

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019**

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**HOUSE BILL 226**

Short Title: 2019 AOC Legislative Changes.-AB (Public)

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Sponsors: Representative R. Turner.

*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

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Referred to: Judiciary, if favorable, Finance, if favorable, Rules, Calendar, and Operations of the House

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February 28, 2019

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE VARIOUS CHANGES AND TECHNICAL CORRECTIONS TO THE  
3 LAWS GOVERNING THE ADMINISTRATION OF JUSTICE.

4 The General Assembly of North Carolina enacts:

5  
6 **PART I. PROPOSED STATUTORY CHANGES AS RECOMMENDED BY THE**  
7 **ADMINISTRATIVE OFFICE OF THE COURTS**

8  
9 **INCREASED FLEXIBILITY OF EMERGENCY JUDGE ASSIGNMENTS**

10 **SECTION 1.** G.S. 7A-52(a) reads as rewritten:

11 "(a) Judges of the district court and judges of the superior court who have not reached the  
12 mandatory retirement age specified in G.S. 7A-4.20, but who have retired under the provisions  
13 of G.S. 7A-51, or under the Uniform Judicial Retirement Act after having completed five years  
14 of creditable service, may apply as provided in G.S. 7A-53 to become emergency judges of the  
15 court from which they retired. From the commissioned emergency district, superior, and special  
16 superior court judges, the Chief Justice of the Supreme Court shall create two lists of active  
17 emergency judges and two lists of inactive emergency judges. For emergency superior and  
18 special superior court judges, the active list shall be limited to a combined total of 10 emergency  
19 judges; all other emergency superior and special superior court judges shall be on an inactive list.  
20 For emergency district court judges, the active list shall be limited to 25 emergency judges; all  
21 other emergency district court judges shall be on an inactive list. There is no limit to the number  
22 of emergency judges on either inactive list. In the Chief Justice's discretion, emergency judges  
23 may be added or removed from their respective active and inactive lists, as long as the respective  
24 numerical limits on the active lists are observed. The Chief Justice is requested to consider  
25 geographical distribution in assigning emergency judges to an active list but may utilize any  
26 factor in determining which emergency judges are assigned to an active list. The Chief Justice of  
27 the Supreme Court may order any emergency district, superior, or special superior court judge  
28 on an active list who, in his opinion, is competent to perform the duties of a judge, to hold regular  
29 or special sessions of the court from which the judge retired, as needed. Order of assignment  
30 shall be in writing and entered upon the minutes of the court to which such emergency judge is  
31 assigned. An emergency judge shall only be assigned in the event of a:

- 32 (1) Death of a sitting judge.  
33 (2) ~~Disability~~ Medical leave absence of a sitting judge.  
34 (3) Recall to active military duty of a sitting judge.



- 1 (4) Retirement or removal of a sitting judge.  
2 (5) Court case-management emergency.  
3 (6) Disaster declaration made pursuant to G.S. 166A-19.3(3) within a judicial  
4 district."  
5

## 6 ELIMINATE COURT COST WAIVER NOTICE AND REPORT

7 SECTION 2. G.S. 7A-304 reads as rewritten:

### 8 "§ 7A-304. Costs in criminal actions.

9 (a) In every criminal case in the superior or district court, wherein the defendant is  
10 convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the  
11 prosecuting witness, the following costs shall be assessed and collected. No costs may be  
12 assessed when a case is dismissed. Only upon entry of a written order, supported by findings of  
13 fact and conclusions of law, determining that there is just cause, the court may (i) waive costs  
14 assessed under this section or (ii) waive or reduce costs assessed under subdivision (7), (8), (8a),  
15 (11), (12), or (13) of this section. ~~No court may waive or remit all or part of any court fines or~~  
16 ~~costs without providing notice and opportunity to be heard by all government entities directly~~  
17 ~~affected. The court shall provide notice to the government entities directly affected of (i) the date~~  
18 ~~and time of the hearing and (ii) the right to be heard and make an objection to the remission or~~  
19 ~~waiver of all or part of the order of court costs at least 15 days prior to hearing. Notice shall be~~  
20 ~~made to the government entities affected by first class mail to the address provided for receipt of~~  
21 ~~court costs paid pursuant to the order.~~

22 ...

23 (a2) ~~The Administrative Office of the Courts shall report on October 1, 2018, and annually~~  
24 ~~thereafter, to the Joint Legislative Oversight Committee on Justice and Public Safety on the~~  
25 ~~implementation of the notice of waiver of costs to the government entities directly affected as~~  
26 ~~required by subsection (a) of this section.~~

27 ...."

