DSS ADMINISTRATIVE LETTER
CHILD WELFARE SERVICES CWS-AL-04-15

TO:	**COUNTY DIRECTORS OF SOCIAL SERVICES**
ATTENTION:	**ALL CHILD WELFARE STAFF AND CHILD WELFARE AGENCY ATTORNEYS**
DATE:	**OCTOBER 1, 2015**
SUBJECT:	**STATE CHILD WELFARE LEGISLATIVE CHANGES FOR 2015 REGULAR (LONG) SESSION AND CERTAIN FEDERAL CHILD WELFARE LEGISLATION**
EFFECTIVE:	**AS INDIVIDUALLY SIGNED INTO LAW OR EFFECTIVE DATES**

I. Intent and Background

The purpose of this Administrative Letter is to provide information regarding legislative changes during the 2015 North Carolina General Assembly's long session that may impact child welfare services. Additionally, this letter provides information regarding two pieces of Federal legislation signed into law in September 2014 and May 2015. Please discuss any new or revised legislation in its entirety with your agency's attorney(s) or legal staff to understand the impact that each law may have within your county. These Session Laws and all other state statutes can be accessed through the North Carolina General Assembly website (http://www.ncleg.net/).

The Division will continue to evaluate the implications that these legislative changes may have on policy. Any required changes will be included in the upcoming manual revisions or communicated through regular correspondence.

II. State Legislative Summary

Session Law 2015-136 (H669) – Changes to Juvenile Law Pertaining to Abuse, Neglect, and Dependency

Effective date: There are two effective dates for this act: Section 3, effective July 2, 2015; all other sections are effective for all actions filed or pending on or after October 1, 2015.

Section 1. - G.S. § 7B-101 - amended by repealing (2) "aggravating circumstances;" which are now incorporated in the new G.S. § 7B-907(c)(1), and adding the following definitions:

> (8a) Department – Each county's child welfare agency. Unless the context clearly implies otherwise, when used in this Subchapter, "department" or "department of social services" shall refer to the county agency providing child welfare services, regardless of the name of the agency or whether the county has consolidated human services, pursuant to G.S. 153A-77.
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> (15a) Nonrelative kin – An individual having a substantial relationship with the juvenile. In case of a juvenile member of a State-recognized tribe as set forth in G.S. 143B-407(a), nonrelative kin also includes any member of a State-recognized tribe or member of a federally recognized tribe, whether or not there is a substantial relationship with the juvenile.

Section 2. – G.S. § 7B-401.1 – creates G.S. § 7B-401.1(e), which states that Foster Parents, as defined in G.S. § 131D-10.2(9a), are not parties to abuse, neglect, and/or dependency proceedings and do not have the right to intervene unless they meet the criteria for standing to file a petition to terminate the parent's rights pursuant to G.S. § 7B-1103.

Nonsecure Custody and Parents, Relatives, or Others with Custody of a Juvenile's Sibling

Section 3. – G.S. § 7B-502 – amended to explicitly authorize an *ex parte* initial nonsecure custody order. If the petition is being filed pursuant to G.S. § 7B-404 (during regular court business hours), the department must first notify by telephone the respondent's attorney (or an employee of the attorney's office if the attorney is unavailable) that the agency will be seeking a nonsecure custody order. A respondent is represented by an attorney if: the respondent has an attorney in another juvenile proceeding within the same county, or the agency has received written notification that the respondent has an attorney for the juvenile matter. Notice need not be provided to a provisional counsel who is appointed to the respondent upon the filing of the petition in that juvenile matter (G.S. § 7B-602).

Section 4. - G.S. § 7B-505 – amended by adding that courts shall order the department of social services to make diligent efforts to notify relatives and any other persons with legal custody of the juvenile's siblings that the juvenile is in nonsecure custody and of any hearings scheduled to occur pursuant to G.S. § 7B-506, unless the court finds the notification would be contrary to the juvenile's best interest.

