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HOUSE BILL 351
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PROPOSED SENATE COMMITTEE SUBSTITUTE H351-PCS10524-TU-18

Short Title: Clifford's Law.

(Public)

Sponsors:

Referred to:

March 23, 2021

1 A BILL TO BE ENTITLED
2 AN ACT DIRECTING THE SECRETARY OF THE DEPARTMENT OF HEALTH AND
3 HUMAN SERVICES TO ESTABLISH VISITATION PROTOCOLS FOR NURSING
4 HOMES, COMBINATION HOMES, AND ADULT CARE HOMES, INCLUDING
5 FAMILY CARE HOMES, DURING DECLARED DISASTERS AND EMERGENCIES
6 AND REQUIRING THESE FACILITIES TO ADHERE TO THE ESTABLISHED
7 VISITATION PROTOCOLS DURING DECLARED DISASTERS AND EMERGENCIES
8 WHEN NORMAL VISITATION POLICIES ARE SUSPENDED OR CURTAILED.

9 Whereas, Clifford Jernigan is a 63-year old male with the mentality of a 3-year old
10 who has been confined to a long-term care facility for the past 53 years; and

11 Whereas, his mother visited him every week for 13 years until her death; and

12 Whereas, his sister, Mary Jernigan, has visited him each week for 40 years; and

13 Whereas, he has had only one outside visitor, his sister, over the last year during which
14 time he has lost over 25 pounds; and

15 Whereas, a staff member at the facility told his sister that he seemed to be mourning
16 himself to death; and

17 Whereas, he is only one of many thousands of residents in nursing homes and
18 combination homes who have gravely suffered because of restricted visitation during the
19 COVID-19 pandemic; and

20 Whereas, the General Assembly finds it is in the best interest of the State and that it
21 is both critical and essential for the well-being of these residents to have a minimal number and
22 frequency of visitors; Now, therefore,

23 The General Assembly of North Carolina enacts:

24 **SECTION 1.** This act shall be known and may be cited as "Clifford's Law."

25 **SECTION 2.(a)** Part 1 of Article 6 of Chapter 131E of the General Statutes is
26 amended by adding two new sections to read:

27 "**§ 131E-112.5. Secretary to establish visitation protocols during declared disasters and**
28 **emergencies.**

29 (a) As used in this section and G.S. 131E-112.6, the following terms have the following
30 meanings:

31 (1) Disaster declaration. – As defined in G.S. 166A-19.3(3).

32 (2) Emergency. – As defined in G.S. 166A-19.3(6).



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1 (3) Facility. – A nursing home or combination home licensed under this Part.
2 (4) Normal visitation policy. – The visitation policy that was in effect at a facility
3 on January 1, 2020.

4 (b) The Secretary shall, in consultation with licensed operators of nursing homes and
5 combination homes, and any other stakeholders the Secretary deems relevant, establish visitation
6 protocols for residents of these facilities that will become effective during a disaster declaration
7 or emergency that results in the suspension or curtailment of a facility's normal visitation policy
8 for any reason. The visitation protocols shall provide for at least the following:

9 (1) Each resident shall have the right to designate one preapproved visitor and one
10 preapproved alternate visitor. The preapproved visitor, or if the preapproved
11 visitor is unavailable, the preapproved alternate visitor, shall be allowed to
12 visit the resident at least twice per month during any period of time during
13 which the facility's normal visitation policy is suspended or curtailed for any
14 reason during the declared disaster or emergency.

15 (2) Prior to admission, each facility shall explain and provide to each resident
16 written notification of the visitation protocols established by the Secretary
17 under this section.

18 (3) Visitation under these protocols shall be subject to Centers for Medicare and
19 Medicaid Services directives and to the guidelines, conditions, and limitations
20 established by the facility as part of its normal visitation policy.

21 **"§ 131E-112.6. Patient visitation rights for nursing home residents and combination home**
22 **residents during a disaster declaration or emergency.**

23 Notwithstanding any provision of this Part, Chapter 166A of the General Statutes, or any
24 other provision of law to the contrary, the visitation protocols established by the Secretary under
25 G.S. 131E-112.5 shall be in effect during any period of time when (i) there is a declared disaster
26 or emergency and (ii) a nursing home or combination home licensed under this Part suspends or
27 restricts the normal visitation policy for any reason."

28 **SECTION 2.(b)** By June 15, 2022, the Secretary of the Department of Health and
29 Human Services shall implement the visitation protocols described in G.S. 131E-112.5, as
30 enacted by this act. At least 30 days prior to implementation of these visitation protocols, the
31 Secretary shall submit a report summarizing the visitation protocols to the Chairs of the Joint
32 Legislative Oversight Committee on Health and Human Services.

33 **SECTION 3.(a)** Article 1 of Chapter 131D of the General Statutes is amended by
34 adding two new sections to read:

35 **"§ 131D-7.1. Secretary to establish visitation protocols during declared disasters and**
36 **emergencies.**

37 (a) As used in this section and in G.S. 131D-7.2, the following terms have the following
38 meanings:

39 (1) Disaster declaration. – As defined in G.S. 166A-19.3(3).

40 (2) Emergency. – As defined in G.S. 166A-19.3(6).

41 (3) Facility. – An adult care home, including a family care home, licensed under
42 this Article.

43 (4) Normal visitation policy. – The visitation policy that was in effect at a facility
44 on January 1, 2020.

45 (b) The Secretary shall, in consultation with licensed operators of adult care homes,
46 including family care homes, and any other stakeholders the Secretary deems relevant, establish
47 visitation protocols for residents of these facilities that will become effective during a disaster
48 declaration or emergency that results in the suspension or curtailment of a facility's normal
49 visitation policy for any reason. The visitation protocols shall provide for at least the following:

50 (1) Each resident shall have the right to designate one preapproved visitor and one
51 preapproved alternate visitor. The preapproved visitor, or if the preapproved

1 visitor is unavailable, the preapproved alternate visitor, shall be allowed to
2 visit the resident at least twice per month during any period of time during
3 which the facility's normal visitation policy is suspended or curtailed for any
4 reason during the declared disaster or emergency.

5 (2) Prior to admission, each facility shall explain and provide to each resident
6 written notification of the visitation protocols established by the Secretary
7 under this section.

8 (3) Visitation under these protocols shall be subject to Centers for Medicare and
9 Medicaid Services directives and to the guidelines, conditions, and limitations
10 established by the facility as part of its normal visitation policy.

11 **"§ 131D-7.2. Resident visitation rights for adult care homes, including family care homes,**
12 **during a disaster declaration or emergency.**

13 Notwithstanding any provision of this Part, Chapter 166A of the General Statutes, or any
14 other provision of law to the contrary, the visitation protocols established by the Secretary under
15 G.S. 131D-7.1 shall be in effect during any period of time when (i) there is a declared disaster or
16 emergency and (ii) an adult care home, including a family care home, licensed under this Article
17 suspends or restricts the normal visitation policy for any reason."

18 **SECTION 3.(b)** By June 15, 2022, the Secretary of the Department of Health and
19 Human Services shall implement the visitation protocols described in G.S. 131D-7.1, as enacted
20 by this act. At least 30 days prior to implementation of these visitation protocols, the Secretary
21 shall submit a report summarizing the visitation protocols to the chairs of the Joint Legislative
22 Oversight Committee on Health and Human Services.

23 **SECTION 4.** Sections 2(b) and 3(b) of this act are effective when this act becomes
24 law. The remainder of this act becomes effective April 1, 2022.