

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H.B. 236
Mar 1, 2017
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10094-MS-69 (02/24)

Short Title: NCAOC Omnibus Bill.

(Public)

Sponsors: Representative R. Turner.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE CLERK TO APPOINT AN INTERIM GUARDIAN AD LITEM ON THE CLERK'S OWN MOTION; TO PROVIDE FOR THE CLERK TO EXTEND THE TIME FOR FILING INVENTORY IN THE PROPERTY OF THE DECEASED; TO PROVIDE FOR ISSUANCE OF AN ORDER FOR AN ARREST WHEN A PERSON FAILS TO APPEAR AFTER BEING SERVED WITH A SHOW CAUSE IN A CIVIL PROCEEDING; TO AMEND HOW COSTS IN ADMINISTRATION OF ESTATES ARE ASSESSED; TO ALLOW FOR TEMPORARY ASSISTANCE FOR DISTRICT ATTORNEYS WHEN THERE IS A CONFLICT OF INTEREST; AND TO AMEND OTHER STATUTES GOVERNING THE GENERAL COURT OF JUSTICE, AS RECOMMENDED BY THE NORTH CAROLINA ADMINISTRATIVE OFFICE OF THE COURTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 1A-1, Rule 5(e), reads as rewritten:

"Rule 5. Service and filing of pleadings and other papers.

...

- (e) (1) Filing with the court defined. – The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of the ~~court~~, court, pursuant to the rules promulgated under G.S. 7A-109 or subsection (e)(2) hereunder, except that the judge may permit the papers to be filed with him, in which event he shall note thereon the filing date and forthwith transmit them to the office of the clerk.
- (2) Filing by electronic means. – If, pursuant to ~~G.S. 7A-34~~ G.S. 7A-34, G.S. 7A-49.5, and G.S. 7A-343, the Supreme Court and the Administrative Officer of the Courts establish uniform rules, regulations, costs, procedures and specifications for the filing of pleadings or other court papers by electronic means, filing may be made by the electronic means when, in the manner, and to the extent provided therein.
- (3) The failure to affix a date stamp or file stamp on any pleading or other papers filed in a civil action or special proceeding shall not affect the sufficiency, validity, or enforceability of the document."

SECTION 2. G.S. 1A-1, Rule 58, reads as rewritten:

"Rule 58. Entry of judgment.

Subject to the provisions of Rule 54(b), a judgment is entered when it is reduced to writing, signed by the judge, and filed with the clerk of ~~court~~, court pursuant to Rule 5. The party designated by the judge or, if the judge does not otherwise designate, the party who prepares the



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1 judgment, shall serve a copy of the judgment upon all other parties within three days after the
2 judgment is entered. Service and proof of service shall be in accordance with Rule 5. If service is
3 by mail, three days shall be added to the time periods prescribed by Rule 50(b), Rule 52(b), and
4 Rule 59. All time periods within which a party may further act pursuant to Rule 50(b), Rule 52(b),
5 or Rule 59 shall be tolled for the duration of any period of noncompliance with this service
6 requirement, provided however that no time period under Rule 50(b), Rule 52(b), or Rule 59 shall
7 be tolled longer than 90 days from the date the judgment is entered. Subject to the provisions of
8 Rule 7(b)(4), consent for the signing and entry of a judgment out of term, session, county, and
9 district shall be deemed to have been given unless an express objection to such action was made
10 on the record prior to the end of the term or session at which the matter was heard.

11 Notwithstanding any other law to the contrary, any judgment entered by a magistrate in a
12 small claims action pursuant to Article 19 of Chapter 7A shall be entered in accordance with this
13 Rule except judgments announced and signed in open court at the conclusion of a trial are
14 considered to be served on the parties, and copies of any judgment not announced and signed in
15 open court at the conclusion of a trial shall be served by the magistrate on all parties in accordance
16 with this Rule, within three days after the judgment is entered. If service is by mail, three days
17 shall be added to the time periods prescribed by G.S. 7A-228. All time periods within which a
18 party may further act pursuant to G.S. 7A-228 shall be tolled for the duration of any period of
19 noncompliance of this service requirement, provided that no time period shall be tolled longer than
20 90 days from the date judgment is entered."

21 **SECTION 3.** G.S. 28A-9-2(a) reads as rewritten:

22 "**§ 28A-9-2. Summary revocation.**

23 (a) Grounds. – Letters testamentary, letters of administration, or letters of collection, shall
24 be revoked by the clerk of superior court without hearing when:

- 25 (1) After letters of administration or collection have been issued, a will is
26 subsequently admitted to probate.
- 27 (2) After letters testamentary have been issued:
 - 28 a. The will is set aside, or
 - 29 b. A subsequent testamentary paper revoking the appointment of the
30 executor is admitted to probate.
- 31 (3) Any personal representative or collector required to give a new bond or furnish
32 additional security pursuant to G.S. 28A-8-3 fails to do so within the time
33 ordered.
- 34 (4) A nonresident personal representative refuses or fails to obey any citation,
35 notice, or process served on that nonresident personal representative or the
36 process agent of the nonresident personal representative.
- 37 (5) A trustee in bankruptcy, liquidating agent, or receiver has been appointed for
38 any personal representative or collector, or any personal representative or
39 collector has executed an assignment for the benefit of creditors.
- 40 (6) A personal representative has failed to file an inventory or an annual account
41 with the clerk of superior court, as required by Article 20 and Article 21 of this
42 Chapter, and proceedings to compel such filing pursuant to G.S. 28A-20-2 or
43 28A-21-4 cannot be had because service cannot be completed because the
44 personal representative cannot be found.
- 45 (7) A personal representative or collector is a licensed attorney, and the clerk is in
46 receipt of an order entered pursuant to G.S. 84-28 enjoining, suspending, or
47 disbarring the attorney."

