2017-2018

HOUSE JUDICIARY IV

MINUTES

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HOUSE COMMITTEE ON JUDICIARY IV 2017 Long Session

Clerks: Dixie Riehm and Dina Long



Rep. Hugh Blackwell Co-Chair



Rep. Justin Burr Co-Chair



Rep. Alexander Member



Rep. Beasley Member



Rep. Belk Member



Rep. Butler Member



Rep. Cleveland Member



Rep. Garrison Member



Rep. Jones Member



Rep. Potts Member



Rep. Richardson Member



Rep. Riddell Member



Rep. Setzer Member



Rep. Torbett Member



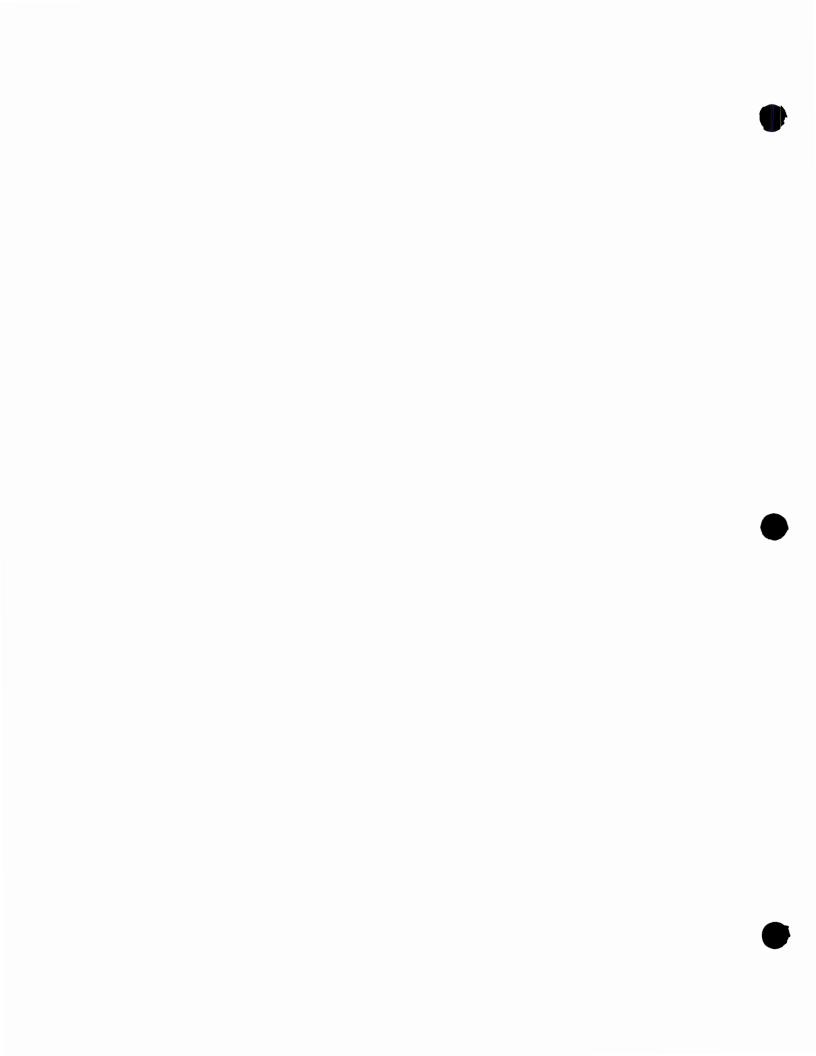
Rep. Warren Member

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HOUSE COMMITTEE ON JUDICIARY 4

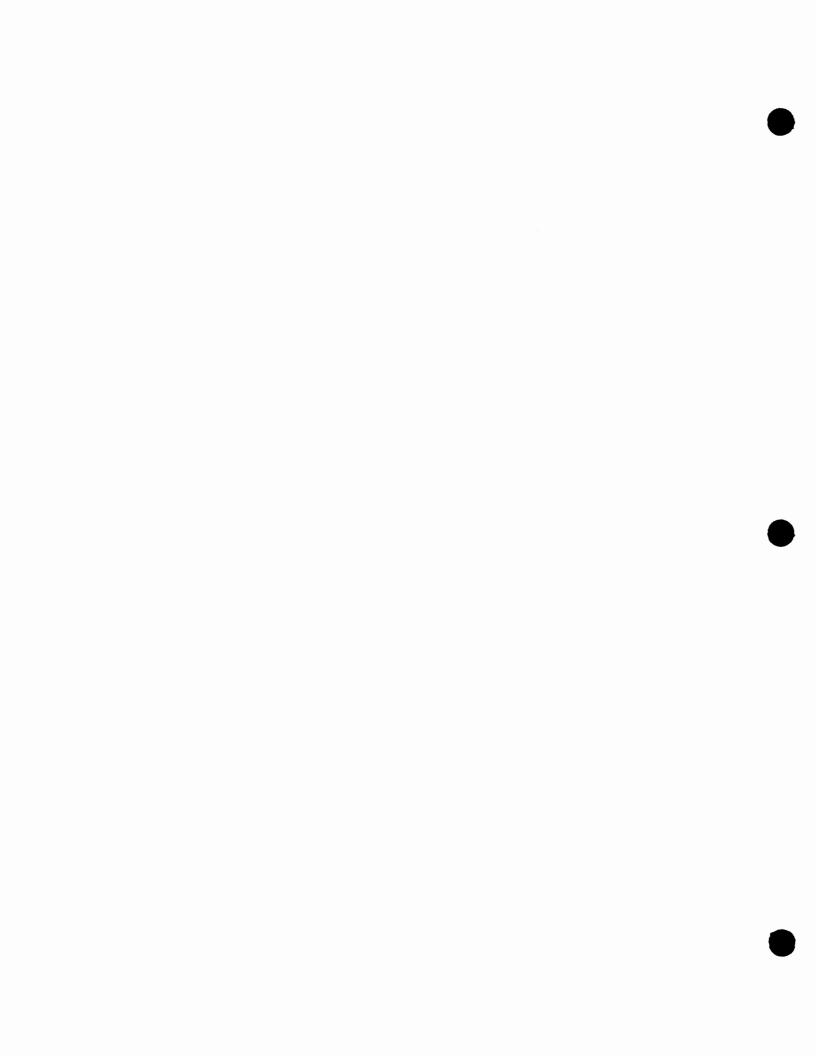
2017 Long Session

<u>MEMBER</u>	ASSISTANT	PHONE	OFFICE	SEAT
Rep. Hugh Blackwell	Dixie Riehm	733-5805	541	102
Rep. Justin Burr	Dina Long	733-5908	307 A	16
Rep. Kelly Alexander	Marjorie Connor	733-5778	404	35
Rep. Mary Belk	Ralph Belk	733-5607	1424	116
Rep. Deb Butler	Ruth Merckle	733-5754	1424	82
Rep. George Cleveland	Pamela Ahlin	715-6707	417 A	8
Rep. Terry Garrison	Cindy Garrison	733-5824	1017	95
Rep. Bert Jones	Brenda Oils	733-5779	416 A	54
Rep. Larry Potts	Caroline Craig	715-0873	607	110
Rep. Bobbie Richardson	Anna Meadows	715-3032	1217	81
Rep. Dennis Riddell	Polly Riddell	733-5905	533	99
Rep. Mitchell Setzer	Margaret Herring	733-4948	2204	2
Rep. John Torbett	Viddia Torbett	733-5868	538	41
Rep. Harry Warren	Cristy Yates	733-5784	611	56



ATTENDANCE JUDICIARY 4 2017 LONG SESSION

DATES MEMBERS:	3/08/2017	4/19/2017	4/25/2017	5/31/2017	6/28/2017					
Rep. Hugh Blackwell, Co-Chair	X	X	X	X	X					
Rep. Justin Burr, Co-Chair	X	X	X	X	X					
Rep. Kelly Alexander	X		X	X	X					
Rep. Chaz Beasley	X	X	X	X	X					
Rep. Mary Belk	X	X		X	X					
Rep. Deb Butler	X	X	X	X	X					
Rep. George Cleveland	X	X	X	X	X					
Rep. Terry Garrison	X	X		X	X					
Rep. Bert Jones	X			X	X					
Rep. Larry Potts	X	X	X	X	X					
Rep. Bobbie Richardson	X	X	X	X	X					
Rep. Dennis Riddell	X	X	X	X	X					
Rep. Mitchell Setzer	X			X	X					
Rep. John Torbett	X	X		X	X					
Rep. Harry Warren	X	X	X	X	X					
CLERKS:										
Dixie Riehm	X	X	X	X	X					
Dina Long	X	X	X	X	X			-		
STAFF:										
Kara McCraw, LAD	X	X	X	X	X					
Brian Gwyn, LAD	X	X	X	X	X					
Jeremy Ray, LAD	X	X	X	X	X					



House Committee on Judiciary IV Wednesday, March 8, 2017 at 10:00 AM Room 1327

MINUTES

The House Committee on Judiciary IV met on March 8, 2017 in Room 1327. Representatives Alexander, Beasley, Belk, Blackwell, Burr, Butler, Cleveland, Garrison, Jones, Richardson, Riddell, Setzer, Torbett, and Warren attended. Staff attending from Legislative Analysis Division were Kara McCraw, Brian Gwyn and Jeremy Ray. Rep. Hugh Blackwell presided. The meeting was called to order at 10 AM.

The following bills were considered:

HB 239 Proposed Committee Substitute – Reduce Court of Appeals to 12 Judges. (Representatives Burr, Lewis, Stephens)

Staff reviewed the provisions of the bill. An explanation of the bill by Rep. Burr followed. After questions and comments from committee members, Dick Taylor, NC Advocates for Justice, and retired NC Court of Appeals Judge Martha Geer spoke in opposition to the bill. Rep. Jones then moved for a favorable report for the committee substitute, unfavorable for the original bill. Rep. Blackwell asked for a vote by show of hands. The motion was adopted with 7 votes in the affirmative and 6 in the negative.

HB 240 Proposed Committee Substitute - GA Appoint for District Court Vacancies. (Representatives Burr, Hall, Saine)

Rep. Jones moved that the PCS be before the committee. That motion was approved by affirmative voice vote. Staff reviewed the provisions of the PCS as well as an amendment by Rep. Burr. Kara McCraw, Legislative Analysis Division, stated there would be a staff technical correction to insert a tag "to sub" on page 1, line 7, 20 and 25. Rep. Burr explained the bill and moved adoption of the amendment. Upon voice vote of the committee, the chair declared the amendment passed. Following discussion and questions by committee members, Rep. Jones then moved that the bill as amended be rolled into a new committee substitute, that the new committee substitute be given a favorable report with an unfavorable report to the original bill. After putting the motion to the committee by voice vote, the chair declared the motion adopted.

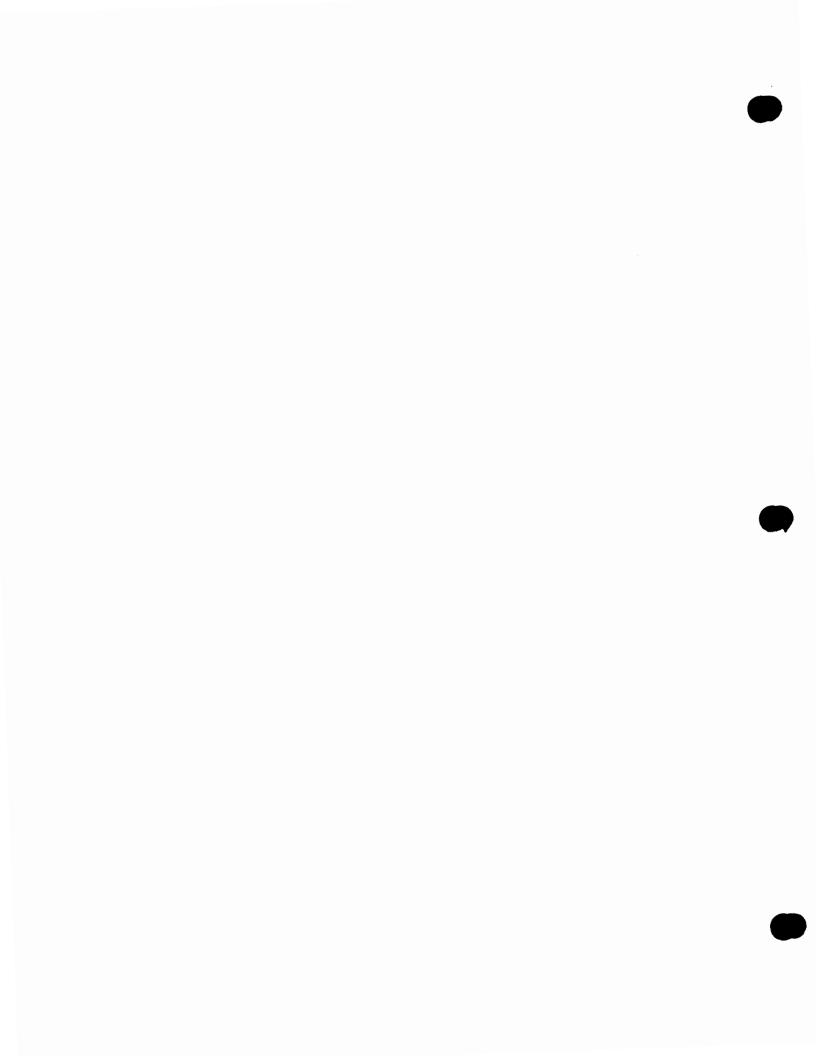
HB 241 Special Sup. Ct. Judgeship Appointed by GA. (Representatives Burr, Hall, Saine, Bumgarner)

Staff reviewed the provisions of the bill. Rep. Burr explained the bill. Questions and discussion were entertained. Rep. Cleveland moved the bill be given a favorable report. Rep. Alexander asked for division on the vote. Upon division, the motion was adopted with 7 votes in the affirmative and 6 in the negative.

The meeting adjourned at 10:50 AM.

Hugh Blackwell, Chair Presiding

Divie Riehm Committee Clerk





House Committee on Judiciary IV Wednesday, March 8, 2017, 10:00 AM 1228/1327 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 239	Reduce Court of Appeals to 12 Judges.	Representative Burr
		Representative Lewis
		Representative Stevens
HB 240	GA Appoint for District Court	Representative Burr
	Vacancies.	Representative K. Hall
		Representative Saine
		Representative Bumgardner
HB 241	Special Sup. Ct. Judgeship Appointed	Representative Burr
	by GA.	Representative K. Hall
		Representative Saine
		Representative Bumgardner

Presentations

Other Business

Adjournment







NORTH CAROLINA GENERAL ASSEMBLY HOUSE OF REPRESENTATIVES

JUDICIARY IV COMMITTEE REPORT Representative Hugh Blackwell, Co-Chair Representative Justin P. Burr, Co-Chair

FAVORABLE

HB 241

Special Sup. Ct. Judgeship Appointed by GA.

Draft Number:

None

Serial Referral:

None

Recommended Referral: None

Long Title Amended:

No

Floor Manager:

Burr

FAVORABLE COM SUB, UNFAVORABLE ORIGINAL BILL

HB 239

Reduce Court of Appeals to 12 Judges.

Draft Number:

H239-PCS40173-TC-4

Serial Referral:

None

Recommended Referral: None

Long Title Amended:

Yes

Floor Manager:

Burr

HB 240 GA Appoint for District Court Vacancies.

Draft Number:

H240-PCS10113-BE-4

Serial Referral:

None

Recommended Referral: None

Long Title Amended:

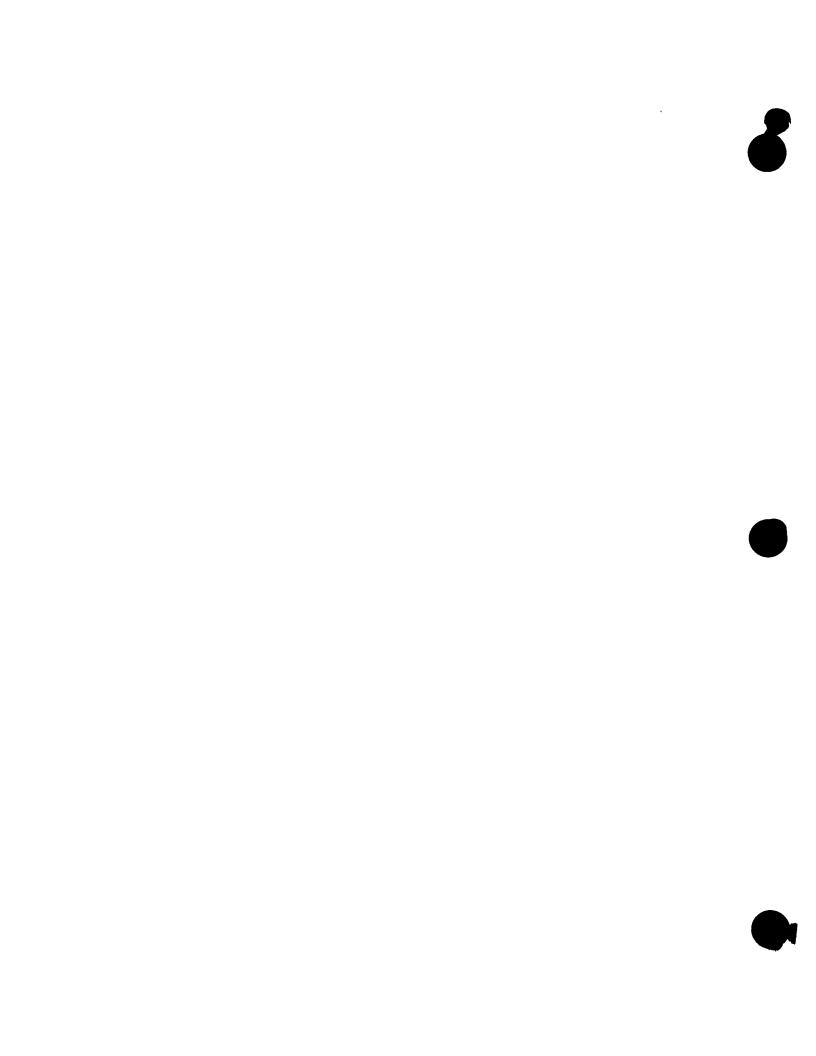
No

Floor Manager:

Burr

TOTAL REPORTED: 3





GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

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HOUSE BILL 239

Short Title:

Reduce Court of Appeals to 12 Judges.

(Public)

Sponsors:

Representatives Burr, Lewis, and Stevens (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to:

Judiciary IV

March 6, 2017

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A BILL TO BE ENTITLED

AN ACT TO REDUCE THE NUMBER OF JUDGES ON THE COURT OF APPEALS TO TWELVE; TO PROVIDE AN APPEAL OF RIGHT FOR CASES PURSUANT TO RULES 2.1 AND 3.1 OF THE GENERAL RULES OF PRACTICE; AND TO PROVIDE FOR DISCRETIONARY REVIEW BY THE SUPREME COURT IN CASES WHERE THE SUBJECT MATTER INVOLVES THE JURISDICTION AND INTEGRITY OF THE COURT SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-16, as amended by Section 22(a) of S.L. 2016-125, reads as rewritten:

"§ 7A-16. Creation and organization.

The Court of Appeals is created effective January 1, 1967. It shall consist initially of six judges, elected by the qualified voters of the State for terms of eight years. The Chief Justice of the Supreme Court shall designate one of the judges as Chief Judge, to serve in such capacity at the pleasure of the Chief Justice. Before entering upon the duties of his office, a judge of the Court of Appeals shall take the oath of office prescribed for a judge of the General Court of Justice.

The Governor on or after July 1, 1967, shall make temporary appointments to the six initial judgeships. The appointees shall serve until January 1, 1969. Their successors shall be elected at the general election for members of the General Assembly in November, 1968, and shall take office on January 1, 1969, to serve for the remainder of the unexpired term which began on January 1, 1967.

Upon the appointment of at least five judges, and the designation of a Chief Judge, the court is authorized to convene, organize, and promulgate, subject to the approval of the Supreme Court, such supplementary rules as it deems necessary and appropriate for the discharge of the judicial business lawfully assigned to it.

Effective January 1, 1969, the number of judges is increased to nine, and the Governor, on or after March 1, 1969, shall make temporary appointments to the additional judgeships thus created. The appointees shall serve until January 1, 1971. Their successors shall be elected at the general election for members of the General Assembly in November, 1970, and shall take office on January 1, 1971, to serve for the remainder of the unexpired term which began on January 1, 1969.

Effective January 1, 1977, the number of judges is increased to 12; and the Governor, on or after July 1, 1977, shall make temporary appointments to the additional judgeships thus created. The appointees shall serve until January 1, 1979. Their successors shall be elected at the general election for members of the General Assembly in November, 1978, and shall take office on January 1, 1979, to serve the remainder of the unexpired term which began on January 1, 1977.



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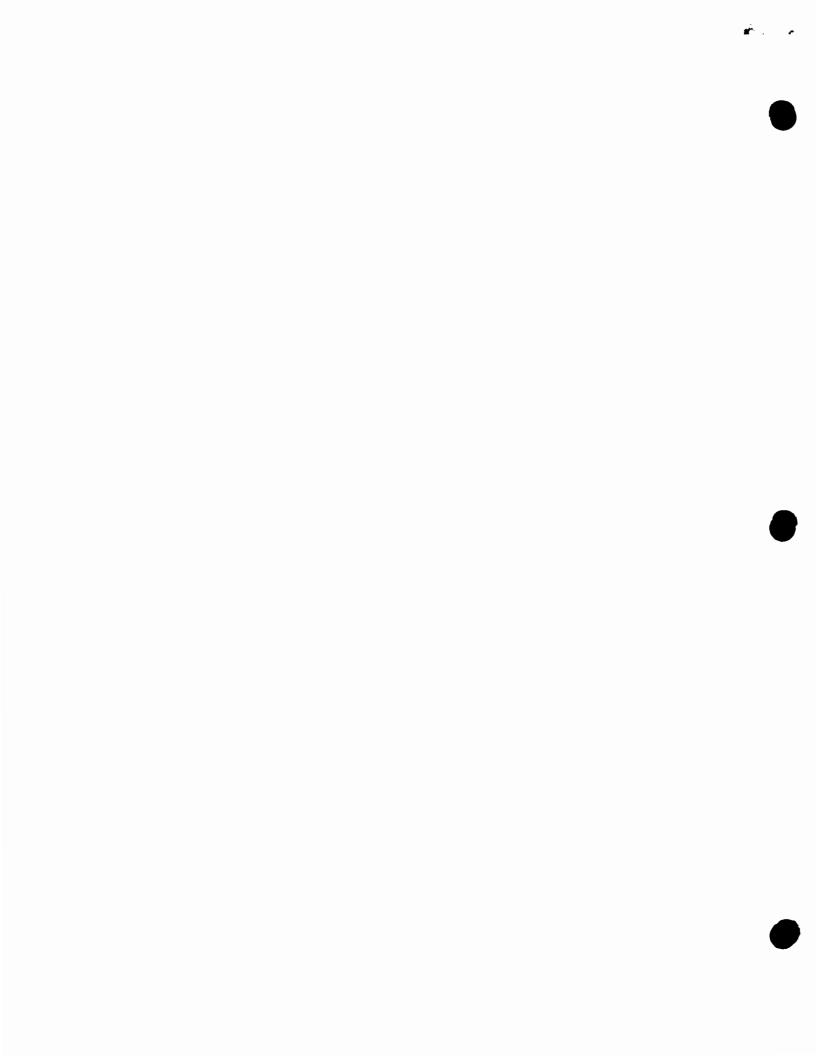
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SECTION 4. This act is effective when it becomes law.

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HOUSE BILL 239: Reduce Court of Appeals to 12 Judges.

2017-2018 General Assembly

Committee:

House Judiciary IV

Introduced by: Reps. Burr, Lewis, Stevens

Analysis of:

PCS to First Edition

H239-CSTC-4

Date:

March 8, 2017

Prepared by: Kara McCraw

Committee Co-counsel

OVERVIEW: HB 239 would:

- Reduce the size of the Court of Appeals from 15 to 12.
- Create an appeal of right to the Supreme Court for trial court decisions regarding class action certification.
- Provide for discretionary review by the Supreme Court in matters where the Supreme Court determines the subject matter of the appeal is important in overseeing the jurisdiction and integrity of the court system.

The PCS would remove a provision adding an appeal of right to the Supreme Court in cases involving the resolution of conflicts under Rule 3.1 of the General Rules of Practice for the Superior and District Courts.

CURRENT LAW: G.S. 7A-16 provides that the Court of Appeals, as of December 15, 2000, have 15 judges.

G.S. 7A-27(a) provides for appeals of right directly to the Supreme Court in the following cases:

- Cases in which the defendant is convicted of murder in the first degree where the superior court judgment includes a sentence of death.
- Final judgments in cases designated as mandatory complex business cases or discretional complex business cases.
- Certain interlocutory orders of a Business Court Judge.

G.S. 7A-31 provides for discretionary certification for review by the Supreme Court either before or after a case has been determined by the Court of Appeals. The Supreme Court may certify a case before determination by the Court of Appeals when the Supreme Court determines, in its opinion, any of the following:

- The subject matter of the appeal has significant public interest.
- The cause involves legal principles of major significance to the jurisprudence of the State.
- Delay in final adjudication is likely to result from failure to certify and thereby cause substantial harm.
- The work load of the appellate courts is such that the expeditious administration of justice requires certification.

Karen Cochrane-Brown Director



Legislative Analysis Division 919-733-2578



GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

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HOUSE BILL 240

Short Title: GA Appoint for District Court Vacancies. (Public)

Sponsors: Representatives Burr, K. Hall, Saine, and Bumgardner (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Elections and Ethics Law

March 6, 2017

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT DISTRICT COURT VACANCIES SHALL BE FILLED BY APPOINTMENT OF THE GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

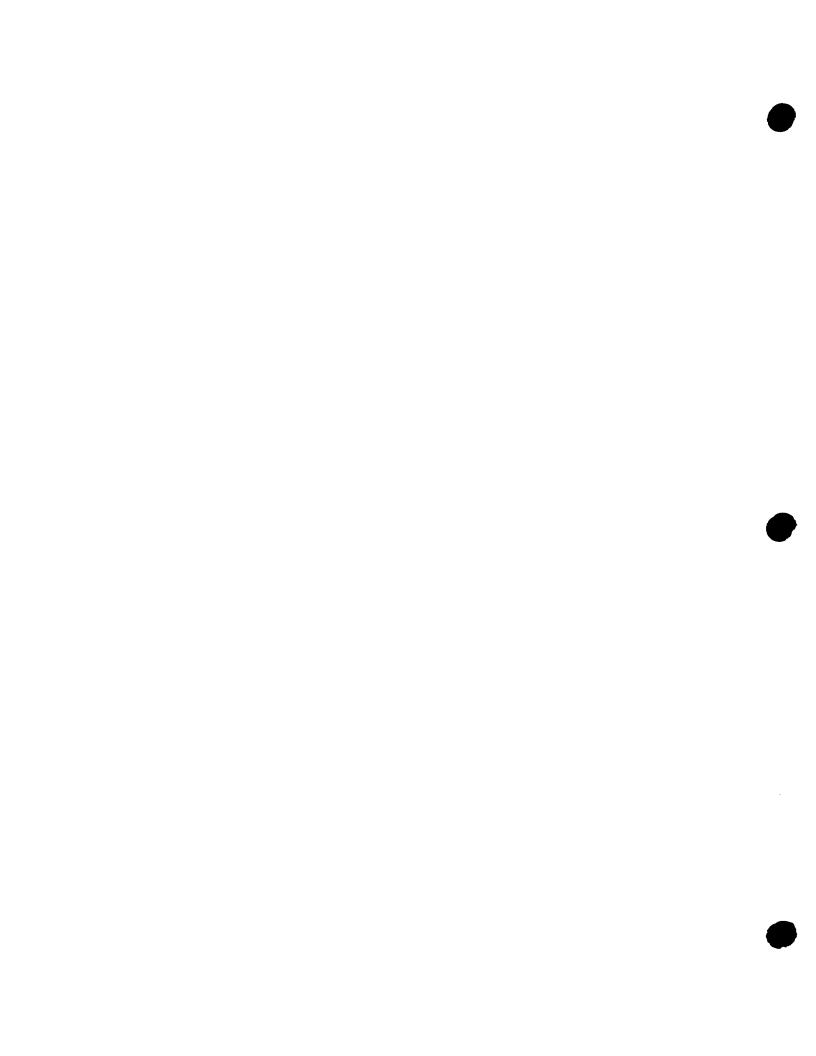
SECTION 1. G.S. 7A-142 reads as rewritten:

"§ 7A-142. Vacancies in office.

