N.C. SESSION LAW 2003-304 (SB 421)

This law makes clarifying and substantive changes to Chapter 7B. All changes are effective July 4, 2003 and apply to actions commenced on or after that date.

Service of summons – Change in Law: 7B-407

This statute is amended to allow service of summons on the parent, guardian, custodian, or caretaker in juvenile proceedings through the designated delivery system (FedEx or UPS). Previously, this statute required personal service.

Adjudicatory hearing on termination - Change in Law: 7B-1109(d)

This statute is amended to specify a timeframe for a continuance in termination hearings. The hearing may be continued for up to 90 days from the date of the initial petition. Continuances beyond 90 days shall be granted only in extraordinary circumstances.

Policy Interpretation

This change is in line with federal legislation relating to timely permanence.

Children required to attend – Change in Law: 115C-378

This statute is amended to clarify the procedures regarding required school attendance while specifying the role of the director of social services. The director shall decide whether a protective services assessment for neglect is undertaken after the principal makes a determination, based on any report or investigation prepared under G. S. 115C-381, that the parent, guardian, or custodian has not made a good faith effort to comply with the attendance law. The authority for screening a CPS report remains with the director of social services.

Policy Interpretation

This change specifies that school personnel have the responsibility for investigating school absences. School personnel, specifically school social workers, maintain direct access to the records needed to conduct such investigations. DSS involvement relating to school attendance is required after school personnel have investigated the matter thoroughly. A thorough investigation consists of: conferring with the parent, determining if the parent made a good faith effort to comply with the law, and filing a complaint with the juvenile court if the parent has made a good faith effort. When school personnel make reports regarding school attendance issues, the authority for screening the CPS report remains with the director of social services.

Mandatory criminal checks – Change in Law: 131D-10.3A(b)

This statute is amended to clarify that criminal record checks of foster care providers occur upon relicensure. Family foster homes previously operated under an annual licensure period, and now operate under a biennial licensure period.

Investigation by director; access to confidential information; notification of person making the report – Change in Law: 7B-302

This addition to the statute specifies that the director or director's designee may not enter a private residence for investigation purposes without at least one of the following:

- The reasonable belief that a juvenile is in imminent danger of death or serious physical injury.
- The permission of the parent of person responsible for the juvenile's care.
- The accompaniment of a law enforcement officer who has legal authority to enter the residence.
- An order from a court of competent jurisdiction.

Policy Interpretation

This legislation does not change our practice. Social worker visits in the home remain an integral part of our practice. Obtaining permission to enter a residence to begin conducting an investigation or assessment is consistent with family centered practice principles. It is important to note that past practice indicates most parents have given permission to enter their residence, and many parents will continue to give that permission. In order to provide services that are family-centered and begin your investigative assessment, obtaining permission to enter the residence becomes a primary concern. You have obtained permission to enter the residence if you have either of the following:

- Permission to enter the residence from the parent
- Permission from a caregiver aged 18 or older

A child is not able to give permission to enter the residence. A minor sibling caring for another child is not able to give permission to enter the residence. A minor parent is able to give permission to enter the residence when the report involves that minor parent as the alleged perpetrator and their child as the alleged victim child. In situations where the minor parent is also an alleged victim child, that minor parent's permission to enter is not sufficient. If there is not a parent or adult caregiver present to give permission for entry, your visit must be postponed until you are able to obtain that permission. Exceptions to this would be a situation where the juvenile is in imminent danger of death or serious physical injury, entrance in conjunction with a law enforcement officer, or entrance by a court order. In those instances when the parent does not give permission, it is not advisable to try to convince the parent to give their permission, as this could be considered coercive.

The use of family-centered principles is important; partnering with the family is the goal. Your approach to partnering with the family matters – you are not there to "catch" the family doing something wrong, you are there to provide services to ensure the child and family's safety and well-being. It is crucial to explain your role, the nature of the report and your legal responsibility to make a prompt and thorough investigation. While providing on-going services including case planning case management services, placement services, and all other child welfare services, ask the parent if they are willing

to give you permission to enter the home on a regular basis and document their statement regarding that permission.

If the investigative assessment indicates the need to take pictures of injuries while in the family's residence, you need the parent's permission to take those pictures. This legislation does not impact our ability to interview children at schools or child care centers, as neither are private residences.

If during the course of the investigative assessment, or at any point during service provision it becomes necessary to pursue an obstruction order, it is recommended that all of the facts regarding efforts to ensure safety are provided to the judge.

Training by the Division of Social Services required – Change in Law: 131D-10.6A(b)

This statute is amended to specify that each child welfare social worker receives training on family centered practices and State and federal law regarding the basic rights of individuals including the right to privacy, freedom from duress and coercion to induce cooperation, and the right to parent.

Policy Interpretation

Family centered practice is a core component of the Multiple Response System. Family centered practice principles and information on individual's basic rights will be incorporated into preservice training as well as continuing education provided by the Division of Social Services. As well, a separate course will be developed that all current child welfare social workers and supervisors will be required to attend.

Maintaining a register of applicants by the Division of Social Services – Change in Law: 131D-10.6C

This statute requires the maintenance of a register of all family foster and therapeutic home applicants and outlines specific information to be obtained. This statute specifies that certain information obtained is treated confidentially. This change affords potential foster and therapeutic home applicants the same confidentiality protection afforded potential adoptive parents.

State Child Fatality Review Team; establishment ; purpose; powers; duties; report by Division of Social Services – Change in Law: 143B-150.20(d)

This statute is amended to include provisions for accessing information while completing a State Child Fatality Review. This gives the State Child Fatality Review Team the right to request a court order compelling disclosure when difficulties obtaining information are encountered.

Legal residence for social service purpose – Change in Law: 153A-257

This statute establishes that the state Division of Social Services can determine the legal residence of a minor in a child abuse, neglect or dependency case when county

departments of social services differ regarding the child's residence. This change ensures the provision of timely child protective services in situations when counties are not in agreement regarding the child's residence.

Policy Interpretation

In situations when counties are not able to come to an agreement regarding the child(ren)'s legal residence, State Division of Social Services staff will make that decision. A cross county issues work group consisting of county and state division staff developed policy recommendations which will serve as a blueprint for policy implementation.

Evidence Admissibility – Change in Laws: 7B-901, 7B-906(c), 7B-907(b), 7B-908(a), 7B-2501(a),

These statute changes allow the court to consider hearsay evidence at various review hearings when the court finds that evidence to be relevant, reliable, and necessary to determine the needs of the juvenile and the most appropriate disposition. These changes are effective May 20, 2003.

Predisposition report – Change in Law: 7B-808

This statute is amended to include provisions which allow the court to proceed with a dispositional hearing without a predisposition report when the court makes a written finding the report is not necessary. When the court decides a predisposition report is necessary, the director of the DSS is responsible for preparing the report and including the results of any mental health evaluation, placement plan, and treatment plan. This statute addresses the sharing of these reports among parties and outlines the following conditions; the court is able to prohibit the disclosure of information contained in these reports to the juvenile, if that information is contrary to the juvenile's best interest, the court can not prohibit the sharing of information to a party entitled by law to receive that information, the court may not disclose any confidential source protected by law. This change is effective June 4, 2003.

Grounds for terminating parental rights - Change in Law: 7B-1111(a) (6)

This statute is amended to clarify grounds for termination of parental rights; specifying that incapability to parent can include parental confinement to an institution and the absence of an appropriate alternative child care arrangement constitutes grounds for termination of parental rights. This change is effective June 4, 2003.

Jurisdiction – Change in Law: 7B-1101

This statute is amended to include specific guidance as to when a parent is entitled to a guardian ad litem in termination of parental rights proceedings. This change is effective June 4, 2003.

Purpose – Change in Law: 7B-100

This statute is amended by creating a new subdivision pertaining to the Adoption and Safe Families Act of 1997, P.L. 105-89. This change reflects that one of the main purposes of Chapter 7B of the NCGS, SUBCHAPTER I. ABUSE, NEGLECT, DEPENDENCY is ensuring that the best interests of the juvenile are of paramount consideration by the court and that when it is not in the juvenile's best interest to be returned home, the juvenile will be placed in a safe, permanent home within a reasonable amount of time. This change is effective June 4, 2003.

Copy of petition and notices to guardian ad litem – Change in Law: 7B-408

This statute requires that upon filing of a juvenile petition of abuse or neglect, the clerk shall provide a copy of the petition and any notice of hearings to the local guardian ad litem office. This change is effective June 4, 2003.

Answer or response of parent – Change in Law: 7B-1108(b)

This statute is amended to reflect that a guardian from the guardian ad litem program shall not be appointed in **private** termination of parental rights proceedings. This change is effective June 4, 2003.

Disposition pending appeal – Change in Law: 7B-1003

This statutory change removes the reference to section (d), which no longer exists, and is effective June 4, 2003.

Appointment of legal guardian – Change in Law: 7B-600, 7B-903, 7B-906, 7B-907

These statutory changes specify that when a court determines that the juvenile shall be placed in the custody or guardianship of an individual other than the parents, the court shall verify that the person receiving custody or being appointed as guardian of the juvenile understands the legal significance of the placement or appointment and will have adequate resources to care appropriately for the child. These changes are effective June 4, 2003.

Definitions – Change in Law: 14-16.10(1)

This statutory amendment further expands the definition of court officer to incorporate any attorney or other individual employed by or acting on behalf of DSS, and any attorney or other individual appointed or employed by the Guardian ad Litem Services Division. This definition was expanded to afford the same legal protection to DSS

employees and Guardians in relation to being the victim of an assault while performing duties of the court. This change is effective December 1, 2003.

