

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 359

Short Title: Enhance Child Welfare Services.

(Public)

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Sponsors: Senators Phillips; Foxx, Garrou, Hagan, Harris, Kinnaird, Lucas, Martin of Guilford, Miller, Weinstein, and Wellons.

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Referred to: Judiciary II.

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March 15, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE GENERAL STATUTES PERTAINING TO CUSTODY OF ABUSED, NEGLECTED, OR DEPENDENT JUVENILES IN THE CUSTODY OR AUTHORITY OF THE COUNTY DEPARTMENTS OF SOCIAL SERVICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7B-101(3), as enacted in Section 6 of S.L. 1998-202, reads as rewritten:

"(3) Caretaker. – Any person other than a parent, guardian, or custodian who has responsibility for the health and welfare of a juvenile in a residential setting. A person responsible for a juvenile's health and welfare means a stepparent, foster parent, an adult member of the juvenile's household, an adult relative entrusted with the juvenile's care, ~~or~~ any person such as a house parent or cottage parent who has primary responsibility for supervising a juvenile's health and welfare in a residential child care facility or residential educational ~~facility~~ facility, or any employee or volunteer of a division, institution, or school operated by the Department of Health and Human Services. "Caretaker" also means any person who has the responsibility for the care of a juvenile in a child care facility as defined in Article 7 of Chapter 110 of the General

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

7 Section 2. G.S. 7B-302, as enacted by Section 6 of S.L. 1998-202 and as  
8 amended by Section 19 of S.L. 1998-229, reads as rewritten:

9 "(b) When a report of a juvenile's death as a result of suspected maltreatment or a  
10 report of suspected abuse, neglect, or dependency of a juvenile in a noninstitutional  
11 setting is received, the director of the department of social services shall immediately  
12 ascertain if other juveniles ~~remain live~~ in the home, and, if so, initiate an investigation in  
13 order to determine whether they require protective services or whether immediate  
14 removal of the juveniles from the home is necessary for their protection. When a report  
15 of a juvenile's death as a result of maltreatment or a report of suspected abuse, neglect, or  
16 dependency of a juvenile in an institutional setting such as a residential child care facility  
17 or residential educational facility is received, the director of the department of social  
18 services shall immediately ascertain if other juveniles remain in the facility subject to the  
19 alleged perpetrator's care or supervision, and, if so, assess the circumstances of those  
20 juveniles in order to determine whether they require protective services or whether  
21 immediate removal of those juveniles from the facility is necessary for their protection."

22 Section 3. G.S. 108A-49 reads as rewritten:

23 "**§ 108A-49. Foster care and adoption assistance payments.**

24 (a) Benefits in the form of foster care assistance shall be granted in accordance  
25 with the rules of the Social Services Commission to any dependent child who would have  
26 been eligible to receive Aid to Families with Dependent Children (as that program was in  
27 effect on June 1, 1995), but for his or her removal from the home of a specified relative  
28 for placement in a foster care facility; provided, that the child's placement and care is the  
29 responsibility of a county department of social services. A county department of social  
30 services shall pay, at a minimum, the monthly graduated foster care assistance payments  
31 for eligible children as set by the General Assembly. A county department of social  
32 services may make foster care assistance payments in excess of the monthly graduated  
33 rates set by the General Assembly.

34 (b) Adoption assistance payments for certain adoptive children shall be granted in  
35 accordance with the rules of the Social Services Commission to adoptive parents who  
36 adopt a child eligible to receive foster care maintenance payments or supplemental  
37 security income benefits; provided, that the child cannot be returned to his or her parents;  
38 and provided, that the child has special needs which create a financial barrier to adoption.  
39 A county department of social services shall pay, at a minimum, the monthly graduated  
40 adoption assistance payments for eligible children as set by the General Assembly. A  
41 county department of social services may make adoption assistance payments in excess  
42 of the monthly graduated rates set by the General Assembly.

1 (c) The Department is authorized to use available federal payments to states under  
2 Title IV-E of the Social Security Act for foster care and adoption assistance payments."

3 Section 4. G.S. 143B-150.20, as enacted by Section 12.22 of S.L. 1998-212  
4 and as amended by Section 13(oo) of S.L. 1998-202, reads as rewritten:

5 "**§ 143B-150.20. State Child Fatality Review Team; establishment; purpose; powers;  
6 duties.**

7 There is established in the Department of Health and Human Services, Division of  
8 Social Services, a State Child Fatality Review Team to conduct in-depth reviews of any  
9 child fatalities which have occurred involving children and families involved with local  
10 departments of social services child protective services in the 12 months preceding the  
11 fatality. Steps in this in-depth review shall include interviews with any individuals  
12 determined to have pertinent information as well as examination of any written materials  
13 containing pertinent information.

