

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE BILL 580  
Judiciary I Committee Substitute Adopted 6/7/11

Short Title: AOC Omnibus Courts Act.

(Public)

Sponsors:

Referred to:

April 14, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE FOR AUTOMATIC REINSTATEMENT OF CASES THAT WERE  
3 DISMISSED WITH LEAVE IF THOSE CASES ARE WAIVABLE, TO ALLOW FOR  
4 SERVICE OF CRIMINAL PROCESS BY A LAW ENFORCEMENT OFFICER BEFORE  
5 A MAGISTRATE EVEN WHEN THE OFFICER IS OUTSIDE THE OFFICER'S  
6 TERRITORIAL JURISDICTION, TO ADD TO THE STATUTORY DUTIES OF THE  
7 DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE COURTS, TO REPEAL  
8 THE REQUIREMENT THAT MAGISTRATES BE RESIDENTS OF THE COUNTY TO  
9 WHICH THEY ARE APPOINTED TO SERVE, TO CLARIFY WHEN A CLERK OF  
10 SUPERIOR COURT MAY RELEASE FUNDS HELD UNDER A CLAIM OF LIEN ON  
11 REAL PROPERTY, TO GRANT THE COURT THE DISCRETION TO FIND THAT  
12 DISTANCE FROM THE COURT IS GOOD CAUSE TO EXEMPT A PARTY FROM  
13 CUSTODY MEDIATION, AND TO PROVIDE THAT FEES COLLECTED BY THE  
14 DISPUTE RESOLUTION COMMISSION ARE NONREVERTING.

15 The General Assembly of North Carolina enacts:

16 **SECTION 1.** G.S. 15A-932 is amended by adding a new subsection to read:

17 "(d1) If the proceeding was dismissed pursuant to subdivision (2) of subsection (a) of this  
18 section and charged only offenses for which written appearance, waiver of trial or hearing, and  
19 plea of guilty or admission of responsibility are permitted pursuant to G.S. 7A-148(a), and the  
20 defendant later tenders to the court that waiver and payment in full of all applicable fines, costs,  
21 and fees, the clerk shall accept said waiver and payment without need for a written  
22 reinstatement from the prosecutor. Upon disposition of the case pursuant to this subsection, the  
23 clerk shall recall any outstanding criminal process in the case pursuant to  
24 G.S. 15A-301(g)(2)b."

25 **SECTION 2.(a)** G.S. 15A-301(c) reads as rewritten:

26 "(c) Service. –

27 (1) A ~~law enforcement~~ law enforcement officer or other employee designated as  
28 provided in subsection (b) receiving for service or execution a criminal  
29 process that was first created and exists only in paper form must note  
30 thereon the date and time of its receipt. A law enforcement officer receiving  
31 a copy of a criminal process that was printed in paper form as provided in  
32 G.S. 15A-301.1 shall cause the date of receipt to be recorded as provided in  
33 that section. Upon execution or service, a copy of the process must be  
34 delivered to the person arrested or served.

35 (2) A corporation may be served with criminal summons as provided in  
36 G.S. 15A-773.



1           (3)    Notwithstanding any other provision of law, a municipal law enforcement  
2           officer may serve criminal process in a building housing a court or office of  
3           the General Court of Justice or before any judicial official authorized to  
4           conduct an initial appearance if the officer otherwise has territorial  
5           jurisdiction to serve criminal process in a municipality located in that  
6           county. The officer may arrest the person named in the process as provided  
7           in G.S. 15A-402(b). A municipal law enforcement officer serving criminal  
8           process as provided in this subdivision shall be protected under subsection  
9           (f) of this section."

10           **SECTION 2.(b)** G.S. 15A-402(b) reads as rewritten:

11           "(b)   Territorial Jurisdiction of County and City Officers. – ~~Law enforcement~~ Law  
12           enforcement officers of cities and counties may arrest persons within their particular cities or  
13           counties and on any property and rights-of-way owned by the city or county outside its limits.  
14           Law enforcement officers of cities serving criminal process as provided in G.S. 15A-301(c)(3)  
15           may arrest the person named in the process when required by the process."

