

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 193
Committee Substitute Favorable 4/5/23
PROPOSED SENATE COMMITTEE SUBSTITUTE H193-PCS30391-TU-18

Short Title: AOC Ct Changes/Amd Expunction.

(Public)

Sponsors:

Referred to:

February 27, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES AND TECHNICAL CORRECTIONS TO THE
3 LAWS GOVERNING THE ADMINISTRATION OF JUSTICE, AS RECOMMENDED BY
4 THE ADMINISTRATIVE OFFICE OF THE COURTS AND TO ALLOW FOR THE
5 EXPUNCTION OF THE OFFENSE OF BREAKING AND ENTERING OF A BUILDING
6 WITH INTENT TO COMMIT A FELONY OR LARCENY AND AMEND THE
7 CONDITIONS THAT RESULT IN A PETITION FOR EXPUNCTION BEING DENIED.

8 The General Assembly of North Carolina enacts:

9
10 **AUTHORIZE DEBIT AND CREDIT CARD PAYMENTS OF JUDGMENTS**

11 **SECTION 1.(a)** G.S. 1-239(a) reads as rewritten:

12 "(a) Payment of money judgment to clerk's office.

13 (1) The party against whom a judgment for the payment of money is rendered by
14 any court of record may pay the whole, or any part thereof, in cash or by check,
15 to the clerk of the court in which the same was rendered, although no
16 execution has issued on ~~such~~ the judgment. With the approval of, and pursuant
17 to procedures approved by, the Director of the Administrative Office of the
18 Courts, the party against whom a judgment for payment of money is rendered
19 may also pay the whole, or any part thereof, by credit card, debit card, or other
20 electronic payment method to the clerk of the court in which the same was
21 rendered, although no execution has issued on the judgment.

22 ...

23 (3) When a payment to the clerk is made in ~~cash~~ cash, by credit or debit card or
24 other electronic payment method, or when a check is finally paid by the
25 drawee bank, the clerk shall give the notice provided for in subsection (b).
26 When the full amount of a judgment has been so paid, the clerk shall include
27 the words "JUDGMENT PAID IN FULL" in the notice.

28"

29 **SECTION 1.(b)** This section becomes effective October 1, 2023.

30
31 **INDIGENCY SCOPE OF ENTITLEMENT TECHNICAL CORRECTION**

32 **SECTION 2.** G.S. 7A-451(a) reads as rewritten:

33 "(a) An indigent person is entitled to services of counsel in the following actions and
34 proceedings:

35 ...



* H 1 9 3 - P C S 3 0 3 9 1 - T U - 1 8 *

1 (14) A proceeding to terminate parental rights where a guardian ad litem is
2 appointed pursuant to G.S. 7B-1101.G.S. 7B-1101.1.
3"
4

5 REMOTE ELECTRONIC NOTARIZATION TECHNICAL CORRECTION

6 **SECTION 3.** Section 3(d) of S.L. 2022-54 reads as rewritten:

7 "**SECTION 3.(d)** Any emergency video notarization completed after December 31, 2021,
8 and before the effective date of this act shall be deemed valid and cured if ~~such~~that act was
9 performed in conformity with ~~G.S. 10B-200~~G.S. 10B-201 as it existed on December 31, 2021."
10

11 REPEAL ANNUAL LEGISLATIVE REPORT ON FEE WAIVER NOTICE 12 IMPLEMENTATION

13 **SECTION 4.** G.S. 7A-304(a2) is repealed.
14

15 REPEAL CLERK AND MAGISTRATE BOND REQUIREMENTS

16 **SECTION 5.(a)** G.S. 7A-107 is repealed.

17 **SECTION 5.(b)** G.S. 7A-174 is repealed.

18 **SECTION 5.(c)** G.S. 7A-11 reads as rewritten:

19 "**§ 7A-11. Clerk of the Supreme Court; salary; ~~bond~~; fees; oath.**

20 The clerk of the Supreme Court shall be appointed by the Supreme Court to serve at its
21 pleasure. The annual salary of the clerk shall be fixed by the Administrative Officer of the Courts,
22 subject to the approval of the Supreme Court. The clerk may appoint assistants in the number
23 and at the salaries fixed by the Administrative Officer of the Courts. The clerk shall perform ~~such~~
24 all duties as the Supreme Court may assign, ~~and shall be bonded to the State, for faithful~~
25 ~~performance of duty, in the same manner as the clerk of the superior court, and in such amount~~
26 ~~as the Administrative Officer of the Courts shall determine.~~ assign. The clerk shall adopt a seal
27 of office, to be approved by the Supreme Court. A fee bill for services rendered by the clerk shall
28 be fixed by rules of the Supreme Court, and all ~~such~~those fees shall be remitted to the State
29 treasury. Charges to litigants for document management and the reproduction of appellate records
30 and briefs shall be fixed by rule of the Supreme Court and remitted to the Appellate Courts
31 Printing and Computer Operations Fund established in G.S. 7A-343.3. The operations of the
32 Clerk of the Supreme Court shall be subject to the oversight of the State Auditor pursuant to
33 Article 5A of Chapter 147 of the General Statutes. Before entering upon the duties of ~~his~~the
34 clerk's office, the clerk shall take the oath of office prescribed by law."
35

36 **SECTION 5.(d)** G.S. 7A-20 reads as rewritten:

