

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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HOUSE BILL 192

Short Title: Juv. Placement Change.

(Public)

Sponsors: Representatives Colton; Alexander, Crawford, D. Brown, and Easterling.

Referred to: Judiciary III.

February 14, 1994

A BILL TO BE ENTITLED

AN ACT RECOMMENDED BY THE JUSTICE FOR CHILDREN TASK FORCE TO REMOVE TRAINING SCHOOL COMMITMENT AS A DISPOSITION FOR JUVENILE OFFENDERS AND SUBSTITUTE A COMMITMENT FOR A CONTINUUM OF SERVICES PROVIDED BY THE DIVISION OF YOUTH SERVICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-289.13 reads as rewritten:

"§ 7A-289.13. Legislative intent.

The General Assembly hereby declares its intent to reduce the number of children committed by the courts for delinquency to institutions operated by the Division of Youth Development, Department of Human Resources or other State agencies. The primary intent of this Article is to provide a comprehensive plan for the development of community-based alternatives to ~~training school commitment pursuant to G.S. 7A-652~~ so that 'status offenders' (defined by this Article to include 'those juveniles guilty of offenses which would not be violations of the law if committed by an adult') may be eliminated from the youth development institutions of this State. Additionally it is the intent of this legislation to provide noninstitutional disposition options in any case before the juvenile court where ~~such~~ this disposition is deemed to be in the best interest of the child and the community.

The policy and intent of the General Assembly in delinquency prevention and community-based services can be summarized as follows:

- (1) ~~Such~~ These programs should be planned and organized at the community level within the State, and ~~such~~ these planning efforts

1 should include appropriate representation from local government, local
2 agencies serving families and children (both public and private), local
3 business leaders, citizens with an interest in youth problems, youth
4 representatives, and others as may be appropriate in a particular
5 community. The role of the State should be to provide technical
6 assistance, access to funding, program information, and to assist local
7 leadership in appropriate planning.

8 (2) When a child is adjudicated to be within the juvenile jurisdiction of
9 the district court ~~such~~ this child should be carefully evaluated through
10 the available community-level resources (including mental health,
11 social services, public health and other available medical services,
12 public schools, and others as appropriate) prior to the juvenile hearing
13 dealing with disposition so that the disposition of the court may be
14 made with an understanding of the needs of the child and after
15 consideration of the resources available to meet these needs.

16 (3) It is contrary to the policy of the State for a court to separate a child
17 from ~~his~~ the child's own family or commit a child ~~to an institution or~~
18 ~~training school~~ pursuant to G.S. 7A-652 without a careful evaluation of
19 the needs of the child.

20 (4) The General Assembly finds that State and local government should be
21 responsive to the need for community-based services ~~which~~ that would
22 provide a viable alternative to commitment ~~to an institution or training~~
23 ~~school~~ pursuant to G.S. 7A-652. The General Assembly intends that
24 State government should be responsive to this need through the
25 Department of Human Resources by helping public and private local
26 groups to plan, develop and fund community-based programs, both
27 residential and nonresidential. It is recognized that such efforts will
28 require the cooperation of several major State departments in addition
29 to Human Resources, such as Public Instruction, Administrative Office
30 of the Courts, and the Governor's Crime Commission.

31 (5) It is the intent of the General Assembly that the Secretary of the
32 Department of Human Resources develop a funding mechanism that
33 will provide State support for programs that meet the standards as
34 developed under the provisions of this Article."

35 Sec. 2. G.S. 7A-289.16 reads as rewritten:

36 "**§ 7A-289.16. County assessment of youth needs.**

37 The board of county commissioners of each participating county shall conduct or
38 arrange for a study of youth needs in the county, giving particular attention to the need
39 for delinquency prevention programs and community-based services (residential or
40 nonresidential) ~~which~~ that would provide an alternative to commitment ~~to training school~~
41 pursuant to G.S. 7A-652. The board of county commissioners may delegate the
42 responsibility to any appropriate board or department of county government, or it may
43 contract with an appropriate private agency or group for the study. Adjoining counties

1 may cooperate in conducting ~~such~~ this study on a regional basis, utilizing appropriate
2 public or private resources.

