

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023**

S

4

**SENATE BILL 303
Judiciary Committee Substitute Adopted 4/4/23
Third Edition Engrossed 4/6/23
House Committee Substitute Favorable 5/15/24**

Short Title: Court/Out-of-State Atty Changes.

(Public)

Sponsors:

Referred to:

March 14, 2023

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, AS RECOMMENDED BY
4 THE ADMINISTRATIVE OFFICE OF THE COURTS, AND TO AMEND THE
5 STATUTES GOVERNING THE PRACTICE OF LAW BY OUT-OF-STATE
6 ATTORNEYS IN NORTH CAROLINA.

7 The General Assembly of North Carolina enacts:

8
9 **CLARIFY CLERK RETENTION OF ADOPTION PETITION**

10 **SECTION 1.** G.S. 48-9-102(d) reads as rewritten:

11 "(d) All records filed in connection with an adoption, including a copy of the petition
12 giving the date of the filing of the original petition, the original of each consent and
13 relinquishment, additional documents filed pursuant to G.S. 48-2-305, any report to the court,
14 any additional documents submitted and orders entered, any orders of dismissal, and a copy of
15 the final decree, shall be sent by the clerk of superior court to the Division within 10 days after
16 the appeal period for a decree of adoption has expired or 10 days following the final disposition
17 of an appeal pursuant to G.S. 48-2-607(b). The original petition and final decree or order of
18 dismissal shall be retained by the clerk."
19

20 **REMOVE RESTRICTION ON FILING BRIEFS AND MEMORANDA**

21 **SECTION 2.** G.S. 1A-1, Rule 5(d), reads as rewritten:

22 "(d) Filing. – The following papers shall be filed with the court, either before service or
23 within five days after service:

- 24 (1) All pleadings, as defined by Rule 7(a) of these rules, subsequent to the
25 complaint, whether such pleadings are original or amended.
26 (2) Written motions and all notices of hearing.
27 (3) Any other application to the court for an order that may affect the rights of or
28 in any way commands any individual, business entity, governmental agency,
29 association, or partnership to act or to forego action of any kind.
30 (4) Notices of appearance.
31 (5) Any other paper required by rule or statute to be filed.
32 (6) Any other paper so ordered by the court.
33 (7) All orders issued by the court.



* S 3 0 3 - V - 4 *

1 All other papers, regardless of whether these rules require them to be served upon a party,
2 should not be filed with the court unless (i) the filing is agreed to by all parties, or (ii) the papers
3 are submitted to the court in relation to a motion or other request for relief, or (iii) the filing is
4 permitted by another rule or statute. ~~Briefs or memoranda provided to the court may not be filed~~
5 ~~with the clerk of court unless ordered by the court.~~ The party taking a deposition or obtaining
6 material through discovery is responsible for its preservation and delivery to the court if needed
7 or so ordered."
8

9 BUSINESS COURT EFILING CHANGES

10 SECTION 3.(a) Article 7 of Chapter 1 of the General Statutes is amended by adding
11 a new section to read:

12 "§ 1-81.2. Venue in complex business cases.

13 (a) To facilitate the effective administration in the State's statewide electronic filing
14 system of mandatory complex business cases and those cases assigned to a business court judge,
15 and subject to subsection (e) of this section, venue shall lie exclusively in Wake County in any
16 action designated by the Chief Justice of the Supreme Court of North Carolina as a mandatory
17 complex business case pursuant to G.S. 7A-45.4 or otherwise assigned to a business court judge
18 by the Chief Justice pursuant to the General Rules of Practice for the Superior and District Courts.

19 (b) When a Notice of Designation filed pursuant to G.S. 7A-45.4(c) is filed
20 contemporaneously with the initiation of an action, the action shall be brought in Wake County.
21 If the Chief Justice or the Chief Business Court Judge enters an order declining to designate an
22 action filed pursuant to this subsection as a mandatory complex business case, that order shall
23 direct the clerk of superior court to transfer the action to the county of origin identified in the
24 Notice of Designation.

25 (c) When a Notice of Designation filed pursuant to G.S. 7A-45.4(c) is filed in an action
26 instituted outside of Wake County, the clerk of superior court in the county of origin shall transfer
27 the action to Wake County after the issuance of summons in accordance with G.S. 1A-1, Rule 4.
28 If the Chief Justice or the Chief Business Court Judge subsequently enters an order declining to
29 designate an action filed pursuant to this subsection as a mandatory complex business case or
30 declines to otherwise assign the matter to a business court judge pursuant to the General Rules
31 of Practice for the Superior and District Courts, the order shall direct the clerk of superior court
32 to transfer the action to the county of origin identified in the Notice of Designation.

33 (d) No later than five days after an action is transferred to or from Wake County pursuant
34 to subsection (b) or (c) of this section, the Wake County Clerk of Superior Court shall serve the
35 party that filed the Notice of Designation with a notice of transfer. The notice shall be on a form
36 promulgated by the Administrative Office of the Courts. No later than five days after being served
37 with the notice of transfer, the party that filed the Notice of Designation shall serve a copy of the
38 notice of transfer on all parties in the action not served by the Wake County Clerk of Superior
39 Court.

40 (e) Notwithstanding the provisions of this Article or any other General Statute concerning
41 venue, jury trials in mandatory complex business cases and cases assigned to a business court
42 judge pursuant to the General Rules of Practice for Superior and District Courts shall be held in
43 the county of origin identified in the Notice of Designation. With the consent of all parties, the
44 presiding Business Court Judge may conduct non-jury or jury trials and pretrial proceedings
45 outside the county of origin in any superior court or business court facility, or remotely pursuant
46 to G.S. 7A-49.6."