## 29 REDUCE NORTH CAROLINA ADMINISTRATIVE OFFICE OF THE COURTS 30 REPORTS TO THE GENERAL ASSEMBLY

31 SECTION 3.(a) G.S. 7A-343 reads as rewritten:

### 32 "§ 7A-343. Duties of Director.

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

35 ...

- 36 (8a) Prepare and submit ~~a semiannual~~ an annual report on the activities of each  
37 North Carolina business court site to the Chief Justice, the chairs of the House  
38 of Representatives Appropriations Committee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety, the  
39 chairs of the of the Joint Legislative Oversight Committee on Justice and Public Safety, and all other members of the General Assembly on February 1  
40 and August 1. 1. The report shall include the following information for each  
41 business court site:  
42  
43 a. The number of new, closed, and pending cases for the previous three  
44 years.  
45 b. The average age of pending cases.  
46 c. The number of motions pending over six months after being filed.  
47 d. The number of cases in which bench trials have been concluded for  
48 over six months without entry of judgment, including any  
49 accompanying explanation provided by the Business Court.  
50

1 The ~~August 1~~ report shall include an accounting of all business court activities  
 2 for the previous fiscal year, including the itemized annual expenditures.

3 ...."

4 **SECTION 3.(b)** G.S. 7A-346.2 reads as rewritten:

5 "**§ 7A-346.2. Various reports to General Assembly.**

6 ...  
 7 (b) ~~The Administrative Office of the Courts shall report by April 1 of each odd-numbered~~  
 8 ~~year to the Chairs of the Senate and House Appropriations Committees and the Chairs of the~~  
 9 ~~Senate and House Appropriations Subcommittees on Justice and Public Safety on the economic~~  
 10 ~~viability of the worthless check collection programs established by district attorneys pursuant to~~  
 11 ~~G.S. 14-107.2, including an assessment of whether any adjustments need to be made to ensure~~  
 12 ~~that the programs, on a statewide basis, are self-supporting.~~

13 (c) The Administrative Office of the Courts, in consultation with the Conference of  
 14 Clerks of Superior Court, shall make any necessary modifications to its information systems to  
 15 maintain records of all cases in which the defendant in a criminal case withdraws an appeal for  
 16 trial de novo in superior court and the superior court judge has signed an order remanding the  
 17 case to the district court and shall report on those remanded cases to the chairs of the Senate  
 18 Appropriations Committee on Justice and Public Safety, the chairs of the House Appropriations  
 19 Committee on Justice and Public Safety, and the chairs of the Joint Legislative Oversight  
 20 Committee on Justice and Public Safety by February 1 of each year. The report shall (i) include  
 21 the total number of remanded cases and also the total number of those cases for which the court  
 22 has remitted costs and (ii) aggregate those totals by the district in which they were granted and  
 23 by the name of each judge ordering remand court. The Administrative Office of the Courts may  
 24 obtain any information that may be needed from individual clerks of superior court in order to  
 25 make the modifications necessary to maintain the records required under this section."

26 **SECTION 3.(c)** G.S. 7A-346.3 is repealed.

27 **SECTION 3.(d)** G.S. 7A-350 reads as rewritten:

28 "**§ 7A-350. Annual report on Records of criminal court cost waivers.**

29 The Administrative Office of the Courts shall maintain records of all cases in which a judge  
 30 makes a finding of just cause to grant a waiver of criminal court costs under ~~G.S. 7A-304(a)~~ and  
 31 shall report on those waivers to the chairs of the House of Representatives and Senate  
 32 Appropriations Committees on Justice and Public Safety and the chairs of the Joint Legislative  
 33 Oversight Committee on Justice and Public Safety by February 1 of each year. The report shall  
 34 aggregate the waivers by the district in which the waiver or waivers were granted and by the  
 35 name of each judge granting a waiver or waivers. G.S. 7A-304(a)."

36  
 37 **CONFORM PETITION FOR SPOUSAL ALLOWANCE TO REFLECT CURRENT**  
 38 **SPOUSAL YEARLY ALLOWANCE MAXIMUM**

39 **SECTION 4.** G.S. 30-29 reads as rewritten:

40 "**§ 30-29. What petition must show.**

41 In the petition the petitioner shall set forth, besides the facts entitling petitioner to a year's  
 42 support and the value of the support claimed, the further facts that the personal estate of which  
 43 the decedent died possessed exceeded ~~thirty thousand dollars (\$30,000), sixty thousand dollars~~  
 44 ~~(\$60,000)~~ and also whether or not an allowance has been made to petitioner and the nature and  
 45 value thereof."

