

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 823
Committee Substitute Favorable 5/11/21
Senate Health Care Committee Substitute Adopted 6/29/22

Short Title: Child Advocacy Centers/Share Information.

(Public)

Sponsors:

Referred to:

May 5, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO SET CERTAIN CRITERIA FOR CHILDREN'S ADVOCACY CENTERS TO BE
3 ELIGIBLE TO RECEIVE STATE FUNDS, TO GOVERN THE SHARING OF
4 INFORMATION AND RECORDS OF CHILDREN'S ADVOCACY CENTERS AND
5 MULTIDISCIPLINARY TEAMS, AND TO ESTABLISH CERTAIN IMMUNITY FOR
6 CHILDREN'S ADVOCACY CENTERS.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.(a)** Chapter 108A of the General Statutes is amended by adding a new
9 Article to read:

"Article 3A.

"Child Advocacy Centers.

10 **"§ 108A-75.1. Definitions.**

11 The following definitions apply in this Article:

- 12 (1) Caregiver. – A parent, guardian, custodian or caretaker, as defined in Chapter
- 13 7B of the General Statutes, or other appropriate person who has assumed
- 14 responsibility for the child.
- 15 (2) Child. – Any individual under 18 years of age. For referrals made by law
- 16 enforcement, a child also includes any individual who has a developmental
- 17 disability, as defined in G.S. 122C-3(12a), that severely impacts conceptual,
- 18 social, and practical areas of living to the extent the individual is unable to
- 19 live in an independent environment.
- 20 (3) Child maltreatment. – Any act or series of acts of commission or omission by
- 21 an individual involving sexual or physical abuse of a child, neglect of a child,
- 22 human trafficking of a child, exploitation of a child, abuse as defined in
- 23 G.S. 7B-101(1), dependency as defined in G.S. 7B-101(9), neglect as defined
- 24 in G.S. 7B-101(15), or any act as defined in G.S. 110-105.3.
- 25 (4) Child Medical Evaluation. – A medical evaluation of a child performed by a
- 26 medical provider who is rostered with the University of North Carolina –
- 27 Chapel Hill, North Carolina Child Medical Evaluation Program, which will
- 28 include a forensic interview when possible, performed at a Children's
- 29 Advocacy Center or at another facility pursuant to an agreement with a
- 30 Children's Advocacy Center.
- 31 (5) Children's Advocacy Center. – A child-focused, trauma-informed,
- 32 facility-based program in good standing with Children's Advocacy Centers of
- 33 North Carolina, Inc., that assists in the coordination of the investigation of
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child maltreatment by promoting a coordinated, multidisciplinary response to cases of child maltreatment in which representatives from law enforcement, child protective services, prosecution, mental health, forensic interviewing, medical, or victim advocacy groups or disciplines collaborate regarding the investigation, prosecution, safety, treatment, and support services, including forensic interviews, medical examinations, mental health services, advocacy, consultation, and training, to be provided, directly or by formalized agreements, for children suspected to be victims of child maltreatment and their appropriate caregivers.

(6) Department. – As defined in G.S. 7B-101(8a).

(7) Forensic interview. – An interview between a trained forensic interviewer and a child in which the interviewer obtains information from the child in a developmentally and culturally sensitive, unbiased, fact-finding, and legally sound manner to support collaboration by the multidisciplinary team in the criminal justice and child protection systems. All interviews must meet State and national standards for forensic interviews, as defined by the Children's Advocacy Centers of North Carolina, Inc., and the National Children's Alliance.

(8) Multidisciplinary team. – A group of professionals who represent various disciplines and work collaboratively pursuant to a written protocol to share information on service provision and investigations by law enforcement or the department to inform the investigation and prosecution of child maltreatment cases and to coordinate services in response to reports made of child maltreatment. The multidisciplinary team works solely on behalf of children served by a Children's Advocacy Center. In addition to the members listed in this subdivision, a multidisciplinary team may include other professionals involved in the delivery of services to victims of child maltreatment and their appropriate caregivers. Participation in a multidisciplinary team shall not preclude any member from carrying out any mandated responsibility of his or her profession. A Children's Advocacy Center's multidisciplinary team must include, at a minimum, the following professionals:

- a. A member of participating law enforcement agencies.
- b. The county district attorney or assistant district attorney.
- c. A member of the department's child protective services unit.
- d. A local mental health provider.
- e. A local health care provider.
- f. A victim advocate.
- g. Children's Advocacy Center staff.

"§ 108A-75.2. Entity; eligibility.