47 SECTION 3.(b) G.S. 7A-45.4 reads as rewritten:

48 "§ 7A-45.4. Designation of complex business cases.

49 ...

50 (c) A party designating an action as a mandatory complex business case shall file a Notice
51 of Designation in the Superior Court in which the action has been filed, shall contemporaneously

1 ~~serve the notice on each opposing party or counsel and on the Special Superior Court Judge for~~
2 ~~Complex Business Cases who is then the Chief Business Court Judge, and shall~~
3 ~~contemporaneously send a copy of the notice by e-mail to the Chief Justice of the Supreme Court~~
4 ~~for approval of the designation of the action as a mandatory complex business case. Action~~
5 pursuant to G.S. 1-81.2. The Notice of Designation shall, in good faith and based on information
6 reasonably available, succinctly state the basis of the designation and include a certificate by or
7 on behalf of the designating party that the civil action meets the criteria for designation as a
8 mandatory complex business case pursuant to subsection (a) or (b) of this section. The Notice of
9 Designation shall identify the county of origin, which is the county in which the matter is pending
10 at the time the Notice of Designation is filed or, if filed contemporaneously with the initiation of
11 the case, the county in which the plaintiff asserts the trial of the matter would be proper under
12 Article 7 of Chapter 1 of the General Statutes.

13 ...

14 (e) Within 30 days after service of the Notice of Designation, any other party may, in
15 good faith, file and serve an opposition to the designation of the action as a mandatory complex
16 business case. The opposition to the designation of the action shall assert all grounds on which
17 the party opposing designation objects to the designation, and any grounds not asserted shall be
18 deemed conclusively waived. Within 30 days after the entry of an order staying a pending action
19 pursuant to subsection (g) of this section, any party opposing the stay shall file an objection with
20 the Business Court asserting all grounds on which the party objects to the case proceeding in the
21 Business Court, and any grounds not asserted shall be deemed conclusively waived. Based on
22 the opposition or on its own motion, the Chief Business Court Judge shall rule by written order
23 on the opposition or objection and determine whether the action should be designated as a
24 mandatory complex business case. If a party disagrees with the decision, the party may appeal in
25 accordance with G.S. 7A-27(a).

26 (f) Once a designation is filed under subsection (d) of this section, ~~and after preliminary~~
27 ~~approval by the Chief Justice,~~ a case shall be designated and administered a complex business
28 case. All case unless and until an order has been entered under subsection (e) of this section
29 ordering that the case not be designated a mandatory complex business case. Except for execution
30 proceedings pursuant to Articles 28 through 32 of Chapter 1 of the General Statutes, all
31 proceedings in the action shall be before the Business Court Judge to whom it has been assigned
32 ~~unless and until an order has been entered under subsection (e) of this section ordering that the~~
33 ~~case not be designated a mandatory complex business case or the Chief Justice revokes approval.~~
34 Assigned. If complex business case status is revoked or denied, the action shall be treated as any
35 other civil action, unless it is designated as an exceptional civil case or a discretionary complex
36 business case pursuant to ~~Rule 2.1 of~~ the General Rules of Practice for the Superior and District
37 Courts.

38"

39 **SECTION 3.(c)** This section becomes effective when the North Carolina Business
40 Court implements the electronic filing system approved by the Director of the Administrative
41 Office of the Courts.

43 TECHNICAL CORRECTIONS

44 **SECTION 4.** G.S. 1A-1, Rule 55(b), reads as rewritten:

45 "(b) Judgment. – Judgment by default may be entered as follows:

- 46 (1) By the Clerk. – When the plaintiff's claim against a defendant is for a sum
47 certain or for a sum which can by computation be made certain, the clerk upon
48 request of the plaintiff and upon affidavit of the amount due shall enter
49 judgment for that amount and costs against the defendant, if the defendant has
50 been defaulted for failure to appear and if the defendant is not an infant or
51 incompetent person. A verified pleading may be used in lieu of an affidavit

when the pleading contains information sufficient to determine or compute the sum certain.

In all cases wherein, pursuant to this rule, the clerk enters judgment by default upon a claim for debt which is secured by any pledge, mortgage, deed of trust or other contractual security in respect of which foreclosure may be had, or upon a claim to enforce a lien for unpaid taxes or ~~assessments under G.S. 105-414, assessments~~, the clerk may likewise make all further orders required to consummate foreclosure in accordance with the procedure provided in Article 29A of Chapter 1 of the General Statutes, entitled "Judicial Sales."

...."

SECTION 5. G.S. 7A-102(b) reads as rewritten:

"(b) An assistant clerk is authorized to perform all the duties and functions of the office of clerk of superior court, and any act of an assistant clerk is entitled to the same faith and credit as that of the clerk. A deputy clerk is authorized to certify the existence and correctness of any record in the clerk's office, to take the proofs and examinations of the witnesses touching the execution of a will as required by ~~G.S. 31-17, G.S. 28A-2A-6~~, and to perform any other ministerial act which the clerk may be authorized and empowered to do, in his own name and without reciting the name of his principal. The clerk is responsible for the acts of his assistants and deputies. With the consent of the clerk of superior court of each county and the consent of the presiding judge in any proceeding, an assistant or deputy clerk is authorized to perform all the duties and functions of the office of the clerk of superior court in another county in any proceeding in the district or superior court that has been transferred to that county from the county in which the assistant or deputy clerk is employed."

