

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 303
Judiciary Committee Substitute Adopted 4/4/23
Third Edition Engrossed 4/6/23
House Committee Substitute Favorable 5/15/24
House Committee Substitute #2 Favorable 6/5/24
Proposed Conference Committee Substitute S303-PCCS45483-SA-2

Short Title: Various Court Changes.

(Public)

Sponsors:

Referred to:

March 14, 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.

4 The General Assembly of North Carolina enacts:

5
6 **CLARIFY CLERK RETENTION OF ADOPTION PETITION**

7 **SECTION 1.** G.S. 48-9-102(d) reads as rewritten:

8 "(d) All records filed in connection with an adoption, including a copy of the petition
9 giving the date of the filing of the original petition, the original of each consent and
10 relinquishment, additional documents filed pursuant to G.S. 48-2-305, any report to the court,
11 any additional documents submitted and orders entered, any orders of dismissal, and a copy of
12 the final decree, shall be sent by the clerk of superior court to the Division within 10 days after
13 the appeal period for a decree of adoption has expired or 10 days following the final disposition
14 of an appeal pursuant to G.S. 48-2-607(b). The original petition and final decree or order of
15 dismissal shall be retained by the clerk."
16

17 **REMOVE RESTRICTION ON FILING BRIEFS AND MEMORANDA**

18 **SECTION 2.** G.S. 1A-1, Rule 5(d), reads as rewritten:

19 "(d) Filing. – The following papers shall be filed with the court, either before service or
20 within five days after service:

- 21 (1) All pleadings, as defined by Rule 7(a) of these rules, subsequent to the
22 complaint, whether such pleadings are original or amended.
23 (2) Written motions and all notices of hearing.
24 (3) Any other application to the court for an order that may affect the rights of or
25 in any way commands any individual, business entity, governmental agency,
26 association, or partnership to act or to forego action of any kind.
27 (4) Notices of appearance.
28 (5) Any other paper required by rule or statute to be filed.
29 (6) Any other paper so ordered by the court.
30 (7) All orders issued by the court.

31 All other papers, regardless of whether these rules require them to be served upon a party,
32 should not be filed with the court unless (i) the filing is agreed to by all parties, or (ii) the papers



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1 are submitted to the court in relation to a motion or other request for relief, or (iii) the filing is
2 permitted by another rule or statute. ~~Briefs or memoranda provided to the court may not be filed~~
3 ~~with the clerk of court unless ordered by the court.~~ The party taking a deposition or obtaining
4 material through discovery is responsible for its preservation and delivery to the court if needed
5 or so ordered."
6

7 BUSINESS COURT EFILING CHANGES

8 SECTION 3.(a) Article 7 of Chapter 1 of the General Statutes is amended by adding
9 a new section to read:

10 "§ 1-81.2. Venue in complex business cases.

11 (a) To facilitate the effective administration in the State's statewide electronic filing
12 system of mandatory complex business cases and those cases assigned to a business court judge,
13 and subject to subsection (e) of this section, venue shall lie exclusively in Wake County in any
14 action designated by the Chief Justice of the Supreme Court of North Carolina as a mandatory
15 complex business case pursuant to G.S. 7A-45.4 or otherwise assigned to a business court judge
16 by the Chief Justice pursuant to the General Rules of Practice for the Superior and District Courts.

17 (b) When a Notice of Designation filed pursuant to G.S. 7A-45.4(c) is filed
18 contemporaneously with the initiation of an action, the action shall be brought in Wake County.
19 If the Chief Justice or the Chief Business Court Judge enters an order declining to designate an
20 action filed pursuant to this subsection as a mandatory complex business case, that order shall
21 direct the clerk of superior court to transfer the action to the county of origin identified in the
22 Notice of Designation.

23 (c) When a Notice of Designation filed pursuant to G.S. 7A-45.4(c) is filed in an action
24 instituted outside of Wake County, the clerk of superior court in the county of origin shall transfer
25 the action to Wake County after the issuance of summons in accordance with G.S. 1A-1, Rule 4.
26 If the Chief Justice or the Chief Business Court Judge subsequently enters an order declining to
27 designate an action filed pursuant to this subsection as a mandatory complex business case or
28 declines to otherwise assign the matter to a business court judge pursuant to the General Rules
29 of Practice for the Superior and District Courts, the order shall direct the clerk of superior court
30 to transfer the action to the county of origin identified in the Notice of Designation.

31 (d) No later than five days after an action is transferred to or from Wake County pursuant
32 to subsection (b) or (c) of this section, the Wake County Clerk of Superior Court shall serve the
33 party that filed the Notice of Designation with a notice of transfer. The notice shall be on a form
34 promulgated by the Administrative Office of the Courts. No later than five days after being served
35 with the notice of transfer, the party that filed the Notice of Designation shall serve a copy of the
36 notice of transfer on all parties in the action not served by the Wake County Clerk of Superior
37 Court.

38 (e) Notwithstanding the provisions of this Article or any other General Statute concerning
39 venue, trials in mandatory complex business cases and cases assigned to a business court judge
40 pursuant to the General Rules of Practice for Superior and District Courts shall be held in the
41 county of origin identified in the Notice of Designation. The presiding business court judge may
42 conduct trials outside the county of origin in any superior court or business court facility with the
43 consent of the parties, or upon the motion of a party or the judge and an order finding that the
44 convenience of witnesses and the ends of justice would be promoted by the change. The presiding
45 business court judge may conduct trials remotely pursuant to G.S. 7A-49.6. The presiding
46 business court judge may conduct pretrial proceedings outside the county of origin in any
47 superior court or business court facility, or remotely pursuant to G.S. 7A-49.6, in the judge's
48 discretion."

