

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1325

Short Title: Court Improvement Project.

(Public)

Sponsors: Senators Martin of Guilford and Phillips.

Referred to: Judiciary.

May 27, 1998

A BILL TO BE ENTITLED

1 AN ACT TO REWRITE CERTAIN PROVISIONS OF THE JUVENILE CODE AND
2 OF THE LAW ON TERMINATION OF PARENTAL RIGHTS TO IMPROVE THE
3 TIMELINE OF COURT PROCEEDINGS AFFECTING CHILDREN ALLEGED TO
4 BE ABUSED, NEGLECTED, OR DEPENDENT AND TO ALLOW
5 TERMINATION OF PARENTAL RIGHTS TO BE AN ACTION IN A CASE OF
6 ABUSE, NEGLECT, OR DEPENDENCY, AS RECOMMENDED BY THE CHILD
7 FATALITY TASK FORCE.
8

9 The General Assembly of North Carolina enacts:

10 Section 1. G.S. 7A-564 reads as rewritten:

11 "**§ 7A-564. Issuance of summons.**

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

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

19 (1) Notice of the nature of the proceeding;

- 1 (2) ~~Notice~~ In the case of an allegation that a juvenile is undisciplined or
2 delinquent, of any right to counsel and information about how to seek
3 the appointment of counsel prior to a ~~hearing~~, hearing. For any parent
4 named as respondent in a petition alleging child abuse, neglect, or
5 dependency, the name, address, and phone number of the appointed
6 counsel;
- 7 (3) Notice that, if the court determines at the hearing that the allegations of
8 the petition are true, the court will conduct a dispositional hearing to
9 consider the needs of the juvenile and enter an order designed to meet
10 those needs and the objectives of the State; and
- 11 (4) Notice that the dispositional order or a subsequent order:
- 12 a. May remove the juvenile from the custody of the parent,
13 guardian, or custodian.
- 14 b. May require that the juvenile receive medical, psychiatric,
15 psychological, or other treatment and that the parent participate
16 in the treatment.
- 17 c. May require the parent to undergo psychiatric, psychological, or
18 other treatment or counseling for the purpose of remedying the
19 behaviors or conditions that are alleged in the petition or that
20 contributed to the removal of the juvenile from the custody of the
21 parent.
- 22 d. May order the parent to pay for treatment that is ordered for the
23 juvenile or the parent.
- 24 e. May upon proper notice and a finding based on the criteria set
25 out in G.S. 7A-289.32 terminate the parental rights of the
26 respondent parent.

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

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

32 Section 2. G.S. 7A-577 reads as rewritten:

33 **"§ 7A-577. Hearing to determine need for continued secure or nonsecure custody.**

34 (a) No juvenile shall be held under a secure custody order for more than five
35 calendar days or under a nonsecure custody order for more than ~~seven calendar days~~, 72
36 hours without a hearing on the merits or a hearing to determine the need for continued
37 custody. A hearing on secure custody conducted under this subsection may not be
38 continued or waived. A hearing on nonsecure custody conducted under this subsection
39 may be continued for up to ~~40 business days~~ seven calendar days with the consent of the
40 juvenile's parent, guardian, or custodian, and, if appointed, the juvenile's guardian ad
41 litem. In addition, the court may require the consent of additional parties or may schedule
42 the hearing on nonsecure custody despite a party's consent to a continuance. In every case
43 in which an order has been entered by an official exercising authority delegated pursuant

1 to G.S. 7A-573, a hearing to determine the need for continued custody shall be conducted
2 on the day of the next regularly scheduled session of district court in the city or county
3 where the order was entered if such session precedes the expiration of the applicable time
4 period set forth in this subsection: Provided, that if such session does not precede the
5 expiration of the time period, the hearing may be conducted at another regularly
6 scheduled session of district court in the district where the order was entered.

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

10 (c) At a hearing to determine the need for continued custody, the judge shall
11 receive testimony and shall allow the juvenile, and the juvenile's parent, guardian, or
12 custodian an opportunity to introduce evidence, to be heard in their own behalf, and to
13 examine witnesses. The State shall bear the burden at every stage of the proceedings to
14 provide clear and convincing evidence that restraints on the juvenile's liberty are
15 necessary and that no less intrusive alternative will suffice. The judge shall not be bound
16 by the usual rules of evidence at such hearings.