37 "**§ 7A-20. Clerk; oath; ~~bond~~; salary; assistants; fees.**

38 (a) The Court of Appeals shall appoint a clerk to serve at its pleasure. Before entering
39 upon the clerk's duties, the clerk shall take the oath of office prescribed for the clerk of the
40 Supreme Court, conformed to the office of clerk of the Court of Appeals, ~~and shall be bonded,~~
41 ~~in the same manner as the clerk of superior court, in an amount prescribed by the Administrative~~
42 ~~Officer of the Courts, payable to the State, for the faithful performance of the clerk's duties.~~
43 Appeals. The salary of the clerk shall be fixed by the Administrative Officer of the Courts, subject
44 to the approval of the Court of Appeals. The number and salaries of the clerk's assistants, and
45 their bonds, if required, shall be fixed by the Administrative Officer of the Courts. The clerk shall
46 adopt a seal of office, to be approved by the Court of Appeals.
47

48"

49 MODIFY VARIOUS PROVISIONS AFFECTING THE CONFERENCE OF DISTRICT 50 ATTORNEYS OF NORTH CAROLINA

51 **SECTION 6.(a)** Article 32 of Chapter 7A of the General Statutes is amended by
adding new sections to read:

1 **"§ 7A-415. Resource prosecutors.**

2 The Conference of District Attorneys may employ resource prosecutors as appointed by the
3 executive director. A resource prosecutor shall be an attorney licensed and eligible to practice in
4 the courts of this State and shall serve at the pleasure of the executive director. A resource
5 prosecutor shall take the same oath of office as a district attorney in this State and shall be
6 authorized to represent the State in any court of this State without taking an additional oath. When
7 assisting a district attorney, a resource prosecutor shall have the same authority, power, and
8 privileges as an assistant district attorney serving in the requesting district attorney's office.

9 **"§ 7A-416. Conference of District Attorneys legislative liaison.**

10 The Conference of District Attorneys may designate liaison personnel to lobby for legislative
11 action in accordance with Article 5 of Chapter 120C of the General Statutes."

12 **SECTION 6.(b)** G.S. 120C-500(d) reads as rewritten:

13 "(d) The Chief Justice of the Supreme Court shall designate at least one, but no more than
14 four, liaison personnel to lobby for legislative action for all offices, conferences, commissions,
15 and other agencies established under Chapter 7A of the General Statutes. This subsection shall
16 not apply to any conference or office created under Article 32 or Article 60 of Chapter 7A of the
17 General Statutes, so long as ~~that office complies~~ those offices comply with subsection (a) of this
18 section."

19 **SECTION 6.(c)** This section becomes effective July 1, 2023.

20
21 **ADVERSE CHILDHOOD EXPERIENCES TRAINING FOR JUVENILE JUDGES**

22 **SECTION 7.** G.S. 7A-147(c) reads as rewritten:

23 "(c) The policy of the State is to encourage specialization in juvenile cases by district court
24 judges who are qualified by training and temperament to be effective in relating to youth and in
25 the use of appropriate community resources to meet their needs. The Administrative Office of
26 the Courts is therefore authorized to encourage judges who hear juvenile cases to secure
27 appropriate training whether or not they were elected to a specialized judgeship as provided
28 herein. ~~Such~~ This training shall be provided within the funds available to the Administrative
29 Office of the Courts for ~~such~~ this training, and judges attending ~~such~~ the training shall be
30 reimbursed for travel and subsistence expenses at the same rate as is applicable to other State
31 employees.

32 The Administrative Office of the Courts shall develop a plan whereby a district court judge
33 may be better qualified to hear juvenile cases by reason of training, experience, and demonstrated
34 ability. Any district court judge who completes the training under this ~~plan~~ plan, which shall
35 include trauma-informed training on recognizing and mitigating adverse childhood experiences
36 and adverse community environments, shall receive a certificate to this effect from the
37 Administrative Office of the Courts. In districts where there is a district court judge who has
38 completed this training as herein provided, the chief district judge shall give due consideration
39 in the assignment of ~~such~~ juvenile cases where practical and feasible."
40

41 **DELEGATION OF JURY EXCUSES**

42 **SECTION 8.(a)** G.S. 9-6(b) reads as rewritten:

43 "(b) Pursuant to the foregoing policy, each chief district court judge shall promulgate
44 procedures whereby the chief district court judge or any district court judge of the chief district
45 court judge's district court district designated by the chief district court judge, prior to the date
46 that a jury session (or sessions) of superior or district court convenes, shall receive, hear, and
47 pass on applications for excuses from jury duty. The procedures shall provide for the time and
48 place, publicly announced, at which applications for excuses will be heard, and prospective jurors
49 who have been summoned for service shall be so informed. The chief district judge may assign
50 the duty of passing on applications for excuses from jury service to judicial support ~~staff~~ staff,
51 or may, with the clerk's consent, delegate that authority to the clerk of superior court. In all cases

1 concerning excuses, the clerk of superior court or judicial support staff shall notify prospective
2 jurors of the disposition of their excuses."

3 **SECTION 8.(b)** G.S. 9-6.1 reads as rewritten:

4 **"§ 9-6.1. Requests to be excused.**

5 (a) Any person summoned as a juror who is a full-time student and who wishes to be
6 excused pursuant to G.S. 9-6(b1) or who is 72 years or older and who wishes to be excused,
7 deferred, or exempted, may make the request without appearing in person by filing a signed
8 statement of the ground of the request with the chief district court judge of that district, or the
9 district court ~~judge-judge, clerk of superior court,~~ or judicial support staff member designated by
10 the chief district court judge pursuant to G.S. 9-6(b), at any time five business days before the
11 date upon which the person is summoned to appear.