Consent to Treatment for Juvenile's in the Legal Custody of a County Department of Social Services

Section 5. – G.S. § 7B-505.1 – created to address obtaining and consenting to treatment for juveniles who are placed in nonsecure custody with the department. A department may consent to routine and emergency medical care and, in exigent circumstances, testing and evaluation of the child in its custody. At initial nonsecure custody, a department may consent to a Child Medical Evaluation (CME) only after the court authorizes it to do so upon making written findings that demonstrate a compelling interest for not waiting until the continued nonsecure custody hearing. The department must obtain parental consent or consent from the child's guardian or custodian for all other treatment for the child unless the court orders, after a hearing, that the department may consent.

The court must make findings by clear and convincing evidence that the care, treatment, or evaluation requested is in the best interests of the child. Disclosure of the results of a CME is governed by G.S. § 7B-700 (information sharing and discovery). A department may share confidential information with a health care provider unless disclosure is prohibited by federal law. A health care provider must disclose confidential information to a department with custody of the child and the child's parent, guardian, or custodian, unless the disclosure is prohibited by federal law or a court order.

Care and treatment covered by G.S. § 7B-505.1(c), requiring consent or court findings after a hearing, includes:

- Prescriptions for psychotropic medications
- Participation in clinical trials
- Immunizations when it is known that the parent has a bona fide religious objection to the standard schedule of immunizations
- Child Medical Evaluations not governed by subsection (b) of this section, comprehensive clinical assessments, or other mental health evaluations
- Surgical, medical, or dental procedures or tests that require informed consent
- Psychiatric, psychological, or mental health care or treatment that requires informed consent

For any care or treatment provided, the director shall make reasonable efforts to promptly notify the parent, guardian, or custodian that care or treatment will be or has been provided and give the parent or guardian frequent status reports on the juvenile's treatment, the care provided and, upon request, make available results or records unless disclosure is prohibited by G.S. § 122C-53(d).

Continued Nonsecure Custody Hearings and Nonsecure Custody Orders

Section 6. – G.S. § 7B-506(h)(2a) – amended by adding, at each hearing to determine the need for continued nonsecure custody, the court may consider whether persons with legal custody of a sibling of

the juvenile is willing and able to provide proper care and supervision of the juvenile in a safe home and may order placement of the juvenile with persons with legal custody of a sibling of the juvenile if the court finds the placement is in the juvenile's vest interests.

Section 7. – G.S. § 7B-507 – amended by repealing all subsections but (a). It applies solely to nonsecure custody orders where custody is placed with a department. Language addressing whether reunification efforts are required or shall cease are no longer included in a nonsecure custody order.

Section 8. – G.S. § 7B-800.1(a)(4) – amended by adding that, prior to the adjudicatory hearing, the court shall consider whether relatives, parents, or other persons with legal custody of a sibling of the juvenile have been identified and notified by the county department of social services as potential resources for placement or support of the juvenile.

Dispositional Hearings

Section 9. - G.S. § 7B-901 – creates subsections to G.S. § 7B-901 and amends G.S. § 7B-901 to specifically apply only to the first dispositional hearing after adjudication. Subsection (c) requires the court order that reunification efforts are not required when the court makes written findings of any of the enumerated criteria set forth in G.S. § 7B-901(c)(1)-(3). This is the same criteria found at G.S. § 7B-507(b), which has been repealed by Section 7. New criteria to determine reunification efforts are not required include:

- Chronic emotional abuse; and,
- Chronic or toxic exposure to alcohol or controlled substances that causes the child to be impaired or addicted.

Section 10. – G.S. § 7B-903 – amended by adding the appointment of a guardian, pursuant to G.S. § 7B-600, for the child as a dispositional option and removing language regarding medical care. This section also reformats G.S. § 7B-903. and, requires that, when ordering a child into out-of-home care, the court must make specific findings that continuing or returning to the child's home is contrary to the child's health and safety and whether the department has made reasonable efforts to prevent the need for the child's placement.

