

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

H

D

**HOUSE BILL 635*
PROPOSED COMMITTEE SUBSTITUTE H635-PCS70352-TJ-20**

Short Title: Involuntary Commitment Custody Orders.

(Public)

Sponsors:

Referred to:

April 10, 2013

A BILL TO BE ENTITLED

AN ACT TO (1) ALLOW A CLERK OR ASSISTANT OR DEPUTY CLERK OF SUPERIOR COURT OR A MAGISTRATE TO ISSUE BY FACSIMILE OR ELECTRONIC MAIL TRANSMISSION AN INVOLUNTARY INPATIENT COMMITMENT CUSTODY ORDER TO A PETITIONING PHYSICIAN, ELIGIBLE PSYCHOLOGIST, OR DESIGNEE AT A TWENTY-FOUR-HOUR FACILITY WHEN THE RESPONDENT IS ALREADY PHYSICALLY PRESENT AT THE TWENTY-FOUR-HOUR FACILITY, (2) ESTABLISH PROTOCOLS FOR THE TRAINING OF PHYSICIANS, ELIGIBLE PSYCHOLOGISTS, OR DESIGNEES, AND (3) DIRECT THE SECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO REVIEW AND REVISE THE RULES DESIGNATING FACILITIES FOR THE CUSTODY AND TREATMENT OF INVOLUNTARY CLIENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-261(d) reads as rewritten:

"(d) If the affiant is a physician or eligible psychologist, ~~the~~ all of the following apply:

- (1) The affiant may execute the affidavit before any official authorized to administer oaths. This affiant is not required to appear before the clerk or magistrate for this purpose. This affiant shall file the affidavit with the clerk or magistrate by delivering to the clerk or magistrate the original affidavit or a copy in paper form that is printed through the facsimile transmission of the affidavit. If the affidavit is filed through facsimile transmission, the affiant shall mail the original affidavit no later than five days after the facsimile transmission of the affidavit to the clerk or magistrate to be filed by the clerk or magistrate with the facsimile copy of the affidavit.
- (2) This affiant's examination shall comply with the requirements of the initial examination as provided in G.S. 122C-263(c).
- (3) If the physician or eligible psychologist recommends outpatient commitment and the clerk or magistrate finds probable cause to believe that the respondent meets the criteria for outpatient commitment, the clerk or magistrate shall issue an order that a hearing before a district court judge be held to determine whether the respondent will be involuntarily committed. The physician or eligible psychologist shall provide the respondent with written notice of any scheduled appointment and the name, address, and telephone number of the proposed outpatient treatment physician or center. The physician or eligible psychologist shall contact the local management entity that serves the county where the respondent resides or the local



* H 6 3 5 - P C S 7 0 3 5 2 - T J - 2 0 *

1 management entity that coordinated services for the respondent to inform the
2 local management entity that the respondent has been scheduled for an
3 appointment with an outpatient treatment physician or center.

4 (4) If the physician or eligible psychologist recommends inpatient commitment
5 and the clerk or magistrate finds probable cause to believe that the
6 respondent meets the criteria for inpatient commitment, the clerk or
7 magistrate shall issue an order for transportation to or custody at a 24-hour
8 facility described in G.S. 122C-252, provided that if a 24-hour facility is not
9 immediately available or appropriate to the respondent's medical condition,
10 the respondent may be temporarily detained under appropriate supervision
11 and, upon further examination, released in accordance with
12 G.S. 122C-263(d)(2).

13 (5) If the affiant is a physician or eligible psychologist at a 24-hour facility
14 described in G.S. 122C-252 who recommends inpatient commitment; the
15 respondent is physically present on the premises of the same 24-hour
16 facility; and the clerk or magistrate finds probable cause to believe that the
17 respondent meets the criteria for inpatient commitment, then the clerk or
18 magistrate may issue an order by facsimile transmission or may issue an
19 electronically scanned order by electronic transmission to the physician or
20 eligible psychologist at the 24-hour facility, or a designee, to take the
21 respondent into custody at the 24-hour facility and proceed according to
22 G.S. 122C-266. Upon receipt of the custody order, the physician or eligible
23 psychologist at the 24-hour facility, or a designee, shall immediately (i)
24 notify the respondent that the respondent is not under arrest and has not
25 committed a crime but is being taken into custody to receive treatment and
26 for the respondent's own safety and the safety of others, (ii) take the
27 respondent into custody, and (iii) complete and sign the appropriate portion
28 of the custody order and return the order to the clerk or magistrate either by
29 facsimile transmission or by scanning it and sending it by electronic
30 transmission. The physician or eligible psychologist, or a designee, shall
31 mail the original custody order no later than five days after returning it by
32 means of facsimile or electronic transmission to the clerk or magistrate. The
33 clerk or magistrate shall file the original custody order with the copy of the
34 custody order that was electronically returned.

35 a. Notwithstanding the provisions of this subdivision, a clerk or
36 magistrate shall not issue a custody order to a physician or eligible
37 psychologist at a 24-hour facility, or a designee, if the physician or
38 eligible psychologist, or a designee, has not completed training in
39 proper service and return of service. As used in this subdivision, the
40 term "designee" includes the 24-hour facility's on-site police security
41 personnel.

42 b. The Department of Health and Human Services shall cooperate and
43 collaborate with the Administrative Office of the Courts and the
44 UNC School of Government to develop protocols to implement this
45 section, including a procedure for notifying clerks and magistrates of
46 the names of the physicians, psychologists, and designees who have
47 completed the training. The Secretary of the Department shall
48 oversee implementation of these protocols.

49 (6) If the clerk or magistrate finds probable cause to believe that the respondent,
50 in addition to being mentally ill, is also mentally retarded, the clerk or
51 magistrate shall contact the area authority before issuing the order and the

1 area authority shall designate the facility to which the respondent is to be
2 transported.
3 (7) If a physician or eligible psychologist executes an affidavit for inpatient
4 commitment of a respondent, a second physician shall be required to
5 perform the examination required by G.S. 122C-266."
6 **SECTION 2.** G.S. 122C-261(e) reads as rewritten:
7 "(e) ~~Upon~~ Except as provided in subdivision (5) of subsection (d) of this section, upon
8 receipt of the custody order of the clerk or magistrate or a custody order issued by the court
9 pursuant to G.S. 15A-1003, a law enforcement officer or other person designated in the order
10 shall take the respondent into custody within 24 hours after the order is signed, and proceed
11 according to G.S. 122C-263. The custody order is valid throughout the State."
12 **SECTION 3.** The Secretary of the Department of Health and Human Services shall
13 review and update its list of facilities designated under G.S. 122C-252 as facilities for the
14 custody and treatment of involuntary clients. The Secretary shall ensure that each designation
15 identifies the specific units or areas of the 24-hour facility to which the designation applies and
16 includes all units or areas necessary to facilitate the orderly and safe movement of a respondent
17 from one unit or area to another.
18 **SECTION 4.** This act becomes effective October 1, 2013.