

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH50058-MG-89I\* (03/14)

Short Title: Revise IVC Laws to Improve Behavioral Health. (Public)

Sponsors: Representatives Dobson, S. Martin, Lambeth, and Malone (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT REVISING THE LAWS PERTAINING TO INVOLUNTARY COMMITMENT IN  
3 ORDER TO IMPROVE THE DELIVERY OF BEHAVIORAL HEALTH SERVICES IN  
4 NORTH CAROLINA.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 122C-3 reads as rewritten:

7 "§ 122C-3. Definitions.

8 The following definitions apply in this Chapter:

9 ...

10 (8a) "Commitment examiner" means a physician, an eligible psychologist, or any  
11 health professional or mental health professional who is certified under  
12 G.S. 122C-263.1 to perform the first examination for involuntary  
13 commitment described in G.S. 122C-263(c) or G.S. 122C-283(c) as required  
14 by Parts 7 and 8 of this Article.

15 ...

16 (16a) "Incapable" with respect to an individual means in the opinion of a physician  
17 or eligible psychologist, the individual currently lacks sufficient  
18 understanding or capacity to make and communicate mental health treatment  
19 decisions. An adult individual who is incapable is not the same as an  
20 incompetent adult unless the adult individual has been adjudicated  
21 incompetent under Chapter 35A of the General Statutes.

22 (17) "Incompetent adult" means an adult individual who has been adjudicated  
23 ~~incompetent~~-incompetent under Chapter 35A of the General Statutes.

24 ...

25 (20) "Legally responsible person" means: (i) when applied to an adult, who has  
26 been adjudicated incompetent, a guardian; (ii) when applied to a minor, a  
27 parent, guardian, a person standing in loco parentis, or a legal custodian  
28 other than a parent who has been granted specific authority by law or in a  
29 custody order to consent for medical care, including psychiatric treatment; or  
30 (iii) when applied to an adult who is incapable as defined in G.S. 122C-72(c)  
31 and who has not been adjudicated incompetent, a health care agent named  
32 pursuant to a valid health care power of ~~attorney~~-attorney; provided,  
33 however, that if an incapable adult does not have a health care agent or  
34 guardian, "legally responsible person" means one of the persons specified in  
35 subdivisions (3) through (7) of subsection (c) of G.S. 90-21.13, to be  
36 selected based on the priority indicated in said subdivisions (3) through (7).



1 ...  
 2 (20b) "Local management entity" or "LME" means an ~~area authority, county~~  
 3 ~~program, or consolidated human services agency. It is a collective term that~~  
 4 ~~refers to functional responsibilities rather than governance structure.~~area  
 5 authority.

6 ...  
 7 (27a) "Outpatient treatment physician or center" as used in Part 7 of Article 5 of  
 8 this Chapter means a physician or center that provides treatment services  
 9 directly to the outpatient commitment respondent. An LME/MCO that  
 10 contracts with an outpatient treatment physician or center to provide  
 11 outpatient treatment services to a respondent is not an outpatient treatment  
 12 physician or center. Every LME/MCO is responsible for contracting with  
 13 qualified providers of services in accordance with G.S. 122C-141,  
 14 122C-142(a), 122C-115.2(b)(1)b., and 122C-115.4(b)(2) to ensure the  
 15 availability of qualified providers of outpatient commitment services to  
 16 clients of LME/MCOs who are respondents to outpatient commitment  
 17 proceedings and meet the criteria for outpatient commitment. An LME/MCO  
 18 provider shall not be designated as an outpatient treatment physician or  
 19 center on an outpatient commitment order unless the respondent is a client of  
 20 an LME/MCO or is eligible for services through an LME/MCO, or the  
 21 respondent otherwise qualifies for the provision of services offered by the  
 22 provider.

23 ...  
 24 (29a) ~~"Program director" means the director of a county program established~~  
 25 ~~pursuant to G.S. 122C 115.1.~~

26 .....

27 **SECTION 2.** G.S. 122C-4 reads as rewritten:

28 **"§ 122C-4. Use of phrase "client or ~~his~~ the legally responsible person."**

29 (a) Except as otherwise provided by law, whenever in this Chapter the phrase "client or  
 30 ~~his~~ the legally responsible person" is used, and the client is a minor or an incompetent adult, the  
 31 duty or right involved shall be exercised not by the client, but by the legally responsible person.

32 (b) Except as otherwise provided by law, whenever in this Chapter the phrase "client or  
 33 the legally responsible person" is used, and the client is an incapable adult who has not been  
 34 adjudicated incompetent under Chapter 35A of the General Statutes, the duty or right involved  
 35 shall be exercised not by the client but by a health care agent named pursuant to a valid health  
 36 care power of attorney, if one exists, or by the client as expressed in a valid advance instruction  
 37 for mental health treatment, if one exists. If no health care power of attorney or advance  
 38 instruction for mental health treatment exists, the legally responsible person for an incapable  
 39 adult who has not been adjudicated incompetent under Chapter 35A of the General Statutes  
 40 shall be one of the persons listed in subdivisions (3) through (7) of subsection (c) of  
 41 G.S. 90-21.13, to be selected based on the priority order indicated in said subdivisions (3)  
 42 through (7)."

43 **SECTION 3.** G.S. 122C-53 reads as rewritten:

44 **"§ 122C-53. Exceptions; client.**

45 (a) A facility may disclose confidential information if the client or ~~his~~ the legally  
 46 responsible person consents in writing to the release of the information to a specified person.  
 47 This release is valid for a specified length of time and is subject to revocation by the consenting  
 48 individual.

49 (b) A facility may disclose (i) the fact of admission or discharge of a client and (ii) the  
 50 time and location of the admission or discharge to the client's next of kin whenever the  
 51 responsible professional determines that the disclosure is in the best interest of the client.

1 (c) Upon request a client shall have access to confidential information in ~~his client~~ the  
2 client's record except information that would be injurious to the client's physical or mental  
3 well-being as determined by the attending physician or, if there is none, by the facility director  
4 or ~~his~~ the facility director's designee. If the attending physician or, if there is none, the facility  
5 director or ~~his~~ the facility director's designee has refused to provide confidential information to  
6 a client, the client may request that the information be sent to a physician or psychologist of the  
7 client's choice, and in this event the information shall be so provided.

8 (d) Except as provided by G.S. 90-21.4(b), upon request the legally responsible person  
9 of a client shall have access to confidential information in the client's record; except  
10 information that would be injurious to the client's physical or mental well-being as determined  
11 by the attending physician or, if there is none, by the facility director or ~~his~~ the facility  
12 director's designee. If the attending physician or, if there is none, the facility director or ~~his~~ the  
13 facility director's designee has refused to provide confidential information to the legally  
14 responsible person, the legally responsible person may request that the information be sent to a  
15 physician or psychologist of the legally responsible person's choice, and in this event the  
16 information shall be so provided.

17 (e) A client advocate's access to confidential information and ~~his~~ the client's  
18 responsibility for safeguarding this information are as provided by subsection (g) of this  
19 section.

20 (f) As used in subsection (g) of this section, the following terms have the meanings  
21 specified:

- 22 (1) "Internal client advocate" means a client advocate who is employed by the  
23 facility or has a written contractual agreement with the Department or with  
24 the facility to provide monitoring and advocacy services to clients in the  
25 facility in which the client is receiving ~~services; and~~ services.  
26 (2) "External client advocate" means a client advocate acting on behalf of a  
27 particular client with the written consent and ~~authorization; authorization~~  
28 under either of the following circumstances:  
29 a. In the case of a client who is an adult and who has not been  
30 adjudicated incompetent under Chapter 35A or former Chapters 33  
31 or 35 of the General Statutes, of the ~~client; or~~ client.  
32 b. In the case of any other client, of the client and ~~his~~ the legally  
33 responsible person.

34 (g) An internal client advocate shall be granted, without the consent of the client or ~~his~~  
35 the legally responsible person, access to routine reports and other confidential information  
36 necessary to fulfill ~~his~~ monitoring and advocacy functions. In this role, the internal client  
37 advocate may disclose confidential information received to the client involved, to his or her  
38 legally responsible person, to the director of the facility or ~~his~~ the director's designee, to other  
39 individuals within the facility who are involved in the treatment or habilitation of the client, or  
40 to the Secretary in accordance with the rules of the Commission. Any further disclosure shall  
41 require the written consent of the client and ~~his~~ the legally responsible person. An external  
42 client advocate shall have access to confidential information only upon the written consent of  
43 the client and ~~his~~ the legally responsible person. In this role, the external client advocate may  
44 use the information only as authorized by the client and ~~his~~ the legally responsible person.

45 (h) In accordance with G.S. 122C-205, the facility shall notify the appropriate  
46 individuals upon the escape from and subsequent return of clients to a 24-hour facility.

47 (i) Upon the request of (i) a client who is an adult and who has not been adjudicated  
48 incompetent under Chapter 35A or former Chapters 33 or 35 of the General Statutes, or (ii) the  
49 legally responsible person for any other client, a facility shall disclose to an attorney  
50 confidential information relating to that client."

51 **SECTION 4.** G.S. 122C-54 reads as rewritten:

1 **"§ 122C-54. Exceptions; abuse reports and court proceedings.**

2 ...  
3 (a1) Upon a determination by the facility director or ~~his~~the facility director's designee  
4 that disclosure is in the best interests of the client, a facility may disclose confidential  
5 information for purposes of filing a petition for involuntary commitment of a client pursuant to  
6 Article 5 of this Chapter or for purposes of filing a petition for the adjudication of  
7 incompetency of the client and the appointment of a guardian or an interim guardian under  
8 Chapter 35A of the General Statutes.

9 ...  
10 (c) Certified copies of written results of examinations by physicians and other medical  
11 and court records in the cases of clients voluntarily admitted or involuntarily committed and  
12 facing district court hearings and rehearings pursuant to Article 5 of this Chapter shall be  
13 furnished by the facility to the client's counsel, the attorney representing the State's interest, and  
14 the court. Notwithstanding the confidentiality of these records, the client's counsel shall have  
15 access to any medical and court records the client's counsel deems relevant to the court  
16 proceeding and shall not be required to obtain the client's consent in order to access these  
17 records. The confidentiality of client information shall be preserved in all matters except those  
18 pertaining to the necessity for admission or continued stay in the facility or commitment under  
19 review. ~~The relevance of confidential information for which disclosure is sought in a particular~~  
20 ~~case shall be determined by the court with jurisdiction over the matter.~~

21 (d) Any individual seeking confidential information contained in the court files or the  
22 court records of a proceeding made pursuant to Article 5 of this ~~Chapter~~Chapter, except for the  
23 respondent, may file a written motion in the cause setting out why the information is needed. A  
24 district court judge may issue an order to disclose the confidential information sought if ~~he~~the  
25 judge finds (i) the order is appropriate under the circumstances and if he finds that(ii) it is in the  
26 best interest of the individual admitted or committed or of the public to have the information  
27 disclosed. An individual who is or has been a respondent in a proceeding pursuant to Article 5  
28 of this Chapter shall be provided the court records of the proceeding upon submitting a written  
29 request to the clerk of superior court in the county in which the proceeding is pending. The  
30 clerk of court shall take reasonable and appropriate measures to verify the identity of the  
31 individual making the request. The respondent's legally responsible person shall exercise the  
32 respondent's right to access the court records if the respondent is a minor or an incompetent  
33 adult at the time of the request.

34 ...  
35 (e) Upon the request of the legally responsible person or the minor admitted or  
36 committed, and after that minor has both been released and reached adulthood, the court  
37 records of that minor made in proceedings pursuant to Article 5 of this Chapter may be  
38 expunged from the files of the court. The minor and ~~his~~the minor's legally responsible person  
39 shall be informed in writing by the court of the right provided by this subsection at the time that  
40 the application for admission is filed with the court.

41 ...  
42 (g) A facility may disclose confidential information to an attorney who represents either  
43 the facility or an employee of the facility, if such information is relevant to litigation, to the  
44 operations of the facility, or to the provision of services by the facility. An employee may  
45 discuss confidential information with ~~his~~the employee's attorney or with an attorney  
46 representing the facility in which ~~he~~the employee is employed.

47 ...."

48 **SECTION 5.** G.S. 122C-55 reads as rewritten:

49 **"§ 122C-55. Exceptions; care and treatment.**

50 (a) Any facility may share confidential information regarding any client of that facility  
51 with any other facility when necessary to coordinate appropriate and effective care, treatment

1 or habilitation of the client. For the purposes of this section, ~~coordinate~~ the following  
 2 definitions apply:

3 (1) "Coordinate" means the provision, coordination, or management of mental  
 4 health, developmental disabilities, and substance abuse services and other  
 5 health or related services by one or more facilities and includes the referral  
 6 of a client from one facility to another.

7 (2) "Facility" and "area facility" include an area authority.

8 (3) "Secretary" includes the Community Care of North Carolina Program, or  
 9 other primary care case management programs that contract with the  
 10 Department to provide a primary care case management program for  
 11 recipients of publicly funded health and related services.

12 (a1) Any facility may share confidential information regarding any client of that facility  
 13 with the Secretary, and the Secretary may share confidential information regarding any client  
 14 with a facility when necessary to conduct quality assessment and improvement activities or to  
 15 coordinate appropriate and effective care, treatment or habilitation of the client. For purposes of  
 16 this subsection, subsection (a6), and subsection (a7) of this section, the purposes or activities  
 17 for which confidential information may be disclosed include, but are not limited to, case  
 18 management and care coordination, disease management, outcomes evaluation, the  
 19 development of clinical guidelines and protocols, the development of care management plans  
 20 and systems, population-based activities relating to improving or reducing health care costs,  
 21 and the provision, coordination, or management of mental health, developmental disabilities,  
 22 and substance abuse services and other health or related services. ~~As used in this section,~~  
 23 ~~"facility" includes an LME and "Secretary" includes the Community Care of North Carolina~~  
 24 ~~Program, or other primary care case management programs that contract with the Department~~  
 25 ~~to provide a primary care case management program for recipients of publicly funded health~~  
 26 ~~and related services.~~

27 ...."

28 **SECTION 6.** G.S. 122C-115.4(b) is amended by adding a new subdivision to read:

29 "(7a) Community crisis services planning in accordance with G.S. 122C-202.2."

30 **SECTION 7.** G.S. 122C-117(a)(14) reads as rewritten:

31 "(14) Maintain a 24-hour a day, seven day a week crisis response ~~service~~.  
 32 and adopt a community crisis services plan in accordance with  
 33 G.S. 122C-202.2. Crisis response shall include telephone and face-to-face  
 34 capabilities. Crisis phone response shall include triage and referral to  
 35 appropriate face-to-face crisis providers and shall be initiated within one  
 36 hour of notification. Crisis services do not require prior authorization but  
 37 shall be delivered in compliance with appropriate policies and procedures.  
 38 Crisis services shall be designed for prevention, intervention, and resolution,  
 39 not merely triage and transfer, and shall be provided in the least restrictive  
 40 setting possible, consistent with individual and family need and community  
 41 safety."

