

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H.B. 834
Apr 19, 2023
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40420-NBa-154

Short Title: Juvenile Capacity.

(Public)

Sponsors: Representative Davis.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH A PROCEDURE TO EVALUATE WHETHER A JUVENILE HAS
3 THE CAPACITY TO PROCEED AND TO APPROPRIATE FUNDS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1.(a) G.S. 7B-2401 reads as rewritten:

6 "§ 7B-2401. Determination of incapacity. No proceedings when juvenile is not capable to
7 proceed; evidence; temporary commitment; temporary orders. proceed.

8 The provisions of G.S. 15A 1001, 15A 1002, and 15A 1003 apply to all cases in which a
9 juvenile is alleged to be delinquent. No juvenile committed under this section may be placed in
10 a situation where the juvenile will come in contact with adults committed for any purpose.

11 (a) No juvenile may be transferred to superior court for trial as an adult, adjudicated
12 delinquent or undisciplined, or subject to disposition for an offense in juvenile court, including a
13 violation of probation, when, by reason of mental disorder, intellectual disability, neurological
14 disorder, traumatic or acquired brain injury, or developmental immaturity, the juvenile is unable
15 to understand the nature and object of the proceedings against them, to comprehend their own
16 situation in reference to the proceedings, or to assist in their own defense in a rational or
17 reasonable manner.

18 (b) This section does not prevent the court from going forward with any motions which
19 can be handled by counsel without the assistance of the juvenile.

20 (c) This section does not apply to individuals over whom the juvenile court has
21 jurisdiction pursuant to G.S. 7B-1601(d) through (d1) nor to any juvenile who is subject to
22 transfer by indictment pursuant to G.S. 7B-2200.5(a). Capacity to proceed under these
23 circumstances shall not be addressed by the juvenile court. Capacity to proceed can be raised
24 pursuant to Article 56 of Chapter 15A of the General Statutes if the superior court obtains
25 jurisdiction of the proceeding."

26 SECTION 1.(b) Article 24 of Subchapter II of Chapter 7B of the General Statutes is
27 amended by adding the following new sections to read:

28 "§ 7B-2401.1. Definitions.

29 The following definitions apply in this Article:

30 (1) Developmental immaturity. – Incomplete development or delay associated
31 with chronological age, which manifests as a functional limitation in one or
32 more domains including cognitive, emotional, and social development.

33 (2) Division. – The Division of Juvenile Justice and Delinquency Prevention of
34 the Department of Public Safety.

35 (3) Forensic evaluation. – A forensic evaluation is a full examination by a forensic
36 evaluator using evidence-based psychological tools to determine if a juvenile



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1 has the capacity to proceed. This evaluation shall consist of a review of all
2 available prior mental health and educational records of the juvenile and IQ
3 testing and may include other developmentally appropriate testing for
4 juveniles deemed relevant by the forensic evaluator.

5 (4) Forensic evaluation report. – The written report, by a forensic evaluator, that
6 contains the information required by G.S. 7B-2401.3.

7 (5) Incapacity to proceed. – By reason of mental disorder, intellectual disability,
8 neurological disorder, traumatic or acquired brain injury, or developmental
9 immaturity, the juvenile is unable to understand the nature and object of the
10 proceedings against them, to comprehend their own situation in reference to
11 the proceedings, or to assist in their own defense in a rational or reasonable
12 manner.

13 (6) Remediation. – Services directed only at facilitating the attainment of capacity
14 to proceed for a juvenile who the court finds is incapable to proceed. Such
15 term may include mental health treatment to reduce interfering symptoms,
16 specialized psychoeducational programming, or a combination of these
17 interventions.

18 **§ 7B-2401.2. Procedures to determine capacity; hearing procedures; evidence.**

19 (a) The question of capacity of the juvenile to proceed may be raised at any time on
20 motion by the prosecutor, the juvenile, the juvenile's attorney, or the court. The motion shall
21 detail the specific conduct that leads the moving party to question the juvenile's capacity to
22 proceed.