16           **SECTION 3.(a)** G.S. 7A-343 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           (1)    Collect and compile statistical data and other information on the judicial and  
21           financial operation of the courts and on the operation of other offices directly  
22           related to and serving the courts.
- 23           (2)    Determine the state of the dockets and evaluate the practices and procedures  
24           of the courts, and make recommendations concerning the number of judges,  
25           district attorneys, and magistrates required for the efficient administration of  
26           justice.
- 27           (3)    Prescribe uniform administrative and business methods, systems, forms and  
28           records to be used in the offices of the clerks of superior court.
- 29           (3a)   Maintain and staff as necessary an Internal Audit Division of the Judicial  
30           Department and the Administrative Office of the Courts that:
- 31           a.    Evaluates and discloses potential weaknesses in the effectiveness of  
32           internal controls in the court system for the purpose of safeguarding  
33           public funds and assets and minimizing incidences of fraud, waste,  
34           and abuse.
- 35           b.    Examines and analyzes the design and effectiveness of administrative  
36           and procedural operations.
- 37           c.    Ensures overall compliance with federal and State laws, internal and  
38           external regulations, rules and procedures, and other applicable  
39           requirements.
- 40           d.    Inspects and reviews the effectiveness and efficiency of processes  
41           and proceedings conducted by judicial officers.
- 42           e.    Collaborates with other divisions to guide, direct, and support court  
43           officials in efforts to conform to both recommended and required  
44           compliance standards.
- 45           f.    Executes routine audits of the Judicial Department's systems and  
46           controls, including, but not limited to:
- 47           1.    Accounting systems and controls.
- 48           2.    Administrative systems and controls.
- 49           3.    Electronic data processing systems and controls.

- 1 (4) Prepare and submit budget estimates of State appropriations necessary for  
2 the maintenance and operation of the Judicial Department, and authorize  
3 expenditures from funds appropriated for these purposes.
- 4 (5) Investigate, make recommendations concerning, and assist in the securing of  
5 adequate physical accommodations for the General Court of Justice.
- 6 (6) Procure, distribute, exchange, transfer, and assign such equipment, books,  
7 forms and supplies as are to be acquired with State funds for the General  
8 Court of Justice.
- 9 (7) Make recommendations for the improvement of the operations of the  
10 Judicial Department.
- 11 (8) Prepare and submit an annual report on the work of the Judicial Department  
12 to the Chief Justice, and transmit a copy to each member of the General  
13 Assembly. The annual report shall include the activities of each North  
14 Carolina Business Court site, including the number of new, closed, and  
15 pending cases, the average age of pending cases, and the annual  
16 expenditures for the prior fiscal year.
- 17 (9) Assist the Chief Justice in performing his duties relating to the transfer of  
18 district court judges for temporary or specialized duty.
- 19 (9a) Establish and operate systems and services that provide for electronic filing  
20 in the court system and further provide electronic transaction processing and  
21 access to court information systems pursuant to G.S. 7A-343.2.
- 22 (9b) Enter into contracts with one or more private vendors to provide for the  
23 payment of fines, fees, and costs due to the court by credit, charge, or debit  
24 cards; such contracts may provide for the assessment of a convenience or  
25 transaction fee by the vendor to cover the costs of providing this service.
- 26 (9c) Prescribe policies and procedures for the appointment and payment of  
27 foreign language interpreters in those cases specified in G.S. 7A-314(f).  
28 These policies and procedures shall be applied uniformly throughout the  
29 General Court of Justice. After consultation with the Joint Legislative  
30 Commission on Governmental Operations, the Director may also convert  
31 contractual foreign language interpreter positions to permanent State  
32 positions when the Director determines that it is more cost-effective to do so.
- 33 (9d) Analyze the use of contractual positions in the Judicial Department and, after  
34 consultation with the Joint Legislative Commission on Governmental  
35 Operations, convert contractual positions to permanent State positions when  
36 the Director determines it is in the best interests of the Judicial Department  
37 to do so.
- 38 (9e) Prescribe policies and procedures for the appointment and payment of deaf  
39 and hearing-impaired interpreters, in accordance with G.S. 8B-8(a), for those  
40 cases specified in G.S. 8B-8(b) and (c). These policies and procedures shall  
41 be applied uniformly throughout the General Court of Justice. After  
42 consultation with the Joint Legislative Commission on Governmental  
43 Operations, the Director may also convert contractual hearing-impaired  
44 interpreter positions to permanent State positions when the Director  
45 determines that it is more cost-effective to do so.
- 46 (9f) Prescribe policies and procedures for the payment of those experts acting on  
47 behalf of the court or prosecutorial offices, as provided for in  
48 G.S. 7A-314(d).
- 49 (10) Perform such additional duties and exercise such additional powers as may  
50 be prescribed by statute or assigned by the Chief Justice.