Section 11. – G.S. § 7B 903.1(e) – created to apply G.S. 7B-505.1 to a department who has a child in its custody at disposition and after adjudication as laid out above in Section 5.

Section 13. – G.S. § 7B-906.1(g) - added that, at the conclusion of each permanency planning hearing, the judge must inform the parent, guardian, or custodian that failure or refusal to cooperate with the plan may result in an order that reunification efforts may cease.

Section 14. – G.S. § 7B-906.2 – creates a requirement that the court adopt one or more concurrent permanent plans that are in the best interests of the child. Although "one or more" is stated in subsection (a), G.S. 7B-906.2(b) and (c) require the court to identify primary and secondary permanent plans (at least two plans). One of those plans must be reunification unless the court finds reunification was never required (see G.S. 7B-901(c)) or makes written findings that reunification efforts clearly would be unsuccessful or inconsistent with the child's health and safety.

Section 15. – G.S. § 7B-912 – created to provide that, at every permanency planning hearing for a juvenile in the custody of a county department of social services who has attained the age of 14 years or older, the court shall inquire and make written findings regarding each of the following:

- Services provided to assist the juvenile in making a transition to adulthood;
- The steps the county department of social services is taking to ensure that the foster family or other licensed placement provider follows the reasonable and prudent parent standard as provided in G.S. § 131D-10.2A; and,
- Whether the juvenile has regular opportunities to engage in age-appropriate or developmentally appropriate activities.

In addition, subsection (b) adds that, at or before the last scheduled permanency planning hearing, but at least 90 days before the juvenile attains 18 years of age, the court shall inquire as to whether the juvenile has a copy of the juvenile's birth certificate, Social Security card, health insurance information, driver's license or other identification card, and any educational or medical records the juvenile requests and determine the person or entity that should assist the juvenile in obtaining these documents before the juvenile attains 18 years of age.

The new G.S. § 7B-912(c) sets out the parameters for the permanency plan of Another Planned Permanent Living Arrangement (APPLA). If the court finds each of the following conditions applies, the court shall approve APPLA as defined by P.L. 113-183, as the juvenile's primary permanent plan: the juvenile is 16 or 17 years old; the county department of social services has made diligent efforts to place the juvenile permanently with a parent or relative or in a guardianship or adoptive placement; compelling reasons exist the it is not in the best interest of the juvenile to be placed permanently with a parent or relative or in a guardianship or adoptive placement; and APPLA is the best permanency plan for the juvenile. If the court approves APPLA as the permanent plan, the court shall, after questioning the juvenile, make written findings addressing the juvenile's desired permanency outcome. This will require that youth for whom the plan of AAPLA is recommended will need to be available for questioning by the court.

Section 16. – G.S. § 7B-1001(a)(5) – amended by continuing to allow the preservation of an order that eliminates reunification as a permanent plan (now under G.S. § 7B-906.2) for a subsequent appeal. When reunification remains a primary or secondary plan as contemplated in the new G.S. § 7B-906.2, the appellate issue involved with ceasing or eliminating reunification efforts will not exist. When reunification efforts are not required pursuant to the new G.S. § 901(c), the finding will be made in the dispositional order, which is appealable under G.S. § 7B-1001(a)(3).

Session Law 2015-43 (H82) – Execution Non-Secure Custody Order

Effective date: Effective for all nonsecure custody orders issued on or after June 2, 2015.

Section 1. G.S. § 7B-504 – amended to allow the court to authorize law enforcement to enter private property to take physical custody of a child. The court must first find that a less intrusive remedy is not available, which the court may determine on the basis of the verified petition and request for nonsecure custody or the testimony of the county department of social service's director or authorized representative. If the court finds there are exigent circumstances the court may authorize forcible entry at any hour.

Session Law 2015-135 (S423) – Foster Care Family Act

Effective date: Parts II and IV become effective October 1, 2015 and are made to comply with changes to federal law made by the Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183). Some of the amendments also appear in Session Law 2015-136 (H669).