23 (b) When the capacity of the juvenile to proceed is questioned, the court may appoint one
24 or more forensic evaluators qualified by the Department of Health and Human Services to
25 conduct forensic evaluations for juveniles to examine the juvenile and return a forensic
26 evaluation report. Reports so prepared are admissible at the hearing. The court may call any
27 expert so appointed to testify at the hearing with or without the request of either party. This
28 subsection shall not be construed to limit the juvenile's right to retain his or her own expert or the
29 State's right to obtain its own expert.

30 (c) At any time in the case of a juvenile charged with an offense that would be a felony
31 if committed by an adult, the court may order the juvenile to a State facility for the mentally ill
32 for observation and treatment for the period, not to exceed 60 days, necessary to determine the
33 defendant's capacity to proceed. If a juvenile is ordered to a State facility without first having an
34 examination pursuant to subsection (b) of this section, the judge shall make a finding that an
35 examination pursuant to this subsection would be more appropriate to determine the juvenile's
36 capacity. The Division shall return the juvenile to the county when notified that the evaluation
37 has been completed. The director of the facility shall direct his report on the juvenile's condition
38 to the defense attorney and to the clerk of superior court, who shall bring it to the attention of the
39 court. The report is admissible at the hearing.

40 (d) The forensic evaluation report shall be completed within 30 days of the date the
41 forensic evaluation was ordered, consistent with this section. The court may extend the time for
42 completion of the forensic evaluation for good cause shown. The forensic evaluation report shall
43 be provided to the court as follows:

44 (1) The report in a case of a juvenile who is alleged to have committed an offense
45 that would be a misdemeanor if committed by an adult shall be completed and
46 provided to the court no later than 10 days following the completion of the
47 evaluation for a juvenile.

48 (2) The report in the case of a juvenile who is alleged to have committed an
49 offense that would be a felony if committed by an adult shall be completed
50 and provided to the court no later than 30 days following the completion of
51 the evaluation.

1 (3) In cases where the juvenile challenges the determination made by the
2 court-ordered evaluator and the court orders an independent evaluation, that
3 evaluation and report to the court must be completed within 60 days of the
4 entry of the order by the court.

5 The court may, for good cause shown, extend the time for the provision of the forensic
6 evaluation report to the court for up to 30 additional days. The court may renew an extension of
7 time for an additional 30 days upon request of the State or the juvenile prior to the expiration of
8 the previous extension. In no case shall the court grant extensions totaling more than 120 days
9 beyond the time periods otherwise provided in this subsection.

10 (e) Any report made to the court pursuant to this section shall be forwarded to the clerk
11 of superior court in a sealed envelope addressed to the attention of a presiding judge, with a
12 covering statement to the clerk of the fact of the examination of the juvenile and any conclusion
13 as to whether the juvenile has or lacks capacity to proceed. If the juvenile is being held in the
14 custody of the Division, the clerk shall send a copy of the covering statement to the Division.
15 The Division and any persons employed by the Division shall maintain the copy of the covering
16 statement as a confidential record. A copy of the full report shall be forwarded to defense counsel.
17 If the question of the juvenile's capacity to proceed is raised at any time, a copy of the full report
18 must be forwarded to the prosecutor. Until the question of the juvenile's capacity is raised, the
19 full report to the court shall be kept under such conditions as are directed by the court, and its
20 contents shall not be revealed except the report and the relevant confidential information
21 previously ordered released under G.S. 7B-2401.3(c) shall be released to the program where the
22 defendant is receiving remediation services and as directed by the court. Any report made to the
23 court pursuant to this section shall be maintained as a confidential record.

