

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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**SENATE BILL 68
Judiciary I Committee Substitute Adopted 3/28/01
Corrected Copy 3/29/01
Judiciary II Committee Substitute #2 Adopted 4/24/01
House Committee Substitute Favorable 6/6/01**

Short Title: Criminal Justice Standards Commission Change.

(Public)

Sponsors:

Referred to:

February 6, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO MAKE CHANGES TO THE MEMBERSHIP OF THE NORTH
3 CAROLINA CRIMINAL JUSTICE EDUCATION AND TRAINING
4 STANDARDS COMMISSION, TO CLARIFY THE ENFORCEMENT POWERS
5 OF THE COMMISSION, TO REPEAL THE REMOVAL OF THE DEPARTMENT
6 OF CORRECTION FROM THE COMMISSION, AS RECOMMENDED BY THE
7 JOINT LEGISLATIVE CORRECTIONS AND CRIME CONTROL OVERSIGHT
8 COMMITTEE, TO MAKE CONFORMING CHANGES FOR THE
9 DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION,
10 AND TO DIRECT THE JOINT LEGISLATIVE CORRECTIONS AND CRIME
11 CONTROL OVERSIGHT COMMITTEE TO STUDY THE COMPOSITION OF
12 THE COMMISSION.

13 The General Assembly of North Carolina enacts:

14
15 **PART I. CHANGES TO NORTH CAROLINA CRIMINAL JUSTICE**
16 **EDUCATION AND TRAINING STANDARDS COMMISSION**

17
18 **SECTION 1.1.** G.S. 17C-2(3) reads as rewritten:

19 "(3) Criminal justice officers. – The administrative and subordinate
20 personnel of all the departments, agencies, units or entities comprising
21 the criminal justice agencies who are sworn law-enforcement officers,
22 both State and local, with the power of arrest; ~~revenue-law~~
23 ~~enforcement—officers~~; State correctional officers; State
24 probation/parole officers; State probation/parole officers-surveillance;
25 officers, supervisory and administrative personnel of local
26 confinement facilities; ~~State youth services officers~~; ~~State~~

1 ~~probation/parole intake officers; State probation/parole officers-~~
2 ~~surveillance; State probation/parole intensive officers; and State parole~~
3 ~~ease analysts. State juvenile justice officers; chief court counselors;~~
4 ~~and juvenile court counselors."~~

5 **SECTION 1.2.** G.S. 17C-3 reads as rewritten:

6 "(a) There is established the North Carolina Criminal Justice Education and
7 Training Standards Commission, hereinafter called 'the Commission.' The Commission
8 shall be composed of ~~26~~ 31 members as follows:

9 (1) Police Chiefs. – Three police chiefs selected by the North Carolina
10 Association of Chiefs of Police and one police chief appointed by the
11 Governor.

12 (2) Police Officers. – Three police officials appointed by the North
13 Carolina Police Executives Association and two criminal justice
14 officers certified by the Commission as selected by the North Carolina
15 Law-Enforcement Officers' Association.

16 (3) Departments. – The Attorney General of the State of North Carolina;
17 the Secretary ~~of the Department~~ of Crime Control and Public Safety;
18 the Secretary ~~of the Department~~ of Correction; the President of the
19 ~~North Carolina System of Community Colleges.~~North Carolina
20 Community Colleges System; the Secretary of Juvenile Justice and
21 Delinquency Prevention.

22 ~~(3a) A representative of the Office of Juvenile Justice.~~

23 (4) At-large Groups. – One individual representing and appointed by each
24 of the following organizations: one mayor selected by the League of
25 Municipalities; one law-enforcement training officer selected by the
26 North Carolina Law-Enforcement Training Officers' Association; one
27 criminal justice professional selected by the North Carolina Criminal
28 Justice Association; one sworn law-enforcement officer selected by the
29 North State Law-Enforcement Officers' Association; one member
30 selected by the North Carolina Law-Enforcement Women's
31 Association; and one District Attorney selected by the North Carolina
32 Association of District Attorneys.

33 (5) Citizens and Others. – The President of The University of North
34 Carolina; the Director of the Institute of Government; and two citizens,
35 one of whom shall be selected by the Governor and one of whom shall
36 be selected by the Attorney General. The General Assembly shall
37 appoint two persons, one upon the recommendation of the Speaker of
38 the House of Representatives and one upon the recommendation of the
39 President Pro Tempore of the Senate. Appointments by the General
40 Assembly shall be made in accordance with G.S. 120-122.
41 Appointments by the General Assembly shall serve two-year terms to
42 conclude on June 30th in odd-numbered years.

1 (6) Correctional Officers. – Four correctional officers in management
2 positions employed by the Department of Correction shall be
3 appointed, two from the Division of Community Corrections upon the
4 recommendation of the Speaker of the House of Representatives and
5 two from the Division of Prisons upon the recommendation of the
6 President Pro Tempore of the Senate. Appointments by the General
7 Assembly shall be made in accordance with G.S. 120-122.
8 Appointments by the General Assembly shall serve two-year terms to
9 conclude on June 30th in odd-numbered years. The Governor shall
10 appoint one correctional officer employed by the Department of
11 Correction and assigned to the Office of Staff Development and
12 Training. The Governor's appointment shall serve a three-year term.

13 (b) The members shall be appointed for staggered terms. The initial appointments
14 shall be made prior to September 1, 1983, and the appointees shall hold office until July
15 1 of the year in which their respective terms expire and until their successors are
16 appointed and qualified as provided hereafter:

17 For the terms of one year: one member from subdivision (1) of subsection (a) of this
18 section, serving as a police chief; three members from subdivision (2) of subsection (a)
19 of this section, one serving as a police official, and two criminal justice officers; one
20 member from subdivision (4) of subsection (a) of this section, appointed by the North
21 Carolina Law-Enforcement Training Officers' Association; and two members from
22 subdivision (5) of subsection (a) of this section, one appointed by the Governor and one
23 appointed by the Attorney General.

24 For the terms of two years: one member from subdivision (1) of subsection (a) of
25 this section, serving as a police chief; one member from subdivision (2) of subsection
26 (a) of this section, serving as a police official; and two members from subdivision (4) of
27 subsection (a) of this section, one appointed by the League of Municipalities and one
28 appointed by the North Carolina Association of District Attorneys.

29 For the terms of three years: two members from subdivision (1) of subsection (a) of
30 this section, one police chief appointed by the North Carolina Association of Chiefs of
31 Police and one police chief appointed by the Governor; one member from subdivision
32 (2) of subsection (a) of this section, serving as a police official; and three members from
33 subdivision (4) of subsection (a) of this section, one appointed by the North Carolina
34 Law-Enforcement Women's Association, one appointed by the North Carolina Criminal
35 Justice Association, and one appointed by the North State Law-Enforcement Officers'
36 Association.

37 Thereafter, as the term of each member expires, his successor shall be appointed for
38 a term of three years. Notwithstanding the appointments for a term of years, each
39 member shall serve at the will of the appointing authority.

40 The Attorney General, the Secretary ~~of the Department~~ of Crime Control and Public
41 Safety, the Secretary ~~of the Department~~ of Correction, the President of The University
42 of North Carolina, the Director of the Institute of Government, ~~and the President of the~~
43 ~~Department of Community Colleges~~ North Carolina Community Colleges System, and

1 the Secretary of Juvenile Justice and Delinquency Prevention shall be continuing
2 members of the Commission during their tenure. These members of the Commission
3 shall serve ex officio and shall perform their duties on the Commission in addition to
4 the other duties of their offices. The ex officio members may elect to serve personally at
5 any or all meetings of the Commission or may designate, in writing, one member of
6 their respective office, department, university or agency to represent and vote for them
7 on the Commission at all meetings the ex officio members are unable to attend.

8 Vacancies in the Commission occurring for any reason shall be filled, for the
9 unexpired term, by the authority making the original appointment of the person causing
10 the vacancy. A vacancy may be created by removal of a Commission member by
11 majority vote of the Commission for misconduct, incompetence, or neglect of duty. A
12 Commission member may be removed only pursuant to a hearing, after notice, at which
13 the member subject to removal has an opportunity to be heard."

14 **SECTION 1.3.** G.S. 17C-11 reads as rewritten:

15 "**§ 17C-11. ~~Power of the Commission to seek injunction.~~ Compliance; enforcement.**

16 (a) Any criminal justice officer who the Commission determines does not
17 comply with this Chapter or any rules adopted under this Chapter shall not exercise the
18 powers of a criminal justice officer and shall not exercise the power of arrest unless the
19 Commission waives that certification or deficiency. The Commission shall enforce this
20 section by the entry of appropriate orders effective upon service on either the criminal
21 justice agency or the criminal justice officer.