49 SECTION 3.(b) G.S. 7A-45.4 reads as rewritten:

50 "§ 7A-45.4. Designation of complex business cases.

51 ...

1 (c) A party designating an action as a mandatory complex business case shall file a Notice
2 of Designation in the Superior Court in which the action has been filed, shall contemporaneously
3 serve the notice on each opposing party or counsel and on the Special Superior Court Judge for
4 Complex Business Cases who is then the Chief Business Court Judge, and shall
5 contemporaneously send a copy of the notice by e-mail to the Chief Justice of the Supreme Court
6 for approval of the designation of the action as a mandatory complex business case. action
7 pursuant to G.S. 1-81.2. The Notice of Designation shall, in good faith and based on information
8 reasonably available, succinctly state the basis of the designation and include a certificate by or
9 on behalf of the designating party that the civil action meets the criteria for designation as a
10 mandatory complex business case pursuant to subsection (a) or (b) of this section. The Notice of
11 Designation shall identify the county of origin, which is the county in which the matter is pending
12 at the time the Notice of Designation is filed or, if filed contemporaneously with the initiation of
13 the case, the county in which the plaintiff asserts the trial of the matter would be proper under
14 Article 7 of Chapter 1 of the General Statutes.

15 ...

16 (e) Within 30 days after service of the Notice of Designation, any other party may, in
17 good faith, file and serve an opposition to the designation of the action as a mandatory complex
18 business case. The opposition to the designation of the action shall assert all grounds on which
19 the party opposing designation objects to the designation, and any grounds not asserted shall be
20 deemed conclusively waived. Within 30 days after the entry of an order staying a pending action
21 pursuant to subsection (g) of this section, any party opposing the stay shall file an objection with
22 the Business Court asserting all grounds on which the party objects to the case proceeding in the
23 Business Court, and any grounds not asserted shall be deemed conclusively waived. Based on
24 the opposition or on its own motion, the Chief Business Court Judge shall rule by written order
25 on the opposition or objection and determine whether the action should be designated as a
26 mandatory complex business case. If a party disagrees with the decision, the party may appeal in
27 accordance with G.S. 7A-27(a).

28 (f) Once a designation is filed under subsection (d) of this section, ~~and after preliminary~~
29 ~~approval by the Chief Justice,~~ a case shall be designated and administered a complex business
30 case. All case unless and until an order has been entered under subsection (e) of this section
31 ordering that the case not be designated a mandatory complex business case. Except for execution
32 proceedings pursuant to Articles 28 through 32 of Chapter 1 of the General Statutes, all
33 proceedings in the action shall be before the Business Court Judge to whom it has been assigned
34 ~~unless and until an order has been entered under subsection (e) of this section ordering that the~~
35 ~~case not be designated a mandatory complex business case or the Chief Justice revokes approval.~~
36 assigned. If complex business case status is revoked or denied, the action shall be treated as any
37 other civil action, unless it is designated as an exceptional civil case or a discretionary complex
38 business case pursuant to ~~Rule 2.1~~ of the General Rules of Practice for the Superior and District
39 Courts.

40"

41 **SECTION 3.(c)** This section becomes effective when the North Carolina Business
42 Court implements the electronic filing system approved by the Director of the Administrative
43 Office of the Courts.

44 TECHNICAL CORRECTIONS

45 **SECTION 4.** G.S. 1A-1, Rule 55(b), reads as rewritten:

46 "(b) Judgment. – Judgment by default may be entered as follows:

- 47 (1) By the Clerk. – When the plaintiff's claim against a defendant is for a sum
48 certain or for a sum which can by computation be made certain, the clerk upon
49 request of the plaintiff and upon affidavit of the amount due shall enter
50 judgment for that amount and costs against the defendant, if the defendant has
51

1 been defaulted for failure to appear and if the defendant is not an infant or
2 incompetent person. A verified pleading may be used in lieu of an affidavit
3 when the pleading contains information sufficient to determine or compute
4 the sum certain.

5 In all cases wherein, pursuant to this rule, the clerk enters judgment by
6 default upon a claim for debt which is secured by any pledge, mortgage, deed
7 of trust or other contractual security in respect of which foreclosure may be
8 had, or upon a claim to enforce a lien for unpaid taxes or ~~assessments under~~
9 ~~G.S. 105-414, assessments,~~ the clerk may likewise make all further orders
10 required to consummate foreclosure in accordance with the procedure
11 provided in Article 29A of Chapter 1 of the General Statutes, entitled "Judicial
12 Sales."

13 "

14 **SECTION 5.** G.S. 7A-102(b) reads as rewritten:

15 "(b) An assistant clerk is authorized to perform all the duties and functions of the office of
16 clerk of superior court, and any act of an assistant clerk is entitled to the same faith and credit as
17 that of the clerk. A deputy clerk is authorized to certify the existence and correctness of any
18 record in the clerk's office, to take the proofs and examinations of the witnesses touching the
19 execution of a will as required by ~~G.S. 31-17,~~ G.S. 28A-2A-6, and to perform any other
20 ministerial act which the clerk may be authorized and empowered to do, in his own name and
21 without reciting the name of his principal. The clerk is responsible for the acts of his assistants
22 and deputies. With the consent of the clerk of superior court of each county and the consent of
23 the presiding judge in any proceeding, an assistant or deputy clerk is authorized to perform all
24 the duties and functions of the office of the clerk of superior court in another county in any
25 proceeding in the district or superior court that has been transferred to that county from the county
26 in which the assistant or deputy clerk is employed."

