

NORTH CAROLINA GENERAL ASSEMBLY
1979 SESSION

CHAPTER 164
HOUSE BILL 443

AN ACT TO REPEAL AND AMEND SECTIONS OF ARTICLE 10 OF CHAPTER 122
AFFECTING THE INVOLUNTARY COMMITMENT OF INDIVIDUALS TO PRIVATE
HOSPITALS FOR THE MENTALLY DISORDERED.

Whereas, the 1973 Session of the North Carolina General Assembly determined that it is the policy of the State that no person shall be committed to a mental health facility unless he is mentally ill or an inebriate and imminently dangerous to himself or others, or unless he is mentally retarded and, because of accompanying behavior disorder, is imminently dangerous to others; and

Whereas, the General Assembly has determined that such commitment will be accomplished under conditions that protect the dignity and constitutional rights of the person; and

Whereas, since 1903 a section of Article 10 of Chapter 122 (said section not being a part of the public involuntary commitment law passed by the 1973 Session of the General Assembly) has allowed for the involuntary commitment of an individual alleged to be mentally ill or inebriate to a privately operated hospital on the affidavit of a physician and any other person made before a notary public or a clerk of court; and

Whereas, after the filing and approval of said affidavit by the clerk of court, such alleged mentally ill or inebriate person may be confined indefinitely at a privately run hospital without periodic judicial review, without an initial due process hearing, or without any other constitutional or statutory protections provided by law; and

Whereas, the public involuntary commitment law passed by the 1973 Session of the General Assembly provides these constitutional and statutory safeguards that are absent in Article 10; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-75, G.S. 122-77, G.S. 122-78, G.S. 122-79, G.S. 122-80, and G.S. 122-82.2 are hereby repealed.

Sec. 2. Article 10 of Chapter 122 of the General Statutes entitled "Private Hospitals for the Mentally Disordered" is hereby amended by adding a new section immediately following G.S. 122-81.1 and immediately preceding G.S. 122-82 to be numbered G.S. 122-81.2 to read as follows:

"§ 122-81.2. **Involuntary commitment to a private hospital.** — (a) All involuntary commitments to private hospitals or private facilities licensed by the Department of Human Resources under this Article shall be accomplished in accordance with the provisions of Article 5A of this Chapter.

(b) As provided in G.S. 122-58.8(b), the district court judge may order treatment of an individual at a private hospital, home, or school for the cure, treatment, or rehabilitation of the mentally ill, mentally retarded, or inebriate persons licensed in accordance with G.S. 122-72.

(c) Whenever any interested person feels that it would be in the best interest of a committed individual that such committed individual be transferred to another mental health facility, that interested person may petition the district court for an order directing such transfer.

This petition shall be filed in the district court which issued the last commitment order in the case. The district court judge may in his discretion issue a transfer order if such order is in the best interest of the committed person and the transfer conforms to the State policy of the least restrictive mode of treatment provided in G.S. 122-58.1. Provided, however, that this subsection shall not apply to transfers between two regional Mental Health Facilities."

Sec. 3. G.S. 122-58.2 is hereby amended by adding new subsections (5), (6), and (7), to read as follows:

- "(5) 'Community Mental Health Center' or 'Community Mental Health Facility' means any mental health center or clinic operated by or under the supervision of an area mental health board or area mental health authority pursuant to Article 2F of this Chapter.
- (6) 'Regional Mental Health Facility' and 'Regional Psychiatric Facility' mean any one of the following: Broughton Hospital in Morganton, John Umstead Hospital at Butner, Dorothea Dix Hospital in Raleigh, or Cherry Hospital in Goldsboro.
- (7) 'Mental Health Facility' and 'Treatment Facility' mean any community mental health center, any regional mental health facility, any private mental health facility licensed or designated by the Department of Human Resources pursuant to Article 10 of this Chapter, or the psychiatric services of Memorial Hospital of The University of North Carolina at Chapel Hill."

Sec. 4. G.S. 122-36(g) is hereby amended by rewriting that subsection to read as follows:

"(g) 'Treatment Facility' shall mean any hospital or institution operated by the State of North Carolina and designated for the admission of any person in need of care and treatment due to mental illness or mental retardation, any center or facility operated by the State of North Carolina for the care, treatment, or rehabilitation of inebriates, any community mental health clinic or center operated pursuant to Article 2F of this Chapter, and any private hospital as specified in G.S. 122-72 and G.S. 122-72.1."

Sec. 5. This act shall become effective October 1, 1979.

In the General Assembly read three times and ratified, this the 20th day of March, 1979.