

GENERAL ASSEMBLY OF NORTH CAROLINA

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HOUSE BILL 262

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Senate Children & Human Resources Committee Substitute Adopted 5/26/99

Short Title: Enhance Child Welfare Services/AB.

(Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

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

includes any person who has the approval of the care provider to assume responsibility for the juveniles under the care of the care provider. Nothing in this subdivision shall be construed to impose a legal duty of support under Chapter 50 or Chapter 110 of the General Statutes. The duty imposed upon a caretaker as defined in this subdivision shall be for the purpose of this Subchapter only."

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

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

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

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

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

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

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

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

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

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

The purpose of these reviews shall be to implement a team approach to identifying factors which may have contributed to conditions leading to the fatality and to develop recommendations for improving coordination between local and State entities which might have avoided the threat of injury or fatality and to identify appropriate remedies. The Division of Social Services shall make public the findings and recommendations developed for each fatality reviewed relating to improving coordination between local and State entities. These findings shall not be admissible as evidence in any civil or administrative proceedings against individuals or entities that participate in child fatality reviews conducted pursuant to this section. The State Child Fatality Review Team shall consult with the appropriate district attorney in accordance with G.S. 7B-2902(d) prior to the public release of the findings and recommendations.

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

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

Meetings of the State Child Fatality Review Team are not subject to the provisions of Article 33C of Chapter 143 of the General Statutes. However, the State Child Fatality Review Team may hold periodic public meetings to discuss, in a general manner not revealing confidential information about children and families, the findings of their

reviews and their recommendations for preventive actions. Minutes of all public meetings, excluding those of closed sessions, shall be kept in compliance with Article 33C of Chapter 143 of the General Statutes. Any minutes or any other information generated during any executive session shall be sealed from public inspection.

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

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

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

"ARTICLE 39.

"Interstate Compact on Adoption and Medical Assistance.

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

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

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

"§ 7B-3901. Definitions.

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

- (1) 'State' means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or any territory or possession subject to the jurisdiction of the United States.
- (2) 'Adoption assistance state' means the state that is a signatory to an adoption assistance agreement in a particular case.
- (3) 'Residence state' means the state where the child is living.

"§ 7B-3902. Compacts authorized.

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

"§ 7B-3903. Content of compacts.

- (a) A compact under this Article shall contain all of the following provisions:
 - (1) A provision making it available for joinder by all states.
 - (2) A provision for withdrawal from the compact upon written notice to the parties, with a period of at least one year between the date of the notice and effective date of the withdrawal.
 - (3) A requirement that the protections afforded by or under the compact continue in force for the duration of the adoption assistance and apply to all children and their adoptive parents who, on the effective date of the withdrawal, are receiving adoption assistance from a party state other than the state in which they are a resident and have their principal place of abode.
 - (4) A requirement that each instance of adoption assistance to which the compact applies be covered by an adoption assistance agreement in writing between the adoptive parents and the state child welfare agency of the state which undertakes to provide the adoption assistance and that any such agreement be expressly for the benefit of the adopted child and enforceable by the adoptive parents and the state child welfare agency providing the adoption assistance.
 - (5) Any other provisions appropriate to implement the proper administration of the compact.
- (b) A compact entered into under this Article may contain any of the following provisions:
 - (1) Provisions establishing procedures and entitlement to medical and other necessary social services for the child in accordance with applicable laws, even though the child and the adoptive parents are in a state other than the one responsible for or providing the services or the funds to defray part or all of the expense thereof.

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

"§ 7B-3904. Medical assistance.

(a) A child with special needs who is a resident of this State who is the subject of an adoption assistance agreement with another state shall be accepted as being entitled to receive medical assistance certification from this State upon the filing in the department of social services of the county in which the child resides a certified copy of the adoption assistance agreement obtained from the adoption assistance state.

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

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

"§ 7B-3905. Federal participation.

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

"§ 7B-3906. Compact administrator.

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

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