

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 29
Judiciary II Committee Substitute Adopted 3/23/15
PROPOSED HOUSE COMMITTEE SUBSTITUTE S29-PCS15388-TV-36

Short Title: County Eugenics Compensation Authority. (Public)

Sponsors:

Referred to:

February 5, 2015

A BILL TO BE ENTITLED

AN ACT ALLOWING COUNTIES TO COMPENSATE PERSONS ASEXUALIZED OR
STERILIZED UNDER COUNTY AUTHORITY FOR THE PURPOSES OF EUGENICS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 13 of Chapter 153A of the General Statutes is amended by
adding a new section to read:

"§ 153A-248.1. Authority for county eugenics compensation ordinance.

(a) A county may adopt an ordinance to provide for the compensation of qualified recipients asexualized or sterilized under county authority. An ordinance adopted under this section shall become effective on or before July 1, 2018.

(b) A "qualified recipient" under this section is any individual found to have been asexualized or sterilized by the county without the individual's informed consent or the informed consent of the individual's parent or guardian. A claim for compensation under this section may only be made by an individual who is alive at the time the individual makes the claim under the ordinance. All claims for compensation under the ordinance must be made by no later than December 31, 2019.

(c) The ordinance authorized by this section shall either:

(1) Provide that the Industrial Commission determines whether a claimant is eligible for compensation as a qualified recipient under the county ordinance. In the case where the Industrial Commission will handle claims, the Commission shall have all powers and authority granted under Article 31 of Chapter 143 of the General Statutes and the county shall reimburse the Industrial Commission for its actual expenses; or

(2) Provide other provisions to afford claimants with due process of law and prescribe the manner in which claims will be handled by the county. In this case, any determination by the county favorable to a claimant shall be final. Any unfavorable final decision as to a person's eligibility for, or the amount of, compensation is subject to appeal to the superior court of that county.

(d1) If any claimant dies during the pendency of a claim, or after being determined to be a qualified recipient, compensation payment will be made to the estate of the decedent.

(d2) Compensation received under this section may be deposited into an inter vivos trust established for the benefit of the qualified recipient.

(e) Any payment made under this section shall not be considered income or assets for purposes of determining the eligibility for, or the amount of, any benefits or assistance under any



1 State or local program financed in whole or in part with State funds. Pursuant to G.S. 108A-26.1,
2 the Department of Health and Human Services shall do the following:

3 (1) Provide income, resource, and asset disregard to an applicant for, or recipient
4 of, public assistance who receives compensation under this section equal to the
5 total compensation paid to the individual.

6 (2) Provide resource protection by reducing any subsequent recovery by the State
7 under G.S. 108A-70.5 from a deceased recipient's estate for payment of
8 Medicaid paid services by the amount of resource disregard given under
9 subdivision (1) of this subsection.

10 (3) Adopt rules to implement the provisions of subdivisions (1) and (2) of this
11 subsection.

12 (f) It is the public policy of this State that funds awarded for the compensation of
13 sterilization victims under this section may be used only for the purpose of benefiting victims and
14 shall not be used to pay attorneys' fees arising from representation at the county determination
15 level or on appeal. The General Assembly finds that qualified recipients have suffered a unique
16 harm that calls for a unique remedy and that there are sufficient sources of assistance and pro bono
17 legal representation available to protect their interests. Therefore, any agreement for the
18 acceptance of attorneys' fees is null and void unless counsel has sought and received an opinion
19 from the North Carolina State Bar that the fee arrangement is reasonable under the Rules of
20 Professional Conduct.

21 (g) The Industrial Commission may adopt rules necessary to carry out its duties under this
22 section.

23 (h) The Industrial Commission, the Department of Administration, the Department of
24 Health and Human Services, and all other State agencies, departments, and institutions shall
25 collaborate with the county to facilitate the administration of this section so as to effectuate the
26 compensation of qualified recipients fairly and as soon as practicable.

27 (i) Records of all inquiries of eligibility, claims, and payments under this section shall be
28 confidential and not public records under Chapter 132 of the General Statutes.

29 (j) A county may appropriate funds for eugenics compensation as provided by this section,
30 under G.S. 153A-248(a), if the funds are not otherwise limited as to use by law.

31 (k) Nothing in this section shall revive or extend any statute of limitations that may
32 otherwise have expired prior to July 1, 2013. The county's liability arising from any cause of
33 action related to any asexualization or sterilization performed pursuant to an order by a county
34 shall be limited to compensation authorized by this section."

35 **SECTION 2.** This act applies only to counties having a population over 350,000,
36 according to the most recent federal decennial census.

37 **SECTION 3.** This act is effective when it becomes law.