Reasonable and Prudent Parent Standard and Normalcy for Children in Foster Care

Section 2.1 – G.S. § 131D-10.2A – creates the "reasonable and prudent parent standard" to be used for foster children. This statute brings State law in line with Federal law established by P.L. 113-183. The reasonable and prudent parent standard is characterized by careful and sensible parental decisions that are reasonably intended to maintain the health, safety, and best interests of the child while at the same time encouraging the emotional and developmental growth of the child that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the State to participate in extracurricular, enrichment, cultural, and social activities. The goals of the reasonable and prudent parent standard are to provide children and youth in foster care with access to normal childhood experiences and empower the placement provider to engage in activities which promote well-being. Unless there is a court order to the contrary, a foster child's caregiver may allow a

child to engage in normal childhood activities such as a sleepover outside of the caregiver's residence for periods of 24 to 72 hours, without first obtaining a court order or departmental approval.

This statute also establishes that residential child care institutions shall designate an on-site official who is authorized to apply the reasonable and prudent parent standard pursuant to this section. Under this statute a caregiver is not liable for a child's injuries that result from the caregiver deciding in accordance with the standard unless those injuries were caused by gross negligence, intentional wrongdoing, willful and wonton misconduct, or operation of a motor vehicle. A caregiver may be liable for an act or omission of the child if the caregiver failed to act in accordance with the standard.

Notification to Custodial Parents, Custodial Relatives, Others with Custody of a Juvenile's Sibling

Sections 2.2, 2.3, and 2.4 – G.S. § 7B-505(b), -800.1(a)(4), and 901 – amended to include custodial parents and custodial relatives of a juvenile's siblings among persons who the court shall order the department of social services to make diligent efforts to notify when a juvenile enters nonsecure custody and to determine if these persons are a resource for placement and/or support of the juvenile.

Section 2.5 – G.S. § 7B-903.1 – amended to allow, except as prohibited by federal law, the director of the county department of social services with custody of a juvenile to make decisions about matters not addressed herein that are generally made by a juvenile's custodian, including, but not limited to, educational decisions and consenting to the sharing of the juvenile's information. The court may delegate all or part of this authority to the juvenile's parent, foster parent, or another individual. In addition, when a juvenile is in the custody or placement responsibility of a county department of social services, the placement provider may, in accordance with G.S. 131D-10.2A, provide or withhold permission, without prior approval of the court or county department of social services, to allow a juvenile to participate in normal childhood activities. If such authorization is not in the juvenile's best interest, the court shall set out alternative parameters for approving normal childhood activities. The department shall not allow unsupervised visitation with or return of physical custody of the juvenile to the parent, guardian, custodian, or caretaker without a hearing at which the court finds that the juvenile will receive proper care and supervision in a safe home. When a juvenile's placement changes, the department shall give the juvenile's guardian ad litem notice of its intention unless precluded by emergency circumstances. Where emergency circumstances exist, the department shall notify the guardian ad litem or the attorney advocate within 72 hours of the placement change, unless local rules require notification within a shorter time period. These revisions are also included in Session Law 2015-136 Changes to Juvenile Law Pertaining to Abuse, Neglect, and Dependency.

Permanency Planning Requirements and Changes to Another Planned Permanent Living Arrangement (APPLA)

Section 2.6 – G.S. § 7B-912 – referenced and described above within Session Law 2015-136 (H669).

Liability Insurance for Foster Parents

Section 3.1 – G.S. § 58-36-44 – establishes that the Rate Bureau is required to develop an optional liability insurance policy for licensed foster parents for acts or omissions of the foster parent to be filed with the Commission for approval no later than May 1, 2016.