17 (d) The judge shall be bound by criteria set forth in G.S. 7A-574 in determining
18 whether continued custody is warranted.

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

21 (1) Release on the written promise of the juvenile's parent, guardian, or
22 custodian to produce the juvenile in court for subsequent proceedings;
23 or

24 (2) Release into the care of a responsible person or organization; or

25 (3) Release conditioned on restrictions on activities, associations, residence
26 or travel if reasonably related to securing the juvenile's presence in
27 court; or

28 (4) Any other conditions reasonably related to securing the juvenile's
29 presence in court.

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

35 (g) Pending a hearing on the merits, further hearings to determine the need for
36 continued secure custody shall be held at intervals of no more than seven calendar days.
37 A subsequent hearing on continued nonsecure custody shall be held within seven ~~business~~
38 ~~days, excluding Saturdays, Sundays, and legal holidays, calendar days~~ of the initial hearing
39 required in subsection (a) of this section and hearings thereafter shall be held at intervals
40 of no more than 30 calendar days.

41 (g1) Hearings conducted under subsection (g) of this section may be waived as
42 follows:

- 1 (1) In the case of a juvenile alleged to be delinquent, only with the consent
2 of the juvenile, through counsel for the juvenile; and
3 (2) In the case of a juvenile alleged to be abused, neglected, or dependent,
4 only with the consent of the juvenile's parent, guardian, or custodian,
5 and, if appointed, the juvenile's guardian ad litem.

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

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

23 (i) At each hearing to determine the need for continued nonsecure custody, the
24 court shall:

- 25 (1) Inquire as to the identity and location of any missing parent. The court
26 shall include findings as to the efforts undertaken to locate the missing
27 parent and to serve that parent. The order may provide for specific
28 efforts aimed at determining the identity and location of any missing
29 parent;
30 (2) Inquire as to whether a relative of the juvenile is willing and able to
31 provide proper care and supervision of the juvenile in a safe home. If
32 the court finds that the relative is willing and able to provide proper care
33 and supervision in a safe home, then the court shall order temporary
34 placement of the juvenile with the relative. Prior to placement of a
35 juvenile with a relative outside of this State, the placement must be in
36 accordance with the Interstate Compact on the Placement of Children;
37 and
38 (3) Inquire as to whether there are other juveniles remaining in the home
39 from which the juvenile was removed and, if there are, inquire as to the
40 specific findings of the investigation conducted under G.S. 7A-544 and
41 any actions taken or services provided by the Director for the protection
42 of the other juveniles."

43 Section 3. G.S. 7A-587 reads as rewritten:

1 **"§ 7A-587. Parent's right to counsel.**

2 In cases where the juvenile petition alleges that a juvenile is abused, neglected or
3 dependent, the parent has the right to counsel and to appointed counsel in cases of
4 indigency unless the parent waives the right. The court shall appoint counsel immediately
5 upon the receipt of the petition for all parents whose whereabouts are known. All parents
6 shall be conclusively presumed to be indigent for the purposes of appointed counsel for
7 the first nonsecure hearing or conference, whichever occurs first. Following the first
8 nonsecure hearing or conference, the parent shall be screened and if the parent is
9 indigent, then the appointed counsel shall continue to provide representation throughout
10 the remainder of the proceeding unless the parent waives counsel or ceases to be indigent.
11 If the parent is determined not to be indigent after the first hearing or conference, the
12 parent may be ordered to reimburse the State for the cost of counsel pursuant to the
13 provisions of G.S. 7A-588. In no case may the judge appoint a county attorney,
14 prosecutor or public defender."

