



HOUSE BILL 615: Juvenile Court Mental Health Assessments.

2021-2022 General Assembly

Committee:	House Judiciary 1. If favorable, re-refer to Health. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	April 28, 2021
Introduced by:	Rep. Davis	Prepared by:	Brian Gwyn
Analysis of:	PCS to First Edition H615-CSBE-19		Committee Co-Counsel

OVERVIEW: *The 1st edition of House Bill 615 would require an appropriate mental health assessment to be provided for juveniles who have been adjudicated delinquent and have a suspected mental illness or developmental disability. The PCS would clarify that the provisions related to mental health assessments are separate from the court's discretion to order a juvenile to be examined by a physician, psychiatrist, psychologist, or other qualified expert in any case.*

CURRENT LAW: G.S. 7B-2502(a) authorizes the court in a juvenile action to order that the juvenile be examined by a physician, psychiatrist, psychologist, or other qualified expert as may be needed for the court to determine the needs of the juvenile. If a juvenile has been adjudicated delinquent for committing an offense involving alcohol or controlled substances, the court must require that the juvenile be tested for alcohol or controlled substances within 30 days of the adjudication. In other cases, the court has discretion as to whether to require such testing.

Under G.S. 7B-2502(b), if an examination is ordered, the court must conduct a hearing to determine (i) whether the juvenile is in need of medical, surgical, psychiatric, psychological, or other evaluation or treatment and (ii) who should pay the cost of the evaluation or treatment. If the court finds the juvenile to be in need of such treatment, the court must permit the parent, guardian, custodian, or other responsible persons to arrange for evaluation or treatment. If the parent declines or is unable to make such arrangements, the court can order the needed evaluation or treatment, surgery, or care and order the parent to pay the cost of the care. If the court finds the parent is unable to pay, then the court must order the county to arrange for evaluation or treatment and cover the associated costs. The county department of social services must recommend the facility that will provide the juvenile with evaluation or treatment.

Under G.S. 7B-2502(c), if the court believes, or if there is evidence presented to the effect that the juvenile has a mental illness or a developmental disability, then the following apply:

- The court must refer the juvenile to the area mental health, developmental disabilities, and substance abuse services director (area director) for appropriate action.
- A juvenile must not be committed directly to a State hospital or State developmental center, and orders purporting to commit a juvenile directly to a State hospital or State developmental center, except for an examination to determine capacity to proceed, are void and of no effect.
- The area director is responsible for arranging an interdisciplinary evaluation of the juvenile and mobilizing resources to meet the juvenile's needs.

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- If institutionalization is determined to be the best service for the juvenile, admission must be with the voluntary consent of the parent, guardian, or custodian.
- If the parent, guardian, or custodian refuses to consent to institutionalization after it is recommended by the area director, the signature and consent of the court may be substituted for that purpose.
- If a regional mental hospital (i) refuses admission to a juvenile referred for admission by the court and an area director or (ii) discharges a juvenile previously admitted on court referral prior to completion of the juvenile's treatment, then the hospital must submit a written report detailing the rationale for the hospital's decision. Additionally, the report must set out the juvenile's diagnosis, indications of mental illness, indications of need for treatment, and a statement as to the location of any facility known to have a treatment program for the juvenile in question.

BILL ANALYSIS: Section 1.(a) would define "severe emotional disturbance" as "[a] diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet diagnostic criteria specified within DSM-5 that resulted in functional impairment which substantially interferes with or limits the child's role or functioning in family, school, or community activities in a person who is under the age of 18."

Section 1.(b) would remove the existing provisions of G.S. 7B-2502(c) related to juveniles suspected of having a mental illness or developmental disability, and would instead codify new requirements for addressing such juveniles. For juveniles with a suspected mental illness or developmental disability, the court must order a comprehensive clinical assessment or other appropriate mental health assessment, unless an appropriate mental health assessment was conducted within the last 45 days before the adjudication hearing. The assessment would be required to evaluate the developmental, emotional, behavioral, and mental health needs of the juvenile.

If such an assessment is ordered after a juvenile has been adjudicated delinquent, the court must review the assessment before disposition of the case. A care review team made up of various stakeholders would be required to be convened for the juvenile if the court finds that either of the following substantially contributed to the juvenile's delinquent behavior:

- Severe emotional disturbance
- Developmental disability

If ordered by the court, a care review team must develop and submit to the court within 30 days a recommendation plan for appropriate services and resources that address the needs of the juvenile. The court must review the recommendation plan when determining the juvenile's disposition.

The court would be required to conduct a hearing to determine who should pay the cost of the assessment, evaluation, or treatment. If the court finds that neither parent nor funding from the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety is unable to pay the cost of evaluation or treatment, the court must order the county to arrange for evaluation or treatment of the juvenile and pay the remaining cost.

EFFECTIVE DATE: The PCS would become effective October 1, 2021, and would apply to petitions filed on or after that date.