24 (f) For any juvenile who is alleged to be delinquent and is less than 12 years of age, the
25 court shall inquire of the prosecutor and the juvenile's attorney regarding the juvenile's capacity
26 to proceed the first time the juvenile appears in court. If the prosecutor or the juvenile's attorney
27 requests additional time to determine whether it is necessary to raise the question of the juvenile's
28 capacity to proceed, the court shall allow the question of capacity to be raised at any time pursuant
29 to subsection (a) of this section.

30 (g) An order for a forensic evaluation shall stay juvenile proceedings, with the exception
31 of hearings to review the need for continued nonsecure or secure custody and proceedings related
32 to the transfer of jurisdiction by indictment pursuant to G.S. 7B-2200.5(a), until capacity has
33 been determined pursuant to this Subchapter.

34 (h) When the capacity of the juvenile to proceed is questioned, the court shall hold a
35 hearing to determine the juvenile's capacity to proceed. If an evaluation is ordered pursuant to
36 subsection (b) of this section, the hearing shall be held upon receipt of the forensic evaluation
37 report. The clerk shall provide notice to the juvenile and the prosecutor in accordance with
38 G.S. 7B-1807. The order of the court shall contain findings of fact to support its determination
39 of the juvenile's capacity to proceed. The parties may stipulate that the juvenile is capable to
40 proceed but shall not be allowed to stipulate that the juvenile lacks capacity to proceed. If the
41 court finds the juvenile is capable to proceed, the juvenile proceedings shall no longer be stayed
42 and the court shall set a date for such further proceedings. If the juvenile's capacity to proceed is
43 contested, the juvenile bears the burden of proving the juvenile is incapable to proceed by a
44 preponderance of the evidence. At a contested hearing, the State and the juvenile may call
45 witnesses and present evidence. Nothing in this subsection may be construed to prohibit the State
46 or the juvenile from calling other expert witnesses to testify at a capacity hearing. If appropriate,
47 the court may order remediation services in accordance with G.S. 7B-2401.4.

48 (i) A juvenile who has been found incapable to proceed by the court shall not be subject
49 to transfer, adjudication, disposition, or modification of disposition so long as the incapacity
50 exists pursuant to this Article.

1 (j) If the court orders a forensic evaluation, the court shall order that the evaluation be
2 conducted in the least restrictive environment, considering the best interests of the juvenile and
3 the safety of the public. The forensic evaluation may be conducted in any location in this State.
4 The forensic evaluation may be conducted outside of this State for juveniles in residential
5 facilities on an individual basis as indicated by the order of the court.

6 (k) The Division shall arrange for the transportation of juveniles who are confined in
7 secure custody to the ordered location of the forensic evaluation.

8 **"§ 7B-2401.3. Juvenile forensic evaluation credentialing; conducting forensic evaluations;**
9 **written reports; compensation of experts.**

10 (a) The Department of Health and Human Services shall designate and oversee a
11 credentialing body which will set and maintain the minimum standards to qualify professionals
12 who are court-appointed to conduct forensic evaluations as ordered pursuant to G.S. 7B-2401.2.
13 The credentialing body shall determine that a qualified professional has demonstrated knowledge
14 and experience with age-appropriate and developmentally appropriate methods for evaluating
15 juvenile functional capacities to proceed. This subsection shall not be construed to limit the
16 juvenile's right to retain his or her own expert.

17 (b) Qualified professionals who have been conducting forensic evaluations of juveniles
18 prior to enactment of this section shall be deemed to possess the minimum requirements to
19 become an evaluator. Such qualified professionals shall be required to satisfy the qualification
20 standards developed by the Department of Health and Human Services within 12 months of the
21 adoption of those standards pursuant to subsection (a) of this section.

