

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 465
Committee Substitute Favorable 4/22/15
Senate Judiciary II Committee Substitute Adopted 5/27/15

Short Title: Women and Children's Protection Act of 2015.

(Public)

Sponsors:

Referred to:

April 2, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE WOMEN AND CHILDREN'S PROTECTION ACT OF 2015.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.(a)** G.S. 14-27.7A reads as rewritten:

5 "**§ 14-27.7A. Statutory rape or sexual offense of person who is 13, 14, or 15 years old of**
6 **age or younger.**

7 (a) A defendant is guilty of a Class B1 felony if the defendant engages in vaginal
8 intercourse or a sexual act with another person who is ~~13, 14, or 15 years old of age or younger~~
9 and the defendant is at least six years older than the person, except when the defendant is
10 lawfully married to the person.

11 (b) ~~A~~ Unless the conduct is covered under some other provision of law providing
12 greater punishment, a defendant is guilty of a Class C felony if the defendant engages in
13 vaginal intercourse or a sexual act with another person who is ~~13, 14, or 15 years old of age or~~
14 younger and the defendant is more than four but less than six years older than the person,
15 except when the defendant is lawfully married to the person."

16 **SECTION 1.(b)** G.S. 14-208.6 reads as rewritten:

17 "**§ 14-208.6. Definitions.**

18 The following definitions apply in this Article:

19 ...

20 (5) "Sexually violent offense" means a violation of G.S. 14-27.2 (first degree
21 rape), G.S. 14-27.2A (rape of a child; adult offender), G.S. 14-27.3 (second
22 degree rape), G.S. 14-27.4 (first degree sexual offense), G.S. 14-27.4A (sex
23 offense with a child; adult offender), G.S. 14-27.5 (second degree sexual
24 offense), G.S. 14-27.5A (sexual battery), former G.S. 14-27.6 (attempted
25 rape or sexual offense), G.S. 14-27.7 (intercourse and sexual offense with
26 certain victims), G.S. 14-27.7A(a) (statutory rape or sexual offense of person
27 who is ~~13, 14, or 15 years old where~~ 15 years of age or younger and the
28 defendant is at least six years older), G.S. 14-43.11 (human trafficking) if (i)
29 the offense is committed against a minor who is less than 18 years of age or
30 (ii) the offense is committed against any person with the intent that they be
31 held in sexual servitude, G.S. 14-43.13 (subjecting or maintaining a person
32 for sexual servitude), G.S. 14-178 (incest between near relatives),
33 G.S. 14-190.6 (employing or permitting minor to assist in offenses against
34 public morality and decency), G.S. 14-190.9(a1) (felonious indecent
35 exposure), G.S. 14-190.16 (first degree sexual exploitation of a minor),



1 G.S. 14-190.17 (second degree sexual exploitation of a minor),
 2 G.S. 14-190.17A (third degree sexual exploitation of a minor),
 3 G.S. 14-202.1 (taking indecent liberties with children), G.S. 14-202.3
 4 (Solicitation of child by computer or certain other electronic devices to
 5 commit an unlawful sex act), G.S. 14-202.4(a) (taking indecent liberties with
 6 a student), G.S. 14-205.2(c) or (d) (patronizing a prostitute who is a minor or
 7 a mentally disabled person), G.S. 14-205.3(b) (promoting prostitution of a
 8 minor or a mentally disabled person), G.S. 14-318.4(a1) (parent or caretaker
 9 commit or permit act of prostitution with or by a juvenile), or
 10 G.S. 14-318.4(a2) (commission or allowing of sexual act upon a juvenile by
 11 parent or guardian). The term also includes the following: a solicitation or
 12 conspiracy to commit any of these offenses; aiding and abetting any of these
 13 offenses.

14"

15 **SECTION 1.(c)** G.S. 90-210.25B reads as rewritten:

16 "**§ 90-210.25B. Persons who shall not be licensed under this Article.**

17 ...

18 (b) For purposes of this Article, the term "sexual offense against a minor" means a
 19 conviction of any of the following offenses: G.S. 14-27.4A(a) (sex offense with a child; adult
 20 offender), G.S. 14-27.7A (statutory rape or sexual offense of person who is ~~13, 14, or 15 years~~
 21 ~~old where~~ 15 years of age or younger and the defendant is at least six years older),
 22 G.S. 14-190.16 (first-degree sexual exploitation of a minor), G.S. 14-190.17 (second degree
 23 sexual exploitation of a minor), G.S. 14-190.17A (third degree sexual exploitation of a minor),
 24 G.S. 14-190.18 (promoting prostitution of a minor), G.S. 14-190.19 (participating in
 25 prostitution of a minor), G.S. 14-202.1 (taking indecent liberties with children), G.S. 14-202.3
 26 (solicitation of child by computer or certain other electronic devices to commit an unlawful sex
 27 act), G.S. 14-202.4(a) (taking indecent liberties with a student), G.S. 14-318.4(a1) (parent or
 28 caretaker commit or permit act of prostitution with or by a juvenile), or G.S. 14-318.4(a2)
 29 (commission or allowing of sexual act upon a juvenile by parent or guardian). The term shall
 30 also include a conviction of the following: any attempt, solicitation, or conspiracy to commit
 31 any of these offenses or any aiding and abetting any of these offenses. The term shall also
 32 include a conviction in another jurisdiction for an offense which if committed in this State has
 33 the same or substantially similar elements to an offense against a minor as defined by this
 34 section.