12 (b) Any person summoned as a juror who has a disability that could interfere with the
13 person's ability to serve as a juror and who wishes to be excused, deferred, or exempted may
14 make the request without appearing in person by filing a signed statement of the ground of the
15 request, including a brief explanation of the disability that interferes with the person's ability to
16 serve as a juror, with the chief district court judge of that district, or the district court ~~judge-judge,~~
17 ~~clerk of superior court,~~ or judicial support staff member designated by the chief district court
18 judge pursuant to G.S. 9-6(b), at any time five business days before the date upon which the
19 person is summoned to appear. Upon request of the court, medical documentation of any
20 disability may be submitted. Any privileged medical information or protected health information
21 described in this section shall be confidential and shall be exempt from the provisions of Chapter
22 132 of the General Statutes or any other provision requiring information and records held by
23 State agencies to be made public or accessible to the public.

24 (c) A person may request either a temporary or permanent exemption under this section,
25 and the ~~judge-judge, clerk of superior court,~~ or judicial support staff member may accept or reject
26 either in the exercise of discretion conferred by G.S. 9-6(b), including the substitution of a
27 temporary exemption for a requested permanent exemption. In the case of supplemental jurors
28 summoned under G.S. 9-11, notice may be given when summoned. In case the chief district court
29 judge, or the ~~judge-judge, clerk of superior court,~~ or judicial support staff member designated by
30 the chief district court judge pursuant to G.S. 9-6(b), rejects the request for exemption, the
31 prospective juror shall be immediately notified by the judicial support staff member or the clerk
32 of court by telephone, letter, or personally."

33 **SECTION 8.(c)** This section becomes effective October 1, 2023.

34
35 **FILING OF CERTAIN BOND DOCUMENTS WITH THE CLERK**

36 **SECTION 9.(a)** G.S. 58-72-50 reads as rewritten:

37 **"§ 58-72-50. Approval, acknowledgment and custody of bonds.**

38 The approval of all official bonds taken or renewed by the board of commissioners shall be
39 recorded by the clerk to the board. ~~Every such~~ Each bond shall be acknowledged by the parties
40 thereto or proved by a subscribing witness, before the chairman of the board of commissioners,
41 or before the clerk of the superior court, and ~~the original bond, filed with the clerk of the superior~~
42 court with the approval of the commissioners endorsed thereon and certified by their chairman,
43 ~~shall be deposited with the clerk of the superior court for safekeeping. the chairman of the board~~
44 of commissioners. Provided that an official bond executed as surety by a surety company
45 authorized to do business in this State need not be acknowledged upon behalf of the surety when
46 ~~such that~~ bond is executed under seal in the name of the surety by an agent or attorney-in-fact by
47 authority of a power of attorney duly recorded in the office of the register of deeds of ~~such that~~
48 county."

49 **SECTION 9.(b)** G.S. 162-9 reads as rewritten:

50 **"§ 162-9. County commissioners to take and approve bonds.**

1 The board of county commissioners in every county shall take and approve the official bond
 2 of the sheriffs, which they shall cause to be registered ~~and the original deposited with the register~~
 3 of deeds and filed with the clerk of superior court for safekeeping. ~~court.~~ The bond shall be taken
 4 on or before the first Monday of December next after the election."
 5

6 CLARIFY CHIEF MAGISTRATE DELEGATED AUTHORITY

7 SECTION 10. G.S. 7A-146 reads as rewritten:

8 "§ 7A-146. Administrative authority and duties of chief district judge.

9 The chief district judge, subject to the general supervision of the Chief Justice of the Supreme
 10 Court, has administrative supervision and authority over the operation of the district courts and
 11 magistrates in the chief district judge's district. These powers and duties include, but are not
 12 limited to, the following:

13 ...

- 14 (9) Assigning magistrates when exigent circumstances exist to temporary duty
 15 outside the county of their appointment but within that district pursuant to the
 16 policies and procedures prescribed under G.S. 7A-343(11). The chief district
 17 judge may, in writing, delegate the authority to assign magistrates in this
 18 subdivision to an appointed chief magistrate. A chief magistrate with authority
 19 delegated under this subdivision shall make monthly reports to the chief
 20 district judge of the times and places actually served by each magistrate.
- 21 (10) Designating another district judge of ~~his~~ that district as acting chief district
 22 judge, to act during the absence or disability of the chief district judge.
- 23 (11) Designating certain magistrates to appoint counsel and accept waivers of
 24 counsel pursuant to Article 36 of this Chapter. This designation does not give
 25 any magistrate the authority to appoint counsel or accept waivers of counsel
 26 for potentially capital offenses, as defined by rules adopted by the Office of
 27 Indigent Defense Services. The chief district judge may delegate, in writing,
 28 the authority to designate magistrates in this subdivision to an appointed chief
 29 magistrate.
- 30 (12) Designating a full-time magistrate in a county to serve as chief magistrate for
 31 that county for an indefinite term and at the judge's pleasure. The chief
 32 magistrate shall have the derivative administrative authority assigned by the
 33 chief district court judge under ~~subdivision (4)~~ subdivisions (4), (9), (11), and
 34 (13) of this section. This subdivision applies only to counties in which the
 35 chief district court judge determines that designating a chief magistrate would
 36 be in the interest of justice.
- 37 (13) Investigating written complaints against magistrates. The chief district judge
 38 may, in writing, delegate authority to an appointed chief magistrate to make
 39 preliminary investigations into written complaints against magistrates and to
 40 make a written report of their preliminary findings to the chief district judge.
 41 However, the delegation shall not authorize the chief magistrate to make
 42 written findings of misconduct or take any disciplinary action. Upon
 43 investigation and written findings of misconduct in violation of the Rules of
 44 Conduct for Magistrates, a chief district court judge may discipline a
 45 magistrate in accordance with the Rules of Conduct for Magistrates. Written
 46 complaints received by the chief district court judge and records of
 47 investigations into those complaints are to be treated as personnel records
 48 under Article 7 of Chapter 126 of the General Statutes. Notwithstanding
 49 Article 7 of Chapter 126 of the General Statutes, once a letter of caution,
 50 written reprimand, or suspension has been issued by the chief district court
 51 judge, the written complaint, and the record of the chief district court judge's

