

March 31, 2003

S 577. ADJUST COURT JURISDICTION. TO PERMIT THE MORE EFFICIENT USE OF ALL COURT PERSONNEL RESOURCES THROUGH CONCURRENT AND REVISED JURISDICTION AND PROCEDURES BY PROVIDING ADDITIONAL AUTHORITY FOR MAGISTRATES AND CLERKS UPON THE AGREEMENT OF THE CHIEF DISTRICT COURT JUDGE AND CLERK OF SUPERIOR COURT, BY AUTHORIZING MAGISTRATES TO DETERMINE INDIGENCY AND ENTITLEMENT TO COUNSEL IN CASES CALENDARED BEFORE THEM, BY AUTHORIZING DISTRICT COURT JUDGES TO ACCEPT GUILTY PLEAS FOR CERTAIN CLASSES OF FELONY, BY PROVIDING FOR CONCURRENT JURISDICTION FOR DISTRICT AND SUPERIOR COURT JUDGES IN INFRACTIONS AND MISDEMEANOR CASES, BY RAISING THE JURISDICTIONAL AMOUNT FOR SMALL CLAIMS, BY AUTHORIZING THE USE OF EXPEDITED CHILD SUPPORT PROCESS UPON THE AGREEMENT OF THE CHIEF DISTRICT COURT JUDGE AND CLERK OF SUPERIOR COURT, AND BY CONFORMING CERTAIN PROCEDURAL REQUIREMENTS IN ACTIONS FOR ABSOLUTE DIVORCE TO THE REQUIREMENTS IN OTHER CIVIL CASES, AS RECOMMENDED BY THE STATE JUDICIAL COUNCIL. Makes following changes to court jurisdiction: (1) Amends GS Chapter 7A to authorize chief district judge, with consent of clerk and after consultation with district attorney, to assign magistrates to try and enter judgment in all infractions and Class 3 misdemeanor cases. Authorizes magistrate to determine indigency and entitlement to counsel in connection with misdemeanor cases calendared before the magistrate. Grants same authority to try infractions and Class 3 misdemeanors to the elected clerk and assistant clerks if the district court judge and clerk mutually consent after consultation with the district attorney. Provides that appeal from the magistrate or clerk is to superior court de novo.(2) Amends GS 7A-272 and -1029.1 to authorize superior court judge, with consent of prosecutor and defendant, to transfer Class D, E, F, and G felonies as well as H and I felonies to the district court for purposes of accepting guilty plea and allows district court judges to accept those pleas with the consent of the presiding district court judge, the defendant, and the prosecutor. (3) With the consent of the presiding district court and superior court judges, the superior court may exercise the jurisdiction of the district court to try misdemeanor and infraction cases pending in district court. Appeals are to the superior court for a trial de novo before a different superior court judge. (4) Amends GS 7A-210 to increase small claims jurisdiction from \$4,000 to \$5,000. (5) Amends GS 50-34 to allow chief district judge, with the consent of the clerk, to implement provisions for expedited process for child support even though not required to do so by federal law. The chief district judge and clerk must agree whether to use magistrates or assistant clerks as child support hearing officers. (6) Repeals GS 50-10, which prevents default judgments in divorce cases, and adds provision to GS 1A-1, Rule 55 to allow clerks to enter default judgments in cases in which the only claim is for absolute divorce or absolute divorce and the resumption of a former name and the defendant has been defaulted for failure to appear or the defendant has answered admitting the allegations of the complaint and joining in the request for absolute divorce, and the defendant is not an infant or incompetent person. (7) Effective Oct. 1, 2003, and applies to cases pending on or filed on or after that date.

Intro. by Clodfelter.

Ref. to Judiciary I

GS 1A, 7A, 15A, 50

April 28, 2003

S 577. ADJUST COURT JURISDICTION. Intro. 3/31/03. Senate committee substitute makes the following changes to 1st edition. (1) Omits proposed amendment of GS 7A-181, which added new subsec. (b) giving assistant clerks of superior court the same power as the clerk of superior court to hear, decide, and enter judgment in all infractions and Class 3 misdemeanor cases. (2) Omits references to original bill's proposed new GS 7A-181(b) (now omitted) and to assistant clerks in the text of proposed amendments to GS 15A-1115(a), GS 15A-1431(a), and GS 15A-1431(d).