(a) In order to receive State funds or federal funds administered or distributed by a State agency or any other funds appropriated or allocated by the North Carolina General Assembly, a Child Advocacy Center must satisfy all of the following requirements:

- (1) Be in good standing with State standards set forth by Children's Advocacy Centers of North Carolina, Inc.
- (2) Be an independent agency, which may be a nonprofit or affiliated with an umbrella organization, such as a hospital or another human or victim service agency, or a part of a governmental entity, with sound administrative policies and procedures designed to ensure quality of services and sustainability, which, at a minimum, include policies governing job descriptions, personnel, financial management, document retention and destruction, and safety and

- security, and maintains appropriate commercial directors and officers and professional liability insurance.
- (3) Provide a child-friendly, trauma-informed space for children suspected to be victims of child maltreatment and their appropriate caregivers.
- (4) Conduct on-site interviews of children by a forensic interviewer in referred cases of suspected child maltreatment.
- (5) Maintain a multidisciplinary team, the members of which meet on a regularly scheduled basis and are routinely involved in investigations and multidisciplinary team interventions.
- (6) Have a written interagency agreement signed by authorized representatives of all multidisciplinary team participants that commits the signed parties to the multidisciplinary model for the investigation of child maltreatment. The agreement must be reviewed and signed annually.
- (7) Provide a space for multidisciplinary team meetings.
- (8) Establish and maintain written protocols, which comply with State and national standards and State and federal laws, governing (i) multidisciplinary team case review, (ii) access to medical and mental health treatment, (iii) confidentiality of medical and mental health records, (iv) confidentiality of a department's protective services information and records, (v) information sharing among multidisciplinary team members that complies with State and federal laws and rules for the participating entities, (vi) functions of the multidisciplinary team, (vii) roles and responsibilities of multidisciplinary team members and their interaction in the Children's Advocacy Center, (viii) victim support, and (ix) advocacy services. These protocols must be reviewed every three years and updated as needed to reflect current practice.
- (9) Have a designated staff that is supervised and approved by the Children's Advocacy Center's Board of Directors or other governing entity.
- (10) Provide case tracking of child maltreatment cases served through the Children's Advocacy Center, according to written protocols. A Children's Advocacy Center shall also track and be able to retrieve statistical data on the number of child maltreatment cases seen at the center by sex, race, age, type of maltreatment, relationship of the alleged offender to the child, multidisciplinary team involvement and outcomes, charge disposition, child protection outcomes, and status and follow-through of medical and mental health referrals.
- (11) Provide medical exams or referrals for medical exams, in each case to be provided by health care providers with specific training in child sexual and physical abuse who are rostered with the North Carolina Child Medical Evaluation Program and meet required minimum State and national standards for training, documentation, and review.
- (12) Provide mental health services or referrals for such mental health services, in each case to be provided by licensed mental health professionals who deliver trauma-focused, evidence-supported treatment and who meet the minimum standards established by Children's Advocacy Centers of North Carolina, Inc.
- (13) Provide training for various disciplines in the community that deal with child maltreatment.
- (14) Provide victim support and advocacy that meets State and national standards.
- (15) Maintain diversity, equity, and inclusion by completing a community assessment every three years, which, at a minimum, shall do all of the following:

- a. Determine the demographics of the community, clients, and the Children's Advocacy Center's staff and board.
- b. Identify underserved populations.
- c. Identify and address gaps in services to underserved populations.
- d. Develop strategies for outreach to underserved populations.
- e. Monitor effectiveness of outreach and intervention strategies and services that are tailored to meet the unique needs of all children.

(16) Provide annual trainings or educational opportunities for multidisciplinary team members' professional development.

(17) Ensure that Children's Advocacy Center employees and volunteers are properly screened and trained in accordance with State and national standards.

(18) Provide all services to a child client regardless of the child or child's family's ability to pay for those services.

(b) Children's Advocacy Centers of North Carolina, Inc., shall be responsible for tracking and documenting compliance with all of the requirements of this section and any funds it administers to an eligible Children's Advocacy Center.

"§ 108A-75.3. Sharing of information.

(a) The department may share information that is relevant to the protection of a child with the multidisciplinary team, subject to State and federal law and rules.

(b) Other members of the multidisciplinary team may share information that is relevant to the protection of a child with the multidisciplinary team, subject to State and federal statutes and rules.

(c) The Chief District Court Judge of the judicial district in which the multidisciplinary team sits may enter an administrative order designating certain local agencies, located within that jurisdiction, that are authorized to share information concerning a case of suspected child maltreatment in which a department is not involved. Agencies so designated shall share with one another, upon request and to the extent permitted by federal law and regulations, information that is in their possession that is relevant to the protection of a child in any case of child maltreatment being discussed by the multidisciplinary team, for so long as the child's case is being investigated by law enforcement or the child is receiving services at the Children's Advocacy Center. Any information shared among designated agencies pursuant to this section shall remain confidential, except where disclosure is required by law, shall be withheld from public inspection, and shall be used only to the extent necessary for that agency to perform its required duties. Nothing herein shall be deemed to require the disclosure or release of any information in the possession of a district attorney.

