6 otherwise provided in this subsection, an adjudication occurring in a jurisdiction other
7 than North Carolina is classified as a Class I felony if the jurisdiction in which the
8 offense occurred classifies the offense as a felony, or is classified as a Class 3
9 misdemeanor if the jurisdiction in which the offense occurred classifies the offense as a
10 misdemeanor. If the juvenile proves by the preponderance of the evidence that an offense
11 classified as a felony in the other jurisdiction is substantially similar to an offense that is a
12 misdemeanor in North Carolina, the conviction is treated as that class of misdemeanor for
13 assigning delinquency history level points. If the State proves by the preponderance of
14 the evidence that an offense classified as either a misdemeanor or a felony in the other
15 jurisdiction is substantially similar to an offense in North Carolina that is classified as a
16 Class I felony or higher, the conviction is treated as that class of felony for assigning
17 delinquency history level points. If the State proves by the preponderance of the evidence
18 that an offense classified as a misdemeanor in the other jurisdiction is substantially
19 similar to an offense classified as a Class A1 misdemeanor in North Carolina, the
20 adjudication is treated as a Class A1 misdemeanor for assigning delinquency history level
21 points.

22 (f) Proof of Prior Adjudications. – A prior adjudication shall be proved by any of
23 the following methods:

24 (1) Stipulation of the parties.

25 (2) An original or copy of the court record of the prior adjudication.

26 (3) A copy of records maintained by the Division of Criminal Information
27 or of the Administrative Office of the Courts.

28 (4) Any other method found by the court to be reliable.

29 The State bears the burden of proving, by a preponderance of the evidence, that a
30 prior adjudication exists and that the juvenile before the court is the same person as the
31 juvenile named in the prior adjudication. The original or a copy of the court records or a
32 copy of the records maintained by the Division of Criminal Information or of the
33 Administrative Office of the Courts, bearing the same name as that by which the juvenile
34 is charged, is prima facie evidence that the juvenile named is the same person as the
35 juvenile before the court, and that the facts set out in the record are true. For purposes of
36 this subsection, 'a copy' includes a paper writing containing a reproduction of a record
37 maintained electronically on a computer or other data processing equipment, and a
38 document produced by a facsimile machine. The prosecutor shall make all feasible efforts
39 to obtain and present to the court the juvenile's full record. Evidence presented by either
40 party at trial may be utilized to prove prior adjudications. If asked by the juvenile, the
41 prosecutor shall furnish the juvenile's prior adjudications to the juvenile within a
42 reasonable time sufficient to allow the juvenile to determine if the record available to the
43 prosecutor is accurate.

"§ 7B-2505. Dispositional limits for each class of offense and delinquency history level.

(a) Offense Classification. – The offense classifications are as follows:

(1) Violent – adjudication of a Class A through E felony offense;

(2) Serious – adjudication of a Class F through I felony offense or a Class A1 misdemeanor;

(3) Minor – adjudication of a Class 1, 2, or 3 misdemeanor.

(b) Delinquency History Levels. – A delinquency history level shall be determined for each delinquent juvenile as provided in G.S. 7B-2504.1.

(c) Level 1 – Community Disposition. – A court exercising jurisdiction over a juvenile who has been adjudicated delinquent and for whom the dispositional chart in subsection (f) of this section prescribes a Level 1 disposition may provide for evaluation and treatment under G.S. 7B-2500.2 and for any of the dispositional alternatives contained in subdivisions (1) through (13) of G.S. 7B-2504. In determining which dispositional alternative is appropriate, the court shall consider the needs of the juvenile, the appropriate community resources available to meet those needs, and the protection of the public.

(d) Level 2 – Intermediate Disposition. – A court exercising jurisdiction over a juvenile who has been adjudicated delinquent and for whom the dispositional chart in subsection (f) of this section prescribes a Level 2 disposition may provide for evaluation and treatment under G.S. 7B-2500.2 and for any of the dispositional alternatives contained in subdivisions (1) through (20) of G.S. 7B-2504, but shall provide for at least one of the intermediate dispositions authorized in subdivisions (12) and (14) through (20) of G.S. 7B-2504. In determining which dispositional alternative is appropriate, the court shall consider the needs of the juvenile, the appropriate community resources available to meet those needs, and the protection of the public.

(e) Level 3 – Commitment. – A court exercising jurisdiction over a juvenile who has been adjudicated delinquent and for whom the dispositional chart in subsection (f) of this section prescribes a Level 3 disposition shall commit the juvenile to the Division of Youth Services in accordance with G.S. 7B-2504(21). However, a court may impose a Level 2 disposition rather than a Level 3 disposition if the court submits written findings on the record that substantiate extraordinary needs on the part of the offending juvenile.

(f) Dispositions for Each Class of Offense and Delinquency History Level; Disposition Chart Described. – The authorized disposition for each class of offense and delinquency history level is as specified in the chart below. Delinquency history levels are indicated horizontally on the top of the chart. Classes of offense are indicated vertically on the left side of the chart. Each cell on the chart indicates which of the dispositional levels described in subsections (c) through (e) of this section are prescribed for that combination of offense classification and delinquency history level:

DELINQUENCY HISTORY

OFFENSE

LOW

MEDIUM

HIGH

<u>VIOLENT</u>	<u>Level 2 or 3</u>	<u>Level 3</u>	<u>Level 3</u>
<u>SERIOUS</u>	<u>Level 1 or 2</u>	<u>Level 2</u>	<u>Level 2 or 3</u>
<u>MINOR</u>	<u>Level 1</u>	<u>Level 1 or 2</u>	<u>Level 2.</u>

(g) The court may consider as a mitigating factor evidence of a juvenile's cooperation with law enforcement in providing information about other persons with whom the juvenile acted in the commission of the offense for which the juvenile was adjudicated. A mitigating factor may be used in determining the appropriate dispositional options within the level prescribed by the dispositional chart in subsection (f) of this section.

"§ 7B-2506. Conditions of probation; violation of probation.

(a) In any case where a juvenile is placed on probation pursuant to G.S. 7B-2504(8), the court counselor shall have the authority to visit the juvenile where the juvenile resides. The court may impose conditions of probation that are related to the needs of the juvenile and that are reasonably necessary to ensure that the juvenile will lead a law-abiding life, including:

- (1) That the juvenile shall remain on good behavior and not violate any laws.
- (2) That the juvenile attend school regularly.
- (3) That the juvenile maintain passing grades in up to four courses during each grading period and meet with the court counselor and a representative of the school to make a plan for how to maintain those passing grades.
- (4) That the juvenile not associate with specified persons or be in specified places.
- (5) That the juvenile remain free of any controlled substance included in any schedule of Article 5 of Chapter 90 of the General Statutes, the Controlled Substances Act, and the juvenile submit to random drug testing.
- (6) That the juvenile abide by a prescribed curfew.
- (7) That the juvenile submit to a warrantless search at reasonable times.
- (8) That the juvenile possess no firearm, explosive device, or other deadly weapon.
- (9) That the juvenile report to a court counselor as often as required by a court counselor.
- (10) That the juvenile make specified financial restitution or pay a fine in accordance with G.S. 7B-2504(4) and (5).
- (11) That the juvenile be employed regularly if not attending school.
- (12) That the juvenile satisfy any other conditions determined appropriate by the court.

1 (b) In addition to the regular conditions of probation specified in subsection (a) of
2 this section, the court may order the juvenile to comply, if directed to comply by the court
3 counselor, with one or more of the following conditions:

4 (1) Perform up to 20 hours of community service;

5 (2) Submit to substance abuse monitoring and treatment;

6 (3) Cooperate with electronic monitoring;

7 (4) Cooperate with intensive supervision; and

8 (5) Participate in a life skills or an educational skills program administered
9 by the department.

10 (c) An order of probation shall remain in force for a period not to exceed two
11 years from the date entered. Prior to expiration of an order of probation, the court may
12 extend it for an additional period of one year after a hearing if the court finds that the
13 extension is necessary to protect the community or to safeguard the welfare of the
14 juvenile.

15 (d) If the juvenile violates the conditions of probation set by the court, the court
16 may elect to continue the original conditions of probation, modify the conditions of
17 probation, or, except as provided in subsection (e) of this section, order a new disposition
18 at the next higher level on the disposition chart in G.S. 7B-2505. In the court's discretion,
19 part of the new disposition may include an order of confinement in a secure juvenile
20 detention facility for up to twice the term authorized by G.S. 7B-2505.

21 **"§ 7B-2507. Probation review.**

22 The court may review the progress of any juvenile on probation at any time during the
23 period of probation or at the end of probation. Except as provided in G.S. 7B-2506, the
24 conditions or duration of probation may be modified only as provided in this Subchapter
25 and only after there is notice and a hearing. If a juvenile violates the conditions of
26 probation, the juvenile and the juvenile's parent, guardian, or custodian after notice may
27 be required to appear before the court and the court may make any disposition of the
28 matter authorized by this Subchapter. At the end of or at any time during probation, the
29 court may terminate probation by written order upon finding that there is no further need
30 for supervision. The finding and order terminating probation may be entered in chambers
31 in the absence of the juvenile and may be based on a report from the court counselor or,
32 at the election of the court, the order may be entered with the juvenile present after notice
33 and a hearing.

34 **"§ 7B-2508. Dispositional order.**

35 The dispositional order shall be in writing and shall contain appropriate findings of
36 fact and conclusions of law. The court shall state with particularity, both orally and in the
37 written order of disposition, the precise terms of the disposition including the kind,
38 duration, and the person who is responsible for carrying out the disposition and the
39 person or agency in whom custody is vested.

40 **"§ 7B-2509. Commitment of delinquent juvenile to Division of Youth Services.**

41 (a) Pursuant to G.S. 7B-2504 and G.S. 7B-2505, the court may commit a
42 delinquent juvenile who is at least 10 years of age to the Division of Youth Services for
43 placement in one of the residential facilities operated by the Division. Commitment shall

1 be for a definite or indefinite term of at least six months. In no event shall the term
2 exceed the nineteenth birthday of the juvenile.

3 (b) The court may commit a juvenile to a definite term of not more than two years
4 if the court finds that the juvenile is 14 years of age or older, has been previously
5 adjudicated delinquent for two or more felony offenses, and has been previously
6 committed to a residential facility operated by the Division of Youth Services.

7 (c) The chief court counselor shall have the responsibility for transporting the
8 juvenile to the residential facility designated by the Division of Youth Services. The
9 juvenile shall be accompanied to the residential facility by a person of the same sex.

10 (d) The chief court counselor shall ensure that the records requested by the
11 Director of Youth Services accompany the juvenile upon transportation for admittance to
12 a training school or, if not obtainable at the time of admission, are sent to the training
13 school within 15 days of the admission. If records requested by the Division of Youth
14 Services for admission do not exist, to the best knowledge of the chief court counselor,
15 the chief court counselor shall so stipulate in writing to the training school. If such
16 records do exist, but the chief court counselor is unable to obtain copies of them, a district
17 court may order that the records from public agencies be made available to the training
18 school. Records that are confidential by law shall remain confidential and the Division of
19 Youth Services shall be bound by the specific laws governing the confidentiality of these
20 records. All records shall be used in a manner consistent with the best interests of the
21 juvenile.

22 (e) A commitment order accompanied by information requested by the Director
23 shall be forwarded to the Division. The Director shall place the juvenile in the residential
24 facility that would best provide for the juvenile's needs and shall notify the committing
25 court. The Secretary may assign a juvenile committed for delinquency to any institution
26 or other program of the Department or licensed by the Department, which program is
27 appropriate to the needs of the juvenile.

28 (f) When the court commits a juvenile to the Division of Youth Services, the
29 Director shall prepare a plan for care or treatment within 30 days after assuming custody
30 of the juvenile.

31 (g) Commitment of a juvenile to the Division of Youth Services does not terminate
32 the court's continuing jurisdiction over the juvenile and the juvenile's parent, guardian, or
33 custodian. Commitment of a juvenile to the Division of Youth Services transfers only
34 physical custody of the juvenile to the Division. Legal custody remains with the parent,
35 guardian, custodian, agency, or institution in whom it was vested.

36 (h) Pending placement of a juvenile with the Division of Youth Services, the court
37 may house a juvenile who has been adjudicated delinquent for an offense that would be a
38 Class A, B1, B2, C, D, or E felony if committed by an adult in a holdover facility up to
39 72 hours if the court, based on the information provided by the court counselor,
40 determines that no acceptable alternative placement is available and the protection of the
41 public requires that the juvenile be housed in a holdover facility.

42 **"§ 7B-2510. Post-release supervision planning; hearing.**

1 (a) The Director of the Division of Youth Services shall be responsible for
2 evaluation of the progress of each juvenile at least once every six months as long as the
3 juvenile remains in the care of the Division. If the Director determines that a juvenile is
4 ready for release, the Director, in consultation with the court counselor, shall initiate a
5 post-release supervision planning process. The post-release supervision planning process
6 shall be defined by rules and regulations of the Division of Youth Services, but shall
7 include the following:

8 (1) Written notification shall be given to the court that ordered
9 commitment.

10 (2) A post-release supervision planning conference shall be held involving
11 as many as possible of the following: the juvenile, the juvenile's parent,
12 guardian, or custodian, court counselors who have supervised the
13 juvenile on probation or will supervise the juvenile on post-release
14 supervision, and staff of the facility that found the juvenile ready for
15 release. The planning conference shall include personal contact and
16 evaluation rather than telephonic notification.

17 (3) The planning conference participants shall consider, based on the
18 individual needs of the juvenile and pursuant to rules adopted by the
19 Division, placement of the juvenile in any program under the auspices
20 of the Division, including the Community-Based Alternatives programs,
21 or under the Department, that, in the judgment of the Division, may
22 serve as a transitional placement, pending release under G.S. 7B-2512.