A-Pursuant to the authority granted in Section 10 of Article IV of the North Carolina Constitution, a vacancy in the office of district judge shall be filled for the unexpired term by appointment of the Governor. The bar of the judicial district, as defined in G.S. 84-19, shall nominate five persons who are residents of the judicial district who are duly authorized to practice law in the district for consideration by the Governor. The nominees shall be selected by vote of only those bar members who reside in the district. In the event fewer than five persons are nominated, upon providing the nominations to the Governor, the bar shall certify that there were insufficient nominations in the district to comply with this section. Prior to filling the vacancy, the Governor shall give due consideration to the nominations provided by the bar of the judicial district. General Assembly. When the General Assembly is in session, appointments shall be made by enactment of a bill. The bill shall state the name of the person appointed, the office to which the appointment is being made, and the county of residence of the appointee. If a vacancy in the office of district judge occurs while the General Assembly is not in session, the Speaker of the House and the President Pro Tempore may leave the vacancy in place until the reconvening of the General Assembly or jointly submit the name of a nominee, who is duly authorized to practice law in the district where the vacancy occurs, to the Governor. The Governor shall then confirm the nominee no later than 10 days after the nomination has been submitted."

SECTION 2. This act is effective when it becomes law.







HOUSE BILL 240: GA Appoint for District Court Vacancies.

2017-2018 General Assembly

Committee: House Judiciary IV

Introduced by: Reps. Burr, K. Hall, Saine, Bumgardner

Analysis of: PCS to First Edition

H240-CSBE-3

Date: March 8, 2017

Prepared by: Brian Gwyn

Committee Co-Counsel

OVERVIEW: House Bill 240 would require district court vacancies to be filled by appointment of the General Assembly.

The PCS would:

- Expand the information required in the bill appointing judges to include the effective date of appointment and expiration of term
- For vacancies occurring when the General Assembly is not in session, require the Governor to appoint the person jointly submitted by the Speaker of the House and President Pro Tempore
- Make a conforming change to specify that all vacancy appointees must be duly authorized to practice law in the district where the vacancy occurs

CURRENT LAW: Article IV, Section 19 of the North Carolina Constitution states that "[u]nless otherwise provided in this Article, all vacancies occurring in the offices provided for by this Article shall be filled by appointment of the Governor. . . " However, Article IV, Section 10 specifically allows district court vacancies to be governed by statute ("Vacancies in the office of District Juclge shall be filled for the unexpired term in the manner provided by law."). G.S. 7A-142 currently requires district court vacancies to be filled by appointment of the Governor. While the bar of the judicial district must nominate five people who are residents of the judicial district and duly authorized to practice law, the Governor must only give "due consideration" to these nominees.

BILL ANALYSIS: The PCS for House Bill 240 would modify G.S. 7A-142 to give the General Assembly the authority to make district court vacancy appointments rather than the Governor. If the vacancy occurs while the General Assembly is not in session, the Speaker of the House and the President Pro Tempore may either leave the vacancy in place or jointly submit the name of a nominee. The Governor must appoint the nominee no later than 10 days after the nomination has been submitted to the Governor, or the appointment is deemed to have been made and the person may enter the office.

EFFECTIVE DATE: This act would be effective when it becomes law.





Legislative Analysis Division 919-733-2578



NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT House Bill 240

AMENDMENT NO.

(to be filled in by
Principal Clerk)

Page 1 of 2

Amends Title [NO]

H240-CSBE-3

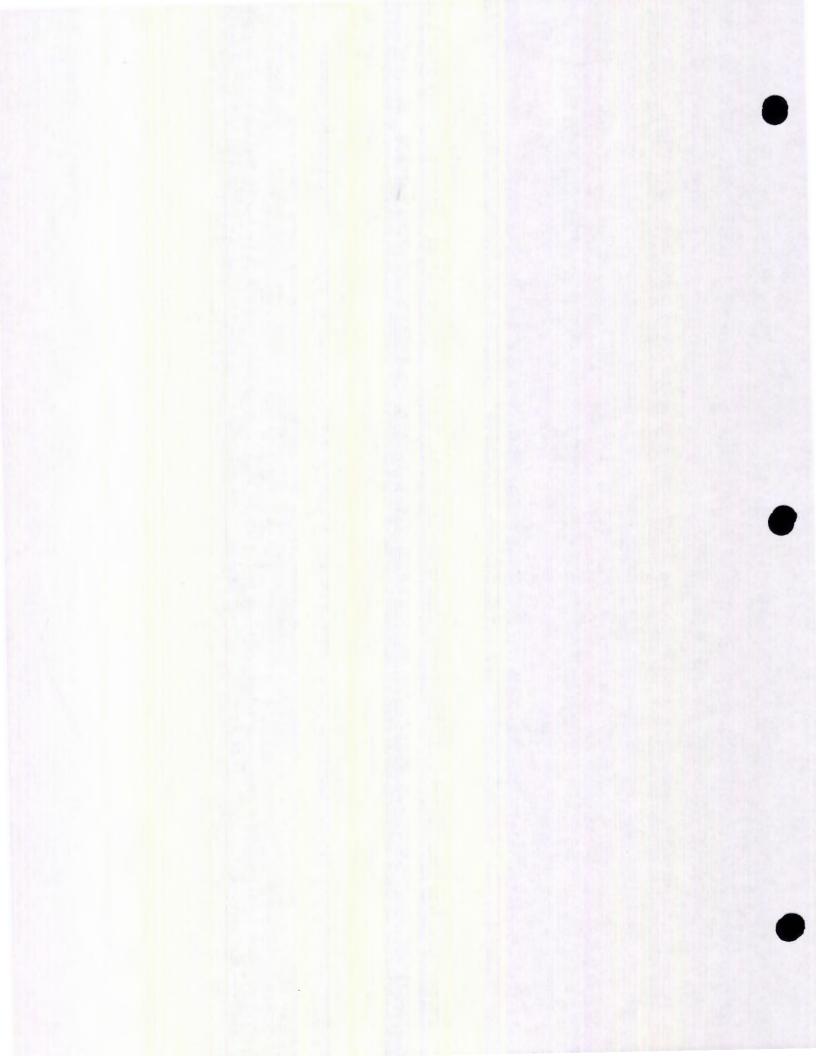
Representative

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moves to amend the bill on page 1, lines 7 - 28, by rewriting the lines to read:

- "(a) <u>Vacancies filled by General Assembly. A-Pursuant to the authority granted in Section 10 of Article IV of the North Carolina Constitution, a vacancy in the office of district judge shall be filled for the unexpired term by appointment of the Governor. General Assembly.</u>
- (b) The bar of the judicial district, as defined in G.S. 84-19, shall nominate five persons who are residents of the judicial district who are duly authorized to practice law in the district for consideration by the GovernorGeneral Assembly. The nominees shall be selected by vote of only those bar members who reside in the district. In the event fewer than five persons are nominated, upon providing the nominations to the GovernorGeneral Assembly, the bar shall certify that there were insufficient nominations in the district to comply with this section. Prior to filling the vacancy, the Governor shall give due consideration to the nominations provided by the bar of the judicial district. The district bar shall submit nominations within 15 business days from the date the vacancy occurs. The General Assembly shall not be bound by the nominations of the bar of the judicial district.
- (c) Session Appointments. When the General Assembly is in session, the appointment of a person who is duly authorized to practice law in the district where the vacancy occurs shall be made by enactment of a bill. The bill shall state the name of the person appointed, the office to which the appointment is being made, the effective date of the appointment, the date of expiration of the term, and the county of residence of the appointment.
- (d) Interim Appointments. If a vacancy in the office of district judge occurs while the General Assembly is not in session, the Speaker of the House and the President Pro Tempore may leave the vacancy in place until the reconvening of the General Assembly or, after receiving nominations as provided in subsection (b) of this section, jointly submit the name of a person who is duly authorized to practice law in the district where the vacancy occurs, to the Governor. The Governor shall then appoint the person no later than 10 days after the name has been submitted. Failure to act within 10 days as required under the provisions of the preceding sentence shall be deemed to be approval of the person, and the person shall be eligible to enter the office in as full



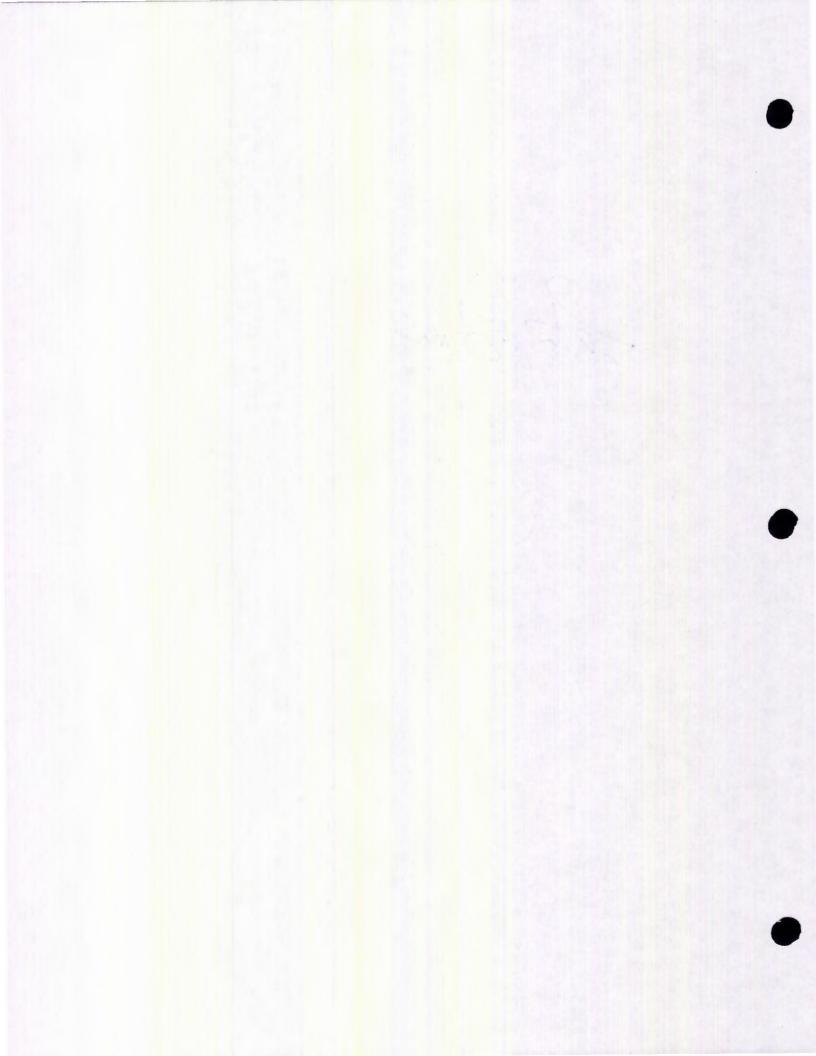


NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT House Bill 240

AMENDMENT NO.____

(to be filled in by

	H240-ABE-12 [v.2]		Principal Clerk)	
			Page 2	2 of 2
1	-		ppointment. The Governor shall no	t appoint
2 3 4	a person other than th	ne person so recommended."".		
	SIGNED	Amendment Sponsor		
	SIGNED Commi	ttee Chair if Senate Committee Ar	nendment	
	ADOPTED	FAILED	TABLED	



GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

H

HOUSE BILL 241

Short Title: Special Sup. Ct. Judgeship Appointed by GA. (Public)

Sponsors: Representatives Burr, K. Hall, Saine, and Bumgardner (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary IV

March 6, 2017

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT SPECIAL SUPERIOR COURT JUDGES ARE APPOINTED BY THE GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-45.1 reads as rewritten:

"§ 7A-45.1. Special judges.

(a) Effective November 1, 1993, the Governor may appoint two special superior court

- (a) Effective November 1, 1993, the Governor may appoint two special superior court judges to serve terms expiring September 30, 2000. Effective October 1, 2000, one of those positions is abolished. Successors to the special superior court judge appointed pursuant to this subsection shall be appointed to a five year term. The General Assembly may appoint special superior court judges to serve a five-year term when any of the following occurs for the special superior court judges holding office on or after January 1, 2017:
 - (1) Retirement of the incumbent judge.
 - (2) Resignation of the incumbent judge.
 - (3) Removal from office of the incumbent judge.
 - (4) Death of the incumbent judge.
 - (5) Expiration of the term of the incumbent judge.
 - (6) For any other reason that causes a judgeship to become vacant.

A special judge takes the same oath of office and is subject to the same requirements and disabilities as are or may be prescribed by law for regular judges of the superior court, save the requirement of residence in a particular district.

- (a1) Effective October 1, 1995, the Governor may appoint two special superior court judges to serve terms expiring September 30, 2000. Successors to the special superior court judges appointed pursuant to this subsection shall be appointed to five year terms. A special judge takes the same oath of office and is subject to the same requirements and disabilities as are or may be prescribed by law for regular judges of the superior court, save the requirement of residence in a particular district.
- (a2) Effective December 15, 1996, the Governor may appoint four special superior court judges to serve terms expiring five years from the date that each judge takes office. Successors to the special superior court judges appointed pursuant to this subsection shall be appointed to five year terms. A special judge takes the same oath of office and is subject to the same requirements and disabilities as are or may be prescribed by law for regular judges of the superior court, save the requirement of residence in a particular district.
- (a3) Effective December 15, 1998, the Governor may appoint a special superior court judge to serve a term expiring five years from the date that judge takes office. Successors to the special



superior court judge appointed pursuant to this subsection shall be appointed to five-year terms. A special judge takes the same oath of office and is subject to the same requirements and disabilities as are or may be prescribed by law for regular judges of the superior court, save the requirement of residence in a particular district.

- (a4) Effective October 1, 1999, the Governor may appoint four special superior court judges to serve terms expiring five years from the date that each judge takes office. Successors to the special superior court judges appointed pursuant to this subsection shall be appointed to five year terms. A special judge takes the same oath of office and is subject to the same requirements and disabilities as are or may be prescribed by law for regular judges of the superior court, save the requirement of residence in a particular district.
- (a5) Effective October 1, 2001, the Governor may appoint a special superior court judge to serve a term expiring five years from the date that judge takes office. Successors to the special superior court judge appointed pursuant to this subsection shall be appointed to five year terms. A special judge takes the same oath of office and is subject to the same requirements and disabilities as are or may be prescribed by law for regular judges of the superior court, save the requirement of residence in a particular district.
- (a6) Effective December 1, 2004, the Governor may appoint a special superior court judge to serve a term expiring five years from the date that each judge takes office. Successors to the special superior court judge appointed pursuant to this subsection shall be appointed to five-year terms. A special judge takes the same oath of office and is subject to the same requirements and disabilities as are or may be prescribed by law for regular judges of the superior court, save the requirement of residence in a particular district.
- (a7) Effective January 1, 2008, the Governor may appoint two special superior court judges to serve terms expiring five years from the date that each judge takes office. Successors to the special superior court judges appointed pursuant to this subsection shall be appointed to five year terms. A special judge takes the same oath of office and is subject to the same requirements and disabilities as are or may be prescribed by law for regular judges of the superior court, save the requirement of residence in a particular district.
- (a8) Notwithstanding any other provision of this section, the four special superior court judgeships held as of April 1, 2014, by judges whose terms expire on April 29, 2015, October 20, 2015, and December 31, 2017, and the two special superior court judgeships held as of April 1, 2015, by judges whose terms expire January 26, 2016, are abolished when any of the following first occurs:
 - (1) Retirement of the incumbent judge.
 - (2) Resignation of the incumbent judge.
 - (3) Removal from office of the incumbent judge.
 - (4) Death of the incumbent judge.
 - (5) Expiration of the term of the incumbent judge.
- (a9) Effective upon the retirement, resignation, removal from office, death, or expiration of the term of the special superior court judge held as of April 1, 2014, by the judge whose term expires on April 29, 2015, a new special superior court judgeship shall be created and filled through the procedure for nomination and confirmation provided for in subsection (a10) of this section.

Prior to submitting a nominee for the judgeship created under this subsection to the General Assembly for confirmation, the Governor shall consult with the Chief Justice to ensure that the person nominated to fill this judgeship has the requisite expertise and experience to be designated by the Chief Justice as a business court judge under G.S. 7A-453, and the Chief Justice is requested to designate this judge as a business court judge.

(a10) Except for the judgeships abolished pursuant to subsection (a8) of this section, upon the retirement, resignation, removal from office, death, or expiration of the term of any special superior court judge on or after September 1, 2014, each judgeship shall be filled for a full

five year term beginning upon the judge's taking office according to the following procedure prescribed by the General Assembly pursuant to Article IV, Section 9(1) of the North Carolina Constitution. As each judgeship becomes vacant or the term expires, the Governor—General Assembly shall submit the name of a nominee for that judgeship to the General Assembly for confirmation by ratified joint resolution. Upon each such confirmation, the Governor shall appoint the confirmed nominee to that judgeship.appoint a new special superior court judge to fill that seat.

However, upon the failure of the Governor to submit the name of a nominee within 90 days of the occurrence of the vacancy or within 90 days of the expiration of the judge's term, as applicable, the President Pro Tempore of the Senate and the Speaker of the House of Representatives jointly shall submit the name of a nominee to the General Assembly. The appointment Appointments shall then be made by enactment of a bill. The bill shall state the name of the person being appointed, the office to which the appointment is being made, and the county of residence of the appointee.

The Governor may withdraw any nomination prior to it failing on any reading, and in case of such withdrawal the Governor shall submit a different nomination within 45 days of withdrawal. If a nomination shall fail any reading, the Governor shall submit a different nomination within 45 days of such failure. In either case of failure to submit a new nomination within 45 days, the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall submit the name of a nominee to the General Assembly under the procedure provided in the preceding paragraph.

No person shall occupy a special superior court judgeship authorized under this subsection in any capacity, or have any right to, claim upon, or powers of those judgeships, unless that person's nomination has been confirmed by the General Assembly by joint resolution or appointed through the enactment of a bill upon the failure of the Governor to submit a nominee. Until confirmed by the General Assembly and appointed by the Governor, or appointed by the General Assembly upon the failure of the Governor to appoint a nominee, and qualified by taking the oath of office, a nominee is neither a de jure nor a de facto officer.

- (a11) The Chief Justice is requested, pursuant to the authority under G.S. 7A-45.3 to designate business court judges, to maintain at least five business court judgeships from among the special superior court judgeships authorized under this section.
- (b) A special judge is subject to removal from office for the same causes and in the same manner as a regular judge of the superior court, and a vacancy occurring in the office of special judge is filled by the Governor by appointment for the unexpired term.court.
- (c) A special judge, in any court in which he is duly appointed to hold, has the same power and authority in all matters that a regular judge holding the same court would have. A special judge, duly assigned to hold the court of a particular county, has during the session of court in that county, in open court and in chambers, the same power and authority of a regular judge in all matters arising in the district or set of districts as defined in G.S. 7A-41.1(a) in which that county is located, that could properly be heard or determined by a regular judge holding the same session of court.
- (d) A special judge is authorized to settle cases on appeal and to make all proper orders in regard thereto after the time for which he was commissioned has expired."

SECTION 2. This act is effective when it becomes law.







HOUSE BILL 241: Special Sup. Ct. Judgeship Appointed by GA.

2017-2018 General Assembly

Committee: House Judiciary IV Date: March 8, 2017
Introduced by: Reps. Burr, K. Hall, Saine, Bumgardner Prepared by: Jeremy Ray

Analysis of: First Edition Committee Co-Counsel

OVERVIEW: House Bill 241 would provide the General Assembly with authority to appoint special superior court judges when vacancies occur for special superior court judges holding office on or after January 1, 2017.

CURRENT LAW: Article IV, Section 9 of the North Carolina Constitution states: "[t]he General Assembly may provide by general law for the selection or appointment of special or emergency Superior Court Judges not selected for a particular judicial district." Under G.S. 7A-45.1, special superior court judges are appointed by the Governor as special superior court judgeships become vacant, or the term expires. The appointment occurs once the Governor submits a nomination to the General Assembly for the judgeship, and the nominee is confirmed by the General Assembly through a ratified joint resolution. An appointment may also occur if the Governor fails to submit the name of the nominee within 90 days of the occurrence of the vacancy, or within 90 days of the expiration of the judge's term, in which case, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives jointly submit the name of a nominee to be confirmed by the General Assembly. Historically, these appointments are for five-year terms.

BILL ANALYSIS: House Bill 241 would provide for the General Assembly to appoint through enactment of a bill, special superior court judges to serve a five-year term when any of the following occurs for special superior court judges currently holding office:

- (1) Retirement of the incumbent judge.
- (2) Resignation of the incumbent judge
- (3) Removal from office of the incumbent judge.
- (4) Death of the incumbent judge.
- (5) Expiration of the term of the incumbent judge.
- (6) For any other reason that causes a judgeship to become vacant.

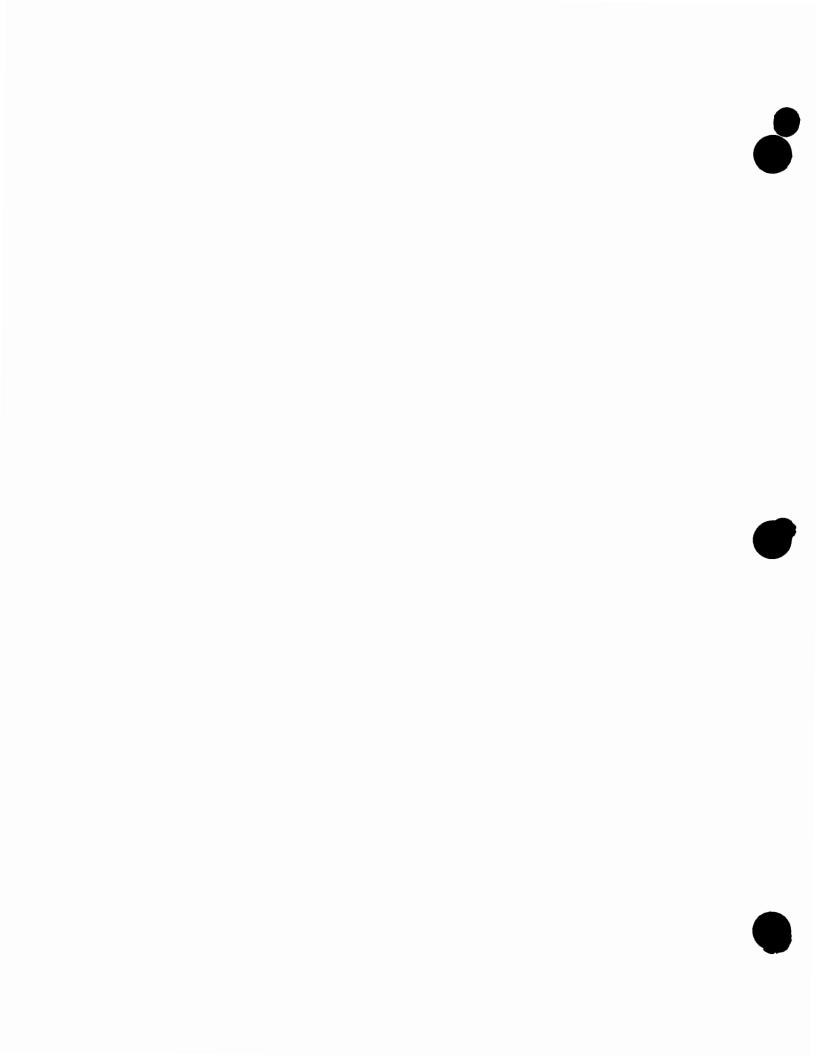
House Bill 241 would also remove obsolete references to previous special superior court judge appointments dating back to 1993.

EFFECTIVE DATE: This act is effective when it becomes law.





Legislative Analysis Division 919-733-2578



House Judiciary IV

Notes for Agenda Items March 8, 2017, 10:00 A.M. Rep. Blackwell, Chair



HB 239 - Reduce Court of Appeals to 12 Judges

- Bill Sponsors Burr, Lewis, Stevens
- Staff Member Kara
- There is a PCS

If there are no amendments to the PCS,

THE MOTION (IF FAVORABLE) SHOULD BE: <u>FAVORABLE TO THE PROPOSED COMMITTEE</u> SUBSTITUTE AND AN UNFAVORABLE REPORT TO THE ORIGINAL BILL.

If there are amendments to the PCS,

THE MOTION (IF FAVORABLE) SHOULD BE: <u>FAVORABLE TO THE PROPOSED COMMITTEE</u> <u>SUBSTITUTE AS AMENDED</u>, <u>ROLLED INTO A NEW PROPOSED COMMITTEE SUBSTITUTE</u>, <u>WITH A FAVORABLE REPORT TO THE NEW COMMITTEE SUBSTITUTE AND AN</u> UNFAVORABLE REPORT TO THE ORIGINAL BILL.

HB 240 - GA Appoint for District Court Vacancies

- Bill Sponsors Burr, K.Hall, Saine, Bumgardner
- Staff Member Brian
- There is a PCS
- There is an amendment

If there are no amendments to the PCS,

THE MOTION (IF FAVORABLE) SHOULD BE: <u>FAVORABLE TO THE PROPOSED COMMITTEE</u> <u>SUBSTITUTE AND AN UNFAVORABLE REPORT TO THE ORIGINAL BILL.</u>

If there are amendments to the PCS,

THE MOTION (IF FAVORABLE) SHOULD BE: <u>FAVORABLE TO THE PROPOSED COMMITTEE</u> <u>SUBSTITUTE AS AMENDED</u>, <u>ROLLED INTO A NEW PROPOSED COMMITTEE SUBSTITUTE</u>, <u>WITH A FAVORABLE REPORT TO THE NEW COMMITTEE SUBSTITUTE AND AN UNFAVORABLE REPORT TO THE ORIGINAL BILL</u>.

