

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 404
Committee Substitute Favorable 4/28/21
Senate Judiciary Committee Substitute Adopted 6/29/21
Proposed Conference Committee Substitute H404-PCCS10544-TU-5

Short Title: Ltd. Immunity for PSAP/TC for S.L. 2021-171.

(Public)

Sponsors:

Referred to:

March 25, 2021

A BILL TO BE ENTITLED

AN ACT PROVIDING THAT PUBLIC SAFETY ANSWERING POINTS, REGIONAL PUBLIC SAFETY ANSWERING POINTS, AND THEIR EMPLOYEES AND AGENTS AND EMPLOYEES OF LAW ENFORCEMENT AGENCIES ARE NOT LIABLE FOR DAMAGES IN A CIVIL ACTION EXCEPT IN CASES OF GROSS NEGLIGENCE AND WANTON OR WILLFUL MISCONDUCT OR WHEN THERE IS APPLICABLE INSURANCE COVERAGE AND MAKING TECHNICAL CORRECTIONS TO S.L. 2021-171, THE NO PATIENT LEFT ALONE ACT.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 143B-1413 reads as rewritten:

"§ 143B-1413. Limitation of liability.

(a) Except in cases of gross negligence or wanton or willful misconduct, a communications service provider, and a 911 system provider or next generation 911 system provider, PSAP, regional PSAP, and their employees, directors, officers, vendors, and agents and employees of a law enforcement agency who are certified by the North Carolina Sheriffs' Education and Training Standards Commission are not liable for any damages in a civil action resulting from death or injury to any person or from damage to property incurred by any person in connection with developing, adopting, implementing, maintaining, or operating the 911 system system, including call taking, dispatching, radio operations, data terminal operations, or any combination of these call taking functions or in complying with emergency-related information requests from State or local government officials. This section does not apply to actions arising out of the operation or ownership of a motor ~~vehicle~~ vehicle by an employee or agent of a PSAP or regional PSAP or an employee of a law enforcement agency. The acts and omissions described in this section include, but are not limited to, the following:

- (1) The release of subscriber information related to emergency calls or emergency services.
- (2) ~~The use or provision of 911 service, E911 service, or next generation 911 service.~~
- (3) Other matters related to 911 service, E911 service, or next generation 911 service.
- (4) Text-to-911 service.

(b) ~~In any civil action by a user of 911 services or next generation 911 services arising from an act or an omission by a PSAP, and the officers, directors, employees, vendors, agents, and authorizing government entity of the PSAP, in the performance of any lawful and prescribed~~



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1 ~~actions pertaining to their assigned job duties as a telecommunicator, the plaintiff's burden of~~
 2 ~~proof is by clear and convincing evidence. Except in cases of wanton or willful misconduct,~~
 3 ~~neither a communication service provider, nor a 911 system provider, nor a next generation 911~~
 4 ~~system provider, nor the employees, directors, officers, vendors, or agents of any of the providers~~
 5 ~~named in this subsection shall be liable for any damages in a civil action resulting from death or~~
 6 ~~injury to any person in connection with developing, adopting, implementing, maintaining, or~~
 7 ~~operating the 911 system. This subsection and the immunity provided herein does not apply to~~
 8 ~~actions arising out of the operation or ownership of a motor vehicle by an employee, director,~~
 9 ~~officer, vendor, or agent of a communications service provider, 911 system provider, or next~~
 10 ~~generation 911 system provider.~~

11 (c) The limitation of liability described in subsection (a) of this section is waived to the
 12 extent a liability insurance policy provides coverage applicable to claims made against any of the
 13 following:

14 (1) A PSAP.

15 (2) A regional PSAP.

16 (3) The employees, directors, or officers of a PSAP or regional PSAP.

17 (4) The vendors or agents of a PSAP or regional PSAP, not including
 18 communications service providers, 911 system providers, or next generation
 19 911 system providers.

20 (5) The employees of a law enforcement agency who are certified by the North
 21 Carolina Sheriffs' Education and Training Standards Commission.

22 (d) Nothing in subsection (a) of this section shall be construed to serve as a bar to
 23 coverage under any applicable liability insurance policy to the entities referenced in subsection
 24 (c)."

25 **SECTION 1.(b)** This section is effective when it becomes law and applies to causes
 26 of action filed on or after that date.

