

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 1314

Short Title: County Appeal of Juvenile Orders.

(Public)

Sponsors: Representative Baddour.

Referred to: Judiciary II.

April 12, 2001

A BILL TO BE ENTITLED

AN ACT TO ALLOW COUNTIES TO APPEAL CERTAIN ORDERS IN JUVENILE COURT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7B-1001 reads as rewritten:

"§ 7B-1001. **Right to appeal.**

Upon ~~motion of~~ appeal by a proper party as defined in G.S. 7B-1002, review of any final order of the court in a juvenile matter under this Article shall be before the Court of Appeals. Notice of appeal shall be given in open court at the time of the hearing or in writing within 10 days after entry of the order. However, if no disposition is made within 60 days after entry of the order, written notice of appeal may be given within 70 days after such entry. A final order shall include:

- (1) Any order finding absence of jurisdiction;
- (2) Any order ~~which~~ that in effect determines the action and prevents a judgment from which appeal might be taken;
- (3) Any order of disposition after an adjudication that a juvenile is abused, neglected, or dependent; or
- (4) Any order modifying custodial rights."

SECTION 2. G.S. 7B-1002 reads as rewritten:

"§ 7B-1002. **Proper parties for appeal.**

An appeal may be taken by the guardian ad litem or juvenile, the juvenile's parent, guardian, or custodian, the ~~State or~~ State, or a county or county agency."

SECTION 3. G.S. 7B-1003 reads as rewritten:

"§ 7B-1003. **Disposition pending appeal.**

(a) Pending disposition of an appeal, the return of the juvenile to the custody of the juvenile's parent or guardian ~~parent or guardian~~ of the juvenile, with or without conditions, should issue in every case unless the court orders otherwise. When the court has found that a juvenile has suffered physical abuse and that the individual

1 responsible for the abuse has a history of violent behavior, the court shall consider the
2 opinion of the mental health professional who performed the evaluation under G.S.
3 7B-503(b) before returning the juvenile to the custody of that individual. For
4 compelling reasons which must be stated in writing, the court may enter a temporary
5 order affecting the custody or placement of the juvenile as the court finds to be in the
6 best interests of the juvenile or the State. The provisions of subsections (b), (c), and (d)
7 of G.S. 7B-905 shall apply to any order entered under this section which provides for
8 the placement or continued placement of a juvenile in foster care.

9 (b) Notwithstanding G.S. 1-294, pending appeal by a county of an order to pay
10 the costs of evaluation or treatment pursuant to G.S. 7B-903 or 7B-904, the order being
11 appealed shall remain in effect."

12 **SECTION 4.** G.S. 7B-2602 reads as rewritten:

13 **"§ 7B-2602. Right to appeal.**

14 Upon ~~motion of~~ appeal by a proper party as defined in G.S. 7B-2604, review of any
15 final order of the court in a juvenile matter under this Article shall be before the Court
16 of Appeals. Notice of appeal shall be given in open court at the time of the hearing or in
17 writing within 10 days after entry of the order. However, if no disposition is made
18 within 60 days after entry of the order, written notice of appeal may be given within 70
19 days after such entry. A final order shall include:

- 20 (1) Any order finding absence of jurisdiction;
- 21 (2) Any order ~~which~~ that in effect determines the action and prevents a
22 judgment from which appeal might be taken;
- 23 (3) Any order of disposition after an adjudication that a juvenile is
24 delinquent or undisciplined; or
- 25 (4) Any order modifying custodial rights."

26 **SECTION 5.** G.S. 7B-2604 reads as rewritten:

27 **"§ 7B-2604. Proper parties for appeal.**

28 (a) An appeal may be taken by the juvenile, the juvenile's parent, guardian, or
29 custodian, or the State. The State's appeal is limited to the following orders in
30 delinquency or undisciplined cases:

- 31 (1) An order finding a State statute to be unconstitutional; and
- 32 (2) Any order ~~which~~ that terminates the prosecution of a petition by
33 upholding the defense of double jeopardy, by holding that a cause of
34 action is not stated under a statute, or by granting a motion to suppress.

35 (b) A county or county agency may appeal the following orders in delinquency or
36 undisciplined cases:

- 37 (1) An order to pay the costs of evaluation or treatment of the juvenile
38 pursuant to G.S. 7B-2502.
- 39 (2) An order to pay the costs of evaluation or treatment of the juvenile's
40 parent pursuant to G.S. 7B-2702.
- 41 (3) An order to pay the costs of support of the juvenile pursuant to G.S.
42 7B-2704."

43 **SECTION 6.** G.S. 7B-2605 reads as rewritten:

44 **"§ 7B-2605. Disposition pending appeal.**

1 (a) Pending disposition of an appeal, the release of the juvenile, with or without
2 conditions, should issue in every case unless the court orders otherwise. For compelling
3 reasons which must be stated in writing, the court may enter a temporary order affecting
4 the custody or placement of the juvenile as the court finds to be in the best interests of
5 the juvenile or the State.

6 (b) Notwithstanding G.S. 1-294, pending appeal by a county or a county agency
7 of an order to pay the costs of evaluation or treatment pursuant to G.S. 7B-2502 or G.S.
8 7B-2702, or to pay the cost of the juvenile's support pursuant to G.S. 7B-2704, the order
9 being appealed shall remain in effect."

10 **SECTION 7.** This act becomes effective October 1, 2001, and applies to
11 orders entered on or after that date.