48 **SECTION 4.** G.S. 35A-1290 reads as rewritten:

49 "**§ 35A-1290. Removal by Clerk.**

50 ...

1 (b) It is the clerk's duty to remove a guardian or to take other action sufficient to protect
2 the ward's interests in the following cases:

- 3 (1) The guardian wastes the ward's money or estate or converts it to his own use.
- 4 (2) The guardian in any manner mismanages the ward's estate.
- 5 (3) The guardian neglects to care for or maintain the ward or his dependents in a
6 suitable manner.
- 7 (4) The guardian or his sureties are likely to become insolvent or to become
8 nonresidents of the State.
- 9 (5) The original appointment was made on the basis of a false representation or a
10 mistake.
- 11 (6) The guardian has violated a fiduciary duty through default or misconduct.
- 12 (7) The guardian has a private interest, whether direct or indirect, that might tend to
13 hinder or be adverse to carrying out his duties as guardian.

14 (e) ~~It is the clerk's duty to remove a guardian or to take other action sufficient to protect~~
15 ~~the ward's interests in the following cases:~~

- 16 ~~(1)~~(8) The guardian has been adjudged incompetent by a court of competent
17 jurisdiction and has not been restored to competence.
- 18 ~~(2)~~(9) The guardian has been convicted of a felony under the laws of the United States
19 or of any state or territory of the United States or of the District of Columbia
20 and his citizenship has not been restored.
- 21 ~~(3)~~(10) The guardian was originally unqualified for appointment and continues to be
22 unqualified, or the guardian would no longer qualify for appointment as
23 guardian due to a change in residence, a change in the charter of a corporate
24 guardian, or any other reason.
- 25 ~~(4)~~(11) The guardian is the ward's spouse and has lost his rights as provided by Chapter
26 31A of the General Statutes.
- 27 ~~(5)~~(12) The guardian fails to post, renew, or increase a bond as required by law or by
28 order of the court.
- 29 ~~(6)~~(13) The guardian refuses or fails without justification to obey any citation, notice,
30 or process served on him in regard to the guardianship.
- 31 ~~(7)~~(14) The guardian fails to file required accountings with the clerk.
- 32 ~~(8)~~(15) The clerk finds the guardian unsuitable to continue serving as guardian for any
33 reason.
- 34 ~~(9)~~(16) The guardian is a nonresident of the State and refuses or fails to obey any
35 citation, notice, or process served on the guardian or the guardian's process
36 agent.
- 37 (17) The guardian is a licensed attorney, and the clerk is in receipt of an order
38 entered pursuant to G.S. 84-28 enjoining, suspending, or disbarring the
39 attorney."

40 **SECTION 5.** G.S. 30-17 reads as rewritten:

41 "**§ 30-17. When children entitled to an allowance.**

42 Whenever any parent dies survived by any child under the age of 18 years, including an
43 adopted child or a child with whom the widow may be pregnant at the death of her husband, or a
44 child who is less than 22 years of age and is a full-time student in any educational institution, or a
45 child under 21 years of age who has been declared mentally incompetent, or a child under 21 years
46 of age who is totally disabled, or any other person under the age of 18 years residing with the
47 deceased parent at the time of death to whom the deceased parent or the surviving parent stood in
48 loco parentis, every such child shall be entitled to receive an allowance of five thousand dollars
49 (\$5,000) for the child's support for the year next ensuing the death of the parent. The allowance
50 shall be in addition to the child's share of the deceased parent's estate and shall be exempt from
51 any lien by judgment or execution against the property of the deceased parent. The personal

1 representative of the deceased parent shall, within one year after the parent's death, assign to every
2 such child the allowance herein provided for; but if there is no personal representative or if the
3 personal representative fails or refuses to act within 10 days after written application by a guardian
4 or next friend on behalf of the child, the allowance may be assigned by a magistrate or clerk of
5 court upon application.

6 If the child resides with the surviving spouse of the deceased parent at the time the allowance
7 is paid, the allowance shall be paid to the surviving spouse for the benefit of the child. If the child
8 resides with its surviving parent who is other than the surviving spouse of the deceased parent, the
9 allowance shall be paid to the surviving parent for the use and benefit of the child. The payment
10 shall be made regardless of whether the deceased died testate or intestate or whether the surviving
11 spouse petitioned for an elective share under Article 1A of Chapter 30 of the General Statutes.
12 Provided, however, the allowance shall not be available to a deceased father's child born out of
13 wedlock, unless the deceased father has recognized the paternity of the child by deed, will, or
14 other paper-writing, or unless the deceased father died prior to or within one year after the birth of
15 the child and is established to have been the father of the child by DNA testing. If the child does
16 not reside with a surviving spouse or a surviving parent when the allowance is paid, the allowance
17 shall be paid to the child's ~~general guardian,~~guardian or guardian of the estate, if any, and if none,
18 to the clerk of the superior court who shall receive and disburse the allowance for the benefit of
19 the child."