27 **SECTION 6.** G.S. 28A-25-6(a) reads as rewritten:

28 "(a) As an alternative to the small estate settlement procedures of this Article, any person
29 indebted to a decedent may satisfy such indebtedness by paying the amount of the debt to the
30 clerk of the superior court of the county of the domicile of the ~~decedent;~~ decedent if all of the
31 following conditions are met:

- 32 (1) ~~If no~~ No administrator has been ~~appointed, and~~ appointed.
33 (2) ~~If the~~ Except as otherwise provided in G.S. 90-210.64(d), the amount owed
34 by such person does not exceed ~~five thousand dollars (\$5,000), and~~ five
35 thousand dollars (\$5,000).
36 (3) ~~If the~~ Except as otherwise provided in G.S. 90-210.64(d), the sum tendered to
37 the clerk would not make the aggregate sum which has come into the clerk's
38 hands belonging to the decedent exceed five thousand dollars (\$5,000)."

39 **SECTION 7.** G.S. 28A-26-3(b) reads as rewritten:

40 "(b) If, within 90 days after the death of the nonresident, or within 60 days after issue of
41 domiciliary letters, should that be a shorter period, no application for ancillary letters has been
42 made by a domiciliary personal representative, any person who could apply for issue of letters
43 had the decedent been a resident may apply for issue of ancillary letters.

44 If it is known that there is a duly qualified domiciliary personal representative, the clerk of
45 superior court shall send notice of such ~~application, by registered mail,~~ application to that
46 personal representative and to the appointing court. Such notice shall include a statement that,
47 within 14 days after its mailing, the domiciliary personal representative may apply for the issue
48 of ancillary letters with the preference specified in subsection (a) of this section; and that failure
49 of the domiciliary personal representative to do so will be deemed a waiver, with the result that
50 letters will be issued to another. Upon such failure, the clerk of superior court may issue ancillary
51 letters in accordance with the provisions of Article 4 of this Chapter.

1 If the applicant and the clerk of superior court have no knowledge of the existence of a
 2 domiciliary personal representative, the clerk of superior court may proceed to issue ancillary
 3 letters. Subsequently, upon it becoming known that a domiciliary personal representative has
 4 been appointed, whether such appointment occurred before or after the issue of ancillary letters,
 5 the clerk of superior court shall notify the domiciliary personal ~~representative, by registered mail,~~
 6 representative of the action taken by the clerk of superior court and the state of the ancillary
 7 administration. Such notice shall include a statement that at any time prior to approval of the
 8 ancillary personal representative's final account the domiciliary personal representative may
 9 appear in the proceedings for any purpose the domiciliary personal representative may deem
 10 advisable; and that the domiciliary personal representative may apply to be substituted as
 11 ancillary personal representative, but that such request will not be granted unless the clerk of
 12 superior court finds that such action will be for the best interests of North Carolina administration
 13 of the estate."

14 **SECTION 8.** G.S. 35A-1106 reads as rewritten:

15 **"§ 35A-1106. Contents of petition.**

16 The petition shall set forth, to the extent known, all of the following:

- 17 (1) The name, age, address, and county of residence of the respondent.
- 18 (2) The name, address, and county of residence of the petitioner, and the
 19 petitioner's interest in the proceeding.
- 20 (3) A general statement of the respondent's assets and liabilities with an estimate
 21 of the value of any property, including any compensation, insurance, pension,
 22 or allowance to which the respondent is entitled.
- 23 (4) A statement of the facts tending to show that the respondent is incompetent
 24 and the reason or reasons why the adjudication of incompetence is sought.
- 25 (4a) A statement identifying what less restrictive alternatives have been considered
 26 prior to seeking adjudication and why those less restrictive alternatives are
 27 insufficient to meet the needs of the respondent.
- 28 (5) The name, address, and county of residence of the respondent's next of kin
 29 and other persons known to have an interest in the proceeding.
- 30 (6) Facts regarding the adjudication of respondent's incompetence by a court of
 31 another state, ~~if an adjudication is sought on that basis pursuant to~~
 32 G.S. 35A-1113(1); state as defined by G.S. 35B-2."

33 **SECTION 9.** G.S. 65-93 reads as rewritten:

34 **"§ 65-93. Funds to be kept perpetually.**

35 All money placed in the office of the superior court clerk in accordance with this Part shall
 36 be held perpetually, or until such time as the balance of the trust corpus falls below one hundred
 37 dollars (\$100.00), at which time the trust shall terminate, and the clerk shall disburse the
 38 remaining ~~balance as provided in G.S. 36A-147(e).~~ balance. Except as otherwise provided herein,
 39 no one shall have authority to withdraw or change the direction of the income on same."

40 **SECTION 10.** G.S. 101-2 reads as rewritten:

41 **"§ 101-2. Procedure for changing name; petition; notice.**

42 (a) A person who wishes, for good cause shown, to change his or her name must file an
 43 application before the clerk of the superior court of the county in which the person resides, after
 44 giving 10 days' notice of the application by publication ~~at the courthouse door.~~ in the area
 45 designated by the clerk of superior court for posting notices in the county.

46 ...

