

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023**

**HOUSE BILL 193
RATIFIED BILL**

AN ACT TO MAKE VARIOUS CHANGES AND TECHNICAL CORRECTIONS TO THE LAWS GOVERNING THE ADMINISTRATION OF JUSTICE, AS RECOMMENDED BY THE ADMINISTRATIVE OFFICE OF THE COURTS AND TO ALLOW FOR THE EXPUNCTION OF THE OFFENSE OF BREAKING AND ENTERING OF A BUILDING WITH INTENT TO COMMIT A FELONY OR LARCENY AND AMEND THE CONDITIONS THAT RESULT IN A PETITION FOR EXPUNCTION BEING DENIED.

The General Assembly of North Carolina enacts:

AUTHORIZE DEBIT AND CREDIT CARD PAYMENTS OF JUDGMENTS

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

"(a) Payment of money judgment to clerk's office.

(1) The party against whom a judgment for the payment of money is rendered by any court of record may pay the whole, or any part thereof, in cash or by check, to the clerk of the court in which the same was rendered, although no execution has issued on ~~such~~ the judgment. With the approval of, and pursuant to procedures approved by, the Director of the Administrative Office of the Courts, the party against whom a judgment for payment of money is rendered may also pay the whole, or any part thereof, by credit card, debit card, or other electronic payment method to the clerk of the court in which the same was rendered, although no execution has issued on the judgment.

...

(3) When a payment to the clerk is made in ~~cash~~ cash, by credit or debit card or other electronic payment method, or when a check is finally paid by the drawee bank, the clerk shall give the notice provided for in subsection (b). When the full amount of a judgment has been so paid, the clerk shall include the words "JUDGMENT PAID IN FULL" in the notice.

...."

SECTION 1.(b) This section becomes effective October 1, 2023.

INDIGENCY SCOPE OF ENTITLEMENT TECHNICAL CORRECTION

SECTION 2. G.S. 7A-451(a) reads as rewritten:

"(a) An indigent person is entitled to services of counsel in the following actions and proceedings:

...

(14) A proceeding to terminate parental rights where a guardian ad litem is appointed pursuant to ~~G.S. 7B-1101~~ G.S. 7B-1101.1.

...."

REMOTE ELECTRONIC NOTARIZATION TECHNICAL CORRECTION

SECTION 3. Section 3(d) of S.L. 2022-54 reads as rewritten:



"**SECTION 3.(d)** Any emergency video notarization completed after December 31, 2021, and before the effective date of this act shall be deemed valid and cured if ~~such-that~~ act was performed in conformity with ~~G.S. 10B-200~~ G.S. 10B-201 as it existed on December 31, 2021."

REPEAL ANNUAL LEGISLATIVE REPORT ON FEE WAIVER NOTICE IMPLEMENTATION

SECTION 4. G.S. 7A-304(a2) is repealed.

REPEAL CLERK AND MAGISTRATE BOND REQUIREMENTS

SECTION 5.(a) G.S. 7A-107 is repealed.

SECTION 5.(b) G.S. 7A-174 is repealed.

SECTION 5.(c) G.S. 7A-11 reads as rewritten:

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

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

SECTION 5.(d) G.S. 7A-20 reads as rewritten:

"§ 7A-20. Clerk; oath; ~~bond~~; salary; assistants; fees.

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

...."

MODIFY VARIOUS PROVISIONS AFFECTING THE CONFERENCE OF DISTRICT ATTORNEYS OF NORTH CAROLINA

SECTION 6.(a) Article 32 of Chapter 7A of the General Statutes is amended by adding new sections to read:

"§ 7A-415. Resource prosecutors.

The Conference of District Attorneys may employ resource prosecutors as appointed by the executive director. A resource prosecutor shall be an attorney licensed and eligible to practice in the courts of this State and shall serve at the pleasure of the executive director. A resource prosecutor shall take the same oath of office as a district attorney in this State and shall be authorized to represent the State in any court of this State without taking an additional oath. When

assisting a district attorney, a resource prosecutor shall have the same authority, power, and privileges as an assistant district attorney serving in the requesting district attorney's office.

"§ 7A-416. Conference of District Attorneys legislative liaison.

The Conference of District Attorneys may designate liaison personnel to lobby for legislative action in accordance with Article 5 of Chapter 120C of the General Statutes."

