

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 949

Short Title: Improve Child Protection/Records.

(Public)

Sponsors: Representatives Gardner; Mitchell and McCombs.

Referred to: Human Resources, if favorable, Judiciary II.

April 15, 1997

A BILL TO BE ENTITLED

AN ACT TO IMPROVE CHILD PROTECTION BY REQUIRING BETTER
DISCLOSURE OF CHILD FATALITY RECORDS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 132 of the General Statutes is amended by adding the following new section to read:

"§ 132-1.5. Child fatality records.

(a) Notwithstanding any other provision of law, records related to child fatalities shall become public records upon the death of the child. These records shall include, but not be limited to, all medical records, hospital records, emergency medical services records, police investigative records, medical examiner investigative data, and records maintained by a State, county, or local government agency, including public health records, mental health records, educational records, and social services records.

(b) If a public agency believes that release of information that is a public record under subsection (a) of this section is reasonably likely to pose a threat to the mental health, physical health, or personal safety of a member of the deceased child's family, or to materially compromise a continuing or future criminal investigation, the agency may seek an order from a court of competent jurisdiction to prevent disclosure of the information. In such action, the agency shall have the burden of showing by a

1 preponderance of the evidence that disclosure of the information in question will do one
2 or more of the following:

- 3 (1) Cause mental or physical harm or danger to a member of the deceased
4 child's family;
5 (2) Jeopardize the ability of the State to prosecute a defendant;
6 (3) Jeopardize the right of a criminal defendant to a fair trial; or
7 (4) Undermine an ongoing or future criminal investigation.

8 Actions brought pursuant to this subsection shall be set for immediate hearing, and
9 subsequent proceedings in such actions shall be accorded priority by the trial and
10 appellate courts.

11 (c) Child fatality records subject to disclosure under this section shall include:

- 12 (1) Records relating to the death of any child being served by child
13 protective services at the time of death, or
14 (2) Records relating to cases in which a child died as a result of suspected
15 abuse or neglect, and
16 a. A report of abuse or neglect has been made about the child or the
17 child's family to the county department of social services within
18 the previous 12 months, or
19 b. The child or the child's family was a recipient of child protective
20 services within the previous 12 months.

21 (d) An entity having custody of records made public under this section shall not be
22 liable under any State law for good faith disclosure of information from the records or for
23 any other action taken by the entity in good faith to comply with this section."

24 Section 2. This act becomes effective July 1, 1998.