35"

36 **SECTION 1.(d)** This section becomes effective December 1, 2015, and applies to
 37 offenses committed on or after that date.

38 **SECTION 2.(a)** G.S. 110-130.1(d) reads as rewritten:

39 "(d) Any fee imposed by the North Carolina Department of Revenue or the Secretary of
 40 the Treasury to cover their costs of withholding for non-Work First arrearages certified for the
 41 collection of past due support from State or federal income tax refunds or administrative
 42 offsets, as defined by 31 C.F.R. § 285.1(a), shall be borne by the client by deducting the fee
 43 from the amount collected.

44 Any income tax refund offset amounts or administrative offsets, as defined by 31 C.F.R. §
 45 285.1(a), which are subsequently determined to have been incorrectly withheld and distributed
 46 to a client, and which must be refunded by the State to a responsible parent or the nondebtor
 47 spouse, shall constitute a debt to the State owed by the client."

48 **SECTION 2.(b)** G.S. 110-136.4 reads as rewritten:

49 "**§ 110-136.4. Implementation of withholding in IV-D cases.**

50 (a) Withholding based on arrearages or obligor's request.

- 1 (1) Advance notice of withholding. When an obligor in a IV-D case becomes
2 subject to income withholding, the obligee shall, after verifying the obligor's
3 current employer or other payor, wages or other disposable income, and
4 mailing address, serve the obligor with advance notice of withholding in
5 accordance with G.S. 1A-1, Rule 4, Rules of Civil Procedure.
- 6 (2) Contents of advance notice. The advance notice to the obligor shall contain,
7 at a minimum, the following information:
- 8 a. Whether the proposed withholding is based on the obligor's failure to
9 make legally obligated child support, alimony or postseparation
10 support payments on the obligor's request for withholding, on the
11 obligee's request for withholding, or on the obligor's eligibility for
12 withholding under G.S. 110-136.3(b)(3);
- 13 b. The amount of overdue child support, overdue alimony or
14 postseparation support payments, the total amount to be withheld,
15 and when the withholding will occur;
- 16 c. The name of each child or person for whose benefit the child support,
17 alimony or postseparation support payments are due and information
18 sufficient to identify the court order under which the obligor has a
19 duty to support the child, spouse, or former spouse;
- 20 d. The amount and sources of disposable income;
- 21 e. That the withholding will apply to the obligor's wages or other
22 sources of disposable income from current payors and all subsequent
23 payors once the procedures under this section are invoked;
- 24 f. An explanation of the obligor's rights and responsibilities pursuant to
25 this section;
- 26 g. That withholding will be continued until terminated pursuant to
27 G.S. 110-136.10.
- 28 (3) Contested withholding. The obligor may contest the withholding only on the
29 basis of a mistake of fact, except that G.S. 110-129(10)(a) is not applicable if
30 withholding is based on the obligor's or obligee's request for withholding. To
31 contest the withholding, the obligor must, within 10 days of receipt of the
32 advance notice of withholding, request a hearing in the county where the
33 support order was entered before the district court and give notice to the
34 obligee specifying the mistake of fact upon which the hearing request is
35 based. If the asserted mistake of fact can be resolved by agreement between
36 the obligee and the obligor, no hearing shall occur. Otherwise, a hearing
37 shall be held and a determination made, within 30 days of the obligor's
38 receipt of the advance notice of withholding, as to whether the asserted
39 mistake of fact is valid. No withholding shall occur pending the hearing
40 decision. The failure to hold a hearing within 30 days shall not invalidate an
41 otherwise properly entered order. If it is determined that a mistake of fact
42 exists, no withholding shall occur. Otherwise, within 45 days of the obligor's
43 receipt of the advance notice of withholding, the obligee shall serve the
44 payor, pursuant to G.S. 1A-1, Rule 5, Rules of Civil Procedure, or by
45 electronic transmission in compliance with the Federal Office of Child
46 Support Enforcement (OCSE) electronic income withholding (e-IWO)
47 procedures, with notice of his obligation to withhold, and shall mail a copy
48 of such notice to the obligor and file a copy with the clerk. In the event of
49 appeal, withholding shall not be stayed. If the appeal is concluded in favor of
50 the obligor, the obligee shall promptly repay sums wrongfully withheld and
51 notify the payor to cease withholding.

