

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2002-179
HOUSE BILL 1508**

AN ACT TO PROMOTE READINESS FOR AND TO IMPROVE MANAGEMENT OF A PUBLIC HEALTH THREAT THAT MAY RESULT FROM A TERRORIST INCIDENT USING NUCLEAR, BIOLOGICAL, OR CHEMICAL AGENTS AND TO AMEND THE NORTH CAROLINA MEDICAL CARE COMMISSION'S RULE-MAKING AUTHORITY REGARDING STANDARDS AND CRITERIA FOR THE EDUCATION AND CREDENTIALING OF PERSONS TO ADMINISTER TREATMENT FOR ANAPHYLAXIS, AND TO PROVIDE THAT MEDICAL REVIEW CONFIDENTIALITY APPLIES TO AMBULATORY SURGICAL CENTERS, AND TO AMEND THE NORTH CAROLINA HAZARDOUS MATERIALS EMERGENCY ACT TO PROVIDE FOR REGIONAL RESPONSES TO TERRORIST INCIDENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 130A of the General Statutes is amended by adding the following new Article to read:

"Article 22.

"A Terrorist Incident Using Nuclear, Biological, or Chemical Agents.

"§ 130A-475. Suspected terrorist attack.

(a) If the State Health Director reasonably suspects that a public health threat may exist and that the threat may have been caused by a terrorist incident using nuclear, biological, or chemical agents, the State Health Director is authorized to order any of the following:

- (1) Require any person or animal to submit to examinations and tests to determine possible exposure to the nuclear, biological, or chemical agents.
- (2) Test any real or personal property necessary to determine the presence of nuclear, biological, or chemical agents.
- (3) Evacuate or close any real property, including any building, structure, or land when necessary to investigate suspected contamination of the property. The period of closure during an investigation shall not exceed 10 calendar days. If the State Health Director determines that a longer period of closure is necessary to complete the investigation, the Director may institute an action in superior court to order the property to remain closed until the investigation is completed.
- (4) Limit the freedom of movement or action of a person or animal that is contaminated with, or reasonably suspected of being contaminated with, a biological, chemical or nuclear agent that may be conveyed to other persons or animals.
- (5) Limit access by any person or animal to an area or facility that is housing persons or animals whose movement or action has been limited under subdivision (4) of this subsection or to an area or facility that is contaminated with, or reasonably suspected of being contaminated with, a biological, chemical or nuclear agent that may be conveyed to other persons or animals. Nothing in this subdivision shall be construed to restrict the access of authorized health care, law

enforcement, or emergency medical services personnel to quarantine or isolation premises as necessary in conducting their duties.

(b) The authority under subsection (a) of this section shall be exercised only when and so long as a public health threat may exist, all other reasonable means for correcting the problem have been exhausted, and no less restrictive alternative exists. Before applying the authority under subdivision (4) or (5) of subsection (a) of this section to livestock or poultry for the purpose of preventing the direct or indirect conveyance of a biological, chemical or nuclear agent to persons, the State Health Director shall consult with the State Veterinarian in the Department of Agriculture and Consumer Services.

The period of limited freedom of movement or access under subdivisions (4) and (5) of subsection (a) of this section shall not exceed 10 calendar days. Any person substantially affected by that limitation may institute, in superior court in Wake County or in the county in which the limitation is imposed, an action to review the limitation. If a person or a person's representative requests a hearing, the hearing shall be held within 72 hours of the filing of the request, excluding Saturdays and Sundays. The person substantially affected by that limitation is entitled to be represented by counsel of the person's own choice or if the person is indigent, the person shall be represented by counsel appointed in accordance with Article 36 of Chapter 7A of the General Statutes and the rules adopted by the Office of Indigent Defense Services. The court shall reduce the limitation if it determines, by the preponderance of the evidence, that the limitation is not reasonably necessary to prevent or limit the conveyance of biological, chemical or nuclear agents to others, and may apply such conditions to the limitation as the court deems reasonable and necessary.

If the State Health Director determines that a 10-calendar-day limitation on freedom of movement or access is not adequate to protect the public health, the State Health Director must institute in superior court in the county in which the limitation is imposed, an action to obtain an order extending the period limiting the freedom of movement or access. If the person substantially affected by the limitation has already instituted an action in superior court in Wake County, the State Health Director must institute the action in superior court in Wake County. The court shall continue the limitation for a period not to exceed 30 days, subject to conditions it deems reasonable and necessary, if it determines by the preponderance of the evidence, that additional limitation is reasonably necessary to prevent or limit the conveyance of biological, chemical, or nuclear agents to others. Before the expiration of an order issued under this section, the State Health Director may move to continue the order for additional periods not to exceed 30 days each.