SECTION 6. G.S. 28A-25-6(a) reads as rewritten:

"(a) As an alternative to the small estate settlement procedures of this Article, any person indebted to a decedent may satisfy such indebtedness by paying the amount of the debt to the clerk of the superior court of the county of the domicile of the ~~decedent~~; decedent if all of the following conditions are met:

(1) ~~If no~~ No administrator has been ~~appointed, and~~ appointed.

(2) ~~If the~~ Except as otherwise provided in G.S. 90-210.64(d), the amount owed by such person does not exceed ~~five thousand dollars (\$5,000), and~~ five thousand dollars (\$5,000).

(3) ~~If the~~ Except as otherwise provided in G.S. 90-210.64(d), the sum tendered to the clerk would not make the aggregate sum which has come into the clerk's hands belonging to the decedent exceed five thousand dollars (\$5,000)."

SECTION 7. G.S. 28A-26-3(b) reads as rewritten:

"(b) If, within 90 days after the death of the nonresident, or within 60 days after issue of domiciliary letters, should that be a shorter period, no application for ancillary letters has been made by a domiciliary personal representative, any person who could apply for issue of letters had the decedent been a resident may apply for issue of ancillary letters.

If it is known that there is a duly qualified domiciliary personal representative, the clerk of superior court shall send notice of such ~~application, by registered mail, application~~ to that personal representative and to the appointing court. Such notice shall include a statement that, within 14 days after its mailing, the domiciliary personal representative may apply for the issue of ancillary letters with the preference specified in subsection (a) of this section; and that failure of the domiciliary personal representative to do so will be deemed a waiver, with the result that letters will be issued to another. Upon such failure, the clerk of superior court may issue ancillary letters in accordance with the provisions of Article 4 of this Chapter.

If the applicant and the clerk of superior court have no knowledge of the existence of a domiciliary personal representative, the clerk of superior court may proceed to issue ancillary

1 letters. Subsequently, upon it becoming known that a domiciliary personal representative has
2 been appointed, whether such appointment occurred before or after the issue of ancillary letters,
3 the clerk of superior court shall notify the domiciliary personal ~~representative, by registered mail,~~
4 representative of the action taken by the clerk of superior court and the state of the ancillary
5 administration. Such notice shall include a statement that at any time prior to approval of the
6 ancillary personal representative's final account the domiciliary personal representative may
7 appear in the proceedings for any purpose the domiciliary personal representative may deem
8 advisable; and that the domiciliary personal representative may apply to be substituted as
9 ancillary personal representative, but that such request will not be granted unless the clerk of
10 superior court finds that such action will be for the best interests of North Carolina administration
11 of the estate."

12 **SECTION 8.** G.S. 35A-1106 reads as rewritten:

13 **"§ 35A-1106. Contents of petition.**

14 The petition shall set forth, to the extent known, all of the following:

- 15 (1) The name, age, address, and county of residence of the respondent.
- 16 (2) The name, address, and county of residence of the petitioner, and the
17 petitioner's interest in the proceeding.
- 18 (3) A general statement of the respondent's assets and liabilities with an estimate
19 of the value of any property, including any compensation, insurance, pension,
20 or allowance to which the respondent is entitled.
- 21 (4) A statement of the facts tending to show that the respondent is incompetent
22 and the reason or reasons why the adjudication of incompetence is sought.
- 23 (4a) A statement identifying what less restrictive alternatives have been considered
24 prior to seeking adjudication and why those less restrictive alternatives are
25 insufficient to meet the needs of the respondent.
- 26 (5) The name, address, and county of residence of the respondent's next of kin
27 and other persons known to have an interest in the proceeding.
- 28 (6) Facts regarding the adjudication of respondent's incompetence by a court of
29 another state, ~~if an adjudication is sought on that basis pursuant to~~
30 G.S. 35A-1113(1), state as defined by G.S. 35B-2."

31 **SECTION 9.** G.S. 65-93 reads as rewritten:

32 **"§ 65-93. Funds to be kept perpetually.**

33 All money placed in the office of the superior court clerk in accordance with this Part shall
34 be held perpetually, or until such time as the balance of the trust corpus falls below one hundred
35 dollars (\$100.00), at which time the trust shall terminate, and the clerk shall disburse the
36 remaining ~~balance as provided in G.S. 36A-147(e).~~ balance. Except as otherwise provided herein,
37 no one shall have authority to withdraw or change the direction of the income on same."

38 **SECTION 10.** G.S. 101-2 reads as rewritten:

39 **"§ 101-2. Procedure for changing name; petition; notice.**

40 (a) A person who wishes, for good cause shown, to change his or her name must file an
41 application before the clerk of the superior court of the county in which the person resides, after
42 giving 10 days' notice of the application by publication ~~at the courthouse door in the area~~
43 designated by the clerk of superior court for posting notices in the county.

44 ...

