

**ROLL CALL TRAINING**  
**FROM NORTH CAROLINA'S 24/7 POLICE**  
**ATTORNEY LAW FIRM**

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**TOPIC:**

**Duty of All Persons, Especially Law Enforcement Officers, to Report Abuse, Neglect, Dependency, or Death Due to Maltreatment of Any Juvenile to the Department of Social Services by Authority of NCGS 7B-301**

**BY: Ralph B. Strickland, Jr.**

**THE STATUTE:**

*§ 7B-301. Duty to report abuse, neglect, dependency, or death due to maltreatment.*

*Any person or institution who has cause to suspect that any juvenile is abused, neglected, or dependent, as defined by G.S. 7B-101, or has died as the result of maltreatment, shall report the case of that juvenile to the director of the department of social services in the county where the juvenile resides or is found. The report may be made orally, by telephone, or in writing. The report shall include information as is known to the person making it including the name and address of the juvenile; the name and address of the juvenile's parent, guardian, or caretaker; the age of the juvenile; the names and ages of other juveniles in the home; the present whereabouts of the juvenile if not at the home address; the nature and extent of any injury or condition resulting from abuse, neglect, or dependency; and any other information which the person making the report believes might be helpful in establishing the need for protective services or court intervention. If the report is made orally or by telephone, the person making the report shall give the person's name, address, and telephone number. Refusal of the person making the report to give a name shall not preclude the department's investigation of the alleged abuse, neglect, dependency, or death as a result of maltreatment.*

**DISCUSSION:**

A law enforcement officer may come upon information, generally in one of two ways, concerning a juvenile who is in a situation so egregious to health and safety that the condition is required to be reported by that officer to the local, county department of social services. Sometimes a patrol officer is investigating a crime or responding to a call unrelated to child abuse, and discovers it incidental to the original call. Other times, the officer is on a call where there is some alleged endangerment to a child, and discovers the allegations are true.

In either case, that officer is under a duty, as is any citizen, to immediately report that information to the department of social services. Although there is no statutory penalty for failure to comply with the statute's mandate, woe unto the officer who has knowledge of a reportable condition, fails to make timely

notice, and the youngster thereafter is hurt or killed. While liability considerations would loom large, it would be difficult to assuage the guilt an officer in that position would carry for a lifetime.

## **WHAT FIRST LINE SUPERVISORS SHOULD KNOW:**

First, read GS 7B-301 carefully. Know its requirements and the information that must be related to DSS. If your agency already has a policy in place as to the reporting of these incidents, instruct your officers in it, and ensure it is followed in every case. If necessary, create a form that can be used to report these matters. [A suggested form is attached hereto for reference.] Instruct the officers under your command of their duty, and the need to comply immediately with the statute. Make certain they do.

Many departments of social services have a person designated and available during business hours to take these reports. After hours, there should be a contact telephone number available for the social worker on-call. If that number is not provided to your communications center, whether in-house or countywide, it should be. There simply must exist some procedure for immediate notification, day or night, weekends and holidays. Have the DSS notified orally ASAP and follow it up in writing at the end of shift, unless, of course, your agency's policies and procedures direct otherwise.

## **A NOTE ON CIVIL LIABILITY:**

NCGS 7B-309 grants immunity from civil liability for anyone, acting in good faith, who reports such suspicions to DSS, cooperates, testifies or participates in any way. In *Dobson v. Harris and JC Penny* (North Carolina Supreme Court – June 2000) a clerk in a JC Penny Department Store in Guilford County reported to DSS there that a customer was abusing her fifteenth-month-old child in the store. The mother sued for slander and the superior court in Guilford County granted the clerk and store summary judgment in the case. Summary judgment is a decision made on the basis of statements and evidence presented for the record without a trial. It is used when there is no dispute as to the facts of the case, and one party is entitled to judgment as a matter of law. The Court of Appeals agreed with the trial court, and our Supreme Court affirmed. As a matter of law, the clerk and the store were entitled to the immunity from suit as authorized by 7B-309: they acted in good faith. The statute grants immunity for good faith reporting; the courts uphold the statute. Simple.

Finally, I have included herein, as follows, the definitions of abused juvenile, dependent juvenile, neglected juvenile and the general, statutory definition of juvenile, for recognition of abuse, neglect and dependency. You and your officers should become familiar with them to the extent that you and they will recognize an abused, neglected or dependent juvenile when encountered.

## **§ 7B-101. DEFINITIONS.**

*As used in this Subchapter, unless the context clearly requires otherwise, the following words have the listed meanings:*

- (1) Abused juveniles.** - Any juvenile less than 18 years of age whose parent, guardian, custodian, or caretaker:
- a. *Inflicts or allows to be inflicted upon the juvenile a serious physical injury by other than accidental means;*
  - b. *Creates or allows to be created a substantial risk of serious physical injury to the juvenile by other than accidental means;*

- c. *Uses or allows to be used upon the juvenile cruel or grossly inappropriate procedures or cruel or grossly inappropriate devices to modify behavior;*
- d. *Commits, permits, or encourages the commission of a violation of the following laws by, with, or upon the juvenile: first-degree rape, as provided in G.S. 14-27.2; second degree rape as provided in G.S. 14-27.3; first-degree sexual offense, as provided in G.S. 14-27.4; second degree sexual offense, as provided in G.S. 14-27.5; sexual act by a custodian, as provided in G.S. 14-27.7; crime against nature, as provided in G.S. 14-177; incest, as provided in G.S. 14-178 and G.S. 14-179; preparation of obscene photographs, slides, or motion pictures of the juvenile, as provided in G.S. 14-190.5; employing or permitting the juvenile to assist in a violation of the obscenity laws as provided in G.S. 14-190.6; dissemination of obscene material to the juvenile as provided in G.S. 14-190.7 and G.S. 14-190.8; displaying or disseminating material harmful to the juvenile as provided in G.S. 14-190.14 and G.S. 14-190.15; first and second degree sexual exploitation of the juvenile as provided in G.S. 14-190.16 and G.S. 14-190.17; promoting the prostitution of the juvenile as provided in G.S. 14-190.18; and taking indecent liberties with the juvenile, as provided in G.S. 14-202.1, regardless of the age of the parties;*
- e. *Creates or allows to be created serious emotional damage to the juvenile; serious emotional damage is evidenced by a juvenile's severe anxiety, depression, withdrawal, or aggressive behavior toward himself or others; or*
- f. *Encourages, directs, or approves of delinquent acts involving moral turpitude committed by the juvenile.*

**(9) Dependent juvenile.** - *A juvenile in need of assistance or placement because the juvenile has no parent, guardian, or custodian responsible for the juvenile's care or supervision or whose parent, guardian, or custodian is unable to provide for the care or supervision and lacks an appropriate alternative child care arrangement.*

**(14) Juvenile.** - *A person who has not reached the person's eighteenth birthday and is not married, emancipated, or a member of the armed forces of the United States.*

**(15) Neglected juvenile.** - *A juvenile who does not receive proper care, supervision, or discipline from the juvenile's parent, guardian, custodian, or caretaker; or who has been abandoned; or who is not provided necessary medical care; or who is not provided necessary remedial care; or who lives in an environment injurious to the juvenile's welfare; or who has been placed for care or adoption in violation of law. In determining whether a juvenile is a neglected juvenile, it is relevant whether that juvenile lives in a home where another juvenile has died as a result of suspected abuse or neglect or lives in a home where another juvenile has been subjected to abuse or neglect by an adult who regularly lives in the home.*