HB 241 - Special Superior Court Judgeship Appointed by GA

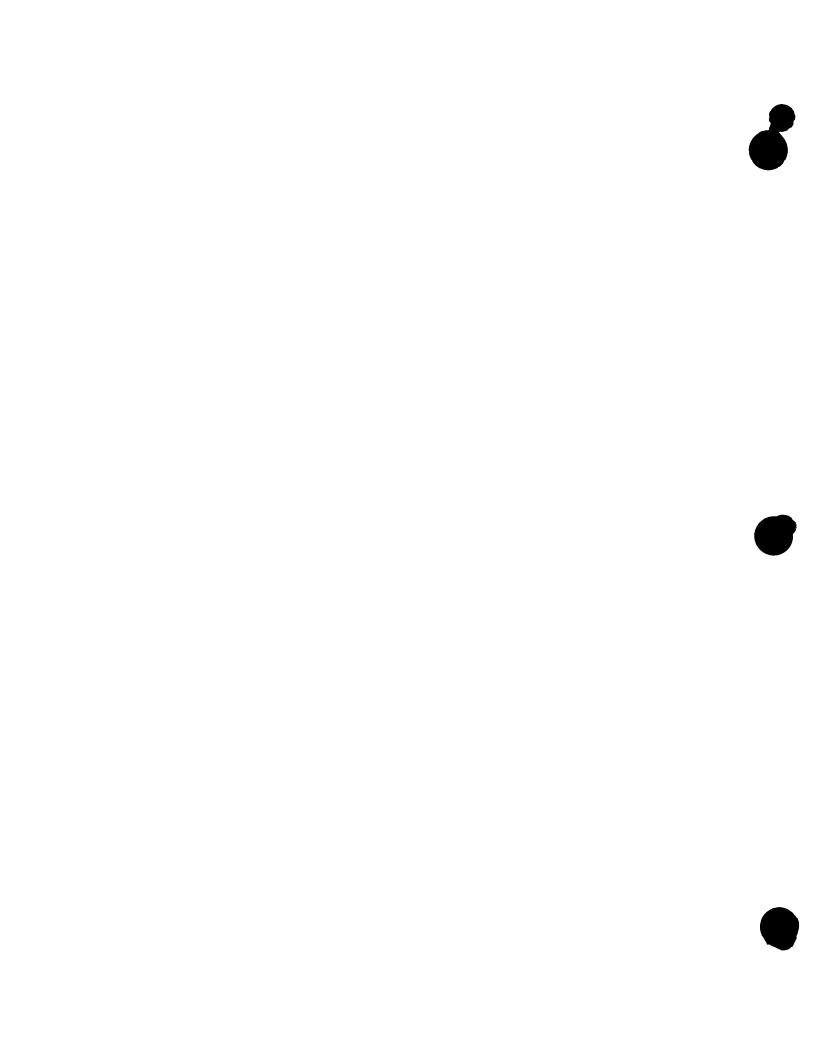
- Bill Sponsors Burr, K.Hall, Saine, Bumgardner
- Staff Member Jeremy

If there are no amendments to the Bill,

THE MOTION SHOULD BE: THE REPRESENTATIVE MOVES FOR A FAVORABLE REPORT.

there are amendments that pass,

HE MOTION (IF FAVORABLE) SHOULD BE: <u>FAVORABLE TO THE BILL AS AMENDED, ROLLED INTO A PROPOSED COMMITTEE SUBSTITUTE, WITH A FAVORABLE REPORT TO THE COMMITTEE SUBSTITUTE AND AN UNFAVORABLE REPORT TO THE ORIGINAL BILL.</u>



VISITOR REGISTRATION SHEET



3/8/17 Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sillian Torman	MWCLLC
Fred Bone	Rone Asso.
Glennay Tane	NCBA
Ken level	MBA
Peter Boleve	NC State Bur
Waly Eli	o, Waare.
MER	My.
Wi ?	NCHO
MARTAR GERR	COHEN MICSTETN
Mark Lanier	UNCW
Kim Diexander	5632 Mararah Brich Dr., Aprex







VISITOR REGISTRATION SHEET



3-8-17

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

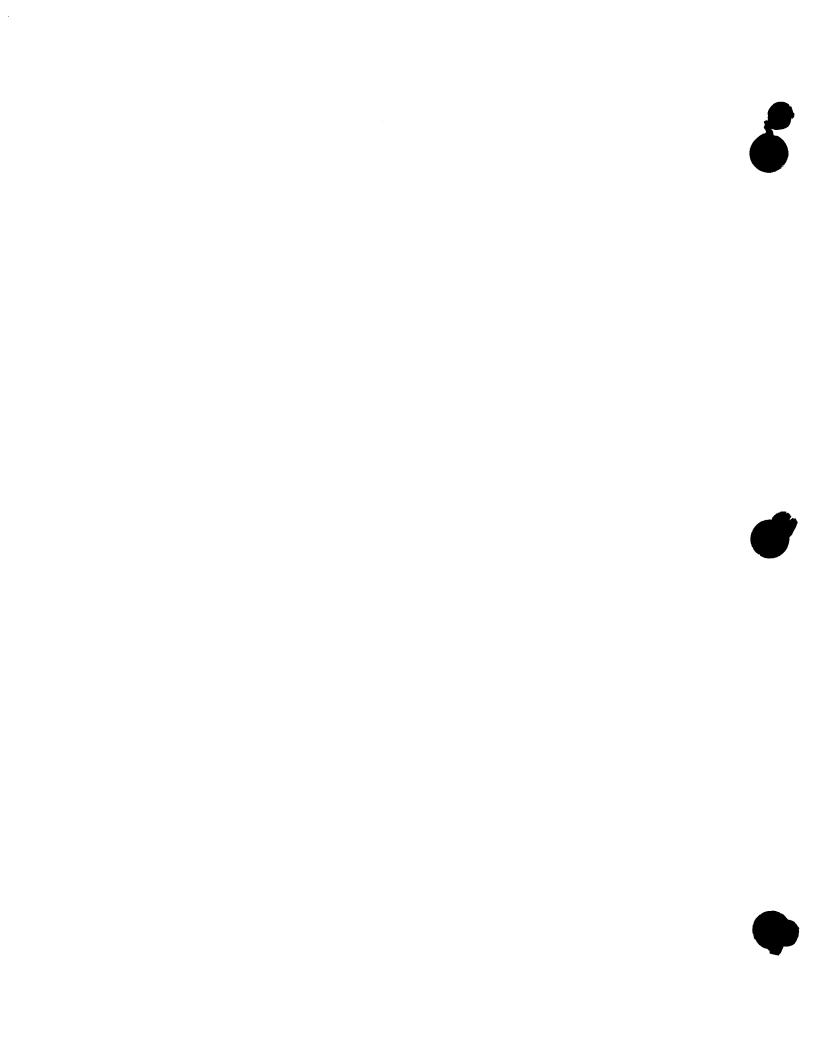
NAME	FIRM OR AGENCY AND ADDRESS
Gere Royall	NCFPC
Jake Sire	NCFPC
AL Robert	NCJC
Flint Benson	SEANC
Brooks Rainey Pearson	SELC
Jessica & rates	Gov Coper
Student havin	Netter
Unis Parler	DRNK.
Carlin Little	une sas
Mildred Spearman	N CACO
Will Robinson	NCCALT





Committee Sergeants at Arms

NAME OF COMMITTEE HO	ouse Committee on J-I\
DATE: 3/8/2017	Room: <u>1228/1327</u>
	House Sgt-At Arms:
1. Name: David Leighton	
2. Name: Russell Salisbu	ry
уаше:	
4. Name:	
5. Name:	•
	Scuate Sgt-At Arms:
. Name:	
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. Name:	
. Name:	
ame:	



House Committee on Judiciary IV Wednesday, April 19, 2017 at 8:30 A.M. Room 544

MINUTES

The House Committee on Judiciary IV met at 8:30 A.M. on April 19, 2017 in Room 544. Representatives Beasley, Belk, Blackwell, Burr, Butler, Cleveland, Garrison, Potts, Richardson, Riddell, Torbett, and Warren attended.

Representative Justin Burr presided.

The following bills were considered:

HB 217 Domestic Violence Fatality Review in Buncombe. (Representatives B. Turner, Ager, Fisher) Representative Bryan Turner explained the bill. Representative John Torbett made a motion for a favorable report and the motion passed.

HB 343 Enforcement of DVPO on Appeal. (Representatives McNeill, R. Turner, Riddell) Representative Allen McNeill explained the bill. Representative Harry Warren made a motion for a favorable report and the motion passed.

HB 424 Superseding Domestic Orders. (Representatives W. Richardson, Harrison, Belk) Representative Bobbie Richardson made a motion for a favorable report and re-referred to Rules, Calendar, and Operations of the House. The motion passed.

HB 585 Extend Statute of Limitations/Child Sex Abuse. (Representatives Riddell, Boswell, B. Turner, Williams) Representative Dennis Riddell explained the bill. An amendment was presented by Representative Riddell and Representative Torbett made a motion to pass the amendment and it passed. Speakers on the bill were Representative Beverly Boswell, Representative Gary Pendleton, along with Deborah J. Diener, RN. Questions were taken from the members. Representative Deb Butler made a motion for unfavorable to original bill, favorable to PCS and the motion passed.

HB 611 Clarify Objective/Child Protective Services. (Representatives Dobson, Bert Jones, Murphy, Earle) Representative Josh Dobson explained the bill. A technical amendment was brought forward by Representative Larry Potts and this amendment passed. There was discussion on the bill. Representative Harry Warren made a motion for unfavorable to original bill, favorable to PCS. The motion passed.

HB 688 Certain Appeals Allowed/Premarital Agreements. (Representatives Stevens, Jackson) Representative Sarah Stevens explained the bill. Representative George Cleveland motioned for a favorable report and the motion passed.

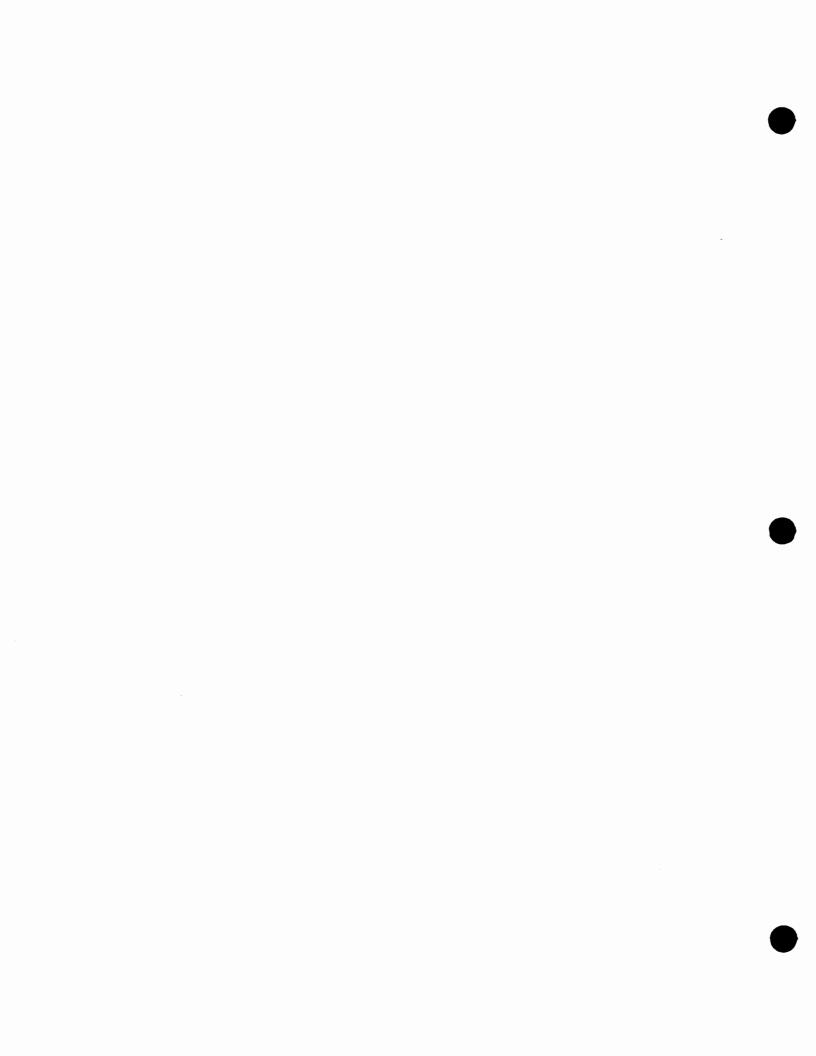
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Handouts attached and make a part of the Minutes.

The meeting adjourned at 9:45 A.M.

Representative Justin Burr Presiding

Dina Long, Committee Clerk



House Committee on Judiciary IV Wednesday, April 19, 2017, 8:30 AM 544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 217	Domestic Violence Fatality Review in	Representative B. Turner
	Buncombe.	Representative Ager
		Representative Fisher
HB 343	Enforcement of DVPO on Appeal.	Representative McNeill
		Representative R. Turner
		Representative Riddell
HB 424	Superseding Domestic Orders.	Representative W. Richardson -
		Representative Harrison
		Representative Belk
HB 585	Extend Statute of Limitations/Child	Representative Riddell
	Sex Abuse.	Representative Boswell
		Representative B. Turner
		Representative Williams
HB 611	Clarify Objective/Child Protective	Representative Dobson
	Services.	Representative Bert Jones
		Representative Murphy
		Representative Earle
HB 688	Certain Appeals Allowed/Premarital	Representative Stevens
	Agreements.	Representative Jackson
		representative businessi

Presentations

Other Business

Adjournment

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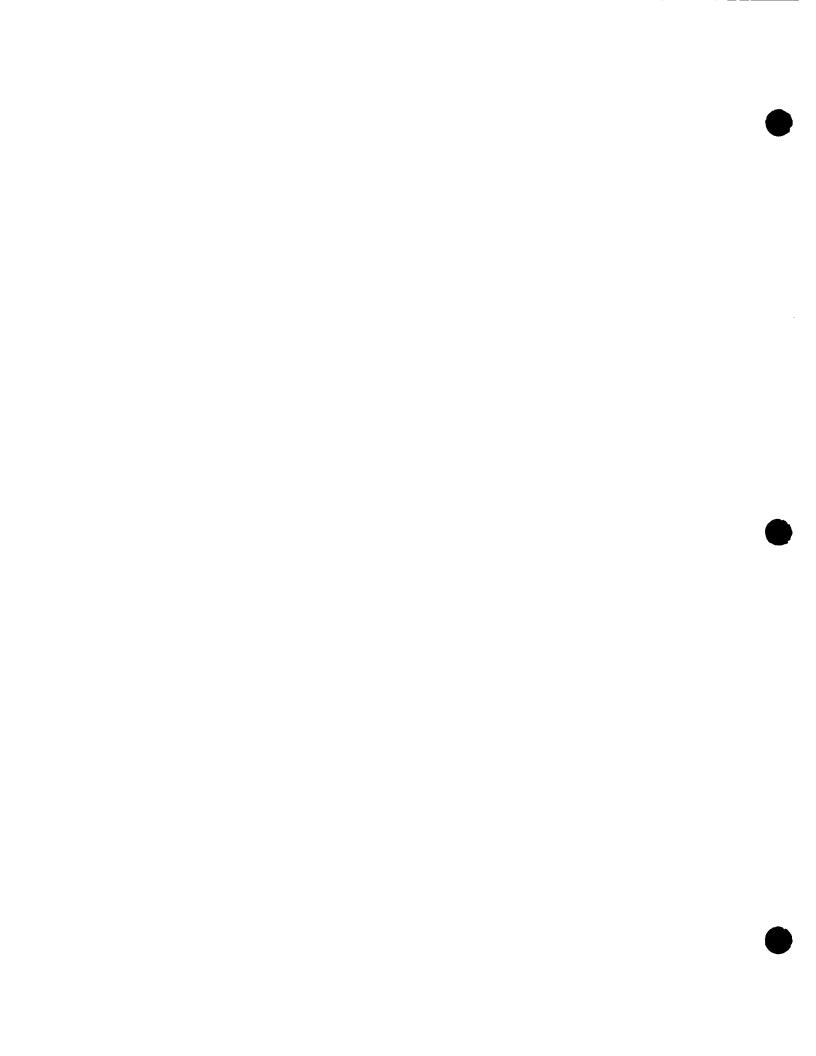
HOUSE BILL 217

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Domestic Violence Fatality Review in Buncombe. Short Title: (Local) Sponsors: Representatives B. Turner, Ager, and Fisher (Primary Sponsors). For a complete list of sponsors, refer to the North Carolina General Assembly web site. Referred to: Judiciary IV

	March 2, 2017
1	A BILL TO BE ENTITLED
2	AN ACT TO ESTABLISH A DOMESTIC VIOLENCE REVIEW TEAM IN BUNCOMBE
3	COUNTY.
4	The General Assembly of North Carolina enacts:
5	SECTION 1. Section 5 of S.L. 2009-52, as amended by S.L. 2013-70, reads as
6	rewritten:
7	"SECTION 5. This act applies to Alamance County, Pitt County, County, Buncombe County,
8	and Mecklenburg County."
9	SECTION 2. This act is effective when it becomes law.





Н **HOUSE BILL 343**

(Public)

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Enforcement of DVPO on Appeal.

Sponsors:

Short Title:

Representatives McNeill, R. Turner, and Riddell (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to:

Judiciary IV

March 15, 2017

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A BILL TO BE ENTITLED

AN ACT TO ENSURE THAT DOMESTIC VIOLENCE VICTIMS ARE PROTECTED BY CLARIFYING THAT A VALID PROTECTIVE ORDER REMAINS IN EFFECT AT THE TRIAL COURT LEVEL THROUGHOUT THE PENDENCY OF AN APPEAL BY THE AGGRIEVED PARTY UNLESS THE COURT FINDS THAT A STAY IS NECESSARY IN THE INTEREST OF JUSTICE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 50B-4 is amended by adding a new subsection to read:

"§ 50B-4. Enforcement of orders.

- A party may file a motion for contempt for violation of any order entered pursuant to this Chapter. This party may file and proceed with that motion pro se, using forms provided by the clerk of superior court or a magistrate authorized under G.S. 50B-2(c1). Upon the filing pro se of a motion for contempt under this subsection, the clerk, or the authorized magistrate, if the facts show clearly that there is danger of acts of domestic violence against the aggrieved party or a minor child and the motion is made at a time when the clerk is not available, shall schedule and issue notice of a show cause hearing with the district court division of the General Court of Justice at the earliest possible date pursuant to G.S. 5A-23. The Clerk, or the magistrate in the case of notice issued by the magistrate pursuant to this subsection, shall effect service of the motion, notice, and other papers through the appropriate law enforcement agency where the defendant is to be served.
 - (b) Repealed by Session Laws 1999-23, s. 2, effective February 1, 2000.
- (c) A valid protective order entered pursuant to this Chapter shall be enforced by all North Carolina law enforcement agencies without further order of the court.
- A valid protective order entered by the courts of another state or the courts of an Indian tribe shall be accorded full faith and credit by the courts of North Carolina whether or not the order has been registered and shall be enforced by the courts and the law enforcement agencies of North Carolina as if it were an order issued by a North Carolina court. In determining the validity of an out-of-state order for purposes of enforcement, a law enforcement officer may rely upon a copy of the protective order issued by another state or the courts of an Indian tribe that is provided to the officer and on the statement of a person protected by the order that the order remains in effect. Even though registration is not required, a copy of a protective order may be registered in North Carolina by filing with the clerk of superior court in any county a copy of the order and an affidavit by a person protected by the order that to the best of that person's knowledge the order is presently in effect as written. Notice of the registration shall not be given to the defendant. Upon registration of the order, the clerk shall promptly forward a copy to the sheriff of that county.



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Unless the issuing state has already entered the order, the sheriff shall provide for prompt entry of the order into the National Crime Information Center registry pursuant to G.S. 50B-3(d).

- i
 - (e) Upon application or motion by a party to the court, the court shall determine whether an out-of-state order remains in full force and effect.

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(f) The term "valid protective order," as used in subsections (c) and (d) of this section, shall include an emergency or ex parte order entered under this Chapter.

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(g) Notwithstanding the provisions of G.S. 1-294, a valid protective order entered pursuant to this Chapter which has been appealed to the appellate division is enforceable in the trial court during the pendency of the appeal. Upon motion by the aggrieved party, the court of the appellate division in which the appeal is pending may stay an order of the trial court until the appeal is decided, if justice so requires."

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SECTION 2. This act becomes effective October 1, 2017.



NCCADV H343 Talking Points

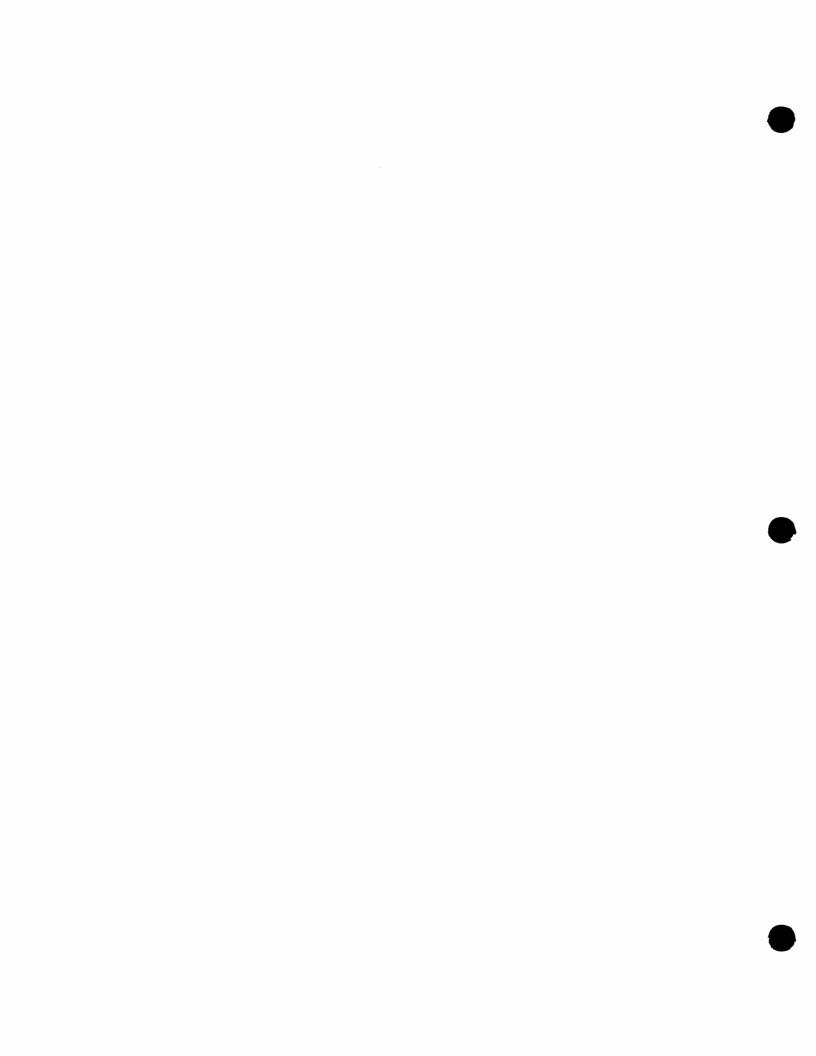
NCCADV asks that legislators support H343 to ensure that victims of domestic violence, who judges have found are in need of immediate protection, remain protected during the pendency of an appeal. North Carolina General Statute §1-294 provides that when a case is appealed it has the force to stay *all* further proceedings in the court below. The effect of this provision on Domestic Violence Protective Orders (DVPO) is potentially life-threatening for victims of domestic violence in that it prevents the DVPO from going into effect. Absent a change to the current law in North Carolina, domestic violence perpetrators can legally exploit this loophole and continue to terrorize their victims. The North Carolina legislature can close this loophole by enacting H343 which creates a statutory exception to this stay provision, similar to what is in place for other family matters such as child custody and child support orders.

1) Domestic Violence Victims are in Imminent Harm

- The current effect of the stay means that once a defendant appeals the entry of a DVPO the DVPO is literally no longer in effect. A victim has no order restraining the abuser from contacting them, coming to their place of work, home, school, etc. The victim will have just gone through enormous hurdles to have navigated the court system only to have the entry of the order by a judge mean nothing and the abuser able to continue to contact them. These are orders being entered after the abuser had **notice and opportunity** to be heard and a judge found the victim's claims to be **meritorious**.
- > The NC Legislature created DVPOs in 1979 in recognition of the severe and immediate danger which victims of domestic violence face and for which they need the support of law enforcement if an abuser continues to harass, threaten, and abuse them.
- > To stay the provisions of the order undermine the very purpose for which the legislature created a protective order for domestic violence victims.
- > The approximate average time for a case to make its way through the appellate courts is one year. This entire time, a victim of domestic violence, who a district court judge found was in danger and entitled to a DVPO, is left unprotected while the abuser appeals the case.
- North Carolina is currently the only state in the 4th Circuit which stays the effect of DV Protective Orders while the order is on appeal.

2) Similar Statutory Exceptions Already Exist:

- North Carolina law already recognizes the importance of keeping judges' orders intact for matters impacting safety, children, and the well-being of the family. Legislators have previously enacted exceptions to the "stay" provision for both child custody orders and child support orders to provide stability and safety for families. (See §50-13.3(a) and §50-13.4(9)). H343 seeks to do the same by mirroring the language of these already existing statutory exceptions.
- > Domestic Violence Protective Orders not only protect the victimized parent, but also often protect child(ren) involved and can include temporary custody provisions, making it all the more necessary to keep them in place during the pendency of an appeal.