20 **SECTION 6.** G.S. 35A-1114 reads as rewritten:

21 "**§ 35A-1114. Appointment of interim guardian.**

22 (a) At the time of or subsequent to the filing of a petition under this Article, the petitioner
23 or guardian ad litem may also file a verified motion with the clerk seeking the appointment of an
24 interim guardian.

25 (b) The motion filed by the petitioner or guardian ad litem shall set forth facts tending to
26 show:

- 27 (1) That there is reasonable cause to believe that the respondent is incompetent, and
- 28 (2) One or both of the following:
 - 29 a. That the respondent is in a condition that constitutes or reasonably
30 appears to constitute an imminent or foreseeable risk of harm to his
31 physical well-being and that requires immediate intervention;
 - 32 b. That there is or reasonably appears to be an imminent or foreseeable
33 risk of harm to the respondent's estate that requires immediate
34 intervention in order to protect the respondent's interest, and
- 35 (3) That the respondent needs an interim guardian to be appointed immediately to
36 intervene on his behalf prior to the adjudication hearing.

37 (c) Upon filing of the motion for appointment of an interim ~~guardian,~~guardian by the
38 petitioner or the guardian ad litem, the clerk shall immediately set a date, time, and place for a
39 hearing on the motion. The motion and a notice setting the date, time, and place for the hearing
40 shall be served promptly on the respondent and on his counsel or guardian ad litem and other
41 persons the clerk may designate. The hearing shall be held as soon as possible but no later than 15
42 days after the motion has been served on the respondent.

43 (c1) The motion and notice setting the date, time, and place for the hearing shall be served
44 promptly on the petitioner, the respondent and on his counsel or guardian ad litem, and other
45 persons the clerk may designate. The hearing shall be held as soon as possible but not later than 15
46 days after the motion has been served on the respondent.

47"

48 **SECTION 7.** G.S. 35A-1112 reads as rewritten:

49 "**§ 35A-1112. Hearing on petition; adjudication order.**

50 ...

1 (b1) At the hearing on the petition, on the clerk's own motion, the clerk may appoint an
2 interim guardian pursuant to G.S. 35A-1114(d) and (e) if the clerk determines such an
3 appointment to be in the best interests of the respondent.

4 "

5 **SECTION 8.** G.S. 28A-20-1 reads as rewritten:

6 "**§ 28A-20-1. Inventory within three months.**

7 ~~Every~~Unless the time for filing the inventory has been extended by the clerk of superior court,
8 every personal representative and collector, within three months after the qualification of that
9 personal representative or collector, shall return to the clerk, on oath, a just, true and perfect
10 inventory of all the real and personal property of the deceased, which have come to the hands of
11 the personal representative or collector, or to the hands of any person for the personal
12 representative or collector, which inventory shall be signed by the personal representative or
13 collector and be recorded by the clerk."

14 **SECTION 9.** G.S. 28A-21-1 reads as rewritten:

15 "**§ 28A-21-1. Annual accounts.**

16 Until the final account has been filed pursuant to G.S. 28A-21-2, the personal representative or
17 collector shall, for so long as any of the property of the estate remains in the control, custody or
18 possession of the personal representative or collector, file annually in the office of the clerk of
19 superior court an inventory and account, under oath, of the amount of property received by the
20 personal representative or collector, or invested by the personal representative or collector, and the
21 manner and nature of such investment, and the receipts and disbursements of the personal
22 representative or collector for the past year. Such accounts shall be due 30 days after the
23 expiration of one year from the date of qualification of the personal representative or collector, or
24 if a fiscal year is selected by the fifteenth day of the fourth month after the close of the fiscal year
25 selected by the personal representative or collector, and annually on the same date thereafter. The
26 election of a fiscal year shall be made by the personal representative or collector upon filing of the
27 first annual account. In no event may a personal representative or collector select a fiscal year-end
28 which is more than twelve months from the date of death of the decedent or, in the case of trust
29 administration, the date of the opening of the trust. Any fiscal year selected may not be changed
30 without the permission of the clerk of superior court.

31 The personal representative or collector shall produce vouchers for all payments or verified
32 proof for payments in lieu of vouchers. The clerk of superior court may examine, under oath, such
33 accounting party, or any other person, concerning the receipts, disbursements or any other matter
34 relating to the estate. The clerk of superior court must carefully review and audit such account and,
35 if the clerk approves the account, the clerk must endorse the approval of the clerk thereon, which
36 shall be prima facie evidence of correctness, and cause the same to be recorded."