15 Section 4. Subchapter XI of Chapter 7A of the General Statutes is amended by
16 inserting a new Article to read:

17 **"ARTICLE 50A.**

18 **"ABUSE, NEGLECT, DEPENDENCY, PRE-ADJUDICATION CONFERENCE.**

19 **"§ 7A-623. Purpose.**

20 The purposes of the abuse, neglect, or dependency pre-adjudication conference shall
21 be to explore the possibility of settlement, to narrow the issues as much as possible, and
22 to stipulate those facts that are not in dispute.

23 **"§ 7A-624. Time of conference.**

24 The clerk shall schedule and notify all parties of the pre-adjudication conference that
25 shall be held within 30 days of the filing of the petition unless the judge, for good cause,
26 orders that it be held at a later time. All parties and their attorneys shall attend the pre-
27 adjudication conference. Failure to appear may result in sanctions by the court.

28 **"§ 7A-625. Procedures for conference.**

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

33 (b) At the conference, parties shall:

34 (1) Share witness lists, exhibiting lists, and exhibits;

35 (2) Define the issues;

36 (3) Identify matters that can be stipulated and make stipulations; and

37 (4) Consider any proposed consent order.

38 (c) At the conclusion of the conference, a pretrial order shall be prepared
39 reflecting the outcome of the conference, and each party shall be provided a copy of the
40 order.

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

1 **"§ 7A-626. Adjudicatory stipulation before judge.**

2 Before accepting a stipulation to findings, conclusions, or provisions of the court's
3 adjudication order, the judge, in open court, shall determine that the parties understand
4 the content and consequences of the stipulation, including, if applicable, the possibility
5 that the juvenile may be removed permanently from the home, and that they voluntarily
6 consent to the stipulation. The judge shall inquire of the parties in order to determine that
7 the stipulation is voluntary and knowing. The court's findings shall be set forth on the
8 record."

9 Section 5. G.S. 7A-629 reads as rewritten:

10 **"§ 7A-629. Adjudicatory hearing.**

11 The adjudicatory hearing shall be held in the district at such time and place as the
12 chief district judge shall ~~designate~~ but, if in the case of an abuse, neglect, or dependency
13 adjudicatory hearing, no later than 60 days from the filing of the petition, unless the
14 judge, pursuant to G.S. 7A-632, orders that it be held at a later time. The judge may
15 exclude the public from the hearing unless the juvenile moves that the hearing be open,
16 which motion shall be granted."

17 Section 6. G.S. 7A-640 reads as rewritten:

18 **"§ 7A-640. Dispositional hearing.**

19 The dispositional hearing may be informal, and the judge may consider written
20 reports or other evidence concerning the needs of the juvenile. The juvenile and his
21 parent, guardian, or custodian shall have an opportunity to present evidence, and they
22 may advise the judge concerning the disposition they believe to be in the best interest of
23 the juvenile. In the case of an abuse, neglect, or dependency dispositional hearing, the
24 hearing shall take place immediately after the adjudication unless, for good cause, the
25 judge orders that it should be continued. The judge may exclude the public from the
26 hearing unless the juvenile moves that the hearing be open, which motion shall be
27 granted."

28 Section 7. Article 52 of Subchapter XI of Chapter 7A of the General Statutes
29 is amended by adding two new sections to the end to read:

30 **"§ 7A-642. Abuse, neglect, dependency predisposition conference.**

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

34 (b) If settlement is reached at the pre-adjudication conference, a predisposition
35 conference shall be held immediately following the pre-adjudication conference. If
36 disposition occurs on a date after the adjudication, a predisposition conference shall be
37 held no more than two weeks before the dispositional hearing. The clerk shall schedule
38 and notify all parties of the predisposition conference. All parties and their attorneys
39 shall attend the predisposition conference. Failure to appear may result in sanctions by
40 the court.

41 (c) The conference procedures shall be the same as those set forth in G.S. 7A-625.

42 **"§ 7A-643. Abuse, neglect, dependency dispositional stipulation before judge.**

1 Before accepting a stipulation to findings, conclusions, or provisions of the court's
2 disposition order, the judge, in open court, shall determine that the parties understand the
3 content and consequences of the stipulation and that they voluntarily consent to the
4 stipulation. The judge shall inquire of the parties in order to determine that the
5 stipulation is voluntary and knowing. The court's finding shall be set forth on the
6 record."

