

Proposed Legislative Bills Followed by the DSS Board

Updated 7/7/2020

House Bill 1048 (Senate Bill 708) – <https://www.ncleg.gov/BillLookup/2019/h1048>; <https://www.ncleg.gov/BillLookup/2019/S708> - *CPS Intake Screening/PED Recommendations* - These bills were filed on 4/30/2020 and 5/1/2020 and referred to committee. This bill reflects recommendations that were part of the *Joint Legislative Program Evaluation Oversight Committee Report on Child Protective Services Intake* submitted in November 2019. The study found that there were inconsistencies among Counties in screening Child Protective Services (CPS) Reports for various reasons, including the use of local supplemental policies, a lack of worker assessment and training, and inconsistent statewide guidance by DHHS. The bill prohibits County Departments of Social Services from implementing a CPS intake screening criteria that is more stringent than, or in addition to, State policy. It also directs DHHS, Division of Social Services to implement a rapid consultation system to provide consultation to Counties when making screening decisions regarding the safety of children; to periodically assess County DSS social workers' and supervisors' comprehension and correct implementation of State policy and their training needs regarding the screening of reports and alleged children maltreatment; to revise the CPS structured intake form used to screen reports of alleged child maltreatment; and to implement statistically valid program monitoring for County intake screening procedures. DHHS is required to report progress to the Joint Legislative Oversight Committee on Health and Human Services each year through December 31, 2024.

Update 6/9/2020

HB 1048 – 6/4/2020 – A committee substitute was favorable in the Judiciary Committee and referred to the Rules, Calendar, and Operations Committee. The change in the committee substitute is found in Section 3.(a)(Assessment of Worker Comprehension and Training Needs). It changes retraining when necessary for all child welfare workers, to retraining every three years. The amended bill also includes the requirement that all child welfare supervisors pass a competency pass/fail test prior to providing screening decisions or on-call duties.

Update 7/9/2020

HB 1048 – 6/10/2020 – Passed first and second readings.

6/11/2020 – Referred to the House, where it passed first reading and referred to the Rules Committee

SB 708 – 6/9/2020 – Passed Judiciary Committee and referred to Committee on Health Care. This bill contains no amendment since the original version. It mirrors the original version of HB 1048.

SB 708 – 6/22/2020 – Sent to House, where it passed first reading and referred to the Rule Committee.

These bills mirrors each other in regards to the CPS/APS Intake training, developing program monitoring, and revision of the structured intake tool. SB 708 also includes a change in confidentiality in stating that a member of the NC General Assembly may request access to confidential social service information and records when necessary for oversight of programs related to CPS and APS. They may not retain a copy of the records, but upon request the

Department must disclose the information. This raises some concerns because there is no requirement to state the specific reason for the request. Overall, the concern is that once the information is disclosed, it could be released inadvertently through discussion with others, and having specific information seems unnecessary when developing policies and possible statutes. It seems beyond the scope of members of the General Assembly's duties and responsibilities to provide specific oversight of cases or local staff. The bill also clarifies that it is unlawful to obtain, disclose or use names or other information of persons applying for or receiving public assistance or social services that may be directly or indirectly derived from the records, files or communications of the Department or the County Boards of Social Services, or County Departments of Social Services or acquired in the course of performing official duties except for the purposes directly connected with the administration of the programs of public assistance and social services in accordance with federal law, rules and regulations, and the rules of the Social Services Commission or the Department.

House Bill 1040 - <https://www.ncleg.gov/BillLookup/2019/h1040> - *Healthcare for Working North Carolinians* – This bill was filed on April 28, 2020. It passed the first reading and was referred to the rules committee. This bill would provide health care for underemployed and unemployed workers and their families that fall into the Medicaid coverage gap. Those in the coverage gap are individuals that have a modified adjusted gross income that is at or below one hundred thirty-three percent (133%) of the federal poverty level; is age 19 or older and under age 65; is not entitled to or enrolled in Medicare benefits under Part A or Part B; not otherwise eligible for Medicaid coverage under the NC State.

7/9/2020 - No movement since last meeting.

