

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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2

HOUSE BILL 935
Committee Substitute Favorable 7/11/19

Short Title: Social Services Reform.

(Public)

Sponsors:

Referred to:

April 22, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPLEMENT VARIOUS PROVISIONS RELATED TO SOCIAL SERVICES
3 REFORM.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.(a)** In accordance with the plan submitted by the Social Services
6 Regional Supervision and Collaboration Working Group (SSWG) in its report to the Joint
7 Legislative Oversight Committee on Health and Human Services as required by S.L. 2017-41
8 (Rylan's Law), the Department of Health and Human Services (Department) shall establish seven
9 regions for regional supervision of child welfare and social services and begin providing
10 oversight and support within those regions through home-based staff and the central office team
11 beginning March 1, 2022. To that end, the Department shall move forward with repurposing and
12 redeploying (i) positions identified in the report to support regionalization and (ii) all managerial
13 staff needed to support regionalization in the central office. The Department shall pursue
14 procurement of physical offices within each of the seven regions beginning in March 2021 and
15 shall prioritize staffing to improve the child welfare system. The Department shall move towards
16 full implementation of a regional model, with offices, by March 1, 2022.

17 **SECTION 1.(b)** There is appropriated from the General Fund to the Department of
18 Health and Human Services, Division of Social Services, the sum of nine hundred fourteen
19 thousand seven hundred ninety dollars (\$914,790) recurring for each year of the 2019-2021 fiscal
20 biennium to support 11 new staff positions to improve regional supervision and support of child
21 welfare services pursuant to the plan as described under subsection (a) of this section.

22 **SECTION 2.(a)** G.S. 143B-939 reads as rewritten:

23 "**§ 143B-939. Criminal record checks for adult care homes, nursing homes, home care**
24 **agencies, and providers of mental health, developmental disabilities, child care**
25 **institutions, and substance abuse services.**

26 The Department of Public Safety may provide to the following entities the criminal history
27 from the State and National Repositories of Criminal Histories:

- 28 (1) Nursing homes or combination homes licensed under Chapter 131E of the
29 General Statutes.
30 (2) Adult care homes licensed under Chapter 131D of the General Statutes.
31 (3) Home care agencies licensed under Chapter 131E of the General Statutes.
32 (4) Providers licensed under Chapter 122C of the General Statutes, including a
33 contract agency of a provider that is subject to the provisions of Article 4 of
34 that Chapter.
35 (5) Child care institutions as defined by Title IV-E of the Social Security Act.



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1 The criminal history shall be provided to nursing homes and home care agencies in
2 accordance with G.S. 131E-265, to adult care homes in accordance with G.S. 131D-40, ~~and~~ to a
3 provider in accordance with ~~G.S. 122C-80.~~ G.S. 122C-80, and to child care institutions in
4 accordance with G.S. 108A-133. The requesting entity shall provide to the Department of Public
5 Safety, along with the request, the fingerprints of the individual to be checked if a national
6 criminal history record check is required, any additional information required by the Department
7 of Public Safety, and a form signed by the individual to be checked consenting to the check of
8 the criminal record and to the use of fingerprints and other identifying information required by
9 the State or National Repositories of Criminal Histories. If a national criminal history record
10 check is required, the fingerprints of the individual shall be forwarded to the State Bureau of
11 Investigation for a search of the State's criminal history record file, and the State Bureau of
12 Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a
13 national criminal history record check. All information received by the entity shall be kept
14 confidential in accordance with G.S. 131E-265, 131D-40, ~~and~~ 122C-80, and 108A-133 as
15 applicable. The Department of Public Safety shall charge a reasonable fee for conducting the
16 checks authorized by this section. The fee for the State check may not exceed fourteen dollars
17 (\$14.00)."

18 **SECTION 2.(b)** Chapter 108A of the General Statutes is amended by adding a new
19 Article to read:

20 "Article 8.

21 "Miscellaneous.

