

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 113
Committee Substitute Favorable 3/24/21
Committee Substitute #2 Favorable 4/21/21

Short Title: 2021 AOC Legislative Changes.-AB

(Public)

Sponsors:

Referred to:

February 23, 2021

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 **DISPUTE RESOLUTION COMMISSION STATUTORY CHANGES**

7 **SECTION 1.** G.S. 7A-38.2 reads as rewritten:

8 "**§ 7A-38.2. Regulation of mediators and other neutrals.**

9 ...

10 (c) The Dispute Resolution Commission shall consist of ~~17~~18 members: five judges
11 appointed by the Chief Justice of the Supreme Court, at least two of whom shall be active superior
12 court judges, and at least two of whom shall be active district court judges; one clerk of superior
13 court appointed by the Chief Justice of the Supreme Court; two mediators certified to conduct
14 superior court mediated settlement conferences and two mediators certified to conduct equitable
15 distribution mediated settlement conferences appointed by the Chief Justice of the Supreme
16 Court; one certified district criminal court mediator who is a representative of a community
17 mediation center appointed by the Chief Justice of the Supreme Court; a district attorney
18 appointed by the Chief Justice of the Supreme Court; a court management staff member
19 appointed by the Chief Justice of the Supreme Court; two practicing attorneys who are not
20 certified as mediators appointed by the President of the North Carolina State Bar, one of whom
21 shall be a family law specialist; and three citizens knowledgeable about mediation, one of whom
22 shall be appointed by the Governor, one by the General Assembly upon the recommendation of
23 the Speaker of the House of Representatives in accordance with G.S. 120-121, and one by the
24 General Assembly upon the recommendation of the President Pro Tempore of the Senate in
25 accordance with G.S. 120-121. Commission members shall serve three-year terms and shall be
26 ineligible to serve more than two consecutive terms. Members appointed to fill unexpired terms
27 shall be eligible to serve two consecutive terms upon the expiration of the unexpired term. The
28 Chief Justice shall designate one of the members to serve as chair for a two-year term. Members
29 of the Commission shall be compensated pursuant to G.S. 138-5.

30 Vacancies shall be filled for unexpired terms and full terms in the same manner as incumbents
31 were appointed. Appointing authorities may receive and consider suggestions and
32 recommendations of persons for appointment from the Dispute Resolution Commission, the
33 Family Law, Litigation, and Dispute Resolution Sections of the North Carolina Bar Association,
34 the North Carolina Association of Professional Family Mediators, the North Carolina Conference
35 of Clerks of Superior Court, the North Carolina Conference of Court Administrators, the



1 Mediation Network of North Carolina, the Dispute Resolution Committee of the Supreme Court,
2 the Conference of Chief District Court Judges, the Conference of Superior Court Judges, the
3 Director of the Administrative Office of the Courts, and the Child Custody Mediation Advisory
4 Committee of the Administrative Office of the Courts.

5 ...

6 (m) Members of the Commission and its employees are immune from civil suit for all
7 conduct undertaken in the course of their official duties."

9 MEDICAL MALPRACTICE JURY INSTRUCTIONS AND JUDICIAL ASSIGNMENT

10 SECTION 2.(a) Rule 51 of G.S. 1A-1 is amended by adding a new subsection to
11 read:

12 "(d) Final instructions to the jury. – In civil cases subject to G.S. 90-21.11(2), the court
13 shall reduce the oral instructions given to the jury to writing. Upon the jury retiring for
14 deliberation, the court is encouraged to and may provide the jury with a written copy of the oral
15 instructions for the jury to take into the jury room during deliberations."

16 SECTION 2.(b) G.S. 7A-47.3 is amended by adding a new subsection to read:

17 "(e) The Senior Resident Superior Court Judge, in consultation with the parties to the case,
18 shall designate a specific resident judge or a specific judge assigned to hold court in the district
19 to preside over all proceedings in a case subject to G.S. 90-21.11(2)."

20 SECTION 2.(c) This section becomes effective October 1, 2021. Subsection (a) of
21 this section applies to actions filed on or after that date.

23 ADJUST MASTER JURY POOL TO ACCOUNT FOR THE COVID-19 PANDEMIC

24 SECTION 3. Notwithstanding G.S. 9-2(f), the master jury list for the 2022-2023
25 biennium shall contain not less than one and one-quarter times and not more than three times as
26 many names as were drawn for jury duty in all courts in the county during the 2018-2019
27 biennium if the jury commission determines that those numbers would be more representative of
28 the required number of jurors than the number of names drawn during the previous biennium.
29 Notwithstanding G.S. 9-2(f), in a county preparing an annual master jury list for 2022 as
30 authorized by G.S. 9-2(a), the master jury list shall contain not less than one and one-quarter
31 times and not more than three times as many names drawn during 2019 if the jury commission
32 determines that those numbers would be more representative of the required number of jurors
33 than the number of names drawn during the previous year.

