

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1189
PROPOSED COMMITTEE SUBSTITUTE H1189-PCS30335-LN-20

Short Title: DHHS/Tracking Outpatient Commitments.-AB

(Public)

Sponsors:

Referred to:

April 8, 2009

A BILL TO BE ENTITLED

AN ACT REQUIRING PHYSICIANS OR ELIGIBLE PSYCHOLOGISTS CONDUCTING EXAMINATIONS TO INFORM THE LOCAL MANAGEMENT ENTITY THAT AN INDIVIDUAL HAS BEEN SCHEDULED FOR AN APPOINTMENT WITH AN OUTPATIENT TREATMENT PHYSICIAN OR CENTER; TO ALLOW FIRST COMMITMENTS TO BE CONDUCTED VIA TELEMEDICINE; AND PERTAINING TO SECURITY FORCES AT CERTAIN MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-261(d) reads as rewritten:

"(d) If the affiant is a physician or eligible psychologist, the affiant may execute the affidavit before any official authorized to administer oaths. This affiant is not required to appear before the clerk or magistrate for this purpose. This affiant shall file the affidavit with the clerk or magistrate by delivering to the clerk or magistrate the original affidavit or a copy in paper form that is printed through the facsimile transmission of the affidavit. If the affidavit is filed through facsimile transmission, the affiant shall mail the original affidavit no later than five days after the facsimile transmission of the affidavit to the clerk or magistrate to be filed by the clerk or magistrate with the facsimile copy of the affidavit. This affiant's examination shall comply with the requirements of the initial examination as provided in G.S. 122C-263(c). If the physician or eligible psychologist recommends outpatient commitment and the clerk or magistrate finds probable cause to believe that the respondent meets the criteria for outpatient commitment, the clerk or magistrate shall issue an order that a hearing before a district court judge be held to determine whether the respondent will be involuntarily committed. The physician or eligible psychologist shall provide the respondent with written notice of any scheduled appointment and the name, address, and telephone number of the proposed outpatient treatment physician or center. The physician or eligible psychologist shall contact the local management entity that serves the county where the respondent resides or the local management entity that coordinated services for the respondent to inform the local management entity that the respondent has been scheduled for an appointment with an outpatient treatment physician or center. If the physician or eligible psychologist recommends inpatient commitment and the clerk or magistrate finds probable cause to believe that the respondent meets the criteria for inpatient commitment, the clerk or magistrate shall issue an order for transportation to or custody at a 24-hour facility described in G.S. 122C-252. However, if the clerk or magistrate finds probable cause to believe that the respondent, in addition to being mentally ill, is also



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1 mentally retarded, the clerk or magistrate shall contact the area authority before issuing the
2 order and the area authority shall designate the facility to which the respondent is to be
3 transported. If a physician or eligible psychologist executes an affidavit for inpatient
4 commitment of a respondent, a second physician shall be required to perform the examination
5 required by G.S. 122C-266."

6 **SECTION 2.** G.S. 122C-263(c) reads as rewritten:

7 "(c) The physician or eligible psychologist described in subsection (a) of this section
8 shall examine the respondent as soon as possible, and in any event within 24 hours, after the
9 respondent is presented for examination. When the examination set forth in subsection (a) of
10 this section is performed by a physician or eligible psychologist the respondent may either be in
11 the physical face-to-face presence of the physician or eligible psychologist or may be examined
12 utilizing telemedicine equipment and procedures. A physician or eligible psychologist who
13 examines a respondent by means of telemedicine must be satisfied to a reasonable medical
14 certainty that the determinations made in accordance with subsection (d) of this section would
15 not be different if the examination had been done in the physical presence of the physician or
16 eligible psychologist. A physician or eligible psychologist who is not so satisfied must note that
17 the examination was not satisfactorily accomplished, and the respondent must be taken for a
18 face-to-face examination in the physical presence of a person authorized to perform
19 examinations under this section. As used in this subsection, "telemedicine" is the use of
20 two-way real-time interactive audio and video between places of lesser and greater medical
21 capability or expertise to provide and support health care when distance separates participants
22 who are in different geographical locations. A recipient is referred by one provider to receive
23 the services of another provider via telemedicine.

24 The examination shall include but is not limited to an assessment of the respondent's:

- 25 (1) Current and previous mental illness and mental retardation including, if
26 available, previous treatment history;
- 27 (2) Dangerousness to self, as defined in G.S. 122C-3(11)a. or others, as defined
28 in G.S. 122C-3(11)b.;
- 29 (3) Ability to survive safely without inpatient commitment, including the
30 availability of supervision from family, friends or others; and
- 31 (4) Capacity to make an informed decision concerning treatment."

32 **SECTION 3.** Article 6 of Chapter 122C of the General Statues is amended by
33 adding the following new Part to read:

34 "Part 2D. Long Leaf Neuro-Medical Treatment Center and Eastern North Carolina School for
35 the Deaf Joint Security Force.

36 **"§ 122C-430.30. Joint security force.**

37 The Secretary may designate one or more special police officers who shall make up a joint
38 security force to enforce the law of North Carolina and any ordinance or regulation adopted
39 pursuant to G.S. 143-116.6 or G.S. 143-116.7 or pursuant to the authority granted the
40 Department by any other law on the territory of the Long Leaf Neuro-Medical Treatment
41 Center and the Eastern North Carolina School for the Deaf in Wilson County. After taking the
42 oath of office for law enforcement officers as set out in G.S. 11-11, these special police officers
43 have the same powers as peace officers now vested in sheriffs within the territory embraced by
44 the named facilities. These special police officers may arrest persons outside the territory of the
45 named institutions but within the confines of Wilson County when the person arrested has
46 committed a criminal offense within that territory for which the officers could have arrested the
47 person within that territory, and the arrest is made during the person's immediate and
48 continuous flight from that territory."

49 **SECTION 4.** This act is effective when it becomes law.