

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 823
PROPOSED COMMITTEE SUBSTITUTE H823-PCS40610-TR-7

Short Title: Child Advocacy Centers/Share Information. (Public)

Sponsors:

Referred to:

May 5, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO SET CERTAIN CRITERIA FOR CHILDREN'S ADVOCACY CENTERS TO BE
3 ELIGIBLE TO RECEIVE STATE FUNDS, TO GOVERN THE SHARING OF
4 INFORMATION AND RECORDS OF CHILDREN'S ADVOCACY CENTERS AND
5 MULTIDISCIPLINARY TEAMS, AND TO ESTABLISH CERTAIN IMMUNITY FOR
6 CHILDREN'S ADVOCACY CENTERS.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** Chapter 108A of the General Statutes is amended by adding a new
9 Article to read:

10 "Article 3A.

11 "Child Advocacy Centers.

12 "**§ 108A-75.1. Definitions.**

13 The following definitions apply in this Article:

- 14 (1) Child. – Any individual under 18 years of age, or any individual who has a
15 developmental disability, as defined in G.S. 122C-3(12a), that severely
16 impacts conceptual, social, and practical areas of living to the extent the
17 individual cannot live in an independent environment.
- 18 (2) Child maltreatment. – Any sexual or physical abuse of a child, human
19 trafficking of a child, exploitation of a child, any offense as defined in
20 G.S. 7B-101(1), 7B-101(9), or 7B-101(15) or any act as described in
21 G.S. 110-105.3.
- 22 (3) Children's Advocacy Center. – A child-focused, trauma-informed,
23 facility-based program in good standing with Children's Advocacy Centers of
24 North Carolina, Inc., or its successor, that assists in the coordination of the
25 investigation of child abuse by promoting a coordinated, multidisciplinary
26 response to cases of child maltreatment in which representatives from law
27 enforcement, child protective services, or prosecution, mental health, forensic
28 interviewing, medical, or victim advocacy groups or disciplines collaborate to
29 make team decisions about the investigation, prosecution, safety, treatment,
30 and support services, including forensic interviews, medical examinations,
31 mental health services, court advocacy, consultation, and training, to be
32 provided, directly or by formalized agreements, for children suspected to be
33 victims of child maltreatment and their nonoffending family members.
- 34 (4) Department. – As defined in G.S. 7B-101(8a).
- 35 (5) Forensic interview. – An interview between a trained forensic interviewer and
36 a child in which the interviewer obtains information from the child in a



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1 developmentally and culturally sensitive, unbiased, fact-finding, and legally
2 sound manner to support accurate and fair decision making by the
3 multidisciplinary team in the criminal justice and child protection systems. All
4 interviews must meet State and national standards for forensic interviews, as
5 defined by the Children's Advocacy Centers of North Carolina, Inc., or its
6 successor.

7 (6) Multidisciplinary team. – A group of professionals who represent various
8 disciplines working collaboratively under a written protocol that coordinate,
9 investigate, and are involved in the prosecution of child abuse cases to assure
10 the most effective coordinated response to reports of child maltreatment. In
11 addition to the members listed in this subdivision, a multidisciplinary team
12 may include other professionals involved in the delivery of services to victims
13 of child maltreatment or their nonoffending caregivers and families.
14 Participation in a multidisciplinary team shall not preclude any member from
15 carrying out any mandated responsibility of his or her profession. A Children's
16 Advocacy Center's multidisciplinary team must include, at a minimum, the
17 following professionals:

- 18 a. A member of participating law enforcement agencies.
- 19 b. The county district attorney or assistant district attorney.
- 20 c. A member of the department's child protective services.
- 21 d. A local mental health provider.
- 22 e. A local health care provider.
- 23 f. A victim advocate.
- 24 g. Children's Advocacy Center staff.

25 **§ 108A-75.2. Entity; eligibility.**

26 (a) In order to receive State funds or federal funds administered or distributed by a State
27 agency or any other funds appropriated or allocated by the North Carolina General Assembly, a
28 Child Advocacy Center must satisfy all of the following requirements:

