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HOUSE BILL 351
Committee Substitute Favorable 3/30/21
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Short Title: Clifford's Law.

(Public)

Sponsors:

Referred to:

March 23, 2021

A BILL TO BE ENTITLED

AN ACT DIRECTING THE SECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO ESTABLISH VISITATION PROTOCOLS FOR NURSING HOMES, COMBINATION HOMES, HOSPICE CARE FACILITIES, AND ADULT CARE HOMES, INCLUDING FAMILY CARE HOMES, DURING DECLARED DISASTERS AND EMERGENCIES AND REQUIRING THESE FACILITIES TO ADHERE TO THE ESTABLISHED VISITATION PROTOCOLS DURING DECLARED DISASTERS AND EMERGENCIES WHEN NORMAL VISITATION POLICIES ARE SUSPENDED OR CURTAILED.

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

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

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

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

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

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

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

The General Assembly of North Carolina enacts:

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

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

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

(a) As used in this section, G.S. 131E-112.6, and G.S. 131E-207.5, the following terms have the following meanings:

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

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



- 1 (3) Facility. – A nursing home or combination home licensed under this Part, or
2 a hospice care facility licensed under Article 10 of this Chapter.
3 (4) Normal visitation policy. – The visitation policy that was in effect at a facility
4 on January 1, 2020.

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

- 11 (1) Each resident shall have the right to designate one preapproved visitor and one
12 preapproved alternate visitor. The preapproved visitor, or if the preapproved
13 visitor is unavailable, the preapproved alternate visitor, shall be allowed to
14 visit the resident at least twice per month during any period of time during
15 which the facility's normal visitation policy is suspended or curtailed for any
16 reason during the declared disaster or emergency.
17 (2) Prior to admission, each facility shall explain and provide to each resident
18 written notification of the visitation protocols established by the Secretary
19 under this section.
20 (3) Visitation under these protocols shall be subject to Centers for Medicare and
21 Medicaid Services directives and to the guidelines, conditions, and limitations
22 established by the facility as part of its normal visitation policy.

23 **"§ 131E-112.6. Patient visitation rights for nursing home residents and combination home**
24 **residents during a disaster declaration or emergency.**

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

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

35 **SECTION 3.** Article 10 of Chapter 131E of the General Statutes is amended by
36 adding a new section to read:

37 **"§ 131E-207.5. Patient visitation rights for residents of hospice care facilities during a**
38 **disaster declaration or emergency.**

39 Notwithstanding any provision of this Part, Chapter 166A of the General Statutes, or any
40 other provision of law to the contrary, the visitation protocols established by the Secretary under
41 G.S. 131E-112.5 shall be in effect during any period of time when (i) there is a declared disaster
42 or emergency and (ii) a hospice care facility licensed under this Part suspends or restricts the
43 normal visitation policy for any reason."

44 **SECTION 4.(a)** Article 1 of Chapter 131D of the General Statutes is amended by
45 adding two new sections to read:

46 **"§ 131D-7.1. Secretary to establish visitation protocols during declared disasters and**
47 **emergencies.**

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

- 50 (1) Disaster declaration. – As defined in G.S. 166A-19.3(3).
51 (2) Emergency. – As defined in G.S. 166A-19.3(6).

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

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

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

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

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

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

22 "**§ 131D-7.2. Resident visitation rights for adult care homes, including family care homes,**
23 **during a disaster declaration or emergency.**

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

29 **SECTION 4.(b)** By March 15, 2022, the Secretary of the Department of Health and
30 Human Services shall implement the visitation protocols described in G.S. 131D-7.1, as enacted
31 by this act. At least 30 days prior to implementation of these visitation protocols, the Secretary
32 shall submit a report summarizing the visitation protocols to the chairs of the Joint Legislative
33 Oversight Committee on Health and Human Services.

34 **SECTION 5.** Sections 2(b) and 4(b) of this act are effective when this act becomes
35 law. The remainder of this act becomes effective April 1, 2022.

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