

GENERAL ASSEMBLY OF NORTH CAROLINA  
1987 SESSION

CHAPTER 782  
HOUSE BILL 458

AN ACT TO AMEND THE COMMUNICABLE DISEASE LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-133(2) is rewritten to read:

"(2) 'Isolation authority' means the authority to limit the freedom of movement or action of a person or animal with a communicable disease or communicable condition for the period of communicability to prevent the direct or indirect conveyance of the infectious agent from the person or animal to other persons or animals who are susceptible or who may spread the agent to others."

Sec. 2. G.S. 130A-133(4) is amended in the first and second sentences by inserting "or action" between "movement" and "of", and is also amended in the first sentence by inserting "or communicable condition" between "disease" and "for".

Sec. 3. G.S. 130A-133 is amended by adding a new (5) as follows:

"(5) 'Communicable condition' means the state of being infected with a communicable agent but without symptoms."

Sec. 4. G.S. 130A-134 is amended in the catch line by inserting "**and conditions**" between "**Diseases**" and the period, and is further amended in the body of the section by inserting "and communicable conditions" between "diseases" and "to".

Sec. 5. G.S. 130A-135 is rewritten to read:

"§ **130A-135. Physicians to report.**—A physician licensed to practice medicine who has reason to suspect that a person about whom the physician has been consulted professionally has a communicable disease or communicable condition declared by the Commission to be reported, shall report information required by the Commission to the local health director of the county or district in which the physician is consulted."

Sec. 6. G.S. 130A-136 is rewritten to read:

"§ **130A-136. School principals and day-care operators to report.**—A principal of a school and an operator of a day-care facility, as defined in G.S. 110-86(3), who has reason to suspect that a person within the school or day-care facility has a communicable disease or communicable condition declared by the Commission to be reported, shall report information required by the Commission to the local health director of the county or district in which the school or facility is located."

Sec. 7. G.S. 130A-137 is rewritten to read:

"§ **130A-137. Medical facilities may report.**—A medical facility, in which there is a patient reasonably suspected of having a communicable disease or condition declared by the Commission to be reported, may report information specified by the Commission to the local health director of the county or district in which the facility is located."

Sec. 8. G.S. 130A-138 is rewritten to read:

**"§ 130A-138. Operators of restaurants and other food or drink establishments to report.**—An operator of a restaurant or other establishment where food or drink is prepared or served for pay, as defined in G.S. 130A-247(4) and (5), shall report information required by the Commission to the local health director of the county or district in which the restaurant or food establishment is located when the operator has reason to suspect an outbreak of food-borne illness in its customers or employees or when it has reason to suspect that a food handler at the establishment has a food-borne disease or food-borne condition required by the Commission to be reported."

Sec. 9. G.S. 130A-139 is rewritten to read:

**"§ 130A-139. Persons in charge of laboratories to report.**—A person in charge of a clinical or pathological laboratory providing diagnostic service in this State shall report information required by the Commission to a public health agency specified by the Commission when the laboratory makes any of the following findings:

- (1) Sputa, gastric contents, or other specimens which are smear positive for acid fast bacilli or culture positive for Mycobacterium tuberculosis;
- (2) Urethral smears positive for Gram-negative intracellular diplococci or any culture positive for Neisseria gonorrhoeae;
- (3) Positive serological tests for syphilis or positive darkfield examination;
- (4) Any other positive test indicative of a communicable disease or communicable condition for which laboratory reporting is required by the Commission."

Sec. 10. G.S. 130A-140 is rewritten to read:

**"§ 130A-140. Local health directors to report.**—A local health director shall report to the Department all cases of diseases or conditions or laboratory findings of residents of the jurisdiction of the local health department which are reported to the local health director pursuant to this Article. A local health director shall report all other cases and laboratory findings reported pursuant to this Article to the local health director of the county or district where the person with the reportable disease or condition or laboratory finding resides."

Sec. 11. G.S. 130A-141 is rewritten to read:

**"§ 130A-141. Form, content and timing of reports.**—The Commission shall adopt rules which establish the specific information to be submitted when making a report required by this Article, time limits for reporting, the form of the reports and to whom reports of laboratory findings are to be made."

