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HOUSE BILL DRH30133-LU-44

Short Title: CIP Revisions/Juvenile Code. (Public)

Sponsors: Representatives Stevens and Morey (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE REVISIONS TO THE JUVENILE CODE PURSUANT TO  
3 RECOMMENDATIONS BY THE COURT IMPROVEMENT PROGRAM (CIP).

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 7B-101(18a) reads as rewritten:

6 "§ 7B-101. Definitions.

7 As used in this Subchapter, unless the context clearly requires otherwise, the following words  
8 have the listed meanings:

9 ...

10 (18a) Responsible individual. – A parent, guardian, custodian, ~~or caretaker~~  
11 caretaker, or individual responsible for subjecting a juvenile to human  
12 trafficking under G.S. 14-43.11, 14-43.12, or 14-43.13, who abuses or  
13 seriously neglects a juvenile.

14 ...."

15 SECTION 2. G.S. 7B-200(c)(1) reads as rewritten:

16 "(c) When the court obtains jurisdiction over a juvenile as the result of a petition alleging  
17 that the juvenile is abused, neglected, or dependent:

18 (1) Any other civil action in this State in which the custody of the juvenile is an  
19 issue is automatically stayed as to that issue, unless the juvenile proceeding  
20 and the civil custody action or claim are consolidated pursuant to subsection  
21 (d) of this section or the court in the juvenile proceeding enters an order  
22 dissolving the stay. When there is an automatic stay, the court shall ensure  
23 that a notice is filed in the stayed action, if the county and case file number  
24 are made known to the court. The notice shall be on a printed form created by  
25 the North Carolina Administrative Office of the Courts, include notice of the  
26 stay, and provide the county and case file number for the action under this  
27 Article.

28 ...."

29 SECTION 3. G.S. 7B-320(a) reads as rewritten:

30 "(a) ~~Within five working days after~~ After the completion of an investigative assessment  
31 response that results in a determination of abuse or serious neglect and the identification of a  
32 responsible individual, the director shall personally deliver written notice of the determination to  
33 the identified ~~individual~~ individual in an expeditious manner."

34 SECTION 4. G.S. 7B-323(b) reads as rewritten:

35 "(b) The clerk of court shall maintain a separate docket for judicial review actions. Upon  
36 the filing of a petition for judicial review, the clerk shall calendar the matter for hearing within



1 45 days from the date the petition is filed at a session of district court hearing juvenile matters  
2 or, if there is no such session, at the next session of juvenile court. The clerk shall send notice of  
3 the hearing to the petitioner and to the director who determined the abuse or serious neglect and  
4 identified the individual as a responsible individual. Upon the request of a party, the court shall  
5 close the hearing to all persons, except officers of the court, the parties, ~~and their witnesses.~~  
6 witnesses, and law enforcement investigating the same allegations. At the hearing, the director  
7 shall have the burden of proving by a preponderance of the evidence the abuse or serious neglect  
8 and the identification of the individual seeking judicial review as a responsible individual. The  
9 hearing shall be before a judge without a jury. The rules of evidence applicable in civil cases  
10 shall apply. However, the court, in its discretion, may permit the admission of any reliable and  
11 relevant ~~evidence~~ evidence, including, but not limited to, child medical evaluation reports and  
12 child and family evaluation reports that the director relied on to make the determination that  
13 abuse or serious neglect occurred, if the general purposes of the rules of evidence and the interests  
14 of justice will best be served by its admission."

15 **SECTION 5.** G.S. 7B-324 reads as rewritten:

16 "**§ 7B-324. Persons ineligible to petition for judicial review.**

17 (a) An individual who has been identified by a director as a responsible individual ~~may~~  
18 ~~not petition~~ is not eligible for judicial review if any of the following apply:

19 ...

20 (a1) If the individual is criminally convicted as a result of the same incident after the  
21 petition for judicial review is filed, the court shall dismiss the petition for judicial review with  
22 prejudice.

23 ...."

24 **SECTION 6.** G.S. 7B-503(a)(2) reads as rewritten:

25 "(a) When a request is made for nonsecure custody, the court shall first consider release  
26 of the juvenile to the juvenile's parent, relative, guardian, custodian, or other responsible adult.  
27 An order for nonsecure custody shall be made only when there is a reasonable factual basis to  
28 believe the matters alleged in the petition are true, and any of the following apply:

29 ...

30 (2) The juvenile has suffered physical ~~injury or sexual abuse~~ injury, sexual abuse,  
31 or serious emotional damage as defined by G.S. 7B-101(1)e."