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HOUSE BILL 424

Short Title: Superseding Domestic Orders. (Public)

Sponsors: Representatives W. Richardson, Harrison, and Belk (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary IV, if favorable, Rules, Calendar, and Operations of the House

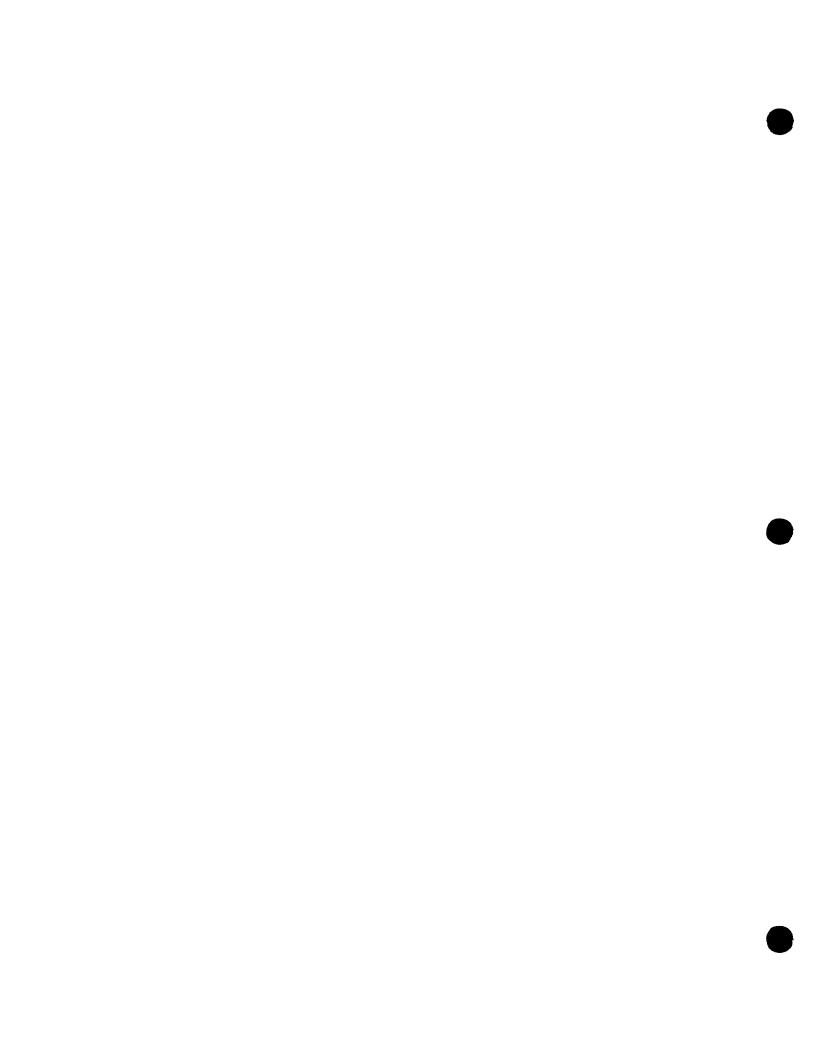
March 22, 2017 1 A BILL TO BE ENTITLED 2 AN ACT TO PROVIDE THAT SUBSEQUENT ORDERS RELATED TO CUSTODY, 3 CHILD AND SPOUSAL SUPPORT, AND POSSESSION OF PROPERTY SUPERSEDE 4 LIKE PROVISIONS IN TEMPORARY CUSTODY ORDER. 5 The General Assembly of North Carolina enacts: SECTION 1. G.S. 50B-7 reads as rewritten: 6 7 "§ 50B-7. Remedies not exclusive. 8 The remedies provided by this Chapter are not exclusive but are additional to remedies provided under Chapter 50 and elsewhere in the General Statutes. 10

(b) Subsequent orders entered pursuant to Chapter 50 of the General Statutes related to custody, child and spousal support, and possession of property and subsequent child support orders entered pursuant to Chapter 110 of the General Statutes shall supersede like provisions in an order issued pursuant to this Chapter."

SECTION 2. This act becomes effective October 1, 2017.



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HOUSE BILL 585

GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

Short Title:	Extend Statute of Limitations/Child Sex Abuse. (Public)
Sponsors:	Representatives Riddell, Boswell, B. Turner, and Williams (Primary Sponsors). For a complete list of sponsors, refer to the North Carolina General Assembly web site.
Referred to:	Judiciary IV
	April 6, 2017
CHILD S COMME The General Si "(d) N plaintiff may was under 18 Si "§ 1-52. The	·
(5	ree years an action (i) For criminal conversation, or for any other injury to the person or rights of another, not arising on contract and not hereafter enumerated. except as provided by G.S. 1-17(d).
(1	
(1	9) For assault, battery, or false imprisonment.imprisonment, except as provided by G.S. 1-17(d).
S	ECTION 3. G.S. 1-56 reads as rewritten:
"§ 1-56. All (a) A otherwise lin	other actions, 10 years. n-Except as provided by subsection (b) of this section, an action for relief not nited by this subchapter may not be commenced more than 10 years after the cause
of action has (b) A	accrued. civil action for child sexual abuse is not subject to the limitation in this section."



General Assembly Of North Carolina	General	Assembly	Of North	Carolina
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Session 2017

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SECTION 4. Effective from October 1, 2017, until September 30, 2018, this act revives any civil action for child sexual abuse otherwise time-barred under G.S. 1-52 as it existed immediately before the enactment of this act.

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SECTION 5. Except as specifically provided by Section 4 of this act, this act becomes effective October 1, 2017, and applies to civil actions commenced on or after that date.

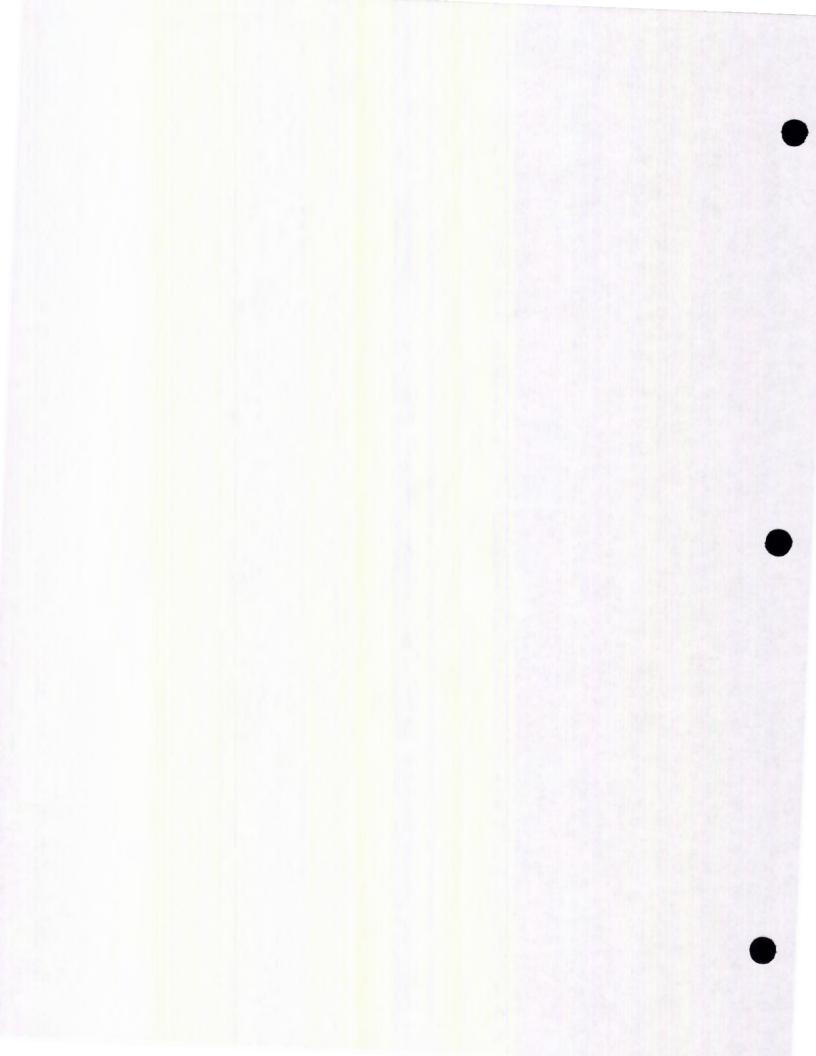
House Bill 585-First Edition



NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT House Bill 585

	H585-ATC-38 [v.1]	(t	MENDMENT NO. o be filled in by Principal Clerk)	Page 1 of 1
	Amends Title [NO] H585-CSTC-22	Date	April 19	,2017
	Representative Riddell			
1	moves to amend the bill on page 1, line	e 35, by rewriting that line	e to read:	
2 3 4 5	"(b) A civil action against a defendant for sexual abuse suffered while the plaintiff was under 18 years of age is not subject to the limitation in this section."";			
6	and on page 2, line 2, by rewriting that	line to read:		
8 9	"revives any civil action against a defunder 18 years of age otherwise time-b			plaintiff was
	SIGNED Amendme	ent Sponsor		
	SIGNED			
	Committee Chair if Sena	te Committee Amendmen	t	
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THE STATUTE OF LIMITATIONS SHIELDS CHILD PREDATORS

AND SHOULD BE ELIMINATED FOR VICTIMS OF CHILD ABUSE

AND IN ADDITION, A WINDOW SHOULD BE OPENED FOR THOSE WHOSE SOL EXPIRED OR WHOSE CASE WAS DISMISSED.

FACTS FROM THE EXPERTS:

-20% OF CHILDREN WILL BE ABUSED PRIOR TO THEIR 18TH BIRTHDAY

-THE SOL SHIELDS CHILD ABUSERS AND GIVES THEM MORE TIME TO ABUSE MORE CHILDREN

-A SERIAL PREFERENTIAL OFFENDER WILL ABUSE, ON AVERAGE IN A LIFETIME, 175 CHILDREN

-ONLY 3% OF OFFENDERS SERVE TIME IN PRISON

THE BENEFIT

NORTH CAROLINA'S CHILDREN WILL BE BETTER PROTECTED!

-EXPOSES AND UN-SHIELDS CHILD PREDATORS

-EXPOSES THOSE WHO FAIL TO PROTECT AND REPORT CHILDREN

-EMPOWERS AND HELPS VICTIMS HEAL

-IT PROTECTS CHILDREN FROM ORGANIZATIONS WHO PREFER TO HANDLE PREDATORS IN HOUSE AND ENCOURAGES THEM TO CHANGE THEIR POLICIES

WILL THIS CHANGE BURDEN OUR COURTS?

THE DATA INDICATES IT WILL NOT-BUT THIS WILL EXPOSE UNKNOWN PREDATORS AND BETTER PROTECT OUR CHILDREN!

- CALIFORNIA- (2003) 1 YEAR WINDOW-POPULATION 35.25 Million-1150 CASES- 300+ PREDATORS EXPOSED ≅ 52,500 CHILDREN SAVED!

DELAWARE- (2007-2009) 2 YEAR WINDOW-POPULATION 935,000-1175 CASES

ABOUT 1,000 CLAIMS AGAINST A PREVIOUSLY UNDISCLOSED PREDATOR

MINNESOTA- (2013-2016) 3 YEAR WINDOW-POPULATION 5.5 MILLION -44 CASES WITH 419 NOTICES OF CLAIMS SUBMITTED IN BANKRUPTCY.

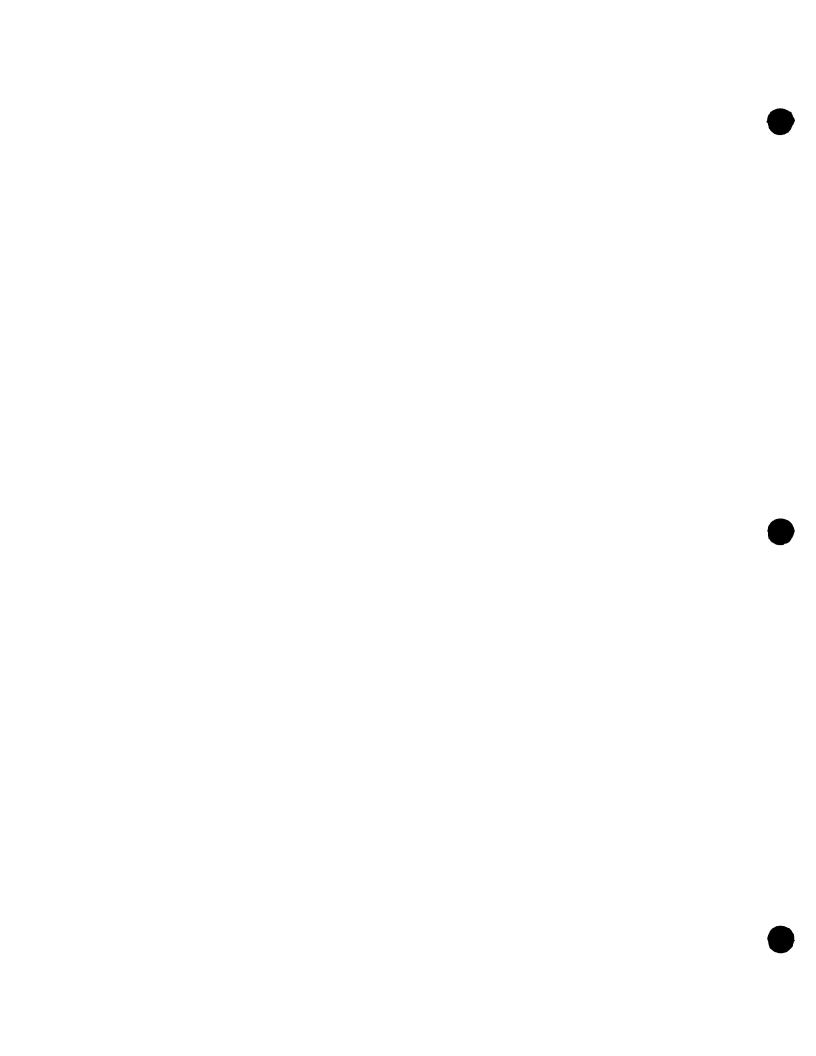
69 PREDATORS EXPOSED ≅ 12,075 CHILDREN SAVED!

HAWAII- (2012-2016) 4 YEAR WINDOW-POPULATION 1.42 MILLION-125 CASES 20+ PREDATORS EXPOSED ≅ 3500 CHILDREN SAVED!

GEORGIA- (2015-2017) 2 YR WINDOW-POPULATION 10.1 MILLION-9 CASES TO 6+ PREDATORS EXPOSED ≅ 1050 CHILDREN SAVED!

UTAH (2016) window and retroactive extension to age 53 against perps and aiders and abettors.
- MASSACHUSETTS; TN; CONNECTICUT TBD -NEW YORK & PA in process

http://sol-reform.com/News/wp-content/uploads/2013/08/Professor-Marci-A.-Hamilton-Relative-Success-Memo.pdf



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HOUSE BILL 611

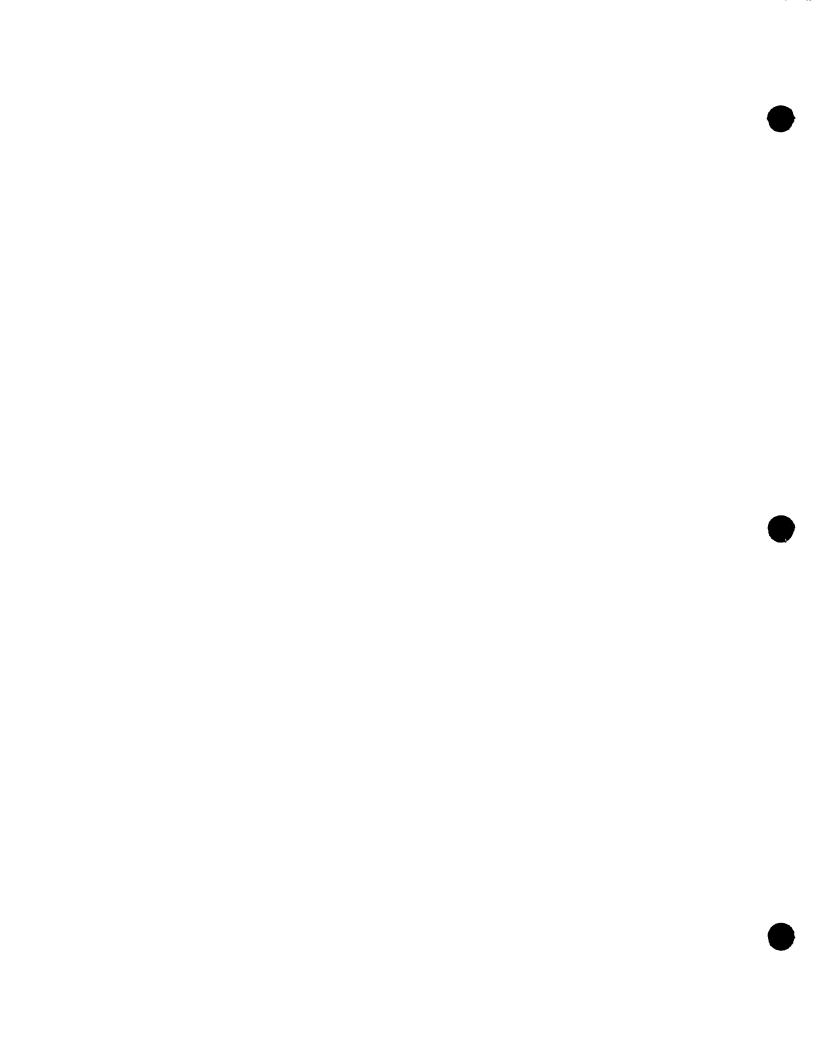
Short Title: Clarify Objective/Child Protective Services. (Public) Sponsors: Representatives Dobson, Bert Jones, Murphy, and Earle (Primary Sponsors). For a complete list of sponsors, refer to the North Carolina General Assembly web site. Referred to: Judiciary IV April 10, 2017 A BILL TO BE ENTITLED AN ACT TO CLARIFY THE OBJECTIVE OF CHILD PROTECTIVE SERVICES AND WHAT CHILD PROTECTIVE SERVICES ENCOMPASSES. The General Assembly of North Carolina enacts: **SECTION 1.** G.S. 7B-300 reads as rewritten: "§ 7B-300. Protective services. The director of the department of social services in each county of the State shall establish protective services for juveniles alleged to be abused, neglected, or dependent. The primary objective of protective services is to protect juveniles and provide for the safety and well-being of juveniles. (b) Protective services shall include each of the screening following: Screening of reports, the reports in accordance with instructions provided by (1)the Department. (2)The performance of an assessment using either a family assessment response or an investigative assessment response, casework, or other counseling response. (3) Casework. (4) Counseling services to juveniles, parents, guardians, or other caretakers as provided by the director to help the parents, guardians, or other caretakers and the court (i) to prevent abuse or neglect, (ii) to improve the quality of child care, (iii) to be more adequate make more suitable decisions as parents, guardians, or caretakers, and (iv) to better meet the needs of juveniles, (v) to preserve and stabilize family life. life, and (vi) to sustain the long-term care



and safety of juveniles."

SECTION 2. This act is effective when it becomes law.

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HOUSE BILL 611: Clarify Objective/Child Protective Services.

2017-2018 General Assembly

Introduced by:

House Judiciary IV Committee:

April 19, 2017 Date: Reps. Dobson, Bert Jones, Murphy, Earle Jeremy Ray Prepared by:

Committee Co-Counsel **Analysis of:** First Edition

OVERVIEW: House Bill 611 would define the primary objective of protective services as protecting and providing for the safety and well-being of juveniles. It would also define and expand certain responsibilities for protective services, such as screening reports in accordance with instructions by the Department, and add counseling services for juveniles to better meet the needs of juveniles and to sustain the long-term care and safety of juveniles. The bill would make other technical and clarifying changes.

CURRENT LAW: G.S. 7B-300 sets forth the responsibilities of the director of the department of social services in each county of the State to establish protective services for juveniles. It also sets forth the responsibilities for protective services which include:

- Screening of reports.
- Performance of an assessment using either a family assessment response or an investigative response.
- Casework.
- Other counseling services to parents, guardians, or other caretakers and the court to prevent abuse or neglect, to improve the quality of child care, to be more adequate parents, guardians, or caretakers, and to preserve and stabilize family life.

BILL ANALYSIS: Subsection (a) in Section 1 would add new language to define the primary objective of protective services is to protect juveniles and provide for the safety and well-being of juveniles.

Subsection (b) would reorganize and combine prior responsibilities of protective services found in G.S. 78-300, with additional responsibilities in a new separate subsection. Additional responsibilities would include:

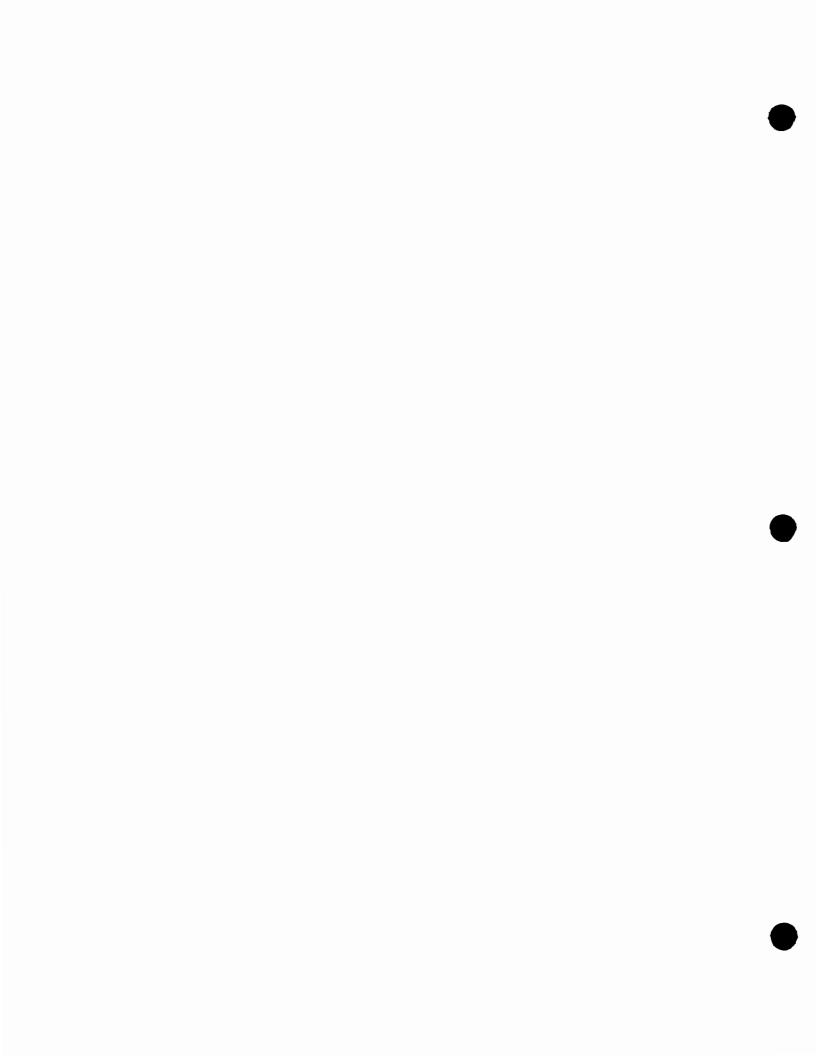
- Screening of reports in accordance with instructions provided by the Department.
- Counseling services now include juveniles in addition to parents, guardians and other caretakers. All counseling services would include two new objectives: (iv) to better meet the needs of the juveniles, and (vi) to sustain the long-term care and safety of juveniles.

EFFECTIVE DATE: This act is effective when it becomes law.

Karen Cochrane-Brown Director



Legislative Analysis Division 919-733-2578

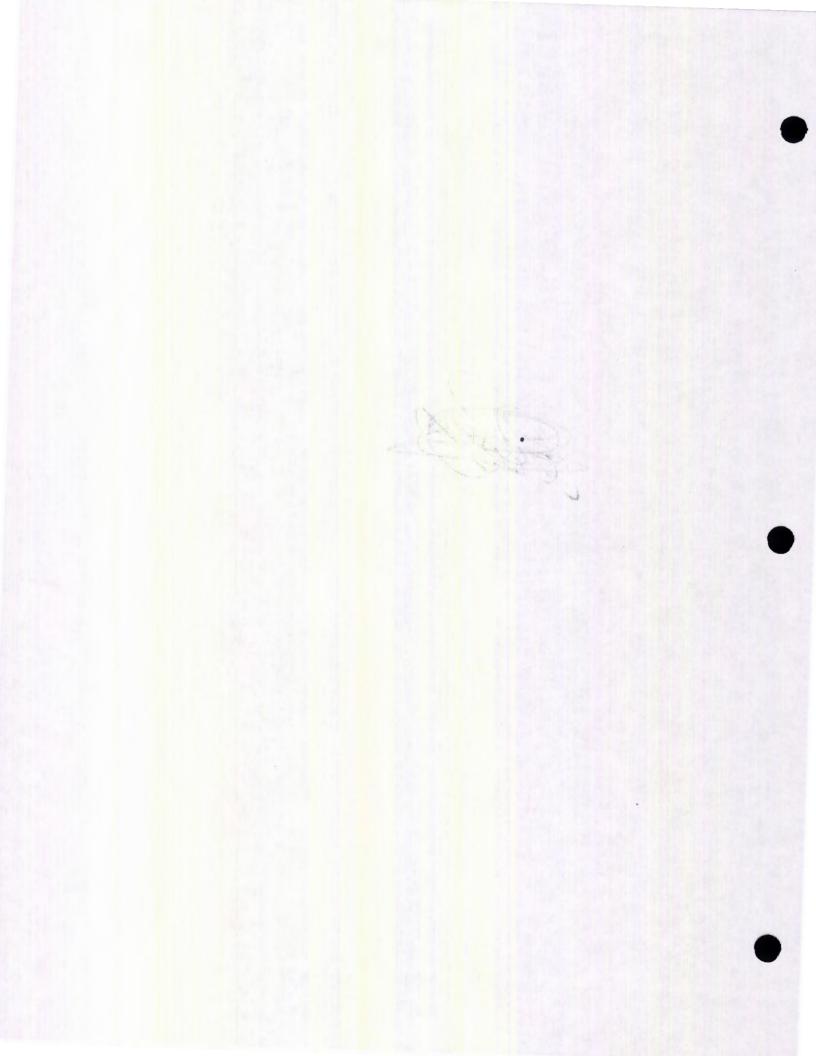




NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT House Bill 611

	H611-ABH-8 [v.1]	AMENDMENT NO. (to be filled in by Principal Clerk)	
	Hoff-Abii-o [v.1]	Timelpar Clerk)	Page 1 of 1
	Amends Title [NO] First Edition	Date April 19	,2017
	Representative 6+5		
1 2	moves to amend the bill on page 1, line 13, 1 substituting the phrase "the Department of Healt	by deleting the phrase "the Depa h and Human Services.".	urtment." and
	SIGNED Amendment Sponso	or	
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	Committee Chair if Senate Commi	ttee Amendment	
	ADOPTED FAILED	TABLED	





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HOUSE BILL 688

Short Title: Certain Appeals Allowed/Premarital Agreements. (Public)

Sponsors: Representatives Stevens and Jackson (Primary Sponsors).

For a complete list of sponsors, refer to the North Caroling General Assembly web site.

Referred to: Judiciary IV

April 11, 2017

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A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT AN ORDER OR JUDGMENT PERTAINING TO THE VALIDITY OF A PREMARITAL AGREEMENT MAY BE IMMEDIATELY

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4 APPEALED.

The General Assembly of North Carolina enacts:

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SECTION 1. G.S. 50-19.1 reads as rewritten:

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"§ 50-19.1. Maintenance of certain appeals allowed.

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Notwithstanding any other pending claims filed in the same action, a party may appeal from an order or judgment adjudicating a claim for absolute divorce, divorce from bed and board, the validity of a premarital agreement as defined by G.S. 52B-2(1), child custody, child support, alimony, or equitable distribution if the order or judgment would otherwise be a final order or judgment within the meaning of G.S. 1A-1, Rule 54(b), but for the other pending claims in the same action. A party does not forfeit the right to appeal under this section if the party fails to immediately appeal from an order or judgment described in this section. An appeal from an order or judgment under this section shall not deprive the trial court of jurisdiction over any other claims pending in the same action."

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SECTION 2. This act is effective when it becomes law.



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HOUSE BILL 688: Certain Appeals Allowed/Premarital Agreements.

2017-2018 General Assembly

Committee: House Judiciary IV

Introduced by: Reps. Stevens, Jackson

Analysis of:

First Edition

Date:

April 19, 2017

Prepared by:

Brian Gwyn

Committee Co-Counsel

OVERVIEW: House Bill 688 would provide that an order or judgment pertaining to the validity of a premarital agreement may be immediately appealed.