SECTION 6.(b) G.S. 120C-500(d) reads as rewritten:

"(d) The Chief Justice of the Supreme Court shall designate at least one, but no more than four, liaison personnel to lobby for legislative action for all offices, conferences, commissions, and other agencies established under Chapter 7A of the General Statutes. This subsection shall not apply to any conference or office created under Article 32 or Article 60 of Chapter 7A of the General Statutes, so long as that office complies those offices comply with subsection (a) of this section."

SECTION 6.(c) This section becomes effective July 1, 2023.

ADVERSE CHILDHOOD EXPERIENCES TRAINING FOR JUVENILE JUDGES

SECTION 7. G.S. 7A-147(c) reads as rewritten:

"(c) The policy of the State is to encourage specialization in juvenile cases by district court judges who are qualified by training and temperament to be effective in relating to youth and in the use of appropriate community resources to meet their needs. The Administrative Office of the Courts is therefore authorized to encourage judges who hear juvenile cases to secure appropriate training whether or not they were elected to a specialized judgeship as provided herein. ~~Such~~ This training shall be provided within the funds available to the Administrative Office of the Courts for ~~such~~ this training, and judges attending ~~such~~ the training shall be reimbursed for travel and subsistence expenses at the same rate as is applicable to other State employees.

The Administrative Office of the Courts shall develop a plan whereby a district court judge may be better qualified to hear juvenile cases by reason of training, experience, and demonstrated ability. Any district court judge who completes the training under this ~~plan~~ plan, which shall include trauma-informed training on recognizing and mitigating adverse childhood experiences and adverse community environments, shall receive a certificate to this effect from the Administrative Office of the Courts. In districts where there is a district court judge who has completed this training as herein provided, the chief district judge shall give due consideration in the assignment of ~~such~~ juvenile cases where practical and feasible."

DELEGATION OF JURY EXCUSES

SECTION 8.(a) G.S. 9-6(b) reads as rewritten:

"(b) Pursuant to the foregoing policy, each chief district court judge shall promulgate procedures whereby the chief district court judge or any district court judge of the chief district court judge's district court district designated by the chief district court judge, prior to the date that a jury session (or sessions) of superior or district court convenes, shall receive, hear, and pass on applications for excuses from jury duty. The procedures shall provide for the time and place, publicly announced, at which applications for excuses will be heard, and prospective jurors who have been summoned for service shall be so informed. The chief district judge may assign the duty of passing on applications for excuses from jury service to judicial support ~~staff~~ staff, or may, with the clerk's consent, delegate that authority to the clerk of superior court. In all cases concerning excuses, the clerk of superior court or judicial support staff shall notify prospective jurors of the disposition of their excuses."

SECTION 8.(b) G.S. 9-6.1 reads as rewritten:

"§ 9-6.1. Requests to be excused.

(a) Any person summoned as a juror who is a full-time student and who wishes to be excused pursuant to G.S. 9-6(b1) or who is 72 years or older and who wishes to be excused,

deferred, or exempted, may make the request without appearing in person by filing a signed statement of the ground of the request with the chief district court judge of that district, or the district court ~~judge-judge, clerk of superior court,~~ or judicial support staff member designated by the chief district court judge pursuant to G.S. 9-6(b), at any time five business days before the date upon which the person is summoned to appear.

(b) Any person summoned as a juror who has a disability that could interfere with the person's ability to serve as a juror and who wishes to be excused, deferred, or exempted may make the request without appearing in person by filing a signed statement of the ground of the request, including a brief explanation of the disability that interferes with the person's ability to serve as a juror, with the chief district court judge of that district, or the district court ~~judge-judge, clerk of superior court,~~ or judicial support staff member designated by the chief district court judge pursuant to G.S. 9-6(b), at any time five business days before the date upon which the person is summoned to appear. Upon request of the court, medical documentation of any disability may be submitted. Any privileged medical information or protected health information described in this section shall be confidential and shall be exempt from the provisions of Chapter 132 of the General Statutes or any other provision requiring information and records held by State agencies to be made public or accessible to the public.

(c) A person may request either a temporary or permanent exemption under this section, and the ~~judge-judge, clerk of superior court,~~ or judicial support staff member may accept or reject either in the exercise of discretion conferred by G.S. 9-6(b), including the substitution of a temporary exemption for a requested permanent exemption. In the case of supplemental jurors summoned under G.S. 9-11, notice may be given when summoned. In case the chief district court judge, or the ~~judge-judge, clerk of superior court,~~ or judicial support staff member designated by the chief district court judge pursuant to G.S. 9-6(b), rejects the request for exemption, the prospective juror shall be immediately notified by the judicial support staff member or the clerk of court by telephone, letter, or personally."