46  
 47 **CLARIFY DAYS IN WHICH FORECLOSURE SALES ARE PERMITTED**

48 **SECTION 5.(a)** G.S. 45-21.21(f) reads as rewritten:

49 "(f) A sale shall begin at the time designated in the notice of sale or as soon thereafter as  
 50 practicable, but not later than one hour after the time fixed therefor unless it is delayed by other

1 sales held at the same place. ~~The sale shall be held between the hours of 10:00 A.M. and 4:00~~  
2 ~~P.M. on any day on which the Clerk's office is normally open for transactions."~~

3 **SECTION 5.(b)** G.S. 45-21.23 reads as rewritten:

4 "**§ 45-21.23. Time of sale.**

5 A sale shall begin at the time designated in the notice of sale or as soon thereafter as  
6 practicable, but not later than one hour after the time fixed therefor unless it is delayed by other  
7 sales held at the same place. The sale shall be held between the hours of 10:00 A.M. and 4:00  
8 P.M. on any day ~~other than Sunday or a legal holiday when the courthouse is closed for~~  
9 ~~transactions on which the clerk's office is normally open for transactions."~~

## 10 **DOCKETING OF STATE BAR ORDERS AND FINAL DETERMINATIONS**

11 **SECTION 6.** G.S. 84-32(a) reads as rewritten:

12 "(a) In cases heard by the disciplinary hearing commission or any committee thereof, the  
13 proceedings shall be recorded by a certified court reporter and an official copy of all exhibits  
14 introduced into evidence shall be made and preserved in the office of the secretary-treasurer.  
15 Final judgments of ~~suspension-censure, suspension,~~ or disbarment shall be entered upon the  
16 judgment docket of the superior court in the district wherein the respondent resides or practices  
17 law, and also upon the minutes of the Supreme Court of North Carolina; and the judgment shall  
18 be effective throughout the State. Final determinations of incapacity or disability shall be entered  
19 upon the judgment docket of the superior court in the same manner as final judgments of censure,  
20 suspension, or disbarment."

## 21 **ESTABLISH FEE FOR FAILURE TO ATTEND A HEARING AS RECOMMENDED BY** 22 **THE DISPUTE RESOLUTION COMMISSION**

23 **SECTION 7.(a)** G.S. 7A-38.2(f) reads as rewritten:

24 "(f) In connection with any investigation or hearing conducted pursuant to an application  
25 for certification or qualification of any mediator, other neutral, or training program, or conducted  
26 pursuant to any disciplinary matter, the chair of the Dispute Resolution Commission or ~~his/her~~  
27 the chair's designee, may:

- 28 (1) Administer oaths and ~~affirmations;~~affirmations.
- 29 (2) Sign and issue subpoenas in the name of the Dispute Resolution Commission  
30 or direct its executive secretary to issue such subpoenas on its behalf requiring  
31 attendance and the giving of testimony by witnesses and the production of  
32 books, papers, and other documentary ~~evidene;~~evidence.
- 33 (3) Apply to the General Court of Justice, Superior Court Division, for any order  
34 necessary to enforce the powers conferred in this section, including an order  
35 for injunctive relief pursuant to G.S. 1A-1, Rule 65, when a certified  
36 mediator's conduct necessitates prompt action.
- 37 (4) Assess and collect an administrative fee from any person who appeals an  
38 adverse determination to the full Commission for a hearing and fails to attend  
39 the hearing without good cause as determined by the chair of the Commission.  
40 The fee assessed shall be the lesser of the Commission's actual expenses for  
41 the hearing or two thousand five hundred dollars (\$2,500). The fees collected  
42 shall be deposited in the Dispute Resolution Fund established pursuant to  
43 subsection (d) of this section."

44 **SECTION 7.(b)** This section is effective July 1, 2019, and applies to hearings held  
45 on or after that date.

## 46 **NOTIFICATION OF FAILURE TO APPEAR FOR FINGERPRINTING**

47 **SECTION 8.** G.S. 15A-502(f) reads as rewritten:  
48

1 "(f) If a person is charged with an offense for which fingerprints are required pursuant to  
2 this section but the person is not arrested for that offense, the court before which the charge is  
3 pending shall order the defendant to submit to fingerprinting by the Sheriff or other appropriate  
4 law enforcement agency at the earliest practical opportunity. If the person fails to appear for  
5 fingerprinting as ordered by the court, the ~~sheriff~~ Sheriff or other designated agency shall so  
6 inform the court, and the court may initiate proceedings for criminal contempt against the person  
7 pursuant to G.S. 5A-15, including issue of an order for arrest pursuant to G.S. 5A-16, if  
8 necessary. The defendant shall continue to be subject to the court's order to provide fingerprints  
9 until submitted."

10 **SECTION 9.(a)** G.S. 15A-1452 reads as rewritten:

11 **"§ 15A-1452. Execution of sentence upon determination of appeal; compliance with**  
12 **directive of appellate court.**

13 (a) If an appeal is ~~withdrawn~~, withdrawn for a judgment that imposed an active sentence  
14 or imposed only monetary obligations without probation, the clerk of superior court must enter  
15 an order reflecting that fact and directing compliance with the judgment.

16 (a1) If an appeal is withdrawn for a judgment that imposed a suspended sentence, the clerk  
17 of superior court shall bring the matter to the attention of the district attorney, who shall calendar  
18 a review hearing as provided in subsection (d) of this section.

19 (b) If the appellate division affirms ~~the judgment~~ in whole or in ~~part~~, part a judgment that  
20 imposed an active sentence or imposed only monetary obligations without probation, the clerk  
21 of superior court must file the directive of the appellate division and order compliance with its  
22 terms.

23 (b1) If the appellate division affirms a judgment that imposed a suspended sentence, the  
24 clerk of superior court shall file the directive of the appellate division and bring the matter to the  
25 attention of the district attorney, who shall calendar a review hearing as provided in subsection  
26 (d) of this section.

27 (c) If the appellate division orders a new trial or directs other relief or proceedings, the  
28 clerk must file the directive of the appellate court and bring the directive to the attention of the  
29 district attorney or the court for compliance with the directive.

30 (d) When notified by the clerk as provided in this section, the district attorney shall  
31 calendar a hearing in superior court for review of the judgment imposed. The defendant shall be  
32 entitled to be present and represented by counsel to the same extent as in the original sentencing  
33 hearing.

34 (1) At the review hearing, the court shall enter an order directing compliance with  
35 the judgment either as imposed or as modified as provided in this subsection.  
36 The defendant's period of probation shall commence as of the date of the  
37 court's order.

38 (2) If the defendant's ability to comply with any date or period of time specified  
39 in the original judgment has become impractical or impossible due to the  
40 pendency of the appeal, the court may modify those dates in order to give  
41 effect to the original judgment as closely as possible.

42 (3) The court shall not modify the judgment other than to adjust dates or periods  
43 for compliance as provided in subdivision (2) of this subsection, unless the  
44 court otherwise complies with the procedures for modification of probation in  
45 G.S. 15A-1344."

46 **SECTION 9.(b)** This section is effective December 1, 2019, and applies to any  
47 mandate of the appellate division received in the trial division on or after that date.

48  
49 **ALIGN NOTIFICATION PERIOD FOR FAILURE TO PAY WITH CURRENT**  
50 **STATUTORY COMPLIANCE PERIOD**

51 **SECTION 10.** G.S. 20-217(g2) reads as rewritten:

"(g2) Pursuant to G.S. 20-54, failure of a person to pay any fine or costs imposed pursuant to this section shall result in the Division withholding the registration renewal of a motor vehicle registered in that person's name. The clerk of superior court in the county in which the case was disposed shall notify the Division of any person who fails to pay a fine or costs imposed pursuant to this section within ~~20~~40 days of the date specified in the court's judgment, as required by G.S. 20-24.2(a)(2). The Division shall continue to withhold the registration renewal of a motor vehicle until the clerk of superior court notifies the Division that the person has satisfied the conditions of G.S. 20-24.1(b) applicable to the person's case. The provisions of this subsection shall be in addition to any other actions the Division may take to enforce the payment of any fine imposed pursuant to this section."

**NOTICE OF ADOPTION PROCEEDINGS BY PETITIONER**

**SECTION 11.** G.S. 48-2-403 reads as rewritten:

**"§ 48-2-403. ~~Notice~~Additional notice of proceedings by clerk,petitioner.**

No later than five days after a petition is filed, the ~~clerk of the court~~petitioner shall mail or otherwise deliver notice of the adoption proceeding to any agency that has undertaken but not yet completed a preplacement assessment and any agency ordered to make a report to the court pursuant to Part 5 of this Article. The petitioner shall provide proof of service of the notice to the court."

