

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 391
HOUSE BILL 733

AN ACT TO ALLOW LAW-ENFORCEMENT OFFICERS TO TAKE PHYSICAL
CUSTODY OF JUVENILES SIXTEEN AND SEVENTEEN YEARS OF AGE
WHO ARE BEYOND THE DISCIPLINARY CONTROL OF THEIR PARENTS
AND ABSENT FROM HOME.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-571 reads as rewritten:

"§ 7A-571. Taking a juvenile into temporary custody.

(a) Temporary custody means the taking of physical custody and providing personal care and supervision until a court order for secure or nonsecure custody can be obtained. A juvenile may be taken into temporary custody under the following circumstances:

- (1) A juvenile may be taken into temporary custody by a law-enforcement officer without a court order if grounds exist for the arrest of an adult in identical circumstances under G.S. 15A-401(b).
- (2) A juvenile may be taken into temporary custody without a court order by a law-enforcement officer or a court counselor if there are reasonable grounds to believe that the juvenile is an undisciplined juvenile.
- (3) A juvenile may be taken into temporary custody without a court order by a law-enforcement officer or a Department of Social Services worker if there are reasonable grounds to believe that the juvenile is abused, neglected, or dependent and that the juvenile would be injured or could not be taken into custody if it were first necessary to obtain a court order. If a Department of Social Services worker takes a juvenile into temporary custody under this subdivision, the worker may arrange for the placement, care, supervision, and transportation of the juvenile.
- (4) A juvenile may be taken into custody without a court order by a law-enforcement officer, by a court counselor, by a member of the Black Mountain Center, Alcohol Rehabilitation Center and Juvenile Evaluation Center Joint Security Force established pursuant to G.S. 122C-421, or by personnel of the Division of Youth Services as designated by the Department of Human Resources if there are reasonable grounds to believe the juvenile is an absconder from any State training school or approved detention facility.

(b) A law-enforcement officer may take physical custody of a juvenile who is 16 or 17 years of age without a court order, at the request of the juvenile's parent, guardian, or custodian if there are reasonable grounds to believe the juvenile is beyond the disciplinary control of the juvenile's parent, guardian, or custodian and has been absent from the home without permission for 48 consecutive hours."

Sec. 2. G.S. 7A-572 reads as rewritten:

"§ 7A-572. Duties of person taking juvenile into temporary custody.

(a) A person who takes a juvenile into custody without a court order under ~~G.S. 7A-571(1), (2), or (3)~~ G.S. 7A-571(a)(1), (a)(2), or (a)(3) shall proceed as follows:

- (1) Notify the juvenile's parent, guardian, or custodian that the juvenile has been taken into temporary custody and advise the parent, guardian, or custodian of the right to be present with the juvenile until a determination is made as to the need for secure or nonsecure custody. Failure to notify the parent that the juvenile is in custody shall not be grounds for release of the juvenile;
- (2) Release the juvenile to the juvenile's parent, guardian, or custodian if the person having the juvenile in temporary custody decides that continued custody is unnecessary. In the case of a juvenile unlawfully absent from school, if continued custody is unnecessary, the person having temporary custody may deliver the juvenile to the juvenile's school or, if the local city or county government and the local school board adopt such a policy, to a place in the local school administrative unit.
- (3) If the juvenile is not released under subsection (b) of this section, the person having temporary custody shall proceed as follows:
 - a. In the case of a juvenile alleged to be delinquent or undisciplined, the person having temporary custody shall request a petition be drawn pursuant to G.S. 7A-561 or if the clerk's office is closed, the magistrate pursuant to G.S. 7A-562. Once the petition has been drawn and verified, the person shall communicate with the intake counselor who shall consider prehearing diversion. If the decision is made to file a petition, the intake counselor shall contact the judge or person delegated authority pursuant to G.S. 7A-573 if other than the intake counselor for a determination of the need for continued custody.
 - b. In the case of a juvenile alleged to be abused, neglected, or dependent, the person having temporary custody shall communicate with the Director of the Department of Social Services who shall consider prehearing diversion. If the decision is made to file a petition, the director shall contact the judge or person delegated authority pursuant to G.S. 7A-573 for a determination of the need for continued custody.

- (4) A juvenile taken into temporary custody under this Article shall not be held for more than 12 hours, or for more than 24 hours if any of the 12 hours falls on a Saturday, Sunday, or legal holiday, unless:
- a. A petition or motion for review has been filed by an intake counselor or the Director of the Department of Social Services, and
 - b. An order for secure or nonsecure custody has been entered by a judge.

(b) A person who takes a juvenile into custody under ~~G.S. 7A-571(4)~~ G.S. 7A-571(a)(4) shall, after contacting a judge and receiving an order for secure custody, transport the juvenile to the nearest approved facility providing secure custody. ~~He~~ The person shall then contact the administrator of the training school or detention facility from which the juvenile absconded, who shall be responsible for returning the juvenile to that facility.

(c) A person who takes a juvenile into custody under G.S. 7A-571(b) shall return the juvenile to the custody of the juvenile's parent, guardian, or custodian or notify the parent, guardian, or custodian that the juvenile has been taken into custody unless there are reasonable grounds to believe the juvenile is abused, neglected, or dependent and would be injured if returned to the custody of the parent, guardian, or custodian, in which case the person shall proceed pursuant to G.S. 7A-571(a)(3) and subsection (a) of this section."

Sec. 3. G.S. 122C-421(a) reads as rewritten:

"(a) The Secretary may designate one or more special police officers who shall make up a joint security force to enforce the law of North Carolina and any ordinance or regulation adopted pursuant to G.S. 143-116.6 or G.S. 143-116.7 or pursuant to the authority granted the Department by any other law on the territory of the Black Mountain Center, the Alcohol Rehabilitation Center, and the Juvenile Evaluation Center, all in Buncombe County. These special police officers have the same powers as peace officers now vested in sheriffs within the territory embraced by the named centers. These special police officers shall also have the power prescribed by ~~G.S. 7A-571(4)~~ G.S. 7A-571(a)(4) outside the territory embraced by the named centers but within the confines of Buncombe County. These special police officers may arrest persons outside the territory of the named centers but within the confines of Buncombe County when the person arrested has committed a criminal offense within that territory, for which the officers could have arrested the person within that territory, and the arrest is made during ~~such~~ the person's immediate and continuous flight from that territory."

Sec. 4. This act becomes effective October 1, 1995, and applies to physical custody exercised on or after that date.

In the General Assembly read three times and ratified this the 10th day of July, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives