

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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HOUSE BILL 351  
Committee Substitute Favorable 3/30/21  
Committee Substitute #2 Favorable 3/31/21

Short Title: Clifford's Law.

(Public)

Sponsors:

Referred to:

March 23, 2021

A BILL TO BE ENTITLED

AN ACT DIRECTING THE SECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO ESTABLISH VISITATION PROTOCOLS FOR NURSING HOMES, COMBINATION HOMES, HOSPICE CARE FACILITIES, AND ADULT CARE HOMES, INCLUDING FAMILY CARE HOMES, DURING DECLARED DISASTERS AND EMERGENCIES AND REQUIRING THESE FACILITIES TO ADHERE TO THE ESTABLISHED VISITATION PROTOCOLS DURING DECLARED DISASTERS AND EMERGENCIES WHEN NORMAL VISITATION POLICIES ARE SUSPENDED OR CURTAILED.

Whereas, Clifford Jernigan is a 63-year old male with the mentality of a 3-year old who has been confined to a long-term care facility for the past 53 years; and

Whereas, his mother visited him every week for 13 years until her death; and

Whereas, his sister, Mary Jernigan, has visited him each week for 40 years; and

Whereas, he has had only one outside visitor, his sister, over the last year during which time he has lost over 25 pounds; and

Whereas, a staff member at the facility told his sister that he seemed to be mourning himself to death; and

Whereas, he is only one of many thousands of residents in nursing homes, combination homes, and hospice facilities who have gravely suffered because of restricted visitation during the COVID-19 pandemic; and

Whereas, the General Assembly finds it is in the best interest of the State and that it is both critical and essential for the well-being of these residents to have a minimal number and frequency of visitors; Now, therefore,

The General Assembly of North Carolina enacts:

**SECTION 1.** This act shall be known and may be cited as "Clifford's Law."

**SECTION 2.(a)** Part 1 of Article 6 of Chapter 131E of the General Statutes is amended by adding two new sections to read:

**"§ 131E-112.5. Secretary to establish visitation protocols during declared disasters and emergencies.**

(a) As used in this section, G.S. 131E-112.6, and G.S. 131E-207.5, the following terms have the following meanings:

(1) Disaster declaration. – As defined in G.S. 166A-19.3(3).

(2) Emergency. – As defined in G.S. 166A-19.3(6).

(3) Facility. – A nursing home or combination home licensed under this Part, or a hospice care facility licensed under Article 10 of this Chapter.



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1           (4) Normal visitation policy. – The visitation policy that was in effect at a facility  
2                 on January 1, 2020.

3           (b) The Secretary shall, in consultation with licensed operators of nursing homes,  
4 combination homes, and hospice care facilities, and any other stakeholders the Secretary deems  
5 relevant, establish visitation protocols for residents of these facilities that will become effective  
6 during a disaster declaration or emergency that results in the suspension or curtailment of a  
7 facility's normal visitation policy for any reason. The visitation protocols shall provide for at least  
8 the following:

9           (1) Each resident shall have the right to designate one preapproved visitor and one  
10 preapproved alternate visitor. The preapproved visitor, or if the preapproved  
11 visitor is unavailable, the preapproved alternate visitor, shall be allowed to  
12 visit the resident at least twice per month during any period of time during  
13 which the facility's normal visitation policy is suspended or curtailed for any  
14 reason during the declared disaster or emergency.

15          (2) Prior to admission, each facility shall explain and provide to each resident  
16 written notification of the visitation protocols established by the Secretary  
17 under this section.

18          (3) Visitation under these protocols shall be subject to the guidelines, conditions,  
19 and limitations established by the facility as part of its normal visitation  
20 policy.

21 **"§ 131E-112.6. Patient visitation rights for nursing home residents and combination home**  
22 **residents during a disaster declaration or emergency.**

23 Notwithstanding any provision of this Part, Chapter 166A of the General Statutes, or any  
24 other provision of law to the contrary, the visitation protocols established by the Secretary under  
25 G.S. 131E-112.5 shall be in effect during any period of time when (i) there is a declared disaster  
26 or emergency and (ii) a nursing home or combination home licensed under this Part suspends or  
27 restricts the normal visitation policy for any reason."