**PART II. PROPOSED STATUTORY CHANGES AS RECOMMENDED BY THE CONFERENCE OF SUPERIOR COURT CLERKS**

**MODIFY FEES IN THE ADMINISTRATION OF ESTATES**

**SECTION 12.(a)** G.S. 7A-307 reads as rewritten:

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

(a) In the administration of the estates of decedents, minors, incompetents, of missing persons, in the administration of trusts under wills and under powers of attorney, in trust proceedings under G.S. 36C-2-203, in estate proceedings under G.S. 28A-2-4, in power of attorney proceedings under G.S. 32C-1-116(a), and in collections of personal property by affidavit, the following costs shall be assessed:

...  
(2b) Notwithstanding subdivisions (1) and (2) of this subsection, ~~no costs shall be the only cost~~ assessed when the estate is administered or settled pursuant to ~~G.S. 28A-25-6~~G.S. 28A-25-6 shall be a fee of twenty dollars (\$20.00) to be assessed upon filing of the application.

- ...  
(b1) The clerk shall assess the following miscellaneous fees:
- (1) Filing and indexing a will with no probate
    - first page .....\$ 1.00
    - each additional page or fraction thereof ..... 25
  - (2) Issuing letters to fiduciaries, per letter over five letters issued ..... 1.00
  - (3) Inventory of safe deposits of a decedent, per box, per day ..... 15.00
  - (4) Taking a deposition ..... 10.00
  - (5) Docketing and indexing a will probated in another county in the State
    - first page ..... 6.00
    - each additional page or fraction thereof ..... 25
  - (6) Hearing petition for year's allowance to surviving spouse or child, in cases not assigned to a magistrate, and allotting the same ..... ~~8.00~~20.00

...."

1 SECTION 12.(b) This section is effective January 1, 2020, and applies to petitions  
2 filed on or after that date.

3  
4 **ELIMINATE OBSOLETE REPORT ON IMPLEMENTATION OF CHARACTER**  
5 **RECOGNITION SOFTWARE**

6 SECTION 13. G.S. 7A-809 is repealed.

7  
8 **IN REM FORECLOSURE EXECUTION PROCEDURE AND FEES**

9 SECTION 14.(a) G.S. 7A-308(a) reads as rewritten:

10 "(a) The following miscellaneous fees and commissions shall be collected by the clerk of  
11 superior court and remitted to the State for the support of the General Court of Justice:

- 12 (1) Foreclosure under power of sale in deed of trust or mortgage.....\$300.00
- 13 If the property is sold under the power of sale, an additional amount
- 14 will be charged, determined by the following formula: forty-five
- 15 cents (.45) per one hundred dollars (\$100.00), or major fraction
- 16 thereof, of the final sale price. If the amount determined by the
- 17 formula is less than ten dollars (\$10.00), a minimum ten dollar
- 18 (\$10.00) fee will be collected. If the amount determined by the
- 19 formula is more than five hundred dollars (\$500.00), a maximum
- 20 five hundred-dollar (\$500.00) fee will be collected.

- 21 (1a) In rem foreclosures conducted under G.S. 105-375.....\$300.00
- 22 If the property is sold under execution, an additional fee will be collected.

23 ...."

24 SECTION 14.(b) G.S. 105-375 reads as rewritten:

25 "§ 105-375. In rem method of foreclosure.

26 ...

27 (b) Docketing Certificate of Taxes as Judgment. – In lieu of following the procedure set  
28 forth in G.S. 105-374, the governing body of any taxing unit may direct the tax collector to file  
29 with the clerk of superior court, no earlier than 30 days after the tax liens were advertised, a  
30 certificate showing the following: the name of the taxpayer as defined in G.S. 105-273(17), for  
31 each parcel on which the taxing unit has a lien for unpaid taxes, together with the amount of  
32 taxes, penalties, interest, and costs that are a lien thereon; the year or years for which the taxes  
33 are due; and a description of the property sufficient to permit its identification by parol testimony.  
34 The fees for docketing and indexing the certificate assessed pursuant to G.S. 7A-308(a)(11) shall  
35 be payable to the clerk of superior court at the time the taxes are collected or the property is sold.

36 ...

37 (i) Issuance of Execution. – At any time after three months and before two years from  
38 the indexing of the judgment as provided in subsection (b), above, execution shall be issued at  
39 the request of the tax collector in the same manner as executions are issued upon other judgments  
40 of the superior court, and the real property shall be sold by the sheriff in the same manner as  
41 other real property is sold under execution with the following exceptions:

- 42 (1) No debtor's exemption shall be allowed.
- 43 (2) In lieu of personal service of notice on the taxpayer, the sheriff shall send
- 44 notice by registered or certified mail, return receipt requested, to the taxpayer
- 45 at the taxpayer's last known address at least 30 days prior to the day fixed for
- 46 the sale. If within 10 days following the mailing of the notice, a return receipt
- 47 has not been received by the sheriff indicating receipt of the notice, then the
- 48 sheriff shall make additional efforts to locate and notify the taxpayer and all
- 49 lienholders of record of the sale under execution in accordance with
- 50 subdivision (4) of subsection (c) of this section.