45 (d) An application to change the name of a minor child may be filed by the child's parent
46 or parents, guardian appointed under Article 6 of Chapter 35A of the General Statutes, or
47 guardian ad litem appointed under Rule 17 of the Rules of Civil Procedure, and this application
48 may be joined in the application for a change of name filed by the parent or parents. A change of
49 parentage or the addition of information relating to parentage on the birth certificate of any person
50 is governed by G.S. 130A-118. An application to change the name of a minor child ~~may~~ shall

not be filed without the consent of both parents if both parents are living, unless one of the following applies:

- (1) A minor who has reached the age of 16 may file an application to change his or her name with the consent of the parent who has custody of the minor and has supported the minor, without the necessity of obtaining the consent of the other parent, when the clerk of court is satisfied that the other parent has abandoned the minor.
- (2) A parent may file an application on behalf of the minor without the consent of the other parent if the other parent has abandoned the minor child.
- (3) A parent may file an application on behalf of the minor without the consent of the other parent if the other parent has been convicted of any of the following offenses against the minor or a sibling of the minor:
 - a. Felonious or misdemeanor child abuse.
 - b. Taking indecent liberties with a minor in violation of G.S. 14-202.1.
 - c. Rape or any other sex offense in violation of Article 7B of Chapter 14 of the General Statutes.
 - d. Incest in violation of G.S. 14-178.
 - e. Assault, communicating a threat, or any other crime of violence.

For purposes of subdivisions (1) and (2) of this subsection, abandonment may be shown by filing a copy of an order of a court of competent jurisdiction adjudicating that parent's abandonment of the minor. If a court of competent jurisdiction has not declared the minor to be an abandoned child, the clerk, on 10 days' written notice by registered or certified mail, directed to the last known address of the parent alleged to have abandoned the child, may determine whether the parent has abandoned the child. If the parent denies that the parent abandoned the child, this issue of fact shall be transferred and determined as provided in G.S. 1-301.2. If abandonment is determined, the consent of the parent is not required. Upon final determination of this issue of fact the proceeding shall be transferred back to the special proceedings docket for further action by the clerk. A parent who files an application on behalf of a minor pursuant to subdivision (3) of this subsection shall submit proof of the other parent's conviction to the clerk at the time of filing."

SECTION 11. G.S. 31-32(b) reads as rewritten:

"(b) The caveat shall be filed in the decedent's estate file. The clerk of superior court shall give notice of the filing by making an entry ~~upon the page of the will book~~ where the will is recorded, evidencing that the caveat has been filed and giving the date of such filing."

CONDITIONS OF PRETRIAL RELEASE

SECTION 12.(a) G.S. 15A-533(h) reads as rewritten:

"(h) If a defendant is arrested for a new offense allegedly committed while the defendant was on pretrial release for another pending proceeding, the judicial official who determines the conditions of pretrial release for the new offense shall be a judge. The judge shall direct a law enforcement officer, pretrial services program, or a district attorney to provide a criminal history report and risk assessment, if available, for the defendant and shall consider the criminal history when setting conditions of pretrial release. After setting conditions of pretrial release, the judge shall return the report to the providing agency or department. No judge shall unreasonably delay the determination of conditions of pretrial release for the purpose of reviewing the defendant's criminal history report. Notwithstanding the provisions of this subsection, a magistrate or the clerk of superior court may set the conditions of pretrial release at any time if the new offense is a violation of Chapter 20 of the General Statutes, other than a violation of G.S. 20-138.1, 20-138.2, 20-138.2A, 20-138.2B, 20-138.5, or 20-141.4.

A defendant may be retained in custody pursuant to this subsection not more than 48 hours from the time of arrest without a judge making a determination of conditions of pretrial release.

If a judge has not acted pursuant to this subsection within 48 hours from the time of arrest of the defendant, the magistrate shall set conditions of pretrial release in accordance with G.S. 15A-534."

SECTION 12.(b) This section becomes effective October 1, 2024, and applies to defendants arrested on or after that date.

SAFE BABIES COURT AUTHORIZATION

SECTION 13. Chapter 7B of the General Statutes is amended by adding a new Article to read:

"Article 5B.

"Safe Babies Court.

"§ 7B-535. General provisions for safe babies court.

(a) Purpose. – The purpose of this Article is to establish safe babies court to improve the long-term well-being of parents, children, and families involved in the child welfare court system by providing them with trauma-informed support and services and to achieve timely permanence, reduce generational trauma, and eliminate maltreatment.

(b) Referral. – The Administrative Office of the Courts shall set the criteria and referral process for a juvenile court matter to enroll into a safe babies court.

(c) Limitations. – Nothing contained in this Article shall confer a right or an expectation of a right of participation in safe babies court to a person within the child welfare court system. A party's participation in safe babies court may be terminated at the discretion of the court.

(d) Permanency and Hearings. – Nothing contained in this Article shall alter any requirements related to permanency or hearings or limit the court's authority to conduct a review or permanency planning hearing pursuant to G.S. 7B-906.1 or any other hearings under this Subchapter.

"§ 7B-536. Safe babies court records and information.

(a) Definitions. – The following definitions apply in this Article:

(1) AOC Director. – The Director of the Administrative Office of the Courts.

(2) Coordinators. – Judicial branch staff assigned to facilitate safe babies court by coordinating family team meetings with participants and service providers, setting regular case reviews for safe babies court, recording information related to safe babies court and its participants, maintaining data and records to demonstrate program outcomes, administration of safe babies court, data analysis, and other related duties.

(3) De-identified record. – A record with all of the following types of information omitted, removed, or redacted:

a. The name, address, and date of birth of any juvenile alleged to be within the jurisdiction of the court.

b. The names, addresses, dates of birth, and employer name and address of any parties to the juvenile action.

c. Service provider names and addresses.

d. Juvenile placement and care provider names and addresses.

e. Identifying information as defined in subdivisions (1) through (9) and (11) through (14) of G.S. 14-113.20(b).