14 The purpose of these reviews shall be to implement a team approach to identifying  
15 factors which may have contributed to conditions leading to the fatality and to develop  
16 recommendations for improving coordination between local and State entities which  
17 might have avoided the threat of injury or fatality and to identify appropriate remedies.  
18 The Division of Social Services shall make public the findings and recommendations  
19 developed for each fatality reviewed relating to improving coordination between local  
20 and State entities. These findings shall not be introduced into evidence in any legal or  
21 administrative proceeding. The State Child Fatality Review Team shall consult with the  
22 appropriate district attorney in accordance with G.S. 7B-2902(d) prior to the public  
23 release of the findings and recommendations.

24 The State Child Fatality Review Team shall include representatives of the local  
25 departments of social services and the Division of Social Services, a member of the local  
26 Community Child Protection Team, a member of the local child fatality prevention team,  
27 a representative from local law enforcement, a prevention specialist, and a medical  
28 professional.

29 The State Child Fatality Review Team shall have access to all medical records,  
30 hospital records, and records maintained by this State, any county, or any local agency as  
31 necessary to carry out the purposes of this subsection, including police investigative data,  
32 medical examiner investigative data, health records, mental health records, and social  
33 services records. The State Child Fatality Review Team may receive a copy of any  
34 reviewed materials necessary to the conduct of the fatality review. Any member of the  
35 State Child Fatality Review Team may share, only in an official meeting of the State  
36 Child Fatality Review Team, any information available to that member that the State  
37 Child Fatality Review Team needs to carry out its duties.

38 Meetings of the State Child Fatality Review Team are not subject to the provisions of  
39 Article 33C of Chapter 143 of the General Statutes. However, the State Child Fatality  
40 Review Team may hold periodic public meetings to discuss, in a general manner not  
41 revealing confidential information about children and families, the findings of their  
42 reviews and their recommendations for preventive actions. Minutes of all public  
43 meetings, excluding those of closed sessions, shall be kept in compliance with Article

1 33C of Chapter 143 of the General Statutes. Any minutes or any other information  
2 generated during any executive session shall be sealed from public inspection.

3 All otherwise confidential information and records acquired by the State Child  
4 Fatality Review Team, in the exercise of its duties are confidential; are not subject to  
5 discovery or introduction into evidence in any proceedings except pursuant to an order of  
6 the court; and may only be disclosed as necessary to carry out the purposes of the State  
7 Child Fatality Review Team. In addition, all otherwise confidential information and  
8 records created by the State Child Fatality Review Team in the exercise of its duties are  
9 confidential; are not subject to discovery or introduction into evidence in any  
10 proceedings; and may only be disclosed as necessary to carry out the purposes of the  
11 State Child Fatality Review Team. No member of the State Child Fatality Review Team,  
12 nor any person who attends a meeting of the State Child Fatality Review Team, may  
13 testify in any proceeding about what transpired at the meeting, about information  
14 presented at the meeting, or about opinions formed by the person as a result of the  
15 meetings. This subsection shall not, however, prohibit a person from testifying in a civil  
16 or criminal action about matters within that person's independent knowledge.

17 Each member of the State Child Fatality Review Team and invited participant shall  
18 sign a statement indicating an understanding of and adherence to confidentiality  
19 requirements, including the possible civil or criminal consequences of any breach of  
20 confidentiality."

21 Section 5. Chapter 7B of the General Statutes is amended by adding a new  
22 Article to read:

23 **"ARTICLE 39.**

24 **"INTERSTATE COMPACT ON ADOPTION AND MEDICAL ASSISTANCE.**

25 **"§ 7B-3900. Legislative findings and purposes.**

26 (a) Finding adoptive families for children, for whom state assistance is desirable  
27 pursuant to G.S. 108A-49 and G.S. 108A-50, and assuring the protection of the interests  
28 of the children affected during the entire assistance period require special measures when  
29 the adoptive parents move to another state or are residents of another state. Additionally,  
30 the provision of medical and other necessary services for children receiving State  
31 assistance encounters special difficulties when the provision of services takes place in  
32 another state.

33 (b) In recognition of the need for special measures, the General Assembly  
34 authorizes the Secretary of the Department of Health and Human Services to enter into  
35 interstate agreements with agencies of other states for the protection of children on behalf  
36 of whom adoption assistance is being provided by the Department of Health and Human  
37 Services and to provide procedures for interstate adoption assistance payments, including  
38 payments for medical services.