42 **SECTION 8.** Part 1 of Article 5 of Chapter 122C of the General Statutes is  
 43 amended by adding a new section to read:

44 **§ 122C-202.2. LME/MCO community crisis services plan; commitment examiners;**  
 45 **transporting agencies; training; collaboration.**

46 (a) Every LME/MCO shall adopt a community crisis services plan developed in  
 47 accordance with this section to facilitate the implementation of Parts 7 and 8 of this Article  
 48 within its catchment area. The community crisis services plan for the LME/MCO's catchment  
 49 area shall be comprised of separate plans, known as "local area crisis services plans" or "local  
 50 plans," for each of the local areas or regions within the catchment area that the LME/MCO  
 51 identifies as an appropriate local planning area, taking into consideration the available

1 resources and interested stakeholders within a particular geographic area or region of the  
2 catchment area. Each LME/MCO may determine the number and geographic boundaries of the  
3 local planning areas within its catchment area. Each local area crisis services plan shall, for the  
4 local area covered by the local plan, do at least all of the following:

- 5 (1) Identify one or more area facilities where a respondent subject to a  
6 transportation and custody order must be taken for a first examination by a  
7 commitment examiner as required by G.S. 122C-263(a) and  
8 G.S. 122C-283(a). If an area facility is identified in the plan as an  
9 appropriate facility for conducting the first examination for commitment,  
10 law enforcement officers, and any persons designated to provide  
11 transportation and custody under G.S. 122C-251(g), shall transport the  
12 commitment respondent to the area facility in accordance with, and under  
13 circumstances addressed in, the local area crisis services plan. If no area  
14 facility is available in the local planning area to conduct the first  
15 examination for commitment, the local plan shall identify an acute care  
16 hospital or hospitals or other location for first examination. This subdivision  
17 applies when a magistrate or clerk of court orders a respondent to be taken  
18 into custody for examination by a commitment examiner. This subdivision  
19 does not apply when the respondent is already present on the premises of a  
20 location and the first examiner at that location is the affiant who is  
21 petitioning to initiate the commitment process.
- 22 (2) Identify any persons that the LME/MCO has designated under  
23 G.S. 122C-251(g) to be responsible for all or part of the transportation and  
24 custody of respondents in involuntary commitment proceedings under this  
25 Article, to the extent that the LME/MCO has exercised its authority under  
26 G.S. 122C-251(g). Any plan adopted by an LME/MCO under  
27 G.S. 122C-251(g) shall be included as a part of the local area crisis services  
28 plan for the area to which it pertains. Counties and cities shall retain the  
29 responsibilities for custody and transportation set forth in this Article except  
30 as otherwise set forth in a plan developed and adopted pursuant  
31 G.S. 122C-251(g).
- 32 (3) Identify appropriate and available training for law enforcement personnel,  
33 and any persons designated under G.S. 122C-251(g), who provide  
34 transportation and custody of involuntary commitment respondents. To the  
35 extent feasible, law enforcement officers shall participate in the training  
36 program identified by the LME/MCO. Persons who are designated under  
37 G.S. 122C-251(g) to provide all or part of the transportation and custody  
38 required for involuntary commitment proceedings under this Article and  
39 who are not law enforcement officers shall participate in the training. To the  
40 extent feasible, the identified training shall address the use of de-escalation  
41 strategies and techniques, the safe use of force and restraint, respondent  
42 rights relevant to custody and transportation, the location of any area  
43 facilities identified by the LME/MCO pursuant to subdivision (1) of this  
44 subsection, and the completion and return of the custody order to the clerk of  
45 superior court. The training identified by the LME/MCO may be comprised  
46 of one or more programs, and may include a crisis intervention team  
47 program or other mental health training program or a combination of these  
48 programs. To the extent feasible, the LME/MCO shall identify training that  
49 includes a component for dialogue with consumers of mental health,  
50 developmental disabilities, and substance abuse services.

1       **(b)** Law enforcement agencies, acute care hospitals, magistrates or clerks of court, area  
2 facilities with identified commitment examiners, the LME/MCO, and other relevant community  
3 partners or stakeholders shall participate in the development of the local area crisis services  
4 plans described in this section.

5       **(c)** The plans adopted under this section may address any matters necessary to facilitate  
6 the custody, transportation, examination, and treatment of respondents to commitment  
7 proceedings under Parts 7 and 8 of this Article."

8       **SECTION 9.** G.S. 122C-206 reads as rewritten:

9       **"§ 122C-206. Transfers of clients between 24-hour facilities.~~facilities; transfer of clients~~**  
10 **from 24-hour facilities to acute care hospitals.**

11       **(a)** Before transferring a voluntary adult client from one 24-hour facility to another, the  
12 responsible professional at the original facility shall: (i) get authorization from the receiving  
13 facility that the facility will admit the client; (ii) get consent from the client; and (iii) if consent  
14 to share information is granted by the ~~client,~~client or if disclosure of the information is  
15 permitted under G.S. 122C-53(b), notify the next of kin of the time and location of the transfer.  
16 The preceding requirements of this paragraph may be waived if the client has been admitted  
17 under emergency procedures to a State facility not serving the client's region of the State.  
18 Following an emergency admission, the client may be transferred to the appropriate State  
19 facility without consent according to the rules of the Commission.

20       **(b)** Before transferring a respondent held for a district court hearing or a committed  
21 respondent from one 24-hour facility to another, the responsible professional at the original  
22 facility shall:

23           (1) Obtain authorization from the receiving facility that the facility will admit  
24 the respondent; and

25           (2) Provide reasonable notice to the ~~respondent, or~~respondent or the legally  
26 responsible person, and to the respondent's counsel, of the reason for the  
27 transfer and document the notice in the client's record.

28       No later ~~that~~than 24 hours after the transfer, the responsible professional at the original  
29 facility shall notify the petitioner, the clerk of court, the respondent's counsel, and, if consent is  
30 granted by the ~~respondent,~~respondent or disclosure of the information is permitted under  
31 G.S. 122C-53(b), the next of kin, that the transfer is ~~completed,~~complete. If the transfer is  
32 completed before the judicial commitment hearing, these proceedings shall be initiated by the  
33 receiving facility. If the respondent is a minor, an incompetent adult, or an individual with a  
34 health care power of attorney who is deemed incapable, then the responsible professional at the  
35 original facility shall, not later than 24 hours after the transfer, notify the client's legally  
36 responsible person of the location of the transfer and that the transfer is complete.

37       **(c)** Minors and incompetent adults, admitted pursuant to Parts 3 and 4 of this Article,  
38 may be transferred from one 24-hour facility to another following the same procedures  
39 specified in subsection (b) of this section. In addition, the legally responsible person shall be  
40 consulted before the proposed ~~transfer,~~transfer and notified, within 24 hours after the transfer is  
41 complete, of the location of the transfer and that the transfer is complete. If the transfer is  
42 completed before the judicial determination required in G.S. 122C-223 or G.S. 122C-232, these  
43 proceedings shall be initiated by the receiving facility.

44       **(c1)** If a client described in subsections (b) or (c) of this section is to be transferred from  
45 one 24-hour facility to ~~another~~another, or to an acute care hospital pursuant to subsection (e) of  
46 this section, and transportation is needed, the responsible professional at the original facility  
47 shall notify the clerk of court or magistrate, and the clerk of court or magistrate shall issue a  
48 custody order for transportation of the client as provided by G.S. 122C-251.

49       **(d)** Minors and incompetent adults, admitted pursuant to Part 5 of this Article and  
50 incapable adults admitted pursuant to Part 2A of this Article, may be transferred from one

1 24-hour facility to another provided that prior to transfer the responsible professional at the  
2 original facility shall:

- 3 (1) Obtain authorization from the receiving facility that the facility will admit  
4 the client; and
- 5 (2) Provide reasonable notice to the client regarding the reason for transfer and  
6 document the notice in the client's record; and
- 7 (3) Provide reasonable notice to and consult with the legally responsible person  
8 regarding the reason for the transfer and document the notice and  
9 consultation in the client's record.

10 No later than 24 hours after the transfer, the responsible professional at the original facility  
11 shall notify the legally responsible person that the transfer is completed.

12 (e) The responsible professional may transfer a client from one 24-hour facility to  
13 another or to an acute care hospital for emergency medical treatment, emergency medical  
14 evaluation, or emergency surgery without notice to or consent from the client. Within a  
15 reasonable period of time the responsible professional shall notify the next of kin or the legally  
16 responsible person of the client of the time and location of the transfer.

17 (f) When a client is transferred from one 24-hour facility to another ~~facility~~ solely for  
18 medical reasons, the client shall be returned to the original facility when the medical care is  
19 completed unless the responsible professionals at both facilities concur that discharge of the  
20 client who is not subject to G.S. 122C-266(b) is appropriate.

21 (f1) When a client is transferred from a 24-hour facility to an acute care hospital solely  
22 for medical reasons, the hospital shall return the client to the original facility as soon as the next  
23 client space becomes available at the original facility after completion of the client's medical  
24 care, and the original facility must accept the return of the client; provided, however, that if the  
25 responsible professionals at both facilities concur that discharge of a client who is not subject to  
26 G.S. 122C-266(b) is appropriate, the client shall be released. If, at the time of the transfer, a  
27 client is being held under a custody order pending a second commitment examination or a  
28 district court hearing under involuntary commitment proceedings, the custody order shall  
29 remain valid throughout the period of time necessary to complete the client's medical care and  
30 transport the client between the 24-hour facility and the acute care hospital; provided, however,  
31 that the requirement for a timely hearing under G.S. 122C-268(a) applies. Any decision to  
32 terminate the proceedings because the respondent no longer meets the criteria for commitment  
33 or because a hearing cannot be held within the time required by G.S. 122C-268(a) shall be  
34 documented and reported to the clerk of superior court in accordance with G.S. 122C-266(c).

35 (g) The Commission may adopt rules to implement this section."

36 **SECTION 10.** G.S. 122C-210.1 reads as rewritten:

37 **"§ 122C-210.1. Immunity from liability.**

38 No ~~facility~~ facility, including an area facility, a facility licensed under this Chapter, an acute  
39 care hospital, a general hospital, or an area authority, LME, or LME/MCO, or any of its  
40 officials, staff, or employees, or any physician or other individual who is responsible for the  
41 custody, transportation, examination, management, supervision, treatment, or release of a client  
42 and who ~~follows accepted professional judgment, practice, and standards~~ takes reasonable  
43 measures in good faith under the authority of this Article and is not grossly negligent is civilly  
44 or criminally liable, personally or otherwise, for actions arising from these responsibilities or  
45 for actions of the client. This immunity is in addition to any other legal immunity from liability  
46 to which these ~~facilities~~ facilities, agencies, or individuals may be entitled and applies to  
47 actions performed in connection with, or arising out of, the ~~admission-custody, transportation,~~  
48 examination, admission, or commitment of any individual pursuant to this Article."

49 **SECTION 11.** G.S. 122C-210.3 reads as rewritten:

50 **"§ 122C-210.3. Electronic and facsimile transmission of custody orders.**



1 A custody order entered by the clerk or magistrate pursuant to this Chapter may be  
2 delivered to the law enforcement officer or other person designated under G.S. 122C-251(g) by  
3 electronic or facsimile transmission."

4 **SECTION 12.** G.S. 122C-211 reads as rewritten:

5 **"§ 122C-211. Admissions.**

6 (a) Except as provided in subsections (b) through (f1) of this section, any individual,  
7 including a parent in a family unit, in need of treatment for mental illness or substance abuse  
8 may seek voluntary admission at any facility by presenting himself or herself for evaluation to  
9 the facility. No physician's statement is necessary, but a written application for evaluation or  
10 admission, signed by the individual seeking ~~admission,~~ admission or the individual's legally  
11 responsible person, is required. The application form shall be available at all times at all  
12 facilities. However, no one shall be denied admission because application forms are not  
13 available. An evaluation shall determine whether the individual is in need of care, treatment,  
14 habilitation or rehabilitation for mental illness or substance abuse or further evaluation by the  
15 facility. Information provided by family members regarding the individual's need for treatment  
16 shall be reviewed in the evaluation. If applicable, information provided in an advance  
17 instruction for mental health treatment by the client or the client's legally responsible person  
18 shall be reviewed in the evaluation. An individual may not be accepted as a client if the facility  
19 determines that the individual does not need or cannot benefit from the care, treatment,  
20 habilitation, or rehabilitation available and that the individual is not in need of further  
21 evaluation by the facility. The facility shall give to an individual who is denied admission a  
22 referral to another facility or facilities that may be able to provide the treatment needed by the  
23 client.

24 (b) In 24-hour facilities the application shall acknowledge that the applicant may be  
25 held by the facility for a period of 72 hours after any written request for release that the  
26 applicant may make, and shall acknowledge that the 24-hour facility may have the legal right to  
27 petition for involuntary commitment of the applicant during that period. At the time of  
28 application, the facility shall tell the applicant about procedures for discharge.

29 (c) Any individual who voluntarily seeks admission to a 24-hour facility in which  
30 medical care is an integral component of the treatment shall be examined and evaluated by a  
31 physician of the facility within 24 hours of admission. The evaluation shall determine whether  
32 the individual is in need of treatment for mental illness or substance abuse or further evaluation  
33 by the facility. If the evaluating physician determines that the individual will not benefit from  
34 the treatment available, the individual shall not be accepted as a client.

35 (d) Any individual who voluntarily seeks admission to any 24-hour facility, other than  
36 one in which medical care is an integral component of the treatment, shall have a medical  
37 examination within 30 days before or after admission if it is reasonably expected that the  
38 individual will receive treatment for more than 30 days or shall produce a current, valid  
39 physical examination report, signed by a physician, completed within 12 months prior to the  
40 current admission. When applicable, this examination may be included in an examination  
41 conducted to meet the requirements of G.S. 122C-223 or G.S. 122C-232.

42 ~~(e) When an individual from a single portal area seeks admission to an area or State~~  
43 ~~24-hour facility, the admission shall follow the procedures as prescribed in the area plan. When~~  
44 ~~an individual from a single portal area presents himself for admission to the facility directly and~~  
45 ~~is in need of an emergency admission, the individual may be accepted for admission. The~~  
46 ~~facility shall notify the area authority within 24 hours of the admission. Further planning of~~  
47 ~~treatment for the client is the joint responsibility of the area authority and the facility as~~  
48 ~~prescribed in the area plan.~~

49 (f) A family unit may voluntarily seek admission to a 24-hour substance abuse facility  
50 that is able to provide, directly or by contract, treatment, habilitation, or rehabilitation services  
51 that will specifically address the family unit's needs. These services shall include

1 gender-specific substance abuse treatment, habilitation, or rehabilitation for the parent as well  
2 as assessment, well-child care, and, as needed, early intervention services for the child. A  
3 family unit that voluntarily seeks admission to a 24-hour substance abuse facility shall be  
4 evaluated by the facility to determine whether the family unit would benefit from the services  
5 of the facility. A facility shall not accept a family unit as a client if the facility determines that  
6 the family unit does not need or cannot benefit from the care, habilitation, or rehabilitation  
7 available at the facility. The facility shall give to a family unit that is denied admission a  
8 referral to another facility or facilities that may be able to provide treatment needed by the  
9 family unit. Except as otherwise provided, this section applies to a parent in a family unit  
10 seeking admission under this section.

11 ~~(f1) An individual in need of treatment for mental illness may be admitted to a facility~~  
12 ~~pursuant to an advance instruction for mental health treatment or pursuant to the authority of a~~  
13 ~~health care agent named in a valid health care power of attorney, provided that the individual is~~  
14 ~~incapable, as defined in G.S. 122C-72(4) at the time of the need for admission. An individual~~  
15 ~~admitted to a facility pursuant to an advance instruction for mental health treatment may not be~~  
16 ~~retained for more than 10 days, except as provided for in subsection (b) of this section. When a~~  
17 ~~health care power of attorney authorizes a health care agent to seek the admission of an~~  
18 ~~incapable individual, the health care agent shall act for the individual in applying for admission~~  
19 ~~to a facility and in consenting to medical treatment at the facility when consent is required,~~  
20 ~~provided that the individual is incapable.~~

21 (g) As used in this Part, the term "family unit" means a parent and the parent's  
22 dependent children under the age of three years."

23 **SECTION 13.** G.S. 122C-212 reads as rewritten:

24 **"§ 122C-212. Discharges.**

25 (a) Except as provided in ~~subsections~~ subsection (b) and (e) of this section, an  
26 individual who has been voluntarily admitted to a facility shall be discharged upon his or her  
27 own request. A request for discharge from a 24-hour facility shall be in writing.

28 (b) An individual who has been voluntarily admitted to a 24-hour facility may be held  
29 for 72 hours after his or her written application for discharge is submitted.

30 ~~(c) When an individual from a single portal area who has been voluntarily admitted to~~  
31 ~~an area or State 24-hour facility is discharged, the discharge shall follow the procedures as~~  
32 ~~prescribed in the area plan."~~

33 **SECTION 14.** Article 5 of Chapter 122C of the General Statutes is amended by  
34 adding a new Part to read:

35 "Part 2A. Voluntary Admissions and Discharges; Incapable Adults; Facilities for Individuals  
36 With Mental Illness and Substance Use Disorder.

37 **"§ 122C-213. Voluntary admission of individuals determined to be incapable.**

38 (a) An individual in need of treatment for mental illness and who is incapable, as  
39 defined in G.S. 122C-3 and G.S. 122C-72, may be admitted to and treated in a facility pursuant  
40 to an advance instruction for mental health treatment executed in accordance with Part 2 of  
41 Article 3 of this Chapter or pursuant to the authority of a health care agent named in a valid  
42 health care power of attorney executed in accordance with Article 3 of Chapter 32A of the  
43 General Statutes.

44 (b) Except as otherwise provided in this Part, G.S. 122C-211 applies to admissions of  
45 incapable adults under this Part.

46 (c) An individual making an advance instruction for mental health treatment may grant  
47 or withhold consent for mental health treatment, including the use of psychotropic medication,  
48 electroconvulsive treatment, and admission to and retention in a 24-hour facility for mental  
49 illness. An attending physician or other mental health treatment provider shall act in accordance  
50 with an advance instruction for mental health treatment upon a determination that the

1 individual making the advance instruction is incapable, in which case, the provisions of Part 2  
2 of Article 3 of this Chapter apply.

3 (d) When a health care power of attorney authorizes a health care agent pursuant to  
4 G.S. 32A-19 to make mental health treatment decisions for an incapable individual, the health  
5 care agent shall act for the individual in applying for admission and consenting to treatment at a  
6 facility, consistent with the extent and limitations of authority granted in the health care power  
7 of attorney for as long as the individual remains incapable.

