



## SENATE BILL 445: Burt's Law

2015-2016 General Assembly

**Committee:**

**Introduced by:**

**Analysis of:** S.L. 2015-36

**Date:**

**Prepared by:** Tawanda Foster  
Staff Attorney

**SUMMARY:** *S.L. 2015-36 enhances 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.*

*This act increases punishments for client abuse, exploitation, or neglect; imposes a reporting requirement on employees and volunteers who witness a sexual offense or offense against morality perpetrated against a client; and makes the failure to report these violations a Class A1 or Class 1 misdemeanor.*

*Also, this act adds a requirement that the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services (the Commission) 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.*

*The section of this act pertaining to the duties of the Commission became effective May 26, 2015. The remainder of this act became effective December 1, 2015, and applies to offenses committed on or after that date.*

**CURRENT LAW:** G.S. 122C-26 provides the Commission with powers and duties 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, as well as reporting requirements for individuals in facilities that provide care, treatment, habilitation, or rehabilitation of mentally ill, developmentally disabled, or substance abuser clients.

### **BILL ANALYSIS:**

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

**Section 2** of the law amends G.S. 122C-66 to make the following changes:

- Increases 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. This provision does not apply to an employee or volunteer who uses reasonable force to protect himself or others from a violent client.
- Adds a provision that makes it a Class 1 misdemeanor for any employee or volunteer to borrow or take personal property from a client. This provision does not apply to an



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employee or volunteer who uses reasonable force to protect himself or others from a violent client.

- Increases 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.
- Adds 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 or the district attorney in the district where the facility serves the client or the appropriate local law enforcement agency in the city or county where the facility serves the client. Failure to report this alleged crime would be a Class A1 misdemeanor. No employee making a report may be threatened or harassed by any other employee or volunteer because of the report.
- Adds a provision that the county department of social services and district attorney who receives a report of an alleged sex crime or offense against morality shall investigate or provide for the investigation of each such report.

**EFFECTIVE DATE:** Section 2 of this act became effective December 1, 2015, and applies to offenses committed on or after that date. The remainder of this act became effective May 26, 2015.