

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

S

5

SENATE BILL 212\*  
Health Care Committee Substitute Adopted 3/20/19  
Corrected Copy 3/22/19  
House Committee Substitute Favorable 6/27/19  
House Committee Substitute #2 Favorable 7/8/19

Short Title: NC FAST/Early Child/Transformation/ACH Assess.

(Public)

Sponsors:

Referred to:

March 12, 2019

A BILL TO BE ENTITLED

AN ACT REQUIRING THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO POSTPONE DEPLOYMENT OF THE NORTH CAROLINA FAMILIES ACCESSING SERVICES THROUGH TECHNOLOGY (NC FAST) SYSTEM AS RELATED TO CASE-MANAGEMENT FUNCTIONALITY FOR THE CHILD WELFARE SYSTEM AND AGING AND ADULT SERVICES' PROGRAMS, ENHANCING THE EARLY CHILDHOOD WORKFORCE, POTENTIAL DELAY FOR MEDICAID AND NC HEALTH CHOICE TRANSFORMATION, AUTHORIZING ADULT CARE HOMES TO USE SERVICE PLANS COMPLETED AS THE RESULT OF A MEDICAID PERSONAL CARE SERVICES ASSESSMENT TO FULFILL THE ACTIVITIES OF DAILY LIVING PORTION OF THE REQUIRED SERVICE PLANS OR CARE PLANS FOR ADULT CARE HOME RESIDENTS, AND AMENDING ASSISTED LIVING ADMINISTRATOR CERTIFICATION QUALIFICATIONS.

The General Assembly of North Carolina enacts:

**PART I. POSTPONE DEPLOYMENT OF NC FAST CASE-MANAGEMENT FUNCTIONALITY FOR CHILD WELFARE SYSTEM/AGING AND ADULT SERVICES' PROGRAMS**

**SECTION 1.(a)** The Department of Health and Human Services, Division of Social Services, shall postpone deployment of the North Carolina Families Accessing Services through Technology (NC FAST) system as it relates to case-management functionality for the child welfare system and aging and adult services' programs. The Division shall not deploy the child welfare case-management component of the NC FAST system statewide prior to May 1, 2020, but shall instead continue to develop and improve case-management functionality for the child welfare component of NC FAST only in those counties that participated in the initial pilot program prior to January 1, 2019.

**SECTION 1.(b)** All counties other than the counties that participated in the pilot program prior to January 1, 2019, may elect to utilize the Intake and Assessment functionality of the NC FAST system.

**SECTION 1.(c)** The Joint Legislative Program Evaluation Oversight Committee shall revise the biennial 2019-2020 work plan for the Program Evaluation Division to include a study of the case-management functionality of the child welfare component of NC FAST. The Program Evaluation Division shall submit its evaluation to the Joint Legislative Program



\* S 2 1 2 - V - 5 \*

1 Evaluation Oversight Committee and to the Joint Legislative Oversight Committee on Health  
2 and Human Services no later than May 1, 2020.

## 4 PART II. EARLY CHILDHOOD WORKFORCE

5 SECTION 2.(a) G.S. 110-91(8) reads as rewritten:

6 "(8) Qualifications for Staff. – All child care center administrators shall be at least  
7 21 years of age. All child care center administrators shall have the North  
8 Carolina Early Childhood Administration Credential or its equivalent as  
9 determined by the Department. All child care administrators performing  
10 administrative duties as of the date this act becomes law and child care  
11 administrators who assume administrative duties at any time after this act  
12 becomes law and until September 1, 1998, shall obtain the required credential  
13 by September 1, 2000. Child care administrators who assume administrative  
14 duties after September 1, 1998, shall begin working toward the completion of  
15 the North Carolina Early Childhood Administration Credential or its  
16 equivalent within six months after assuming administrative duties and shall  
17 complete the credential or its equivalent within two years after beginning work  
18 to complete the credential. Each child care center shall be under the direction  
19 or supervision of a person meeting these requirements. All staff counted  
20 toward meeting the required staff-child ratio shall be at least 16 years of age,  
21 provided that persons younger than 18 years of age work under the direct  
22 supervision of a credentialed staff person who is at least 21 years of age. All  
23 lead teachers in a child care center shall have at least ~~a North Carolina Early  
24 Childhood Credential or its equivalent as determined by the Department. Lead  
25 teachers shall be enrolled in the North Carolina Early Childhood Credential  
26 coursework or its equivalent as determined by the Department within six  
27 months after becoming employed as a lead teacher or within six months after  
28 this act becomes law, whichever is later, and shall complete the credential or  
29 its equivalent within 18 months after enrollment.~~five college courses earned  
30 from a North Carolina Community College, including: Introduction to Early  
31 Childhood Education; Child, Family, and Community; Health, Safety and  
32 Nutrition; and either Infants, Toddlers, and Twos and Child Development I,  
33 or Child Guidance and Child Development II; or either a North Carolina  
34 Infant-Toddler Certificate or Preschool Certificate or equivalent as  
35 determined by the Department, within 24 months of hire. Lead teachers  
36 employed as of January 1, 2020, shall have until January 1, 2022, to complete  
37 the specified courses or receive the Certificate or equivalent. Lead teachers  
38 hired after January 1, 2020, shall have earned the North Carolina Early  
39 Childhood Credential prior to hire and shall complete the additional specified  
40 courses, or have the North Carolina Infant-Toddler Certificate or Preschool  
41 Certificate, or equivalent as determined by the Department, within 24 months  
42 of hire. Equivalencies shall include, but not be limited to, five college courses  
43 in Early Childhood Education or Child Development from a regionally  
44 accredited college or university, an Associate in Applied Sciences (A.A.S.)  
45 degree or higher in Early Childhood Education or Child Development.