22 "**§ 108A-133. Criminal history record checks required for certain applicants for**
23 **employment.**

24 (a) Requirement; Child Care Institution. – An offer of employment by a child care
25 institution as defined by Title IV-E of the Social Security Act to an applicant to fill a position
26 that does not require the applicant to have an occupational license is conditioned on consent to a
27 criminal history record check of the applicant. If the applicant has been a resident of this State
28 for less than five years, then the offer of employment is conditioned on consent to a State and
29 national criminal history record check of the applicant. The national criminal history record check
30 shall include a check of the applicant's fingerprints. If the applicant has been a resident of this
31 State for five years or more, then the offer is conditioned on consent to a State criminal history
32 record check of the applicant. A child care institution shall not employ an applicant who refuses
33 to consent to a criminal history record check required by this section. Within five business days
34 of making the conditional offer of employment, a child care institution shall submit a request to
35 the Department of Public Safety under G.S. 143B-939 to conduct a State or national criminal
36 history record check required by this section or shall submit a request to a private entity to
37 conduct a State criminal history record check required by this section. Notwithstanding
38 G.S. 143B-939, the Department of Public Safety shall return the results of national criminal
39 history record checks for employment positions not covered by Public Law 105-277 to the
40 Department of Health and Human Services, Criminal Records Check Unit. Within five business
41 days of receipt of the national criminal history of the person, the Department of Health and
42 Human Services, Criminal Records Check Unit, shall notify the child care institution as to
43 whether the information received may affect the employability of the applicant. In no case shall
44 the results of the national criminal history record check be shared with the child care institution.
45 Child care institutions shall make available upon request verification that a criminal history check
46 has been completed on any staff covered by this section. All criminal history information
47 received by the home is confidential and may not be disclosed, except to the applicant as provided
48 in subsection (b) of this section.

49 (a1) Requirement; Contract Agency of Child Care Institution. – An offer of employment
50 by a contract agency of a child care institution as defined by Title IV-E of the Social Security
51 Act to an applicant to fill a position that does not require the applicant to have an occupational

1 license is conditioned upon consent to a criminal history record check of the applicant. If the
2 applicant has been a resident of this State for less than five years, then the offer of employment
3 is conditioned on consent to a State and national criminal history record check of the applicant.
4 The national criminal history record check shall include a check of the applicant's fingerprints.
5 If the applicant has been a resident of this State for five years or more, then the offer is
6 conditioned on consent to a State criminal history record check of the applicant. A contract
7 agency of a child care institution shall not employ an applicant who refuses to consent to a
8 criminal history record check required by this section. Within five business days of making the
9 conditional offer of employment, a contract agency of a child care institution shall submit a
10 request to the Department of Public Safety under G.S. 143B-939 to conduct a State or national
11 criminal history record check required by this section or shall submit a request to a private entity
12 to conduct a State criminal history record check required by this section. Notwithstanding
13 G.S. 143B-939, the Department of Public Safety shall return the results of national criminal
14 history record checks for employment positions not covered by Public Law 105-277 to the
15 Department of Health and Human Services, Criminal Records Check Unit. Within five business
16 days of receipt of the national criminal history of the person, the Department of Health and
17 Human Services, Criminal Records Check Unit, shall notify the contract agency of the child care
18 institution as to whether the information received may affect the employability of the applicant.
19 In no case shall the results of the national criminal history record check be shared with the
20 contract agency of the child care institution. Contract agencies of child care institutions shall
21 make available upon request verification that a criminal history check has been completed on any
22 staff covered by this section. All criminal history information received by the contract agency is
23 confidential and may not be disclosed, except to the applicant as provided by subsection (b) of
24 this section.

25 (b) Action. – If an applicant's criminal history record check reveals one or more
26 convictions of a relevant offense, the child care institution or a contract agency of the child care
27 institution shall consider all of the following factors in determining whether to hire the applicant:

- 28 (1) The level and seriousness of the crime.
- 29 (2) The date of the crime.
- 30 (3) The age of the person at the time of the conviction.
- 31 (4) The circumstances surrounding the commission of the crime, if known.
- 32 (5) The nexus between the criminal conduct of the person and the job duties of
33 the position to be filled.
- 34 (6) The prison, jail, probation, parole, rehabilitation, and employment records of
35 the person since the date the crime was committed.
- 36 (7) The subsequent commission by the person of a relevant offense.

37 The fact of conviction of a relevant offense alone shall not be a bar to employment; however,
38 the listed factors shall be considered by the child care institution or the contract agency of the
39 child care institution. If the child care institution or a contract agency of the child care institution
40 disqualifies an applicant after consideration of the relevant factors, then the child care institution
41 or the contract agency may disclose information contained in the criminal history record check
42 that is relevant to the disqualification, but may not provide a copy of the criminal history record
43 check to the applicant.

