

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

**SENATE BILL 580
RATIFIED BILL**

AN ACT TO PROVIDE FOR AUTOMATIC REINSTATEMENT OF CASES THAT WERE DISMISSED WITH LEAVE IF THOSE CASES ARE WAIVABLE, TO ADD TO THE STATUTORY DUTIES OF THE DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE COURTS; TO CLARIFY WHEN A CLERK OF SUPERIOR COURT MAY RELEASE FUNDS HELD UNDER A CLAIM OF LIEN ON REAL PROPERTY, TO GRANT THE COURT THE DISCRETION TO FIND THAT DISTANCE FROM THE COURT IS GOOD CAUSE TO EXEMPT A PARTY FROM CUSTODY MEDIATION, TO PROVIDE THAT FEES COLLECTED BY THE DISPUTE RESOLUTION COMMISSION ARE NONREVERTING, AND TO MAKE CLARIFYING CHANGES TO S.L. 2011-390, FORCED COMBINATIONS.

The General Assembly of North Carolina enacts:

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

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

SECTION 2.(a) G.S. 7A-343 reads as rewritten:

"§ 7A-343. Duties of Director.

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

- (1) Collect and compile statistical data and other information on the judicial and financial operation of the courts and on the operation of other offices directly related to and serving the courts.
- (2) Determine the state of the dockets and evaluate the practices and procedures of the courts, and make recommendations concerning the number of judges, district attorneys, and magistrates required for the efficient administration of justice.
- (3) Prescribe uniform administrative and business methods, systems, forms and records to be used in the offices of the clerks of superior court.
- (3a) Maintain and staff as necessary an Internal Audit Division of the Judicial Department and the Administrative Office of the Courts that:
 - a. Evaluates and discloses potential weaknesses in the effectiveness of internal controls in the court system for the purpose of safeguarding public funds and assets and minimizing incidences of fraud, waste, and abuse.
 - b. Examines and analyzes the design and effectiveness of administrative and procedural operations.
 - c. Ensures overall compliance with federal and State laws, internal and external regulations, rules and procedures, and other applicable requirements.
 - d. Inspects and reviews the effectiveness and efficiency of processes and proceedings conducted by judicial officers.



- e. Collaborates with other divisions to guide, direct, and support court officials in efforts to conform to both recommended and required compliance standards.
- f. Executes routine audits of the Judicial Department's systems and controls, including, but not limited to:
 - 1. Accounting systems and controls.
 - 2. Administrative systems and controls.
 - 3. Electronic data processing systems and controls.
- (4) Prepare and submit budget estimates of State appropriations necessary for the maintenance and operation of the Judicial Department, and authorize expenditures from funds appropriated for these purposes.
- (5) Investigate, make recommendations concerning, and assist in the securing of adequate physical accommodations for the General Court of Justice.
- (6) Procure, distribute, exchange, transfer, and assign such equipment, books, forms and supplies as are to be acquired with State funds for the General Court of Justice.
- (7) Make recommendations for the improvement of the operations of the Judicial Department.
- (8) Prepare and submit an annual report on the work of the Judicial Department to the Chief Justice, and transmit a copy to each member of the General Assembly. The annual report shall include the activities of each North Carolina Business Court site, including the number of new, closed, and pending cases, the average age of pending cases, and the annual expenditures for the prior fiscal year.
- (9) Assist the Chief Justice in performing his duties relating to the transfer of district court judges for temporary or specialized duty.
- (9a) Establish and operate systems and services that provide for electronic filing in the court system and further provide electronic transaction processing and access to court information systems pursuant to G.S. 7A-343.2.
- (9b) Enter into contracts with one or more private vendors to provide for the payment of fines, fees, and costs due to the court by credit, charge, or debit cards; such contracts may provide for the assessment of a convenience or transaction fee by the vendor to cover the costs of providing this service.
- (9c) Prescribe policies and procedures for the appointment and payment of foreign language interpreters in those cases specified in G.S. 7A-314(f). These policies and procedures shall be applied uniformly throughout the General Court of Justice. After consultation with the Joint Legislative Commission on Governmental Operations, the Director may also convert contractual foreign language interpreter positions to permanent State positions when the Director determines that it is more cost-effective to do so.
- (9d) Analyze the use of contractual positions in the Judicial Department and, after consultation with the Joint Legislative Commission on Governmental Operations, convert contractual positions to permanent State positions when the Director determines it is in the best interests of the Judicial Department to do so.
- (9e) Prescribe policies and procedures for the appointment and payment of deaf and hearing-impaired interpreters, in accordance with G.S. 8B-8(a), for those cases specified in G.S. 8B-8(b) and (c). These policies and procedures shall be applied uniformly throughout the General Court of Justice. After consultation with the Joint Legislative Commission on Governmental Operations, the Director may also convert contractual hearing-impaired interpreter positions to permanent State positions when the Director determines that it is more cost-effective to do so.
- (9f) Prescribe policies and procedures for the payment of those experts acting on behalf of the court or prosecutorial offices, as provided for in G.S. 7A-314(d).
- (10) Perform such additional duties and exercise such additional powers as may be prescribed by statute or assigned by the Chief Justice.

