

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

S

D

SENATE BILL 580
PROPOSED COMMITTEE SUBSTITUTE S580-PCS75175-SA-58

Short Title: AOC Omnibus Courts Act.

(Public)

Sponsors:

Referred to:

April 14, 2011

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.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-932 is amended by adding a new subsection to read:

"(d1) If the proceeding was dismissed pursuant to subdivision (2) of subsection (a) of this section and charged only offenses for which written appearance, waiver of trial or hearing, and plea of guilty or admission of responsibility are permitted pursuant to G.S. 7A-148(a), and the defendant later tenders to the court that waiver and payment in full of all applicable fines, costs, and fees, the clerk shall accept said waiver and payment without need for a written reinstatement from the prosecutor. Upon disposition of the case pursuant to this subsection, the clerk shall recall any outstanding criminal process in the case pursuant to G.S. 15A-301(g)(2)b."

SECTION 2.(a) G.S. 15A-301(c) reads as rewritten:

"(c) Service. –

(1) A ~~law enforcement~~ law enforcement officer or other employee designated as provided in subsection (b) receiving for service or execution a criminal process that was first created and exists only in paper form must note thereon the date and time of its receipt. A law enforcement officer receiving a copy of a criminal process that was printed in paper form as provided in G.S. 15A-301.1 shall cause the date of receipt to be recorded as provided in



1 that section. Upon execution or service, a copy of the process must be
2 delivered to the person arrested or served.

3 (2) A corporation may be served with criminal summons as provided in
4 G.S. 15A-773.

5 (3) Notwithstanding any other provision of law, a municipal law enforcement
6 officer may serve criminal process in a building housing a court or office of
7 the General Court of Justice or before any judicial official authorized to
8 conduct an initial appearance if the officer otherwise has territorial
9 jurisdiction to serve criminal process in a municipality located in that
10 county. The officer may arrest the person named in the process as provided
11 in G.S. 15A-402(b). A municipal law enforcement officer serving criminal
12 process as provided in this subdivision shall be protected under subsection
13 (f) of this section."

14 **SECTION 2.(b)** G.S. 15A-402(b) reads as rewritten:

15 "(b) Territorial Jurisdiction of County and City Officers. – ~~Law enforcement~~ Law
16 enforcement officers of cities and counties may arrest persons within their particular cities or
17 counties and on any property and rights-of-way owned by the city or county outside its limits.
18 Law enforcement officers of cities serving criminal process as provided in G.S. 15A-301(c)(3)
19 may arrest the person named in the process when required by the process."

20 **SECTION 3.(a)** G.S. 7A-343 reads as rewritten:

21 "**§ 7A-343. Duties of Director.**

22 The Director is the Administrative Officer of the Courts, and the Director's duties include
23 all of the following:

- 24 (1) Collect and compile statistical data and other information on the judicial and
25 financial operation of the courts and on the operation of other offices directly
26 related to and serving the courts.
- 27 (2) Determine the state of the dockets and evaluate the practices and procedures
28 of the courts, and make recommendations concerning the number of judges,
29 district attorneys, and magistrates required for the efficient administration of
30 justice.
- 31 (3) Prescribe uniform administrative and business methods, systems, forms and
32 records to be used in the offices of the clerks of superior court.
- 33 (3a) Maintain and staff as necessary an Internal Audit Division of the Judicial
34 Department and the Administrative Office of the Courts that:
- 35 a. Evaluates and discloses potential weaknesses in the effectiveness of
36 internal controls in the court system for the purpose of safeguarding
37 public funds and assets and minimizing incidences of fraud, waste,
38 and abuse.
- 39 b. Examines and analyzes the design and effectiveness of administrative
40 and procedural operations.
- 41 c. Ensures overall compliance with federal and State laws, internal and
42 external regulations, rules and procedures, and other applicable
43 requirements.
- 44 d. Inspects and reviews the effectiveness and efficiency of processes
45 and proceedings conducted by judicial officers.
- 46 e. Collaborates with other divisions to guide, direct, and support court
47 officials in efforts to conform to both recommended and required
48 compliance standards.
- 49 f. Executes routine audits of the Judicial Department's systems and
50 controls, including, but not limited to:
- 51 1. Accounting systems and controls.

- 1 (10) Perform such additional duties and exercise such additional powers as may
2 be prescribed by statute or assigned by the Chief Justice.
- 3 (11) Prescribe policies and procedures for the assignment and compensation of
4 magistrates performing temporary duty outside their county of residence
5 during an emergency, as provided for in G.S. 7A-146(9).
- 6 (12) Issue photographic identification cards to appropriate Judicial Department
7 employees and officials authorizing those employees and officials to travel
8 to and from, enter, and work in court and court-related locations for the
9 conduct or support of essential court operations in preparation for, during, or
10 in the aftermath of emergency situations, including, but not limited to,
11 catastrophic conditions. Notwithstanding any other provision of the law, and
12 notwithstanding any emergency restrictions on travel or closures that may
13 have been issued due to the emergency situations, an identification card
14 issued pursuant to this subdivision shall be honored by all State and local
15 law enforcement, emergency and health officers, and other authorities to
16 permit the person to whom the card was issued to travel to and from court
17 and court-related locations and otherwise carry out the purposes authorized
18 by this subdivision. An identification card issued pursuant to this subdivision
19 shall set forth its effective date and the full name, position, and employing
20 unit of the person to whom the card is issued, with a provision, signed by the
21 person, stating that the person is credentialed solely for the purposes stated
22 in this subdivision and that the card shall not be used for any other purpose.
- 23 (13) Prescribe policies and procedures and establish and operate systems for the
24 exchange of criminal and civil information from and to the Judicial
25 Department and local, State, and federal governments and the Eastern Band
26 of Cherokee Indians.
- 27 (14) Transfer equipment and supply funds to the appropriate programs and
28 between programs as the equipment priorities and supply consumptions
29 occur during the operating year.
- 30 (15) Notwithstanding the provisions of G.S. 138-6(a)(1), elect to establish a
31 per-mile reimbursement rate for transportation by privately owned vehicles
32 at a rate less than the business standard mileage rate set by the Internal
33 Revenue Service."

