



NORTH CAROLINA GENERAL ASSEMBLY
CONFERENCE REPORT
Senate Bill 580

S580-CRRO-41 [v.4]

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[YES] Title Change

[NO] For Committee Substitute

To: The President of the Senate
The Speaker of the House of Representatives

The conferees appointed to resolve the differences between the Senate and the House of Representatives on Senate Bill 580, A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR AUTOMATIC REINSTATEMENT OF CASES THAT WERE DISMISSED WITH LEAVE IF THOSE CASES ARE WAIVABLE, TO ALLOW FOR SERVICE OF CRIMINAL PROCESS BY A LAW ENFORCEMENT OFFICER BEFORE A MAGISTRATE EVEN WHEN THE OFFICER IS OUTSIDE THE OFFICER'S TERRITORIAL JURISDICTION, TO ADD TO THE STATUTORY DUTIES OF THE DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE COURTS, TO REPEAL THE REQUIREMENT THAT MAGISTRATES BE RESIDENTS OF THE COUNTY TO WHICH THEY ARE APPOINTED TO SERVE, TO CLARIFY WHEN A CLERK OF SUPERIOR COURT MAY RELEASE FUNDS HELD UNDER A CLAIM OF LIEN ON REAL PROPERTY, TO GRANT THE COURT THE DISCRETION TO FIND THAT DISTANCE FROM THE COURT IS GOOD CAUSE TO EXEMPT A PARTY FROM CUSTODY MEDIATION, AND TO PROVIDE THAT FEES COLLECTED BY THE DISPUTE RESOLUTION COMMISSION ARE NONREVERTING, Judiciary I Committee Substitute Adopted 6/7/11, submit the following report:

The House recedes from House Amendment #1, and the House and Senate agree to the following amendment:

On page 1, lines 13 – 14, by rewriting the lines to read:
"CUSTODY MEDIATION, TO PROVIDE THAT FEES COLLECTED BY THE DISPUTE RESOLUTION COMMISSION ARE NONREVERTING, TO PROVIDE BONDSMAN ACCESS TO CRIMINAL COURT RECORDS, TO AMEND THE LAW RELATED TO BAIL FORFEITURE; TO MAKE CHANGES TO THE LAW RELATED TO THE EMPLOYMENT SECURITY COMMISSION; AND TO MAKE CLARIFYING CHANGES TO THE LAW RELATING TO PROVISIONAL DRIVERS LICENSES.";

And on page 6, line 4 by rewriting the line to read:

"SECTION 8. Article 71 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-71-200. Bondsman access to criminal court records.

(a) In order to assist licensed sureties and their agents in evaluating potential and current clients for the purposes of bail, the Administrative Office of the Courts shall provide any individual with a current license to act as professional bondsman, surety bondsman, or



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runner with access to search criminal records in the Administrative Office of the Courts' real-time criminal information systems.

(b) Access granted under subsection (a) of this section shall be limited to information systems containing general criminal case information, as maintained by the clerks of superior court. Access shall not include systems for the production of criminal process by law enforcement officials and judicial officials under G.S. 15A-301.1 or other information not subject to public disclosure.

(c) Access provided pursuant to subsection (a) of this section shall be without charge to the individual bondsman, notwithstanding G.S. 7A-109(d).

(d) All hardware, software, telecommunications charges, or other expenditures required for such access shall be the sole responsibility of the individual bondsman. No State funds may be expended for any such expenses.

(e) The Commissioner shall coordinate the access granted under subsection (a) of this section by providing all information requested by the Administrative Office of the Courts for the establishment of access. The Administrative Office of the Courts shall not provide access to any bondsman who fails to provide all information requested by the Commissioner.

(f) The Commissioner shall notify the Administrative Office of the Courts within twenty-four hours of any action to suspend or revoke a bondsman's license or authority to act as a bondsman. The Administrative Office of the Courts shall immediately revoke access of the suspended or revoked bondsman to its criminal information systems.