1 action on that complaint, including any investigatory records, are no longer
2 confidential personnel records."
3

4 **AUTHORIZE REDACTION OF CONFIDENTIAL INFORMATION FROM PUBLICLY**
5 **ACCESSIBLE COPIES OR IMAGES OF COURT RECORDS**

6 **SECTION 11.** G.S. 132-1.10 reads as rewritten:

7 "**§ 132-1.10. Social security numbers and other personal identifying information.**

8 ...

9 (c) Subsection (b) of this section does not apply in the following circumstances:

10 ...

11 (7) To any ~~document filed in the~~ official records of the courts.

12 ...

13 (f1) Without a request made pursuant to subsection (f) of this section, a register of deeds,
14 clerk of court, or the Administrative Office of the Courts may remove from images or copies of
15 publicly accessible official records any of the identifying and financial information listed in
16 subsection (f) of this section and any other information that is confidential under applicable law
17 that is contained in that official record. Registers of deeds, clerks of court, and the Administrative
18 Office of the Courts may apply optical character recognition technology or other reasonably
19 available technology to publicly accessible official records in order to, in good faith, identify and
20 redact any of the identifying and financial information listed in subsection (f) of this section.
21 Notwithstanding the foregoing, law enforcement personnel, judicial officials, and parties to a
22 case and their counsel shall be entitled to access, inspect, and copy unredacted records.

23 ...

24 (h) Any affected person may petition the court for an order directing compliance with
25 this section. No liability shall accrue ~~to to, and no requirements under G.S. 75-65 shall be~~
26 imposed on, a register of deeds or clerk of court or to ~~his or her~~ that official's agent for any action
27 related to provisions of this section or for any claims or damages that might result from a social
28 security number or other identifying information on the public record or on a register of deeds'
29 or clerk of court's Internet website available to the general public or an Internet Web site available
30 to the general public used by a register of deeds or clerk of court."
31

32 **REVISIONS TO SERVICE OF PROCESS STATUTES FOR ECOURTS FILINGS**

33 **SECTION 12.(a)** G.S. 1A-1, Rule 5 reads as rewritten:

34 "**Rule 5. Service and filing of pleadings and other papers.**

35 ...

36 (a2) Service by the Court. – With respect to any document filed by the court that is required
37 to be served, service by the court may be made by a notice that identifies the document filed and
38 directs the recipient to an internet location where the document is available to the recipient.

39 (b) Service – How made. – A pleading setting forth a counterclaim or cross claim shall
40 be filed with the court and a copy thereof shall be served on the party against whom it is asserted
41 or on the party's attorney of record as provided by this subsection.

42 With respect to all pleadings subsequent to the original complaint and other papers required
43 or permitted to be served, service shall be made upon the party's attorney of record and, if ordered
44 by the court, also upon the party. If the party has no attorney of record, service shall be made
45 upon the party.

46 Service is made under this subsection if performed on an attorney through the court's
47 electronic filing system or case management system at an email address of record with the court.
48 Service is made under this subsection if performed on a party through the court's electronic filing
49 system or case management system at an email address of record with the court in the case if the
50 party has consented to receive service through the court's electronic filing or case management
51 system and a copy of the consent is filed with the court by any party. Service through the court's

1 electronic filing or case management system must be sent by 5:00 P.M. Eastern Time on a regular
2 business day. If the service is sent after 5:00 P.M., it will be deemed to have been sent on the
3 next business day.

4 When service through the court's electronic filing or case management system is not
5 available, ~~or the party is not registered to receive service through the court's electronic filing~~
6 ~~system~~, service may be made as follows:

7 (1) Upon a party's attorney of record:

- 8 a. By delivering a copy to the attorney. Delivery of a copy within this
9 sub-subdivision means handing it to the attorney, leaving it at the
10 attorney's office with a partner or employee, or sending it to the
11 attorney's office by a confirmed telefacsimile transmittal for receipt by
12 5:00 P.M. Eastern Time on a regular business day, as evidenced by a
13 telefacsimile receipt confirmation. If receipt of delivery by
14 telefacsimile is after 5:00 P.M., service will be deemed to have been
15 completed on the next business day. Service may also be made on the
16 attorney by electronic mail (e-mail) to an e-mail address of record with
17 the court in the case. Such e-mail must be sent by 5:00 P.M. Eastern
18 Time on a regular business day. If the e-mail is sent after 5:00 P.M., it
19 will be deemed to have been sent on the next business day.
- 20 b. By mailing a copy to the attorney's ~~office~~ mailing address of record
21 with the court.
- 22 c. In the manner provided in Rule 4 for service and return of process.