8 (e) A 24-hour facility may not hold an individual who is determined to be incapable at  
9 the time of admission and who is admitted pursuant to an advance instruction for mental health  
10 treatment for more than 15 days, except as provided in G.S. 122C-211(b); provided, however,  
11 that an individual who regains sufficient understanding and capacity to make and communicate  
12 mental health treatment decisions may elect to continue his or her admission and treatment  
13 pursuant to the individual's informed consent in accordance with G.S. 122C-211.

14 **"§ 122C-214. Discharge of individuals determined to be incapable.**

15 (a) The responsible professional shall unconditionally discharge an individual admitted  
16 to a facility pursuant to this Part at any time it is determined that the individual is no longer  
17 mentally ill or in need of treatment at the facility.

18 (b) An individual who has been voluntarily admitted to a facility pursuant to this Part  
19 and who is no longer deemed incapable shall be discharged upon his or her own request. An  
20 individual's request for discharge from a 24-hour facility shall be in writing. A facility may  
21 hold an individual who has been voluntarily admitted to a 24-hour facility pursuant to this Part  
22 for up to 72 hours after the individual submits a written request for discharge, but the facility  
23 shall release the individual upon the expiration of 72 hours following submission of the written  
24 request for discharge unless the responsible professional obtains an order under Part 7 or 8 of  
25 this Article to hold the client.

26 (c) A health care agent named in a valid health care power of attorney may submit on  
27 behalf of an individual admitted to a facility under this Part a written request to have the  
28 individual discharged from the facility, provided (i) the individual remains incapable at the time  
29 of the request and (ii) the request is consistent with the authority expressed in the health care  
30 power of attorney. A facility may hold an individual for up to 72 hours after a health care agent  
31 submits a written request for the individual's discharge but shall release the individual upon the  
32 expiration of 72 hours following submission of the written request for discharge unless the  
33 responsible professional obtains an order under Part 7 or 8 of this Article to hold the client.

34 (d) If, in the opinion of a physician or eligible psychologist, an individual admitted to a  
35 facility under this Part regains sufficient understanding and capacity to make and communicate  
36 mental health treatment decisions while in treatment, and the individual refuses to sign an  
37 authorization for continued treatment within 72 hours after regaining decisional capacity, the  
38 facility shall discharge the individual unless the responsible professional obtains an order under  
39 Part 7 or 8 of this Article to hold the client.

40 (e) In any case in which an order is issued authorizing the involuntary commitment of  
41 an individual admitted to a facility under this Part, the facility's further treatment and holding of  
42 the individual shall be in accordance with Part 7 or 8 of this Article, whichever is applicable.

43 **"§§ 122C-215 through 122C-220: Reserved for future codification purposes."**

44 **SECTION 15.** G.S. 122C-221(a) reads as rewritten:

45 "(a) Except as otherwise provided in this Part, a minor may be admitted to a facility if  
46 the minor is mentally ill or a substance abuser and in need of treatment. Except as otherwise  
47 provided in this Part, the provisions of G.S. 122C-211 shall apply to admissions of minors  
48 under this Part. Except as provided in G.S. 90-21.5, in applying for admission to a facility, in  
49 consenting to medical treatment when consent is required, and in any other legal procedure  
50 under this Article, the legally responsible person shall act for the minor. The application for  
51 admission of the minor shall be in writing and signed by the legally responsible person. If a

1 minor reaches the age of 18 while in treatment under this Part, further treatment is authorized  
2 only on the written authorization of the client or under the provisions of Part 7 or Part 8 of  
3 Article 5 of this Chapter."

4 **SECTION 16.** G.S. 122C-224(c) reads as rewritten:

5 "(c) Within 24 hours after admission, the facility shall notify the clerk of court in the  
6 county where the facility is located that the minor has been admitted and that a hearing for  
7 concurrence in the admission must be scheduled. At the time notice is given to schedule a  
8 hearing, the facility shall (i) notify the clerk of the names and addresses of the legally  
9 responsible person and the responsible ~~professional~~ and (ii) provide the clerk with  
10 a copy of the legally responsible person's written application for admission of the minor and the  
11 facility's written evaluation of the minor, both of which are required under G.S. 122C-211(a)."

12 **SECTION 17.** Part 4 of Article 5 of Chapter 122C of the General Statutes is  
13 amended by adding a new section to read:

14 **"§ 122C-230. Applicability of Part 4.**

15 This Part applies to adults who are adjudicated incompetent by a court of competent  
16 jurisdiction. This Part does not apply to the admission of adults who are deemed incapable but  
17 who have not been adjudicated incompetent."

18 **SECTION 18.** G.S. 122C-232 reads as rewritten:

19 **"§ 122C-232. Judicial determination.**

20 (a) When an incompetent adult is admitted to a 24-hour facility where the incompetent  
21 adult will be subjected to the same restrictions on his freedom of movement present in the State  
22 facilities for the mentally ill, or to similar restrictions, a hearing shall be held in the district  
23 court in the county in which the 24-hour facility is located within 10 days ~~of~~ after the day ~~that~~  
24 the incompetent adult is admitted to the facility. A continuance of not more than five days may  
25 be granted upon motion ~~of~~ any of the following:

- 26 (1) ~~The court;~~ court.
- 27 (2) ~~Respondent's counsel;~~ or counsel.
- 28 (3) The responsible professional.

29 The Commission shall adopt rules governing procedures for admission to other 24-hour  
30 facilities not falling within the category of facilities where freedom of movement is restricted;  
31 these rules shall be designed to ensure that no incompetent adult is improperly admitted to or  
32 remains in a facility.

33 (a1) Prior to admission, the facility shall provide the incompetent adult and the legally  
34 responsible person with written information describing the procedures for court review of the  
35 admission and the procedures for discharge.

36 (a2) Within 24 hours after admission, the facility shall notify the clerk of court of the  
37 county in which the facility is located that the incompetent adult has been admitted and that a  
38 hearing for concurrence in the admission must be scheduled. At the time the facility provides  
39 notice to the court to schedule a hearing for concurrence, the facility shall notify the clerk of the  
40 names and addresses of the legally responsible person and the responsible professional and  
41 provide a copy of the legally responsible person's written application for evaluation or  
42 admission of the incompetent adult and the facility's evaluation of the incompetent adult.

43 (b) In any case requiring the hearing described in subsection (a) of this section, no  
44 petition is necessary; the written application for voluntary admission shall serve as the initiating  
45 document for the hearing. The court shall determine whether the incompetent adult is mentally  
46 ill or a substance abuser and is in need of further treatment at the facility. Further treatment at  
47 the facility should be undertaken only when lesser measures will be insufficient. If the court  
48 finds by clear, cogent, and convincing evidence that these requirements have been met, the  
49 court shall concur with the voluntary admission of the incompetent adult and set the length of  
50 the authorized admission for a period not to exceed 90 days. If the court finds that these  
51 requirements have not been met, it shall order that the incompetent adult be released. A finding

1 of dangerousness to self or others is not necessary to support the determination that further  
2 treatment should be undertaken.

3 (c) Unless otherwise provided in this Part, the hearing specified in subsection (a) of this  
4 section, including the provisions for representation of indigent incompetent adults, all  
5 subsequent proceedings, and conditional release are governed by the involuntary commitment  
6 procedures of Part 7 of this Article.

7 (d) In addition to the notice of hearings and rehearings to the incompetent adult and his  
8 or her counsel required under Part 7 of this Article, notice shall be given by the clerk to the  
9 legally responsible ~~person, person~~ or ~~his successor~~ a successor to the legally responsible person.  
10 The legally responsible ~~person, person~~ or ~~his~~ a successor to the legally responsible person may  
11 also file with the clerk of court a written waiver of ~~his~~ the right to receive notice."

12 **SECTION 19.** G.S. 122C-251 reads as rewritten:

13 **"§ 122C-251. ~~Transportation.~~ Custody and transportation.**

14 (a) Except as provided in subsections (f) and (g), transportation of a respondent within a  
15 county under the involuntary commitment proceedings of this Article, including admission and  
16 discharge, shall be provided by the city or county. The city has the duty to provide  
17 transportation of a respondent who is a resident of the city or who ~~is~~ can be taken into custody  
18 in the city limits. The county has the duty to provide transportation for a respondent who  
19 resides in the county outside city limits or who ~~is~~ can be taken into custody outside of city  
20 limits. However, cities and counties may contract with each other to provide transportation.

21 (b) Except as provided in subsections (f) and (g) or in G.S. 122C-408(b), transportation  
22 between counties under the involuntary commitment proceedings of this Article for admission  
23 to a 24-hour facility shall be provided by the county where the respondent is taken into custody.  
24 Transportation between counties under the involuntary commitment proceedings of this Article  
25 for respondents held in 24-hour facilities who have requested a change of venue for the district  
26 court hearing shall be provided by the county where the petition for involuntary commitment  
27 was initiated. Transportation between counties under the involuntary commitment proceedings  
28 of this Article for discharge of a respondent from a 24-hour facility shall be provided by the  
29 county of residence of the respondent. However, a respondent being discharged from a facility  
30 may use his own transportation at his own expense. Transportation between counties under the  
31 involuntary commitment proceedings of this Article for a first examination at a location  
32 described in G.S. 122C-263(a) and G.S. 122C-238(a) shall be provided by the county where the  
33 respondent is taken into custody.

34 (c) Transportation of a respondent may be (i) by city- or county-owned ~~vehicles~~  
35 ~~or vehicles~~, (ii) by private vehicle by contract with the city or ~~county~~ county, or (iii) as provided  
36 in a plan adopted under subsection (g) of this section. To the extent feasible, law enforcement  
37 officers transporting respondents shall dress in plain clothes and shall travel in unmarked  
38 vehicles. Further, law enforcement officers, to the extent ~~possible~~, feasible, shall advise  
39 respondents when taking them into custody that they are not under arrest and have not  
40 committed a crime, but are being taken into custody and transported to receive treatment and  
41 for their own safety and that of others.

42 (d) To the extent feasible, in providing transportation of a respondent, a city or county  
43 shall provide a driver or attendant who is the same sex as the respondent, unless the  
44 ~~law enforcement~~ law enforcement officer allows a family member of the respondent to  
45 accompany the respondent in lieu of an attendant of the same sex as the respondent.

46 (e) In taking custody and providing transportation as required by this section, the  
47 ~~law enforcement~~ law enforcement officer may not use ~~reasonable~~ force to restrain the  
48 respondent ~~if~~ unless it appears necessary to protect ~~himself~~, the law enforcement officer, the  
49 respondent, or others. The law enforcement officer shall use the least restrictive and most  
50 reasonable restraint under the circumstances and afford the respondent as much dignity as the  
51 circumstances permit, taking into consideration the age, medical condition, special needs, and

1 behavior of the respondent. To the extent feasible, the law enforcement officer's application of  
2 force or restraint shall avoid aggravating or worsening the respondent's preexisting injuries or  
3 medical conditions. To the extent feasible, the law enforcement officer shall consult a parent,  
4 caretaker, or other legally responsible person prior to restraining a minor. The law enforcement  
5 officer shall record on the return of service portion of the custody order the type of mechanical  
6 restraint used on a respondent, if any, when taking the respondent into custody or transporting  
7 the respondent. No ~~law enforcement~~ law enforcement officer may be held criminally or civilly  
8 liable for assault, false imprisonment, or other torts or crimes on account of reasonable  
9 measures taken under the authority of this Article. The limitations and conditions in this  
10 subsection on the use of force and restraint do not apply to acute care hospitals or general  
11 hospitals and their employees or contractors when the use of force and restraint by these  
12 entities and persons is governed by rules for accreditation adopted by accrediting bodies that  
13 review these entities and persons for compliance with the accreditation rules.

14 (f) Notwithstanding the provisions of subsections (a), (b), and (c) of this section, a  
15 clerk, a magistrate, or a district court judge, where applicable, may authorize the family or  
16 immediate friends of the respondent, if they so request, to transport the respondent in  
17 accordance with the procedures of this Article. This authorization shall only be granted in cases  
18 where the danger to the public, the family or friends of the respondent, or the respondent  
19 himself or herself is not substantial. The family or immediate friends of the respondent shall  
20 bear the costs of providing this transportation.

21 (g) The governing body of a ~~city or county~~ city, county, or LME/MCO may adopt a  
22 plan for the custody and transportation of respondents in involuntary commitment proceedings  
23 in under this Article. ~~Law enforcement personnel,~~ The plan may designate law enforcement  
24 officers, volunteers, or other public or private agency personnel may be designated to provide  
25 all or parts of the custody and transportation required by involuntary commitment  
26 proceedings. proceedings, including taking a respondent into custody as ordered by a clerk of  
27 superior court or magistrate. Persons so designated shall be trained in accordance with  
28 G.S. 122C-202.2(a)(3) and the plan shall assure adequate safety and protections for both the  
29 public and the respondent. ~~Law enforcement,~~ Affected law enforcement agencies, acute care  
30 hospitals, magistrates, clerks of superior court, area facilities, other affected agencies, and the  
31 area authority shall participate in the planning. ~~If any person other than a law enforcement~~  
32 agency is designated by a city or county, the person so designated Any person or agency  
33 designated by a city, county, or LME/MCO to provide all or parts of the custody and  
34 transportation required by involuntary commitment proceedings shall provide the custody and  
35 transportation and follow the procedures in this Article. References in this Article to a  
36 ~~law enforcement~~ law enforcement officer apply to this ~~person~~ designated person or agency. A  
37 person shall not be designated without the consent of (i) the person or (ii) the agency that  
38 employs the person or contracts for the person's services. Counties and cities shall retain the  
39 responsibilities set forth in this Article, except as otherwise described in a plan developed and  
40 adopted pursuant this subsection.

41 (h) The cost and expenses for custody and transportation of transporting a respondent to  
42 or from a 24-hour facility as required by the involuntary commitment procedures of this Article  
43 is the responsibility of the county of residence of the ~~respondent~~ respondent unless otherwise  
44 provided in a plan adopted under subsection (g) of this section. The State (when providing  
45 transportation under G.S. 122C-408(b)), a city, or a county is entitled to recover the reasonable  
46 cost of transportation from the county of residence of the respondent. The county of residence  
47 of the respondent shall reimburse the State, another county, or a city the reasonable  
48 transportation costs incurred as authorized by this subsection. The county of residence of the  
49 respondent is entitled to recover the reasonable cost of transportation it has paid to the State, a  
50 city, or a county. Provided that the county of residence provides the respondent or other

1 individual liable for the respondent's support a reasonable notice and opportunity to object to  
2 the reimbursement, the county of residence of the respondent may recover that cost from:

- 3 (1) The respondent, if the respondent is not indigent;
- 4 (2) Any person or entity that is legally liable for the resident's support and  
5 maintenance provided there is sufficient property to pay the cost;
- 6 (3) Any person or entity that is contractually responsible for the cost; or
- 7 (4) Any person or entity that otherwise is liable under federal, State, or local law  
8 for the cost."

9 **SECTION 20.** G.S. 122C-253 reads as rewritten:

10 **"§ 122C-253. Fees under commitment order.**

11 Nothing contained in Parts 6, 7, or 8 of this Article requires a private physician, private  
12 psychologist, commitment examiner, or private facility to accept a respondent as a client either  
13 before or after commitment. Treatment at a private facility or by a private ~~physician~~  
14 ~~or physician~~, private ~~psychologist~~ psychologist, or commitment examiner is at the expense of  
15 the respondent to the extent that the charges are not disposed of by contract between the area  
16 authority and the private facility. An area authority and its contract agencies shall set and  
17 recover fees for inpatient or outpatient treatment services provided under a commitment order  
18 in accordance with G.S. 122C-146."

19 **SECTION 21.** G.S. 122C-255 reads as rewritten:

20 **"§ 122C-255. Report required.**

21 ~~Beginning January 1, 2012, each~~Each 24-hour ~~residential~~ facility that (i) falls under the  
22 category of nonhospital medical detoxification, facility-based crisis service, or inpatient  
23 hospital treatment, (ii) is not a State facility under the jurisdiction of the Secretary of Health  
24 and Human Services, and (iii) is designated by the Secretary of Health and Human Services as  
25 a facility for the custody and treatment of individuals under a petition of involuntary  
26 commitment pursuant to G.S. 122C-252 and 10A NCAC 26C .0101 shall submit a written  
27 report on involuntary commitments each January 1 and each July 1 to the Department of Health  
28 and Human Services, Division of Mental Health, Developmental Disabilities, and Substance  
29 Abuse Services. The report shall include all of the following:

- 30 (1) The number and primary presenting conditions of individuals receiving  
31 treatment from the facility under a petition of involuntary commitment.
- 32 (2) The number of individuals for whom an involuntary commitment proceeding  
33 was initiated at the facility, who were referred to a different facility or  
34 program.
- 35 (3) The reason for referring the individuals described in subdivision (2) of this  
36 section to a different facility or program, including the need for more  
37 intensive medical supervision."

