

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

H

D

HOUSE BILL 1092  
PROPOSED COMMITTEE SUBSTITUTE H1092-PCS40231-RN-51

Short Title: Enforce Payment of Criminal Mediation Fee.

(Public)

Sponsors:

Referred to:

May 19, 2014

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE A MECHANISM FOR ENFORCING PAYMENT OF THE  
3 CRIMINAL MEDIATION FEE, AS RECOMMENDED BY THE LEGISLATIVE  
4 RESEARCH COMMISSION'S COMMITTEE ON JUDICIAL EFFICIENCY AND  
5 EFFECTIVE ADMINISTRATION OF JUSTICE AND TO ALLOW THE CONFERENCE  
6 OF CHIEF DISTRICT JUDGES TO PRESCRIBE UNIFORM STATEWIDE  
7 PRESUMPTIVE GUIDELINES FOR THE COMPUTATION OF RETROACTIVE  
8 CHILD SUPPORT OBLIGATIONS.

9 The General Assembly of North Carolina enacts:

10 SECTION 1. G.S. 7A-38.7 reads as rewritten:

11 "§ 7A-38.7. **Dispute resolution fee for cases resolved in mediation.**

12 (a) In each criminal case filed in the General Court of Justice that is resolved through  
13 referral to a community mediation center, a dispute resolution fee shall be assessed in the sum  
14 of sixty dollars (\$60.00) per mediation to support the services provided by the community  
15 mediation centers and the Mediation Network of North Carolina. Prior to mediation, the parties  
16 shall be notified of the fee and the fee shall be paid as part of any mediation that results in  
17 dismissal. Fees assessed under this section shall be paid to the clerk of superior court in the  
18 county where the case was filed and remitted by the clerk to the Mediation Network of North  
19 Carolina. The Mediation Network may retain up to three dollars (\$3.00) of this amount as an  
20 allowance for its administrative expenses. The Mediation Network must remit the remainder of  
21 this amount to the community mediation center that mediated the case. The court may waive or  
22 reduce a fee assessed under this section only upon entry of a written order, supported by  
23 findings of fact and conclusions of law, determining there is just cause to grant the waiver or  
24 reduction.

25 (b) No criminal case shall be dismissed through referral to mediation unless the full  
26 amount of the dispute resolution fee as required by subsection (a) of this section is paid within  
27 45 days of the completion of the mediation. If payment has not been made within that time, the  
28 case shall be remanded back to the court for disposition. Before providing the district attorney  
29 with a dismissal form, the community mediation center shall require proof that the defendant  
30 has paid the dispute resolution fee as required by subsection (a) of this section and shall attach  
31 the receipt to the dismissal form."

32 SECTION 2. G.S. 50-13.4(c1) reads as rewritten:

33 "(c1) Effective July 1, 1990, the Conference of Chief District Judges shall prescribe  
34 uniform statewide presumptive guidelines for the computation of child support obligations  
35 obligations, including retroactive support obligations, of each parent as provided in Chapter 50  
36 or elsewhere in the General Statutes and shall develop criteria for determining when, in a



\* H 1 0 9 2 - P C S 4 0 2 3 1 - R N - 5 1 \*

1 particular case, application of the guidelines would be unjust or inappropriate. Prior to May 1,  
2 1990 these guidelines and criteria shall be reported to the General Assembly by the  
3 Administrative Office of the Courts by delivering copies to the President Pro Tempore of the  
4 Senate and the Speaker of the House of Representatives. The purpose of the guidelines and  
5 criteria shall be to ensure that payments ordered for the support of a minor child are in such  
6 amount as to meet the reasonable needs of the child for health, education, and maintenance,  
7 having due regard to the estates, earnings, conditions, accustomed standard of living of the  
8 child and the parties, the child care and homemaker contributions of each party, and other facts  
9 of the particular case. The guidelines shall include a procedure for setting child support, if any,  
10 in a joint or shared custody arrangement which shall reflect the other statutory requirements  
11 herein.

12 Periodically, but at least once every four years, the Conference of Chief District Judges  
13 shall review the guidelines to determine whether their application results in appropriate child  
14 support award amounts. The Conference may modify the guidelines accordingly. The  
15 Conference shall give the Department of Health and Human Services, the Administrative  
16 Office of the Courts, and the general public an opportunity to provide the Conference with  
17 information relevant to the development and review of the guidelines. Any modifications of the  
18 guidelines or criteria shall be reported to the General Assembly by the Administrative Office of  
19 the Courts before they become effective by delivering copies to the President Pro Tempore of  
20 the Senate and the Speaker of the House of Representatives. The guidelines, when adopted or  
21 modified, shall be provided to the Department of Health and Human Services and the  
22 Administrative Office of the Courts, which shall disseminate them to the public through local  
23 IV-D offices, clerks of court, and the media.

24 Until July 1, 1990, the advisory guidelines adopted by the Conference of Chief District  
25 Judges pursuant to this subsection as formerly written shall operate as presumptive guidelines  
26 and the factors adopted by the Conference of Chief District Judges pursuant to this subsection  
27 as formerly written shall constitute criteria for varying from the amount of support determined  
28 by the guidelines."

29 **SECTION 3.** Section 1 of this act becomes effective October 1, 2014, and applies  
30 to criminal cases referred to mediation on or after that date. The remainder of this act is  
31 effective when it becomes law.