- 29 (1) Is a Children's Advocacy Center found to be in good standing with State
30 standards set forth by Children's Advocacy Centers of North Carolina, Inc., or
31 its successor.
- 32 (2) Is an independent nonprofit agency, which may be affiliated with an umbrella
33 organization, such as a hospital or another human or victim service agency, or
34 a part of a governmental entity, with sound administrative policies and
35 procedures designed to ensure quality of services and sustainability, which, at
36 a minimum, include policies governing job descriptions, personnel, financial
37 management, document retention and destruction, and safety and security, and
38 maintains appropriate commercial directors and officers and professional
39 liability insurance.
- 40 (3) Provides a child-friendly, trauma-informed space for children suspected to be
41 victims of child maltreatment and their nonoffending family members.
- 42 (4) Conducts on-site interviews of children by a forensic interviewer in
43 appropriate cases of suspected child maltreatment.
- 44 (5) Maintains a multidisciplinary team, which members meet on a regularly
45 scheduled basis and are routinely involved in investigations and
46 multidisciplinary team interventions.
- 47 (6) Has a written interagency agreement signed by authorized representatives of
48 all multidisciplinary team participants that commits the signed parties to the
49 multidisciplinary model for the investigation of child maltreatment, and the
50 agreement must be reviewed and signed annually.
- 51 (7) Provides a space for multidisciplinary team meetings.

- 1 (8) Establishes and maintains written protocols, which comply with State and
2 national standards, governing multidisciplinary team case review; access to
3 medical and mental health treatment; confidentiality of medical and mental
4 health records; information sharing among multidisciplinary team members;
5 functions of the multidisciplinary team; roles and responsibilities of
6 multidisciplinary team members and their interaction in the Children's
7 Advocacy Center; victim support; and advocacy services. These protocols
8 must be reviewed every three years and updated as needed to reflect current
9 practice.
- 10 (9) Has a designated staff that is supervised and approved by the Children's
11 Advocacy Center's Board of Directors or other governing entity.
- 12 (10) Provides case tracking of child abuse cases served through the Children's
13 Advocacy Center, according to written protocols. A Children's Advocacy
14 Center shall also track and be able to retrieve statistical data on the number of
15 child abuse cases seen at the center by sex, race and age, type of abuse,
16 relationship of the alleged offender to the child, multidisciplinary team
17 involvement and outcomes, charge disposition, child protection outcomes,
18 and status and follow-through of medical and mental health referrals.
- 19 (11) Provides medical exams or referrals for medical exams by health care
20 providers with specific training in child sexual and physical abuse who meet
21 required minimum State and national standards for training, documentation,
22 and review, according to the Children's Advocacy Center's written protocols.
- 23 (12) Provides mental health services or referrals for such mental health services by
24 licensed professionals who deliver trauma-focused, evidence-supported
25 treatment who meet the minimum standards established by the Children's
26 Advocacy Centers of North Carolina, Inc., or its successor.
- 27 (13) Provides training for various disciplines in the community that deal with child
28 maltreatment.
- 29 (14) Provide victim support and advocacy that meets State and national standards.
- 30 (15) Maintain cultural competency and diversity by completing a community
31 assessment every three years, which, at a minimum, shall do all of the
32 following:
- 33 a. Determine demographics of the community, clients, and the Children's
34 Advocacy Center's staff and board.
- 35 b. Determine underserved populations.
- 36 c. Identify and address gaps in services.
- 37 d. Develop strategies for outreach of underserved populations.
- 38 e. Monitor effectiveness of outreach and intervention strategies and
39 services that are tailored to meet the unique needs of all children.
- 40 (16) Provide annual trainings or educational opportunities for multidisciplinary
41 team member professional development.
- 42 (17) Ensure that Children's Advocacy Center employees and volunteers are
43 properly screened and trained in accordance with State and national standards.
- 44 (18) Provide all services to a child client regardless of the child or child's family's
45 ability to pay for those services.
- 46 (b) The Children's Advocacy Centers of North Carolina, Inc., or its successor, shall be
47 responsible for tracking and documenting compliance with all of the requirements of this section
48 and any funds it administers to an eligible Children's Advocacy Center.
- 49 **"§ 108A-75.3. Sharing of information.**
- 50 (a) Notwithstanding any other provision of law, any pertinent or relevant information that
51 may be in the possession of a member of a multidisciplinary team concerning a child whose case

1 is being investigated or discussed by the multidisciplinary team shall be shared with the
2 respective team members as part of the discussion and coordination of efforts for investigative
3 or treatment purposes. Upon a request under this section by a multidisciplinary team, any
4 individual or State agency with information or records concerning a child shall share all relevant
5 and pertinent information or records with the multidisciplinary team. A multidisciplinary team
6 shall follow a written protocol as determined by the Children Advocacy Center to request
7 information under this section. Only a multidisciplinary team which has accepted the child's case
8 for investigation or treatment shall be entitled to access information requested under this section.
9 Nothing herein shall require disclosure by the department of the identity of the person who made
10 a report pursuant to G.S. 7B-301(a), records protected by the federal Privacy Act of 1974, (P.L.
11 93-579), as amended, or confidential records relative to substance abuse or HIV status or
12 treatment.