23 (2) Upon a party:

- 24 a. By delivering a copy to the party. Delivery of a copy within this
25 sub-subdivision means handing it to the party.
- 26 b. By mailing a copy to the party at the party's last known address or, if
27 no address is known, by filing it with the clerk of court.
- 28 c. Service may also be made on the party by electronic mail (e-mail) if
29 the party has consented to receive e-mail service in the case at a
30 particular e-mail address, and a copy of the consent is filed with the
31 court by any party. Such e-mail must be sent by 5:00 P.M. Eastern
32 Time on a regular business day. If the e-mail is sent after 5:00 P.M.
33 Eastern Time, it will be deemed to have been sent on the next business
34 day.
- 35 d. In the manner provided in Rule 4 for service and return of process.

36 Service by mail shall be complete upon deposit of the pleading or paper enclosed in a post-paid,
37 properly addressed wrapper in a post office or official depository under the exclusive care and
38 custody of the United States Postal Service.

39 (b1) Service – Certificate of Service. – A certificate of service shall accompany every
40 pleading and every paper required to be served on any party or nonparty to the litigation, except
41 with respect to pleadings and papers whose service is governed by Rule 4. The certificate shall
42 show the date and method of service or the date of acceptance of service and shall show the name
43 and service address of each person upon whom the paper has been served. If one or more persons
44 are served by facsimile transmission or electronic mail (e-mail), the certificate shall also show
45 the telefacsimile number or e-mail address of each person so served in that manner. Each
46 certificate of service shall be signed in accordance with and subject to Rule 11 of these rules.
47 With respect to persons served through the court's electronic filing systems, an automated
48 certificate of service generated by that system and that is filed in the case satisfies the
49 requirements of this rule.

50"

1 SECTION 12.(b) Article 4 of Chapter 84 of the General Statutes is amended by
2 adding a new section to read:

3 **"§ 84-39. Member's address of record with the court.**

4 Each member shall provide a mailing address, phone number, and email address to the
5 secretary-treasurer of the State Bar to be that member's contact information of record with the
6 court, pursuant to G.S. 1A-1, Rule 5. Contact information provided by the member pursuant to
7 G.S. 84-34 shall be used for this purpose unless the member provides different contact
8 information to the secretary-treasurer of the State Bar for compliance with this section."

9 SECTION 12.(c) G.S. 84-4.1 reads as rewritten:

10 **"§ 84-4.1. Limited practice of out-of-state attorneys.**

11 Any attorney domiciled in another state, and regularly admitted to practice in the courts of
12 record of and in good standing in that state, having been retained as attorney for a party to any
13 civil or criminal legal proceeding pending in the General Court of Justice of North Carolina, the
14 North Carolina Utilities Commission, the North Carolina Industrial Commission, the Office of
15 Administrative Hearings of North Carolina, or any administrative agency, may, on motion to the
16 relevant forum, be admitted to practice in that forum for the sole purpose of appearing for a client
17 in the proceeding. The motion required under this section shall be signed by the attorney and
18 shall contain or be accompanied by:

19 (1) The attorney's full name, ~~post office address~~, bar membership number, and
20 status as a practicing attorney in another state.

21 (1a) The attorney's mailing address, phone number, and email address to be used
22 as the attorney's contact information of record with the court, pursuant to
23 G.S. 1A-1, Rule 5.

24"

25 SECTION 12.(d) This section becomes effective August 1, 2023.

26
27 **REVISIONS TO INVOLUNTARY COMMITMENT FILINGS PROCESS**

28 SECTION 13.(a) G.S. 122C-261 reads as rewritten:

29 **"§ 122C-261. Affidavit and petition before clerk or magistrate when immediate**
30 **hospitalization is not necessary; custody order.**

31 ...

32 (d) If the affiant is a commitment examiner, who is filing a petition and affidavit for an
33 involuntary commitment in a county that has not implemented an electronic filing system
34 approved by the Director of the Administrative Office of the Courts, all of the following apply:

35 ...

36 (5) If the affiant is a physician or eligible psychologist at a 24-hour facility
37 described in G.S. 122C-252 who recommends inpatient commitment; the
38 respondent is physically present on the premises of the same 24-hour facility;
39 and the clerk or magistrate finds probable cause to believe that the respondent
40 meets the criteria for inpatient commitment, then the clerk or magistrate ~~may~~
41 shall issue an order by facsimile transmission or ~~may issue an electronically~~
42 ~~scanned order~~ by electronic transmission to the physician or eligible
43 psychologist at the 24-hour facility, or a designee, to take the respondent into
44 custody at the 24-hour facility and proceed according to G.S. 122C-266. Upon
45 receipt of the custody order, the physician or eligible psychologist at the
46 24-hour facility, or a designee, shall immediately (i) notify the respondent that
47 the respondent is not under arrest and has not committed a crime but is being
48 taken into custody to receive treatment and for the respondent's own safety
49 and the safety of others, (ii) take the respondent into custody, and (iii)
50 complete and sign the appropriate portion of the custody order and return the
51 order to the clerk or magistrate either by facsimile transmission or by scanning

1 it and sending it by electronic transmission. The physician or eligible
2 psychologist, or a designee, shall mail the original custody order no later than
3 five days after returning it by means of facsimile or electronic transmission to
4 the clerk or magistrate. The clerk or magistrate shall file the original custody
5 order with the copy of the custody order that was electronically returned.