27 **SECTION 2.(a)** G.S. 131E-79.3, as enacted by S.L. 2021-171, reads as rewritten:

28 **"§ 131E-79.3. Hospital patient visitation, civil penalty.**

29 (a) Each hospital licensed under this ~~Chapter~~ Article shall permit patients to receive
 30 visitors to the fullest extent permitted under any applicable rules, regulations, or guidelines
 31 adopted by either the Centers for Medicare and Medicaid Services or the Centers for Disease
 32 Control and Prevention or any federal law.

33 ...

34 ~~Each~~ Subject to, and to the fullest extent permitted by, any rules, regulations, or
 35 guidelines adopted by either the Centers for Medicare and Medicaid Services or the Centers for
 36 Disease Control and Prevention or any federal law, each hospital shall allow compassionate care
 37 visits. A hospital may require compassionate care visitors to submit to health screenings
 38 necessary to prevent the spread of infectious diseases, and, notwithstanding anything to the
 39 contrary in this section, a hospital may restrict a compassionate care visitor who does not pass a
 40 health screening requirement or who has tested positive for an infectious disease. A hospital may
 41 require compassionate care visitors to adhere to infection control procedures, including wearing
 42 personal protective equipment. Compassionate care situations that require visits include, but are
 43 not limited to, the following:

44 (1) End-of-life situations.

45 (2) A patient who was living with his or her family before recently being admitted
 46 to the facility is struggling with the change in environment and lack of
 47 physical family support.

48 (3) A patient who is grieving after a friend or family member recently passed
 49 away.

1 (4) A patient who needs cueing and encouragement with eating or drinking,
2 previously provided by family or caregivers, is experiencing weight loss or
3 dehydration.

4 (5) A patient, who used to talk and interact with others, is experiencing emotional
5 distress, seldom speaking, or crying more frequently when the patient had
6 rarely cried in the past.

7"

8 **SECTION 2.(b)** G.S. 131E-112.5(e), as enacted by S.L. 2021-171, reads as
9 rewritten:

10 "(e) ~~Each~~ Subject to, and to the fullest extent permitted by, any rules, regulations, or
11 guidelines adopted by either the Centers for Medicare and Medicaid Services or the Centers for
12 Disease Control and Prevention or any federal law, each nursing or combination home shall allow
13 compassionate care visits. A nursing or combination home may require compassionate care
14 visitors to submit to health screenings necessary to prevent the spread of infectious diseases, and,
15 notwithstanding anything to the contrary in this section, a nursing or combination home may
16 restrict a compassionate care visitor who does not pass a health screening requirement or who
17 has tested positive for an infectious disease. A nursing or combination home may require
18 compassionate care visitors to adhere to infection control procedures, including wearing personal
19 protective equipment. Compassionate care situations that require visits include, but are not
20 limited to, the following:

21 (1) End-of-life situations.

22 (2) A resident who was living with his or her family before recently being
23 admitted to the facility is struggling with the change in environment and lack
24 of physical family support.

25 (3) A resident who is grieving after a friend or family member recently passed
26 away.

27 (4) A resident who needs cueing and encouragement with eating or drinking,
28 previously provided by family or caregivers, is experiencing weight loss or
29 dehydration.

30 (5) A resident, who used to talk and interact with others, is experiencing
31 emotional distress, seldom speaking, or crying more frequently when the
32 resident had rarely cried in the past."

33 **SECTION 2.(c)** G.S. 131E-207.5(e), as enacted by S.L. 2021-171, reads as
34 rewritten:

35 "(e) ~~Each~~ Subject to, and to the fullest extent permitted by, any rules, regulations, or
36 guidelines adopted by either the Centers for Medicare and Medicaid Services or the Centers for
37 Disease Control and Prevention or any federal law, each hospice care facility shall allow
38 compassionate care visits. A hospice care facility may require compassionate care visitors to
39 submit to health screenings necessary to prevent the spread of infectious diseases, and,
40 notwithstanding anything to the contrary in this section, a hospice care facility may restrict a
41 compassionate care visitor who does not pass a health screening requirement or who has tested
42 positive for an infectious disease. A hospice care facility may require compassionate care visitors
43 to adhere to infection control procedures, including wearing personal protective equipment.
44 Compassionate care situations that require visits include, but are not limited to, the following:

45 (1) End-of-life situations.