22 (c) A presiding district court judge of this State who orders an examination pursuant to
23 G.S. 7B-2401.2 shall order the release of relevant confidential information to the forensic
24 evaluator, including, but not limited to, the juvenile petition, orders for secure or nonsecure
25 custody, the law enforcement incident report, the juvenile's delinquency history, detention
26 records, any prior medical and mental health records of the juvenile, and any school records of
27 the juvenile after providing the juvenile with reasonable notice and an opportunity to be heard
28 and then determining that the information is relevant and necessary to the hearing of the matter
29 before the court and unavailable from any other source. This subsection shall not be construed to
30 relieve any court of its duty to conduct hearings and make findings required under relevant
31 federal law before ordering the release of any private medical or mental health information or
32 records related to substance abuse or HIV status or treatment. The records may be surrendered
33 to the court for in camera review if surrender is necessary to make the required determinations.
34 The records shall be withheld from public inspection and, except as provided in this subsection,
35 may be examined only by order of the court.

36 (d) No statement or disclosure made by the juvenile during the forensic evaluation
37 regarding their responsibility for a criminal act that can result either in an adjudication of
38 delinquency or transfer of a matter to superior court for trial as an adult is admissible in any
39 juvenile or criminal proceeding against the juvenile or defendant. The forensic evaluation shall
40 not include any such statement.

41 (e) The forensic evaluator shall consider all of the following as part of the forensic
42 evaluation:

43 (1) Whether the juvenile is capable to proceed, incapable to proceed, or incapable
44 to proceed with an ability to attain capacity in the foreseeable future with
45 remediation services.

46 (2) The basis of the juvenile's incapacity, to include mental disorder, intellectual
47 disability, neurological disorder, traumatic or acquired brain injury, or
48 developmental immaturity.

49 (3) The capacity of the juvenile to do any of the following:

50 a. Appreciate the allegations against the juvenile.

- 1 b. Appreciate the range and nature of allowable dispositions that may be
2 imposed in the proceedings against the juvenile.
- 3 c. Understand the roles of the participants and the adversary nature of the
4 legal process.
- 5 d. Disclose to counsel facts pertinent to the proceedings at issue.
6 e. Display appropriate courtroom behavior.
7 f. Testify regarding the relevant issues.
8 g. Make reasonable and rational decisions.
9 h. Assist in their defense in a rational manner.
10 i. Any other factors that the forensic evaluator deems to be relevant.
- 11 (f) Written forensic reports submitted to the court shall consist of and contain all of the
12 following:
- 13 (1) Identify the specific matters referred to the forensic evaluator by the juvenile
14 court for evaluation.
- 15 (2) Include notification to the juvenile of the nature, purpose, and anticipated use
16 or uses of the examination and applicable limits of confidentiality.
- 17 (3) Describe the procedures, techniques, and tests used in the forensic evaluation
18 of the juvenile and the purposes of each.
- 19 (4) Describe the considerations considered by the forensic evaluator.
20 (5) State any clinical observations, findings, and opinions of the forensic
21 evaluator on each issue referred to the forensic evaluator for evaluation by the
22 court and specifically indicate any issues on which the forensic evaluator was
23 unable to give an opinion.
- 24 (6) Identify the sources of information used by the forensic evaluator and present
25 the factual basis for any clinical observations, findings, and opinions of the
26 forensic evaluator.
- 27 (7) Address any other issues ordered by the court.
- 28 (g) If a forensic evaluator is of the opinion that a juvenile is incapable to proceed, the
29 written forensic report shall contain all of the additional information:
- 30 (1) Any recommended treatment or education needed for the juvenile to attain
31 capacity, if any.
- 32 (2) The likelihood that the juvenile will attain capacity in the foreseeable future
33 because of the recommended treatment or education.
- 34 (3) An assessment of the probable duration of the treatment or education required
35 to attain capacity.
- 36 (4) If the forensic evaluator recommends treatment for the juvenile to attain
37 capacity, a recommendation as to the least restrictive environment in which
38 services can be provided to the juvenile.
- 39 (h) Any forensic evaluator appointed by the court to conduct a forensic evaluation,
40 ordered pursuant to G.S. 7B-2401.2, shall receive a reasonable fee for such service. The fee shall
41 be determined for each forensic evaluation by the appointing court, in accordance with
42 reimbursement guidelines maintained by the North Carolina Administrative Office of the Courts.
43 If any such forensic evaluator is required to appear as a witness in any hearing held pursuant to
44 this section, the forensic evaluator shall receive reimbursement for expenses according to
45 guidelines maintained by the North Carolina Administrative Office of the Courts.
- 46 **§ 7B-2401.4. Remediation.**
- 47 (a) The purpose of remediation ordered pursuant to this section shall be for the juvenile
48 to attain capacity to proceed.
- 49 (b) When the court finds the juvenile incapable to proceed, and substantially likely to
50 attain capacity in the foreseeable future, the court may order remediation services. The
51 remediation services shall be based on the recommendations from the forensic evaluation.

