

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1610

Short Title: Temp. Custody - Health Care Provider.

(Public)

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Sponsors: Representatives Earle, Clary, Easterling (Primary Sponsors); Alexander, Barefoot, Bonner, Cansler, Cunningham, Ford, Gillespie, Gulley, Horn, Insko, McLawhorn, Melton, Morris, Rayfield, Russell, Setzer, Thomas, Tucker, West, C. Wilson, Wright, and Yongue.

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Referred to: Judiciary IV.

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May 18, 2000

A BILL TO BE ENTITLED

1 AN ACT TO ALLOW MEDICAL DOCTORS AND OTHER HEALTH CARE  
2 PERSONNEL TO TAKE A JUVENILE SUSPECTED OF BEING ABUSED OR  
3 NEGLECTED INTO TEMPORARY CUSTODY.  
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5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 7B-101 is amended by adding a new subdivision to read:

7 "(21) Temporary custody. – The taking of physical custody of a juvenile  
8 and providing or arranging for personal care and supervision of that  
9 juvenile until a court order for nonsecure custody can be obtained."

10 Section 2. G.S. 7B-302(a) reads as rewritten:

11 "(a) When a report of abuse, neglect, or dependency is received, the  
12 director of the department of social services shall make a prompt and thorough  
13 investigation in order to ascertain the facts of the case, the extent of the abuse or neglect,  
14 and the risk of harm to the juvenile, in order to determine whether protective services  
15 should be provided or the complaint filed as a petition. When the report alleges abuse, the  
16 director shall immediately, but no later than 24 hours after receipt of the report, initiate  
17 the investigation. When the report alleges neglect or dependency, the director shall

1 initiate the investigation within 72 hours following receipt of the report. When the  
2 director is notified that a juvenile has been taken into temporary custody under G.S. 7B-  
3 500, the director shall immediately initiate the investigation. The investigation and  
4 evaluation shall include a visit to the place where the juvenile resides. All information  
5 received by the department of social services, including the identity of the reporter, shall  
6 be held in strictest confidence by the department."

7 Section 3. G.S. 7B-308 is repealed.

8 Section 4. G.S. 7B-500 reads as rewritten:

9 **"§ 7B-500. Taking a juvenile into temporary custody.**

10 ~~Temporary custody means the taking of physical custody and providing personal care~~  
11 ~~and supervision until a court order for nonsecure custody can be obtained.~~

12 (a) A juvenile may be taken into temporary custody without a court order by a law  
13 enforcement officer or a department of social services worker if there are reasonable  
14 grounds to believe that the juvenile is abused, neglected, or dependent and that the  
15 juvenile would be injured or could not be taken into custody if it were first necessary to  
16 obtain a court order. If a department of social services worker takes a juvenile into  
17 temporary custody under this section, the worker may arrange for the placement, care,  
18 supervision, and transportation of the juvenile.

19 (b) A juvenile may be taken into temporary custody without a court order by a  
20 physician or an administrator of a health care facility to which a juvenile is brought for  
21 medical diagnosis or treatment when the physician who examines the juvenile certifies in  
22 writing that the juvenile is suspected of being abused or neglected and should remain for  
23 medical treatment or that, according to the juvenile's medical evaluation, it is unsafe for  
24 the juvenile to return to the juvenile's parent, guardian, custodian, or caretaker. A copy of  
25 the written certification shall be attached to the juvenile's medical records, and a copy  
26 shall be given to the juvenile's parent, guardian, custodian, or caretaker. Upon taking a  
27 juvenile into temporary custody under this subsection, the physician or administrator  
28 shall immediately notify the director of the department of social services of the county in  
29 which the medical facility is located."

30 Section 5. G.S. 7B-501 reads as rewritten:

31 **"§ 7B-501. Duties of person taking juvenile into temporary ~~eustody.~~ custody;**  
32 **conditions of temporary custody.**

33 (a) A person who takes a juvenile into custody without a court order under G.S.  
34 7B-500 shall proceed as follows:

35 (1) Notify the juvenile's parent, guardian, custodian, or caretaker that the  
36 juvenile has been taken into temporary custody and advise the parent,  
37 guardian, custodian, or caretaker of the right to be present with the  
38 juvenile until a determination is made as to the need for nonsecure  
39 custody. Failure to notify the parent that the juvenile is in custody shall  
40 not be grounds for release of the juvenile.

41 (2) Release the juvenile to the juvenile's parent, guardian, custodian, or  
42 caretaker if the person having the juvenile in temporary custody decides  
43 that continued custody is unnecessary.

1           (3) The person having temporary custody shall communicate with the  
2           director of the department of social services of the county in which the  
3           juvenile was taken into temporary custody who shall consider  
4           prehearing diversion. If the decision is made to file a petition, the  
5           director shall contact the judge or person delegated authority pursuant to  
6           G.S. 7B-502 for a determination of the need for continued custody.

7           (b) A juvenile taken into temporary custody under this Article shall not be held for  
8           more than 12 hours, or for more than 24 hours if any of the 12 hours falls on a Saturday,  
9           Sunday, or legal holiday, unless:

10           (1) A petition or motion for review has been filed by the director of the  
11           department of social services, and

12           (2) An order for nonsecure custody has been entered by the court.

13           (c) If, upon hearing, the court determines that the juvenile is found in a county  
14           other than the county of legal residence, in accord with G.S. 153A-257, the juvenile may  
15           be transferred, in accord with G.S. 7B-903(a)(2), to the custody of the department of  
16           social services of the county where the juvenile resides.

17           (d) If the court, upon inquiry, determines that any medical treatment rendered  
18           during the period of temporary custody was necessary and appropriate, the cost of that  
19           treatment may be charged to the parents, guardian, custodian, or caretaker, or, if the  
20           parents are unable to pay, to the county of residence in accordance with G.S. 7B-903 and  
21           G.S. 7B-904."

22           Section 6. This act becomes effective October 1, 2000.