23 (b) The Division, in consultation with the court counselor, shall develop the plan
24 in writing and base the terms on the needs of the juvenile and the protection of the public.
25 Every plan shall require the juvenile to complete at least 90 days of post-release
26 supervision. At least 45 days prior to release, the Division shall provide a copy of the
27 plan to the juvenile, the juvenile's parent, guardian, or custodian, the chief district court
28 judge, the district attorney, and the court counselor who will provide post-release
29 supervision. Within 10 days of receipt of the plan, the juvenile, the court counselor, or the
30 prosecutor may file a motion to request a hearing to determine whether release of the
31 juvenile to post-release supervision is appropriate. If no motion is filed and the court
32 does not initiate a hearing on its own motion, the plan shall become effective and the
33 juvenile shall be released as scheduled.

34 (c) Within 10 days of the filing of the motion, the court shall conduct a post-
35 release supervision hearing to determine whether release of the juvenile to post-release
36 supervision is appropriate. After review of the plan, the court shall order the conditions
37 of post-release supervision if it finds the juvenile should be placed on post-release
38 supervision. The juvenile, the juvenile's attorney, and the juvenile's parent, guardian, or
39 custodian shall be notified in writing of the hearing at least 10 days prior to the scheduled
40 hearing date. The court counselor and the prosecutor shall attend the hearing and, if the
41 court requests, present testimony or evidence as to whether the juvenile has completed
42 the plan for care or treatment developed pursuant to G.S. 7B-2509.

1 (d) The court shall release a juvenile under a plan of post-release supervision at
2 least 90 days prior to the later of:

3 (1) Completion of the juvenile's definite term of commitment; or

4 (2) If the juvenile is committed for an indefinite term, either on the
5 juvenile's eighteenth birthday if no motion for extended jurisdiction has
6 been filed pursuant to G.S. 7B-2513 or on the juvenile's nineteenth
7 birthday.

8 (e) Notwithstanding Articles 30 and 31 of Subchapter III of this Chapter, before
9 the court releases a juvenile who is serving a commitment for a Class A or B1 felony to
10 post-release supervision, the Division shall notify, at least 45 days in advance of the
11 scheduled release date, by first-class mail at the last known address:

12 (1) The juvenile;

13 (2) The juvenile's parent, guardian, or custodian;

14 (3) The district attorney of the district where the juvenile was adjudicated;

15 (4) The head law enforcement agency that took the juvenile into custody;
16 and

17 (5) The victim and any of the victim's immediate family members who have
18 requested in writing to be notified.

19 The notification shall include only the juvenile's name, offense, date of commitment,
20 and date of any scheduled release hearing. A copy of the notice shall be placed in the
21 juvenile's file.

22 (f) The court may release a juvenile under an indefinite commitment to post-
23 release supervision only after the juvenile has been committed for a period of at least six
24 months.

25 (g) A juvenile committed to the Division of Youth Services for a definite term
26 shall receive credit toward that term for the time the juvenile spends on post-release
27 supervision.

28 **"§ 7B-2511. Revocation of post-release supervision.**

29 If a juvenile fails to complete the terms of post-release supervision, the court
30 counselor providing post-release supervision may make a motion for review in the court
31 in the district where the juvenile has been residing during post-release supervision. The
32 court shall hold a hearing to determine whether there has been a violation. With respect to
33 any hearing pursuant to this section, the juvenile:

34 (1) Shall have reasonable notice in writing of the nature and content of the
35 allegations in the motion, including notice that the purpose of the
36 hearing is to determine whether the juvenile has violated the terms of
37 post-release supervision to the extent that post-release supervision
38 should be revoked;

39 (2) Shall be represented by an attorney at the hearing;

40 (3) Shall have the right to confront and cross-examine any persons who
41 have made allegations against the juvenile; and

42 (4) May admit, deny, or explain the violation alleged and may present
43 proof, including affidavits or other evidence, in support of the juvenile's

1 contentions. A record of the proceeding shall be made and preserved in
2 the juvenile's record.

3 If the court determines that the juvenile has violated the terms of post-release
4 supervision, the court may revoke the post-release supervision or make any other
5 disposition authorized by this Subchapter.

6 If the court revokes the post-release supervision, the chief court counselor shall have
7 the responsibility for returning the juvenile to the facility specified by the Division of
8 Youth Services.

9 **"§ 7B-2512. Final discharge.**

10 (a) The court shall release a juvenile from the custody of the Division of Youth
11 Services only after the juvenile completes post-release supervision or when the juvenile is
12 released to the Department of Correction pursuant to G.S. 15A-1340.16B.

13 (b) Notwithstanding the provisions of this section, in no event shall a juvenile
14 remain committed after the juvenile's eighteenth birthday except pursuant to G.S. 7B-
15 2513.

16 **"§ 7B-2513. Extended jurisdiction under certain circumstances; review hearing.**

17 (a) By order of the court, juvenile court jurisdiction over a juvenile may be
18 extended past the age of 18 years until the person reaches the person's nineteenth
19 birthday. The provisions of this Subchapter shall apply to any person under the
20 jurisdiction of the juvenile court pursuant to this section, regardless of whether the term
21 'person' or 'juvenile' is used in the provision.

22 (b) When the chief court counselor, or the Division of Youth Services if the
23 juvenile is committed to the Division, determines a juvenile should remain under the
24 jurisdiction of the court for a period of time after the age of 18 years, the chief court
25 counselor or Division shall file a motion for a review hearing in the judicial district where
26 the juvenile was adjudicated. This motion shall be filed at least 180 days prior to the
27 eighteenth birthday of the juvenile. The chief court counselor or Division shall notify the
28 juvenile, the juvenile's attorney, and the juvenile's parent, guardian, or custodian in
29 writing of the date and time of the scheduled hearing at least 10 days prior to the
30 scheduled hearing date.

31 (c) Within 30 days after the motion is filed, the court shall conduct a review
32 hearing to determine whether the juvenile shall remain under the jurisdiction of the court.
33 The court counselor and the prosecutor shall attend the hearing and, if the court requests,
34 present testimony or evidence as to whether the juvenile continues to be in need of and
35 can benefit from further treatment or services.

36 (d) In determining whether to order that the juvenile remain under the jurisdiction
37 of the court, the court shall consider:

38 (1) The recommendation of the chief court counselor or the Director of the
39 Division of Youth Services based on the juvenile's progress;

40 (2) The likelihood that continued jurisdiction will lead to further
41 rehabilitation;

42 (3) The safety and protection of the facility's juvenile population, if
43 applicable; and

1 (4) The protection of the public.

2 (e) If the court orders the juvenile remain under the jurisdiction of the court and
3 the juvenile is committed to the Division of Youth Services, commitment shall be for a
4 definite term or an indefinite term not to exceed the nineteenth birthday of the person.

5 (f) The Director shall modify the plan for care or treatment of the juvenile
6 prepared pursuant to G.S. 7B-2509.

7 **"§ 7B-2514. Transfer authority of Governor.**

8 The Governor may order transfer of any person less than 18 years of age from any jail
9 or penal facility of the State to one of the residential facilities operated by the Division of
10 Youth Services in appropriate circumstances, provided the Governor shall consult with
11 the Department concerning the feasibility of the transfer in terms of available space, staff,
12 and suitability of program.

13 When an inmate, committed to the Department of Correction, is transferred by the
14 Governor to a residential program operated by the Division of Youth Services, the
15 Division of Youth Services may release the juvenile based on the needs of the juvenile
16 and the best interests of the State. Transfer shall not divest the probation or parole officer
17 of the officer's responsibility to supervise the inmate on release.

18 **"ARTICLE 26.**

19 **"MODIFICATION AND ENFORCEMENT OF DISPOSITIONAL ORDERS;**

20 **APPEALS.**

21 **"§ 7B-2600. Authority to modify or vacate.**

22 (a) Upon motion in the cause or petition, and after notice, the court may conduct a
23 review hearing to determine whether the order of the court is in the best interests of the
24 juvenile, and the court may modify or vacate the order in light of changes in
25 circumstances or the needs of the juvenile.

26 (b) In a case of delinquency, the court may reduce the nature or the duration of the
27 disposition on the basis that it was imposed in an illegal manner or is unduly severe with
28 reference to the seriousness of the offense, the culpability of the juvenile, or the
29 dispositions given to juveniles convicted of similar offenses.

30 (c) In any case where the court finds the juvenile to be delinquent or undisciplined,
31 the jurisdiction of the court to modify any order or disposition made in the case shall
32 continue (i) during the minority of the juvenile, (ii) until the juvenile reaches the age of
33 19 years, if the court has extended jurisdiction, or (iii) until terminated by order of the
34 court.

35 **"§ 7B-2601. Request for modification for lack of suitable services.**

36 If the Director of the Division of Youth Services finds that any juvenile committed to
37 the Division's care is not suitable for its program, the Director may make a motion in the
38 cause so that the court may make an alternative disposition that is consistent with G.S.
39 7B-2505.

40 **"§ 7B-2602. Right to appeal.**

41 Upon motion of a proper party as defined in G.S. 7B-2603, review of any final order
42 of the court in a juvenile matter under this Article shall be before the Court of Appeals.
43 Notice of appeal shall be given in open court at the time of the hearing or in writing

1 within 10 days after entry of the order. However, if no disposition is made within 60 days
2 after entry of the order, written notice of appeal may be given within 70 days after such
3 entry. A final order shall include:

- 4 (1) Any order finding absence of jurisdiction;
- 5 (2) Any order which in effect determines the action and prevents a
6 judgment from which appeal might be taken;
- 7 (3) Any order of disposition after an adjudication that a juvenile is
8 delinquent or undisciplined; or
- 9 (4) Any order modifying custodial rights.

10 **"§ 7B-2603. Proper parties for appeal.**

11 An appeal may be taken by the juvenile, the juvenile's parent, guardian, or custodian,
12 or the State or county agency. The State's appeal is limited to the following orders in
13 delinquency or undisciplined cases:

- 14 (1) An order finding a State statute to be unconstitutional; and
- 15 (2) Any order which terminates the prosecution of a petition by upholding
16 the defense of double jeopardy, by holding that a cause of action is not
17 stated under a statute, or by granting a motion to suppress.

18 **"§ 7B-2604. Disposition pending appeal.**

19 Pending disposition of an appeal, the release of the juvenile, with or without
20 conditions, should issue in every case unless the court orders otherwise. For compelling
21 reasons which must be stated in writing, the court may enter a temporary order affecting
22 the custody or placement of the juvenile as the court finds to be in the best interests of the
23 juvenile or the State.

24 **"§ 7B-2605. Disposition after appeal.**

25 Upon the affirmation of the order of adjudication or disposition of the court by the
26 Court of Appeals or by the Supreme Court in the event of an appeal, the court shall have
27 authority to modify or alter the original order of adjudication or disposition as the court
28 finds to be in the best interests of the juvenile to reflect any adjustment made by the
29 juvenile or change in circumstances during the period of time the appeal was pending. If
30 the modifying order is entered ex parte, the court shall give notice to interested parties to
31 show cause within 10 days thereafter as to why the modifying order should be vacated or
32 altered.

33 **"ARTICLE 27.**

34 **"AUTHORITY OVER PARENTS OF JUVENILES**
35 **ADJUDICATED DELINQUENT OR UNDISCIPLINED.**

36 **"§ 7B-2700. Appearance in court.**

37 (a) The parent, guardian, or custodian of a juvenile under the jurisdiction of the
38 juvenile court shall attend the hearings of which the parent, guardian, or custodian
39 receives notice. The court may excuse the appearance of either or both parents or the
40 guardian or custodian at subsequent hearings. Unless so excused, the willful failure of a
41 parent, guardian, or custodian to attend a hearing of which the parent, guardian, or
42 custodian has notice shall be grounds for contempt.

1 (b) No employer may discharge or demote any employee because the employee is
2 required to appear in court pursuant to this section. Any employer who violates any
3 provision of this section shall be liable in a civil action for reasonable damages suffered
4 by an employee as a result of the violation, and an employee discharged or demoted in
5 violation of this section shall be entitled to be reinstated to the employee's former
6 position. The burden of proof shall be upon the employee. The statute of limitations for
7 actions under this section shall be one year pursuant to G.S. 1-54.

8 **"§ 7B-2701. Parental responsibility classes.**

9 The court may order the parent of a juvenile who has been adjudicated undisciplined
10 or delinquent to attend parental responsibility classes if those classes are available in the
11 judicial district in which the parent resides.

12 **"§ 7B-2702. Medical, surgical, psychiatric, or psychological evaluation or treatment**
13 **of juvenile or parent.**

14 (a) If the court orders medical, surgical, psychiatric, psychological, or other
15 evaluation or treatment pursuant to G.S. 7B-2500.2, the court may order the parent or
16 other responsible parties to pay the cost of the treatment or care ordered.

17 (b) At the dispositional hearing or a subsequent hearing, if the court finds that it is
18 in the best interests of the juvenile for the parent, guardian, or custodian to be directly
19 involved in the juvenile's evaluation or treatment, the court may order that person to
20 participate in medical, psychiatric, psychological, or other evaluation or treatment of the
21 juvenile. The cost of the evaluation or treatment shall be paid pursuant to G.S. 7B-
22 2500.2.

23 (c) At the dispositional hearing or a subsequent hearing, the court may determine
24 whether the best interests of the juvenile require that the parent, guardian, or custodian
25 undergo psychiatric, psychological, or other evaluation or treatment or counseling
26 directed toward remedying behaviors or conditions that led to or contributed to the
27 juvenile's adjudication or to the court's decision to remove custody of the juvenile from
28 the parent, guardian, or custodian. If the court finds that the best interests of the juvenile
29 require the parent, guardian, or custodian undergo evaluation or treatment, it may order
30 that person to comply with a plan of evaluation or treatment approved by the court or
31 condition legal custody or physical placement of the juvenile with the parent, guardian, or
32 custodian upon that person's compliance with the plan of evaluation or treatment.

