

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL DRS35164-MS-110 (03/16)

Short Title: Incapacity to Proceed.

(Public)

Sponsors: Senator Randleman (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW REPORTS RECEIVED BY THE COURT ON INCAPACITY TO
3 PROCEED TO BE SHARED WITH TREATMENT PROVIDERS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 15A-1002(d) reads as rewritten:

6 "(d) Any report made to the court pursuant to this section shall be forwarded to the clerk
7 of superior court in a sealed envelope addressed to the attention of a presiding judge, with a
8 covering statement to the clerk of the fact of the examination of the defendant and any
9 conclusion as to whether the defendant has or lacks capacity to proceed. If the defendant is
10 being held in the custody of the sheriff, the clerk shall send a copy of the covering statement to
11 the sheriff. The sheriff and any persons employed by the sheriff shall maintain the copy of the
12 covering statement as a confidential record. A copy of the full report shall be forwarded to
13 defense counsel, or to the defendant if he is not represented by counsel. If the question of the
14 defendant's capacity to proceed is raised at any time, a copy of the full report must be
15 forwarded to the district attorney, as provided in G.S. 122C-54(b). Until such report becomes a
16 public record, the full report to the court shall be kept under such conditions as are directed by
17 the court, and its contents shall not be revealed except the report and the relevant confidential
18 information previously ordered released under subdivision (b)(4) of this section shall be
19 released as follows: (i) to clinicians at the program where the defendant is receiving capacity
20 restoration; (ii) to clinicians designated by the Secretary of Health and Human Services, and
21 (iii) as directed by the court. Any report made to the court pursuant to this section shall not be a
22 public record unless introduced into evidence."

23 **SECTION 2.** This act is effective when it becomes law.



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