35 JUDICIAL STANDARDS COMMISSION ALTERNATE MEMBERS AND 36 TECHNICAL CORRECTIONS

37 SECTION 4. G.S. 7A-375 reads as rewritten:

38 "§ 7A-375. **Judicial Standards Commission.**

39 (a) Composition. – The Judicial Standards Commission shall consist of the following
40 residents of North Carolina: one Court of Appeals judge, two superior court judges, and two
41 district court judges, each appointed by the Chief Justice of the Supreme Court; four members of
42 the State Bar who have actively practiced in the courts of the State for at least 10 years, elected
43 by the State Bar Council; and four citizens who are not judges, active or retired, nor members of
44 the State Bar, two appointed by the Governor, and two appointed by the General Assembly in
45 accordance with G.S. 120-121, one upon recommendation of the President Pro Tempore of the
46 Senate and one upon recommendation of the Speaker of the House of Representatives. ~~The Court~~
47 ~~of Appeals judge shall act as chair of the Commission.~~ For the two Commission members the
48 General Assembly has appointed to serve, the General Assembly shall also appoint alternate
49 Commission members to serve in the event of scheduling conflicts, conflicts of interest,
50 disability, or other disqualification arising in a particular case. The alternate members shall have
51 the same qualifications for appointment as the original members.

1 (a1) Terms. – The Court of Appeals judge shall act as chair of the Commission and shall
2 serve at the pleasure of the Chief Justice. Terms of other Commission members shall be for six
3 years. No member who has served a full six-year term is eligible for reappointment. Members
4 who are not judges are entitled to per diem, and all members are entitled to reimbursement for
5 travel and subsistence expenses at the rate applicable to members of State boards and
6 commissions generally for each day engaged in official business.

7 ~~The Court of Appeals judge shall serve at the pleasure of the Chief Justice. Terms of~~
8 ~~other Commission members shall be for six years. No member who has served a full six-year~~
9 ~~term is eligible for reappointment. If Vacancies. – A vacancy on the Commission arises upon the~~
10 ~~resignation or death of a member or if a member ceases to have the qualifications required for~~
11 ~~the member's appointment, that person ceases to be a member. appointment. Vacancies of~~
12 ~~members, other than those appointed by the General Assembly, are filled in the same manner as~~
13 ~~the original appointment, for the remainder of the term. Vacancies of members appointed by the~~
14 ~~General Assembly are filled as provided under G.S. 120-122. Members who are not judges are~~
15 ~~entitled to per diem and all members are entitled to reimbursement for travel and subsistence~~
16 ~~expenses at the rate applicable to members of State boards and commissions generally, for each~~
17 ~~day engaged in official business by the alternate member appointed pursuant to subsection (a) of~~
18 ~~this section and shall serve for the remainder of the unexpired term. In the absence of an alternate~~
19 ~~member appointed by the General Assembly pursuant to subsection (a) of this section, or if an~~
20 ~~alternate member is unable to serve, such vacancy shall be filled as provided under G.S. 120-122.~~

21 (c) Disability or Disqualification. – If a member of the Commission who is a judge
22 appointed by the Chief Justice becomes disabled, or becomes a respondent before the
23 Commission, the Chief Justice shall appoint an alternate member to serve during the period of
24 disability or disqualification. The alternate member shall be from the same division of the
25 General Court of Justice as the judge whose place the alternate member takes. If a member of the
26 Commission who is not a judge becomes disabled, disabled or is disqualified from participating
27 in a disciplinary proceeding, the Governor, if he appointed the disabled member, shall appoint,
28 or the State Bar Council, if it elected the disabled member, shall elect, an alternate member to
29 serve during the period of disability. disability or disqualification. If a member of the
30 Commission who is not a judge and who was appointed by the General Assembly becomes
31 disabled, an disabled or is disqualified from participating in a disciplinary proceeding, the chair
32 of the Commission shall call upon the alternate member shall be appointed to serve during the
33 period of disability in the same manner as if there were a vacancy to be filled under G.S. 120-122.
34 In a particular case, if a member becomes disqualified, or is successfully challenged for cause,
35 the member's seat for that case shall be filled by an alternate member selected as provided in this
36 subsection appointed pursuant to subsection (a) of this section.

37 (d) Extended Terms to Complete Proceedings. – A member may serve after expiration of
38 the member's term only to participate until the conclusion of a disciplinary proceeding begun
39 before expiration of the member's term. Such participation shall not prevent the successor from
40 taking office, but the successor may not participate in the proceeding for which the predecessor's
41 term was extended. This subsection shall apply also to any judicial member whose membership
42 on the Commission is automatically terminated by retirement or resignation from judicial office,
43 or expiration of the term of judicial office.

44 (e) Civil Immunity. – Members of the Commission and its employees are immune from
45 civil suit for all conduct undertaken in the course of their official duties.

46 (f) Commission Staff. – The chair of the Commission may employ, if funds are
47 appropriated for that purpose, an executive director, Commission counsel, investigator, and any
48 support staff as may be necessary to assist the Commission in carrying out its duties. With the
49 approval of the Chief Justice, for specific cases, the chair also may employ special counsel or
50 call upon the Attorney General to furnish counsel. In addition, with the approval of the Chief
51 Justice, for specific cases, the chair or executive director also may call upon the Director of the

1 State Bureau of Investigation to furnish an investigator who shall serve under the supervision of
 2 the executive director. While performing duties for the Commission, the executive director,
 3 counsel, and investigator have authority throughout the State to serve subpoenas or other process
 4 issued by the Commission in the same manner and with the same effect as an officer authorized
 5 to serve process of the General Court of Justice.