33 (d) In cases in which the court has ordered the parent of the juvenile, rather than a
34 guardian or custodian, to comply with or undergo evaluation or treatment, the court may
35 order the parent to pay the cost of evaluation or treatment ordered pursuant to this
36 subsection. In cases in which the court has conditioned legal custody or physical
37 placement of the juvenile with the parent upon the parent's compliance with a plan of
38 evaluation or treatment, the court may charge the cost of the evaluation or treatment to
39 the county of the juvenile's residence if the court finds the parent is unable to pay the cost
40 of the evaluation or treatment. In all other cases, if the court finds the parent is unable to
41 pay the cost of the evaluation or treatment ordered pursuant to this subsection, the court
42 may order the parent to receive evaluation or treatment currently available from the area
43 mental health program that serves the parent's catchment area.

1 **"§ 7B-2703. Compliance with orders of court.**

2 (a) The court may order the parent, guardian, or custodian, to the extent that
3 person is able to do so, to provide transportation for a juvenile to keep an appointment
4 with a court counselor or to comply with other orders of the court.

5 (b) The court may order a parent, guardian, or custodian to cooperate with and
6 assist the juvenile in complying with the terms and conditions of probation or other
7 orders of the court.

8 **"§ 7B-2704. Payment of support or other expenses; assignment of insurance**
9 **coverage.**

10 At the dispositional hearing or a subsequent hearing, if the court finds that the parent
11 is able to do so, the court may order the parent to:

12 (1) Pay a reasonable sum that will cover in whole or in part the support of
13 the juvenile. If the court requires the payment of child support, the
14 amount of the payments shall be determined as provided in G.S. 50-
15 13.4;

16 (2) Pay a fee for probation supervision or residential facility costs;

17 (3) Assign private insurance coverage to cover medical costs while the
18 juvenile is in secure detention, training school, or other out-of-home
19 placement; and

20 (4) Pay court-appointed attorneys' fees.

21 If the court places a juvenile in the custody of a county department of social services and
22 if the court finds that the parent is unable to pay the cost of the support required by the
23 juvenile, the cost shall be paid by the county department of social services in whose
24 custody the juvenile is placed, provided the juvenile is not receiving care in an institution
25 owned or operated by the State or federal government or any subdivision thereof.

26 **"§ 7B-2705. Contempt for failure to comply.**

27 Upon motion of the court counselor or prosecutor or upon the court's own motion, the
28 court may issue an order directing the parent, guardian, or custodian to appear and show
29 cause why the parent, guardian, or custodian should not be found or held in civil or
30 criminal contempt for willfully failing to comply with an order of the court. Chapter 5A
31 of the General Statutes shall govern contempt proceedings initiated pursuant to this
32 Article.

33 **"ARTICLE 28.**

34 **"INTERSTATE COMPACT ON JUVENILES.**

35 **"§ 7B-2800. Execution of Compact.**

36 The Governor is hereby authorized and directed to execute a Compact on behalf of
37 this State with any other state or states legally joining therein in the form substantially as
38 follows: The contracting states solemnly agree.

39 **"§ 7B-2801. Findings and purposes.**

40 Juveniles who are not under proper supervision and control, or who have absconded,
41 escaped, or run away, are likely to endanger their own health, morals, and welfare, and
42 the health, morals, and welfare of others. The cooperation of the states party to this

1 Compact is therefore necessary to provide for the welfare and protection of juveniles and
2 of the public with respect to:

- 3 (1) Cooperative supervision of delinquent juveniles on probation or parole;
- 4 (2) The return, from one state to another, of delinquent juveniles who have
5 escaped or absconded;
- 6 (3) The return, from one state to another, of nondelinquent juveniles who
7 have run away from home; and
- 8 (4) Additional measures for the protection of juveniles and of the public,
9 which any two or more of the party states may find desirable to
10 undertake cooperatively.

11 In carrying out the provisions of this Compact, the party states shall be guided by the
12 noncriminal, reformatory, and protective policies which guide their laws concerning
13 delinquent, neglected, or dependent juveniles generally. It shall be the policy of the states
14 party to this Compact to cooperate and observe their respective responsibilities for the
15 prompt return and acceptance of juveniles and delinquent juveniles who become subject
16 to the provisions of this Compact. The provisions of this Compact shall be reasonably
17 and liberally construed to accomplish the foregoing purposes.

18 **"§ 7B-2802. Existing rights and remedies.**

19 All remedies and procedures provided by this Compact are in addition to and not in
20 substitution for other rights, remedies, and procedures and are not in derogation of
21 parental rights and responsibilities.

22 **"§ 7B-2803. Definitions.**

23 For the purposes of this Compact, 'delinquent juvenile' means any juvenile who has
24 been adjudged delinquent and who, at the time the provisions of this Compact are
25 invoked, is still subject to the jurisdiction of the court that has made adjudication or to the
26 jurisdiction or supervision of an agency or institution pursuant to an order of the court;
27 'probation or parole' means any kind of post-release supervision of juveniles authorized
28 under the laws of the states party hereto; 'court' means any court having jurisdiction over
29 delinquent, neglected, or dependent children; 'state' means any state, territory, or
30 possession of the United States, the District of Columbia, and the Commonwealth of
31 Puerto Rico; and 'residence' or any variant thereof means a place at which a home or
32 regular place of abode is maintained.

33 **"§ 7B-2804. Return of runaways.**

34 (a) The parent, guardian, person, or agency entitled to legal custody of a juvenile
35 who has not been adjudged delinquent but who has run away without the consent of the
36 parent, guardian, person, or agency may petition the appropriate court in the demanding
37 state for the issuance of a requisition for the juvenile's return. The petition shall state the
38 name and age of the juvenile, the name of the petitioner and the basis of entitlement to
39 the juvenile's custody, the circumstances of the running away, the juvenile's location if
40 known at the time application is made, and any other facts that may tend to show that the
41 juvenile who has run away is endangering the juvenile's own welfare or the welfare of
42 others and is not an emancipated minor. The petition shall be verified by affidavit, shall
43 be executed in duplicate, and shall be accompanied by two certified copies of the

1 document or documents on which the petitioner's entitlement to the juvenile's custody is
2 based, such as birth certificates, letters of guardianship, or custody decrees. Any further
3 affidavits and other documents as may be deemed proper may be submitted with the
4 petition. The judge of the court to which this application is made may hold a hearing
5 thereon to determine whether for the purposes of this Compact the petitioner is entitled to
6 the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run
7 away without consent, whether or not the juvenile is an emancipated minor, and whether
8 or not it is in the best interests of the juvenile to compel the juvenile's return to the state.
9 If the judge determines, either with or without a hearing, that the juvenile should be
10 returned, the judge shall present to the appropriate court or to the executive authority of
11 the state where the juvenile is alleged to be located a written requisition for the return of
12 the juvenile. The requisition shall set forth the name and age of the juvenile, the
13 determination of the court that the juvenile has run away without the consent of a parent,
14 guardian, person, or agency entitled to legal custody, and that it is in the best interests and
15 for the protection of the juvenile that the juvenile be returned. In the event that a
16 proceeding for the adjudication of the juvenile as a delinquent, neglected, or dependent
17 juvenile is pending in the court at the time when the juvenile runs away, the court may
18 issue a requisition for the return of the juvenile upon its own motion, regardless of the
19 consent of the parent, guardian, person, or agency entitled to legal custody, reciting
20 therein the nature and circumstances of the pending proceeding. The requisition shall in
21 every case be executed in duplicate and shall be signed by the judge. One copy of the
22 requisition shall be filed with the Compact Administrator of the demanding state, there to
23 remain on file subject to the provisions of law governing records of the court. Upon the
24 receipt of a requisition demanding the return of a juvenile who has run away, the court or
25 the executive authority to whom the requisition is addressed shall issue an order to any
26 peace officer or other appropriate person directing that person to take into custody and
27 detain the juvenile. The detention order must substantially recite the facts necessary to the
28 validity of its issuance hereunder. No juvenile detained upon the order shall be delivered
29 over to the officer whom the court has appointed to receive the juvenile unless the
30 juvenile first is taken before a judge of a court in the state, who shall inform the juvenile
31 of the demand made for the juvenile's return, and who may appoint counsel or guardian
32 ad litem for the juvenile. If the court finds that the requisition is in order, the court shall
33 deliver the juvenile over to the officer appointed to receive the juvenile by the court
34 demanding the juvenile. The court, however, may fix a reasonable time to be allowed for
35 the purpose of testing the legality of the proceeding.

36 Upon reasonable information that a person is a juvenile who has run away from
37 another state party to this Compact without the consent of a parent, guardian, person, or
38 agency entitled to legal custody, the juvenile may be taken into custody without a
39 requisition and brought before a judge of the appropriate court who may appoint counsel
40 or guardian ad litem for the juvenile and who shall determine after a hearing whether
41 sufficient cause exists to hold the person, subject to the order of the court, for the
42 juvenile's own protection and welfare, for such a time not exceeding 90 days as will
43 enable the return of the juvenile to another state party to this Compact pursuant to a

1 requisition for return from a court of that state. If, at the time when a state seeks the
2 return of a juvenile who has run away, there is pending in the state wherein the juvenile is
3 found, any criminal charge, or any proceeding to have the juvenile adjudicated a
4 delinquent juvenile for an act committed in the state, or if the juvenile is suspected of
5 having committed within the state a criminal offense or an act of juvenile delinquency,
6 the juvenile shall not be returned without the consent of the state until discharged from
7 prosecution or other form of proceeding, imprisonment, detention, or supervision for the
8 offense or juvenile delinquency. The duly accredited officers of any state party to this
9 Compact, upon the establishment of their authority and the identity of the juvenile being
10 returned, shall be permitted to transport the juvenile through any and all states party to
11 this Compact, without interference. Upon return of the juvenile to the state from which
12 the juvenile ran away, the juvenile shall be subject to such further proceedings as may be
13 appropriate under the laws of that state.

14 (b) The state to which the juvenile is returned under this Article shall be
15 responsible for payment of the transportation costs of return.

16 (c) The term 'juvenile' as used in this Article means any person who is a minor
17 under the law of the state of residence of the parent, guardian, person, or agency entitled
18 to the legal custody of the minor.

19 **"§ 7B-2805. Return of escapees and absconders.**

20 (a) The appropriate person or authority from whose probation or parole
21 supervision a delinquent juvenile has absconded or from whose institutional custody a
22 delinquent juvenile has escaped shall present to the appropriate court or to the executive
23 authority of the state where the delinquent juvenile is alleged to be located a written
24 requisition for the return of the delinquent juvenile. The requisition shall state the name
25 and age of the delinquent juvenile, the particulars of the juvenile's adjudication as a
26 delinquent juvenile, the circumstances of the breach of the terms of probation or parole or
27 of the juvenile's escape from an institution or agency vested with legal custody or
28 supervision, and the location of the delinquent juvenile, if known, at the time the
29 requisition is made. The requisition shall be verified by affidavit, shall be executed in
30 duplicate, and shall be accompanied by two certified copies of the judgment, formal
31 adjudication, or order of commitment which subjects the delinquent juvenile to probation
32 or parole or to the legal custody of the institution or agency concerned. Any further
33 affidavits and documents as may be deemed proper may be submitted with the
34 requisition. One copy of the requisition shall be filed with the Compact Administrator of
35 the demanding state, there to remain on file subject to the provisions of the law governing
36 records of the appropriate court. Upon the receipt of a requisition demanding the return of
37 a delinquent juvenile who has absconded or escaped, the court or the executive authority
38 to whom the requisition is addressed shall issue an order to any peace officer or other
39 appropriate person directing the person to take into custody and detain such delinquent
40 juvenile. The detention order must substantially recite the facts necessary to the validity
41 of its issuance hereunder. No delinquent juvenile detained upon the order shall be
42 delivered over to the officer whom the appropriate person or authority demanding the
43 juvenile has appointed to receive the juvenile, unless the juvenile is first taken forthwith

1 before a judge of an appropriate court in the state, who shall inform the juvenile of the
2 demand made for the return and who may appoint counsel or guardian ad litem for the
3 juvenile. If the judge of the court finds that the requisition is in order, the judge shall
4 deliver the delinquent juvenile over to the officer whom the appropriate person or
5 authority demanding the juvenile appointed to receive the juvenile. The judge, however,
6 may fix a reasonable time to be allowed for the purpose of testing the legality of the
7 proceeding.

8 Upon reasonable information that a person is a delinquent juvenile who has
9 absconded while on probation or parole, or escaped from an institution or agency vested
10 with legal custody or supervision in any state party to this Compact, the person may be
11 taken into custody in any other state party to this Compact without a requisition. But in
12 that event, the juvenile shall be taken forthwith before a judge of the appropriate court,
13 who may appoint counsel or guardian ad litem for the person and who shall determine
14 after a hearing, whether sufficient cause exists to hold the person subject to the order of
15 the court for a length of time, not exceeding 90 days, as will enable detention of the
16 juvenile under a detention order issued on a requisition pursuant to this Article. If, at the
17 time when a state seeks the return of a delinquent who has either absconded while on
18 probation or parole or escaped from an institution or agency vested with legal custody or
19 supervision, there is pending in the state wherein the juvenile is detained any criminal
20 charge or any proceeding to have the juvenile adjudicated a delinquent juvenile for an act
21 committed in the state, or if the juvenile is suspected of having committed a criminal
22 offense or an act of juvenile delinquency within the state, the juvenile shall not be
23 returned without the consent of the state until discharged from prosecution or other form
24 of proceeding, imprisonment, detention, or supervision for the offense or juvenile
25 delinquency. The duly accredited officers of any state party to this Compact, upon the
26 establishment of their authority and the identity of the delinquent juvenile being returned,
27 shall be permitted to transport the delinquent juvenile through any and all states party to
28 this Compact, without interference. Upon return to the state from which the juvenile
29 escaped or absconded, the delinquent juvenile shall be subject to any further proceedings
30 appropriate under the laws of that state.

31 (b) The state to which a delinquent juvenile is returned under this Article shall be
32 responsible for the payment of transportation costs of the return.

