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SENATE BILL DRS45292-NBa-38

Short Title: Protecting and Supporting NC's Children. (Public)

Sponsors: Senators Batch, Burgin, and Edwards (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND VARIOUS ABUSE, NEGLECT, AND DEPENDENCY LAWS TO
3 ENSURE THE SAFETY OF CHILDREN IN OUT-OF-HOME PLACEMENTS AND
4 EXPEDITE PERMANENCY PLANNING HEARINGS FOR CHILDREN WHO HAVE
5 BEEN REMOVED FROM THE HOME; TO CLARIFY THE NON-CARETAKER
6 DEFINITION FOR THE RESPONSIBLE INDIVIDUALS LIST; TO INCREASE THE
7 NUMBER OF EMERGENCY JUDGES TO ADDRESS THE CHILD WELFARE CASE
8 BACKLOG; TO HIRE REGIONAL ABUSE AND MEDICAL SPECIALISTS TO
9 IMPROVE THE CHILD WELFARE SYSTEM; AND TO REQUIRE THE DEPARTMENT
10 OF HEALTH AND HUMAN SERVICES, DIVISION OF SOCIAL SERVICES, TO
11 DEVELOP A PLAN TO IMPLEMENT A CENTRALIZED HOTLINE FOR CHILD
12 WELFARE INTAKE.

13 The General Assembly of North Carolina enacts:

14
15 **PART I. CHILD WELFARE REFORM**

16 **SECTION 1.(a)** G.S. 7B-101 reads as rewritten:

17 **"§ 7B-101. Definitions.**

18 As used in this Subchapter, unless the context clearly requires otherwise, the following words
19 have the listed meanings:

20 ...

21 (15) Neglected juvenile. – Any juvenile less than 18 years of age (i) who is found
22 to be a minor victim of human trafficking under G.S. 14-43.15 or (ii) whose
23 parent, guardian, custodian, or caretaker does any of the following:

24 a. Does not provide proper care, supervision, or discipline; or who has
25 been abandoned; discipline.

26 b. Has abandoned the juvenile.

27 c. ~~or who is~~ Has not provided or arranged for the provision of necessary
28 medical care; or who is not provided necessary remedial care; care.

29 d. Creates or who lives in an allows to be created a living environment
30 that is injurious to the juvenile's welfare; welfare.

31 e. ~~or~~ Has participated or attempted to participate in the unlawful transfer
32 of custody of whom has been unlawfully transferred the juvenile under
33 G.S. 14-321.2; G.S. 14-321.2.

34 f. ~~or who has been~~ Has placed the juvenile for care or adoption in
35 violation of law.



1 In determining whether a juvenile is a neglected juvenile, it is relevant whether
 2 that juvenile lives in a home where another juvenile has died as a result of
 3 suspected abuse or neglect or lives in a home where another juvenile has been
 4 subjected to abuse or neglect by an adult who regularly lives in the home.

5 ...

6 (18a) Relative. – An individual directly related to the juvenile by blood, marriage,
 7 or adoption, including, but not limited to, a grandparent, sibling, aunt, or
 8 uncle.

9 ~~(18a)~~(18b) Responsible individual. – A parent, guardian, custodian, caretaker, or
 10 individual responsible for subjecting a juvenile to human trafficking under
 11 G.S. 14-43.11, 14-43.12, or 14-43.13, who abuses or seriously neglects a
 12 juvenile.

13 ~~(18b)~~(18c) Return home or reunification. – Placement of the juvenile in the home of
 14 either parent or placement of the juvenile in the home of a guardian or
 15 custodian from whose home the child was removed by court order.

16"

17 **SECTION 1.(b)** G.S. 7B-1001(a)(5) reads as rewritten:

18 "(5) An order under G.S. 7B-906.2(b) eliminating reunification, as defined by
 19 ~~G.S. 7B-101(18b)~~, G.S. 7B-101(18c), as a permanent plan by either of the
 20 following:

21 a. A parent who is a party and:

- 22 1. Has preserved the right to appeal the order in writing within 30
- 23 days after entry and service of the order.
- 24 2. A termination of parental rights petition or motion has not been
- 25 filed within 65 days of entry and service of the order.
- 26 3. A notice of appeal of the order eliminating reunification is filed
- 27 within 30 days after the expiration of the 65 days.