(g) The Administrative Office of the Courts shall provide to the Commissioner copies of its current policies for access to court information systems for users outside the Judicial Branch. Any bondsman granted access pursuant to subsection (a) of this section shall adhere to all such policies. The Administrative Office of the Courts shall revoke access of any bondsman who violates such policies.

(h) It is unlawful for any person to willfully do any of the following:

- (1) For any person to access information systems of the Administrative Office of the Courts by means of an online identifier, as defined in G.S. 14-208.6(1n), that was assigned to another individual by the Administrative Office of the Courts pursuant to subsection (a) of this section.
- (2) For any bondsman granted access pursuant to subsection (a) of this section to allow any other person, directly or indirectly, to make use of access granted to the bondsman pursuant to subsection (a) of this section.
- (3) For any bondsman granted access pursuant to subsection (a) of this section to make use of that access at any time when the bondsman knows or has reason to know that his or her license issued under this Article is in a state of suspension or revocation.
- (4) For any bondsman granted access pursuant to subsection (a) of this section to distribute, in any medium or manner, information obtained from the information systems of the Administrative Office of the Courts to any person for any reason not directly related to the evaluation of the individual to whom the information pertains for the purposes of bail.

Unless the conduct is covered under some other provision of law providing for a greater punishment, any violation of this subsection shall be a Class H felony."

SECTION 9.(a) Section 8 of S.L. 2011-377 is repealed.

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SECTION 9.(b) G.S. 15A-544.5(d)(4) reads as rewritten:

"(4) If neither the district attorney nor the board of education has filed a written objection to the motion by the twentieth day after the motion is served, the clerk shall enter an order setting aside the ~~forfeiture.~~ forfeiture, regardless of the basis for relief asserted in the motion, the evidence attached, or the absence of either."

SECTION 9.(c) G.S. 15A-544.5(d)(4), as amended by Section 9(b) of this act, reads as rewritten:

"(4) If neither the district attorney nor the attorney for the board of education has filed a written objection to the motion by the twentieth day after a copy of the motion is ~~served,~~ provided by the clerk of superior court, the clerk shall enter an order setting aside the forfeiture, regardless of the basis for relief asserted in the motion, the evidence attached, or the absence of either."

SECTION 9.(d) Subsection 9(c) of this section becomes effective December 1, 2011.

SECTION 10.(a) G.S. 96-14(2), as amended by Section 2.15 of S.L. 2011-401, reads as rewritten:

"(2) For the duration of the individual's unemployment beginning with the first day of the first week after the disqualifying act occurs with respect to which week an individual files a claim for benefits if it is determined by the Division that such individual is, at the time such claim is filed, unemployed because he or she was discharged for misconduct connected with the work. Misconduct connected with the work is defined as intentional acts or omissions evincing disregard of an employer's interest or standards of behavior which the employer has a right to expect or has explained orally or in writing to an employee or evincing carelessness or negligence of such degree as to manifest equal disregard.

'Discharge for misconduct with the work' as used in this section is defined to include but not be limited to separation initiated by an employer for violating the employer's written alcohol or illegal drug policy; reporting to work significantly impaired by alcohol or illegal drugs; consuming alcohol or illegal drugs on employer's premises; conviction by a court of competent jurisdiction for manufacturing, selling, or distribution of a controlled substance punishable under G.S. 90-95(a)(1) or G.S. 90-95(a)(2) while in the employ of said employer; being terminated or suspended from employment after arrest or conviction for an offense involving violence, sex crimes, or ~~illegal drugs;~~ drugs if the arrest or conviction is related or connected to an employee's work for an employer or in violation of a reasonable work rule or policy; any physical violence whatsoever related to an employee's work for an employer, including, but not limited to, physical violence directed at supervisors, subordinates, coworkers, vendors, customers, or the general public; inappropriate comments or behavior towards supervisors, subordinates, coworkers, vendors, customers, or to the general public relating to any federally protected characteristic which creates a hostile work environment; theft in connection with the employment; forging or falsifying any document or data related to employment, including