46 (2) A patient who was living with his or her family before recently being admitted
47 to the facility is struggling with the change in environment and lack of
48 physical family support.

49 (3) A patient who is grieving after a friend or family member recently passed
50 away.

1 (4) A patient who needs cueing and encouragement with eating or drinking,
2 previously provided by family or caregivers, is experiencing weight loss or
3 dehydration.

4 (5) A patient, who used to talk and interact with others, is experiencing emotional
5 distress, seldom speaking, or crying more frequently when the patient had
6 rarely cried in the past."

7 **SECTION 2.(d)** G.S. 131D-7.5(c), as enacted by S.L. 2021-171, reads as rewritten:

8 "(c) Notwithstanding the provisions of subsection (b) of this section, in the event that
9 circumstances require the complete closure of a facility to visitors, the facility shall use its best
10 efforts to develop alternate visitation protocols that would allow visitation to the greatest extent
11 safely possible. If those alternate protocols are found by the Department, the local health
12 departments, or any other government public health agency to violate any rule, regulation,
13 guidance, or federal law relating to a resident's visitation rights, the Department may impose a
14 civil penalty in an amount not less than five hundred dollars (\$500.00) for each instance on each
15 day the ~~hospice~~ facility was found to have a violation. This civil penalty shall be in addition to
16 any licensure action, fine, or civil penalty that the Department may impose pursuant to this
17 Chapter."

18 **SECTION 2.(e)** G.S. 131D-7.5(e), as enacted by S.L. 2021-171, reads as rewritten:

19 "(e) ~~Each Subject to, and to the fullest extent permitted by, any rules, regulations, or~~
20 guidelines adopted by either the Centers for Medicare and Medicaid Services or the Centers for
21 Disease Control and Prevention or any federal law, each facility shall allow compassionate care
22 visits. The facility may require compassionate care visitors to submit to health screenings
23 necessary to prevent the spread of infectious diseases, and, notwithstanding anything to the
24 contrary in this section, the facility may restrict a compassionate care visitor who does not pass
25 a health screening requirement or who has tested positive for an infectious disease. The facility
26 may require compassionate care visitors to adhere to infection control procedures, including
27 wearing personal protective equipment. Compassionate care situations that require visits include,
28 but are not limited to, the following:

29 (1) End-of-life situations.

30 (2) A resident who was living with his or her family before recently being
31 admitted to the facility is struggling with the change in environment and lack
32 of physical family support.

33 (3) A resident who is grieving after a friend or family member recently passed
34 away.

35 (4) A resident who needs cueing and encouragement with eating or drinking,
36 previously provided by family or caregivers, is experiencing weight loss or
37 dehydration.

38 (5) A resident, who used to talk and interact with others, is experiencing
39 emotional distress, seldom speaking, or crying more frequently when the
40 resident had rarely cried in the past."

41 **SECTION 2.(f)** G.S. 122C-32(e), as enacted by S.L. 2021-171, reads as rewritten:

42 "(e) ~~Each Subject to, and to the fullest extent permitted by, any rules, regulations, or~~
43 guidelines adopted by either the Centers for Medicare and Medicaid Services or the Centers for
44 Disease Control and Prevention or any federal law, each facility shall allow compassionate care
45 visits. The facility may require compassionate care visitors to submit to health screenings
46 necessary to prevent the spread of infectious diseases, and, notwithstanding anything to the
47 contrary in this section, the facility may restrict a compassionate care visitor who does not pass
48 a health screening requirement or who has tested positive for an infectious disease. The facility
49 may require compassionate care visitors to adhere to infection control procedures, including
50 wearing personal protective equipment. Compassionate care situations that require visits include,
51 but are not limited to, the following:

- 1 (1) End-of-life situations.
- 2 (2) A resident who was living with his or her family before recently being
- 3 admitted to the facility is struggling with the change in environment and lack
- 4 of physical family support.
- 5 (3) A resident who is grieving after a friend or family member recently passed
- 6 away.
- 7 (4) A resident who needs cueing and encouragement with eating or drinking,
- 8 previously provided by family or caregivers, is experiencing weight loss or
- 9 dehydration.
- 10 (5) A resident, who used to talk and interact with others, is experiencing
- 11 emotional distress, seldom speaking, or crying more frequently when the
- 12 resident had rarely cried in the past."

13 **SECTION 2.(g)** This section is effective November 1, 2021.

14 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes
15 law.