37 **SECTION 10.** G.S. 28A-21-2 reads as rewritten:

38 "**§ 28A-21-2. Final accounts.**

39 (a) Unless the time for filing the final account has been extended by the clerk of superior
40 court, the personal representative or collector must file the final account for settlement within one
41 year after qualifying or within six months after receiving a State estate or inheritance tax release,
42 or in the time period for filing an annual account pursuant to G.S. 28A-21-1, whichever is later. If
43 no estate or inheritance tax return was required to be filed for the estate, the personal
44 representative or collector shall so certify in the final account filed with the clerk of superior court.
45 Such certification shall list the amount and value of all of the decedent's property, and with respect
46 to real estate, its particular location within or outside the State, including any property transferred
47 by the decedent over which the decedent had retained any interest, or any property transferred
48 within three years prior to the date of the decedent's death, and after being filed and accepted by
49 the clerk of superior court shall be prima facie evidence that such property is free of any State
50 inheritance or State estate tax liability. The personal representative or collector shall produce
51 vouchers for all payments or verified proof for all payments in lieu of vouchers. With the approval

1 of the clerk of superior court, such account may be filed voluntarily at any time. In all cases, the
2 accounting shall be reviewed, audited and recorded by the clerk of superior court in the manner
3 prescribed in G.S. 28A-21-1.

4 (a1) If no estate of inheritance tax return was required to be filed for the estate, the personal
5 representative or collector shall so certify in the final account filed with the clerk of superior court.
6 Such certification shall list the amount and value of all of the decedent's property, and with respect
7 to real estate, its particular location within or outside the State, including any property transferred
8 by the decedent over which the decedent had retained any interest, or any property transferred
9 within three years prior to the date of the decedent's death, and after being filed and accepted by
10 the clerk of superior court shall be prima facie evidence that such property is free from any State
11 inheritance or State estate tax liability. This subsection only applies to estates of decedents who
12 died before January 1, 2013.

13 (a2) The personal representative or collector shall produce vouchers for all payments or
14 verified proof for all payments in lieu of vouchers. With the approval of the clerk of superior
15 court, such account may be filed voluntarily at any time. In all cases, the accounting shall be
16 reviewed, audited, and recorded by the clerk of superior court in the manner prescribed by
17 G.S. 28A-21-1.

18 (b) Except as provided in subsection (a), after the date specified in the general notice to
19 creditors as provided for in G.S. 28A-14-1, if all of the debts and other claims against the estate of
20 the decedent duly presented and legally owing have been paid in the case of a solvent estate or
21 satisfied pro rata according to applicable statutes in the case of an insolvent estate, the personal
22 representative or collector may file the personal representative's or collector's final account to be
23 reviewed, audited and recorded by the clerk of superior court. Nothing in this subsection shall be
24 construed as limiting the right of the surviving spouse or minor children to file for allowances
25 under G.S. 30-15 through 30-18 and the right of a surviving spouse to file for property rights
26 under G.S. 29-30."

27 **SECTION 11.** G.S. 5A-23(b) reads as rewritten:

28 "(b) Except when the clerk of superior court has original subject matter jurisdiction and
29 issued the order when the General Statutes specifically provide for the exercise of contempt power
30 by the clerk of superior court, proceedings under this section are before a district court judge,
31 unless a court superior to the district court issued the order in which case the proceedings are
32 before that court. When the proceedings are before a superior court, venue is in the superior court
33 district or set of districts as defined in G.S. 7A-41.1 of the court which issued the order.
34 Otherwise, venue is in the county where the order was issued."

35 **SECTION 12.** G.S. 15A-305(b) reads as rewritten:

36 "(b) When Issued. – An order for arrest may be issued when:

- 37 (1) A grand jury has returned a true bill of indictment against a defendant who is
38 not in custody and who has not been released from custody pursuant to Article
39 26 of this Chapter, Bail, to answer to the charges in the bill of indictment.
- 40 (2) A defendant who has been arrested and released from custody pursuant to
41 Article 26 of this Chapter, Bail, fails to appear as required.
- 42 (3) The defendant has failed to appear as required by a duly executed criminal
43 summons issued pursuant to G.S. 15A-303 or a citation issued by a law
44 enforcement officer or other person authorized by statute pursuant to
45 G.S. 15A-302 that charged the defendant with a misdemeanor.
- 46 (4) A defendant has violated the conditions of probation.
- 47 (5) In any criminal proceeding in which the defendant has become subject to the
48 jurisdiction of the court, it becomes necessary to take the defendant into
49 custody.
- 50 (6) It is authorized by G.S. 15A-803 in connection with material witness
51 proceedings.

1 (7) The common-law writ of capias has heretofore been ~~issuable~~-issuable, including
2 when a person fails to appear after being served with a show cause order in a
3 civil contempt proceeding.

4 (8) When a defendant fails to appear as required in a show cause order issued in a
5 criminal proceeding.

6 (9) It is authorized by G.S. 5A-16 in connection with contempt proceedings."

7 **SECTION 13.** G.S. 7A-307 reads as rewritten:

8 **"§ 7A-307. Costs in administration of estates.**

9 (a) In the administration of the estates of decedents, minors, incompetents, of missing
10 persons, and of trusts under wills and under powers of attorney, in trust proceedings under
11 G.S. 36C-2-203, in estate proceedings under G.S. 28A-2-4, and in collections of personal property
12 by affidavit, the following costs shall be assessed:

13 (1) For the use of the courtroom and related judicial facilities, the sum of ten
14 dollars (\$10.00), to be remitted to the county. Funds derived from the facilities
15 fees shall be used in the same manner, for the same purposes, and subject to the
16 same restrictions, as facilities fees assessed in criminal actions.