Driving Privileges

Section 4.1 , 4.2, 4.3 – G.S. § 48A-4, 20-a(i), and 20-309 – created to allow a 16 or 17 year old who is in the legal custody of a county department to contract for his or her own car insurance, with the consent of the court. The juvenile is responsible for payment of the premium and any damages caused by the juvenile's negligent operation of the vehicle.

Section 4.2 – G.S. § 20-a(i) – amended to allow a juvenile in the legal custody of a county department of social services to have an application for a driver's permit or license be signed by the juvenile and the juvenile's GAL, county department director or designee, or the court.

Section 4.3 – G.S. § 20-309 – amended by adding subsection (a2), which allows a foster parent to exclude from endorsement of his or her insurance a foster child residing in the household upon proof of the foster youth's own insurance.

Session Law 2015-241 (H97) – 2015 Appropriations Act

Fostering Success/Extend Foster Care to 21 Years of Age

Section 12C.9.(a) – G.S. § 108A-48 – amended by adding section (c), which states that county departments of social services may continue to provide benefits pursuant to this section to an individual who has attained the age of 18 years and chosen to continue receiving foster care services until reaching 21 years of age if the individual is:

- completing secondary education or a program leading to an equivalent credential;
- enrolled in an institution that provides postsecondary or vocational education:
- participating in a program or activity designed to promote, or remove barriers to employment;
- employed for at least 80 hours per month; or,
- is incapable of completing the educational or employment requirements of this subsection due to a medical condition or disability.

In addition this statute has also been amended by adding section (d), which provides that young people receiving benefits under (c) may reside outside a foster care facility in a college or university dormitory or other semi-supervised housing arrangement approved by the director of the county department of social services and with monthly supervision and oversight by the county department of social services.

Section 12C.9.(b) – G.S. § 108A-49 – amended by adding a new subsection (c) which provides, if all other eligibility criteria are met, adoption assistance payments may continue until the beneficiary reaches the age of 21 if the beneficiary was adopted after reaching the age of 16, but prior to reaching the age of 18.

Section 12C.9.(c) – G.S. § 108A-49.1 – amended to account for the continuation of benefits to an individual who has attained the age of 18 years and chosen to continue receiving foster care services until reaching 21 years of age, specifically to provide foster care and adoption assistance rates under (a)(3) and (b)(3) to children at least 13 but less than 21 years of age.

Section 12C.9.(e) – G.S. § 131D-10.2B – subsections (a) and (b) were created to provide that a child placed in foster care who has attained the age of 18 years may continue receiving foster care services until reaching 21 years of age as provided by law. A child who initially chooses to opt out of foster care upon attaining the age of 18 years may opt to receive foster care services at a later date until reaching 21 years if age. In addition, a child who has attained the age of 18 years and chosen to continue receiving foster care services until reaching 21 years of age may continue to receive benefits pursuant to Part 4 of Article 2 of Chapter 108A of the General Statutes upon meeting the requirements under G.S. 108A-48(c).

Section 12C.9.(g) – G.S. § 7B-910.1 – created to require the court to review the placement of a young adult in foster care authorized by G.S. § 108A-48(c) when the director of social services and a young adult who was in foster care as a juvenile enter into a voluntary placement agreement. The review hearing shall be held not more than 90 days from the date the agreement was executed, and the court shall make findings from the evidence presented at this review hearing with regard the following:

- Whether the placement is in the best interest of the young adult in foster care;
- The services that have been or should be provided to the young adult in foster care to improve placement; and,

- The services that have been or should be provided to the young adult in foster care to further the young adult's educational or vocational ambitions, if relevant.

If the young adult in foster care or the director of social services makes a written request, the court may schedule additional hearings to monitor the placement and progress toward the young adult's educational or vocational goals. No guardian ad litem is appointed to represent young adults making these voluntary agreements either in the initial or any subsequent hearing. Notification of the initial and any subsequent hearings shall be provided to the young adult and the director of social services in writing at least 15 days prior to the date of the hearing.