SECTION 8.(c) This section becomes effective October 1, 2023.

FILING OF CERTAIN BOND DOCUMENTS WITH THE CLERK

SECTION 9.(a) G.S. 58-72-50 reads as rewritten:

"§ 58-72-50. Approval, acknowledgment and custody of bonds.

The approval of all official bonds taken or renewed by the board of commissioners shall be recorded by the clerk to the board. ~~Every such~~ Each bond shall be acknowledged by the parties thereto or proved by a subscribing witness, before the chairman of the board of commissioners, or before the clerk of the superior court, and ~~the original bond, filed with the clerk of the superior court with the approval of the commissioners endorsed thereon and certified by their chairman, shall be deposited with the clerk of the superior court for safekeeping.~~ the chairman of the board of commissioners. Provided that an official bond executed as surety by a surety company authorized to do business in this State need not be acknowledged upon behalf of the surety when ~~such that~~ bond is executed under seal in the name of the surety by an agent or attorney-in-fact by authority of a power of attorney duly recorded in the office of the register of deeds of ~~such that~~ county."

SECTION 9.(b) G.S. 162-9 reads as rewritten:

"§ 162-9. County commissioners to take and approve bonds.

The board of county commissioners in every county shall take and approve the official bond of the sheriffs, which they shall cause to be registered ~~and the original deposited with the register of deeds and filed with the clerk of superior court for safekeeping.~~ court. The bond shall be taken on or before the first Monday of December next after the election."

CLARIFY CHIEF MAGISTRATE DELEGATED AUTHORITY

SECTION 10. G.S. 7A-146 reads as rewritten:

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

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

- ...
- (9) Assigning magistrates when exigent circumstances exist to temporary duty outside the county of their appointment but within that district pursuant to the policies and procedures prescribed under G.S. 7A-343(11). The chief district judge may, in writing, delegate the authority to assign magistrates in this subdivision to an appointed chief magistrate. A chief magistrate with authority delegated under this subdivision shall make monthly reports to the chief district judge of the times and places actually served by each magistrate.
 - (10) Designating another district judge of ~~his~~ that district as acting chief district judge, to act during the absence or disability of the chief district judge.
 - (11) Designating certain magistrates to appoint counsel and accept waivers of counsel pursuant to Article 36 of this Chapter. This designation does not give any magistrate the authority to appoint counsel or accept waivers of counsel for potentially capital offenses, as defined by rules adopted by the Office of Indigent Defense Services. The chief district judge may delegate, in writing, the authority to designate magistrates in this subdivision to an appointed chief magistrate.
 - (12) Designating a full-time magistrate in a county to serve as chief magistrate for that county for an indefinite term and at the judge's pleasure. The chief magistrate shall have the derivative administrative authority assigned by the chief district court judge under ~~subdivision (4)~~ subdivisions (4), (9), (11), and (13) of this section. This subdivision applies only to counties in which the chief district court judge determines that designating a chief magistrate would be in the interest of justice.
 - (13) Investigating written complaints against magistrates. The chief district judge may, in writing, delegate authority to an appointed chief magistrate to make preliminary investigations into written complaints against magistrates and to make a written report of their preliminary findings to the chief district judge. However, the delegation shall not authorize the chief magistrate to make written findings of misconduct or take any disciplinary action. Upon investigation and written findings of misconduct in violation of the Rules of Conduct for Magistrates, a chief district court judge may discipline a magistrate in accordance with the Rules of Conduct for Magistrates. Written complaints received by the chief district court judge and records of investigations into those complaints are to be treated as personnel records under Article 7 of Chapter 126 of the General Statutes. Notwithstanding Article 7 of Chapter 126 of the General Statutes, once a letter of caution, written reprimand, or suspension has been issued by the chief district court judge, the written complaint, and the record of the chief district court judge's action on that complaint, including any investigatory records, are no longer confidential personnel records."

AUTHORIZE REDACTION OF CONFIDENTIAL INFORMATION FROM PUBLICLY ACCESSIBLE COPIES OR IMAGES OF COURT RECORDS

SECTION 11. G.S. 132-1.10 reads as rewritten:

"§ 132-1.10. Social security numbers and other personal identifying information.

...

- (c) Subsection (b) of this section does not apply in the following circumstances:

...