(c) If the State Health Director reasonably suspects that there exists a public health threat that may have been caused by a terrorist incident using nuclear, biological, or chemical agents, the State Health Director shall notify the Governor and the Secretary of Crime Control and Public Safety. If the Secretary of Crime Control and Public Safety reasonably suspects that a public health threat may exist and that the threat may have been caused by a terrorist incident using nuclear, biological, or chemical agents, the Secretary shall notify the Governor and the State Health Director.

(d) For the purpose of this Article, the term "public health threat" means a situation that is likely to cause an immediate risk to human life, an immediate risk of serious physical injury or illness, or an immediate risk of serious adverse health effects.

(e) Nothing in this section shall limit any authority otherwise granted to local or State public health officials under this Chapter.

"§ 130A-476. Access to health information.

(a) Notwithstanding any other provision of law, a health care provider, a person in charge of a health care facility, or a unit of State or local government may report to the State Health Director or a local health director any events that may indicate the existence of a case or outbreak of an illness, condition, or health hazard that may have been caused by a terrorist incident using nuclear, biological, or chemical agents. Events

that may be reported include unusual types or numbers of symptoms or illnesses presented to the provider, unusual trends in health care visits, or unusual trends in prescriptions or purchases of over-the-counter pharmaceuticals. To the extent practicable, a person who makes a report under this subsection shall not disclose personally identifiable information. A person disclosing or not disclosing information pursuant to this subsection is immune from any civil or criminal liability that might otherwise be incurred or imposed based on the disclosure or lack of disclosure provided that the health care provider was acting in good faith and without malice. In any proceeding involving liability, good faith and lack of malice are presumed. Notwithstanding the foregoing, if a health care provider or unit of State or local government willfully does not disclose information pursuant to this subsection, the immunity from civil or criminal liability provided under this subsection shall not be available if the person had actual knowledge that a condition or illness was caused by use of a nuclear, biological, or chemical weapon of mass destruction as defined in G.S. 14-288.21(c).

(b) The State Health Director may issue a temporary order requiring health care providers to report symptoms, diseases, conditions, trends in use of health care services, or other health-related information when necessary to conduct a public health investigation or surveillance of an illness, condition, or health hazard that may have been caused by a terrorist incident using nuclear, biological, or chemical agents. The order shall specify which health care providers must report, what information is to be reported, and the period of time for which reporting is required. The period of time for which reporting is required pursuant to a temporary order shall not exceed 90 days. The Commission may adopt rules to continue the reporting requirement when necessary to protect the public health.

(c) The State Health Director and a local health director may examine, review, and obtain a copy of records containing confidential or protected health information, or a summary of pertinent portions of those records, that pertain to a report authorized by subsection (a) or required by subsection (b) of this section.

(d) A person who makes a report pursuant to subsection (b) of this section or permits examination, review, or copying of medical records pursuant to subsection (c) of this section is immune from any civil or criminal liability that otherwise might be incurred or imposed as a result of complying with those subsections.

(e) Confidential or protected health information received by the State Health Director or a local health director pursuant to this section shall be confidential and shall not be released, except when the release is:

- (1) Made pursuant to any other provision of law;
- (2) To another federal, state, or local public health agency for the purpose of preventing or controlling a public health threat; or
- (3) To a court or law enforcement official or law enforcement officer for the purpose of enforcing the provisions of this Chapter or for the purpose of investigating a terrorist incident using nuclear, biological, or chemical agents. A court or law enforcement official or law enforcement officer who receives the information shall not disclose it further, except (i) when necessary to conduct an investigation of a terrorist incident using nuclear, biological, or chemical agents, or (ii) when the State Health Director or a local health director seeks the assistance of the court or law enforcement official or law enforcement officer in preventing or controlling the public health threat and expressly authorizes the disclosure as necessary for that purpose.

(f) The State Health Director shall develop a voluntary pilot program for hospitals and urgent care centers to provide emergency department data in order to assist the State Health Director with public health surveillance. A hospital or urgent care center that elects to participate in the program must provide all required emergency department data as a condition of participation in the program. Upon receipt of such

data, the State Health Director shall remove from the entire data set the following direct identifiers of patients or of relatives, employers, or household members of patients: names; postal address information, other than town or city, state, and the first five digits of the zip code; geocode information; telephone numbers; fax numbers; electronic mail addresses; social security numbers; medical record numbers; health plan beneficiary numbers; account numbers; certificate or license numbers; vehicle identifiers and serial numbers, including license plate numbers; device identifiers and serial numbers; web universal resource locators (URLs); Internet protocol (IP) address numbers; biometric identifiers, including finger and voice prints; and full face photographic images and any comparable images.