Section 12C.9.(h) - G.S. 7B-401.1 - amended by adding a new subsection to read:
"(i) Young Adult in Foster Care. – In proceedings held pursuant to G.S. 7B-910.1, the young adult in foster care and the director of the department of social services are parties."

Section 12C.9.(i) - The Department of Health and Human Services, Division of Social Services (Division), shall develop a plan for the expansion of foster care services for individuals who have attained the age of 18 years and opt to continue receiving foster care services until reaching 21 years of age. The Division shall report on the plan to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division by March 1, 2016. The Division shall report on the plan as implemented to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division by March 1, 2017.

Section 12C.9.(j) - No later than 60 days after the Department implements the plan for the expansion of foster care services as required under subsection (i) of this section, the Division shall submit a State plan amendment to the U.S. Department of Health and Human Services Administration for Children and Families to make federal payments for foster care and adoption assistance, as applicable, under Title IV-E, available to a person meeting the requirements of G.S. 108A-48(c), as enacted in subsection (a) of this section.

Section 12C.9.(k) - Any agreement entered into pursuant to G.S. 108A-48(b) prior to the effective date of subsection (a) of this section shall remain in full force and effect, and no provision of this section shall be construed to affect or alter such an agreement.

Section 12C.9.(l) - Subsection (a) of this section becomes effective January 1, 2017, and applies to agreements entered into on or after that date. Subsections (i), (j), and (k) of this section are effective when they become law. The remainder of this section becomes effective January 1, 2017.

Session Law 2015-123 (S578) – Transition Certain Abuse Investigations to Division of Child Development and Early Education

Effective date: This act becomes effective January 1, 2016 and applies to all actions filed or pending on or after that date.

This law removes investigations of suspected child abuse and neglect believed to have occurred in child care institutions from a county department of social services and to the Division of Child Development and Early Education (DCDEE) at the NC Department of Health and Human Services (DHHS) and makes changes to both G.S. Chapters 7B and 110. Sections 1 through 5 repeal any language that references child care facilities in G.S. Chapter 7B, including removing from the definition of "caretaker" any person who has responsibility for the care of a child in a child care facility. Section 6 provides DCDEE with the authority to inspect child care facilities without notice when it determines there is cause to believe that an emergency situation exists or there is a complaint alleging a violation of licensure law. Section 7 provides that, if a report received pursuant to N.C.G.S. § 7B-301 (duty to report evidence of abuse and neglect to law enforcements, DHHS, and the SBI) involves abuse or neglect of a juvenile or child maltreatment, as defined in N.C.G.S. § 110-105.3, in child care, the director shall notify DCDEE within 24 hours or on the next working day of the receipt of the report. In other words, if it is determined during the screening process that a county child welfare agency is receiving a report of suspected child maltreatment pertaining to a caregiver in a child care facility, the

child protective services intake worker shall continue to complete the intake report tool and may screen it out, then the director shall notify DCDEE.

Section 8. – G.S. § 110-105.4 – creates the requirement that any person who has cause to suspect a child has been maltreated or has died in a child care facility to make a report to the North Carolina Department of Health and Human Services, Division of Child Development and Early Education (DCDEE). The report should include the name and address of the child care facility, the name and age of the child, the names of the child's parents, guardians, or caretakers, the child's present whereabouts, and the nature and extent of the child's injuries or conditions caused by the maltreatment. The report may be anonymous. If sexual abuse is alleged or discovered during the assessment, NC DHHS must notify the State Bureau of Investigation (SBI). DCDEE must make a report to the county department if it determines a report is required by G.S. § 7B-301. This section also creates G.S. § 110-105.3, which authorizes investigations of child maltreatment in child care facilities to DCDEE but requires cooperation with local departments of social services, local law enforcement, and medical personnel to ensure reports are properly investigated. DCDEE must contact local law enforcement to investigation reports meeting criteria for misdemeanor or felony child abuse. During an investigation, DCDEE may issue a protection plan and/or immediate corrective action and seek additional administrative remedies.

