

Juvenile Law Update



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Abuse and Neglect

Things to Remember

1. Make independent findings
2. Keep the focus on the child
3. Order permanent plan only after proper notice
4. Address visitation
5. Before placing child in DSS custody, find the child
 - needs more adequate care or supervision, or
 - needs placement. [per G.S. 7B-903]

Out-of-State Placement

V.A.



1. *Rholetter* – 2004
2. *J.E.* – 2007
3. V.A. – 2012
 - ICPC applies when a child is placed with an out-of-state relative.
 - ICPC Regulation 3 controls.

<http://icpc.aphsa.org/Home/regulations.asp>

Does Regulation 3 Exceed the Scope of the Compact?

G.S. 7B-3800

Article VII. Compact Administrator.

"[E]ach jurisdiction . . . shall designate [a] . . . general coordinator . . . who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this Compact."

Waiving Review Hearings

V.A.

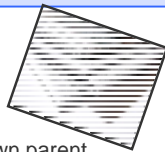
Court may waive review hearings after making ALL of the findings required by G.S. 7B-906(b):

1. child has lived with a relative (or been in custody of other suitable person) at least a year
2. placement is stable and in child's best interest
3. reviews not necessary to protect parties' rights
4. parties know they can request review
5. court has named the relative as guardian or permanent caretaker

TPR: Service by Publication

C.A.C.

1. Published notice must comply with
 - G.S. 1A-1, Rule 4(j1) and
 - G.S. 7B-1106
2. Compare G.S. 7B-1105(d) – unknown parent
3. Issue = personal jurisdiction
Compare *In re Joseph Children*
4. Consider *Barnes v. Wells*, 165 N.C. App 575 (2004)



Provisional Counsel
C.A.C.

1. Publication notice must indicate appointment of provisional counsel.
2. If service is proper and respondent does not appear at the first hearing, the court "shall dismiss the provisional counsel."

[G.S. 7B-1101.1(a)]



TPR Adjudication
J.E.M.

SW testified that allegations in motion were true.

1. Neglect – past neglect & likelihood of future neglect
2. Non-support – some work, paid 0 support

Dissent: thought the hearing was inadequate



Most Frequent Reasons for Reversal
2011-2012

1. Insufficient findings of fact
dependency adjudications
2. Visitation provisions
3. Findings not supported by evidence
4. Improper waiver of review hearings
5. Improper action upon remand
6. Failure to show that TPR dispositional factors considered
7. Waivers and release of counsel

2012 Legislation



S.L. 2012-153

New form of abuse:

A juvenile whose parent, guardian, custodian, or caretaker commits, permits, or encourages the commission of the unlawful sale, surrender, or purchase of a minor, as provided in G.S. 14-43.14.


Effective December 1, 2012, and applies to offenses committed on or after that date.

New Ground for Terminating Parental Rights

S.L. 2012-40

"The parent has been convicted of a sexually related offense under Chapter 14 of the General Statutes that resulted in the conception of the juvenile."


Effective October 1, 2012.



**Applicability
of New Ground for Termination**

What if:

1. offense occurs in November 2012;
respondent convicted in October 2013?
2. offense occurred in 2011;
respondent convicted in December 2012?
3. offense occurred in 2007;
respondent convicted in 2009?



Applicability

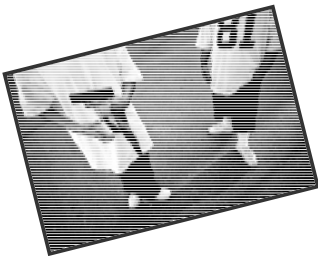
1. Compare this law to new form of abuse and to G.S. 14-27.2, -27.2A, and -27.3
2. *Ex post facto*?
3. Legislative intent?



Fairness – Substantive Due Process

- Does the law properly balance the interests of the parent, the child, and the state?
- Is it drawn sufficiently narrowly?

Delinquent and Undisciplined Juveniles



Motion to Suppress Juvenile's Statement
N.J.

Court may deny a motion to suppress only:

1. after making findings of fact and conclusions of law; or
2. if the court states its rationale and there are no material conflicts in the evidence at the suppression hearing.



Accepting Juvenile's Admission
N.J.

1. The court must address the juvenile personally pursuant to G.S. 7B-2407.
2. Asking the juvenile whether he has discussed the most restrictive disposition with his attorney is not sufficient.



Most Frequent Reasons for Reversal
2011-2012

1. Insufficient findings at disposition
2. Suppression motions
3. Insufficient evidence
4. Accepting admissions
5. Improper commitment orders

2012 Legislation



The legislature gives
and
The legislature takes away

Undisciplined Juveniles

S.L. 2012-172 (effective Oct. 1, 2012)


1. Maximum secure custody is **24 hours**, excluding weekends and state holidays.
72 hours is not an option.
2. Options if juvenile violates protective supervision:
 - continue or modify terms,
 - order any disposition authorized for undisciplined juveniles, or
 - extend protective supervision for up to 3 months.**Contempt and detention are not options.**



Chief Juvenile Court Counselors

S.L. 2012-83 (effective June 26, 2012)

Chief district court judge no longer has the role of recommending a chief juvenile court counselor.



Intake Procedures

S.L. 2012-172 (effective July 12, 2012)

Chief district court judge is no longer required to establish, by administrative order, procedures for receiving complaints and drawing petitions. [G.S. 7B-1803(a)]