44 (c) Limited Immunity. – A child care institution and an officer or employee of a child
45 care institution, in good faith, complies with this section is not liable for the failure of the home
46 to employ an individual on the basis of information provided in the criminal history record check
47 of the individual.

48 (d) Relevant Offense. – As used in this section, "relevant offense" means a county, state,
49 or federal criminal history of conviction or pending indictment of a crime, whether a
50 misdemeanor or felony, that bears upon an individual's fitness to have responsibility for the safety
51 and well-being of aged or disabled persons. These crimes include the criminal offenses set forth

1 in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting
2 and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers;
3 Article 6, Homicide; Article 7B, Rape and Other Sex Offenses; Article 8, Assaults; Article 10,
4 Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or
5 Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson
6 and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article
7 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or
8 Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime
9 Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses against Public Morality and
10 Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article
11 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public
12 Peace; Article 36A, Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors;
13 Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60,
14 Computer-Related Crime. These crimes also include possession or sale of drugs in violation of
15 the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes,
16 and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or
17 driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

18 (e) Penalty for Furnishing False Information. – Any applicant for employment who
19 willfully furnishes, supplies, or otherwise gives false information on an employment application
20 that is the basis for a criminal history record check under this section shall be guilty of a Class
21 A1 misdemeanor.

22 (f) Conditional Employment. – A child care institution may employ an applicant
23 conditionally prior to obtaining the results of a criminal history record check regarding the
24 applicant if both of the following requirements are met:

25 (1) The child care institution shall not employ an applicant prior to obtaining the
26 applicant's consent for a criminal history record check as required in
27 subsection (a) of this section or the completed fingerprint cards as required in
28 G.S. 143B-939.

29 (2) The child care institution shall submit the request for a criminal history record
30 check not later than five business days after the individual begins conditional
31 employment.

32 (g) Immunity from Liability. – An entity and officers and employees of an entity shall be
33 immune from civil liability for failure to check an employee's history of criminal offenses if the
34 employee's criminal history record check is requested and received in compliance with this
35 section.

36 (h) For purposes of this section, the term "private entity" means a business regularly
37 engaged in conducting criminal history record checks utilizing public records obtained from a
38 State agency.

39 **"§ 108A-134. Sex Offender Registry and Responsible Individuals List checks.**

40 (a) An offer of employment by a child care institution as defined by Title IV-E of the
41 Social Security Act to an applicant to fill a position that does not require the applicant to have an
42 occupational license is conditioned on consent to a check of the North Carolina Sex Offender
43 Registry and consent to check the North Carolina Responsible Individuals List. If the applicant
44 has been a resident of this State for less than five years, then the offer of employment is
45 conditioned on consent to check the North Carolina Responsible Individuals List and the abuse
46 and neglect registry of any other state where the applicant has resided in the preceding five years."

47 **SECTION 2.(c)** G.S. 131D-10.6(7) reads as rewritten:

48 **"§ 131D-10.6. Powers and duties of the Department.**

49 In addition to other powers and duties prescribed by law, the Department shall exercise the
50 following powers and duties:

51 ...

1 (7) Grant, deny, suspend or revoke a license or a provisional license, in
2 accordance with this Article, G.S. 108A-133, and Commission rules."

3 **SECTION 3.** Section 11C.5(a) of S.L. 2017-57 reads as rewritten:

4 "**SECTION 11C.5.(a)** Funds appropriated from the General Fund to the Department of
5 Health and Human Services for the child welfare postsecondary support program shall be used
6 to continue providing assistance with the "cost of attendance" as that term is defined in 20 U.S.C.
7 § 108711 for the educational needs of (i) foster youth aging out of the foster care system-system,
8 (ii) youth who exit foster care to a permanent home through the Guardianship Assistance
9 Program, and (iii) special needs children adopted from foster care after age 12. These funds shall
10 be allocated by the State Education Assistance Authority."

11 **SECTION 4.(a)** G.S. 108A-9 is amended by adding a new subdivision to read:

12 "**§ 108A-9. Duties and responsibilities.**

13 The county board of social services shall have the following duties and responsibilities:

14 ...

