

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1272

Short Title: Technical/Clarifying Changes/Juvenile Code. (Public)

Sponsors: Representatives Goodwin, Glazier, Cotham (Primary Sponsors); Dickson, Lucas, and Parmon.

Referred to: Juvenile Justice, if favorable, Judiciary I.

April 9, 2009

A BILL TO BE ENTITLED
AN ACT TO MAKE TECHNICAL AND CLARIFYING CHANGES TO THE JUVENILE
CODE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7B-101(1)d. reads as rewritten:

"(1) Abused juveniles. – Any juvenile less than 18 years of age whose parent, guardian, custodian, or caretaker:

...

d. Commits, permits, or encourages the commission of a violation of the following laws by, with, or upon the juvenile: first-degree rape, as provided in G.S. 14-27.2; rape of a child by an adult offender, as provided in G.S. 14-27.2A; second degree rape as provided in G.S. 14-27.3; first-degree sexual offense, as provided in G.S. 14-27.4; sexual offense with a child by an adult offender, as provided in G.S. 14-27.4A; second degree sexual offense, as provided in G.S. 14-27.5; sexual act by a custodian, as provided in G.S. 14-27.7; crime against nature, as provided in G.S. 14-177; incest, as provided in G.S. 14-178; preparation of obscene photographs, slides, or motion pictures of the juvenile, as provided in G.S. 14-190.5; employing or permitting the juvenile to assist in a violation of the obscenity laws as provided in G.S. 14-190.6; dissemination of obscene material to the juvenile as provided in G.S. 14-190.7 and G.S. 14-190.8; displaying or disseminating material harmful to the juvenile as provided in G.S. 14-190.14 and G.S. 14-190.15; first and second degree sexual exploitation of the juvenile as provided in G.S. 14-190.16 and G.S. 14-190.17; promoting the prostitution of the juvenile as provided in G.S. 14-190.18; and taking indecent liberties with the juvenile, as provided in G.S. 14-202.1.

...."

SECTION 2. G.S. 7B-1104 reads as rewritten:

"§ 7B-1104. Petition or motion.

The petition, or motion pursuant to G.S. 7B-1102, shall be verified by the petitioner or movant and shall be entitled "In Re (last name of juvenile), a minor juvenile", who shall be a party to the action, and shall set forth such of the following facts as are known; and with respect to the facts which are unknown the petitioner or movant shall so state:



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- 1 (1) The name of the juvenile as it appears on the juvenile's birth certificate, the
 2 date and place of birth, and the county where the juvenile is presently
 3 residing.
- 4 (2) The name and address of the petitioner or movant and facts sufficient to
 5 identify the petitioner or movant as one authorized by G.S. 7B-1103 to file a
 6 petition or motion.
- 7 (3) The name and address of the parents of the juvenile. If the name or address
 8 of one or both parents is unknown to the petitioner or movant, the petitioner
 9 or movant shall set forth with particularity the petitioner's or movant's efforts
 10 to ascertain the identity or whereabouts of the parent or parents. The
 11 information may be contained in an affidavit attached to the petition or
 12 motion and incorporated therein by reference. A person whose actions
 13 resulted in a conviction under G.S. 14-27.2 or G.S. 14-27.3 and the
 14 conception of the juvenile need not be named in the petition.
- 15 (4) The name and address of any person who has been judicially appointed as
 16 guardian of the person of the juvenile.
- 17 (5) The name and address of any person or agency to whom custody of the
 18 juvenile has been given by a court of this or any other state; and a copy of
 19 the custody order shall be attached to the petition or motion.
- 20 (6) Facts that are sufficient to warrant a determination that one or more of the
 21 grounds for terminating parental rights exist.
- 22 (7) That the petition or motion has not been filed to circumvent the provisions of
 23 Article 2 of Chapter 50A of the General Statutes, the Uniform
 24 Child-Custody Jurisdiction and Enforcement Act."

25 **SECTION 3.** G.S. 7B-1106 reads as rewritten:

26 **"§ 7B-1106. Issuance of summons.**

27 (a) Except as provided in G.S. 7B-1105, upon the filing of the petition, the court shall
 28 cause a summons to be issued. The summons shall be directed to the following persons or
 29 agency, not otherwise a party petitioner, who shall be named as respondents:

- 30 (1) The parents of the juvenile; juvenile. However, a summons does not need to
 31 be directed to or served upon any parent who, under Chapter 48 of the
 32 General Statutes, has irrevocably relinquished the juvenile to a county
 33 department of social services or licensed child-placing agency or to any
 34 parent who has consented to the adoption of the juvenile by the petitioner.
- 35 (2) Any person who has been judicially appointed as guardian of the person of
 36 the ~~juvenile;~~juvenile.
- 37 (3) The custodian of the juvenile appointed by a court of competent
 38 ~~jurisdiction;~~jurisdiction.
- 39 (4) Any county department of social services or licensed child-placing agency to
 40 whom a juvenile has been released by one parent pursuant to Part 7 of
 41 Article 3 of Chapter 48 of the General Statutes or any county department of
 42 social services to whom placement responsibility for the child has been
 43 given by a court of competent ~~jurisdiction; and~~jurisdiction.
- 44 (5) ~~The juvenile.~~