22 (b) Any person who desires to appeal the proposed denial, suspension, or
23 revocation of any certification authorized to be issued by the Commission shall file a
24 written appeal with the Commission not later than 30 days following notice of denial,
25 suspension, or revocation.

26 (c) The Commission may appear in its own name and apply to courts having
27 jurisdiction for injunctions to prevent violations of this Chapter or of rules issued
28 pursuant thereto; specifically, the performance of criminal justice officer functions by
29 officers or individuals who are not in compliance with the standards and requirements
30 of G.S. 17C-6(a) and G.S. 17C-10. A single act of performance of a criminal justice
31 officer function by an officer or individual who is performing such function in violation
32 of this Chapter is sufficient, if shown, to invoke the injunctive relief of this section."

33 **SECTION 1.4.** G.S. 17E-9(a) reads as rewritten:

34 "(a) Any justice officer who the Commission determines does not comply with ~~the~~
35 ~~provisions of this Chapter or any rules adopted under this Chapter~~ shall not be
36 ~~authorized to exercise the powers of a justice officer and shall not be authorized to~~
37 ~~exercise the power of arrest unless such certification or deficiency has been waived by~~
38 ~~the Commission.~~ the Commission waives that certification or deficiency. The
39 Commission shall enforce the provisions of this section by the entry of appropriate
40 orders. orders effective upon service on either the department or the justice officer."

41 **SECTION 1.5.** Section 17.3 of S.L. 2000-67 is repealed.
42

1 **PART II. CONFORMING CHANGES TO LAWS GOVERNING**
2 **UNDISCIPLINED AND DELINQUENT JUVENILES**

3
4 **SECTION 2.1.** G.S. 7B-1501 reads as rewritten:

5 **"§ 7B-1501. Definitions.**

6 In this Subchapter, unless the context clearly requires otherwise, the following
7 words have the listed meanings:

- 8 (1) Chief court counselor. – The person responsible for administration and
9 supervision of juvenile intake, probation, and post-release supervision
10 in each judicial district, operating under the supervision of the
11 Department of Juvenile Justice and Delinquency Prevention.
- 12 (2) Clerk. – Any clerk of superior court, acting clerk, or assistant or
13 deputy clerk.
- 14 (3) Community-based program. – A program providing nonresidential or
15 residential treatment to a juvenile under the jurisdiction of the juvenile
16 court in the community where the juvenile's family lives. A
17 community-based program may include specialized foster care, family
18 counseling, shelter care, and other appropriate treatment.
- 19 (4) Court. – The district court division of the General Court of Justice.
- 20 ~~(5) Court counselor. – A person responsible for probation and post-release~~
21 ~~supervision to juveniles under the supervision of the chief court~~
22 ~~counselor~~
- 23 (6) Custodian. – The person or agency that has been awarded legal
24 custody of a juvenile by a court.
- 25 (7) Delinquent juvenile. – Any juvenile who, while less than 16 years of
26 age but at least 6 years of age, commits a crime or infraction under
27 State law or under an ordinance of local government, including
28 violation of the motor vehicle laws.
- 29 (7a) Department. – The Department of Juvenile Justice and Delinquency
30 Prevention created under Article 12 of Chapter 143B of the General
31 Statutes.
- 32 (8) Detention. – The secure confinement of a juvenile under a court order.
- 33 (9) Detention facility. – A facility approved to provide secure confinement
34 and care for juveniles. Detention facilities include both State and
35 locally administered detention homes, centers, and facilities.
- 36 (10) District. – Any district court district as established by G.S. 7A-133.
- 37 (11) Holdover facility. – A place in a jail which has been approved by the
38 Department of Health and Human Services as meeting the State
39 standards for detention as required in G.S. 153A-221 providing close
40 supervision where the juvenile cannot converse with, see, or be seen
41 by the adult population.

- 1 (12) House arrest. – A requirement that the juvenile remain at the juvenile's
2 residence unless the court or the juvenile court counselor authorizes
3 the juvenile to leave for specific purposes.
- 4 ~~(13) Intake counselor. – A person who screens and evaluates a complaint~~
5 ~~alleging that a juvenile is delinquent or undisciplined to determine~~
6 ~~whether the complaint should be filed as a petition.~~
- 7 (13) Intake. – The process of screening and evaluating a complaint alleging
8 that a juvenile is delinquent or undisciplined to determine whether the
9 complaint should be filed as a petition.
- 10 (14) Interstate Compact on Juveniles. – An agreement ratified by 50 states
11 and the District of Columbia providing a formal means of returning a
12 juvenile, who is an absconder, escapee, or runaway, to the juvenile's
13 home state, and codified in Article 28 of this Chapter.
- 14 (15) Judge. – Any district court judge.
- 15 (16) Judicial district. – Any district court district as established by G.S.
16 7A-133.
- 17 (17) Juvenile. – Except as provided in subdivisions (7) and (27) of this
18 section, any person who has not reached the person's eighteenth
19 birthday and is not married, emancipated, or a member of the armed
20 forces of the United States. Wherever the term "juvenile" is used with
21 reference to rights and privileges, that term encompasses the attorney
22 for the juvenile as well.
- 23 (18) Juvenile court. – Any district court exercising jurisdiction under this
24 Chapter.
- 25 (18a) Juvenile court counselor. – A person responsible for intake services
26 and court supervision services to juveniles under the supervision of the
27 chief court counselor.
- 28 (19) Repealed by Session Laws 2000, c. 137, s. 2.
- 29 (20) Petitioner. – The individual who initiates court action by the filing of a
30 petition or a motion for review alleging the matter for adjudication.
- 31 (21) Post-release supervision. – The supervision of a juvenile who has been
32 returned to the community after having been committed to the
33 Department for placement in a training school.
- 34 (22) Probation. – The status of a juvenile who has been adjudicated
35 delinquent, is subject to specified conditions under the supervision of a
36 juvenile court counselor, and may be returned to the court for violation
37 of those conditions during the period of probation.
- 38 (23) Prosecutor. – The district attorney or assistant district attorney
39 assigned by the district attorney to juvenile proceedings.
- 40 (24) Protective supervision. – The status of a juvenile who has been
41 adjudicated undisciplined and is under the supervision of a juvenile
42 court counselor.

- 1 (25) Teen court program. – A community resource for the diversion of
2 cases in which a juvenile has allegedly committed certain offenses for
3 hearing by a jury of the juvenile's peers, which may assign the juvenile
4 to counseling, restitution, curfews, community service, or other
5 rehabilitative measures.
- 6 (26) Training school. – A secure residential facility authorized to provide
7 long-term treatment, education, and rehabilitative services for
8 delinquent juveniles committed by the court to the Department.
- 9 (27) Undisciplined juvenile. –
- 10 a. A juvenile who, while less than 16 years of age but at least 6
11 years of age, is unlawfully absent from school; or is regularly
12 disobedient to and beyond the disciplinary control of the
13 juvenile's parent, guardian, or custodian; or is regularly found in
14 places where it is unlawful for a juvenile to be; or has run away
15 from home for a period of more than 24 hours; or
- 16 b. A juvenile who is 16 or 17 years of age and who is regularly
17 disobedient to and beyond the disciplinary control of the
18 juvenile's parent, guardian, or custodian; or is regularly found in
19 places where it is unlawful for a juvenile to be; or has run away
20 from home for a period of more than 24 hours.
- 21 (28) Wilderness program. – A rehabilitative residential treatment program
22 in a rural or outdoor setting.

23 The singular includes the plural, unless otherwise specified."

24 **SECTION 2.2.** G.S. 7B-1601(e) reads as rewritten:

25 "(e) The court has jurisdiction over delinquent juveniles in the custody of the
26 Department and over proceedings to determine whether a juvenile who is under the
27 post-release supervision of the juvenile court counselor has violated the terms of the
28 juvenile's post-release supervision."

29 **SECTION 2.3.** G.S. 7B-1700 reads as rewritten:

30 "**§ 7B-1700. Intake services.**

31 The chief court counselor, under the direction of the Department, shall establish
32 intake services in each judicial district of the State for all delinquency and undisciplined
33 cases.

34 The purpose of intake services shall be to determine from available evidence
35 whether there are reasonable grounds to believe the facts alleged are true, to determine
36 whether the facts alleged constitute a delinquent or undisciplined offense within the
37 jurisdiction of the court, to determine whether the facts alleged are sufficiently serious
38 to warrant court action, and to obtain assistance from community resources when court
39 referral is not necessary. The ~~intake~~ juvenile court counselor shall not engage in field
40 investigations to substantiate complaints or to produce supplementary evidence but may
41 refer complainants to law enforcement agencies for those purposes."