28 b. A party who is a guardian or custodian with whom reunification is not
 29 a permanent plan."

30 **SECTION 1.(c)** G.S. 7B-302 reads as rewritten:

31 "**§ 7B-302. Assessment by director; military affiliation; access to confidential information;**
 32 **notification of person making the report.**

33 ...

34 (a3) Except where prohibited by federal law and notwithstanding other applicable State
 35 law, any of the following may request access to confidential information and records maintained
 36 pursuant to this Article by the Department or a county department of social services:

37 (1) An individual member of the North Carolina General Assembly.

38 (2) A joint legislative oversight committee of the North Carolina General
 39 Assembly.

40 A request made pursuant to this subsection shall be made to the Department or to the director
 41 of a county department of social services. The request shall be limited to purposes necessary for
 42 oversight of programs related to child protective services. Upon receiving a request pursuant to
 43 this subsection, the Department shall coordinate with the county department of social services to
 44 obtain all necessary information or records responsive to the request. A county department of
 45 social services shall provide the Department with all information and records, or copies of
 46 records, as requested. The Department shall share the confidential information and make the
 47 records concerning the child protective services case available to the requesting member or
 48 committee for review. If the request is made to the director of a county department of social
 49 services, the Department shall assist the director of the county department of social services in
 50 fulfilling the request and providing all necessary information or records in accordance with this
 51 subsection.

1 The confidential information or records shared pursuant to this subsection shall be the
2 minimum necessary to satisfy the request. A member of the North Carolina General Assembly
3 or joint legislative oversight committee shall not retain or receive copies of any part of the
4 information and records, or take photographs or create electronic images of any information and
5 records reviewed pursuant to a request under this subsection. All information and records shared
6 pursuant to this subsection shall be withheld from public inspection and maintained in a
7 confidential manner. The following information shall remain confidential and shall not be shared
8 or disclosed in response to a request for information and records made pursuant to this subsection:

9 (1) The identity of a reporter.

10 (2) Juvenile court records as set forth in Article 29 of Subchapter III of this
11 Chapter.

12 (a4) Any violation of subsection (a3) of this section shall be punishable as a Class 1
13 misdemeanor.

14 "

15 **SECTION 1.(d)** G.S. 7B-505(b) reads as rewritten:

16 "(b) The court shall order the department of social services to make diligent efforts to
17 notify relatives and other persons with legal custody of a sibling of the juvenile that the juvenile
18 is in nonsecure custody and of any hearings scheduled to occur pursuant to G.S. 7B-506, unless
19 the court finds the notification would be contrary to the best interests of the juvenile. The
20 department of social services shall use due diligence to identify and notify adult relatives and
21 other persons with legal custody of a sibling of the juvenile within 30 days after the initial order
22 removing custody. The department shall file with the court information regarding attempts made
23 to identify and notify adult relatives of the juvenile and persons with legal custody of a sibling
24 of the juvenile. In placing a juvenile in nonsecure custody under this section, the court shall first
25 consider whether a relative of the juvenile is willing and able to provide proper care and
26 supervision of the juvenile in a safe home. If the court finds that the relative is willing and able
27 to provide proper care and supervision in a safe home, then the court shall order placement of the
28 juvenile with the relative unless the court finds that placement with the relative would be contrary
29 to the best interests of the juvenile."

30 **SECTION 1.(e)** G.S. 7B-903 is amended by adding a new subsection to read:

31 "(a4) If the court does not place the juvenile with a relative, the court may consider whether
32 nonrelative kin or other persons with legal custody of a sibling of the juvenile are willing and
33 able to provide proper care and supervision of the juvenile in a safe home. The court may order
34 the department to notify the juvenile's State-recognized tribe of the need for nonsecure custody
35 for the purpose of locating relatives or nonrelative kin for placement. The court may order
36 placement of the juvenile with nonrelative kin if the court finds the placement is in the juvenile's
37 best interests."