1 (4) Uncontested withholding. If the obligor does not contest the withholding
2 within the 10-day response period, the obligee shall serve the payor,
3 pursuant to G.S. 1A-1, Rule 5, Rules of Civil Procedure, or by electronic
4 transmission in compliance with the Federal Office of Child Support
5 Enforcement (OCSE) electronic income withholding (e-IWO) procedures,
6 with notice of his obligation to withhold, and shall mail a copy of such
7 notice to the obligor and file a copy with the clerk.

8 (5) Payment not a defense to withholding. The payment of overdue support shall
9 not be a basis for terminating or not implementing withholding.

10 (6) Inability to implement withholding. When an obligor is subject to
11 withholding, but withholding under this section cannot be implemented
12 because the obligor's location is unknown, because the extent and source of
13 his disposable income cannot be determined, or for any other reason, the
14 obligee shall either request the clerk of superior court to initiate enforcement
15 proceedings under G.S. 15A-1344.1(d) or G.S. 50-13.9(d) or take other
16 appropriate available measures to enforce the support obligation.

17 (b) Immediate income withholding. When a new or modified child support order is
18 entered, the district court judge shall, after hearing evidence regarding the obligor's disposable
19 income, place the obligor under an order for immediate income withholding. The IV-D agency
20 shall serve the payor pursuant to G.S. 1A-1, Rule 5, Rules of Civil Procedure, or by electronic
21 transmission in compliance with the Federal Office of Child Support Enforcement (OCSE)
22 electronic income withholding (e-IWO) procedures, with a notice of his obligation to withhold,
23 and shall mail a copy of such notice to the obligor and file a copy with the clerk. If information
24 is unavailable regarding an obligor's disposable income, or the obligor is unemployed, or an
25 agreement is reached between both parties which provides for an alternative arrangement,
26 immediate income withholding shall not apply. The obligor, however, is subject to income
27 withholding pursuant to G.S. 110-136.4(a).

28 (c) Subsequent payors. If the obligor changes employment or source of disposable
29 income, notice to subsequent payors of their obligation to withhold shall be served as required
30 by G.S. 1A-1, Rule 5, Rules of Civil Procedure. ~~Procedure.~~ Procedure, or by electronic transmission in
31 compliance with the Federal Office of Child Support Enforcement (OCSE) electronic income
32 withholding (e-IWO) procedures. Copies of such notice shall be filed with the clerk of court
33 and served upon the obligor by first class mail.

34 (d) Multiple withholdings. The obligor must notify the obligee if the obligor is currently
35 subject to another withholding for child support. In the case of two or more withholdings
36 against one obligor, the obligee or obligees shall attempt to resolve any conflict between the
37 orders in a manner that is fair and equitable to all parties and within the limits specified by
38 G.S. 110-136.6. If the conflict cannot be so resolved, an injured party, upon request, shall be
39 granted a hearing in accordance with the procedure specified in G.S. 110-136.4(c). The conflict
40 between the withholding orders shall be resolved in accordance with G.S. 110-136.7.

41 (e) Modification of withholding. When an order for withholding has been entered under
42 this section, the obligee may modify the withholding based on changed circumstances. The
43 obligee shall proceed as is provided in this section.

44 (f) Applicability of section. The provisions of this section apply to IV-D cases only."

45 **SECTION 2.(c)** G.S. 110-139.2(b1) reads as rewritten:

46 "(b1) The Department of Health and Human Services Child Support Enforcement Agency
47 may notify any financial institution doing business in this State that an obligor who maintains
48 an identified account with the financial institution has a child support obligation that may be
49 eligible for levy on the account in an amount that satisfies some or all of the amount of unpaid
50 support owed. In order to be able to attach a lien on and levy an obligor's account, the amount

1 of unpaid support owed shall be an amount not less than the amount of support owed for six
2 months or one thousand dollars (\$1,000), whichever is less.

3 Upon certification of the amount of unpaid support owed in accordance with G.S. 44-86(c),
4 the Child Support Agency shall serve or cause to be served upon the obligor, and when the
5 matched account is owned jointly, any other nonliable owner of the account, and the financial
6 institution a notice as provided by this subsection. The notice shall include the name of the
7 obligor, the financial institution where the account is located, the account number of the
8 account to be levied to satisfy the lien, the certified amount of unpaid support, information for
9 the obligor or account owner on how to remove the lien or contest the lien in order to avoid the
10 levy, and a ~~copy of reference to~~ the applicable law, G.S. 110-139.2. The notice shall be served
11 on the obligor, and any nonliable account owner, in any manner provided in Rule 4 of the
12 North Carolina Rules of Civil Procedure. The financial institution shall be served notice in
13 accordance with Rule 5 of the North Carolina Rules of Civil Procedure. Upon service of the
14 notice, the financial institution shall proceed in the following manner:

- 15 (1) Immediately attach a lien to the identified account.
- 16 (2) Notify the Child Support Agency of the balance of the account and date of
17 the lien or that the account does not meet the requirement for levy under this
18 subsection.