1 (c) Remediation services shall be provided in the least restrictive environment
2 considering the best interests of the juvenile and the safety of the public. In addition, the court
3 shall consider the following when determining where services may be rendered:

- 4 (1) Whether there is probable cause to believe the allegations in the petition are
5 true.
- 6 (2) The nature of the incapacity.
- 7 (3) The juvenile's age or developmental maturity.
- 8 (4) The nature of the act alleged to have been committed, and the seriousness of
9 the offense.
- 10 (5) The availability and appropriateness of programming in the juvenile's
11 community.
- 12 (6) Supervision needs and level of available community supervision or
13 alternatives such as family members, custodians, guardians, and
14 community-based programs.
- 15 (7) Any prior treatment or interventions provided to the juvenile.
- 16 (8) Any other relevant factors not previously specified.

17 (d) When the juvenile is found incapable to proceed based on mental disorder, intellectual
18 disability, neurological disorder, or traumatic or acquired brain injury but substantially likely to
19 attain capacity, and the court finds that all available less restrictive alternatives are inappropriate,
20 the court may enter an order in accordance with G.S. 7B-2401.5 for the juvenile to be assessed
21 for an involuntary commitment pursuant to Chapter 122C of the General Statutes.

22 (e) An order for remediation services shall contain all of the following:

- 23 (1) Written findings of fact regarding the least restrictive environment for the
24 remediation services.
- 25 (2) If the court order allows for secure confinement pursuant to
26 G.S. 7B-2401.4(d), the maximum time for placement in a secure facility shall
27 be pursuant to subsection (f) of this section.

28 (f) If the court finds that the juvenile is incapable of proceeding and substantially likely
29 to attain capacity in the foreseeable future, the court shall enforce the following time limitations
30 on remediation services. In the case of a probation violation, the underlying offense shall serve
31 as the most serious offense as used in this section:

- 32 (1) If the most serious offense alleged in the petition is first-degree murder
33 (G.S. 14-17), first-degree forcible rape (G.S. 14-27.21), first-degree statutory
34 rape (G.S. 14-27.24), first-degree forcible sexual offense (G.S. 14-27.26), or
35 first-degree statutory sexual offense (G.S. 14-27.29) if committed by an adult,
36 remediation shall not exceed 36 months beyond the original finding of
37 incapacity to proceed or the maximum jurisdiction of the court as provided in
38 G.S. 7B-1601, whichever occurs sooner.
- 39 (2) If the most serious offense alleged in the petition is a Class B1, B2, C, D, or
40 E felony if committed by an adult, other than an offense set forth in
41 subdivision (1) of this subsection, remediation shall not exceed 12 months
42 beyond the original finding of incapacity to proceed, or the maximum
43 jurisdiction of the court as provided in G.S. 7B-1601, whichever occurs
44 sooner. The court for good cause may grant an extension of up to 12 months
45 for remediation. If an extension is granted, remediation shall not exceed 24
46 months beyond the original finding of incapacity to proceed, or the maximum
47 jurisdiction of the court as provided in G.S. 7B-1601, whichever occurs
48 sooner.
- 49 (3) If the most serious offense alleged in the petition is a Class F, G, H, or I felony
50 or any misdemeanor if committed by an adult, remediation shall not exceed
51 six months beyond the original finding of incapacity to proceed, or the

1 maximum jurisdiction of the court as provided in G.S. 7B-1601, whichever
2 occurs sooner. The court may grant an extension of up to six months for
3 remediation. If an extension is granted, remediation shall not exceed 12
4 months beyond the original finding of incapacity to proceed, or the maximum
5 jurisdiction of the court as provided in G.S. 7B-1601, whichever occurs
6 sooner.