- 1           (11) Prescribe policies and procedures for the assignment and compensation of  
2 magistrates performing temporary duty outside their county of residence  
3 during an emergency, as provided for in G.S. 7A-146(9).
- 4           (12) Issue photographic identification cards to appropriate Judicial Department  
5 employees and officials authorizing those employees and officials to travel  
6 to and from, enter, and work in court and court-related locations for the  
7 conduct or support of essential court operations in preparation for, during, or  
8 in the aftermath of emergency situations, including, but not limited to,  
9 catastrophic conditions. Notwithstanding any other provision of the law, and  
10 notwithstanding any emergency restrictions on travel or closures that may  
11 have been issued due to the emergency situations, an identification card  
12 issued pursuant to this subdivision shall be honored by all State and local  
13 law enforcement, emergency and health officers, and other authorities to  
14 permit the person to whom the card was issued to travel to and from court  
15 and court-related locations and otherwise carry out the purposes authorized  
16 by this subdivision. An identification card issued pursuant to this subdivision  
17 shall set forth its effective date and the full name, position, and employing  
18 unit of the person to whom the card is issued, with a provision, signed by the  
19 person, stating that the person is credentialed solely for the purposes stated  
20 in this subdivision and that the card shall not be used for any other purpose.
- 21           (13) Prescribe policies and procedures and establish and operate systems for the  
22 exchange of criminal and civil information from and to the Judicial  
23 Department and local, State, and federal governments and the Eastern Band  
24 of Cherokee Indians.
- 25           (14) Transfer equipment and supply funds to the appropriate programs and  
26 between programs as the equipment priorities and supply consumptions  
27 occur during the operating year.
- 28           (15) Notwithstanding the provisions of G.S. 138-6(a)(1), elect to establish a  
29 per-mile reimbursement rate for transportation by privately owned vehicles  
30 at a rate less than the business standard mileage rate set by the Internal  
31 Revenue Service."

32           **SECTION 3.(b)** G.S. 7A-146 reads as rewritten:

33           **"§ 7A-146. Administrative authority and duties of chief district judge.**

34           The chief district judge, subject to the general supervision of the Chief Justice of the  
35 Supreme Court, has administrative supervision and authority over the operation of the district  
36 courts and magistrates in his district. These powers and duties include, but are not limited to,  
37 the following:

- 38           ...
- 39           (9)       Assigning magistrates during an emergency to temporary duty outside the  
40 county of their residence but within that ~~district;~~ district pursuant to the  
41 policies and procedures prescribed under G.S. 7A-343(11); and, upon the  
42 request of a chief district judge of an adjoining district and upon the  
43 approval of the Administrative Officer of the Courts, to temporary duty in  
44 the district of the requesting chief district judge. ~~judge pursuant to the~~  
45 policies and procedures prescribed under G.S. 7A-343(11).

46           ...."

