

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 597  
Committee Substitute Favorable 5/7/91  
Senate Judiciary II Committee Substitute Adopted 7/2/91

Short Title: SBI Day Care Abuse Task Force.

(Public)

Sponsors:

Referred to:

April 4, 1991

A BILL TO BE ENTITLED

AN ACT TO ENCOURAGE THE STATE BUREAU OF INVESTIGATION TO  
FORM A TASK FORCE TO INVESTIGATE ALL CASES OF SUBSTANTIATED  
CHILD SEXUAL ABUSE IN DAY CARE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-544 reads as rewritten:

**"§ 7A-544. Investigation by Director; notification of State Bureau of Investigation  
if sexual abuse in day care; notification of person making the report.**

When a report of abuse or neglect is received, the Director of the Department of Social Services shall make a prompt and thorough investigation in order to ascertain the facts of the case, the extent of the abuse or neglect, and the risk of harm to the juvenile, in order to determine whether protective services should be provided or the complaint filed as a petition. When the report alleges abuse, the Director shall immediately, but no later than 24 hours after receipt of the report, initiate the investigation. When the report alleges neglect, the Director shall initiate the investigation within 72 hours following receipt of the report. The investigation and evaluation shall include a visit to the place where the juvenile resides. All information received by the Department of Social Services shall be held in strictest confidence by the Department.

If the investigation reveals abuse or neglect, the Director shall decide whether immediate removal of the juvenile or any other juveniles in the home is necessary for their protection. If immediate removal does not seem necessary, the Director shall immediately provide or arrange for protective services. If the parent or other caretaker

1 refuses to accept the protective services provided or arranged by the Director, the  
2 Director shall sign a complaint seeking to invoke the jurisdiction of the court for the  
3 protection of the juvenile or juveniles.

4 If immediate removal seems necessary for the protection of the juvenile or other  
5 juveniles in the home, the Director shall sign a complaint which alleges the applicable  
6 facts to invoke the jurisdiction of the court. Where the investigation shows that it is  
7 warranted, a protective services worker may assume temporary custody of the juvenile  
8 for the juvenile's protection pursuant to Article 46 of this Chapter.

9 In performing any of these duties, the Director may utilize the staff of the county  
10 Department of Social Services or any other public or private community agencies that  
11 may be available. The Director may also consult with the available State or local law-  
12 enforcement officers who shall assist in the investigation and evaluation of the  
13 seriousness of any report of abuse or neglect when requested by the Director. If the  
14 Director's initial investigation of a report of abuse in a day care facility reveals sexual  
15 abuse may have occurred, the Director shall notify the State Bureau of Investigation of  
16 the results of the initial investigation within 24 hours or on the next working day. The  
17 State Bureau of Investigation may send a task force to investigate the alleged sexual  
18 abuse and gather evidence that may be presented at a criminal trial.

19 Unless a petition is filed within five working days after receipt of the report of abuse  
20 or neglect, the Director shall give written notice to the person making the report that:

- 21 (1) There is no finding of abuse or neglect; or
- 22 (2) The county Department of Social Services is taking action to protect  
23 the welfare of the juvenile and what specific action it is taking.

24 The notification shall include notice that, if the person making the report is not satisfied  
25 with the Director's decision, he may request review of the decision by the prosecutor  
26 within five working days of receipt. The person making the report may waive his right  
27 to this notification and no notification is required if the person making the report does  
28 not identify himself to the Director."

29 Sec. 2. G.S. 7A-548 reads as rewritten:

30 "**§ 7A-548. Duty of Director to report evidence of abuse, neglect; notification of**  
31 **~~Child Day Care Commission.~~ Department of Human Resources and State**  
32 **Bureau of Investigation.**

33 (a) If the Director finds evidence that a juvenile has been abused as defined by  
34 G.S. 7A-517(1), he shall immediately make a written report of the findings of his  
35 investigation to the district attorney, who shall determine if criminal prosecution is  
36 appropriate, and who may request the Director or his designee to appear before a  
37 magistrate.

38 If the Director receives information that a juvenile has been physically harmed in  
39 violation of any criminal statute by any person other than the juvenile's parent or other  
40 person responsible for his care, he shall make an oral or written report of that  
41 information to the district attorney or the district attorney's designee within 24 hours  
42 after receipt of the information. The district attorney shall determine whether criminal  
43 prosecution is appropriate.

1 If the report received pursuant to G.S. 7A-543 involves abuse or neglect of a  
2 juvenile in day care, either in a ~~day-care~~ day care facility or a ~~day-care plan,~~ day care  
3 home, the Director shall notify the ~~North Carolina Child Day Care Commission~~  
4 Department of Human Resources within 24 hours or on the next working day of receipt  
5 of the report. Upon completion of the investigation, the Director shall notify the  
6 ~~Commission~~ Department of the results of the investigation required by G.S. 7A-544. If  
7 the Director's initial investigation, carried out pursuant to G.S. 7A-544, of a report of  
8 abuse in a day care facility reveals that sexual abuse may have occurred, the Director  
9 shall notify the State Bureau of Investigation of the results of the initial investigation.  
10 The State Bureau of Investigation may send a task force to investigate the alleged sexual  
11 abuse and gather evidence that may be presented at a criminal trial.

12 The Director of the Department of Social Services shall submit a report of alleged  
13 abuse or neglect to the central registry under the policies adopted by the Social Services  
14 Commission.

15 (b) If the Director finds evidence that a juvenile has been abused or neglected as  
16 defined by G.S. 7A-517 in a ~~day-care~~ day care facility or ~~plan,~~ home, he shall  
17 immediately so notify the ~~Child Day Care Commission~~ Department of Human Resources  
18 and the State Bureau of Investigation in such a way as does not violate the law  
19 guaranteeing the confidentiality of the records of the Department of Social Services."

20 Sec. 3. Article 4 of Chapter 114 of the General Statutes is amended by  
21 adding a new section to read:

22 "**§ 114-15.3. Investigations of child sexual abuse in day care.**

23 The Director of the Bureau may form a task force to investigate and prepare  
24 evidence following a notification by the director of a county department of social  
25 services, pursuant to G.S. 7A-544, that the director's initial investigation of a report of  
26 abuse in a day care facility reveals that sexual abuse may have occurred."

27 Sec. 4. Sections 1, 2, and 3 of this act shall be implemented from funds  
28 available to the appropriate departments.

29 The Department of Human Resources, and the Department of Justice shall  
30 adopt rules to ensure that the three investigations of abuse in child day care undertaken  
31 by the director of the county department of social services, the Department of Human  
32 Resources, and the State Bureau of Investigation, do not interfere with one another.  
33 These rules shall also include development of methods by which the State Bureau of  
34 Investigation instructs the Department of Human Resources and the director of the  
35 county department of social services on ways to conduct their investigations without  
36 destroying evidence that the State Bureau of Investigation may be gathering for a  
37 possible criminal trial.

38 The Department of Human Resources and the Department of Justice shall  
39 make a joint report in writing to the Joint Legislative Commission on Governmental  
40 Operations by March 1, 1992, as to whether any legislation needs to be changed to  
41 effect this act.

42 Sec. 5. This act becomes effective October 1, 1991.