3 The board of county commissioners of any county may request technical assistance
4 from the Secretary of Human Resources in conducting such study. Each participating
5 county shall develop a study plan for submission to the Secretary of Human Resources
6 by January 1, 1976. Each participating county shall file a report of preliminary findings
7 from such study to the Secretary of Human Resources by January 1, 1977, and its full
8 report by January 1, 1978. Each participating county shall plan for a continuing
9 assessment of youth needs in the county or region with annual reports to the Secretary
10 of Human Resources."

11 Sec. 3. G.S. 7A-571 reads as rewritten:

12 **"§ 7A-571. Taking a juvenile into temporary custody.**

13 Temporary custody means the taking of physical custody and providing personal
14 care and supervision until a court order for secure or nonsecure custody can be obtained.
15 A juvenile may be taken into temporary custody under the following circumstances:

- 16 (1) A juvenile may be taken into temporary custody by a law-enforcement
17 officer without a court order if grounds exist for the arrest of an adult
18 in identical circumstances under G.S. 15A-401(b).
- 19 (2) A juvenile may be taken into temporary custody without a court order
20 by a law-enforcement officer or a court counselor if there are
21 reasonable grounds to believe that ~~he~~ the juvenile is an undisciplined
22 juvenile.
- 23 (3) A juvenile may be taken into temporary custody without a court order
24 by a law-enforcement officer or a Department of Social Services
25 worker if there are reasonable grounds to believe that the juvenile is
26 abused, neglected, or dependent and that ~~he~~ the juvenile would be
27 injured or could not be taken into custody if it were first necessary to
28 obtain a court order.
- 29 (4) A juvenile may be taken into custody without a court order by a law-
30 enforcement officer, by a court counselor, by a member of the Black
31 Mountain Center, Alcohol Rehabilitation Center and Juvenile
32 Evaluation Center Joint Security Force established pursuant to G.S.
33 122C-421, or by personnel of the Division of Youth Services as
34 designated by the Department of Human Resources if there are
35 reasonable grounds to believe the juvenile is an absconder from any
36 State training school commitment placement pursuant to G.S. 7A-652 or
37 approved detention facility."

38 Sec. 4. G.S. 7A-572(b) reads as rewritten:

39 "(b) A person who takes a juvenile into custody under G.S. 7A- 571(4) shall, after
40 contacting a judge and receiving an order for secure custody, transport the juvenile to
41 the nearest approved facility providing secure custody. ~~He~~ The person shall then contact
42 the administrator of the training school person in charge of the particular commitment
43 placement pursuant to G.S. 7A-652 or detention facility from which the juvenile
44 absconded, who shall be responsible for returning the juvenile to that facility."

1 Sec. 5. G.S. 7A-547(b) reads as rewritten:

2 "(b) When a request is made for secure custody, the judge may order
3 secure custody only where ~~he~~ the judge finds there is a reasonable factual basis to
4 believe that the juvenile actually committed the offense as alleged in the petition, and

5 (1) That the juvenile is presently charged with a felony, and has
6 demonstrated that ~~he~~ the juvenile is a danger to property or persons; ~~or~~

7 (1.1) The juvenile is presently charged with a misdemeanor at least one
8 element of which is assault on a person; ~~or~~

9 (2) That the juvenile has willfully failed to appear on a pending
10 delinquency charge or on charges of violation of probation or
11 conditional release, providing the juvenile was properly notified; ~~or~~

12 (3) That a delinquency charge is pending against the juvenile and there is
13 a reasonable cause to believe the juvenile will not appear in court; ~~or~~

14 (4) That the juvenile is an absconder from any ~~State training school~~
15 commitment placement pursuant to G.S 7A-652 or detention facility in
16 this or another state; ~~or~~

17 (5) That there is reasonable cause to believe the juvenile should be
18 detained for ~~his~~ the juvenile's own protection because the juvenile has
19 recently suffered self-inflicted physical injury or recently attempted to
20 do so; in ~~such~~ this case, the juvenile must have been refused admission
21 by one appropriate hospital and the period of secure custody is limited
22 to 24 hours to determine the need for inpatient hospitalization; if such
23 a juvenile is placed in secure custody, ~~he~~ the juvenile shall receive
24 continuous supervision while in secure custody and a physician shall
25 be notified immediately; ~~or~~