1 (3) The sheriff shall add to the amount of the judgment as costs of the sale any  
2 postage expenses incurred by the tax collector and the sheriff in foreclosing  
3 under this section.

4 (4) In any advertisement or posted notice of sale under execution, the sheriff may  
5 (and at the request of the governing body shall) combine the advertisements  
6 or notices for properties to be sold under executions against the properties of  
7 different taxpayers in favor of the same taxing unit or group of units; however,  
8 the property included in each judgment shall be separately described and the  
9 name of the taxpayer specified in connection with each.

10 The purchaser at the execution sale shall acquire title to the property in fee simple free and  
11 clear of all claims, rights, interests, and liens except the liens of other taxes or special assessments  
12 not paid from the purchase price and not included in the judgment.

13 (i1) Execution Fee. – The fee assessed in G.S. 7A-308(a)(1a) shall be payable to the clerk  
14 of superior court out of the sale proceeds at the time the property is sold.

15 ...."

16 **SECTION 14.(c)** This section is effective October 1, 2019, and applies to execution  
17 sales conducted on or after that date.

#### 19 **AUTHORIZE RETIRED CLERK TO ADMINISTER OATHS**

20 **SECTION 15.** G.S. 11-7.1(a) reads as rewritten:

21 "(a) Except as otherwise specifically required by statute, an oath of office may be  
22 administered by:

- 23 (1) A justice, judge, magistrate, clerk, assistant clerk, or deputy clerk of the  
24 General Court of Justice, a retired ~~justice or judge~~ justice, judge, or clerk of  
25 the General Court of Justice, or any member of the federal judiciary;
- 26 (2) The Secretary of ~~State;~~ State.
- 27 (3) A notary ~~public;~~ public.
- 28 (4) A register of ~~deeds;~~ deeds.
- 29 (5) A mayor of any city, town, or incorporated ~~village;~~ village.
- 30 (5a) A chairman of the board of commissioners of any ~~county;~~ county.
- 31 (6) A member of the House of Representatives or Senate of the General  
32 ~~Assembly;~~ Assembly.
- 33 (7) The clerk of any county, city, town or incorporated village."

#### 35 **DISBURSEMENT OF FUNDS OWED TO DECEDENT**

36 **SECTION 16.** G.S. 28A-25-6(f) reads as rewritten:

37 "(f) If no administrator has been appointed, the clerk of superior court ~~shall~~ shall, upon  
38 motion of the clerk or upon the application of an interested party, disburse the money received  
39 under this section for the following purposes and in the following order:

- 40 (1) To pay the surviving spouse's year's allowance and children's year's allowance  
41 assigned in accordance with ~~law;~~ law.
- 42 (2), (3) Repealed by Session Laws 1981, c. 383, s. 3.
- 43 (4) All other claims shall be disbursed according to the order set out in  
44 G.S. 28A-19-6.

45 Notwithstanding the foregoing provisions of this subsection, the clerk shall pay, out of funds  
46 provided the deceased pursuant to G.S. 111-18 and Part 3 of Article 2 of Chapter 108A of the  
47 General Statutes of North Carolina, any lawful claims for care provided by an adult care home  
48 to the deceased, incurred not more than 90 days prior to the deceased's death. After the death of  
49 a spouse who died intestate and after the disbursements have been made in accordance with this  
50 subsection, the balance in the clerk's hands belonging to the estate of the decedent shall be paid



1 to the surviving spouse, and if there is no surviving spouse, the clerk shall pay it to the heirs in  
2 proportion to their respective interests."  
3

4 **CLARIFY TIME PERIODS IN SUMMARY EJECTMENT ACTIONS**

5 **SECTION 17.** G.S. 42-34 reads as rewritten:

6 **"§ 42-34. Undertaking on appeal and order staying execution.**

7 ...

8 (c) In an ejectment action based upon alleged nonpayment of rent where the judgment is  
9 entered more than five ~~working-business~~ business days before the day when the next rent will be due under  
10 the lease, the appellant shall make an additional undertaking to stay execution pending appeal.  
11 Such additional undertaking shall be the payment of the prorated rent for the days between the  
12 day that the judgment was entered and the next day when the rent will be due under the lease.

13 ...

14 (d) The undertaking by the appellant and the order staying execution may be substantially  
15 in the following form:

16 "State of North Carolina,

17 "County of \_\_\_\_\_

18 "\_\_\_\_\_, Plaintiff

19 vs.