6 (g) Rules. – The Commission may adopt, and may amend from time to time, its own rules
 7 of procedure for the performance of the duties and responsibilities prescribed by this Article,
 8 subject to the approval of the Supreme Court."
 9

10 **CLARIFYING WHEN AN ORDER FOR ARREST MAY BE ISSUED**

11 **SECTION 5.** G.S. 15A-305(b) reads as rewritten:

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

13 ...

- 14 (3) The defendant has failed to appear as required by a duly executed criminal
 15 summons issued pursuant to G.S. 15A-303 that charged the defendant with a
 16 criminal offense, or a citation issued by a law enforcement officer or other
 17 person authorized by statute pursuant to G.S. 15A-302 that charged the
 18 defendant with a misdemeanor.

19"
 20

21 **CLARIFYING WHEN A DEFENDANT CAN WAIVE APPEARANCE**

22 **SECTION 6.** G.S. 15A-1011(a) reads as rewritten:

23 "(a) A defendant may plead not guilty, guilty, or no contest "(nolo contendere)." A plea
 24 may be received only from the defendant himself in open court except when:

- 25 (1) The defendant is a corporation, in which case the plea may be entered by
 26 counsel or a corporate ~~officer~~; or officer.
 27 (2) There is a waiver of arraignment and a filing of a written plea of not guilty
 28 under ~~G.S. 15A-945~~; or G.S. 15A-945.
 29 (3) In misdemeanor cases there is a written waiver of appearance submitted with
 30 the approval of the ~~presiding judge~~; or judge.
 31 (4) Written pleas ~~in traffic cases, hunting and fishing offenses under Chapter 113,~~
 32 ~~and boating offenses under Chapter 75A are authorized under G.S. 7A-146(8);~~
 33 ~~or for the types of offenses specified in G.S. 7A-273(2) are authorized under~~
 34 G.S. 7A-148(a).
 35 (5) The defendant executes a waiver and plea of not guilty as provided in
 36 G.S. 15A-1011(d).
 37 (6) The defendant, before a magistrate or clerk of court, enters a written
 38 appearance, waiver of trial and plea of guilty and at the same time makes
 39 restitution in a case wherein the sole allegation is a violation of G.S. 14-107,
 40 the check is in an amount provided in G.S. 7A-273(8), and the warrant does
 41 not charge a fourth or subsequent violation of this statute."
 42

43 **CLARIFICATION OF MAGISTRATE MARRIAGE SOLEMNIZATION AUTHORITY** 44 **FOLLOWING RECUSAL**

45 **SECTION 7.** G.S. 51-5.5 reads as rewritten:

46 "**§ 51-5.5. Recusal of certain public officials.**

47 (a) Every magistrate has the right to recuse from performing all lawful marriages as a
 48 magistrate under this Chapter based upon any sincerely held religious objection. Such recusal
 49 shall be upon notice to the chief district court judge and is in effect for at least six months from
 50 the time delivered to the chief district court judge. The recusing magistrate may not perform any
 51 marriage as a magistrate under this Chapter until the recusal is rescinded in writing. The chief

1 district court judge shall ensure that all individuals issued a marriage license seeking to be
 2 married before a magistrate may marry.

3 (a1) Notwithstanding the provisions in subsection (a) of this section, a recusal does not
 4 prohibit a magistrate who is also an ordained minister of any religious denomination or a minister
 5 authorized by a church from performing lawful marriages as a minister.

6"

7
 8 **CLARIFICATION OF PROCEDURE FOR ISSUING NOTICE OF RIGHTS AND**
 9 **CLAIMING STATUTORY EXEMPTIONS**

10 **SECTION 8.** G.S. 1C-1603 reads as rewritten:

11 **"§ 1C-1603. Procedure for setting aside exempt property.**

12 (a) Motion or Petition; Notice. –

13 ...

14 (4) After judgment, except as provided in subdivision (3) of this subsection or
 15 when exemptions have already been designated, the clerk may not issue an
 16 execution or writ of possession unless notice from the court has been served
 17 upon the judgment debtor advising the debtor of the debtor's rights. The notice
 18 is not required if the exemptions under G.S. 1C-1601 are inapplicable based
 19 on an exception in G.S. 1C-1601(e). The judgment creditor must cause the
 20 notice, which must be accompanied by the form for the statement by the debtor
 21 under subsection (c1) of this section, to be served on the debtor as provided in
 22 G.S. 1A-1, Rule 4(j)(1). If the judgment debtor cannot be served as provided
 23 under G.S. 1A-1, Rule 4(j)(1), the judgment creditor may serve the judgment
 24 debtor by mailing a copy of the notice to the judgment debtor at the debtor's
 25 last known address. Proof of service by certified or registered mail or personal
 26 service is as provided in G.S. 1A-1, Rule 4. The judgment creditor may prove
 27 service by mailing to last known address by filing a certificate that the notice
 28 was served indicating the circumstances warranting the use of such service
 29 and the date and address of service.