- (7) To any ~~document filed in the~~ official records of the courts.

...

(f1) Without a request made pursuant to subsection (f) of this section, a register of deeds, clerk of court, or the Administrative Office of the Courts may remove from images or copies of publicly accessible official records any of the identifying and financial information listed in subsection (f) of this section and any other information that is confidential under applicable law that is contained in that official record. Registers of deeds, clerks of court, and the Administrative Office of the Courts may apply optical character recognition technology or other reasonably available technology to publicly accessible official records in order to, in good faith, identify and redact any of the identifying and financial information listed in subsection (f) of this section. Notwithstanding the foregoing, law enforcement personnel, judicial officials, and parties to a case and their counsel shall be entitled to access, inspect, and copy unredacted records.

...

(h) Any affected person may petition the court for an order directing compliance with this section. No liability shall accrue ~~to to~~, and no requirements under G.S. 75-65 shall be imposed on, a register of deeds or clerk of court or ~~to his or her~~ that official's agent for any action related to provisions of this section or for any claims or damages that might result from a social security number or other identifying information on the public record or on a register of deeds' or clerk of court's Internet website available to the general public or an Internet Web site available to the general public used by a register of deeds or clerk of court."

REVISIONS TO SERVICE OF PROCESS STATUTES FOR ECOURTS FILINGS

SECTION 12.(a) G.S. 1A-1, Rule 5 reads as rewritten:

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

...

(a2) Service by the Court. – With respect to any document filed by the court that is required to be served, service by the court may be made by a notice that identifies the document filed and directs the recipient to an internet location where the document is available to the recipient.

(b) Service – How made. – A pleading setting forth a counterclaim or cross claim shall be filed with the court and a copy thereof shall be served on the party against whom it is asserted or on the party's attorney of record as provided by this subsection.

With respect to all pleadings subsequent to the original complaint and other papers required or permitted to be served, service shall be made upon the party's attorney of record and, if ordered by the court, also upon the party. If the party has no attorney of record, service shall be made upon the party.

Service is made under this subsection if performed on an attorney through the court's electronic filing system ~~or case management system~~ at an email address of record with the court. Service is made under this subsection if performed on a party through the court's electronic filing system or case management system at an email address of record with the court in the case if the party has consented to receive service through the court's electronic filing or case management system and a copy of the consent is filed with the court by any party. Service through the court's electronic filing or case management system must be sent by 5:00 P.M. Eastern Time on a regular business day. If the service is sent after 5:00 P.M., it will be deemed to have been sent on the next business day.

When service through the court's electronic filing or case management system is not available, ~~or the party is not registered to receive service through the court's electronic filing system~~, service may be made as follows:

- (1) Upon a party's attorney of record:

- a. By delivering a copy to the attorney. Delivery of a copy within this sub-subdivision means handing it to the attorney, leaving it at the attorney's office with a partner or employee, or sending it to the attorney's office by a confirmed telefacsimile transmittal for receipt by 5:00 P.M. Eastern Time on a regular business day, as evidenced by a telefacsimile receipt confirmation. If receipt of delivery by telefacsimile is after 5:00 P.M., service will be deemed to have been completed on the next business day. Service may also be made on the attorney by electronic mail (e-mail) to an e-mail address of record with the court in the case. Such e-mail must be sent by 5:00 P.M. Eastern Time on a regular business day. If the e-mail is sent after 5:00 P.M., it will be deemed to have been sent on the next business day.
 - b. By mailing a copy to the attorney's ~~office~~ mailing address of record with the court.
 - c. In the manner provided in Rule 4 for service and return of process.
- (2) Upon a party:
- a. By delivering a copy to the party. Delivery of a copy within this sub-subdivision means handing it to the party.
 - b. By mailing a copy to the party at the party's last known address or, if no address is known, by filing it with the clerk of court.
 - c. Service may also be made on the party by electronic mail (e-mail) if the party has consented to receive e-mail service in the case at a particular e-mail address, and a copy of the consent is filed with the court by any party. Such e-mail must be sent by 5:00 P.M. Eastern Time on a regular business day. If the e-mail is sent after 5:00 P.M. Eastern Time, it will be deemed to have been sent on the next business day.
 - d. In the manner provided in Rule 4 for service and return of process.

Service by mail shall be complete upon deposit of the pleading or paper enclosed in a post-paid, properly addressed wrapper in a post office or official depository under the exclusive care and custody of the United States Postal Service.