20 "\_\_\_\_\_, Defendant

Bond to

Stay Execution

On Appeal to

District Court

21  
22  
23 "Now comes the defendant in the above entitled action and respectfully shows the court that  
24 judgment for summary ejectment was entered against the defendant and for the plaintiff on the  
25 \_\_\_\_ day of \_\_\_\_, \_\_\_\_, by the Magistrate. Defendant has appealed the judgment to the District  
26 Court.

27 "Pursuant to the terms of the lease between plaintiff and defendant, defendant is obligated to  
28 pay rent in the amount of \$\_\_\_\_ per \_\_\_\_, due on the \_\_\_\_ day of each \_\_\_\_.

29 "Where the payment of rent in arrears or an additional undertaking is required by G.S. 42-34,  
30 the defendant hereby tenders \$\_\_\_\_ to the Court as required.

31 "Defendant hereby undertakes to pay the periodic rent hereinafter due according to the  
32 aforesaid terms of the lease and moves the Court to stay execution on the judgment for summary  
33 ejectment until this matter is heard on appeal by the District Court.

34 "This the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

35 \_\_\_\_\_  
36 Defendant

37 "Upon execution of the above bond, execution on said judgment for summary ejectment is  
38 hereby stayed until the action is heard on appeal in the District Court. If defendant fails to make  
39 any rental payment to the clerk's office within five business days of the due date, upon application  
40 of the plaintiff, the stay of execution shall dissolve and the sheriff may dispossess the defendant.

41 "This the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

42 \_\_\_\_\_  
43 Assistant Clerk of Superior Court."  
44

44 ...

45 (f) If the defendant fails to make a payment within five business days of the due date  
46 according to the undertaking and order staying execution, the clerk, upon application of the  
47 plaintiff, shall issue execution on the judgment for possession.

48 ...."

49  
50 **PART III. TECHNICAL CORRECTIONS**  
51

**TECHNICAL CORRECTION/APPELLATE CLERK STATUTES**

**SECTION 18.(a)** G.S. 7A-11 reads as rewritten:

**"§ 7A-11. Clerk of the Supreme Court; salary; bond; fees; oath.**

The clerk of the Supreme Court shall be appointed by the Supreme Court to serve at its pleasure. The annual salary of the clerk shall be fixed by the Administrative Officer of the Courts, subject to the approval of the Supreme Court. The clerk may appoint assistants in the number and at the salaries fixed by the Administrative Officer of the Courts. The clerk shall perform such duties as the Supreme Court may assign, and shall be bonded to the State, for faithful performance of duty, in the same manner as the clerk of the superior court, and in such amount as the Administrative Officer of the Courts shall determine. ~~He~~The clerk shall adopt a seal of office, to be approved by the Supreme Court. A fee bill for services rendered by the clerk shall be fixed by rules of the Supreme Court, and all such fees shall be remitted to the State treasury. Charges to litigants for the reproduction of appellate records and briefs shall be fixed by rule of the Supreme Court and remitted to the Appellate Courts Printing and Computer Operations Fund established in G.S. 7A-343.3. The operations of the Clerk of the Supreme Court shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. Before entering upon the duties of his office, the clerk shall take the oath of office prescribed by law."

**SECTION 18.(b)** G.S. 7A-20(a) reads as rewritten:

"(a) The Court of Appeals shall appoint a clerk to serve at its pleasure. Before entering upon his duties, the clerk shall take the oath of office prescribed for the clerk of the Supreme Court, conformed to the office of clerk of the Court of Appeals, and shall be bonded, in the same manner as the clerk of superior court, in an amount prescribed by the Administrative Officer of the Courts, payable to the State, for the faithful performance of ~~his~~the clerk's duties. The salary of the clerk shall be fixed by the Administrative Officer of the Courts, subject to the approval of the Court of Appeals. The number and salaries of his assistants, and their bonds, if required, shall be fixed by the Administrative Officer of the Courts. The clerk shall adopt a seal of office, to be approved by the Court of Appeals."

**TECHNICAL CORRECTION/CLARIFY HUMAN TRAFFICKING COMMISSION VOTING MEMBERSHIP**

**SECTION 19.** G.S. 7A-354(b) reads as rewritten:

"(b) Membership. – The Commission shall consist of no more than 15 members as follows:

...

- (4) The following persons, or their designees, may serve as nonvoting, ex officio members of the Commission:
  - a. The Director of the Administrative Office of the Courts.
  - b. The President of the North Carolina Conference of Superior Court Judges.
  - c. The President of the North Carolina Association of District Court Judges."