15 (4a) To attend education training sessions provided for new board members no less
16 two times during the first year they serve on the board.

17"

18 **SECTION 4.(b)** The Department of Health and Human Services, Division of Social
19 Services, shall collaborate with key stakeholders, including the North Carolina Association of
20 County Boards of Social Services, Association of North Carolina County Social Services
21 Directors, North Carolina Association of County Commissioners, and the University of North
22 Carolina School of Government, to create a formal education and training program for new
23 county boards of social services members in accordance with G.S. 108A-9(4a), as enacted in
24 subsection (a) of this section. The education training sessions shall include education regarding
25 the potential liabilities of the county board of social services. Experienced county board of social
26 services members are encouraged to attend the education training sessions for new board
27 members.

28 **SECTION 5.** The Administrative Office of the Courts shall conduct a feasibility and
29 cost study of a proposed child support tribunal, with dedicated court officers to hear child support
30 matters, using quasi-judicial procedures. The study shall include, at a minimum, strategies to
31 address funding, staffing, and a plan for how the proposed changes will be implemented. The
32 Administrative Office of the Courts shall submit a report of its findings and recommendations to
33 the General Assembly by April 1, 2020.

34 **SECTION 6.(a)** Part 2B of Article 1 of Chapter 108A of the General Statutes is
35 amended by adding a new section to read:

36 "**§ 108A-15.16. Conflicts of interest.**

37 When conflicts of interest arise in the provision of social services provided by county
38 departments of social services, county departments of social services shall work expeditiously to
39 resolve those conflicts consistent with applicable law and any policies and procedures established
40 by the Department of Health and Human Services. Policies and procedures shall address county
41 financial and practice responsibilities associated with conflicts of interest. Upon identifying a
42 conflict of interest, the county shall notify the appropriate authority within the Department of
43 Health and Human Services of the conflict. The Department of Health and Human Services shall
44 have authority to make final decisions regarding conflicts of interest assignments when disputes
45 arise, with regional staff having initial authority when a dispute arises between county
46 departments of social services and central office staff having initial authority when disputes arise
47 between regions. The Social Services Commission shall adopt rules regarding conflicts of interest
48 management, including establishing reasonable and specific time lines for resolving conflicts of
49 interest. For purposes of this section, a "conflict of interest" occurs when the provision of social
50 services and duty owed by a county department of social services conflicts with services and the
51 duty owed by another county department of social services."

1 **SECTION 6.(b)** The Social Services Commission shall report to the Joint Legislative
2 Oversight Committee on Health and Human Services upon adopting rules pursuant to
3 G.S. 108A-15.16, as enacted in subsection (a) of this section.

4 **SECTION 7.** Part I of S.L. 2017-41 reads as rewritten:

5 **"SECTION 1.1.** Regional Supervision of and Collaboration by Local Social Services
6 Programs. -

7 ...

8 (3) The Department shall submit the plan to the Joint Legislative Oversight
9 Committee on Health and Human Services by November 15, 2018. The plan
10 shall provide for the system of regional supervision to be operational no later
11 than March 1, ~~2020~~, 2022. The Department shall not implement the plan
12 without an act by the General Assembly.

13 **"SECTION 1.2.(a)** Social Services Regional Supervision and Collaboration Working
14 Group. – The School of Government at the University of North Carolina at Chapel Hill (SOG)
15 shall ~~convene a~~ continue the work of the Social Services Regional Supervision and Collaboration
16 Working Group (Working Group) to make recommendations to the Department regarding the
17 regional supervision and collaboration plan. The Working Group shall consist of the currently
18 constituted members as of December 1, 2018.

19 **"SECTION 1.2.(b)** Composition. – The Working Group shall consist of the following
20 members:

21 (1) Three members ~~of the Senate~~ appointed by the President Pro Tempore of the
22 Senate, one of whom shall be designated as a cochair.

23 (2) Three members ~~of the House of Representatives~~ appointed by the Speaker of
24 the House of Representatives, one of whom shall be designated as a cochair.

25 ...

26 **"SECTION 1.2.(d)** Duties. – The Working Group shall continue to develop
27 recommendations for the regional supervision and collaboration plan required by Section 1.1 of
28 this act. The Working Group shall ~~divide its work into two stages, the first~~ continue to (i) address
29 regional supervision and ~~the second to (ii)~~ address interagency collaboration and regionalization.

