

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

S

D

SENATE BILL 212
Health Care Committee Substitute Adopted 3/20/19
Corrected Copy 3/22/19
PROPOSED HOUSE COMMITTEE SUBSTITUTE S212-PCS15379-SH-20

Short Title: NC FAST/Early Child/Transformation/ACH Assess.

(Public)

Sponsors:

Referred to:

March 12, 2019

A BILL TO BE ENTITLED

AN ACT REQUIRING THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO POSTPONE DEPLOYMENT OF THE NORTH CAROLINA FAMILIES ACCESSING SERVICES THROUGH TECHNOLOGY (NC FAST) SYSTEM AS RELATED TO CASE-MANAGEMENT FUNCTIONALITY FOR THE CHILD WELFARE SYSTEM AND AGING AND ADULT SERVICES' PROGRAMS, ENHANCING THE EARLY CHILDHOOD WORKFORCE, POTENTIAL DELAY FOR MEDICAID AND NC HEALTH CHOICE TRANSFORMATION, AUTHORIZING ADULT CARE HOMES TO USE SERVICE PLANS COMPLETED AS THE RESULT OF A MEDICAID PERSONAL CARE SERVICES ASSESSMENT TO FULFILL THE ACTIVITIES OF DAILY LIVING PORTION OF THE REQUIRED SERVICE PLANS OR CARE PLANS FOR ADULT CARE HOME RESIDENTS, AND AMENDING ASSISTED LIVING ADMINISTRATOR CERTIFICATION QUALIFICATIONS.

The General Assembly of North Carolina enacts:

PART I. POSTPONE DEPLOYMENT OF NC FAST CASE-MANAGEMENT FUNCTIONALITY FOR CHILD WELFARE SYSTEM/AGING AND ADULT SERVICES' PROGRAMS

SECTION 1.(a) The Department of Health and Human Services, Division of Social Services, shall postpone deployment of the North Carolina Families Accessing Services through Technology (NC FAST) system as it relates to case-management functionality for the child welfare system and aging and adult services' programs. The Division shall not deploy the child welfare case-management component of the NC FAST system statewide prior to May 1, 2020, but shall instead continue to develop and improve case-management functionality for the child welfare component of NC FAST only in those counties that participated in the initial pilot program prior to January 1, 2019.

SECTION 1.(b) All counties other than the counties that participated in the pilot program prior to January 1, 2019, may elect to utilize the Intake and Assessment functionality of the NC FAST system.

SECTION 1.(c) The Joint Legislative Program Evaluation Oversight Committee shall revise the biennial 2019-2020 work plan for the Program Evaluation Division to include a study of the case-management functionality of the child welfare component of NC FAST. The Program Evaluation Division shall submit its evaluation to the Joint Legislative Program



* S 2 1 2 - P C S 1 5 3 7 9 - S H - 2 0 *

1 Evaluation Oversight Committee and to the Joint Legislative Oversight Committee on Health
2 and Human Services no later than May 1, 2020.