**TECHNICAL CORRECTION/MINOR VICTIMS**

**SECTION 20.** G.S. 14-43.15 reads as rewritten:

**"§ 14-43.15. Minor victims.**

Any minor victim of a violation of G.S. 14-43.11, 14-43.12, or 14-43.13 shall be alleged to be abused and neglected and the provisions of Subchapter I of Chapter 7B of the General ~~Statutes~~ Statutes shall apply."

**1 TECHNICAL CORRECTION/INNOCENCE INQUIRY COMMISSION STATUTORY  
2 CITATION**

3 **SECTION 21.** G.S. 15A-1469(b1) reads as rewritten:

4 "(b1) The Commission's entire file, including files obtained from other agencies, shall be  
5 unencumbered by protective orders when transferred to the district attorney and defense counsel  
6 pursuant to ~~subsection (g) of this section, G.S. 15A-1468(g),~~ unless either of the following apply:

- 7 (1) The district attorney and defense counsel have consented to a protective order  
8 over a portion of the file.  
9 (2) The district attorney and defense counsel have been given an opportunity to  
10 be heard by the senior judge of the three-judge panel before a protective order  
11 is issued."  
12

**13 TECHNICAL CORRECTION/INCORRECT ESTATES STATUTORY CITATION**

14 **SECTION 22.** G.S. 28A-2-4(a) reads as rewritten:

15 "(a) The clerks of superior court of this State, as ex officio judges of probate, shall have  
16 original jurisdiction of estate proceedings. Except as provided in subdivision (4) of this  
17 subsection, the jurisdiction of the clerk of superior court is exclusive. Estate proceedings include,  
18 but are not limited to, the following:

- 19 ...  
20 (3) Determination of the elective share for a surviving spouse as provided in  
21 ~~G.S. 30-3~~ G.S. 30-3.1.  
22 ...."  
23

**24 TECHNICAL CORRECTIONS/NORTH CAROLINA UNIFORM POWER OF  
25 ATTORNEY ACT**

26 **SECTION 23.(a)** G.S. 32C-1-112(c) reads as rewritten:

27 "(c) Unless the power of attorney otherwise provides, an agent is entitled upon request to  
28 the clerk of superior court to be reimbursed for expenses properly incurred on behalf of the  
29 principal."  
30

31 **SECTION 23.(b)** G.S. 32C-1-116(a) reads as rewritten:

32 "(a) The clerks of superior court of this State shall have original jurisdiction of  
33 proceedings under this Chapter. Except as provided in subdivision (4) of this subsection, the clerk  
34 of superior court's jurisdiction is exclusive. The following proceedings are included:

- 35 ...  
36 (3) To determine compensation and expenses for an agent under  
37 ~~G.S. 32C-1-112(b)~~ G.S. 32C-1-112(b) and G.S. 32C-1-112(c).  
38 ...."  
39

40 **SECTION 23.(c)** G.S. 32C-4-403(c) reads as rewritten:

41 "(c) References to prior statutes ~~and in~~ powers of attorney, whether executed on or after  
42 the adoption of this Chapter shall be deemed to refer to the corresponding provisions this Chapter  
43 unless application of the rule of construction would substantially impair substantial rights of a  
44 party."  
45

**46 TECHNICAL CORRECTION/RESIDENCY REQUIREMENT FOR FILING A  
47 PETITION FOR NAME CHANGE**

48 **SECTION 24.** G.S. 101-2(a) reads as rewritten:

49 "(a) A person who wishes, for good cause shown, to change his or her name must file an  
50 application before the clerk of the superior court of the county in which the person ~~lives,~~ resides,  
after giving 10 days' notice of the application by publication at the courthouse door."

1 **TECHNICAL CORRECTION/EFFECTIVE DATE FOR INCREASE OF MAXIMUM**  
2 **TESTAMENTARY DISTRIBUTION TO A MINOR**

3 **SECTION 25.(a)** Section 8.2 of S.L. 2018-40 reads as rewritten:

4 "SECTION 8.2. This section becomes effective January 1, ~~2019~~2019, and applies to  
5 distributions made on or after that date."

6 **SECTION 25.(b)** This section is effective January 1, 2019.

7  
8 **EFFECT OF HEADINGS**

9 **SECTION 26.** The headings to the parts, subparts, and sections of this act are a  
10 convenience to the reader and are for reference only. The headings do not expand, limit, or define  
11 the text of this act, except for effective dates referring to a part or subpart.

12  
13 **EFFECTIVE DATE**

14 **SECTION 27.** Except where otherwise provided, this act is effective when it  
15 becomes law.