CURRENT LAW: The final judgment of a claim may not be appealed until all claims within the action are resolved, unless (1) the judge finds that there is "no just reason for delay"; or (2) an immediate appeal is expressly provided by rule or statute. G.S. 1A-1, Rule 54(b).

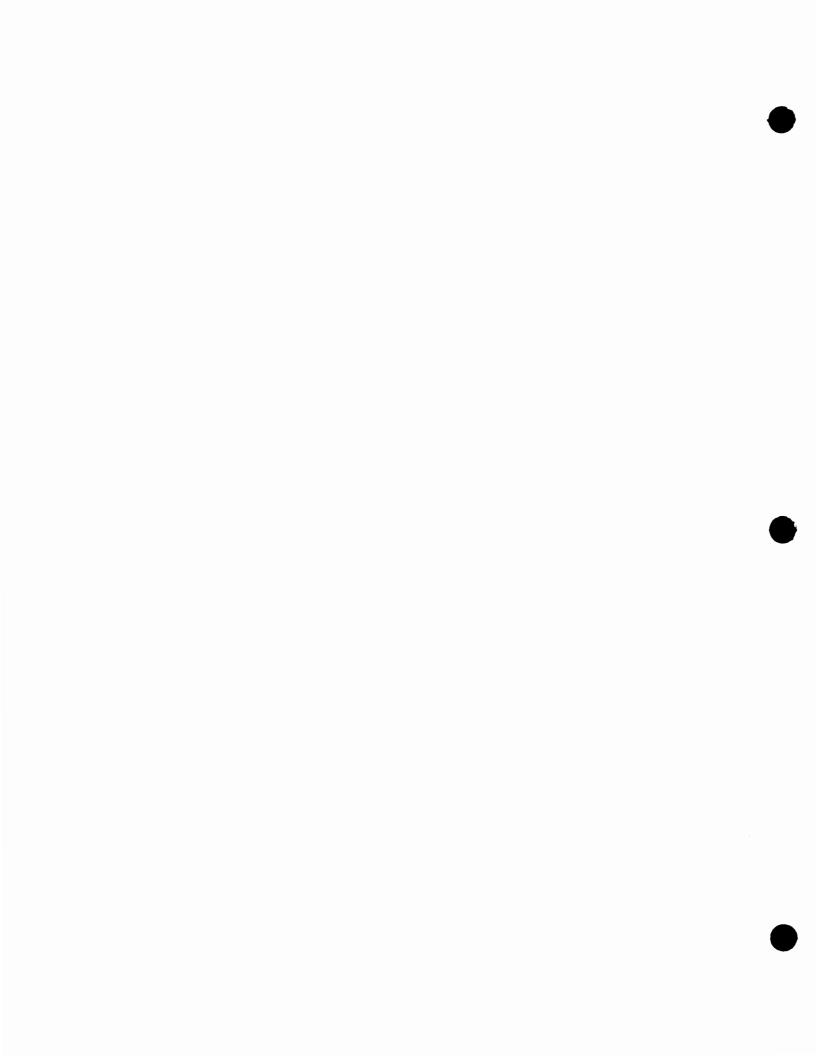
G.S. 50-19.1 expressly authorizes immediate appeals of final judgments even if there are other pending claims in the action in the following circumstances: absolute divorce; divorce from bed and board; child custody; child support; alimony; and equitable distribution.

BILL ANALYSIS: House Bill 688 would amend G.S. 50-19.1 to include an order or judgment pertaining to the validity of a premarital agreement as among those orders that may be immediately appealed.

EFFECTIVE DATE: House Bill 688 would be effective when it becomes law.







Committee Sergeants at Arms

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	0 4 -19-17			
		House Sgt-At	Arms:	
-1. Name: _	REGGIE SILLS	**************************************		
	MARVIN LEE			
	TERRY McCRAW			
	THOMAS TERRY			
		Senate Sgt-At	Arms:	
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VISITOR REGISTRATION SHEET

Judicitly IV

Date 04-19-2017

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
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Penny Gulf	50G
Gary Pendleton	@ Public
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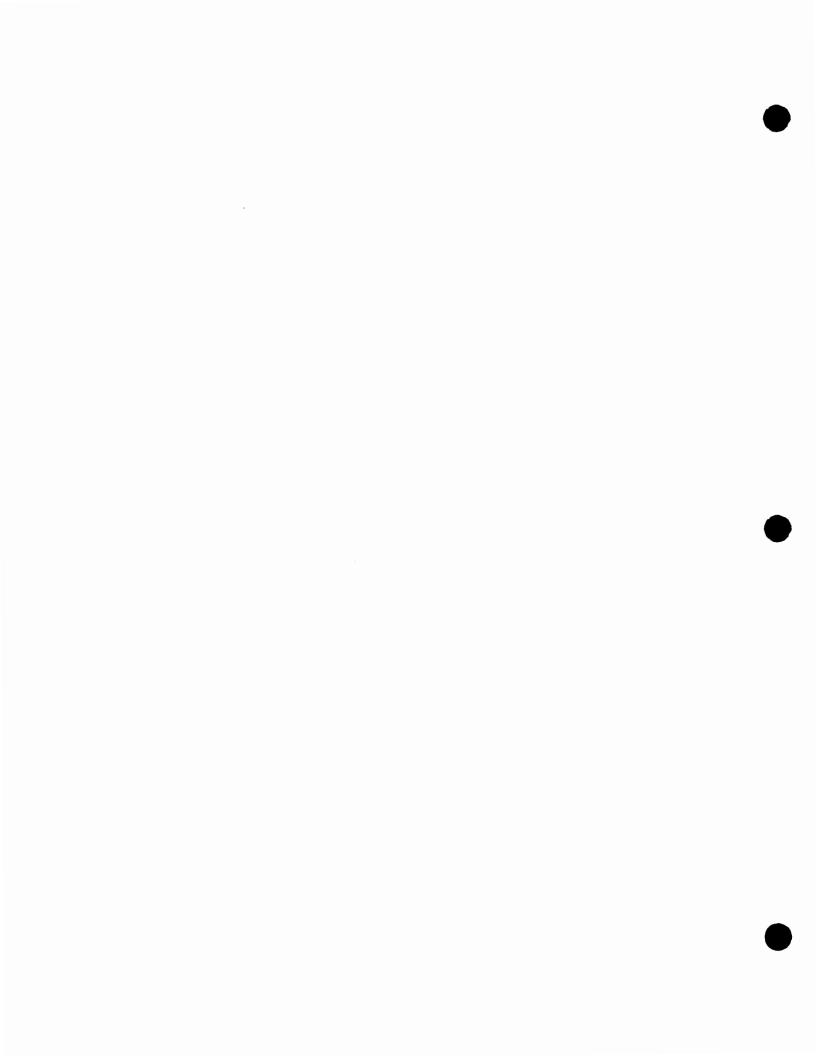
VISITOR REGISTRATION SHEET

Sudicipes IV
Name of Committee

Date 04-19-2017

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Chris Prougation	MWC
Alex Miller	AMGA
Amber Lueken Barnick	NC Conf. of DAS
Flint Benson	SEANC



House Committee on Judiciary IV Tuesday, April 25, 2017 at 2:00 PM Room 415 of the Legislative Office Building

MINUTES

The House Committee on Judiciary IV met at 2:00 PM on April 25, 2017 in Room 415 of the Legislative Office Building. Representatives Blackwell, Burr, Alexander, Beasley, Butler, Cleveland, Potts, B. Richardson, Riddell and Warren attended.

Representative Hugh Blackwell, Chair, presided.

The following bills were considered:

HB 630 Rylan's Law/CPS Observation. (Representatives Boles, Stevens, Rogers, McNeill) Representative Boles explained the bill. Rep. Stephens and Rep. McNeill, also primary sponsors, spoke to the bill. Rep. Boles stated that he may offer a technical amendment to the bill on the floor in consideration of a recommendation by Kevin Kelly from the NC Division of Social Services. Rep. Cleveland made a motion for a favorable report and the motion passed.

HB 772 Amend NC Int'l Arbitration/Conciliation Act. (Representatives Destin Hall, Grange, Rogers, John) In the absence of the primary sponsors, Chairman Blackwell recognized Kim Crouch, NC Bar Association, to explain the bill. David Garrett and Bill Harazin, NC Bar Association members, also spoke to the bill. Rep. Cleveland made a motion for a favorable report. The motion passed.

There being no further items for discussion, Rep. Blackwell adjourned the meeting at 2:20 PM.

Representative Hugh Blackwell, Chair

Presiding

Divia Piahm Committee Clark

House Committee on Judiciary IV Tuesday, April 25, 2017, 2:00 PM 1228/1327 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 630	Rylan's Law/CPS Observation.	Representative Boles
		Representative Stevens
		Representative Rogers
		Representative McNeill
HB 772	Amend NC Int'l	Representative Destin Hall
	Arbitration/Conciliation Act.	Representative Grange
		Representative Rogers
		Representative John

Presentations

Other Business

Adjournment



GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

HOUSE BILL 630

Short Title:	Rylan's Law/CPS Observation. (Public
Sponsors: Representatives Boles, Stevens, Rogers, and McNeill (Primary Sponsors). For a complete list of sponsors, refer to the North Carolina General Assembly web site.	
Referred to: Homelessness, Foster Care, and Dependency, if favorable, Judiciary IV	

April 10, 2017

A BILL TO BE ENTITLED

AN ACT REQUIRING A COUNTY DEPARTMENT OF SOCIAL SERVICES TO OBSERVE A PARENT, GUARDIAN, CUSTODIAN, OR CARETAKER FOR WHOM ALLEGATIONS OF CHILD ABUSE, NEGLECT, OR DEPENDENCY HAVE BEEN SUBSTANTIATED FOR A MINIMUM NUMBER OF VISITS BEFORE RETURN OF CUSTODY TO THAT PERSON.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7B-903.1(c) reads as rewritten:

"(c) If a juvenile is removed from the home and placed in the custody or placement responsibility of a county department of social services, the director shall not allow unsupervised visitation with or return physical custody of the juvenile to the parent, guardian, custodian, or caretaker without a hearing at which the court finds that the juvenile will receive proper care and supervision in a safe home. Before the county department of social services may recommend return of physical custody of the juvenile to the parent, guardian, custodian, or caretaker from whom the juvenile was removed, the county department of social services shall observe that parent, guardian, custodian, or caretaker with the juvenile for at least two successful visits and provide documentation of the successful visits to the court for its consideration. Each observation visit shall be conducted at least seven days apart. For purposes of this subsection, a "successful visit" shall consist of an observation of no less than one hour with the juvenile or juveniles subject to the abuse, neglect, or dependency present for the duration of each visit."

SECTION 2. This act is effective when it becomes law.



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HOUSE BILL 630: Rylan's Law/CPS Observation.

2017-2018 General Assembly

Committee:

House Judiciary IV

Date:

April 25, 2017

Introduced by:

Reps. Boles, Stevens, Rogers, McNeill

Prepared by: Jeremy Ray

Analysis of:

First Edition

Committee Co-Counsel

OVERVIEW: House Bill 630 would require a county department of social services to observe a parent, guardian, custodian, or caretaker for whom allegations of child abuse, neglect, or dependency have been substantiated for a minimum number of visits before returning custody to that person.

CURRENT LAW: G.S. 7B-903.1(c) states when a child is placed in custody or placement responsibility of a county department of social services the director must not allow unsupervised visitation with or return of physical custody to a parent, guardian, custodian, or caretaker without a hearing at which the court finds the juvenile will receive proper care and supervision in a safe home.

BILL ANALYSIS: This bill adds to current law an additional provision that the county department of social services may not recommend physical custody be returned to a parent, guardian, custodian or caretaker from whom a juvenile was removed, unless the department has observed that parent, guardian, custodian or caretaker with the juvenile for at least two successful visits and provides documentation of the successful visits to the court.

The "successful visits" must be at least seven days apart and must consist of an observation of at least one hour with the juvenile(s) subject to the abuse, neglect, or dependency being present for the duration of the visit.

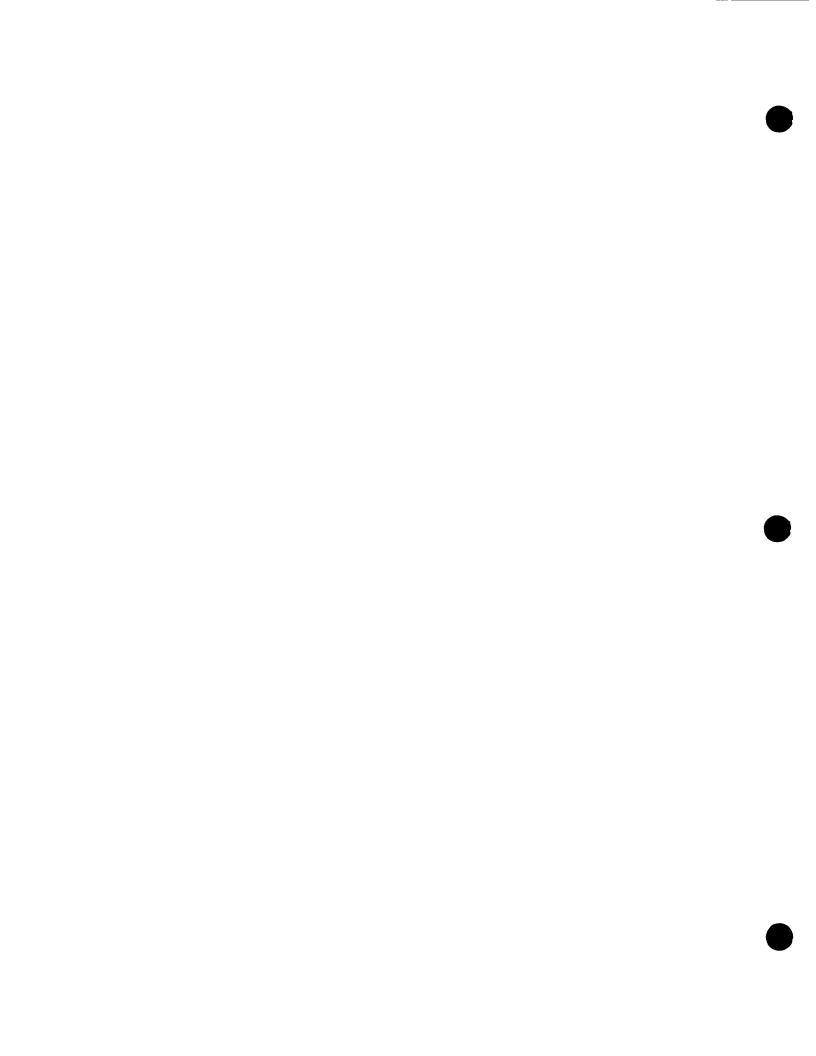
EFFECTIVE DATE: This bill becomes effective when it becomes law.

*Tawanda N. Foster, counsel to House Homelessness, Foster Care, and Dependency, substantially contributed to this summary.

Karen Cochrane-Brown Director



Legislative Analysis Division 919-733-2578



GENERAL ASSEMBLY OF NORTH CAROLINA **SESSION 2017**

HOUSE BILL 772

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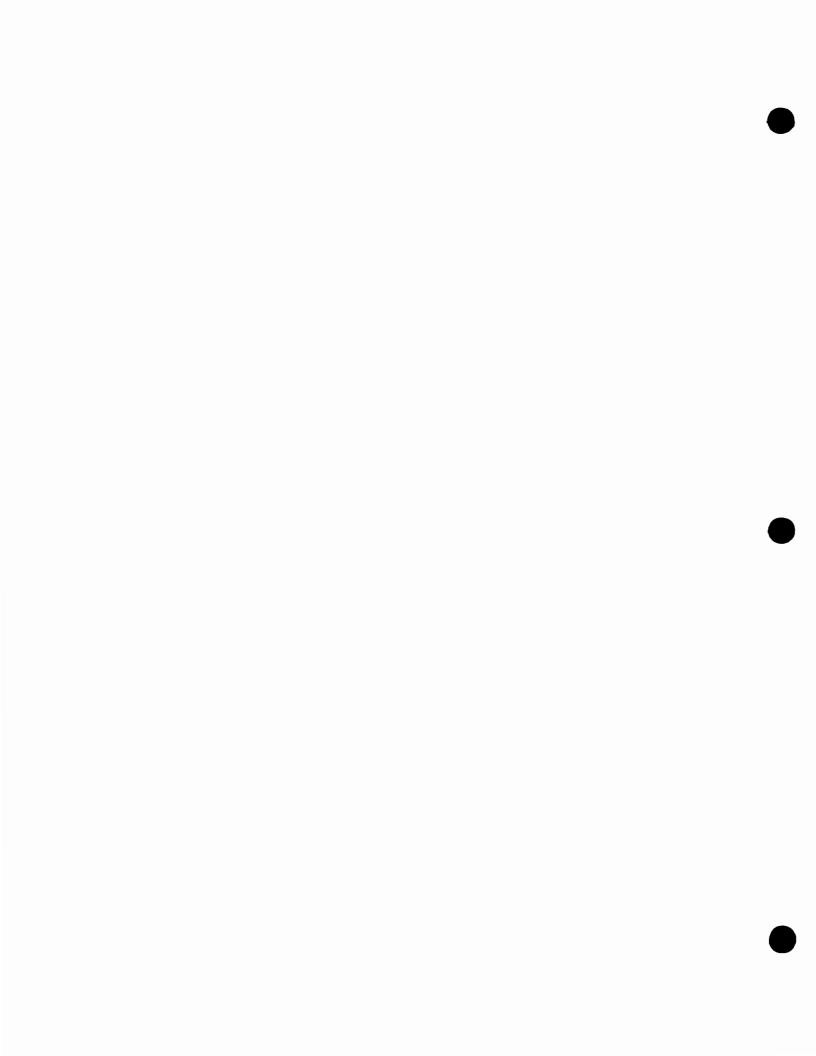
Short Title:

Amend NC Int'l Arbitration/Conciliation Act.	(Public)
Representatives Destin Hall, Grange, Rogers, and John (Primary S	ponsors).
For a complete list of sponsors, refer to the North Carolina General Assen	ably web site.
Iudiciary IV	

	Sponsors:	Representatives Destin Hall, Grange, Rogers, and John (Primary Sponsors).
		For a complete list of sponsors, refer to the North Carolina General Assembly web site.
	Referred to:	Judiciary IV
		April 13, 2017
1		A BILL TO BE ENTITLED
2	AN ACT T	O AMEND THE NORTH CAROLINA INTERNATIONAL COMMERCIAL
3		ATION AND CONCILIATION ACT.
4		Assembly of North Carolina enacts:
5		ECTION 1. Article 45B of Chapter 1 of the General Statutes reads as rewritten:
6	5	"Article 45B.
7		"International Commercial Arbitration and Conciliation.
8		"Part 1. General Provisions.
9		art i. General i rovisions.
10	"8 1-567.31.	Scope of application.
11	v	This Article applies to international commercial arbitration and conciliation, subject
12	, ,	cable international agreement in force between the United States of America and
13		tion or nations, or and any federal statute, law.
14		The provisions of this Article, except G.S. 1-567.38, 1-567.39, and 1-567.65, apply
15	` /	lace of arbitration is in this State.
16		an arbitration or conciliation is international if: if any of the following are true:
17	. ,	The parties to the arbitration or conciliation agreement have their places of
18	(business in different nations when the agreement is concluded; arconcluded.
19	C	2) One or more of the following places is situated outside the nations in which
20	(-	the parties have their places of business:
21		a. The place of arbitration or conciliation if determined pursuant to the
22		arbitration agreement; agreement.
23		b. Any place where a substantial part of the obligations of the
24		commercial relationship is to be performed; or performed.
25		c. The place with which the subject matter of the dispute is most closely
26		connected; erconnected.
27	(The parties have expressly agreed in a record that the subject matter of the
28	`	arbitration or conciliation agreement relates to more than one nation.
29	(d) F	For the purposes of subsection (c) of this section:
30		1) If a party has more than one place of business, the place of business is that
31	`	which has the closest relationship to the arbitration or conciliation
32		agreement; agreement.

- If a party does not have a place of business, reference is to be made to the (2) party's domicile.





An arbitration or conciliation, respectively, is deemed commercial for the purposes 1 of this Article if it arises out of a relationship of a commercial nature, including, but not limited 2 3 to any of the following: A transaction for the exchange of goods and services; or services. 4 (1)5 A distribution agreement; agreement. (2)A commercial representation or agency; agency. 6 (3) An exploitation agreement or concession; concession. 7 (4) A joint venture or other related form of industrial or business 8 (5) 9 cooperation; cooperation. The carriage of goods or passengers by air, sea, water, land, or road; road. 10 (6)A contract or agreement relating to construction, insurance, licensing, 11 (7) factoring, leasing, consulting, engineering, financing, or banking; banking. 12 The transfer of data or technology; technology. 13 (8)The use or transfer of intellectual or industrial property, including trade (9) 14 secrets, trademarks, trade names, patents, copyrights, plant variety 15 protection, and software programs; programs. 16 A contract for the provision of any type of professional service, whether 17 (10)provided by an employee or an independent contractor. 18 19 This Article does not govern arbitrations under Article 1H of Chapter 90 of the 20 (h) 21 General Statutes. "§ 1-567.32. Definitions and rules of interpretation. 22 23 For the purposes of this Article: The following definitions apply in this Article: (a) "Arbitral award" means any Arbitral award. - Any decision of an arbitral 24 tribunal on the substance of a dispute submitted to it, and includes an 25 interlocutory, interlocutory or partial award; award. 26 27 "Arbitral tribunal" means a Arbitral tribunal. - A sole arbitrator or a panel of (2)28 arbitrators; arbitrators. "Arbitration" means any arbitration Arbitration. - Any arbitration, whether 29 (3) or not administered by a permanent arbitral institution; institution. 30 Court. – A court of competent jurisdiction in this State. 31 (3a)"Party" means a Party. - A party to an arbitration agreement; agreement. 32 (4)33 "Superior court" means the superior court of any county in this State selected (5)34 pursuant to G.S. 1-567.36. 35 Record. – Information that is inscribed on a tangible medium or that is stored **(6)** in an electronic or other medium and is retrievable in a perceivable form. 36 37 38 (d) Where a provision of this Article, other than in G.S. 1-567.55(1) and 39 G.S. 1-567.62(b)(1), refers to a claim, it also applies to a counterclaim, counterclaim or setoff, 40 and where it refers to a defense, it also applies to a defense to such counterclaim, a counterclaim 41 or setoff. "§ 1-567.33. Receipt of written communications or submissions. 42 43 Unless otherwise agreed in a record by the parties, any written communication or submission is deemed to have been received if it is delivered to the addressee personally or if it 44 45 is delivered at the addressee's place of business, domicile domicile, or mailing address and address, and the communication or submission is deemed to have been received on the day it is 46

(b) If none of the places referred to in subsection (a) can be found after making reasonable inquiry, a written communication or submission is deemed to have been received if

so-delivered. Delivery Unless otherwise agreed in a record by the parties, delivery by facsimile

transmission or electronic transmission, if in a record, shall constitute valid receipt if the

communication or submission is in fact received, received, and the receipt is in a record.

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it is sent to the addressee's last known place of business, domicile domicile, or mailing address by registered mail-mail, certified mail, or any other means which that provide a record of the attempt to deliver it.

The provisions of this Article do not apply to a written communication or submission relating to a court, administrative administrative, or special proceeding.

"Part 2. International Commercial Arbitration.

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"§ 1-567.36. Venue and jurisdiction of courts.

- The functions referred to in G.S. 1-567.41(c) and (d), 1-567.43(a), 1-567.44(b), 1-567.46(c), and 1-567.57 shall be performed by the superior court in: in the following county:
 - The county where the arbitration agreement is to be performed or was (1) made; made.
 - If the arbitration agreement does not specify a county where the agreement is (2) to be performed and the agreement was not made in any county in the State of North Carolina, the county where any party to the court proceeding resides or has a place of business; business.
 - In any case not covered by subdivisions (1) or (2) of this subsection, in any (3) county in the State of North Carolina.
- All other functions assigned by this Article to the superior court shall be performed by the superior-court of the county in which the place of arbitration is located.

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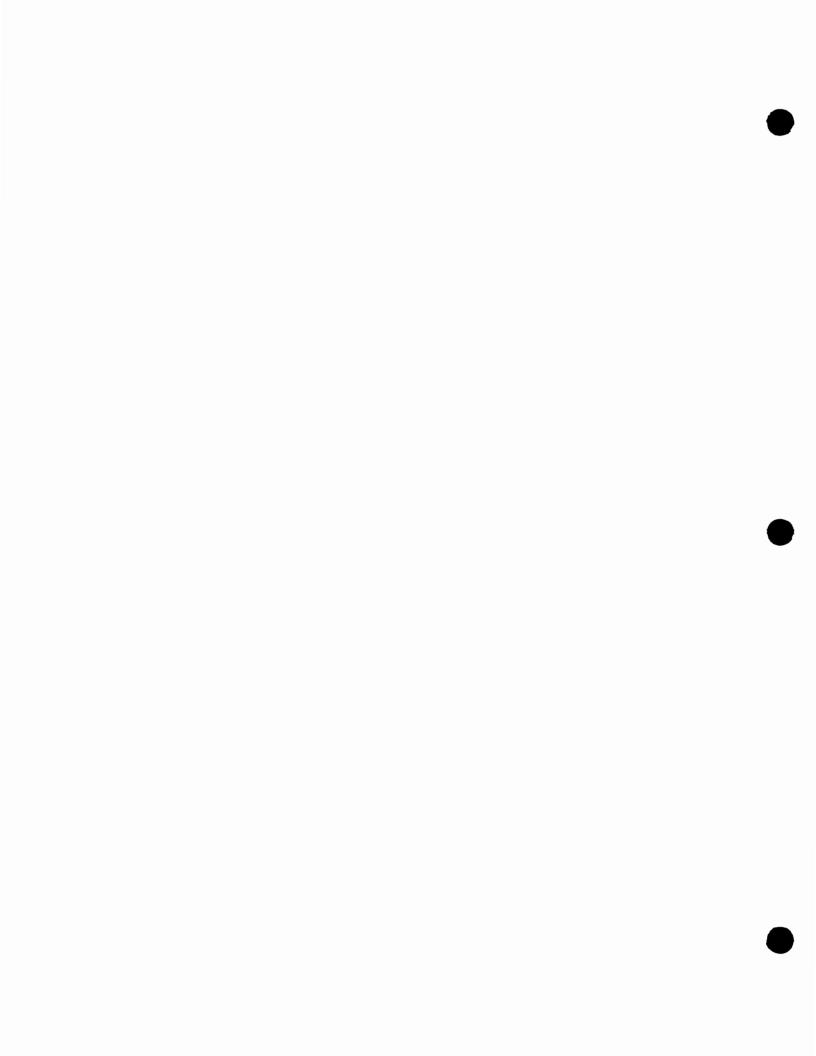
"§ 1-567.38. Arbitration agreement and substantive claim before court.

- When a party to an international commercial arbitration agreement as defined in this Article-commences judicial proceedings seeking relief with respect to a matter covered by the agreement to arbitrate, any other party to the agreement may apply to the superior court for an order to stay the proceedings and compel arbitration.
- Arbitration proceedings may begin or continue, and an award may be made, while an action described in subsection (a) is pending before the court.

"§ 1-567.39. Interim relief and the enforcement of interim measures.

