

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 541

Short Title: Review of DSS Decisions/AB.

(Public)

Sponsors: Senators Dannelly, Little, Albertson, Davis, Forrester, Cochrane, Allran, East, Winner, Martin of Guilford, and Gulley.

Referred to: Children and Resources

April 3, 1995

A BILL TO BE ENTITLED

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2 AN ACT TO PROVIDE FOR REVIEW OF THE DIRECTOR OF SOCIAL
3 SERVICES' DECISIONS NOT TO FILE ABUSE, NEGLECT, OR DEPENDENCY
4 PETITIONS AND TO MAKE CLARIFYING CHANGES TO THE LAW
5 GOVERNING INVESTIGATIONS OF REPORTS OF ABUSE, NEGLECT, AND
6 DEPENDENCY.

7 The General Assembly of North Carolina enacts:

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

9 "**§ 7A-544. Investigation by Director; access to confidential information;**
10 **notification of person making the report.**

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

1 received by the Department of Social ~~Services~~ Services, including the identity of the
2 reporter, shall be held in strictest confidence by the Department.

3 When a report of a juvenile's death as a result of suspected maltreatment is received,
4 the Director of the Department of Social Services shall immediately ascertain if other
5 juveniles remain in the home, and, if so, initiate an investigation in order to determine
6 whether they require protective services or whether immediate removal of the juveniles
7 from the home is necessary for their protection.

8 If the investigation indicates that abuse, neglect, or dependency has occurred, the
9 Director shall decide whether immediate removal of the juvenile or any other juveniles
10 in the home is necessary for their protection. If immediate removal does not seem
11 necessary, the Director shall immediately provide or arrange for protective services. If
12 the parent or other caretaker refuses to accept the protective services provided or
13 arranged by the Director, the Director shall sign a complaint seeking to invoke the
14 jurisdiction of the court for the protection of the juvenile or juveniles.

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

20 In performing any ~~of these duties~~, duties related to the investigation of the complaint
21 or the provision or arrangement for protective services, the Director may consult with
22 any public or private agencies or individuals, including the available State or local law-
23 enforcement officers who shall assist in the investigation and evaluation of the
24 seriousness of any report of abuse, neglect, or dependency when requested by the
25 Director. The Director or the Director's representative may make a written demand for
26 any information or reports, whether or not confidential, that may in the Director's
27 opinion be relevant to the ~~protective services case~~, investigation of or the provision for
28 protective services. Upon the Director's or the Director's representative's request and
29 unless protected by the attorney-client privilege, any public or private agency or
30 individual shall provide access to and copies of this confidential information and these
31 records to the extent permitted by federal law and regulations. If a custodian of criminal
32 investigative information or records believes that release of ~~such~~ the information will
33 jeopardize the right of the State to prosecute a defendant or the right of a defendant to
34 receive a fair trial or will undermine an ongoing or future investigation, it may seek an
35 order from a court of competent jurisdiction to prevent disclosure of the information. In
36 such an action, the custodian of the records shall have the burden of showing by a
37 preponderance of the evidence that disclosure of the information in question will
38 jeopardize the right of the State to prosecute a defendant or the right of a defendant to
39 receive a fair trial or will undermine an ongoing or future investigation. Actions brought
40 pursuant to this paragraph shall be set down for immediate hearing, and subsequent
41 proceedings in ~~such~~ the actions shall be accorded priority by the trial and appellate
42 courts.

43 Within five working days after receipt of the report of abuse, neglect, or
44 dependency, the Director shall give written notice to the person making the report,

1 unless requested by that person not to give notice, as to whether the report was accepted
2 for investigation and whether the report was referred to the appropriate State or local
3 law enforcement agency.

4 Within five working days after completion of the protective services investigation,
5 the Director shall give subsequent written notice to the person making the report, unless
6 requested by that person not to give notice, as to whether there is a finding of abuse,
7 neglect, or dependency, whether the county Department of Social Services is taking
8 action to protect the juvenile, and what action it is ~~taking~~-taking, including whether or
9 not a petition was filed. The person making the report shall be informed of procedures
10 necessary to request a review by the prosecutor of the Director's decision not to file a
11 petition. A request for review by the prosecutor shall be made within five working days
12 of receipt of the second notification. The second notification shall include notice that, if
13 the person making the report is not satisfied with the Director's decision, he may request
14 review of the decision by the prosecutor within five working days of receipt. The person
15 making the report may waive ~~his~~-the person's right to this notification and no
16 notification is required if the person making the report does not identify himself to the
17 Director."

18 Sec. 2. This act becomes effective October 1, 1995, and applies to reports of
19 abuse, neglect, or dependency submitted on or after that date.