(d) Any information shared among multidisciplinary team members pursuant to this section shall be shared in accordance with federal law or regulation, remain confidential and shall not be redisclosed, except to the extent necessary for the protection of a child, to carry out a treatment plan or recommendations, or to improve the educational opportunities of the child.

(e) Notwithstanding any potential liability for violation of federal law or regulation, a multidisciplinary team member who participates in good faith in team discussions with a multidisciplinary team by providing information about a child whose case is being reviewed by a multidisciplinary team shall be immune from any civil or criminal liability for disclosure of information, unless the disclosure of information was due to gross negligence, wanton conduct, or intentional wrongdoing.

"§ 108A-75.4. Access to Children's Advocacy Center records.

(a) In the case of a child referred to a Children's Advocacy Center by a department, the following records or information, which are created, compiled, maintained, or received by a Children's Advocacy Center when performing or coordinating services described in this section, shall be part of the department's record for the juvenile receiving protective services and shall be confidential:

(1) A Child Medical Evaluation.

(2) A forensic interview.

(3) Any other information received by a department from a Children's Advocacy Center, including electronic records.

Disclosure of information and records in this subsection shall be governed by G.S. 7B-302(a1), 7B-505.1, 7B-601(c), 7B-2901(b), and 7B-3100.

(b) In the case of a child referred to a Children's Advocacy Center by law enforcement, unless required by federal law, the following records or information, which are created, compiled, maintained, or received by a Children's Advocacy Center when performing or coordinating services described in this section, shall be confidential and shall only be released in accordance with this subsection:

(1) A Child Medical Evaluation.

(2) A forensic interview.

(3) Any other information received by law enforcement from a Children's Advocacy Center, including electronic records.

(c) Disclosure of information and records outlined in subsection (b) of this section shall only be released or otherwise made available to the following:

(1) The North Carolina Department of Health and Human Services and county departments.

(2) Law enforcement agencies, a prosecuting district attorney, or the Attorney General.

(3) Health care providers or local management entity/managed care organizations providing medical or psychiatric care or services to the child, in the case of medical or mental health records.

(4) The North Carolina Child Fatality Task Force.

(5) As permitted under G.S. 7B-3100.

(d) Except as specifically authorized in this section, records of a child which are created, compiled, maintained, or received by a Children's Advocacy Center shall only be released pursuant to an order of a court of competent jurisdiction upon a finding by the court that the records are necessary for the determination of a criminal, civil, or administrative matter and the information cannot be obtained from the Department of Health and Human Services, a law enforcement agency, the prosecuting attorney, a department, or the Attorney General. The order shall include an order for an in camera inspection and protective order. For civil and administrative matters, prior to issuing such an order, a Children's Advocacy Center shall receive notice and an opportunity to be heard. After conducting an in camera inspection of the records, the court shall only release the information from the records that is material and relevant to the matter before the court and necessary to the proper administration of justice.

(e) Employees or designated agents of a Children's Advocacy Center may confirm with another Children's Advocacy Center that a child has been seen for services at its facility. A Children's Advocacy Center may share information regarding a child with another Children's Advocacy Center to the extent that the information is necessary for the provision of services to a child by a Children's Advocacy Center or its multidisciplinary team.

(f) A Children's Advocacy Center's employee or designated agent may share limited information with Children's Advocacy Centers of North Carolina, Inc., or other contract service providers, when necessary for the child, caregiver, or Children's Advocacy Center to receive essential support or services and with necessary confidentiality provisions in place, consistent with State and federal law.

(g) No person or agency to whom disclosure of information created or compiled at a Children's Advocacy Center is made shall duplicate or disclose that information to any other person or agency, except as permitted in this section. The Department of Health and Human Services, a department, law enforcement agencies, the prosecuting attorney, a court of competent

jurisdiction, and the Attorney General are exempted from the requirements of this subsection (f).

Any information disclosed under this subsection shall remain confidential.

(h) Records created pursuant to this Article shall not be considered public records under Chapter 132 of the General Statutes.

"§ 108A-75.5. Limited immunity from civil liability.

A board member, staff member, or volunteer of a Children's Advocacy Center or Children's Advocacy Centers of North Carolina, Inc., shall be immune from civil liability arising from performance of acts within the scope of the person's duties or participation in a judicial proceeding if the person acts in good faith. Immunity under this section shall not extend to acts of gross negligence, wanton conduct, or intentional wrongdoing."

SECTION 1.(b) G.S. 7B-505.1(f) reads as rewritten:

"(f) Unless the court has ordered otherwise, except as prohibited by federal law, a health care provider shall disclose confidential information about a juvenile to a director of a county department of social services with custody of the juvenile and a parent, guardian, or custodian. A Child Medical Evaluation performed by a health care provider rostered with the North Carolina Child Medical Evaluation Program shall be governed by subsection (d) of this section and G.S. 108A-75.4."

SECTION 2. This act becomes effective July 1, 2023.