7 Section 8. G.S. 7A-657 reads as rewritten:

8 **"§ 7A-657. Review of custody order.**

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

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

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

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

40 ~~(b)~~ (e) Notwithstanding other provisions of this Article, the court may waive the
41 holding of review hearings required by subsection (a), may require written reports to the
42 court by the agency or person holding custody in lieu of review hearings, or order that

1 review hearings be held less often than every ~~12~~six months if the court finds by clear,
2 cogent and convincing evidence that:

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

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

16 (e) (f) At every review hearing, the court shall consider information from the
17 Department of Social Services, the court counselor, the juvenile, the parent or person
18 standing in loco parentis, the custodian, the foster parent, the guardian ad litem, and any
19 public or private agency which will aid it in its review.

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

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

37 (d) (g) The judge, after making findings of fact, may appoint a guardian of the
38 person for the juvenile pursuant to G.S. 7A-585 or may make any disposition authorized
39 by G.S. 7A-647, including the authority to place the child in the custody of either parent
40 or any relative found by the court to be suitable and found by the court to be in the best
41 interest of the juvenile. ~~If the juvenile is placed in or remains in the custody of the department~~
42 ~~of social services, the court may authorize the department to arrange and supervise a visitation~~
43 ~~plan. Except for such visitation, the juvenile shall not be returned to the parent or person standing~~

1 ~~in loco parentis without a hearing at which the court finds sufficient facts to show that the~~
2 ~~juvenile will receive proper care and supervision.—The court may enter an order continuing~~
3 ~~the placement under review or providing for a different placement as is deemed to be in~~
4 ~~the best interest of the juvenile. If at any time custody is restored to a parent, the court~~
5 ~~shall be relieved of the duty to conduct periodic judicial reviews of the placement.~~

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

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

18 Section 9. Article 10 of Subchapter XI of Chapter 7A of the General Statutes
19 is amended by adding a new section to read:

20 "**§ 7A-657.1. Permanency planning hearing in cases of abuse, neglect, or**
21 **dependency.**

22 (a) At a hearing designated by the court, but at least 12 months after the filing of
23 the petition, a review designated as a permanency planning hearing shall be held under
24 this section and may be combined with a review hearing required under G.S. 7A-657.

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

27 (c) The clerk shall calendar in a timely manner the case at a session of court
28 scheduled for hearings under this Subchapter. The clerk shall give 15 days' notice of the
29 permanency planning hearing to the parent or the person standing in loco parentis, the
30 guardian, custodian or agency with custody, the guardian ad litem, and any other person
31 the court may specify, indicating the court's impending hearing. The Director of Social
32 Services shall give 15 days' notice of the hearing to any relative, foster parent, or
33 preadoptive parent providing care for the juvenile and the juvenile if 12 years of age or
34 more and not appointed a guardian ad litem. The Director of Social Services shall
35 document delivery of this notice in the social services' case record. Nothing in this
36 provision shall be construed to make any foster parent, relative, or preadoptive parent
37 providing care for the juvenile a party to the proceeding solely based on receiving this
38 notice and an opportunity to be heard.

39 (d) The Director of Social Services shall deliver a written court summary to all
40 counsel, unrepresented parties, and the Guardian ad Litem Program Administrator at least
41 10 days before the permanency planning hearing. The summary shall state the permanent
42 plan of care recommended by the Department and the basis for its recommendation. At
43 least five days prior to the permanency planning hearing, there shall be a prehearing

1 conference. The Guardian ad Litem Program Administrator shall provide a written court
2 summary to the Director of Social Services, all counsel, and unrepresented parties at or
3 before the prehearing conference. The prehearing conference shall be conducted
4 pursuant to the General Rules of Practice in the applicable district court, adopted pursuant
5 to G.S. 7A-34.

6 (e) At any permanency planning hearing, the court shall consider information from
7 the parent, any person standing in loco parentis, the juvenile, the guardian, any foster
8 parent, relative, or preadoptive parent providing care for the juvenile, the custodian or
9 agency with custody, the guardian ad litem, and any other person or agency which will
10 aid it in its review.