38 **SECTION 22.** G.S. 122C-261 reads as rewritten:

39 **"§ 122C-261. Affidavit and petition before clerk or magistrate when immediate  
40 hospitalization is not necessary; custody order.**

41 (a) Anyone who has knowledge of an individual who is mentally ill and either (i)  
42 dangerous to self, as defined in G.S. 122C-3(11)a., or dangerous to others, as defined in  
43 G.S. 122C-3(11)b., or (ii) in need of treatment in order to prevent further disability or  
44 deterioration that would predictably result in dangerousness, may appear before a clerk or  
45 assistant or deputy clerk of superior court or a magistrate and execute an affidavit to this effect,  
46 and petition the clerk or magistrate for issuance of an order to take the respondent into custody  
47 for examination by a ~~physician or eligible psychologist~~ commitment examiner. The affidavit  
48 shall include the facts on which the affiant's opinion is based. If the affiant has knowledge or  
49 reasonably believes that the respondent, in addition to being mentally ill, is also mentally  
50 retarded, this fact shall be stated in the affidavit. Jurisdiction under this subsection is in the  
51 clerk or magistrate in the county where the respondent resides or is found.

1 (b) If the clerk or magistrate finds reasonable grounds to believe that the facts alleged in  
2 the affidavit are true and that the respondent is probably mentally ill and either (i) dangerous to  
3 self, as defined in G.S. 122C-3(11)a., or dangerous to others, as defined in G.S. 122C-3(11)b.,  
4 or (ii) in need of treatment in order to prevent further disability or deterioration that would  
5 predictably result in dangerousness, the clerk or magistrate shall issue an order to a law  
6 enforcement officer or any other person authorized under G.S. 122C-251 to take the respondent  
7 into custody for examination by a ~~physician or eligible psychologist~~commitment examiner. If  
8 the clerk or magistrate finds that, in addition to probably being mentally ill, the respondent is  
9 also probably mentally retarded, the clerk or magistrate shall contact the area authority before  
10 issuing a custody order and the area authority shall designate the facility to which the  
11 respondent is to be taken for examination by a ~~physician or eligible psychologist~~commitment  
12 examiner. The clerk or magistrate shall provide the petitioner and the respondent, if present,  
13 with specific information regarding the next steps that will occur for the respondent.

14 (c) If the clerk or magistrate issues a custody order, the clerk or magistrate shall also  
15 make inquiry in any reliable way as to whether the respondent is indigent within the meaning of  
16 G.S. 7A-450. A magistrate shall report the result of this inquiry to the clerk.

17 (d) If the affiant is a ~~physician or eligible psychologist~~commitment examiner, all of the  
18 following apply:

19 (1) ~~The~~If the affiant has examined the respondent, the affiant may execute the  
20 affidavit before any official authorized to administer oaths. This affiant is  
21 not required to appear before the clerk or magistrate for this purpose. This  
22 affiant shall file the affidavit with the clerk or magistrate by delivering to the  
23 clerk or magistrate the original ~~affidavit or affidavit, by transmitting~~ a copy  
24 in paper form that is printed through the facsimile transmission of the  
25 ~~affidavit~~ affidavit, or by delivering the affidavit through electronic  
26 transmission. If the affidavit is filed through electronic or facsimile  
27 transmission, the affiant shall mail the original affidavit no later than five  
28 days after the facsimile transmission of the affidavit to the clerk or  
29 magistrate to be filed by the clerk or magistrate with the facsimile copy of  
30 the affidavit.

31 (2) This affiant's examination shall comply with the requirements of the initial  
32 examination as provided in G.S. 122C-263(c). The affiant shall document in  
33 writing and file the examination findings with the affidavit delivered to the  
34 clerk or magistrate in accordance with subdivision (d)(1) of this section.

35 (3) If the ~~physician or eligible psychologist~~commitment examiner recommends  
36 outpatient commitment according to the criteria for outpatient commitment  
37 set forth in G.S. 122C-263(d)(1) and the clerk or magistrate finds probable  
38 cause to believe that the respondent meets the criteria for outpatient  
39 commitment, the clerk or magistrate shall issue an order that a hearing  
40 before a district court judge be held to determine whether the respondent will  
41 be involuntarily committed. ~~The physician or eligible psychologist shall~~  
42 provide the respondent with written notice of any scheduled appointment  
43 and the name, address, and telephone number of the proposed outpatient  
44 treatment ~~physician or center.~~ ~~The physician or eligible psychologist~~The  
45 commitment examiner shall contact the ~~local management entity~~LME/MCO  
46 that serves the county where the respondent resides or the ~~local management~~  
47 ~~entity~~LME/MCO that coordinated services for the respondent to inform the  
48 ~~local management entity~~LME/MCO that the respondent is being  
49 recommended for outpatient commitment. The LME/MCO shall determine  
50 whether the respondent is a client of the LME/MCO or eligible for services  
51 through the LME/MCO and, if so, shall identify and schedule an



1 appointment with a proposed outpatient treatment physician or center and  
2 provide the commitment examiner with the name, address, and telephone  
3 number of the proposed outpatient treatment physician or center and the date  
4 and time that the respondent has been scheduled for an appointment with an  
5 the outpatient treatment physician or center. The commitment examiner shall  
6 provide the respondent with written notice of any scheduled appointment  
7 and the name, address, and telephone number of the proposed outpatient  
8 treatment physician or center.

9 (4) If the ~~physician or eligible psychologist~~ commitment examiner recommends  
10 inpatient commitment based on the criteria for inpatient commitment set  
11 forth in G.S. 122C-263(d)(2) and the clerk or magistrate finds probable  
12 cause to believe that the respondent meets the criteria for inpatient  
13 commitment, the clerk or magistrate shall issue an order to a law  
14 enforcement officer or any other person authorized under G.S. 122C-251(g)  
15 to take the respondent into custody for transportation to or custody at a  
16 24-hour facility described in G.S. 122C-252, provided G.S. 122C-252;  
17 provided, however, that if a 24-hour facility is not immediately available or  
18 appropriate to the respondent's medical condition, the respondent may be  
19 temporarily detained under appropriate supervision and, upon further  
20 examination, released in accordance with G.S. 122C-263(d)(2).

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

43 Notwithstanding the provisions of this subdivision, a clerk or magistrate  
44 shall not issue a custody order to a physician or eligible psychologist at a  
45 24-hour facility, or a designee, if the physician or eligible psychologist, or a  
46 designee, has not completed training in proper service and return of service.  
47 As used in this subdivision, the term "designee" includes the 24-hour  
48 facility's on-site police security personnel.

49 The Department of Health and Human Services shall cooperate and  
50 collaborate with the Administrative Office of the Courts and the UNC  
51 School of Government to develop protocols to implement this section,

1 including a procedure for notifying clerks and magistrates of the names of  
2 the physicians, psychologists, and designees who have completed the  
3 training. The Secretary of the Department shall oversee implementation of  
4 these protocols.

5 (6) If the clerk or magistrate finds probable cause to believe that the respondent,  
6 in addition to being mentally ill, is also mentally retarded, the clerk or  
7 magistrate shall contact the area authority before issuing the order and the  
8 area authority shall designate the facility to which the respondent is to be  
9 transported.

10 (7) If a ~~physician or eligible psychologist~~ commitment examiner executes an  
11 affidavit for inpatient commitment of a respondent, a ~~second physician who~~  
12 is not the commitment examiner who performed the examination under this  
13 section shall be required to perform the examination required by  
14 G.S. 122C-266.

15 (8) No commitment examiner, area facility, acute care hospital, general hospital,  
16 or other site of first examination, or its officials, staff, employees, or other  
17 individuals responsible for the custody, examination, detention,  
18 management, supervision, treatment, or release of an individual examined  
19 for commitment and who follows accepted professional judgment, standards,  
20 and practice, shall be held liable in any civil or criminal action for taking  
21 reasonable measures to temporarily detain an individual for the period of  
22 time necessary to complete a commitment examination, submit an affidavit  
23 to the magistrate or clerk of court, and await the issuance of a custody order  
24 as authorized by subsection (d) of this section, as long as the commitment  
25 examiner has a reasonable and good-faith belief that detention pending the  
26 examination and issuance of a custody order is necessary to protect the  
27 individual or others from bodily harm or life endangerment. If the individual  
28 is temporarily detained under the circumstances described in this  
29 subdivision, the examiner shall certify in the affidavit delivered to the clerk  
30 or magistrate in accordance with subdivision (d)(1) of this section the reason  
31 the individual requires temporary detention pending the issuance of a  
32 custody order.

33 (e) Except as provided in subdivision (5) of subsection (d) of this section, upon receipt  
34 of the custody order of the clerk or magistrate or a custody order issued by the court pursuant to  
35 G.S. 15A-1003, a law enforcement officer or other person designated in the order shall take the  
36 respondent into custody within 24 hours after the order is signed, and proceed according to  
37 G.S. 122C-263. The custody order is valid throughout the State.

38 (f) ~~When a petition is filed for an individual who is a resident of a single portal area,~~  
39 ~~the procedures for examination by a physician or eligible psychologist as set forth in~~  
40 ~~G.S. 122C-263 shall be carried out in accordance with the area plan. Prior to issuance of a~~  
41 ~~eustody order for a respondent who resides in an area authority with a single portal plan, the~~  
42 ~~clerk or magistrate shall communicate with the area authority to determine the appropriate~~  
43 ~~24-hour facility to which the respondent should be admitted according to the area plan or to~~  
44 ~~determine if there are more appropriate resources available through the area authority to assist~~  
45 ~~the petitioner or the respondent. When an individual from a single portal area is presented for~~  
46 ~~commitment at a 24-hour area or State facility directly, the individual may not be accepted for~~  
47 ~~admission until the facility notifies the area authority and the area authority agrees to the~~  
48 ~~admission. If the area authority does not agree to the admission, it shall determine the~~  
49 ~~appropriate 24-hour facility to which the individual should be admitted according to the area~~  
50 ~~plan or determine if there are more appropriate resources available through the area authority to~~  
51 ~~assist the individual. If the area authority agrees to the admission, further planning of treatment~~

1 for the client is the joint responsibility of the area authority and the facility as prescribed in the  
2 area plan.

3 Notwithstanding the provisions of this section, in no event shall an individual known or  
4 reasonably believed to be mentally retarded be admitted to a State psychiatric hospital, except  
5 as follows:

- 6 (1) Persons described in G.S. 122C-266(b);
- 7 (2) Persons admitted pursuant to G.S. 15A-1321;
- 8 (3) Respondents who are so extremely dangerous as to pose a serious threat to  
9 the community and to other patients committed to non-State hospital  
10 psychiatric inpatient units, as determined by the Director of the Division of  
11 Mental Health, Developmental Disabilities, and Substance Abuse Services  
12 or his designee; and
- 13 (4) Respondents who are so gravely disabled by both multiple disorders and  
14 medical fragility or multiple disorders and deafness that alternative care is  
15 inappropriate, as determined by the Director of the Division of Mental  
16 Health, Developmental Disabilities, and Substance Abuse Services or his  
17 designee.

18 Individuals transported to a State facility for the mentally ill who are not admitted by the  
19 facility may be transported by law enforcement officers or designated staff of the State facility  
20 in State-owned vehicles to an appropriate 24-hour facility that provides psychiatric inpatient  
21 care.

22 No later than 24 hours after the transfer, the responsible professional at the original facility  
23 shall notify the petitioner, the clerk of court, and, if consent is granted by the respondent, the  
24 next of kin, that the transfer has been completed."

25 **SECTION 23.** G.S. 122C-262 reads as rewritten:

26 "**§ 122C-262. Special emergency procedure for individuals needing immediate**  
27 **hospitalization.**

28 (a) Anyone, including a law enforcement officer, who has knowledge of an individual  
29 who is subject to inpatient commitment according to the criteria of  
30 ~~G.S. 122C-261(a)~~ G.S. 122C-263(d)(2) and who requires immediate hospitalization to prevent  
31 harm to self or others, may transport the individual directly to an area facility or other place,  
32 including a State facility for the mentally ill, for examination by a ~~physician or eligible~~  
33 ~~psychologist~~ commitment examiner in accordance with G.S. 122C-263(c).

34 (b) Upon examination by the ~~physician or eligible psychologist~~ commitment examiner,  
35 if the individual meets the inpatient commitment criteria required—specified in  
36 G.S. 122C-261(a), the physician or eligible psychologist—G.S. 122C-263(d)(2) and requires  
37 immediate hospitalization to prevent harm to self or others, the commitment examiner shall so  
38 certify in writing before any official authorized to administer oaths. The certificate shall also  
39 state the reason that the individual requires immediate hospitalization. If the ~~physician or~~  
40 ~~eligible psychologist~~ commitment examiner knows or has reason to believe that the individual is  
41 mentally retarded, the certificate shall so state.

42 (c) If the ~~physician or eligible psychologist~~ commitment examiner executes the oath,  
43 appearance before a magistrate shall be waived. The ~~physician or eligible~~  
44 ~~psychologist~~ commitment examiner shall send a copy of the certificate to the clerk of superior  
45 court by the most reliable and expeditious means. If it cannot be reasonably anticipated that the  
46 clerk will receive the copy within 24 hours, excluding Saturday, Sunday, and holidays, of the  
47 time that it was signed, the ~~physician or eligible psychologist~~ commitment examiner shall also  
48 communicate the findings to the clerk by telephone.

49 (d) Anyone, including a law enforcement officer if necessary, may transport the  
50 individual to a 24-hour facility described in G.S. 122C-252 for examination and treatment  
51 pending a district court hearing. If there is no area 24-hour facility and if the respondent is

1 indigent and unable to pay for care at a private 24-hour facility, the law enforcement officer or  
2 other designated person providing transportation shall take the respondent to a State facility for  
3 the mentally ill designated by the Commission in accordance with G.S. 143B-147(a)(1)a and  
4 immediately notify the clerk of superior court of this action. ~~The physician's or eligible~~  
5 ~~psychologist's~~ commitment examiner's certificate shall serve as the custody order and the law  
6 enforcement officer or other designated person shall provide transportation in accordance with  
7 the provisions of G.S. 122C-251. If a 24-hour facility is not immediately available or  
8 appropriate to the respondent's medical condition, the respondent may be temporarily detained  
9 under appropriate supervision in accordance with G.S. 122C-263(d)(2) and released in  
10 accordance with G.S. 122C-263(d)(2).

11 In the event an individual known or reasonably believed to be mentally retarded is  
12 transported to a State facility for the mentally ill, in no event shall that individual be admitted to  
13 that facility except as follows:

- 14 (1) Persons described in G.S. 122C-266(b);
- 15 (2) Persons admitted pursuant to G.S. 15A-1321;
- 16 (3) Respondents who are so extremely dangerous as to pose a serious threat to  
17 the community and to other patients committed to non-State hospital  
18 psychiatric inpatient units, as determined by the Director of the Division of  
19 Mental Health, Developmental Disabilities, and Substance Abuse Services  
20 or his designee; and
- 21 (4) Respondents who are so gravely disabled by both multiple disorders and  
22 medical fragility or multiple disorders and deafness that alternative care is  
23 inappropriate, as determined by the Director of the Division of Mental  
24 Health, Developmental Disabilities, and Substance Abuse Services or his  
25 designee.

26 Individuals transported to a State facility for the mentally ill who are not admitted by the  
27 facility may be transported by law enforcement officers or designated staff of the State facility  
28 in State-owned vehicles to an appropriate 24-hour facility that provides psychiatric inpatient  
29 care.

30 No later than 24 hours after the transfer, the responsible professional at the original facility  
31 shall notify the petitioner, the clerk of court, and, if consent is granted by the respondent, the  
32 next of kin, that the transfer has been completed.

33 (e) Respondents received at a 24-hour facility under the provisions of this section shall  
34 be examined by a second physician in accordance with G.S. 122C-266. After receipt of  
35 notification that the district court has determined reasonable grounds for the commitment,  
36 further proceedings shall be carried out in the same way as for all other respondents under this  
37 Part.

