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HOUSE BILL 351
Committee Substitute Favorable 3/30/21
Committee Substitute #2 Favorable 3/31/21
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Senate Health Care Committee Substitute Adopted 7/22/21
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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, 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 and combination homes 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 and G.S. 131E-112.6, the following terms have the following meanings:

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



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- 1 (2) Emergency. – As defined in G.S. 166A-19.3(6).
2 (3) Facility. – A nursing home or combination home licensed under this Part.
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 and
6 combination homes, and any other stakeholders the Secretary deems relevant, establish visitation
7 protocols for residents of these facilities that will become effective during a disaster declaration
8 or emergency that results in the suspension or curtailment of a facility's normal visitation policy
9 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
13 visit the resident at least twice per month during any period of time during
14 which the facility's normal visitation policy is suspended or curtailed for any
15 reason 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 **"§ 131E-112.6. Patient visitation rights for nursing home residents and combination home**
23 **residents 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. 131E-112.5 shall be in effect during any period of time when (i) there is a declared disaster
27 or emergency and (ii) a nursing home or combination home licensed under this Part suspends or
28 restricts the normal visitation policy for any reason."

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

34 **SECTION 3.(a)** Article 1 of Chapter 131D of the General Statutes is amended by
35 adding two new sections to read:

36 **"§ 131D-7.1. Secretary to establish visitation protocols during declared disasters and**
37 **emergencies.**

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

- 40 (1) Disaster declaration. – As defined in G.S. 166A-19.3(3).
41 (2) Emergency. – As defined in G.S. 166A-19.3(6).
42 (3) Facility. – An adult care home, including a family care home, licensed under
43 this Article.
44 (4) Normal visitation policy. – The visitation policy that was in effect at a facility
45 on January 1, 2020.

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

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

13 **"§ 131D-7.2. Resident visitation rights for adult care homes, including family care homes,**
14 **during a disaster declaration or emergency.**

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

20 **SECTION 3.(b)** By June 15, 2022, the Secretary of the Department of Health and
21 Human Services shall implement the visitation protocols described in G.S. 131D-7.1, as enacted
22 by this act. At least 30 days prior to implementation of these visitation protocols, the Secretary
23 shall submit a report summarizing the visitation protocols to the chairs of the Joint Legislative
24 Oversight Committee on Health and Human Services.

25 **SECTION 4.** Sections 1, 2(a), and 3(a) are effective April 1, 2022. The remainder
26 of this act is effective when it becomes law.