

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

1

HOUSE BILL 831

Short Title: Ed. Services for Children in PRTFs. (Public)

Sponsors: Representatives Avila, Johnson, and Glazier (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Health and Human Services.

April 11, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR THE PLACEMENT OF STUDENTS IN PRIVATE
3 PSYCHIATRIC RESIDENTIAL TREATMENT FACILITIES.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Article 30 of Chapter 115C of the General Statutes is amended by
6 adding a new section to read:

7 "**§ 115C-419. Allocations to private residential facilities.**

8 (a) The State Board of Education is authorized within the funds appropriated to the
9 State Board and the Department of Public Instruction to allocate educational funds to private
10 psychiatric residential treatment facilities (PRTF). For the purposes of this section, "PRTF"
11 means a private psychiatric residential treatment facility licensed by the Department of Health
12 and Human Services and approved by the Department of Public Instruction to provide special
13 education and related services. Funds shall be allocated to PRTFs as follows:

14 (1) The PRTF must be duly licensed in accordance with Chapter 122C of the
15 General Statutes and all pertinent administrative rules adopted by the
16 Department of Health and Human Services.

17 (2) The PRTF must be approved to deliver special education services in
18 accordance with rules and guidance adopted by the Department of Public
19 Instruction and the State Board.

20 (3) The PRTF must submit an application developed and approved by the State
21 Board for the allocation of funds on a per pupil basis and in accordance with
22 rules and policies applicable to special education funding.

23 (4) The PRTF must comply with all audit and accounting policies applicable to
24 other public and private entities receiving public funding.

25 (5) The PRTF must adhere to the provisions of Article 9 of this Chapter
26 pertaining to the provision of a free, appropriate public education for each
27 child with a disability, including the provision of procedural safeguards set
28 forth in Part 1D of Article 9 of this Chapter.

29 (b) The State Board of Education and the Department of Public Instruction shall
30 develop policies that facilitate effective communication between PRTFs and local school
31 administrative units in order to ensure orderly transition to and from PRTFs."

32 **SECTION 2.** G.S. 108A-80 reads as rewritten:

33 "**§ 108A-80. Confidentiality of records.**

34 (a) Except as provided in subsections (b) below, and (b1) of this section, it shall be
35 unlawful for any person to obtain, disclose or use, or to authorize, permit, or acquiesce in the



1 use of any list of names or other information concerning persons applying for or receiving
2 public assistance or social services that may be directly or indirectly derived from the records,
3 files or communications of the Department or the county boards of social services, or county
4 departments of social services or acquired in the course of performing official duties except for
5 the purposes directly connected with the administration of the programs of public assistance
6 and social services in accordance with federal law, rules and regulations, and the rules of the
7 Social Services Commission or the Department.

8 (b) The Department shall furnish a copy of the recipient check register monthly to each
9 county auditor showing a complete list of all recipients of Work First Family Assistance in
10 Standard Program Counties and State-County Special Assistance, their addresses, and the
11 amounts of the monthly grants. An Electing County whose checks are not being issued by the
12 State shall furnish a copy of the recipient check register monthly to its county auditor showing
13 a complete list of all recipients of Work First Family Assistance in the Electing County, their
14 addresses, and the amounts of the monthly payments. These registers shall be public records
15 open to public inspection during the regular office hours of the county auditor, but the registers
16 or the information contained therein may not be used for any commercial or political purpose.
17 Any violation of this section shall constitute a Class 1 misdemeanor.

18 (b1) The Department may share confidential information concerning a person receiving
19 public assistance or social services with a local educational agency and with the Department of
20 Public Instruction. Disclosure is limited to that information necessary to establish, coordinate,
21 or maintain an appropriate educational program for the person receiving public assistance or
22 social services.

23 (c) Any listing of recipients of benefits under any public assistance or social services
24 program compiled by or used for official purposes by a county board of social services or a
25 county department of social services shall not be used as a mailing list for political purposes.
26 This prohibition shall apply to any list of recipients of benefits of any federal, State, county or
27 mixed public assistance or social services program. Further, this prohibition shall apply to the
28 use of such listing by any person, organization, corporation, or business, including but not
29 limited to public officers or employees of federal, State, county, or other local governments, as
30 a mailing list for political purposes. Any violation of this section shall be punishable as a Class
31 1 misdemeanor.

32 (d) The Social Services Commission may adopt rules governing access to case files for
33 social services and public assistance programs, except the Medical Assistance Program. The
34 Secretary of the Department of Health and Human Services shall have the authority to adopt
35 rules governing access to medical assistance case files."