17 (1a) For the upgrade, maintenance, and operation of the judicial and county
18 courthouse telecommunications and data connectivity, the sum of four dollars
19 (\$4.00), to be credited to the Court Information Technology Fund.

20 (2) For support of the General Court of Justice, the sum of one hundred six dollars
21 (\$106.00), plus an additional forty cents (40¢) per one hundred dollars
22 (\$100.00), or major fraction thereof, of the gross estate, not to exceed six
23 thousand dollars (\$6,000). Gross estate shall include the fair market value of all
24 personalty when received, and all proceeds from the sale of realty coming into
25 the hands of the fiduciary, but shall not include the value of realty. In
26 collections of personal property by affidavit, the fee based on the gross estate
27 shall be computed from the information in the final affidavit of collection made
28 pursuant to G.S. 28A-25-3 and shall be paid when that affidavit is filed. In all
29 other cases, this fee shall be computed from the information reported in the
30 ~~inventory and shall be paid when the inventory is filed with the clerk.~~inventory.
31 If additional gross estate, including income, comes into the hands of the
32 fiduciary after the filing of the inventory, the fee for such additional value shall
33 ~~be assessed and paid upon~~computed from the information reported in the filing
34 ~~of any account or report disclosing such additional value.~~ For each filing the
35 minimum fee shall be fifteen dollars (\$15.00). Sums collected under this
36 subdivision shall be remitted to the State Treasurer. The State Treasurer shall
37 remit the sum of one dollar and fifty cents (\$1.50) of each one hundred
38 six-dollar (\$106.00) General Court of Justice fee collected under this
39 subdivision to the North Carolina State Bar for the provision of services
40 described in G.S. 7A-474.4.

41 (2a) Notwithstanding subdivision (2) of this subsection, the fee of forty cents (40¢)
42 per one hundred dollars (\$100.00), or major fraction, of the gross estate, not to
43 exceed six thousand dollars (\$6,000), shall not be assessed on personalty
44 received by a trust under a will when the estate of the decedent was
45 administered under Chapters 28 or 28A of the General Statutes. Instead, a fee of
46 twenty dollars (\$20.00) shall be assessed on the filing of each annual and final
47 account. However, the fee shall be assessed only on newly contributed or
48 acquired assets, all interest or other income that accrues or is earned on or with
49 respect to any existing or newly contributed or acquired assets, and realized
50 gains on the sale of any and all trust assets. Newly contributed or acquired
51 assets do not include assets acquired by the sale, transfer, exchange, or

- 1 otherwise of the amount of trust property on which fees were previously
- 2 assessed.
- 3 (2b) Notwithstanding subdivisions (1) and (2) of this subsection, no costs shall be
- 4 assessed when the estate is administered or settled pursuant to G.S. 28A-25-6.
- 5 (2c) Notwithstanding subdivision (2) of this subsection, the fee of forty cents (40¢)
- 6 per one hundred dollars (\$100.00), or major fraction, of the gross estate shall
- 7 not be assessed on the gross estate of a trust that is the subject of a proceeding
- 8 under G.S. 36C-2-203 if there is no requirement in the trust that accountings be
- 9 filed with the clerk.
- 10 (2d) Notwithstanding subdivisions (1) and (2) of this subsection, the only cost
- 11 assessed in connection with the qualification of a limited personal
- 12 representative under G.S. 28A-29-1 shall be a fee of twenty dollars (\$20.00) to
- 13 be assessed upon the filing of the petition.
- 14 (3) For probate of a will without qualification of a personal representative, the clerk
- 15 shall assess a facilities fee as provided in subdivision (1) of this subsection and
- 16 shall assess for support of the General Court of Justice, the sum of twenty
- 17 dollars (\$20.00).
- 18 (4) For the support of the General Court of Justice, the sum of twenty dollars
- 19 (\$20.00) shall accompany any filing of a notice of hearing on a motion not
- 20 listed in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed to a
- 21 notice of hearing on a motion containing as a sole claim for relief the taxing of
- 22 costs, including attorneys' fees, or to a motion filed pursuant to G.S. 1C-1602 or
- 23 G.S. 1C-1603. No more than one fee shall be assessed for any motion for which
- 24 a notice of hearing is filed, regardless of whether the hearing is continued,
- 25 rescheduled, or otherwise delayed.
- 26 (5) For the filing of a caveat to a will, the clerk shall assess for support of the
- 27 General Court of Justice, the sum of two hundred dollars (\$200.00).
- 28 (6) Notwithstanding subdivisions (1) and (2) of this subsection, the only cost
- 29 assessed in connection with the reopening of an estate administration under
- 30 G.S. 28A-23-5 shall be forty cents (40¢) per one hundred dollars (\$100.00), or
- 31 major fraction, of any additional gross estate, including income, coming into
- 32 the hands of the fiduciary after the estate is reopened; provided that the total
- 33 cost assessed when added to the total cost assessed in all prior administrations
- 34 of the estate shall not exceed six thousand dollars (\$6,000).
- 35 (b) In collections of personal property by affidavit, the facilities fee and thirty dollars
- 36 (\$30.00) of the General Court of Justice fee shall be paid at the time of filing the qualifying
- 37 affidavit pursuant to G.S. 28A-25-1. ~~In all other cases, these fees shall be paid at the time of filing~~
- 38 ~~of the first inventory.~~ If the sole asset of the estate is a cause of action, these fees shall be paid at
- 39 the time of the qualification of the fiduciary.
- 40 (b1) The clerk shall assess the following miscellaneous fees:
- 41 (1) Filing and indexing a will with no probate
- 42 – first page..... \$ 1.00
- 43 – each additional page or fraction thereof..... .25
- 44 (2) Issuing letters to fiduciaries, per letter over five letters issued..... 1.00
- 45 (3) Inventory of safe deposits of a decedent, per box, per day..... 15.00
- 46 (4) Taking a deposition..... 10.00
- 47 (5) Docketing and indexing a will probated in another county in the State
- 48 – first page..... 6.00
- 49 – each additional page or fraction thereof..... .25
- 50 (6) Hearing petition for year's allowance to surviving spouse or child,
- 51 in cases not assigned to a magistrate, and allotting the same..... 8.00