7 (4) In no case shall the court grant extensions of time for the remediation services
8 beyond the maximum jurisdiction of the court as provided in G.S. 7B-1601.

9 (g) The Division shall be responsible for the provision of psychoeducation remediation
10 programming and working with community partners to secure any additional services
11 recommended in the forensic evaluation report. The Division is authorized to contract with the
12 University of North Carolina at Chapel Hill or any other qualified educational organization to
13 develop and conduct related trainings and curriculum.

14 The remediation service provider shall provide reports to the court at least every 90 days.
15 Any report made to the court pursuant to this subsection shall be forwarded to the clerk of
16 superior court addressed to the attention of the presiding judge. A report provided under this
17 subsection shall include all of the following:

18 (1) The dates of any services provided to the juvenile.

19 (2) A summary of the juvenile's attendance and participation.

20 (3) Information about the juvenile's progress in the areas that were found to be
21 relevant to the juvenile's incapacity, including, but not limited to, education
22 regarding court procedures and stabilization or improvement of symptoms
23 leading to functional impairments.

24 No statement or disclosure made by the juvenile during the remediation services regarding
25 their responsibility for a criminal act that can result either in an adjudication of delinquency or
26 transfer of a matter to superior court for trial as an adult is admissible in any juvenile or criminal
27 proceeding against the juvenile or defendant. All remediation progress reports, summaries, and
28 notes shall not include any such statement.

29 The court shall hold a hearing within 30 days of receipt of the remediation progress report to
30 review the remediation services. The remediation review hearing may be informal, and the court
31 may consider all remediation progress reports. The court may consider any evidence, including
32 hearsay evidence as defined in G.S. 8C-1, Rule 801, that the court finds to be relevant, reliable,
33 and necessary to determine if remediation services should continue or reassessment of capacity
34 is warranted. The juvenile and the juvenile's parent, guardian, or custodian shall have an
35 opportunity to present evidence, and they may advise the court concerning the remediation
36 services. The order of the court may be amended or supplemented only as provided in this
37 Subchapter and only after notice and a hearing.

38 (h) If the court determines that reassessment of capacity is warranted, the court shall order
39 a new forensic evaluation. This forensic evaluation shall be performed by the original forensic
40 evaluator when possible and comply with the requirements of G.S. 7B-2401.3. Any initial
41 forensic evaluation or reevaluation shall be conducted independently of the remediation services
42 and shall not be conducted by the remediation specialist for the juvenile.

43 (i) If, at any time during the remediation treatment, the remediation service provider
44 finds that the juvenile has likely completed the requirements of the remediation services, the
45 remediation service provider shall provide written notification to the court, the prosecutor, and
46 the juvenile's attorney within two business days regarding this finding. A copy of any remediation
47 report or reports shall be forwarded to the court and to the juvenile's attorney. The court may
48 order the release of a remediation report to the prosecutor after providing the juvenile with
49 reasonable notice and an opportunity to be heard and then determining that the information is
50 relevant and necessary to the hearing of the matter before the court and unavailable from any
51 other source. This subsection shall not be construed to relieve any court of its duty to conduct

1 hearings and make findings required under relevant federal law before ordering the release of
2 any private medical or mental health information or records related to substance abuse or HIV
3 status or treatment. The records shall be withheld from public inspection and, except as provided
4 in this subsection, may be examined only by order of the court. The juvenile's matter shall be
5 returned to court within a reasonable time, and not more than 30 days after the completion of
6 remediation services, for review or further proceedings.

