

**DSS ADMINISTRATIVE LETTER
FAMILY SUPPORT AND CHILD WELFARE SERVICES
FSCWS-10-07**

TO: County Directors of Social Services

**ATTENTION: Work First and Children's Services Program Managers,
Supervisors, and Social Workers**

DATE: August 24, 2007

**SUBJECT: FAMILY SUPPORT AND CHILD WELFARE
LEGISLATIVE CHANGES**

**EFFECTIVE DATE: As Individually Signed into Law or Provided Effective
Dates**

This administrative letter is to provide information regarding legislative actions during the 2007 North Carolina General Assembly that impact Work First and Child Welfare. Following an extensive review of this session's legislative impact on current policy and after consultation with our Child Welfare Attorneys, the Division offers the following interpretations and impact analysis:

[Session Law 2007-182 \(HB 720\)](#)

Effective July 5, 2007, the Division of Facility Services has been renamed the Division of Health Service Regulation.

This new name better reflects the functions and duties performed by the Division such as regulating medical, mental health and group care facilities, emergency medical services, and local jails. All current policies and practices related to the Division of Social Services and the local Department of Social Services (DSS) interactions with this agency remain in effect.

[Session Law 2007-97 \(SB 836\)](#)

Effective June 20, 2007, the Food Stamp Program has been renamed the Food and Nutrition Services Program.

North Carolina has been administering Electronic Benefit Transfer (EBT) cards for consumable items. The program's new name reflects this move from Food Stamps to EBT cards. In addition, the new name reflects a more service approach to families.

[Session Law 2007-323 \(HB 1473\)](#)

The state budget was enacted effective July 1, 2007 for this fiscal year. New and significant appropriations have a positive impact on the families and children that we serve.

Within section 10.34, funds have been appropriated for fiscal years 2008 and 2009 to implement a child welfare postsecondary support program for the educational needs of foster youth aging out of the foster care system and special needs children adopted from foster care after age 12. The Division will be issuing a Request for Proposal (RFP) for case management of this program. Policy and practice issues are being developed in order to provide further instruction regarding the implementation of this program.

Within section 10.36(c)(4), effective October 1, 2007, the Division of Medical Assistance (DMA) shall provide Medicaid coverage to independent foster care adolescents, ages 18, 19, and 20 regardless of their assets, resources, or income levels.

Additional information will follow from DMA as well as the Division of Social Services. A sample verification letter for a county DSS to provide to the young adults will be sent to each county DSS, but county departments are encouraged to not wait on the sample letter before discussing these changes and their impact with these young adults.

Within section 31.6(a), effective taxable years beginning on or after January 1, 2007, an individual who is allowed a federal adoption tax credit under the **[Internal Revenue Service Code](#)** for the taxable year is allowed a personal income tax credit on their NC individual tax return equal to 50% of the amount of the credit on their federal individual tax return. This adoption tax credit will stop effective for taxable years beginning on or after January 1, 2013.

County Departments of Social Services are encouraged to notify their adoptive parents of the existence of this new NC adoption tax credit. Adoptive parents should contact an accountant to assist with understanding the qualifying expenses and or limitations.

[Session Law 2007-152 \(HB 866\)](#)

Effective October 1, 2007, this act amends **[N.C.G.S. §7B-1101](#)** pertaining to the termination of parental rights (TPR) of nonresident parents of resident children in North Carolina. "The court shall have jurisdiction to terminate the parental rights of any parent irrespective of the state of residence of the parent." It remains unchanged that the North Carolina court still needs to find that it has jurisdiction to make a child custody determination under the provisions of the **[Uniform Child Custody Jurisdiction and Enforcement Act](#)** as well as that the nonresident parent be served with a summons.

Ultimately, this act expands the reach of North Carolina courts, expedites the TPR process, and will allow North Carolina's children to reach their permanent plan in a more timely manner.

Session Law 2007-151 (HB 865)

Effective October 1, 2007, this act amends [N.C.G.S. §7B-1111](#) and [N.C.G.S. §48-2-100](#) pertaining to the termination of parental rights, out-of-state adoption, and adoption jurisdiction. "Where the juvenile has been relinquished to a county department of social services or a licensed child-placing agency for the purpose of adoption or placed with a prospective adoptive parent for adoption; the consent or relinquishment to adoption by the parent has become irrevocable except upon a showing of fraud, duress, or other circumstance as set forth in [N.C.G.S. §48-3-609](#) or [N.C.G.S. §48-3-707](#); termination of parental rights is a condition precedent to adoption in the jurisdiction where the adoption preceding is to be filed; and the parent does not contest the termination of parental rights."

This act adds a new ground for termination of parental rights and expands adoption jurisdiction to allow nonresidents to adopt here. It addresses cases where a North Carolina child is freed for adoption in North Carolina, but the adoptive parents reside in another state. Under present North Carolina law, as nonresidents, they are unable to adopt the child here but often cannot complete the adoption in their home state because of differences in adoption laws, primarily the refusal of a number of other states to accept agency consents to adoption based on parental relinquishments because they do not fully terminate parental rights until the final decree of adoption.

This act will allow agencies to whom the child has been relinquished to file a termination of parental rights petition and obtain the TPR order needed for an adoption to proceed in another state by showing that the North Carolina relinquishment has become irrevocable, termination of parental rights is necessary in order for the adoption to occur in another state where the petition will be filed, and the parent does not contest the termination of parental rights.