(b1) Service – Certificate of Service. – A certificate of service shall accompany every pleading and every paper required to be served on any party or nonparty to the litigation, except with respect to pleadings and papers whose service is governed by Rule 4. The certificate shall show the date and method of service or the date of acceptance of service and shall show the name and service address of each person upon whom the paper has been served. If one or more persons are served by facsimile transmission or electronic mail (e-mail), the certificate shall also show the telefacsimile number or e-mail address of each person so served in that manner. Each certificate of service shall be signed in accordance with and subject to Rule 11 of these rules. With respect to persons served through the court's electronic filing systems, an automated certificate of service generated by that system and that is filed in the case satisfies the requirements of this rule.

...."

SECTION 12.(b) Article 4 of Chapter 84 of the General Statutes is amended by adding a new section to read:

"§ 84-39. Member's address of record with the court.

Each member shall provide a mailing address, phone number, and email address to the secretary-treasurer of the State Bar to be that member's contact information of record with the court, pursuant to G.S. 1A-1, Rule 5. Contact information provided by the member pursuant to G.S. 84-34 shall be used for this purpose unless the member provides different contact information to the secretary-treasurer of the State Bar for compliance with this section."

SECTION 12.(c) G.S. 84-4.1 reads as rewritten:

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

Any attorney domiciled in another state, and regularly admitted to practice in the courts of record of and in good standing in that state, having been retained as attorney for a party to any civil or criminal legal proceeding pending in the General Court of Justice of North Carolina, the North Carolina Utilities Commission, the North Carolina Industrial Commission, the Office of Administrative Hearings of North Carolina, or any 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 shall be signed by the attorney and shall contain or be accompanied by:

- (1) The attorney's full name, ~~post office address~~, bar membership number, and status as a practicing attorney in another state.
- (1a) The 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.

...."

SECTION 12.(d) This section becomes effective August 1, 2023.

REVISIONS TO INVOLUNTARY COMMITMENT FILINGS PROCESS

SECTION 13.(a) G.S. 122C-261 reads as rewritten:

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

...

(d) If the affiant is a commitment examiner, who is filing a petition and affidavit for an involuntary commitment in a county that has not implemented an electronic filing system approved by the Director of the Administrative Office of the Courts, all of the following apply:

...

- (5) If the affiant is a physician or eligible psychologist at a 24-hour facility described in G.S. 122C-252 who recommends inpatient commitment; the respondent is physically present on the premises of the same 24-hour facility; and the clerk or magistrate finds probable cause to believe that the respondent meets the criteria for inpatient commitment, then the clerk or magistrate ~~may~~ shall issue an order by facsimile transmission or ~~may issue an electronically scanned order by~~ electronic transmission to the physician or eligible psychologist at the 24-hour facility, or a designee, to take the respondent into custody at the 24-hour facility and proceed according to G.S. 122C-266. Upon receipt of the custody order, the physician or eligible psychologist at the 24-hour facility, or a designee, shall immediately (i) notify the respondent that the respondent is not under arrest and has not committed a crime but is being taken into custody to receive treatment and for the respondent's own safety and the safety of others, (ii) take the respondent into custody, and (iii) complete and sign the appropriate portion of the custody order and return the order to the clerk or magistrate either by facsimile transmission or by scanning it and sending it by electronic transmission. The physician or eligible psychologist, or a designee, shall mail the original custody order no later than five days after returning it by means of facsimile or electronic transmission to the clerk or magistrate. The clerk or magistrate shall file the original custody order with the copy of the custody order that was electronically returned.

Notwithstanding the provisions of this subdivision, a clerk or magistrate shall not issue a custody order to a physician or eligible psychologist at a 24-hour facility, or a designee, if the physician or eligible psychologist, or a

designee, has not completed training in proper service and return of service. As used in this subdivision, the term "designee" includes the 24-hour facility's on-site police security personnel.

The Department of Health and Human Services shall cooperate and collaborate with the Administrative Office of the Courts and the UNC School of Government to develop protocols to implement this section, including a procedure for notifying clerks and magistrates of the names of the physicians, psychologists, and designees who have completed the training. The Secretary of the Department shall oversee implementation of these protocols.

...

