

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 799

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

Sponsors: Senator Rand.

Referred to: Health Care.

March 25, 2009

A BILL TO BE ENTITLED

AN ACT TO INCREASE TRANSPARENCY OF STATE FACILITIES THAT PROVIDE MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES BY REQUIRING THE DISCLOSURE OF CERTAIN INFORMATION ABOUT DEATH REPORTS, FACILITY POLICE REPORTS, AND INCIDENT REPORTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-31(e) reads as rewritten:

"(e) ~~Nothing~~ Except as provided in subsections (g) and (h) of this section, nothing in this section abrogates State or federal law or requirements pertaining to the confidentiality, privilege, or other prohibition against disclosure of information provided to the Secretary or the agency. In carrying out the requirements of this section, the Secretary and the agency shall adhere to State and federal requirements of confidentiality, privilege, and other prohibitions against disclosure and release applicable to the information received under this section. A facility or provider that makes available confidential information in accordance with this section and with State and federal law is not liable for the release of the information."

SECTION 2. G.S. 122C-31(g) reads as rewritten:

"(g) In addition to the reporting requirements specified in subsections (a) through (e) of this section, and pursuant to G.S. 130A-383, every State facility shall report ~~the~~ all of the following, without redactions other than to protect confidential personnel information:

- (1) The death of any client of the facility, and, if known, the death of any former client of a facility who dies within seven days of release from the facility, regardless of the manner of death, to the medical examiner of the county in which the body of the deceased is ~~found~~ found; and
- (2) The death of any client of the facility and, if known, the death of any former client of a facility who dies within seven days of release from the facility, regardless of the manner of death, to the State protection and advocacy agency designated under the Developmental Disabilities Assistance and Bill of Rights Act 2000, P.L. 106-402. The State protection and advocacy agency shall use the information in accordance with its powers and duties under applicable State or federal law and regulations."

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

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



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- 1 (1) The name, sex, age, and date of birth of the deceased.
- 2 (2) The name of the facility providing the report.
- 3 (3) The date, time, and location of the death.
- 4 (4) A brief description of the circumstances of death, including the manner of
- 5 death, if known.
- 6 (5) A list of all entities to whom the event was reported."

7 **SECTION 4.** G.S. 122C-52(a) reads as rewritten:

8 "(a) Except as provided in G.S. 132-5 and G.S. 122C-31(h), confidential information

9 acquired in attending or treating a client is not a public record under Chapter 132 of the General

10 Statutes."

11 **SECTION 5.** G.S. 122C-54 is amended by adding the following new subsections:

12 "(i) G.S. 132-1.4 shall apply to the records of criminal investigations conducted by any

13 law enforcement unit of a State facility, and information described in G.S. 132-1.4(c) that is

14 collected by the State facility law enforcement unit shall be public records within the meaning

15 of G.S. 132-1.

16 (j) Notwithstanding any other provision of this Chapter, the Secretary may inform any

17 person of any incident or event involving the welfare of a client or former client when the

18 Secretary determines that the release of the information is essential to maintaining the integrity

19 of the Department. However, the release shall not include information that identifies the client

20 directly, or information for which disclosure is prohibited by State or federal law or

21 requirements, or information for which, in the Secretary's judgment, by reference to publicly

22 known or available information, there is a reasonable basis to believe the client will be

23 identified."

24 **SECTION 6.** This act is effective when it becomes law.