33 **"§ 7B-2806. Voluntary return procedure.**

34 Any delinquent juvenile who has absconded while on probation or parole, or escaped
35 from an institution or agency vested with legal custody or supervision in any state party
36 to this Compact, and any juvenile who has run away from any state party to this
37 Compact, who is taken into custody without a requisition in another state party to this
38 Compact under the provisions of G.S. 7B-2804(a) or G.S. 7B-2805(a), may consent
39 to the immediate return of the juvenile to the state from which the juvenile absconded,
40 escaped, or ran away. Consent shall be given by the juvenile or delinquent juvenile and
41 the juvenile's counsel or guardian ad litem, if any, by executing or subscribing a writing
42 in the presence of a judge of the appropriate court, which states that the juvenile or
43 delinquent juvenile and the juvenile's counsel or guardian ad litem, if any, consent to

1 return of the juvenile to the demanding state. Before consent is executed or subscribed,
2 however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform
3 the juvenile or delinquent juvenile of the juvenile's rights under this Compact. When the
4 consent has been duly executed, it shall be forwarded to and filed with the Compact
5 Administrator of the state in which the court is located, and the judge shall direct the
6 officer having the juvenile or delinquent juvenile in custody to deliver the juvenile to the
7 duly accredited officer or officers of the state demanding return of the juvenile and shall
8 cause to be delivered to the officer or officers a copy of the consent. The court may,
9 however, upon the request of the state to which the juvenile or delinquent juvenile is
10 being returned, order the juvenile to return unaccompanied to the state and shall provide
11 the juvenile with a copy of the court order; in that event a copy of the consent shall be
12 forwarded to the Compact Administrator of the state to which the juvenile or delinquent
13 juvenile is ordered to return.

14 **"§ 7B-2807. Cooperative supervision of probationers and parolees.**

15 (a) That the duly constituted judicial and administrative authorities of a state party
16 to this Compact (herein called 'sending state') may permit any delinquent juvenile within
17 such state, placed on probation or parole, to reside in any other state party to this
18 Compact (herein called 'receiving state') while on probation or parole, and the receiving
19 state shall accept the delinquent juvenile, if the parent, guardian, or person entitled to the
20 legal custody of the delinquent juvenile is residing or undertakes to reside within the
21 receiving state. Before granting permission, opportunity shall be given to the receiving
22 state to make investigations as it deems necessary. The authorities of the sending state
23 shall send to the authorities of the receiving state copies of pertinent court orders, social
24 case studies, and all other available information which may be of value to and assist the
25 receiving state in supervising a probationer or parolee under this Compact. A receiving
26 state, in its discretion, may agree to accept supervision of a probationer or parolee in
27 cases where the parent, guardian, or person entitled to the legal custody of the delinquent
28 juvenile is not a resident of the receiving state, and if so accepted, the sending state may
29 transfer the supervision accordingly.

30 (b) That each receiving state will assume the duties of visitation and of supervision
31 over any delinquent juvenile and in the exercise of those duties will be governed by the
32 same standards of visitation and supervision that prevail for its own delinquent juveniles
33 released on probation or parole.

34 (c) That, after consultation between the appropriate authorities of the sending state
35 and of the receiving state as to the desirability and necessity of returning the delinquent
36 juvenile, the duly accredited officers of a sending state may enter a receiving state and
37 there apprehend and retake any delinquent juvenile on probation or parole. For that
38 purpose, no formalities will be required other than establishing the authority of the officer
39 and the identity of the delinquent juvenile to be retaken and returned. The decision of the
40 sending state to retake a delinquent juvenile on probation or parole shall be conclusive
41 upon and not reviewable within the receiving state, but if, at the time the sending state
42 seeks to retake a delinquent juvenile on probation or parole, there is pending against the
43 juvenile within the receiving state any criminal charge or any proceeding to have the

1 juvenile adjudicated a delinquent juvenile for any act committed in the state or if the
2 juvenile is suspected of having committed within the state a criminal offense or an act of
3 juvenile delinquency, the juvenile shall not be returned without the consent of the
4 receiving state until discharged from prosecution or other form of proceeding,
5 imprisonment, detention, or supervision for the offense or juvenile delinquency. The duly
6 accredited officers of the sending state shall be permitted to transport delinquent juveniles
7 being so returned through any and all states party to this Compact without interference.

8 (d) The sending state shall be responsible under this Article for paying the costs of
9 transporting any delinquent juvenile to the receiving state or of returning any delinquent
10 juvenile to the sending state.

11 **"§ 7B-2808. Responsibility for costs.**

12 (a) The provisions of G.S. 7B-2804(b), 7B-2805(b), and 7B-2807(d) shall not be
13 construed to alter or affect any internal relationship among the departments, agencies, and
14 officers of and in the government of a party state, or between a party state and its
15 subdivisions, as to the payment of costs or responsibilities therefor.

16 (b) Nothing in this Compact shall be construed to prevent any party state or
17 subdivision thereof from asserting any right against any person, agency, or other entity in
18 regard to costs for which such party state or subdivision thereof may be responsible
19 pursuant to G.S. 7B-2804(b), 7B-2805(b), and 7B-2807(d).

20 **"§ 7B-2809. Detention practices.**

21 To every extent possible, it shall be the policy of states party to this Compact that no
22 juvenile or delinquent juvenile shall be placed or detained in any prison, jail, or lockup,
23 nor be detained or transported in association with criminal, vicious, or dissolute persons.

24 **"§ 7B-2810. Supplementary agreements.**

25 The duly constituted administrative authorities of a state party to this Compact may
26 enter into supplementary agreements with any other state or states party hereto for the
27 cooperative care, treatment, and rehabilitation of delinquent juveniles whenever they find
28 that the agreements will improve the facilities or programs available for care, treatment,
29 and rehabilitation. Care, treatment, and rehabilitation may be provided in an institution
30 located within any state entering into a supplementary agreement. Supplementary
31 agreements shall:

- 32 (1) Provide the rates to be paid for the care, treatment, and custody of
33 delinquent juveniles taking into consideration the character of facilities,
34 services, and subsistence furnished;
- 35 (2) Provide that the delinquent juvenile shall be given a court hearing prior
36 to the juvenile being sent to another state for care, treatment, and
37 custody;
- 38 (3) Provide that the state receiving a delinquent juvenile in one of its
39 institutions shall act solely as agent for the state sending the delinquent
40 juvenile;
- 41 (4) Provide that the sending state shall at all times retain jurisdiction over
42 delinquent juveniles sent to an institution in another state;

- 1 (5) Provide for reasonable inspection of the institutions by the sending
2 state;
- 3 (6) Provide that the consent of the parent, guardian, person, or agency
4 entitled to the legal custody of the delinquent juvenile shall be secured
5 prior to the juvenile being sent to another state; and
- 6 (7) Make provisions for any other matters and details as shall be necessary
7 to protect the rights and equities of delinquent juveniles and of the
8 cooperating states.

9 **"§ 7B-2811. Acceptance of federal and other aid.**

10 Any state party to this Compact may accept any and all donations, gifts, and grants of
11 money, equipment, and services from the federal or any local government, or any agency
12 thereof and from any person, firm, or corporation, for any of the purposes and functions
13 of this Compact, and may receive and utilize, the same subject to the terms, conditions,
14 and regulations governing such donations, gifts, and grants.

15 **"§ 7B-2812. Compact administrators.**

16 The governor of each state party to this Compact shall designate an officer who,
17 acting jointly with like officers of other party states, shall promulgate rules and
18 regulations to carry out more efficiently the terms and provisions of this Compact.

19 **"§ 7B-2813. Execution of Compact.**

20 This Compact shall become operative immediately upon its execution by any state as
21 between it and any other state or states so executing. When executed it shall have the full
22 force and effect of law within the state, the form of execution to be in accordance with
23 the laws of the executing state.

24 **"§ 7B-2814. Renunciation.**

25 This Compact shall continue in force and remain binding upon each executing state
26 until renounced by it. Renunciation of this Compact shall be by the same authority which
27 executed it, by sending six months' notice in writing of its intention to withdraw from the
28 Compact to the other states party hereto. The duties and obligations of a renouncing state
29 under G.S. 7B-2807 hereof shall continue as to parolees and probationers residing therein
30 at the time of withdrawal until retaken or finally discharged. Supplementary agreements
31 entered into under G.S. 7B-2810 hereof shall be subject to renunciation as provided by
32 supplementary agreements and shall not be subject to the six months' renunciation notice
33 of the present section.

34 **"§ 7B-2815. Severability.**

35 The provisions of this Compact shall be severable and if any phrase, clause, sentence,
36 or provision of this Compact is declared to be contrary to the constitution of any
37 participating state or of the United States or the applicability thereof to any government,
38 agency, person, or circumstances is held invalid, the validity of the remainder of this
39 Compact and the applicability thereof to any government, agency, person, or
40 circumstances shall not be affected thereby. If this Compact shall be held contrary to the
41 constitution of any state participating therein, the Compact shall remain in full force and
42 effect as to the remaining states and in full force and effect as to the state affected as to
43 all severable matters.

1 **"§ 7B-2816. Authority of Governor to designate Compact Administrator.**

2 Pursuant to said Compact, the Governor is hereby authorized and empowered to
3 designate an officer who shall be the Compact Administrator and who, acting jointly with
4 like officers of other party states, shall adopt rules and regulations to carry out more
5 effectively the terms of the Compact. The Compact Administrator shall serve subject to
6 the pleasure of the Governor. The Compact Administrator is hereby authorized,
7 empowered, and directed to cooperate with all departments, agencies, and officers of and
8 in the government of this State and its subdivisions in facilitating the proper
9 administration of the Compact or of any supplementary agreement or agreements entered
10 into by this State hereunder.

11 **"§ 7B-2817. Authority of Compact Administrator to enter into supplementary**
12 **agreements.**

13 The Compact Administrator is hereby authorized and empowered to enter into
14 supplementary agreements with appropriate officials of other states pursuant to the
15 Compact. In the event that the supplementary agreement shall require or contemplate the
16 use of any institution or facility of this State or require or contemplate the provision of
17 any service by this State, the supplementary agreement shall have no force or effect until
18 approved by the head of the department or agency under whose jurisdiction said
19 institution or facility is operated or whose department or agency will be charged with the
20 rendering of the service.

21 **"§ 7B-2818. Discharging financial obligations imposed by Compact or agreement.**

22 The Compact Administrator, subject to the approval of the Director of the Budget,
23 may make or arrange for any payments necessary to discharge any financial obligations
24 imposed upon this State by the Compact or by any supplementary agreement entered into
25 thereunder.

26 **"§ 7B-2819. Enforcement of Compact.**

27 The courts, departments, agencies, and officers of this State and subdivisions shall
28 enforce this Compact and shall do all things appropriate to the effectuation of its purposes
29 and intent which may be within their respective jurisdictions.

30 **"§ 7B-2820. Additional procedure for returning runaways not precluded.**

31 In addition to any procedure provided in G.S. 7B-2804 and G.S. 7B-2806 of the
32 Compact for the return of any runaway juvenile, the particular states, the juvenile or the
33 juvenile's parents, the courts, or other legal custodian involved may agree upon and adopt
34 any other plan or procedure legally authorized under the laws of this State and the other
35 respective party states for the return of any runaway juvenile.

36 **"§ 7B-2821. Proceedings for return of runaways under G.S. 7B-2804 of Compact;**
37 **'juvenile' construed.**

38 The judge of any court in North Carolina to which an application is made for the
39 return of a runaway under the provisions of G.S. 7B-2804 of the Interstate Compact on
40 Juveniles shall hold a hearing thereon to determine whether for the purposes of the
41 Compact the petitioner is entitled to the legal custody of the juvenile, whether or not it
42 appears that the juvenile has in fact run away without consent, whether or not the juvenile
43 is an emancipated minor and whether or not it is in the best interests of the juvenile to

1 compel the return of the juvenile to the state. The judge of any court in North Carolina,
2 finding that a requisition for the return of a juvenile under the provisions of G.S. 7B-2804
3 of the Compact is in order, shall upon request fix a reasonable time to be allowed for the
4 purpose of testing the legality of the proceeding. The period of time for holding a juvenile
5 in custody under the provisions of G.S. 7B-2804 of the Compact for the protection and
6 welfare of the juvenile, subject to the order of a court of this State, to enable the juvenile's
7 return to another state party to the Compact pursuant to a requisition for return from a
8 court of that state, shall not exceed 30 days. In applying the provisions of G.S. 7B-2804
9 of the Compact to secure the return of a runaway from North Carolina, the courts of this
10 State shall construe the word 'juvenile' as used in this Article to mean any person who has
11 not reached the person's eighteenth birthday.

12 **"§ 7B-2822. Interstate parole and probation hearing procedures for juveniles.**

13 Where supervision of a parolee or probationer is being administered pursuant to the
14 Interstate Compact on Juveniles, the appropriate judicial or administrative authorities in
15 this State shall notify the Compact Administrator of the sending state whenever, in their
16 view, consideration should be given to retaking or reincarceration for a parole or a
17 probation violation. Prior to giving of notification, a hearing shall be held in accordance
18 with this Article within a reasonable time, unless the hearing is waived by the parolee or
19 probationer. The appropriate officer or officers of this State shall, as soon as practicable,
20 following termination of any hearing, report to the sending state, furnish a copy of the
21 hearing record, and make recommendations regarding the disposition to be made of the
22 parolee or probationer by the sending state. Pending any proceeding pursuant to this
23 section, the appropriate officers of this State may take custody of and detain the parolee
24 or probationer involved for a period not to exceed 10 days prior to the hearing and, if it
25 appears to the hearing officer or officers that retaking or reincarceration is likely to
26 follow, for a reasonable period after the hearing or waiver as may be necessary to arrange
27 for retaking or the reincarceration.

28 **"§ 7B-2823. Hearing officers.**

29 Any hearing pursuant to this Article may be before the Administrator of the Interstate
30 Compact on Juveniles, a deputy of the Administrator, or any other person authorized
31 pursuant to the juvenile laws of this State to hear cases of alleged juvenile parole or
32 probation violations, except that no hearing officer shall be the person making the
33 allegation of violation.

