

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1316*

Short Title: CFTF Confidential Records Change.

(Public)

Sponsors: Representatives Easterling, Clary, Dickson, Sharpe, Wright; Alexander, Boyd-McIntyre, Braswell, Cunningham, Earle, Luebke, McAllister, McLaughlin, Nye, Womble, and Yongue.

Referred to: Welfare Reform and Human Resources.

May 23, 1996

A BILL TO BE ENTITLED

1 AN ACT RECOMMENDED BY THE CHILD FATALITY TASK FORCE TO
2 BROADEN THE ACCESS TO CONFIDENTIAL RECORDS FOR THE
3 PURPOSES OF CHILD FATALITY REVIEW AND PREVENTION.
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5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 143-578 reads as rewritten:

7 "**§ 143-578. Access to records.**

8 (a) The Chair of the State Team, a Local Team, or the Task Force during its
9 existence, may make a written demand for any information or reports, whether or not
10 confidential, that may in the Chair's opinion be relevant to a review of a child's death or
11 maltreatment pursuant to this Article. Upon the Chair's request, and unless protected by
12 the attorney-client privilege, any public or private agency or individual shall provide
13 access to and copies of this confidential information and these records to the extent
14 permitted by federal law and regulations. Any public or private agency or individual
15 acting in good faith in providing this access is immune from any civil or criminal liability
16 that might otherwise be incurred or imposed. The State Team, the Local Teams, and the
17 Task Force during its existence, shall have access to all medical records, hospital records,
18 and records maintained by this State, any county, or any local agency as necessary to

1 carry out the purposes of this Article, including police investigations data, medical
2 examiner investigative data, health records, mental health records, and social services
3 records. The State Team, the Task Force, and the Local Teams shall not, as part of the
4 reviews authorized under this Article, contact, question, or interview the child, the parent
5 of the child, or any other family member of the child whose record is being reviewed.
6 Any member of a Local Team may share, only in an official meeting of that Local Team,
7 any information available to that member that the Local Team needs to carry out its
8 duties.

9 (a) The State Team, the Local Teams, and the Task Force during its existence,
10 shall have the power to issue subpoenas for any records set forth in subsection (a), which
11 subpoena shall be served in the manner and for the same fees as are now provided by law.
12 The superior court of the county in which the State Team, a Local Team, or the Task
13 Force meets shall, on application of its Chair or executive director, enforce by proper
14 proceeds the production and examination of these records.

15 (b) Meetings of the State Team and the Local Teams are not subject to the
16 provisions of Article 33C of Chapter 143 of the General Statutes. However, the Local
17 Teams may hold periodic public meetings to discuss, in a general manner not revealing
18 confidential information about children and families, the findings of their reviews and
19 their recommendations for preventive actions. Minutes of all public meetings, excluding
20 those of executive sessions, shall be kept in compliance with Article 33C of Chapter 143
21 of the General Statutes. Any minutes or any other information generated during any
22 executive session shall be sealed from public inspection.

23 (c) All otherwise confidential information and records acquired by the State Team,
24 the Local Teams, and the Task Force during its existence, in the exercise of their duties
25 are confidential; are not subject to discovery or introduction into evidence in any
26 proceedings; and may only be disclosed as necessary to carry out the purposes of the
27 State Team, the Local Teams, and the Task Force. In addition, all otherwise confidential
28 information and records created by a Local Team in the exercise of its duties are
29 confidential; are not subject to discovery or introduction into evidence in any
30 proceedings; and may only be disclosed as necessary to carry out the purposes of the
31 Local Team. No member of the State Team, a Local Team, nor any person who attends a
32 meeting of the State Team or a Local Team, may testify in any proceeding about what
33 transpired at the meeting, about information presented at the meeting, or about opinions
34 formed by the person as a result of the meetings. This subsection shall not, however,
35 prohibit a person from testifying in a civil or criminal action about matters within that
36 person's independent knowledge.

37 (d) Each member of a Local Team and invited participant shall sign a statement
38 indicating an understanding of and adherence to confidentiality requirements, including
39 the possible civil or criminal consequences of any breach of confidentiality.

40 (e) Cases receiving child protective services at the time of review by a Local Team
41 shall have an entry in the child's protective services record to indicate that the case was
42 received by that Team. Additional entry into the record shall be at the discretion of the
43 director of the county department of social services.

1 (f) The Social Services Commission shall adopt rules to implement this section in
2 connection with reviews conducted by Community Child Protection Teams. The Health
3 Services Commission shall adopt rules to implement this section in connection with
4 Local Teams that review additional child fatalities. In particular, these rules shall allow
5 information generated by an executive session of a Local Team to be accessible for
6 administrative or research purposes only."

7 Sec. 2. G.S. 122C-54(h) reads as rewritten:

8 "(h) A facility shall disclose confidential information for purposes of complying
9 with Article 44 of Chapter 7A of the General Statutes and ~~Statutes~~, Article 6 of Chapter
10 108A of the General Statutes, and Article 62 of Chapter 143 of the General Statutes, or as
11 required by other State or federal law."

12 Sec 3. G.S. 7A-675(h) reads as rewritten:

13 "(h) Nothing in this section or in any other provision of law shall preclude the
14 necessary sharing of information among authorized agencies. For each juvenile who is
15 alleged to be abused, neglected, dependent, delinquent, or undisciplined, the Chief
16 District Court Judge shall order State and local agencies, and their directors, members,
17 employees, and agents, to share information pertaining to the juvenile. The order may
18 include local mental health facilities, local health departments, local departments of
19 social services, local law enforcement agencies, local school administrative units, the
20 district attorney's office of the district, the Division of Juvenile Services of the
21 Administrative Office of the Courts, and the Office of Guardian Ad Litem Services of the
22 Administrative Office of the Courts. The order may direct the agencies to share
23 information with the juvenile's family if necessary to serve the needs of the juvenile and
24 if not prohibited by federal law or regulations. Any information shared between agencies
25 pursuant to this subsection shall remain confidential and shall be withheld from public
26 inspection."

27 Sec. 4. This act becomes effective October 1, 1996. Sections 1 and 2 of this
28 act apply to confidential records being accessed on or after that date. Section 3 of this act
29 applies to adjudications of abuse, neglect, dependency, delinquency, and
30 undisciplinedness for acts committed on or after that date.