

Items for Potential Legislation Action, 4/14/20 Continuity of State Government Working Group Discussion

| Subject | Statute | Description of Issue | Referral Source |
|---|-------------------------------|--|------------------------------|
| Advanced Health Care Directives | G.S. 32A-25.1 | Currently in North Carolina, both a notary AND two witnesses have to sign off on documents for valid advanced health care directives. In this emergency, a special provision could be implemented that allows for either a notary OR two witnesses to sign off on these documents. | Secretary of State |
| Business Registration | G.S. 55-1(22); G.S. 57D-1(22) | North Carolina should consider waiving annual report fees for LLCs, Corporations etc. to help small businesses that are dealing with an economic downturn. G.S. 55-1(22) and G.S. 57D-1(22). In addition the state should consider waiving all of the fees being charged on businesses and individuals as the state responds to an unprecedented crisis. | Secretary of State |
| Charitable Solicitation | G.S. 131F-5(b) | Charitable Solicitation Division would like the 10-day statutory limit by which an application has to be reviewed to be extended to 20 days during the emergency as it takes longer for employees to review these applications given teleworking and social distancing requirements | Secretary of State |
| Communicable Disease Information | G.S. 130A-143 | Align state law with HIPAA to allow disclosures to law enforcement that are necessary to prevent or lessen a serious and imminent threat; remove outdated language; make clarifying changes | School of Government |
| DMV | Chapter 20 | DMV Commissioner authority to extend expiration deadlines for various privileges and requirements – e.g. driver licenses, vehicle inspections, station licenses – during a declared emergency | Department of Transportation |
| DMV | Chapter 20 | DMV Commissioner authority to waive fines and fees during a declared emergency | Department of Transportation |
| Elections | Chapter 163 | Expand delivery of absentee requests to include fax and email of the requests | State Board of Elections |
| Elections | Chapter 163 | HAVA document allowed with absentee request form | State Board of Elections |
| Incompetency and Adult Guardianship Proceedings | G.S. 35A-1109 | Requires copies of the petition and notice initiating an incompetency proceeding to be personally served on the respondent. For the most part, this requires service on the alleged incompetent adult by the sheriff. There are cases where the respondent is at an adult care home, hospital, or other facility that will not allow the sheriff to enter to serve the respondent. The result is that incompetency and adult guardianship proceedings cannot go forward for these respondents.....For the duration of this public health crisis only, allow for another type of service on these respondents. | School of Government |
| Incompetency and Adult Guardianship Proceedings | G.S. 35A-1114 | Without a party's consent, pursuant to the Chief Justice's order, these interim proceedings may not be conducted remotely despite the fact that they most often involve vulnerable adults in emergency situations....Add to G.S. 35A-1114(c1): The hearing to consider the appointment of an interim guardian may be held, or any party or witness may appear, via video conference if the clerk determines good cause exists. Prior to any hearing held or appearance by video conference, the clerk shall submit to the Administrative Office of the Courts the procedures and type of equipment for video conference for approval by the Administrative Office of the Courts. | School of Government |

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| Involuntary commitment custody and transportation. | G.S. 122C-251(g); G.S. 122C-261(b) & (d)(4); G.S. 122C-202.2(a). | Currently, the designation process and the training requirements involve a months-long process. Consider amending the relevant statutes to permit an expedited process for designating and training personnel other than law enforcement officers--personnel who would have the authority to carry out the various phases of transportation relating to involuntary commitment in lieu of law enforcement officers. | School of Government |
| Involuntary commitment/ telemedicine. | G.S. 112C-263; GS 122C-266; GS 122C-283; GS 122C-285 | During the pandemic allow for (1) telemedicine for the second IVC examination in lieu of face-to-face examination; (2) telemedicine for the first examination for purposes other than geographic distance; and (3) telemedicine for substance abuse commitment examination. | School of Government |
| Local Gov't Finance | Chapter 159 | School capital outlay report, required to be submitted by May 1 to GA, will likely need delay to July 1 for 2020 and 2021 due to late filings of reports by counties | Local Government Commission |
| Local Gov't Finance - Daily Deposit Requirement | Article 2, Chapter 159 | Daily deposit requirement – may need relief in the form of a temporary suspension of requirement in certain circumstance and with certain safeguards in place | Local Government Commission |
| Marriage License | G.S 51-8-2 | Personal appearance for applicants seeking a marriage license – many of our vital record services are able to be performed remotely including the issuance of birth and death certificates but NC law requires personal appearance for the issuance of a marriage license. The only exception the statutes make is G.S. 51-8.2 which gives options for one applicant to appear in person with a signed affidavit from the other applicant who cannot appear in person. Registers would not advocate for a permanent change in the statute, however, the fear of statewide stay at home orders has driven a heavy volume of applicants to Registers offices across the state seeking marriage licenses. This has led many Registers to seek remote options for the issuance of marriage licenses. Currently most Registers have the ability for customers to fill out the application and submit electronically. The personal appearance is simply to sign the license and administer the required oaths. While electronic signatures are already validated in NC law, a short term solution to be able to use virtual technology to administer oaths removing the personal appearance requirement would be helpful. | Register of Deeds |