(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 custody order is 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 13.(b) G.S. 122C-262(c) reads as rewritten:

"(c) If the commitment examiner executes the oath, appearance before a magistrate shall be waived. The commitment examiner shall send a copy of the certificate to the clerk of superior court (i) through the electronic filing system, if the county has implemented a system approved by the Director of the Administrative Office of the Courts, or (ii) by the most reliable and expeditious means.~~means otherwise available.~~ If it cannot be reasonably anticipated that the clerk will receive the copy within 24 hours, excluding Saturday, Sunday, and holidays, of the time that it was signed, the physician or eligible psychologist shall also communicate the findings to the clerk by telephone."

SECTION 13.(c) G.S. 122C-266(c) reads as rewritten:

"(c) The findings of the physician and the facts on which they are based shall be in writing, in all cases. A copy of the findings shall be sent to the clerk of superior court (i) through the electronic filing system, if the county has implemented a system approved by the Director of the Administrative Office of the Courts, or (ii) by the most reliable and expeditious means.~~means otherwise available.~~"

SECTION 13.(d) G.S. 122C-283(e) reads as rewritten:

"(e) The findings of the physician or eligible psychologist and the facts on which they are based shall be in writing in all cases. A copy of the findings made by the physician or eligible psychologist and the commitment examiner shall be sent to the clerk of superior court (i) through the electronic filing system, if the county has implemented a system approved by the Director of the Administrative Office of the Courts, or (ii) by the most reliable and expeditious means.~~means otherwise available.~~ If it cannot be reasonably anticipated that the clerk will receive the copy within 48 hours of the time that it was signed, the physician or eligible psychologist shall also communicate his findings to the clerk by telephone."

SECTION 13.(e) This section becomes effective April 1, 2024.

REVISE EXPUNCTION ELIGIBILITY

SECTION 14.(a) G.S. 15A-145.5 reads as rewritten:

"§ 15A-145.5. Expunction of certain misdemeanors and felonies; no age limitation.

(a) For purposes of this section, the term "nonviolent misdemeanor" or "nonviolent felony" means any misdemeanor or felony except the following:

- (1) A Class A through G felony or a Class A1 misdemeanor.
- (2) An offense that includes assault as an essential element of the offense.
- (3) An offense requiring registration pursuant to Article 27A of Chapter 14 of the General Statutes, whether or not the person is currently required to register.
- (4) Any of the following sex-related or stalking offenses: G.S. 14-27.25(b), 14-27.30(b), 14-190.7, 14-190.8, 14-190.9, 14-202, 14-208.11A, 14-208.18, 14-277.3, 14-277.3A, 14-321.1.
- (5) Any felony offense in Chapter 90 of the General Statutes where the offense involves methamphetamines, heroin, or possession with intent to sell or deliver or sell and deliver cocaine.
- (6) An offense under G.S. 14-12.12(b), 14-12.13, or 14-12.14, or any offense for which punishment was determined pursuant to G.S. 14-3(c).
- (7) An offense under G.S. 14-401.16.
- (7a) An offense under ~~G.S. 14-54(a)~~ or G.S. 14-54(a1).
- (8) Any felony offense in which a commercial motor vehicle was used in the commission of the offense.
- (8a) Repealed by Session Laws 2021-118, s. 1, effective December 1, 2021, and applicable to petitions filed on or after that date.
- (9) Any offense that is an attempt to commit an offense described in subdivisions (1) through (8) of this subsection.

...

(c) A person may file a petition, in the court of the county where the person was convicted.

- (1) For expunction of one or more nonviolent misdemeanor convictions, the petition shall not be filed earlier than one of the following:
 - a. For expunction of one nonviolent misdemeanor, five years after the date of the conviction or when any active sentence, period of probation, or post-release supervision has been served, whichever occurs later.
 - b. For expunction of more than one nonviolent misdemeanor, seven years after the date of the person's last conviction, other than a traffic offense not listed in the petition for expunction, or seven years after any active sentence, period of probation, or post-release supervision has been served, whichever occurs later.
- (2) For expunction of up to three nonviolent felony convictions, the petition shall not be filed earlier than one of the following:
 - a. For expunction of one nonviolent ~~felony~~, felony not subject to the waiting period set forth in sub-subdivision a1. of this subdivision, 10 years after the date of the conviction or 10 years after any active sentence, period of probation, or post-release supervision, related to the conviction listed in the petition, has been served, whichever occurs later.
 - a1. For expunction of one nonviolent felony under G.S. 14-54(a), 15 years after the date of the conviction or 15 years after any active sentence, period of probation, or post-release supervision, related to the conviction listed in the petition, has been served, whichever occurs later.
 - b. For expunction of two or three nonviolent felonies, 20 years after the date of the most recent conviction listed in the petition, or 20 years after any active sentence, period of probation, or post-release

supervision, related to a conviction listed in the petition, has been served, whichever occurs later.