Proper parties for appeal – Change in Law: 7B-2604

This statutory amendment provides a mechanism for counties to appeal a court order to pay medical, surgical, psychiatric, psychological, or other evaluation or treatment of a delinquent or undisciplined juvenile. This change is effective October 1, 2003.

The following bills related to child care were passed by the General Assembly. A statewide task force focusing on investigating child abuse and neglect in child care facilities has been formed. This task force will make recommendations regarding practice and procedures to DHHS Secretary Carmen Hooker Odum. Current policy relating to investigative assessments in child care settings are found in Chapter VIII Child Protective Services and include Section 1418 - Investigative Assessments in Child Care Settings and Section 1420 - Protocol for Interagency Task Force for Investigating Child Sexual Abuse Allegations in Child Care Facilities.

Illegal Child Care Facilities (SB 877)

Prior to the passage of this bill, the criminal penalty for illegally providing child care was a misdemeanor offense. This change makes it a Class I felony to willfully operate an illegal child care program. If the person is willfully operating illegally, and a child is seriously injured while in that illegal care, the operator is subject to a stricter felony (Class H). If the person is willfully operating illegally, and has a prior conviction for operating illegally, he or she is also subject to the Class H felony. These changes are effective December 1, 2003 and will apply to offenses committed on or after that date.

Information for Parents (HB 1063)

The intent of these statutory changes was to better inform parents about how to request child care records and to better inform them of child care requirements. It requires child care providers to give a copy of a summary of the child care law to parents before the child is enrolled. Parents must sign a statement that they received a copy of this summary. The summary must explain how parents can obtain information on child care facilities from DCD's public files. A summary of the law must be posted in plain sight with the facility's license. These changes are effective October 1, 2003.

SIDS Reduction in Child Care (HB 152)

The intent of these statutory changes was to reduce Sudden Infant Death Syndrome (SIDS) risk factors in child care centers and family child care homes. It requires providers to place infants to sleep on their backs unless there is a written waiver from a health care provider. A parent waiver requesting an alternative sleep position is allowed once the infant is six months old. Providers must develop safe sleep policies and review the policy with parents before the child enrolls; parents will sign a statement they reviewed the policy. Infant caregivers will be required to take training in safe sleep practices. Finally, the bill requires DHHS, local departments of social services, local law enforcement, and the medical community to ensure that reports of child abuse or neglect are investigated properly. These changes are effective December 1, 2003.

Unauthorized Medication Administration in Child Care (SB 226)

Licensing regulations already require that providers must have written parent permission to administer medication to children in care. These statutory changes make it against the law for child care providers to give medication without parental authorization, and make it punishable as a Class A1 misdemeanor. If the child is seriously injured as a result, it can be a Class F felony. An exception is allowed for medication to be administered without parental authorization in emergency medical situations, with instructions from a medical care provider. These statutory changes are effective December 1, 2003.

The following bills related to domestic violence were passed by the General Assembly.

Homicide Prevention Act (SB 919)

These statutory changes enhance victim safety by prohibiting the purchase and possession of firearms by persons subject to protective orders in high-risk cases and provide for the surrender of the firearms to the sheriff's office. These changes reflect federal firearms laws and are effective December 1, 2003.

Assault in the Presence of a Child (HB 926)

These statutory changes create an enhanced penalty for serious assaults that are committed within sight or sound of a minor child who resides with one of the parties, requires mandatory supervised probation for a 1st offense, and mandates a 30 day active time for subsequent offense. These changes are effective December 1, 2003.

Protective Order Clarification Act (SB 630)

These statutory changes clarify Chapter 50B by ensuring that victims are able to renew protective orders multiple times for "good cause" and ensuring that consent orders are treated the same as protective orders entered pursuant to a hearing. These changes are effective May 31, 2003.

Omnibus Employment Security Commission Changes (SB 439)

These statutory changes improve North Carolina's unemployment insurance laws and clarify that a victim of domestic violence is not required to have a protective order to qualify for benefits. Other types of evidence of domestic violence may be used. These changes are effective May 31, 2003.

The complete text of each Bill summarized in this administrative letter follows below:

SESSION LAW 2003-304
SENATE BILL 421

AN ACT TO CLARIFY AND MAKE TECHNICAL CORRECTIONS TO THE CHILD WELFARE LAWS AND TO ENHANCE THE STATE'S ABILITY TO PROTECT CHILDREN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7B-407 reads as rewritten:

"**§ 7B-407. Service of summons.**

The summons shall be ~~personally~~ served under G.S. 1A-1, Rule 4(j) upon the parent, guardian, custodian, or caretaker, not less than five days prior to the date of the scheduled hearing. The time for service may be waived in the discretion of the court.

If the parent, guardian, custodian, or caretaker entitled to receive a summons cannot be found by a diligent effort, the court may authorize service of the summons and petition ~~by mail or~~ by ~~publication.~~ publication under G.S. 1A-1, Rule 4(j1). The cost of the service by publication shall be advanced by the petitioner and may be charged as court costs as the court may direct.

If the parent, guardian, custodian, or caretaker is ~~personally~~ served as herein provided and fails without reasonable cause to appear and to bring the juvenile before the court, the parent, guardian, custodian, or caretaker may be proceeded against as for contempt of court."

SECTION 2. G.S. 7B-1109(d) reads as rewritten:

"(d)The court may for good cause shown continue the hearing for ~~such time as is required for receiving~~ up to 90 days from the date of the initial petition in order to receive additional ~~evidence, evidence~~ including any reports or assessments ~~which~~ that the court has requested, to allow the parties to conduct expeditious discovery, or ~~any~~ to receive any other information needed in the best interests of the juvenile. Continuances that extend beyond 90 days after the initial petition shall be granted only in extraordinary circumstances when necessary for the proper administration of justice, and the court shall issue a written order stating the grounds for granting the continuance."

SECTION 3. G.S. 115C-378 reads as rewritten:

"**§ 115C-378. Children required to attend.**

Every parent, guardian or other person in this State having charge or control of a child between the ages of seven and 16 years shall cause such child to attend school continuously for a period equal to the time which the public school to which the child is assigned shall be in session. Every parent, guardian, or other person in this State having charge or control of a child under age seven who is enrolled in a public school in grades kindergarten through two shall also cause such child to attend school continuously for a period equal to the

time which the public school to which the child is assigned shall be in session unless the child has withdrawn from school. No person shall encourage, entice or counsel any such child to be unlawfully absent from school. The parent, guardian, or custodian of a child shall notify the school of the reason for each known absence of the child, in accordance with local school policy.

The principal, superintendent, or teacher who is in charge of such school shall have the right to excuse a child temporarily from attendance on account of sickness or other unavoidable cause ~~which~~ that does not constitute unlawful absence as defined by the State Board of Education. The term "school" as used herein is defined to embrace all public schools and such nonpublic schools as have teachers and curricula that are approved by the State Board of Education.

All nonpublic schools receiving and instructing children of a compulsory school age shall be required to keep such records of attendance and render such reports of the attendance of such children and maintain such minimum curriculum standards as are required of public schools; and attendance upon such schools, if the school refuses or neglects to keep such records or to render such reports, shall not be accepted in lieu of attendance upon the public school of the district to which the child shall be assigned: Provided, that instruction in a nonpublic school shall not be regarded as meeting the requirements of the law unless the courses of instruction run concurrently with the term of the public school in the district and extend for at least as long a term.

The principal or his designee shall notify the parent, guardian, or custodian of his child's excessive absences after the child has accumulated three unexcused absences in a school year. After not more than six unexcused absences, the principal shall notify the parent, guardian, or custodian by mail that he may be in violation of the Compulsory Attendance Law and may be prosecuted if the absences cannot be justified under the established attendance policies of the State and local boards of education. Once the parents are notified, the school attendance counselor shall work with the child and his family to analyze the causes of the absences and determine steps, including adjustment of the school program or obtaining supplemental services, to eliminate the problem. The attendance counselor may request that a law-enforcement officer accompany him if he believes that a home visit is necessary.

After 10 accumulated unexcused absences in a school ~~year~~ year, the principal shall review any report or investigation prepared under G.S. 115C-381 and shall confer with the student and ~~his~~ the student's parent, guardian, or ~~custodian~~ custodian, if ~~possible~~ possible, to determine whether the parent, guardian, or custodian has received notification pursuant to this section and made a good faith effort to comply with the law. If the principal determines that the parent, guardian, or custodian has ~~not,~~ not made a good faith effort to comply with the law, ~~he~~ the principal shall notify the district ~~attorney.~~attorney and the director of social

services of the county where the child resides. If ~~he~~ the principal determines that the parent, guardian, or custodian ~~has,~~ has made a good faith effort to comply with the law, ~~he~~ the principal may file a complaint with the juvenile court counselor pursuant to Chapter 7B of the General Statutes that the child is habitually absent from school without a valid excuse. Evidence that shows that the parents, guardian, or custodian were notified and that the child has accumulated 10 absences which cannot be justified under the established attendance policies of the local board shall establish a prima facie case that the child's parent, guardian, or custodian is responsible for the absences. Upon receiving notification by the principal, the director of social services shall determine whether to undertake an investigation under G.S. 7B-302."

SECTION 4. G.S. 131D-10.3A(b) reads as rewritten:

"(b)The Department shall ensure that all individuals who are required to be checked pursuant to subsection (a) of this section are checked ~~annually~~ upon relicensure for county and State criminal histories."

SECTION 4.1. G.S. 7B-302 is amended by adding a new subsection (h) to read:

"(h) The director or the director's representative may not enter a private residence for investigation purposes without at least one of the following:

(1) The reasonable belief that a juvenile is in imminent danger of death or serious physical injury.