House Bill 678 - <https://www.ncleg.gov/BillLookup/2019/h678> - *Amend Counselor/SA/Social Worker Professional Activities* - This bill was initially filed in April 2019, passed the House and referred to the Senate on 5/3/19, and on 6/2/20 referred to the Committee on Health Care. The bill amends the Licensed Professional Counselors Act; and updates and revises the Substance Abuse Professional Practice Act and the Social Worker Certification and Licensure Act. This bill sets and revises standards for qualification, training, and experience to become a certified social worker or licensed clinical social worker. The significance that this bill has for social workers at DSS is the use of the job title “social worker”. Several years ago, there was advocacy work on the part of the National Association of Social Workers (NASW) to prevent using the term social worker without a social work degree. Because of this, some legislative bills were introduced, but not passed, which would have prevented DSS social workers from using the job title. While this bill outlines requirements and standards to become certified at several different levels; it states that “any individual who is employed by an agency of a local or State governmental entity, and who is in a position holding the title of ‘Social Worker’ or any variation of the name, and whose position title is derived from the Office of State Human Resources Classification Specifications, may use the title ‘Social Worker’ or any variation of the title.” While social workers at a local DSS may apply and become certified or licensed, it is not required in order to use of the job title social worker.

7/9/2020 – No movement since last meeting.

Senate Bill 808 - <https://www.ncleg.gov/BillLookup/2019/s808> - *Medicaid Funding Act* – This bill was filed on May 19, 2020, went through the legislative process, was signed by the Governor and became State law on July 2, 2020. This bill included several issues, many not directly related to DSS service delivery, including funds for the Dorothea Dix campus relocation; appropriating Coronavirus Relief Funds for Behavioral Health and Crisis Services; early child hood initiatives; and COVID-19 testing, contact tracing and trends. More specific to DSS is funding for operations and maintenance expenses for NC FAST and additional funding, specifically for updates and changes to the NC FAST child welfare case management system. NC FAST has been deployed in Economic Services for several years and has been riddled with problems; and while it has somewhat stabilized, there are still many issues that cause delays in work and increase work due to system problems. The child welfare component has also created many issues providing services and impacts the ability to protect children. It is currently being used in approximately 20 Counties and expansion to other Counties was delayed two years ago due to problems. The major concern with continued funding for this project is expending funds for a project with so many issues, and which still has many issues in economic services, rather than exploring other systems that may be better compatible for our child welfare needs.

The most pressing issues with this bill relates to the requirement to resume Medicaid eligibility redeterminations for recertifications due September 1 or after. Recertifications were extended due to the COVID-19 Pandemic for the months of March 2020 thru July 2020. An earlier draft of the bill had stated that all recertifications extended would have to be worked to determine if the consumers were actually eligible. This would have been virtually impossible to do and any overpayments would have been the responsibility of the County. A last minute version of the bill changed the requirement to make a good faith effort to redetermine eligibility for those that were due prior to September 1 and did not receive one. It also deleted any repayment possibilities for these cases. Resuming recertifications will increase work dramatically and put pressure on Medicaid staff because Medicaid is required to work two months ahead. For example, to start working on recertifications that will end in September by the first of July to be timely and allow enough time for required notices to be sent. The current requirement to work August reviews in July, which is the 11th month, puts the Agency one month behind at the onset. Division of Medicaid Benefits (DHB) and the Director's Association presented a webinar on July 7 to discuss the verbiage "good faith effort". This was intentionally left undefined and the County is required to develop their own plan to work past reviews that were extended, along with other provisions allowed due to the COVID-19 Pandemic. Further guidance should come from the Center for Medicaid and Medicare Services (CMS) and NC DHB. Rutherford County has made the decision to focus on September reviews and if time allows, to work on August until further clarification is received.

(HB 918 was added back to this list due to being picked back up by the Senate on 6/18/2020)

House Bill – 918 – <https://www.ncleg.gov/BillLookup/2019/h918> - *Expedite Permanency/DHHS Report SNAP/TANF* - This bill amends various abuse, neglect, and dependency laws to strengthen the safety of children in out of home placements and expedites the goal of permanency for children under three years. The major concern of this bill is that it creates a presumption that foster parents, with whom a

child under three years of age has lived continuously for nine months, are deemed non-relative kin. An additional concern is that it requires the Agency and court to place a child under the age of three in a prospective permanent placement within 12 months of the order removing custody. It adds that immediate non-secure custody is warranted when an infant is born drug-exposed, and the drug exposure was not medically based. It makes some minor changes regarding the Agency's efforts to notify relatives and parties that may have custody of siblings of the child.

7/10/2019 – No movement since 5/6/2019. The Director's Association lobbyist does not feel that this bill has the needed support and will likely die.

8/20/2019 – Came back up in the Senate on 8/20. Major concern is that it creates a presumption that foster parents who have had a child three years old or younger continuously for nine months are deemed nonrelative kin. Refer to handout from the Director's Association.