(g) In this section the following terms shall include:

- (1) "Health care provider" includes a physician licensed to practice medicine in North Carolina or a person who is licensed, certified, or credentialed to practice or provide health care services, including, but not limited to, pharmacists, dentists, physician assistants, registered nurses, licensed practical nurses, advanced practice nurses, chiropractors, respiratory care therapists, and emergency medical technicians; and
- (2) "Health care facility" includes hospitals, skilled nursing facilities, intermediate care facilities, psychiatric facilities, rehabilitation facilities, home health agencies, ambulatory surgical facilities, or any other health care related facility, whether publicly or privately owned.

"§ 130A-477. Abatement of public health threat.

If it is determined that a public health threat may exist because of the contamination of property caused by a terrorist incident using nuclear, biological, or chemical agents, the State Health Director may order any action to abate that public health threat. To the extent that any owner, lessee, operator, or other person in control of the property is innocent of culpability in the creation of the public health threat, that person shall not be responsible for the costs of abating the public health threat.

"§ 130A-478. Tort liability.

Article 31 of Chapter 143 applies to negligent acts committed by any officer, employee, involuntary servant or agent of the State acting pursuant to this Article."

SECTION 2.(a) G.S. 130A-149, "Biological agents registry; rules; penalties", is recodified as G.S. 130A-479.

SECTION 2.(b) G.S. 130A-29(c)(10) reads as rewritten:

"(10) Pertaining to the biological agents registry in accordance with ~~G.S. 130A-149~~ G.S. 130A-479."

SECTION 3. G.S. 130A-133 is repealed.

SECTION 4. G.S. 130A-2 reads as rewritten:

"§ 130A-2. Definitions.

The following definitions shall apply throughout this Chapter unless otherwise specified:

- (1) "Commission" means the Commission for Health Services.
- (1a) "Communicable condition" means the state of being infected with a communicable agent but without symptoms.
- (1b) "Communicable disease" means an illness due to an infectious agent or its toxic products which is transmitted directly or indirectly to a person from an infected person or animal through the agency of an intermediate animal, host, or vector, or through the inanimate environment.
- (2) "Department" means the Department of Health and Human Services.
- (3) "Imminent hazard" means a situation ~~which~~ that is likely to cause an immediate threat to human life, an immediate threat of serious physical injury, an immediate threat of serious adverse health effects, or a

serious risk of irreparable damage to the environment if no immediate action is taken.

- (3a) "Isolation authority" means the authority to issue an order to limit the freedom of movement or action of a person or animal with a communicable disease or communicable condition for the period of communicability to prevent the direct or indirect conveyance of the infectious agent from the person or animal to other persons or animals who are susceptible or who may spread the agent to others.
- (4) "Local board of health" means a district board of health or a public health authority board or a county board of health.
- (5) "Local health department" means a district health department or a public health authority or a county health department.
- (6) "Local health director" means the administrative head of a local health department appointed pursuant to this Chapter.
- (6a) "Outbreak" means an occurrence of a case or cases of a disease in a locale in excess of the usual number of cases of the disease.
- (7) "Person" means an individual, corporation, company, association, partnership, unit of local government or other legal entity.
- (7a) "Quarantine authority" means the authority to issue an order to limit the freedom of movement or action of persons or animals which have been exposed to or are reasonably suspected of having been exposed to a communicable disease or communicable condition for a period of time as may be necessary to prevent the spread of that disease. Quarantine authority also means the authority to issue an order to limit access by any person or animal to an area or facility that may be contaminated with an infectious agent. The term also means the authority to issue an order to limit the freedom of movement or action of persons who have not received immunizations against a communicable disease when the State Health Director or a local health director determines that the immunizations are required to control an outbreak of that disease.
- (8) "Secretary" means the Secretary of Health and Human Services.
- (9) "Unit of local government" means a county, city, consolidated city-county, sanitary district or other local political subdivision, authority or agency of local government.
- (10) "Vital records" means birth, death, fetal death, marriage, annulment and divorce records registered under the provisions of Article 4 of this Chapter."

SECTION 5. G.S. 130A-145 reads as rewritten:

"§ 130A-145. ~~Local health director has quarantine~~ Quarantine and isolation authority.

(a) ~~The State Health Director and a~~ local health director ~~and the State Health Director~~ are empowered to exercise quarantine and isolation authority. Quarantine and isolation authority shall be exercised only when and so long as the public health is endangered, all other reasonable means for correcting the problem have been exhausted, and no less restrictive alternative exists.