38 (f) If, upon examination of a respondent presented in accordance with subsection (a) of  
39 this section, the commitment examiner finds that the individual meets the criteria for inpatient  
40 commitment specified in G.S. 122C-263(d)(2) but does not require immediate hospitalization  
41 to prevent harm to self or others, the commitment examiner may petition the clerk or magistrate  
42 in accordance with G.S. 122C-261(d) for an order to take the individual into custody for  
43 transport to a 24-hour facility described in G.S. 122C-252. If the commitment examiner  
44 recommends inpatient commitment and the clerk or magistrate finds probable cause to believe  
45 that the respondent meets the criteria for inpatient commitment, the clerk or magistrate shall  
46 issue an order for transport to or custody at a 24-hour facility described in G.S. 122C-252;  
47 provided, however, that if a 24-hour facility is not immediately available or appropriate to the  
48 respondent's medical condition, the respondent may be temporarily detained under appropriate  
49 supervision in accordance with G.S. 122C-263(d)(2) and released in accordance with  
50 G.S. 122C-263(d)(2).

1       (g) This section applies exclusively to an individual who is transported to an  
2 examination by a commitment examiner in accordance with subsection (a) of this section."

3       **SECTION 24.** G.S. 122C-263 reads as rewritten:

4 **"§ 122C-263. Duties of ~~law-enforcement~~law enforcement officer; ~~first examination by~~**  
5 **~~physician or eligible psychologist.~~examination.**

6       (a) Without unnecessary delay after assuming custody, the law enforcement officer or  
7 the individual designated by the clerk or magistrate under G.S. 122C-251(g) to provide  
8 transportation shall take the respondent to an area facility identified by the LME/MCO in the  
9 community crisis services plan adopted pursuant to G.S. 122C-202.2 for examination by a  
10 physician or eligible psychologist; if a physician or eligible psychologist commitment  
11 examiner. If an area facility identified in the plan or one of its commitment examiners is not  
12 available in the area facility, available, or if there is no area facility identified in the plan, the  
13 person designated to provide transportation shall take the respondent to any ~~physician or~~  
14 eligible psychologist locally available. If a physician or eligible psychologist acute care  
15 hospital identified by the LME/MCO in the community crisis services plan adopted pursuant to  
16 G.S. 122C-202.2. If a commitment examiner is not immediately available, available in such  
17 area facility or acute care hospital, the respondent may be temporarily detained in an area  
18 facility, if one is available; if an area facility is not available, the respondent may be detained  
19 under appropriate supervision in the respondent's home, in a private hospital or a clinic, in a  
20 general hospital, or in a State facility for the mentally ill, under appropriate supervision in such  
21 area facility or acute care hospital but not in a jail or other penal facility. If no identified facility  
22 or acute care hospital is available, the law enforcement officer or other designated individual  
23 shall transport the respondent to any commitment examiner available in a private hospital or  
24 clinic, a general hospital, or a State facility for the mentally ill.

25       (a1) An area facility that is identified by the LME/MCO in accordance with G.S. 122C  
26 202.2 as a site for conducting first examinations under subsection (a) of this section shall be  
27 capable of performing a medical screening examination of the respondent that consists of a  
28 history and physical appropriate to the respondent's complaint or condition, with ancillary  
29 testing as necessary. The medical screening examination shall be conducted by a physician or  
30 other individual who is determined by the area facility to be qualified to perform the medical  
31 screening and is practicing within the scope of his or her licensure. The respondent may either  
32 be in the physical face to face presence of the medical screening examiner or may be examined  
33 utilizing telemedicine equipment and procedures. If the area facility in subsection (a) of this  
34 section determines that an individual qualified to perform a medical screening examination  
35 appropriate to the respondent's complaint or condition is not available on-site or via  
36 telemedicine, the area facility shall identify and contact another area facility that is capable of  
37 performing the medical screening, or an acute care hospital, and the law enforcement officer or  
38 other designated person shall transport the respondent to the identified facility or hospital.

39       (a2) The responsible professional at an area facility or other site of first examination may  
40 transfer a respondent to an acute care hospital for emergency medical treatment, emergency  
41 medical evaluation, emergency surgery, or other medical treatment that the site of first  
42 examination is unable to provide by directing the law enforcement officer or other person  
43 designated under G.S. 122C 251(g) to transport the respondent to an identified acute care  
44 hospital. When the respondent is transferred solely for medical reasons, the original facility  
45 shall accept the return of the respondent and the respondent shall be returned to the original  
46 facility after the medical care is completed unless the responsible professionals at both facilities  
47 concur that the respondent no longer meets the criteria for commitment and recommend that the  
48 commitment proceedings be terminated. Any decision to terminate the proceedings shall be  
49 documented and reported to the clerk of superior court in accordance with subsection (e) of this  
50 section.

1 (b) The examination set forth in subsection (a) of this section is not required ~~if under~~  
2 any of the following circumstances:

3 (1) The affiant who obtained the custody order is a ~~physician or eligible~~  
4 ~~psychologist~~ commitment examiner who recommends inpatient  
5 ~~commitment;~~commitment.

6 (2) The custody order states that the respondent was charged with a violent  
7 crime, including a crime involving assault with a deadly weapon, and ~~he the~~  
8 respondent was found incapable of ~~proceeding;~~ or proceeding.

9 (3) Repealed by Session Laws 1987, c. 596, s. 3.

10 In any of these cases, the ~~law enforcement~~ law enforcement officer shall take the respondent  
11 directly to a 24-hour facility described in G.S. 122C-252.

12 (c) The ~~physician or eligible psychologist~~ commitment examiner described in subsection  
13 (a) of this section shall examine the respondent as soon as possible, and in any event within 24  
14 ~~hours,~~ hours after the respondent is presented for examination. When the examination set forth  
15 in subsection (a) of this section is performed by a ~~physician or eligible~~  
16 ~~psychologist~~ commitment examiner, the respondent may either be in the physical face-to-face  
17 presence of the ~~physician or eligible psychologist~~ commitment examiner or may be examined  
18 utilizing telemedicine equipment and procedures. A ~~physician or eligible~~  
19 ~~psychologist~~ commitment examiner who examines a respondent by means of telemedicine must  
20 be satisfied to a reasonable medical certainty that the determinations made in accordance with  
21 subsection (d) of this section would not be different if the examination had been done in the  
22 physical presence of the ~~physician or eligible psychologist~~. A ~~physician or eligible~~  
23 ~~psychologist~~ commitment examiner. A commitment examiner who is not so satisfied must note  
24 that the examination was not satisfactorily accomplished, and the respondent must be taken for  
25 a face-to-face examination in the physical presence of a person authorized to perform  
26 examinations under this section. As used in this ~~subsection,~~ section, "telemedicine" is the use of  
27 two-way real-time interactive audio and video between places of lesser and greater medical  
28 capability or expertise to provide and support health care when distance separates participants  
29 who are in different geographical locations. A recipient is referred by one provider to receive  
30 the services of another provider via telemedicine.

31 The examination shall include ~~but is not limited to~~ an assessment of ~~the respondent's;~~ at least  
32 all of the following with respect to the respondent:

33 (1) Current and previous mental illness and mental retardation including, if  
34 available, previous treatment ~~history;~~ history.

35 (2) Dangerousness to self, as defined in G.S. 122C-3(11)a. or others, as defined  
36 in ~~G.S. 122C-3(11)b.;~~ G.S. 122C-3(11)b.

37 (3) Ability to survive safely without inpatient commitment, including the  
38 availability of supervision from family, friends or ~~others;~~ and others.

39 (4) Capacity to make an informed decision concerning treatment.

40 (d) After the conclusion of the examination the ~~physician or eligible~~  
41 ~~psychologist~~ commitment examiner shall make the following determinations:

42 (1) If the ~~physician or eligible psychologist~~ commitment examiner finds ~~that;~~ all  
43 of the following:

44 a. The respondent is mentally ~~ill;~~ ill.

45 b. The respondent is capable of surviving safely in the community with  
46 available supervision from family, friends, or ~~others;~~ others.

47 c. Based on the respondent's psychiatric history, the respondent is in  
48 need of treatment in order to prevent further disability or  
49 deterioration that would predictably result in dangerousness as  
50 defined by ~~G.S. 122C-3(11); and~~ G.S. 122C-3(11).

1 d. The respondent's current mental status or the nature of the  
2 respondent's illness limits or negates the respondent's ability to make  
3 an informed decision to seek voluntarily or comply with  
4 recommended treatment.

5 The ~~physician or eligible psychologist~~commitment examiner shall so show  
6 on the examination report and shall recommend outpatient commitment. In  
7 addition the examining ~~physician or eligible psychologist~~commitment  
8 examiner shall show the name, address, and telephone number of the  
9 proposed outpatient treatment physician or ~~center~~center in accordance with  
10 subsection (f) of this section. The person designated in the order to provide  
11 transportation shall return the respondent to the respondent's regular  
12 residence or, with the respondent's consent, to the home of a consenting  
13 individual located in the originating county, and the respondent shall be  
14 released from custody.

- 15 (2) If the ~~physician or eligible psychologist~~commitment examiner finds that the  
16 respondent is mentally ill and is dangerous to self, as defined in  
17 G.S. 122C-3(11)a., or others, as defined in G.S. 122C-3(11)b., the ~~physician~~  
18 ~~or eligible psychologist~~commitment examiner shall recommend inpatient  
19 commitment, and shall so show on the examination report. If, in addition to  
20 mental illness and dangerousness, the ~~physician or eligible~~  
21 ~~psychologist~~commitment examiner also finds that the respondent is known  
22 or reasonably believed to be mentally retarded, this finding shall be shown  
23 on the report. ~~The~~ Without unnecessary delay, and in any event within six  
24 hours after the comment examiner's finding and recommendation, the law  
25 enforcement officer or other designated person shall take the respondent to a  
26 24-hour facility described in G.S. 122C-252 pending a district court hearing.  
27 If there is no area 24-hour facility and if the respondent is indigent and  
28 unable to pay for care at a private 24-hour facility, the law enforcement  
29 officer or other designated person shall take the respondent to a State facility  
30 for the mentally ill designated by the Commission in accordance with  
31 G.S. 143B-147(a)(1)a. for custody, observation, and treatment and  
32 immediately notify the clerk of superior court of this action. If a 24-hour  
33 facility is not immediately available or appropriate to the respondent's  
34 medical condition, the respondent may be temporarily detained under  
35 appropriate supervision at the site of the first ~~examination, provided that at~~  
36 ~~anytime that a physician or eligible psychologist~~examination. Upon the  
37 commitment examiner's determination that a 24-hour facility is available and  
38 medically appropriate, the law enforcement officer or other designated  
39 person shall commence transporting the respondent without unnecessary  
40 delay and, in any event, within six hours after receiving a request for  
41 transportation by the commitment examiner. At any time during the  
42 respondent's temporary detention under appropriate supervision, if a  
43 commitment examiner determines that the respondent is no longer in need of  
44 inpatient commitment, the proceedings shall be terminated and the  
45 respondent transported and released in accordance with subdivision (3) of  
46 this subsection. However, if the ~~physician or eligible~~  
47 ~~psychologist~~commitment examiner determines that the respondent meets the  
48 criteria for outpatient commitment, as defined in subdivision (1) of this  
49 subsection, the ~~physician or eligible psychologist~~commitment examiner may  
50 recommend outpatient commitment, and the respondent shall be transported  
51 and released in accordance with subdivision (1) of this subsection. Any

1 decision to terminate the proceedings or to recommend outpatient  
2 commitment after an initial recommendation of inpatient commitment shall  
3 be documented and reported to the clerk of superior court in accordance with  
4 subsection (e) of this section. If the respondent is temporarily detained and a  
5 24-hour facility is not available or medically appropriate seven days after the  
6 issuance of the custody order, a ~~physician or eligible psychologist~~commitment  
7 examiner shall report this fact to the clerk of superior court and the  
8 proceedings shall be terminated. Termination of proceedings pursuant to this  
9 subdivision shall not prohibit or prevent the initiation of new involuntary  
10 commitment proceedings when appropriate. A commitment examiner may  
11 initiate a new involuntary commitment proceeding prior to the expiration of  
12 this seven-day period, as long as the respondent continues to meet applicable  
13 criteria. Affidavits filed in support of proceedings terminated pursuant to this  
14 subdivision may not be submitted in support of any subsequent petitions for  
15 involuntary commitment. If the affiant initiating new commitment  
16 proceedings is a ~~physician or eligible psychologist~~commitment examiner,  
17 the affiant shall conduct a new examination and may not rely upon  
18 examinations conducted as part of proceedings terminated pursuant to this  
19 subdivision.

20 In the event an individual known or reasonably believed to be mentally  
21 retarded is transported to a State facility for the mentally ill, in no event shall  
22 that individual be admitted to that facility except as follows:

- 23 a. Persons described in G.S. 122C-266(b);
- 24 b. Persons admitted pursuant to G.S. 15A-1321;
- 25 c. Respondents who are so extremely dangerous as to pose a serious  
26 threat to the community and to other patients committed to non-State  
27 hospital psychiatric inpatient units, as determined by the Director of  
28 the Division of Mental Health, Developmental Disabilities, and  
29 Substance Abuse Services or his designee; and
- 30 d. Respondents who are so gravely disabled by both multiple disorders  
31 and medical fragility or multiple disorders and deafness that  
32 alternative care is inappropriate, as determined by the Director of the  
33 Division of Mental Health, Developmental Disabilities, and  
34 Substance Abuse Services or his designee.

35 Individuals transported to a State facility for the mentally ill who are not  
36 admitted by the facility may be transported by law enforcement officers or  
37 designated staff of the State facility in State-owned vehicles to an  
38 appropriate 24-hour facility that provides psychiatric inpatient care.

39 No later than 24 hours after the transfer, the responsible professional at  
40 the original facility shall notify the petitioner, the clerk of court, and, if  
41 consent is granted by the respondent, the next of kin, that the transfer has  
42 been completed.

- 43 (3) If the ~~physician or eligible psychologist~~commitment examiner finds that  
44 neither condition described in subdivisions (1) or (2) of this subsection  
45 exists, the proceedings shall be terminated. The person designated in the  
46 order to provide transportation shall return the respondent to the respondent's  
47 regular residence or, with the respondent's consent, to the home of a  
48 consenting individual located in the originating county and the respondent  
49 shall be released from custody.

50 (e) The findings of the ~~physician or eligible psychologist~~commitment examiner and the  
51 facts on which they are based shall be in writing in all cases. The ~~physician or eligible~~



1 ~~psychologist~~commitment examiner shall send a copy of the findings to the clerk of superior  
2 court by the most reliable and expeditious means. If it cannot be reasonably anticipated that the  
3 clerk will receive the copy within 48 hours of the time that it was signed, the ~~physician or~~  
4 ~~eligible psychologist~~commitment examiner shall also communicate his findings to the clerk by  
5 telephone.

6 (f) When outpatient commitment is recommended, the ~~examining physician or eligible~~  
7 ~~psychologist~~commitment examiner, if different from the proposed outpatient treatment  
8 physician or center, shall ~~give the respondent a written notice listing the name, address, and~~  
9 ~~telephone number of the proposed outpatient treatment physician or center and directing the~~  
10 ~~respondent to appear at the address at a specified date and time. The examining physician or~~  
11 ~~eligible psychologist before the appointment shall notify by telephone the designated outpatient~~  
12 ~~treatment physician or center and shall send a copy of the notice and his examination report to~~  
13 ~~the physician or center shall contact the LME/MCO that serves the county where the~~  
14 ~~respondent resides or the LME/MCO that coordinated services for the respondent to inform the~~  
15 ~~LME/MCO that the respondent is being recommended for outpatient commitment. The~~  
16 ~~LME/MCO shall determine whether the respondent is a client of the LME/MCO or eligible for~~  
17 ~~services through the LME/MCO and, if so, shall identify and schedule an appointment with a~~  
18 ~~proposed outpatient treatment physician or center and provide the commitment examiner with~~  
19 ~~the name, address, and telephone number of the proposed outpatient treatment physician or~~  
20 ~~center and the date and time the respondent has been scheduled for an appointment with the~~  
21 ~~outpatient treatment physician or center. The commitment examiner shall give the respondent a~~  
22 ~~written notice listing the name, address, and telephone number of the proposed outpatient~~  
23 ~~treatment physician or center and directing the respondent to appear at the address at a~~  
24 ~~specified date and time. Prior to the appointment, the commitment examiner shall notify by~~  
25 ~~telephone the designated outpatient treatment physician or center and shall send a copy of the~~  
26 ~~notice and the commitment examiner's examination report to the physician or center.~~

27 (g) The ~~physician or eligible psychologist, commitment examiner,~~ at the completion of  
28 the examination, shall provide the respondent with specific information regarding the next steps  
29 that will occur."