26 (6) That the juvenile is alleged to be undisciplined by virtue of ~~his~~ being a
27 runaway and is found to be inappropriate for nonsecure custody
28 placement or because ~~he~~ the juvenile refuses nonsecure custody and
29 the court finds that the juvenile needs secure custody for up to 24
30 hours, excluding Saturdays, Sundays, and State holidays, or where
31 circumstances require for a period not to exceed 72 hours to evaluate
32 the juvenile's need for medical or psychiatric treatment or to facilitate
33 reunion with ~~his~~ parents; or

34 (7) That the juvenile is alleged to be undisciplined and has willfully failed
35 to appear in court after proper notice; such a juvenile shall be brought
36 to court as soon as possible and in no event should be held more than
37 24 hours, excluding Saturdays, Sundays, and State holidays or where
38 circumstances require for a period not to exceed 72 hours."

39 Sec. 6. G.S. 7A-646 reads as rewritten:

40 "**§ 7A-646. Purpose.**

41 The purpose of dispositions in juvenile actions is to design an appropriate plan to
42 meet the needs of the juvenile and to achieve the objectives of the State in exercising
43 jurisdiction. If possible, the initial approach should involve working with the juvenile
44 and his family in their own home so that the appropriate community resources may be

1 involved in care, supervision, and treatment according to the needs of the juvenile.
2 Thus, the judge should arrange for appropriate community-level services to be provided
3 to the juvenile and his family in order to strengthen the home situation.

4 In choosing among statutorily permissible dispositions for a delinquent juvenile, the
5 judge shall select the least restrictive disposition both in terms of kind and duration, that
6 is appropriate to the seriousness of the offense, the degree of culpability indicated by the
7 circumstances of the particular case and the age and prior record of the juvenile. A
8 juvenile should not be committed to ~~training school~~ pursuant to G.S. 7A-652 or to any
9 other institution if ~~he~~ the juvenile can be helped through community-level resources."

10 Sec. 7. G.S. 7A-652 reads as rewritten:

11 **"§ 7A-652. Commitment of delinquent juvenile to Division of Youth Services.**

12 (a) A delinquent juvenile 10 years of age or more may be committed to the
13 Division of Youth Services for ~~placement in one of the residential facilities~~ assessment and
14 placement within a continuum of services operated by the Division or contracted for by
15 the Division if the judge finds that the alternatives to commitment as contained in G.S.
16 7A-647, 7A-648, and 7A-649 have been attempted unsuccessfully or were considered
17 and found to be inappropriate and that the juvenile's behavior constitutes a threat to
18 persons or property in the community. These findings shall be supported by substantial
19 evidence in the record that the judge determined the needs of the juvenile, determined
20 the appropriate community resources required to meet those needs, and explored and
21 exhausted or considered inappropriate those resources prior to committing the juvenile
22 to the Division. Delinquent juveniles the judge finds to be nonviolent should be
23 committed to community-based placements. Only violent delinquents should be
24 committed to small secure facilities.

25 (b) Commitment shall be for:

- 26 (1) An indefinite term not to exceed the eighteenth birthday of the
27 juvenile; or
28 (2) A definite term not to exceed two years if the judge finds that the
29 juvenile is 14 years of age or older, has been previously adjudicated
30 delinquent for two or more felony offenses, and has been previously
31 committed to a residential facility operated by the Division of Youth
32 Services. The Division may reduce the duration of the definite
33 commitment by an amount not to exceed twenty-five percent (25%) if
34 the juvenile has not committed any major infractions of the regulations
35 of any facility to which he is assigned, and the Division of Youth
36 Services may move for a reduction of more than twenty-five percent
37 (25%) pursuant to G.S. 7A-664.

38 (c) In no event shall commitment of a delinquent juvenile be for a period of time
39 in excess of that period for which an adult could be committed for the same act. Any
40 juveniles committed for an offense for which an adult would be sentenced for 30 days
41 or less shall be assigned to a local detention home as defined by G.S. 7A-517(15) or a
42 regional home as defined by G.S. 7A-517(26).