34 **"§ 7B-2824. Due process at parole or probation violation hearing.**

35 With respect to any hearing pursuant to this Article, the parolee or probationer:

- 36 (1) Shall have reasonable notice in writing of the nature and content of the
37 allegations to be made, including notice that the purpose of the hearing
38 is to determine whether there is probable cause to believe that the
39 parolee or probationer has committed a violation that may lead to a
40 revocation of parole or probation;
41 (2) Shall be permitted to advise with any persons whose assistance the
42 parolee or probationer reasonably desires, prior to the hearing;

1 (3) Shall have the right to confront and examine any persons who have
2 made allegations against the parolee or probationer, unless the hearing
3 officer determines that confrontation would present a substantial present
4 or subsequent danger of harm to the person or persons; and

5 (4) May admit, deny, or explain the violation alleged and may present
6 proof, including affidavits and other evidence, in support of the
7 parolee's or probationer's contentions.

8 A record of the proceedings shall be made and preserved.

9 **"§ 7B-2825. Effect of parole or probation violation hearing outside State.**

10 In any case of alleged parole or probation violation by a person being supervised in
11 another state pursuant to the Interstate Compact on Juveniles, any appropriate judicial or
12 administrative officer or agency in another state is authorized to hold a hearing on the
13 alleged violation. Upon receipt of the record of a parole or probation violation hearing
14 held in another state pursuant to a statute substantially similar to this Article, such record
15 shall have the same standing and effect as though the proceeding of which it is a record
16 was had before the appropriate officer or officers in this State, and any recommendations
17 contained in or accompanying the record shall be fully considered by the appropriate
18 officer or officers of this State in making disposition of the matter.

19 **"§ 7B-2826. Amendment to Interstate Compact on Juveniles concerning interstate**
20 **rendition of juveniles alleged to be delinquent.**

21 (a) This amendment shall provide additional remedies and shall be binding only as
22 among and between those party states which specifically execute the same.

23 (b) All provisions and procedures of G.S. 7B-2805 and G.S. 7B-2806 of the
24 Interstate Compact on Juveniles shall be construed to apply to any juvenile charged with
25 being a delinquent by reason of a violation of any criminal law. Any juvenile, charged
26 with being a delinquent by reason of violating any criminal law, shall be returned to the
27 requesting state upon a requisition to the state where the juvenile may be found. A
28 petition in the case shall be filed in a court of competent jurisdiction in the requesting
29 state where the violation of criminal law is alleged to have been committed. The petition
30 may be filed regardless of whether the juvenile has left the state before or after the filing
31 of the petition. The requisition described in G.S. 7B-2805 of the Compact shall be
32 forwarded by the judge of the court in which the petition has been filed.

33 **"§ 7B-2827. Out-of-State Confinement Amendment.**

34 (a) The Out-of-State Confinement Amendment to the Interstate Compact on
35 Juveniles is hereby enacted into law and entered into by this State with all other states
36 legally joining therein in the form substantially as follows:

37 (1) Whenever the fully constituted judicial or administrative authorities in a
38 sending state shall determine that confinement of a probationer or
39 reconfinement of a parolee is necessary or desirable, the officials may
40 direct that the confinement or reconfinement be in an appropriate
41 institution for delinquent juveniles within the territory of the receiving
42 state, the receiving state to act in that regard solely as agent for the
43 sending state.

- 1 (2) Escapes and absconders who would otherwise be returned pursuant to
2 G.S. 7B-2805 of the Compact may be confined or reconfined in the
3 receiving state pursuant to this amendment. In any case in which the
4 information and allegations are required to be made and furnished in a
5 requisition pursuant to G.S. 7B-2805, the sending state shall request
6 confinement or reconfinement in the receiving state. Whenever
7 applicable, detention orders, as provided in G.S. 7B-2805, may be
8 employed pursuant to this paragraph preliminary to disposition of the
9 escapee or absconder.
- 10 (3) The confinement or reconfinement of a parolee, probationer, escapee, or
11 absconder pursuant to this amendment shall require the concurrence of
12 the appropriate judicial or administrative authorities of the receiving
13 state.
- 14 (4) As used in this amendment: (i) 'sending state' means a sending state as
15 that term is used in G.S. 7B-2807 of the Compact or the state from
16 which a delinquent juvenile has escaped or absconded within the
17 meaning of G.S. 7B-2805 of the Compact; (ii) 'receiving state' means
18 any state, other than the sending state, in which a parolee, probationer,
19 escapee, or absconder may be found, provided that the state is a party to
20 this amendment.
- 21 (5) Every state which adopts this amendment shall designate at least one of
22 its institutions for delinquent juveniles as a 'Compact Institution' and
23 shall confine persons therein as provided in subdivision (1) of this
24 subsection unless the sending and receiving state in question shall make
25 specific contractual arrangements to the contrary. All states party to this
26 amendment shall have access to 'Compact Institutions' at all reasonable
27 hours for the purpose of inspecting the facilities thereof and for the
28 purpose of visiting such of the State's delinquents as may be confined in
29 the institution.
- 30 (6) Persons confined in 'Compact Institutions' pursuant to the terms of this
31 Compact shall at all times be subject to the jurisdiction of the sending
32 state and may at any time be removed from the 'Compact Institution' for
33 transfer to an appropriate institution within the sending state, for return
34 to probation or parole, for discharge, or for any purpose permitted by
35 the laws of the sending state.
- 36 (7) All persons who may be confined in a 'Compact Institution' pursuant to
37 the provisions of this amendment shall be treated in a reasonable and
38 humane manner. The fact of confinement or reconfinement in a
39 receiving state shall not deprive any person so confined or reconfined of
40 any rights which the person would have had if confined or reconfined in
41 an appropriate institution of the sending state. No agreement to submit
42 to confinement or reconfinement pursuant to the terms of this
43 amendment may be construed as a waiver of any rights which the

1 delinquent would have had if the person had been confined or
2 reconfined in any appropriate institution of the sending state, except that
3 the hearing or hearings, if any, to which a parolee, probationer, escapee,
4 or absconder may be entitled (prior to confinement or reconfinement) by
5 the laws of the sending state may be had before the appropriate judicial
6 or administrative officers of the receiving state. In this event, said
7 judicial and administrative officers shall act as agents of the sending
8 state after consultation with appropriate officers of the sending state.

9 (8) Any receiving state incurring costs or other expenses under this
10 amendment shall be reimbursed in the amount of the costs or other
11 expenses by the sending state unless the states concerned shall
12 specifically otherwise agree. Any two or more states party to this
13 amendment may enter into supplementary agreements determining a
14 different allocation of costs as among themselves.

15 (9) This amendment shall take initial effect when entered into by any two or
16 more states party to the Compact and shall be effective as to those states
17 which have specifically enacted this amendment. Rules and regulations
18 necessary to effectuate the terms of this amendment may be adopted by
19 the appropriate officers of those states which have enacted this
20 amendment.

21 (b) In addition to any institution in which the authorities of this State may
22 otherwise confine or order the confinement of a delinquent juvenile, the authorities may,
23 pursuant to the Out-of-State Confinement Amendment to the Interstate Compact on
24 Juveniles, confine or order the confinement of a delinquent juvenile in a Compact
25 Institution within another party state.

26 "ARTICLE 30.

27 "JUVENILE RECORDS AND SOCIAL REPORTS OF 28 DELINQUENCY AND UNDISCIPLINED CASES.

29 "§ 7B-3000. Juvenile court records.

30 (a) The clerk shall maintain a complete record of all juvenile cases filed in the
31 clerk's office to be known as the juvenile record. The record shall include the summons
32 and petition, any secure or nonsecure custody order, any electronic or mechanical
33 recording of hearings, and any written motions, orders, or papers filed in the proceeding.

34 (b) All juvenile records shall be withheld from public inspection and, except as
35 provided in this subsection, may be examined only by order of the court. Except as
36 provided in subsection (c) of this section, the following persons may examine the
37 juvenile's record and obtain copies of written parts of the record without an order of the
38 court:

39 (1) The juvenile and the juvenile's attorney;

40 (2) The juvenile's parent, guardian, or custodian, or authorized
41 representative;

42 (3) The prosecutor; and

43 (4) Court counselors.

1 Except as provided in subsection (c) of this section, law enforcement officers sworn in
2 this State may examine, but not photocopy, the juvenile's record without an order of the
3 court.

4 (c) The court may direct the clerk to 'seal' any portion of a juvenile's record. The
5 clerk shall secure any sealed portion of a juvenile record in an envelope clearly marked
6 'SEALED: MAY BE EXAMINED ONLY BY ORDER OF THE COURT', or with
7 similar notice, and shall permit examination or copying of sealed portions of a juvenile's
8 record only pursuant to a court order specifically authorizing inspection or copying.

9 (d) Any portion of a juvenile's record consisting of an electronic or mechanical
10 recording of a hearing shall be transcribed only when notice of appeal has been timely
11 given and shall be copied electronically or mechanically, only by order of the court.
12 After the time for appeal has expired with no appeal having been filed, the court may
13 enter a written order directing the clerk to destroy the recording of the hearing.

14 (e) The juvenile's record of an adjudication of delinquency for an offense that
15 would be a felony if committed by an adult may be used by law enforcement, the
16 magistrate, and the prosecutor for pretrial release and plea negotiating decisions.

17 (f) The juvenile's record of an adjudication of delinquency for an offense that
18 would be a Class A, B1, B2, C, D, or E felony if committed by an adult may be used in a
19 subsequent criminal proceeding against the juvenile either under G.S. 8C-1, Rule 404(b),
20 or to prove an aggravating factor at sentencing under G.S. 15A-1340.4(a), G.S. 15A-
21 1340.16(d), or G.S. 15A-2000(e). The record may be so used only by order of the court in
22 the subsequent criminal proceeding, upon motion of the prosecutor, after an in camera
23 hearing to determine whether the record in question is admissible.

24 (g) Except as provided in subsection (d) of this section, a juvenile's record shall be
25 destroyed only as authorized by G.S. 7B-3200 or by rules adopted by the Administrative
26 Office of the Courts.

27 **§ 7B-3001. Other records relating to juveniles.**

28 (a) The chief court counselor shall maintain a record of all cases of juveniles under
29 supervision of court counselors, to be known as the court counselor's record. The court
30 counselor's record shall include family background information; reports of social,
31 medical, psychiatric, or psychological information concerning a juvenile or the juvenile's
32 family; probation reports; interviews with the juvenile's family; or other information the
33 court finds should be protected from public inspection in the best interests of the juvenile.

34 (b) Unless jurisdiction of the juvenile has been transferred to superior court, all
35 law enforcement records and files concerning a juvenile shall be kept separate from the
36 records and files of adults and shall be withheld from public inspection. The following
37 persons may examine and obtain copies of law enforcement records and files concerning
38 a juvenile without an order of the court:

- 39 (1) The juvenile and the juvenile's attorney;
- 40 (2) The juvenile's parent, guardian, custodian, or authorized representative;
- 41 (3) The district attorney or prosecutor;
- 42 (4) Court counselors; and
- 43 (5) Law enforcement officers sworn in this State.

1 Otherwise, the records and files may be examined or copied only by order of the court.

2 (c) All records and files maintained by the Division of Youth Services pursuant to
3 this Chapter shall be withheld from public inspection. The following persons may
4 examine and obtain copies of the Division records and files concerning a juvenile without
5 an order of the court:

6 (1) The juvenile and the juvenile's attorney;

7 (2) The juvenile's parent, guardian, custodian, or authorized representative;

8 (3) Professionals in the agency who are directly involved in the juvenile's
9 case; and

10 (4) Court counselors.

11 Otherwise, the records and files may be examined or copied only by order of the court.
12 The court may inspect and order the release of records maintained by the Division of
13 Youth Services.

14 "ARTICLE 31.

15 **"DISCLOSURE OF JUVENILE INFORMATION.**

16 **"§ 7B-3100. Disclosure of information about juveniles.**

17 The chief district court judge in each district shall designate by standing order certain
18 agencies in the district as 'agencies authorized to share information'. Agencies so
19 designated shall share with one another, upon request, information that is in their
20 possession that is relevant to any case in which a petition is filed alleging that a juvenile
21 is abused, neglected, dependent, undisciplined, or delinquent and shall continue to do so
22 until the juvenile is no longer subject to the jurisdiction of juvenile court. Agencies that
23 may be designated as 'agencies authorized to share information' include local mental
24 health facilities, local health departments, local departments of social services, local law
25 enforcement agencies, local school administrative units, the district's district attorney's
26 office, the Division of Juvenile Services and the Office of Guardian ad Litem Services of
27 the Administrative Office of the Courts. Any information shared among agencies
28 pursuant to this section shall remain confidential, shall be withheld from public
29 inspection, and shall be used only for the protection of the juvenile. Nothing in this
30 section or any other provision of law shall preclude any other necessary sharing of
31 information among agencies. Nothing herein shall be deemed to require the disclosure or
32 release of any information in the possession of a district attorney.

33 **"§ 7B-3101. Notification of schools when juveniles are alleged or found to be**
34 **delinquent.**

35 (a) Notwithstanding G.S. 7B-3000, the juvenile court counselor shall deliver
36 verbal and written notification of the following actions to the principal of the school that
37 the juvenile attends:

38 (1) A petition is filed under G.S. 7B-1802 that alleges delinquency for an
39 offense that would be a felony if committed by an adult;

40 (2) The court transfers jurisdiction over a juvenile to superior court under
41 G.S. 7B-2200;

- 1 (3) The court dismisses under G.S. 7B-2411 the petition that alleges
2 delinquency for an offense that would be a felony if committed by an
3 adult;
- 4 (4) The court issues a dispositional order under Article 25 of Chapter 7B of
5 the General Statutes including, but not limited to, an order of probation
6 that requires school attendance, concerning a juvenile alleged or found
7 delinquent for an offense that would be a felony if committed by an
8 adult; or
- 9 (5) The court modifies or vacates any order or disposition under G.S. 7B-
10 2600 concerning a juvenile alleged or found delinquent for an offense
11 that would be a felony if committed by an adult.