(4) Participant. – A party to a juvenile action who is participating in safe babies court.

(5) Party. – As determined by G.S. 7B-401.1.

(6) Record. – All recorded information, data, and documentary material, regardless of physical form or characteristics, made or received by safe babies court coordinators that is not filed in the juvenile case file in the custody of the clerk of superior court.

(7) Safe babies court. – The innovative court program implementing a community engagement and systems change initiative focused on improving how the courts, child welfare agencies, and related child-serving organizations work together to improve and expedite services for young foster children in juvenile actions alleging abuse, neglect, or dependency.

(b) Records Custodian. – The AOC Director shall be the legal custodian of safe babies court records. Safe babies court coordinators may have access to and use of safe babies court records for purposes of performing their job duties.

(c) Not Public Record. – Safe babies court records are not public records as defined by G.S. 132-1. Safe babies court records may be disclosed solely as described in subsections (d) and (e) of this section.

(d) Disclosure of De-Identified Records. – The AOC Director, in the Director's sole discretion, may authorize the disclosure and redisclosure of de-identified safe babies court records without an order of the court.

(e) Motion for Disclosure. – Upon a written motion in the juvenile action by any party requesting safe babies court records related to the juvenile action and notice to the other parties and the AOC Director pursuant to G.S. 1A-1, Rule 5, the AOC Director shall provide copies of the requested records in-camera to the court. The court shall conduct an in-camera review and hold a hearing. The court may order disclosure of the safe babies court records to any party upon a showing of good cause.

(f) Coordinators Privilege. – Safe baby coordinators shall not be competent to testify to any communications, information, documents, or other materials made or received in the course of performing job duties related to safe babies court. However, there is no privilege for communications made in furtherance of a crime or fraud, or for matters that require mandatory reporting. Nothing in this subsection shall be construed as permitting an individual to obtain immunity from prosecution for criminal conduct or as excusing an individual from the reporting requirements of Article 3 of this Chapter, Article 39 of Chapter 14 of the General Statutes, or G.S. 108A-102.

(g) Guardian Ad Litem Information. – The Office of Guardian ad Litem Services and any appointed guardian ad litem may share information at safe babies court meetings as it deems in the best interests of the juvenile."

SUPREME COURT SESSIONS

SECTION 14.(a) Notwithstanding G.S. 7A-10(a), the Supreme Court may, by rule, hold sessions in any location across the State.

SECTION 14.(b) This section is effective when it becomes law and expires December 31, 2026.

INVOLUNTARY COMMITMENT PROCEDURES

SECTION 15. G.S. 122C-54 reads as rewritten:

"§ 122C-54. Exceptions; abuse reports and court proceedings.

...

(d) ~~Any~~ Except as otherwise provided in this section, any individual seeking confidential information contained in the court files or the court records of a proceeding made pursuant to Article 5 of this Chapter may file a written motion in the cause setting out why the information is needed. A district court judge may issue an order to disclose the confidential information sought if he finds the order is appropriate under the circumstances and if he finds that it is in the best interest of the individual admitted or committed or of the public to have the information disclosed.

Counsel for the respondent and counsel for the State in the commitment hearing may receive access to the court file without filing a motion or obtaining a court order. Counsel for the

respondent shall not share the petition that initiates the proceeding under Article 5 of this Chapter with the respondent without obtaining a court order. A judge presiding over a criminal case that initiated the Article 5 proceeding may have access to the file without filing a motion.

...

(d3) The following persons may obtain a court file number of an involuntary commitment proceeding upon request to the clerk's office:

(1) A commitment examiner and their administrative support staff for the purpose of filing subsequent documentation into a court file.

(2) A person desiring to petition pursuant to G.S. 14-409.42 for the purpose of providing complete information in the petition.

...."

SECTION 16. G.S. 122C-261 reads as rewritten:

"§ 122C-261. Affidavit and petition before clerk or magistrate when immediate hospitalization is not necessary; custody order.

...

(b) If the clerk or magistrate finds reasonable grounds to believe that the facts alleged in the affidavit are true and that the respondent probably has a mental illness and is either (i) dangerous to self, as defined in G.S. 122C-3(11)a., or dangerous to others, as defined in G.S. 122C-3(11)b., or (ii) in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness, the clerk or magistrate shall issue an order to a law enforcement officer or any other designated person under ~~G.S. 122C-251(g)~~ G.S. 122C-251 to take the respondent into custody for examination by a commitment examiner. If the clerk or magistrate finds that, in addition to probably having a mental illness, the respondent also probably has an intellectual disability, the clerk or magistrate shall contact the area authority before issuing a custody order and the area authority shall designate the facility to which the respondent is to be taken for examination by a commitment examiner. The clerk or magistrate shall provide the petitioner and the respondent, if present, with specific information regarding the next steps that will occur for the respondent.

...

(d1) If the affiant is a commitment examiner filing a petition and affidavit for an involuntary commitment in a county that has implemented an electronic filing system approved by the Director of the Administrative Office of the Courts, the same provisions of subsection (d) of this section apply except that (i) the commitment examiner or their designee shall file the affidavit and petition, as well as any other supporting documentation required by law, through the electronic filing system, and (ii) the original affidavit and original custody order ~~is are not~~ required to be mailed to the clerk or magistrate. In such counties, commitment examiners shall also file any subsequent documentation and notifications prescribed by statute to the clerk of superior court through the electronic filing system.