11 (f) At the conclusion of the hearing, if the juvenile is not returned home, the court
12 shall consider the following criteria and make written findings regarding those that are
13 relevant:

14 (1) Whether it is possible for the juvenile to be returned home immediately
15 or within the next six months and, if not, the reasons why it is not in the
16 juvenile's best interest to return home;

17 (2) Where the juvenile's return home is unlikely within six months, whether
18 guardianship or custody with a relative or some other suitable person
19 should be established, and if so, the rights and responsibilities which
20 should remain with the parents;

21 (3) Where the juvenile's return home is unlikely within six months, whether
22 adoption should be pursued, and if so, a summary of any barriers to
23 adoption;

24 (4) Whether the juvenile should remain in temporary placement, and if so,
25 the reasons why it continues to be appropriate; and

26 (5) A specific time frame for implementing the permanent placement plan.

27 (g) At the conclusion of the hearing, the judge shall make specific findings as to
28 the best plan of care to achieve a safe, permanent home for the juvenile within a
29 reasonable period of time. The judge may appoint a guardian of the person for the
30 juvenile pursuant to G.S. 7A-585 or make any disposition authorized by G.S. 7A-647,
31 including the authority to place the juvenile in the custody of either parent or any relative
32 found by the court to be suitable and found by the court to be in the best interest of the
33 juvenile. If the juvenile is not returned home, the court shall enter an order consistent
34 with its findings that directs the Department of Social Services to make reasonable efforts
35 to place the juvenile in a timely manner in accordance with the permanent plan, to
36 complete whatever steps are necessary to finalize the permanent placement of the
37 juvenile, and to document these steps in the juvenile's case plan. If the court continues
38 the foster care placement of the juvenile, the court shall enter an order consistent with
39 these findings that directs the Department of Social Services to continue reasonable
40 efforts to place the juvenile, and to document these steps in the juvenile's case plan.

41 (h) In the case of a juvenile removed from the home for 15 of the most recent 22
42 months, or, if a court of competent jurisdiction has determined a juvenile to be abandoned
43 or has made a determination that the parent has committed murder of another child of the

1 parent, committed voluntary manslaughter of another child of the parent, aided or
2 abetted, attempted, conspired, or solicited to commit such a murder or such a voluntary
3 manslaughter, or committed a felony assault that has resulted in serious bodily injury to
4 the juvenile or to another child of the parent, the court shall order the Department to
5 initiate a proceeding to terminate the parental rights of the child's parents, unless the court
6 finds that:

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

9 (2) The court makes specific findings of fact why filing of the petition to
10 terminate parental rights is not in the best interest of the juvenile; or

11 (3) The Department has not provided to the family of the juvenile the
12 services the Department considers necessary for the safe return of the
13 juvenile to the juvenile's home, if reasonable efforts to reunify are
14 required to be made with respect to the juvenile.

15 (i) If the court orders that adoption be pursued or that proceedings to terminate
16 parental rights be initiated, any needed action to terminate parental rights shall be filed
17 within 60 days of the permanency planning hearing, unless the court makes written
18 findings why the action cannot be filed within 60 days. If the court makes these findings,
19 the court shall specify the time frame in which any needed action to terminate parental
20 rights shall be filed."

21 Section 10. G.S. 7A-659 reads as rewritten:

22 **"§ 7A-659. Post termination of parental rights' placement court review.**

23 (a) The purpose of each placement review is to insure that every reasonable effort
24 is being made to provide for a permanent placement plan for the child who has been
25 placed in the custody of a county director or licensed child-placing agency, which is
26 consistent with the child's best interest. At each review hearing the court may consider
27 information from the Department of Social Services, the licensed child-placing agency,
28 the guardian ad litem, the child, the foster parent, and any other person or agency the
29 court determines is likely to aid in the review.

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

36 (1) No more than 30 days and no less than 15 days prior to each review, the
37 clerk shall give notice of the review to the child if he is at least 12 years
38 of age, the legal custodian of the child, the foster parent, the guardian ad
39 litem, if any, and any other person the court may specify. Only the child
40 if he is at least 12 years of age, the legal custodian of the child, the
41 foster parent, and the guardian ad litem shall attend the review hearings,
42 except as otherwise directed by the court.