34 **SECTION 3.(b)** G.S. 7A-146 reads as rewritten:

35 **"§ 7A-146. Administrative authority and duties of chief district judge.**

36 The chief district judge, subject to the general supervision of the Chief Justice of the
37 Supreme Court, has administrative supervision and authority over the operation of the district
38 courts and magistrates in his district. These powers and duties include, but are not limited to,
39 the following:

- 40 ...
- 41 (9) Assigning magistrates during an emergency to temporary duty outside the
42 county of their residence but within that ~~district~~; district pursuant to the
43 policies and procedures prescribed under G.S. 7A-343(11); and, upon the
44 request of a chief district judge of an adjoining district and upon the
45 approval of the Administrative Officer of the Courts, to temporary duty in
46 the district of the requesting chief district ~~judge~~. judge pursuant to the
47 policies and procedures prescribed under G.S. 7A-343(11).

48"

49 **SECTION 4.** G.S. 7A-171.2(a) is repealed.

50 **SECTION 5.** G.S. 44A-16 reads as rewritten:

51 **"§ 44A-16. Discharge of record claim of lien on real property.**

1 (a) Any claim of lien on real property filed under this Article may be discharged by any
2 of the following methods:

- 3 (1) The lien claimant of record, the claimant's agent or attorney, in the presence
4 of the clerk of superior court may acknowledge the satisfaction of the claim
5 of lien on real property indebtedness, whereupon the clerk of superior court
6 shall forthwith make upon the record of such claim of lien on real property
7 an entry of such acknowledgment of satisfaction, which shall be signed by
8 the lien claimant of record, the claimant's agent or attorney, and witnessed
9 by the clerk of superior court.
- 10 (2) The owner may exhibit an instrument of satisfaction signed and
11 acknowledged by the lien claimant of record which instrument states that the
12 claim of lien on real property indebtedness has been paid or satisfied,
13 whereupon the clerk of superior court shall cancel the claim of lien on real
14 property by entry of satisfaction on the record of such claim of lien on real
15 property.
- 16 (3) By failure to enforce the claim of lien on real property within the time
17 prescribed in this Article.
- 18 (4) By filing in the office of the clerk of superior court the original or certified
19 copy of a judgment or decree of a court of competent jurisdiction showing
20 that the action by the claimant to enforce the claim of lien on real property
21 has been dismissed or finally determined adversely to the claimant.
- 22 (5) Whenever a sum equal to the amount of the claim or claims of lien on real
23 property claimed is deposited with the clerk of court, to be applied to the
24 payment finally determined to be due, whereupon the clerk of superior court
25 shall cancel the claim or claims of lien on real property or claims of lien on
26 real property of record.
- 27 (6) Whenever a corporate surety bond, in a sum equal to one and one-fourth
28 times the amount of the claim or claims of lien on real property claimed and
29 conditioned upon the payment of the amount finally determined to be due in
30 satisfaction of said claim or claims of lien on real property, is deposited with
31 the clerk of court, whereupon the clerk of superior court shall cancel the
32 claim or claims of lien on real property of record.

33 (b) The clerk may release funds held or a corporate surety bond upon receipt of one of
34 the following:

- 35 (1) Written agreement of the parties.
36 (2) A final judgment of a court of competent jurisdiction.
37 (3) A consent order."

38 **SECTION 6.** G.S. 50-13.1(c) reads as rewritten:

39 "(c) For good cause, on the motion of either party or on the court's own motion, the court
40 may waive the mandatory setting under Article 39A of Chapter 7A of the General Statutes of a
41 contested custody or visitation matter for mediation. Good cause may include, but is not limited
42 to, the following: a showing of undue hardship to a party; an agreement between the parties for
43 voluntary mediation, subject to court approval; allegations of abuse or neglect of the minor
44 child; allegations of alcoholism, drug abuse, or domestic violence between the parents in
45 common; or allegations of severe psychological, psychiatric, or emotional problems. A
46 showing by either party that the party resides more than fifty miles from the court ~~shall~~ may
47 be considered good cause."

48 **SECTION 7.** G.S. 7A-38.2(d) reads as rewritten:

49 "(d) An administrative fee, not to exceed two hundred dollars (\$200.00), may be charged
50 by the Administrative Office of the Courts to applicants for certification and annual renewal of
51 certification for mediators and mediation training programs operating under this Article. The

1 fees collected may be used by the Director of the Administrative Office of the Courts to
2 establish and maintain the operations of the Commission and its staff. Notwithstanding the
3 provisions of G.S. 143C-1-2(b), certification and renewal fees collected by the Dispute
4 Resolution Commission are nonreverting and are only to be used at the direction of the
5 Commission."

6 **SECTION 8.** This act becomes effective July 1, 2011.