...."

SECTION 17. G.S. 122C-281(d) reads as rewritten:

"(d) If the affiant is a commitment examiner who has examined the respondent, he or she may execute the affidavit before any official authorized to administer oaths. The commitment examiner is not required to appear before the clerk or magistrate for this purpose. The commitment examiner's examination shall comply with the requirements of the initial examination as provided in G.S. 122C-283(c). The affiant shall file the affidavit and examination findings with the clerk of court in the manner described in ~~G.S. 122C-261(d)(1)~~ G.S. 122C-261(d)(1) for affiants filing in counties that have not implemented an electronic filing system approved by the Director of the Administrative Office of the Courts and G.S. 122C-261(d1) for affiants filing in counties that have implemented an electronic filing system approved by the Director of the Administrative Office of the Courts. If the commitment examiner recommends commitment and the clerk or magistrate finds probable cause to believe

that the respondent meets the criteria for commitment, the clerk or magistrate shall issue an order to a law enforcement officer to take the respondent into custody for transportation to a 24-hour facility, or, if the respondent is released pending hearing, as described in G.S. 122C-283(d)(1), order that a hearing be held as provided in G.S. 122C-284(a). If a physician or eligible psychologist executes an affidavit for commitment of a respondent, a second qualified professional shall perform the examination required by G.S. 122C-285. Any person or entity who or which has been designated in compliance with ~~G.S. 122C-251(g)~~ G.S. 122C-251 shall be permitted to complete all or part of the duties of a law enforcement officer, in accord with the designation."

SECTION 18. G.S. 14-409.43(a) reads as rewritten:

"(a) Excluding Saturdays, Sundays, and holidays, not later than 48 hours after receiving notice of any of the following judicial determinations or findings, the clerk of superior court in the county where the determination or finding was made shall work through the Administrative Office of the Courts to cause a record of the determination or finding to be transmitted to the National Instant Criminal Background Check System (NICS):

- (1) A determination that an individual shall be involuntarily committed to a facility for inpatient mental health treatment upon a finding that the individual is mentally ill and a danger to self or others.
- (2) A determination that an individual shall be involuntarily committed to a facility for outpatient mental health treatment upon a finding that the individual is mentally ill and, based on the individual's treatment history, in need of treatment in order to prevent further disability or deterioration that would predictably result in a danger to self or others.
- (3) A determination that an individual shall be involuntarily committed to a facility for substance abuse treatment upon a finding that the individual is a substance abuser and a danger to self or others.
- (4) A finding that an individual is not guilty by reason of insanity.
- (5) A finding that an individual is mentally incompetent to proceed to criminal trial.
- (6) A finding that an individual lacks the capacity to manage the individual's own affairs due to marked subnormal intelligence or mental illness, incompetency, condition, or disease.
- (7) A determination to grant a petition to an individual for the removal of disabilities pursuant to G.S. 14-409.42 or any applicable federal law.

The 48-hour period for transmitting a record of a judicial determination or finding to the NICS under subsection (a) of this section begins upon receipt by the clerk of a copy of the judicial determination or finding. The Administrative Office of the Courts shall adopt rules to require clerks of court to transmit information to the NICS in a uniform manner.

The petitioner and commitment examiner in a proceeding under Article 5 of Chapter 122C of the General Statutes shall provide a social security number and drivers license number, if known, of the respondent for the court to enter into NICS upon a judicial determination. The court may collect the social security number and drivers license number on the petition initiating the proceeding or on documents filed by the commitment examiner. The petitioner in a proceeding under Article 1 of Chapter 35A of the General Statutes shall provide a drivers license number, if known, of the respondent for the court to enter into NICS upon a judicial determination of incompetence. The court may collect the drivers license number on the petition initiating the proceeding and may place the drivers license number on the court's order upon a judicial determination of incompetence."

LAW ENFORCEMENT QUALIFICATION FOR MAGISTRATE NOMINATION

SECTION 19. G.S. 7A-171.2(b) reads as rewritten:

"(b) To be eligible for nomination as a magistrate, an individual shall have at least eight years' experience as the clerk of superior court or as a law enforcement officer in a county of this State or shall have a four-year degree from an accredited senior institution of higher education or shall have a two-year associate degree and four years of work experience in a related field, including teaching, social services, law enforcement, arbitration or mediation, the court system, or counseling. The Administrative Officer of the Courts may determine whether the work experience is sufficiently related to the duties of the office of magistrate for the purposes of this subsection. In determining whether an individual's work experience is in a related field, the Administrative Officer of the Courts shall consider the requisite knowledge, skills, and abilities for the office of magistrate.

The eligibility requirements prescribed by this subsection do not apply to individuals holding the office of magistrate on June 30, 1994, and do not apply to individuals who have been nominated by June 30, 1994, but who have not been appointed or taken the oath of office by that date."

CLERK BOND REQUIREMENT CONFORMING CHANGES

SECTION 20. G.S. 1-305 reads as rewritten:

"§ 1-305. Clerk to issue, in six weeks; ~~penalty; limitations on issuance.~~

(a) Subject to the provisions of G.S. 1A-1 (Rule 62) and subsection (b) below, the clerk of superior court shall issue executions on all unsatisfied judgments entered in the clerk's court, which are in full force and effect, upon the request of any party or person entitled thereto and upon payment of the necessary fees; provided, however, that the clerks of the superior court shall issue executions on all judgments entered in their respective courts on forfeiture of bonds in criminal cases within six weeks of the entry of the judgment, without any request or any advance payment of fees. Every clerk who fails to comply with the requirements of this section is liable to be amerced in the sum of one hundred dollars (\$100.00) for the benefit of the party aggrieved, under the same rules that are provided by law for amercing ~~sheriffs, and is further liable to the party injured by suit upon the clerk's bond.~~ sheriffs.