38 **SECTION 1.(f)** G.S. 7B-903.1(c) reads as rewritten:

39 "(c) If a juvenile is removed from the home and placed in the custody or placement
40 responsibility of a county department of social services, the director shall not allow unsupervised
41 visitation with or return physical custody of the juvenile to the parent, guardian, custodian, or
42 caretaker without a hearing at which the court finds that the juvenile will receive proper care and
43 supervision in a safe home. Before a county department of social services may recommend
44 unsupervised visits or return of physical custody of the juvenile-juvenile, whichever occurs first,
45 to the parent, guardian, custodian, or caretaker from whom the juvenile was removed, a county
46 department of social services shall first observe that parent, guardian, custodian, or caretaker with
47 the juvenile for at least two visits that support ~~a recommendation to return physical custody- the~~
48 recommendation. Each observation visit shall consist of an observation of not less than one hour
49 with the juvenile, ~~and each observation visit shall be conducted at least seven days apart-apart,~~
50 and shall occur within 30 days of the hearing at which the department of social services makes
51 the recommendation. A department of social services shall provide documentation of any

1 observation visits that it conducts to the court for its consideration as to whether unsupervised
2 visits or physical custody should be returned—granted to the parent, guardian, custodian, or
3 caretaker from whom the juvenile was removed."

4 **SECTION 1.(g)** G.S. 7B-905.1 is amended by adding a new subsection to read:

5 "(b1) When visitation, whether supervised or unsupervised, is ordered between a juvenile
6 and the parent, a parent's positive result from a drug screen alone is insufficient to deny the parent
7 visitation with a juvenile. For parents with unsupervised visitation that have a positive result from
8 a drug screen, the department of social services shall file a motion within 30 days for the court
9 to review the visitation plan to ensure the safety of the child. If, at the time that visitation between
10 the parent and the juvenile occurs, a parent is under the influence of drugs or alcohol, and exhibits
11 behavior that may create an unsafe environment for a child, or the parent appears to be actively
12 impaired, the visitation may be cancelled."

13 **SECTION 1.(h)** G.S. 7B-906.1 reads as rewritten:

14 **"§ 7B-906.1. Review and permanency planning hearings.**

15 (a) The court shall conduct a review or permanency planning hearing within 90 days from
16 the date of the initial dispositional hearing held pursuant to G.S. 7B-901. Review or permanency
17 planning hearings shall be held at least every six months thereafter. ~~Within 12 months of the date~~
18 ~~of the initial order removing custody, there shall be a review~~ If custody has not been removed
19 from a parent, guardian, caretaker, or custodian, the hearing shall be designated as a permanency
20 planning-review hearing. Review hearings after the initial permanency planning ~~If custody has~~
21 been removed from a parent, guardian, or custodian, the hearing shall be designated as
22 permanency planning hearings. Permanency planning hearings shall be held at least every six
23 months thereafter or earlier as set by the court to review the progress made in finalizing the
24 permanent plan for the juvenile, or if necessary, to make a new permanent plan for the
25 juvenile.hearing.

26 ...

27 (c) At each hearing, the court shall consider information from the parents, the juvenile,
28 the guardian, any person providing care for the juvenile, the custodian or agency with custody,
29 the guardian ad litem, and any other person or agency that will aid in the court's review. The
30 court shall provide any person providing care for the juvenile the opportunity to address the court
31 regarding the juvenile's well-being. The court may consider any evidence, including hearsay
32 evidence as defined in G.S. 8C-1, Rule 801, or testimony or evidence from any person that is not
33 a party, that the court finds to be relevant, reliable, and necessary to determine the needs of the
34 juvenile and the most appropriate disposition.

35 (d) At each hearing, the court shall consider the following criteria and make written
36 findings regarding those that are relevant:

37 (1) Services which have been offered to prevent the removal or reunite the
38 juvenile with either parent whether or not the juvenile resided with the parent
39 at the time of removal or the guardian or custodian from whom the child was
40 removed.

41 (1a) Reports on the juvenile's continuation in the home of the parent, guardian, or
42 custodian, the appropriateness of the juvenile's continuation in that home, and
43 the goals of the family services plan. If the juvenile is removed from the
44 custody of a parent, guardian, or custodian at a review hearing, the court shall
45 schedule a permanency planning hearing within 30 days of the review hearing.

46 ...

