

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1316*
Committee Substitute Favorable 6/14/96

Short Title: Child Fatality Task Force Confidential Records.

(Public)

Sponsors:

Referred to:

May 23, 1996

A BILL TO BE ENTITLED

AN ACT RECOMMENDED BY THE CHILD FATALITY TASK FORCE TO
BROADEN THE ACCESS TO CONFIDENTIAL RECORDS FOR THE
PURPOSES OF CHILD FATALITY REVIEW AND PREVENTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-578 reads as rewritten:

"§ 143-578. Access to records.

(a) The Chair of the State Team, a Local Team, or the Task Force during its existence, may make a written demand for any information or reports, whether or not confidential, that may in the Chair's opinion be relevant to a review of a child's death or maltreatment pursuant to this Article. Upon the Chair's request, and unless protected by the attorney-client privilege, any public or private agency or individual shall provide access to and copies of this confidential information and these records to the extent permitted by federal law and regulations. Any public or private agency or individual acting in good faith in providing this access is immune from any civil or criminal liability that might otherwise be incurred or imposed. The State Team, the Local Teams, and the Task Force during its existence, shall have access to all medical records, hospital records, and records maintained by this State, any county, or any local agency as necessary to carry out the purposes of this Article, including police investigations data, medical

1 examiner investigative data, health records, mental health records, and social services
2 records. The State Team, the Task Force, and the Local Teams shall not, as part of the
3 reviews authorized under this Article, contact, question, or interview the child, the parent
4 of the child, or any other family member of the child whose record is being reviewed.
5 Any member of a Local Team may share, only in an official meeting of that Local Team,
6 any information available to that member that the Local Team needs to carry out its
7 duties.

8 (a1) The Chair of the State Team, a Local Team, or the Task Force during its
9 existence, shall have the power to issue subpoenas for any records set forth in subsection
10 (a) of this section, which subpoena shall be served in the manner and for the same fees as
11 are now provided by law. The superior court of the county in which the State Team, a
12 Local Team, or the Task Force meets shall, on application of its Chair or executive
13 director, enforce by proper proceeds the production and examination of these records.

14 (b) Meetings of the State Team and the Local Teams are not subject to the
15 provisions of Article 33C of Chapter 143 of the General Statutes. However, the Local
16 Teams may hold periodic public meetings to discuss, in a general manner not revealing
17 confidential information about children and families, the findings of their reviews and
18 their recommendations for preventive actions. Minutes of all public meetings, excluding
19 those of executive sessions, shall be kept in compliance with Article 33C of Chapter 143
20 of the General Statutes. Any minutes or any other information generated during any
21 executive session shall be sealed from public inspection.

22 (c) All otherwise confidential information and records acquired by the State Team,
23 the Local Teams, and the Task Force during its existence, in the exercise of their duties
24 are confidential; are not subject to discovery or introduction into evidence in any
25 proceedings; and may only be disclosed as necessary to carry out the purposes of the
26 State Team, the Local Teams, and the Task Force. In addition, all otherwise confidential
27 information and records created by a Local Team in the exercise of its duties are
28 confidential; are not subject to discovery or introduction into evidence in any
29 proceedings; and may only be disclosed as necessary to carry out the purposes of the
30 Local Team. No member of the State Team, a Local Team, nor any person who attends a
31 meeting of the State Team or a Local Team, may testify in any proceeding about what
32 transpired at the meeting, about information presented at the meeting, or about opinions
33 formed by the person as a result of the meetings. This subsection shall not, however,
34 prohibit a person from testifying in a civil or criminal action about matters within that
35 person's independent knowledge.

36 (d) Each member of a Local Team and invited participant shall sign a statement
37 indicating an understanding of and adherence to confidentiality requirements, including
38 the possible civil or criminal consequences of any breach of confidentiality.

39 (e) Cases receiving child protective services at the time of review by a Local Team
40 shall have an entry in the child's protective services record to indicate that the case was
41 received by that Team. Additional entry into the record shall be at the discretion of the
42 director of the county department of social services.

1 (f) The Social Services Commission shall adopt rules to implement this section in
2 connection with reviews conducted by Community Child Protection Teams. The Health
3 Services Commission shall adopt rules to implement this section in connection with
4 Local Teams that review additional child fatalities. In particular, these rules shall allow
5 information generated by an executive session of a Local Team to be accessible for
6 administrative or research purposes only."

7 Sec. 2. G.S. 122C-54(h) reads as rewritten:

8 "(h) A facility shall disclose confidential information for purposes of complying
9 with Article 44 of Chapter 7A of the General Statutes and ~~Statutes~~, Article 6 of Chapter
10 108A of the General Statutes, and Article 62 of Chapter 143 of the General Statutes, or as
11 required by other State or federal law."

12 Sec 3. G.S. 7A-675(h) reads as rewritten:

13 ~~"(h) Nothing in this section shall preclude the necessary sharing of information among~~
14 ~~authorized agencies.~~ The chief district court judge in each district shall designate by
15 standing order certain agencies in the district as 'agencies authorized to share
16 information'. Agencies so designated shall share with one another information that is in
17 their possession that is relevant to any case in which a petition is filed alleging that a
18 juvenile is abused, neglected, dependent, delinquent, or undisciplined, and shall continue
19 to do so until the juvenile is no longer subject to the juvenile jurisdiction of the court.
20 Agencies that may be designated as 'agencies authorized to share information' include
21 local mental health facilities, local health departments, local departments of social
22 services, local law enforcement agencies, local school administrative units, the district's
23 district attorney's office, the Division of Juvenile Services of the Administrative Office of
24 the Courts, and the Office of Guardian ad Litem Services of the Courts. Any information
25 shared among agencies pursuant to this subsection shall remain confidential and shall be
26 withheld from public inspection. Nothing in this subsection, this section, or any other
27 provision of law shall preclude any other necessary sharing of information among
28 agencies."

29 Sec. 4. This act becomes effective October 1, 1996. Sections 1 and 2 of this
30 act apply to confidential records being accessed on or after that date. Section 3 of this act
31 applies to all juvenile cases pending or commenced on or after that date.