30 ...

31 (e) Procedure for Setting Aside Exempt Property. –

32 ...

33 (2) If the judgment debtor does not file a motion to designate exemptions with a
 34 schedule of assets within 20 days after notice of the debtor's rights was served
 35 in accordance with subdivision (4) of subsection (a) of this section, or if the
 36 debtor does not request a hearing before the clerk within 20 days after service
 37 of the notice of rights and appear at the requested hearing, the judgment debtor
 38 has waived the exemptions provided in this ~~Article and in Sections 1 and 2 of~~
 39 ~~Article X of the North Carolina Constitution.~~ Article. Upon request of the
 40 judgment creditor, the clerk must issue a writ of execution or writ of
 41 possession.

42"

43
 44 **TECHNICAL CORRECTIONS**

45 **SECTION 9.** G.S. 42-34.1(a) reads as rewritten:

46 **"§ 42-34.1. Rent pending execution of judgment; post bond pending appeal.**

47 (a) If the judgment in district court is against the defendant appellant, it shall be sufficient
 48 to stay execution of the judgment during the 30-day time period for taking an appeal provided
 49 for in Rule 3 of the North Carolina Rules of Appellate Procedure if the defendant appellant posts
 50 a bond as provided in G.S. 42-34(b), and no additional security under G.S. 1-292 is required. If
 51 the defendant appellant fails to make rental payments as provided in the undertaking within five

1 business days of the day rent is due under the terms of the residential rental agreement, the clerk
2 of superior court shall, upon application of the plaintiff appellee, immediately issue a writ of
3 possession, and the sheriff shall dispossess the defendant appellant as provided in G.S. 42-36.2."
4

5 **AUTHORIZATION FOR REMOTE AUDIO-VIDEO PROCEEDINGS IN COURT**

6 **SECTION 10.(a)** Article 7 of Chapter 7A of the General Statutes is amended by
7 adding a new section to read:

8 **"§ 7A-49.6. Proceedings conducted by audio and video transmission.**

9 (a) Except as limited herein, judicial officials may conduct proceedings of all types by
10 means of an audio and video transmission in which the parties, the presiding official, and any
11 other participants can see and hear each other. Judicial officials conducting proceedings by audio
12 and video transmission under this section must safeguard the constitutional rights of those
13 persons involved in the proceeding and preserve the integrity of the judicial process.

14 (b) Each party to a proceeding involving audio and video transmission must be able to
15 communicate fully and confidentially with his or her attorney if the party is represented by an
16 attorney.

17 (c) In a proceeding involving a jury, the court may allow a witness to testify by audio and
18 video transmission only upon finding in the record that good cause exists for doing so under the
19 circumstances.

20 (d) When the right to confront witnesses or be present is implicated in criminal or juvenile
21 delinquency proceedings, the court may not proceed by audio and video transmission unless (i)
22 the court has obtained a knowing, intelligent, and voluntary waiver of the defendant's or juvenile
23 respondent's rights or (ii) the court finds that the use of audio and video transmission in the
24 absence of a waiver is necessary to further an important State interest and will not materially
25 prejudice the defendant's or juvenile respondent's rights.

26 (e) A party may object to conducting a proceeding by audio and video transmission. If
27 the presiding official finds that the party has demonstrated good cause for the objection, the
28 proceeding must not be held by audio and video transmission. If there is no objection, or if there
29 is an objection and good cause is not shown, the presiding official may conduct the proceeding
30 by audio and video transmission.

31 (f) Proceedings conducted by audio and video transmission shall be held in a manner that
32 complies with any applicable federal and State laws governing the confidentiality and security
33 of confidential information.

34 (g) If the proceeding is one that is open to the public, then the presiding official must
35 facilitate access to the proceeding by the public and the media as nearly as practicable to the
36 access that would be available were the proceeding conducted in person.

37 (h) If the proceeding is required by law to be recorded, then the audio and video
38 transmission must be recorded in accordance with G.S. 7A-95, G.S. 7A-198, and other laws, as
39 applicable.

40 (i) This section is not intended to limit the court's authority to receive remote testimony
41 pursuant to statutes that otherwise permit it, including G.S. 15A-1225.1, 15A-1225.2,
42 15A-1225.3, 20-139.1, 8C-1, Rule 616, 50A-111, and 52C-3-315(f).

43 (j) All proceedings under this section shall be conducted using video conferencing
44 application(s) approved by the Administrative Office of the Courts.

45 (k) As used herein, the term "judicial officials" includes judges of the appellate, superior
46 court, and district court divisions, clerks of superior court, and magistrates."

47 **SECTION 10.(b)** G.S. 7B-1906(h) is repealed.

48 **SECTION 10.(c)** G.S. 15A-101.1 reads as rewritten:

49 **"§ 15A-101.1. Electronic technology in criminal process and procedure.**

1 As used in this Chapter, in Chapter 7A of the General Statutes, in Chapter 15 of the General
2 Statutes, and in all other provisions of the General Statutes that deal with criminal process or
3 procedure:

4 ...