30 **SECTION 25.** G.S. 122C-263.1 reads as rewritten:

31 "**~~§ 122C-263.1. Secretary's authority to waive requirement of first examination by~~**  
32 **~~physician or eligible psychologist; certify commitment examiners; training of~~**  
33 **~~certified providers — commitment examiners performing first~~**  
34 **~~examinations. examinations; LME/MCO responsibilities.~~**

35 (a) Physicians and eligible psychologists are qualified to perform the commitment  
36 examinations required under G.S. 122C-263(c) and G.S. 122C-283(c). The Secretary of Health  
37 and Human Services may, upon request of an LME, waive the requirements of G.S. 122C-261  
38 through G.S. 122C-263 and G.S. 122C-281 through G.S. 122C-283 pertaining to initial  
39 (first-level) examinations by a physician or eligible psychologist of individuals meeting the  
40 criteria of G.S. 122C-261(a) or G.S. 122C-281(a), as applicable, as follows: may individually  
41 certify to perform the first commitment examinations required by G.S. 122C-261 through  
42 G.S. 122C-263 and G.S. 122C-281 through G.S. 122C-283, other health, mental health, and  
43 substance abuse professionals whose scope of practice includes diagnosing and documenting  
44 psychiatric or substance use disorders and conducting mental status examinations to determine  
45 capacity to give informed consent to treatment as follows:

46 (1) The Secretary has received a request from an LME to substitute for a  
47 ~~physician or eligible psychologist, request:~~

48 a. To certify a licensed clinical social worker, a master's level  
49 psychiatric nurse, or nurse practitioner, a licensed professional  
50 counselor, or a physician's assistant to conduct the first examinations  
51 described in G.S. 122C-263(c) and G.S. 122C-283(c).

- 1                    b. To certify a master's level certified licensed clinical addictions  
 2                    specialist in accordance with subdivision (8) of this subsection to  
 3                    conduct the initial (first level) examinations of individuals meeting  
 4                    the criteria of G.S. 122C 261(a) or G.S. 122C 281(a). In making this  
 5                    type of request, the LME shall specifically describe all of the  
 6                    following to conduct the first examination described in  
 7                    G.S. 122C-283(c).
- 8                    a. ~~How the purpose of the statutory requirement would be better served~~  
 9                    ~~by waiving the requirement and substituting the proposed change~~  
 10                    ~~under the waiver.~~
- 11                    b. ~~How the waiver will enable the LME to improve the delivery or~~  
 12                    ~~management of mental health, developmental disabilities, and~~  
 13                    ~~substance abuse services.~~
- 14                    e. ~~How the health, safety, and welfare of individuals will continue to be~~  
 15                    ~~at least as well protected under the waiver as under the statutory~~  
 16                    ~~requirement.~~
- 17                    (2) The Secretary shall review the request and may approve it upon finding all  
 18                    of the following:
- 19                    a. The request meets the requirements of this section.
- 20                    b. ~~The request furthers the purposes of State policy under G.S. 122C 2~~  
 21                    ~~and mental health, developmental disabilities, and substance abuse~~  
 22                    ~~services reform.~~
- 23                    e. ~~The request improves the delivery of mental health, developmental~~  
 24                    ~~disabilities, and substance abuse services in the counties affected by~~  
 25                    ~~the waiver and also protects the health, safety, and welfare of~~  
 26                    ~~individuals receiving these services.~~
- 27                    d. The Department determines that the applicant possesses the  
 28                    professional licensure, registration, or certification to qualify the  
 29                    applicant as a professional whose scope of practice includes  
 30                    diagnosing and documenting psychiatric or substance use disorders  
 31                    and conducting mental status examinations to determine capacity to  
 32                    give informed consent to treatment.
- 33                    e. The applicant for certification has successfully completed the  
 34                    Department's standardized training program for involuntary  
 35                    commitment and has successfully passed the examination for that  
 36                    program.
- 37                    (3) ~~The Secretary shall evaluate the effectiveness, quality, and efficiency of~~  
 38                    ~~mental health, developmental disabilities, and substance abuse services and~~  
 39                    ~~protection of health, safety, and welfare under the waiver.~~
- 40                    (4) ~~A waiver certification granted by the Secretary under this section shall be in~~  
 41                    ~~effect for a period of up to three years and may be rescinded at any time~~  
 42                    ~~within this period if the Secretary finds the LME certified individual has~~  
 43                    ~~failed to meet the requirements of this section. Certification may be renewed~~  
 44                    ~~every three years upon completion of a refresher training program approved~~  
 45                    ~~by the Department.~~
- 46                    (5) In no event shall the ~~substitution certification~~ of a licensed clinical social  
 47                    worker, master's level psychiatric nurse, nurse practitioner, licensed  
 48                    professional counselor, physician assistant, or master's level certified clinical  
 49                    addictions specialist ~~under a waiver granted under this section~~ be construed  
 50                    as authorization to expand the scope of practice of the licensed clinical social  
 51                    worker, ~~the master's level psychiatric nurse, nurse practitioner, licensed~~

1 professional counselor, physician assistant, or the master's level certified  
 2 clinical addictions specialist.

3 (6) The Department shall require that individuals ~~performing certified to~~  
 4 perform initial examinations under the waiver ~~havethis section have~~  
 5 successfully completed the Department's standardized involuntary  
 6 commitment training program and examination. The Department shall  
 7 maintain a list of these individuals on its Internet Web site.

8 (7) ~~As part of its waiver request, the LME shall document the availability of a~~  
 9 ~~physician to provide backup support.~~

10 (7a) No less than annually, the Department shall submit a list of certified first  
 11 commitment examiners to the Chief District Court Judge of each judicial  
 12 district in North Carolina and maintain a current list of certified first  
 13 commitment examiners on its Internet Web site.

14 (8) A master's level ~~certified licensed~~ clinical addiction specialist shall only be  
 15 authorized to conduct the initial examination of individuals meeting the  
 16 criteria of G.S. 122C-281(a).

17 (b) ~~The Division of Mental Health, Developmental Disabilities, and Substance Abuse~~  
 18 ~~Services Department~~ shall expand its standardized certification training program to include  
 19 refresher training for all certified providers performing initial examinations pursuant to  
 20 subsection (a) of this section."

21 **SECTION 26.** G.S. 122C-264 reads as rewritten:

22 "**§ 122C-264. Duties of clerk of superior court and the district attorney.**

23 (a) Upon receipt of a ~~physician's or eligible psychologist's~~ commitment examiner's  
 24 finding that the respondent meets the criteria of G.S. 122C-263(d)(1) and that outpatient  
 25 commitment is recommended, the clerk of superior court of the county where the petition was  
 26 initiated, upon direction of a district court judge, shall calendar the matter for hearing and shall  
 27 notify the respondent, the proposed outpatient treatment physician or center, and the petitioner  
 28 of the time and place of the hearing. The petitioner may file a written waiver of his right to  
 29 notice under this subsection with the clerk of court.

30 (b) Upon receipt by the clerk of superior court pursuant to G.S. 122C-266(c) of a  
 31 ~~physician's or eligible psychologist's~~ finding that a respondent meets the criteria of  
 32 G.S. 122C-263(d)(2) and that inpatient commitment is recommended, the clerk of superior  
 33 court of the county where the 24-hour facility is located shall, after determination required by  
 34 G.S. 122C-261(c) and upon direction of a district court judge, assign counsel if necessary,  
 35 calendar the matter for hearing, and notify the respondent, his counsel, and the petitioner of the  
 36 time and place of the hearing. The petitioner may file a written waiver of his right to notice  
 37 under this subsection with the clerk of court.

38 (b1) Upon receipt of a ~~physician's or eligible psychologist's~~ commitment examiner's  
 39 certificate that a respondent meets the criteria of G.S. 122C-261(a) and that immediate  
 40 hospitalization is needed pursuant to G.S. 122C-262, the clerk of superior court of the county  
 41 where the treatment facility is located shall submit the certificate to the Chief District Court  
 42 Judge. The court shall review the certificate within 24 hours, excluding Saturday, Sunday, and  
 43 holidays, for a finding of reasonable grounds in accordance with 122C-261(b). The clerk shall  
 44 notify the treatment facility of the court's findings by telephone and shall proceed as set forth in  
 45 subsections (b), (c), and (f) of this section.

46 ...."

47 **SECTION 27.** G.S. 122C-265 reads as rewritten:

48 "**§ 122C-265. Outpatient commitment; examination and treatment pending hearing.**

49 (a) If a respondent, who has been recommended for outpatient commitment by ~~an~~  
 50 ~~examining physician or eligible psychologist~~ a commitment examiner different from the  
 51 proposed outpatient treatment physician or center, fails to appear for examination by the

1 proposed outpatient treatment physician or center at the designated time, the physician or center  
2 shall notify the clerk of superior court who shall issue an order to a law-enforcement officer or  
3 other person authorized under G.S. 122C-251 to take the respondent into custody and take him  
4 immediately to the outpatient treatment physician or center for evaluation. The custody order is  
5 valid throughout the State. The law-enforcement officer may wait during the examination and  
6 return the respondent to his home after the examination.

7 (b) The ~~examining physician commitment examiner~~ or the proposed outpatient  
8 treatment physician or center may prescribe to the respondent reasonable and appropriate  
9 medication and treatment that are consistent with accepted medical standards pending the  
10 district court hearing.

11 (c) In no event may a respondent released on a recommendation that he or she meets  
12 the outpatient commitment criteria be physically forced to take medication or forceably  
13 detained for treatment pending a district court hearing.

14 (d) If at any time pending the district court hearing the outpatient treatment physician or  
15 center determines that the respondent does not meet the criteria of G.S. 122C-263(d)(1), ~~he~~the  
16 physician shall release the respondent and notify the clerk of court and the proceedings shall be  
17 terminated.

18 (e) If a respondent becomes dangerous to ~~himself, self,~~ as defined in G.S. 122C-3(11)a.,  
19 or others, as defined in G.S. 122C-3(11)b., pending a district court hearing on outpatient  
20 commitment, new proceedings for involuntary inpatient commitment may be initiated.

21 (f) If an inpatient commitment proceeding is initiated pending the hearing for  
22 outpatient commitment and the respondent is admitted to a 24-hour facility to be held for an  
23 inpatient commitment hearing, notice shall be sent by the clerk of court in the county where the  
24 respondent is being held to the clerk of court of the county where the outpatient commitment  
25 was initiated and the outpatient commitment proceeding shall be terminated."

26 **SECTION 28.** G.S. 122C-266(a)(2) reads as rewritten:

27 "(2) If the physician finds that the respondent meets the criteria for outpatient  
28 commitment under G.S. 122C-263(d)(1), the physician shall show these  
29 findings on the physician's examination report, release the respondent  
30 pending the district court hearing, and notify the clerk of superior court of  
31 the county where the petition was initiated of these findings. In addition, the  
32 examining physician shall show on the examination report the name,  
33 address, and telephone number of the proposed outpatient treatment  
34 physician or center. The physician shall contact the LME/MCO that serves  
35 the county in which the respondent resides or that coordinated services for  
36 the respondent to inform the LME/MCO that the respondent is being  
37 recommended for outpatient commitment. The LME/MCO shall determine  
38 whether the respondent is a client of the LME/MCO or eligible for services  
39 through the LME/MCO and, if so, shall identify and schedule an  
40 appointment with a proposed outpatient treatment physician or center and  
41 provide the commitment examiner with the name, address, and telephone  
42 number of the proposed outpatient treatment physician or center and the date  
43 and time that the respondent has been scheduled for an appointment with the  
44 outpatient treatment physician or center. The physician shall give the  
45 respondent a written notice listing the name, address, and telephone number  
46 of the proposed outpatient treatment physician or center and directing the  
47 respondent to appear at that address at a specified date and time. The  
48 examining physician before the appointment shall notify by telephone and  
49 shall send a copy of the notice and the examination report to the proposed  
50 outpatient treatment physician or center."

51 **SECTION 29.** G.S. 122C-267(c) reads as rewritten:

1 "(c) Certified copies of reports and findings of ~~physicians and psychologists~~commitment  
2 examiners and medical records of previous and current treatment are admissible in evidence."

3 **SECTION 30.** G.S. 122C-268 reads as rewritten:

4 "**§ 122C-268. Inpatient commitment; district court hearing.**

5 (a) A hearing shall be held in district court within 10 days of the day the respondent is  
6 taken into law enforcement custody pursuant to G.S. 122C-261(e) or G.S. 122C-262. If a  
7 respondent temporarily detained under G.S. 122C-263(d)(2) is subject to a series of successive  
8 custody orders issued pursuant to G.S. 122C-263(d)(2), the hearing shall be held within 10 days  
9 after the day that the respondent is taken into custody under the most recent custody order. A  
10 continuance of not more than five days may be granted upon motion ~~of~~ of any of the following:

11 (1) ~~The court;~~court.

12 (2) ~~Respondent's counsel; or~~counsel.

13 (3) The State, sufficiently in advance to avoid movement of the respondent.

14 ...

15 (f) Certified copies of reports and findings of ~~physicians and psychologists~~commitment  
16 examiners and previous and current medical records are admissible in evidence, but the  
17 respondent's right to confront and cross-examine witnesses may not be denied.

18 (g) ~~Hearings may~~ To the extent feasible, hearings shall be held in an appropriate room  
19 not used for treatment of clients at the facility in which the respondent is being treated if it in a  
20 manner approved by the chief district court judge if the facility is located within the presiding  
21 judge's district court district as defined in G.S. 7A-133, by interactive videoconferencing  
22 between a treatment facility and a courtroom, or G.S. 7A-133. Hearings may be held in the  
23 judge's chambers. A hearing may not be held in a regular courtroom, over objection of the  
24 respondent, if in the discretion of a judge a more suitable place is available. A hearing may be  
25 held by audio and video transmission between the treatment facility and a courtroom in a  
26 manner that allows (i) the judge and the respondent to see and hear each other and (ii) the  
27 respondent to communicate fully and confidentially with the respondent's counsel during the  
28 proceeding. Prior to any hearing held by audio and video transmission, the chief district court  
29 judge shall submit to the Administrative Office of the Courts the procedures and type of  
30 equipment for audio and video transmission for approval by the Administrative Office of the  
31 Courts. Notwithstanding the provisions of this subsection, if the respondent, through counsel,  
32 objects to a hearing held by audio and video transmission, the hearing shall be held in the  
33 physical presence of the presiding district court judge. Regardless of the manner and location  
34 for hearings, hearings shall be held in a manner that complies with any applicable federal and  
35 State laws governing the confidentiality and security of confidential information, including any  
36 information transmitted from the treatment facility by audio and video transmission.

37 ...."

38 **SECTION 31.** G.S. 122C-271 reads as rewritten:

39 "**§ 122C-271. Disposition.**

40 (a) ~~If an examining physician or eligible psychologist a~~ commitment examiner has  
41 recommended outpatient commitment and the respondent has been released pending the district  
42 court hearing, the court may make one of the following dispositions:

43 (1) If the court finds by clear, cogent, and convincing evidence that the  
44 respondent is mentally ill; that he is capable of surviving safely in the  
45 community with available supervision from family, friends, or others; that  
46 based on respondent's treatment history, the respondent is in need of  
47 treatment in order to prevent further disability or deterioration that would  
48 predictably result in dangerousness as defined in G.S. 122C-3(11); and that  
49 the respondent's current mental status or the nature of his illness limits or  
50 negates his ability to make an informed decision to seek voluntarily or

- 1 comply with recommended treatment, it may order outpatient commitment  
2 for a period not in excess of 90 days.
- 3 (2) If the court does not find that the respondent meets the criteria of  
4 commitment set out in subdivision (1) of this subsection, the respondent  
5 shall be discharged and the ~~facility at which he was last a client~~proposed  
6 outpatient physician or center so notified.
- 7 (3) Before ordering any outpatient commitment under this subsection, the court  
8 shall make findings of fact as to the availability of outpatient treatment from  
9 an outpatient treatment physician or center that has agreed to accept the  
10 respondent as a client of outpatient treatment services. The court shall show  
11 on the order the outpatient treatment physician or center that is to be  
12 responsible for the management and supervision of the respondent's  
13 outpatient commitment. If the designated outpatient treatment physician or  
14 center will be monitoring and supervising the respondent's outpatient  
15 commitment pursuant to a contract for services with an LME/MCO, the  
16 court shall show on the order the identity of the LME/MCO. The clerk of  
17 court shall send a copy of the outpatient commitment order to the designated  
18 outpatient treatment physician or center and to the respondent client or the  
19 legally responsible person. If the designated outpatient treatment physician  
20 or center will be monitoring and supervising the respondent's outpatient  
21 commitment pursuant to a contract for services with an LME/MCO, the  
22 clerk of court shall also send a copy of the order to that LME/MCO. Copies  
23 of outpatient commitment orders sent by the clerk of court to an outpatient  
24 treatment center or physician under this section, including orders sent to an  
25 LME/MCO, shall be sent by the most reliable and expeditious means, but in  
26 no event less than 48 hours after the hearing.
- 27 (b) If the respondent has been held in a 24-hour facility pending the district court  
28 hearing pursuant to G.S. 122C-268, the court may make one of the following dispositions:
- 29 (1) If the court finds by clear, cogent, and convincing evidence that the  
30 respondent is mentally ill; that the respondent is capable of surviving safely  
31 in the community with available supervision from family, friends, or others;  
32 that based on respondent's psychiatric history, the respondent is in need of  
33 treatment in order to prevent further disability or deterioration that would  
34 predictably result in dangerousness as defined by G.S. 122C-3(11); and that  
35 the respondent's current mental status or the nature of the respondent's illness  
36 limits or negates the respondent's ability to make an informed decision  
37 voluntarily to seek or comply with recommended treatment, it may order  
38 outpatient commitment for a period not in excess of 90 days. If the  
39 commitment proceedings were initiated as the result of the respondent's  
40 being charged with a violent crime, including a crime involving an assault  
41 with a deadly weapon, and the respondent was found incapable of  
42 proceeding, the commitment order shall so show.
- 43 (2) If the court finds by clear, cogent, and convincing evidence that the  
44 respondent is mentally ill and is dangerous to self, as defined in  
45 G.S. 122C-3(11)a., or others, as defined in G.S. 122C-3(11)b., it may order  
46 inpatient commitment at a 24-hour facility described in G.S. 122C-252 for a  
47 period not in excess of 90 days. However, no respondent found to be both  
48 mentally retarded and mentally ill may be committed to a State, area or  
49 private facility for the mentally retarded. An individual who is mentally ill  
50 and dangerous to self, as defined in G.S. 122C-3(11)a., or others, as defined  
51 in G.S. 122C-3(11)b., may also be committed to a combination of inpatient

1 and outpatient commitment at both a 24-hour facility and an outpatient  
2 treatment physician or center for a period not in excess of 90 days. If the  
3 commitment proceedings were initiated as the result of the respondent's  
4 being charged with a violent crime, including a crime involving an assault  
5 with a deadly weapon, and the respondent was found incapable of  
6 proceeding, the commitment order shall so show. If the court orders  
7 inpatient commitment for a respondent who is under an outpatient  
8 commitment order, the outpatient commitment is terminated; and the clerk  
9 of the superior court of the county where the district court hearing is held  
10 shall send a notice of the inpatient commitment to the clerk of superior court  
11 where the outpatient commitment was being supervised.

