

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 151

Short Title: Child Fatality Task Force Confidential Records.

(Public)

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Sponsors: Representatives Easterling; Adams, Alexander, Baddour, Clary, Cunningham, Dickson, H. Hunter, Insko, McCrary, Moore, Morris, Mosley, Nye, Smith, Wainwright, Warner, Wright, and Yongue.

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Referred to: Human Resources.

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February 13, 1997

A BILL TO BE ENTITLED

1 AN ACT RECOMMENDED BY THE CHILD FATALITY TASK FORCE TO  
2 BROADEN THE ACCESS TO CONFIDENTIAL RECORDS FOR THE  
3 PURPOSES OF CHILD FATALITY REVIEW AND PREVENTION.  
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5 The General Assembly of North Carolina enacts:

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

7 "**§ 143-578. Access to records.**

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

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

9 (a) The Chair of the State Team, a Local Team, or the Task Force during its  
10 existence, may issue subpoenas for records authorized pursuant to subsection (a) of this  
11 section. Subpoenas issued pursuant to this subsection shall be served in the manner and  
12 for the same fees as provided by law. The superior court of the county in which the State  
13 Team, a Local Team, or the Task Force meets shall, on application of its Chair or  
14 executive director, enforce the production and examination of subpoenaed records.

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

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

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

40 (e) Cases receiving child protective services at the time of review by a Local Team  
41 shall have an entry in the child's protective services record to indicate that the case was  
42 received by that Team. Additional entry into the record shall be at the discretion of the  
43 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 Section 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 Section 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 Administrative Office of  
25 the Courts. Any information shared among agencies pursuant to this subsection shall  
26 remain confidential and shall be withheld from public inspection. Nothing in this section  
27 or any other provision of law shall preclude any other necessary sharing of information  
28 among agencies."

29 Section 4. This act becomes effective October 1, 1997. Sections 1 and 2 of  
30 this act apply to confidential records being accessed on or after that date. Section 3 of this  
31 act applies to all juvenile cases pending or commenced on or after that date.