8/27/2019 – Chairs of Judiciary Committee and the bill sponsor, agreed not to run this bill in their 8/28 committee meeting. A stakeholders meeting will be held, including DSS Directors, prior to the bill moving forward.

9/3/2019 – A stakeholder group met on 8/29 consisting of Guardian Ad Litem, DHHS, medical professionals, DSS Directors and others. It is believed that in its present form, the bill will not pass, but the stakeholder group will work on compromised language. The bill essentially seeks to expedite permanence for children under the age of 3. Concerns: inadequate court time, considering foster parents a non-relative kin after 9 months of placement (and them having standing to file TPR petition) when this may not be in the best interest of the child and may also expedite permanence at the parent's expense. The bill in its current form benefits the foster parent more than the child when they want to adopt. It could result in DSS moving the child from a foster placement before nine months when the placement is not in the best interest of the child or TPR is not the most appropriate plan. In terms of making the foster parents relative kin, the law already requires us to evaluate the possibility of kinship care at the time we take custody, and that we evaluate all possible placements that are in a child's best interest, including foster parents, during the time that they are being placed in care, and at the time of adoption. Twelve months is not always enough time to work with a family and opioid abuse and difficulty in obtaining treatment makes it more difficult. It could lead to TPR when parents might have been successful if given more time. There are a lot of potential legal issues with this bill that could cause problems in TRP appeals.

9/9/2019 – A small group consisting of the Association's lobbyist, a DSS Director, DSS Attorney, and Guardian Ad Litem met with a group of legislators. They were able to reach a compromise on several items. Another draft of the bill will be prepared before another meeting. It is uncertain how long this will be as some redistricting issues are taking priority at this time.

Attached to the Agenda for the 9/23/2019 meeting are documents outlining the concerns regarding this bill from the North Carolina Association of County Directors of Social Services (NCACDSS) and North Carolina Department of Health and Human Resources (NC DHHS).

9/30/2019 – The workgroup was scheduled to meet with legislative members again to discuss the bill. However, this meeting did not take place and it appears that the bill is at a standstill at this point. There

has been no word from staff or leadership in the House, and it is uncertain whether this bill will return this session.

11/8/2019 – No change in status.

1/15/2020 – No Change in status.

7/9/2020 – The Senate picked back up on this bill on 6/18/20. Some amendments were made by the Senate and sent back to the House for their concurrence. These amendments included a requirement for DHHS and the Division of Social Services to report annually certain expenditures for the Supplemental nutrition Assistance Program (SNAP) and Temporary Assistance for Needy Families (TANF) Program. It was ratified on 6/25/2020 and presented to the Governor and was vetoed by the Governor on 7/2/2020. The Governor's veto stated as his reason for the veto: "House Bill 918 discourages pregnant women with substance use disorders to seek treatment and prenatal care, risking their health and the health of newborns. And while it penalizes pregnant women with substance use disorders, it does nothing to expand access to treatment. This would disproportionately impact women of color and low-income women, who are already less likely to have access to the substance use treatment and quality health care they need."

On 7/7/2020 it was re-referred to the House Rules Committee.

House Bill 612 - <https://www.ncleg.gov/BillLookup/2019/h612> - DSS Review of Procedures/Criminal History/OAH – This bill was passed by the House and referred to the Senate on June 11. This bill requires the Social Services Commission to prepare and submit for review to the Office of Administrative Hearings (OAH) a comprehensive report of all its policies, guidelines, and other interpretive statements that the Division has sought to implement or enforce and may affect the procedural rights or duties of persons not employed by the division or any of its subdivisions. OAH will jointly review the report with the Commission to identify any policies or procedures that are in violation of General Statutes. If there is disagreement, it will be referred to the Rules Review Commission. Other sections of this bill concern the authority of professional Boards to require criminal history records for those seeking an occupational license; and prohibit Agencies from implementing or enforcing policies that should be adopted as rules under the Administrative Procedure Act. The bill was ratified on 6/26/2020 and vetoed by the Governor on 7/2/2020. The Governor's veto stated as his reason for the veto: "House Bill 612 limits the ability of the Department of Health and Human Services to implement, adapt to and oversee programs of public assistance and child welfare which are regulated and driven by federal law; thereby, jeopardizing the health, safety and well-being of our most vulnerable populations. Additionally, this is an overreach of legislative authority to effectively nullify executive branch policy and rulemaking which is unconstitutional."