28           **SECTION 2.(b)** By March 15, 2022, the Secretary of the Department of Health and  
29 Human Services shall implement the visitation protocols described in G.S. 131E-112.5, as  
30 enacted by this act. At least 30 days prior to implementation of these visitation protocols, the  
31 Secretary shall submit a report summarizing the visitation protocols to the Chairs of the Joint  
32 Legislative Oversight Committee on Health and Human Services.

33           **SECTION 3.** Article 10 of Chapter 131E of the General Statutes is amended by  
34 adding a new section to read:

35 **"§ 131E-207.5. Patient visitation rights for residents of hospice care facilities during a**  
36 **disaster declaration or emergency.**

37 Notwithstanding any provision of this Part, Chapter 166A of the General Statutes, or any  
38 other provision of law to the contrary, the visitation protocols established by the Secretary under  
39 G.S. 131E-112.5 shall be in effect during any period of time when (i) there is a declared disaster  
40 or emergency and (ii) a hospice care facility licensed under this Part suspends or restricts the  
41 normal visitation policy for any reason."

42           **SECTION 4.(a)** Article 1 of Chapter 131D of the General Statutes is amended by  
43 adding two new sections to read:

44 **"§ 131D-7.1. Secretary to establish visitation protocols during declared disasters and**  
45 **emergencies.**

46          (a) As used in this section and in G.S. 131D-7.2, the following terms have the following  
47 meanings:

48          (1) Disaster declaration. – As defined in G.S. 166A-19.3(3).

49          (2) Emergency. – As defined in G.S. 166A-19.3(6).

50          (3) Facility. – An adult care home, including a family care home, licensed under  
51 this Article.

1           (4) Normal visitation policy. – The visitation policy that was in effect at a facility  
2           on January 1, 2020.

3           (b) The Secretary shall, in consultation with licensed operators of adult care homes,  
4 including family care homes, and any other stakeholders the Secretary deems relevant, establish  
5 visitation protocols for residents of these facilities that will become effective during a disaster  
6 declaration or emergency that results in the suspension or curtailment of a facility's normal  
7 visitation policy for any reason. The visitation protocols shall provide for at least the following:

8           (1) Each resident shall have the right to designate one preapproved visitor and one  
9 preapproved alternate visitor. The preapproved visitor or, if the preapproved  
10 visitor is unavailable, the preapproved alternate visitor shall be allowed to visit  
11 the resident at least twice per month during any period of time during which  
12 the facility's normal visitation policy is suspended or curtailed for any reason  
13 during the declared disaster or emergency.

14           (2) Prior to admission, each facility shall explain and provide to each resident  
15 written notification of the visitation protocols established by the Secretary  
16 under this section.

17           (3) Visitation under these protocols shall be subject to the guidelines, conditions,  
18 and limitations established by the facility as part of its normal visitation  
19 policy.

20 **"§ 131D-7.2. Resident visitation rights for adult care homes, including family care homes,**  
21 **during a disaster declaration or emergency.**

22       Notwithstanding any provision of this Part, Chapter 166A of the General Statutes, or any  
23 other provision of law to the contrary, the visitation protocols established by the Secretary under  
24 G.S. 131D-7.1 shall be in effect during any period of time when (i) there is a declared disaster or  
25 emergency and (ii) an adult care home, including a family care home, licensed under this Article  
26 suspends or restricts the normal visitation policy for any reason."

27       **SECTION 4.(b)** By March 15, 2022, the Secretary of the Department of Health and  
28 Human Services shall implement the visitation protocols described in G.S. 131D-7.1, as enacted  
29 by this act. At least 30 days prior to implementation of these visitation protocols, the Secretary  
30 shall submit a report summarizing the visitation protocols to the chairs of the Joint Legislative  
31 Oversight Committee on Health and Human Services.

32       **SECTION 5.** Sections 2(b) and 4(b) of this act are effective when this act becomes  
33 law. The remainder of this act becomes effective April 1, 2022.