(2) The permission of the parent or person responsible for the juvenile's care.

(3) The accompaniment of a law enforcement officer who has legal authority to enter the residence.

(4) An order from a court of competent jurisdiction."

SECTION 4.2. G.S. 131D-10.6A(b) reads as rewritten:

"(b)**(See Editor's Note)** The Division of Social Services shall establish minimum training requirements for child welfare services staff. The minimum training requirements established by the Division are as follows:

(1) Child welfare services workers shall complete a minimum of 72 hours of preservice training before assuming direct client contact responsibilities. In completing this requirement, the Division of Social Services shall ensure that each child welfare worker receives training on family centered practices and State and federal law regarding the basic rights of individuals relevant to the provision of child welfare services, including the right to privacy, freedom from duress and coercion to induce cooperation, and the right to parent.

(2) Child protective services workers shall complete a minimum of 18 hours of additional training that the Division of Social Services determines is necessary to adequately meet training needs.

(3) Foster care and adoption workers shall complete a minimum of 39 hours of additional training that the Division of Social Services determines is necessary to adequately meet training needs.

(4) Child welfare services supervisors shall complete a minimum of 72 hours of preservice training before assuming supervisory responsibilities and a minimum of 54 hours of additional training that the Division of Social Services determines is necessary to adequately meet training needs.

(5) Child welfare services staff shall complete 24 hours of continuing education annually. In completing this requirement, the Division of Social Services shall provide each child welfare services staff member with annual update information on family centered practices and State and federal law regarding the basic rights of individuals relevant to the provision of child welfare services, including the right to privacy, freedom from duress and coercion to induce cooperation, and the right to parent.

The Division of Social Services may grant an exception in whole or in part to the requirement under subdivision (1) of this subsection to child welfare workers who satisfactorily complete or are enrolled in a masters or bachelors program after July 1, 1999, from a North Carolina social work program accredited pursuant to the Council on Social Work Education. The program's curricula must cover the specific preservice training requirements as established by the Division of Social Services.

The Division of Social Services shall ensure that training opportunities are available for county departments of social services and consolidated human service agencies to meet the training requirements of this subsection."

SECTION 5. Chapter 131D of the General Statutes is amended by adding a new section to read:

"**§ 131D-10.6C. Maintaining a register of applicants by the Division of Social Services.**

(a) The Division of Social Services shall keep a register of all family foster and therapeutic foster home applicants. The register shall contain the following information:

(1) The name, age, and address of each applicant.

(2) The date of the application.

(3) The applicant's supervising agency.

(4) Any mandated training completed by the applicant and the dates of training.

(5) Whether the applicant was licensed and the date of the initial licensure.

(6) The current licensing period.

(7) Any adverse licensing actions.

(8) Any other information deemed necessary by the Division of Social Services.

(b) The register shall be a public record under Chapter 132 of the General Statutes. Information not specified

in subsection (a) of this section shall be considered confidential and not subject to disclosure."

SECTION 6. G.S. 143B-150.20(d) reads as rewritten:

"(d)The State Child Fatality Review Team shall have access to all medical records, hospital records, and records maintained by this State, any county, or any local agency as necessary to carry out the purposes of this subsection, including police investigative data, medical examiner investigative data, health records, mental health records, and social services records. The State Child Fatality Review Team may receive a copy of any reviewed materials necessary to the conduct of the fatality review. Any member of the State Child Fatality Review Team may share, only in an official meeting of the State Child Fatality Review Team, any information available to that member that the State Child Fatality Review Team needs to carry out its duties.

If the State Child Fatality Review Team does not receive information requested under this subsection within 30 days after making the request, the State Child Fatality Review Team may apply for an order compelling disclosure. The application shall state the factors supporting the need for an order compelling disclosure. The State Child Fatality Review Team shall file the application in the district court of the county where the investigation is being conducted, and the court shall have jurisdiction to issue any orders compelling disclosure. Actions brought under this section shall be scheduled for immediate hearing, and subsequent proceedings in these actions shall be given priority by the appellate courts."

SECTION 7. G.S. 153A-257 is amended by adding a new subsection to read:

"(d) If two or more county departments of social services disagree regarding the legal residence of a minor in a child abuse, neglect, or dependency case, any one of the county departments of social services may refer the issue to the Department of Health and Human Services, Division of Social Services, for resolution. The Director of the Division of Social Services or the Director's designee shall review the pertinent background facts of the case and shall determine which county department of social services shall be responsible for providing protective services and financial support for the minor in question."

SECTION 7.1. The Division of Social Services shall ensure that each currently employed child welfare worker receives training on family centered practices and State and federal law regarding the basic rights of individuals relevant to the provision of child welfare services, including the right to privacy, freedom from duress and coercion to induce cooperation, and the right to parent.

SECTION 7.2. The Division shall report to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate Health and Human Services Appropriations Subcommittee and the House of Representatives Appropriations Subcommittee on Health and Human Services by April 1, 2004, regarding the additional training required in Sections 4.2 and 7.1 of this act.

SECTION 8. This act is effective when it becomes

law.

In the General Assembly read three times and ratified this the 25th day of June, 2003.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 4:51 p.m. this 4th day of July, 2003

SESSION LAW 2003-62
HOUSE BILL 126

AN ACT TO CLARIFY THE LAW GOVERNING EVIDENCE ADMISSIBLE IN CERTAIN JUVENILE HEARINGS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7B-901 reads as rewritten:

"**§ 7B-901. Dispositional hearing.**

The dispositional hearing may be informal and the court may consider written reports or other evidence concerning the needs of the juvenile. The juvenile and the juvenile's parent, guardian, or custodian shall have an opportunity to present evidence, and they may advise the court concerning the disposition they believe to be in the best interests of the juvenile. The court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, that the court finds to be relevant, reliable, and necessary to determine the needs of the juvenile and the most appropriate disposition. The court may exclude the public from the hearing unless the juvenile moves that the hearing be open, which motion shall be granted."

SECTION 2. G.S. 7B-906(c) reads as rewritten:

"(c)At every review hearing, the court shall consider information from the parent, the juvenile, the guardian, any foster parent, relative, or preadoptive parent providing care for the child, the custodian or agency with custody, the guardian ad litem, and any other person or agency which will aid in its review. The court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, that the court finds to be relevant, reliable, and necessary to determine the needs of the juvenile and the most appropriate disposition.

In each case the court shall consider the following criteria and make written findings regarding those that are relevant:

(1) Services which have been offered to reunite the family, or whether efforts to reunite the family clearly would be futile or inconsistent with the juvenile's safety and need for a safe, permanent home within a reasonable period of time.
(2) Where the juvenile's return home is unlikely, the efforts which have been made to evaluate or plan for other methods of care.
(3) Goals of the foster care placement and the appropriateness of the foster care plan.
(4) A new foster care plan, if continuation of care is sought, that addresses the role the current foster parent will play in the planning for the juvenile.
(5) Reports on the placements the juvenile has had and any services offered to the juvenile and the parent, guardian, custodian, or caretaker.
(6) An appropriate visitation plan.
(7) If the juvenile is 16 or 17 years of age, a report on an independent living assessment of the juvenile and, if appropriate, an independent living plan developed for the juvenile.
(8) When and if termination of parental rights should be considered.
(9) Any other criteria the court deems necessary."

SECTION 3. G.S. 7B-907(b) reads as rewritten:

"(b)At any permanency planning review, the court shall consider information from the parent, the juvenile, the guardian, any foster parent, relative or preadoptive parent providing care for the child, the custodian or agency with custody, the guardian ad litem, and any other person or agency which will aid it in the court's review. The court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, that the court finds to be relevant, reliable, and necessary to determine the needs of the juvenile and the most appropriate disposition. At the conclusion of the hearing, if the juvenile is not returned home, the court shall consider the following criteria and make written findings regarding those that are relevant:

(1) Whether it is possible for the juvenile to be returned home immediately or within the next six months, and if not, why it is not in the juvenile's best interests to return home;
(2) Where the juvenile's return home is unlikely within six months, whether legal guardianship or custody with a relative or some other suitable person should be established, and if so, the rights and responsibilities which should remain with the parents;
(3) Where the juvenile's return home is unlikely within six months, whether adoption should be pursued and if so, any barriers to the juvenile's adoption;
(4) Where the juvenile's return home is unlikely within six months, whether the juvenile should remain in the current placement or be placed in another permanent living arrangement and why;

(5) Whether the county department of social services has since the initial permanency plan hearing made reasonable efforts to implement the permanent plan for the juvenile;

(6) Any other criteria the court deems necessary."

SECTION 4. G.S. 7B-908(a) reads as rewritten:

"(a)The purpose of each placement review is to ensure that every reasonable effort is being made to provide for a permanent placement plan for the juvenile who has been placed in the custody of a county director or licensed child-placing agency, which is consistent with the juvenile's best interests. At each review hearing the court may consider information from the department of social services, the licensed child-placing agency, the guardian ad litem, the child, any foster parent, relative, or preadoptive parent providing care for the child, and any other person or agency the court determines is likely to aid in the review. The court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, that the court finds to be relevant, reliable, and necessary to determine the needs of the juvenile and the most appropriate disposition."

SECTION 5. G.S. 7B-2501(a) reads as rewritten:

"(a)The dispositional hearing may be informal, and the court may consider written reports or other evidence concerning the needs of the juvenile. The court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, that the court finds to be relevant, reliable, and necessary to determine the needs of the juvenile and the most appropriate disposition."