5 (2) "Document" means any pleading, criminal process, subpoena, complaint,
6 motion, application, notice, affidavit, commission, waiver, consent, dismissal,
7 order, judgment, or other writing intended in a criminal or contempt
8 proceeding to authorize or require an action, to record a decision or to
9 communicate or record information. ~~The term does not include search~~
10 ~~warrants.~~ A document may be created and exist in paper form or in electronic
11 form or in both forms. Each document shall contain the legible, printed name
12 of the person who signed the document.

13"

14 **SECTION 10.(d)** G.S. 15A-245(a) reads as rewritten:

15 "(a) Before acting on the application, the issuing official may examine on oath the
16 applicant or any other person who may possess pertinent information, but information other than
17 that contained in the affidavit may not be considered by the issuing official in determining
18 whether probable cause exists for the issuance of the warrant unless the information is either
19 recorded or contemporaneously summarized in the record or on the face of the warrant by the
20 issuing official. The information must be shown by one or ~~more~~ both of the following:

21 (1) ~~Affidavit; or~~ Affidavit.

22 (2) Oral testimony under oath or affirmation before the issuing ~~official; or~~ official.

23 (3) ~~Oral testimony under oath or affirmation presented by a sworn law~~
24 ~~enforcement officer to the issuing official by means of an audio and video~~
25 ~~transmission in which both parties can see and hear each other. Prior to the~~
26 ~~use of audio and video transmission pursuant to this subdivision, the~~
27 ~~procedures and type of equipment for audio and video transmission shall be~~
28 ~~submitted to the Administrative Office of the Courts by the senior regular~~
29 ~~resident superior court judge and the chief district court judge for a judicial~~
30 ~~district or set of districts and approved by the Administrative Office of the~~
31 ~~Courts."~~

32 **SECTION 10.(e)** G.S. 15A-304(d) reads as rewritten:

33 "(d) Showing of Probable Cause. – A judicial official may issue a warrant for arrest only
34 when he is supplied with sufficient information, supported by oath or affirmation, to make an
35 independent judgment that there is probable cause to believe that a crime has been committed
36 and that the person to be arrested committed it. The information must be shown by one or ~~more~~
37 both of the following:

38 (1) ~~Affidavit;~~ Affidavit.

39 (2) Oral testimony under oath or affirmation before the issuing ~~official; or~~ official.

40 (3) ~~Oral testimony under oath or affirmation presented by a sworn law~~
41 ~~enforcement officer to the issuing official by means of an audio and video~~
42 ~~transmission in which both parties can see and hear each other. Prior to the~~
43 ~~use of audio and video transmission pursuant to this subdivision, the~~
44 ~~procedures and type of equipment for audio and video transmission shall be~~
45 ~~submitted to the Administrative Office of the Courts by the senior regular~~
46 ~~resident superior court judge and the chief district court judge for a judicial~~
47 ~~district or set of districts and approved by the Administrative Office of the~~
48 ~~Courts.~~

49 If the information is insufficient to show probable cause, the warrant may not be issued. A
50 judicial official shall not refuse to issue a warrant for the arrest of a person solely because a prior
51 warrant has been issued for the arrest of another person involved in the same matter."

1 SECTION 10.(f) G.S. 15A-511(a1) is repealed.

2 SECTION 10.(g) G.S. 15A-532 reads as rewritten:

3 "**§ 15A-532. Persons authorized to determine conditions for release; use of two-way audio**
4 **and video transmission.**release.

5 (a) Judicial officials may determine conditions for release of persons brought before them
6 or as provided in subsection (b) of this section, in proceedings over which they are presiding, in
7 accordance with this Article.

8 (b) ~~Any proceeding under this Article to determine, modify, or revoke conditions of~~
9 ~~pretrial release in a noncapital case may be conducted by an audio and video transmission~~
10 ~~between the judicial official and the defendant in which the parties can see and hear each other.~~
11 ~~If the defendant has counsel, the defendant shall be allowed to communicate fully and~~
12 ~~confidentially with his attorney during the proceeding. Upon motion of the defendant, the court~~
13 ~~may not use an audio and video transmission.~~

14 (c) ~~Prior to the use of audio and video transmission pursuant to subsection (b) of this~~
15 ~~section, the procedures and type of equipment for audio and video transmission shall be~~
16 ~~submitted to the Administrative Office of the Courts by the senior regular resident superior court~~
17 ~~judge for a judicial district or set of districts and approved by the Administrative Office of the~~
18 ~~Courts."~~

19 SECTION 10.(h) G.S. 15A-601 reads as rewritten:

20 "**§ 15A-601. First appearance before a district court judge; right in felony and other cases**
21 **in original jurisdiction of superior court; consolidation of first appearance**
22 **before magistrate and before district court judge; first appearance before clerk**
23 **of superior court; use of two-way audio and video transmission.**court.