19 In order for an obligor or account owner to contest the lien, within 10 days after the obligor
20 or account owner is served with the notice, the obligor or account owner shall send written
21 notice of the basis of the contest to the Child Support Agency and shall request a hearing before
22 the district court in the county where the support order was entered. The obligor account holder
23 may contest the lien only on the basis that the amount owed is an amount less than the amount
24 of support owed for six months, or is less than one thousand dollars (\$1,000), whichever is less,
25 or the contesting party is not the person subject to the court order of support. The district court
26 may assess court costs against the nonprevailing party. If no response is received from the
27 obligor or account owner within 10 days of the service of the notice, the Child Support Agency
28 shall notify the financial institution to submit payment, up to the total amount of the child
29 support arrears, if available. This amount is to be applied to the debt of the obligor.

30 A financial institution shall not be liable to any person for complying in good faith with this
31 subsection. The remedy set forth in this section shall be in addition to all other remedies
32 available to the State for the reduction of the obligor's child support arrears. This remedy shall
33 not prevent the State from taking any and all other concurrent measures available by law.

34 This levy procedure is to be available for direct use by all states' child support programs to
35 financial institutions in this State without involvement of the Department."

36 **SECTION 2.(d)** This section is effective when it becomes law.

37 **SECTION 3.(a)** Article 29 of Chapter 7A of the General Statutes is amended by
38 adding a new section to read:

39 **"§ 7A-343.6. Electronic filing in Chapter 50B and Chapter 50C cases.**

40 The North Carolina Administrative Office of the Courts is authorized to develop a program
41 for electronic filing in Chapter 50B and Chapter 50C cases in district court in all counties in
42 North Carolina. In order to implement the program in one or more counties in a district, the
43 chief district court judge in each district shall draft local rules and submit the rules to the
44 Administrative Office of the Courts for approval. The local rules shall permit the clerk of
45 superior court for the county to accept electronically filed complaints requesting a domestic
46 violence protective order pursuant to Chapter 50B of the General Statutes, or a civil no-contact
47 order pursuant to Chapter 50C of the General Statutes, that are transmitted from a domestic
48 violence program as defined in G.S. 8-53.12. The authorization for local rules shall be
49 superseded by the promulgation of uniform State rules by the Supreme Court."

50 **SECTION 3.(b)** G.S. 50B-2 reads as rewritten:

1 **"§ 50B-2. Institution of civil action; motion for emergency relief; temporary orders;**
2 **temporary custody.**

3 ...

4 (e) All documents filed, issued, registered, or served in an action under this Chapter
5 relating to an ex parte, emergency, or permanent domestic violence protective order may be
6 filed electronically. Hearings held to consider ex parte relief pursuant to subsection (c) of this
7 section may be held via video conference. Hearings held to consider emergency or permanent
8 relief pursuant to subsections (a) or (b) of this section shall not be held via video conference."

9 **SECTION 3.(c)** G.S. 50C-2 reads as rewritten:

10 **"§ 50C-2. Commencement of action; filing fees not permitted; assistance.**

11 ...

12 (e) All documents filed, issued, registered, or served in an action under this Chapter
13 relating to an ex parte, emergency, or permanent civil no-contact order may be filed
14 electronically."

15 **SECTION 3.(d)** G.S. 50C-6 reads as rewritten:

16 **"§ 50C-6. Temporary civil no-contact order; court holidays and evenings.**

17 ...

18 (e) Hearings held to consider ex parte relief pursuant to subsection (a) of this section
19 may be held via video conference."

20 **SECTION 3.(e)** G.S. 50C-7 reads as rewritten:

21 **"§ 50C-7. Permanent civil no-contact order.**

22 Upon a finding that the victim has suffered an act of unlawful conduct committed by the
23 respondent, a permanent civil no-contact order may issue if the court additionally finds that
24 process was properly served on the respondent, the respondent has answered the complaint and
25 notice of hearing was given, or the respondent is in default. No permanent civil no-contact
26 order shall be issued without notice to the respondent. Hearings held to consider permanent
27 relief pursuant to this section shall not be held via video conference."

28 **SECTION 3.(f)** Sections 3(b) through 3(e) become effective December 1, 2015,
29 and apply to documents filed and hearings held on or after that date.