6 Notwithstanding the provisions of this subdivision, a clerk or magistrate
7 shall not issue a custody order to a physician or eligible psychologist at a
8 24-hour facility, or a designee, if the physician or eligible psychologist, or a
9 designee, has not completed training in proper service and return of service.
10 As used in this subdivision, the term "designee" includes the 24-hour facility's
11 on-site police security personnel.

12 The Department of Health and Human Services shall cooperate and
13 collaborate with the Administrative Office of the Courts and the UNC School
14 of Government to develop protocols to implement this section, including a
15 procedure for notifying clerks and magistrates of the names of the physicians,
16 psychologists, and designees who have completed the training. The Secretary
17 of the Department shall oversee implementation of these protocols.

18 ...

19 (d1) If the affiant is a commitment examiner filing a petition and affidavit for an
20 involuntary commitment in a county that has implemented an electronic filing system approved
21 by the Director of the Administrative Office of the Courts, the same provisions of subsection (d)
22 of this section apply except that (i) the commitment examiner or their designee shall file the
23 affidavit and petition, as well as any other supporting documentation required by law, through
24 the electronic filing system, and (ii) the original custody order is not required to be mailed to the
25 clerk or magistrate. In such counties, commitment examiners shall also file any subsequent
26 documentation and notifications prescribed by statute to the clerk of superior court through the
27 electronic filing system.

28"

29 **SECTION 13.(b)** G.S. 122C-262(c) reads as rewritten:

30 "(c) If the commitment examiner executes the oath, appearance before a magistrate shall
31 be waived. The commitment examiner shall send a copy of the certificate to the clerk of superior
32 court (i) through the electronic filing system, if the county has implemented a system approved
33 by the Director of the Administrative Office of the Courts, or (ii) by the most reliable and
34 expeditious ~~means.~~ means otherwise available. If it cannot be reasonably anticipated that the
35 clerk will receive the copy within 24 hours, excluding Saturday, Sunday, and holidays, of the
36 time that it was signed, the physician or eligible psychologist shall also communicate the findings
37 to the clerk by telephone."

38 **SECTION 13.(c)** G.S. 122C-266(c) reads as rewritten:

39 "(c) The findings of the physician and the facts on which they are based shall be in writing,
40 in all cases. A copy of the findings shall be sent to the clerk of superior court (i) through the
41 electronic filing system, if the county has implemented a system approved by the Director of the
42 Administrative Office of the Courts, or (ii) by the most reliable and expeditious ~~means.~~ means
43 otherwise available."

44 **SECTION 13.(d)** G.S. 122C-283(e) reads as rewritten:

45 "(e) The findings of the physician or eligible psychologist and the facts on which they are
46 based shall be in writing in all cases. A copy of the findings made by the physician or eligible
47 psychologist and the commitment examiner shall be sent to the clerk of superior court (i) through
48 the electronic filing system, if the county has implemented a system approved by the Director of
49 the Administrative Office of the Courts, or (ii) by the most reliable and expeditious ~~means.~~ means
50 otherwise available. If it cannot be reasonably anticipated that the clerk will receive the copy

1 within 48 hours of the time that it was signed, the physician or eligible psychologist shall also
2 communicate his findings to the clerk by telephone."

3 **SECTION 13.(e)** This section becomes effective April 1, 2024.
4

5 **REVISE EXPUNCTION ELIGIBILITY**

6 **SECTION 14.(a)** G.S. 15A-145.5 reads as rewritten:

7 "**§ 15A-145.5. Expunction of certain misdemeanors and felonies; no age limitation.**

8 (a) For purposes of this section, the term "nonviolent misdemeanor" or "nonviolent
9 felony" means any misdemeanor or felony except the following:

- 10 (1) A Class A through G felony or a Class A1 misdemeanor.
- 11 (2) An offense that includes assault as an essential element of the offense.
- 12 (3) An offense requiring registration pursuant to Article 27A of Chapter 14 of the
13 General Statutes, whether or not the person is currently required to register.
- 14 (4) Any of the following sex-related or stalking offenses: G.S. 14-27.25(b),
15 14-27.30(b), 14-190.7, 14-190.8, 14-190.9, 14-202, 14-208.11A, 14-208.18,
16 14-277.3, 14-277.3A, 14-321.1.
- 17 (5) Any felony offense in Chapter 90 of the General Statutes where the offense
18 involves methamphetamines, heroin, or possession with intent to sell or
19 deliver or sell and deliver cocaine.
- 20 (6) An offense under G.S. 14-12.12(b), 14-12.13, or 14-12.14, or any offense for
21 which punishment was determined pursuant to G.S. 14-3(c).
- 22 (7) An offense under G.S. 14-401.16.
- 23 (7a) An offense under ~~G.S. 14-54(a)~~ or G.S. 14-54(a1).
- 24 (8) Any felony offense in which a commercial motor vehicle was used in the
25 commission of the offense.
- 26 (8a) Repealed by Session Laws 2021-118, s. 1, effective December 1, 2021, and
27 applicable to petitions filed on or after that date.
- 28 (9) Any offense that is an attempt to commit an offense described in subdivisions
29 (1) through (8) of this subsection.

30 ...

31 (c) A person may file a petition, in the court of the county where the person was
32 convicted.