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a previously submitted application for employment; violation of an employer's written absenteeism policy; refusing to perform reasonably assigned work tasks; and the failure to adequately perform any other employment duties as evidenced by no fewer than three written reprimands received in the 12 months immediately preceding the employee's ~~termination.~~ termination provided that the reprimands are for intentional acts or omissions evincing disregard of the employer's interest or standards of behavior which the employer has a right to expect or has explained orally or in writing to the employee or evincing such a degree of carelessness or negligence as to manifest equal disregard. This phrase does not discharge or employer-initiated separation of a severely disabled veteran, as defined in G.S. 96-8, for any act or omission of the veteran that the Division determines are attributed to a disability incurred or aggravated in the line of duty during active military service, or to the veteran's absence from work to obtain care and treatment of a disability incurred or aggravated in the line of duty during active military service."

SECTION 10.(b) G.S. 96-15(b)(2), as amended by Section 2.16 of S.L. 2011-401, reads as rewritten:

"(2) Adjudication. – When a protest is made by the claimant to the initial or monetary determination, or a question or issue is raised or presented as to the eligibility of a claimant under G.S. 96-13, or whether any disqualification should be imposed under G.S. 96-14, or benefits denied or adjusted pursuant to G.S. 96-18, the matter shall be referred to an adjudicator. The adjudicator may consider any matter, document or statement deemed to be pertinent to the issues, including telephone conversations, and after such consideration shall render a conclusion as to the claimant's benefit entitlements. The adjudicator shall notify the claimant and all other interested parties of the conclusion reached. The conclusion of the adjudicator shall be deemed the final decision of the Division unless within 30 days after the date of notification or mailing of the conclusion, whichever is earlier, a written appeal is filed pursuant to rules adopted by the Division. The Division shall be deemed an interested party for such purposes and may remove to itself or transfer to an appeals referee the proceedings involving any claim pending before an adjudicator.

Provided, any interested employer shall be allowed ~~30~~10 days from the ~~earlier of mailing or delivery~~ of the notice of the filing of a claim against the employer's account to protest the claim and have the claim referred to an adjudicator for a decision on the question or issue raised. A copy of the notice of the filing shall be sent contemporaneously to the employer by telefacsimile transmission if a fax number is on file. Provided further, no question or issue may be raised or presented by the Division as to the eligibility of a claimant under G.S. 96-13, or whether any disqualification should be imposed under G.S. 96-14, after 45 days from the first day of the first week after the question or issue occurs with respect to which week an individual filed a claim for benefits. None of the provisions of this

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subsection shall have the force and effect nor shall the same be construed or interested as repealing any other provisions of G.S. 96-18.

An employer shall receive written notice of the employer's appeal rights and any forms that are required to allow the employer to protest the claim. The forms shall include a section referencing the appropriate rules pertaining to appeals and the instructions on how to appeal."

SECTION 10.(c) G.S. 96-15(f), as amended by Section 2.16 of S.L. 2011-401, reads as rewritten:

"(f) Procedure. – The manner in which disputed claims shall be presented, the reports thereon required from the claimant and from employers, and the conduct of hearings and appeals shall be in accordance with rules adopted by the Division for determining the rights of the parties, whether or not such regulations conform to common-law or statutory rules of evidence and other technical rules of procedure. All testimony at any hearing before an appeals referee upon a disputed claim shall be recorded unless the ~~the~~ parties have waived the evidentiary hearing and entered into a stipulation resolving the issues pending before the appeals referee, hearing officer, or other employee assigned to make the decision, but need not be transcribed unless the disputed claim is further appealed and, one or more of the parties objects, under such rules as the Division may adopt, to being provided a copy of the tape recording of the hearing. Any other provisions of this Chapter notwithstanding, any individual receiving the transcript shall pay to the Division such reasonable fee for the transcript as the Division may by regulation provide. The fee so prescribed by the Division for a party shall not exceed the lesser of sixty-five cents (65¢) per page or sixty-five dollars (\$65.00) per transcript. The Division may by regulation provide for the fee to be waived in such circumstances as it in its sole discretion deems appropriate but in the case of an appeal in forma pauperis supported by such proofs as are required in G.S. 1-110, the Division shall waive the fee.