42 **SECTION 2.4.** G.S. 7B-1701 reads as rewritten:

43 "**§ 7B-1701. Preliminary inquiry.**

1 When a complaint is received, the ~~intake~~-juvenile court counselor shall make a
2 preliminary determination as to whether the juvenile is within the jurisdiction of the
3 court as a delinquent or undisciplined juvenile. If the ~~intake~~-juvenile court counselor
4 finds that the facts contained in the complaint do not state a case within the jurisdiction
5 of the court, that legal sufficiency has not been established, or that the matters alleged
6 are frivolous, the ~~intake~~-juvenile court counselor, without further inquiry, shall refuse
7 authorization to file the complaint as a petition.

8 When requested by the ~~intake~~-juvenile court counselor, the prosecutor shall assist in
9 determining the sufficiency of evidence as it affects the quantum of proof and the
10 elements of offenses.

11 The ~~intake~~-juvenile court counselor, without further inquiry, shall authorize the
12 complaint to be filed as a petition if the ~~intake~~-juvenile court counselor finds reasonable
13 grounds to believe that the juvenile has committed one of the following nondivertible
14 offenses:

- 15 (1) Murder;
- 16 (2) First-degree rape or second degree rape;
- 17 (3) First-degree sexual offense or second degree sexual offense;
- 18 (4) Arson;
- 19 (5) Any violation of Article 5, Chapter 90 of the General Statutes that
20 would constitute a felony if committed by an adult;
- 21 (6) First degree burglary;
- 22 (7) Crime against nature; or
- 23 (8) Any felony which involves the willful infliction of serious bodily
24 injury upon another or which was committed by use of a deadly
25 weapon."

26 **SECTION 2.5.** G.S. 7B-1702 reads as rewritten:

27 **"§ 7B-1702. Evaluation.**

28 Upon a finding of legal sufficiency, except in cases involving nondivertible offenses
29 set out in G.S. 7B-1701, the ~~intake~~-juvenile court counselor shall determine whether a
30 complaint should be filed as a petition, the juvenile diverted pursuant to G.S. 7B-1706,
31 or the case resolved without further action. In making the decision, the counselor shall
32 consider criteria provided by the Department. The intake process shall include the
33 following steps if practicable:

- 34 (1) Interviews with the complainant and the victim if someone other than
35 the complainant;
- 36 (2) Interviews with the juvenile and the juvenile's parent, guardian, or
37 custodian;
- 38 (3) Interviews with persons known to have relevant information about the
39 juvenile or the juvenile's family.

40 Interviews required by this section shall be conducted in person unless it is necessary to
41 conduct them by telephone."

42 **SECTION 2.6.** G.S. 7B-1703 reads as rewritten:

43 **"§ 7B-1703. Evaluation decision.**

1 (a) The ~~intake-juvenile court~~ counselor shall complete evaluation of a complaint
2 within 15 days of receipt of the complaint, with an extension for a maximum of 15
3 additional days at the discretion of the chief court counselor. The ~~intake-juvenile court~~
4 counselor shall decide within this time period whether a complaint shall be filed as a
5 juvenile petition.

6 (b) Except as provided in G.S. 7B-1706, if the ~~intake-juvenile court~~ counselor
7 determines that a complaint should be filed as a petition, the counselor shall file the
8 petition as soon as practicable, but in any event within 15 days after the complaint is
9 received, with an extension for a maximum of 15 additional days at the discretion of the
10 chief court counselor. The ~~intake-juvenile court~~ counselor shall assist the complainant
11 when necessary with the preparation and filing of the petition, shall include on it the
12 date and the words "Approved for Filing", shall sign it, and shall transmit it to the clerk
13 of superior court.

14 (c) If the ~~intake-juvenile court~~ counselor determines that a petition should not be
15 filed, the ~~intake-juvenile court~~ counselor shall notify the complainant immediately in
16 writing with reasons for the decision and shall include notice of the complainant's right
17 to have the decision reviewed by the prosecutor. The ~~intake-juvenile court~~ counselor
18 shall sign the complaint after indicating on it:

- 19 (1) The date of the determination;
- 20 (2) The words "Not Approved for Filing"; and
- 21 (3) Whether the matter is "Closed" or "Diverted and Retained".

22 Except as provided in G.S. 7B-1706, any complaint not approved for filing as a
23 juvenile petition shall be destroyed by the ~~intake-juvenile court~~ counselor after holding
24 the complaint for a temporary period to allow review as provided in G.S. 7B-1705."

25 **SECTION 2.7.** G.S. 7B-1704 reads as rewritten:

26 **"§ 7B-1704. Request for review by prosecutor.**

27 The complainant has five calendar days, from receipt of the ~~intake-juvenile court~~
28 counselor's decision not to approve the filing of a petition, to request review by the
29 prosecutor. The ~~intake-juvenile court~~ counselor shall notify the prosecutor immediately
30 of such request and shall transmit to the prosecutor a copy of the complaint. The
31 prosecutor shall notify the complainant and the ~~intake-juvenile court~~ counselor of the
32 time and place for the review."

33 **SECTION 2.8.** G.S. 7B-1705 reads as rewritten:

34 **"§ 7B-1705. Review of determination that petition should not be filed.**

35 No later than 20 days after the complainant is notified, the prosecutor shall review
36 the ~~intake-juvenile court~~ counselor's determination that a juvenile petition should not be
37 filed. Review shall include conferences with the complainant and the ~~intake-juvenile~~
38 ~~court~~ counselor. At the conclusion of the review, the prosecutor shall: (i) affirm the
39 decision of the ~~intake-juvenile court~~ counselor or direct the filing of a petition and (ii)
40 notify the complainant of the prosecutor's action."

41 **SECTION 2.9.** G.S. 7B-1706 reads as rewritten:

42 **"§ 7B-1706. Diversion plans and referral.**

1 (a) Unless the offense is one in which a petition is required by G.S. 7B-1701,
2 upon a finding of legal sufficiency the ~~intake-juvenile court~~ counselor may divert the
3 juvenile pursuant to a diversion plan, which may include referring the juvenile to any of
4 the following resources:

- 5 (1) An appropriate public or private resource;
- 6 (2) Restitution;
- 7 (3) Community service;
- 8 (4) Victim-offender mediation;
- 9 (5) Regimented physical training;
- 10 (6) Counseling;
- 11 (7) A teen court program, as set forth in subsection (c) of this section.

12 As part of a diversion plan, the ~~intake-juvenile court~~ counselor may enter into a
13 diversion contract with the juvenile and the juvenile's parent, guardian, or custodian.

14 (b) Unless the offense is one in which a petition is required by G.S. 7B-1701,
15 upon a finding of legal sufficiency the ~~intake-juvenile court~~ counselor may enter into a
16 diversion contract with the juvenile and the parent, guardian, or custodian; provided, a
17 diversion contract requires the consent of the juvenile and the juvenile's parent,
18 guardian, or custodian. A diversion contract shall:

- 19 (1) State conditions by which the juvenile agrees to abide and any actions
20 the juvenile agrees to take;
- 21 (2) State conditions by which the parent, guardian, or custodian agrees to
22 abide and any actions the parent, guardian, or custodian agrees to take;
- 23 (3) Describe the role of the juvenile court counselor in relation to the
24 juvenile and the parent, guardian, or custodian;
- 25 (4) Specify the length of the contract, which shall not exceed six months;
- 26 (5) Indicate that all parties understand and agree that:
 - 27 a. The juvenile's violation of the contract may result in the filing
28 of the complaint as a petition; and
 - 29 b. The juvenile's successful completion of the contract shall
30 preclude the filing of a petition.

31 After a diversion contract is signed by the parties, the ~~intake-juvenile court~~ counselor
32 shall provide copies of the contract to the juvenile and the juvenile's parent, guardian, or
33 custodian. The ~~intake-juvenile court~~ counselor shall notify any agency or other resource
34 from which the juvenile or the juvenile's parent, guardian, or custodian will be seeking
35 services or treatment pursuant to the terms of the contract. At any time during the term
36 of the contract if the juvenile court counselor determines that the juvenile has failed to
37 comply substantially with the terms of the contract, the juvenile court counselor may
38 file the complaint as a petition. Unless the juvenile court counselor has filed the
39 complaint as a petition, the ~~intake-juvenile court~~ counselor shall close the juvenile's file
40 in regard to the diverted matter within six months after the date of the contract.