- In the case of an arbitration where the arbitrator or arbitrators have not been appointed, or where the arbitrator or arbitrators are unavailable, a party may seek interim relief directly from the superior court as provided in subsection (c). Enforcement shall be granted as provided by the law applicable to the type of interim relief sought.
- In all other cases, a party shall seek interim measures under GS. 1-567.47 from the arbitral tribunal and shall have no right to seek interim relief from the superior court, except that a party to an arbitration governed by this Article may request from the superior court enforcement of an order of an arbitral tribunal granting interim measures under G.S. 1-567.47. relief under G.S. 1-567.47.
- In connection with an agreement to arbitrate or a pending arbitration, the superior court may grant, pursuant to subsection (a) of this section; section, any of the following:
 - An order of attachment or garnishment; garnishment. (1)
 - A temporary restraining order or preliminary injunction; injunction. (2)
 - An order for claim and delivery delivery. (3)
 - **(4)** The appointment of a receiver; receiver.
 - Delivery of money or other property into court; court. (5)
 - Any other order that may be necessary to ensure the preservation or (6) availability either of assets or of documents, the destruction or absence of which would be likely to prejudice the conduct or effectiveness of the arbitration.

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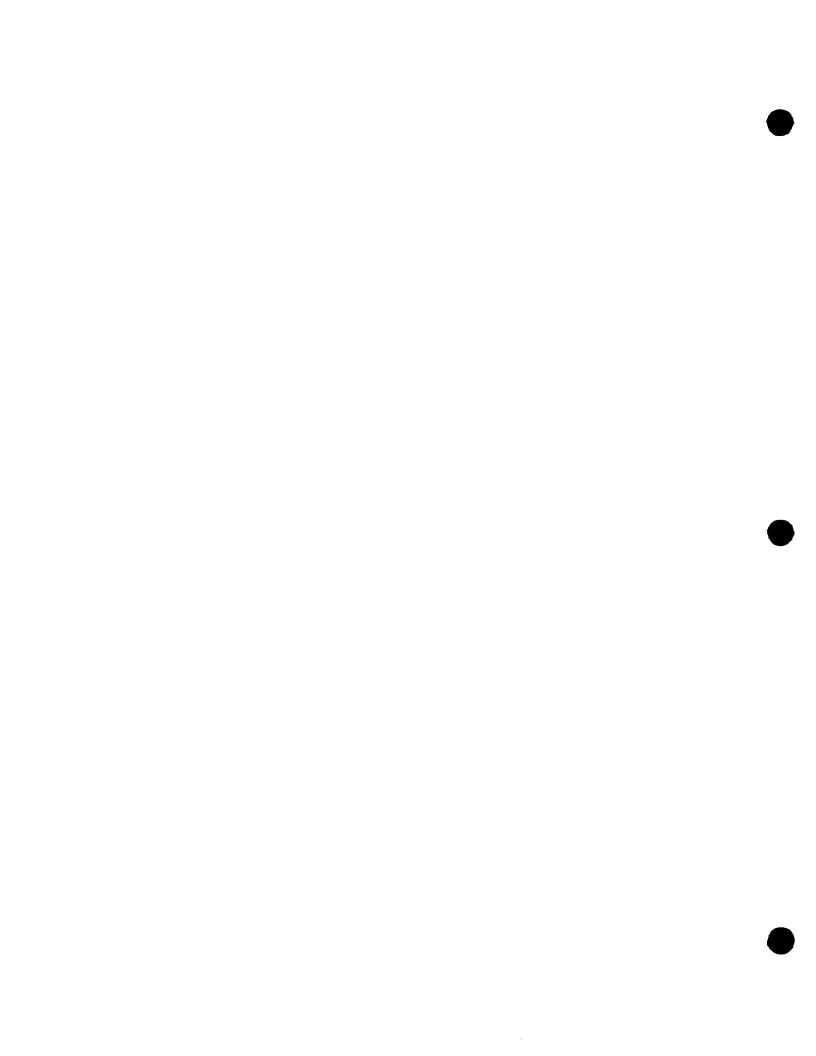
(f) The availability of interim relief under this section may be limited by prior written agreement of the parties.parties in a record.

"§ 1-567.41. Appointment of arbitrators.

- (c) (1) If an agreement is not made under subsection (b) of this section, in an arbitration with three arbitrators, each party shall appoint one arbitrator, and the two arbitrators thus appointed shall appoint the third arbitrator; if a party fails to appoint the arbitrator within 30 days of receipt of a request to do so from the other party, or if the two arbitrators fail to agree on the third arbitrator within 30 days of their appointment, the appointment shall be made, upon request of a party, by the superior court.
 - (2) In an arbitration with a sole arbitrator, if the parties are unable to agree on the arbitrator, a sole arbitrator shall be appointed, upon request of a party, by the superior court.
 - (3) In an arbitration involving more than two parties, if no agreement is reached under subsection (b) of this section, the superior court, on request of a party, shall appoint one or more arbitrators, as provided in G.S. 1-567.40.
- (d) The superior-court, on request of any party, may take the necessary measures, unless the agreement on the appointment procedure provides other means for securing the appointment, if, under an appointment procedure agreed upon by the parties: parties, any of the following events occur:
 - (1) A party fails to act as required under such procedure; or the procedure.
 - (2) The parties, or two arbitrators, are unable to reach an agreement expected of them under such procedure; or the procedure.
 - (3) A third party, including an institution, fails to perform any function entrusted to it under such the procedure.
- (e) A decision of the superior-court on a matter entrusted by subsection (c) or (d) of this section shall be final and not subject to appeal.
- (f) The superior court, in appointing an arbitrator, shall eonsider:consider all of the following:
 - (1) Any qualifications required of the arbitrator by the agreement of the parties; parties.
 - (2) Such other considerations as are likely to secure the appointment of an independent and impartial arbitrator; arbitrator.
 - (3) In the case of a sole or third arbitrator, the advisability of appointing an arbitrator of a nationality other than those of the parties.
- (g) The parties may agree to employ an established arbitration institution to conduct the arbitration. If they do not so agree, the superior court may in its discretion designate an established arbitration institution to conduct the arbitration.
- (h) Unless otherwise agreed, an arbitrator shall be is entitled to compensation at an hourly or daily rate which that reflects the size and complexity of the case, and the experience of the arbitrator. If the parties are unable to agree on such a rate, the rate shall be determined by the arbitral institution chosen pursuant to subsection (g) of this section or by the arbitral tribunal, in either case subject to the review of the superior court upon the motion of any dissenting party.

"§ 1-567.42. Grounds for challenge.

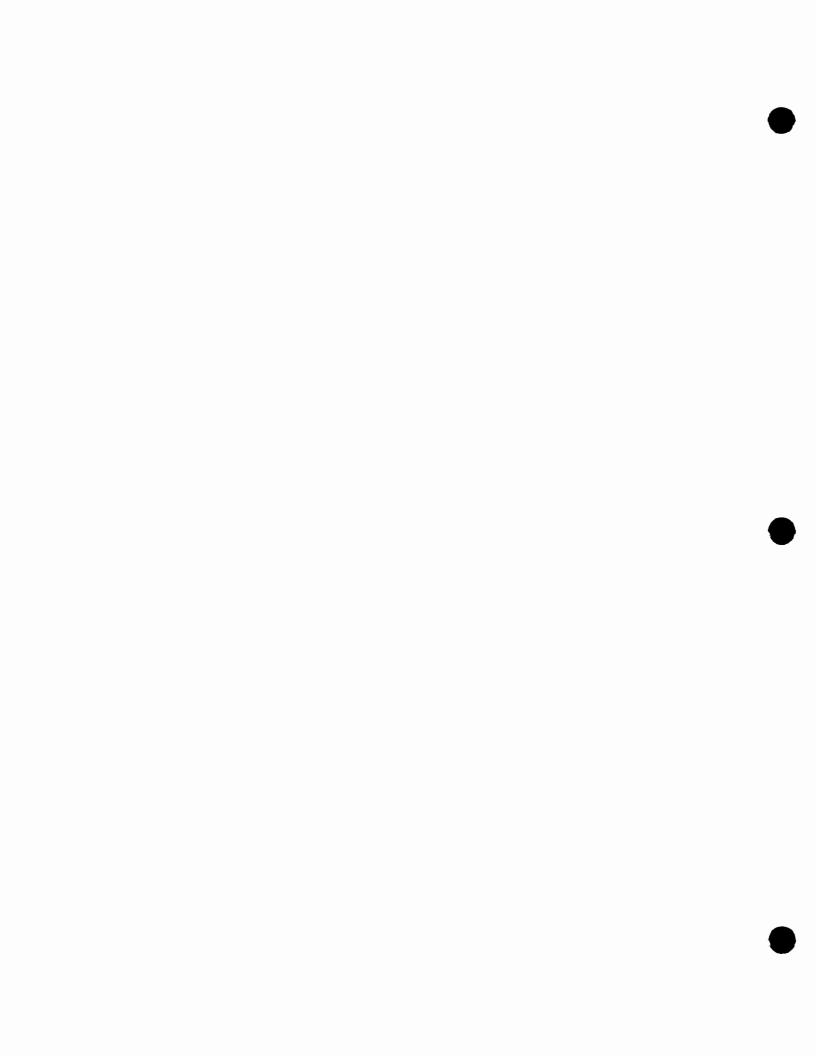
(a) Except as otherwise provided in this Article, all persons whose names have been submitted for consideration for appointment or designation as arbitrators, or who have been appointed or designated as such, shall make a disclosure to the parties within 15 days of such



submission, appointment, or designation of any information which might cause their impartiality to be questioned including, but not limited to, any of the following instances:

- (1) The person has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;
- (2) The person served as a lawyer in the matter in controversy, or the person is or has been associated with another who has participated in the matter during such association, or has been a material witness concerning it:
- (3) The person served as an arbitrator in another proceeding involving one or more of the parties to the proceeding;
- (4) The person, individually or as a fiduciary, or such person's spouse or minor child residing in such person's household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;
- (5) The person, his or her spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person meets any of the following conditions:
 - a. The person is or has been a party to the proceeding, or an officer, director, or trustee of a party;
 - b. The person is acting or has acted as a lawyer in the proceeding;
 - c. The person is known to have an interest that could be substantially affected by the outcome of the proceeding;
 - d. The person is likely to be a material witness in the proceeding;
- (6) The person has a close personal or professional relationship with a person who meets any of the following conditions:
 - a: The person is or has been a party to the proceeding, or an officer, director, or trustee of a party;
 - b. The person is acting or has acted as a lawyer or representative in the proceeding;
 - c. The person is or expects to be nominated as an arbitrator or conciliator in the proceeding;
 - d. The person is known to have an interest that could be substantially affected by the outcome of the proceeding;
 - e. The person is likely to be a material witness in the proceeding.
- (b) The obligation to disclose information set forth in subsection (a) of this section is mandatory and cannot be waived as to the parties with respect to persons serving either as sole arbitrator or as the chief or prevailing arbitrator. The parties may otherwise agree to waive such disclosure.
- (c) From the time of appointment and throughout the arbitral proceedings, an arbitrator shall disclose to the parties without delay any circumstances referred to in subsection (a) of this section which were not previously disclosed.
- (d) Unless otherwise agreed by the parties or the rules governing the arbitration, an arbitrator may be challenged only if circumstances exist that give rise to justifiable doubts as to his or her independence or impartiality, or as to his or her possession of the qualifications upon which the parties have agreed.
- (e) A party may challenge an arbitrator appointed by it, or in whose appointment it has participated only for reasons of which it becomes aware after the appointment has been made.

 "§ 1-567.43. Challenge procedure.
- (a) The parties may agree on a procedure for challenging an arbitrator, subject to the provisions of subsection (c) of this section.



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If there is no agreement under subsection (a) of this section, a party challenging an arbitrator shall, within 15 days after becoming aware of the constitution of the arbitral tribunal or after becoming aware of any circumstance referred to in G.S. 1-567.42(a), send a written statement of the reasons for the challenge to the arbitral tribunal. Unless the challenged arbitrator withdraws or the other party agrees to the challenge, the arbitral tribunal shall decide on the challenge.

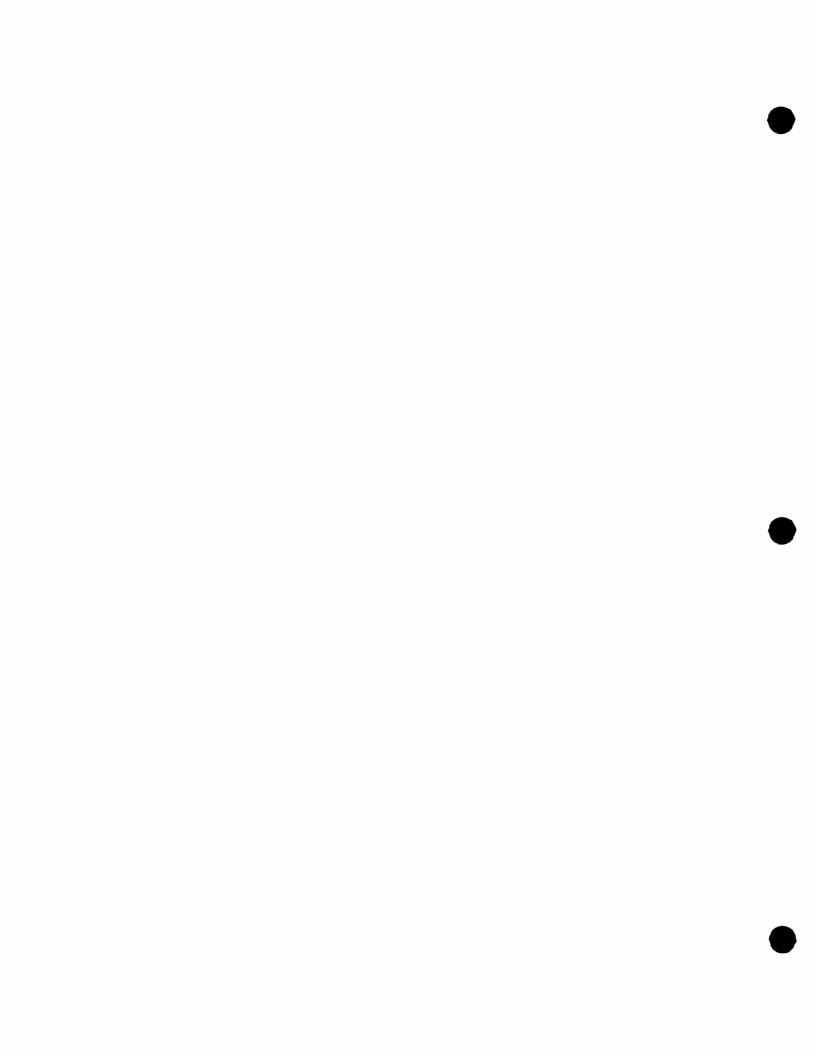
If a challenge under any procedure agreed upon by the parties or under the procedure of subsection (b) of this section is not successful, the challenging party may, within 30 days after having received notice of the decision rejecting the challenge, request the superior court to decide on the challenge, which decision shall be final and subject to no appeal. While such a request is pending, the arbitral tribunal, including the challenged arbitrator, may continue to conduct the arbitral proceedings and make an award.

"§ 1-567.43A. Disclosure by arbitrator.

- Before accepting appointment, an individual who is requested to serve as an (a) arbitrator, after making a reasonable inquiry, shall disclose to all parties to the agreement to arbitrate and to the arbitration proceeding and to any other arbitrators any known facts that a reasonable person would consider likely to affect the impartiality of the arbitrator in the arbitration proceeding, including the following:
 - A financial or personal interest in the outcome of the arbitration proceeding. (1)
 - An existing or past relationship with any of the parties to the agreement to (2)arbitrate or to the arbitration proceeding, their counsel or representatives, a witness, or other arbitrators.
- An arbitrator has a continuing obligation to disclose to all parties to the agreement to arbitrate and to the arbitration and to any other arbitrators any facts that the arbitrator learns after accepting appointment that a reasonable person would consider likely to affect the impartiality of the arbitrator.
- If an arbitrator discloses a fact required by subsection (a) or (b) of this section to be (c) disclosed, and a party makes a timely objection to the appointment or continued service of the arbitrator based upon the fact disclosed, the objection may be a ground under G.S. 1-567.64 for vacating an award made by the arbitrator.
- If the arbitrator did not disclose a fact as required by subsection (a) or (b) of this section, upon timely objection by a party, the court under G.S. 1-567.64 may vacate an award.
- An arbitrator appointed as a neutral arbitrator who does not disclose a known, direct, and material interest in the outcome of the arbitration proceeding or a known, existing, and substantial relationship with a party is presumed to act with evident partiality under G.S. 1-567.64.
- If the parties to an arbitration proceeding agree to the procedures of an institution or any other procedures for challenges to arbitrators before an award is made, substantial compliance with those procedures is a condition precedent to a motion to vacate an award on that ground under G.S. 1-567.64.

"§ 1-567.44. Failure or impossibility to act.

- (b) If a controversy remains concerning any of the grounds referred to in subsection (a) of this section, a party may request the superior court to decide on the termination of the mandate. The decision of the superior court shall be final and not subject to appeal.
- If under this section or under G.S. 1-567,43, an arbitrator withdraws or otherwise agrees to the termination of his or her the arbitrator's mandate, no acceptance of the validity of any ground referred to in this section or G.S. 1-567.43(b) shall be implied in consequence of such the action.
- "§ 1-567.46. Competence of arbitral tribunal to rule on its jurisdiction.



(c) The arbitral tribunal may rule on a plea referred to in subsection (b) of this section either as a preliminary question or in an award on the merits. If the arbitral tribunal rules as a preliminary question that it has jurisdiction, after having received notice of that ruling, any party may request the superior court to decide the matter. The decision of the superior court shall be final and not subject to appeal. While such a the request is pending, the arbitral tribunal may continue the arbitral proceedings and make an award.

"§ 1-567.47. Power of arbitral tribunal to order interim measures.

- (a) Unless otherwise agreed by the parties, the arbitral tribunal may, at the request of a party, order any party to take such interim measure of protection as the arbitral tribunal may consider necessary in respect of the subject matter of the dispute, including an interim measure analogous to any type of interim relief specified in G.S. 1-567.39(c). The arbitral tribunal may require any party to provide appropriate security, including security for costs as provided in G.S. 1-567.61(h)(2), in connection with such the measure.
- (b) A court has the same power to issue an interim measure in an arbitration proceeding, irrespective of whether the arbitration proceeding is in the territory of this State, as it has in a court proceeding. The court shall exercise this power in accordance with its own procedures in consideration of the specific features of international arbitration.

"§ 1-567.49. Determination of rules of procedure.

- (a) Subject to the provisions of this Article, the parties may agree on the procedure to be followed by the arbitral tribunal in conducting the proceedings.
- (b) If there is no agreement under subsection (a) of this section, the arbitral tribunal may, subject to the provisions of this Article, subject to the provisions of this Article, the tribunal shall select the rules for conducting the arbitration after hearing all the parties and taking particular reference to model rules developed by arbitration institutions or similar sources. If the tribunal is unable to decide on rules for conducting the arbitration, upon application by a party, the court may order use of rules for conducting the arbitration, taking particular reference to model rules developed by arbitration institutions or similar sources. In other matters not covered by rules, the tribunal shall conduct the arbitration in such manner as it considers appropriate. The power conferred upon the arbitral tribunal includes the power to order such discovery as it deems necessary and to determine the admissibility, relevance, materiality, and weight of any evidence. Evidence need not be limited by the rules of evidence applicable in judicial proceedings, except as to immunities and privilege. Each party shall have the burden of proving the facts relied on to support its claim, counterclaim, setoff, or defense.

"§ 1-567.50A. Consolidation.

- (a) Except as otherwise provided in subsection (c) of this section, upon motion of a party to an arbitration agreement or to an arbitral proceeding, the court may order consolidation of separate arbitration proceedings as to all or some of the claims if all of the following are true:
 - There are separate arbitration agreements or separate arbitral proceedings between the same parties or one of the parties is a party to a separate agreement to arbitrate or a separate arbitration with a third person.
 - (2) The claims subject to the arbitration agreements arise in substantial part from the same transaction or series of related transactions.
 - (3) The existence of a common issue of law or fact creates the possibility of conflicting decisions in the separate arbitral proceedings.
 - (4) Prejudice resulting from a failure to consolidate is not outweighed by the risk of undue delay or prejudice to the rights of or hardship to parties opposing consolidation.

- (b) The court may order consolidation of separate arbitral proceedings as to some claims and allow other claims to be resolved in separate arbitral proceedings.
- (c) The court shall not order consolidation of the claims of a party to an arbitration agreement if the agreement prohibits consolidation.

"§ 1-567.51. Commencement of arbitral proceedings.

Unless otherwise agreed by the parties, parties or otherwise provided in the rules and procedures upon which the parties have agreed, the arbitral proceedings in respect of a particular dispute shall commence on the date on which a request for that dispute to be referred to arbitration is received by the respondent a party as provided in G.S. 1-567.33.

"§ 1-567.53. Statements of claim and defense.

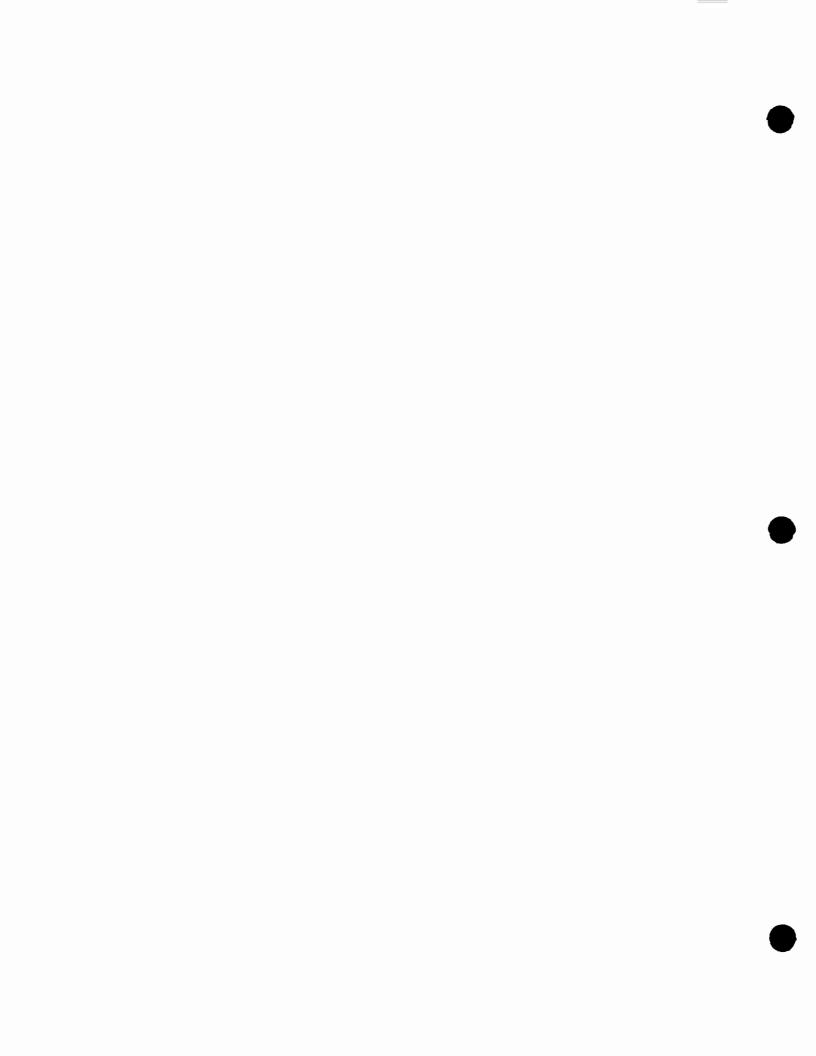
- (a) Within the period of time agreed by the parties or determined by the arbitral tribunal, the claimant shall state the facts supporting its claim, the points at issue and the relief or remedy sought, and the respondent shall state its defenses and counterclaims defenses, counterclaims, or setoffs in respect of these particulars, unless the parties have otherwise agreed as to the required elements of such these statements. The parties may submit with their statements all documents they consider to be relevant or may add a reference to the documents or other evidence the party will submit.
- (b) Unless otherwise agreed by the parties, either party may amend or supplement a claim or defense during the course of the arbitral proceedings, unless the arbitral tribunal considers it inappropriate to allow such amendment the amendment, having regard to the delay in making it.
- (c) If there are more than two parties to the arbitration, each party shall state its claims, defenses, counterclaims, or setoffs, and defenses as provided in subsection (a) of this section.

"§ 1-567.57. Court assistance in obtaining discovery and taking evidence.

- (a) The arbitral tribunal or a party with the approval of the arbitral tribunal may request from the superior-court assistance in obtaining discovery and taking evidence. The court may execute the request within its competence and according to its rules on discovery and taking evidence, and may impose sanctions for failure to comply with its orders. A subpoena may be issued as provided by G.S. 8-59, in which case the witness compensation provisions of G.S. 6-51, 6-53, and 7A-314 shall apply.
- (b) If the parties to two or more arbitration agreements agree, in their respective arbitration agreements or otherwise, to consolidate the arbitrations arising out of those agreements, the superior court, upon application by a party, may do any of the following:
 - Order the arbitrations to be consolidated on terms the court considers just and necessary;
 - (2) If all the parties cannot agree on an arbitral tribunal for the consolidated arbitration, appoint an arbitral tribunal as provided by G.S. 1-567.41; and
 - (3) If all the parties cannot agree on any other matter necessary to conduct the consolidated arbitration, make any other order it considers necessary.

"§ 1-567.61. Form and contents of award.

- (a) The award shall be made in writing <u>in a record</u> and shall be signed by the arbitrator or arbitrators. In arbitral proceedings with more than one arbitrator, the signatures of the majority of all members of the arbitral tribunal shall suffice, provided that the reason for any omitted signature is stated in the record of the award.
- (a1) An award shall be made within the time specified by the agreement to arbitrate or the arbitration institution, or, if not so specified, within the time ordered by the court. The court may extend or the parties to the arbitration proceeding may agree in a record to extend the time.



A party waives any objection that an award was not timely made unless that party gives notice of the objection to the arbitral tribunal before receiving notice of the award.

