

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017**

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**SENATE BILL 388**

Short Title: Incapacity to Proceed.

(Public)

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Sponsors: Senator Randleman (Primary Sponsor).

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Referred to: Rules and Operations of the Senate

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March 27, 2017

A BILL TO BE ENTITLED

AN ACT TO ALLOW REPORTS RECEIVED BY THE COURT ON INCAPACITY TO  
PROCEED TO BE SHARED WITH TREATMENT PROVIDERS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 15A-1002(d) reads as rewritten:

"(d) Any report made to the court pursuant to this section shall be forwarded to the clerk of superior court in a sealed envelope addressed to the attention of a presiding judge, with a covering statement to the clerk of the fact of the examination of the defendant and any conclusion as to whether the defendant has or lacks capacity to proceed. If the defendant is being held in the custody of the sheriff, the clerk shall send a copy of the covering statement to the sheriff. The sheriff and any persons employed by the sheriff shall maintain the copy of the covering statement as a confidential record. A copy of the full report shall be forwarded to defense counsel, or to the defendant if he is not represented by counsel. If the question of the defendant's capacity to proceed is raised at any time, a copy of the full report must be forwarded to the district attorney, as provided in G.S. 122C-54(b). Until such report becomes a public record, the full report to the court shall be kept under such conditions as are directed by the court, and its contents shall not be revealed except the report and the relevant confidential information previously ordered released under subdivision (b)(4) of this section shall be released as follows: (i) to clinicians at the program where the defendant is receiving capacity restoration; (ii) to clinicians designated by the Secretary of Health and Human Services, and (iii) as directed by the court. Any report made to the court pursuant to this section shall not be a public record unless introduced into evidence."

**SECTION 2.** This act is effective when it becomes law.



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