

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

SESSION LAW 2021-145
HOUSE BILL 351

AN ACT DIRECTING THE SECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO ESTABLISH VISITATION PROTOCOLS FOR NURSING HOMES, COMBINATION HOMES, AND ADULT CARE HOMES, INCLUDING FAMILY CARE HOMES, DURING DECLARED DISASTERS AND EMERGENCIES AND REQUIRING THESE FACILITIES TO ADHERE TO THE ESTABLISHED VISITATION PROTOCOLS DURING DECLARED DISASTERS AND EMERGENCIES WHEN NORMAL VISITATION POLICIES ARE SUSPENDED OR CURTAILED.

Whereas, Clifford Jernigan is a 63-year old male with the mentality of a 3-year old who has been confined to a long-term care facility for the past 53 years; and

Whereas, his mother visited him every week for 13 years until her death; and

Whereas, his sister, Mary Jernigan, has visited him each week for 40 years; and

Whereas, he has had only one outside visitor, his sister, over the last year during which time he has lost over 25 pounds; and

Whereas, a staff member at the facility told his sister that he seemed to be mourning himself to death; and

Whereas, he is only one of many thousands of residents in nursing homes and combination homes who have gravely suffered because of restricted visitation during the COVID-19 pandemic; and

Whereas, the General Assembly finds it is in the best interest of the State and that it is both critical and essential for the well-being of these residents to have a minimal number and frequency of visitors; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known and may be cited as "Clifford's Law."

SECTION 2.(a) Part 1 of Article 6 of Chapter 131E of the General Statutes is amended by adding two new sections to read:

"§ 131E-112.5. Secretary to establish visitation protocols during declared disasters and emergencies.

(a) As used in this section and G.S. 131E-112.6, the following terms have the following meanings:

(1) Disaster declaration. – As defined in G.S. 166A-19.3(3).

(2) Emergency. – As defined in G.S. 166A-19.3(6).

(3) Facility. – A nursing home or combination home licensed under this Part.

(4) Normal visitation policy. – The visitation policy that was in effect at a facility on January 1, 2020.

(b) The Secretary shall, in consultation with licensed operators of nursing homes and combination homes, and any other stakeholders the Secretary deems relevant, establish visitation protocols for residents of these facilities that will become effective during a disaster declaration or emergency that results in the suspension or curtailment of a facility's normal visitation policy for any reason. The visitation protocols shall provide for at least the following:



- (1) Each resident shall have the right to designate one preapproved visitor and one preapproved alternate visitor. The preapproved visitor, or if the preapproved visitor is unavailable, the preapproved alternate visitor, shall be allowed to visit the resident at least twice per month during any period of time during which the facility's normal visitation policy is suspended or curtailed for any reason during the declared disaster or emergency.
- (2) Prior to admission, each facility shall explain and provide to each resident written notification of the visitation protocols established by the Secretary under this section.
- (3) Visitation under these protocols shall be subject to Centers for Medicare and Medicaid Services directives and to the guidelines, conditions, and limitations established by the facility as part of its normal visitation policy.

"§ 131E-112.6. Patient visitation rights for nursing home residents and combination home residents during a disaster declaration or emergency.

Notwithstanding any provision of this Part, Chapter 166A of the General Statutes, or any other provision of law to the contrary, the visitation protocols established by the Secretary under G.S. 131E-112.5 shall be in effect during any period of time when (i) there is a declared disaster or emergency and (ii) a nursing home or combination home licensed under this Part suspends or restricts the normal visitation policy for any reason."

SECTION 2.(b) By June 15, 2022, the Secretary of the Department of Health and Human Services shall implement the visitation protocols described in G.S. 131E-112.5, as enacted by this act. At least 30 days prior to implementation of these visitation protocols, the Secretary shall submit a report summarizing the visitation protocols to the Chairs of the Joint Legislative Oversight Committee on Health and Human Services.

SECTION 3.(a) Article 1 of Chapter 131D of the General Statutes is amended by adding two new sections to read:

"§ 131D-7.1. Secretary to establish visitation protocols during declared disasters and emergencies.

(a) As used in this section and in G.S. 131D-7.2, the following terms have the following meanings:

- (1) Disaster declaration. – As defined in G.S. 166A-19.3(3).
- (2) Emergency. – As defined in G.S. 166A-19.3(6).
- (3) Facility. – An adult care home, including a family care home, licensed under this Article.
- (4) Normal visitation policy. – The visitation policy that was in effect at a facility on January 1, 2020.

(b) The Secretary shall, in consultation with licensed operators of adult care homes, including family care homes, and any other stakeholders the Secretary deems relevant, establish visitation protocols for residents of these facilities that will become effective during a disaster declaration or emergency that results in the suspension or curtailment of a facility's normal visitation policy for any reason. The visitation protocols shall provide for at least the following:

- (1) Each resident shall have the right to designate one preapproved visitor and one preapproved alternate visitor. The preapproved visitor, or if the preapproved visitor is unavailable, the preapproved alternate visitor, shall be allowed to visit the resident at least twice per month during any period of time during which the facility's normal visitation policy is suspended or curtailed for any reason during the declared disaster or emergency.
- (2) Prior to admission, each facility shall explain and provide to each resident written notification of the visitation protocols established by the Secretary under this section.

- (3) Visitation under these protocols shall be subject to Centers for Medicare and Medicaid Services directives and to the guidelines, conditions, and limitations established by the facility as part of its normal visitation policy.

"§ 131D-7.2. Resident visitation rights for adult care homes, including family care homes, during a disaster declaration or emergency.

Notwithstanding any provision of this Part, Chapter 166A of the General Statutes, or any other provision of law to the contrary, the visitation protocols established by the Secretary under G.S. 131D-7.1 shall be in effect during any period of time when (i) there is a declared disaster or emergency and (ii) an adult care home, including a family care home, licensed under this Article suspends or restricts the normal visitation policy for any reason."

SECTION 3.(b) By June 15, 2022, the Secretary of the Department of Health and Human Services shall implement the visitation protocols described in G.S. 131D-7.1, as enacted by this act. At least 30 days prior to implementation of these visitation protocols, the Secretary shall submit a report summarizing the visitation protocols to the chairs of the Joint Legislative Oversight Committee on Health and Human Services.

SECTION 4. Sections 1, 2(a), and 3(a) are effective April 1, 2022. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 1st day of September, 2021.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 10:05 a.m. this 10th day of September, 2021