- 33 (1) For expunction of one or more nonviolent misdemeanor convictions, the
34 petition shall not be filed earlier than one of the following:
 - 35 a. For expunction of one nonviolent misdemeanor, five years after the
36 date of the conviction or when any active sentence, period of
37 probation, or post-release supervision has been served, whichever
38 occurs later.
 - 39 b. For expunction of more than one nonviolent misdemeanor, seven years
40 after the date of the person's last conviction, other than a traffic offense
41 not listed in the petition for expunction, or seven years after any active
42 sentence, period of probation, or post-release supervision has been
43 served, whichever occurs later.
- 44 (2) For expunction of up to three nonviolent felony convictions, the petition shall
45 not be filed earlier than one of the following:
 - 46 a. For expunction of one nonviolent ~~felony~~, felony not subject to the
47 waiting period set forth in sub-subdivision a1. of this subdivision, 10
48 years after the date of the conviction or 10 years after any active
49 sentence, period of probation, or post-release supervision, related to
50 the conviction listed in the petition, has been served, whichever occurs
51 later.

- 1 a1. For expunction of one nonviolent felony under G.S. 14-54(a), 15 years
2 after the date of the conviction or 15 years after any active sentence,
3 period of probation, or post-release supervision, related to the
4 conviction listed in the petition, has been served, whichever occurs
5 later.
- 6 b. For expunction of two or three nonviolent felonies, 20 years after the
7 date of the most recent conviction listed in the petition, or 20 years
8 after any active sentence, period of probation, or post-release
9 supervision, related to a conviction listed in the petition, has been
10 served, whichever occurs later.

11 A person previously granted an expunction under this section is not eligible for relief under
12 this section for any offense committed after the date of the previous order for expunction. Except
13 as provided in subsections (c4) and (c5) of this section, a person previously granted an expunction
14 under this section for one or more misdemeanors is not eligible for expunction of additional
15 misdemeanors under this section and a person previously granted an expunction under this
16 section for one or more felonies is not eligible for expunction of additional felonies under this
17 section.

18 (c1) A petition filed pursuant to this section shall contain, but not be limited to, the
19 following:

- 20 (1) An affidavit by the petitioner that the petitioner is of good moral character and
21 one of the following statements:
22 a. If the petition is for the expunction of one or more nonviolent
23 misdemeanors, that the petitioner has not been convicted of any other
24 felony or misdemeanor, other than a traffic violation, under the laws
25 of the United States or the laws of this State or any other state during
26 the applicable ~~five-year or seven-year~~ waiting period set forth in
27 subsection (c) of this section.
28 b. If the petition is for the expunction of one or up to three nonviolent
29 felonies, that the petitioner has not been convicted under the laws of
30 the United States or the laws of this State or any other state of any
31 misdemeanor, other than a traffic violation, in the five years preceding
32 the petition, or any felony during the applicable ~~10-year or 20-year~~
33 waiting period set forth in subsection (c) of this section.
- 34 (2) Verified affidavits of two persons who are not related to the petitioner or to
35 each other by blood or marriage, that they know the character and reputation
36 of the petitioner in the community in which the petitioner lives and that the
37 petitioner's character and reputation are good.
- 38 (3) A statement that the petition is a motion in the cause in the case wherein the
39 petitioner was convicted.
- 40 (4) An application on a form approved by the Administrative Office of the Courts
41 requesting and authorizing a name-based State and national criminal history
42 record check by the Department of Public Safety using any information
43 required by the Administrative Office of the Courts to identify the individual,
44 a search by the Department of Public Safety for any outstanding warrants on
45 pending criminal cases, and a search of the confidential record of expunctions
46 maintained by the Administrative Office of the Courts. The application shall
47 be filed with the clerk of superior court. The clerk of superior court shall
48 forward the application to the Department of Public Safety and to the
49 Administrative Office of the Courts, which shall conduct the searches and
50 report their findings to the court.

- 1 (5) An affidavit by the petitioner that no restitution orders or civil judgments
2 representing amounts ordered for restitution entered against the petitioner are
3 outstanding.
- 4 (6) An affidavit by the petitioner providing information on any additional
5 petitions the petitioner has submitted, or intends to submit, in other counties
6 pursuant to subsection (c4) of this section seeking expunction of additional
7 convictions.
- 8 (7) An acknowledgement by the petitioner that, except as provided in subsection
9 (c5) of this section, the expunction of one nonviolent misdemeanor prior to
10 the seven-year waiting period or one nonviolent felony prior to the 20-year
11 waiting period will preclude the petitioner from expunging additional
12 nonviolent misdemeanors or nonviolent felonies that might otherwise be
13 eligible for expunction pursuant to sub-subdivision b. of subdivision (1) of
14 subsection (c) of this section or sub-subdivision b. of subdivision (2) of
15 subsection (c) of this section.

16 Upon filing of the petition, the petition shall be served upon the district attorney of the court
17 wherein the case was tried resulting in conviction. The district attorney shall have 30 days
18 thereafter in which to file any objection thereto and shall be duly notified as to the date of the
19 hearing of the petition. Upon good cause shown, the court may grant the district attorney an
20 additional 30 days to file objection to the petition. The district attorney shall make his or her best
21 efforts to contact the victim, if any, to notify the victim of the request for expunction prior to the
22 date of the hearing. Upon request by the victim, the victim has a right to be present at any hearing
23 on the petition for expunction and the victim's views and concerns shall be considered by the
24 court at such hearing.