(b) No person other than a person authorized by the State Health Director or local health director shall enter quarantine or isolation premises. Nothing in this subsection shall be construed to restrict the access of authorized health care, law enforcement, or emergency medical services personnel to quarantine or isolation premises as necessary in conducting their duties.

(c) Before applying quarantine or isolation authority to livestock or poultry for the purpose of preventing the direct or indirect conveyance of an infectious agent to persons, the State Health Director or a local health director shall consult with the State Veterinarian in the Department of Agriculture and Consumer Services.

(d) When quarantine or isolation limits the freedom of movement of a person or animal or of access to a person or animal whose freedom of movement is limited, the period of limited freedom of movement or access shall not exceed 10 calendar days. Any person substantially affected by that limitation may institute in superior court in Wake County or in the county in which the limitation is imposed an action to review that limitation. If a person or a person's representative requests a hearing, the hearing shall be held within 72 hours of the filing of that request, excluding Saturdays and Sundays. The person substantially affected by that limitation is entitled to be represented by counsel of the person's own choice or if the person is indigent, the person shall be represented by counsel appointed in accordance with Article 36 of Chapter 7A of the General Statutes and the rules adopted by the Office of Indigent Defense Services. The court shall reduce the limitation if it determines, by the preponderance of the evidence, that the limitation is not reasonably necessary to prevent or limit the conveyance of a communicable disease or condition to others.

If the State Health Director or the local health director determines that a 10-calendar-day limitation on freedom of movement or access is not adequate to protect the public health, the State Health Director or local health director must institute in superior court in the county in which the limitation is imposed an action to obtain an order extending the period of limitation of freedom of movement or access. If the person substantially affected by the limitation has already instituted an action in superior court in Wake County, the State Health Director must institute the action in superior court in Wake County. The court shall continue the limitation for a period not to exceed 30 days if it determines, by the preponderance of the evidence, that the limitation is reasonably necessary to prevent or limit the conveyance of a communicable disease or condition to others. Before the expiration of an order issued under this section, the State Health Director or local health director may move to continue the order for additional periods not to exceed 30 days each."

SECTION 6. G.S. 130A-20 reads as rewritten:

"§ 130A-20. Abatement of an imminent hazard.

(a) If the Secretary or a local health director determines that an imminent hazard exists, the Secretary or a local health director may order the owner, lessee, operator, or other person in control of the property to abate the imminent hazard or may, after notice to or reasonable attempt to notify the owner, lessee, operator, or other person in control of the property enter upon any property and take any action necessary to abate the imminent hazard. If the Secretary or a local health director abates the imminent hazard, the The Department or the local health department shall have a lien on the property of the owner, lessee, operator, or other person in control of the property where the imminent hazard existed for the cost of the abatement of the imminent hazard in the nature of a mechanic's and materialmen's lien as provided in Chapter 44A and the lien may be enforced as provided therein. ~~hazard. The lien may be enforced in accordance with procedures provided in Chapter 44A of the General Statutes. The lien may be defeated by a showing that an imminent hazard did not exist at the time the Secretary or the local health director took the action. The owner, lessee, operator, or any other person against whose property the lien has been filed may defeat the lien by showing that that person was not culpable in the creation of the imminent hazard.~~

(b) The Secretary of Environment and Natural Resources and a local health director shall have the same rights enumerated in subsection (a) of this section to enforce the provisions of Articles 8, 9, 10, 11, and 12 of this Chapter."

SECTION 7. G.S. 130A-143 reads as rewritten:

"§ 130A-143. Confidentiality of records.

All information and records, whether publicly or privately maintained, that identify a person who has AIDS virus infection or who has or may have a disease or condition required to be reported pursuant to the provisions of this Article shall be strictly confidential. This information shall not be released or made public except under the following circumstances:

- (1) Release is made of specific medical or epidemiological information for statistical purposes in a way that no person can be identified;
- (2) Release is made of all or part of the medical record with the written consent of the person or persons identified or their guardian;
- (3) Release is made to health care personnel providing medical care to the patient;
- (4) Release is necessary to protect the public health and is made as provided by the Commission in its rules regarding control measures for communicable diseases and conditions;
- (5) Release is made pursuant to other provisions of this Article;
- (6) Release is made pursuant to subpoena or court order. Upon request of the person identified in the record, the record shall be reviewed in camera. In the trial, the trial judge may, during the taking of testimony concerning such information, exclude from the courtroom all persons except the officers of the court, the parties and those engaged in the trial of the ~~case~~-case;
- (7) Release is made by the Department or a local health department to a court or a law enforcement ~~officer~~ official for the purpose of enforcing ~~the provisions of this Article pursuant to Article 1, Part 2 of this Chapter, this Article or Article 22 of this Chapter, or investigating a terrorist incident using nuclear, biological, or chemical agents. A law enforcement official who receives the information shall not disclose it further, except (i) when necessary to enforce this Article or Article 22 of this Chapter, or when necessary to conduct an investigation of a terrorist incident using nuclear, biological, or chemical agents, or (ii) when the Department or a local health department seeks the assistance of the law enforcement official in preventing or controlling the spread of the disease or condition and expressly authorizes the disclosure as necessary for that purpose;~~
- (8) Release is made by the Department or a local health department to another federal, state or local public health agency for the purpose of preventing or controlling the spread of a communicable disease or communicable condition;
- (9) Release is made by the Department for bona fide research purposes. The Commission shall adopt rules providing for the use of the information for research purposes;
- (10) Release is made pursuant to G.S. 130A-144(b); or
- (11) Release is made pursuant to any other provisions of law that specifically authorize or require the release of information or records related to AIDS."

