

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 445
Judiciary II Committee Substitute Adopted 4/16/15

Short Title: Burt's Law.

(Public)

Sponsors:

Referred to:

March 26, 2015

A BILL TO BE ENTITLED

AN ACT TO ENHANCE PROTECTIONS FOR CLIENTS OF FACILITIES WHOSE
PRIMARY PURPOSE IS TO PROVIDE SERVICES FOR THE CARE, TREATMENT,
HABILITATION, OR REHABILITATION OF INDIVIDUALS WITH MENTAL
ILLNESS, DEVELOPMENTAL DISABILITIES, OR SUBSTANCE ABUSE
DISORDERS BY INCREASING PUNISHMENTS FOR CLIENT ABUSE,
EXPLOITATION, OR NEGLECT; BY IMPOSING A REPORTING REQUIREMENT
ON EMPLOYEES AND VOLUNTEERS WHO WITNESS A SEXUAL OFFENSE OR
OFFENSE AGAINST MORALITY PERPETRATED AGAINST A CLIENT; AND BY
MAKING FAILURE TO REPORT THESE VIOLATIONS A CLASS 1
MISDEMEANOR.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-26(5) reads as rewritten:

"(5) Adopt rules applicable to facilities licensed under this ~~Article~~Article that do the following:

- a. Establishing personnel requirements of staff employed in ~~facilities;~~facilities.
- b. Establishing qualifications of facility administrators or ~~directors;~~directors.
- c. Establishing requirements for death reporting including confidentiality provisions related to death ~~reporting;~~reporting.
- d. Establishing requirements for patient ~~advocates;~~ and advocates.
- e. Requiring facility personnel who refer clients to provider agencies to disclose any pecuniary interest the referring person has in the provider agency, or other interest that may give rise to the appearance of impropriety.
- f. Establishing standardized procedures for facilities in training and record keeping of the measures taken to inform employees and volunteers of the duties imposed by G.S. 122C-66."

SECTION 2. G.S. 122C-66 reads as rewritten:

"§ 122C-66. Protection from abuse and exploitation; reporting.

(a) An employee of or a volunteer at a facility who, other than as a part of generally accepted medical or therapeutic procedure, knowingly causes pain or injury to a client ~~or borrows or takes personal property from a client~~ is guilty of a ~~Class 1~~Class A1 misdemeanor. Any employee or volunteer who uses reasonable force to carry out the provisions of



1 G.S. 122C-60 or to protect himself or others from a violent client does not violate this
2 subsection.

3 (a1) An employee of or a volunteer at a facility who borrows or takes personal property
4 from a client is guilty of a Class 1 misdemeanor. Any employee or volunteer who uses
5 reasonable force to carry out the provisions of G.S. 122C-60 or to protect himself or others
6 from a violent client does not violate this subsection.

7 (b) An employee of or a volunteer at a facility who witnesses or has knowledge of a
8 violation of ~~subsection (a)~~ subsection (a), subsection (a1), or of an accidental injury to a client
9 shall report the violation or accidental injury to authorized personnel designated by the facility.
10 No employee making a report may be threatened or harassed by any other employee or
11 volunteer on account of the report. Violation of this subsection is a ~~Class 3 misdemeanor~~
12 ~~punishable only by a fine, not to exceed five hundred dollars (\$500.00).~~ Class 1 misdemeanor.

13 (b1) The employee of or a volunteer at a facility who witnesses a client become a victim
14 of a violation of Article 7A or Article 26 of Chapter 14 of the General Statutes shall report the
15 allegations within 24 hours after witnessing the violation to (i) the department of social services
16 in the county where the facility serves the client and (ii) the district attorney in the district
17 where the facility serves the client. A violation of this section is a Class A1 misdemeanor. No
18 employee making a report may be threatened or harassed by any other employee or volunteer
19 on account of the report.

20 (c) The identity of an individual who makes a report under this section or who
21 cooperates in an ensuing investigation may not be disclosed without ~~his~~ the reporting
22 individual's consent, except to persons authorized by the facility or by State or federal law to
23 investigate or prosecute these incidents, or in a grievance or personnel hearing or civil or
24 criminal action in which ~~a~~ the reporting individual is testifying, or when disclosure is legally
25 compelled or authorized by judicial discovery. This subsection shall not be interpreted to
26 require the disclosure of the identity of an individual where it is otherwise prohibited by law.

27 (d) An employee who makes a report in good faith under this section is immune from
28 any civil liability that might otherwise occur for the report. In any case involving liability,
29 making a report under this section is prima facie evidence that the maker acted in good faith.

30 (e) The duty imposed by this section is in addition to any duty imposed by G.S. 7B-301
31 or G.S. 108A-102.

32 ~~The~~ Except for reports made pursuant to subsection (b1) of this section, the facility
33 shall investigate or provide for the investigation of all reports made under the provisions of this
34 section.

35 (g) The county department of social services and the district attorney to whom a report
36 is made under subsection (b1) of this section shall investigate or provide for the investigation of
37 each such report."

38 **SECTION 3.** This act becomes effective December 1, 2015, and applies to
39 offenses committed on or after that date.