41 (c) If a teen court program has been established in the district, the ~~intake-juvenile~~
42 court counselor, upon a finding of legal sufficiency, may refer to a teen court program,
43 any case in which a juvenile has allegedly committed an offense that would be an

1 infraction or misdemeanor if committed by an adult. However, the ~~intake-juvenile court~~
2 counselor shall not refer a case to a teen court program (i) if the juvenile has been
3 referred to a teen court program previously, or (ii) if the juvenile is alleged to have
4 committed any of the following offenses:

- 5 (1) Driving while impaired under G.S. 20-138.1, 20-138.2, 20-138.3,
6 20-138.5, or 20-138.7, or any other motor vehicle violation;
- 7 (2) A Class A1 misdemeanor;
- 8 (3) An assault in which a weapon is used; or
- 9 (4) A controlled substance offense under Article 5 of Chapter 90 of the
10 General Statutes, other than simple possession of a Schedule VI drug
11 or alcohol.

12 (d) The ~~intake-juvenile court~~ counselor shall maintain diversion plans and
13 contracts entered into pursuant to this section to allow ~~intake-juvenile court~~ counselors
14 to determine when a juvenile has had a complaint diverted previously. Diversion plans
15 and contracts are not public records under Chapter 132 of the General Statutes, shall not
16 be included in the clerk's record pursuant to G.S. 7B-3000, and shall be withheld from
17 public inspection or examination. Diversion plans and contracts shall be destroyed when
18 the juvenile reaches the age of 18 years or when the juvenile is no longer under the
19 jurisdiction of the court, whichever is longer.

20 (e) No later than 60 days after the ~~intake-juvenile court~~ counselor diverts a
21 juvenile, the ~~intake-juvenile court~~ counselor shall determine whether the juvenile and
22 the juvenile's parent, guardian, or custodian have complied with the terms of the
23 diversion plan or contract. In making this determination, the ~~intake-juvenile court~~
24 counselor shall contact any referral resources to determine whether the juvenile and the
25 juvenile's parent, guardian, or custodian complied with any recommendations for
26 treatment or services made by the resource. If the juvenile and the juvenile's parent,
27 guardian, or custodian have not complied, the ~~intake-juvenile court~~ counselor shall
28 reconsider the decision to divert and may authorize the filing of the complaint as a
29 petition within 10 days after making the determination. If the ~~intake-juvenile court~~
30 counselor does not file a petition, the ~~intake-juvenile court~~ counselor may continue to
31 monitor the case for up to six months from the date of the diversion plan or contract. At
32 any point during that time period if the juvenile and the juvenile's parent, guardian, or
33 custodian fail to comply, the ~~intake-juvenile court~~ counselor shall reconsider the
34 decision to divert and may authorize the filing of the complaint as a petition. After six
35 months, the ~~intake-juvenile court~~ counselor shall close the diversion plan or contract
36 file."

37 **SECTION 2.10.** G.S. 7B-1802 reads as rewritten:

38 "**§ 7B-1802. Petition.**

39 The petition shall contain the name, date of birth, and address of the juvenile and the
40 name and last known address of the juvenile's parent, guardian, or custodian. The
41 petition shall allege the facts that invoke jurisdiction over the juvenile. The petition shall
42 not contain information on more than one juvenile.

1 A petition in which delinquency is alleged shall contain a plain and concise
2 statement, without allegations of an evidentiary nature, asserting facts supporting every
3 element of a criminal offense and the juvenile's commission thereof with sufficient
4 precision clearly to apprise the juvenile of the conduct which is the subject of the
5 allegation.

6 Sufficient copies of the petition shall be prepared so that copies will be available for
7 the juvenile, for each parent if living separate and apart, for the guardian or custodian if
8 any, for the juvenile court counselor, for the prosecutor, and for any person determined
9 by the court to be a necessary party."

10 **SECTION 2.11.** G.S. 7B-1803 reads as rewritten:

11 "**§ 7B-1803. Receipt of complaints; filing of petition.**

12 (a) All complaints concerning a juvenile alleged to be delinquent or
13 undisciplined shall be referred to the ~~intake~~-juvenile court counselor for screening and
14 evaluation. Thereafter, if the ~~intake~~-juvenile court counselor determines that a petition
15 should be filed, the petition shall be drawn by the ~~intake~~-juvenile court counselor or the
16 clerk, signed by the complainant, and verified before an official authorized to administer
17 oaths. If the circumstances indicate a need for immediate attachment of jurisdiction and
18 if the ~~intake~~-juvenile court counselor is out of the county or otherwise unavailable to
19 receive a complaint and to draw a petition when it is needed, the clerk shall assist the
20 complainant in communicating the complaint to the ~~intake~~-juvenile court counselor by
21 telephone and, with the approval of the ~~intake~~-juvenile court counselor, shall draw a
22 petition and file it when signed and verified. A copy of the complaint and petition shall
23 be transmitted to the ~~intake~~-juvenile court counselor. Procedures for receiving
24 delinquency and undisciplined complaints and drawing petitions thereon, consistent
25 with this Article and Article 17 of this Chapter, shall be established by administrative
26 order of the chief judge in each judicial district.

27 (b) If review is requested pursuant to G.S. 7B-1704, the prosecutor shall review a
28 complaint and any decision of the ~~intake~~-juvenile court counselor not to authorize that
29 the complaint be filed as a petition. If the prosecutor, after review, authorizes a
30 complaint to be filed as a petition, the prosecutor shall prepare the complaint to be filed
31 by the clerk as a petition, recording the day of filing."

32 **SECTION 2.12.** G.S. 7B-1804(b) reads as rewritten:

33 "(b) When the office of the clerk is closed and ~~an intake~~-the juvenile court
34 counselor requests a petition alleging a juvenile to be delinquent or undisciplined, a
35 magistrate may draw and verify the petition and accept it for filing, which acceptance
36 shall constitute filing. The magistrate's authority under this subsection is limited to
37 emergency situations when a petition is required in order to obtain a secure or nonsecure
38 custody order. Any petition accepted for filing under this subsection shall be delivered
39 to the clerk's office for processing as soon as that office is open for business."

40 **SECTION 2.13.** G.S. 7B-1900 reads as rewritten:

41 "**§ 7B-1900. Taking a juvenile into temporary custody.**

42 Temporary custody means the taking of physical custody and providing personal
43 care and supervision until a court order for secure or nonsecure custody can be obtained.

1 A juvenile may be taken into temporary custody without a court order under the
2 following circumstances:

- 3 (1) By a law enforcement officer if grounds exist for the arrest of an adult
4 in identical circumstances under G.S. 15A-401(b).
- 5 (2) By a law enforcement officer or a juvenile court counselor if there are
6 reasonable grounds to believe that the juvenile is an undisciplined
7 juvenile.
- 8 (3) By a law enforcement officer, by a juvenile court counselor, by a
9 member of the Black Mountain Center, Alcohol Rehabilitation Center,
10 and Juvenile Evaluation Center Joint Security Force established
11 pursuant to G.S. 122C-421, or by personnel of the Department if there
12 are reasonable grounds to believe the juvenile is an absconder from
13 any residential facility operated by the Department or from an
14 approved detention facility."

15 **SECTION 2.14.** G.S. 7B-1901(a) reads as rewritten:

16 "(a) A person who takes a juvenile into custody without a court order under G.S.
17 7B-1900(1) or (2) shall proceed as follows:

- 18 (1) Notify the juvenile's parent, guardian, or custodian that the juvenile
19 has been taken into temporary custody and advise the parent, guardian,
20 or custodian of the right to be present with the juvenile until a
21 determination is made as to the need for secure or nonsecure custody.
22 Failure to notify the parent, guardian, or custodian that the juvenile is
23 in custody shall not be grounds for release of the juvenile.
- 24 (2) Release the juvenile to the juvenile's parent, guardian, or custodian if
25 the person having the juvenile in temporary custody decides that
26 continued custody is unnecessary. In the case of a juvenile unlawfully
27 absent from school, if continued custody is unnecessary, the person
28 having temporary custody may deliver the juvenile to the juvenile's
29 school or, if the local city or county government and the local school
30 board adopt a policy, to a place in the local school administrative unit.
- 31 (3) If the juvenile is not released, request that a petition be drawn pursuant
32 to G.S. 7B-1803 or G.S. 7B-1804. Once the petition has been drawn
33 and verified, the person shall communicate with the ~~intake~~-juvenile
34 court counselor. If the ~~intake~~-juvenile court counselor approves the
35 filing of the petition, the ~~intake~~-juvenile court counselor shall contact
36 the judge or the person delegated authority pursuant to G.S. 7B-1902 if
37 other than the ~~intake~~-juvenile court counselor, for a determination of
38 the need for continued custody."

