

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

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**SENATE DRS15272-LH-268 (03/03)**

Short Title: Incapacity to Proceed/24-hr Facility Closure. (Public)

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Sponsors: Senator Rand.

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Referred to:

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A BILL TO BE ENTITLED

AN ACT TO REQUIRE THAT NOTICE BE PROVIDED OF THE PENDING CLOSURE OF ANY RESIDENTIAL FACILITY THAT PROVIDES CARE AND TREATMENT TO AN INDIVIDUAL WHO WAS CHARGED WITH A VIOLENT CRIME, FOUND INCAPABLE OF PROCEEDING TO TRIAL, AND INVOLUNTARILY COMMITTED AND TO ASSURE THAT THE APPROPRIATE CONTINUITY OF CARE IS MAINTAINED FOR THE INDIVIDUAL.

The General Assembly of North Carolina enacts:

**SECTION 1.** Part 6 of Article 5 of Chapter 122C is amended by adding a new section to read:

**"§ 122C-255. Assurance for continuity of care for individuals involuntarily committed under a judicial finding of incapacity to proceed to trial for charge of violent crime; supplemental hearing upon closure of residential facility in certain circumstances.**

(a) The General Assembly finds that the continuity of care and treatment for any individual charged with a violent crime, found incompetent to stand trial, and involuntarily committed as provided by Article 56 of Chapter 15A of the General Statutes and Part 7 of Article 5 of Chapter 122C of the General Statutes is imperative for both the individual and the public safety. The General Assembly further finds that if such an individual is admitted for residential care or treatment to a residential facility extraordinary effort is required to assure that in the event of the closure of the facility, the necessary care and treatment is maintained for the individual and that he or she is admitted to an appropriate alternative residential facility if the individual continues to be in need of placement and if the original facility can no longer provide the necessary care or treatment.

1       (b) The operator of a residential facility operated under the authority of this  
2 Chapter who intends to close the facility shall notify the Attorney General of the  
3 pending closure of the facility in the following circumstances: the facility provides  
4 residential care or treatment, other than respite or emergency care, to an individual who  
5 was initially committed as a result of conduct resulting in the individual being charged  
6 with a violent crime, including a crime involving an assault with a deadly weapon and  
7 who was found incapable of proceeding to trial. The operator shall provide written  
8 notice of the intent to close the facility at least 60 days prior to the closing of the  
9 facility. The written notice shall include all of the following: the identifying  
10 information for the individual described by this subsection for whom the facility  
11 provides residential care or treatment; any necessary health care information for the  
12 individual; the measures required to assure the continued care and treatment of the  
13 individual, including admission of the individual to an appropriate alternative residential  
14 facility if the individual continues to be in need of placement; and whether those  
15 measures are complete.

16       (c) The Attorney General, upon receipt of a notice provided by the operator of a  
17 facility pursuant to subsection (b) of this section, shall review the information to  
18 determine whether the appropriate measures have been taken both to protect the public  
19 and to assure that the individual continues to receive any necessary care and treatment,  
20 including the admission of the individual to an appropriate alternative residential facility  
21 if the individual continues to be in need of placement. If the individual has not been  
22 admitted to an alternative residential facility, the Attorney General shall determine the  
23 basis for that decision. If the Attorney General, in his or her discretion, finds that a  
24 supplemental hearing is required or appropriate regarding the continued care and  
25 treatment of the individual, then the Attorney General shall request a supplemental  
26 hearing. The notice and procedures for the supplemental hearing shall follow  
27 G.S. 122C-268."

28               **SECTION 2.** This act becomes effective October 1, 2008.