46 For child care centers licensed to care for 200 or more children, the  
47 Department, in collaboration with the North Carolina Institute for Early  
48 Childhood Professional Development, shall establish categories to recognize  
49 the levels of education achieved by child care center administrators and  
50 teachers who perform administrative functions. The Department shall use

1 these categories to establish appropriate staffing based on the size of the center  
2 and the individual staff responsibilities.

3 Effective January 1, ~~1998, 2020~~, an operator of a licensed family child  
4 care home shall be at least 21 years old and have a ~~high school diploma or its~~  
5 ~~equivalent.~~ North Carolina Early Childhood Credential before receiving a  
6 license and shall complete the additional specified courses: Child, Family and  
7 Community; Health, Safety and Nutrition; and either Infants, Toddlers, and  
8 Twos and Child Development I, or Child Guidance and Child Development  
9 II; or have the North Carolina Infant-Toddler Certificate or Preschool  
10 Certificate, or equivalent as determined by the Department, within 24 months  
11 of being licensed. Operators of a family child care home licensed before  
12 January 1, 2020, shall have until January 1, 2022, to receive the Certificate or  
13 its equivalent. Equivalencies shall include, but not be limited to, five college  
14 courses in Early Childhood Education or Child Development from a  
15 regionally accredited college or university, an Associate in Applied Sciences  
16 (A.A.S.) degree or higher in Early Childhood Education or Child  
17 Development. Operators of a family child care home licensed prior to January  
18 1, 1998, shall be at least 18 years of age and literate. Literate is defined as  
19 understanding licensing requirements and having the ability to communicate  
20 with the family and relevant emergency personnel. Any operator of a licensed  
21 family child care home shall be the person on-site providing child care.

22 The Commission shall adopt standards to establish appropriate  
23 qualifications for all staff in child care centers. These standards shall reflect  
24 training, experience, education and credentialing and shall be appropriate for  
25 the size center and the level of individual staff responsibilities. It is the intent  
26 of this provision to guarantee that all children in child care are cared for by  
27 qualified people. Pursuant to G.S. 110-106, no requirements may interfere  
28 with the teachings or doctrine of any established religious organization. The  
29 staff qualification requirements of this subdivision do not apply to religious  
30 sponsored child care facilities pursuant to G.S. 110-106."

31 **SECTION 2.(b)** To provide financial support for completion of the required courses  
32 for lead teachers, T.E.A.C.H. Early Childhood scholarships are available and funded by the Child  
33 Care Development Block grant.

34 **SECTION 3.(a)** Professional Standards and Competencies. – The Division of Child  
35 Development and Early Education (Division) shall define the knowledge requirements for early  
36 childhood educators by establishing expected competencies for lead teachers. These  
37 competencies shall be based on the latest findings from the National Academy of Sciences report,  
38 "Transforming the Workforce for Children from Birth through Age 8," and the newly revised  
39 competencies from the National Association for the Education of Young Children (NAEYC).  
40 Competencies shall be graduated and tied to the certificates and degrees offered within North  
41 Carolina's community colleges and colleges and universities, specifically the Infant-Toddler and  
42 Preschool Certificates and the associate and bachelor's degrees in Early Childhood Education.