April 30, 2003

S 577. ADJUST COURT JURISDICTION. Intro. 3/31/03. Senate amendment adopted 4/29/03 makes the following changes to 2nd edition. Deletes from the bill all proposed amendments giving magistrates authority to determine indigence and entitlement to counsel in cases calendared before them.

July 17, 2004

S 577. ADJUST COURT JURIS./AMEND MAGISTRATE TERM (NEW). Intro. 3/31/03. House committee substitute makes the following changes to 3rd edition. Amends title to *AN ACT TO RAISE THE JURISDICTIONAL AMOUNT FOR SMALL CLAIMS ACTIONS TO FIVE THOUSAND DOLLARS, TO CLARIFY JURISDICTION FOR REVOCATION OF PROBATION WHEN PLEAS WERE ENTERED IN DISTRICT COURT, TO DEFINE DRUG TREATMENT COURT AS AN INTERMEDIATE PUNISHMENT, TO REQUIRE THE COURT TO GIVE NOTICE OF RIGHTS TO CONTEST MECHANICS' LIEN STORAGE CHARGES OF VEHICLES SEIZED UNDER THE DWI FORFEITURE LAWS, TO PERMIT CLERKS OF COURT TO GRANT DIVORCES IN UNCONTESTED*

ABSOLUTE DIVORCE ACTIONS, TO TERMINATE AS A MATTER OF LAW CERTAIN PARENTAL RIGHTS OF A PERSON CONVICTED OF CERTAIN CRIMES THAT RESULT IN THE VICTIM BECOMING PREGNANT, AND TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO CHANGE THE TERM OF OFFICE OF MAGISTRATES FOR AN INITIAL TERM OF TWO YEARS AND SUBSEQUENT TERMS OF FOUR YEARS. Deletes provisions of bill authorizing district court judges to accept certain felony pleas, provisions regarding concurrent jurisdiction for district and superior court judges in infraction and misdemeanor cases, and provisions related to expedited child support process. Adds provisions relative to revocation of probation, drug treatment court, mechanics liens regarding seized vehicles, termination of parental rights of those convicted of rape, and magistrate terms as title indicates. Sets vote on proposed amendment to Sec. 10, Art. IV of Constitution regarding magistrate terms for Nov., 2004 election. Amendments affecting probation revocation and drug court are effective when bill becomes law. Amendments affecting small claims jurisdiction, liens on seized vehicles, and divorce proceedings are effective Oct. 1, 2004. Amendments affecting parental rights are effective Dec. 1, 2004. Amendment regarding magistrate terms and appointments becomes effective Jan. 1, 2005 if constitutional amendment is approved by voters.

August 6, 2004

SL 2004-128 (S 577). ADJUST COURT JURISDICTION/AMEND MAGISTRATE TERM. AN ACT TO RAISE THE JURISDICTIONAL AMOUNT FOR SMALL CLAIMS ACTIONS TO FIVE THOUSAND DOLLARS, TO CLARIFY JURISDICTION FOR REVOCATION OF PROBATION WHEN PLEAS WERE ENTERED IN DISTRICT COURT, TO DEFINE DRUG TREATMENT COURT AS AN INTERMEDIATE PUNISHMENT, TO REQUIRE THE COURT TO GIVE NOTICE OF RIGHTS TO CONTEST MECHANICS' LIEN STORAGE CHARGES OF VEHICLES SEIZED UNDER THE DWI FORFEITURE LAWS, TO PERMIT CLERKS OF COURT TO GRANT DIVORCES IN UNCONTESTED ABSOLUTE DIVORCE ACTIONS, TO TERMINATE AS A MATTER OF LAW CERTAIN PARENTAL RIGHTS OF A PERSON CONVICTED OF CERTAIN CRIMES THAT RESULT IN THE VICTIM BECOMING PREGNANT, AND TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO CHANGE THE TERM OF OFFICE OF MAGISTRATES FOR AN INITIAL TERM OF TWO YEARS AND SUBSEQUENT TERMS OF FOUR YEARS. Summarized in *Daily Bulletin* 3/31/03, 4/28/03, 4/30/03, and 7/17/04. Enacted July 26, 2004. Sections 1 and 4– 6 are effective October 1, 2004. Sections 7–15 are effective December 1, 2004. Sections 2, 3, 16–18, and 20 are effective July 26, 2004. Section 19 becomes effective only upon approval by the voters of the constitutional amendment proposed in Section 16. If this amendment is approved, Section 19 becomes effective January 1, 2005.