47 ~~(6) When and if termination of parental rights should be considered.~~

48 ...

49 (d1) At any review hearing, an order that removes the juvenile from a parent, guardian, or
50 custodian shall only be made when the court makes a written finding of any of the following:

1 (1) At least one factor set forth in G.S. 7B-503(a)(1)—(4), and the juvenile has
2 experienced or is at substantial risk of experiencing physical or emotional
3 harm as a result.

4 (2) Since the completion of the initial disposition hearing in accordance with
5 G.S. 7B-901, at least one factor specified in G.S. 7B-901(c) has occurred and
6 the juvenile has experienced or is at substantial risk of experiencing physical
7 or emotional harm as a result.

8 (3) The parent, guardian, custodian, or caretaker consents to the order of removal.
9 (d2) Review hearings have the purpose of reviewing the progress of the parent, guardian,
10 or custodian with their court-ordered services. The parent, guardian, or custodian shall complete
11 court-ordered services within 12 months from the date of the filing of the petition, demonstrate
12 that the circumstances precipitating the Department's involvement with the family have been
13 resolved to the satisfaction of the court, and provide a safe home for the juvenile. Absent
14 extraordinary circumstances, when the parent, guardian, or custodian has successfully completed
15 the court-ordered services and the juvenile is residing in a safe home, the court shall terminate
16 its jurisdiction in accordance with this subsection or G.S. 7B-911.

17 (e) At any permanency planning hearing where the juvenile is not placed with a parent,
18 the court shall additionally consider the following criteria and make written findings regarding
19 those that are relevant:

20 ...

21 (3) Where the juvenile's placement with a parent is unlikely within six months,
22 whether adoption should be pursued and, if so, any barriers to the juvenile's
23 ~~adoption~~ adoption, including when and if termination of parental rights should
24 be considered.

25 ...

26 (k) If at any time a juvenile has been removed from a parent and legal custody is placed
27 with a ~~parent~~ awarded to either parent or findings are made in accordance with subsection (n) of this
28 section, the court shall be relieved of the duty to conduct periodic judicial reviews of the
29 placement. The court shall not waive or refuse to conduct a permanency planning hearing if a
30 party files a motion seeking the hearing.

31 (k1) The court shall not waive or refuse to conduct a review hearing if a party files a motion
32 seeking the review hearing.

33 ...

34 (n) Notwithstanding other provisions of this Article, the court may waive the holding of
35 hearings required by this section, may require written reports to the court by the agency or person
36 holding custody in lieu of ~~review~~ permanency planning hearings, or order that ~~review~~
37 permanency planning hearings be held less often than every six months if the court finds by clear,
38 cogent, and convincing evidence each of the following:

39 ...

40 (3) Neither the juvenile's best interests nor the rights of any party require that
41 ~~review~~ permanency planning hearings be held every six months.

42 ...

43 The court may not waive or refuse to conduct a ~~review~~ hearing if a party files a motion
44 seeking the ~~review~~ hearing. However, if a guardian of the person has been appointed for the
45 juvenile and the court has also made findings in accordance with subsection (n) of this section
46 that guardianship is the permanent plan for the juvenile, the court shall proceed in accordance
47 with G.S. 7B-600(b).

48 "

49 **SECTION 1.(i)** G.S. 131D-10.6A(a) reads as rewritten:

50 "(a) The Division of Social Services, Department of Health and Human Services, shall
51 require a minimum of 30 hours of preservice training for foster care parents either prior to

1 licensure or within six months from the date a provisional license is issued pursuant to
2 G.S.131D-10.3, and a mandated minimum of 10 hours of continuing education for all foster care
3 parents annually after the year in which a license is obtained. As part of licensure, the training
4 shall include a module that is created and made available by the Department that explains, at a
5 minimum, the roles and obligations of a foster parent in judicial proceedings conducted under
6 Subchapter I of Chapter 7B of the General Statutes."

7 **SECTION 1.(j)** G.S. 7B-905(b) is repealed.