13 (b) All information acquired by a multidisciplinary team in accordance with this section
14 shall be confidential and shall not be disclosed except to the extent necessary to perform case
15 consultations, to carry out a treatment plan or recommendations, or in compliance with the
16 requirements of this Article. Information, documents, or records otherwise available from the
17 original sources shall not be immune from discovery or use in any civil or criminal action solely
18 on the basis of the information, documents, or records being used in a case consultation under
19 this Article.

20 (c) A multidisciplinary team member who participates in good faith in team discussions
21 or any person who, in good faith, cooperates with a multidisciplinary team by providing
22 information or records about a child whose case has been accepted for investigation or treatment
23 by a multidisciplinary team shall be immune from any civil or criminal liability for disclosure of
24 information, unless the disclosure of information was due to gross negligence, wanton conduct,
25 or intentional wrongdoing.

26 (d) This section shall not be construed to compel or require the disclosure or release of
27 any information in the possession of a district attorney.

28 **"§ 108A-75.4. Access to Children's Advocacy Center records.**

29 (a) Except as required by federal law, reports, correspondence, memoranda, case
30 histories, medical reports, and other materials compiled or created by a Children's Advocacy
31 Center performing services described in this section shall be confidential and shall not be released
32 or otherwise made available except to the following:

- 33 (1) The Department of Health and Human Services and local departments of
34 social services.
- 35 (2) Law enforcement agencies, a prosecuting district attorney, or the Attorney
36 General.
- 37 (3) A grand jury upon a finding that the records are necessary for the
38 determination of an issue before the grand jury and the information cannot be
39 obtained from the Department of Health and Human Services, law
40 enforcement agencies, the prosecuting attorney, or the Attorney General.
- 41 (4) An attorney for the child who is the subject of the records or a court-appointed
42 guardian ad litem with a valid court order.
- 43 (5) If the records sought are medical or mental health records, health care
44 providers or local management entity/managed care organizations providing
45 medical or psychiatric care or services to the child.
- 46 (6) Members of the Children's Advocacy Center's multidisciplinary team.
- 47 (7) Members of the Child Fatality Task Force.
- 48 (8) As permitted under G.S. 7B-3100.

49 (b) Notwithstanding subsection (a) of this section, a court of competent jurisdiction may
50 order that records of a Children's Advocacy Center be released to the court for an in camera
51 inspection upon a finding by the court that the records are necessary for the determination of a

1 criminal, civil, or administrative matter before a court or grand jury and the information cannot
2 be obtained from the Department of Health and Human Services, law enforcement agencies, the
3 prosecuting attorney, or the Attorney General. After conducting an in camera inspection of the
4 records, the court shall only release the information from the records that is material and relevant
5 to the matter before the court and necessary to the proper administration of justice.

6 (c) Employees or designated agents of a Children's Advocacy Center may confirm with
7 another Children's Advocacy Center that a child has been seen for services at its facility. If an
8 authorization for release of information has been signed by the parent or guardian of the child, a
9 Children's Advocacy Center may also disclose relevant information to another Children's
10 Advocacy Center, consistent with State and federal law.

11 (d) A Children's Advocacy Center employee or designated agent may share limited
12 information with Children's Advocacy Centers of North Carolina, Inc., or its successor, if
13 necessary to receive essential support or services, consistent with State and federal law.

14 (e) No person or agency to whom disclosure is made shall disclose that information to
15 any other person or agency, except as provided in this section. The Department of Health and
16 Human Services, law enforcement agencies, the prosecuting attorney, a court of competent
17 jurisdiction, and the Attorney General are exempted from the requirements of this subsection if
18 the information is required to be disclosed by statute or court order. Any information disclosed
19 under this subsection shall remain confidential.

20 (f) Unless ordered by a court of competent jurisdiction, an interview of a child recorded
21 at a Children's Advocacy Center shall not be duplicated, except the prosecuting attorney may
22 retain one copy of the interview and make one copy of the interview for a defendant's counsel.
23 At the close of the case, a defendant's counsel who received a copy under this subsection shall
24 file that copy with the clerk of court.

25 **"§ 108A-75.5. Limited immunity from civil liability.**

26 A board member, staff member, or volunteer of a Children's Advocacy Center or Children's
27 Advocacy Centers of North Carolina, Inc., or its successor, shall be immune from civil liability
28 arising from performance of acts within the scope of the person's duties or participation in a
29 judicial proceeding if the person acts in good faith. Immunity under this section shall not extend
30 to acts of gross negligence, wanton conduct, or intentional wrongdoing."

31 **SECTION 2.** This act becomes effective July 1, 2022.