1 (c) The following additional expenses, when incurred, are also assessable or recoverable,
2 as the case may be:

3 (1) Witness fees, as provided by law.

4 (2) Counsel fees, as provided by law.

5 (3) Costs on appeal, of the original transcript of testimony, if any, insofar as
6 essential to the appeal.

7 (4) Fees for personal service of civil process, and other sheriff's fees, as provided
8 by law.

9 (5) Fees of guardians ad litem, referees, receivers, commissioners, surveyors,
10 arbitrators, appraisers, and other similar court appointees, as provided by law.

11 (d) Costs assessed before the clerk shall be added to costs assessable on appeal to the judge
12 or upon transfer to the civil issue docket.

13 (e) Nothing in this section shall affect the liability of the respective parties for costs, as
14 provided by law."

15 **SECTION 14.** G.S. 7A-64 reads as rewritten:

16 **"§ 7A-64. Temporary assistance for district attorneys.**

17 (a) A district attorney may apply to the Director of the Administrative Office of the Courts
18 to:

19 (1) Temporarily assign an assistant district attorney from another district, after
20 consultation with the district attorney thereof, to assist in the prosecution of
21 cases in the requesting district;

22 (2) Authorize the temporary appointment, by the requesting district attorney, of a
23 qualified attorney to assist the requesting district attorney; or

24 (3) Enter into contracts with local governments for the provision of services by the
25 State pursuant to G.S. 153A-212.1 or G.S. 160A-289.1.

26 (a1) Repealed by Session Laws 2012-7, s. 9, effective June 7, 2012.

27 (b) The Director of the Administrative Office of the Courts may provide this assistance
28 only upon a showing by the requesting district attorney or the Chair of the North Carolina
29 Innocence Inquiry Commission, as appropriate, supported by facts, that:

30 (1) Criminal cases have accumulated on the dockets of the superior or district
31 courts of the district beyond the capacity of the district attorney and the district
32 attorney's full-time assistants to keep the dockets reasonably current;

33 (2) The overwhelming public interest warrants the use of additional resources for
34 the speedy disposition of cases involving drug offenses, domestic violence, or
35 other offenses involving a threat to public safety; or

36 (3) There is an allegation of or evidence of prosecutorial misconduct in the case
37 that is the subject of the hearing under G.S. 15A-1469.

38 (4) There is a conflict of interest.

39 (c) The length of service and compensation of any temporary appointee or the terms of any
40 contract entered into with local governments shall be fixed by Director of the Administrative
41 Office of the Courts in each case. Nothing in this section shall be construed to obligate the General
42 Assembly to make any appropriation to implement the provisions of this section or to obligate the
43 Administrative Office of the Courts to provide the administrative costs of establishing or
44 maintaining the positions or services provided for under this section. Further, nothing in this
45 section shall be construed to obligate the Administrative Office of the Courts to maintain positions
46 or services initially provided for under this section."

47 **SECTION 15.** G.S. 7A-343 reads as rewritten:

48 **"§ 7A-343. Duties of Director.**

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

51 ...

- 1 (3) Prescribe uniform administrative and business methods, systems, ~~forms~~forms,
 2 practices and procedures, and records to be used in the ~~offices of the clerks of~~
 3 ~~superior court~~courts.
- 4 (3a) Maintain and staff as necessary an Internal Audit Division of the Judicial
 5 Department and the Administrative Office of the Courts that:
- 6 a. Evaluates and discloses potential weaknesses in the effectiveness of
 7 internal controls in the court system for the purpose of safeguarding
 8 public funds and assets and minimizing incidences of fraud, waste, and
 9 abuse.
- 10 b. Examines and analyzes the design and effectiveness of administrative
 11 and procedural operations.
- 12 c. Ensures overall compliance with federal and State laws, internal and
 13 external regulations, rules and procedures, and other applicable
 14 requirements.
- 15 d. Inspects and reviews the effectiveness and efficiency of processes and
 16 proceedings conducted by judicial officers.
- 17 e. Collaborates with other divisions to guide, direct, and support court
 18 officials in efforts to conform to both recommended and required
 19 compliance standards.
- 20 f. Executes routine audits of the Judicial Department's systems and
 21 controls, including, but not limited to:
- 22 1. Accounting systems and controls.
- 23 2. Administrative systems and controls.
- 24 3. Electronic data processing systems and controls.

