

CHAPTER V – JURISDICTION IN CHILD WELFARE

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II. LEGAL BASIS

North Carolina laws regarding the provision of protective services are located in [Chapter 7B](#) of the North Carolina General Statutes. Please refer to Chapter VIII: Section 1404 – Legal Basis and Statues (<http://info.dhhs.state.nc.us/olm/manuals/dss/csm-60/man/CS1404.PDF>) for additional information regarding the laws that govern the provision of child protective services in North Carolina. Additional guidance is provided in North Carolina's Administrative Code Title 10A - Health and Human Services - Chapter 70 - Children's Services_ (<http://reports.oah.state.nc.us/ncac.asp?folderName=Title%2010A%20-%20Health%20and%20Human%20Services\Chapter%2070%20-%20Children%27s%20Services>).

Laws regarding the provision of child placement services are also located in Chapter 7B of the North Carolina General Statutes. Please refer to 1201 - Child Placement Services (<http://info.dhhs.state.nc.us/olm/manuals/dss/csm-10/man/>).

Chapter 48 (<http://www.ncleg.net/gascripts/Statutes/StatutesTOC.pl?Chapter=0048>) of the North Carolina General Statutes establishes a clear judicial process for adoptions. Please refer to Chapter VI: Adoption Services (<http://info.dhhs.state.nc.us/olm/manuals/dss/csm-50/man/>) for additional guidance regarding the delivery of adoption services.

A. Determining the County **Child Welfare Agency** Responsible for Providing Social Services

Note: When determining the county **child welfare agency** responsible for providing social services, the guiding principle is where the child resides.

To determine the county with the responsibility to provide social services, N.C.G.S. §153A-257 (http://www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter_153A/GS_153A-257.pdf) reads:

Legal residence for social service purposes **states:**

- 1.) Legal residence in a county determines which county is responsible (i) for financial support of a needy person who meets the eligibility requirements for a public assistance or medical care program offered by the county or **(ii) for other social services required by the person.**

Legal residence in a county is determined as follows:

- (a.) Except as modified below, a person has legal residence in the county in which he **or she** resides.

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(b.) If a person is in a hospital, mental institution, nursing home, boarding home, confinement facility, or similar institution or facility, he or she does not, solely because of that fact, have legal residence in the county in which the institution or facility is located.

(c.) A minor has the legal residence of:

(i) The parent or other relative with whom he or she resides.

(ii) If the minor does not reside with a parent or other relative and is not in a foster home, hospital, mental institution, nursing home, boarding home, educational institution, confinement facility, or similar institution or facility, he or she has the legal residence of the person with whom he resides.

When a child is in foster care, please refer to Chapter VIII: Protective Services, Section 1410 – Conflict of Interest.

(iii) Any other minor has the legal residence of his or her mother,

A. If the mother's residence is not known, then the legal residence of his or her father;

B. If the residence of either parent is unknown, the minor is a legal resident of the county in which he or she is found.

NOTE: If the minor is in the legal custody of the father, then the minor's residence shall be that of the father.

2.) A legal residence continues until a new one is acquired, either within or outside this State. When a new legal residence is acquired, all former legal residences terminate.

3.) This section is intended to replace the law defining "legal settlement." Therefore any general law or local act that refers to "legal settlement" is deemed to refer to this section and the rules contained herein.

B. When Two or More County Departments of Social Services Disagree

Furthermore, N.C.G.S. §153A-257 (http://www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter_153A/GS_153A-257.pdf) states: "If two or more county departments of social services disagree regarding the legal residence of a minor in a child abuse, neglect, or dependency case, any one of the county departments of social services may refer the issue to the Department

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of Health and Human Services, Division of Social Services, for resolution. The Director of the Division of Social Services or the Director's designee shall review the pertinent background facts of the case and shall determine which county department of social services shall be responsible for providing protective services and financial support for the minor in question.”

It is the expectation of the Division that prior to seeking the intervention of the Division that the respective county Directors become involved in these disagreements and work towards a resolution.