7 **"§ 7B-2401.5. Involuntary commitment; dismissal; seal records.**

8 (a) When the court finds that a juvenile is incapable to proceed and not likely to attain
9 capacity in the foreseeable future, the court may conduct an additional hearing, as the court
10 determines to be necessary, to determine whether there are reasonable grounds to believe the
11 juvenile meets the criteria for involuntary commitment under Part 7 of Article 5 of Chapter 122C
12 of the General Statutes. If the presiding judge finds reasonable grounds to believe that the juvenile
13 meets the criteria, the judge shall make findings of fact and issue a custody order in the same
14 manner upon the same grounds and with the same effect as an order issued by a clerk or
15 magistrate pursuant to G.S. 122C-261. Proceedings thereafter are in accordance with Part 7 of
16 Article 5 of Chapter 122C of the General Statutes. If the juvenile was charged with a violent
17 crime, including a crime involving assault with a deadly weapon, the judge's custody order shall
18 require a law enforcement officer to take the juvenile directly to a 24-hour facility as described
19 in G.S. 122C-252. The order must also indicate that the juvenile was charged with a violent crime
20 and that the juvenile was found incapable of proceeding. Evidence used at the hearing regarding
21 capacity to proceed is admissible in the involuntary civil commitment proceedings.

22 (b) When the court finds that a juvenile is incapable to proceed and not likely to attain
23 capacity in the foreseeable future, the court shall dismiss the petition.

24 (c) The prosecutor may voluntarily dismiss with leave any allegations stated in the
25 petition, pursuant to G.S. 7B-2404, prior to the termination of the jurisdiction of the court as
26 provided in G.S. 7B-1601.

27 (d) After the completion of all capacity hearings or after a juvenile has been found not to
28 be substantially likely to be restored to or to attain capacity in the foreseeable future, the court
29 shall direct the clerk to seal all forensic evaluations, remediation reports, and any other records
30 pertaining to the capacity of the juvenile, pursuant to G.S. 7B-3000(c). Any records sealed
31 pursuant to this subsection may be opened or inspected only by order of the court or for appellate
32 review."

33 **SECTION 1.(c)** G.S. 7B-1906 reads as rewritten:

34 **"§ 7B-1906. Secure or nonsecure custody hearings.**

35 ...

36 (b3) When the capacity of the juvenile to proceed is questioned pursuant to
37 G.S. 7B-2401.2(a), further hearings to determine the need for secure custody shall be held at
38 intervals of no more than 30 calendar days from the date of the motion. Further hearings may be
39 waived only with the consent of the juvenile through counsel for the juvenile. Upon request of
40 the juvenile, through counsel for the juvenile, and for good cause as determined by the court,
41 further hearings to determine the need for secure custody may be held at intervals of 10 days.

42"

43 **SECTION 2.** There is appropriated from the General Fund to the Department of
44 Public Safety, Division of Juvenile Justice and Delinquency Prevention, the nonrecurring sums
45 of two hundred seventeen thousand one hundred thirty-five dollars (\$217,135) for the 2023-2024
46 fiscal year, eight hundred ninety-five thousand one hundred sixty-two dollars (\$895,162) for the
47 2024-2025 fiscal year, and the recurring sum of one million two hundred eighty-eight thousand
48 two hundred thirty-eight dollars (\$1,288,238) for the 2025-2026 fiscal year to implement the
49 provisions of this act.

1 **SECTION 3.** Prosecutions for offenses committed before the effective date of this
2 act are not abated or affected by this act, and the statutes that would be applicable but for this act
3 remain applicable to those prosecutions.

4 **SECTION 4.** Section 1 of this act becomes effective January 1, 2025. Section 2 of
5 this act becomes effective July 1, 2023. The remainder of this act is effective when it becomes
6 law.