4 PART II. EARLY CHILDHOOD WORKFORCE

5 SECTION 2. G.S. 110-91(8) reads as rewritten:

6 "(8) Qualifications for Staff. – All child care center administrators shall be at least
7 21 years of age. All child care center administrators shall have the North
8 Carolina Early Childhood Administration Credential or its equivalent as
9 determined by the Department. All child care administrators performing
10 administrative duties as of the date this act becomes law and child care
11 administrators who assume administrative duties at any time after this act
12 becomes law and until September 1, 1998, shall obtain the required credential
13 by September 1, 2000. Child care administrators who assume administrative
14 duties after September 1, 1998, shall begin working toward the completion of
15 the North Carolina Early Childhood Administration Credential or its
16 equivalent within six months after assuming administrative duties and shall
17 complete the credential or its equivalent within two years after beginning work
18 to complete the credential. Each child care center shall be under the direction
19 or supervision of a person meeting these requirements. All staff counted
20 toward meeting the required staff-child ratio shall be at least 16 years of age,
21 provided that persons younger than 18 years of age work under the direct
22 supervision of a credentialed staff person who is at least 21 years of age. All
23 lead teachers in a child care center shall have at least a North Carolina ~~Early
24 Childhood Credential~~ Infant-Toddler Certificate or Preschool Certificate or its
25 equivalent as determined by the Department. ~~Lead teachers shall be enrolled
26 in the North Carolina Early Childhood Credential coursework or its equivalent
27 as determined by the Department within six months after becoming employed
28 as a lead teacher or within six months after this act becomes law, whichever
29 is later, and shall complete the credential or its equivalent within 18 months
30 after enrollment.~~ Lead teachers employed as of January 1, 2020, shall have
31 until July 1, 2021, to receive the Certificate or its equivalent. Lead teachers
32 hired after January 1, 2020, shall have earned the North Carolina Early
33 Childhood Credential before being hired and shall earn the North Carolina
34 Infant-Toddler Certificate or Preschool Certificate, or its equivalent, as
35 determined by the Department within 18 months after being hired.

36 For child care centers licensed to care for 200 or more children, the
37 Department, in collaboration with the North Carolina Institute for Early
38 Childhood Professional Development, shall establish categories to recognize
39 the levels of education achieved by child care center administrators and
40 teachers who perform administrative functions. The Department shall use
41 these categories to establish appropriate staffing based on the size of the center
42 and the individual staff responsibilities.

43 Effective January 1, ~~1998, 2020~~, an operator of a licensed family child
44 care home shall be at least 21 years old and have a ~~high school diploma or its
45 equivalent.~~ North Carolina Early Childhood Credential before receiving a
46 license and shall earn a North Carolina Infant-Toddler or Preschool
47 Certificate, or its equivalent, as determined by the Department within 18
48 months of receiving a license. Operators of a family child care home licensed
49 before January 1, 2020, shall have until July 1, 2021, to receive the Certificate
50 or its equivalent. Operators of a family child care home licensed prior to
51 January 1, 1998, shall be at least 18 years of age and literate. Literate is defined

1 as understanding licensing requirements and having the ability to
2 communicate with the family and relevant emergency personnel. Any
3 operator of a licensed family child care home shall be the person on-site
4 providing child care.

5 The Commission shall adopt standards to establish appropriate
6 qualifications for all staff in child care centers. These standards shall reflect
7 training, experience, education and credentialing and shall be appropriate for
8 the size center and the level of individual staff responsibilities. It is the intent
9 of this provision to guarantee that all children in child care are cared for by
10 qualified people. Pursuant to G.S. 110-106, no requirements may interfere
11 with the teachings or doctrine of any established religious organization. The
12 staff qualification requirements of this subdivision do not apply to religious
13 sponsored child care facilities pursuant to G.S. 110-106."

14 **SECTION 3.(a)** Professional Standards and Competencies. – The Division of Child
15 Development and Early Education (Division) shall define the knowledge requirements for early
16 childhood educators by establishing expected competencies for lead teachers. These
17 competencies shall be based on the latest findings from the National Academy of Sciences report,
18 "Transforming the Workforce for Children from Birth through Age 8," and the newly revised
19 competencies from the National Association for the Education of Young Children (NAEYC).
20 Competencies shall be graduated and tied to the certificates and degrees offered within North
21 Carolina's community colleges and colleges and universities, specifically the Infant-Toddler and
22 Preschool Certificates and the associate and bachelor's degrees in Early Childhood Education.

23 **SECTION 3.(b)** The Division shall collaborate with the North Carolina Community
24 College System office to develop, or revise, a standardized process for early childhood educators
25 to demonstrate their ability to meet the competencies found in all courses included in either the
26 Infant-Toddler or Preschool Certificate. This process shall be available to support early childhood
27 educators who choose not to attend or return to college to earn the required Certificates or degrees
28 for lead teachers.