39 **SECTION 2.15.** G.S. 7B-1905(c) reads as rewritten:

40 "(c) A juvenile who has allegedly committed an offense that would be a Class A,
41 B1, B2, C, D, or E felony if committed by an adult may be detained in secure custody in
42 a holdover facility up to 72 hours, if the court, based on information provided by the
43 juvenile court counselor, determines that no acceptable alternative placement is

1 available and the protection of the public requires the juvenile be housed in a holdover
2 facility."

3 **SECTION 2.16.** G.S. 7B-2102(e) reads as rewritten:

4 "(e) If a juvenile is fingerprinted and photographed pursuant to subsection (a) of
5 this section, the custodian of records shall destroy all fingerprints and photographs at the
6 earlier of the following:

7 (1) The ~~intake~~-juvenile court counselor or prosecutor does not file a
8 petition against the juvenile within one year of fingerprinting and
9 photographing the juvenile pursuant to subsection (a) of this section;

10 (2) The court does not find probable cause pursuant to G.S. 7B-2202; or

11 (3) The juvenile is not adjudicated delinquent of any offense that would be
12 a felony or a misdemeanor if committed by an adult.

13 The chief court counselor shall notify the local custodian of records, and the local
14 custodian of records shall notify any other record-holding agencies, when a decision is
15 made not to file a petition, the court does not find probable cause, or the court does not
16 adjudicate the juvenile delinquent."

17 **SECTION 2.17.** G.S. 7B-2408 reads as rewritten:

18 **"§ 7B-2408. Rules of evidence.**

19 If the juvenile denies the allegations of the petition, the court shall proceed in
20 accordance with the rules of evidence applicable to criminal cases. In addition, no
21 statement made by a juvenile to the ~~intake~~-juvenile court counselor during the
22 preliminary inquiry and evaluation process shall be admissible prior to the dispositional
23 hearing."

24 **SECTION 2.18.** G.S. 7B-2413 reads as rewritten:

25 **"§ 7B-2413. Predisposition investigation and report.**

26 The court shall proceed to the dispositional hearing upon receipt of the
27 predisposition report. A risk and needs assessment, containing information regarding the
28 juvenile's social, medical, psychiatric, psychological, and educational history, as well as
29 any factors indicating the probability of the juvenile committing further delinquent acts,
30 shall be conducted for the juvenile and shall be attached to the predisposition report. In
31 cases where no predisposition report is available and the court makes a written finding
32 that a report is not needed, the court may proceed with the dispositional hearing. No
33 predisposition report or risk and needs assessment of any child alleged to be delinquent
34 or undisciplined shall be made prior to an adjudication that the juvenile is within the
35 juvenile jurisdiction of the court unless the juvenile, the juvenile's parent, guardian, or
36 custodian, or the juvenile's attorney files a written statement with the juvenile court
37 counselor granting permission and giving consent to the predisposition report or risk
38 and needs assessment. No predisposition report shall be submitted to or considered by
39 the court prior to the completion of the adjudicatory hearing. The court shall permit the
40 juvenile to inspect any predisposition report, including any attached risk and needs
41 assessment, to be considered by the court in making the disposition unless the court
42 determines that disclosure would seriously harm the juvenile's treatment or
43 rehabilitation or would violate a promise of confidentiality. Opportunity to offer

1 evidence in rebuttal shall be afforded the juvenile and the juvenile's parent, guardian, or
2 custodian at the dispositional hearing. The court may order counsel not to disclose parts
3 of the report to the juvenile or the juvenile's parent, guardian, or custodian if the court
4 finds that disclosure would seriously harm the treatment or rehabilitation of the juvenile
5 or would violate a promise of confidentiality given to a source of information."

6 **SECTION 2.19.** G.S. 7B-2503 reads as rewritten:

7 "**§ 7B-2503. Dispositional alternatives for undisciplined juveniles.**

8 The following alternatives for disposition shall be available to the court exercising
9 jurisdiction over a juvenile who has been adjudicated undisciplined. The court may
10 combine any of the applicable alternatives when the court finds it to be in the best
11 interests of the juvenile:

12 (1) In the case of any juvenile who needs more adequate care or
13 supervision or who needs placement, the judge may:

- 14 a. Require that the juvenile be supervised in the juvenile's own
15 home by a department of social services in the juvenile's county
16 of residence, a juvenile court counselor, or other personnel as
17 may be available to the court, subject to conditions applicable to
18 the parent, guardian, or custodian or the juvenile as the judge
19 may specify; or
- 20 b. Place the juvenile in the custody of a parent, guardian,
21 custodian, relative, private agency offering placement services,
22 or some other suitable person; or
- 23 c. Place the juvenile in the custody of a department of social
24 services in the county of the juvenile's residence, or in the case
25 of a juvenile who has legal residence outside the State, in the
26 physical custody of a department of social services in the
27 county where the juvenile is found so that agency may return
28 the juvenile to the responsible authorities in the juvenile's home
29 state. The director may, unless otherwise ordered by the judge,
30 arrange for, provide, or consent to, needed routine or
31 emergency medical or surgical care or treatment. In the case
32 where the parent is unknown, unavailable, or unable to act on
33 behalf of the juvenile or juveniles, the director may, unless
34 otherwise ordered by the judge, arrange for, provide or consent
35 to any psychiatric, psychological, educational, or other remedial
36 evaluations or treatment for the juvenile placed by a judge or
37 the judge's designee in the custody or physical custody of a
38 county department of social services under the authority of this
39 or any other Chapter of the General Statutes. Prior to exercising
40 this authority, the director shall make reasonable efforts to
41 obtain consent from a parent, guardian, or custodian of the
42 affected juvenile. If the director cannot obtain consent, the
43 director shall promptly notify the parent, guardian, or custodian

1 that care or treatment has been provided and shall give the
2 parent, guardian, or custodian frequent status reports on the
3 circumstances of the juvenile. Upon request of a parent,
4 guardian, or custodian of the affected juvenile, the results or
5 records of the aforementioned evaluations, findings, or
6 treatment shall be made available to the parent, guardian, or
7 custodian by the director unless prohibited by G.S. 122C-53(d).

8 (2) Place the juvenile under the protective supervision of a juvenile court
9 counselor for a period of up to three months, with an extension of an
10 additional three months in the discretion of the court.

11 (3) Excuse the juvenile from compliance with the compulsory school
12 attendance law when the court finds that suitable alternative plans can
13 be arranged by the family through other community resources for one
14 of the following:

- 15 a. An education related to the needs or abilities of the juvenile
16 including vocational education or special education;
- 17 b. A suitable plan of supervision or placement; or
- 18 c. Some other plan that the court finds to be in the best interests of
19 the juvenile."

20 **SECTION 2.20.** G.S. 7B-2504 reads as rewritten:

21 **"§ 7B-2504. Conditions of protective supervision for undisciplined juveniles.**

22 The court may place a juvenile on protective supervision pursuant to G.S. 7B-2503
23 so that the juvenile court counselor may (i) assist the juvenile in securing social,
24 medical, and educational services and (ii) visit and work with the family as a unit to
25 ensure the juvenile is provided proper supervision and care. The court may impose any
26 combination of the following conditions of protective supervision that are related to the
27 needs of the juvenile, including:

- 28 (1) That the juvenile shall remain on good behavior and not violate any
29 laws;
- 30 (2) That the juvenile attend school regularly;
- 31 (3) That the juvenile maintain passing grades in up to four courses during
32 each grading period and meet with the juvenile court counselor and a
33 representative of the school to make a plan for how to maintain those
34 passing grades;
- 35 (4) That the juvenile not associate with specified persons or be in specified
36 places;
- 37 (5) That the juvenile abide by a prescribed curfew;
- 38 (6) That the juvenile report to a juvenile court counselor as often as
39 required by a juvenile court counselor;
- 40 (7) That the juvenile be employed regularly if not attending school; and
- 41 (8) That the juvenile satisfy any other conditions determined appropriate
42 by the court."

43 **SECTION 2.21.** G.S. 7B-2505 reads as rewritten:

1 **"§ 7B-2505. Contempt of court for undisciplined juveniles.**

2 Upon motion of the juvenile court counselor or on the court's own motion, the court
3 may issue an order directing a juvenile who has been adjudicated undisciplined to
4 appear and show cause why the juvenile should not be held in contempt for willfully
5 failing to comply with an order of the court. The first time the juvenile is held in
6 contempt, the court may order the juvenile confined in an approved detention facility for
7 a period not to exceed 24 hours. The second time the juvenile is held in contempt, the
8 court may order the juvenile confined in an approved detention facility for a period not
9 to exceed three days. The third time and all subsequent times the juvenile is held in
10 contempt, the court may order the juvenile confined in an approved detention facility for
11 a period not to exceed five days. The timing of any confinement under this section shall
12 be determined by the court in its discretion. In no event shall a juvenile held in contempt
13 pursuant to this section be confined for more than 14 days in one 12-month period."