12 (3) If the court does not find that the respondent meets either of the commitment  
13 criteria set out in subdivisions (1) and (2) of this subsection, the respondent  
14 shall be discharged, and the facility in which the respondent was last a client  
15 so notified.

16 (4) Before ordering any outpatient commitment, ~~the court shall make findings of~~  
17 ~~fact as to the availability of outpatient treatment. The court shall also show~~  
18 ~~on the order the outpatient treatment physician or center who is to be~~  
19 ~~responsible for the management and supervision of the respondent's~~  
20 ~~outpatient commitment. When an outpatient commitment order is issued for~~  
21 ~~a respondent held in a 24-hour facility, the court may order the respondent~~  
22 ~~held at the facility for no more than 72 hours in order for the facility to~~  
23 ~~notify the designated outpatient treatment physician or center of the~~  
24 ~~treatment needs of the respondent including any combination of inpatient~~  
25 ~~and outpatient commitment, the 24-hour facility shall identify for the court~~  
26 ~~an outpatient treatment physician or center that meets all of the following~~  
27 ~~criteria:~~

- 28 a. Has participated in discharge planning for the respondent.  
29 b. Has agreed to accept the respondent as a client of outpatient  
30 treatment services.  
31 c. Has scheduled the respondent for an outpatient appointment to take  
32 place no later than seven days after the respondent's discharge from  
33 the 24-hour facility.

34 The court shall make findings of fact as to the availability of an outpatient  
35 treatment physician or center that has met the conditions of this subsection.  
36 If the respondent is a client of an LME/MCO or eligible for services through  
37 an LME/MCO, and before the court orders any outpatient commitment, the  
38 LME/MCO shall participate in the respondent's discharge planning and  
39 assist the 24-hour facility in identifying an outpatient treatment physician or  
40 center that is able to comply with the provisions of this subsection. The court  
41 shall show on the order the outpatient treatment physician or center who is  
42 responsible for the management and supervision of the respondent's  
43 outpatient commitment. If the treatment center or physician shall be  
44 providing outpatient treatment services to the respondent pursuant to a  
45 contract for services with an LME/MCO, the order shall also show the  
46 LME/MCO. The clerk of court in the county where the facility is located  
47 shall send a copy of the outpatient commitment order to the designated  
48 outpatient treatment physician or center and to the respondent or the  
49 legally responsible person. If the designated outpatient treatment physician  
50 or center shall be monitoring and supervising the respondent's outpatient  
51 commitment pursuant to a contract for services with an LME/MCO, the

1 clerk of court shall also send a copy of the order to the LME/MCO. Copies  
 2 of outpatient commitment orders sent by the clerk of court to an outpatient  
 3 treatment center or physician pursuant to this subdivision, including orders  
 4 sent to an LME/MCO, shall be sent by the most reliable and expeditious  
 5 means, but in no event less than 48 hours after the hearing. If the outpatient  
 6 commitment will be supervised in a county other than the county where the  
 7 commitment originated, the court shall order venue for further court  
 8 proceedings to be transferred to the county where the outpatient commitment  
 9 will be supervised. Upon an order changing venue, the clerk of superior  
 10 court in the county where the commitment originated shall transfer the file to  
 11 the clerk of superior court in the county where the outpatient commitment is  
 12 to be supervised.

13 (c) If the respondent was found not guilty by reason of insanity and has been held in a  
 14 24-hour facility pending the court hearing held pursuant to G.S. 122C-268.1, the court may  
 15 make one of the following dispositions:

- 16 (1) If the court finds that the respondent has not proved by a preponderance of  
 17 the evidence that he no longer has a mental illness or that he is no longer  
 18 dangerous to others, it shall order inpatient treatment at a 24-hour facility for  
 19 a period not to exceed 90 days.
- 20 (2) If the court finds that the respondent has proven by a preponderance of the  
 21 evidence that he no longer has a mental illness or that he is no longer  
 22 dangerous to others, the court shall order the respondent discharged and  
 23 released."

24 **SECTION 32.** G.S. 122C-276(c) reads as rewritten:

25 "(c) Subject to the provisions of G.S. 122C-269(c), rehearings shall be held ~~at the facility~~  
 26 ~~in which the respondent is receiving treatment.~~ as authorized in G.S. 122C-268(g). The judge is  
 27 a judge of the district court of the district court district as defined in G.S. 7A-133 in which the  
 28 facility is located or a district court judge temporarily assigned to that district."

29 **SECTION 33.** G.S. 122C-281 reads as rewritten:

30 **"§ 122C-281. Affidavit and petition before clerk or magistrate; custody order.**

31 (a) Any individual who has knowledge of a substance abuser who is dangerous to  
 32 ~~himself self~~ or others may appear before a clerk or assistant or deputy clerk of superior court or  
 33 a magistrate, execute an affidavit to this effect, and petition the clerk or magistrate for issuance  
 34 of an order to take the respondent into custody for examination by a ~~physician or eligible~~  
 35 ~~psychologist commitment examiner.~~ The affidavit shall include the facts on which the affiant's  
 36 opinion is based. Jurisdiction under this subsection is in the clerk or magistrate in the county  
 37 where the respondent resides or is found.

38 (b) If the clerk or magistrate finds reasonable grounds to believe that the facts alleged in  
 39 the affidavit are true and that the respondent is probably a substance abuser and dangerous to  
 40 ~~himself self~~ or others, ~~he the clerk or magistrate~~ shall issue an order to a ~~law enforcement~~  
 41 ~~enforcement~~ officer or any other person authorized by G.S. 122C-251 to take the respondent  
 42 into custody for examination by a ~~physician or eligible psychologist commitment examiner.~~

43 (c) If the clerk or magistrate issues a custody order, ~~he the clerk or magistrate~~ shall also  
 44 make inquiry in any reliable way as to whether the respondent is indigent within the meaning of  
 45 G.S. 7A-450. A magistrate shall report the result of this inquiry to the clerk.

46 (d) If the affiant is a ~~physician or eligible psychologist commitment examiner who has~~  
 47 ~~examined the respondent,~~ he or she may execute the affidavit before any official authorized to  
 48 administer oaths. ~~He The commitment examiner~~ is not required to appear before the clerk or  
 49 magistrate for this purpose. ~~His The commitment examiner's~~ examination shall comply with the  
 50 requirements of the initial examination as provided in G.S. 122C-283(c). Such affiant shall file  
 51 the affidavit and examination findings with the clerk of court in the manner described in



1 G.S. 122C-261(d)(1). If the ~~physician or eligible psychologist~~ commitment examiner  
2 recommends commitment and the clerk or magistrate finds probable cause to believe that the  
3 respondent meets the criteria for commitment, ~~he the clerk or magistrate~~ shall issue an order to  
4 a law enforcement officer or other person designated under G.S. 122C-251(g) to take the  
5 respondent into custody for transportation to or custody at a 24-hour facility or release the  
6 respondent, facility; or if the respondent is released pending hearing, as described in  
7 G.S. 122C-283(d)(1). ~~G.S. 122C-283(d)(1).~~ order that a hearing be held as provided in  
8 G.S. 122C-284(a). If a physician or eligible psychologist executes an affidavit for commitment  
9 of a respondent, a second qualified professional shall perform the examination required by  
10 G.S. 122C-285.

11 (e) Upon receipt of the custody order of the clerk or magistrate, a ~~law enforcement~~ law  
12 enforcement officer or other person designated in the order shall take the respondent into  
13 custody within 24 hours after the order is signed. The custody order is valid throughout the  
14 State.

15 (e1) No commitment examiner, area facility, acute care hospital, general hospital, or  
16 other site of first examination, or their officials, staff, employees, or other individuals  
17 responsible for the custody, examination, detention, management, supervision, treatment, or  
18 release of an individual examined for commitment and who follows accepted professional  
19 judgment, standards, and practice, shall be held liable in any civil or criminal action for taking  
20 reasonable measures to temporarily detain an individual for the period of time necessary to  
21 complete a commitment examination, submit an affidavit to the magistrate or clerk of court,  
22 and await the issuance of a custody order as authorized by subsection (d) of this section, as long  
23 as the commitment examiner has a reasonable and good-faith belief that detention pending the  
24 examination and issuance of a custody order is necessary to protect the individual or others  
25 from bodily harm or life endangerment. If the individual is temporarily detained under the  
26 circumstances described in this subsection, the commitment examiner shall certify in the  
27 affidavit delivered to the clerk or magistrate in accordance with subdivision (d)(1) of this  
28 section the reason the individual requires temporary detention pending the issuance of a  
29 custody order.

30 (f) ~~When a petition is filed for an individual who is a resident of a single portal area,~~  
31 ~~the procedures for examination by a physician or eligible psychologist as set forth in~~  
32 ~~G.S. 122C-283(c) shall be carried out in accordance with the area plan. When an individual~~  
33 ~~from a single portal area is presented for commitment at a facility directly, he may be accepted~~  
34 ~~for admission in accordance with G.S. 122C-285. The facility shall notify the area authority~~  
35 ~~within 24 hours of admission and further planning of treatment for the individual is the joint~~  
36 ~~responsibility of the area authority and the facility as prescribed in the area plan."~~

37 **SECTION 34.** G.S. 122C-282 reads as rewritten:

38 "**§ 122C-282. Special emergency procedure for violent individuals.**

39 When an individual subject to commitment under the provisions of this Part is also violent  
40 and requires restraint and when delay in taking ~~him the individual~~ to a ~~physician or eligible~~  
41 ~~psychologist~~ commitment examiner for examination would likely endanger life or property, a  
42 ~~law enforcement~~ law enforcement officer may take the person into custody and take him or her  
43 immediately before a magistrate or clerk. The ~~law enforcement~~ law enforcement officer shall  
44 execute the affidavit required by G.S. 122C-281 and in addition shall swear that the respondent  
45 is violent and requires restraint and that delay in taking the respondent to a ~~physician or eligible~~  
46 ~~psychologist~~ commitment examiner for an examination would endanger life or property.

47 If the clerk or magistrate finds by clear, cogent, and convincing evidence that the facts  
48 stated in the affidavit are true, that the respondent is in fact violent and requires restraint, and  
49 that delay in taking the respondent to a ~~physician or eligible psychologist~~ commitment examiner  
50 for an examination would endanger life or property, ~~he the clerk or magistrate~~ shall order the

1 ~~law enforcement~~law enforcement officer to take the respondent directly to a 24-hour facility  
2 described in G.S. 122C-252.

3 Respondents received at a 24-hour facility under the provisions of this section shall be  
4 examined and processed thereafter in the same way as all other respondents under this Part."

5 **SECTION 35.** G.S. 122C-283 reads as rewritten:

6 "**§ 122C-283. Duties of law-enforcement officer; first examination by ~~physician or eligible~~  
7 ~~psychologist; commitment examiner.~~**

8 (a) Without unnecessary delay after assuming custody, the law-enforcement officer or  
9 the individual designated by the clerk or magistrate under G.S. 122C-251(g) to provide  
10 transportation shall take the respondent to an area facility identified by the LME/MCO in the  
11 crisis services plan adopted pursuant to G.S. 122C-202.2 for examination by a ~~physician or~~  
12 ~~eligible psychologist; if a physician or eligible psychologist~~commitment examiner. If the area  
13 facility identified in the plan or one of the facility's commitment examiners is not available in  
14 the area facility, ~~he~~available, the person designated to provide transportation shall take the  
15 respondent to any ~~physician or eligible psychologist~~ locally available. If a ~~physician or eligible~~  
16 psychologist is not immediately available, the respondent may be temporarily detained in an  
17 area facility if one is available; if an area facility is not available, he may be detained under  
18 appropriate supervision, in his home, other area facility or an acute care hospital as identified  
19 and provided in the LME/MCO's community crisis services plan adopted pursuant to  
20 G.S. 122C-202.2. If no identified facility or hospital is available, the respondent shall be  
21 transported to any commitment examiner available in a private hospital or a clinic, or in a  
22 general ~~hospital,~~hospital. If a commitment examiner is not available in an area facility or acute  
23 care hospital, the respondent may be temporarily detained under appropriate supervision in the  
24 area facility or hospital but not in a jail or other penal facility.

25 (a1) An area facility that is identified by the LME/MCO in accordance with  
26 G.S. 122C-202.2 as a site for conducting first examinations under subsection (a) of this section  
27 shall be capable of performing a medical screening examination of the respondent that consists  
28 of a history and physical appropriate to the respondent's complaint or condition, with ancillary  
29 testing as necessary. The medical screening examination shall be conducted by a physician or  
30 other individual who is determined by the area facility to be qualified to perform the medical  
31 screening and is practicing within the scope of his or her licensure. The respondent may either  
32 be in the physical face-to-face presence of the medical screening examiner or may be examined  
33 utilizing telemedicine equipment and procedures. If the area facility in subsection (a) of this  
34 section determines that an individual qualified to perform a medical screening examination  
35 appropriate to the respondent's complaint or condition is not available on-site or via  
36 telemedicine, the area facility shall identify and contact another area facility that is capable of  
37 performing the medical screening, or an acute care hospital, and the law enforcement officer or  
38 other designated person shall transport the respondent to the identified facility or hospital.

39 (a2) The responsible professional at an area facility or other site of first examination may  
40 transfer a respondent to an acute care hospital for emergency medical treatment, emergency  
41 medical evaluation, emergency surgery, or other medical treatment that the site of first  
42 examination is unable to provide by directing the law enforcement officer or other person  
43 designated under G.S. 122C-251(g) to transport the respondent to an identified acute care  
44 hospital. When the respondent is transferred solely for medical reasons, the original facility  
45 shall accept the return of the respondent and the respondent shall be returned to the original  
46 facility after the medical care is completed unless the responsible professionals at both facilities  
47 concur that the respondent no longer meets the criteria for commitment and recommend that the  
48 commitment proceedings be terminated. Any decision to terminate the proceedings shall be  
49 documented and reported to the clerk of superior court in accordance with subsection (e) of this  
50 section.

1 (b) The examination set forth in subsection (a) of this section is not required ~~if~~under  
2 either of the following circumstances:

3 (1) The affiant who obtained the custody order is a ~~physician or eligible~~  
4 ~~psychologist; or~~commitment examiner.

5 (2) The respondent is in custody under the special emergency procedure  
6 described in G.S. 122C-282.

7 In these cases when it is recommended that the respondent be detained in a 24-hour facility, the  
8 law-enforcement officer shall take the respondent directly to a 24-hour facility described in  
9 G.S. 122C-252.

10 (c) The ~~physician or eligible psychologist~~commitment examiner described in subsection  
11 (a) of this section shall examine the respondent as soon as possible, and in any event within 24  
12 hours, after the respondent is presented for examination. The examination shall include but is  
13 not limited to an assessment of the respondent's:

14 (1) Current and previous substance abuse including, if available, previous  
15 treatment history; and

16 (2) Dangerousness to himself or others as defined in G.S. 122C-3(11).