8 **SECTION 1.(k)** G.S. 7B-906.2(b) reads as rewritten:

9 "(b) At any permanency planning hearing, the court shall adopt concurrent permanent
10 plans and shall identify the primary plan and secondary plan. Reunification shall be a primary or
11 secondary plan unless the court made written findings under G.S. 7B-901(c) or
12 G.S. 7B-906.1(d)(3), the permanent plan is or has been achieved in accordance with subsection
13 (a1) of this section, or the court makes written findings that reunification efforts clearly would
14 be unsuccessful or would be inconsistent with the juvenile's health or safety. The finding that
15 reunification efforts clearly would be unsuccessful or inconsistent with the juvenile's health or
16 safety may be made at any permanency planning hearing. Unless permanence has been achieved,
17 the court shall order the county department of social services to make efforts toward finalizing
18 the primary and secondary permanent plans and may specify efforts that are reasonable to timely
19 achieve permanence for the juvenile."

20 **SECTION 1.(l)** This section becomes effective October 1, 2021, and applies to
21 actions filed or pending on or after that date.

22 23 **PART II. HUMAN TRAFFICKING NOTICE TO NON-CARETAKER** 24 **CLARIFICATION**

25 **SECTION 2.(a)** G.S. 7B-320 reads as rewritten:

26 "**§ 7B-320. Notification to individual determined to be a responsible individual.**

27 (a) After the completion of an investigative assessment response that results in a
28 determination of abuse or serious neglect and the identification of a responsible individual, the
29 director shall personally deliver written notice of the determination to the identified individual in
30 an expeditious manner.

31 (a1) If the director determines that the juvenile is the victim of human trafficking by an
32 individual other than the juvenile's parent, guardian, custodian, or caretaker, the director shall
33 cooperate with the local law enforcement agency and district attorney to determine the safest
34 way, if possible, to provide notification to the identified responsible individual. If the director
35 does not provide notification in accordance with this subsection, the director shall document the
36 reason and basis for not providing the notification.

37 The director shall not provide notification to the responsible individual or proceed further
38 under this Article if notification is likely to cause any of the following to occur:

39 (1) Cause mental or physical harm or danger to the juvenile.

40 (2) Undermine an ongoing or future criminal investigation.

41 (3) Jeopardize the State's ability to prosecute the identified responsible individual.

42"

43 **SECTION 2.(b)** This section becomes effective October 1, 2021.

44 45 **PART III. ABUSE, NEGLECT, AND DEPENDENCY CASE BACKLOG**

46 **SECTION 3.(a)** G.S. 7A-52 reads as rewritten:

47 "**§ 7A-52. Retired district and superior court judges may become emergency judges subject**
48 **to recall to active service; compensation for emergency judges on recall.**

49 (a) Judges of the district court and judges of the superior court who have not reached the
50 mandatory retirement age specified in G.S. 7A-4.20, but who have retired under the provisions
51 of G.S. 7A-51, or under the Uniform Judicial Retirement Act after having completed five years

1 of creditable service, may apply as provided in G.S. 7A-53 to become emergency judges of the
2 court from which they retired. From the commissioned emergency district, superior, and special
3 superior court judges, the Chief Justice of the Supreme Court shall create two lists of active
4 emergency judges and two lists of inactive emergency judges. For emergency superior and
5 special superior court judges, the active list shall be limited to a combined total of 10 emergency
6 judges; all other emergency superior and special superior court judges shall be on an inactive list.
7 For emergency district court judges, the active list shall be limited to ~~25~~30 emergency judges;
8 all other emergency district court judges shall be on an inactive list. There is no limit to the
9 number of emergency judges on either inactive list. In the Chief Justice's discretion, emergency
10 judges may be added or removed from their respective active and inactive lists, as long as the
11 respective numerical limits on the active lists are observed. The Chief Justice is requested to
12 consider geographical distribution in assigning emergency judges to an active list but may utilize
13 any factor in determining which emergency judges are assigned to an active list. The Chief Justice
14 of the Supreme Court may order any emergency district, superior, or special superior court judge
15 on an active list who, in his opinion, is competent to perform the duties of a judge, to hold regular
16 or special sessions of the court from which the judge retired, as needed. Order of assignment
17 shall be in writing and entered upon the minutes of the court to which such emergency judge is
18 assigned. An emergency judge shall only be assigned in the event of a:

- 19 (1) Death of a sitting judge.
- 20 (2) Disability or medical leave of absence of a sitting judge.
- 21 (3) Recall to active military duty of a sitting judge.
- 22 (4) Retirement or removal of a sitting judge.
- 23 (5) Court case-management emergency or disaster declaration made pursuant to
24 G.S. 166A-19.3(3).
- 25 (6) Assignment by the Chief Justice of a Rule 2.1 exceptional case to an
26 emergency judge.
- 27 (7) Court coverage need created by holdover sessions, administrative
28 responsibilities of the chief district court judge, or cases in which a judge has
29 a conflict or judicial educational responsibilities.