47           **SECTION 4.** G.S. 7A-171.2(a) is repealed.

48           **SECTION 5.** G.S. 44A-16 reads as rewritten:

49           **"§ 44A-16. Discharge of record claim of lien on real property.**

50           (a)       Any claim of lien on real property filed under this Article may be discharged by any  
51 of the following methods:

- 1 (1) The lien claimant of record, the claimant's agent or attorney, in the presence  
2 of the clerk of superior court may acknowledge the satisfaction of the claim  
3 of lien on real property indebtedness, whereupon the clerk of superior court  
4 shall forthwith make upon the record of such claim of lien on real property  
5 an entry of such acknowledgment of satisfaction, which shall be signed by  
6 the lien claimant of record, the claimant's agent or attorney, and witnessed  
7 by the clerk of superior court.
- 8 (2) The owner may exhibit an instrument of satisfaction signed and  
9 acknowledged by the lien claimant of record which instrument states that the  
10 claim of lien on real property indebtedness has been paid or satisfied,  
11 whereupon the clerk of superior court shall cancel the claim of lien on real  
12 property by entry of satisfaction on the record of such claim of lien on real  
13 property.
- 14 (3) By failure to enforce the claim of lien on real property within the time  
15 prescribed in this Article.
- 16 (4) By filing in the office of the clerk of superior court the original or certified  
17 copy of a judgment or decree of a court of competent jurisdiction showing  
18 that the action by the claimant to enforce the claim of lien on real property  
19 has been dismissed or finally determined adversely to the claimant.
- 20 (5) Whenever a sum equal to the amount of the claim or claims of lien on real  
21 property claimed is deposited with the clerk of court, to be applied to the  
22 payment finally determined to be due, whereupon the clerk of superior court  
23 shall cancel the claim or claims of lien on real property or claims of lien on  
24 real property of record.
- 25 (6) Whenever a corporate surety bond, in a sum equal to one and one-fourth  
26 times the amount of the claim or claims of lien on real property claimed and  
27 conditioned upon the payment of the amount finally determined to be due in  
28 satisfaction of said claim or claims of lien on real property, is deposited with  
29 the clerk of court, whereupon the clerk of superior court shall cancel the  
30 claim or claims of lien on real property of record.

31 (b) The clerk may release funds held or a corporate surety bond upon receipt of one of  
32 the following:

- 33 (1) Written agreement of the parties.  
34 (2) A final judgment of a court of competent jurisdiction.  
35 (3) A consent order."

36 **SECTION 6.** G.S. 50-13.1(c) reads as rewritten:

37 "(c) For good cause, on the motion of either party or on the court's own motion, the court  
38 may waive the mandatory setting under Article 39A of Chapter 7A of the General Statutes of a  
39 contested custody or visitation matter for mediation. Good cause may include, but is not limited  
40 to, the following: a showing of undue hardship to a party; an agreement between the parties for  
41 voluntary mediation, subject to court approval; allegations of abuse or neglect of the minor  
42 child; allegations of alcoholism, drug abuse, or domestic violence between the parents in  
43 common; or allegations of severe psychological, psychiatric, or emotional problems. A  
44 showing by either party that the party resides more than fifty miles from the court ~~shall~~ may be  
45 considered good cause."

46 **SECTION 7.** G.S. 7A-38.2(d) reads as rewritten:

47 "(d) An administrative fee, not to exceed two hundred dollars (\$200.00), may be charged  
48 by the Administrative Office of the Courts to applicants for certification and annual renewal of  
49 certification for mediators and mediation training programs operating under this Article. The  
50 fees collected may be used by the Director of the Administrative Office of the Courts to  
51 establish and maintain the operations of the Commission and its staff. Notwithstanding the

1 provisions of G.S. 143C-1-2(b), certification and renewal fees collected by the Dispute  
2 Resolution Commission are nonreverting and are only to be used at the direction of the  
3 Commission."

4 **SECTION 8.** This act becomes effective July 1, 2011.