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SENATE BILL 445
Judiciary II Committee Substitute Adopted 4/16/15
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PROPOSED HOUSE COMMITTEE SUBSTITUTE S445-PCS45365-TV-17

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.



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1 Any employee or volunteer who uses reasonable force to carry out the provisions of
2 G.S. 122C-60 or to protect himself or others from a violent client does not violate this
3 subsection.

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

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

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

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

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

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

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

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

40 **SECTION 3.** Section 2 of this act becomes effective December 1, 2015, and
41 applies to offenses committed on or after that date. The remainder of this act is effective when
42 it becomes law.