30 **SECTION 4.(a)** G.S. 15A-1340.16(d) is amended by adding a new subdivision to
31 read:

32 "(13a) The defendant committed a violent offense and knew or reasonably should
33 have known that a person under the age of 16 who was not involved in the
34 commission of the offense was in a position to see or hear the offense."

35 **SECTION 4.(b)** G.S. 14-33(d) reads as rewritten:

36 "(d) Any person who, in the course of an assault, assault and battery, or affray, inflicts
37 serious injury upon another person, or uses a deadly weapon, in violation of subdivision (c)(1)
38 of this section, on a person with whom the person has a personal relationship, and in the
39 presence of a minor, is guilty of a Class A1 misdemeanor. A person convicted under this
40 subsection, who is sentenced to a community punishment, shall be placed on supervised
41 probation in addition to any other punishment imposed by the court.

42 A person committing a second or subsequent violation of this subsection shall be sentenced
43 to an active punishment of no less than 30 days in addition to any other punishment imposed by
44 the court.

45 The following definitions apply to this subsection:

46 (1) "Personal relationship" is as defined in G.S. 50B-1(b).

47 (2) "In the presence of a minor" means that the minor was in a position to ~~have~~
48 ~~observed-see or hear~~ the assault.

49 (3) "Minor" is any person under the age of 18 years who is residing with or is
50 under the care and supervision of, and who has a personal relationship with,
51 the person assaulted or the person committing the assault."

1 **SECTION 4.(c)** G.S. 15A-534.1(a) reads as rewritten:

2 "(a) In all cases in which the defendant is charged with assault on, stalking,
3 communicating a threat to, or committing a felony provided in Articles 7A, 8, 10, or 15 of
4 Chapter 14 of the General Statutes upon a spouse or former ~~spouse or spouse~~, a person with
5 whom the defendant lives or has lived as if married, or a person with whom the defendant is or
6 has been in a dating relationship as defined in G.S. 50B-1(b)(6), with domestic criminal
7 trespass, or with violation of an order entered pursuant to Chapter 50B, Domestic Violence, of
8 the General Statutes, the judicial official who determines the conditions of pretrial release shall
9 be a judge. The judge shall direct a law enforcement officer or a district attorney to provide a
10 criminal history report for the defendant and shall consider the criminal history when setting
11 conditions of release. After setting conditions of release, the judge shall return the report to the
12 providing agency or department. No judge shall unreasonably delay the determination of
13 conditions of pretrial release for the purpose of reviewing the defendant's criminal history
14 report. The following provisions shall apply in addition to the provisions of G.S. 15A-534:

- 15 (1) Upon a determination by the judge that the immediate release of the
16 defendant will pose a danger of injury to the alleged victim or to any other
17 person or is likely to result in intimidation of the alleged victim and upon a
18 determination that the execution of an appearance bond as required by
19 G.S. 15A-534 will not reasonably assure that such injury or intimidation will
20 not occur, a judge may retain the defendant in custody for a reasonable
21 period of time while determining the conditions of pretrial release.
- 22 (2) A judge may impose the following conditions on pretrial release:
- 23 a. That the defendant stay away from the home, school, business or
24 place of employment of the alleged victim.
 - 25 b. That the defendant refrain from assaulting, beating, molesting, or
26 wounding the alleged victim.
 - 27 c. That the defendant refrain from removing, damaging or injuring
28 specifically identified property.
 - 29 d. That the defendant may visit his or her child or children at times and
30 places provided by the terms of any existing order entered by a
31 judge.
 - 32 e. That the defendant abstain from alcohol consumption, as verified by
33 the use of a continuous alcohol monitoring system, of a type
34 approved by the Division of Adult Correction of the Department of
35 Public Safety, and that any violation of this condition be reported by
36 the monitoring provider to the district attorney.

37 The conditions set forth above may be imposed in addition to requiring that
38 the defendant execute a secured appearance bond.

- 39 (3) Should the defendant be mentally ill and dangerous to himself or others or a
40 substance abuser and dangerous to himself or others, the provisions of
41 Article 5 of Chapter 122C of the General Statutes shall apply."

42 **SECTION 4.(d)** This section becomes effective December 1, 2015, and applies to
43 offenses committed on or after that date.

44 **SECTION 5.(a)** G.S. 14-208.18(c)(1) reads as rewritten:

45 "(c) Subsection (a) of this section is applicable only to persons required to register under
46 this Article who have committed any of the following offenses:

- 47 (1) Any offense in Article 7A of this ~~Chapter~~ Chapter or any federal offense or
48 offense committed in another state, which if committed in this State, is
49 substantially similar to an offense in Article 7A of this Chapter."