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| Marriage License | G.S. 51-16; G.S. 51-7 | 60 day expiration on marriage licenses that have been issued - G.S. 51-16 states that an officiant can perform a ceremony anytime within 60 days of the issuance of a license. G.S. 51-7 states the officiant could be subject to a \$200 fine and guilty of a misdemeanor for conducting a ceremony after a license has expired. With many couples having wedding venues cancelling or postponing planned events, the 60 day expiration on licenses is becoming an issue. Couples should not be penalized for this by having to purchase a new license and this issue should not be driving customers to our office during the current pandemic to reapply for licenses. A temporary extension on the 60 day expiration would be very helpful. | Register of Deeds |
| Notary | G.S. 10B-3(16) | The Secretary of State has considered remote notarization and would be the appropriate source for a recommendation about an amendment, either to allow remote notarization in general, or to allow it during a state of emergency. Without such legislation, a real estate instrument or other documents notarized remotely in this State could be challenged as invalidly notarized. | School of Government |
| Notary - Commission | G.S. 10B-8(a) | A notary, after taking the required class, should be allowed 6-9 months to complete the notary commission requirements, not 3 months as it is now. G.S. 10B-8(a) | Secretary of State |
| Notary - Commission | G.S. 10B-10 | Notary expiration dates – Many of our offices have had unnecessary customer traffic for notaries who are having to appear to take notary oaths because commissions expire during this pandemic. A short term solution to extend the expiration dates of notaries whose commissions expire during the statewide state of emergency for an additional 45-60 days would be helpful. | Register of Deeds |
| Notary - Commission | G.S. 10B-10(b) | Notaries should be allowed 9 months to get sworn in, not 45 days as it is now. G.S.10B-10(b). | Secretary of State |
| Notary - Commission | G.S. 10B-10(b) | This statute could be amended with the following qualification: "If the governor declares that a state of emergency exists, notaries may take their oath remotely by audio-video communication during such state of emergency, provided the register of deeds can positively identify the appointee." | School of Government |
| Notary - Commission | G.S. 10B-11(c) | Notaries should be allowed to renew within 18 months, thus extending the current requirement that notaries renew every 12 months. G.S. 10B-11(c) | Secretary of State |
| OAH - contested cases | Chapter 150B | Authorize the Chief Administrative Law Judge, during times of catastrophic conditions, to extend the time period for filing a petition for a contested case | OAH |
| OAH -emergency rules | Chapter 150B | Clarify ability to reschedule meetings during the emergency/temporary rulemaking process | OAH |
| Open Meetings | Article 33C, Chapter 143 | Clarify Authority to Meet Remotely - Full Council, Other Board Meetings, Public Hearings | NC League of Municipalities |

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| Open Meetings | Article 33C, Chapter 143 | Flexibility with Open Meeting Laws and Remote Participation | NC Assoc of County Commissioners |
| Open Meetings | Article 33C, Chapter 143 | Public meeting/public hearing requirements – consideration of some virtual options | Local Government Commission |
| Open Meetings/ County | G.S. 153A-43 | The statute is unclear about whether a county commissioner must be physically present to count towards a quorum. This can create uncertainty about the validity of actions taken by boards of county commissioners that meet electronically during a state of emergency. | School of Government |
| Open Meetings/ Public Records | Article 33C, Chapter 143; Article 2, Chapter 159 | Public display of proposed budget – we are doing further research of options including electronic | Local Government Commission |
| Open Meetings/City | G.S. 160A-74 | The statute is unclear about whether a city council member must be physically present to count towards a quorum. This can create uncertainty about the validity of actions taken by city councils that meet electronically during a state of emergency. Narrower Fix: Add a provision authorizing city councils to count members who participate electronically as present for quorum purposes during states of emergency. The drawback to this approach is that the provision could imply that no authority for electronic participation exists at other times. Broader Fix: Add a provision allowing electronic participation more generally. | School of Government |
| Open Meetings/City | G.S. 160A-75 | The statute's use of the phrase "physically present" calls into question whether city council members who attend by electronic means can vote. This can create uncertainty about the validity of actions taken by a council that meets electronically during a state of emergency. | School of Government |
| Open Meetings/Land Use Quasi-judicial hearings | G.S. 160A-388, 160D-406 | Quasi-judicial evidentiary hearings raise due process concerns beyond those of basic public hearings | School of Government |
| Regulatory Relief | | Either authorize or require State agencies to waive, delay, or modify the collection of any fees, fines, or late payments assessed by the agency under its statutes, including the accrual of interest associated with any fees, fines, or late payments. | Co-chairs |
| Regulatory Relief | | Either authorize or require State agencies to Delay the renewal dates of permits, licenses, and other similar certifications, registrations, and authorizations issued by the agency pursuant to its statute | Co-chairs |
| Regulatory Relief | | Either authorize or require State agencies to Waive, delay, or modify any educational or examination requirements implemented by the agency pursuant to its statutes | Co-chairs |

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| Service | G.S. 1A-1, Rule 5 | G.S. 1A-1, Rule 5 - Rule 5. Service and filing of pleadings and other papers. Amendment to Rule 5 Service: This SOG draft amendment includes proposed language which would make email a proper method of Rule 5 service. Proposed language is in yellow. Amended language is primarily intended to be temporary and related to COVID-19 needs for electronic service. | AOC |
| State Health Plan - Payment Deadlines | | In the event of a federal and state declared disaster, allow the Treasurer (subject to approval by the SHP Board) to grant time-limited flexibility around payment deadlines. This would not mean that premiums are not owed to the Plan, only that due dates can be extended and temporarily disconnected from the requirement that we cease health coverage 30 days after non-payment. Additionally, it's also worth noting that a similar deferral arrangement has been approved by the Department of Insurance for private sector health insurance plans, but that deferral does not apply to the State Health Plan. | NC Treasurer's Office |