In addition, this act removes the residency requirement for North Carolina adoptions so out of state adoptive parents of North Carolina children can file and complete a North Carolina adoption if they choose. The child must be in the legal custody of a county DSS or licensed child placing agency when the adoption petition is filed.

Session Law 2007-262 (HB 445)

Effective January 1, 2008, this act amends [N.C.G.S. §48-1-101](#), [N.C.G.S. §48-9-101](#), [N.C.G.S. §48-9-104](#) and [N.C.G.S. §48-9-109](#) "to authorize child placement agencies to act as confidential intermediaries between adult adoptees, an adult lineal descendant of a deceased adoptee, and a biological parent."

The act rewrites various sections of the adoption law to allow county departments of social services and licensed child-placing agencies in the state to agree to act as “confidential intermediaries” for the purposes of obtaining and sharing otherwise confidential information and/or sharing facilitating contact when there is agreement by all parties. By written agreement, agencies may charge a reasonable fee for the service.

Those who may seek information and/or contact through a confidential intermediary include an adoptee who has reached the age of twenty one, an adult lineal descendent of a deceased adoptee (any person who descends from the direct line of the adoptee), and a biological parent of an adoptee. An agency also may act as a confidential intermediary for the adoptive parents of a minor adoptee for purposes of obtaining and sharing non-identifying birth family health information.

This act may provide a great opportunity for those listed to seek answers not only about family health history but also about the history of where the adoptee came from. Currently, policy and practice issues are being developed in order to provide further instruction on how to proceed before the effective date of January 1, 2008.

[Session Law 2007-276 \(HB 698\)](#)

Effective October 1, 2007, this act amends several existing NC child welfare laws in order to comply with recent federal legislation amendments to [Title IV-E of the Social Security Act](#).

[N.C.G.S. §7B-506\(b\)](#) and [N.C.G.S. §7B-901](#) were amended to state that the juvenile and juvenile’s parent, guardian, or custodian shall have the **right**, rather than the “opportunity,” to present evidence and be heard at various hearings. [N.C.G.S. §7B-906\(a\)](#), [N.C.G.S. §7B-907\(a\)](#) and [N.C.G.S. §7B-908\(b\)\(1\)](#) were amended to include the **right**, rather than the “opportunity,” for a foster parent, relative, or preadoptive parent to be heard at review or permanency hearings.

These amendments fit well within our Principles of Partnership to respect all and their need (right) to be heard.

[N.C.G.S. §7B-908\(b\)](#) and [N.C.G.S. §7B-909\(c\)](#) were amended to require that review **hearings continue until the final decree of adoption**, rather than ceasing when an adoption petition is filed. This includes continuing hearings after the termination of parent rights until the issuance of that decree of adoption.

The definition of “**criminal history**” was rewritten within [N.C.G.S. §48-1-101](#), [N.C.G.S. §48-3-309](#), [N.C.G.S. §131D-10.2](#), and [N.C.G.S. §131D-10.3A](#) for the purposes of criminal record checks. “Criminal history means a county, State, or federal conviction of a felony by a court of competent jurisdiction or pending felony indictment of a crime for child abuse or neglect, spousal abuse, a crime against a child, including child pornography, or for a crime involving violence, including rape, sexual assault, or homicide, other than physical assault or battery; a county, State, or federal conviction of

a felony by a court of competent jurisdiction or a pending felony indictment for physical assault, battery, or a drug-related offense, if the offense was committed within the past five years; or similar crimes under federal law or under the laws of other states.”

The above statutory amendments mandate that if a prospective foster parent or any individual residing in the prospective foster home who is required to be checked has a criminal history, as now defined, the prospective foster parent can not be licensed to provide foster care. These amendments also mandate the issuance of an unfavorable preplacement assessment if a prospective adoptive parent or any individual residing in the prospective adoptive home who is required to be checked has a criminal history, as now defined, and the prospective adoptive parent is seeking to adopt a minor in the custody or placement responsibility of a county department of social services. For other criminal convictions not included in the new criminal history definition, whether felony or misdemeanor, a determination may still be made by the state licensing authority or a county department of social services, respectively, whether the prospective foster parent or adoptive parent or other individuals required to be checked are unfit to have responsibility for the safety and well-being of children. If a prospective foster parent or adoptive parent seeking to adopt a minor in the custody or placement responsibility of a county department of social services or any individual residing in the prospective foster or adoptive home who is required to be checked for a criminal history refuses to consent to a criminal records check, the prospective foster parent is still prohibited from being licensed to provide foster care or the refusal is still grounds for the issuance of an unfavorable preplacement assessment to a prospective adoptive parent.

Note: Not only can a State not license a prospective foster parent or adoptive parent with a criminal history, as now defined, it can not claim FFP for any foster care maintenance payments or adoption assistance made on behalf of a child placed in the home of a foster parent or adoptive parent with such a criminal history.

Please discuss all new legislation in their entirety with your county attorneys to understand the impact each law can have in your jurisdictions. These and all other statutes can be accessed through the [North Carolina General Assembly website](http://www.ncleg.net/).

<http://www.ncleg.net/>

Please contact your Children’s Program Representative or the Family Support and Child Welfare Section at (919) 733-4622 or (919) 733-2580 if you have questions about this letter.

Sincerely,

Esther T. High, Acting Chief

Family Support and Child Welfare Services Section

cc:	Sherry Bradsher
	Jo Ann Lamm
	Sarah Barham
	Family Support and Child Welfare Team Leaders
	Children's Programs Representatives
	Work First Program Representatives
	Local Business Liaisons
	Private Adoption Agency Directors