

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

S.L. 1997-459
HOUSE BILL 949

AN ACT TO IMPROVE CHILD PROTECTION BY ALLOWING DISCLOSURE OF
CERTAIN RECORDS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 7A of the General Statutes is amended by adding the following new section to read:

"§ 7A-675.1. Disclosure in child fatality or near fatality cases.

(a) The following definitions apply in this section:

- (1) 'Child fatality' means the death of a child from suspected abuse, neglect, or maltreatment.
- (2) 'Near fatality' means a case in which a physician determines that a child is in serious or critical condition as the result of sickness or injury caused by suspected abuse, neglect, or maltreatment.
- (3) 'Public agency' means any agency of State government or its subdivisions as defined in G.S. 132-1(a).
- (4) 'Findings and information' means a written summary, as allowed by subsections (c) through (f) of this section, of actions taken or services rendered by a public agency following receipt of information that a child might be in need of protection. The written summary shall include any of the following information the agency is able to provide:
 - a. The dates, outcomes, and results of any actions taken or services rendered.
 - b. The results of any review by the State Child Fatality Prevention Team, a local child fatality prevention team, a local community child protection team, the Child Fatality Task Force, or any public agency.
 - c. Confirmation of the receipt of all reports, accepted or not accepted by the county department of social services, for investigation of suspected child abuse, neglect, or maltreatment, including confirmation that investigations were conducted, the results of the investigations, a description of the conduct of the most recent investigation and the services rendered, and a statement of basis for the department's decision.

(b) Notwithstanding any other provision of law and subject to the provisions of subsections (c) through (f) of this section, a public agency shall disclose to the public, upon request, the findings and information related to a child fatality or near fatality if:

- (1) A person is criminally charged with having caused the child fatality or near fatality; or
- (2) The district attorney has certified that a person would be charged with having caused the child fatality or near fatality but for that person's prior death.

(c) Nothing herein shall be deemed to authorize access to the confidential records in the custody of a public agency, or the disclosure to the public of the substance or content of any psychiatric, psychological, or therapeutic evaluations or like materials or information pertaining to the child or the child's family unless directly related to the cause of the child fatality or near fatality, or the disclosure of information that would reveal the identities of persons who provided information related to the suspected abuse, neglect, or maltreatment of the child.

(d) Within five working days from the receipt of a request for findings and information related to a child fatality or near fatality, a public agency shall consult with the appropriate district attorney and provide the findings and information unless the agency has a reasonable belief that release of the information:

- (1) Is not authorized by subsections (a) and (b) of this section;
- (2) Is likely to cause mental or physical harm or danger to a minor child residing in the deceased or injured child's household;
- (3) Is likely to jeopardize the State's ability to prosecute the defendant;
- (4) Is likely to jeopardize the defendant's right to a fair trial;
- (5) Is likely to undermine an ongoing or future criminal investigation; or
- (6) Is not authorized by federal law and regulations.

(e) Any person whose request is denied may apply to the appropriate superior court for an order compelling disclosure of the findings and information of the public agency. The application shall set forth, with reasonable particularity, factors supporting the application. The superior court shall have jurisdiction to issue such orders. Actions brought pursuant to this section shall be set down for immediate hearing, and subsequent proceedings in such actions shall be accorded priority by the appellate courts. After the court has reviewed the specific findings and information, in camera, the court shall issue an order compelling disclosure unless the court finds that one or more of the circumstances in subsection (d) of this section exist.

(f) Access to criminal investigative reports and criminal intelligence information of public law enforcement agencies, and confidential information in the possession of the State Child Fatality Prevention Team, the local teams, and the Child Fatality Task Force, shall be governed by G.S. 132-1.4 and G.S. 143-578 respectively. Nothing herein shall be deemed to require the disclosure or release of any information in the possession of a district attorney.

(g) Any public agency or its employees acting in good faith in disclosing or declining to disclose information pursuant to this section shall be immune from any criminal or civil liability that might otherwise be incurred or imposed for such action.

(h) Nothing herein shall be deemed to narrow or limit the definition of 'public records' as set forth in G.S. 132-1(a)."

Section 2. G.S. 7A-675(h) reads as rewritten:

"(h) ~~Nothing in this section shall preclude the necessary sharing of information among authorized agencies.~~ The chief district court judge in each district shall designate by standing order certain agencies in the district as 'agencies authorized to share information'. Agencies so designated shall share with one another, upon request, information that is in their possession that is relevant to any case in which a petition is filed alleging that a juvenile is abused, neglected, or dependent, and shall continue to do so until the juvenile is no longer subject to the juvenile jurisdiction of the court. Agencies that may be designated as 'agencies authorized to share information' include local mental health facilities, local health departments, local departments of social services, local law enforcement agencies, local school administrative units, the district's district attorney's office, the Division of Juvenile Services of the Administrative Office of the Courts, and the Office of Guardian ad Litem Services of the Administrative Office of the Courts. Any information shared among agencies pursuant to this subsection shall remain confidential, shall be withheld from public inspection, and shall be used only for the protection of the juvenile. Nothing in this section or any other provision of law shall preclude any other necessary sharing of information among agencies. Nothing herein shall be deemed to require the disclosure or release of any information in the possession of a district attorney."

Section 3. Funds appropriated in Senate Bill 352, 5th edition, to the Department of Human Resources, Division of Social Services, for child welfare system improvements shall be used to implement the provisions of this act.

Section 4. Sections 1 and 2 of this act become effective October 1, 1997. The remainder of this act is effective upon becoming law.

In the General Assembly read three times and ratified this the 18th day of August, 1997.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 6:00 p.m. this 29th day of August, 1997