

NCGS §7B & Chapter 35A Judicial & Legislative Updates

Today's Topics

- 7B Parties and Representation
- CAC, CME and MDT Information Sharing
- Disposition
- ICPC
- Termination of Parental Rights
- Safe Surrender
- Guardianship Law (7b v c35)
- S.L. 2023-124 Guardianship Changes



Parties and Representation in NCGS §7B cases

Remove party?

Are you sure?

CANCEL

REMOVE

GAL for Child: Duties

- 7B-601 – trial court appoints, and duties outlined
- Investigate facts, needs of the juvenile, available resources within the family and community
- Facilitate settlement of disputed issues when appropriate
- Offer evidence
- Explore dispositional options
- Investigate to ensure that orders of the court are being properly executed
- Report to the court when needs of the juvenile are not met
- Protect and promote best interests of the juvenile
- *Represent the child's wishes accurately and objectively to the court* (case law, not codified)

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Child Advocacy Centers, Child Medical Evaluations and Multidisciplinary Teams

The new law authorizes both DSS and other members of the CAC multidisciplinary team to share information “that is relevant to the protection of a child with the multidisciplinary team, subject to State and federal statutes and rules.” See G.S. 108A-77.3(a)-(b).

DSS is already permitted to share such information under existing state law when necessary to assess a report of abuse, neglect, or dependency or when necessary to arrange or provide protective services to a child (see, e.g., G.S. 7B-302(e); 10A NCAC 71A.0113(b)).

CAC multidisciplinary team members cannot share information that they would be prohibited from disclosing to each other under applicable federal law.

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Initial Disposition

- Court Authority to Order Case Plan (In re B.L.M.-S. 2024)
- Court Authority to Order No Contact between Parents (In re B.L.M. – S)
- Findings of Aggravating Circumstances / Reunification Efforts Not Required (In re B.L.M. – S)
- Finding of Felony Assault / Reunification Efforts Not Required (In re N.N.)
- **Dispositional Alternatives**
- Visitation – a fruitless display of perceived authority by the COA (In re: A.J.L.H.)
- Visitation – visitation report / placement within 6mos (In re: PLE / In re: MS)
- Visitation – electronic visitation / delegation of authority? (In re: K.B. from COA)

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Interstate Compact on the Placement of Children (ICPC)

What, When, Why and How
And who gets priority??

In re: K.B. (COA 8/2023 & Supreme Court 5/2024)

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Termination of Parental Rights

Grounds for Termination

- Progress can be considered up to the time of the hearing (In re TRW, In re RH)
- Willfully leaving for 12 mos (In re XM, In re ANR, In re KN)
- Abandonment & Obstruction... (In re CJB, In re ANB, In re EQB)
- ONE ground to rule them all (In re EQB)
- Judicial Notice (In re BAJ)
- Prison and Dependency (In re KBC)

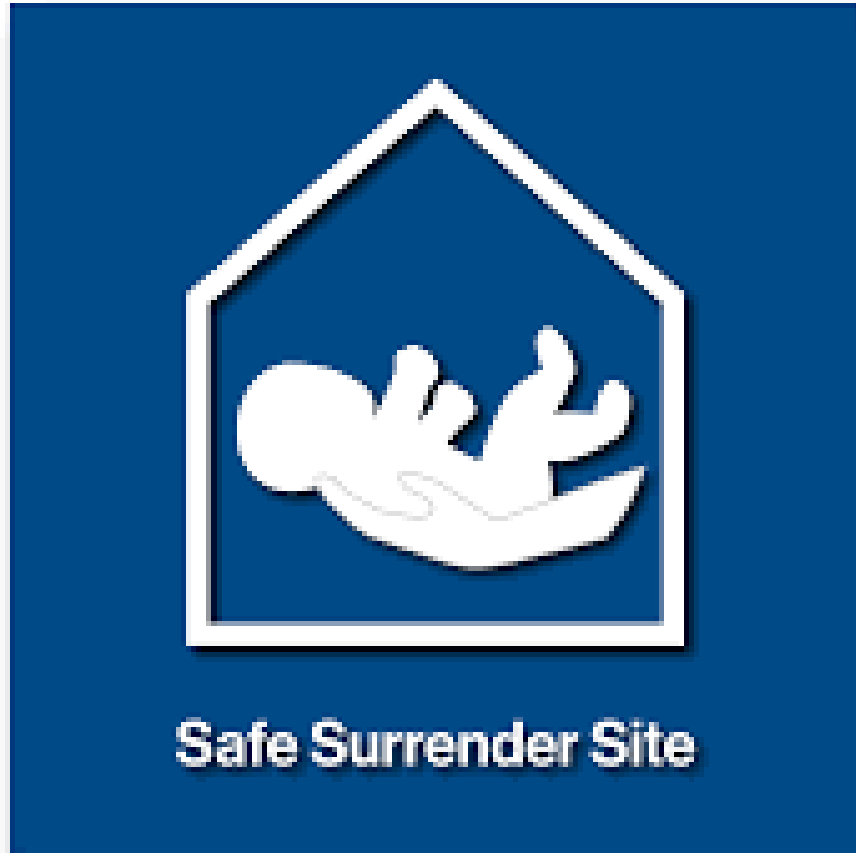
Best Interest Findings

- Abuse of discretion / not required to consider relatives (In re BAJ)
- No contact orders? (In re EQB)
- Ineffective assistance of counsel (In re MBS)

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Safe Surrender



- Who is a safely surrendered infant
- Who can an infant be surrendered to?
- Responsibility of the person receiving the infant
- DSS process
- Confidentiality
- Rights of surrendering parent
- Rights of non-surrendering parent
- Intersection between surrender and A/N/D action
- TPR procedure

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Guardianship Law



7B Guardianship

Only under Juvenile Court

Only for juveniles

Never a jury

Only of the person

Presumed incompetency

No requirement for least restrictive means

35A Guardianship

Before the Clerk

Can be juveniles(*) or adults

Can demand a jury trial

Can be person, estate or general

Must prove incompetency

Must use least restrictive means first

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Legislative Guardianship Changes (S.L. 2023-124)

- Motions in the Cause (§35A-1207)
 - Can be filed by the Clerk on their own motion
- Priority for Appointment (§35A-1214)
 - POA named MUST be considered first
 - Spoiler Alert ... DSS is last on the list
- Notice of Rights (AOC-SP-197)
 - For Wards and Respondents
- Consideration of Less Restrictive Alternatives
 - Guardianship is a Last Resort
 - 35A-1101(11a) defines LRA as “An Arrangement”

Sharlene Gilmer Anderson

Assistant Moore County Attorney

sanderson1@moorecountync.gov

910-947-4013

Questions?