

April 12, 2001

H 1284. OPENNESS OF COURT RECORDS AND PROCEEDINGS. *TO ESTABLISH A PRESUMPTION THAT COURT RECORDS FOR CIVIL, ADMINISTRATIVE, AND CRIMINAL CASES ARE OPEN, TO PROVIDE THE PROCEDURE TO OBTAIN AN ORDER TO SEAL A COURT RECORD, TO ESTABLISH A PRESUMPTION THAT THE HEARINGS, PROCEEDINGS, AND TRIALS FOR CIVIL, ADMINISTRATIVE, AND CRIMINAL CASES ARE OPEN, AND TO PROVIDE THE PROCEDURE TO OBTAIN AN ORDER TO CONDUCT A CLOSED HEARING, PROCEEDING, OR TRIAL.* As title indicates. Provides that presumption may be rebutted by showing that (1) a specific, serious, and substantial interest exists that outweighs any likely adverse effect that sealing the record or closing the hearing would have upon the public health or safety and (2) that there is no less restrictive means to adequately protect that interest. Applies to all court records filed, and actions and cases commenced, on or after Oct. 1, 2001.

Intro. by Weiss.

Ref. to Judiciary II	GS 1A, 15A, 150B
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April 24, 2001

H 1284. OPENNESS OF COURT RECORDS AND PROCEEDINGS. Intro. 4/12/01. House committee substitute makes the following changes to 1st edition. Deletes provision extending openness requirement to criminal trials and removes references to criminal cases from title. Makes clear that openness requirement does not apply to court records of juvenile proceedings. Shortens period within which hearing on motion to seal records must be held, from 14 to 3 days after public notice posted of motion. More particularly defines the court records subject to act.

June 19, 2001

H 1284. OPENNESS OF COURT RECORDS AND PROCEEDINGS. Intro. 4/12/01. House committee substitute makes the following changes to 2nd edition. Changes title to *AN ACT TO ALLOW AN INTERVENTION OF RIGHT UNDER RULE 24 OF THE RULES OF CIVIL PROCEDURE FOR THOSE THAT ASSERT A RIGHT OF ACCESS TO A JUDICIAL PROCEEDING OR TO A JUDICIAL RECORD AND TO CREATE A NEW FEE FOR FILING A MOTION TO INTERVENE UNDER GS 1-72.1*. Adds GS 1-72.1 to provide that an applicant asserting a right of access to a judicial proceeding or record may intervene for the limited purpose of gaining access, but exempts juvenile proceedings or court records of juvenile proceedings under Chapter 7B of the General Statutes. Provides that nothing in this section preempts state law otherwise restricting access to judicial proceedings or records. Amends GS 7A-308(a) to add fee for filing a motion to intervene of \$20.00. Effective Oct. 1, 2001.

August 1, 2001

H 1284. OPENNESS OF COURT RECORDS AND PROCEEDINGS. Intro. 3/12/01. House committee substitute makes the following changes to 3rd edition. Changes title to *AN ACT TO CREATE A PROCEDURE FOR INTERVENTION FOR THE LIMITED PURPOSE OF ASSERTING A RIGHT OF ACCESS TO A JUDICIAL PROCEEDING OR TO A JUDICIAL RECORD AND TO CREATE A NEW FEE FOR FILING A MOTION TO INTERVENE UNDER GS 1-72.1*. Rewrites proposed new GS 1-72.1 to provide that an applicant asserting a right of access to a judicial proceeding or a judicial record may move to intervene in that proceeding for the limited purpose of being heard on the access claim. Requires notice under GS 1A-1, Rule 5 on all parties to action. Court must announce in court the time and place of hearing and cause that information to be posted in the courthouse. Court must hold evidentiary hearing and issue ruling. If ruling allows access, court may impose conditions on that access as necessary. Allows intervening party to file interlocutory appeal with appellate court contesting judge's order, but underlying action may proceed pending that appeal. Does not apply to juvenile proceedings.

December 3, 2001

H 1284. OPENNESS OF COURT RECORDS AND PROCEEDINGS. Intro. 4/12/01. Senate committee substitute makes the following changes to 4th edition. Rewrites title of bill to read *AN ACT TO CREATE A CIVIL PROCEDURE FOR ASSERTING A RIGHT OF ACCESS TO A*

JUDICIAL PROCEEDING OR TO A JUDICIAL RECORD; TO CREATE A NEW FEE FOR FILING A MOTION UNDER G.S. 1-72.1; AND TO PROTECT CERTAIN RECORDS AND PROCEEDINGS DEALING WITH SENSITIVE SECURITY AND PROTECTION ISSUES. Rewrites proposed GS 1-72.1 to clarify procedure for filing of motion to determine right of access to court proceedings or records. Specifies that notice of hearing must be served by person seeking access on all parties to proceeding. Requires court to rule in writing on motion. Allows party seeking to seal a document to be used in court proceeding to have document reviewed *in camera*; submission of document does not result in document becoming judicial record by itself; if document offered into evidence after court denies request to seal document, then it becomes judicial record. Specifies procedure for appeal of court's order and granting of stays. Specifies that section establishes procedure for hearing access claims and does not otherwise limit, expand, change, or otherwise preempt provisions of law regarding access. Adds new GS 132-1.6 to specify that information containing specific details of public security plans and detailed drawings of public buildings and infrastructure facilities are not public records. Specifies that general information about security plans, budgetary information about security plans and public construction projects is public record. GS 1-72.1 is effective Jan. 1, 2002, for court records filed or judicial proceedings begun on or after that date. GS 132-1.6 applies to public records in existence on or after act becomes law.

