

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 346

Short Title: Juvenile Guardians/AB.

(Public)

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Sponsors: Senators Dannelly; Albertson, Cooper, Hartsell, Hoyle, Jordan, Lucas, Martin of Pitt, Martin of Guilford, Odom, and Warren.

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Referred to: Children & Human Resources.

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March 10, 1997

A BILL TO BE ENTITLED

1 AN ACT TO EXPAND THE AUTHORITY OF JUVENILE GUARDIANS AND TO  
2 ALLOW THE COURT TO APPOINT PERSONS OTHER THAN RELATIVES AS  
3 JUVENILE CARETAKERS OR GUARDIANS.  
4

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 7A-585 reads as rewritten:  
7 **"§ 7A-585. Appointment of guardian.**

8 In any case when no parent appears in a hearing with the juvenile or when the judge  
9 finds it would be in the best interest of the juvenile, the judge may appoint a guardian of  
10 the person for the juvenile. The guardian shall operate under the supervision of the court  
11 with or without bond and shall file only such reports as the court shall require. The  
12 guardian shall have the care, custody, and control of the juvenile or may arrange a  
13 suitable placement for ~~him~~ the juvenile and may represent the juvenile in legal actions  
14 before any court. The guardian ~~shall also have authority to~~ may consent to certain actions  
15 on the part of the juvenile in place of the parent including (i) marriage, (ii) enlisting in  
16 the armed forces, and ~~undergoing major surgery.~~ (iii) enrollment in school. The guardian  
17 may also consent to any necessary remedial, psychological, medical, or surgical treatment  
18 for the juvenile. The authority of the guardian shall continue until the guardianship is

1 terminated by court order, until the juvenile is emancipated pursuant to Article ~~56~~, 56 of  
2 this Chapter, or until the juvenile reaches the age of majority."

3 Section 2. G.S. 7A-657 reads as rewritten:

4 "**§ 7A-657. Review of custody ~~order~~; assignment of guardianship.**

5 (a) In any case where the judge removes custody from a parent or person standing  
6 in loco parentis because of dependency, neglect or abuse, the juvenile shall not be  
7 returned to the parent or person standing in loco parentis unless the judge finds sufficient  
8 facts to show that the juvenile will receive proper care and supervision.

9 In any case where custody is removed from a parent, the judge shall conduct a review  
10 within six months of the date the order was entered, and shall conduct subsequent  
11 reviews at least every year thereafter. The Director of Social Services shall make timely  
12 requests to the clerk to calendar the case at a session of court scheduled for the hearing of  
13 juvenile matters within six months of the date the order was ~~entered~~, entered, unless the  
14 court orders that the Director is not required to do so. The Director shall make timely  
15 requests for calendaring of the yearly reviews thereafter. The clerk shall give 15 days'  
16 notice of the review to the parent or the person standing in loco parentis, the juvenile if  
17 12 years of age or more, the guardian, foster parent, custodian or agency with custody,  
18 the guardian ad litem, and any other person the court may specify, indicating the court's  
19 impending review.

20 (b) Notwithstanding other provisions of this Article, the court may waive the  
21 holding of review hearings required by subsection ~~(a)~~, (a) of this section, may require  
22 written reports to the court by the agency or person holding custody in lieu of review  
23 hearings, or order that review hearings be held less often than every 12 months, if the  
24 court finds by clear, cogent and convincing evidence that:

- 25 (1) The juvenile has ~~been placed~~ resided with a relative or other suitable  
26 person for a ~~continuous~~ period of at least one year; and
- 27 (2) The placement is stable and continuation of the placement is in the  
28 juvenile's best interest; and
- 29 (3) Neither the juvenile's best interests nor the rights of any party require  
30 that review hearings be held every 12 months; and
- 31 (4) All parties are aware that the matter may be brought before the court for  
32 review at any time by the filing of a motion for review or on the court's  
33 own motion; and
- 34 (5) The court order has designated the relative or other suitable person as  
35 the juvenile's permanent caretaker or guardian of the person at the  
36 review at which these findings are made.

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

39 (c) At every review hearing, the court shall consider information from the  
40 Department of Social Services, the court counselor, the juvenile, the parent or person  
41 standing in loco parentis, the custodian, the foster parent, the guardian ad litem, and any  
42 public or private agency which will aid it in its review.

43 In each case the court shall consider the following criteria:

- 1 (1) Services which have been offered to reunite the family;  
2 (2) Where the juvenile's return home is unlikely, the efforts which have  
3 been made to evaluate or plan for other methods of care;  
4 (3) Goals of the foster care placement and the appropriateness of the foster  
5 care plan;  
6 (4) A new foster care plan, if continuation of care is sought, that addresses  
7 the role the current foster parent will play in the planning for the  
8 juvenile;  
9 (5) Reports on the placements the juvenile has had and any services offered  
10 to the juvenile and the parent;  
11 (6) When and if termination of parental rights should be considered;  
12 (7) Any other criteria the court deems necessary.
- 13 (d) The judge, after making findings of fact, ~~shall have authority to~~ may appoint a  
14 guardian of the person for the juvenile pursuant to G.S. 7A-585 or make any disposition  
15 authorized by G.S. 7A-647, including the authority to place the child in the custody of  
16 either parent or any relative found by the court to be suitable and found by the court to be  
17 in the best interest of the juvenile. The court may enter an order continuing the  
18 placement under review or providing for a different placement as is deemed to be in the  
19 best interest of the juvenile. If at any time custody is restored to a parent, the court shall  
20 be relieved of the duty to conduct periodic judicial reviews of the placement.
- 21 (e) The provisions of subsections (b), (c), and (d) of G.S. 7A-651 shall apply to any  
22 order entered under this section which continues the foster care placement of a juvenile."
- 23 Section 3. This act becomes effective October 1, 1997, and applies to review  
24 hearings for custody orders occurring on or after that date.