39 **"§ 7B-3901. Definitions.**

40 Unless the context requires otherwise, as used in this Article:

- 41 (1) 'State' means a state of the United States, the District of Columbia, the  
42 Commonwealth of Puerto Rico, the Virgin Islands, Guam, the

1 Commonwealth of the Northern Mariana Islands, or any territory or  
2 possession subject to the jurisdiction of the United States.

3 (2) 'Adoption assistance state' means the state that is a signatory to an  
4 adoption assistance agreement in a particular case.

5 (3) 'Residence state' means the state where the child is living.

6 **"§ 7B-3902. Compacts authorized.**

7 The Secretary of the Department of Health and Human Services may develop,  
8 participate in the development of, negotiate, and enter into one or more interstate  
9 compacts on behalf of this State with other states to implement this Article. When  
10 entered into, and for so long as it remains in force, such a compact shall have the full  
11 force and effect of law.

12 **"§ 7B-3903. Content of compacts.**

13 (a) A compact under this Article shall contain all of the following provisions:

14 (1) A provision making it available for joinder by all states.

15 (2) A provision for withdrawal from the compact upon written notice to the  
16 parties, with a period of at least one year between the date of the notice  
17 and effective date of the withdrawal.

18 (3) A requirement that the protections afforded by or under the compact  
19 continue in force for the duration of the adoption assistance and apply  
20 to all children and their adoptive parents who, on the effective date of  
21 the withdrawal, are receiving adoption assistance from a party state  
22 other than the state in which they are resident and have their principal  
23 place of abode.

24 (4) A requirement that each instance of adoption assistance to which the  
25 compact applies be covered by an adoption assistance agreement in  
26 writing between the adoptive parents and the state child welfare agency  
27 of the state which undertakes to provide the adoption assistance and that  
28 any such agreement be expressly for the benefit of the adopted child and  
29 enforceable by the adoptive parents and the state child welfare agency  
30 providing the adoption assistance.

31 (5) Any other provisions appropriate to implement the proper  
32 administration of the compact.

33 (b) A compact entered into under this Article may contain any of the following  
34 provisions:

35 (1) Provisions establishing procedures and entitlement to medical and other  
36 necessary social services for the child in accordance with applicable  
37 laws, even though the child and the adoptive parents are in a state other  
38 than the one responsible for or providing the services or the funds to  
39 defray part or all of the expense thereof.

40 (2) Any other provisions appropriate or incidental to the proper  
41 administration of the compact.

42 **"§ 7B-3904. Medical assistance.**

1 (a) A child with special needs who is a resident of this State who is the subject of  
2 an adoption assistance agreement with another state shall be accepted as being entitled to  
3 receive medical assistance certification from this State upon the filing in the department  
4 of social services of the county in which the child resides a certified copy of the adoption  
5 assistance agreement obtained from the adoption assistance state.

6 (b) The Division of Medical Assistance shall consider the holder of a medical  
7 assistance certification under this section to be entitled to the same medical benefits  
8 under the laws of this State as any other holder of a medical assistance certification and  
9 shall process and make payment on claims on account of that holder in the same manner  
10 and under the same conditions and procedures that apply to other recipients of medical  
11 assistance.

12 (c) The provisions of this section apply only to medical assistance for children  
13 under adoption assistance agreements from states that have entered into a compact with  
14 this State under which the other state provides medical assistance to children with special  
15 needs under adoption assistance agreements made by this State.

16 **"§ 7B-3905. Federal participation.**

17 The Department of Health and Human Services, in connection with the administration  
18 of this Article and any compact entered into pursuant to this Article, shall include the  
19 provision of adoption assistance and medical assistance for which the federal government  
20 pays some or all of the cost in any state plan made pursuant to the Adoption Assistance  
21 and Child Welfare Act of 1980 (P.L. 96-272), Titles IV (E) and XIX of the Social  
22 Security Act and any other applicable federal laws. The Department shall apply for and  
23 administer all relevant federal aid in accordance with law.

24 **"§ 7B-3906. Compact administrator.**

25 The Secretary of the Department of Health and Human Services may appoint a  
26 Compact Administrator who shall be the general coordinator of activities under this  
27 Compact in this State and who, acting jointly with like officers of other party states, may  
28 promulgate rules to carry out more effectively the terms and provisions of this Compact."

29 Section 6. Section 5 of this act becomes effective October 1, 1999. The  
30 remainder of this act becomes effective when it becomes law.