32 **SECTION 7.(a)** G.S. 7B-600(c) reads as rewritten:

33 "(c) If the court appoints an individual guardian of the person pursuant to this section, the  
34 court shall verify that the person being appointed as guardian of the juvenile understands the  
35 legal significance of the appointment and will have adequate resources to care appropriately for  
36 the juvenile. The fact that the prospective guardian has provided a stable placement for the  
37 juvenile for at least six consecutive months is evidence that the person has adequate resources."

38 **SECTION 7.(b)** G.S. 7B-903(a)(4) reads as rewritten:

39 "(a) The following alternatives for disposition shall be available to any court exercising  
40 jurisdiction, and the court may combine any of the applicable alternatives when the court finds  
41 the disposition to be in the best interests of the juvenile:

42 ...

43 (4) Place the juvenile in the custody of a parent, relative, private agency offering  
44 placement services, or some other suitable person. If the court determines that  
45 the juvenile should be placed in the custody of an individual other than a  
46 parent, the court shall verify that the person receiving custody of the juvenile  
47 understands the legal significance of the placement and will have adequate  
48 resources to care appropriately for the juvenile. The fact that the prospective  
49 custodian has provided a stable placement for the juvenile for at least six  
50 consecutive months is evidence that the person has adequate resources."

51 **SECTION 8.** G.S. 7B-901 reads as rewritten:

1 **"§ 7B-901. Initial dispositional hearing.**

2 ...

3 (c) If the disposition order places a juvenile in the custody of a county department of  
4 social services, the court shall direct that reasonable efforts for reunification as defined in  
5 G.S. 7B-101 shall not be required if the court makes written findings of fact pertaining to any of  
6 the following, unless the court concludes that there is compelling evidence warranting continued  
7 reunification efforts:

8 ...

9 (2) A court of competent jurisdiction ~~terminates or~~ has terminated involuntarily  
10 the parental rights of the parent to another child of the parent.

11 ...

12 (d) When the court determines that reunification efforts are not required, the court shall  
13 order a permanent plan as soon as possible, after providing each party with a reasonable  
14 opportunity to prepare and present evidence. The court shall schedule a ~~subsequent~~ permanency  
15 planning hearing within 30 days to address the permanent plans in accordance with  
16 G.S. 7B-906.1 and G.S. 7B-906.2."

17 **SECTION 9.** G.S. 7B-905.1 reads as rewritten:

18 **"§ 7B-905.1. Visitation.**

19 (a) An order that removes custody of a juvenile from a parent, guardian, or custodian or  
20 that continues the juvenile's placement outside the home shall provide for ~~appropriate~~ visitation  
21 ~~as may be that is~~ in the best interests of the juvenile consistent with the juvenile's health and  
22 ~~safety.~~ safety, including no visitation. The court may specify in the order conditions under which  
23 visitation may be suspended.

24 (b) If the juvenile is placed or continued in the custody or placement responsibility of a  
25 county department of social services, the court may order the director to arrange, facilitate, and  
26 supervise a visitation plan expressly approved or ordered by the court. The plan shall indicate the  
27 minimum frequency and length of visits and whether the visits shall be supervised. Unless the  
28 court orders otherwise, the director shall have discretion to determine who will supervise visits  
29 when supervision is required, to determine the location of visits, and to change the day and time  
30 of visits in response to scheduling conflicts, illness of the child or party, or extraordinary  
31 circumstances. The director shall promptly communicate a limited and temporary change in the  
32 visitation schedule to the affected party. Any ongoing change in the visitation schedule shall be  
33 communicated to the party in writing and state the reason for the change.

34 If the director makes a good faith determination that the visitation plan is not consistent with  
35 the juvenile's health and safety, the director may temporarily suspend all or part of the visitation  
36 plan. The director shall not be subject to any motion to show cause for this suspension but shall  
37 expeditiously file a motion for ~~review~~ review and request that a hearing be scheduled within 30  
38 days. However, no motion or notice of hearing is required if a review or permanency planning  
39 hearing is already scheduled to be heard within 30 days of the suspension.

40 ...."

41 **SECTION 10.** G.S. 7B-906.1 reads as rewritten:

42 **"§ 7B-906.1. Review and permanency planning hearings.**

43 (a) The court shall conduct a review hearing within 90 days from the date of the initial  
44 dispositional hearing held pursuant to ~~G.S. 7B-901 and shall conduct a review hearing within six~~  
45 ~~months thereafter.~~ G.S. 7B-901. Review hearings shall be held at least every six months  
46 thereafter. Within 12 months of the date of the initial order removing custody, there shall be a  
47 review hearing designated as a permanency planning hearing. Review hearings after the initial  
48 permanency planning hearing shall be designated as ~~subsequent~~ permanency planning hearings.  
49 ~~Subsequent permanency~~ Permanency planning hearings shall be held at least every six months  
50 thereafter or earlier as set by the court to review the progress made in finalizing the permanent  
51 plan for the juvenile, or if necessary, to make a new permanent plan for the juvenile.