24 (a) Any defendant charged in a magistrate's order under G.S. 15A-511 or criminal
25 process under Article 17 of this Chapter, Criminal Process, with a crime in the original
26 jurisdiction of the superior court must be brought before a district court judge in the district court
27 district as defined in G.S. 7A-133 in which the crime is charged to have been committed. This
28 first appearance before a district court judge is not a critical stage of the proceedings against the
29 defendant.

30 (a1) ~~A first appearance in a noncapital case may be conducted by an audio and video~~
31 ~~transmission between the judge and the defendant in which the parties can see and hear each~~
32 ~~other. If the defendant has counsel, the defendant shall be allowed to communicate fully and~~
33 ~~confidentially with his attorney during the proceeding.~~

34 (a2) ~~Prior to the use of audio and video transmission pursuant to subsection (a1) of this~~
35 ~~section, the procedures and type of equipment for audio and video transmission shall be~~
36 ~~submitted to the Administrative Office of the Courts by the senior regular resident superior court~~
37 ~~judge for a judicial district or set of districts and approved by the Administrative Office of the~~
38 ~~Courts.~~

39"

40 SECTION 10.(i) G.S. 15A-941 reads as rewritten:

41 "**§ 15A-941. Arraignment before judge only upon written request; use of two-way audio**
42 **and video transmission; entry of not guilty plea if not arraigned.**

43 (a) Arraignment consists of bringing a defendant ~~in open court or as provided in~~
44 ~~subsection (b) of this section~~ before a judge having jurisdiction to try the offense, advising him
45 of the charges pending against him, and directing him to plead. The prosecutor must read the
46 charges or fairly summarize them to the defendant. If the defendant fails to plead, the court must
47 record that fact, and the defendant must be tried as if he had pleaded not guilty.

48 (b) ~~An arraignment in a noncapital case may be conducted by an audio and video~~
49 ~~transmission between the judge and the defendant in which the parties can see and hear each~~
50 ~~other. If the defendant has counsel, the defendant shall be allowed to communicate fully and~~
51 ~~confidentially with his attorney during the proceeding.~~

1 ~~(e) Prior to the use of audio and video transmission pursuant to subsection (b) of this~~
2 ~~section, the procedures and type of equipment for audio and video transmission shall be~~
3 ~~submitted to the Administrative Office of the Courts by the senior regular resident superior court~~
4 ~~judge for the judicial district or set of districts and approved by the Administrative Office of the~~
5 ~~Courts.~~

6 ~~...."~~

7 **SECTION 10.(j)** G.S. 50B-2(e) reads as rewritten:

8 "(e) All documents filed, issued, registered, or served in an action under this Chapter
9 relating to an ex parte, emergency, or permanent domestic violence protective order may be filed
10 electronically. ~~Hearings held to consider ex parte relief pursuant to subsection (c) of this section~~
11 ~~may be held via video conference. Hearings held to consider emergency or permanent relief~~
12 ~~pursuant to subsections (a) or (b) of this section shall not be held via video conference."~~

13 **SECTION 10.(k)** G.S. 50C-6(e) is repealed.

14 **SECTION 10.(l)** G.S. 50C-7 reads as rewritten:

15 "**§ 50C-7. Permanent civil no-contact order.**

16 Upon a finding that the victim has suffered an act of unlawful conduct committed by the
17 respondent, a permanent civil no-contact order may issue if the court additionally finds that
18 process was properly served on the respondent, the respondent has answered the complaint and
19 notice of hearing was given, or the respondent is in default. No permanent civil no-contact order
20 shall be issued without notice to the respondent. ~~Hearings held to consider permanent relief~~
21 ~~pursuant to this section shall not be held via video conference."~~

22 **SECTION 10.(m)** G.S. 122C-268(g) reads as rewritten:

23 "(g) To the extent feasible, hearings shall be held in an appropriate room at the facility in
24 which the respondent is being treated in a manner approved by the chief district court judge if
25 the facility is located within the presiding judge's district court district as defined in G.S. 7A-133.
26 Hearings may be held in the judge's chambers. A hearing may not be held in a regular courtroom,
27 over objection of the respondent, if in the discretion of a judge a more suitable place is available.
28 ~~A hearing may be held by audio and video transmission between the treatment facility and a~~
29 ~~courtroom in a manner that allows (i) the judge and the respondent to see and hear each other and~~
30 ~~(ii) the respondent to communicate fully and confidentially with the respondent's counsel during~~
31 ~~the proceeding. Prior to any hearing held by audio and video transmission, the chief district court~~
32 ~~judge shall submit to the Administrative Office of the Courts the procedures and type of~~
33 ~~equipment for audio and video transmission for approval by the Administrative Office of the~~
34 ~~Courts. Notwithstanding the provisions of this subsection, if the respondent, through counsel,~~
35 ~~objects to a hearing held by audio and video transmission, the hearing shall be held in the physical~~
36 ~~presence of the presiding district court judge. Regardless of the manner and location for hearings,~~
37 ~~hearings shall be held in a manner that complies with any applicable federal and State laws~~
38 ~~governing the confidentiality and security of confidential information, including any information~~
39 ~~transmitted from the treatment facility by audio and video transmission. information. If the~~
40 ~~respondent has counsel, the respondent shall be allowed to communicate fully and confidentially~~
41 ~~with his attorney during the proceeding. Prior to the use of the audio and video transmission, the~~
42 ~~procedures and type of equipment for audio and video transmission shall be submitted to the~~
43 ~~Administrative Office of the Courts by the chief district court judge and approved by the~~
44 ~~Administrative Office of the Courts."~~

45 **SECTION 10.(n)** This section is effective when it becomes law and applies to
46 proceedings occurring on or after that date.

