

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 799
House Committee Substitute Favorable 6/1/09
House Committee Substitute #2 Favorable 6/11/09

Short Title: Increase Transparency of MH/DD/SA Facilities.

(Public)

Sponsors:

Referred to:

March 25, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE TRANSPARENCY OF STATE FACILITIES THAT PROVIDE
3 MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE
4 SERVICES BY REQUIRING THE DISCLOSURE OF CERTAIN INFORMATION
5 ABOUT DEATH REPORTS, FACILITY POLICE REPORTS, AND INCIDENT
6 REPORTS.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 122C-31(g) reads as rewritten:

9 "(g) In addition to the reporting requirements specified in subsections (a) through (e) of
10 this section, and pursuant to G.S. 130A-383, every State facility shall ~~report the report, without~~
11 redactions other than to protect confidential personnel information, the death of any client of
12 the facility, and, if known, the death of any former client of a facility who dies within 21 days
13 of release from the facility, regardless of the manner of ~~death, death:~~

14 (1) ~~to~~ To the medical examiner of the county in which the body of the deceased
15 is ~~found, found;~~ and

16 (2) To the State protection and advocacy agency designated under the
17 Developmental Disabilities Assistance and Bill of Rights Act 2000, 42
18 U.S.C. § 15001, et seq. The State protection and advocacy agency shall use
19 the information in accordance with its powers and duties under applicable
20 State or federal law and regulations."

21 **SECTION 2.** G.S. 122C-31 is amended by adding a new subsection to read:

22 "(h) Notwithstanding G.S. 122C-52, and unless otherwise prohibited by State or federal
23 law or requirements, in order to provide for greater transparency in connection with the
24 reporting requirements specified in subsections (a) through (g) of this section, the following
25 information in reports made pursuant to this section shall be public records within the meaning
26 of G.S. 132-1 when reported by a State facility:

27 (1) The name, sex, age, and date of birth of the deceased.

28 (2) The name of the facility providing the report.

29 (3) The date, time, and location of the death.

30 (4) A brief description of the circumstances of death, including the manner of
31 death, if known.

32 (5) A list of all entities to whom the event was reported."

33 **SECTION 3.** G.S. 122C-31 is amended by adding a new subsection to read:

34 "(i) Notwithstanding G.S. 122C-22, all facilities, as defined in G.S. 122C-3(14), shall
35 comply with this section."

36 **SECTION 4.** G.S. 122C-31(b) reads as rewritten:



1 "(b) Upon receipt of notification from a facility in accordance with subsection (a) of this
2 section, the Secretary shall notify the State protection and advocacy agency designated under
3 the Developmental Disabilities Assistance and Bill of Rights Act 2000, P.L. 106-402, 42 U.S.C.
4 § 15001, et seq., that a person with a disability has died. The Secretary shall provide the agency
5 access to the information about each death reported pursuant to subsection (a) of this section,
6 including information resulting from any investigation of the death by the Department and from
7 reports received from the Chief Medical Examiner pursuant to G.S. 130A-385. The agency
8 shall use the information in accordance with its powers and duties under applicable State and
9 federal law and regulations."

10 **SECTION 5.** G.S. 122C-52(a) reads as rewritten:

11 "(a) Except as provided in G.S. 132-5 and G.S. 122C-31(h), confidential information
12 acquired in attending or treating a client is not a public record under Chapter 132 of the General
13 Statutes."

14 **SECTION 6.** G.S. 122C-54 is amended by adding the following new subsections:

15 "(i) G.S. 132-1.4 shall apply to the records of criminal investigations conducted by any
16 law enforcement unit of a State facility, and information described in G.S. 132-1.4(c) that is
17 collected by the State facility law enforcement unit shall be public records within the meaning
18 of G.S. 132-1.

19 "(j) Notwithstanding any other provision of this Chapter, the Secretary may inform any
20 person of any incident or event involving the welfare of a client or former client when the
21 Secretary determines that the release of the information is essential to maintaining the integrity
22 of the Department. However, the release shall not include information that identifies the client
23 directly, or information for which disclosure is prohibited by State or federal law or
24 requirements, or information for which, in the Secretary's judgment, by reference to publicly
25 known or available information, there is a reasonable basis to believe the client will be
26 identified."

27 **SECTION 7.** This act is effective when it becomes law.