Sec. 12. G.S. 130A-142 is amended by adding before the period at the end of the section "as a result of making that report".

Sec. 13. G.S. 130A-143 is rewritten to read:

**"§ 130A-143. Confidentiality of records.**—All information and records, whether publicly or privately maintained, that identify a person who has AIDS virus infection or who has or may have a disease or condition required to be reported pursuant to the provisions of this Article shall be strictly confidential. This information shall not be released or made public except under the following circumstances:

- (1) Release is made of specific medical or epidemiological information for statistical purposes in a way that no person can be identified;
- (2) Release is made of all or part of the medical record with the written consent of the person or persons identified or their guardian;
- (3) Release is made to health care personnel providing medical care to the patient;
- (4) Release is necessary to protect the public health and is made as provided by the Commission in its rules regarding control measures for communicable diseases and conditions;
- (5) Release is made pursuant to other provisions of this Article;
- (6) Release is made pursuant to subpoena or court order. Upon request of the person identified in the record, the record shall be reviewed **in camera**. In the trial, the trial judge may, during the taking of testimony concerning such information, exclude from the courtroom all persons except the officers of the court, the parties and those engaged in the trial of the case.
- (7) Release is made by the Department or a local health department to a court or a law enforcement officer for the purpose of enforcing the provisions of this Article pursuant to Article 1, Part 2 of this Chapter.
- (8) Release is made by the Department or a local health department to another state or local public health agency for the purpose of preventing or controlling the spread of a communicable disease or communicable condition;
- (9) Release is made by the Department for bona fide research purposes. The Commission shall adopt rules providing for the use of the information for research purposes;
- (10) Release is made pursuant to G.S. 130A-144(b); or
- (11) Release is made pursuant to any other provisions of law that specifically authorize or require the release of information or records related to AIDS."

Sec. 14. G.S. 130A-144 is rewritten to read:

**"§ 130A-144. Investigation and control measures.**—(a) The local health director shall investigate, as required by the Commission, cases of communicable diseases and communicable conditions reported to the local health director pursuant to this Article.

(b) Physicians and persons in charge of medical facilities or clinical or pathological laboratories shall, upon request and proper identification, permit a local health director or the State Health Director to examine, review, and obtain a copy of medical records in their possession or under their control which pertain to the diagnosis, treatment, or prevention of a communicable disease or communicable condition for a person infected, exposed, or reasonably suspected of being infected or exposed to such a disease or condition.

(c) A physician or a person in charge of a medical facility or clinical or pathological laboratory who permits examination, review or copying of medical records pursuant to subsection (b) shall be immune from any civil or criminal liability that

otherwise might be incurred or imposed as a result of complying with a request made pursuant to subsection (b).

(d) The attending physician shall give control measures prescribed by the Commission to a patient with a communicable disease or communicable condition and to patients reasonably suspected of being infected or exposed to such a disease or condition. The physician shall also give control measures to other individuals as required by rules adopted by the Commission.

(e) The local health director shall ensure that control measures prescribed by the Commission have been given to prevent the spread of all reportable communicable diseases or communicable conditions and any other communicable disease or communicable condition that represents a significant threat to the public health.

(f) All persons shall comply with control measures, including submission to examinations and tests, prescribed by the Commission subject to the limitations of G.S. 130A-148.

(g) The Commission shall adopt rules that prescribe control measures for communicable diseases and conditions subject to the limitations of G.S. 130A-148. Temporary rules prescribing control measures for communicable diseases and conditions shall be adopted pursuant to G.S. 150B-13."

Sec. 15. G.S. 130A-145 is rewritten to read:

**"§ 130A-145. Local health director has quarantine and isolation authority.**—A local health director and the State Health Director are empowered to exercise quarantine and isolation authority. Quarantine and isolation authority shall be exercised only when and so long as the public health is endangered, all other reasonable means for correcting the problem have been exhausted, and no less restrictive alternative exists."