47 (d) An application to change the name of a minor child may be filed by the child's parent
 48 or parents, guardian appointed under Article 6 of Chapter 35A of the General Statutes, or
 49 guardian ad litem appointed under Rule 17 of the Rules of Civil Procedure, and this application
 50 may be joined in the application for a change of name filed by the parent or parents. A change of
 51 parentage or the addition of information relating to parentage on the birth certificate of any person

1 is governed by G.S. 130A-118. An application to change the name of a minor child ~~may~~shall
2 not be filed without the consent of both parents if both parents are living, unless one of the
3 following applies:

- 4 (1) A minor who has reached the age of 16 may file an application to change his
5 or her name with the consent of the parent who has custody of the minor and
6 has supported the minor, without the necessity of obtaining the consent of the
7 other parent, when the clerk of court is satisfied that the other parent has
8 abandoned the minor.
- 9 (2) A parent may file an application on behalf of the minor without the consent of
10 the other parent if the other parent has abandoned the minor child.
- 11 (3) A parent may file an application on behalf of the minor without the consent of
12 the other parent if the other parent has been convicted of any of the following
13 offenses against the minor or a sibling of the minor:
- 14 a. Felonious or misdemeanor child abuse.
15 b. Taking indecent liberties with a minor in violation of G.S. 14-202.1.
16 c. Rape or any other sex offense in violation of Article 7B of Chapter 14
17 of the General Statutes.
18 d. Incest in violation of G.S. 14-178.
19 e. Assault, communicating a threat, or any other crime of violence.

20 For purposes of subdivisions (1) and (2) of this subsection, abandonment may be shown by
21 filing a copy of an order of a court of competent jurisdiction adjudicating that parent's
22 abandonment of the minor. If a court of competent jurisdiction has not declared the minor to be
23 an abandoned child, the clerk, on 10 days' written notice by registered or certified mail, directed
24 to the last known address of the parent alleged to have abandoned the child, may determine
25 whether the parent has abandoned the child. If the parent denies that the parent abandoned the
26 child, this issue of fact shall be transferred and determined as provided in G.S. 1-301.2. If
27 abandonment is determined, the consent of the parent is not required. Upon final determination
28 of this issue of fact the proceeding shall be transferred back to the special proceedings docket for
29 further action by the clerk. A parent who files an application on behalf of a minor pursuant to
30 subdivision (3) of this subsection shall submit proof of the other parent's conviction to the clerk
31 at the time of filing."

32 **SECTION 11.** G.S. 31-32(b) reads as rewritten:

33 "(b) The caveat shall be filed in the decedent's estate file. The clerk of superior court shall
34 give notice of the filing by making an entry ~~upon the page of the will book~~ where the will is
35 recorded, evidencing that the caveat has been filed and giving the date of such filing."
36

37 **CONDITIONS OF PRETRIAL RELEASE**

38 **SECTION 12.(a)** G.S. 15A-533(h) reads as rewritten:

39 "(h) If a defendant is arrested for a new offense allegedly committed while the defendant
40 was on pretrial release for another pending proceeding, the judicial official who determines the
41 conditions of pretrial release for the new offense shall be a judge. The judge shall direct a law
42 enforcement officer, pretrial services program, or a district attorney to provide a criminal history
43 report and risk assessment, if available, for the defendant and shall consider the criminal history
44 when setting conditions of pretrial release. After setting conditions of pretrial release, the judge
45 shall return the report to the providing agency or department. No judge shall unreasonably delay
46 the determination of conditions of pretrial release for the purpose of reviewing the defendant's
47 criminal history report. Notwithstanding the provisions of this subsection, a magistrate or the
48 clerk of superior court may set the conditions of pretrial release at any time if the new offense is
49 a violation of Chapter 20 of the General Statutes, other than a violation of G.S. 20-138.1,
50 20-138.2, 20-138.2A, 20-138.2B, 20-138.5, or 20-141.4.

1 A defendant may be retained in custody pursuant to this subsection not more than 48 hours
2 from the time of arrest without a judge making a determination of conditions of pretrial release.
3 If a judge has not acted pursuant to this subsection within 48 hours from the time of arrest of the
4 defendant, the magistrate shall set conditions of pretrial release in accordance with
5 G.S. 15A-534."

6 **SECTION 12.(b)** This section becomes effective October 1, 2024, and applies to
7 defendants arrested on or after that date.

9 **SAFE BABIES COURT AUTHORIZATION**

10 **SECTION 13.** Chapter 7B of the General Statutes is amended by adding a new
11 Article to read:

12 "Article 5B.

13 "Safe Babies Court.

14 **"§ 7B-535. General provisions for safe babies court.**

15 (a) Purpose. – The purpose of this Article is to establish safe babies court to improve the
16 long-term well-being of parents, children, and families involved with the department of social
17 services and the juvenile court by providing them with trauma-informed support and services and
18 to achieve timely permanence, reduce generational trauma, and eliminate maltreatment.

19 (b) Referral. – The Administrative Office of the Courts shall set the criteria and referral
20 process for a juvenile court matter to enroll into a safe babies court.

21 (c) Limitations. – Nothing contained in this Article shall confer a right or an expectation
22 of a right of participation in safe babies court to a party involved in an abuse, neglect, or
23 dependency proceeding. A party's participation in safe babies court is voluntary.

24 (d) Permanency and Hearings. – Nothing contained in this Article shall alter any
25 requirements or limit the court's authority to conduct hearings under this Subchapter.

26 **"§ 7B-536. Safe babies court records and information.**

27 (a) Definitions. – The following definitions apply in this Article:

28 (1) AOC Director. – The Director of the Administrative Office of the Courts.

29 (2) Coordinators. – Judicial branch staff assigned to facilitate safe babies court by
30 coordinating family team meetings with participants and service providers,
31 setting regular judicial status conferences for safe babies court, documenting
32 information related to safe babies court and its participants, maintaining data
33 and records to demonstrate program outcomes, administration of safe babies
34 court, data analysis, and other related duties.