50 **SECTION 5.(b)** This section becomes effective December 1, 2015, and applies to
51 offenses committed on or after that date.

1 SECTION 6.(a) Article 1B of Chapter 130A of the General Statutes is amended by
2 adding a new Part to read:

3 "Part 5. Maternal Mortality Review Committee.

4 "§ 130A-33.52. Maternal Mortality Review Committee; membership, compensation.

5 (a) The Maternal Mortality Review Committee is established in the Department. The
6 purpose of the committee is to reduce maternal mortality in this State by conducting
7 multidisciplinary maternal death reviews and developing recommendations for the prevention
8 of future maternal deaths.

9 (b) The Secretary shall appoint a multidisciplinary committee comprised of nine
10 members who represent several academic disciplines and professional specializations essential
11 to reviewing cases of mortality due to complications from pregnancy or childbirth. Committee
12 members shall serve without compensation, but may receive travel reimbursement from funds
13 available to the Department.

14 (c) The duties of the committee shall include:

15 (1) Identifying maternal death cases.

16 (2) Reviewing medical records and other relevant data.

17 (3) Contacting family members and other affected or involved persons to collect
18 additional relevant data.

19 (4) Consulting with relevant experts to evaluate relevant data.

20 (5) Making nonindividual determinations with no legal meaning regarding the
21 preventability of maternal deaths.

22 (6) Making recommendations for the prevention of maternal deaths.

23 (7) Disseminating findings and recommendations to policy makers, health care
24 providers, health care facilities, and the general public. Reports shall include
25 only aggregated, nonindividually identifiable data.

26 (d) Licensed health care providers, health care facilities, and pharmacies shall provide
27 reasonable access to the committee to all relevant medical records associated with a case under
28 review by the committee. A health care provider, health care facility, or pharmacy providing
29 access to medical records pursuant to this Part shall not be held liable for civil damages or be
30 subject to any criminal or disciplinary action for good faith efforts to provide such records.

31 (e) Except as provided in subsection (h) of this section, information, records, reports,
32 statements, notes, memoranda, or other data collected pursuant to this Part shall not be
33 admissible as evidence in any action of any kind in any court or before any other tribunal,
34 board, agency, or person, nor shall they be exhibited nor their contents disclosed in any way, in
35 whole or in part, by any officer or representative of the Department or any other person, except
36 as may be necessary for the purpose of furthering the committee's review of the case to which
37 they relate. No person participating in such review shall disclose, in any manner, the
38 information so obtained except in strict conformity with the review process.

39 (f) All information, records of interviews, written reports, statements, memoranda, or
40 other data obtained by the Department, the committee, and other persons, agencies, or
41 organizations so authorized by the Department pursuant to this Part shall be confidential.

42 (g) All proceedings and activities of the committee pursuant to this Part, opinions of
43 committee members formed as a result of such proceedings and activities, and records
44 obtained, created, or maintained pursuant to this Part, including records of interviews, written
45 reports, and statements procured by the Department or any other person, agency, or
46 organization acting jointly or under contract with the Department in connection with the
47 requirements of this Part, shall be confidential and shall not be subject to statutes relating to
48 open meetings and open records, or subject to subpoena, discovery, or introduction into
49 evidence in any civil or criminal proceeding.

50 (h) Nothing in this Part shall be construed to limit or restrict the right to discover or use
51 in any civil or criminal proceeding anything that is available from another source.

1 (i) Members of the committee shall not be questioned in any civil or criminal
2 proceeding regarding the information presented or opinions formed as a result of a meeting or
3 communication of the committee; provided, however, that nothing in this Part shall be
4 construed to prevent a member of the committee from testifying to information obtained
5 independently of the committee or which is public information."

6 **SECTION 6.(b)** This section becomes effective on December 1, 2015.

7 **SECTION 7.(a)** G.S. 14-45.1 reads as rewritten:

8 "**§ 14-45.1. When abortion not unlawful.**

9 (a) Notwithstanding any of the provisions of G.S. 14-44 and 14-45, it shall not be
10 unlawful, during the first 20 weeks of a woman's pregnancy, to advise, procure, or cause a
11 miscarriage or abortion when the procedure is performed by a qualified physician licensed to
12 practice medicine in North Carolina in a hospital or clinic certified by the Department of Health
13 and Human Services to be a suitable facility for the performance of abortions.

14 (a1) The Department of Health and Human Services shall annually inspect any clinic,
15 including ambulatory surgical facilities, where abortions are performed. The Department of
16 Health and Human Services shall publish on the Department's Web site and on the State Web
17 site established under G.S. 90-21.84 the results and findings of all inspections conducted on or
18 after January 1, 2013, of clinics, including ambulatory surgical facilities, where abortions are
19 performed, including any statement of deficiencies and any notice of administrative action
20 resulting from the inspection. No person who is less than 18 years of age shall be employed at
21 any clinic, including ambulatory surgical facilities, where abortions are performed.