(b) The clerk may not issue an execution unless

(1) The judgment debtor's exemptions have been designated, or

(2) The judgment debtor has waived his exemptions as provided in G.S. 1C-1601(c), or

(3) The clerk determines that the exemptions are inapplicable to the particular claim as authorized by G.S. 1C-1603(a)(3)."

SECTION 21. G.S. 65-95 reads as rewritten:

"~~§ 65-95. Clerk's bond; substitution~~ Substitution of bank or trust company as trustee.

~~The official bond of the clerk of the superior court shall be liable for all such sums as shall be paid over to the clerk in accordance with the provisions of this Part.~~ In lieu of the provisions of this section, the clerk may appoint any bank or trust company authorized to do business in this State as trustee for the funds authorized to be paid into his office by virtue of this Part; provided, that no bank or trust company shall be appointed as such trustee unless such bank or trust company is authorized and licensed to act as fiduciary under the laws of this State.

Before any clerk shall turn over such funds to the trustee so appointed, the clerk shall require that the trustee so named qualify before the clerk as such trustee in the same way and manner and to the same extent as guardians are by law required to so qualify. After such trustee has qualified as herein provided, all such funds coming into the clerk's hands may be invested by the trustee only in the securities set out in G.S. 7A-112 and the income therefrom invested for the purposes and in the manner heretofore set out in this Part. All trustees appointed under the provisions of this Part shall render and file in the office of the clerk of the superior court all reports that are now required by law of guardians."

SECTION 22. G.S. 35A-1238 is repealed.

1 **SECTION 23.** G.S. 45-21.31(e) is repealed.

2
3 **JUDICIAL LICENSE PLATE**

4 **SECTION 24.** G.S. 20-79.4(b)(2) reads as rewritten:

5 "(2) Administrative Officer of the Courts. – Issuable to the Director of the
6 Administrative Office of the Courts. The plate shall bear the phrase
7 "J-20", "J-99"."

8
9 **OUT-OF-STATE ATTORNEYS**

10 **SECTION 25.(a)** G.S. 84-4 reads as rewritten:

11 **"§ 84-4. Persons other than members of State Bar prohibited from practicing law.**

12 (a) Except as otherwise permitted by law, it shall be unlawful for any person or
13 association of persons, except active members of the Bar of the State of North Carolina admitted
14 and licensed to practice as attorneys-at-law, to appear as attorney or counselor at law in any
15 action or proceeding before any judicial body, including the North Carolina Industrial
16 Commission, or the Utilities Commission; to maintain, conduct, or defend the same, except in
17 his own behalf as a party thereto; or, by word, sign, letter, or advertisement, to hold out himself,
18 or themselves, as competent or qualified to give legal advice or counsel, or to prepare legal
19 documents, or as being engaged in advising or counseling in law or acting as attorney or
20 counselor-at-law, or in furnishing the services of a lawyer or lawyers; and it shall be unlawful
21 for any person or association of persons except active members of the Bar, for or without a fee
22 or consideration, to give legal advice or counsel, perform for or furnish to another legal services,
23 or to prepare directly or through another for another person, firm or corporation, any will or
24 testamentary disposition, or instrument of trust, or to organize corporations or prepare for another
25 person, firm or corporation, any other legal document. Provided, that nothing herein shall prohibit
26 any person from drawing a will for another in an emergency wherein the imminence of death
27 leaves insufficient time to have the same drawn and its execution supervised by a licensed
28 attorney-at-law. The provisions of this section shall be in addition to and not in lieu of any other
29 provisions of this Chapter. Provided, however, this ~~section~~-subsection shall not apply to
30 corporations authorized to practice law under the provisions of Chapter 55B of the General
31 Statutes of North Carolina.

32 (b) It shall be unlawful for a lawyer not admitted to the Bar of the State of North Carolina
33 to advertise to provide legal services in North Carolina unless the lawyer is authorized to provide
34 the advertised legal services in North Carolina under State or federal law. For purposes of this
35 subsection, it shall be no defense that the lawyer is eligible for admission pursuant to
36 G.S. 84-4.1."

37 **SECTION 25.(b)** This section becomes effective December 1, 2024, and applies to
38 offenses committed, and causes of action arising, on or after that date.

39 **SECTION 26.(a)** G.S. 84-4.1 reads as rewritten:

40 **"§ 84-4.1. Limited practice of out-of-state attorneys.**

41 (a) Definitions. – For purposes of this section, the following definitions shall apply:

42 (1) Foreign attorney. – An attorney licensed in another state or jurisdiction, and
43 regularly admitted to practice in the courts of record of and in good standing
44 in that state or jurisdiction, but not licensed in North Carolina.

45 (2) Law firm. – As that term is defined in G.S. 1-642.