43 **SECTION 3.(b)** The Division shall collaborate with the North Carolina Community  
44 College System office to develop, or revise, a standardized process for early childhood educators  
45 to demonstrate their ability to meet the competencies found in all courses included in either the  
46 Infant-Toddler or Preschool Certificate. This process shall be available to support early childhood  
47 educators who choose not to attend or return to college to earn the required Certificates or degrees  
48 for lead teachers.

49 **SECTION 4.** On or after July 1, 2020, the Department of Health and Human  
50 Services, Division of Child Development and Early Education (Division), shall develop and  
51 implement a program to incentivize higher teacher education and compensation levels by

1 providing subsidy payment enhancements, in addition to established subsidy payments based on  
2 star ratings, to child care programs that use a salary scale and only employ lead teachers who  
3 have obtained a minimum of an associate degree in child development or a related field. The  
4 incentive amount shall be differentiated based on the level of degree attained. The Division shall  
5 submit a progress report on the development and implementation of the program required by this  
6 section to the Joint Legislative Oversight Committee on Health and Human Services by March  
7 1, 2020.

8 **SECTION 5.(a)** The Department of Health and Human Services, Division of Child  
9 Development and Early Education (Division), shall conduct a feasibility and cost study for the  
10 development of a pilot program modeled after the North Carolina prekindergarten (NC Pre-K)  
11 program for classrooms for children birth through three years of age. The model shall focus on  
12 criteria that, at a minimum, include each of the following:

- 13 (1) Teachers with degrees.
- 14 (2) The use of curriculum and formative assessments.
- 15 (3) Improved student-teacher ratios.
- 16 (4) Payment rates for child care programs commensurate with the increased  
17 teacher education requirements.
- 18 (5) The training, program coordination, recruitment, outreach, and monitoring  
19 necessary to implement the program.
- 20 (6) An ongoing evaluation program to measure educational outcomes similar to  
21 the evaluation required for the NC Pre-K program.

22 **SECTION 5.(b)** The Division shall submit a report on the study required under  
23 subsection (a) of this section to the 2020 Regular Session of the 2019 General Assembly by April  
24 1, 2020.

25 **SECTION 6.** Early Childhood Workforce Report. – The Division of Child  
26 Development and Early Education (Division) shall report on the status of the early childhood  
27 workforce established pursuant to the provisions of this act every three years. This report  
28 shall include information on the educational status and compensation of all lead teachers and  
29 other teaching staff enrolled in licensed child care programs in North Carolina. The Division  
30 shall submit the report required by this section to the Joint Legislative Oversight Committee on  
31 Health and Human Services by January 1, 2021, and every three years thereafter.

### 32 **PART III. POTENTIAL DELAY OF MEDICAID AND NC HEALTH CHOICE** 33 **TRANSFORMATION**

34 **SECTION 7.** If House Bill 966, 2019 Regular Session, does not become law by July  
35 15, 2019, then the Department of Health and Human Services shall delay, until at least March 1,  
36 2020, the implementation of the Medicaid and NC Health Choice transformation required by S.L.  
37 2015-245, as amended, and by the 1115 demonstration waiver.  
38

### 39 **PART IV. AUTHORIZE ADULT CARE HOMES TO USE SERVICE PLANS** 40 **COMPLETED FOR MEDICAID PERSONAL CARE SERVICES ASSESSMENT FOR** 41 **ACTIVITIES OF DAILY LIVING PORTION OF SERVICE PLANS OR CARE PLANS** 42 **AND AMEND ASSISTED LIVING ADMINISTRATOR QUALIFICATIONS**

43 **SECTION 8.** G.S. 131D-2.15 reads as rewritten:

44 **"§ 131D-2.15. Resident assessments.**

45 (a) Initial Assessment. – The Department shall ensure that facilities conduct and  
46 complete an assessment of each resident within 72 hours of admitting the ~~resident and annually~~  
47 ~~thereafter.~~ resident. In conducting the assessment, the facility shall use an assessment instrument  
48 ~~approved by the Secretary upon the advice of the Director of the Division of Aging and Adult~~  
49 ~~Services.~~ approved in accordance with rules adopted by the Medical Care Commission. The  
50

1 Department shall provide ongoing training for facility personnel in the use of the approved  
2 assessment instrument.

3 (a1) The Assessment to Develop Service Plans and Care Plans. – Within 30 days of  
4 admission, the facility shall use the conduct an assessment to develop appropriate and  
5 comprehensive service plans and care plans and to determine the level and type of facility staff  
6 that is needed to meet the needs of residents. The assessment shall determine a resident's level of  
7 functioning and shall include, but not be limited to, cognitive status and physical functioning in  
8 activities of daily living. Activities of daily living are personal functions essential for the health  
9 and well-being of the resident. The assessment shall not serve as the basis for medical care. The  
10 assessment shall indicate if the resident requires referral to the resident's physician or other  
11 appropriate licensed health care professional or community resource.

