

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 262

Short Title: Enhance Child Welfare Services/AB.

(Public)

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Sponsors: Representatives Culpepper; Alexander, Gardner, and Hunter.

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Referred to: Children, Youth and Families.

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March 4, 1999

A BILL TO BE ENTITLED

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

5 The General Assembly of North Carolina enacts:

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

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

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

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

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

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

22 "**§ 108A-49. Foster care and adoption assistance payments.**

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

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

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

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

3 **"§ 143B-150.20. State Child Fatality Review Team; establishment; purpose; powers;**  
4 **duties.**

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

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

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

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

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

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

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

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

21 **"ARTICLE 39.**

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

23 **"§ 7B-3900. Legislative findings and purposes.**

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

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

37 **"§ 7B-3901. Definitions.**

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

- 39 (1) 'State' means a state of the United States, the District of Columbia, the  
40 Commonwealth of Puerto Rico, the Virgin Islands, Guam, the  
41 Commonwealth of the Northern Mariana Islands, or any territory or  
42 possession subject to the jurisdiction of the United States.

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

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

4 **"§ 7B-3902. Compacts authorized.**

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

10 **"§ 7B-3903. Content of compacts.**

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

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

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

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

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

29           (5) Any other provisions appropriate to implement the proper  
30 administration of the compact.

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

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

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

40 **"§ 7B-3904. Medical assistance.**

41       (a) A child with special needs who is a resident of this State who is the subject of  
42 an adoption assistance agreement with another state shall be accepted as being entitled to  
43 receive medical assistance certification from this State upon the filing in the department

1 of social services of the county in which the child resides a certified copy of the adoption  
2 assistance agreement obtained from the adoption assistance state.

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

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

13 **"§ 7B-3905. Federal participation.**

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

21 **"§ 7B-3906. Compact administrator.**

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

26 Section 6. Section 5 of this act becomes effective October 1, 1999. The  
27 remainder of this act is effective when it becomes law.