



# SENATE BILL 445: Burt's Law

2015-2016 General Assembly

<b>Committee:</b>	Senate Judiciary II	<b>Date:</b>	April 15, 2015
<b>Introduced by:</b>	Sens. Krawiec, Newton, Wells	<b>Prepared by:</b>	Bill Patterson
<b>Analysis of:</b>	PCS to First Edition S445-CSTG-12		Committee Counsel

**SUMMARY:** *The PCS for Senate Bill 445 would enhance protections for clients of facilities whose primary purpose is to provide services for the care, treatment, habilitation, and rehabilitation of individuals with mental illness, developmental disabilities, or substance abuse disorders.*

*The PCS would also: increase punishments for client abuse, exploitation, or neglect; impose a reporting requirement on employees and volunteers who witness a sexual offense or offense against morality perpetrated against a client; and make the failure to report these violations a Class A1 or Class 1 misdemeanor.*

*The PCS adds new Section 1 to the original bill requiring the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services to establish standardized procedures to train and keep records of the measures used to comply with the employee and volunteer reporting requirements in G.S. 122C-66.*

**CURRENT LAW:** G.S. 122C-26 authorizes the Commission for Mental Health, Developmental disabilities, and Substance Abuse Services ("the Commission") to issue declaratory rulings, to make rules to meet the provisions and purposes of the Article and to govern licensure and accreditation of residential treatment facilities.

G.S. 122C-66 provides protection from abuse and exploitation, and imposes reporting requirements upon employees and volunteers at facilities that provide care, treatment, habilitation, or rehabilitation of mentally ill, developmentally disabled, or substance abuse clients.

### **BILL ANALYSIS:**

**Section 1** of the PCS would amend G.S. 122C-26(5) to require the Commission to establish standardized procedures for facilities in training and record keeping regarding the measures taken to inform employees and volunteers of their duties to report to the appropriate person or agency any abuse of a client they witness or of which they have knowledge.

**Section 2** of the PCS would amend G.S. 122C-66 to:

- Increase the penalty from a Class 1 misdemeanor to a Class A1 misdemeanor for any employee or volunteer who knowingly causes pain or injury to a client.
- Increase the penalty from a Class 3 misdemeanor to a Class 1 misdemeanor for any employee or volunteer who witnesses and does not report another employee or volunteer who knowingly causes pain or injury to a client or takes personal property from a client.
- Add a provision that requires an employee or volunteer who witnesses a sex crime or offense against morality perpetrated against a client to report the alleged crime within 24 hours to the department of social services in the county where the facility serves the client and to the



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district attorney in the district where the facility serves the client. Failure to report the alleged crime would be a Class A1 misdemeanor.

- Add a provision requiring the county department of social services and district attorney receiving a report of an alleged sex crime or offense against morality to investigate or provide for the investigation of each such report.

**EFFECTIVE DATE:** This act would become effective December 1, 2015 and would apply to offenses committed on or after that date.

*Tawanda Foster, counsel to House Health, substantially contributed to this summary.*