Sec. 16. Part 1 of Article 6 of Chapter 130A of the General Statutes is amended by adding a new section to read:

**"§ 130A-148. Laboratory tests for AIDS virus infection.**—(a) For the protection of the public health, the Commission shall adopt rules establishing standards for the certification of laboratories to perform tests for Acquired Immune Deficiency Syndrome (AIDS) virus infection. The rules shall address, but not be limited to, proficiency testing, record maintenance, adequate staffing and confirmatory testing. Tests for AIDS virus infection shall be performed only by laboratories certified pursuant to this subsection and only on specimens submitted by a physician licensed to practice medicine. This subsection shall not apply to testing performed solely for research purposes under the approval of an institutional review board.

(b) Prior to obtaining consent for donation of blood, semen, tissue or organs, a facility or institution seeking to obtain blood, tissue, semen or organs for transfusion, implantation, transplantation or administration shall provide the potential donor with information about AIDS virus transmission, and information about who should not donate.

(c) No blood or semen may be transfused or administered when blood from the donor has not been tested or has tested positive for AIDS virus infection by a standard laboratory test.

(d) No tissue or organs may be transplanted or implanted when blood from the donor has not been tested or has tested positive for AIDS virus infection by a standard laboratory test unless consent is obtained from the recipient, or from the recipient's guardian or a responsible adult relative of the recipient if the recipient is not competent to give such consent.

(e) Any facility or institution that obtains or transfuses, implants, transplants, or administers blood, tissue, semen, or organs shall be immune from civil or criminal liability that otherwise might be incurred or imposed for transmission of AIDS virus infection if the provisions specified in subsections (b), (c), and (d) of this section have been complied with.

(f) Specimens may be tested for AIDS virus infection for research or epidemiologic purposes without consent of the person from whom the specimen is obtained if all personal identifying information is removed from the specimen prior to testing.

(g) Persons tested for AIDS virus infection shall be notified of test results and counseled appropriately. This subsection shall not apply to tests performed by or for entities governed by Article 34 of G.S. Chapter 58, the Insurance Information and Privacy Protection Act, provided that said entities comply with the notice requirements thereof.

(h) The Commission may authorize or require laboratory tests for AIDS virus infection when necessary to protect the public health."

Sec. 17. G.S. 130A-155.1(d) is amended by adding before the period "unless after July 1, 1986, the person transfers, interrupts study for a period of six months or more, or graduates".

Sec. 18. G.S. 130A-156 is rewritten to read:

"§ 130A-156. **Medical exemption.**—If a physician licensed to practice medicine in this State certifies that an immunization required by G.S. 130A-152 is or may be detrimental to a person's health due to the presence of a specific contraindication, the person is not required to receive the specified immunization as long as the contraindication persists."

Sec. 19. G.S. 130A-25 is amended by deleting subsection (b) and substituting the following:

"(b) A person convicted under this section for failure to obtain the treatment required by Part 3 or Part 5 of Article 6 of this Chapter, or for violation of G.S. 130A-144(g) or G.S. 130A-145 shall serve any prison sentence in McCain Hospital, Division of Prisons, Department of Correction, McCain, North Carolina; the North Carolina Correctional Center for Women, Division of Prisons, Department of Correction, Raleigh, North Carolina; or any other confinement facility designated for this purpose by the Secretary of Correction after consultation with the State Health Director. The Secretary of Correction shall consult with the State Health Director concerning the medical management of these persons.

(c) In addition to other means of early discharge, a person imprisoned for failure to obtain the treatment required by Part 3 or Part 5 of Article 6 of this Chapter, or for violation of G.S. 130A-144(g) or G.S. 130A-145 may be discharged before completion of the person's sentence upon determination by the District Court that discharge of the

person would not create a danger to the public health. This determination shall be made only after the medical consultant of the confinement facility and the State Health Director, in consultation with the local health director of the person's county of residence, have made recommendations to the Court."

Sec. 20. G.S. 130A-163 and G.S. 130A-179 are repealed.

Sec. 21. This act shall become effective February 1, 1988, except that the provision in G.S. 130A-148(a), which requires laboratories to be certified in order to perform tests for AIDS virus infection, shall become effective July 1, 1988. However, upon ratification of this act, the Commission for Health Services may adopt rules pursuant to the authority granted under this act. These rules shall not be effective before February 1, 1988.

In the General Assembly read three times and ratified this the 12th day of August, 1987.