Pursuant to rules adopted by the Division, all stipulations and conclusions tendered to an appeals referee, hearing officer, or other employee assigned to make the decision may either be accepted or rejected by the appeals referee, hearing officer, or other employee assigned to make the decision. If a tendered stipulation or conclusion is rejected, either party may appeal to the Board of Review."

SECTION 10.(d) This section becomes effective November 1, 2011.

SECTION 11. Section 6 of S.L. 2011-385 reads as rewritten:

"SECTION 6. Sections 1, 2, and 3 of this act become effective October 1, 2011, and apply to limited learner's permits and limited provisional licenses issued on or after that date. Sections 1 and 3 of this act become effective October 1, 2011, and apply to persons issued a limited provisional license on or after that date. Section 2 of this act becomes effective October 1, 2011, and applies to persons issued a limited learner's permit on or after that date. Section 4 of this act becomes effective October 1, 2011, and applies to offenses committed on or after that date. The remainder of this act becomes effective October 1, 2011."

SECTION 12. Except as otherwise provided, this act becomes effective when it becomes law."

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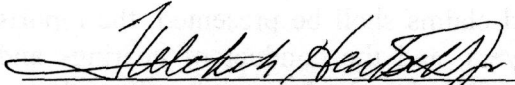
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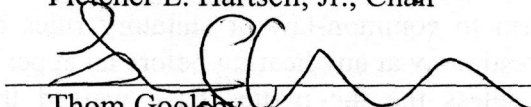
The conferees recommend that the Senate and the House of Representatives adopt this report.

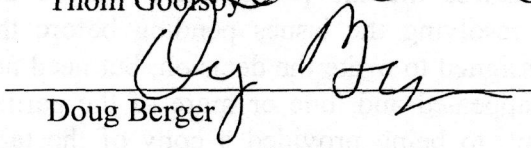
Date Conferees approved report: July __, 2011.


Conferees for the Senate

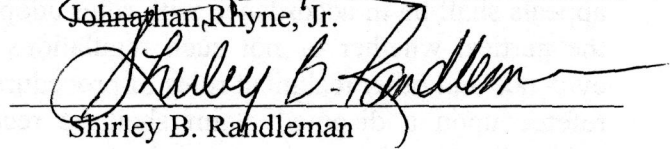
Conferees for the
House of Representatives


Fletcher L. Hartsell, Jr., Chair

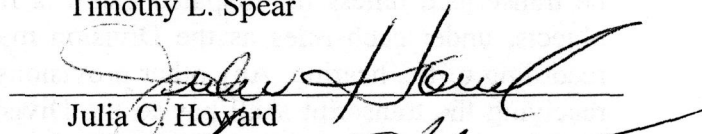

Thom Goolsby

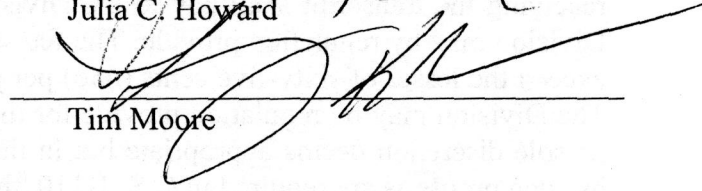

Doug Berger


Johnathan Rhyne, Jr.


Shirley B. Randleman

Timothy L. Spear


Julia C. Howard


Tim Moore

SENATE ~~Submitted~~ July 28, 2011
ADOPTED _____
ADOPTED _____

(/) Message Received _____
(/) Ordered Enrolled _____

PLACED ON CALENDAR FOR
September 12, 2011

