

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 456
Judiciary II Committee Substitute Adopted 5/3/89

Short Title: Improve Public Records Law.

(Public)

Sponsors:

Referred to:

March 16, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND AND IMPROVE THE NORTH CAROLINA PUBLIC
3 RECORDS LAW.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 132 of the General Statutes is amended by adding the
6 following new section:

7 **"§ 132-12.2. Settlements made by or on behalf of public agencies, public officials,**
8 **or public employees; public records.**

9 (a) Public records, as defined in G.S. 132-1, shall include all settlement
10 documents in any suit, administrative proceeding or arbitration instituted against any
11 agency of North Carolina government or its subdivisions, as defined in G.S. 132-1, in
12 connection with or arising out of such agency's official actions, duties or
13 responsibilities, except in an action for medical malpractice against a hospital facility.
14 No agency of North Carolina government or its subdivisions, nor any counsel, insurance
15 company or other representative acting on behalf of such agency, shall approve, accept
16 or enter into any settlement of any such suit, arbitration or proceeding if the settlement
17 provides that its terms and conditions shall be confidential, except in an action for
18 medical malpractice against a hospital facility. No settlement document sealed under
19 subsection (b) of this section shall be open for public inspection.

20 (b) No judge, administrative judge or administrative hearing officer of this State,
21 nor any board or commission, nor any arbitrator appointed pursuant to the laws of North
22 Carolina, shall order or permit the sealing of any settlement document in any proceeding
23 described herein except on the basis of a written order concluding that (1) the

1 presumption of openness is overcome by an overriding interest and (2) that such
2 overriding interest cannot be protected by any measure short of sealing the settlement.
3 Such order shall articulate the overriding interest and shall include findings of fact that
4 are sufficiently specific to permit a reviewing court to determine whether the order was
5 proper.

6 (c) Except for confidential communications as provided in G.S. 132-1.1, the term
7 'settlement documents,' as used herein, shall include all documents which reflect, or
8 which are made or utilized in connection with, the terms and conditions upon which any
9 proceedings described in this section are compromised, settled, terminated or dismissed,
10 including but not limited to correspondence, settlement agreements, consent orders,
11 checks, and bank drafts."

12 Sec. 2. This act shall become effective July 1, 1989.