GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2015

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SENATE BILL 445

Judiciary II Committee Substitute Adopted 4/16/15 Third Edition Engrossed 4/20/15 PROPOSED HOUSE COMMITTEE SUBSTITUTE S445-PCS45365-TV-17

Short Title: Burt's Law.

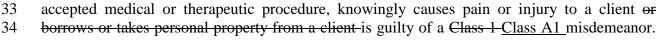
(Public)

Sponsors:

Referred to:

March 26, 2015

1 A BILL TO BE ENTITLED 2 AN ACT TO ENHANCE PROTECTIONS FOR CLIENTS OF FACILITIES WHOSE 3 PRIMARY PURPOSE IS TO PROVIDE SERVICES FOR THE CARE, TREATMENT, 4 HABILITATION, OR REHABILITATION OF INDIVIDUALS WITH MENTAL 5 DEVELOPMENTAL DISABILITIES. ILLNESS. OR **SUBSTANCE** ABUSE 6 DISORDERS **PUNISHMENTS** BY INCREASING FOR CLIENT ABUSE. 7 EXPLOITATION, OR NEGLECT; BY IMPOSING A REPORTING REQUIREMENT 8 ON EMPLOYEES AND VOLUNTEERS WHO WITNESS A SEXUAL OFFENSE OR 9 OFFENSE AGAINST MORALITY PERPETRATED AGAINST A CLIENT; AND BY 10 MAKING FAILURE TO REPORT THESE VIOLATIONS A CLASS 1 11 MISDEMEANOR. 12 The General Assembly of North Carolina enacts: SECTION 1. G.S. 122C-26(5) reads as rewritten: 13 14 Adopt rules applicable to facilities licensed under this Article: Article that do "(5) 15 the following: 16 Establishing personnel requirements of staff employed a. in facilities; facilities. 17 18 Establishing qualifications of facility administrators b. or 19 directors; directors. 20 Establishing including requirements for death reporting c. 21 confidentiality provisions related to death reporting; reporting. Establishing requirements for patient advocates; and advocates. 22 d. 23 Requiring facility personnel who refer clients to provider agencies to e. 24 disclose any pecuniary interest the referring person has in the 25 provider agency, or other interest that may give rise to the appearance of impropriety. 26 27 Establishing standardized procedures for facilities in training and f. record keeping of the measures taken to inform employees and 28 volunteers of the duties imposed by G.S. 122C-66." 29 30 SECTION 2. G.S. 122C-66 reads as rewritten: 31 "§ 122C-66. Protection from abuse and exploitation; reporting. An employee of or a volunteer at a facility who, other than as a part of generally 32 33





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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 An employee of or a volunteer at a facility who borrows or takes personal property (a1) 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 An employee of or a volunteer at a facility who witnesses or has knowledge of a (b) 9 violation of 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 The employee of or a volunteer at a facility who witnesses a client become a victim (b1) 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 The identity of an individual who makes a report under this section or who (c) 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 An employee who makes a report in good faith under this section is immune from (d)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 The duty imposed by this section is in addition to any duty imposed by G.S. 7B-301 (e) 33 or G.S. 108A-102. 34 The Except for reports made pursuant to subsection (b1) of this section, the facility (f) 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.