45 ~~Provided, no summons need be directed to or served upon any parent who, under Chapter~~
 46 ~~48 of the General Statutes, has irrevocably relinquished the juvenile to a county department of~~
 47 ~~social services or licensed child-placing agency nor to any parent who has consented to the~~
 48 ~~adoption of the juvenile by the petitioner. The summons shall notify the respondents to file a~~
 49 ~~written answer within 30 days after service of the summons and petition. Except that the~~
 50 ~~summons and other pleadings or papers directed to the juvenile shall be served upon the~~
 51 ~~juvenile's guardian ad litem if one has been appointed, service~~ Service of the summons shall be

1 completed as provided under the procedures established by G.S. 1A-1, Rule 4(j). But the parent
2 of the juvenile shall not be deemed to be under a disability even though the parent is a minor.

3 (a1) If a guardian ad litem has been appointed for the juvenile pursuant to G.S. 7B-601
4 and has not been relieved of responsibility or if the court appoints a guardian ad litem for the
5 juvenile after the petition is filed, a copy of all pleadings and other papers required to be served
6 shall be served on the juvenile's guardian ad litem or attorney advocate pursuant to procedures
7 established under G.S. 1A-1, Rule 5.

8 (b) The summons shall be issued for the purpose of terminating parental rights pursuant
9 to the provisions of subsection (a) of this section and shall include:

- 10 (1) The name of the minor juvenile;
- 11 (2) Notice that a written answer to the petition must be filed with the clerk who
12 signed the petition within 30 days after service of the summons and a copy
13 of the petition, or the parent's rights may be terminated;
- 14 (3) Notice that if they are indigent, the parents are entitled to appointed counsel;
15 the parents may contact the clerk immediately to request counsel;
- 16 (4) Notice that this is a new case. Any attorney appointed previously will not
17 represent the parents in this proceeding unless ordered by the court;
- 18 (5) Notice that the date, time, and place of the hearing will be mailed by the
19 clerk upon filing of the answer or 30 days from the date of service if no
20 answer is filed; and
- 21 (6) Notice of the purpose of the hearing and notice that the parents may attend
22 the termination hearing.

23 (c) If a county department of social services, not otherwise a party petitioner, is served
24 with a petition alleging that the parental rights of the parent should be terminated pursuant to
25 G.S. 7B-1111, the department shall file a written answer and shall be deemed a party to the
26 proceeding."

27 **SECTION 4.** G.S. 7B-1106.1(a) reads as rewritten:

28 "**§ 7B-1106.1. Notice in pending child abuse, neglect, or dependency cases.**

29 (a) Upon the filing of a motion pursuant to G.S. 7B-1102, the movant shall prepare a
30 notice directed to each of the following persons or agency, not otherwise a movant:

- 31 (1) The parents of the juvenile. However, notice does not need to be directed to
32 or served upon any parent who, under Chapter 48 of the General Statutes,
33 has irrevocably relinquished the juvenile to a county department of social
34 services or licensed child-placing agency or to any parent who has consented
35 to the adoption of the juvenile by the movant.
- 36 (2) Any person who has been judicially appointed as guardian of the person of
37 the juvenile.
- 38 (3) The custodian of the juvenile appointed by a court of competent jurisdiction.
- 39 (4) Any county department of social services or licensed child-placing agency to
40 whom a juvenile has been released by one parent pursuant to Part 7 of
41 Article 3 of Chapter 48 of the General Statutes or any county department of
42 social services to whom placement responsibility for the juvenile has been
43 given by a court of competent jurisdiction.
- 44 (5) The juvenile's guardian ad ~~litem~~-litem or attorney advocate, if one has been
45 appointed pursuant to G.S. 7B-601 and has not been relieved of
46 responsibility.
- 47 (6) ~~The juvenile, if the juvenile is 12 years of age or older at the time the motion~~
48 ~~is filed.~~

49 ~~Provided, no notice need be directed to or served upon any parent who, under Chapter 48 of~~
50 ~~the General Statutes, has irrevocably relinquished the juvenile to a county department of social~~
51 ~~services or licensed child-placing agency nor to any parent who has consented to the adoption~~

1 ~~of the juvenile by the movant.~~ The notice shall notify the person or agency to whom it is
2 directed to file a written response within 30 days after service of the motion and notice. Service
3 of the motion and notice shall be completed as provided under G.S. 7B-1102(b)."

4 **SECTION 5.** This act is effective when it becomes law.