SECTION 8. G.S. 106-24.1 reads as rewritten:

"§ 106-24.1. Confidentiality of information collected and published.

All information published by the Department of Agriculture and Consumer Services pursuant to this Part shall be classified so as to prevent the identification of information received from individual farm operators. All information received pursuant to this Part from individual farm operators shall be held confidential by the Department and its employees. Information collected by the Department from individual farm operators for the purposes of its animal health programs may be disclosed by the State Veterinarian when, in his judgment, the disclosure will assist in the implementation of these programs. Animal disease diagnostic tests that identify the owner of the animal shall not be disclosed without the permission of the owner unless the State Veterinarian determines that disclosure is necessary to prevent the spread of an animal disease or to protect the public health."

SECTION 9. G.S. 106-307.2 reads as rewritten:

"§ 106-307.2. Reports of infectious disease in livestock and poultry to State Veterinarian.

(a) All persons practicing veterinary medicine in North Carolina shall report promptly to the State Veterinarian the existence of any reportable contagious or infectious disease in livestock and poultry. The Board of Agriculture shall establish by rule a list of animal diseases and conditions to be reported and the time and manner of reporting.

(b) The State Veterinarian shall notify the State Health Director and the Director of the Division of Environmental Health in the Department of Environment and Natural Resources when the State Veterinarian receives a report indicating an occurrence or potential outbreak of anthrax, arboviral infections, brucellosis, epidemic typhus, hantavirus infections, murine typhus, plague, psittacosis, Q fever, hemorrhagic fever, virus infections, and any other disease or condition transmissible to humans that the State Veterinarian determines may have been caused by a terrorist act."

SECTION 10. G.S. 130A-152(b) is repealed.

SECTION 11. G.S. 143-518 reads as rewritten:

"§ 143-518. Confidentiality of patient information.

(a) Medical records compiled and maintained by the Department or EMS providers in connection with dispatch, response, treatment, or transport of individual patients or in connection with the statewide trauma system pursuant to Article 7 of Chapter 131E of the General Statutes may contain patient identifiable data which will allow linkage to other health care-based data systems for the purposes of quality management, peer review, and public health initiatives.

These medical records and data shall be strictly confidential and shall not be considered public records within the meaning of G.S. 132-1 and shall not be released or made public except under any of the following conditions:

- (1) Release is made of specific medical or epidemiological information for statistical purposes in a way that no person can be identified.
- (2) Release is made of all or part of the medical record with the written consent of the person or persons identified or their guardians.
- (3) Release is made to health care personnel providing medical care to the patient.
- (4) Release is made pursuant to a court order. Upon request of the person identified in the record, the record shall be reviewed in camera. In the trial, the trial judge may, during the taking of testimony concerning such information, exclude from the courtroom all persons except the officers of the court, the parties, and those engaged in the trial of the case.
- (5) Release is made to a Medical Review Committee as defined in G.S. 131E-95, 90-21.22A, or 130A-45.7 or to a peer review committee as defined in G.S. 131E-108, 122C-30, or 131D-21.1.
- (6) Release is made for use in a health research project under rules adopted by the North Carolina Medical Care Commission. The Commission shall adopt rules that allow release of information when an institutional review board, as defined by the Commission, has determined that the health research project:
 - a. Is of sufficient scientific importance to outweigh the intrusion into the privacy of the patient that would result from the disclosure;
 - b. Is impracticable without the use or disclosure of identifying health information;
 - c. Contains safeguards to protect the information from redisclosure;
 - d. Contains safeguards against identifying, directly or indirectly, any patient in any report of the research project; and

- e. Contains procedures to remove or destroy at the earliest opportunity, consistent with the purposes of the project, information that would enable the patient to be identified, unless an institutional review board authorizes retention of identifying information for purposes of another research project.
- (7) Release is made to a statewide data processor, as defined in Article 11A of Chapter 131E of the General Statutes, in which case the data is deemed to have been submitted as if it were required to have been submitted under that Article.
- (8) Release is made pursuant to any other law.
- (b) Charges, accounts, credit histories, and other personal financial records compiled and maintained by the Department or EMS providers in connection with the admission, treatment, and discharge of individual patients are strictly confidential and shall not be released."