14 **SECTION 2.22.** G.S. 7B-2506 reads as rewritten:

15 **"§ 7B-2506. Dispositional alternatives for delinquent juveniles.**

16 The court exercising jurisdiction over a juvenile who has been adjudicated
17 delinquent may use the following alternatives in accordance with the dispositional
18 structure set forth in G.S. 7B-2508:

19 (1) In the case of any juvenile who needs more adequate care or
20 supervision or who needs placement, the judge may:

- 21 a. Require that a juvenile be supervised in the juvenile's own
22 home by the department of social services in the juvenile's
23 county, a juvenile court counselor, or other personnel as may be
24 available to the court, subject to conditions applicable to the
25 parent, guardian, or custodian or the juvenile as the judge may
26 specify; or
- 27 b. Place the juvenile in the custody of a parent, guardian,
28 custodian, relative, private agency offering placement services,
29 or some other suitable person; or
- 30 c. Place the juvenile in the custody of the department of social
31 services in the county of his residence, or in the case of a
32 juvenile who has legal residence outside the State, in the
33 physical custody of a department of social services in the
34 county where the juvenile is found so that agency may return
35 the juvenile to the responsible authorities in the juvenile's home
36 state. The director may, unless otherwise ordered by the judge,
37 arrange for, provide, or consent to, needed routine or
38 emergency medical or surgical care or treatment. In the case
39 where the parent is unknown, unavailable, or unable to act on
40 behalf of the juvenile or juveniles, the director may, unless
41 otherwise ordered by the judge, arrange for, provide, or consent
42 to any psychiatric, psychological, educational, or other remedial
43 evaluations or treatment for the juvenile placed by a judge or

1 his designee in the custody or physical custody of a county
2 department of social services under the authority of this or any
3 other Chapter of the General Statutes. Prior to exercising this
4 authority, the director shall make reasonable efforts to obtain
5 consent from a parent, guardian, or custodian of the affected
6 juvenile. If the director cannot obtain consent, the director shall
7 promptly notify the parent, guardian, or custodian that care or
8 treatment has been provided and shall give the parent, guardian,
9 or custodian frequent status reports on the circumstances of the
10 juvenile. Upon request of a parent, guardian, or custodian of the
11 affected juvenile, the results or records of the aforementioned
12 evaluations, findings, or treatment shall be made available to
13 the parent, guardian, or custodian by the director unless
14 prohibited by G.S. 122C-53(d).

15
16 ...

- 17
18 (8) Place the juvenile on probation under the supervision of a juvenile
19 court counselor, as specified in G.S. 7B-2510.

20
21 ...

- 22
23 (15) Place the juvenile on intensive probation under the supervision of a
24 juvenile court counselor.

25
26"

27 **SECTION 2.23.** G.S. 7B-2510(a) reads as rewritten:

28 "(a) In any case where a juvenile is placed on probation pursuant to G.S.
29 7B-2506(8), the juvenile court counselor shall have the authority to visit the juvenile
30 where the juvenile resides. The court may impose conditions of probation that are
31 related to the needs of the juvenile and that are reasonably necessary to ensure that the
32 juvenile will lead a law-abiding life, including:

- 33 (1) That the juvenile shall remain on good behavior.
34 (2) That the juvenile shall not violate any laws.
35 (3) That the juvenile shall not violate any reasonable and lawful rules of a
36 parent, guardian, or custodian.
37 (4) That the juvenile attend school regularly.
38 (5) That the juvenile maintain passing grades in up to four courses during
39 each grading period and meet with the juvenile court counselor and a
40 representative of the school to make a plan for how to maintain those
41 passing grades.
42 (6) That the juvenile not associate with specified persons or be in specified
43 places.

- 1 (7) That the juvenile:
2 a. Refrain from use or possession of any controlled substance
3 included in any schedule of Article 5 of Chapter 90 of the
4 General Statutes, the Controlled Substances Act;
5 b. Refrain from use or possession of any alcoholic beverage
6 regulated under Chapter 18B of the General Statutes; and
7 c. Submit to random drug testing.
8 (8) That the juvenile abide by a prescribed curfew.
9 (9) That the juvenile submit to a warrantless search at reasonable times.
10 (10) That the juvenile possess no firearm, explosive device, or other deadly
11 weapon.
12 (11) That the juvenile report to a juvenile court counselor as often as
13 required by the juvenile court counselor.
14 (12) That the juvenile make specified financial restitution or pay a fine in
15 accordance with G.S. 7B-2506(4), (5), and (22).
16 (13) That the juvenile be employed regularly if not attending school.
17 (14) That the juvenile satisfy any other conditions determined appropriate
18 by the court."

19 **SECTION 2.24.** G.S. 7B-2510(d) reads as rewritten:

20 "(d) On motion of the juvenile court counselor or the juvenile, or on the court's
21 own motion, the court may review the progress of any juvenile on probation at any time
22 during the period of probation or at the end of probation. The conditions or duration of
23 probation may be modified only as provided in this Subchapter and only after notice and
24 a hearing."

25 **SECTION 2.25.** G.S. 7B-2511 reads as rewritten:

26 **§ 7B-2511. Termination of probation.**

27 At the end of or at any time during probation, the court may terminate probation by
28 written order upon finding that there is no further need for supervision. The finding and
29 order terminating probation may be entered in chambers in the absence of the juvenile
30 and may be based on a report from the juvenile court counselor or, at the election of the
31 court, the order may be entered with the juvenile present after notice and a hearing."

32 **SECTION 2.26.** G.S. 7B-2513(h) reads as rewritten:

33 "(h) Pending placement of a juvenile with the Department, the court may house a
34 juvenile who has been adjudicated delinquent for an offense that would be a Class A,
35 B1, B2, C, D, or E felony if committed by an adult in a holdover facility up to 72 hours
36 if the court, based on the information provided by the juvenile court counselor,
37 determines that no acceptable alternative placement is available and the protection of
38 the public requires that the juvenile be housed in a holdover facility."

39 **SECTION 2.27.** G.S. 7B-2514(a) reads as rewritten:

40 "(a) The Department shall be responsible for evaluation of the progress of each
41 juvenile at least once every six months as long as the juvenile remains in the care of the
42 Department. Any determination that the juvenile should remain in the care of the
43 Department for an additional period of time shall be based on the Department's

1 determination that the juvenile requires additional treatment or rehabilitation pursuant to
2 G.S. 7B-2515. If the Department determines that a juvenile is ready for release, the
3 Department shall initiate a post-release supervision planning process. The post-release
4 supervision planning process shall be defined by rules and regulations of the
5 Department, but shall include the following:

- 6 (1) Written notification shall be given to the court that ordered
7 commitment.
- 8 (2) A post-release supervision planning conference shall be held involving
9 as many as possible of the following: the juvenile, the juvenile's
10 parent, guardian, or custodian, juvenile court counselors who have
11 supervised the juvenile on probation or will supervise the juvenile on
12 post-release supervision, and staff of the facility that found the juvenile
13 ready for release. The planning conference shall include personal
14 contact and evaluation rather than telephonic notification.
- 15 (3) The planning conference participants shall consider, based on the
16 individual needs of the juvenile and pursuant to rules adopted by the
17 Department, placement of the juvenile in any program under the
18 auspices of the Department, including the juvenile court services
19 programs that, in the judgment of the Department, would be
20 appropriate transitional placement, pending release under G.S.
21 7B-2513."

22 **SECTION 2.28.** G.S. 7B-2514(g) reads as rewritten:

23 "(g) A juvenile on post-release supervision shall be supervised by a juvenile court
24 counselor. Post-release supervision shall be terminated by order of the court."

25 **SECTION 2.29.** G.S. 7B-2516 reads as rewritten:

26 "(a) On motion of the juvenile court counselor providing post-release supervision
27 or motion of the juvenile, or on the court's own motion, and after notice, the court may
28 hold a hearing to review the progress of any juvenile on post-release supervision at any
29 time during the period of post-release supervision. With respect to any hearing
30 involving allegations that the juvenile has violated the terms of post-release supervision,
31 the juvenile:

- 32 (1) Shall have reasonable notice in writing of the nature and content of the
33 allegations in the motion, including notice that the purpose of the
34 hearing is to determine whether the juvenile has violated the terms of
35 post-release supervision to the extent that post-release supervision
36 should be revoked;
- 37 (2) Shall be represented by an attorney at the hearing;
- 38 (3) Shall have the right to confront and cross-examine witnesses; and
- 39 (4) May admit, deny, or explain the violation alleged and may present
40 proof, including affidavits or other evidence, in support of the
41 juvenile's contentions. A record of the proceeding shall be made and
42 preserved in the juvenile's record."