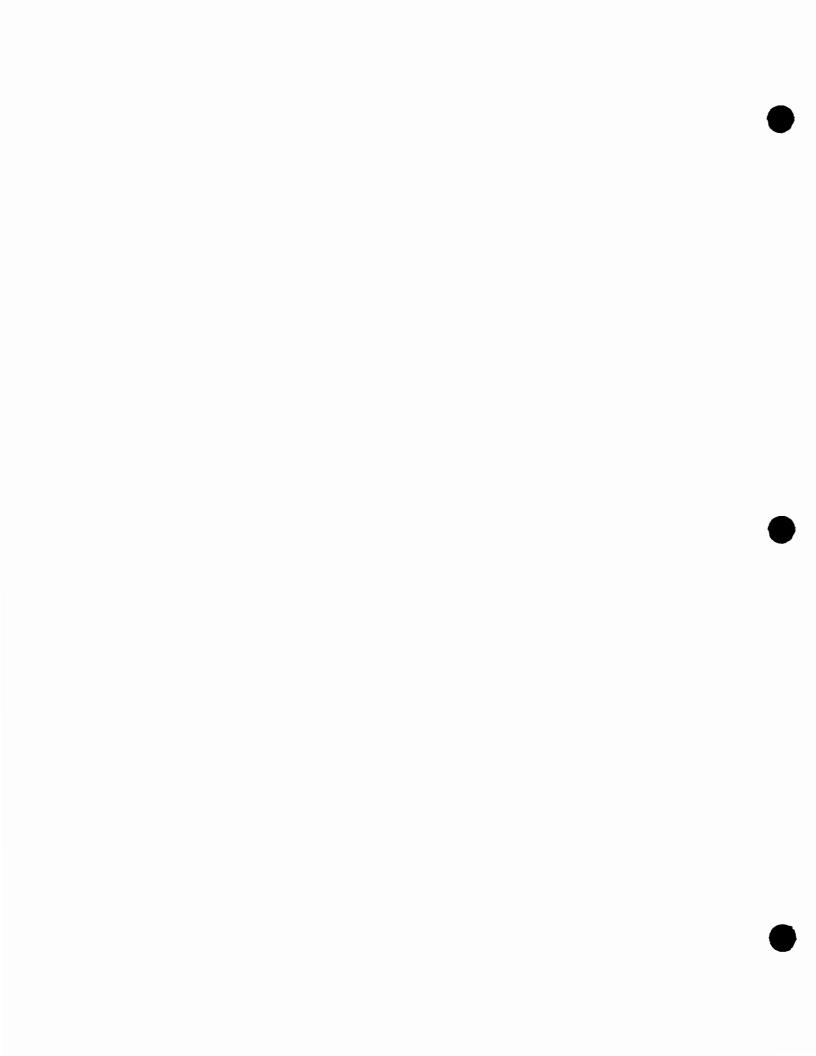
- (h) (1) Unless otherwise agreed by the parties, the awarding of costs of an arbitration shall be at the discretion of the arbitral tribunal.
 - (2) In making an order for costs, the arbitral tribunal may include <u>any of the</u> following as costs:
 - a. The fees and expenses of the arbitrator or arbitrators, expert witnesses, and translators; translators.
 - b. Fees and expenses of counsel and of the institution supervising the arbitration, if any; and any.
 - c. Any other expenses incurred in connection with the arbitral proceedings.
 - (3) In making an order for costs, the arbitral tribunal may specify: specify any of the following:
 - a. The party entitled to eosts; costs.
 - b. The party who shall pay the eosts; costs.
 - The amount of costs or method of determining that amount; andamount.
 - d. The manner in which the costs shall be paid.
- (i) The arbitral tribunal may award punitive damages or other exemplary relief if all of the following are true:
 - (1) The arbitration agreement provides for an award of punitive damages or exemplary relief.
 - (2) An award for punitive damages or other exemplary relief is authorized by law in a civil action involving the same claim.
 - (3) The evidence produced at the hearing justifies the award under the legal standards otherwise applicable to the claim.
- (j) If the arbitral tribunal awards punitive damages or other exemplary relief under subsection (i) of this section, the arbitral tribunal shall specify in the award the basis in fact justifying and the basis in law authorizing the award and shall state separately the amount of the punitive damages or other exemplary relief.

"§ 1-567.64. Modifying or vacating of awards.

Subject to the relevant provisions of federal law or—and any applicable international agreement in force between the United States of America and any other nation or nations, an arbitral award may be vacated by a court only upon a showing that the award is tainted by illegality, or substantial unfairness in the conduct of the arbitral proceedings. In determining whether an award is so-tainted, the superior court shall have regard to consider the provisions of this Article, and of G.S. 1-569.23 and G.S. 1-569.24, but shall not engage in de novo review of the subject matter of the dispute giving rise to the arbitration proceedings.

"§ 1-567.65. Confirmation and enforcement of awards.

(a) Subject to the relevant provisions of federal law or and any applicable international agreement in force between the United States of America and any other nation or nations, upon application of a party, the superior court shall confirm an arbitral award, unless it finds grounds for modifying or vacating the award under G.S. 1-567.64. An award shall not be confirmed unless the time for correction and interpretation of awards prescribed by G.S. 1-567.63 shall have has expired or has been waived by all the parties. Upon the granting of an order confirming, modifying, or correcting an award, a judgment or decree shall be entered in conformity therewith and enforced as any other judgment or decree. The superior court may award costs of the application and of the subsequent proceedings.



- (b) Notwithstanding G.S. 7A-109, 7A-276.1, 132-1, or any other provision of law, the court may seal or redact, in whole or in part, an order, judgment, or arbitral award issued under this Article. Upon good cause shown, the court may do any of the following:
 - (1) Open a sealed or redacted order, judgment, or arbitral award.
 - (2) Seal or redact an opened order, judgment, or arbitral award.

"§ 1-567.66. Applications to superior court.

Except as otherwise provided, an application to the superior court under this Article shall be by motion and shall be heard in the manner and upon the notice provided by law or rule of court for the making and hearing of motions. Unless the parties have agreed otherwise, notice of an initial application for an order shall be served in the manner provided by law for the service of a summons in an-a civil action.

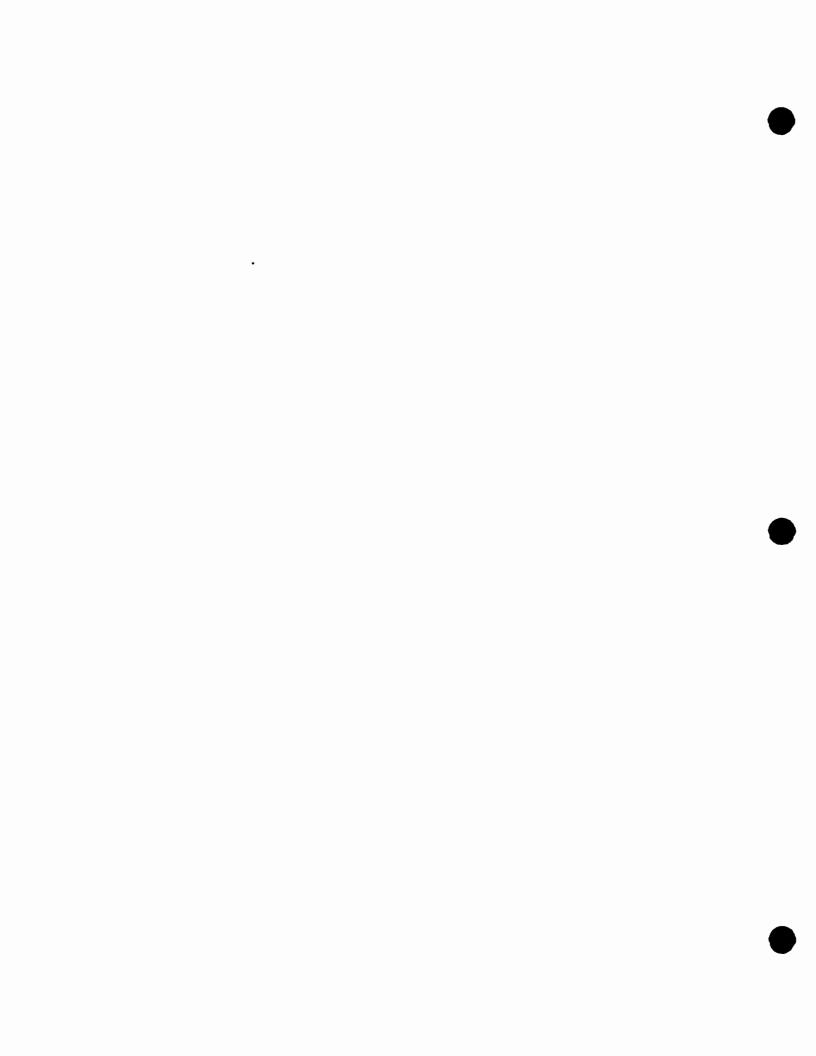
"§ 1-567.88. Uniformity of application and construction.

In applying and construing this Article, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states of the United States that have enacted the Revised Uniform Arbitration Act, and particular consideration shall be given to the Revised Uniform Arbitration Act as enacted in this State.

"§ 1-567.89. Relationship to federal Electronic Signatures in Global and National Commerce Act.

The provisions of this Article governing the legal effect, validity, and enforceability of electronic records or electronic signatures, and of contracts performed with the use of these records or signatures, conform to the requirements of section 102 of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001, et seq., or as otherwise authorized by federal or State law governing these electronic records or electronic signatures."

SECTION 2. This act becomes effective October 1, 2017, and applies to agreements entered into, renewed, or modified on or after that date.





HOUSE BILL 772: Amend NC Int'l Arbitration/Conciliation Act.

2017-2018 General Assembly

Committee:

House Judiciary IV

Date:

April 25, 2017

Introduced by:

Reps. Destin Hall, Grange, Rogers, John

Prepared by:

Jeremy Ray

Analysis of:

First Edition

Committee Co-Counsel

OVERVIEW: House Bill 772 would make conforming and modernizing changes to the International Commercial Arbitration and Conciliation Act (ICACA), to reflect similar trends in international arbitration, and to more closely align Article 45B of the General Statutes with other North Carolina statutes governing arbitration.

CURRENT LAW: Article 45B of the General Statutes applies to arbitrations of international trade and commerce. The purpose of Article 45B is to promote and facilitate international trade and commerce and to provide a forum for the resolution of disputes that may arise from such participation. Article 45B provides rules for the conduct of arbitration or conciliation proceedings, and assures access to the courts of this State for related ancillary legal proceedings.

BILL ANALYSIS: This bill would amend the statutes governing international arbitration and conciliation as follows:

- Modify certain terms and definitions; including:
 - o Define "Record" as information inscribed on a tangible medium or that is stored in an electronic or other medium.
 - Add "in a record" and "parties in a record" throughout the Article to eliminate the use of information derived from oral agreements where applicable.
 - Add "water" to the list of commercial relationships involving the carriage of goods or passengers, to capture relationships involving river and lake transport.
 - o Define "Court" as a court of competent jurisdiction in this State.
 - Change "superior court" to "court" throughout the Article to broaden definition and include business court and parties not under the jurisdiction of the Superior court.
 - o Include electronic transmission as a valid form of communication or submission in addition to facsimile.
- Add an exception to the scope of application for voluntary arbitrations of negligent health care claims.
- Replace G.S. 1-567.42. Grounds for challenge. and G.S. 1-567.43. Challenge procedure. with a new section entitled G.S. 1-567.43A. Disclosure by arbitrator.
 - o Require arbitrators after making a reasonable inquiry, to disclose to all parties, any known facts a reasonable person would consider likely to affect the impartiality of the

Karen Cochrane-Brown Director



Legislative Analysis Division 919-733-2578

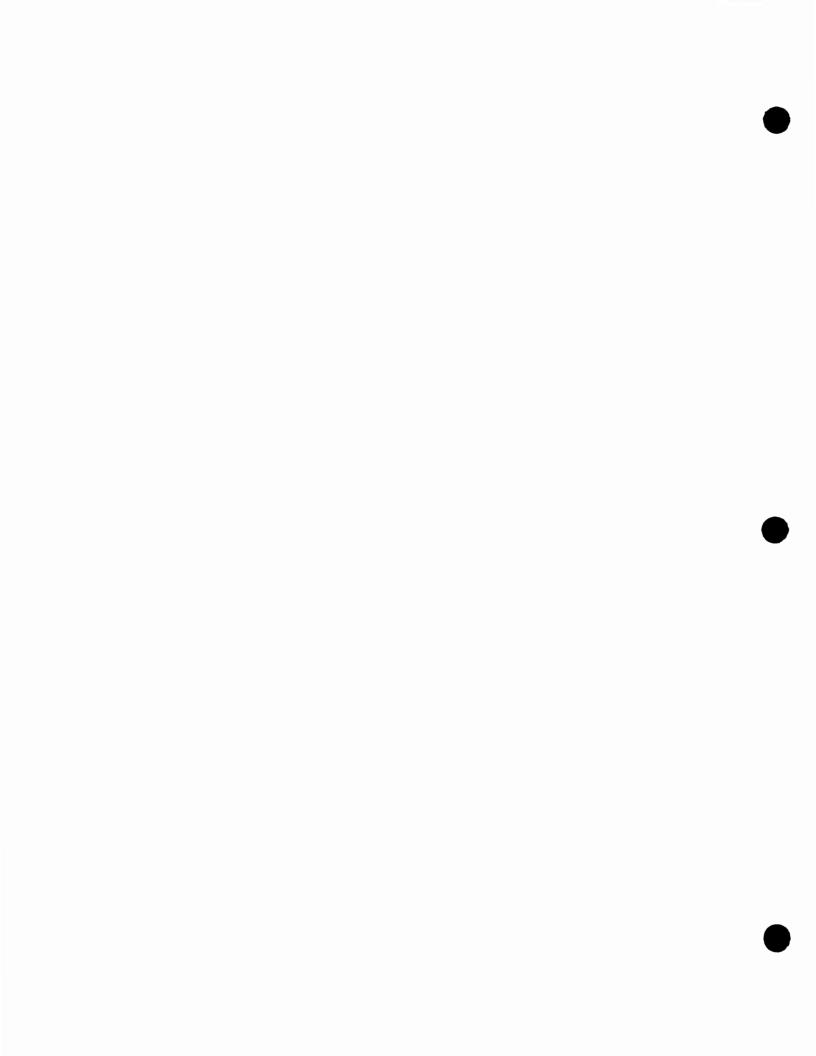


arbitrator. This includes financial or personal interests or existing or past relationships with any of the parties.

- o Require that arbitrators have a continuing duty to disclose any new information after accepting appointment.
- o A timely objection may be a ground for vacating an award made by the arbitrator.
- o Any arbitrator who fails to disclose a known, direct, and material interest is presumed to have acted with partiality.
- O Substantial compliance with procedures of an institution agreed upon by the parties is a condition precedent to a motion to vacate an award under that ground.
- Add new language to ensure the court retains power to issue an interim measure in an arbitration proceeding and that an arbitration agreement does not infringe upon the court's authority to issue interim measures.
- Add requirement that an arbitral tribunal selects rules for conducting the arbitration after hearing all the parties and taking particular reference to model rules developed by arbitration institutions or similar sources. Language is substantially similar to model language found under G.S. 50-45(e).
- Reorganizes language into a new subsection to provide the court with the authority to consolidate separate arbitration proceedings upon motion of a party when all of the following conditions are true:
 - Separate arbitration agreements or separate arbitral proceedings between same parties, or one of the parties is a party to a separate agreement to arbitrate or a separate arbitration with a third person.
 - o Claims arise in substantial part from the same transaction, or series of related transactions.
 - o Common issue of law or fact creates possibility of conflicting decisions.
 - o Prejudice from failure to consolidate is not outweighed by risk of undue delay or prejudice to the rights of, or hardship to parties opposing consolidation.

The court may also order consolidation of separate arbitral proceedings as to some claims and allow other claims to be resolved in separate arbitral proceedings and may not order consolidation if it is prohibited in the agreement

- Require that an award by an arbitrator, or arbitrators, is to be made within the time specified by the agreement, or the arbitration institution; and if not so specified, by the court. The court may extend, or the parties to the proceeding may agree in writing, to extend the time.
- Allow an arbitral tribunal to award punitive damages or other relief if all of the following are true:
 - o The agreement provides for punitive damages.
 - An award for punitive damages or other relief is authorized by law in a civil action involving the same claim.
 - Evidence at the hearing justifies the award under the legal standards otherwise applicable to the claim.



House Bill 772

Page 3

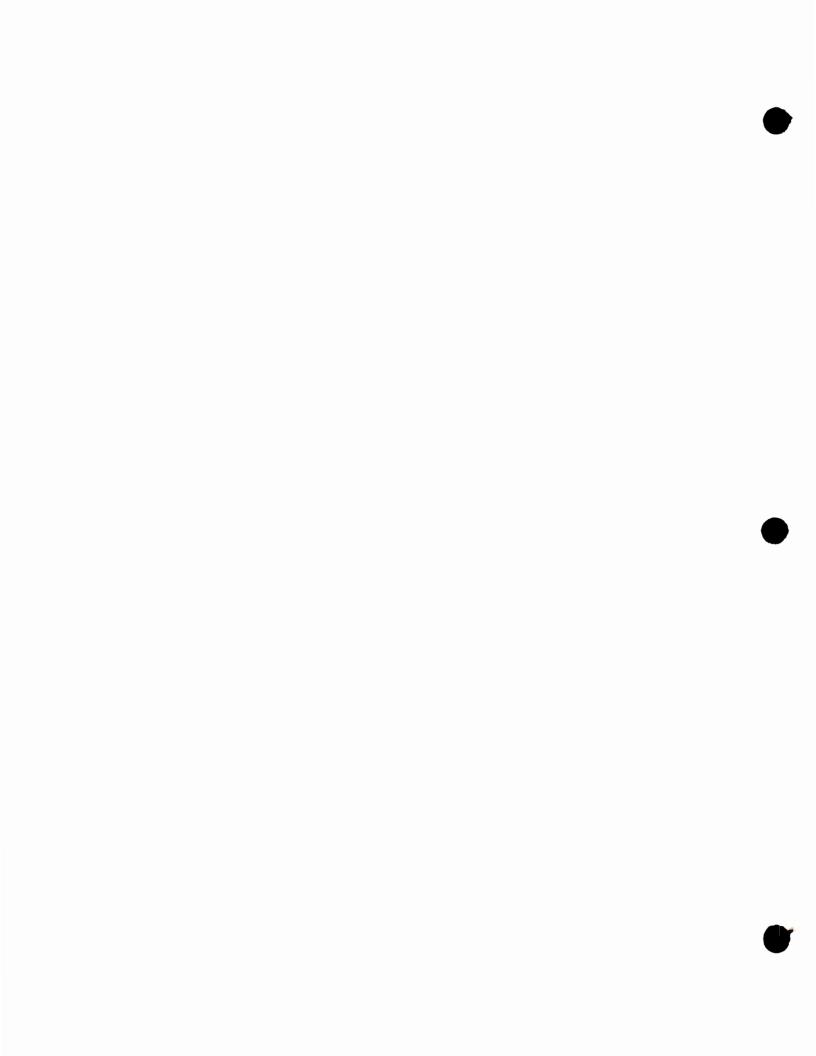
If punitive damages are allowed, the arbitral tribunal must specify the basis in fact justifying and the basis in law authorizing the award.

Allow a court to seal, or redact, in whole or in part, an order, judgment, or award. This includes
opening a sealed or redacted order, judgment, or award; and/or sealing or redacting an opened
order, judgment, or award.

Add a subsection promoting the application and construing of this Article in uniformity with the Revised Uniform Arbitration Act.

Provide that portions of this Article pertaining to electronic records or electronic signatures conform to federal requirements regulating electronic signatures in global and national commerce.

EFFECTIVE DATE: This act becomes effective October 1, 2017, and applies to agreements entered into, renewed, or modified on or after that date.



NORTH CAROLINA GENERAL ASSEMBLY HOUSE OF REPRESENTATIVES

JUDICIARY IV COMMITTEE REPORT Representative Hugh Blackwell, Co-Chair Representative Justin P. Burr, Co-Chair

FAVORABLE

HB 630

Rylan's Law/CPS Observation.

Draft Number:

None

Serial Referral:

None

Recommended Referral: None

Long Title Amended:

No

Floor Manager:

Boles

HB 772

Amend NC Int'l Arbitration/Conciliation Act.

Draft Number:

None

Serial Referral:

None

Recommended Referral: None

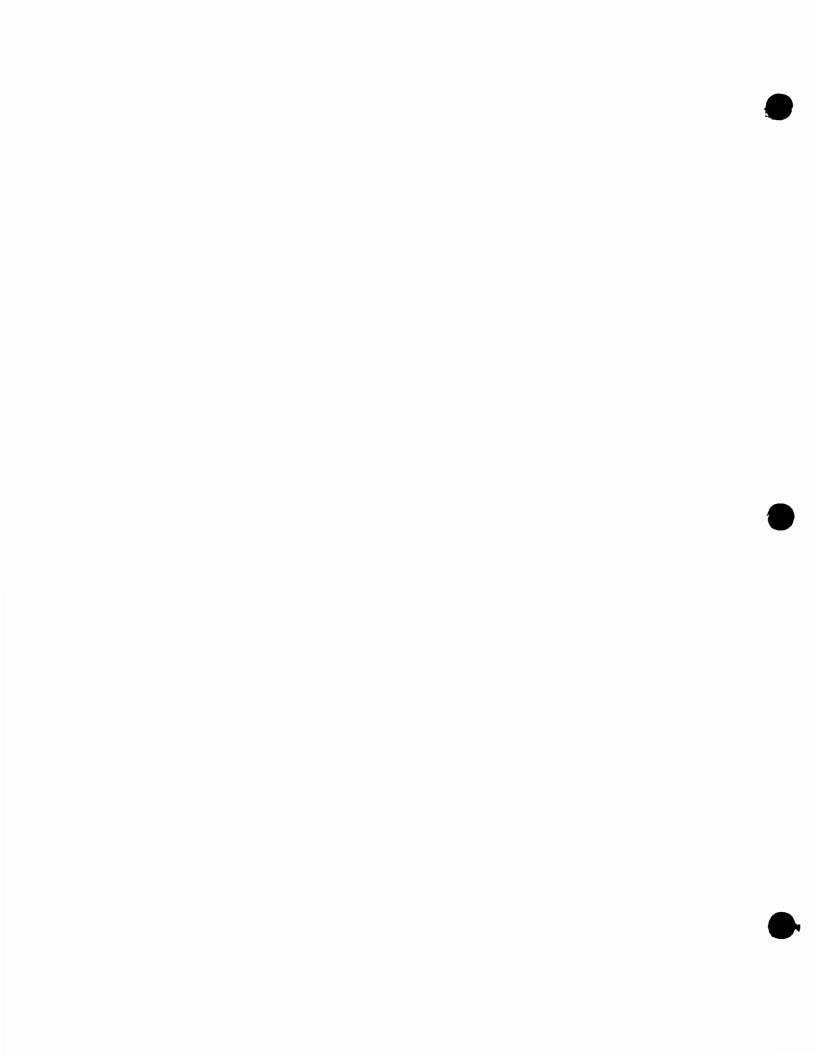
No

Long Title Amended: Floor Manager:

Destin Hall

TOTAL REPORTED: 2





VISITOR REGISTRATION SHEET

An	propriations Committee on Justice and Public Safety	
	Ti-/-/4	
	Date: UNICIA 9	

<u>VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE</u> <u>CLERK</u>

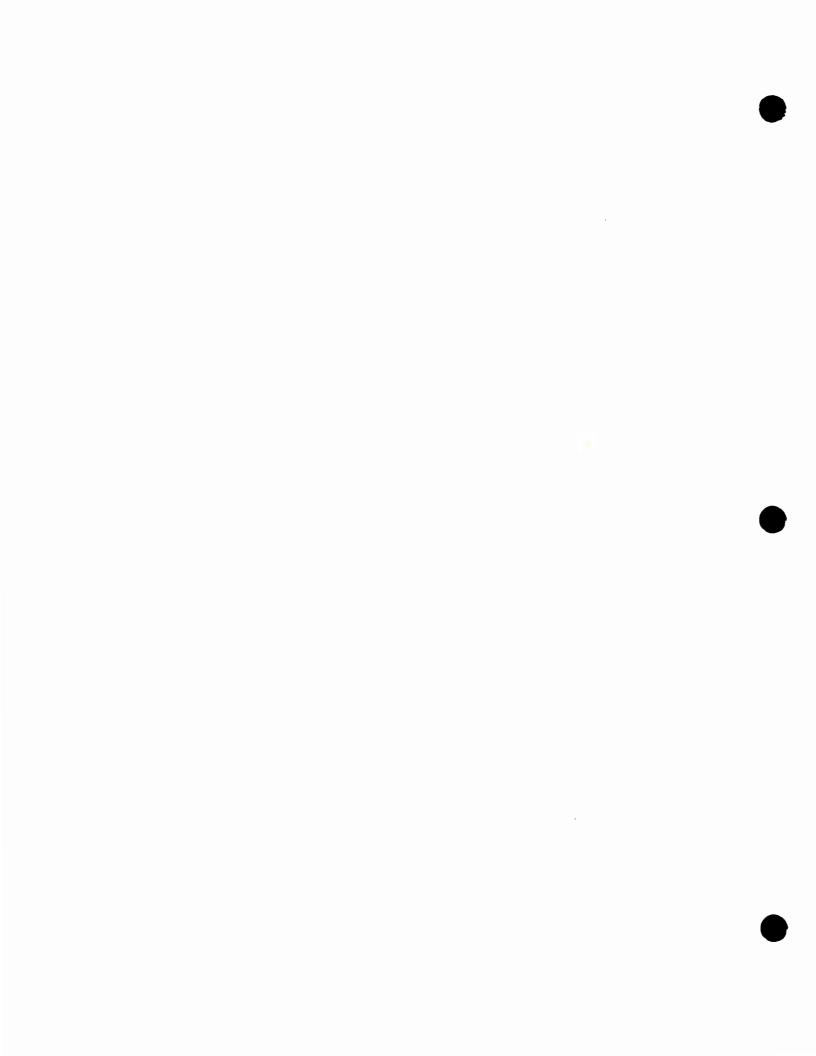
NAME	FIRM OR AGENCY AND ADDRESS
Ridge Marting	6A
Kath Kiksbur	39
Caroline Miller	AM GA
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Michelle Frazier	6ML
Andrew Cagle	UNC Greensboro
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DAVID GARRETT	NCBA
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House ages Assignments Tuesday, April 25, 2017

Session: 3:00 PM

Committee	Room	Time	Staff	Comments	Member
Judiciary IV	415	2:00 PM	Marko Stefanovic		Rep. Speaker Tim
					Moore
			Arran Walton		Rep. Susan Martin
Rules, Calendar, and Operations of the House		2:00 PM	Duncan Mills		Rep. Brian Turner
•			Alyssa Scott		Rep. Jimmy Dixon



House Committee on Judiciary IV Wednesday, May 31, 2017 at 4:55 P.M. Room 544 of the Legislative Office Building

MINUTES

The House Committee on Judiciary IV met at 4:55 P.M. on May 31, 2017 in Room 544 of the Legislative Office Building. Representatives Alexander, Beasley, Belk, Blackwell, Burr, Butler, Cleveland, Garrison, Bert Jones, Potts, B. Richardson, Riddell, Setzer, Torbett, and Warren attended.

Representative Justin P. Burr, Chair, presided.

The following bill was considered:

HB 746 Omnibus Gun Changes. (Representatives Millis, Pittman, Burr, Speciale)

Chairman Burr made the motion for the bill to be heard. Representative Millis explained the bill. Discussion from members followed.

Five amendments were presented and votes were taken.

H746-ABE-44(v.3) by Representative Alexander - Failed

H746-ARQ-22(v.6) by Representative Alexander - Failed

H746-ARZ-21(v.2) by Representative Alexander - Failed

H746-ATC-82(v.1) by Representative Belk-Division called-Show of Hands Vote (6 to 9) Failed

H746-ABE-46(v.4) by Representative Beasley–Division called–Show of Hands Vote (6 to 9)

Failed. (Amendments are attached and made a part of the Minutes.)