47
48 **EMERGENCY JUDGE ASSIGNMENT FLEXIBILITY DUE TO COVID-19 PANDEMIC**

49 **SECTION 11.(a)** Notwithstanding the limitations set forth in G.S. 7A-52(a), the
50 Chief Justice of the Supreme Court may expand the active list of emergency superior court judges
51 to no more than 25 emergency judges.

1 **SECTION 11.(b)** In addition to the reasons found in G.S. 7A-52(a)(1) through (7)
2 that the Chief Justice may assign emergency judges, the Chief Justice may assign emergency
3 judges to hold regular or special sessions of court to address case management issues created by
4 the COVID-19 pandemic.

5 **SECTION 11.(c)** This section is effective when it becomes law and shall expire on
6 July 1, 2022.

7
8 **CLARIFYING DUTIES OF COURT OF APPEALS DOCUMENT MANAGEMENT**
9 **SHOP**

10 **SECTION 12.(a)** G.S. 7A-20(b) reads as rewritten:

11 "(b) Subject to approval of the Supreme Court, the Court of Appeals shall promulgate from
12 time to time a fee bill for services rendered by the clerk, and such fees shall be remitted to the
13 State Treasurer. Charges to litigants for document management and the reproduction of appellate
14 records and briefs shall be fixed by rule of the Supreme Court and remitted to the Appellate
15 Courts Printing and Computer Operations Fund established in G.S. 7A-343.3. The operations of
16 the Court of Appeals shall be subject to the oversight of the State Auditor pursuant to Article 5A
17 of Chapter 147 of the General Statutes."

18 **SECTION 12.(b)** G.S. 7A-343.3 reads as rewritten:

19 **"§ 7A-343.3. Appellate Courts Printing and Computer Operations Fund.**

20 The Appellate Courts Printing and Computer Operations Fund is established within the
21 Judicial Department as a nonreverting, interest-bearing special revenue account. Accordingly,
22 interest and other investment income earned by the Fund shall be credited to it. All moneys
23 collected through charges to litigants for document management and the reproduction of
24 appellate records and briefs under G.S. 7A-11 and G.S. 7A-20(b) shall be remitted to the State
25 Treasurer and held in this Fund. Moneys in the Fund shall be used to support the ~~print shop~~
26 document management shop operations of the Supreme Court and the Court of Appeals,
27 including personnel, maintenance, and capital costs. The Judicial Department may create and
28 maintain receipt-supported positions for these purposes but shall report to the Chairs of the Senate
29 and House of Representatives Appropriations Subcommittees on Justice and Public Safety prior
30 to creating such new positions."

31
32 **APPLICATION OF FUNDS AND PROCEEDS PAID TO THE CLERK BY SHERIFF**

33 **SECTION 13.(a)** G.S. 1-239 reads as rewritten:

34 **"§ 1-239. Paid to clerk; docket credited; transcript to other counties; notice to attorney for**
35 **judgment creditor; judgment creditor to give notice of payment; entry of**
36 **payment on docket; penalty for failure to give notice of payment.**

37 ...

38 (c) Upon receipt by the judgment creditor of any payment of money upon a judgment,
39 the judgment creditor shall within 60 days after receipt of the payment give satisfactory notice
40 thereof to the clerk of the superior court in which the judgment was rendered, ~~and the which~~
41 notice shall specify the date and amount of the payment received. If the creditor provides to the
42 clerk a single notice of multiple payments from the debtor, the notice shall specify the date of
43 each individual payment and the amount received on each date. The clerk shall thereafter
44 promptly enter the any such payment on the judgment docket of the court, and the crediting each
45 payment against the judgment as of the date received by the creditor. The clerk shall immediately
46 forward a certificate thereof to the clerk of the superior court of each county to whom a transcript
47 of the judgment has been sent, and the clerk of each superior court shall thereafter promptly enter
48 the same on the judgment docket of the court and file the original with the judgment roll in the
49 action. If the judgment creditor fails to file the notice required by this subsection within 30 days
50 following written demand by the debtor, he may be required to pay a civil penalty of one hundred
51 dollars (\$100.00) in addition to attorneys' fees and any loss caused to the debtor by such failure.

1 The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil
2 Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

3 (d) Payment of money judgment to clerk's office under execution.

4 (1) When proceeds are paid to the clerk as a result of levy and an execution sale
5 pursuant to Article 29B of this Chapter, the proceeds shall be credited and
6 applied to the judgment as of the date the proceeds are received by the clerk.

7 (2) When funds are paid to the clerk pursuant to the levy under execution without
8 an execution sale, the funds shall be credited and applied to the judgment as
9 of the date the funds are collected."

