

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

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HOUSE BILL 113

Short Title: 2021 AOC Legislative Changes.-AB (Public)

Sponsors: Representative Stevens.

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

Referred to: Judiciary 1, if favorable, State Government, if favorable, Rules, Calendar, and Operations of the House

February 23, 2021

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

The General Assembly of North Carolina enacts:

DISPUTE RESOLUTION COMMISSION STATUTORY CHANGES

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

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

...

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

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



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

...

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

MEDICAL MALPRACTICE JURY INSTRUCTIONS AND JUDICIAL ASSIGNMENT

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

"(d) Final instructions to the jury. – In civil cases subject to Rule 9(j) of the Rules of Civil Procedure, the court shall reduce the oral instructions given to the jury to writing. Upon the jury retiring for deliberation, the court is encouraged to and may provide the jury a written copy of the oral instructions for the jury to take into the jury room during deliberation."

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

"(e) The Senior Resident Superior Court Judge, in consultation with the Administrative Office of the Courts and the parties to the case, shall designate a specific resident judge or a specific judge assigned to hold court in the district to preside over all proceedings in a case subject to Rule 9(j) of the Rules of Civil Procedure."

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

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

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

JUDICIAL STANDARDS COMMISSION ALTERNATE MEMBERS AND TECHNICAL CORRECTIONS

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

"§ 7A-375. Judicial Standards Commission.

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

1 disqualification arising in a particular case. The alternate members shall have the same
2 qualifications for appointment as the original members.

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

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

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

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

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

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

1 call upon the Attorney General to furnish counsel. In addition, with the approval of the Chief
2 Justice, for specific cases, the chair or executive director also may call upon the Director of the
3 State Bureau of Investigation to furnish an investigator who shall serve under the supervision of
4 the executive director. While performing duties for the Commission, the executive director,
5 counsel, and investigator have authority throughout the State to serve subpoenas or other process
6 issued by the Commission in the same manner and with the same effect as an officer authorized
7 to serve process of the General Court of Justice.

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

11 12 **SEVERABILITY CLAUSE**

13 **SECTION 5.** If any section or provision of this act is declared unconstitutional or
14 invalid by the courts, it does not affect the validity of this act as a whole or any part other than
15 the part so declared to be unconstitutional or invalid.

16 17 **EFFECTIVE DATE**

18 **SECTION 6.** Except as otherwise provided, this act is effective when it becomes
19 law.