

GENERAL ASSEMBLY OF NORTH CAROLINA

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HOUSE BILL 949
Committee Substitute Favorable 4/29/97
Committee Substitute #2 Favorable 7/21/97
Committee Substitute #3 Favorable 8/4/97
Fifth Edition Engrossed 8/6/97

Short Title: Improve Child Protection/Records.

(Public)

Sponsors:

Referred to:

April 15, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPROVE CHILD PROTECTION BY ALLOWING DISCLOSURE OF
3 CERTAIN RECORDS.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 7A of the General Statutes is amended by adding the
6 following new section to read:

7 **"§ 7A-675.1. Disclosure in child fatality or near fatality cases.**

8 (a) The following definitions apply in this section:

9 (1) 'Child fatality' means the death of a child from suspected abuse, neglect,
10 or maltreatment.

11 (2) 'Near fatality' means a case in which a physician determines that a child
12 is in serious or critical condition as the result of sickness or injury
13 caused by suspected abuse, neglect, or maltreatment.

14 (3) 'Public agency' means any agency of State government or its
15 subdivisions as defined in G.S. 132-1(a).

1 (4) 'Findings and information' means a written summary, as allowed by
2 subsections (c) through (f) of this section, of actions taken or services
3 rendered by a public agency following receipt of information that a
4 child might be in need of protection. The written summary shall include
5 any of the following information the agency is able to provide:

6 a. The dates, outcomes, and results of any actions taken or services
7 rendered.

8 b. The results of any review by the State Child Fatality Prevention
9 Team, a local child fatality prevention team, a local community
10 child protection team, the Child Fatality Task Force, or any
11 public agency.

12 c. Confirmation of the receipt of all reports, accepted or not
13 accepted by the county department of social services, for
14 investigation of suspected child abuse, neglect, or maltreatment,
15 including confirmation that investigations were conducted, the
16 results of the investigations, a description of the conduct of the
17 most recent investigation and the services rendered, and a
18 statement of basis for the department's decision.

19 (b) Notwithstanding any other provision of law and subject to the provisions of
20 subsections (c) through (f) of this section, a public agency shall disclose to the public,
21 upon request, the findings and information related to a child fatality or near fatality if:

22 (1) A person is criminally charged with having caused the child fatality or
23 near fatality; or

24 (2) The district attorney has certified that a person would be charged with
25 having caused the child fatality or near fatality but for that person's prior
26 death.

27 (c) Nothing herein shall be deemed to authorize access to the confidential records
28 in the custody of a public agency, or the disclosure to the public of the substance or
29 content of any psychiatric, psychological, or therapeutic evaluations or like materials or
30 information pertaining to the child or the child's family unless directly related to the
31 cause of the child fatality or near fatality, or the disclosure of information that would
32 reveal the identities of persons who provided information related to the suspected abuse,
33 neglect, or maltreatment of the child.

34 (d) Within five working days from the receipt of a request for findings and
35 information related to a child fatality or near fatality, a public agency shall consult with
36 the appropriate district attorney and provide the findings and information unless the
37 agency has a reasonable belief that release of the information:

38 (1) Is not authorized by subsections (a) and (b) of this section;

39 (2) Is likely to cause mental or physical harm or danger to a minor child
40 residing in the deceased or injured child's household;

41 (3) Is likely to jeopardize the State's ability to prosecute the defendant;

42 (4) Is likely to jeopardize the defendant's right to a fair trial;

43 (5) Is likely to undermine an ongoing or future criminal investigation; or

1 (6) Is not authorized by federal law and regulations.

2 (e) Any person whose request is denied may apply to the appropriate superior
3 court for an order compelling disclosure of the findings and information of the public
4 agency. The application shall set forth, with reasonable particularity, factors supporting
5 the application. The superior court shall have jurisdiction to issue such orders. Actions
6 brought pursuant to this section shall be set down for immediate hearing, and subsequent
7 proceedings in such actions shall be accorded priority by the appellate courts. After the
8 court has reviewed the specific findings and information, in camera, the court shall issue
9 an order compelling disclosure unless the court finds that one or more of the
10 circumstances in subsection (d) of this section exist.

11 (f) Access to criminal investigative reports and criminal intelligence information
12 of public law enforcement agencies, and confidential information in the possession of the
13 State Child Fatality Prevention Team, the local teams, and the Child Fatality Task Force,
14 shall be governed by G.S. 132-1.4 and G.S. 143-578 respectively. Nothing herein shall
15 be deemed to require the disclosure or release of any information in the possession of a
16 district attorney.

17 (g) Any public agency or its employees acting in good faith in disclosing or
18 declining to disclose information pursuant to this section shall be immune from any
19 criminal or civil liability that might otherwise be incurred or imposed for such action.

20 (h) Nothing herein shall be deemed to narrow or limit the definition of 'public
21 records' as set forth in G.S. 132-1(a)."

22 Section 2. G.S. 7A-675(h) reads as rewritten:

23 "~~(h) Nothing in this section shall preclude the necessary sharing of information among~~
24 ~~authorized agencies.~~The chief district court judge in each district shall designate by
25 standing order certain agencies in the district as 'agencies authorized to share
26 information'. Agencies so designated shall share with one another, upon request,
27 information that is in their possession that is relevant to any case in which a petition is
28 filed alleging that a juvenile is abused, neglected, or dependent, and shall continue to do
29 so until the juvenile is no longer subject to the juvenile jurisdiction of the court.
30 Agencies that may be designated as 'agencies authorized to share information' include
31 local mental health facilities, local health departments, local departments of social
32 services, local law enforcement agencies, local school administrative units, the district's
33 district attorney's office, the Division of Juvenile Services of the Administrative Office of
34 the Courts, and the Office of Guardian ad Litem Services of the Administrative Office of
35 the Courts. Any information shared among agencies pursuant to this subsection shall
36 remain confidential, shall be withheld from public inspection, and shall be used only for
37 the protection of the juvenile. Nothing in this section or any other provision of law shall
38 preclude any other necessary sharing of information among agencies. Nothing herein
39 shall be deemed to require the disclosure or release of any information in the possession
40 of a district attorney."

41 Section 3. Funds appropriated in Senate Bill 352, 5th edition, to the
42 Department of Human Resources, Division of Social Services, for child welfare system
43 improvements shall be used to implement the provisions of this act.

1 Section 4. Sections 1 and 2 of this act become effective October 1, 1997. The
2 remainder of this act is effective upon becoming law.