1 ...  
 2 (g) At the conclusion of each permanency planning hearing, the ~~judge-cour~~ shall make  
 3 specific findings as to the best permanent plans to achieve a safe, permanent home for the juvenile  
 4 within a reasonable period of time. ~~The judge shall inform the parent, guardian, or custodian that~~  
 5 ~~failure or refusal to cooperate with the plan may result in an order of the court in a subsequent~~  
 6 ~~permanency planning hearing that reunification efforts may cease.~~

7 ...  
 8 (j) If the court determines that the juvenile shall be placed in the custody of an individual  
 9 other than a parent or appoints an individual guardian of the person pursuant to G.S. 7B-600, the  
 10 court shall verify that the person receiving custody or being appointed as guardian of the juvenile  
 11 understands the legal significance of the placement or appointment and will have adequate  
 12 resources to care appropriately for the juvenile. The fact that the prospective custodian or  
 13 guardian has provided a stable placement for the juvenile for at least six consecutive months is  
 14 evidence that the person has adequate resources.

15 ...  
 16 (n) Notwithstanding other provisions of this Article, the court may waive the holding of  
 17 hearings required by this section, may require written reports to the court by the agency or person  
 18 holding custody in lieu of review hearings, or order that review hearings be held less often than  
 19 every six months if the court finds by clear, cogent, and convincing evidence each of the  
 20 following:

- 21 (1) The juvenile has resided in the placement for a period of at least one ~~year-year~~  
 22 or the juvenile has resided in the placement for at least six consecutive months  
 23 and the court enters a consent order pursuant to G.S. 7B-801(b1).

24 ...."

25 **SECTION 11.** G.S. 7B-906.2 reads as rewritten:

26 "**§ 7B-906.2. Permanent plans; concurrent planning.**

27 ...  
 28 (b) At any permanency planning hearing, the court shall adopt concurrent permanent  
 29 plans and shall identify the primary plan and secondary plan. Reunification shall ~~remain be~~ a  
 30 primary or secondary plan unless the court made findings under G.S. 7B-901(c) or  
 31 G.S. 7B-906.1(d)(3) or makes written findings that reunification efforts clearly would be  
 32 unsuccessful or would be inconsistent with the juvenile's health or safety. This determination  
 33 may be made at any permanency planning hearing. The court shall order the county department  
 34 of social services to make efforts toward finalizing the primary and secondary permanent plans  
 35 and may specify efforts that are reasonable to timely achieve permanence for the juvenile.

36 (c) ~~At the first permanency planning hearing held pursuant to G.S. 7B-906.1, the court~~  
 37 ~~shall make a finding about whether the efforts of the county department of social services toward~~  
 38 ~~reunification were reasonable, unless reunification efforts were ceased in accordance with~~  
 39 ~~G.S. 7B-901(e) or this section. Unless reunification efforts were previously ceased, at each~~  
 40 permanency planning hearing the court shall make a finding about whether the reunification  
 41 efforts of the county department of social services were reasonable. In every subsequent  
 42 permanency planning hearing held pursuant to G.S. 7B-906.1, the court shall make written  
 43 findings about the efforts the county department of social services has made toward the primary  
 44 permanent plan and any secondary permanent plans in effect prior to the hearing. The court shall  
 45 make a conclusion about whether efforts to finalize the permanent plan were reasonable to timely  
 46 achieve permanence for the juvenile.

47 (d) At any permanency planning hearing under subsections (b) and (c) of this section, the  
 48 court shall make written findings as to each of the following, which shall demonstrate ~~lack of~~  
 49 success: the degree of success or failure toward reunification:

50 ...."