35 (3) De-identified record. – A record with all of the following types of information
36 omitted, removed, or redacted:

37 a. The names, addresses, dates of birth, and employer name and address
38 of any parties to the juvenile action, including any juvenile alleged to
39 be within the jurisdiction of the court.

40 b. The names and addresses of service providers for any member of the
41 family or the juvenile's placement provider.

42 c. The names and addresses of the juvenile placement.

43 d. Identifying information as defined in subdivisions (1) through (9) and
44 (11) through (14) of G.S. 14-113.20(b).

45 (4) Participant. – A party to a juvenile proceeding who is participating in safe
46 babies court.

47 (5) Party. – As determined by G.S. 7B-401.1.

48 (6) Record. – All recorded information, data, and documentary material,
49 regardless of physical form or characteristics, made or received by safe babies
50 court coordinators that is not filed in the juvenile court record in the custody
51 of the clerk of superior court.

1 (7) Safe babies court. – The innovative court program implementing a community
2 engagement and systems change initiative focused on improving how the
3 courts, department of social services, and related child-serving organizations
4 work together to improve and expedite services for young families with at
5 least one child who is no more than 3 years of age involved in juvenile actions
6 alleging abuse, neglect, or dependency.

7 (b) Records Custodian. – The AOC Director shall be the legal custodian of safe babies
8 court records. Safe babies court coordinators may have access to and use of safe babies court
9 records for purposes of performing their job duties.

10 (c) Not Public Record. – Safe babies court records are not public records as defined by
11 G.S. 132-1. Safe babies court records may only be disclosed as follows:

12 (1) The AOC Director, in the Director's sole discretion, may authorize the
13 disclosure and redisclosure of de-identified safe babies court records without
14 an order of the court.

15 (2) Upon a written motion in the juvenile proceeding by any party requesting safe
16 babies court records related to the juvenile proceeding and notice to the other
17 parties and the AOC Director pursuant to G.S. 1A-1, Rule 5, the AOC Director
18 shall provide copies of the requested records in-camera to the court. The court
19 shall conduct an in-camera review and hold a hearing. The court may order
20 disclosure of the safe babies court records to any party upon a showing of
21 good cause.

22 (d) Coordinators Privilege. – Safe baby coordinators shall not be competent to testify in
23 the juvenile proceeding. Any communications, information, documents, or other materials made
24 or received in the course of performing job duties related to safe babies court shall be privileged
25 except that there is no privilege for communications made in furtherance of a crime or fraud, or
26 for matters that require mandatory reporting. Nothing in this subsection shall be construed as
27 permitting an individual to obtain immunity from prosecution for criminal conduct or as excusing
28 an individual from the reporting requirements of Article 3 of this Chapter, Article 39 of Chapter
29 14 of the General Statutes, G.S. 108A-102, or G.S. 110-105.4.

30 (e) Guardian Ad Litem Information. – The Office of Guardian ad Litem Services and any
31 appointed guardian ad litem may share information at safe babies court meetings as it deems in
32 the best interests of the juvenile."

33 34 **SUPREME COURT SESSIONS**

35 **SECTION 14.(a)** Notwithstanding G.S. 7A-10(a), the Supreme Court may, by rule,
36 hold sessions in any location across the State.

37 **SECTION 14.(b)** This section is effective when it becomes law and expires
38 December 31, 2026.

39 40 **INVOLUNTARY COMMITMENT PROCEDURES**

41 **SECTION 15.** G.S. 122C-54 reads as rewritten:

42 **"§ 122C-54. Exceptions; abuse reports and court proceedings.**

43 ...

44 (d) Any-Except as otherwise provided in this section, any individual seeking confidential
45 information contained in the court files or the court records of a proceeding made pursuant to
46 Article 5 of this Chapter may file a written motion in the cause setting out why the information
47 is needed. A district court judge may issue an order to disclose the confidential information
48 sought if he finds the order is appropriate under the circumstances and if he finds that it is in the
49 best interest of the individual admitted or committed or of the public to have the information
50 disclosed.

1 Counsel for the respondent and counsel for the State in the commitment hearing may receive
2 access to the court file without filing a motion or obtaining a court order. A judge presiding over
3 a criminal case that initiated the Article 5 proceeding may have access to the file without filing a
4 motion.

5 ...

6 (d3) The following persons may obtain a court file number of an involuntary commitment
7 proceeding upon request to the clerk's office:

8 (1) A commitment examiner and their administrative support staff for the purpose
9 of filing subsequent documentation into a court file.

10 (2) A person desiring to petition pursuant to G.S. 14-409.42 for the purpose of
11 providing complete information in the petition.

12"

13 **SECTION 16.** G.S. 122C-261 reads as rewritten:

14 "**§ 122C-261. Affidavit and petition before clerk or magistrate when immediate**
15 **hospitalization is not necessary; custody order.**

16 ...

17 (b) If the clerk or magistrate finds reasonable grounds to believe that the facts alleged in
18 the affidavit are true and that the respondent probably has a mental illness and is either (i)
19 dangerous to self, as defined in G.S. 122C-3(11)a., or dangerous to others, as defined in
20 G.S. 122C-3(11)b., or (ii) in need of treatment in order to prevent further disability or
21 deterioration that would predictably result in dangerousness, the clerk or magistrate shall issue
22 an order to a law enforcement officer or any other designated person under ~~G.S. 122C-251(g)~~
23 G.S. 122C-251 to take the respondent into custody for examination by a commitment examiner.
24 If the clerk or magistrate finds that, in addition to probably having a mental illness, the respondent
25 also probably has an intellectual disability, the clerk or magistrate shall contact the area authority
26 before issuing a custody order and the area authority shall designate the facility to which the
27 respondent is to be taken for examination by a commitment examiner. The clerk or magistrate
28 shall provide the petitioner and the respondent, if present, with specific information regarding
29 the next steps that will occur for the respondent.