SECTION 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15th day of May, 2003.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ Richard T. Morgan
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 5:45 p.m. this 20th day of May, 2003

SESSION LAW 2003-140
HOUSE BILL 1048

AN ACT TO MAKE REVISIONS TO THE JUVENILE CODE AS RECOMMENDED

BY THE NORTH CAROLINA JUVENILE COURT IMPROVEMENT PROJECT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7B-304 is repealed.

SECTION 2. G.S. 7B-808 reads as rewritten:

"**§ 7B-808. Predisposition ~~investigation and~~ report.**

(a) The court shall proceed to the dispositional hearing upon receipt of sufficient social, medical, psychiatric, psychological, and educational information. No predisposition report shall be submitted to or considered by the court prior to the completion of the adjudicatory hearing. The court may proceed with the dispositional hearing without receiving a predisposition report if the court makes a written finding that a report is not necessary.~~The court shall permit the guardian ad litem or juvenile to inspect any predisposition report to be considered by the court in making the disposition unless the court determines that disclosure would seriously harm the juvenile's treatment or would violate a promise of confidentiality. Opportunity to offer evidence in rebuttal shall be afforded the guardian ad litem or juvenile, and the juvenile's parent, guardian, or custodian at the dispositional hearing. The court may order counsel not to disclose parts of the report to the guardian ad litem or juvenile, or the juvenile's parent, guardian, or custodian if the court finds that disclosure would seriously harm the treatment of the juvenile or would violate a promise of confidentiality given to a source of information.~~

(b) The director of the department of social services shall prepare the predisposition report for the court containing the results of any mental health evaluation of a juvenile under G.S. 7B-503, a placement plan, and a treatment plan the director deems appropriate to meet the juvenile's needs.

(c) The chief district court judge may adopt local rules or make an administrative order addressing the sharing of the reports among parties, including an order that prohibits disclosure of the report to the juvenile if the court determines that disclosure would not be in the best interest of the juvenile. Such local rules or administrative order may not:

(1) Prohibit a party entitled by law to receive confidential information from receiving that information.

(2) Allow disclosure of any confidential source protected by statute."

SECTION 3. G.S. 7B-1111(a)(6) reads as rewritten:

"(a)The court may terminate the parental rights upon a finding of one or more of the following:

...

(6) That the parent is incapable of providing for the proper care and supervision of the juvenile, such that the juvenile is a dependent juvenile within the meaning of G.S. 7B-101, and that there is a reasonable probability that such incapability will continue for the foreseeable future. Incapability

under this subdivision may be the result of substance abuse, mental retardation, mental illness, organic brain syndrome, or any other ~~similar~~ cause or ~~condition.~~condition that renders the parent unable or unavailable to parent the juvenile and the parent lacks an appropriate alternative child care arrangement.

...."

SECTION 4. G.S. 7B-1101 reads as rewritten:

"**§ 7B-1101. Jurisdiction.**

The court shall have exclusive original jurisdiction to hear and determine any petition or motion relating to termination of parental rights to any juvenile who resides in, is found in, or is in the legal or actual custody of a county department of social services or licensed child-placing agency in the district at the time of filing of the petition or motion. The court shall have jurisdiction to terminate the parental rights of any parent irrespective of the age of the parent. The parent has the right to counsel and to appointed counsel in cases of indigency unless the parent waives the right. The fees of appointed counsel shall be borne by the Office of Indigent Defense Services. In addition to the right to appointed counsel set forth above, a guardian ad litem shall be appointed in accordance with the provisions of G.S. 1A-1, Rule 17, to represent a parent in the following cases:

(1) Where it is alleged that a parent's rights should be terminated pursuant to ~~G.S. 7B-1111(6); or~~G.S. 7B-1111(6), and the incapability to provide proper care and supervision pursuant to that provision is the result of substance abuse, mental retardation, mental illness, organic brain syndrome, or another similar cause or condition.

(2) Where the parent is under the age of 18 years.

The fees of the guardian ad litem shall be borne by the Office of Indigent Defense Services when the court finds that the respondent is indigent. In other cases the fees of the court-appointed guardian ad litem shall be a proper charge against the respondent if the respondent does not secure private legal counsel. Provided, that before exercising jurisdiction under this Article, the court shall find that it would have jurisdiction to make a child-custody determination under the provisions of G.S. 50A-201, 50A-203, or 50A-204. Provided, further, that the clerk of superior court shall have jurisdiction for adoptions under the provisions of G.S. 48-2-100 and Chapter 48 of the General Statutes generally."

SECTION 5. G.S. 7B-100 is amended by adding the following new subdivision to read:

"This Subchapter shall be interpreted and construed so as to implement the following purposes and policies:

...

(5) To provide standards, consistent with the Adoption and Safe Families Act of 1997, P.L. 105-89, for ensuring that the best interests of the juvenile are of paramount consideration by the court and that when it is not in the juvenile's

best interest to be returned home, the juvenile will be placed in a safe, permanent home within a reasonable amount of time."

SECTION 6. Article 4 of Chapter 7B of the General Statutes is amended by adding a new section to read:

"**§ 7B-408. Copy of petition and notices to guardian ad litem.**

Immediately after a petition has been filed alleging that a juvenile is abused or neglected, the clerk shall provide a copy of the petition and any notices of hearings to the local guardian ad litem office."

SECTION 7. G.S. 7B-1108(b) reads as rewritten:

"(b)If an answer or response denies any material allegation of the petition or motion, the court shall appoint a guardian ad litem for the juvenile to represent the best interests of the juvenile, unless the petition or motion was filed by the guardian ad litem pursuant to G.S. 7B-1103, or a guardian ad litem has already been appointed pursuant to G.S. 7B-601. A licensed attorney shall be appointed to assist those guardians ad litem who are not attorneys licensed to practice in North Carolina. The appointment, duties, and payment of the guardian ad litem shall be the same as in G.S. 7B-601 and ~~G.S. 7B-603.~~G.S. 7B-603, but in no event shall a guardian ad litem who is trained and supervised by the guardian ad litem program be appointed to any case unless the juvenile is or has been the subject of a petition for abuse, neglect, or dependency or with good cause shown the local guardian ad litem program consents to the appointment. The court shall conduct a special hearing after notice of not less than 10 days nor more than 30 days given by the petitioner or movant to the respondent who answered or responded, and the guardian ad litem for the juvenile to determine the issues raised by the petition and answer or motion and response.

Notice of the hearing shall be deemed to have been given upon the depositing thereof in the United States mail, first-class postage prepaid, and addressed to the respondent, and guardian ad litem or their counsel of record, at the addresses appearing in the petition or motion and responsive pleading."

SECTION 8. G.S. 7B-1003 reads as rewritten:

"**§ 7B-1003. Disposition pending appeal.**

Pending disposition of an appeal, the return of the juvenile to the custody of the parent or guardian of the juvenile, with or without conditions, may issue unless the court orders otherwise. When the court has found that a juvenile has suffered physical abuse and that the individual responsible for the abuse has a history of violent behavior, the court shall consider the opinion of the mental health professional who performed the evaluation under G.S. 7B-503(b) before returning the juvenile to the custody of that individual. For compelling reasons which must be stated in writing, the court may enter a temporary order affecting the custody or placement of the juvenile as the court finds to be in the best interests of the juvenile or the State. The provisions of subsections ~~(b), (c), and (d)~~(b) and (c) of G.S. 7B-905 shall apply to any order entered under this section which provides for the placement or continued placement of a juvenile in foster care."

SECTION 9.(a) G.S. 7B-600 is amended by adding a new subsection to read:

"(c) If the court appoints an individual guardian of the person pursuant to this section, the court shall verify that the person being appointed as guardian of the juvenile understands the legal significance of the appointment and will have adequate resources to care appropriately for the juvenile."

SECTION 9.(b) G.S. 7B-903 is amended by adding a new subsection to read:

"(c) If the court determines that the juvenile shall be placed in the custody of an individual other than the parents, the court shall verify that the person receiving custody of the juvenile understands the legal significance of the placement and will have adequate resources to care appropriately for the juvenile."

SECTION 9.(c) G.S. 7B-906 is amended by adding a new subsection to read:

"(g) If the court determines that the juvenile shall be placed in the custody of an individual other than the parents or appoints an individual guardian of the person pursuant to G.S. 7B-600, the court shall verify that the person receiving custody or being appointed as guardian of the juvenile understands the legal significance of the placement or appointment and will have adequate resources to care appropriately for the juvenile."

SECTION 9.(d) G.S. 7B-907 is amended by adding a new subsection to read:

"(f) If the court determines that the juvenile shall be placed in the custody of an individual other than the parents or appoints an individual guardian of the person pursuant to G.S. 7B-600, the court shall verify that the person receiving custody or being appointed as guardian of the juvenile understands the legal significance of the placement or appointment and will have adequate resources to care appropriately for the juvenile."

SECTION 10. G.S. 14-16.10(1) reads as rewritten:

"The following definitions apply in this Article:

(1) Court officer. - Magistrate, clerk of superior court, acting clerk, assistant or deputy clerk, judge, or justice of the General Court of Justice; district attorney, assistant district attorney, or any other attorney designated by the district attorney to act for the State or on behalf of the district attorney; public defender or assistant defender; court reporter; juvenile court counselor as defined in ~~G.S. 7B-1501(18a).~~G.S. 7B-1501(18a); any attorney or other individual employed by or acting on behalf of the department of social services in proceedings pursuant to Subchapter I of Chapter 7B of the General Statutes; any attorney or other individual appointed pursuant to G.S. 7B-601 or G.S. 7B-1108 or employed by the Guardian ad Litem Services Division of the Administrative Office of the Courts."

