

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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SENATE DRS35222-LLf-102 (03/12)

Short Title: Equal Access to Civil Judgment Executions. (Public)

Sponsors: Senator Woodard (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE FOR WAIVER OF THE FEES ASSOCIATED WITH EXECUTION  
3 ON JUDGMENTS OBTAINED THROUGH LAWSUITS IN WHICH THE PLAINTIFF  
4 WAS AUTHORIZED TO SUE AS AN INDIGENT.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 1-110 reads as rewritten:

7 "§ 1-110. Suit as an indigent; counsel; waiver of fees; suits filed pro se by prison inmates.

8 (a) Subject to the provisions of subsection (b) of this section with respect to prison  
9 inmates, any superior or district court judge or clerk of the superior court may authorize a  
10 person to sue as an indigent in their respective courts when the person makes affidavit that he  
11 or she is unable to advance the required court costs. The clerk of superior court shall authorize  
12 a person to sue as an indigent if the person makes the required affidavit and meets one or more  
13 of the following criteria:

- 14 (1) Receives electronic food and nutrition benefits.
- 15 (2) Receives Work First Family Assistance.
- 16 (3) Receives Supplemental Security Income (SSI).
- 17 (4) Is represented by a legal services organization that has as its primary purpose  
18 the furnishing of legal services to indigent persons.
- 19 (5) Is represented by private counsel working on the behalf of or under the  
20 auspices of a legal services organization under subdivision (4) of this  
21 section.
- 22 (6) Repealed by Session Laws 2002-126, s. 29A.6(d), effective October 1, 2002.

23 A superior or district court judge or clerk of superior court may authorize a person who  
24 does not meet one or more of these criteria to sue as an indigent if the person is unable to  
25 advance the required court costs. The court to which the summons is returnable may dismiss  
26 the case and charge the court costs to the person suing as an indigent if the allegations  
27 contained in the affidavit are determined to be untrue or if the court is satisfied that the action is  
28 frivolous or malicious.

29 Whenever any superior or district court judge or clerk of court authorizes a person to sue as  
30 an indigent under this section, in addition to having the court costs associated with the filing of  
31 the lawsuit waived, any fees or costs associated with executing upon a judgment entered by the  
32 court as a result of that lawsuit shall also be waived.

33 (b) Whenever a motion to proceed as an indigent is filed pro se by an inmate in the  
34 custody of the Division of Adult Correction of the Department of Public Safety, the motion to  
35 proceed as an indigent and the proposed complaint shall be presented to any superior court  
36 judge of the judicial district. This judge shall determine whether the complaint is frivolous. In



1 the discretion of the court, a frivolous case may be dismissed by order. The clerk of superior  
2 court shall serve a copy of the order of dismissal upon the prison inmate. If the judge  
3 determines that the inmate may proceed as an indigent, service of process upon the defendant  
4 shall issue without further order of the court."

5           **SECTION 2.** This act becomes effective July 1, 2013, and applies to fees assessed  
6 on or after that date.