22 (b) Notwithstanding any of the provisions of G.S. 14-44 and 14-45, it shall not be
23 unlawful, after the twentieth week of a woman's pregnancy, to advise, procure or cause a
24 miscarriage or abortion when the procedure is performed by a qualified physician licensed to
25 practice medicine in North Carolina in a hospital licensed by the Department of Health and
26 Human Services, if there is ~~substantial risk that continuance of the pregnancy would threaten~~
27 ~~the life or gravely impair the health of the woman.~~ a medical emergency as defined by
28 G.S. 90-21.81(5).

29 (b1) A qualified physician who advises, procures, or causes a miscarriage or abortion
30 after the sixteenth week of a woman's pregnancy shall record all of the following: the method
31 used by the qualified physician to determine the probable gestational age of the unborn child at
32 the time the procedure is to be performed; the results of the methodology, including the
33 measurements of the unborn child; and an ultrasound image of the unborn child that depicts the
34 measurements. The qualified physician shall provide this information, including the ultrasound
35 image, to the Department of Health and Human Services pursuant to G.S. 14-45.1(c).

36 A qualified physician who procures or causes a miscarriage or abortion after the twentieth
37 week of a woman's pregnancy shall record the findings and analysis on which the qualified
38 physician based the determination that there existed a medical emergency as defined by
39 G.S. 90-21.81(5) and shall provide that information to the Department of Health and Human
40 Services pursuant to G.S. 14-45.1(c). Materials generated by the physician or provided by the
41 physician to the Department of Health and Human Services pursuant to this section shall not be
42 public records under G.S. 132-1.

43 The information provided under this subsection shall be for statistical purposes only, and
44 the confidentiality of the patient and the physician shall be protected. It is the duty of the
45 qualified physician to submit information to the Department of Health and Human Services that
46 omits identifying information of the patient and complies with Health Insurance Portability and
47 Accountability Act of 1996 (HIPAA).

48 (c) The Department of Health and Human Services shall prescribe and collect on an
49 annual basis, from hospitals or ~~clinics~~ clinics, including ambulatory surgical facilities, where
50 abortions are performed, ~~such representative samplings of~~ statistical summary reports
51 concerning the medical and demographic characteristics of the abortions provided for in this

1 ~~section~~ section, including the information described in subsection (b1) of this section as it shall
2 deem to be in the public interest. Hospitals or clinics where abortions are performed shall be
3 responsible for providing these statistical summary reports to the Department of Health and
4 Human Services. The reports shall be for statistical purposes only and the confidentiality of the
5 patient relationship shall be protected. Materials generated by the physician or provided by the
6 physician to the Department of Health and Human Services pursuant to this section shall not be
7 public records under G.S. 132-1.

8 (d) The requirements of ~~G.S. 130-43~~ G.S. 130A-114 are not applicable to abortions
9 performed pursuant to this section.

10 (e) ~~Nothing in this section shall require a physician licensed to practice medicine in~~
11 ~~North Carolina, any~~ No physician, nurse, or any other health care provider who shall state an
12 objection to abortion on moral, ethical, or religious grounds, grounds shall be required to
13 perform or participate in medical procedures which result in an abortion. The refusal of a
14 physician, nurse, or health care provider to perform or participate in these medical procedures
15 shall not be a basis for damages for the refusal, or for any disciplinary or any other
16 recriminatory action against the physician, nurse, or health care provider. For purposes of this
17 section, the phrase "health care provider" shall have the same meaning as defined under
18 G.S. 90-410(1).

19 (f) Nothing in this section shall require a hospital, other health care institution, or other
20 health care provider to perform an abortion or to provide abortion services.

21 (g) For purposes of this section, "qualified physician" means (i) a physician who
22 possesses, or is eligible to possess, board certification in obstetrics or gynecology or (ii) a
23 physician who performs an abortion in a medical emergency as defined by G.S. 90-21.81(5)."

24 **SECTION 7.(b)** G.S. 90-21.82 reads as rewritten:

25 **"§ 90-21.82. Informed consent to abortion.**

26 No abortion shall be performed upon a woman in this State without her voluntary and
27 informed consent. Except in the case of a medical emergency, consent to an abortion is
28 voluntary and informed only if all of the following conditions are satisfied:

- 29 (1) At least ~~24 hours~~ 72 hours prior to the abortion, a physician or qualified
30 professional has orally informed the woman, by telephone or in person, of all
31 of the following:

32 ...