SECTION 11. Section 10 of this act becomes effective December 1, 2003, and applies to offenses committed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29th day of May, 2003.

s/ Beverly E. Perdue
President of the Senate

s/ Richard T. Morgan
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 11:31 p.m. this 4th day of June, 2003

SESSION LAW 2003-171
HOUSE BILL 925

AN ACT TO ALLOW COUNTY APPEAL IN JUVENILE "PAY ORDER" CASES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7B-2604 reads as rewritten:

"**§ 7B-2604. Proper parties for appeal.**

(a) An appeal may be taken by the juvenile, the juvenile's parent, guardian, or custodian, a county, or the State.

(b) The State's appeal is limited to the following orders in delinquency or undisciplined cases:

(1) An order finding a State statute to be unconstitutional; and

(2) Any order which terminates the prosecution of a petition by upholding the defense of double jeopardy, by holding that a cause of action is not stated under a statute, or by granting a motion to suppress.

(c) A county's appeal is limited to orders in which the county has been ordered to pay for medical, surgical, psychiatric, psychological, or other evaluation or treatment of a juvenile pursuant to G.S. 7B-2502, or other medical, psychiatric, psychological, or other evaluation or treatment of a parent pursuant to G.S. 7B-2702."

SECTION 2. This act becomes effective October 1, 2003, and applies to petitions for appeal filed on or after that date.

In the General Assembly read three times and ratified this the 5th day of June, 2003.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 10:02 a.m. this 12th day of June, 2003

SESSION LAW 2003-196
HOUSE BILL 1063

AN ACT TO REQUIRE OPERATORS OF CHILD CARE FACILITIES TO PROVIDE TO PARENTS THE DIVISION OF CHILD DEVELOPMENT'S SUMMARY OF THE LAWS RELATING TO CHILD CARE FACILITIES, TO REQUIRE THE DIVISION OF CHILD DEVELOPMENT TO INCLUDE IN ITS SUMMARY A STATEMENT ON HOW PARENTS MAY OBTAIN INFORMATION ON INDIVIDUAL CHILD CARE FACILITIES, AND TO REQUIRE CHILD CARE FACILITIES TO POST THE SUMMARY IN A PROMINENT PLACE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 110-102 reads as rewritten:
"**§ 110-102. Information for parents.**
The Secretary shall provide to each operator of a child care facility a summary of this Article for the parents, guardian, or full-time custodian of each child receiving child care in the facility to be distributed by the operator. Operators of child care facilities shall provide a copy of the summary to each child's parent, guardian, or full-time custodian before the child is enrolled in the child care facility. The child's parent, guardian, or full-time custodian shall sign a statement attesting that he or she received a copy of the summary before the child's enrollment. The summary shall include the name and address of the Secretary and the address of the Commission. The summary shall explain how parents may obtain information on individual child care facilities maintained in public files by the Division of Child Development. The summary shall also include a statement regarding the mandatory duty prescribed in G.S. 7B-301 of any person suspecting child abuse or neglect has taken place in child care, or elsewhere, to report to the county Department of Social Services. The statement shall include the definitions of child abuse and neglect described in the Juvenile Code in G.S. 7B-101 and of child abuse described in the Criminal Code in G.S. 14-318.2 and G.S. 14-318.4. The statement shall stress that this reporting law does not require that the person reporting reveal the person's identity.
The summary of this Article shall be posted with the facility's license in accordance with G.S. 110-99. Religious-

sponsored programs operating pursuant to G.S. 110-106 shall post the summary in a prominent place at all times so that it is easily reviewed by parents."

SECTION 2. This act becomes effective October 1, 2003.

In the General Assembly read three times and ratified this the 5th day of June, 2003.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 3:07 p.m. this 12th day of June, 2003

SESSION LAW 2003-192
SENATE BILL 877

AN ACT TO ENHANCE PENALTIES FOR VIOLATIONS OF THE CHILD CARE FACILITIES ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 110-103 reads as rewritten:

"**§ 110-103. Criminal penalty.**

(a) Any person who violates the provisions of G.S. 110-98 ~~through G.S. 110-99 or G.S. 110-102~~ shall be guilty of a Class 1 ~~misdemeanor, except that any person operating a family child care home as defined in G.S. 110-86(3) who violates the provisions of G.S. 110-98 through G.S. 110-99 or G.S. 110-102 shall be guilty of a Class 3 misdemeanor.~~ misdemeanor. Violations of G.S. 110-98(2), 110-99(b), 110-99(c), and 110-102 are exempted from the provisions of this subsection.

(b) It shall be a Class I felony for any person who operates a child care facility to:

(1) Willfully violate the provisions of G.S. 110-99(a), or

(2) Willfully violate the provisions of this Article while providing child care for three or more children, for more than four hours per day on two consecutive days.

(c) Any person who violates the provisions of this Article and, as a result of the violation, causes serious injury to a child attending the child care facility, shall be guilty of a Class H felony.

(d) Any person who violates subsection (a) of this section, and has a prior conviction for violating subsection (a), shall be guilty of a Class H felony."

SECTION 2. G.S. 110-99 reads as rewritten:

"**§ 110-99. ~~Display~~ Possession and display of license.**

(a) It shall be unlawful for a child care facility to operate without a current license authorized for issuance under G.S. 110-88.

~~(a)~~(b) Each child care facility shall display its current license in a prominent place at all times so that the public may be on notice that the facility is licensed and may observe any rating which may appear on the license. Any license issued to a child care facility under this Article shall remain the property of the State and may be removed by persons employed or designated by the Secretary in the event that the license is revoked or suspended, or in the event that the rating is changed.

~~(b)~~(c) A person who provides only drop-in or short-term child care as described in G.S. 110-86(2)(d), excluding drop-in or short-term child care provided in churches, shall notify the Department that the person is providing only drop-in or short-term child care. Any person providing only drop-in or short-term child care as described in G.S. 110-86(2)(d), excluding drop-in or short-term child care provided in churches, shall display in a prominent place at all times a notice that the child care arrangement is not required to be licensed and regulated by the Department and is not licensed and regulated by the Department."

SECTION 3. This act becomes effective December 1, 2003, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 4th day of June, 2003.

s/ Beverly E. Perdue
President of the Senate

s/ Richard T. Morgan
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 2:36 p.m. this 12th day of June, 2003

HOUSE BILL 152
RATIFIED BILL

AN ACT TO REQUIRE CHILD CARE FACILITIES TO DEVELOP AND MAINTAIN A SAFE SLEEP POLICY THAT INCLUDES REQUIRING

CAREGIVERS TO PLACE CHILDREN ON THEIR BACK TO SLEEP TO REDUCE THE RISK OF SUDDEN INFANT DEATH SYNDROME (SIDS), AND TO REQUIRE CERTAIN AGENCIES AND THE MEDICAL COMMUNITY TO COOPERATE IN INVESTIGATING REPORTS OF CHILD ABUSE AND NEGLECT IN CHILD CARE FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 110-91 is amended by adding a new subdivision to read:

"**§ 110-91. Mandatory standards for a license.**

All child care facilities shall comply with all State laws and federal laws and local ordinances that pertain to child health, safety, and welfare. Except as otherwise provided in this Article, the standards in this section shall be complied with by all child care facilities. However, none of the standards in this section apply to the school-age children of the operator of a child care facility but do apply to the preschool-age children of the operator. Children 13 years of age or older may receive child care on a voluntary basis provided all applicable required standards are met. The standards in this section, along with any other applicable State laws and federal laws or local ordinances, shall be the required standards for the issuance of a license by the Secretary under the policies and procedures of the Commission except that the Commission may, in its discretion, adopt less stringent standards for the licensing of facilities which provide care on a temporary, part-time, drop-in, seasonal, after-school or other than a full-time basis.

...

(15) Safe Sleep Policy. - Operators of child care facilities that care for children ages 12 months or younger shall develop and maintain a written safe sleep policy, in accordance with rules adopted by the Commission. The safe sleep policy shall address maintaining a safe sleep environment and shall include the following requirements:

a. A caregiver in a child care facility shall place a child age 12 months or younger on the child's back for sleeping, unless: (i) for a child age 6 months or younger, the operator of the child care facility obtains a written waiver of this requirement from a health care provider as defined in G.S. 58-50-61(a)(8); or (ii) for a child older than 6 months, the operator of the child care facility obtains a written waiver of this requirement from a health care provider as defined in G.S. 58-50-61(a)(8), a parent, or a legal guardian.

b. The operator of the child care facility shall discuss the safe sleep policy with the child's parent or guardian before the child is enrolled in the child care facility. The child's parent or guardian shall sign a statement attesting that the parent or guardian received a copy of the safe sleep

policy and that the policy was discussed with the parent or guardian before the child's enrollment.

c. Any caregiver responsible for the care of children ages 12 months or younger shall receive training in safe sleep practices."

SECTION 2. G.S. 110-105.2(a) reads as rewritten:

"(a)For purposes of this Article, child abuse and neglect, as defined in G.S. 7B-101 and in G.S. 14-318.2 and G.S. 14-318.4, occurring in child care facilities, are violations of the licensure standards and of the licensure law. The Department, local departments of social services, and local law enforcement personnel shall cooperate with the medical community to ensure that reports of child abuse or neglect in child care facilities are properly investigated."

SECTION 3. This act becomes effective December 1, 2003.

In the General Assembly read three times and ratified this the 10th day of July, 2003.