29 **SECTION 4.** On or after July 1, 2020, the Department of Health and Human
30 Services, Division of Child Development and Early Education (Division), shall develop and
31 implement a program to incentivize higher teacher education and compensation levels by
32 providing subsidy payment enhancements to child care programs that use a salary scale and only
33 employ lead teachers who have obtained a minimum of an associate degree in child development
34 or a related field. The incentive amount shall be differentiated based on the level of degree
35 attained. The Division shall submit a progress report on the development and implementation of
36 the program required by this section to the Joint Legislative Oversight Committee on Health and
37 Human Services by March 1, 2020.

38 **SECTION 5.(a)** The Department of Health and Human Services, Division of Child
39 Development and Early Education (Division), shall conduct a feasibility and cost study for the
40 development of a pilot program modeled after the North Carolina prekindergarten (NC Pre-K)
41 program for classrooms for children birth through three years of age. The model shall focus on
42 criteria that, at a minimum, includes each of the following:

- 43 (1) Teachers with degrees.
- 44 (2) The use of curriculum and formative assessments.
- 45 (3) Improved student-teacher ratios.
- 46 (4) Payment rates for child care programs commensurate with the increased
47 teacher education requirements.
- 48 (5) The training, program coordination, recruitment, outreach, and monitoring
49 necessary to implement the program.
- 50 (6) An ongoing evaluation program to measure educational outcomes similar to
51 the evaluation required for the NC Pre-K program.

1 **SECTION 5.(b)** The Division shall submit a report on the study required under
2 subsection (a) of this section to the 2020 Regular Session of the 2019 General Assembly by April
3 1, 2020.

4 **SECTION 6.** Early Childhood Workforce Report. – The Division of Child
5 Development and Early Education (Division) shall report on the status of the early childhood
6 workforce established pursuant to the provisions of this act every three years. This report
7 shall include information on the educational status and compensation of all lead teachers and
8 other teaching staff enrolled in licensed child care programs in North Carolina. The Division
9 shall submit the report required by this section to the Joint Legislative Oversight Committee on
10 Health and Human Services by January 1, 2021, and every three years thereafter.

11
12 **PART III. POTENTIAL DELAY OF MEDICAID AND NC HEALTH CHOICE**
13 **TRANSFORMATION**

14 **SECTION 7.** If House Bill 966, 2019 Regular Session, does not become law by July
15 15, 2019, then the Department of Health and Human Services shall delay, until at least March 1,
16 2020, the implementation of the Medicaid and NC Health Choice transformation required by S.L.
17 2015-245, as amended, and by the 1115 demonstration waiver.

18
19 **PART IV. AUTHORIZE ADULT CARE HOMES TO USE SERVICE PLANS**
20 **COMPLETED FOR MEDICAID PERSONAL CARE SERVICES ASSESSMENT FOR**
21 **ACTIVITIES OF DAILY LIVING PORTION OF SERVICE PLANS OR CARE PLANS**
22 **AND AMEND ASSISTED LIVING ADMINISTRATOR QUALIFICATIONS**

23 **SECTION 8.** G.S. 131D-2.15 reads as rewritten:

24 **"§ 131D-2.15. Resident assessments.**

25 (a) Initial Assessment. – The Department shall ensure that facilities conduct and
26 complete an assessment of each resident within 72 hours of admitting the ~~resident and annually~~
27 ~~thereafter.~~ resident. In conducting the assessment, the facility shall use an assessment instrument
28 ~~approved by the Secretary upon the advice of the Director of the Division of Aging and Adult~~
29 ~~Services.~~ approved in accordance with rules adopted by the Medical Care Commission. The
30 Department shall provide ongoing training for facility personnel in the use of the approved
31 assessment instrument.

32 (a1) ~~The Assessment to Develop Service Plans and Care Plans.~~ – Within 30 days of
33 admission, the facility shall use the conduct an assessment to develop appropriate and
34 comprehensive service plans and care plans and to determine the level and type of facility staff
35 that is needed to meet the needs of residents. The assessment shall determine a resident's level of
36 functioning and shall include, but not be limited to, cognitive status and physical functioning in
37 activities of daily living. Activities of daily living are personal functions essential for the health
38 and well-being of the resident. The assessment shall not serve as the basis for medical care. The
39 assessment shall indicate if the resident requires referral to the resident's physician or other
40 appropriate licensed health care professional or community resource.