30 (1) Stage One. – The Working Group shall ~~convene its first meeting~~ no later than
31 ~~October 6, 2017. During the first stage, the Working Group shall develop~~
32 October 4, 2019, and continue developing recommendations regarding:

33 a. The size, number, and location of the regions. Recommendations shall
34 take into consideration (i) the need for regions to maintain direct, local
35 connections with the jurisdictions they serve; (ii) alignment with other
36 regional organizations that intersect with the work of social services,
37 as appropriate; and (iii) awareness of the cultural differences and
38 similarities between regions.

39 b. The allocation of responsibility between the central, regional, and local
40 officials in supervising and administering the social services programs
41 and services.

42 c. Methods for holding the regional offices accountable for performance
43 and responsiveness.

44 d. Requirements for the regional offices to share information about local
45 departmental performance with the relevant board or boards of county
46 commissioners, county or regional board of social services, or
47 consolidated human services board.

48 e. Options for authorizing the board of county commissioners to
49 intervene in urgent situations to assume direct control of the
50 department of social services at the local level prior to the State
51 assuming control of service delivery pursuant to G.S. 108A-74.

- 1 f. Any other issues related to regional supervision identified by the
2 cochairs.
- 3 (2) Stage Two. – ~~During the second stage, the~~ The Working Group shall:
4 a. Develop recommendations regarding legislative and regulatory
5 changes necessary to improve collaboration between counties in the
6 administration of social services programs and services.
7 Recommendations shall address, at a minimum, information sharing,
8 conflicts of interest, and intercounty movement of people enrolled in
9 programs or receiving social services.
- 10 b. Develop a vision for transitioning the State from a
11 county-administered system to a regionally administered system. The
12 vision shall identify general benefits and challenges associated with
13 making such a transition.
- 14 (3) Stage Three. – After completing the work in Stages One and Two, the
15 Working Group shall:
- 16 a. Review the recommendations from the Center for the Support of
17 Families and the Department. After reviewing both reports, the
18 Working Group shall revise the Stage One recommendations
19 regarding regional supervision.
- 20 b. Provide more detailed recommendations regarding the following:
21 1. The role of local elected officials and social services governing
22 boards in social services oversight.
23 2. Legal representation of local social services agencies.
24 3. Managing conflicts of interest.
25 4. Determining residency for social services programs and
26 services.
27 5. Transferring and changing venue in adult guardianship cases.
28 6. Notice requirements for adult guardianship cases.
29 7. Confidentiality of social services records, as it relates to
30 improving interagency collaboration and service delivery.
- 31 c. Conduct a study regarding appointments of and funding for publicly
32 funded guardians. The study must include all of the following:
33 1. A description of the current types of appointments of publicly
34 funded guardians.
35 2. An evaluation of the effectiveness of the various types of
36 publicly funded guardians.
37 3. Recommendations for management of publicly funded
38 guardians.
- 39 **"SECTION 1.2.(e) Reports. –**
- 40 (1) Stage One. – The Working Group shall submit a report to the Joint Legislative
41 Oversight Committee on Health and Human Services (Committee) and the
42 Department at the conclusion of Stage One, which shall be no later than April
43 15, 2018. After receiving the Stage One report, the Committee may terminate
44 the Working Group if it concludes that the Working Group is not making
45 sufficient progress.
- 46 (2) Stage Two. – The Working Group shall submit a report to the Committee and
47 the Department at the conclusion of Stage Two, which shall be no later than
48 February 1, 2019.
- 49 (3) Stage Three. – The Working Group shall submit a preliminary report to the
50 Committee no later than October 15, 2020, providing an update on its
51 continued work. After receiving the preliminary report, the Committee may

1 terminate the Working Group if it concludes the Working Group is not making
2 sufficient progress. The Working Group shall submit a final report of its
3 recommendations to the Committee no later than February 1, 2021, and shall
4 terminate upon the final report."

5 **SECTION 8.** Section 1(b) of this act becomes effective July 1, 2019. The remainder
6 of this act is effective when it becomes law, and Section 4(a) applies to any current county board
7 of social service members that have not met the training requirements for new board members in
8 G.S. 108A-9(4a).