12 Notification of the school principal in person or by telephone shall be made before the
13 beginning of the next school day. Delivery shall be made as soon as practicable but at
14 least within five days of the action. Delivery shall be made in person or by certified mail.
15 Notification that a petition has been filed shall describe the nature of the offense.
16 Notification of a dispositional order, a modified or vacated order, or a transfer to superior
17 court shall describe the court's action and any applicable disposition requirements. As
18 used in this subsection, the term 'offense' shall not include any offense under Chapter 20
19 of the General Statutes.

20 (b) If the principal of the school the juvenile attends returns any notification as
21 required by G.S. 115C-404, and if the juvenile court counselor learns that the juvenile is
22 transferring to another school, the juvenile court counselor shall deliver the notification to
23 the principal of the school to which the juvenile is transferring. Delivery shall be made as
24 soon as practicable and shall be made in person or by certified mail.

25 (c) Principals shall handle any notification delivered under this section in
26 accordance with G.S. 115C-404.

27 (d) For the purpose of this section, 'school' means any public or private school in
28 the State that is authorized under Chapter 115C of the General Statutes.

"ARTICLE 32.

"EXPUNCTION OF JUVENILE RECORDS.

"§ 7B-3200. Expunction of records of juveniles alleged or adjudicated delinquent 32 and undisciplined.

33 (a) Any person who has attained the age of 18 years may file a petition in the court
34 where the person was adjudicated undisciplined for expunction of all records of that
35 adjudication.

36 (b) Any person who has attained the age of 16 years may file a petition in the court
37 where the person was adjudicated delinquent for expunction of all records of that
38 adjudication provided:

- 39 (1) The offense for which the person was adjudicated would have been a
40 crime other than a Class A, B1, B2, C, D, or E felony if committed by
41 an adult.
- 42 (2) The person has not subsequently been adjudicated delinquent or
43 convicted as an adult of any felony or misdemeanor other than a traffic

1 violation under the laws of the United States or the laws of this State or
2 any other state.

3 Records relating to an adjudication for an offense that would be a Class A, B1, B2, C,
4 D, or E felony if committed by an adult shall not be expunged.

5 (c) The petition shall contain, but not be limited to, the following:

6 (1) An affidavit by the petitioner that the petitioner has been of good
7 behavior since the adjudication and, in the case of a petition based on a
8 delinquency adjudication, that the petitioner has not subsequently been
9 adjudicated delinquent or convicted as an adult of any felony or
10 misdemeanor other than a traffic violation under the laws of the United
11 States, or the laws of this State or any other state;

12 (2) Verified affidavits of two persons, who are not related to the petitioner
13 or to each other by blood or marriage, that they know the character and
14 reputation of the petitioner in the community in which the petitioner
15 lives and that the petitioner's character and reputation are good;

16 (3) A statement that the petition is a motion in the cause in the case wherein
17 the petitioner was adjudicated delinquent or undisciplined.

18 The petition shall be served upon the district attorney in the district wherein
19 adjudication occurred. The district attorney shall have 10 days thereafter in which to file
20 any objection thereto and shall be duly notified as to the date of the hearing on the
21 petition.

22 (d) If the court, after hearing, finds that the petitioner satisfies the conditions set
23 out in subsections (a) or (b) of this section, the petitioner shall order and direct the clerk
24 and all law enforcement agencies to expunge their records of the adjudication including
25 all references to arrests, complaints, referrals, petitions, and orders.

26 (e) The clerk shall forward a certified copy of the order to the sheriff, chief of
27 police, or other law enforcement agency.

28 (f) Records of a juvenile adjudicated delinquent or undisciplined being maintained
29 by the chief court counselor, an intake counselor or a court counselor shall be retained or
30 disposed of as provided by the Juvenile Services Division.

31 (g) Records of a juvenile adjudicated delinquent or undisciplined being maintained
32 by personnel at a residential facility operated by the Division of Youth Services, shall be
33 retained or disposed of as provided by the Department.

34 (h) Any person who was alleged to be delinquent as a juvenile and has attained the
35 age of 16 years, or was alleged to be undisciplined as a juvenile and has attained the age
36 of 18 years, may file a petition in the court in which the person was alleged to be
37 delinquent or undisciplined, for expunction of all juvenile records of the juvenile having
38 been alleged to be delinquent or undisciplined if the court dismissed the juvenile petition
39 without an adjudication that the juvenile was delinquent or undisciplined. The petition
40 shall be served on the chief court counselor in the district where the juvenile petition was
41 filed. The chief court counselor shall have 10 days thereafter in which to file a written
42 objection in the court. If no objection is filed, the court may grant the petition without a
43 hearing. If an objection is filed or the court so directs, a hearing shall be scheduled and

1 the chief court counselor shall be notified as to the date of the hearing. If the court finds
2 at the hearing that the petitioner satisfies the conditions specified herein, the court shall
3 order the clerk and the appropriate law enforcement agencies to expunge their records of
4 the allegations of delinquent or undisciplined acts including all references to arrests,
5 complaints, referrals, juvenile petitions, and orders. The clerk shall forward a certified
6 copy of the order of expunction to the sheriff, chief of police, or other appropriate law
7 enforcement agency, and to the chief court counselor, and these specified officials shall
8 immediately destroy all records relating to the allegations that the juvenile was delinquent
9 or undisciplined.

10 **"§ 7B-3201. Effect of expunction.**

11 (a) Whenever a juvenile's record is expunged, with respect to the matter in which
12 the record was expunged, the juvenile who is the subject of the record and the juvenile's
13 parent may inform any person or organization including employers, banks, credit
14 companies, insurance companies, and schools that the juvenile was not arrested, did not
15 appear before the court, and was not adjudicated delinquent or undisciplined.

16 (b) Notwithstanding subsection (a) of this section, in any delinquency case if the
17 juvenile is the defendant and chooses to testify or if the juvenile is not the defendant and
18 is called as a witness, the juvenile may be ordered to testify with respect to whether the
19 juvenile was adjudicated delinquent.

20 **"§ 7B-3202. Notice of expunction.**

21 Upon expunction of a juvenile's record, the clerk shall send a written notice to the
22 juvenile at the juvenile's last known address informing the juvenile that the record has
23 been expunged and with respect to the matter involved, the juvenile may inform any
24 person that the juvenile has no record. The notice shall inform the juvenile further that if
25 the matter involved is a delinquency record, the juvenile may inform any person that the
26 juvenile was not arrested or adjudicated delinquent except that upon testifying in a
27 delinquency proceeding, the juvenile may be required by a court to disclose that the
28 juvenile was adjudicated delinquent.

29 **"ARTICLE 33.**

30 **"COMPUTATION OF RECIDIVISM RATES.**

31 **"§ 7B-3300. Juvenile recidivism rates.**

32 (a) On an annual basis, the Administrative Office of the Courts shall compute the
33 recidivism rate of juveniles who are adjudicated delinquent for offenses that would be
34 Class A, B1, B2, C, D, or E felonies if committed by adults and who subsequently are
35 adjudicated delinquent or convicted and shall report the statistics to the Joint Legislative
36 Commission on Governmental Operations by December 31 each year.

37 (b) The chief court counselor of each judicial district shall forward to the
38 Administrative Office of the Courts relevant information, as determined by the
39 Administrative Office of the Courts, regarding every juvenile who is adjudicated
40 delinquent for an offense that would be a Class A, B1, B2, C, D, or E felony if committed
41 by an adult for the purpose of computing the statistics required by this section.

42 Articles 34 and 35 reserved for future codification purposes.

43 **"ARTICLE 36.**

**"JUDICIAL CONSENT FOR EMERGENCY SURGICAL OR MEDICAL
TREATMENT.**

"§ 7B-3600. Judicial authorization of emergency treatment; procedure.

A juvenile in need of emergency treatment under Article 1A of Chapter 90 of the General Statutes, whose physician is barred from rendering necessary treatment by reason of parental refusal to consent to treatment, may receive treatment with court authorization under the following procedure:

- (1) The physician shall sign a written statement setting out:

 - a. The treatment to be rendered and the emergency need for treatment;
 - b. The refusal of the parent, guardian, or person standing in loco parentis to consent to the treatment; and
 - c. The impossibility of contacting a second physician for a concurring opinion on the need for treatment in time to prevent immediate harm to the juvenile.
- (2) Upon examining the physician's written statement prescribed in subdivision (1) of this section and finding:

 - a. That the statement is in accordance with this Article, and
 - b. That the proposed treatment is necessary to prevent immediate harm to the juvenile.

The court may issue a written authorization for the proposed treatment to be rendered.
- (3) In acute emergencies in which time may not permit implementation of the written procedure set out in subdivisions (1) and (2) of this section, the court may authorize treatment in person or by telephone upon receiving the oral statement of a physician satisfying the requirements of subdivision (1) of this section and upon finding that the proposed treatment is necessary to prevent immediate harm to the juvenile.
- (4) The court's authorization for treatment overriding parental refusal to consent should not be given without attempting to offer the parent an opportunity to state the reasons for refusal; however, failure of the court to hear the parent's objections shall not invalidate judicial authorization under this Article.
- (5) The court's authorization for treatment under subdivisions (1) and (2) of this section shall be issued in duplicate. One copy shall be given to the treating physician and the other copy shall be attached to the physician's written statement and filed as a juvenile proceeding in the office of the clerk of court.
- (6) The court's authorization for treatment under subdivision (3) of this section shall be reduced to writing as soon as possible, supported by the physician's written statement as prescribed in subdivision (1) of this section and shall be filed as prescribed in subdivision (5) of this section.

1 The court's authorization for treatment under this Article shall have the same effect as
2 parental consent for treatment.

3 Following the court's authorization for treatment and after giving notice to the
4 juvenile's parent, the court shall conduct a hearing in order to provide for payment for the
5 treatment rendered. The court may order the parent or other responsible parties to pay the
6 cost of treatment. If the court finds the parent is unable to pay the cost of treatment, the
7 cost shall be a charge upon the county when so ordered.

8 This Article shall operate as a remedy in addition to the provisions in G.S. 7B-903,
9 7B-2501, and 7B-2504.

10 **"ARTICLE 37.**

11 **"PLACING OR ADOPTION OF JUVENILE DELINQUENTS OR**
12 **DEPENDENTS.**

13 **"§ 7B-3700. Consent required for bringing child into State for placement or**
14 **adoption.**

15 (a) No person, agency, association, institution, or corporation shall bring or send
16 into the State any child for the purpose of giving custody of the child to some person in
17 the State or procuring adoption by some person in the State without first obtaining the
18 written consent of the Department of Health and Human Services.

19 (b) The person with whom a child is placed for either of the purposes set out in
20 subsection (a) of this section shall be responsible for the child's proper care and training.
21 The Department of Health and Human Services or its agents shall have the same right of
22 visitation and supervision of the child and the home in which it is placed as in the case of
23 a child placed by the Department or its agents as long as the child shall remain within the
24 State and until the child shall have reached the age of 18 years or shall have been legally
25 adopted.

26 **"§ 7B-3701. Bond required.**

27 The Social Services Commission may, in its discretion, require of a person, agency,
28 association, institution, or corporation which brings or sends a child into the State with
29 the written consent of the Department of Health and Human Services, as provided by
30 G.S. 7B-3700, a continuing bond in a penal sum not in excess of one thousand dollars
31 (\$1,000) with such conditions as may be prescribed and such sureties as may be approved
32 by the Department of Health and Human Services. Said bond shall be made in favor of
33 and filed with the Department of Health and Human Services with the premium prepaid
34 by the said person, agency, association, institution or corporation desiring to place such
35 child in the State.

36 **"§ 7B-3702. Consent required for removing child from State.**

37 No child shall be taken or sent out of the State for the purpose of placing the child in a
38 foster home or in a child-caring institution without first obtaining the written consent of
39 the Department of Health and Human Services. The foster home or child-caring
40 institution in which the child is placed shall report to the Department of Health and
41 Human Services at such times as the Department of Health and Human Services may
42 direct as to the location and well-being of such child until the child shall have reached the
43 age of 18 years or shall have been legally adopted.

"§ 7B-3703. Violation of Article a misdemeanor.

Every person acting for himself or for an agency who violates any of the provisions of this Article or who shall intentionally make any false statements to the Social Services Commission or the Secretary or an employee thereof acting for the Department of Health and Human Services in an official capacity in the placing or adoption of juvenile delinquents or dependents shall, upon conviction thereof, be guilty of a Class 2 misdemeanor.

"§ 7B-3704. Definitions.

The term 'Department' wherever used in this Article shall be construed to mean the Department of Health and Human Services.

"§ 7B-3705. Application of Article.

None of the provisions of this Article shall apply when a child is brought into or sent into, or taken out of, or sent out of the State, by the guardian of the person of such child, or by a parent, stepparent, grandparent, uncle or aunt of such child, or by a brother, sister, half brother, or half sister of such child, if such brother, sister, half brother, or half sister is 18 years of age or older.

"SUBCHAPTER III. EMANCIPATION.**"ARTICLE 38.****"EMANCIPATION.****"§ 7B-3800. Definition; who may petition.**

For purposes of this Article, the term 'child', defined pursuant to Subchapter I, G.S. 7B-101, includes the meaning of the term 'juvenile', defined pursuant to Subchapter II, G.S. 7B-1501. The definitions of Subchapter I, G.S. 7B-101, and of Subchapter II, G.S. 7B-1501 apply to this Article.

Any child who is 16 years of age or older and who has resided in the same county in North Carolina or on federal territory within the boundaries of North Carolina for six months next preceding the filing of the petition may petition the court in that county for a judicial decree of emancipation.

"§ 7B-3801. Petition.

