

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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HOUSE DRH10214-LN-292 (5/1)

Short Title: Protection & Advocacy to Private Nonprofit. (Public)

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Sponsors: Representative Farmer-Butterfield.

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Referred to:

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A BILL TO BE ENTITLED

1  
2 AN ACT TO REPEAL THE GOVERNOR'S ADVOCACY COUNCIL FOR  
3 PERSONS WITH DISABILITIES (GACPD); TO AUTHORIZE THE GOVERNOR  
4 TO DESIGNATE A PRIVATE NONPROFIT AGENCY AS NORTH  
5 CAROLINA'S PROTECTION AND ADVOCACY ORGANIZATION, AS  
6 REQUIRED BY FEDERAL LAW; AND TO PROVIDE THAT DISCONTINUED  
7 SERVICE RETIREMENT ALLOWANCE AND SEVERANCE PAY OPTIONS  
8 FOR ELIGIBLE STATE EMPLOYEES AFFECTED BY THE REDESIGNATION  
9 OF THE GOVERNOR'S ADVOCACY COUNCIL FOR PERSONS WITH  
10 DISABILITIES SHALL BE SELECTED AND APPLIED IN A MANNER THAT  
11 IS MOST BENEFICIAL TO THE ELIGIBLE STATE EMPLOYEE.

12 The General Assembly of North Carolina enacts:

13 **SECTION 1.** Part 14A of Article 9 of Chapter 143B of the General Statutes  
14 is repealed and the functions, powers, and duties of the Governor's Advocacy Council  
15 for Persons with Disabilities are terminated.

16 **SECTION 2.** Article 3 of Chapter 147 of the General Statutes is amended by  
17 adding the following new section to read:

18 **§ 147-20A. Designation of entity to administer and operate a protection and**  
19 **advocacy system.**

20 (a) Pursuant to the Developmental Disabilities Assistance and Bill of Rights Act  
21 of 2000, 42 U.S.C. § 15001, et seq., as amended, the Governor may designate the entity  
22 (designated entity) to implement, administer, and operate a protection and advocacy  
23 (P&A) system for individuals with developmental disabilities. The designated entity  
24 may be a private nonprofit organization with a multimember governing board or a  
25 public system with a multimember governing board. The designated entity shall be  
26 independent of any State agency that provides treatment or services other than advocacy  
27 services to persons with developmental disabilities or to mentally ill persons.

1       (b)    The designated entity shall have the authority to:

2           (1)   Pursue legal, administrative, and other appropriate remedies to protect  
3           the rights of developmentally disabled persons and mentally ill persons  
4           and to investigate allegations of abuse and neglect.

5           (2)   Implement a program for the protection and advocacy of the rights of  
6           mentally ill persons pursuant to the Protection and Advocacy for  
7           Individuals with Mental Illness (PAIMI) Program, 42 U.S.C. § 10801,  
8           et seq., as amended.

9           (3)   Administer such other protection and advocacy systems as created by  
10          the United States Congress and implemented pursuant to federal law.

11          (4)   Access individuals and records as required by 42 U.S.C. § 15001, et  
12          seq., as amended, and 42 U.S.C. § 10801 et seq., as amended.

13          (5)   Exercise the powers and duties provided by law to the Governor's  
14          Advocacy Council for Persons with Disabilities in effect prior to its  
15          termination under this section.

16       (c)    The Governor shall designate an appropriate State official to receive, on  
17       behalf of the State, notices of disallowance and compliance actions related to the  
18       designated entity."

19           **SECTION 3.** Subject to attorney-client privilege, the work product doctrine,  
20       and the rules of confidentiality established by the North Carolina State Bar, the  
21       designated agency named pursuant to G.S. 147-20A, as enacted by this act, shall have  
22       access to all records relating to the operations of the Governor's Advocacy Council for  
23       Persons with Disabilities that involve the designated agency's responsibilities pursuant  
24       to 42 U.S.C. § 15001, et seq., or 42 U.S.C § 10801, et seq.

25           **SECTION 4.** Funds appropriated for the Governor's Advocacy Council for  
26       Persons with Disabilities that are unencumbered and unexpended as of June 30, 2007,  
27       shall be appropriated or reallocated by the 2007 General Assembly.

28           **SECTION 5.** In applying discontinued service retirement allowance or  
29       severance wages under G.S. 126-8.5 to State employees affected by the redesignation of  
30       the Governor's Advocacy Council for Persons with Disabilities to a private nonprofit  
31       corporation, the Director of the Budget shall select and pay the discontinued service  
32       retirement allowance or severance wages option that offers the greatest benefit to the  
33       affected State employees who are eligible for the discontinued service retirement  
34       allowance or severance wages. Not later than May 1, 2008, the Department of  
35       Administration and the Office of State Personnel shall report to the House  
36       Appropriations Subcommittee on General Government, and the Senate Appropriations  
37       Subcommittee on General Government, on the placement or compensation of all State  
38       employees affected by the redesignation of the Governor's Advocacy Council for  
39       Persons with Disabilities.

40           **SECTION 6.** This act becomes effective July 1, 2007.