51 **SECTION 12.** G.S. 7B-908 reads as rewritten:

1 **"§ 7B-908. Post termination of parental rights' placement court review.**

2 ...  
 3 (b) The court shall conduct a placement review not later than six months from the date of  
 4 the termination hearing when parental rights have been terminated by a petition or motion  
 5 brought by any person or agency designated in G.S. 7B-1103(a)(2) through (6), or one parent's  
 6 parental rights have been terminated by court order and the other parent's parental rights have  
 7 been relinquished under Chapter 48 of the General Statutes, and a county director or licensed  
 8 child-placing agency has custody of the juvenile. The court shall conduct reviews every six  
 9 months thereafter until the juvenile is the subject of a decree of adoption:

10 (1) No more than 30 days and no less than 15 days prior to each review, the clerk  
 11 shall give notice of the review to the juvenile if the juvenile is at least 12 years  
 12 of age, the legal custodian or guardian of the juvenile, the person providing  
 13 care for the juvenile, the guardian ad litem, if any, and any other person or  
 14 agency the court may specify. The department of social services shall either  
 15 provide to the clerk the name and address of the person providing care for the  
 16 child for notice under this subsection or file written documentation with the  
 17 clerk that the child's current care provider was sent notice of hearing. Only the  
 18 juvenile, ~~if the juvenile is at least 12 years of age,~~ the legal custodian or  
 19 guardian of the juvenile, the person providing care for the juvenile, and the  
 20 guardian ad litem ~~shall attend~~ may participate in the review hearings, except  
 21 as otherwise directed by the court. Nothing in this subdivision shall be  
 22 construed to make the person a party to the proceeding solely based on  
 23 receiving notice and the right to be heard. Any individual whose parental  
 24 rights have been terminated shall not be considered a party to the proceeding  
 25 unless an appeal of the order terminating parental rights is pending, and a court  
 26 has stayed the order pending the appeal.

27 ...  
 28 (e1) The order shall be reduced to writing, signed, and entered no later than 30 days  
 29 following the completion of the hearing. If the order is not entered within 30 days following  
 30 completion of the hearing, the clerk of court for juvenile matters shall schedule a subsequent  
 31 hearing at the first session of court scheduled for the hearing of juvenile matters following the  
 32 30-day period to determine and explain the reason for the delay and to obtain any needed  
 33 clarification regarding the contents of the order. The order shall be entered within 10 days of the  
 34 subsequent hearing required by this subsection.

35 ...."  
 36 **SECTION 13.** Article 9 of Chapter 7B of the General Statutes is amended by adding  
 37 a new section to read:

38 **"§ 7B-909.1. Relinquishment to a department of social services.**

39 Before the relinquishment of a juvenile to a department of social services for the purpose of  
 40 adoption may be executed by a parent who is a respondent in an action under this Subchapter and  
 41 (i) whose retained counsel has entered a notice of appearance or (ii) who has an attorney whose  
 42 provisional appointment has been confirmed by the court, each of the following shall occur:

- 43 (1) Notice shall be given by any reasonable and timely means of communication  
 44 to the parent's counsel or, if such counsel is unavailable, to the partner or  
 45 employee at the attorney's office that the department has made arrangements  
 46 for the parent to execute a relinquishment at a specific date, time, and location.  
 47 (2) The parent shall be advised of the right to seek the advice of the parent's  
 48 counsel prior to executing the relinquishment and to have the parent's counsel  
 49 present while executing the relinquishment."

50 **SECTION 14.(a)** G.S. 7B-1001 reads as rewritten:

51 **"§ 7B-1001. Right to appeal.**

1 (a) In a juvenile matter under this Subchapter, ~~appeal of a final order of the court shall be~~  
2 ~~made directly to the Court of Appeals. Only~~ only the following juvenile matters may be  
3 ~~appealed:~~ final orders may be appealed directly to the Court of Appeals:

4 ...

5 (a1) In a juvenile matter under this Subchapter, ~~appeal of a final order of the court shall be~~  
6 ~~made directly to the Supreme Court in the following juvenile matters:~~ only the following final  
7 orders may be appealed directly to the Supreme Court:

8 ...."

9 **SECTION 14.(b)** 7B-1003(e) reads as rewritten:

10 "(e) The provisions of ~~subsections (b), (c), and (d) of G.S. 7B-905~~ G.S. 7B-903.1 shall  
11 apply to any order entered during an appeal that provides for the placement or continued  
12 placement of a juvenile in foster care."