33 If the physician or qualified professional does not know the information
34 required in sub-subdivisions a., f., or g. of this subdivision, the woman shall
35 be advised that this information will be directly available from the physician
36 who is to perform the abortion. However, the fact that the physician or
37 qualified professional does not know the information required in
38 sub-subdivisions a., f., or g. shall not restart the ~~24-hour~~ 72-hour period. The
39 information required by this subdivision shall be provided in English and in
40 each language that is the primary language of at least two percent (2%) of
41 the State's population. The information may be provided orally either by
42 telephone or in person, in which case the required information may be based
43 on facts supplied by the woman to the physician and whatever other relevant
44 information is reasonably available. The information required by this
45 subdivision may not be provided by a tape recording but shall be provided
46 during a consultation in which the physician is able to ask questions of the
47 patient and the patient is able to ask questions of the physician. If, in the
48 medical judgment of the physician, a physical examination, tests, or the
49 availability of other information to the physician subsequently indicates a
50 revision of the information previously supplied to the patient, then that
51 revised information may be communicated to the patient at any time before

1 the performance of the abortion. Nothing in this section may be construed to
2 preclude provision of required information in a language understood by the
3 patient through a translator.

4 (2) The physician or qualified professional has informed the woman, either by
5 telephone or in person, of each of the following at least ~~24 hours~~ 72 hours
6 before the abortion:

- 7 a. That medical assistance benefits may be available for prenatal care,
8 childbirth, and neonatal care.
- 9 b. That public assistance programs under Chapter 108A of the General
10 Statutes may or may not be available as benefits under federal and
11 State assistance programs.
- 12 c. That the father is liable to assist in the support of the child, even if
13 the father has offered to pay for the abortion.
- 14 d. That the woman has other alternatives to abortion, including keeping
15 the baby or placing the baby for adoption.
- 16 e. That the woman has the right to review the printed materials
17 described in G.S. 90-21.83, that these materials are available on a
18 State-sponsored Web site, and the address of the State-sponsored
19 Web site. The physician or a qualified professional shall orally
20 inform the woman that the materials have been provided by the
21 Department and that they describe the unborn child and list agencies
22 that offer alternatives to abortion. If the woman chooses to view the
23 materials other than on the Web site, the materials shall either be
24 given to her at least ~~24 hours~~ 72 hours before the abortion or be
25 mailed to her at least 72 hours before the abortion by certified mail,
26 restricted delivery to addressee.
- 27 f. That the woman is free to withhold or withdraw her consent to the
28 abortion at any time before or during the abortion without affecting
29 her right to future care or treatment and without the loss of any State
30 or federally funded benefits to which she might otherwise be entitled.

31 The information required by this subdivision shall be provided in English
32 and in each language that is the primary language of at least two percent
33 (2%) of the State's population. The information required by this subdivision
34 may be provided by a tape recording if provision is made to record or
35 otherwise register specifically whether the woman does or does not choose
36 to have the printed materials given or mailed to her. Nothing in this
37 subdivision shall be construed to prohibit the physician or qualified
38 professional from e-mailing a Web site link to the materials described in this
39 subdivision or G.S. 90-21.83.

40"

41 **SECTION 7.(c)** G.S. 90-21.86 reads as rewritten:

42 "**§ 90-21.86. Procedure in case of medical emergency.**

43 When a medical emergency compels the performance of an abortion, the physician shall
44 inform the woman, before the abortion if possible, of the medical indications supporting the
45 physician's judgment that an abortion is necessary to avert her death or that a ~~24-hour~~ 72-hour
46 delay will create a serious risk of substantial and irreversible impairment of a major bodily
47 function, not including psychological or emotional conditions. As soon as feasible, the
48 physician shall document in writing the medical indications upon which the physician relied
49 and shall cause the original of the writing to be maintained in the woman's medical records and
50 a copy given to her."

1 **SECTION 7.(d)** G.S. 14-45.1(b1) and G.S. 14-45.1(c), as enacted by subsection (a)
2 of this section, become effective January 1, 2016, and apply to abortions performed or
3 attempted on or after that date. The remainder of subsections (a), (b), and (c) of this section
4 become effective October 1, 2015, and apply to abortions performed or attempted on or after
5 that date.

6 **SECTION 8.(a)** If any provision of this act or its application is held invalid, the
7 invalidity does not affect other provisions or applications of this act that can be given effect
8 without the invalid provisions or application, and to this end the provisions of this act are
9 severable. If any provision of this act is temporarily or permanently restrained or enjoined by
10 judicial order, this act shall be enforced as though such restrained or enjoined provisions had
11 not been adopted, provided that whenever such temporary or permanent restraining order or
12 injunction is stayed, dissolved, or otherwise ceases to have effect, such provisions shall have
13 full force and effect.

14 **SECTION 8.(b)** Except as otherwise provided, this act is effective when it
15 becomes law.