In addition, Section 8 creates G.S. 110-105.5, which requires DCDEE to establish and maintain a Child Maltreatment Registry (CMR). The CMR will contain the names of caregivers confirmed by DCDEE to have maltreated a child in the child care facility, after the individual has a right to challenge his or her placement on the registry through an administrative hearing. A licensed or religious-sponsored child care facility may access the CMR to screen potential applicants. No individual on the CMR may be a caregiver in a licensed or religious-sponsored child care facility. DCDEE may provide information from the CMR to child placing agencies, foster care providers, and adoption service providers when determining an individual's fitness to care for or adopt a child.

Confidentiality provisions apply with enumerated exceptions. The new G.S. 110-105.6 establishes penalties for child maltreatment.

For more information regarding this transition, please see Administrative Letter CWS-AL-02-2015 (http://info.dhhs.state.nc.us/olm/manuals/dss/csm-05/man/CWS-AL-02-2015.htm#P6_19).

III. Federal Legislative Summary

New Federal Laws Related to Human Trafficking and Child Welfare

Human trafficking is a rapidly growing criminal industry and, in recent years, has become the focus of many public and private agencies to determine how best to address the issue and serve persons who have been trafficked, particularly vulnerable children. During the April 2015 MRS web/phone conferences a presentation was given on Project NO REST (North Carolina Organizing and Responding to the Exploitation and Sex Trafficking of Children), a five year project of the University of North Carolina at Chapel Hill (UNC) funded by the Children's Bureau to address trafficking of children in the child welfare system. The Division, as well as numerous other state and local organizations, are collaborating with UNC and Project NO REST on an ongoing basis to plan for a statewide response to the trafficking of children and youth in North Carolina.

The President signed Public Law (P.L.) 113-183, the Preventing Sex Trafficking and Strengthening Families Act of 2014 into law on September 29, 2014.The purpose of this legislation is to identify and protect children and youth at risk of sex trafficking, improve opportunities for children in foster care and supporting permanency, improving adoption incentive payments, and extending family connection grants. The President signed Public Law (P.L.) 114-22, the Justice for Victims of Trafficking Act of 2015, into law on May 29, 2015. The law amends state grant programs under Title IV-B and IV-E of the Social Security Act to add new state plan requirements and modifies the definition of child abuse and neglect, in addition to making amendments to other statutes. Both P.L. 113-183 and P.L. 114-22 provide an additional opportunity for North Carolina's child welfare system to update policy and practice

to address the exploitation of North Carolina's children and improve opportunities for children and youth in foster care.

Public Law 113-183 – Preventing Sex Trafficking and Strengthening Families Act

Effective: P.L. 113-183 was enacted on September 29, 2014. Effective dates for individual provisions of the law vary between immediately upon enactment to within the first 3 years of enactment, as described below.

Provisions Effective within 1 Year of Enactment

The law modifies existing and/or adds new title IV-E plan requirements that apply to state and tribal title IV-E agencies as follows:

- Title IV-E agencies must demonstrate that they have consulted with other specified agencies having experience with at risk youth and develop policies and procedures (including caseworker training) to identify, document, and determine appropriate services for any child or youth in the placement, care, or supervision of the title IV-E agency who is at-risk of becoming a sex trafficking victim or who is a sex trafficking victim including those not removed from the home, those who have run away from foster care and under age 18 or such higher age as elected by the State.
- Title IV-E agencies must develop and implement protocols to locate children missing from foster care, determine the factors that lead to the child's being absent from foster care and, to the extent possible, address those factors in subsequent placements, determine the child's experiences while absent from care, including whether the child is a sex trafficking victim, and report related information as required by the U.S. Department of Health and Human Services (HHS).

