

March 5, 2009

H 506. CLARIFY ENTITLEMENT TO COUNSEL/APPOINTMENT. Filed 3/5/09. *TO MAKE CLARIFICATIONS TO THE ENTITLEMENT TO COUNSEL AND THE PROCEDURES FOR APPOINTMENT.*

Clarifies entitlement to counsel in guardianship proceedings under GS Chapter 35A, sex offender monitoring determinations, and postconviction proceedings in capital cases. Amends GS 35A-1207(a), 35A-1290(c), and 35A-1293 to provide that regarding modifications of guardianships, removal of guardians, and appointment of successor guardians, the ward is entitled to be represented by counsel of the ward's choice or by an appointed guardian ad litem if the clerk determines the ward's interests are not adequately represented; also amends GS 35A-1116 to clarify the responsibility for payment of witness fees and the fees of an appointed guardian ad litem in guardianship proceedings. Amends GS 14-208.40B(b) to provide for appointment of counsel for an indigent defendant if the Department of Correction schedules a hearing to determine whether the defendant is subject to satellite monitoring under GS 14-208.40. Amends GS 7A-451(c) to provide that an indigent defendant who is under a sentence of death and desires counsel may apply to the Office of Indigent Defense Services (was, superior court) for the appointment of counsel for postconviction proceedings; provides that the defendant is presumed indigent if previously determined indigent for purposes of trial or direct appeal, and directs the Office of Indigent Defense Services to request the superior court to determine indigency if the defendant was not previously determined to be indigent. Effective July 1, 2009.

Intro. by Goodwin, Ross.

GS 7A, 14, 35A

March 25, 2009

H 506. CLARIFY ENTITLEMENT TO COUNSEL/APPOINTMENT. Filed 03/05/09. House committee substitute makes the following changes to 1st edition. (1) Adds a provision to proposed GS 35A-1116(c2) that the respondent pays the fees of the appointed guardian ad litem if the respondent is not adjudicated incompetent, the clerk finds that there were reasonable grounds for bringing the proceeding, and the respondent is not indigent. (2) The first edition contains amendments to GS 35A-1207(a) (request for modification of order appointing a guardian), GS 35A-1290(a) (clerk removal of guardian), and GS 35A-1293 (clerk appointment of successor guardian) providing that if the clerk determines that the ward's interests are not adequately represented, the ward is entitled to be represented by counsel of the ward's choice or by an appointed guardian ad litem. The committee substitute deletes these amendments and substitutes a new GS 35A-1217 making a similar provision with respect to any proceeding under Subchapter II of GS Chapter 35A where the ward has been adjudicated incompetent. (3) The committee substitute adds new GS 7A-451(a)(18) providing that an indigent person is entitled to services of counsel in a proceeding involving placement into satellite sex offender monitoring. Makes organizational changes.

July 7, 2009

H 506. CLARIFY ENTITLEMENT TO COUNSEL/APPOINTMENT. Filed 3/5/09. Senate committee substitute makes the following changes to 2nd edition. Changes the title to *AN ACT TO CLARIFY RESPONSIBILITY FOR PAYMENT OF WITNESS FEES AND GUARDIAN AD LITEM FEES IN INCOMPETENCY PROCEEDINGS; AUTHORIZE APPOINTMENT OF A GUARDIAN AD LITEM FOR A PERSON WHO IS ADJUDICATED INCOMPETENT; PROVIDE FOR APPOINTMENT OF COUNSEL FOR AN INDIGENT PERSON IN CERTAIN PROCEEDINGS INVOLVING SATELLITE-BASED MONITORING OF SEX OFFENDERS; PROVIDE FOR REPRESENTATION FOR THE DEPARTMENT OF CORRECTION AND APPOINTMENT OF COUNSEL FOR INDIGENT OFFENDERS IN SATELLITE-BASED MONITORING PROCEEDINGS; AND PROVIDE FOR APPOINTMENT OF COUNSEL BY THE OFFICE OF INDIGENT DEFENSE SERVICES IN CAPITAL CASES.* Changes the effective date from July 1, 2009, to when the act becomes law.

August 3, 2009

SL 2009-387 (H 506). CLARIFY ENTITLEMENT TO COUNSEL/APPOINTMENT. AN ACT TO CLARIFY RESPONSIBILITY FOR PAYMENT OF WITNESS FEES AND GUARDIAN AD LITEM FEES IN INCOMPETENCY PROCEEDINGS; AUTHORIZE APPOINTMENT OF A GUARDIAN AD LITEM FOR A PERSON WHO IS ADJUDICATED INCOMPETENT; PROVIDE FOR APPOINTMENT OF COUNSEL FOR AN INDIGENT PERSON IN CERTAIN PROCEEDINGS INVOLVING SATELLITE-BASED MONITORING OF SEX OFFENDERS; PROVIDE FOR REPRESENTATION FOR THE DEPARTMENT OF CORRECTION AND APPOINTMENT OF COUNSEL FOR INDIGENT OFFENDERS IN SATELLITE-BASED MONITORING PROCEEDINGS; AND PROVIDE FOR APPOINTMENT OF COUNSEL BY THE OFFICE OF INDIGENT DEFENSE SERVICES IN CAPITAL CASES. Summarized in *Daily Bulletin* 3/5/09, 3/25/09, and 7/7/09. Enacted July 31, 2009. Effective July 31, 2009.