

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE DRS85344-LL-300 (05/14)

Short Title: Judicial Department Funding/Interpreters. (Public)

Sponsors: Senator Clodfelter.

Referred to:

A BILL TO BE ENTITLED

1
2 AN ACT TO EXPAND THE TYPES OF EXPENSES THAT MAY BE PAID BY THE
3 JUDICIAL DEPARTMENT TO INCLUDE EXPENSES FOR ADMINISTRATIVE
4 SUPPORT, TO AUTHORIZE SUPPLEMENTATION BY LOCAL GOVERNMENTS OF
5 THE SALARIES OF NONELECTED JUDICIAL DEPARTMENT OFFICERS AND
6 EMPLOYEES IN ORDER TO ATTRACT AND RETAIN THE BEST QUALIFIED
7 OFFICERS AND EMPLOYEES FOR THE JUDICIAL BRANCH OF GOVERNMENT,
8 TO PROVIDE EQUAL ACCESS TO COURT SERVICES AND FULLY FUND
9 INTERPRETER NEEDS IN THE COURTS, AND TO EXPAND THE ALLOWANCE
10 FOR JUVENILE COURT RECORDS TO BE CONSIDERED IN MAKING THE RISK
11 DETERMINATION IN ESTABLISHING BOND.

12 The General Assembly of North Carolina enacts:

13 **SECTION 1.** G.S. 7A-300(a) reads as rewritten:

14 "(a) The operating expenses of the Judicial Department shall be paid from State funds,
15 out of appropriations for this purpose made by the General Assembly, or from funds provided
16 by local governments pursuant to ~~G.S. 153A-212.1 and G.S. 160A-289.1.~~ G.S. 7A-300.1,
17 153A-212.1, or 160A-289.1. The Administrative Office of the Courts shall prepare budget
18 estimates to cover these expenses, including therein the following items and such other items as
19 are deemed necessary for the proper functioning of the Judicial Department:

- 20 (1) Salaries, departmental expense, printing and other costs of the appellate
21 division;
- 22 (2) Salaries and expenses of superior court judges, district attorneys, assistant
23 district attorneys, public defenders, and assistant public defenders, and fees
24 and expenses of counsel assigned to represent indigents under the provisions
25 of Subchapter IX of this Chapter;
- 26 (3) Salaries, travel expenses, departmental expense, printing and other costs of
27 the Administrative Office of the Courts;
- 28 (4) Salaries and travel expenses of district judges, magistrates, and family court
29 counselors;
- 30 (5) Salaries and travel expenses of clerks of superior court, their assistants,
31 deputies, and other employees, and the expenses of their offices, including
32 supplies and materials, postage, telephone and telegraph, bonds and
33 insurance, equipment, and other necessary items;
- 34 (6) Fees and travel expenses of jurors, and of witnesses required to be paid by
35 the State;



- (7) Compensation and allowances of court reporters;
- (8) Briefs for counsel and transcripts and other records for adequate appellate review when an appeal is taken by an indigent person;
- (9) Transcripts of preliminary hearings in indigency cases and, in cases in which the defendant pays for a transcript of the preliminary hearing, a copy for the district attorney;
- (10) Transcript of the evidence and trial court charge furnished the district attorney when a criminal action is appealed to the appellate division;
- (10a) Administrative support;
- (11) All other expenses arising out of the operations of the Judicial Department which by law are made the responsibility of the State; and
- (12) Operating expenses of the Judicial Council and the Judicial Standards Commission."

SECTION 2. Article 27 of Chapter 7A of the General Statutes is amended by adding a new section to read:

"§ 7A-300.1. Local supplementation of salaries for certain officers and employees.

In order to attract and retain the best qualified officers and employees for positions in the Judicial Branch of government, the Administrative Office of the Courts may contract with the governing body of a unit of local government for the provision of local funds to supplement the salaries of Judicial Department employees, other than elected officials and magistrates, who serve the superior court district, district court district, or prosecutorial district containing that unit of local government. Any employee who receives salary supplementation under this section shall be notified before receiving it that the supplementation is subject to the availability of local funds and may be discontinued at any time."

SECTION 3. Section 26.1A(a) of S.L. 2009-451 reads as rewritten:

"SECTION 26.1A.(a) The salaries of those officers and employees, whose salaries for the 2008-2009 fiscal year were set or increased in Sections 26.1, 26.2, 26.3, 26.4, 26.5, 26.6, 26.7, 26.8, 26.9, 26.10, 26.11, 26.11A, 26.12, 26.12D, 26.13, 26.14, 26.18, and 26.19 of Session Law 2008-107, and in effect on June 30, 2009, or the last date in pay status during the 2008-2009 fiscal year if earlier, shall remain in effect and shall not increase for the 2009-2010 and 2010-2011 fiscal years, except:

- (1) As provided for by Section 29.20A of S.L. 2005-276.
- (2) For Community College faculty as otherwise provided in Section 8.1 of this act.
- (3) For University of North Carolina faculty as otherwise provided by the Faculty Recruiting and Retention Fund or the Distinguished Professors Endowment Fund.
- (3a) For Judicial Department employees for local supplementation as authorized under G.S. 7A-300.1.
- (4) Salaries may be increased for reallocations or promotions, in-range adjustments for job change, career progression adjustments for demonstrated competencies, or any other adjustment related to an increase in job duties or responsibilities, none of which are subject to the salary freeze otherwise provided by this subsection. All other salary increases are prohibited."

SECTION 4.(a) G.S. 7A-314(f) is repealed.

SECTION 4.(b) Article 28 of Chapter 7A of the General Statutes is amended by adding a new section to read:

"§ 7A-314A. Foreign language interpreting and translating services.