13 **SECTION 15.(a)** 7B-2503(1) reads as rewritten:

14 "(1) In the case of any juvenile who needs more adequate care or supervision or  
15 who needs placement, the judge ~~may;~~ may do any of the following:

- 16 a. Require that the juvenile be supervised in the juvenile's own home by  
17 a department of social services in the juvenile's county of residence, a  
18 juvenile court counselor, or other personnel as may be available to the  
19 court, subject to conditions applicable to the parent, guardian, or  
20 custodian or the juvenile as the judge may ~~specify;~~ specify.
- 21 b. Place the juvenile in the custody of a parent, guardian, custodian,  
22 relative, private agency offering placement services, or some other  
23 suitable ~~person;~~ person.
- 24 c. If the director of the department of social services has received notice  
25 and an opportunity to be heard, place the juvenile in the custody of a  
26 department of social services in the county of the juvenile's residence,  
27 or in the case of a juvenile who has legal residence outside the State,  
28 in the physical custody of a department of social services in the county  
29 where the juvenile is found so that agency may return the juvenile to  
30 the responsible authorities in the juvenile's home state. An order  
31 placing a juvenile in the custody or placement responsibility of a  
32 county department of social services shall contain a finding that the  
33 juvenile's continuation in the juvenile's own home would be contrary  
34 to the juvenile's best interest. This placement shall be reviewed in  
35 accordance with G.S. 7B-906.1. A parent who is indigent is entitled to  
36 court-appointed counsel for representation in the hearings held  
37 pursuant to G.S. 7B-906.1 unless the parent makes a knowing and  
38 voluntary waiver of the right to counsel."

39 **SECTION 15.(b)** G.S. 7B-2506(1) reads as rewritten:

40 "(1) **(Effective until December 1, 2019)** In the case of any juvenile who needs  
41 more adequate care or supervision or who needs placement, the judge  
42 ~~may;~~ may do any of the following:

- 43 a. Require that a juvenile be supervised in the juvenile's own home by  
44 the department of social services in the juvenile's county, a juvenile  
45 court counselor, or other personnel as may be available to the court,  
46 subject to conditions applicable to the parent, guardian, or custodian  
47 or the juvenile as the judge may ~~specify;~~ specify.
- 48 b. Place the juvenile in the custody of a parent, guardian, custodian,  
49 relative, private agency offering placement services, or some other  
50 suitable ~~person;~~ person.

1 c. If the director of the county department of social services has received  
2 notice and an opportunity to be heard, place the juvenile in the custody  
3 of the department of social services in the county of the juvenile's  
4 residence, or in the case of a juvenile who has legal residence outside  
5 the State, in the physical custody of a department of social services in  
6 the county where the juvenile is found so that agency may return the  
7 juvenile to the responsible authorities in the juvenile's home state. An  
8 order placing a juvenile in the custody or placement responsibility of  
9 a county department of social services shall contain a finding that the  
10 juvenile's continuation in the juvenile's own home would be contrary  
11 to the juvenile's best interest. This placement shall be reviewed in  
12 accordance with G.S. 7B-906.1. A parent who is indigent is entitled to  
13 court-appointed counsel for representation in the hearings held  
14 pursuant to G.S. 7B-906.1 unless the parent makes a knowing and  
15 voluntary waiver of the right to counsel.

16 (1) **(Effective December 1, 2019)** In the case of any juvenile under the age of 18  
17 years who needs more adequate care or supervision or who needs placement,  
18 the judge ~~may~~may do any of the following:

19 a. Require that a juvenile be supervised in the juvenile's own home by  
20 the department of social services in the juvenile's county, a juvenile  
21 court counselor, or other personnel as may be available to the court,  
22 subject to conditions applicable to the parent, guardian, or custodian  
23 or the juvenile as the judge may ~~specify~~specify.

24 b. Place the juvenile in the custody of a parent, guardian, custodian,  
25 relative, private agency offering placement services, or some other  
26 suitable ~~person~~person.

27 c. If the director of the county department of social services has received  
28 notice and an opportunity to be heard, place the juvenile in the custody  
29 of the department of social services in the county of the juvenile's  
30 residence, or in the case of a juvenile who has legal residence outside  
31 the State, in the physical custody of a department of social services in  
32 the county where the juvenile is found so that agency may return the  
33 juvenile to the responsible authorities in the juvenile's home state. An  
34 order placing a juvenile in the custody or placement responsibility of  
35 a county department of social services shall contain a finding that the  
36 juvenile's continuation in the juvenile's own home would be contrary  
37 to the juvenile's best interest. This placement shall be reviewed in  
38 accordance with G.S. 7B-906.1. A parent who is indigent is entitled to  
39 court-appointed counsel for representation in the hearings held  
40 pursuant to G.S. 7B-906.1 unless the parent makes a knowing and  
41 voluntary waiver of the right to counsel."

42 **SECTION 16.** G.S. 7B-3100 is amended by adding a new subsection to read:

43 "(c) The juvenile's guardian ad litem attorney advocate appointed pursuant to G.S. 7B-601  
44 may share confidential information about the juvenile with the juvenile's attorney appointed or  
45 retained pursuant to G.S. 7B-2000."

46 **SECTION 17.** This act becomes effective October 1, 2019.