SECTION 12. G.S. 166A-5(3) is amended by adding a new sub-subdivision to read:

- "b1. Coordination with the State Health Director to amend or revise the North Carolina Emergency Operations Plan regarding public health matters. At a minimum, the revisions to the Plan shall provide for the following:
1. The epidemiologic investigation of a known or suspected threat caused by nuclear, biological, or chemical agents.
 2. The examination and testing of persons and animals that may have been exposed to a nuclear, biological, or chemical agent.
 3. The procurement and allocation of immunizing agents and prophylactic antibiotics.
 4. The allocation of the National Pharmaceutical Stockpile.
 5. The appropriate conditions for quarantine and isolation in order to prevent further transmission of disease.
 6. Immunization procedures.
 7. The issuance of guidelines for prophylaxis and treatment of exposed and affected persons."

SECTION 13. G.S. 143-508(d)(11) reads as rewritten:

"(11) Establish standards and criteria for the education and credentialing of persons trained to administer lifesaving treatment to a person who suffers a severe adverse reaction to ~~insect stings~~ agents that might cause anaphylaxis."

SECTION 14. G.S. 15A-401(b) reads as rewritten:

- "(b) Arrest by Officer Without a Warrant. –
- (1) Offense in Presence of Officer. – An officer may arrest without a warrant any person who the officer has probable cause to believe has committed a criminal offense in the officer's presence.
 - (2) Offense Out of Presence of Officer. – An officer may arrest without a warrant any person who the officer has probable cause to believe:
 - a. Has committed a felony; or
 - b. Has committed a misdemeanor, and:
 1. Will not be apprehended unless immediately arrested, or
 2. May cause physical injury to himself or others, or damage to property unless immediately arrested; or
 - c. Has committed a misdemeanor under G.S. 14-72.1, 14-134.3, 20-138.1, or 20-138.2; or
 - d. Has committed a misdemeanor under G.S. 14-33(a), 14-33(c)(1), 14-33(c)(2), or 14-34 when the offense was

- committed by a person with whom the alleged victim has a personal relationship as defined in G.S. 50B-1; or
- e. Has committed a misdemeanor under G.S. 50B-4.1(a).
- (3) Repealed by Session Laws 1991, c. 150.
- (4) A law enforcement officer may detain an individual arrested for violation of an order limiting freedom of movement or access issued pursuant to G.S. 130A-475 or G.S. 130A-145 in the area designated by the State Health Director or local health director pursuant to such order. The person may be detained in such area until the initial appearance before a judicial official pursuant to G.S. 15A-511 and G.S. 15A-534.5."

SECTION 15. Article 26 of Chapter 15A is amended by adding a new section to read:

"§ 15A-534.5. Detention to protect public health.

If a judicial official conducting an initial appearance finds by clear and convincing evidence that a person arrested for violation of an order limiting freedom of movement or access issued pursuant to G.S. 130A-475 or G.S. 130A-145 poses a threat to the health and safety of others, the judicial official shall deny pretrial release and shall order the person to be confined in an area or facility designated by the judicial official. Such pretrial confinement shall terminate when a judicial official determines that the confined person does not pose a threat to the health and safety of others. These determinations shall be made only after the State Health Director or local health director has made recommendations to the court."

SECTION 16. G.S. 7A-451(a) is amended by adding the following new subdivision:

- "(17) A proceeding involving limitation on freedom of movement or access pursuant to G.S. 130A-475 or G.S. 130A-145."

SECTION 17. G.S. 130A-157 reads as rewritten:

"§ 130A-157. Religious exemption.

If the bona fide religious beliefs of an adult or the parent, guardian or person in loco parentis of a child are contrary to the immunization requirements contained in this ~~Part~~, ~~Chapter~~, the adult or the child shall be exempt from the requirements. Upon submission of a written statement of the bona fide religious beliefs and opposition to the immunization requirements, the person may attend the college, university, school or facility without presenting a certificate of immunization."