41 (a2) Medicaid State Plan Personal Care Services Assessment. – To fulfill the activities of
42 daily living portion of any service plan or care plan required under subsection (a1) of this section,
43 or any rules adopted under this Article, the facility may use a service plan that was completed
44 within 35 days of the resident's admission to the facility and represents the result of an assessment
45 to determine the resident's eligibility for personal care services under the Medicaid State Plan. If
46 the facility uses a service plan for personal care services under the Medicaid State Plan developed
47 within 35 days of resident admission, the facility shall be exempt from conducting an assessment
48 of the resident's ability to perform activities of daily living within 30 days of resident admission.
49 For purposes of this subsection, a resident must have received an assessment to develop
50 appropriate and comprehensive service plans and care plans no later than 35 days after resident
51 admission or subsection (a1) of this section applies.

1 (b) Review. – The Department, as part of its inspection and licensing of adult care homes,
2 shall review assessments and related service plans and care plans for a selected number of
3 residents. In conducting this review, the Department shall ~~determine~~determine all of the
4 following:

- 5 (1) Whether the appropriate assessment instrument was administered and
6 interpreted ~~correctly~~correctly.
7 (2) Whether the facility is capable of providing the necessary ~~services~~services.
8 (3) Whether the service plan or care plan conforms to the results of an
9 appropriately administered and interpreted ~~assessment~~assessment.
10 (4) Whether the service plans or care plans are being implemented fully and in
11 accordance with an appropriately administered and interpreted assessment.

12 (c) Penalties. – If the Department finds that the facility is not carrying out its assessment
13 responsibilities in accordance with this section, the Department shall notify the facility and
14 require the facility to implement a corrective action plan. The Department shall also notify the
15 resident of the results of its review of the assessment, service plans, and care plans developed for
16 the resident. In addition to administrative penalties, the Secretary may suspend the admission of
17 any new residents to the facility. The suspension shall be for the period determined by the
18 Secretary and shall remain in effect until the Secretary is satisfied that conditions or
19 circumstances merit removing the suspension."

20 **SECTION 9.** G.S. 90-288.14 reads as rewritten:

21 "**§ 90-288.14. Assisted living administrator certification.**

22 ~~An applicant shall be certified by the~~ The Department shall certify as an assisted living
23 administrator ~~if the any applicant who~~ meets all of the following qualifications:

- 24 (1) Is at least 21 years old.
25 (2) Provides a satisfactory criminal background report from the State Repository
26 of Criminal Histories, which shall be provided by the State Bureau of
27 Investigation upon its receiving fingerprints from the applicant. If the
28 applicant has been a resident of this State for less than five years, the applicant
29 shall provide a satisfactory criminal background report from both the State
30 and National Repositories of Criminal Histories.
31 (2a) Does not have a substantiated finding of neglect, abuse, misappropriation of
32 property, diversion of drugs, or fraud listed on the Health Care Personnel
33 Registry established under G.S. 131E-256.
34 (3) ~~Successfully~~ Has a high school diploma or its equivalent and successfully
35 completes the equivalent of two years of coursework at an accredited college
36 or university ~~university~~, or has a minimum of 60 months of supervisory
37 experience, or has a combination of education and experience as approved by
38 the Department. For purposes of this section, "supervisory experience" means
39 having full-time, direct management responsibility, including some
40 responsibility for hiring and firing, over the equivalent of at least two full-time
41 employees with direct resident care responsibilities. Such supervisory
42 experience shall have been in a licensed adult care home or licensed nursing
43 home within the seven years preceding the date of application.
44 (4) Successfully completes a Department approved administrator-in-training
45 program of at least 120 hours of study in courses relating to assisted living
46 residences.
47 (5) Successfully completes a written examination administered by the
48 Department."

49 **SECTION 10.** This act is effective when it becomes law.