46 (b) Admission. – Any attorney domiciled in another state, and regularly admitted to
47 practice in the courts of record of and in good standing in that state, foreign attorney, having been
48 retained as attorney for a party to any civil or criminal legal proceeding pending in the General
49 Court of Justice of North Carolina, the North Carolina Utilities Commission, the North Carolina
50 Industrial Commission, the Office of Administrative Hearings of North Carolina, or any
51 administrative agency, may, on motion to the relevant forum, be admitted to practice in that

forum for the sole purpose of appearing for a client in the proceeding. The motion required under this ~~section~~ subsection shall be signed by the attorney and shall contain or be accompanied by: ~~be on a form approved by the Supreme Court, shall be signed by the foreign attorney and the North Carolina licensed attorney of record identified in subdivision (5) of this subsection, and shall contain the following information:~~

- (1) The foreign attorney's full name, bar membership number, date of admission, and ~~status as a practicing attorney in another state~~ proof of good standing for each state or jurisdiction to which the foreign attorney has been admitted to practice.
- (1a) The foreign attorney's mailing address, phone number, and email address to be used as the attorney's contact information of record with the court, pursuant to G.S. 1A-1, Rule 5.
- (2) A statement, signed by ~~the client, each client for whom the foreign attorney seeks admission,~~ setting forth the client's name and address and declaring that the client has retained the foreign attorney to represent the client in the proceeding. In the case of a corporate entity client, the statement shall include the name and position of the person signing the statement and an affirmation that the signer has proper authority to sign the statement on behalf of the entity client.
- (3) A statement that unless permitted to withdraw sooner by order of the court, the foreign attorney will continue to represent the client in the proceeding until its final determination, and that with reference to all matters incident to the proceeding, the foreign attorney agrees to be subject to the orders and amenable to the disciplinary action and the civil jurisdiction of the General Court of Justice and the North Carolina State Bar in all respects as if the foreign attorney were a regularly admitted and licensed member of the Bar of North Carolina in good standing.
- (4) ~~A statement that the state in which the attorney is regularly admitted to practice grants like privileges to members of the Bar of North Carolina in good standing. A statement that the foreign attorney will report to the North Carolina Department of Revenue any income earned from the matter that is taxable under North Carolina law.~~
- (5) A statement to the effect that the foreign attorney has associated and is personally appearing in the proceeding, with an attorney who is a resident of this State, has agreed to be responsible for filing a registration statement with the North Carolina State Bar, and is duly and legally admitted to practice in the General Court of Justice of North Carolina, upon whom service may be had in all matters connected with the legal proceedings, or any disciplinary matter, with the same effect as if personally made on the foreign attorney within this State.
- (6) A statement accurately disclosing a record of all ~~that the foreign~~ attorney's disciplinary history. Discipline shall include (i) public discipline by any court or lawyer regulatory organization, and (ii) revocation of any pro hac vice admission.
- (7) A fee in the amount of two hundred twenty-five dollars (\$225.00) submitted and made payable to one of the following: (i) for judicial proceedings, the presiding clerk of court and (ii) for administrative proceedings, the presiding administrative agency. The clerk of court or administrative agency shall: (i) remit two hundred dollars (\$200.00) of the fee collected to the State Treasurer for support of the General Court of Justice, and (ii) transmit twenty-five

dollars (\$25.00) of the fee collected to the North Carolina State Bar to regulate the practice of out-of-state attorneys as provided in this section.

(c) Limitations. – Pursuant to this section, no foreign attorney may:

(1) Be admitted in more than three unrelated cases in any 12-month period.

(2) Be admitted in more than three active unrelated cases at any one time.

(3) Be admitted if the foreign attorney's law firm employs one or more foreign attorneys that (i) have been admitted pursuant to this section in three or more unrelated cases in the preceding 12-month period or (ii) are currently admitted pursuant to this section in three or more active unrelated cases.

(d) Court Discretion. – Compliance with the foregoing requirements does not deprive the court of the discretionary power to allow or reject the application.

(e) Advertisements. – Nothing in this section shall be construed to permit foreign attorneys to advertise to provide legal services in North Carolina that the foreign attorney is not authorized to provide."

SECTION 26.(b) This section becomes effective October 1, 2024, and applies to representation in civil proceedings filed and criminal offenses charged on or after that date.

SECTION 27.(a) G.S. 84-28 reads as rewritten:

"§ 84-28. Discipline and disbarment.

(a) Any attorney admitted to practice law in this ~~State~~State, or any attorney offering or providing legal services in this State, is subject to the disciplinary jurisdiction of the Council under such rules and procedures as the Council shall adopt as provided in G.S. 84-23.

(b) The following acts or omissions by a member of the North Carolina State ~~Bar~~or Bar, any attorney admitted for limited practice under G.S. 84-4.1, or any attorney offering or providing legal services in North Carolina, individually or in concert with any other person or persons, shall constitute misconduct and shall be grounds for discipline whether the act or omission occurred in the course of an attorney-client relationship or otherwise:

(1) Conviction of, or a tender and acceptance of a plea of guilty or no contest to, a criminal offense showing professional unfitness;

(2) The violation of the Rules of Professional Conduct adopted and promulgated by the Council in effect at the time of the act;

(3) Knowing misrepresentation of any facts or circumstances surrounding any complaint, allegation or charge of misconduct; failure to answer any formal inquiry or complaint issued by or in the name of the North Carolina State Bar in any disciplinary matter; or contempt of the Council or any committee of the North Carolina State Bar.

...."

SECTION 27.(b) This section becomes effective October 1, 2024.

EFFECTIVE DATE

SECTION 28. Except as otherwise provided, this act is effective when it becomes law.