36 **SECTION 3.** G.S. 122C-23.1 reads as rewritten:

37 **"§ 122C-23.1. Licensure of residential treatment facilities.**

38 (a) The General Assembly finds:

- 39 (1) That much of the care for residential treatment facility residents is paid by
40 the State and the counties;
- 41 (2) That the cost to the State for care for residents of residential treatment
42 facilities is substantial, and high vacancy rates in residential treatment
43 facilities further increase the cost of care;
- 44 (3) That the proliferation of residential treatment facilities results in costly
45 duplication and underuse of facilities and may result in lower quality
46 service;
- 47 (4) There is currently no ongoing relationship between some applicants for
48 licensure and local management entities (LMEs) that are responsible for the
49 placement of children and adults in residential treatment facilities; and
- 50 (5) That it is necessary to protect the general welfare and lives, health, and
51 property of the people of the State for the local management entity (LME) to

1 verify that additional beds are needed in the LME's catchment area before
2 new residential treatment facilities are licensed. This process is established
3 to ensure that unnecessary costs to the State do not result, residential
4 treatment facility beds are available where needed, and that individuals who
5 need care in residential treatment facilities may have access to quality care.

6 Based on these findings, the Department of Health and Human Services may license new
7 residential treatment facilities if the applicant for licensure submits with the application a letter
8 of support obtained from the local management entity in whose catchment area the facility will
9 be located. The letter of support shall be submitted to the Department of Health and Human
10 Services, Division of Health Service Regulation and Division of Mental Health, Developmental
11 Disabilities, and Substance Abuse Services, and shall specify the number of existing beds in the
12 same type of facility in the catchment area and the projected need for additional beds of the
13 same type of facility.

14 (b) All private psychiatric residential treatment facilities (PRTFs) as defined in
15 G.S. 115C-419 that serve children eligible to attend the public schools in accordance with
16 G.S. 115C-366 and children with disabilities as defined in G.S. 115C-106.3 must have a
17 facility-based school as a condition of licensure. The facility-based school shall be a qualified
18 non public school under Article 39 of Chapter 115C of the General Statutes and shall be
19 approved by the Department of Public Instruction as a Non Public Exceptional Children's
20 Program. The Department of Health and Human Services may issue an initial license to a PRTF
21 that meets all licensure requirements except for the approval of the school as a Non Public
22 Exceptional Children's Program by the Department of Public Instruction. This initial license is
23 valid for a period of six months during which time the facility must obtain approval of its
24 school as an Exceptional Children's Program by the Department of Public Instruction. The
25 Department of Health and Human Services may extend the initial license for a period of six
26 months upon a showing that the facility has a pending application for approval with the
27 Department of Public Instruction. The facility must continue to meet all other licensure
28 requirements. If the facility obtains approval as a Non Public Exceptional Children's Program,
29 the Department of Health and Human Services may issue a license for the remainder of the
30 calendar year and the facility is eligible for annual renewal thereafter.

31 Facilities that are licensed and serve or at any time begin to serve children eligible to attend
32 the public schools and children with disabilities shall have six months after their next annual
33 renewal to obtain approval of their school program by the Department of Public Instruction to
34 become compliant with the licensure requirements of this subsection. The Department of
35 Health and Human Services may extend this time period for an additional six months upon a
36 showing that the facility has a pending application for approval with the Department of Public
37 Instruction. The facility must also continue to meet all other licensure requirements.

38 (c) As used in this ~~subsection~~,section, "residential treatment facility" means a
39 "residential facility" as defined in and licensed under this Chapter, but not subject to Certificate
40 of Need requirements under Article 9 of Chapter 131E of the General Statutes."

41 **SECTION 4.** G.S. 122C-55 is amended by adding a new subsection to read:

42 "(g2) Whenever there is reason to believe that the client is eligible for educational
43 services through a governmental agency, a facility shall disclose client identifying information
44 to the local educational agency responsible for the client and to the Department of Public
45 Instruction. Disclosure is limited to that information necessary to establish, coordinate, or
46 maintain educational services. The Department of Public Instruction may further disclose client
47 identifying information to any other local educational agency that it may designate as the
48 client's local educational agency while the client is residing in the facility."

49 **SECTION 5.** Section 1 of this act becomes effective July 1, 2013. Sections 2, 3,
50 and 4 of this act become effective October 1, 2013. The remainder of this act is effective when
51 the act becomes law.