12 (a2) Medicaid State Plan Personal Care Services Assessment. – To fulfill the activities of  
13 daily living portion of any service plan or care plan required under subsection (a1) of this section,  
14 or any rules adopted under this Article, the facility may use a service plan that was completed  
15 within 35 days of the resident's admission to the facility and represents the result of an assessment  
16 to determine the resident's eligibility for personal care services under the Medicaid State Plan. If  
17 the facility uses a service plan for personal care services under the Medicaid State Plan developed  
18 within 35 days of resident admission, the facility shall be exempt from conducting an assessment  
19 of the resident's ability to perform activities of daily living within 30 days of resident admission.  
20 For purposes of this subsection, a resident must have received an assessment to develop  
21 appropriate and comprehensive service plans and care plans no later than 35 days after resident  
22 admission or subsection (a1) of this section applies.

23 (b) Review. – The Department, as part of its inspection and licensing of adult care homes,  
24 shall review assessments and related service plans and care plans for a selected number of  
25 residents. In conducting this review, the Department shall ~~determine~~ determine all of the  
26 following:

- 27 (1) Whether the appropriate assessment instrument was administered and  
28 interpreted ~~correctly~~ correctly.
- 29 (2) Whether the facility is capable of providing the necessary ~~services~~ services.
- 30 (3) Whether the service plan or care plan conforms to the results of an  
31 appropriately administered and interpreted ~~assessment~~ and assessment.
- 32 (4) Whether the service plans or care plans are being implemented fully and in  
33 accordance with an appropriately administered and interpreted assessment.

34 (c) Penalties. – If the Department finds that the facility is not carrying out its assessment  
35 responsibilities in accordance with this section, the Department shall notify the facility and  
36 require the facility to implement a corrective action plan. The Department shall also notify the  
37 resident of the results of its review of the assessment, service plans, and care plans developed for  
38 the resident. In addition to administrative penalties, the Secretary may suspend the admission of  
39 any new residents to the facility. The suspension shall be for the period determined by the  
40 Secretary and shall remain in effect until the Secretary is satisfied that conditions or  
41 circumstances merit removing the suspension."

42 **SECTION 9.** G.S. 90-288.14 reads as rewritten:

43 **"§ 90-288.14. Assisted living administrator certification.**

44 An applicant shall be certified by the The Department shall certify as an assisted living  
45 administrator if the any applicant who meets all of the following qualifications:

- 46 (1) Is at least 21 years old.
- 47 (2) Provides a satisfactory criminal background report from the State Repository  
48 of Criminal Histories, which shall be provided by the State Bureau of  
49 Investigation upon its receiving fingerprints from the applicant. If the  
50 applicant has been a resident of this State for less than five years, the applicant

- 1 shall provide a satisfactory criminal background report from both the State  
2 and National Repositories of Criminal Histories.
- 3 (2a) Does not have a substantiated finding of neglect, abuse, misappropriation of  
4 property, diversion of drugs, or fraud listed on the Health Care Personnel  
5 Registry established under G.S. 131E-256.
- 6 (3) ~~Successfully~~ Has a high school diploma or its equivalent and successfully  
7 completes the equivalent of two years of coursework at an accredited college  
8 or ~~university~~ university, or has a minimum of 60 months of supervisory  
9 experience, or has a combination of education and experience as approved by  
10 the Department. For purposes of this section, "supervisory experience" means  
11 having full-time, direct management responsibility, including some  
12 responsibility for hiring and firing, over the equivalent of at least two full-time  
13 employees with direct resident care responsibilities. Such supervisory  
14 experience shall have been in a licensed adult care home or licensed nursing  
15 home within the seven years preceding the date of application.
- 16 (4) Successfully completes a Department approved administrator-in-training  
17 program of at least 120 hours of study in courses relating to assisted living  
18 residences.
- 19 (5) Successfully completes a written examination administered by the  
20 Department."

21 **SECTION 10.** This act is effective when it becomes law.