The petition shall be signed and verified by the petitioner and shall contain the following information:

- (1) The full name of the petitioner, the petitioner's birth date, and state and county of birth;
- (2) A certified copy of the petitioner's birth certificate;
- (3) The name and last known address of the parent, guardian, or custodian;
- (4) The petitioner's address and length of residence at that address;
- (5) The petitioner's reasons for requesting emancipation; and
- (6) The petitioner's plan for meeting the petitioner's own needs and living expenses, which plan may include a statement of employment and wages earned that is verified by the petitioner's employer.

"§ 7B-3802. Summons.

A copy of the filed petition along with a summons shall be served upon the petitioner's parent, guardian, or custodian who shall be named as respondents. The

1 summons shall include the time and place of the hearing and shall notify the respondents
2 to file written answer within 30 days after service of the summons and petition. In the
3 event that personal service cannot be obtained, service shall be in accordance with G.S.
4 1A-1, Rule 4(j).

5 **"§ 7B-3803. Hearing.**

6 The judge, sitting without a jury, shall permit all parties to present evidence and to
7 cross-examine witnesses. The petitioner shall have the burden of showing by a
8 preponderance of the evidence that emancipation is in the petitioner's best interest. Upon
9 finding that reasonable cause exists, the judge may order the child to be examined by a
10 psychiatrist, a licensed clinical psychologist, a physician, or any other expert to evaluate
11 the child's mental or physical condition. The judge may continue the hearing and order
12 investigation by a court counselor or by the county Department of Social Services to
13 substantiate allegations of the petitioner or respondents.

14 No husband-wife or physician-patient privilege shall be grounds for excluding any
15 evidence in the hearing.

16 **"§ 7B-3804. Considerations for emancipation.**

17 In determining the best interest of the petitioner and the need for emancipation, the
18 judge shall review the following considerations:

- 19 (1) The parental need for the earnings of the petitioner;
- 20 (2) The petitioner's ability to function as an adult;
- 21 (3) The petitioner's need to contract as an adult or to marry;
- 22 (4) The employment status of the petitioner and the stability of the
23 petitioner's living arrangements;
- 24 (5) The extent of family discord which may threaten reconciliation of the
25 petitioner with the petitioner's family;
- 26 (6) The petitioner's rejection of parental supervision or support; and
- 27 (7) The quality of parental supervision or support.

28 **"§ 7B-3805. Final decree of emancipation.**

29 After reviewing the considerations for emancipation, the judge may enter a decree of
30 emancipation if the judge determines:

- 31 (1) That all parties are properly before the court or were duly served and
32 failed to appear and that time for filing an answer has expired; and
- 33 (2) That the petitioner has shown a proper and lawful plan for adequately
34 providing for the petitioner's own needs and living expenses; and
- 35 (3) That the petitioner is knowingly seeking emancipation and fully
36 understands the ramifications of this act; and
- 37 (4) That emancipation is in the best interest of the petitioner.

38 The decree shall set out the court's findings.

39 If the judge determines that the criteria in subdivisions (1) through (4) are not met, the
40 judge shall order the proceeding dismissed.

41 **"§ 7B-3806. Costs of court.**

42 The judge may tax the costs of the proceeding to any party or may, for good cause,
43 order the costs remitted.

1 The clerk of superior court may collect costs for furnishing to the petitioner a
2 certificate of emancipation which shall recite the name of the petitioner and the fact of
3 the petitioner's emancipation by court decree and shall have the seal of the clerk of
4 superior court affixed thereon.

5 **"§ 7B-3807. Legal effect of final decree.**

6 As of entry of the final decree of emancipation:

7 (1) The petitioner has the same right to make contracts and conveyances, to
8 sue and to be sued, and to transact business as if the petitioner were an
9 adult.

10 (2) The parent or guardian is relieved of all legal duties and obligations
11 owed to the petitioner and is divested of all rights with respect to the
12 petitioner.

13 (3) The decree is irrevocable.

14 Notwithstanding any other provision of this section, a decree of emancipation shall not
15 alter the application of G.S. 14-322.2, 14- 326.1, or the petitioner's right to inherit
16 property by intestate succession.

17 **"§ 7B-3808. Appeals.**

18 Any petitioner, parent, or guardian who is a party to a proceeding under this Article
19 may appeal from any order of disposition to the Court of Appeals provided that notice of
20 appeal is given in open court at the time of the hearing or in writing within 10 days after
21 the hearing. Pending disposition of an appeal, the judge may enter a temporary order
22 affecting the custody or placement of the petitioner as the judge finds to be in the best
23 interest of the petitioner or the State.

24 **"§ 7B-3809. Application of common law.**

25 A married child is emancipated by this Article. All other common law provisions for
26 emancipation are superseded by this Article."

27
28 **PART IV. CONFORMING CHANGES.**

29
30 Section 6. (a) G.S. 8-53.1 reads as rewritten:

31 **"§ 8-53.1. Physician-patient privilege waived in child abuse.**

32 Notwithstanding the provisions of G.S. 8-53, the physician- patient privilege shall not
33 be ground for excluding evidence regarding the abuse or neglect of a child under the age
34 of 16 years or regarding an illness of or injuries to such child or the cause thereof in any
35 judicial proceeding related to a report pursuant to the North Carolina Juvenile Code,
36 ~~Subchapter XI of Chapter 7A-7B~~ of the General Statutes of North Carolina."

37 (b) G.S. 8-53.3 reads as rewritten:

38 **"§ 8-53.3. Communications between psychologist and client or patient.**

39 No person, duly authorized as a licensed psychologist or licensed psychological
40 associate, nor any of his or her employees or associates, shall be required to disclose any
41 information which he or she may have acquired in the practice of psychology and which
42 information was necessary to enable him or her to practice psychology. Any resident or
43 presiding judge in the district in which the action is pending may, subject to G.S. 8-53.6,

1 compel disclosure, either at the trial or prior thereto, if in his or her opinion disclosure is
2 necessary to a proper administration of justice. If the case is in district court the judge
3 shall be a district court judge, and if the case is in superior court the judge shall be a
4 superior court judge.

5 Notwithstanding the provisions of this section, the psychologist-client or patient
6 privilege shall not be grounds for failure to report suspected child abuse or neglect to the
7 appropriate county department of social services, or for failure to report a disabled adult
8 suspected to be in need of protective services to the appropriate county department of
9 social services. Notwithstanding the provisions of this section, the psychologist-client or
10 patient privilege shall not be grounds for excluding evidence regarding the abuse or
11 neglect of a child, or an illness of or injuries to a child, or the cause thereof, or for
12 excluding evidence regarding the abuse, neglect, or exploitation of a disabled adult, or an
13 illness of or injuries to a disabled adult, or the cause thereof, in any judicial proceeding
14 related to a report pursuant to the Child Abuse Reporting Law, ~~Article 44 of Chapter 7A,~~
15 Article 3 of Chapter 7B of the General Statutes, or to the Protection of the Abused,
16 Neglected, or Exploited Disabled Adult Act, Article 6 of Chapter 108A of the General
17 Statutes."

18 (c) G.S. 8-57.1 reads as rewritten:

19 **"§ 8-57.1. Husband-wife privilege waived in child abuse.**

20 Notwithstanding the provisions of G.S. 8-56 and G.S. 8-57, the husband-wife
21 privilege shall not be ground for excluding evidence regarding the abuse or neglect of a
22 child under the age of 16 years or regarding an illness of or injuries to such child or the
23 cause thereof in any judicial proceeding related to a report pursuant to the Child Abuse
24 Reporting Law, ~~Article 8 of Chapter 110~~ Article 3 of Chapter 7B of the General Statutes
25 of North Carolina."

26 (d) G.S. 14-208.6B reads as rewritten:

27 **"§ 14-208.6B. Registration requirements for juveniles transferred to and convicted
28 in superior court.**

29 A juvenile transferred to superior court pursuant to ~~G.S. 7A-608~~ G.S. 7B-2200 who is
30 convicted of a sexually violent offense or an offense against a minor as defined in G.S.
31 14-208.6 shall register in accordance with this Article just as an adult convicted of the
32 same offense must register."

33 (e) G.S. 14-316.1 reads as rewritten:

34 **"§ 14-316.1. Contributing to delinquency and neglect by parents and others.**

35 Any person who is at least 16 years old who knowingly or willfully causes,
36 encourages, or aids any juvenile within the jurisdiction of the court to be in a place or
37 condition, or to commit an act whereby the juvenile could be adjudicated delinquent,
38 undisciplined, abused, or neglected ~~as defined by G.S. 7A-517~~ pursuant to Chapter 7B of
39 the General Statutes shall be guilty of a Class 1 misdemeanor.

40 It is not necessary for the district court exercising juvenile jurisdiction to make an
41 adjudication that any juvenile is delinquent, undisciplined, abused, or neglected in order
42 to prosecute a parent or any person, including an employee of the Department of Health
43 and Human Services under this section. An adjudication that a juvenile is delinquent,

1 undisciplined, abused, or neglected shall not preclude a subsequent prosecution of a
2 parent or any other person including an employee of the Division of Youth Services who
3 contributes to the delinquent, undisciplined, abused, or neglected condition of any
4 juvenile."

5 (f) G.S. 15A-502(c) reads as rewritten:

6 "(c) This section does not authorize the taking of photographs or fingerprints of a
7 juvenile alleged to be delinquent except under ~~G.S. 7A-596 through 7A-601 and 7A-603.~~
8 Article 21 of Chapter 7B of the General Statutes."

9 (g) G.S. 35A-1371 reads as rewritten:

10 **"§ 35A-1371. Jurisdiction; limits.**

11 Notwithstanding the provisions of Subchapter II of this Chapter, the clerk of superior
12 court shall have original jurisdiction for the appointment of a standby guardian for a
13 minor child under this Article. Provided that the clerk shall have no jurisdiction, no
14 standby guardian may be appointed under this Article, and no designation may become
15 effective under this Article when a district court has assumed jurisdiction over the minor
16 child in an action under Chapter 50 of the General Statutes or in an abuse, neglect, or
17 dependency proceeding under ~~Subchapter XI of Chapter 7A~~ Subchapter I of Chapter 7B
18 of the General Statutes, or when a court in another state has assumed such jurisdiction
19 under a comparable statute."

20 (h) G.S. 48-2-102(b) reads as rewritten:

21 "(b) If an adoptee is also the subject of a pending proceeding under ~~Subchapter XI~~
22 ~~of Chapter 7A~~ Chapter 7B of the General Statutes, then the district court having
23 jurisdiction under Chapter ~~7A~~ 7B shall retain jurisdiction until the final order of adoption
24 is entered. The district court may waive jurisdiction for good cause."

25 (i) G.S. 50-13.1(f) reads as rewritten:

26 "(f) Neither the mediator nor any party or other person involved in mediation
27 sessions under this section shall be competent to testify to communications made during
28 or in furtherance of such mediation sessions; provided, there is no privilege as to
29 communications made in furtherance of a crime or fraud. Nothing in this subsection shall
30 be construed as permitting an individual to obtain immunity from prosecution for
31 criminal conduct or as excusing an individual from the reporting requirements of ~~G.S.~~
32 ~~7A-543~~ Article 3 of Chapter 7B of the General Statutes or G.S. 108A-102."

33 (j) G.S. 50A-25 reads as rewritten:

34 **"§ 50A-25. Emergency orders.**

35 Nothing in this Chapter shall be interpreted to limit the authority of the court to issue
36 an interlocutory order under the provisions of G.S. 50-13.5(d)(2); or a secure or
37 nonsecure custody order under the provisions of ~~G.S. 7A-573.~~ G.S. 7B-502."

38 (k) G.S. 50B-6 reads as rewritten:

39 **"§ 50B-6. Construction of Chapter.**

40 This Chapter shall not be construed as granting a status to any person for any purpose
41 other than those expressly stated herein. This Chapter shall not be construed as relieving
42 any person or institution of the duty to report to the department of social services, as

1 required by ~~G.S. 7A-543~~, G.S. 7B-301, if the person or institution has cause to suspect
2 that a juvenile is abused or neglected."

3 (l) G.S. 51-2(a) reads as rewritten:

4 "(a) All unmarried persons of 18 years, or older, may lawfully marry, except as
5 hereinafter forbidden. In addition, persons over 16 years of age and under 18 years of age
6 may marry, and the register of deeds may issue a license for such marriage, only after
7 there shall have been filed with the register of deeds a written consent to such marriage,
8 said consent having been signed by the appropriate person as follows:

9 (1) By the father if the male or female child applying to marry resides with
10 his or her father, but not with his or her mother;

11 (2) By the mother if the male or female child applying to marry resides with
12 his or her mother, but not with his or her father;

13 (3) By either the mother or father, without preference, if the male or female
14 child applying to marry resides with his or her mother and father;

15 (4) By a person, agency, or institution having legal custody, standing in
16 loco parentis, or serving as guardian of such male or female child
17 applying to marry.

18 Such written consent shall not be required for an emancipated minor if a certificate of
19 emancipation issued pursuant to ~~Article 56 of Chapter 7A-13~~ of Chapter 7B of the
20 General Statutes or a certified copy of a final decree or certificate of emancipation from
21 this or any other jurisdiction is filed with the register of deeds."

22 (m) G.S. 90-21.6(1) reads as rewritten:

23 "(1) 'Unemancipated minor' or 'minor' means any person under the age of 18
24 who has not been married or has not been emancipated pursuant to
25 ~~Article 56 of Chapter 7A-13~~ of Chapter 7B of the General Statutes."

26 (n) G.S. 90-21.8(f) reads as rewritten:

27 "(f) The court shall make written findings of fact and conclusions of law supporting
28 its decision and shall order that a confidential record of the evidence be maintained. If the
29 court finds that the minor has been a victim of incest, whether felonious or misdemeanor,
30 it shall advise the Director of the Department of Social Services of its findings for further
31 action pursuant to ~~Article 44 of Chapter 7A-3~~ of Chapter 7B of the General Statutes."