17 (d) After the conclusion of the ~~examination~~examination, the ~~physician or eligible~~  
18 ~~psychologist~~commitment examiner shall make the following determinations:

19 (1) If the ~~physician or eligible psychologist~~commitment examiner finds that the  
20 respondent is a substance abuser and is dangerous to ~~himself~~self or others,  
21 ~~he~~the commitment examiner shall recommend commitment and whether the  
22 respondent should be released or be held at a 24-hour facility pending  
23 hearing and shall so show on [the] his examination report. Based on the  
24 ~~physician's or eligible psychologist's~~commitment examiner's  
25 ~~recommendation~~recommendation, the ~~law enforcement~~law enforcement  
26 officer or other designated individual shall take the respondent to a 24-hour  
27 facility described in G.S. 122C-252 or release the respondent. If a 24-hour  
28 facility is not immediately available or medically appropriate, the respondent  
29 may be temporarily detained under appropriate supervision and the  
30 procedures described in G.S. 122C-263(d)(2) shall apply.

31 (2) If the ~~physician or eligible psychologist~~commitment examiner finds that the  
32 condition described in subdivision (1) of this subsection does not exist, the  
33 respondent shall be released and the proceedings terminated.

34 (e) The findings of the ~~physician or eligible psychologist~~commitment examiner and the  
35 facts on which they are based shall be in writing in all cases. A copy of the findings shall be  
36 sent to the clerk of superior court by the most reliable and expeditious means. If it cannot be  
37 reasonably anticipated that the clerk will receive the copy within 48 hours ~~of~~after the time ~~that~~  
38 it was signed, the ~~physician or eligible psychologist~~commitment examiner shall also  
39 communicate ~~his~~the findings to the clerk by telephone."

40 **SECTION 36.** G.S. 122C-284 reads as rewritten:

41 "**§ 122C-284. Duties of clerk of superior court.**

42 (a) Upon receipt by the clerk of superior court of a ~~physician's or eligible psychologist's~~  
43 finding made by a commitment examiner or other qualified professional pursuant to  
44 G.S. 122C-285(c) that a respondent is a substance abuser and dangerous to ~~himself~~self or  
45 others and that commitment is recommended, the clerk of superior court of the county where  
46 the facility is located, if the respondent is held in a 24-hour facility, or the clerk of superior  
47 court where the petition was initiated shall upon direction of a district court judge assign  
48 counsel, calendar the matter for hearing, and notify the respondent, ~~his~~respondent's counsel,  
49 and the petitioner of the time and place of the hearing. The petitioner may file a written waiver  
50 of ~~his~~the right to notice under this subsection with the clerk of court.

1 (b) Notice to the respondent required by subsection (a) of this section shall be given as  
2 provided in G.S. 1A-1, Rule 4(j) at least 72 hours before the hearing. Notice to other  
3 individuals shall be given by mailing at least 72 hours before the hearing a copy by first-class  
4 mail postage prepaid to the individual at his or her last known address. G.S. 1A-1, Rule 6 shall  
5 not apply.

6 (c) Upon receipt of notice that transportation is necessary to take a committed  
7 respondent to a 24-hour facility pursuant to G.S. 122C-290(b), the clerk shall issue a custody  
8 order for the respondent.

9 (d) The clerk of superior court shall upon the direction of a district court judge calendar  
10 all hearings, supplemental hearings, and rehearings and provide all notices required by this  
11 Part."

12 **SECTION 37.** G.S. 122C-285 reads as rewritten:

13 "**§ 122C-285. Commitment; second examination and treatment pending hearing.**

14 (a) Within 24 hours of arrival at a 24-hour facility described in G.S. 122C-252, the  
15 respondent shall be examined by a qualified professional. This professional shall be a physician  
16 if the initial commitment evaluation was conducted by ~~an eligible psychologist~~ a commitment  
17 examiner who is not a physician. The examination shall include the assessment specified in  
18 G.S. 122C-283(c). If the physician or qualified professional finds that the respondent is a  
19 substance abuser and is dangerous to ~~himself~~ self or others, ~~he~~ the physician or qualified  
20 professional shall hold and treat the respondent at the facility or designate other treatment  
21 pending the district court hearing. If the physician or qualified professional finds that the  
22 respondent does not meet the criteria for commitment under G.S. 122C-283(d)(1), ~~he~~ the  
23 physician or qualified professional shall release the respondent and the proceeding shall be  
24 terminated. In this case the reasons for the release shall be reported in writing to the clerk of  
25 superior court of the county in which the custody order originated. If the respondent is released,  
26 the ~~law enforcement~~ law enforcement officer or other person designated to provide  
27 transportation shall return the respondent to the originating county.

28 (b) If the 24-hour facility described in G.S. 122C-252 is the facility in which the first  
29 examination by a ~~physician or eligible psychologist~~ commitment examiner occurred and is the  
30 same facility in which the respondent is held, the second examination must occur not later than  
31 the following regular working day.

32 (c) The findings of the physician or qualified professional along with the facts on which  
33 they are based shall be made in writing in all cases. A copy of the written findings shall be sent  
34 to the clerk of superior court by reliable and expeditious means."

35 **SECTION 38.** G.S. 122C-286 reads as rewritten:

36 "**§ 122C-286. Commitment; district court hearing.**

37 (a) A hearing shall be held in district court within 10 days of the day the respondent is  
38 taken into custody. If a respondent temporarily detained under G.S. 122C-263(d)(2) is subject  
39 to a series of successive custody orders issued pursuant to G.S. 122C-263(d)(2), the hearing  
40 shall be held within 10 days after the day the respondent is taken into custody under the most  
41 recent custody order. Upon its own motion or upon motion of the responsible professional, the  
42 respondent, or the State, the court may grant a continuance of not more than five days.

43 (b) The respondent shall be present at the ~~hearing~~ hearing unless the respondent,  
44 through counsel, submits a written waiver of personal appearance. A subpoena may be issued  
45 to compel the respondent's presence at a hearing. The petitioner and the responsible  
46 professional of the area ~~authority~~ facility or the proposed treating physician or ~~his~~ a designee of  
47 the proposed treating physician may be present and may provide testimony.

48 (c) Certified copies of reports and findings of ~~physicians and psychologists~~ physicians,  
49 psychologists, and other commitment examiners and medical records of previous and current  
50 treatment are admissible in evidence, but the respondent's right to confront and cross-examine  
51 witnesses shall not be denied.

1 (d) The respondent may be represented by counsel of his-choice. If the respondent is  
2 indigent within the meaning of G.S. 7A-450, counsel shall be appointed to represent the  
3 respondent in accordance with rules adopted by the Office of Indigent Defense Services.

4 (e) Hearings may be held at a facility if it is located within the judge's district court  
5 district as defined in G.S. 7A-133 or in the judge's chambers. A hearing may not be held in a  
6 regular courtroom, over objection of the respondent, if in the discretion of a judge a more  
7 suitable place is available.

8 (f) The hearing shall be closed to the public unless the respondent requests otherwise.  
9 The hearing for a respondent being held at a 24-hour facility shall be held in a location and in  
10 the manner provided in G.S. 122C-268(g).

11 (g) A copy of all documents admitted into evidence and a transcript of the proceedings  
12 shall be furnished to the respondent on request by the clerk upon the direction of a district court  
13 judge. If the respondent is indigent, the copies shall be provided at State expense.

14 (h) To support a commitment order, the court shall find by clear, cogent, and  
15 convincing evidence that the respondent meets the criteria specified in G.S. 122C-283(d)(1).  
16 The court shall record the facts that support its findings and shall show on the order the area  
17 authority-facility or physician who is responsible for the management and supervision of the  
18 respondent's treatment."

19 **SECTION 39.** G.S. 122C-287 reads as rewritten:

20 **"§ 122C-287. Disposition.**

21 The court may make one of the following dispositions:

22 (1) If the court finds by clear, cogent, and convincing evidence that the  
23 respondent is a substance abuser and is dangerous to ~~himself-self~~ or others, it  
24 shall order for a period not in excess of 180 days commitment to and  
25 treatment by an area authority-facility or physician who is responsible for the  
26 management and supervision of the respondent's commitment and treatment.  
27 Before ordering commitment to and treatment by an area facility or a  
28 physician who is not a physician at an inpatient facility, the court shall  
29 follow the procedures specified in G.S. 122C-271(a)(3) and  
30 G.S. 122C-271(b)(4), as applicable. The court shall not order commitment to  
31 an area facility unless the respondent is eligible for services at the area  
32 facility through an LME/MCO or otherwise qualifies for the provision of  
33 services offered by the provider.

34 (2) If the court finds that the respondent does not meet the commitment criteria  
35 set out in subdivision (1) of this subsection, the respondent shall be  
36 discharged and the facility in which he was last treated so notified."

37 **SECTION 40.** G.S. 122C-290 reads as rewritten:

38 **"§ 122C-290. Duties for follow-up on commitment order.**

39 (a) The area authority-facility or physician responsible for management and supervision  
40 of the respondent's commitment and treatment may prescribe or administer to the respondent  
41 reasonable and appropriate treatment either on an outpatient basis or in a 24-hour facility.

42 (b) If the respondent whose treatment is provided on an outpatient basis fails to comply  
43 with all or part of the prescribed treatment after reasonable effort to solicit the respondent's  
44 compliance or whose treatment is provided on an inpatient basis is discharged in accordance  
45 with G.S. 122C-205.1(b), the area authority-facility or physician may request the clerk or  
46 magistrate to order the respondent taken into custody for the purpose of examination. Upon  
47 receipt of this request, the clerk or magistrate shall issue an order to a law enforcement officer  
48 to take the respondent into custody and to take him immediately to the designated area  
49 authority-facility or physician for examination. The custody order is valid throughout the State.  
50 The law enforcement officer shall turn the respondent over to the custody of the physician or  
51 area authority-facility who shall conduct the examination and release the respondent or have the

1 respondent taken to a 24-hour facility upon a determination that treatment in the facility will  
2 benefit the respondent. Transportation to the 24-hour facility shall be provided as specified in  
3 G.S. 122C-251, upon notice to the clerk or magistrate that transportation is necessary, or as  
4 provided in G.S. 122C-408(b). If placement in a 24-hour facility is to exceed 45 consecutive  
5 days, the area ~~authority-facility~~ or physician shall notify the clerk of court by the 30th day and  
6 request a supplemental hearing as specified in G.S. 122C-291.

7 (c) If the respondent intends to move or moves to another county within the State, the  
8 area ~~authority-facility~~ or physician shall notify the clerk of court in the county where the  
9 commitment is being supervised and request that a supplemental hearing be calendared.

10 (d) If the respondent moves to another state or to an unknown location, the designated  
11 area ~~authority-facility~~ or physician shall notify the clerk of superior court of the county where  
12 the commitment is supervised and the commitment shall be terminated."

13 **SECTION 41.** G.S. 122C-291 reads as rewritten:

14 "**§ 122C-291. Supplemental hearings.**

15 (a) Upon receipt of a request for a supplemental hearing, the clerk shall calendar a  
16 hearing to be held within 14 days and notify, at least 72 hours before the hearing, the petitioner,  
17 the respondent, his attorney, if any, and the designated area ~~authority-facility~~ or physician.  
18 Notice shall be provided in accordance with G.S. 122C-284(b). The procedures for the hearing  
19 shall follow G.S. 122C-286.

20 (b) At the supplemental hearing for a respondent who has moved or may move to  
21 another county, the court shall determine if the respondent meets the criteria for commitment  
22 set out in G.S. 122C-283(d)(1). If the court determines that the respondent no longer meets the  
23 criteria for commitment, it shall discharge the respondent from the order and dismiss the case.  
24 If the court determines that the respondent continues to meet the criteria for commitment, it  
25 shall continue the commitment but shall designate an area ~~authority-facility~~ or physician at the  
26 respondent's new residence to be responsible for the management or supervision of the  
27 respondent's commitment. The court shall order the respondent to appear for treatment at the  
28 address of the newly designated area ~~authority-facility~~ or physician and shall order venue for  
29 further court proceedings under the commitment to be transferred to the new county of  
30 supervision. Upon an order changing venue, the clerk of court in the county where the  
31 commitment has been supervised shall transfer the records regarding the commitment to the  
32 clerk of court in the county where the commitment will be supervised. Also, the clerk of court  
33 in the county where the commitment has been supervised shall send a copy of the court's order  
34 directing the continuation of treatment under new supervision to the newly designated area  
35 ~~authority-facility~~ or physician.

36 (c) At a supplemental hearing for a respondent to be held longer than 45 consecutive  
37 days in a 24-hour facility, the court shall determine if the respondent meets the criteria for  
38 commitment set out in G.S. 122C-283(d)(1). If the court determines that the respondent  
39 continues to meet the criteria and that further treatment in the 24-hour facility is necessary, the  
40 court may authorize continued care in the facility for not more than 90 days, after which a  
41 rehearing for the purpose of determining the need for continued care in the 24-hour facility  
42 shall be held, or the court may order the respondent released from the 24-hour facility and  
43 continued on the commitment on an outpatient basis. If the court determines that the respondent  
44 no longer meets the criteria for commitment the respondent shall be released and his case  
45 dismissed.

46 (d) At any time during the term of commitment order, a respondent may apply to the  
47 court for a supplemental hearing for the purpose of discharge from the order. The application  
48 shall be made in writing to the clerk of superior court. At the supplemental hearing the court  
49 shall determine whether the respondent continues to meet the criteria for commitment. The  
50 court may reissue or change the commitment order or discharge the respondent and dismiss the  
51 case."

1           **SECTION 42.** G.S. 122C-292 reads as rewritten:

2   "**§ 122C-292. Rehearings.**

3       (a) Fifteen days before the end of the initial or subsequent periods of commitment if the  
4 area ~~authority-facility~~ or physician determines that the respondent continues to meet the criteria  
5 specified in G.S. 122C-283(d)(1), the clerk of superior court of the county where commitment  
6 is supervised shall be notified. The clerk, at least 10 days before the end of the commitment  
7 period, on order of the district court, shall calendar the rehearing. If the respondent no longer  
8 meets the criteria, the area ~~authority-facility~~ or physician shall so notify the clerk who shall  
9 dismiss the case.

10       (b) Rehearings are governed by the same notice and procedures as initial hearings, and  
11 the respondent has the same rights ~~he had~~ that were available to the respondent at the initial  
12 hearing including the right to appeal.

13       (c) If the court finds that the respondent no longer meets the criteria of  
14 G.S. 122C-283(d)(1), it shall unconditionally discharge him. A copy of the discharge order  
15 shall be furnished by the clerk to the designated area ~~authority-facility~~ or physician. If the  
16 respondent continues to meet the criteria of G.S. 122C-283(d)(1), the court may order  
17 commitment for additional periods not in excess of 365 days each."

18           **SECTION 43.** G.S. 122C-293 reads as rewritten:

19   "**§ 122C-293. Release by area authority or physician.**

20       The area ~~authority-facility~~ or physician as designated in the order shall discharge a  
21 committed respondent unconditionally at any time ~~he~~ the physician determines that the  
22 respondent no longer meets the criteria of G.S. 122C-283(d)(1). Notice of discharge and the  
23 reasons for the release shall be reported in writing to the clerk of superior court of the county in  
24 which the commitment was ordered."

25           **SECTION 44.** G.S. 122C-294 reads as rewritten:

26   "**§ 122C-294. Local plan.**

27       Each area authority shall develop a local plan in accordance with G.S. 122C-202.2 with  
28 local law-enforcement agencies, local courts, local hospitals, and ~~local medical societies~~ others  
29 as necessary to facilitate implementation of this Part."

30           **SECTION 45.(a)** Each LME/MCO shall submit to the Department of Health and  
31 Human Services a copy of its current community crisis services plan adopted pursuant to  
32 G.S. 122C-202.2, as enacted by this act, by the earlier of (i) 12 months after the date the  
33 Department receives notification that the federal Centers for Medicaid and Medicare has  
34 approved all necessary waivers and State Plan amendments for Medicaid and NC Health  
35 Choice transformation as provided for in S.L. 2015-245, as amended, or (ii) six months prior to  
36 the date the Department actually initiates capitated contracts with Prepaid Health Plans, as  
37 defined in Section 4 of S.L. 2015-245, as amended, for the delivery of Medicaid and NC Health  
38 Choice services. The Department shall notify each LME/MCO when the earlier of these  
39 conditions occurs.

40           **SECTION 45.(b)** This section is effective when it becomes law.

41           **SECTION 46.** Except as otherwise provided, this act becomes effective December  
42 1, 2017, and applies to proceedings initiated on or after that date.