

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 949
Committee Substitute Favorable 4/29/97

Short Title: Improve Child Protection/Records.

(Public)

Sponsors:

Referred to:

April 15, 1997

A BILL TO BE ENTITLED
AN ACT TO IMPROVE CHILD PROTECTION BY REQUIRING BETTER
DISCLOSURE OF CHILD FATALITY RECORDS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 132 of the General Statutes is amended by adding the following new section to read:

"§ 132-1.5. Child fatality records.

(a) As used in this Chapter, 'child fatality cases' shall include cases in which a child dies as a result of suspected abuse or neglect and (i) an individual is criminally charged with the child's death; or (ii) the county department of social services receives a report from the medical examiner, physician or other person, pursuant to G.S. 7A-543, that the child's death may have been the result of abuse or maltreatment.

(b) Notwithstanding any other provision of law, confidentiality shall be lifted in child fatality cases as defined in subsection (a), and the deceased child's records in the custody of governmental agencies shall be public. These records shall include, but not be limited to, all medical records, hospital records, emergency medical services records, police investigative records, medical examiner investigative data, and records maintained by a State, county, or local government agency, including public health records, mental health records, educational records, and social services records.

1 (c) If a public agency believes that release of information that is a public record
2 under subsections (a) and (b) of this section is reasonably likely to pose a threat to the
3 mental health, physical health, or personal safety of a minor child residing in the
4 deceased child's household, or to materially compromise a continuing or future criminal
5 investigation, the agency may seek an order from a court of competent jurisdiction to
6 prevent disclosure of the information. In such action, the agency shall have the burden of
7 showing by clear and convincing evidence that disclosure of the information in question
8 will do one or more of the following:

9 (1) Cause mental or physical harm or danger to a minor child residing in the
10 deceased child's household;

11 (2) Jeopardize the ability of the State to prosecute a defendant;

12 (3) Jeopardize the right of a criminal defendant to a fair trial; or

13 (4) Undermine an ongoing or future criminal investigation.

14 Actions brought pursuant to this subsection shall be set down for immediate hearing, and
15 subsequent proceedings in such actions shall be accorded priority by the trial and
16 appellate courts.

17 (d) The custodian of child fatality records may decline disclosure of any record
18 that is confidential pursuant to the law of the United States.

19 (e) Notwithstanding the provisions of this section, personally identifying
20 information that would reveal the identities of persons who provide information related to
21 suspected child abuse cases is not a public record.

22 (f) An entity having custody of records made public under this section shall not be
23 liable under any State law for good faith disclosure of information from the records or for
24 any other action taken by the entity in good faith to comply with this section."

25 Section 2. This act becomes effective July 1, 1998.