30 ...

31 (d1) If the affiant is a commitment examiner filing a petition and affidavit for an
32 involuntary commitment in a county that has implemented an electronic filing system approved
33 by the Director of the Administrative Office of the Courts, the same provisions of subsection (d)
34 of this section apply except that (i) the commitment examiner or their designee shall file the
35 affidavit and petition, as well as any other supporting documentation required by law, through
36 the electronic filing system, and (ii) the original affidavit and original custody order ~~is~~are not
37 required to be mailed to the clerk or magistrate. In such counties, commitment examiners shall
38 also file any subsequent documentation and notifications prescribed by statute to the clerk of
39 superior court through the electronic filing system.

40"

41 **SECTION 17.** G.S. 122C-281(d) reads as rewritten:

42 "(d) If the affiant is a commitment examiner who has examined the respondent, he or she
43 may execute the affidavit before any official authorized to administer oaths. The commitment
44 examiner is not required to appear before the clerk or magistrate for this purpose. The
45 commitment examiner's examination shall comply with the requirements of the initial
46 examination as provided in G.S. 122C-283(c). The affiant shall file the affidavit and examination
47 findings with the clerk of court in the manner described in ~~G.S. 122C-261(d)(1)-~~
48 G.S. 122C-261(d)(1) for affiants filing in counties that have not implemented an electronic filing
49 system approved by the Director of the Administrative Office of the Courts and
50 G.S. 122C-261(d1) for affiants filing in counties that have implemented an electronic filing
51 system approved by the Director of the Administrative Office of the Courts. If the commitment

1 examiner recommends commitment and the clerk or magistrate finds probable cause to believe
2 that the respondent meets the criteria for commitment, the clerk or magistrate shall issue an order
3 to a law enforcement officer to take the respondent into custody for transportation to a 24-hour
4 facility, or, if the respondent is released pending hearing, as described in G.S. 122C-283(d)(1),
5 order that a hearing be held as provided in G.S. 122C-284(a). If a physician or eligible
6 psychologist executes an affidavit for commitment of a respondent, a second qualified
7 professional shall perform the examination required by G.S. 122C-285. Any person or entity who
8 or which has been designated in compliance with ~~G.S. 122C-251(g)~~ G.S. 122C-251 shall be
9 permitted to complete all or part of the duties of a law enforcement officer, in accord with the
10 designation."

11 **SECTION 18.** G.S. 14-409.43(a) reads as rewritten:

12 "(a) Excluding Saturdays, Sundays, and holidays, not later than 48 hours after receiving
13 notice of any of the following judicial determinations or findings, the clerk of superior court in
14 the county where the determination or finding was made shall work through the Administrative
15 Office of the Courts to cause a record of the determination or finding to be transmitted to the
16 National Instant Criminal Background Check System (NICS):

- 17 (1) A determination that an individual shall be involuntarily committed to a
18 facility for inpatient mental health treatment upon a finding that the individual
19 is mentally ill and a danger to self or others.
- 20 (2) A determination that an individual shall be involuntarily committed to a
21 facility for outpatient mental health treatment upon a finding that the
22 individual is mentally ill and, based on the individual's treatment history, in
23 need of treatment in order to prevent further disability or deterioration that
24 would predictably result in a danger to self or others.
- 25 (3) A determination that an individual shall be involuntarily committed to a
26 facility for substance abuse treatment upon a finding that the individual is a
27 substance abuser and a danger to self or others.
- 28 (4) A finding that an individual is not guilty by reason of insanity.
- 29 (5) A finding that an individual is mentally incompetent to proceed to criminal
30 trial.
- 31 (6) A finding that an individual lacks the capacity to manage the individual's own
32 affairs due to marked subnormal intelligence or mental illness, incompetency,
33 condition, or disease.
- 34 (7) A determination to grant a petition to an individual for the removal of
35 disabilities pursuant to G.S. 14-409.42 or any applicable federal law.

36 The 48-hour period for transmitting a record of a judicial determination or finding to the
37 NICS under subsection (a) of this section begins upon receipt by the clerk of a copy of the judicial
38 determination or finding. The Administrative Office of the Courts shall adopt rules to require
39 clerks of court to transmit information to the NICS in a uniform manner.

40 The petitioner and commitment examiner in a proceeding under Article 5 of Chapter 122C
41 of the General Statutes shall provide a social security number and drivers license number, if
42 known, of the respondent for the court to enter into NICS upon a judicial determination. The
43 court may collect the social security number and drivers license number on the petition initiating
44 the proceeding or on documents filed by the commitment examiner. The petitioner in a
45 proceeding under Article 1 of Chapter 35A of the General Statutes shall provide a drivers license
46 number, if known, of the respondent for the court to enter into NICS upon a judicial determination
47 of incompetence. The court may collect the drivers license number on the petition initiating the
48 proceeding and may place the drivers license number on the court's order upon a judicial
49 determination of incompetence."