43 **SECTION 2.30.** G.S. 7B-2703(a) reads as rewritten:

1 (a) The court may order the parent, guardian, or custodian, to the extent that
2 person is able to do so, to provide transportation for a juvenile to keep an appointment
3 with a juvenile court counselor or to comply with other orders of the court."

4 **SECTION 2.31.** G.S. 7B-2706 reads as rewritten:

5 **"§ 7B-2706. Contempt for failure to comply.**

6 Upon motion of the juvenile court counselor or prosecutor or upon the court's own
7 motion, the court may issue an order directing the parent, guardian, or custodian to
8 appear and show cause why the parent, guardian, or custodian should not be found or
9 held in civil or criminal contempt for willfully failing to comply with an order of the
10 court. Chapter 5A of the General Statutes shall govern contempt proceedings initiated
11 pursuant to this Article."

12 **SECTION 2.32.** G.S. 7B-3001 reads as rewritten:

13 **"§ 7B-3001. Other records relating to juveniles.**

14 (a) The chief court counselor shall maintain a record of all cases of juveniles
15 under supervision of juvenile court counselors, to be known as the juvenile court
16 counselor's record. The juvenile court counselor's record shall include family
17 background information; reports of social, medical, psychiatric, or psychological
18 information concerning a juvenile or the juvenile's family; probation reports; interviews
19 with the juvenile's family; or other information the court finds should be protected from
20 public inspection in the best interests of the juvenile.

21 (b) Unless jurisdiction of the juvenile has been transferred to superior court, all
22 law enforcement records and files concerning a juvenile shall be kept separate from the
23 records and files of adults and shall be withheld from public inspection. The following
24 persons may examine and obtain copies of law enforcement records and files
25 concerning a juvenile without an order of the court:

- 26 (1) The juvenile;
- 27 (2) The juvenile's parent, guardian, custodian, or the authorized
28 representative of the juvenile's parent, guardian, or custodian;
- 29 (3) The district attorney or prosecutor;
- 30 (4) ~~Court~~ Juvenile court counselors; and
- 31 (5) Law enforcement officers sworn in this State.

32 Otherwise, the records and files may be examined or copied only by order of the court.

33 (c) All records and files maintained by the Department pursuant to this Chapter
34 shall be withheld from public inspection. The following persons may examine and
35 obtain copies of the Department records and files concerning a juvenile without an order
36 of the court:

- 37 (1) The juvenile and the juvenile's attorney;
- 38 (2) The juvenile's parent, guardian, custodian, or the authorized
39 representative of the juvenile's parent, guardian, or custodian;
- 40 (3) Professionals in the agency who are directly involved in the juvenile's
41 case; and
- 42 (4) ~~Court~~ Juvenile court counselors.

1 Otherwise, the records and files may be examined or copied only by order of the court.
2 The court may inspect and order the release of records maintained by the Department."

3 **SECTION 2.33.** G.S. 7B-3200(f) reads as rewritten:

4 "(f) Records of a juvenile adjudicated delinquent or undisciplined being
5 maintained by the chief court counselor, an intake counselor, or a juvenile court
6 counselor shall be retained or disposed of as provided by the Department, except that no
7 records shall be destroyed before the juvenile reaches the age of 18 or 18 months have
8 elapsed since the person was released from juvenile court jurisdiction, whichever occurs
9 last."

10 **SECTION 2.34.** G.S. 7B-3503 reads as rewritten:

11 "**§ 7B-3503. Hearing.**

12 The court, sitting without a jury, shall permit all parties to present evidence and to
13 cross-examine witnesses. The petitioner has the burden of showing by a preponderance
14 of the evidence that emancipation is in the petitioner's best interests. Upon finding that
15 reasonable cause exists, the court may order the juvenile to be examined by a
16 psychiatrist, a licensed clinical psychologist, a physician, or any other expert to evaluate
17 the juvenile's mental or physical condition. The court may continue the hearing and
18 order investigation by a juvenile court counselor or by the county department of social
19 services to substantiate allegations of the petitioner or respondents.

20 No husband-wife or physician-patient privilege shall be grounds for excluding any
21 evidence in the hearing."

22 **SECTION 2.35.** G.S. 14-16.10 reads as rewritten:

23 "**§ 14-16.10. Definitions.**

24 The following definitions apply in this Article:

25 (1) Court officer. – Magistrate, clerk of superior court, acting clerk,
26 assistant or deputy clerk, judge, or justice of the General Court of
27 Justice; district attorney, assistant district attorney, or any other
28 attorney designated by the district attorney to act for the State or on
29 behalf of the district attorney; public defender or assistant defender;
30 court reporter; juvenile court counselor as defined in ~~G.S. 7B-~~
31 ~~1501(5)~~-G.S. 7B-1501(18a).

32 (2) Executive officer. – A person named in G.S. 147-3(c).

33 (3) Legislative officer. – A person named in G.S. 147-2(1), (2), or (3)."

34 **SECTION 2.36.** G.S. 14-208.27 reads as rewritten:

35 "**§ 14-208.27. Change of address.**

36 If a juvenile who is adjudicated delinquent and required to register changes address,
37 the juvenile court counselor for the juvenile shall provide written notice of the new
38 address not later than the tenth day after the change to the sheriff of the county with
39 whom the juvenile had last registered. Upon receipt of the notice, the sheriff shall
40 immediately forward this information to the Division. If the juvenile moves to another
41 county in this State, the Division shall inform the sheriff of the new county of the
42 juvenile's new residence."

43 **SECTION 2.37.** G.S. 14-208.28 reads as rewritten:

1 **"§ 14-208.28. Verification of registration information.**

2 The information provided to the sheriff shall be verified annually for each juvenile
3 registrant as follows:

- 4 (1) Every year on the anniversary of a juvenile's initial registration date,
5 the sheriff shall mail a verification form to the juvenile court counselor
6 assigned to the juvenile.
- 7 (2) The juvenile court counselor for the juvenile shall return the
8 verification form to the sheriff within 10 days after the receipt of the
9 form.
- 10 (3) The verification form shall be signed by the juvenile court counselor
11 and the juvenile and shall indicate whether the juvenile still resides at
12 the address last reported to the sheriff. If the juvenile has a different
13 address, then that fact and the new address shall be indicated on the
14 form."

15 **SECTION 2.38.** G.S. 115C-378 reads as rewritten:

16 **"§ 115C-378. Children required to attend.**

17 Every parent, guardian or other person in this State having charge or control of a
18 child between the ages of seven and 16 years shall cause such child to attend school
19 continuously for a period equal to the time which the public school to which the child is
20 assigned shall be in session. Every parent, guardian, or other person in this State having
21 charge or control of a child under age seven who is enrolled in a public school in grades
22 kindergarten through two shall also cause such child to attend school continuously for a
23 period equal to the time which the public school to which the child is assigned shall be
24 in session unless the child has withdrawn from school. No person shall encourage,
25 entice or counsel any such child to be unlawfully absent from school. The parent,
26 guardian, or custodian of a child shall notify the school of the reason for each known
27 absence of the child, in accordance with local school policy.

28 The principal, superintendent, or teacher who is in charge of such school shall have
29 the right to excuse a child temporarily from attendance on account of sickness or other
30 unavoidable cause which does not constitute unlawful absence as defined by the State
31 Board of Education. The term "school" as used herein is defined to embrace all public
32 schools and such nonpublic schools as have teachers and curricula that are approved by
33 the State Board of Education.

34 All nonpublic schools receiving and instructing children of a compulsory school age
35 shall be required to keep such records of attendance and render such reports of the
36 attendance of such children and maintain such minimum curriculum standards as are
37 required of public schools; and attendance upon such schools, if the school refuses or
38 neglects to keep such records or to render such reports, shall not be accepted in lieu of
39 attendance upon the public school of the district to which the child shall be assigned:
40 Provided, that instruction in a nonpublic school shall not be regarded as meeting the
41 requirements of the law unless the courses of instruction run concurrently with the term
42 of the public school in the district and extend for at least as long a term.

1 The principal or his designee shall notify the parent, guardian, or custodian of his
2 child's excessive absences after the child has accumulated three unexcused absences in a
3 school year. After not more than six unexcused absences, the principal shall notify the
4 parent, guardian, or custodian by mail that he may be in violation of the Compulsory
5 Attendance Law and may be prosecuted if the absences cannot be justified under the
6 established attendance policies of the State and local boards of education. Once the
7 parents are notified, the school attendance counselor shall work with the child and his
8 family to analyze the causes of the absences and determine steps, including adjustment
9 of the school program or obtaining supplemental services, to eliminate the problem. The
10 attendance counselor may request that a law-enforcement officer accompany him if he
11 believes that a home visit is necessary.