Provisions Effective within 2 Years of Enactment

The law modified existing and/or added new title IV-E plan requirements that apply to state and tribal title IV-E agencies as follows:

- Within 2 years of enactment the title IV-E agencies must demonstrate that they are implementing these policies and procedures.
- Within 2 years if enactment, title IV-E agencies must report immediately (no later than 24 hours) to law enforcement children or youth who the agency identifies as being a sex trafficking victim.
- Within 2 years of enactment, title IV-E agencies must develop and implement protocols to report children and youth immediately (no later than 24 hours after receiving information) on missing or abducted children to law enforcement for entry into the National Crime Information Center (NCIC) database, and to the National Center for Missing and Exploited Children.

Provisions Effective within 3 or more Years of Enactment

The law modified existing and/or added new title IV-E plan requirements that apply to state and tribal title IV-E agencies as follows:

- Within 3 years of enactment and annually thereafter, report to HHS the total number of children and youth who are sex trafficking victims.

Public Law 114-22 – Justice for Victims of Trafficking Act

Effective: Two years after the date of enactment (May 29, 2017)

The President signed Public Law (P.L.) 114-22, the Justice for Victims of Trafficking Act of 2015, into law on May 29, 2015. The law amends the Child Abuse Prevention and Treatment Act (CAPTA) state grant program to add new state plan requirements and modifies the definition of child abuse and neglect, in addition to making amendments to other statutes.

Specifically, the amendments to CAPTA include:

- Requires states to describe in their CAPTA state plan that they have:
  - Provisions and procedures regarding identifying and assessing all reports involving known or suspected child sex trafficking victims.
  - Provisions and procedures for training child welfare workers about identifying, assessing and providing comprehensive services to children who are sex trafficking victims, including efforts to coordinate with state law enforcement, juvenile justice, and social service agencies such as runaway and homeless shelters.
- Requires state to collect and report the number of children who are victims of sex trafficking as part of the National Child Abuse and Neglect Data System (NCANDS).
- Requires states to consider any child who is identified by a state as a victim of sex trafficking or severe forms of trafficking (as defined by the Trafficking Victims Protection Act of 2000), including labor trafficking, as a victim of "child abuse and neglect" and "sexual abuse." A state may apply the trafficking portion of the definition to a person who has not attained age 24.

Guidance on Existing Federal Laws Related to Military Service Members

Servicemembers Civil Relief Act

The Servicemembers Civil Relief Act (SCRA) was enacted on December 19, 2003. The purpose of the SCRA is to provide for and strengthen national defense by enabling service members to focus on defending the nation and to provide for the temporary suspension of judicial and administrative proceedings and transactions that may adversely affect the civil rights of service members during their military service. The SCRA applies to any judicial or administrative proceeding, except for criminal proceedings. The SCRA applies to child custody proceedings, which includes abuse, neglect, dependency or Termination of Parental Rights actions as defined in N.C.G.S. § 50A-102(4) (http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_50A/GS_50A-102.html).

In any civil action or proceeding in which the respondent (parent) does not make an appearance, the court, before entering judgment for the petitioner (county child welfare agency), shall require the petitioner (county child welfare agency) to file with the court an affidavit, which must state the following:

- Whether or not the respondent (parent) is in military service and show necessary facts to support the affidavit; or
- A statement that the petitioner (county child welfare agency) is unable to determine whether or not the respondent is in military service

The SCRA applies to all abuse, neglect, dependency, and termination of parental rights proceedings where a respondent has not appeared and a court order is being sought. This requirement includes both temporary and final orders – including orders for nonsecure custody. Additional information about how the SCRA applies in juvenile matters in North Carolina maybe found here: http://civil.sog.unc.edu/the-scra-and-juvenile-proceedings/.

IV. Additional Information

The School of Government at the University of North Carolina at Chapel Hill will release a bulletin summarizing legislative changes sometime in the coming weeks. This summary will be available at http://www.sog.unc.edu/publications/#!/bulletins.

If you have any questions about these legislative changes please contact your Children's Program Representative or the Child Welfare Policy Team at (919) 527-6340.

Sincerely,

Kevin Kelley, Section Chief
Child Welfare Services