51 LAW ENFORCEMENT QUALIFICATION FOR MAGISTRATE NOMINATION

1 **SECTION 19.** G.S. 7A-171.2(b) reads as rewritten:

2 "(b) To be eligible for nomination as a magistrate, an individual (i) shall have at least eight
3 years' experience as the clerk of superior court in a county of this State ~~or as a law enforcement~~
4 ~~officer in this State,~~ (ii) shall have a four-year degree from an accredited senior institution of
5 ~~higher education-education,~~ or (iii) shall have a two-year associate degree and four years of work
6 experience in a related field, including teaching, social services, law enforcement, arbitration or
7 mediation, the court system, or counseling. The Administrative Officer of the Courts may
8 determine whether the work experience is sufficiently related to the duties of the office of
9 magistrate for the purposes of this subsection. In determining whether an individual's work
10 experience is in a related field, the Administrative Officer of the Courts shall consider the
11 requisite knowledge, skills, and abilities for the office of magistrate.

12 The eligibility requirements prescribed by this subsection do not apply to individuals holding
13 the office of magistrate on June 30, 1994, and do not apply to individuals who have been
14 nominated by June 30, 1994, but who have not been appointed or taken the oath of office by that
15 date."

16 17 **CLERK BOND REQUIREMENT CONFORMING CHANGES**

18 **SECTION 20.** G.S. 1-305 reads as rewritten:

19 "**§ 1-305. Clerk to issue, in six weeks; ~~penalty; limitations on issuance.~~**

20 (a) Subject to the provisions of G.S. 1A-1 (Rule 62) and subsection (b) below, the clerk
21 of superior court shall issue executions on all unsatisfied judgments entered in the clerk's court,
22 which are in full force and effect, upon the request of any party or person entitled thereto and
23 upon payment of the necessary fees; provided, however, that the clerks of the superior court shall
24 issue executions on all judgments entered in their respective courts on forfeiture of bonds in
25 criminal cases within six weeks of the entry of the judgment, without any request or any advance
26 payment of fees. Every clerk who fails to comply with the requirements of this section is liable
27 to be amerced in the sum of one hundred dollars (\$100.00) for the benefit of the party aggrieved,
28 under the same rules that are provided by law for amercing ~~sheriffs, and is further liable to the~~
29 ~~party injured by suit upon the clerk's bond.sheriffs.~~

30 (b) The clerk may not issue an execution unless

31 (1) The judgment debtor's exemptions have been designated, or

32 (2) The judgment debtor has waived his exemptions as provided in
33 G.S. 1C-1601(c), or

34 (3) The clerk determines that the exemptions are inapplicable to the particular
35 claim as authorized by G.S. 1C-1603(a)(3)."

36 **SECTION 21.** G.S. 65-95 reads as rewritten:

37 "**§ 65-95. ~~Clerk's bond; substitution~~ Substitution of bank or trust company as trustee.**

38 ~~The official bond of the clerk of the superior court shall be liable for all such sums as shall~~
39 ~~be paid over to the clerk in accordance with the provisions of this Part.~~ In lieu of the provisions
40 of this section, the clerk may appoint any bank or trust company authorized to do business in this
41 State as trustee for the funds authorized to be paid into his office by virtue of this Part; provided,
42 that no bank or trust company shall be appointed as such trustee unless such bank or trust
43 company is authorized and licensed to act as fiduciary under the laws of this State.

44 Before any clerk shall turn over such funds to the trustee so appointed, the clerk shall require
45 that the trustee so named qualify before the clerk as such trustee in the same way and manner and
46 to the same extent as guardians are by law required to so qualify. After such trustee has qualified
47 as herein provided, all such funds coming into the clerk's hands may be invested by the trustee
48 only in the securities set out in G.S. 7A-112 and the income therefrom invested for the purposes
49 and in the manner heretofore set out in this Part. All trustees appointed under the provisions of
50 this Part shall render and file in the office of the clerk of the superior court all reports that are
51 now required by law of guardians."

1 **SECTION 22.** G.S. 35A-1238 is repealed.

2 **SECTION 23.** G.S. 45-21.31(e) is repealed.

3
4 **JUDICIAL LICENSE PLATE**

5 **SECTION 24.** G.S. 20-79.4(b)(2) reads as rewritten:

6 "(2) Administrative Officer of the Courts. – Issuable to the Director of the
7 Administrative Office of the Courts. The plate shall bear the phrase
8 "J-20". "J-99"."

9
10 **ALLOW GRANDPARENT INTERVENTION WHEN PARENTS DECEASED**

11 **SECTION 25.(a)** G.S. 7B-401.1 reads as rewritten:

12 **"§ 7B-401.1. Parties.**

13 (a) Petitioner. – Only a county director of social services or the director's authorized
14 representative may file a petition alleging that a juvenile is abused, neglected, or dependent. The
15 petitioner shall remain a party until the court terminates its jurisdiction in the case.

16 (b) Parents. – The juvenile's parent shall be a party unless one of the following applies:

17 (1) The parent's rights have been terminated.

18 (2) The parent has relinquished the juvenile for adoption, or safely surrendered
19 the infant and has not sought the return of the infant prior to the filing of a
20 termination of parental rights, unless the court orders that the parent be made
21 a party.

22 (3) The parent has been convicted under G.S. 14-27.21, 14-27.22, 14-27.23, or
23 14-27.24 for an offense that resulted in the conception of the juvenile.

24 (c) Guardian. – A person who is the child's court-appointed guardian of the person or
25 general guardian when the petition is filed shall be a party. A person appointed as the child's
26 guardian pursuant to G.S. 7B-600 shall automatically become a party but only if the court has
27 found that the guardianship is the permanent plan for the juvenile.

28 (d) Custodian. – A person who is the juvenile's custodian, as defined in G.S. 7B-101(8),
29 when the petition is filed shall be a party. A person to whom custody of the juvenile is awarded
30 in the juvenile proceeding shall automatically become a party but only if the court has found that
31 the custody arrangement is the permanent plan for the juvenile.