_____

Beverly E. Perdue
President of the Senate

_____

Richard T. Morgan
Speaker of the House of Representatives

_____

Michael F. Easley
Governor

Approved _____.m. this _____ day of _____, 2003

SENATE BILL 226
RATIFIED BILL

AN ACT TO PROHIBIT THE ADMINISTRATION OF MEDICATION TO A CHILD IN A LICENSED OR UNLICENSED CHILD CARE FACILITY WITHOUT PROPER AUTHORIZATION FROM THE CHILD'S PARENT OR GUARDIAN.

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known as "Kaitlyn's Law".

SECTION 2. Article 7 of Chapter 110 of the General Statutes is amended by adding a new section to read:

"**§ 110-102.1A. Unauthorized administration of medication.**

(a) It is unlawful for an employee, owner, household member, volunteer, or operator of a licensed or unlicensed child care facility as defined in G.S. 110-86, including child care facilities operated by public schools and nonpublic schools as defined in G.S. 110-86(2)(f), to willfully administer, without written authorization, prescription or over-the-counter medication to a child attending the child care facility. For the purposes of this section, written authorization shall include the child's name, date or dates for which the authorization is applicable, dosage instructions, and signature of the child's parent or guardian. For the purposes of this section, a child care facility operated by a public school does not include kindergarten through twelfth grade classes.

(b) In the event of an emergency medical condition and the child's parent or guardian is unavailable, it shall not be unlawful to administer medication to a child attending the child care facility without written authorization as required under subsection (a) of this section if the medication is administered with the authorization and in accordance with instructions from a bona fide medical care provider. For purposes of this subsection, the following definitions apply:

(1) A bona fide medical care provider means an individual who is licensed, certified, or otherwise authorized to prescribe the medication.

(2) An emergency medical condition means circumstances where a prudent layperson acting reasonably would have believed that an emergency medical condition existed.

(c) A violation of this section that results in serious injury to the child shall be punished as a Class F felony.

(d) Any other violation of this section where medication is administered willfully shall be punished as a Class A1 misdemeanor."

SECTION 3. This act becomes effective December 1, 2003, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 18th day of July, 2003.

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Beverly E. Perdue
President of the Senate

_____
Richard T. Morgan
Speaker of the House of Representatives

_____
Michael F. Easley
Governor

Approved _____.m. this _____ day of _____, 2003

HOUSE BILL 926
RATIFIED BILL

AN ACT TO ENHANCE THE PENALTY FOR AN ASSAULT IN THE PRESENCE OF A MINOR.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-33 is amended by adding a new subsection to read:

"(d) Any person who, in the course of an assault, assault and battery, or affray, inflicts serious injury upon another person, or uses a deadly weapon, in violation of subdivision (c)(1) of this section, on a person with whom the person has a personal relationship, and in the presence of a minor, shall be placed on supervised probation in addition to any other punishment imposed by the court.

A person committing a second or subsequent violation of this subsection shall be sentenced to an active punishment of no less than 30 days in addition to any other punishment imposed by the court.

The following definitions apply to this subsection:

(1) "Personal relationship" is as defined in G.S. 50B-1(b).

(2) "In the presence of a minor" means that the minor was in a position to have observed the assault.

(3) "Minor" is any person under the age of 18 years who is residing with or is under the care and supervision of, and who has a personal relationship with, the person assaulted or the person committing the assault."

SECTION 2. This act becomes effective December 1, 2003, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 18th day of July, 2003.

_____
Beverly E. Perdue
President of the Senate

_____
Richard T. Morgan
Speaker of the House of Representatives

_____
Michael F. Easley
Governor

Approved _____.m. this _____ day of _____, 2003

SESSION LAW 2003-107
SENATE BILL 630

AN ACT TO CLARIFY THE DEFINITION OF A PROTECTIVE ORDER UNDER THE LAWS RELATING TO DOMESTIC VIOLENCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 50B-1 reads as rewritten:
"**§ 50B-1. Domestic violence; definition.**
(a)Domestic violence means the commission of one or more of the following acts upon an aggrieved party or upon a minor child residing with or in the custody of the aggrieved party by a person with whom the aggrieved party has or has had a personal relationship, but does not include acts of self-defense:
(1) Attempting to cause bodily injury, or intentionally causing bodily injury; or
(2) Placing the aggrieved party or a member of the aggrieved party's family or household in fear of imminent serious bodily injury or continued harassment, as defined in G.S. 14-277.3, that rises to such a level as to inflict substantial emotional distress; or

(3) Committing any act defined in G.S. 14-27.2 through G.S. 14-27.7.

(b) For purposes of this section, the term "personal relationship" means a relationship wherein the parties involved:

(1) Are current or former spouses;

(2) Are persons of opposite sex who live together or have lived together;

(3) Are related as parents and children, including others acting in loco parentis to a minor child, or as grandparents and grandchildren. For purposes of this subdivision, an aggrieved party may not obtain an order of protection against a child or grandchild under the age of 16;

(4) Have a child in common;

(5) Are current or former household members;

(6) Are persons of the opposite sex who are in a dating relationship or have been in a dating relationship. For purposes of this subdivision, a dating relationship is one wherein the parties are romantically involved over time and on a continuous basis during the course of the relationship. A casual acquaintance or ordinary fraternization between persons in a business or social context is not a dating relationship.

(c) As used in this Chapter, the term 'protective order' includes any order entered pursuant to this Chapter upon hearing by the court or consent of the parties."

SECTION 2. G.S. 50B-3 reads as rewritten:

"**§ 50B-3. Relief.**

(a)The court, including magistrates as authorized under G.S. 50B-2(c1), may grant any protective order ~~or approve any consent agreement~~ to bring about a cessation of acts of domestic violence. The orders ~~or agreements~~ may:

(1) Direct a party to refrain from such acts;

(2) Grant to a party possession of the residence or household of the parties and exclude the other party from the residence or household;

(3) Require a party to provide a spouse and his or her children suitable alternate housing;

(4) Award temporary custody of minor children and establish temporary visitation rights;

(5) Order the eviction of a party from the residence or household and assistance to the victim in returning to it;

(6) Order either party to make payments for the support of a minor child as required by law;

(7) Order either party to make payments for the support of a spouse as required by law;

(8) Provide for possession of personal property of the parties;

(9) Order a party to refrain from doing any or all of the following:

a. Threatening, abusing, or following the other party,

b. Harassing the other party, including by telephone, visiting the home or workplace, or

other means, or

c. Otherwise interfering with the other party;

(10) Award attorney's fees to either party;

(11) Prohibit a party from purchasing a firearm for a time fixed in the order;

(12) Order any party the court finds is responsible for acts of domestic violence to attend and complete an abuser treatment program if the program is approved by the Domestic Violence Commission; and

(13) Include any additional prohibitions or requirements the court deems necessary to protect any party or any minor child.

(b) Protective orders entered ~~or consent orders approved~~ pursuant to this Chapter shall be for a fixed period of time not to exceed one year. ~~Upon application of the aggrieved party, a judge may renew the original or any succeeding order for up to one additional year.~~The court may renew a protective order for a fixed period of time not to exceed one year, including an order that previously has been renewed, upon a motion by the aggrieved party filed before the expiration of the current order. The court may renew a protective order for good cause. The commission of an act as defined in G.S. 50B-1(a) by the defendant after entry of the current order is not required for an order to be renewed. Protective orders ~~entered or consent orders approved~~entered, including consent orders, shall not be mutual in nature except where both parties file a claim and the court makes detailed findings of fact indicating that both parties acted as aggressors, that neither party acted primarily in self-defense, and that the right of each party to due process is preserved.

(c) A copy of any order entered and filed under this Article shall be issued to each party. In addition, a copy of the order shall be issued promptly to and retained by the police department of the city of the victim's residence. If the victim does not reside in a city or resides in a city with no police department, copies shall be issued promptly to and retained by the sheriff, and the county police department, if any, of the county in which the victim resides.

(d) The sheriff of the county where a domestic violence order is entered shall provide for prompt entry of the order into the National Crime Information Center registry and shall provide for access of such orders to magistrates on a 24-hour-a-day basis. Modifications, terminations, and dismissals of the order shall also be promptly entered."

SECTION 3. G.S. 50B-4(c) reads as rewritten:

"(c)A valid protective order entered pursuant to this ~~section~~ Chapter shall be enforced by all North Carolina law enforcement agencies without further order of the court."

SECTION 4. G.S. 50B-8 reads as rewritten:

"**§ 50B-8. Effect upon prosecution for violation of § 14-184 or other offense against public morals.**

The granting of a protective order, ~~approval of a consent agreement,~~ prosecution for violation of this Chapter, or the granting of any other relief or the institution of any other enforcement proceedings under this Chapter shall

not be construed to afford a defense to any person or persons charged with fornication and adultery under G.S. 14-184 or charged with any other offense against the public morals; and prosecution, conviction, or prosecution and conviction for violation of any provision of this Chapter shall not be a bar to prosecution for violation of G.S. 14-184 or of any other statute defining an offense or offenses against the public morals."

SECTION 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21st day of May, 2003.

s/ Beverly E. Perdue
President of the Senate

s/ Richard T. Morgan
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 11:17 a.m. this 31st day of May, 2003

SENATE BILL 919
RATIFIED BILL

AN ACT TO ENHANCE THE SAFETY OF VICTIMS IN SERIOUS DOMESTIC VIOLENCE CASES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 50B of the General Statutes is amended by adding a new section to read:

"**§ 50B-3.1. Surrender and disposal of firearms; violations; exemptions.**

(a) Required Surrender of Firearms. - Upon issuance of an emergency or ex parte order pursuant to this Chapter, the court shall order the defendant to surrender to the sheriff all firearms, machine guns, ammunition, permits to purchase firearms, and permits to carry concealed firearms that are in the care, custody, possession, ownership, or control of the defendant if the court finds any of the following factors:

(1) The use or threatened use of a deadly weapon by the defendant or a pattern of prior conduct involving the use or threatened use of violence with a firearm against persons.