12 After 10 accumulated unexcused absences in a school year the principal shall review
13 any report or investigation prepared under G.S. 115C-381 and shall confer with the
14 student and his parent, guardian, or custodian if possible to determine whether the
15 parent, guardian, or custodian has received notification pursuant to this section and
16 made a good faith effort to comply with the law. If the principal determines that parent,
17 guardian, or custodian has not, he shall notify the district attorney. If he determines that
18 parent, guardian, or custodian has, he may file a complaint with the juvenile ~~intake~~court
19 counselor pursuant to Chapter 7B of the General Statutes that the child is habitually
20 absent from school without a valid excuse. Evidence that shows that the parents,
21 guardian, or custodian were notified and that the child has accumulated 10 absences
22 which cannot be justified under the established attendance policies of the local board
23 shall establish a prima facie case that the child's parent, guardian, or custodian is
24 responsible for the absences."

25 **SECTION 2.39.** G.S. 143B-515 reads as rewritten:

26 **"§ 143B-515. Definitions.**

27 In this Article, unless the context clearly requires otherwise, the following words
28 have the listed meanings:

29 (1) Chief court counselor. – The person responsible for administration and
30 supervision of juvenile intake, probation, and post-release supervision
31 in each judicial district, operating under the supervision of the
32 Department of Juvenile Justice and Delinquency Prevention.

33 (2) Community-based program. – A program providing nonresidential or
34 residential treatment to a juvenile under the jurisdiction of the juvenile
35 court in the community where the juvenile's family lives. A
36 community-based program may include specialized foster care, family
37 counseling, shelter care, and other appropriate treatment.

38 (3) County Councils. – Juvenile Crime Prevention Councils created under
39 G.S. 143B-544.

40 (4) Court. – The district court division of the General Court of Justice.

41 (5) ~~Court counselor. – A person responsible for probation and post-release~~
42 ~~supervision to juveniles under the supervision of the chief court~~
43 ~~counselor.~~

- 1 (6) Custodian. – The person or agency that has been awarded legal
2 custody of a juvenile by a court.
- 3 (7) Delinquent juvenile. – Any juvenile who, while less than 16 years of
4 age but at least 6 years of age, commits a crime or infraction under
5 State law or under an ordinance of local government, including
6 violation of the motor vehicle laws.
- 7 (8) Department. – The Department of Juvenile Justice and Delinquency
8 Prevention.
- 9 (9) Detention. – The secure confinement of a juvenile under a court order.
- 10 (10) Detention facility. – A facility approved to provide secure confinement
11 and care for juveniles. Detention facilities include both State and
12 locally administered detention homes, centers, and facilities.
- 13 (11) District. – Any district court district as established by G.S. 7A-133.
- 14 (12) Judge. – Any district court judge.
- 15 (13) Judicial district. – Any district court district as established by G.S.
16 7A-133.
- 17 (14) Juvenile. – Except as provided in subdivisions (7) and (22) of this
18 section, any person who has not reached the person's eighteenth
19 birthday and is not married, emancipated, or a member of the armed
20 forces of the United States. Wherever the term "juvenile" is used with
21 reference to rights and privileges, that term encompasses the attorney
22 for the juvenile as well.
- 23 (15) Juvenile court. – Any district court exercising jurisdiction under this
24 Chapter.
- 25 (15a) Juvenile court counselor. – A person responsible for intake services
26 and court supervision services to juveniles under the supervision of the
27 chief court counselor.
- 28 (16) Post-release supervision. – The supervision of a juvenile who has been
29 returned to the community after having been committed to the
30 Department for placement in a training school.
- 31 (17) Probation. – The status of a juvenile who has been adjudicated
32 delinquent, is subject to specified conditions under the supervision of a
33 juvenile court counselor, and may be returned to the court for violation
34 of those conditions during the period of probation.
- 35 (18) Protective supervision. – The status of a juvenile who has been
36 adjudicated undisciplined and is under the supervision of a juvenile
37 court counselor.
- 38 (19) Secretary. – The Secretary of Juvenile Justice and Delinquency
39 Prevention.
- 40 (20) State Council. – The State Advisory Council on Juvenile Justice and
41 Delinquency Prevention established under G.S. 143B-556.

1 (21) Training school. – A secure residential facility authorized to provide
2 long-term treatment, education, and rehabilitative services for
3 delinquent juveniles committed by the court to the Department.

4 (22) Undisciplined juvenile. –

5 a. A juvenile who, while less than 16 years of age but at least 6
6 years of age, is unlawfully absent from school; or is regularly
7 disobedient to and beyond the disciplinary control of the
8 juvenile's parent, guardian, or custodian; or is regularly found in
9 places where it is unlawful for a juvenile to be; or has run away
10 from home for a period of more than 24 hours; or

11 b. A juvenile who is 16 or 17 years of age and who is regularly
12 disobedient to and beyond the disciplinary control of the
13 juvenile's parent, guardian, or custodian; or is regularly found in
14 places where it is unlawful for a juvenile to be; or has run away
15 from home for a period of more than 24 hours."

16 **SECTION 2.40.** G.S. 143B-516(b) is amended by adding the following new
17 subdivision to read:

18 "(18) Designate persons, as necessary, as State juvenile justice officers, to
19 provide for the care and supervision of juveniles placed in the physical
20 custody of the Department."

21 **SECTION 2.41.** G.S. 143B-536 reads as rewritten:

22 **"§ 143B-536. Duties and powers of juvenile court counselors.**

23 As the court or the chief court counselor may direct or require, all juvenile court
24 counselors shall have the following powers and duties:

25 (1) Secure or arrange for any information concerning a case that the court
26 may require before, during, or after the hearing.

27 (2) Prepare written reports for the use of the court.

28 (3) Appear and testify at court hearings.

29 (4) Assume custody of a juvenile as authorized by G.S. 7B-1900, or when
30 directed by court order.

31 (5) Furnish each juvenile on probation or protective supervision and that
32 juvenile's parents, guardian, or custodian with a written statement of
33 the juvenile's conditions of probation or protective supervision, and
34 consult with the juvenile's parents, guardian, or custodian so that they
35 may help the juvenile comply with the conditions.

36 (6) Keep informed concerning the conduct and progress of any juvenile on
37 probation or under protective supervision through home visits or
38 conferences with the parents or guardian and in other ways.

39 (7) See that the juvenile complies with the conditions of probation or bring
40 to the attention of the court any juvenile who violates the juvenile's
41 probation.

42 (8) Make periodic reports to the court concerning the adjustment of any
43 juvenile on probation or under court supervision.

- 1 (9) Keep any records of the juvenile's work as the court may require.
2 (10) Account for all funds collected from juveniles.
3 (11) Serve necessary court documents pertaining to delinquent and
4 undisciplined juvenile matters.
5 (12) Assume custody of juveniles under the jurisdiction of the court when
6 necessary for the protection of the public or the juvenile, and when
7 necessary to carry out the responsibilities of juvenile court counselors
8 under this section and under Chapter 7B of the General Statutes.
9 (13) Use reasonable force and restraint necessary to secure custody
10 assumed under subdivision (12) of this section.
11 (14) Provide supervision for a juvenile transferred to the counselor's
12 supervision from another court or another state, and provide
13 supervision for any juvenile released from an institution operated by
14 the Department when requested by the Department to do so.
15 (15) Assist in the development of post-release supervision and the
16 supervision of juveniles.
17 (16) Screen and evaluate a complaint alleging that a juvenile is delinquent
18 or undisciplined to determine whether the complaint should be filed as
19 a petition.
20 (17) Have any other duties as the court may direct.
21 (18) Have any other duties as the Department may direct."
22

23 **PART III. STUDY COMPOSITION OF NORTH CAROLINA CRIMINAL**
24 **JUSTICE EDUCATION AND STANDARDS COMMISSION**
25

26 **SECTION 3.1.** The Joint Legislative Corrections and Crime Control
27 Oversight Committee shall study the composition of the North Carolina Criminal
28 Justice Education and Standards Commission. The Committee shall determine whether
29 the current number of members is sufficient or whether a smaller Commission would be
30 more effective. The Committee also shall evaluate the representation by various
31 appointing authorities or organizations, agencies, and individuals to determine whether
32 the representation is appropriate. The Committee shall report its findings, including any
33 recommended legislative changes, to the 2002 Regular Session of the 2001 General
34 Assembly.
35

36 **PART IV. EFFECTIVE DATE**
37

38 **SECTION 4.1.** This act becomes effective June 30, 2001.