43 (d) The Chief Court Counselor shall have the responsibility for transporting the
44 juvenile ~~to the residential~~ for assessment and placement in a facility designated by the

1 Division of Youth Services. The juvenile shall be accompanied to the ~~residential~~ facility
2 by a person of the same sex.

3 (d1) The Chief Court Counselor shall insure that the records requested by the
4 Director of Youth Services accompany the juvenile ~~upon transportation for admittance to a~~
5 ~~training school to the facility~~ or, if not obtainable at the time of admission, are sent to the
6 ~~training school facility~~ within 15 days of the admission. If records requested by the
7 Division of Youth Services for admission do not exist, to the best knowledge of the
8 Chief Court Counselor, he shall so stipulate in writing to the ~~training school facility~~. If
9 ~~such these~~ records do exist, but the Chief Court Counselor is unable to obtain copies of
10 them, a district court judge may order that the records from public agencies be made
11 available to the ~~training school facility~~. Records that are confidential by law shall
12 remain confidential and the Division of Youth Services shall be bound by the specific
13 laws governing the confidentiality of these records. All records shall be used in a
14 manner consistent with the best interest of the juvenile.

15 (e) The Division of Youth Services shall accept all juveniles who have been
16 committed for delinquency when the order of commitment appears on its face to contain
17 the findings required by G.S. 7A-651(e) but may decline to do so otherwise. if the
18 Director finds that the criteria specified in this section have been met. A commitment
19 order accompanied by information requested by the Director shall be forwarded to the
20 Division. The Director shall assess and place the juvenile in the residential facility in a
21 setting that includes community-based options that would best provide for ~~his the~~
22 juvenile's needs and shall notify the committing court. The Secretary of the Department
23 of Human Resources may assign a juvenile committed for delinquency to any institution
24 or other program of the Department or licensed by the Department, which program is
25 appropriate to the needs of the juvenile.

26 (f) When the judge commits a juvenile to the Division of Youth Services, the
27 Director shall prepare a plan for care or treatment within 30 days after assuming custody
28 of the juvenile.

29 (g) Commitment of a juvenile to the Division of Youth Services does not
30 terminate the court's continuing jurisdiction rights over the juvenile and his parent or
31 guardian. Commitment of a juvenile to the Division of Youth Services transfers only
32 physical custody of the juvenile to the Division. Legal custody remains with the parent,
33 guardian, agency or institution in whom it was vested."

34 Sec. 8. G.S. 134A-1 reads as rewritten:

35 **"§ 134A-1. Legislative intent and purpose.**

36 The General Assembly hereby declares its intent and legislative policy to separate
37 the administration of ~~training schools placements for committed delinquents~~ committed
38 pursuant to G.S. 7A-652 from the adult corrections system to avoid the stigma and
39 punitive philosophy associated with penal facilities for convicted adult offenders. It is
40 further intended that institutional programs for delinquents provide appropriate
41 treatment and care according to the needs of the children in care and that ~~such these~~
42 programs be appropriately coordinated with other services for children within the
43 Department of Human Resources."

44 Sec. 9. G.S. 134A-2 reads as rewritten:

1 **"§ 134A-2. Definitions.**

2 The following terms or phrases shall be defined as follows in this Chapter unless the
3 context or subject matter otherwise requires:

- 4 (1) 'Child' is any person who has not reached his sixteenth birthday.
- 5 (2) Repealed by Session Laws 1977, c. 627, s. 3.
- 6 (3) 'County detention home' means one of the existing county-supported
7 detention homes for juveniles or one which may be established by a
8 county or other unit of local government in the future.
- 9 (4) 'Delinquent child' includes any child subject to the juvenile jurisdiction
10 of the district court as defined by G.S. 7A- 278(2) who is subject to
11 commitment to an institution for delinquents under G.S. 7A-286.
- 12 (5) 'Department' means the Department of Human Resources as defined
13 under Chapter 143B, the Executive Organization Act of 1973.
- 14 (6) Repealed by Session Laws 1977, c. 627, s. 3.
- 15 (7) 'Holdover facility' means a place in a local jail approved by the
16 Department of Human Resources for detention of a child for not more
17 than five calendar days prior to placement in an approved detention
18 home.
- 19 (8) ~~" Institution" means a school, training school or institution for~~
20 ~~committed delinquents heretofore operated by the Division of Youth~~
21 ~~Development of the Department of Correction, namely the following:~~
22 ~~Stonewall Jackson School; Samarkand Manor School; Dobb's School~~
23 ~~for Girls; Richard T. Fountain School; Cameron Morrison School; C.~~
24 ~~A. Dillon School; Juvenile Evaluation Center.~~
- 25 (9) 'Juvenile detention' refers to detention of a child alleged to be
26 undisciplined or delinquent before or after a juvenile hearing as
27 authorized by G.S. 7A-286(3).
- 28 (9a) 'Placement of commitment' means commitment placement pursuant to
29 G.S. 7A-652, of nonviolent delinquent juveniles in placements with
30 community-based program components and of violent delinquent
31 juveniles in small secure facilities.
- 32 (10) 'Regional detention home' means a State-supported and administered
33 regional facility providing detention care as recommended by the
34 report.
- 35 (11) 'Report' means the Report of the National Juvenile Detention
36 Association entitled Juvenile Detention in North Carolina: A Study
37 Report, released in January 1973.
- 38 (12) 'Secretary' means the Secretary of Human Resources established by
39 G.S. 143B-139.
- 40 (13) 'Youth services program' means any type of residential or
41 nonresidential program or service for youth that may be developed by
42 the Secretary as authorized by this Chapter."

43 Sec. 10. G.S. 134A-8 reads as rewritten:

44 **"§ 134A-8. Powers and duties of Secretary of Human Resources.**

1 The Secretary shall have the following powers and duties:

- 2 (1) To give leadership to the implementation as appropriate of State policy
3 which requires that training schools be phased out as populations
4 diminish;
- 5 (2) To close a ~~State training school~~ placement of commitment when its
6 operation is no longer justified and to transfer State funds appropriated
7 for the operation of any ~~training school which~~ placement of commitment
8 that is closed to fund community-based programs or to purchase care
9 or services for pre-delinquents, delinquents or status offenders in
10 community-based or other appropriate programs or to improve the
11 efficiency of existing ~~training schools,~~ placements of commitments,
12 provided such actions are approved by the Advisory Budget
13 Commission;
- 14 (3) To develop a sound admission or intake program to youth services
15 institutions, including the requirement of a careful evaluation of the
16 needs of each child prior to acceptance and placement;
- 17 (4) To assure quality programs in youth services institutions or youth
18 services programs which shall be designed to meet the needs of
19 children in care or receiving services;
- 20 (5) To provide a quality educational program in each ~~training school,~~
21 placement of commitment, including vocational and technical
22 education which is realistic in relation to available jobs, and to
23 administer this educational system;
- 24 (6) To have all other powers of a secretary in relation to a division of
25 youth services or youth services institutions or youth services
26 programs as provided by the Executive Organization Act of 1973 as
27 amended and codified in Chapter 143B or as provided by any other
28 appropriate State law.
- 29 (7) To promulgate rules and regulations to implement the provisions of
30 this Chapter and the responsibilities of the Secretary and the
31 Department of Human Resources under Chapter 7A."

32 Sec. 11. The Department of Human Resources, Division of Youth Services
33 shall adopt a schedule of phasing out training schools and moving the existing
34 population to placements of commitment as contemplated by this act. The phasing-out
35 shall be completed by January 1, 1995.

36 Sec. 12. There is appropriated from the General Fund to the Department of
37 Human Resources, Division of Youth Services, the sum of twenty-five million three
38 hundred thousand dollars (\$25,300,000) for the 1994-95 fiscal year for capital costs to
39 implement this act. The funds appropriated to training schools for fiscal year 1994-95
40 shall be used to operate the placements of commitment as their use is phased in pursuant
41 to the schedule established in Section 12 of this act.

42 Sec. 13. Section 12 of this act and this section are effective upon ratification.
43 Section 13 of this act becomes effective July 1, 1994. The remainder of this act

- 1 becomes effective January 1, 1995, and applies to commitments for acts committed on
- 2 or after this date.