- 1 (2) If a guardian ad litem for the child has not been appointed previously by
2 the court in the termination proceeding, the court, at the initial ~~six-month~~
3 three-month review hearing, may appoint a guardian ad litem to
4 represent the child. The court may continue the case for such time as is
5 necessary for the guardian ad litem to become familiar with the facts of
6 the case.
- 7 (3) At least five days prior to the review hearing, there shall be a prehearing
8 conference. The Guardian ad Litem Program Administrator shall
9 provide a written court summary to the Director of Social Services, all
10 counsel, and unrepresented parties at or before the prehearing
11 conference. The prehearing conference shall be conducted pursuant to
12 the General Rules of Practice in the applicable district court adopted
13 pursuant to G.S. 7A-34.
- 14 (c) The court shall consider at least the following in its review:
- 15 (1) The adequacy of the plan developed by the county department of social
16 services or a licensed child-placing agency for a permanent placement
17 relative to the child's best interest and the efforts of the department or
18 agency to implement such plan;
- 19 (2) Whether the child has been listed for adoptive placement with the North
20 Carolina Adoption Resource Exchange, the North Carolina Photo
21 Adoption Listing Service (PALS), or any other specialized adoption
22 agency; and
- 23 (3) The efforts previously made by the department or agency to find a
24 permanent home for the child.
- 25 (d) The court, after making findings of fact, shall affirm the county department's or
26 child-placing agency's plans or require specific additional steps which are necessary to
27 accomplish a permanent placement which is in the best interests of the child.
- 28 (e) If the child has been placed for adoption prior to the date scheduled for the
29 review, written notice of said placement shall be given to the clerk to be placed in the
30 court file and the review hearing shall be cancelled, with notice of said cancellation given
31 by the clerk to all persons previously notified.
- 32 (f) The process of selection of specific adoptive parents shall be the responsibility
33 of and within the discretion of the county department of social services or licensed child-
34 placing agency. The guardian ad litem shall be given notice of any adoption selection
35 meeting not less than 10 days prior to the meeting and may request information from and
36 consult with the county department or child-placing agency concerning the selection
37 process. If the guardian ad litem requests information about the selection process, the
38 county shall provide the information within five days. Any issue of abuse of discretion
39 by the county department or child-placing agency in the selection process must be raised
40 by the guardian ad litem within 10 days following the date the agency notifies the court
41 and the guardian ad litem in writing of the filing of the adoption petition.
- 42 (g) The county department of social services shall file notice with the court within
43 10 days of specific adoptive parents being selected. Within 10 days of the filing of the

1 notice, the guardian ad litem may file a motion seeking review of the selection decision.
2 A hearing on the motion shall be held within 30 days. The selection of adoptive parents
3 by the county department of social services shall be upheld unless the court makes
4 specific findings by clear, cogent, and convincing evidence that the county department of
5 social services' decision is not in the best interests of the juvenile."

6 Section 11. G.S. 7A-660 reads as rewritten:

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

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

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

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

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

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

34 Section 12. G.S. 7A-661 reads as rewritten:

35 **"§ 7A-661. Review of voluntary foster care placements.**

36 (a) A juvenile placed in foster care under a voluntary agreement between the
37 juvenile's parent or guardian and the county department of social services shall not
38 remain in placement more than 90 days without the filing of a petition alleging abuse,
39 neglect, or dependency. ~~(a) The court shall review the placement of any juvenile in foster care~~
40 ~~made pursuant to a voluntary agreement between the juvenile's parents or guardian and a county~~
41 ~~department of social services and shall make findings from evidence presented at a review~~
42 ~~hearing with regard to:~~

43 (1) The voluntariness of the placement;

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

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

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

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

23 Section 13. G.S. 7A-289.24 is amended by designating the existing language
24 as subsection (a) and by adding a new subsection to read:

25 "(b) Any person or agency having the authority to file a petition pursuant to this
26 section may intervene in a pending abuse, neglect, or dependency proceeding for the
27 purpose of filing a petition to terminate parental rights."