A person previously granted an expunction under this section is not eligible for relief under this section for any offense committed after the date of the previous order for expunction. Except as provided in subsections (c4) and (c5) of this section, a person previously granted an expunction under this section for one or more misdemeanors is not eligible for expunction of additional misdemeanors under this section and a person previously granted an expunction under this section for one or more felonies is not eligible for expunction of additional felonies under this section.

(c1) A petition filed pursuant to this section shall contain, but not be limited to, the following:

- (1) An affidavit by the petitioner that the petitioner is of good moral character and one of the following statements:
 - a. If the petition is for the expunction of one or more nonviolent misdemeanors, that the petitioner has not been convicted of any other felony or misdemeanor, other than a traffic violation, under the laws of the United States or the laws of this State or any other state during the applicable ~~five-year or seven-year~~ waiting period set forth in subsection (c) of this section.
 - b. If the petition is for the expunction of one or up to three nonviolent felonies, that the petitioner has not been convicted under the laws of the United States or the laws of this State or any other state of any misdemeanor, other than a traffic violation, in the five years preceding the petition, or any felony during the applicable ~~10-year or 20-year~~ waiting period set forth in subsection (c) of this section.
- (2) Verified affidavits of two persons who are not related to the petitioner or to each other by blood or marriage, that they know the character and reputation of the petitioner in the community in which the petitioner lives and that the petitioner's character and reputation are good.
- (3) A statement that the petition is a motion in the cause in the case wherein the petitioner was convicted.
- (4) An application on a form approved by the Administrative Office of the Courts requesting and authorizing a name-based State and national criminal history record check by the Department of Public Safety using any information required by the Administrative Office of the Courts to identify the individual, a search by the Department of Public Safety for any outstanding warrants on pending criminal cases, and a search of the confidential record of expunctions maintained by the Administrative Office of the Courts. The application shall be filed with the clerk of superior court. The clerk of superior court shall forward the application to the Department of Public Safety and to the Administrative Office of the Courts, which shall conduct the searches and report their findings to the court.
- (5) An affidavit by the petitioner that no restitution orders or civil judgments representing amounts ordered for restitution entered against the petitioner are outstanding.
- (6) An affidavit by the petitioner providing information on any additional petitions the petitioner has submitted, or intends to submit, in other counties pursuant to subsection (c4) of this section seeking expunction of additional convictions.
- (7) An acknowledgement by the petitioner that, except as provided in subsection (c5) of this section, the expunction of one nonviolent misdemeanor prior to

the seven-year waiting period or one nonviolent felony prior to the 20-year waiting period will preclude the petitioner from expunging additional nonviolent misdemeanors or nonviolent felonies that might otherwise be eligible for expunction pursuant to sub-subdivision b. of subdivision (1) of subsection (c) of this section or sub-subdivision b. of subdivision (2) of subsection (c) of this section.

Upon filing of the petition, the petition shall be served upon the district attorney of the court wherein the case was tried resulting in conviction. The district attorney shall have 30 days thereafter in which to file any objection thereto and shall be duly notified as to the date of the hearing of the petition. Upon good cause shown, the court may grant the district attorney an additional 30 days to file objection to the petition. The district attorney shall make his or her best efforts to contact the victim, if any, to notify the victim of the request for expunction prior to the date of the hearing. Upon request by the victim, the victim has a right to be present at any hearing on the petition for expunction and the victim's views and concerns shall be considered by the court at such hearing.

The presiding judge is authorized to call upon a probation officer for any additional investigation or verification of the petitioner's conduct since the conviction. The court shall review any other information the court deems relevant, including, but not limited to, affidavits or other testimony provided by law enforcement officers, district attorneys, and victims of crimes committed by the petitioner.