SECTION 18. G.S. 90-21.22A(c) reads as rewritten:

"(c) The proceedings of a medical review committee, the records and materials it produces, and the materials it considers shall be confidential and not considered public records within the meaning of G.S. 132-1, 131E-309, or 58-2-100; and shall not be subject to discovery or introduction into evidence in any civil action against a provider of health care services who directly provides services and is licensed under this Chapter, a PSO licensed under Article 17 of Chapter 131E of the General Statutes, an ambulatory surgical facility licensed under Chapter 131E of the General Statutes, or a hospital licensed under Chapter 122C or Chapter 131E of the General Statutes or that is owned or operated by the State, which civil action results from matters that are the subject of evaluation and review by the committee. No person who was in attendance at a meeting of the committee shall be required to testify in any civil action as to any evidence or other matters produced or presented during the proceedings of the committee or as to any findings, recommendations, evaluations, opinions, or other actions of the committee or its members. However, information, documents, or records otherwise available are not immune from discovery or use in a civil action merely because they were presented during proceedings of the committee. A member of the committee may testify in a civil action but cannot be asked about his or her testimony before the committee or any opinions formed as a result of the committee hearings."

SECTION 19. G.S. 131E-95(b) reads as rewritten:

"(b) The proceedings of a medical review committee, the records and materials it produces and the materials it considers shall be confidential and not considered public records within the meaning of G.S. 132-1, "Public records' defined," and shall not be subject to discovery or introduction into evidence in any civil action against a ~~hospital~~ hospital, an ambulatory surgical facility licensed under Chapter 131E of the General Statutes, or a provider of professional health services which results from matters which are the subject of evaluation and review by the committee. No person who was in attendance at a meeting of the committee shall be required to testify in any civil action as to any evidence or other matters produced or presented during the proceedings of the committee or as to any findings, recommendations, evaluations, opinions, or other actions of the committee or its members. However, information, documents, or records otherwise available are not immune from discovery or use in a civil action merely because they were presented during proceedings of the committee. A member of the committee or a person who testifies before the committee may testify in a civil action but cannot be asked about his testimony before the committee or any opinions formed as a result of the committee hearings."

SECTION 20.(a) Article 1 of Chapter 90 is amended by adding a new section to read:

"§ 90-12.2. Disasters and emergencies.

In the event of an occurrence which the Governor of the State of North Carolina has declared a disaster or when the Governor has declared a state of emergency, or in the event of an occurrence for which a county or municipality has enacted an ordinance to deal with states of emergency under G.S. 14-288.12, 14-288.13, or 14-288.14, or to protect the public health, safety, or welfare of its citizens under Article 22 of Chapter 130A of the General Statutes, G.S. 160A-174(a) or G.S. 153A-121(a), as applicable, the Board may waive the requirements of this Article in order to permit the provision of emergency health services to the public."

SECTION 20.(b) G.S. 166A-14(d) reads as rewritten:

"(d) As used in this section, the term "emergency management worker" shall include any full or part-time paid, volunteer or auxiliary employee of this State or other states, territories, possessions or the District of Columbia, of the federal government or any neighboring country or of any political subdivision thereof or of any agency or organization performing emergency management services at any place in this State, subject to the order or control of or pursuant to a request of the State government or any political subdivision thereof. The term "emergency management worker" under this section shall also include a person performing emergency health care services under G.S. 90-12.2."

SECTION 21.(a) G.S. 166A-20(b) reads as rewritten:

"(b) The purpose of this Article is to establish a system of regional response to hazardous materials emergencies and terrorist incidents in the State to protect the health and safety of its citizens."

SECTION 21.(b) G.S. 166A-21 is amended by adding a new subdivision to read:

"(7) 'Terrorist incident' means activities that occur within the territorial jurisdiction of the United States, involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any state, and are intended to do one of the following:

- a. Intimidate or coerce a civilian population.
- b. Influence the policy of a government by intimidation or coercion.
- c. Affect the conduct of a government by mass destruction, assassination, or kidnapping."

SECTION 21.(c) G.S. 166A-22(a) reads as rewritten:

"(a) The Secretary shall adopt rules establishing a regional response program for hazardous materials emergencies and terrorist incidents, to be administered by the

Division of Emergency Management. To the extent possible, the regional response program shall be coordinated with other emergency planning activities of the State. The regional response program shall include at least six hazmat teams located strategically across the State that are available to provide regional response to hazardous materials or terrorist incidents requiring technician-level entry capability and 24-hour dispatch and communications capability at the Division of Emergency Management Operations Center. The rules for the program shall include:

- (1) Standards, including training, equipment, and personnel standards required to operate a regional response team with technician-level entry capability.
- (2) Guidelines for the dispatch of a regional response team to a hazardous materials or terrorist incident.
- (3) Guidelines for the on-site operations of a regional response team.
- (4) Standards for administration of a regional response team, including procedures for reimbursement of response costs.
- (5) Refresher and specialist training for members of regional response teams.
- (6) Procedures for recovering the costs of a response to a hazardous materials or terrorist incident from persons determined to be responsible for the emergency.
- (7) Procedures for bidding and contracting for the provision of a hazmat team for the regional response program.
- (8) Criteria for evaluating bids for the provision of a hazmat team for regional response.
- (9) Delineation of the roles of the regional response team, local fire department and local public safety personnel, the Division of Emergency Management's area coordinator, and other State agency personnel responding to the scene of a hazardous materials or terrorist incident."