(2) Threats to seriously injure or kill the aggrieved party or minor child by the defendant.

(3) Threats to commit suicide by the

defendant.

(4) Serious injuries inflicted upon the aggrieved party or minor child by the defendant.

(b) Ex Parte or Emergency Hearing. - The court shall inquire of the plaintiff, at the ex parte or emergency hearing, the presence of, ownership of, or otherwise access to firearms by the defendant, as well as ammunition, permits to purchase firearms, and permits to carry concealed firearms, and include, whenever possible, identifying information regarding the description, number, and location of firearms, ammunition, and permits in the order.

(c) Ten-Day Hearing. - The court, at the 10-day hearing, shall inquire of the defendant the presence of, ownership of, or otherwise access to firearms by the defendant, as well as ammunition, permits to purchase firearms, and permits to carry concealed firearms, and include, whenever possible, identifying information regarding the description, number, and location of firearms, ammunition, and permits in the order.

(d) Surrender. - Upon service of the order, the defendant shall immediately surrender to the sheriff possession of all firearms, machine guns, ammunition, permits to purchase firearms, and permits to carry concealed firearms that are in the care, custody, possession, ownership, or control of the defendant. In the event that weapons cannot be surrendered at the time the order is served, the defendant shall surrender the firearms, ammunitions, and permits to the sheriff within 24 hours of service at a time and place specified by the sheriff. The sheriff shall store the firearms or contract with a licensed firearms dealer to provide storage.

(1) If the court orders the defendant to surrender firearms, ammunition, and permits, the court shall inform the plaintiff and the defendant of the terms of the protective order and include these terms on the face of the order, including that the defendant is prohibited from owning, possessing, purchasing, or receiving or attempting to own, possess, purchase, or receive a firearm for so long as the protective order or any successive protective order is in effect. The terms of the order shall include instructions as to how the defendant may request retrieval of any firearms, ammunition, and permits surrendered to the sheriff when the protective order is no longer in effect. The terms shall also include notice of the penalty for violation of G.S. 14-269.8.

(2) The sheriff may charge the defendant a reasonable fee for the storage of any firearms and ammunition taken pursuant to a protective order. The fees are payable to the sheriff. The sheriff shall transmit the proceeds of these fees to the county finance officer. The fees shall be used by the sheriff to pay the costs of administering this section and for other law enforcement purposes. The county shall expend the restricted funds for these purposes only. The sheriff shall not release firearms, ammunition, or permits without a court

order granting the release. The defendant must remit all fees owed prior to the authorized return of any firearms, ammunition, or permits. The sheriff shall not incur any civil or criminal liability for alleged damage or deterioration due to storage or transportation of any firearms or ammunition held pursuant to this section.

(e) Retrieval. - If the court does not enter a protective order when the ex parte or emergency order expires, the defendant may retrieve any weapons surrendered to the sheriff unless the court finds that the defendant is precluded from owning or possessing a firearm pursuant to State or federal law.

(f) Motion for Return. - The defendant may request the return of any firearms, ammunition, or permits surrendered by filing a motion with the court at the expiration of the current order and not later than 90 days after the expiration of the current order. Upon receipt of the motion, the court shall schedule a hearing and provide written notice to the plaintiff who shall have the right to appear and be heard and to the sheriff who has control of the firearms, ammunition, or permits. The court shall determine whether the defendant is subject to any State or federal law or court order that precludes the defendant from owning or possessing a firearm. The inquiry shall include:

(1) Whether the protective order has been renewed;

(2) Whether the defendant is subject to any other protective orders; or

(3) Whether the defendant is disqualified from owning or possessing a firearm pursuant to 18 U.S.C. § 922 or any State law.

The court shall deny the return of firearms, ammunition, or permits if the court finds that the defendant is precluded from owning or possessing a firearm pursuant to State or federal law.

(g) Motion for Return by Third-Party Owner. - A third-party owner of firearms, ammunition, or permits who is otherwise eligible to possess such items may file a motion requesting the return to said third party of any such items in the possession of the sheriff seized as a result of the entry of a domestic violence protective order. The motion must be filed not later than 30 days after the seizure of the items by the sheriff. Upon receipt of the third party's motion, the court shall schedule a hearing and provide written notice to all parties and the sheriff. The court shall order return of the items to the third party unless the court determines that the third party is disqualified from owning or possessing said items pursuant to State or federal law. If the court denies the return of said items to the third party, the items shall be disposed of by the sheriff as provided in subsection (h) of this section.

(h) Disposal of Firearms. - If the defendant does not file a motion requesting the return of any firearms, ammunition, or permits surrendered within the time period prescribed by this section, if the court determines that the defendant is precluded from regaining possession of any

firearms, ammunition, or permits surrendered, or if the defendant or third-party owner fails to remit all fees owed for the storage of the firearms or ammunition within 30 days of the entry of the order granting the return of the firearms, ammunition, or permits, the sheriff who has control of the firearms, ammunition, or permits shall give notice to the defendant, and the sheriff shall apply to the court for an order of disposition of the firearms, ammunition, or permits. The judge, after a hearing, may order the disposition of the firearms, ammunition, or permits in one or more of the ways authorized by subdivision (4), (4a), (5), or (6) of G.S. 14-269.1. If a sale by the sheriff does occur, any proceeds from the sale after deducting any costs associated with the sale, and in accordance with all applicable State and federal law, shall be provided to the defendant, if requested by the defendant by motion made before the hearing or at the hearing and if ordered by the judge.

(i) It is unlawful for any person subject to a protective order prohibiting the possession or purchase of firearms to:

(1) Fail to surrender all firearms, ammunition, permits to purchase firearms, and permits to carry concealed firearms to the sheriff as ordered by the court;

(2) Fail to disclose all information pertaining to the possession of firearms, ammunition, and permits to purchase and permits to carry concealed firearms as requested by the court; or

(3) Provide false information to the court pertaining to any of these items.

(j) Violations. - In accordance with G.S. 14-269.8, it is unlawful for any person to own, possess, purchase, or receive or attempt to own, possess, purchase, or receive a firearm, as defined in G.S. 14-409.39(2), machine gun, ammunition, or permits to purchase or carry concealed firearms if ordered by the court for so long as that protective order or any successive protective order entered against that person pursuant to this Chapter is in effect. Any defendant violating the provisions of this section shall be guilty of a Class H felony.

(k) Official Use Exemption. - This section shall not prohibit law enforcement officers and members of any branch of the United States armed forces, not otherwise prohibited under federal law, from possessing or using firearms for official use only.

(l) Nothing in this section is intended to limit the discretion of the court in granting additional relief as provided in other sections of this Chapter."

SECTION 2. G.S. 14-269.8 reads as rewritten:

"**§ 14-269.8. Purchase or possession of firearms by person subject to domestic violence order prohibited.**

(a) ~~It~~ In accordance with G.S. 50B-3.1, it is unlawful for any person to ~~purchase or attempt to purchase any gun, rifle, pistol, or other firearm while there remains in force and effect a domestic violence order issued pursuant to Chapter 50B of the General Statutes,~~

~~prohibiting the person from purchasing a firearm.~~
own, possess, purchase, or receive or attempt to own, possess, purchase, or receive a firearm, as defined in G.S. 14-409.39(2), machine gun, ammunition, or permits to purchase or carry concealed firearms if ordered by the court for so long as that protective order or any successive protective order entered against that person pursuant to Chapter 50B of the General Statutes is in effect.

(b) Any person violating the provisions of this section shall be guilty of a Class H felony."

SECTION 3. This act becomes effective December 1, 2003, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 10th day of July, 2003.

_____
Beverly E. Perdue
President of the Senate

_____
Richard T. Morgan
Speaker of the House of Representatives

_____
Michael F. Easley
Governor

Approved _____.m. this _____ day of _____, 2003

SESSION LAW 2003-220
SENATE BILL 439

AN ACT MAKING OMNIBUS CHANGES TO THE EMPLOYMENT SECURITY LAWS OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 96-14(1) reads as rewritten:
"(1) For the duration of his unemployment beginning with the first day of the first week after the

disqualifying act occurs with respect to which week an individual files a claim for benefits if it is determined by the Commission that such individual is, at the time such claim is filed, unemployed because he left work without good cause attributable to the employer.

Where an individual leaves work due solely to a disability incurred or other health condition, whether or not related to the work, he shall not be disqualified for benefits if the individual shows:

a. That, at the time of leaving, an adequate disability or health ~~condition,~~ condition of the employee, of a minor child who is in the legally recognized custody of the individual, of an aged or disabled parent of the individual, or of a disabled member of the individual's immediate family, either medically diagnosed or otherwise shown by competent evidence, existed to justify the leaving and prevented the employee from doing other alternative work offered by the employer which pays the minimum wage or eighty-five percent (85%) of the individual's regular wage, whichever is greater; and

b. That, at a reasonable time prior to leaving, the individual gave the employer notice of ~~his~~ the disability or health condition.

Where an employee is notified by the employer that such employee will be separated from employment on some future date and the employee leaves work prior to this date because of the impending separation, the employee shall be deemed to have left work voluntarily and the leaving shall be without good cause attributable to the employer. However, if the employee shows to the satisfaction of the Commission that it was impracticable or unduly burdensome for the employee to work until the announced separation date, the permanent disqualification imposed for leaving work without good cause attributable to the employer may be reduced to the greater of four weeks or the period running from the beginning of the week during which the claim for benefits was made until the end of the week of the announced separation date.