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

SECTION 2.(b) G.S. 7A-146 reads as rewritten:

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

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

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

...
SECTION 3. G.S. 44A-16 reads as rewritten:

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

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

- (1) The lien claimant of record, the claimant's agent or attorney, in the presence of the clerk of superior court may acknowledge the satisfaction of the claim of lien on real property indebtedness, whereupon the clerk of superior court shall forthwith make upon the record of such claim of lien on real property an entry of such acknowledgment of satisfaction, which shall be signed by the lien claimant of record, the claimant's agent or attorney, and witnessed by the clerk of superior court.
- (2) The owner may exhibit an instrument of satisfaction signed and acknowledged by the lien claimant of record which instrument states that the

claim of lien on real property indebtedness has been paid or satisfied, whereupon the clerk of superior court shall cancel the claim of lien on real property by entry of satisfaction on the record of such claim of lien on real property.

- (3) By failure to enforce the claim of lien on real property within the time prescribed in this Article.
- (4) By filing in the office of the clerk of superior court the original or certified copy of a judgment or decree of a court of competent jurisdiction showing that the action by the claimant to enforce the claim of lien on real property has been dismissed or finally determined adversely to the claimant.
- (5) Whenever a sum equal to the amount of the claim or claims of lien on real property claimed is deposited with the clerk of court, to be applied to the payment finally determined to be due, whereupon the clerk of superior court shall cancel the claim or claims of lien on real property or claims of lien on real property of record.
- (6) Whenever a corporate surety bond, in a sum equal to one and one-fourth times the amount of the claim or claims of lien on real property claimed and conditioned upon the payment of the amount finally determined to be due in satisfaction of said claim or claims of lien on real property, is deposited with the clerk of court, whereupon the clerk of superior court shall cancel the claim or claims of lien on real property of record.

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

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

SECTION 4. G.S. 50-13.1(c) reads as rewritten:

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

SECTION 5. G.S. 7A-38.2(d) reads as rewritten:

"(d) An administrative fee, not to exceed two hundred dollars (\$200.00), may be charged by the Administrative Office of the Courts to applicants for certification and annual renewal of certification for mediators and mediation training programs operating under this Article. The fees collected may be used by the Director of the Administrative Office of the Courts to establish and maintain the operations of the Commission and its staff. Notwithstanding the provisions of G.S. 143C-1-2(b), certification and renewal fees collected by the Dispute Resolution Commission are nonreverting and are only to be used at the direction of the Commission."

SECTION 8.(a) G.S. 105-130.5A, as enacted by S.L. 2011-390, is amended by adding a new subsection to read:

"(b1) Voluntary Redetermination. – In addition to the authority granted under subsection (b) of this section, if the Secretary has reason to believe that any corporation's State net income properly attributable to its business carried on in this State is not accurately reported on a separate return required by this Part because of intercompany transactions, without making a finding that those transactions lack economic substance or are not at fair market value, the Secretary and the corporation may jointly determine and agree to an alternative filing methodology that accurately reports State net income. The Secretary is authorized to allow any reasonable method for redetermining the corporation's State net income attributable to its business carried on in this State."

SECTION 8.(b) Section 8 of S.L. 2011-390 reads as rewritten:

~~"SECTION 8. Sections 1 through 64 of this act become effective January 1, 2012, and Sections 2 and 5 of this act apply to assessments proposed for taxable years beginning on or~~

~~after that date.~~ for taxable years beginning on or after January 1, 2012. Sections 5 and 6 of this act become effective January 1, 2012. The remainder of this act is effective when it becomes law."

SECTION 9. Except as otherwise provided, this act becomes effective when it becomes law.

In the General Assembly read three times and ratified this the 14th day of September, 2011.

Walter H. Dalton
President of the Senate

Thom Tillis
Speaker of the House of Representatives

Beverly E. Perdue
Governor

Approved _____m. this _____ day of _____, 2011