10 **SECTION 13.(b)** G.S. 1-310 reads as rewritten:

11 **"§ 1-310. When dated and returnable.**

12 Executions shall be dated as of the day on which they were issued, and shall be returnable to
13 the court from which they were issued not more than 90 days from said date, and no executions
14 against property shall issue until 10 days after entry of judgment. The sheriff shall separately
15 notate on the return of execution for a judgment requiring the payment of money (i) any amount
16 collected without an execution sale and the date of collection and, if multiple payments to the
17 sheriff are collected on different dates pursuant to a single writ of execution, the individual dates
18 of collection and the amount collected on each date and (ii) the date of levy and description of
19 property levied and sold through an execution sale pursuant to Article 29B of this Chapter."

20 **SECTION 13.(c)** G.S. 1-339.70 reads as rewritten:

21 **"§ 1-339.70. Disposition of proceeds of sale.**

22 (a) After deducting all sums due him on account of the sale, including the expenses
23 incurred in caring for the property so long as his responsibility for such care continued, the sheriff
24 shall pay the proceeds of the sale to the clerk of the superior court who issued the execution, and
25 the clerk shall furnish the sheriff a receipt therefor.

26 (a1) Proceeds paid by the sheriff to the clerk resulting from an execution sale shall be
27 credited and applied to the judgment as of the date the proceeds are received by the clerk.

28"

29 **SECTION 13.(d)** G.S. 162-18 reads as rewritten:

30 **"§ 162-18. Payment of money collected on execution.**

31 In all cases where a sheriff has collected money upon an execution placed in his hands, if
32 there be no bona fide contest over the application thereof, he shall immediately pay the same to
33 ~~the plaintiff, or~~ into the office of the clerk of the court from which the execution issued."

34 **SECTION 13.(e)** This section is effective when it becomes law.

35
36 **MEDIATED SETTLEMENT AGREEMENTS SIGNED BY PARTIES' DESIGNEES**

37 **SECTION 14.(a)** G.S. 7A-38.1(l) reads as rewritten:

38 "(l) Inadmissibility of negotiations. – Evidence of statements made and conduct occurring
39 in a mediated settlement conference or other settlement proceeding conducted under this section,
40 whether attributable to a party, the mediator, other neutral, or a neutral observer present at the
41 settlement proceeding, shall not be subject to discovery and shall be inadmissible in any
42 proceeding in the action or other civil actions on the same claim, except:

43 (1) In proceedings for sanctions under this section;

44 (2) In proceedings to enforce or rescind a settlement of the action;

45 (3) In disciplinary hearings before the State Bar or the Dispute Resolution
46 Commission; or

47 (4) In proceedings to enforce laws concerning juvenile or elder abuse.

48 As used in this section, the term "neutral observer" includes persons seeking mediator
49 certification, persons studying dispute resolution processes, and persons acting as interpreters.

50 No settlement agreement to resolve any or all issues reached at the proceeding conducted
51 under this subsection or during its recesses shall be enforceable unless it has been reduced to

1 writing and signed by the parties against whom enforcement is ~~sought~~, sought or signed by their
2 designees. No evidence otherwise discoverable shall be inadmissible merely because it is
3 presented or discussed in a mediated settlement conference or other settlement proceeding.

4 No mediator, other neutral, or neutral observer present at a settlement proceeding shall be
5 compelled to testify or produce evidence concerning statements made and conduct occurring in
6 anticipation of, during, or as a follow-up to a mediated settlement conference or other settlement
7 proceeding pursuant to this section in any civil proceeding for any purpose, including
8 proceedings to enforce or rescind a settlement of the action, except to attest to the signing of any
9 agreements, and except proceedings for sanctions under this section, disciplinary hearings before
10 the State Bar or the Dispute Resolution Commission, and proceedings to enforce laws concerning
11 juvenile or elder abuse."

12 **SECTION 14.(b)** G.S. 7A-38.3B(i) reads as rewritten:

13 "(i) Agreements. – In matters before the clerk in which agreements are reached in a
14 mediation conducted pursuant to this section, or during one of its recesses, those agreements shall
15 be treated as follows:

- 16 (1) Where as a matter of law, a matter may be resolved by agreement of the
17 parties, a settlement is enforceable only if it has been reduced to writing and
18 signed by the parties against whom enforcement is ~~sought~~, sought or signed by
19 their designees.
20 (2) In all other matters before the clerk, including guardianship and estate matters,
21 all agreements shall be delivered to the clerk for consideration in deciding the
22 matter."

23 **SECTION 14.(c)** This section is effective when it becomes law and applies to
24 settlement agreements reached on or after that date.

25 **SEVERABILITY CLAUSE**

26 **SECTION 15.** If any section or provision of this act is declared unconstitutional or
27 invalid by the courts, it does not affect the validity of this act as a whole or any part other than
28 the part so declared to be unconstitutional or invalid.
29

30 **EFFECTIVE DATE**

31 **SECTION 16.** Except as otherwise provided, this act is effective when it becomes
32 law.
33