25"

26 **SECTION 16.** G.S. 122C-268(g) reads as rewritten:

27 "(g) Hearings may be held in an appropriate room not used for treatment of clients at the
 28 facility in which the respondent is being treated if it is located within the judge's district court
 29 district as defined in G.S. 7A-133, by ~~interactive video conferencing~~audio and video transmission
 30 between a treatment facility and a courtroom, courtroom in which the judge and the respondent can
 31 see and hear each other, or in the judge's chambers. A hearing may not be held in a regular
 32 courtroom, over objection of the respondent, if in the discretion of a judge a more suitable place is
 33 available. If the respondent has counsel, the respondent shall be allowed to communicate fully and
 34 confidentially with his attorney during the proceeding. Prior to the use of the audio and video
 35 transmission, the procedures and type of equipment for audio and video transmission shall be
 36 submitted to the Administrative Office of the Courts by the chief district court judge and approved
 37 by the Administrative Office of the Courts."

38 **SECTION 17.** G.S. 58-76-15 reads as rewritten:

39 **"§ 58-76-15. Summary remedy on official bond.**

40 When a sheriff, coroner, ~~clerk,~~ county or town treasurer, or other officer, collects or receives
 41 any money by virtue or under color of his office, and on demand fails to pay the same to the
 42 person entitled to require the payment thereof, the person thereby aggrieved may move for
 43 judgment in the superior court against such officer and his sureties for any sum demanded; and the
 44 court shall try the same and render judgment at the session when the motion shall be made, but 10
 45 days' notice in writing of the motion must have been previously given."

46 **SECTION 18.** G.S. 58-76-25 reads as rewritten:

47 **"§ 58-76-25. Evidence against principal admissible against sureties.**

48 In actions brought upon the official bonds of ~~clerks of courts,~~ sheriffs, coroners, or other
 49 public officers, and also upon the bonds of executors, administrators, collectors or guardians,
 50 when it may be necessary for the plaintiff to prove any default of the principal obligors, any
 51 receipt or acknowledgment of such obligors, or any other matter or thing which by law would be

1 admissible and competent for or toward proving the same as against him, shall in like manner be
2 admissible and competent as presumptive evidence only against all or any of his sureties who may
3 be defendants with or without him in said actions."

4 **SECTION 19.** G.S. 1-110(b) reads as rewritten:

5 "(b) Whenever a motion to proceed as an indigent is filed pro se by an inmate in the custody
6 of the Division of Adult Correction of the Department of Public Safety, the motion to proceed as
7 an indigent and the proposed complaint shall be presented to any superior court judge of the
8 judicial district. This judge shall determine whether the complaint is frivolous. In the discretion of
9 the court, a frivolous case may be dismissed by order. The clerk of superior court shall serve a
10 copy of the order of dismissal upon the prison inmate. If the judge determines that the inmate may
11 proceed as an indigent, the clerk of superior court shall issue service of process nunc pro tunc to
12 the date of filing upon the defendant shall issue without further order of the court. defendant."

13 **SECTION 20.** G.S. 1A-1, Rule 3, reads as rewritten:

14 **"Rule 3. Commencement of action.**

15 (a) A civil action is commenced by filing a complaint with the court. The clerk shall enter
16 the date of filing on the original complaint, and such entry shall be prima facie evidence of the
17 date of filing.

18 A civil action may also be commenced by the issuance of a summons when

- 19 (1) A person makes application to the court stating the nature and purpose of his
20 action and requesting permission to file his complaint within 20 days and
- 21 (2) The court makes an order stating the nature and purpose of the action and
22 granting the requested permission.

23 The summons and the court's order shall be served in accordance with the provisions of Rule 4.
24 When the complaint is filed it shall be served in accordance with the provisions of Rule 4 or by
25 registered mail if the plaintiff so elects. If the complaint is not filed within the period specified in
26 the clerk's order, the action shall abate.

27 ~~(b) The clerk shall maintain as prescribed by the Administrative Office of the Courts a~~
28 ~~separate index of all medical malpractice actions, as defined in G.S. 90-21.11. Upon the~~
29 ~~commencement of a medical malpractice action, the clerk shall provide a current copy of the index~~
30 ~~to the senior regular resident judge of the district in which the action is pending."~~

31 **SECTION 21.** G.S. 122C-264 reads as rewritten:

32 **"§ 122C-264. Duties of clerk of superior court and the district attorney.**

33 ...

34 ~~(e) The clerk of superior court of the county where outpatient commitment is to be~~
35 ~~supervised shall keep a separate list regarding outpatient commitment and shall prepare quarterly~~
36 ~~reports listing all active cases, the assigned supervisor, and the disposition of all hearings,~~
37 ~~supplemental hearings, and rehearings.~~

38 (f) The clerk of superior court of the county where inpatient commitment hearings and
39 rehearings are held shall provide all notices, send all records and maintain a record of all
40 proceedings as required by this Part; provided that if the respondent has been committed to a
41 24-hour facility in a county other than his county of residence and the district court hearing is held
42 in the county of the facility, the clerk of superior court in the county of the facility shall forward
43 the record of the proceedings to the clerk of superior court in the county of respondent's residence,
44 where they shall be maintained by receiving clerk."

