

2013 Legislation – Juvenile Law

Undisciplined and Delinquent Juveniles

S.L. 2013-18 (S 45): Capacity to Proceed. G.S. 7B-2401 makes some of the criminal procedures relating to capacity to proceed (G.S. 15A-1001, -1002, and -1003) applicable to juveniles. S.L. 2013-18 rewrites G.S. 15A-1002 to

- make clear that any expert appointed under the section may be called to testify by the court, with or without the request of a party;
- limit to felony cases a court's authority to order a defendant [juvenile] to a state facility for observation and treatment for up to 60 days to determine capacity to proceed;
- require a court that orders an examination under the section to order the release of relevant confidential information to the examiner, after providing the defendant [juvenile] with notice and an opportunity to be heard and determining that the information is relevant and necessary to the hearing of the matter and unavailable from any other source;
- require that an order determining a defendant's [juvenile's] capacity to proceed contain findings of fact;
- allow parties to stipulate that a defendant [juvenile] is capable of proceeding but not that a defendant [juvenile] lacks the capacity to proceed; and
- specify the time within which reports must be provided to the court and authorize the court to grant extensions of time not exceeding a total of 120 days.

In addition, the act amends G.S. 122C-54(b) to require a facility's report made pursuant to G.S. 15A-1002 to contain a treatment recommendation, if any, and permit it to contain any opinion as to whether the defendant [juvenile] is likely to gain the capacity to proceed. It adds new G.S. 122C-278 requiring that when a respondent [juvenile] has been committed to inpatient or outpatient treatment after having been found incapable of proceeding and referred for civil commitment proceedings, the respondent shall not be discharged or the commitment case terminated until the respondent [juvenile] has been examined for capacity to proceed and a report is filed with the clerk of court pursuant to G.S. 15A-1002.

The act makes changes to other sections of Article 56 (Incapacity to Proceed) of G.S. Chapter 15A, but those sections are not incorporated into the Juvenile Code by G.S. 7B-2401.

Uncodified provisions in the act require the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services, by December 1, 2013,

- to adopt rules establishing training and continuing education requirements for forensic evaluators appointed pursuant to G.S. 15A-1002(b), and
- to adopt guidelines for treatment of individuals who are involuntarily committed following a determination of incapacity to proceed.

The statutory amendments become effective December 1, 2013, and apply to offenses committed on or after that date.

S.L. 2013-360 (S 402): Volunteer School Safety Resource Officer Program. Section 8.45(b) of the 2013 Budget Act creates new G.S. 162-26 and G.S. 160A-288.4 to authorize sheriffs and chiefs of police (respectively) to establish a volunteer school safety resource officer (SSRO) program to provide nonsalaried special deputies or law enforcement officers to serve as SSROs in public schools. A volunteer SSRO must have at least two years of experience as either (i) a sworn law enforcement officer, or (ii) a military police officer. Volunteer SSROs must also receive training on the social and cognitive development of school-age children and meet any other criteria established by the sheriff or chief of police. Additional training requirements are specified in the statutes. Volunteer SSROs have the power of arrest and work under the direction and supervision of the sheriff or chief of police. In addition, Section 8.45(b):

- amends G.S. 14-269.2(a) by adding a new subdivision [G.S. 14-269.2(a)(3a)] to provide a definition for the term “Volunteer school safety resource officer”;
- amends G.S. 14-269.2(g) by adding a new subdivision [G.S. 14-269.2(g)(7)], which exempts volunteer SSROs from the prohibition in the statute against possessing weapons on educational property;
- amends G.S. 115C-47 by adding a new subdivision [G.S. 115C-47(61)], which imposes a duty upon local boards of education to provide a safe school environment. To carry out this duty, local boards of education may enter into agreements with sheriffs and chiefs of police to provide security at schools by assigning volunteer SSROs, who meet the criteria set out in G.S. 162-26 and G.S. 160A-288.4, as appropriate; and
- amends G.S. 160A-282(c) to clarify that volunteer SSROs, selected by the sheriff under G.S. 162-26, are not entitled to benefits under the North Carolina Workers’ Compensation Act.

The statutory amendments become effective December 1, 2013.

S.L. 2013-360 (S 402): Pilot Program to Raise High School Dropout Age in Catawba County. Section 8.49(a) of the 2013 Budget Act authorizes both the Hickory Public Schools and Newton-Conover City Schools to establish and implement a pilot program to increase the high school dropout age from 16 to 18. The act authorizes each local school system to use available funds to implement the pilot program, including (i) hiring up to three additional teachers, (ii) funding additional student-related costs, such as transportation and technology, and (iii) operating a night school program for at-risk students. The act also requires the local school systems to partner with Catawba Valley Community College in administering the pilot program, to the extent possible. On or before January 1, 2016, the local school systems, in collaboration with the State Board of Education, must submit a report to specified legislative committees on the effectiveness of the pilot program.

S.L. 2013-360 (S 402): Annual Evaluation of Community Programs, Juvenile Crime Prevention Council (JCPC) Grants, and Youth Development Centers (YDCs). Section 16D of the Budget Act

creates new annual evaluation and reporting requirements for the Department of Public Safety (DPS) on community programs, group homes, and YDCs as follows:

- new G.S. 143B-810 requires DPS to submit an annual report on YDC population, staffing, and capacity in the preceding fiscal year;
- new G.S. 143B-811 requires DPS to conduct an annual evaluation of community programs and multipurpose group homes and report these results to specified legislative committees;
- new G.S. 143B-822 requires DPS to electronically report each month to the Fiscal Research Division regarding the average daily population of juvenile detention centers and the monthly summary of the Committed Youth Report; and
- new G.S. 143B-852 requires DPS to submit an annual report listing the recipients of JCPC grants, along with additional information enumerated in the statute.

S.L. 2013-368 (S 683): Minors Immune from Prosecution for Prostitution. S.L. 2013-368 makes numerous changes to the human trafficking and prostitution statutes. Amended G.S. 14-203 adds several new and revised definitions, which apply to Article 27 (“Prostitution”), including the definition of “Minor” in G.S. 14-203(2) as any person less than 18 years of age. Amended G.S. 14-204 adds a new subdivision [G.S. 14-204(c)], which prohibits prosecuting minors for prostitution. Instead, minors suspected of prostitution must be treated as undisciplined juveniles and taken into protective custody, pursuant to Article 19 of Chapter 7B. Any law enforcement officer who takes a minor into custody under this section must immediately report to DSS pursuant to G.S. 7B-301 an allegation of human trafficking [G.S. 14-43.11] and involuntary servitude [G.S. 14-43.13]. DSS then is required to initiate an investigation into abuse or neglect within 24 hours, pursuant to G.S. 7B-302. The statutory amendments become effective October 1, 2013, and apply to offenses committed on or after that date.

S.L. 2013-129 (H 350): Review Hearings when Juveniles are in DSS Custody. S.L. 2013-129 makes numerous changes to Subchapter I of G.S. Chapter 7B, based on changes proposed by the Court Improvement Project. The current review and permanency planning hearing statutes, G.S. 7B-906 and 7B-907, are repealed, and a new section, G.S. 7B-906.1, covers both kinds of hearings. As a result, conforming amendments are made to both G.S. 7B-2503(1)c and G.S. 7B-2506(1)c, to provide that if a minor is placed in DSS custody pursuant to a disposition order in an undisciplined or delinquency case, the placement must be reviewed in accordance with G.S. 7B-906.1 (rather than G.S. 7B-906 or 7B-907). The statutory amendments become effective October 1, 2013, and apply to actions filed or pending on or after that date.