

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 516  
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Short Title: Voc. Rehab. Subrogation.

(Public)

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Sponsors: Senator Ezzell.

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Referred to: Human Resources.

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March 20, 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 the assistance, or his  
12 personal representative, his heirs, or the administrator or executor of his estate, against  
13 any person; provided, however, that any attorney retained by the beneficiary of the  
14 assistance shall be compensated for his services in accordance with the following  
15 schedule and in the following order of priority from any amount obtained on behalf of  
16 the beneficiary by settlement with, judgment against, or otherwise from a third party by  
17 reason of such injury or death:

18 (1) First to the payment of any court costs taxed by the judgment;

19 (2) Second to the payment of the fee of the attorney representing the  
20 beneficiary making the settlement or obtaining the judgment, but this  
21 fee shall not exceed one-third of the amount obtained or recovered to  
22 which the right of subrogation applies;

- 1           (3) Third to the payment of the amount of assistance received by the  
2           beneficiary as prorated with other claims against the amount obtained  
3           or received from the third party to which the right of subrogation  
4           applies, but the amount shall not exceed one-third of the amount  
5           obtained or recovered to which the right of subrogation applies; and  
6           (4) Fourth to the payment of any amount remaining to the beneficiary or  
7           his personal representative.

8 The United States and the State of North Carolina shall be entitled to shares in each net  
9 recovery under this section. Their shares shall be promptly paid under this section and  
10 their proportionate parts of such sum shall be determined in accordance with the  
11 matching formulas in use during the period for which assistance was paid to the  
12 recipient.

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

- 16           (1) Personal insurance;  
17           (2) Worker's Compensation;  
18           (3) Any other person or personal injury caused by the other person's  
19           negligence or wrongdoing; or  
20           (4) Any other source.

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

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

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

31       (f) It is a misdemeanor for a person seeking or having obtained assistance under  
32 this Part for himself or another to willfully fail to disclose to the Division of Vocational  
33 Rehabilitation Services or its attorney the identity of any person or organization against  
34 whom the recipient of assistance has a right of recovery, contractual or otherwise."

35       Sec. 2. This act shall become effective October 1, 1989, and applies to  
36 recoveries granted on or after that date.