

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 494

Short Title: Vocational Rehab. Subrogation.

(Public)

Sponsors: Representative Cromer.

Referred to: Judiciary.

March 8, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO GRANT SUBROGATION RIGHTS AND PENALTIES FOR
3 WITHHOLDING INFORMATION TO THE DEPARTMENT OF HUMAN
4 RESOURCES, DIVISION OF VOCATIONAL REHABILITATION.

5 The General Assembly of North Carolina enacts:

6 Section 1. Article 59 of Chapter 143 of the General Statutes is amended by
7 adding a new section to read:

8 **"§ 143-547. Subrogation rights; withholding of information a misdemeanor.**

9 (a) Notwithstanding any other provisions of law, to the extent of payments under
10 this Article, the State Vocational Rehabilitation program shall be subrogated to all rights
11 of recovery, contractual or otherwise, of the beneficiary of such assistance, or his
12 personal representative, his heirs, or the administrator or executor of his estate, against
13 any person. The United States and the State of North Carolina shall be entitled to shares
14 in each net recovery under this section and shall be promptly paid. Their proportionate
15 shares shall be determined in accordance with the required matching formula as
16 specified in federal regulations that were in effect at the time the services were
17 provided.

18 (b) In furnishing a person rehabilitation services, including medical case services
19 under this Chapter, the Division of Vocational Rehabilitation Services is subrogated to
20 the person's right of recovery from:

- 21 (1) Personal insurance;
- 22 (2) Worker's Compensation;
- 23 (3) Any other person or personal injury caused by the other person's
24 negligence or wrongdoing; or

1 (4) Any other source.

2 (c) The Division of Vocational Rehabilitation Services' right to subrogation is
3 limited to the cost of the rehabilitation services provided by or through the agency for
4 which a financial needs test is a condition of the service provisions. Those services that
5 are provided without a financial needs test are excluded from these subrogation rights.

6 (d) The Division of Vocational Rehabilitation Services may totally or partially
7 waive subrogation rights when the Division finds that enforcement would tend to defeat
8 the client's process of rehabilitation or when client assets can be used to offset
9 additional agency costs.

10 (e) The Division of Vocational Rehabilitation Services may adopt rules for the
11 enforcement of its rights of subrogation.

12 (f) It shall be a misdemeanor for any person seeking or having obtained
13 assistance under this Article for himself or another to willfully fail to disclose to the
14 Division of Vocational Rehabilitation Services or its attorney the identity of any person
15 or organization against whom the recipient of assistance has a right of recovery,
16 contractual or otherwise."

17 Sec. 2. This act shall become effective with respect to payments made on or
18 after ratification.