32 (o) G.S. 108A-14(a)(11) reads as rewritten:

33 "(11) To investigate reports of child abuse and neglect and to take appropriate
34 action to protect such children pursuant to the Child Abuse Reporting
35 Law, ~~Article 44 of Chapter 7A;~~ Article 3 of Chapter 7B of the General
36 Statutes;"

37 (p) G.S. 110-102 reads as rewritten:

38 "**§ 110-102. Information for parents.**

39 The Secretary shall provide to each operator of a child care facility a summary of this
40 Article for the parents, guardian, or full-time custodian of each child receiving child care
41 in the facility to be distributed by the operator. The summary shall include the name and
42 address of the Secretary and the address of the Commission. The summary shall also
43 include a statement regarding the mandatory duty prescribed in ~~G.S. 7A-543~~ G.S. 7B-301

1 of any person suspecting child abuse or neglect has taken place in child care, or
2 elsewhere, to report to the county Department of Social Services. The statement shall
3 include the definitions of child abuse and neglect described in the Juvenile Code in ~~G.S.~~
4 ~~7A-517-7B-101~~ and of child abuse described in the Criminal Code in G.S. 14-318.2 and
5 G.S. 14-318.4. The statement shall stress that this reporting law does not require that the
6 person reporting reveal the person's identity."

7 (p) G.S. 110-105.2(a) reads as rewritten:

8 "(a) For purposes of this Article, child abuse and neglect, as defined in ~~G.S. 7A-517~~
9 ~~G.S. 7B-101~~ and in G.S. 14-318.2 and G.S. 14-318.4, occurring in child care facilities,
10 are violations of the licensure standards and of the licensure law."

11 (q) G.S. 110-147 reads as rewritten:

12 **"§ 110-147. Purpose.**

13 It is the expressed intent of this Article to make the prevention of child abuse and
14 neglect as defined in ~~G.S. 7A-517, G.S. 7B-101~~, a priority of this State and to establish
15 the Children's Trust Fund as a means to that end."

16 (r) G.S. 114-15.3 reads as rewritten:

17 **"§ 114-15.3. Investigations of child sexual abuse in child care.**

18 The Director of the Bureau may form a task force to investigate and gather evidence
19 following a notification by the director of a county department of social services,
20 pursuant to ~~G.S. 7A-543, G.S. 7B-301~~, that child sexual abuse may have occurred in a
21 child care facility."

22 (s) G.S. 115C-378 reads as rewritten:

23 **"§ 115C-378. Children required to attend.**

24 Every parent, guardian or other person in this State having charge or control of a child
25 between the ages of seven and 16 years shall cause such child to attend school
26 continuously for a period equal to the time which the public school to which the child is
27 assigned shall be in session. Every parent, guardian, or other person in this State having
28 charge or control of a child under age seven who is enrolled in a public school in grades
29 kindergarten through two shall also cause such child to attend school continuously for a
30 period equal to the time which the public school to which the child is assigned shall be in
31 session unless the child has withdrawn from school. No person shall encourage, entice or
32 counsel any such child to be unlawfully absent from school. The parent, guardian, or
33 custodian of a child shall notify the school of the reason for each known absence of the
34 child, in accordance with local school policy.

35 The principal, superintendent, or teacher who is in charge of such school shall have
36 the right to excuse a child temporarily from attendance on account of sickness or other
37 unavoidable cause which does not constitute unlawful absence as defined by the State
38 Board of Education. The term 'school' as used herein is defined to embrace all public
39 schools and such nonpublic schools as have teachers and curricula that are approved by
40 the State Board of Education.

41 All nonpublic schools receiving and instructing children of a compulsory school age
42 shall be required to keep such records of attendance and render such reports of the
43 attendance of such children and maintain such minimum curriculum standards as are

1 required of public schools; and attendance upon such schools, if the school refuses or
2 neglects to keep such records or to render such reports, shall not be accepted in lieu of
3 attendance upon the public school of the district to which the child shall be assigned:
4 Provided, that instruction in a nonpublic school shall not be regarded as meeting the
5 requirements of the law unless the courses of instruction run concurrently with the term
6 of the public school in the district and extend for at least as long a term.

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

18 After 10 accumulated unexcused absences in a school year the principal shall review
19 any report or investigation prepared under G.S. 115C-381 and shall confer with the
20 student and his parent, guardian, or custodian if possible to determine whether the parent,
21 guardian, or custodian has received notification pursuant to this section and made a good
22 faith effort to comply with the law. If the principal determines that parent, guardian, or
23 custodian has not, he shall notify the district attorney. If he determines that parent,
24 guardian, or custodian has, he may file a complaint with the juvenile intake counselor
25 ~~under G.S. 7A-561 pursuant to Chapter 7B of the General Statutes~~ that the child is
26 habitually absent from school without a valid excuse. Evidence that shows that the
27 parents, guardian, or custodian were notified and that the child has accumulated 10
28 absences which cannot be justified under the established attendance policies of the local
29 board shall establish a **prima facie** case that the child's parent, guardian, or custodian is
30 responsible for the absences."

31 (t) G.S. 115C-400 reads as rewritten:

32 **"§ 115C-400. School personnel to report child abuse.**

33 Any person who has cause to suspect child abuse or neglect has a duty to report the
34 case of the child to the Director of Social Services of the county, as provided in ~~G.S. 7A-~~
35 ~~543 to 7A-552, Article 3 of Chapter 7B of the General Statutes.~~"

36 (u) G.S. 115C-404(a) reads as rewritten:

37 "(a) Written notifications received in accordance with ~~G.S. 7B-675.1 Article 31 of~~
38 ~~Chapter 7B of the General Statutes~~ are confidential records, are not public records as
39 defined under G.S.132-1, and shall not be made part of the student's official record under
40 G.S. 115C-402. Immediately upon receipt, the principal shall maintain these documents
41 in a safe, locked record storage that is separate from the student's other school records.
42 The principal shall maintain these documents until the principal receives notification that
43 the judge dismissed the ~~petition under G.S. 7A-637, petition,~~ the judge transferred

1 jurisdiction over the student to superior court under ~~G.S. 7A-608~~, court, or the judge
2 granted the student's petition for expunction of the ~~records~~ records pursuant to Chapter
3 7B of the General Statutes. At that time, the principal shall shred, burn, or otherwise
4 destroy the documents to protect the confidentiality of this information. In no case shall
5 the principal make a copy of these documents."

6 (v) G.S. 122C-3(13a) reads as rewritten:

7 "(13a) 'Eligible assaultive and violent children' means children who are citizens
8 of North Carolina and:

- 9 a. Who suffer from emotional, mental, or neurological handicaps
10 that have been accompanied by behavior that is characterized as
11 violent or assaultive; and
- 12 b. Who are involuntarily institutionalized or otherwise placed in
13 residential programs, including:
 - 14 1. Minors who are mentally ill as defined by G.S. 122C-
15 3(21) and who are admitted for evaluation or treatment to
16 a treatment facility under Article 5 of Chapter 122C of the
17 General Statutes or are presented for admission and
18 denied due to their behaviors or handicapping conditions;
 - 19 2. Minors who are referred to an area mental health,
20 developmental disabilities, and substance abuse authority
21 pursuant to ~~G.S. 7A-647(3)~~ G.S. 7B-903 or G.S. 7B-2501
22 for whom residential treatment or placement is
23 recommended;
 - 24 3. Minors who are placed in residential programs as a
25 condition of probation pursuant to ~~G.S. 7A-649(8)~~; G.S.
26 7B-2504;
 - 27 4. Minors who are ordered to a professional residential
28 treatment program pursuant to ~~G.S. 7A-649(6)~~; G.S. 7B-
29 2504; and
 - 30 5. Minors committed to the custody of the Division of Youth
31 Services pursuant to ~~G.S. 7A-649(10)~~; G.S. 7B-2504; and
- 32 c. For whom the State has not provided appropriate treatment and
33 educational programs."

34 (w) G.S. 122C-54(h) reads as rewritten:

35 "(h) A facility shall disclose confidential information for purposes of complying
36 with Article ~~44 of Chapter 7A-3~~ of Chapter 7B of the General Statutes and Article 6 of
37 Chapter 108A of the General Statutes, or as required by other State or federal law."

38 (x) G.S. 122C-66(e) reads as rewritten:

39 "(e) The duty imposed by this section is in addition to any duty imposed by G.S.
40 ~~7A-543-7B-301~~ or G.S. 108A-102."

41 (y) G.S. 122C-223(c) reads as rewritten:

42 "(c) If the legally responsible person cannot be located within 72 hours of
43 admission, the responsible professional shall initiate proceedings for juvenile protective

1 services as described in Article 44 of Chapter 7A-3 of Chapter 7B of the General Statutes
2 in either the minor's county of residence or in the county in which the facility is located."

3 (z) G.S. 122C-421(a) reads as rewritten:

4 "(a) The Secretary may designate one or more special police officers who shall
5 make up a joint security force to enforce the law of North Carolina and any ordinance or
6 regulation adopted pursuant to G.S. 143-116.6 or G.S. 143-116.7 or pursuant to the
7 authority granted the Department by any other law on the territory of the Black Mountain
8 Center, the Alcohol Rehabilitation Center, and the Juvenile Evaluation Center, all in
9 Buncombe County. After taking the oath of office for law enforcement officers as set out
10 in G.S. 11-11, these special police officers have the same powers as peace officers now
11 vested in sheriffs within the territory embraced by the named centers. These special
12 police officers shall also have the power prescribed by ~~G.S. 7A-571(a)(4)~~ G.S. 7B-1900
13 outside the territory embraced by the named centers but within the confines of Buncombe
14 County. These special police officers may arrest persons outside the territory of the
15 named centers but within the confines of Buncombe County when the person arrested has
16 committed a criminal offense within that territory, for which the officers could have
17 arrested the person within that territory, and the arrest is made during the person's
18 immediate and continuous flight from that territory."

19 (aa) G.S. 131D-10.2(3) reads as rewritten:

20 "(3) 'Child' means an individual less than 18 years of age, who has not been
21 emancipated under the provisions of ~~Article 56 of Chapter 7A~~ Article 13
22 of Chapter 7B of the General Statutes."

23 (bb) G.S. 131D-10.4(3) reads as rewritten:

24 "(3) Secure detention facilities as specified in Article 5 of Chapter 134A of
25 the General Statutes;"

26 (cc) G.S. 132-1.4(l) reads as rewritten:

27 "(l) Records of investigations of alleged child abuse shall be governed by ~~G.S. 7A-~~
28 ~~675-~~ G.S. 7B-1200."

29 (dd) G.S. 143-576(1) reads as rewritten:

30 "(1) Review current deaths of children when those deaths are attributed to
31 child abuse or neglect or when the decedent was reported as an abused
32 or neglected juvenile pursuant to ~~G.S. 7A-543~~ G.S. 7B-301 at any time
33 before death;"

34 (ee) G.S. 143B-168.14(a)(3) reads as rewritten:

35 "(3) Each local partnership shall adopt procedures to ensure that all
36 personnel who provide services to young children and their families
37 under this Part know and understand their responsibility to report
38 suspected child abuse, neglect, or dependency, as defined in ~~G.S. 7A-~~
39 ~~517-~~ G.S. 7B-101."

40 (ff) G.S. 143B-496 reads as rewritten:

41 "**§ 143B-496. Definitions.**

42 For the purpose of this Part:

1 (1) 'Missing child' means a juvenile as defined in G.S. ~~7A-517(20)~~ 7B-101
2 whose location has not been determined, who has been reported as
3 missing to a law-enforcement agency, and whose parent's, spouse's,
4 guardian's or legal custodian's temporary or permanent residence is in
5 North Carolina or is believed to be in North Carolina.

6 (2) 'Missing person' means any individual who is 18 years of age or older,
7 whose temporary or permanent residence is in North Carolina, or is
8 believed to be in North Carolina, whose location has not been
9 determined, and who has been reported as missing to a law-enforcement
10 agency.

11 (3) 'Missing person report' is a report prepared on a prescribed form for
12 transmitting information about a missing person or a missing child to an
13 appropriate law-enforcement agency."

14 (gg) Effective October 1, 1999, G.S. 14-208.31 reads as rewritten:

15 **"§ 14-208.31. File with Police Information Network.**

16 (a) The Division shall include the registration information in the Police
17 Information Network as set forth in G.S. 114-10.1.

18 (b) The Division shall maintain the registration information permanently even
19 after the registrant's reporting requirement expires; however, the records shall remain
20 confidential in accordance with ~~G.S. 7A-675.~~ Article 32 of Chapter 7B of the General
21 Statutes."

22
23 **PART V. EFFECT OF HEADINGS, APPROPRIATIONS, SEVERABILITY,**
24 **EFFECTIVE DATE.**

25
26 Section 7. The headings to the parts of this act are a convenience to the reader
27 and are for reference only. The headings do not expand, limit, or define the text of this
28 act.

29 Section 8. There is established in the Office of State Budget and Management a
30 reserve fund entitled the "Special Juvenile Justice Fund" to provide funds to implement
31 the provisions of this act. There is appropriated from the General Fund to the Office of
32 State Budget and Management the sum of forty million dollars (\$40,000,000) for the
33 1998-99 fiscal year for the Special Juvenile Justice Fund. The Office of State Budget and
34 Management shall report to the Chairs of the House and Senate Appropriations
35 Committees on the intended use of the funds prior to expenditure of any funds from the
36 Special Juvenile Justice Fund.

37 Section 9. If any section or provision of this act is declared unconstitutional or
38 invalid by the courts, it does not affect the validity of this act as a whole or any part other
39 than the part so declared to be unconstitutional or invalid.

40 Section 10. This section and Sections 8 and 9 become effective July 1, 1998.
41 The remaining section become effective January 1, 1999 and, except for Section 4, apply
42 to causes of action commenced and offenses arising on or after that date. Section 4

- 1 applies to any placement of a minor who is in the custody or placement responsibility of a
- 2 county department of social services on or after that date.