(c2) The court, after hearing a petition for expunction of one or more nonviolent misdemeanors, shall order that the petitioner be restored, in the contemplation of the law, to the status the petitioner occupied before the arrest or indictment or information, except as provided in G.S. 15A-151.5, if the court finds all of the following:

- (1) One of the following:
 - a. The petitioner has not previously been granted an expunction under this section for one or more nonviolent misdemeanors.
 - b. Any previous expunction granted to the petitioner under this section for one or more nonviolent misdemeanors was granted pursuant to a petition filed prior to December 1, 2021.
- (2) The petitioner is of good moral character.
- (3) The petitioner has no outstanding warrants or pending criminal ~~eases-cases~~, is not under indictment, and no finding of probable cause exists against the defendant for a felony, in any federal court or state court in the United States.
- (3a) The petitioner is not free on bond or personal recognizance pending trial, appeal, or sentencing in any federal court or state court in the United States for a crime which would prohibit the person from having his or her petition for expunction under this section granted.
- (4) The petitioner has no other felony or misdemeanor convictions, other than a traffic violation not listed in the petition for expunction, during the applicable ~~five-year or seven-year~~ waiting period set forth in subsection (c) of this section.
- (5) The petitioner has no outstanding restitution orders or civil judgments representing amounts ordered for restitution entered against the petitioner.
- (6) The petitioner has no convictions for a misdemeanor or felony that is listed as an exception to the terms "nonviolent misdemeanor" or "nonviolent felony" as provided in subsection (a) of this section.
- (7) The petitioner was convicted of an offense or offenses eligible for expunction under this section.
- (8) The petitioner has completed the applicable ~~five-year or seven-year~~ waiting period set forth in subsection (c) of this section.

If the court denies the petition, the order shall include a finding as to the reason for the denial.

(c3) The court, after hearing a petition for expunction of one or up to three nonviolent felonies, may order that the petitioner be restored, in the contemplation of the law, to the status the petitioner occupied before the arrest or indictment or information, except as provided in G.S. 15A-151.5, if the court finds all of the following:

- (1) One of the following:
 - a. The petitioner has not previously been granted an expunction under this section for one or more nonviolent felonies.
 - b. Any previous expunction granted to the petitioner under this section for a felony was granted pursuant to a petition filed prior to December 1, 2021.
- (2) The petitioner is of good moral character.
- (3) The petitioner has no outstanding warrants or pending criminal ~~cases-cases~~, is not under indictment, and no finding of probable cause exists against the defendant for a felony, in any federal court or state court in the United States.
- (3a) The petitioner is not free on bond or personal recognizance pending trial, appeal, or sentencing in any federal court or state court in the United States for a crime which would prohibit the person from having his or her petition for expunction under this section granted.
- (4) If the petition is for the expunction of one felony, the petitioner has no misdemeanor convictions, other than a traffic violation not listed in the petition for expunction, in the five years preceding the petition, and no other felony convictions during the applicable ~~10-year~~ waiting period set forth in subsection (c) of this section.
- (4a) If the petition is for the expunction of two or three felonies, or if the petitioner has filed petitions in more than one county pursuant to subsection (c4) of this section, the petitioner has no misdemeanor convictions other than a traffic violation not listed in the petition for expunction in the five years preceding the petition, and no other felony convictions during the applicable ~~20-year~~ waiting period set forth in subsection (c) of this section.
- (4b) If the petition is for the expunction of two or three felonies, if the petitioner has filed petitions in more than one county pursuant to subsection (c4) of this section, or if the petition is filed pursuant to subsection (c5) of this section, the felony offenses were committed within the same 24-month period.
- (5) The petitioner has no outstanding restitution orders or civil judgments representing amounts ordered for restitution entered against the petitioner.
- (6) The petitioner has no convictions for a misdemeanor that is listed as an exception to the term "nonviolent misdemeanor" as provided in subsection (a) of this section or any other felony offense.
- (7) The petitioner was convicted of an offense eligible for expunction under this section.
- (8) The petitioner has completed the applicable ~~10-year or 20-year~~ waiting period set forth in subsection (c) of this section.

If the court denies the petition, the order shall include a finding as to the reason for the denial.
...."

SECTION 14.(b) This section becomes effective December 1, 2023, and applies to petitions filed on or after that date.

CHANGE S.L. 2022-47 EFFECTIVE DATE

SECTION 14.5. Subsection (b) of Section 1 of S.L. 2022-47 reads as rewritten:

"**SECTION 1.(b)** This section becomes effective August 1, 2022, and expires ~~August 1, 2023~~July 1, 2024."

SEVERABILITY CLAUSE

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

EFFECTIVE DATE

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

In the General Assembly read three times and ratified this the 13th day of July, 2023.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Jason Saine
Presiding Officer of the House of Representatives

Roy Cooper
Governor

Approved _____m. this _____ day of _____, 2023