An employer's placing an individual on a bona fide disciplinary suspension of 10 or fewer consecutive calendar days shall not constitute good cause for leaving work."

SECTION 2. G.S. 96-9(c)(2) reads as rewritten:

"(2) Charging of benefit payments. -

a. Benefits paid shall be allocated to the account of each base period employer in the proportion that the base period wages paid to an eligible individual in any calendar quarter by each such employer bears to the total wages

paid by all base period employers during the base period, except as hereinafter provided in paragraphs b, c, and d of this subdivision, G.S. 96-9(d)(2)c, and 96-12.01G. The amount so allocated shall be multiplied by one hundred twenty percent (120%) and charged to that employer's account. Benefits paid shall be charged to employers' accounts upon the basis of benefits paid to claimants whose benefit years have expired.

b. Any benefits paid to any claimant under a claim filed for a period occurring after the date of such separations as are set forth in this paragraph and based on wages paid prior to the date of (i) the leaving of work by the claimant without good cause attributable to the employer; (ii) the discharge of claimant for misconduct in connection with his work; (iii) the discharge of the claimant for substantial fault as that term may be defined in G.S. 96-14; (iv) the discharge of the claimant solely for a bona fide inability to do the work for which he was hired but only where the claimant's period of employment was 100 days or less; (v) separations made disqualifying under G.S. 96-14(2b) and (6a); (vi) separation due to leaving for disability or health condition; or (vii) separation of claimant solely as the result of an undue family ~~hardship;~~ hardship shall not be charged to the account of an employer by whom the claimant was employed at the time of such separation; provided, however, said employer promptly furnishes the Commission with such notices regarding any separation of the individual from work as are or may be required by the regulations of the Commission.

No benefit charges shall be made to the account of any employer who has furnished work to an individual who, because of the loss of employment with one or more other employers, becomes eligible for partial benefits while still being furnished work by such employer on substantially the same basis and substantially the same amount as had been made available to such individual during his base period whether the employments were simultaneous or successive; provided, that such employer makes a written request for noncharging of benefits in accordance with Commission regulations and procedures.

No benefit charges shall be made to the account of any employer for benefit years ending on or before June 30, 1992, where benefits were paid as a result of a discharge due directly to the reemployment of a veteran

mandated by the Veteran's Reemployment Rights Law, 38 USCA § 2021, et seq.

No benefit charges shall be made to the account of any employer where benefits are paid as a result of a decision by an Adjudicator, Appeals Referee or the Commission if such decision to pay benefits is ultimately reversed; nor shall any such benefits paid be deemed to constitute an overpayment under G.S. 96-18(g)(2), the provisions thereof notwithstanding. Provided, an overpayment of benefits paid shall be established in order to provide for the waiting period required by G.S. 96-13(c).

c. Any benefits paid to any claimant who is attending a vocational school or training program as provided in G.S. 96-13(a)(3) shall not be charged to the account of the base period employer(s).

d. Any benefits paid to any claimant under the following conditions shall not be charged to the account of the base period employer(s):
   1. The benefits are paid for unemployment due directly to a major natural disaster, and
   2. The President has declared the disaster pursuant to the Disaster Relief Act of 1970, 42 USCA 4401, et seq., and
   3. The benefits are paid to claimants who would have been eligible for disaster unemployment assistance under this Act, if they had not received unemployment insurance benefits with respect to that unemployment.

e. 1. Any benefits paid to any claimant which are based on previously uncovered employment which are reimbursable by the federal government shall not be charged to the experience rating account of any employer.
   2. For purposes of this paragraph previously uncovered employment for which benefits are reimbursable by the federal government means services performed before July 1, 1978, in the case of a week of unemployment beginning before July 1, 1978, or before January 1, 1978, in the case of a week of unemployment beginning after July 1, 1978, and to the extent that assistance under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 (SUA) was not paid to such individuals on the basis of such service."

SECTION 3. G.S. 96-14(1f) reads as rewritten:

"(1f) For the purposes of this Chapter, any claimant's leaving work, or discharge, if the

claimant has been adjudged an aggrieved party as set forth by Chapter 50B of the General Statutes or there is evidence of domestic violence, sexual offense, or stalking, or the claimant has been granted program participant status pursuant to G.S. 15C-4 as the result of domestic violence committed upon the claimant or upon a minor child with or in the custody of the claimant by a person who has or has had a familial relationship with the claimant or minor child, shall constitute good cause for leaving work. Benefits paid on the basis of this section shall be noncharged. Evidence of domestic violence, sexual offense, or stalking may include: (i) law enforcement, court, or federal agency records or files; (ii) documentation from a domestic violence or sexual assault program if the claimant is alleged to be a victim of domestic violence or sexual assault; and (iii) documentation from a religious, medical, or other professional from whom the claimant has sought assistance in dealing with the alleged domestic violence, sexual abuse, or stalking."

SECTION 4. G.S. 96-9(d)(1) reads as rewritten:

"(1) a. Any nonprofit organization which becomes subject to this Chapter on or after January 1, 1972, shall pay contributions under the provisions of this Chapter, unless it elects in accordance with this paragraph to pay the Commission for the Unemployment Insurance Fund an amount equal to the amount of regular benefits and of one half of the extended benefits paid, that is attributable to service in the employ of such nonprofit organization, to individuals for weeks of unemployment which begin within a benefit year established during the effective period of such election.

b. Any nonprofit organization which is or becomes subject to this Chapter on or after January 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than four calendar years beginning with the date on which subjectivity begins by filing a written notice of its election with the Commission not later than 30 days immediately following the date of written notification of the determination of such subjectivity. Provided if notification is not by registered mail, the election may be made on or after January 1, 1972, within six months following the date of the written notification of the determination of such subjectivity. If such election is not made as set forth herein, no election can be made until after four calendar years have elapsed under the contributions method of payment.

c. Any nonprofit organization which makes an election in accordance with subparagraph b of

this paragraph will continue after such four calendar years to be liable for payments in lieu of contributions until it files with the Commission a written notice terminating its election not later than 30 days prior to the next January 1, effective on such January 1. Provided, however, no employer granted or in reimbursement status will be allowed refund of any previous balances used in a transfer to reimbursement status.

d. Any nonprofit organization which has been paying contributions under this Chapter for a period of at least four consecutive calendar years subsequent to January 1, 1972, may elect to change to a reimbursement basis by filing with the Commission not later than 30 days prior to the next January 1 a written notice of election to become liable for payments in lieu of contributions, effective on such January 1. Such election shall not be terminable for a period of four calendar years. In the event of such an election, the account of such employer shall be closed and shall not be used in any future computation of such employer's contribution rate in any manner whatsoever. Provided, however, any nonprofit employer formerly paying contributions who elects and qualifies to change to a reimbursement basis may be relieved of the requirement to pay one percent (1%) of taxable wages as required by G.S. 96-9(d)(2)a to the following extent and upon the following conditions:

1. Any nonprofit employer which has, for the year the election will be effective, an experience rating of 1.7 or less, will have transferred from its experience rating account an amount equal to one percent (1%) of its payroll as reported for each of the four calendar quarters which constitute the election year;
2. Any nonprofit employer which has, for the year the election will be effective, an experience rating of less than 2.7 but more than 1.7, will have transferred from its experience rating account an amount equal to one-half of one percent (.5%) of its payroll as reported for each of the four calendar quarters which constitute the election year. Such employers shall make advance payments to the Commission quarterly, computed at one-half of one percent (.5%) of the taxable wages reported as provided in G.S. 96-9(d)(2)a;
3. Any nonprofit employer which has, for the year the election will become effective, an experience rating of 2.7 or more, upon

electing to change to a reimbursement basis, will meet all the requirements of G.S. 96-9(d)(2)a, including making advance payments computed at one percent (1%) of taxable wages.

e. The Commission, in accordance with such regulations as it may adopt, shall notify each nonprofit organization of any determination which it may make of its status as an employer and of the effective date of any election which it makes and of any termination of such election. Such determinations shall be subject to reconsideration, appeal and review."

SECTION 5. G.S. 96-13(a) is amended by adding a new subdivision to read:

"(6) An unemployed individual shall not be disqualified for eligibility for unemployment compensation benefits solely on the basis that the individual is only available for part-time work. If an individual restricts his or her eligibility to part-time work, the individual may be considered able and available to work if it is determined that all the following conditions exist:

a. The claimant's monetary eligibility is based predominately on wages from part-time work.

b. The claimant is actively seeking and is willing to accept work under essentially the same conditions as existed while the claimant's reported wages were accrued.

c. The claimant imposes no other restriction and is in a labor market in which a reasonable demand exists for part-time service.

This subdivision shall not be construed to amend subdivision (3) of this subsection as it applies to students or G.S. 96-16 as it applies to seasonal workers."

SECTION 6. G.S. 96-14(1d) reads as rewritten:

"(1d) For the purposes of this Chapter, any claimant leaving work to accompany the claimant's spouse to a new place of residence where that spouse has secured work in a location that is too far removed for the claimant reasonably to continue his or her work shall serve a time certain disqualification for benefits for a period of ~~five~~ two weeks beginning the first day of the first week after the disqualifying act occurs with respect to which week an individual files a claim for benefits. Notwithstanding the other provisions of this subdivision, any claimant leaving work to accompany the claimant's spouse to a new place of residence because the spouse has been reassigned from one military assignment to another shall be deemed good cause for leaving work."

SECTION 7. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of June, 2003.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ Richard T. Morgan
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 12:41 p.m. this 19th day of June, 2003