

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 533
Committee Substitute Favorable 5/9/13
Third Edition Engrossed 5/15/13

Short Title: Detention of Mentally Ill in Facility.

(Local)

Sponsors:

Referred to:

April 4, 2013

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE COMPANY POLICE OFFICERS IN CERTAIN COUNTIES TO
USE APPROPRIATE AND REASONABLE FORCE TO KEEP A RESPONDENT AT
THE FACILITY WHERE THE RESPONDENT IS TO OBTAIN AN EXAMINATION
BY A PHYSICIAN OR PSYCHOLOGIST PURSUANT TO COURT ORDER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-251 reads as rewritten:

"§ 122C-251. Transportation.

(a) Except as provided in subsections (f) and (g), transportation of a respondent within a county under the involuntary commitment proceedings of this Article, including admission and discharge, shall be provided by the city or county. The city has the duty to provide transportation of a respondent who is a resident of the city or who is taken into custody in the city limits. The county has the duty to provide transportation for a respondent who resides in the county outside city limits or who is taken into custody outside of city limits. However, cities and counties may contract with each other to provide transportation.

(b) Except as provided in subsections (f) and (g) or in G.S. 122C-408(b), transportation between counties under the involuntary commitment proceedings of this Article for admission to a 24-hour facility shall be provided by the county where the respondent is taken into custody. Transportation between counties under the involuntary commitment proceedings of this Article for respondents held in 24-hour facilities who have requested a change of venue for the district court hearing shall be provided by the county where the petition for involuntary commitment was initiated. Transportation between counties under the involuntary commitment proceedings of this Article for discharge of a respondent from a 24-hour facility shall be provided by the county of residence of the respondent. However, a respondent being discharged from a facility may use his own transportation at his own expense.

(c) Transportation of a respondent may be by city-or county-owned vehicles or by private vehicle by contract with the city or county. To the extent feasible, law enforcement officers transporting respondents shall dress in plain clothes and shall travel in unmarked vehicles. Further, law enforcement officers, to the extent possible, shall advise respondents when taking them into custody that they are not under arrest and have not committed a crime, but are being transported to receive treatment and for their own safety and that of others.

(d) In providing transportation of a respondent, a city or county shall provide a driver or attendant who is the same sex as the respondent, unless the law-enforcement officer allows a family member of the respondent to accompany the respondent in lieu of an attendant of the same sex as the respondent.



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1 (e) In providing transportation required by this section, the law-enforcement officer
2 may use reasonable force to restrain the respondent if it appears necessary to protect himself,
3 the respondent, or others. No law-enforcement officer may be held criminally or civilly liable
4 for assault, false imprisonment, or other torts or crimes on account of reasonable measures
5 taken under the authority of this Article.

6 (f) Notwithstanding the provisions of subsections (a), (b), and (c) of this section, a
7 clerk, a magistrate, or a district court judge, where applicable, may authorize the family or
8 immediate friends of the respondent, if they so request, to transport the respondent in
9 accordance with the procedures of this Article. This authorization shall only be granted in cases
10 where the danger to the public, the family or friends of the respondent, or the respondent
11 himself is not substantial. The family or immediate friends of the respondent shall bear the
12 costs of providing this transportation.

13 (g) The governing body of a city or county may adopt a plan for transportation of
14 respondents in involuntary commitment proceedings in this Article. Law-enforcement
15 personnel, volunteers, or other public or private agency personnel may be designated to provide
16 all or parts of the transportation required by involuntary commitment proceedings. Persons so
17 designated shall be trained and the plan shall assure adequate safety and protections for both
18 the public and the respondent. Law enforcement, other affected agencies, and the area authority
19 shall participate in the planning. If any person other than a law-enforcement agency is
20 designated by a city or county, the person so designated shall provide the transportation and
21 follow the procedures in this Article. References in this Article to a law-enforcement officer
22 apply to this person.

23 (h) The cost and expenses of transporting a respondent to or from a 24-hour facility is
24 the responsibility of the county of residence of the respondent. The State (when providing
25 transportation under G.S. 122C-408(b)), a city, or a county is entitled to recover the reasonable
26 cost of transportation from the county of residence of the respondent. The county of residence
27 of the respondent shall reimburse the State, another county, or a city the reasonable
28 transportation costs incurred as authorized by this subsection. The county of residence of the
29 respondent is entitled to recover the reasonable cost of transportation it has paid to the State, a
30 city, or a county. Provided that the county of residence provides the respondent or other
31 individual liable for the respondent's support a reasonable notice and opportunity to object to
32 the reimbursement, the county of residence of the respondent may recover that cost from:

- 33 (1) The respondent, if the respondent is not indigent;
- 34 (2) Any person or entity that is legally liable for the resident's support and
35 maintenance provided there is sufficient property to pay the cost;
- 36 (3) Any person or entity that is contractually responsible for the cost; or
- 37 (4) Any person or entity that otherwise is liable under federal, State, or local law
38 for the cost.

39 (i) If the law enforcement officer vacates the facility after finding, in collaboration with
40 the facility, that the respondent is safe to be temporarily detained under the appropriate
41 supervision provided by the facility, an employee commissioned under G.S. 74E-2(b) who is
42 employed by a hospital certified under G.S. 74E-2(b) may use appropriate and reasonable force
43 and means to (i) keep the respondent at the facility where the respondent is to be detained and
44 (ii) if pursuant to a continuous and immediate pursuit, to return the respondent to the facility
45 where the respondent is to be detained. This subsection applies when the respondent is being
46 temporarily detained in accordance with G.S. 122C-261(d), 122C-263(a), and 122C-263(d)(2)."

47 **SECTION 2.** This act applies to Ashe, Cumberland, and Wilkes Counties only.

48 **SECTION 3.** This act is effective when it becomes law.