(a) Notwithstanding any other provision of law, if a party or witness in the General Court of Justice does not speak or understand the English language, the cost of interpreting or translating services for the party or witness is payable from funds appropriated to the Judicial

1 Department. With regard to a party for which the Judicial Department is bearing the costs of
2 representation, or a witness for such a party, the Administrative Office of the Courts and the
3 Office of Indigent Defense Services may enter into a memorandum of understanding for the
4 payment of interpreting and translating services. The appointment and payment of interpreters
5 and translators under this section shall be made in accordance with G.S. 7A-343(9c).

6 (b) If a party or witness elects to use an interpreter or translator of his or her own choice
7 in lieu of an interpreter or translator provided by the Administrative Office of the Courts under
8 this section, the party or witness shall bear the cost of the interpreter or translator.

9 (c) Except in cases in which the Judicial Department is bearing the costs of
10 representation, nothing in this section shall be construed to obligate the Administrative Office
11 of the Courts to bear the cost of interpreting or translating services for noncourt services and
12 activities, such as discovery, trial, preparation, and attorney-client meetings.

13 (d) The court may order a party or witness to bear the cost of interpreting or translating
14 services when the party or witness was the person for whom the services were required and the
15 party or witness, without good cause, failed to appear."

16 **SECTION 4.(c)** G.S. 7A-343(9c) reads as rewritten:

17 **"§ 7A-343. Duties of Director.**

18 The Director is the Administrative Officer of the Courts, and the Director's duties include
19 all of the following:

20 ...

21 (9c) Prescribe policies and procedures for the appointment and payment of
22 foreign language interpreters in those cases specified in ~~G.S. 7A-314(f).~~
23 G.S. 7A-314A. These policies and procedures shall be applied uniformly
24 throughout the General Court of Justice. After consultation with the Joint
25 Legislative Commission on Governmental Operations, the Director may also
26 convert contractual foreign language interpreter positions to permanent State
27 positions when the Director determines that it is more cost-effective to do so.

28"

29 **SECTION 4.(d)** G.S. 7A-305(d) reads as rewritten:

30 "(d) The following expenses, when incurred, are assessable or recoverable, as the case
31 may be. The expenses set forth in this subsection are complete and exclusive and constitute a
32 limit on the trial court's discretion to tax costs pursuant to G.S. 6-20:

- 33 (1) Witness fees, as provided by law.
- 34 (2) Jail fees, as provided by law.
- 35 (3) Counsel fees, as provided by law.
- 36 (4) Expense of service of process by certified mail and by publication.
- 37 (5) Costs on appeal to the superior court, or to the appellate division, as the case
38 may be, of the original transcript of testimony, if any, insofar as essential to
39 the appeal.
- 40 (6) Fees for personal service and civil process and other sheriff's fees, as
41 provided by law. Fees for personal service by a private process server may
42 be recoverable in an amount equal to the actual cost of such service or fifty
43 dollars (\$50.00), whichever is less, unless the court finds that due to
44 difficulty of service a greater amount is appropriate.
- 45 (7) Fees of mediators appointed by the court, mediators agreed upon by the
46 parties, guardians ad litem, referees, receivers, commissioners, surveyors,
47 arbitrators, appraisers, and other similar court appointees, as provided by
48 law. The fee of such appointees shall include reasonable reimbursement for
49 stenographic assistance, when necessary.
- 50 (8) Fees of ~~interpreters, when authorized and approved by the court.~~ interpreters
51 not paid by the Administrative Office of the Courts under G.S. 7A-314A.

1 (9) Premiums for surety bonds for prosecution, as authorized by G.S. 1-109.

2 (10) Reasonable and necessary expenses for stenographic and videographic
3 assistance directly related to the taking of depositions and for the cost of
4 deposition transcripts.

5 (11) Reasonable and necessary fees of expert witnesses solely for actual time
6 spent providing testimony at trial, deposition, or other proceedings.

7 Nothing in this subsection or in G.S. 6-20 shall be construed to limit the trial court's authority
8 to award fees and expenses in connection with pretrial discovery matters as provided in Rule
9 26(b) or Rule 37 of the Rules of Civil Procedure, and no award of costs made pursuant to this
10 section or pursuant to G.S. 6-20 shall reverse or modify any such orders entered in connection
11 with pretrial discovery."

12 **SECTION 4.(e)** On and after the effective date of this act, no order for
13 reimbursement may be entered against a party or witness for the services of a court-appointed
14 interpreter or translator rendered prior to the effective date of this act, except as provided in
15 G.S. 7A-314A(d) or G.S. 7A-305(d).

16 **SECTION 5.** G.S. 7B-3000(e) reads as rewritten:

17 "(e) Notwithstanding any other provision of law, if the defendant in a criminal
18 proceeding involving a Class A1 misdemeanor or a felony was less than 21 years of age at the
19 time of the offense, information obtained pursuant to subsection (b) of this section regarding
20 the juvenile's record of an adjudication of delinquency for an offense that would be a Class A1
21 misdemeanor or a felony if committed by an adult, ~~where the adjudication occurred 18 months~~
22 ~~or less before the defendant reached 16 years of age or the adjudication occurred after the~~
23 ~~defendant reached 16 years of age,~~ adult may be used by law enforcement, the magistrate, the
24 courts, and the prosecutor for pretrial release, plea negotiating decisions, and plea acceptance
25 decisions. Information obtained regarding any juvenile record shall remain confidential and
26 shall not be placed in any public record."

27 **SECTION 6.** Sections 4 and 5 of this act become effective December 1, 2010. The
28 remainder of this act becomes effective July 1, 2010.