32 (e) Caretaker. – A caretaker shall be a party only if (i) the petition includes allegations
33 relating to the caretaker, (ii) the caretaker has assumed the status and obligation of a parent, or
34 (iii) the court orders that the caretaker be made a party.

35 (e1) Foster Parent. – A foster parent as defined in G.S. 131D-10.2(9a) providing foster
36 care for the juvenile is not a party to the case and may be allowed to intervene only if the foster
37 parent has authority to file a petition to terminate the parental rights of the juvenile's parents
38 pursuant to G.S. 7B-1103.

39 (e2) Grandparent. – A grandparent is not a party to the case and shall be allowed to
40 intervene if one of the following applies:

41 (1) Both parents of the juvenile are deceased.

42 (2) One parent of the juvenile is deceased and no other parent is known.

43 (3) One parent of the juvenile is deceased and any other parent's rights have been
44 terminated.

45 (f) The Juvenile. – The juvenile shall be a party.

46 (g) Removal of a Party. – If a guardian, custodian, or caretaker is a party, the court may
47 discharge that person from the proceeding, making the person no longer a party, if the court finds
48 that the person does not have legal rights that may be affected by the action and that the person's
49 continuation as a party is not necessary to meet the juvenile's needs.

50 (h) Intervention. – Except as provided in G.S. 7B-1103(b) and ~~subsection~~ subsections
51 (e1) and (e2) of this section, the court shall not allow intervention by a person who is not the

1 juvenile's parent, guardian, or custodian, but may allow intervention by another county
2 department of social services that has an interest in the proceeding. This section shall not prohibit
3 the court from consolidating a juvenile proceeding with a civil action or claim for custody
4 pursuant to G.S. 7B-200.

5 (i) Young Adult in Foster Care. – In proceedings held pursuant to G.S. 7B-910.1, the
6 young adult in foster care and the director of the department of social services are parties."

7 **SECTION 25.(b)** G.S. 7B-1103 reads as rewritten:

8 "**§ 7B-1103. Who may file a petition or motion.**

9 (a) A petition or motion to terminate the parental rights of either or both parents to his,
10 her, or their minor juvenile may only be filed by one or more of the following:

- 11 (1) Either parent seeking termination of the right of the other parent.
- 12 (2) Any person who has been judicially appointed as the guardian of the person
13 of the juvenile.
- 14 (3) Any county department of social services, consolidated county human
15 services agency, or licensed child-placing agency to whom custody of the
16 juvenile has been given by a court of competent jurisdiction.
- 17 (4) Any county department of social services, consolidated county human
18 services agency, or licensed child-placing agency to which the juvenile has
19 been surrendered for adoption by one of the parents or by the guardian of the
20 person of the juvenile, pursuant to G.S. 48-3-701.
- 21 (5) Any person with whom the juvenile has resided for a continuous period of 18
22 months or more next preceding the filing of the petition or motion.
- 23 (6) Any guardian ad litem appointed to represent the minor juvenile pursuant to
24 G.S. 7B-601 who has not been relieved of this responsibility.
- 25 (7) Any person who has filed a petition for adoption pursuant to Chapter 48 of the
26 General Statutes.
- 27 (8) A grandparent of the juvenile if all known parents are deceased and the motion
28 is to terminate the parental rights of an unknown parent.

29 (b) Any person or agency that may file a petition under subsection (a) of this section may
30 intervene in a pending abuse, neglect, or dependency proceeding for the purpose of filing a
31 motion to terminate parental rights.

32 (c) (See Editor's note) No person whose actions resulted in a conviction under
33 G.S. 14-27.21, 14-27.22, 14-27.23, or 14-27.24 and the conception of the juvenile may file a
34 petition to terminate the parental rights of another with respect to that juvenile."

35 **SECTION 25.(c)** Subsection (a) of this section is effective when it becomes law and
36 applies to petitions pending or filed on or after that date. Subsection (b) of this section is effective
37 when it becomes law and applies to petitions or motions filed on or after that date.
38

39 **H971 CLARIFICATION**

40 **SECTION 26.(a)** If House Bill 971, 2023 Regular Session, becomes law, then
41 G.S. 14-43.17(f), as enacted by Section 5 of that act, reads as rewritten:

42 "(f) The Administrative Office of the ~~Courts and Courts~~, the Clerks of Superior ~~Court~~
43 Court, and their officials and employees shall not be liable for damages under this section for the
44 acts or omissions of their employees tasked with implementing this section subject to civil or
45 criminal liability for any acts or omissions that lead to the disclosure of information ordered
46 confidential pursuant to subsection (e) of this section."

47 **SECTION 26.(b)** This section becomes effective October 1, 2024.
48

49 **H556 EFFECTIVE DATE CHANGE**

50 **SECTION 27.** If House Bill 556, 2023 Regular Session, becomes law, then Section
51 10 of that act reads as rewritten:

1 "**SECTION 10.** Sections 3, 4, and 5 of this act become effective July 1, 2024. Section 9 of
2 this act is effective ~~October 1, 2024~~, becomes effective October 1, 2025, and applies to judgments
3 rendered on or after that date. The amendments contained in Section 8 of this act are intended to
4 be clarifying of the General Assembly's intent under previous amendments to this statute. Except
5 as otherwise provided, this act is effective when it becomes law."

6

7 **EFFECTIVE DATE**

8 **SECTION 28.** Except as otherwise provided, this act is effective when it becomes
9 law.