

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SENATE BILL 799
RATIFIED BILL**

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(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~~ report, without redactions other than to protect confidential personnel information, the death of any client of the facility, and, if known, the death of any former client of a facility who dies within 14 days of release from the facility, regardless of the manner of ~~death,~~ death:

- (1) ~~to~~ To the medical examiner of the county in which the body of the deceased is found, ~~found;~~ and
- (2) To the State protection and advocacy agency designated under the Developmental Disabilities Assistance and Bill of Rights Act 2000, 42 U.S.C. § 15001, et seq. 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 2. 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:

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

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

"(i) Notwithstanding G.S. 122C-22, all facilities, as defined in G.S. 122C-3(14), shall comply with this section."

SECTION 4. G.S. 122C-31(b) reads as rewritten:

"(b) Upon receipt of notification from a facility in accordance with subsection (a) of this section, the Secretary shall notify the State protection and advocacy agency designated under the Developmental Disabilities Assistance and Bill of Rights Act 2000, ~~P.L. 106-402,~~ 42 U.S.C. § 15001, et seq., that a person with a disability has died. The Secretary shall provide the agency access to the information about each death reported pursuant to subsection (a) of this section, including information resulting from any investigation of the death by the Department and from reports received from the Chief Medical Examiner pursuant to G.S. 130A-385. The agency shall use the information in accordance with its powers and duties under applicable State and federal law and regulations."

SECTION 5. G.S. 122C-52(a) reads as rewritten:



"(a) Except as provided in G.S. 132-5 and G.S. 122C-31(h), confidential information acquired in attending or treating a client is not a public record under Chapter 132 of the General Statutes."

SECTION 6. G.S. 122C-54 is amended by adding the following new subsections:

"(i) G.S. 132-1.4 shall apply to the records of criminal investigations conducted by any law enforcement unit of a State facility, and information described in G.S. 132-1.4(c) that is collected by the State facility law enforcement unit shall be public records within the meaning of G.S. 132-1.

(j) Notwithstanding any other provision of this Chapter, the Secretary may inform any person of any incident or event involving the welfare of a client or former client when the Secretary determines that the release of the information is essential to maintaining the integrity of the Department. However, the release shall not include information that identifies the client directly, or information for which disclosure is prohibited by State or federal law or requirements, or information for which, in the Secretary's judgment, by reference to publicly known or available information, there is a reasonable basis to believe the client will be identified."

SECTION 7. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of July, 2009.

Walter H. Dalton
President of the Senate

Joe Hackney
Speaker of the House of Representatives

Beverly E. Perdue
Governor

Approved _____m. this _____ day of _____, 2009