28 Section 14. G.S. 7A-289.27(a) reads as rewritten:

29 "(a) Except as provided in G.S. 7A-289.26, upon the filing of the petition, the court
30 shall cause a summons to be issued, directed to the following persons or agency, not
31 otherwise a party petitioner, who shall be named as respondents:

- 32 (1) The parents of the child;
33 (2) Any person who has been judicially appointed as guardian of the person
34 of the child;
35 (3) The custodian of the child appointed by a court of competent
36 jurisdiction;
37 (4) Any county department of social services or licensed child-placing
38 agency to whom a child has been released by one parent pursuant to Part
39 7 of Article 3 of Chapter 48 of the General Statutes; and
40 (5) The child, if he or she is 12 years of age or older at the time the petition
41 is filed.

42 Provided, no summons need be directed to or served upon any parent who has
43 previously surrendered the child to a county department of social services or licensed

1 child-placing agency, nor to any parent who has consented to the adoption of the child by
2 the ~~petitioner~~-petitioner, nor to any parent or guardian who has been served pursuant to
3 G.S. 7A-565 when the petition is being filed as a motion in the cause in a pending child
4 abuse, neglect, or dependency case pursuant to G.S. 7A-289.23A. The summons shall
5 notify the respondents to file a written answer within 30 days after service of the
6 summons and petition. Service of the summons shall be completed as provided under the
7 procedures established by G.S. 1A-1, Rule 4(j); but the parent of the child shall not be
8 deemed to be under disability even though such parent is a minor."

9 Section 15. G.S. 7A-289.28 reads as rewritten:

10 "**§ 7A-289.28. Failure of respondents to answer.**

11 Upon the failure of the respondents to file written answer to the petition with the court
12 within 30 days after service of the summons and petition, or within the time period
13 established for a defendant's reply by G.S. 1A-1, Rule 4(j1) if service is by publication,
14 or within the time period established for a defendant's reply by G.S. 1A-1, Rule 5, if the
15 petition is filed as a motion in the cause in a pending child abuse, neglect, or dependency
16 proceeding, the court shall issue an order terminating all parental and custodial rights of
17 the respondent or respondents with respect to the child; provided the court shall order a
18 hearing on the petition and may examine the petitioner or others on the facts alleged in
19 the petition."

20 Section 16. G.S. 7A-289.29(c) reads as rewritten:

21 "(c) In proceedings under this Article, the appointment of a guardian ad litem shall
22 not be required except, as provided above, in cases in which an answer is filed denying
23 material allegations, or as required under ~~G.S. 7A-289.23;~~ G.S. 7A-289.23, or in cases
24 where the petition to terminate parental rights is a motion in the case in a pending child
25 abuse, neglect, or dependency hearing and a guardian ad litem has been appointed
26 pursuant to G.S. 7A-586, but the court may, in its discretion, appoint a guardian ad litem
27 for a child, either before or after determining the existence of grounds for termination of
28 parental rights, in order to assist the court in determining the best interests of the child."

29 Section 17. Article 24B of Chapter 7A of the General Statutes is amended by
30 inserting a new section to read:

31 "**§ 7A-289.29A. Pretrial conference.**

32 (a) The court shall convene a pretrial conference no more than 30 days after the
33 date a responsive pleading is due as set forth in G.S. 289.28.

34 (b) At the conference:

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

36 (2) Unrepresented parties shall be advised of their right to counsel and to
37 appointment of counsel. If counsel is requested, the conference may be
38 reconvened to a later date;

39 (3) A discovery plan and timetable shall be established;

40 (4) Pretrial motions shall be heard, if reasonable advance has been given to
41 the parties and the court; and

42 (5) The length of trial shall be estimated and the date of the trial shall be
43 set. The trial date shall be within 60 days of the pretrial conference

1 unless the court makes specific findings as to why the trial cannot be
2 held within 60 days."

3 Section 18. This act becomes effective October 1, 1998, and applies to causes
4 of action or offenses commencing on or after that date.