December 4, 2001

H 1284. OPENNESS OF COURT RECORDS AND PROCEEDINGS. Intro. 4/12/01. Senate committee substitute makes the following changes to 4th edition. Changes title to *AN ACT TO CREATE A CIVIL PROCEDURE FOR ASSERTING A RIGHT OF ACCESS TO A JUDICIAL PROCEEDING OR TO A JUDICIAL RECORD; TO CREATE A NEW FEE FOR FILING A MOTION UNDER G.S. 1-72.1; TO PROTECT CERTAIN RECORDS AND PROCEEDINGS DEALING WITH SENSITIVE PUBLIC SECURITY AND PROTECTION ISSUES; TO MODIFY THE COST-SHARING REQUIREMENTS UNDER THE STATE EMPLOYEES HEALTH CARE PLAN AND TO PROVIDE THAT THE TERMS OF CONTRACTS BETWEEN HOSPITALS, HOSPITAL AUTHORITIES, PHYSICIAN OR OTHER MEDICAL PROVIDERS, OR A PHARMACY BENEFIT MANAGER AND THE PLAN ARE CONFIDENTIAL; AND TO PROVIDE FOR THE CONFIDENTIALITY OF COMPETITIVE HEALTH CARE INFORMATION.* Effective for court records filed or judicial proceedings begun or pending on or after Jan. 1, 2002, rewrites proposed new GS 1-72.1 (procedure for motion to assert right of access to civil judicial proceeding or to judicial record in that proceeding). Requires court to issue written ruling on motion for access that must contain statement of reasons for ruling sufficiently specific to permit appellate review. Provides that party seeking to seal document or testimony to be used in court proceeding may submit document or testimony to court to be reviewed *in camera*. Ruling on motion may be subject to immediate interlocutory appeal by movant or party to proceeding. Sets out scope of appellate review. Applicable to public records in existence on or after date when act becomes law, adds new GS 132.1-6 to provide that public records as defined in GS 132-1 shall not include information containing specific details of public security plans or detailed plans and drawings of public buildings and infrastructure facilities. Provides that information concerning general adoption of public security plans and budgetary information concerning public funds to implement plans to construct, renovate, or repair buildings or infrastructure facilities are public records. Effective when act becomes law, amends GS 135-40.4(a), as amended by SL 2001-253, to provide that terms of any contract, including reimbursement rates, between hospitals, hospital authorities, doctors or other medical providers, or pharmacy benefit manager and state employees health care plan are not public record for five years from date of expiration of contract, but information may be released to designated public officials and legislative committee. Effective when act becomes law, amends GS 131E-97.3 to provide that if public hospital or public health auth'y is requested to disclose contract that it believes in good faith contains or constitutes competitive health care information, it may either redact portions of contract believed to constitute such information before disclosure, or if the entire contract constitutes such information, refuse disclosure of contract. Sets out procedure and scope of court review when person requests disclosure of contract under GS 132-9.

December 6, 2001

H 1284. OPENNESS OF COURT RECORDS AND PROCEEDINGS. Intro. 4/12/01. Conference report recommends the following changes to 6th edition to reconcile matters in controversy. Revises GS 135-40.4(a), as amended by SL 2001-253, to provide that terms pertaining to reimbursement rates or other consideration of contract (was, all of terms of contract) are not a public record (was, are confidential and not a public record) for a period of thirty months after date of expiration of contract (was, five years). Also provides that provision making information not a public record does not prohibit release to, among others, Committee on Employee Hospital and Medical Benefits (was, Joint Legislative Health Care Oversight Committee).

Revises GS 131E-97.3 (confidentiality of competitive health care information) by adding provision that nothing in that section prevents elected body, in closed session, that has responsibility for hospital, Attorney General, or State Auditor from having access to information made confidential by section. Provides that members of public entity have duty not to further disclose the confidential information.

January 9, 2002

SL 2001-516 (H 1284). OPENNESS OF COURT RECORDS AND PROCEEDINGS. *AN ACT TO CREATE A CIVIL PROCEDURE FOR ASSERTING A RIGHT OF ACCESS TO A JUDICIAL PROCEEDING OR TO A JUDICIAL RECORD; TO CREATE A NEW FEE FOR FILING A MOTION UNDER G.S. 1-72.1; TO PROTECT CERTAIN RECORDS AND PROCEEDINGS DEALING WITH SENSITIVE PUBLIC SECURITY AND PROTECTION ISSUES; TO PROVIDE THAT CERTAIN TERMS OF CONTRACTS BETWEEN HOSPITALS, HOSPITAL AUTHORITIES, PHYSICIAN OR OTHER MEDICAL PROVIDERS, OR A PHARMACY BENEFIT MANAGER AND THE PLAN ARE NOT A PUBLIC RECORD; AND TO PROVIDE FOR THE CONFIDENTIALITY OF COMPETITIVE HEALTH CARE INFORMATION.* Summarized in *Daily Bulletin* 4/12/01, 4/24/01, 6/19/01, 8/1/01, 12/3/01, 12/4/01, and 12/6/01. Enacted Jan. 4, 2002. Sections 1 and 2 are effective Jan. 1, 2002, and apply to court records filed on or after that date and to judicial proceedings commenced or pending on or after that date. The remainder of this act is effective Jan. 4, 2002. Section 3 applies to public records in existence on or after Jan. 4, 2002.