SECTION 21.(d) G.S. 166A-23 reads as rewritten:

"§ 166A-23. Contracts; equipment loans.

(a) The Secretary may contract with any unit or units of local government for the provision of a regional response team to implement the regional response program. Contracts are to be let consistent with the bidding and contract standards and procedures adopted pursuant to G.S. 166A-22(a)(7) and (8). In entering into contracts with units of local government, the Secretary may agree to provide:

- (1) A loan of equipment, including a hazmat vehicle, necessary for the provision technician-level entry capability;
- (2) Reimbursement of personnel costs when a regional response team is authorized by the Department to respond to a hazmat or terrorist incident, including the cost of call-back personnel;
- (3) Reimbursement for use of equipment and vehicles owned by the regional response team;
- (4) Replacement of disposable materials and damaged equipment;
- (5) Costs of medical surveillance for members of the regional response team, including baseline, maintenance, and exit physicals;
- (6) Training expenses; and
- (7) Other provisions agreed to by the Secretary and the regional response team.

(b) The Secretary shall not agree to provide reimbursement for:

- (1) Costs of clean-up activities, after a spill or leak has been contained;
- (2) Local response not requiring technician-level entry capability; or
- (3) Standby time.

(c) Any contract entered into between the Secretary and a unit of local government for the provision of a regional response team shall specify that the members

of the regional response team, when performing their duties under the contract, shall not be employees of the State and shall not be entitled to benefits under the Teachers' and State Employees' Retirement System or for the payment by the State of federal social security, employment insurance, or workers' compensation.

(d) Regional response teams that have the use of a State hazmat vehicle may use the vehicle for local purposes. Where a State vehicle is used for purposes other than authorized regional response to a hazardous materials or terrorist incident, the regional response team shall be liable for repairs or replacements directly attributable to the nonauthorized response."

SECTION 21.(e) G.S. 166A-24 reads as rewritten:

"§ 166A-24. Immunity of Regional Response Team Personnel.

Members of a regional response team shall be protected from liability under the provisions of G.S. 166A-14(a) while responding to a hazardous materials or terrorist incident pursuant to authorization from the Division of Emergency Management."

SECTION 21.(f) G.S. 166A-25 reads as rewritten:

"§ 166A-25. Right of entry.

A regional response team, when authorized to respond to a release or threatened release of hazardous ~~materials, materials or when authorized to respond to a terrorist or threatened or imminent terrorist incident,~~ materials, materials or when authorized to respond to a terrorist or threatened or imminent terrorist incident, may enter onto any private or public property on which the release or terrorist incident has occurred or on which there is an imminent threat of such ~~release, release or terrorist incident.~~ release, release or terrorist incident. A regional response team may also enter, under such circumstances, any adjacent or surrounding property in order to respond to the release or threatened release of hazardous material or to monitor, control, and contain the release or perform any other action in mitigation of a hazardous materials or terrorist incidents."

SECTION 21.(g) G.S. 166A-26(a) reads as rewritten:

"(a) The Regional Response Team Advisory Committee is created. The Secretary shall appoint the members of the Committee and shall designate the chair. In making appointments, the Secretary shall take into consideration the expertise of the appointees in the management of hazardous materials emergencies. The Secretary shall appoint one representative from:

- (1) The Division of Emergency Management;
- (2) The North Carolina Highway Patrol;
- (3) The State Fire and Rescue Commission; Commission of the Department of Insurance;
- (4) The Department of Environment and Natural Resources;
- (5) The Department of Transportation;
- (6) The Department of Agriculture and Consumer Services;
- (7) The Chemical Industry Council of North Carolina;
- (8) The N.C. Association of Hazardous Materials Responders;
- (9) Each regional response ~~team~~ team;
- (10) The State Bureau of Investigation.

In addition to the persons listed above, the Secretary shall appoint to the Advisory Committee three persons designated jointly by the North Carolina Fire Chiefs Association and the North Carolina State Firemen's Association."

SECTION 22. This act becomes effective October 1, 2002.
In the General Assembly read three times and ratified this the 3rd day of
October, 2002.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 4:31 p.m. this 31st day of October, 2002