45 **SECTION 22.** G.S. 14-208.12A(a) reads as rewritten:

46 "(a) Ten years from the date of initial county registration, a person required to register
47 under this Part may petition the superior court to terminate the 30-year registration requirement if
48 the person has not been convicted of a subsequent offense requiring registration under this Article.

49 If the reportable conviction is for an offense that occurred in North Carolina, the petition shall
50 be filed in the district where the person was convicted of the offense.

1 If the reportable conviction is for an offense that occurred in another state, the petition shall be
2 filed in the district where the person resides. A person who petitions to terminate the registration
3 requirement for a reportable conviction that is an out-of-state offense shall also do the following:
4 (i) provide written notice to the sheriff of the county where the person was convicted that the
5 person is petitioning the court to terminate the registration requirement and (ii) include with the
6 petition at the time of its filing, an affidavit, signed by the petitioner, that verifies that the
7 petitioner has notified the sheriff of the county where the person was convicted of the petition and
8 that provides the mailing address and contact information for that sheriff.

9 Regardless of where the offense occurred, if the defendant was convicted of a reportable
10 offense in any federal court, the conviction will be treated as an out-of-state offense for the
11 purposes of this section."

12 **SECTION 23.** G.S. 7B-2901(a) reads as rewritten:

13 "(a) The clerk shall maintain a complete record of all juvenile cases filed in the clerk's
14 office alleging abuse, neglect, or dependency. The records shall be withheld from public
15 inspection and, except as provided in this subsection, may be examined only by order of the court.
16 The record shall include the summons, petition, custody order, court order, written motions, the
17 electronic or mechanical recording of the hearing, and other papers filed in the proceeding. The
18 recording of the hearing shall be reduced to a written transcript only when notice of appeal has
19 been timely given. After the time for appeal has expired with no appeal having been filed, the
20 recording of the hearing may be erased or destroyed upon the written order of the ~~court~~court or in
21 accordance with a retention schedule approved by the Director of the Administrative Office of the
22 Courts and the Department of Natural and Cultural Resources under G.S. 121-5(c).

23 The following persons may examine the juvenile's record maintained pursuant to this
24 subsection and obtain copies of written parts of the record without an order of the court:

- 25 (1) The person named in the petition as the juvenile;
- 26 (2) The guardian ad litem;
- 27 (3) The county department of social services; and
- 28 (4) The juvenile's parent, guardian, or custodian, or the attorney for the juvenile or
29 the juvenile's parent, guardian, or custodian."

30 **SECTION 24.** G.S. 7B-3000(d) reads as rewritten:

31 "(d) Any portion of a juvenile's record consisting of an electronic or mechanical recording
32 of a hearing shall be transcribed only when notice of appeal has been timely given and shall be
33 copied electronically or mechanically, only by order of the court. After the time for appeal has
34 expired with no appeal having been filed, the court may enter a written order directing the clerk to
35 destroy the recording of the ~~hearing~~hearing or the recording may be destroyed in accordance with
36 a retention schedule approved by the Director of the Administrative Office of the Courts and the
37 Department of Natural and Cultural Resources under G.S.121-5(c)."

38 **SECTION 25.** G.S. 7B-603(b1) reads as rewritten:

39 "(b1) The court may require payment of the fee for an attorney appointed pursuant to
40 G.S. 7B-602 or ~~G.S. 7B-1101~~G.S. 7B-1101.1 from the respondent. In no event shall the
41 respondent be required to pay the fees for a court-appointed attorney in an abuse, neglect, or
42 dependency proceeding unless the juvenile has been adjudicated to be abused, neglected, or
43 dependent or, in a proceeding to terminate parental rights, unless the respondent's rights have been
44 terminated. At the dispositional hearing or other appropriate hearing, the court shall make a
45 determination whether the respondent should be held responsible for reimbursing the State for the
46 respondent's attorneys' fees. This determination shall include the respondent's financial ability to
47 pay.

48 If the court determines that the respondent is responsible for reimbursing the State for the
49 respondent's attorneys' fees, the court shall so order. If the respondent does not comply with the
50 order at the time of disposition, the court shall file a judgment against the respondent for the
51 amount due the State."

1 **SECTION 26.** G.S. 84-2 reads as rewritten:

2 "**§ 84-2. Persons disqualified.**

3 No justice, judge, magistrate, full-time district attorney, full-time assistant district attorney,
4 public defender, assistant public defender, clerk, deputy or assistant clerk of the General Court of
5 Justice, register of deeds, deputy or assistant register of deeds, sheriff or deputy sheriff shall
6 engage in the private practice of law. Notwithstanding the provisions of G.S. 84-2.1, as used in
7 this section, the private practice of law shall not include the performance of unpaid pro bono legal
8 services. Persons violating this provision shall be guilty of a Class 3 misdemeanor and only fined
9 not less than two hundred dollars (\$200.00)."

10 **SECTION 27.** Section 22 of this act is effective when it becomes law and applies to
11 petitions filed on or after that date. The remainder of this act is effective when it becomes law.