30"

31 **SECTION 3.(b)** The Chief Justice of the Supreme Court shall assign the maximum
32 amount of the emergency judges of the district court to hear cases in judicial districts that have a
33 backlog of juvenile cases regarding delinquency, abuse, neglect, and dependency matters and
34 termination of parent rights hearings. The Chief Justice shall make an initial determination of
35 which judicial districts contain a backlog of cases by consulting with the Administrative Office
36 of the Courts, the North Carolina Association of District Court Judges, and the Chief District
37 Court Judge of each judicial district, and subsequently assign emergency judges in accordance
38 with G.S. 7A-52, in order of necessity as determined by the Chief Justice.

39 **PART IV. REGIONAL ABUSE AND MEDICAL SPECIALISTS**

40 **SECTION 4.(a)** There is appropriated from the General Fund to the Department of
41 Health and Human Services, Division of Social Services (Division), the sum of two hundred fifty
42 thousand dollars (\$250,000) in recurring funds for the 2021-2023 fiscal biennium to create seven
43 full-time equivalent regional abuse and medical specialists (RAMS) to provide specialized
44 guidance to the child welfare workforce in the management of high-risk child welfare cases that
45 overlap with medical issues. The Division shall collaborate with the NC Child Medical
46 Evaluation Program in the University of North Carolina School of Medicine to hire, train, and
47 oversee these positions. These new positions shall focus on all of the following populations:

- 49 (1) Children three years of age and under who present with unexplained or poorly
50 explained injuries.
- 51 (2) Children with medically complex issues.

(3) Substance-affected infants.

(4) Children required by policy to have a child medical evaluation.

SECTION 4.(b) The Division shall report to the Joint Legislative Oversight Committee on Health and Human Services, the chairs of the House Appropriations Committee on Health and Human Services, and the chairs of the Senate Appropriations Committee on Health and Human Services by June 30, 2022, and each year thereafter for three successive years, on the hiring, training, and oversight of the RAMS as provided for in this section.

SECTION 4.(c) This section becomes effective July 1, 2021.

PART V. IMPLEMENTATION OF STATEWIDE CPS HOTLINE

SECTION 5.(a) The Department of Health and Human Services shall develop an operational plan to create and implement a statewide child protective services (CPS) hotline. The Department shall establish a planning and evaluation team consisting of three child welfare staff representing at least three county departments of social services that will provide input on the plan. The plan shall include, at a minimum, all of the following:

(1) A fiscal analysis on the creation and implementation of a statewide CPS hotline.

(2) Quantify the total upfront, one-time costs to implement the statewide CPS hotline, including any State or county savings that would be incurred through the full implementation of and transition to a statewide CPS hotline.

(3) Recommendations on the operational needs for the statewide CPS hotline, including adequate staffing levels to ensure a responsive and timely system.

(4) Evaluation of whether a county may opt out of the statewide CPS hotline.

(5) Recommendations of defined measures, goals, and service level agreements to evaluate the performance of the hotline.

(6) A time line for implementation of the statewide CPS hotline that is aligned and coordinated with the Department of Health and Human Services, Division of Social Services, and local county departments of social services, including the implementation of intake and assessment technology as a precondition to the operation of a statewide CPS hotline.

(7) An assessment of the feasibility of an integrated statewide CPS hotline for both child protective services and adult protective services.

SECTION 5.(b) The Department shall submit the operational plan to the Joint Legislative Oversight Committee on Health and Human Services no later than September 1, 2022.

PART VI. EFFECTIVE DATE

SECTION 6. Except as otherwise provided, this act is effective when it becomes law.