A BILL TO BE ENTITLED
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.
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 2(b) and 3(b) of this act are effective when this act becomes
law. The remainder of this act becomes effective April 1, 2022.