25 The presiding judge is authorized to call upon a probation officer for any additional
26 investigation or verification of the petitioner's conduct since the conviction. The court shall
27 review any other information the court deems relevant, including, but not limited to, affidavits
28 or other testimony provided by law enforcement officers, district attorneys, and victims of crimes
29 committed by the petitioner.

30 (c2) The court, after hearing a petition for expunction of one or more nonviolent
31 misdemeanors, shall order that the petitioner be restored, in the contemplation of the law, to the
32 status the petitioner occupied before the arrest or indictment or information, except as provided
33 in G.S. 15A-151.5, if the court finds all of the following:

- 34 (1) One of the following:
- 35 a. The petitioner has not previously been granted an expunction under
36 this section for one or more nonviolent misdemeanors.
- 37 b. Any previous expunction granted to the petitioner under this section
38 for one or more nonviolent misdemeanors was granted pursuant to a
39 petition filed prior to December 1, 2021.
- 40 (2) The petitioner is of good moral character.
- 41 (3) The petitioner has no outstanding warrants or pending criminal ~~eases-cases~~, is
42 not under indictment, and no finding of probable cause exists against the
43 defendant for a felony, in any federal court or state court in the United States.
- 44 (3a) The petitioner is not free on bond or personal recognizance pending trial,
45 appeal, or sentencing in any federal court or state court in the United States
46 for a crime which would prohibit the person from having his or her petition
47 for expunction under this section granted.
- 48 (4) The petitioner has no other felony or misdemeanor convictions, other than a
49 traffic violation not listed in the petition for expunction, during the applicable
50 ~~five-year or seven-year~~ waiting period set forth in subsection (c) of this
51 section.

- 1 (5) The petitioner has no outstanding restitution orders or civil judgments
2 representing amounts ordered for restitution entered against the petitioner.
3 (6) The petitioner has no convictions for a misdemeanor or felony that is listed as
4 an exception to the terms "nonviolent misdemeanor" or "nonviolent felony"
5 as provided in subsection (a) of this section.
6 (7) The petitioner was convicted of an offense or offenses eligible for expunction
7 under this section.
8 (8) The petitioner has completed the applicable ~~five-year or seven-year~~ waiting
9 period set forth in subsection (c) of this section.

10 If the court denies the petition, the order shall include a finding as to the reason for the denial.

11 (c3) The court, after hearing a petition for expunction of one or up to three nonviolent
12 felonies, may order that the petitioner be restored, in the contemplation of the law, to the status
13 the petitioner occupied before the arrest or indictment or information, except as provided in
14 G.S. 15A-151.5, if the court finds all of the following:

- 15 (1) One of the following:
16 a. The petitioner has not previously been granted an expunction under
17 this section for one or more nonviolent felonies.
18 b. Any previous expunction granted to the petitioner under this section
19 for a felony was granted pursuant to a petition filed prior to December
20 1, 2021.
21 (2) The petitioner is of good moral character.
22 (3) The petitioner has no outstanding warrants or pending criminal ~~eases-cases~~, is
23 not under indictment, and no finding of probable cause exists against the
24 defendant for a felony, in any federal court or state court in the United States.
25 (3a) The petitioner is not free on bond or personal recognizance pending trial,
26 appeal, or sentencing in any federal court or state court in the United States
27 for a crime which would prohibit the person from having his or her petition
28 for expunction under this section granted.
29 (4) If the petition is for the expunction of one felony, the petitioner has no
30 misdemeanor convictions, other than a traffic violation not listed in the
31 petition for expunction, in the five years preceding the petition, and no other
32 felony convictions during the applicable ~~10-year~~ waiting period set forth in
33 subsection (c) of this section.
34 (4a) If the petition is for the expunction of two or three felonies, or if the petitioner
35 has filed petitions in more than one county pursuant to subsection (c4) of this
36 section, the petitioner has no misdemeanor convictions other than a traffic
37 violation not listed in the petition for expunction in the five years preceding
38 the petition, and no other felony convictions during the applicable ~~20-year~~
39 waiting period set forth in subsection (c) of this section.
40 (4b) If the petition is for the expunction of two or three felonies, if the petitioner
41 has filed petitions in more than one county pursuant to subsection (c4) of this
42 section, or if the petition is filed pursuant to subsection (c5) of this section,
43 the felony offenses were committed within the same 24-month period.
44 (5) The petitioner has no outstanding restitution orders or civil judgments
45 representing amounts ordered for restitution entered against the petitioner.
46 (6) The petitioner has no convictions for a misdemeanor that is listed as an
47 exception to the term "nonviolent misdemeanor" as provided in subsection (a)
48 of this section or any other felony offense.
49 (7) The petitioner was convicted of an offense eligible for expunction under this
50 section.

1 (8) The petitioner has completed the applicable ~~10-year or 20-year~~ waiting period
2 set forth in subsection (c) of this section.
3 If the court denies the petition, the order shall include a finding as to the reason for the denial.
4 "

5 **SECTION 14.(b)** This section becomes effective December 1, 2023, and applies to
6 petitions filed on or after that date.

7
8 **SEVERABILITY CLAUSE**

9 **SECTION 15.** If any section or provision of this act is declared unconstitutional or
10 invalid by the courts, it does not affect the validity of this act as a whole or any part other than
11 the part so declared to be unconstitutional or invalid.

12
13 **EFFECTIVE DATE**

14 **SECTION 16.** Except as otherwise provided, this act is effective when it becomes
15 law.