Public comments were heard from three speakers. (Guest Speaker Signup sheet is attached and made a part of the Minutes.)

Additional discussion by members followed.

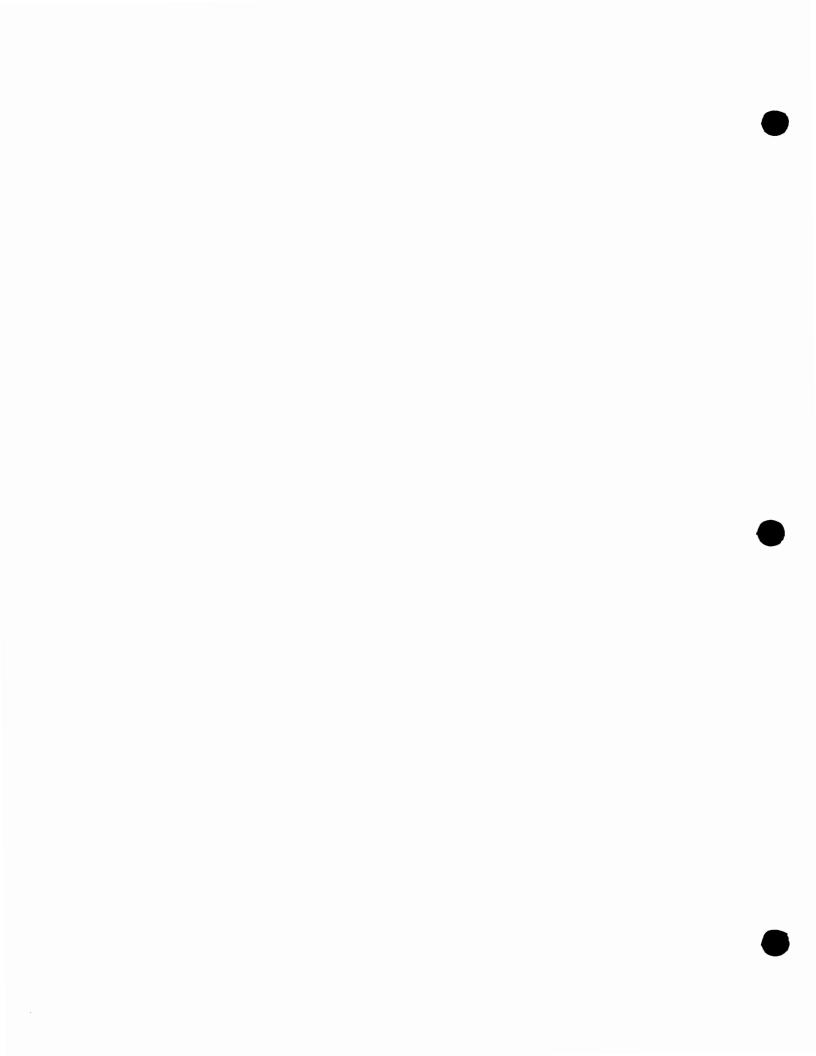
Representative Warren made a motion for a favorable report to the PCS, unfavorable to original bill with a re-referral to Finance. The motion passed.

The meeting adjourned at 6:05 P.M.

Representative Justin P. Burr, Chair

Presiding

Dina Long, Committee Clerk



GENERAL ASSEMBLY OF NORTH CAROLINA **SESSION 2017**

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HOUSE BILL 746 PROPOSED COMMITTEE SUBSTITUTE H746-CSTC-39 [v.17]

05/30/2017 8:08:58 PM Short Title: Omnibus Gun Changes. (Public) Sponsors: Referred to: April 13, 2017 A BILL TO BE ENTITLED AN ACT TO MAKE MULTIPLE CHANGES TO THE STATE LAWS REGARDING FIREARMS. The General Assembly of North Carolina enacts: PART I. CARRY MODIFICATIONS. SECTION 1.1. Chapter 14 of the General Statutes is amended by adding a new Article to read: "Article 54C. "Carrying Handguns and Restrictions on Carrying Weapons in Certain Locations. "Part 1. Carrying Handguns. "§ 14-415.35. Carrying handguns. Definition. - For purposes of this Article, the term "handgun" means a firearm that has a short stock and is designed to be held and fired by the use of a single hand. Carrying Handgun. - Any person who is a citizen of the United States and is at least 18 years old may carry a handgun, openly or concealed, without a concealed handgun permit in this State unless provided otherwise by State law or by 18 U.S.C. § 922 or any other federal law. Prohibition on Carrying Handgun on Posted Private Property. - A person shall not carry a handgun on another person's private property if notice is given that carrying a handgun on the premises is prohibited by either the posting of a conspicuous notice or statement by the person in legal possession or control of the premises. This subsection does not apply to a law enforcement officer who is discharging the officer's official duties or a licensed bail bondsman while performing that bondsman's duties. Prohibition on Consuming Alcohol When Carrying Concealed Handgun. - It is unlawful for a person to carry a concealed handgun while consuming alcohol or at any time while the person has remaining in the person's body any alcohol or in the person's blood a controlled substance previously consumed, but a person does not violate this condition if a controlled substance in the person's blood was lawfully obtained and taken in therapeutically appropriate amounts or if the person is on the person's own property. Offense. – It is unlawful for a person who meets any of the following criteria to carry a handgun: (1)Is ineligible to own, possess, or receive a firearm under the provisions of State or federal law. Is under indictment or against whom a finding of probable cause exists for a



request of a law enforcement officer.

(2) Any person in a building housing a court of the General Court of Justice in possession of a weapon for evidentiary purposes, to deliver it to a law enforcement agency, or for purposes of registration.

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(3) Firearms in a courthouse carried by detention officers employed by and authorized by the sheriff to carry firearms.

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(4) Any district court judge or superior court judge who carries or possesses a concealed handgun in a building housing a court of the General Court of Justice if the judge is in the building to discharge his or her official duties and the

(a) It is unlawful to carry a handgun into the following areas unless provided otherwise by law:

(1) In an area prohibited by rule adopted under G.S. 120-32.1.

(2) In any area prohibited by 18 U.S.C. § 922 or any other federal law.

(3) In a law enforcement or correctional facility.

(b) This section does not apply to any person exempted by G.S. 14-415.27.

(c) A violation of this section is a Class 1 misdemeanor.

"§ 14-415.41. Exceptions to statutes restricting firearms and other weapons.

The provisions of G.S. 14-415.36, 14-415.37, 14-415.38, and 14-415.39 do not apply to any of the following:

- (1) Officers and enlisted personnel of the Armed Forces of the United States when in discharge of their official duties as such and acting under orders requiring them to carry arms and weapons.
- (2) Civil and law enforcement officers of the United States.

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- (14) Any person who is an administrative law judge described in Article 60 of Chapter 7A of the General Statutes and who has a concealed handgun permit that is valid under Article 54B of this Chapter.
 (15) State correctional officers, when off-duty. If the concealed weapon is a
- (15) State correctional officers, when off-duty. If the concealed weapon is a handgun, the correctional officer must meet the firearms training standards of the Division of Adult Correction of the Department of Public Safety."

"§ 14-415.42. Carrying handgun on premises of State-owned rest areas and within State Parks System.

- (a) Any person who can legally carry a handgun under G.S. 14-415.35 may carry any firearm openly or concealed at any State-owned rest area, at any State-owned rest stop along the highways, and at any State-owned hunting and fishing reservation.
- (b) Any person who can legally carry a handgun under G.S. 14-415.35 may carry a handgun, openly or concealed, on the grounds or waters of a park within the State Parks System as defined in G.S. 143B-135.44."

SECTION 1.2.(a) G.S. 14-269.3 is recodified as G.S. 14-415.36 under Article 54C of Chapter 14 of the General Statutes as enacted by Section 1.3 of this act.

SECTION 1.2.(b) G.S. 14-269.3, recodified as G.S. 14-415.36 by subsection (a) of this section, reads as rewritten:

"§ 14-415.36. Carrying weapons into assemblies and establishments where alcoholic beverages are sold and consumed.

- (a) It shall be unlawful for any person to carry any gun, rifle, or pistol into any assembly where a fee has been charged for admission thereto, or into any establishment in which alcoholic beverages are sold and consumed. Any person violating the provisions of this section shall be guilty of a Class 1 misdemeanor.
 - (b) This section shall not apply to any of the following:
 - (1) A person exempted from the provisions of G.S. 14-269.by G.S. 14-415.41.
 - (2) The owner or lessee of the premises or business establishment.
 - (3) A person participating in the event, if the person is carrying a gun, rifle, or pistol with the permission of the owner, lessee, or person or organization sponsoring the event.
 - (4) A person registered or hired as a security guard by the owner, lessee, or person or organization sponsoring the event.
 - (5) A person carrying a handgun if the person has a valid concealed handgun permit issued in accordance with that is valid under Article 54B of this Chapter, has a concealed handgun permit considered valid under G.S. 14-415.24, or is exempt from obtaining a permit pursuant to G.S. 14-415.25. This subdivision shall not be construed to permit a person to carry a handgun on any premises where the person in legal possession or control of the premises has posted a conspicuous notice prohibiting the carrying of a concealed handgun on the premises in accordance with G.S. 14-415.11(c)."

SECTION 1.3. The following statutes are repealed: G.S. 14-269.4, and 14-277.2.

SECTION 1.4. Article 54B of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-415.10A. Purpose.

While G.S. 14-415.35 makes it lawful to carry a concealed handgun in this State without obtaining a concealed handgun permit, there are some locations where additional education and training are necessary to ensure public safety, therefore, a concealed handgun permit may be required to carry a concealed handgun in those locations. Additionally, it is often convenient to have a concealed handgun permit for the purpose of reciprocity when traveling in another state, to make the purchase of a firearm more efficient, or for various other reasons. For these reasons, the State of North Carolina shall continue to make a concealed handgun permit available to any

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SECTION 1.5.(a) The North Carolina Criminal Justice Education and Training Standards Commission shall include all changes related to the possession and carrying of handguns enacted by this act into the general guidelines for approved firearms safety and training courses to ensure that changes in law in this area are included in those courses prior to December 1, 2017.

SECTION 1.5.(b) This section is effective July 1, 2017.

PART II. CLARIFYING CHANGES TO CARRY MODIFIFCATIONS.

SECTION 2.1. G.S. 14-269 reads as rewritten:

"§ 14-269. Carrying concealed weapons.

- It shall be Except as provided otherwise by law, it is unlawful for any person willfully and intentionally to carry concealed about his or her person any bowie knife, dirk, dagger, slung shot, loaded cane, metallic knuckles, razor, shuriken, stun gun, gun, or other deadly weapon of like kind, except when the person is on the person's own premises. For purposes of this section, the terms "weapon" and "gun" do not include a handgun as defined in G.S. 14-415.35.
- It shall be unlawful for any person willfully and intentionally to carry concealed about his or her person any pistol or gun except in the following circumstances:
 - The person is on the person's own premises. (1)
 - The deadly weapon is a handgun, the person has a concealed handgun permit (2)issued in accordance with Article 54B of this Chapter or considered valid under G.S. 14 415.24, and the person is carrying the concealed handgun in accordance with the scope of the concealed handgun permit as set out in G.S. 14-415.11(c).
 - The deadly weapon is a handgun and the person is a military permittee as (3)defined under G.S. 14-415.10(2a) who provides to the law enforcement officer proof of deployment as required under G.S. 14-415.11(a).
- This prohibition does not apply to a person who has a concealed handgun permit issued (a2) in accordance with Article 54B of this Chapter, has a concealed handgun permit considered valid under G.S. 14-415.24, or is exempt from obtaining a permit pursuant to G.S. 14-415.25, provided the weapon is a handgun, is in a closed compartment or container within the person's locked vehicle, and the vehicle is in a parking area that is owned or leased by State government. A person may unlock the vehicle to enter or exit the vehicle, provided the handgun remains in the closed compartment at all times and the vehicle is locked immediately following the entrance or exit.
 - This prohibition shall not apply to the following persons:
 - Officers and enlisted personnel of the Armed Forces of the United States when (1)in discharge of their official duties as such and acting under orders requiring them to carry arms and weapons;
 - (2) Civil and law enforcement officers of the United States;
 - Officers and soldiers of the militia and the National Guard when called into (3) actual service:
 - (3a)A member of the North Carolina National Guard who has been designated in writing by the Adjutant General, State of North Carolina, who has a concealed handgun permit issued in accordance with that is valid under Article 54B of this Chapter or considered valid under G.S. 14-415.24. Chapter, and is acting in the discharge of his or her official duties, provided that the member does not carry a concealed weapon while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the member's body.

- (4) Officers of the State, or of any county, city, town, or company police agency charged with the execution of the laws of the State, when acting in the discharge of their official duties;
- Any person who is a district attorney, an assistant district attorney, or an (4a)investigator employed by the office of a district attorney and who has a concealed handgun permit issued in accordance with that is valid under Article 54B of this Chapter or considered valid under G.S. 14-415.24; Chapter; provided that the person shall not carry a concealed weapon at any time while in a courtroom or while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the person's body. The district attorney, assistant district attorney, or investigator shall secure the weapon in a locked compartment when the weapon is not on the person of the district attorney, assistant district attorney, or investigator. Notwithstanding the provisions of this subsection, a district attorney or assistant district attorney may carry a concealed weapon courtroom; courtroom, however, an investigator may not carry a concealed weapon at any time while in a courtroom.
- (4b) Any person who is a qualified retired law enforcement officer as defined in G.S. 14-415.10 and meets any one of the following conditions:
 - a. Is the holder of a concealed handgun permit in accordance with Article 54B of this Chapter.
 - b. Is exempt from obtaining a permit pursuant to G.S. 14-415.25.
 - c. Is certified by the North Carolina Criminal Justice Education and Training Standards Commission pursuant to G.S. 14-415.26;
- (4c) Detention personnel or correctional officers employed by the State or a unit of local government who park a vehicle in a space that is authorized for their use in the course of their duties may transport a firearm to the parking space and store that firearm in the vehicle parked in the parking space, provided that: (i) the firearm is in a closed compartment or container within the locked vehicle, or (ii) the firearm is in a locked container securely affixed to the vehicle;
- (4d) Any person who is a North Carolina district court judge, North Carolina superior court judge, or a North Carolina magistrate and who has a concealed handgun permit issued in accordance withthat is valid under Article 54B of this Chapter or considered valid under G.S. 14-415.24; Chapter; provided that the person shall not carry a concealed weapon at any time while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the person's body. The judge or magistrate shall secure the weapon in a locked compartment when the weapon is not on the person of the judge or magistrate;
- (4e) Any person who is serving as a clerk of court or as a register of deeds and who has a concealed handgun permit issued in accordance withthat is valid under Article 54B of this Chapter or considered valid under G.S. 14-415.24;Chapter; provided that the person shall not carry a concealed weapon at any time while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the person's body. The clerk of court or register of deeds shall secure the weapon in a locked compartment when the weapon is not on the person of the clerk of court or register of deeds. This subdivision does not apply to assistants, deputies, or other employees of the clerk of court or register of deeds;
- (5) Sworn law-enforcement officers, when off-duty, provided that an officer does not carry a concealed weapon while consuming alcohol or an unlawful

(2) The defendant is a military permittee as defined under G.S. 14-415.10(2a); and

(3) The defendant provides to the court proof of deployment as defined under G.S. 14-415.10(3a).

(c) Any Except as provided otherwise by law, any person violating the provisions of subsection (a) of this section shall be guilty of a Class 2 misdemeanor. Any person violating the provisions of subsection (a1) of this section shall be guilty of a Class 2 misdemeanor for the first offense and a Class H felony for a second or subsequent offense. A violation of subsection (a1) of this section punishable under G.S. 14 415.21(a) is not punishable under this section.

(d) This section does not apply to an ordinary pocket knife carried in a closed position. As used in this section, "ordinary pocket knife" means a small knife, designed for carrying in a pocket or purse, that has its cutting edge and point entirely enclosed by its handle, and that may not be opened by a throwing, explosive, or spring action."

SECTION 2.2. G.S. 14-269.1 reads as rewritten:

"§ 14-269.1. Confiscation and disposition of deadly weapons.

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Upon conviction of any person for violation of G.S. 14-269, G.S. 14-415.35, G.S. 14-269.7, or any other offense involving the use of a deadly weapon of a type referred to in G.S. 14-269, firearm or other deadly weapon, the firearm or other deadly weapon with reference to which the defendant shall have been convicted shall be ordered confiscated and disposed of by the presiding judge at the trial in one of the following ways in the discretion of the presiding judge.

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SECTION 2.3. G.S. 14-269.2 reads as rewritten:

"§ 14-269.2. Weapons on campus or other educational property.

(g) This section shall not apply to any of the following:

12 13 (1)A weapon used solely for educational or school-sanctioned ceremonial purposes, or used in a school-approved program conducted under the supervision of an adult whose supervision has been approved by the school authority.

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A person exempted by the provisions of G.S. 14-269(b), of G.S. 14-415.41. (1a)

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Firefighters, emergency service personnel, North Carolina Forest Service (2) personnel, detention officers employed by and authorized by the sheriff to carry firearms, and any private police employed by a school, when acting in the discharge of their official duties.

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Home schools as defined in G.S. 115C-563(a). (3)

(4) Weapons used for hunting purposes on the Howell Woods Nature Center property in Johnston County owned by Johnston Community College when used with the written permission of Johnston Community College or for hunting purposes on other educational property when used with the written permission of the governing body of the school that controls the educational property.

(5) A person registered under Chapter 74C of the General Statutes as an armed armored car service guard or an armed courier service guard when acting in the discharge of the guard's duties and with the permission of the college or university.

(6) A person registered under Chapter 74C of the General Statutes as an armed security guard while on the premises of a hospital or health care facility located on educational property when acting in the discharge of the guard's duties with the permission of the college or university.

A volunteer school safety resource officer providing security at a school (7) pursuant to an agreement as provided in G.S. 115C-47(61) and either G.S. 162-26 or G.S. 160A-288.4, provided that the volunteer school safety resource officer is acting in the discharge of the person's official duties and is on the educational property of the school that the officer was assigned to by the head of the appropriate local law enforcement agency.

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SECTION 2.4. G.S. 14-288.8(b)(1) reads as rewritten:

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Manufacture, assembly, possession, storage, transportation, sale, purchase, delivery, or acquisition of weapon of mass death and destruction; exceptions.

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This section does not apply to any of the following: (b)

47 48 Persons exempted from the provisions of G.S. 14-269 listed as exceptions under G.S. 14-415.41 with respect to any activities lawfully engaged in while carrying out their duties."

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- **SECTION 2.5.** G.S. 14-401.24 reads as rewritten:
- "§ 14-401.24. Unlawful possession and use of unmanned aircraft systems.

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(c) The following definitions apply to this section:

(5) Weapon. – Those weapons specified in G.S. 14-269, 14-269.2, 14-284.1, or 14-288.8 or 14-415.35 and any other object capable of inflicting serious bodily injury or death when used as a weapon.

SECTION 2.6. G.S. 14-409.40 reads as rewritten:

"§ 14-409.40. Statewide uniformity of local regulation.

(f) Nothing contained in this section prohibits municipalities or counties from application of their authority under G.S. 153A-129, 160A-189, 14-269, 14-269.2, 14-269.3, 14-269.4, 14-277.2, 14-415.11, 14-415.23, 14-415.35, 14-415.36, 14-415.38, or 14-415.39, including prohibiting the possession of firearms in public-owned buildings, on the grounds or parking areas of those buildings, or in public parks or recreation areas, except nothing in this subsection shall prohibit a person from storing a firearm within a motor vehicle while the vehicle is on these grounds or areas. Nothing contained in this section prohibits municipalities or counties from exercising powers provided by law in states of emergency declared under Article 1A of Chapter 166A of the General Statutes.

SECTION 2.7. G.S. 14-415.4 reads as rewritten:

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"§ 14-415.4. Restoration of firearms rights.

- (e) Disqualifiers Requiring Denial of Petition. The court shall deny the petition to restore the firearms rights of any petitioner if the court finds any of the following:
 - (1) The petitioner is ineligible to purchase, own, possess, or have in the person's custody, care, or control a firearm under the provisions of any law in North Carolina other than G.S. 14-415.1.
 - (2) The petitioner is under indictment for a felony or a finding of probable cause exists against the petitioner for a felony.
 - (3) The petitioner is a fugitive from justice.
 - (4) The petitioner is an unlawful user of, or addicted to, marijuana, alcohol, or any depressant, stimulant, or narcotic drug, or any other controlled substance as defined in 21 U.S.C. § 802.
 - (5) The petitioner is or has been dishonorably discharged from the Armed Forces of the United States.
 - (6) The petitioner is or has been adjudicated guilty of or received a prayer for judgment continued or suspended sentence for one or more crimes of violence constituting a misdemeanor, including a misdemeanor under Article 8 of Chapter 14 of the General Statutes, or a misdemeanor under G.S. 14-225.2, 14-226.1, 14-258.1, 14-269.2, 14-269.3, 14-269.4, 14-269.6, 14-276.1, 14-277, 14-277.1, 14-277.2, 14-277.3, 14-281.1, 14-283, 14-288.2, 14-288.4(a)(1) or (2), 14-288.6, 14-288.9, former 14-288.12, former 14-288.13, former 14-288.14, 14-288.20A, 14-318.2, 14-415.21(b), or 14-415.26(d), 14-415.36, 14-415.37, 14-415.38, 14-415.39, or a substantially similar out-of-state or federal offense.

SECTION 2.8. G.S. 14-415.11 reads as rewritten:

"§ 14-415.11. Permit to carry concealed handgun; scope of permit.

(a) Any person who has a concealed handgun permit may carry a concealed handgun unless otherwise specifically prohibited by law. The person shall carry the permit together with

valid identification whenever the person is carrying a concealed handgun, shall disclose to any law enforcement officer that the person holds a valid permit and is carrying a concealed handgun when approached or addressed by the officer, and shall display both the permit and the proper identification upon the request of a law enforcement officer. In addition to these requirements, a military permittee whose permit has expired during deployment may carry a concealed handgun during the 90 days following the end of deployment and before the permit is renewed provided the permittee also displays proof of deployment to any law enforcement officer.

- (b) The sheriff shall issue a permit to carry a concealed handgun to a person who qualifies for a permit under G.S. 14-415.12. The permit shall be valid throughout the State for a period of five years from the date of issuance.
- (c) Except as provided in G.S. 14-415.27, a permit does not authorize a person to carry a concealed handgun in any of the following:

(1) Areas prohibited by G.S. 14 269.2, 14 269.3, and 14 277.2.G.S. 14-269.2, 14-415.36, and 14-415.39.

- (2) Areas prohibited by G.S. 14-269.4, except as allowed under G.S. 14-269.4(6). An area prohibited by G.S. 14-415.37, except that a person may have a concealed handgun if it is in a closed compartment or container within the person's locked vehicle or in a locked container securely affixed to the person's vehicle. A person may unlock the vehicle to enter or exit the vehicle, provided the firearm remains in the closed compartment at all times and the vehicle is locked immediately following the entrance or exit.
- (2a) An area prohibited by G.S. 14-415.38, except that a person may have a concealed handgun if it is in a closed compartment or container within the person's locked vehicle or in a locked container securely affixed to the person's vehicle. A person may unlock the vehicle to enter or exit the vehicle, provided the firearm remains in the closed compartment at all times and the vehicle is locked immediately following the entrance or exit.
- (3) In an area prohibited by rule adopted under G.S. 120-32.1.
- (4) In any area prohibited by 18 U.S.C. § 922 or any other federal law.
- (5) In a law enforcement or correctional facility.
- (6) In a building housing only State or federal offices.
- (7) In an office of the State or federal government that is not located in a building exclusively occupied by the State or federal government.
- (8) On any private premises where notice that carrying a concealed handgun is prohibited by the posting of a conspicuous notice or statement by the person in legal possession or control of the premises.

(c1) Any person who has a concealed handgun permit may carry a concealed handgun on the grounds or waters of a park within the State Parks System as defined in G.S. 143B-135.44.

- (c2)—It shall be unlawful for a person, with or without a permit, to carry a concealed handgun while consuming alcohol or at any time while the person has remaining in the person's body any alcohol or in the person's blood a controlled substance previously consumed, but a person does not violate this condition if a controlled substance in the person's blood was lawfully obtained and taken in therapeutically appropriate amounts or if the person is on the person's own property.
- (c3) As provided in G.S. 14-269.4(5), it shall be lawful for a person to carry any firearm openly, or to carry a concealed handgun with a concealed carry permit, at any State owned rest area, at any State-owned rest stop along the highways, and at any State-owned hunting and fishing reservation.
- (d) A person who is issued a permit shall notify the sheriff who issued the permit of any change in the person's permanent address within 30 days after the change of address. If a permit is lost or destroyed, the person to whom the permit was issued shall notify the sheriff who issued the

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SECTION 2.10. G.S. 14-415.22 is repealed. SECTION 2.11. G.S. 74E-6 reads as rewritten:

"§ 74E-6. Oaths, powers, and authority of company police officers.

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- (c) All Company Police. Company police officers, while in the performance of their duties of employment, have the same powers as municipal and county police officers to make arrests for both felonies and misdemeanors and to charge for infractions on any of the following:
 - (1) Real property owned by or in the possession and control of their employer.
 - (2) Real property owned by or in the possession and control of a person who has contracted with the employer to provide on-site company police security personnel services for the property.
 - (3) Any other real property while in continuous and immediate pursuit of a person for an offense committed upon property described in subdivisions (1) or (2) of this subsection.

Company police officers shall have, if duly authorized by the superior officer in charge, the authority to carry concealed weapons pursuant to and in conformity with G.S. 14 269(b)(4) and (5):G.S. 14-269(b)(4) and (5) and G.S. 14-415.35.

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SECTION 2.12. G.S. 74G-6 reads as rewritten:

"§ 74G-6. Oaths, powers, and authority of campus police officers.

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39 40 (d) Concealed Weapons. – Campus police officers shall have, if duly authorized by their campus police agency and by the sheriff of the county in which the campus police agency is located, the authority to carry concealed weapons pursuant to and in conformity with G.S. 14 269(b)(5). G.S. 14-269(b)(5) and G.S. 14-415.35.
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SECTION 2.13. G.S. 106-503.2 reads as rewritten:

"§ 106-503.2. Regulation of firearms at State Fair.

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- (b) Notwithstanding subsection (a) of this section, any prohibition under this section shall not apply to the following persons:
 - (1) Any person exempted by G.S. 14-269(b)(1), (2), (3), (4), or (5).G.S. 14-415.41(1), (2), (3), (5), or (11).
 - (2) Any person who has a concealed handgun permit that is valid under Article 54B of this Chapter, Chapter 14 of the General Statutes, or who is exempt from

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obtaining a permit pursuant to that Article, who has a handgun in a closed compartment or container within the person's locked vehicle or in a locked container securely affixed to the person's vehicle. A person may unlock the vehicle to enter or exit the vehicle provided the firearm remains in the closed compartment at all times and the vehicle is locked immediately following the entrance or exit."

SECTION 2.14. G.S. 113-136 reads as rewritten:

" § 113-136. Enforcement authority of inspectors and protectors; refusal to obey or allow inspection by inspectors and protectors.

(d) Inspectors and protectors are additionally authorized to arrest without warrant under the terms of G.S. 15A-401(b) for felonies, for breaches of the peace, for assaults upon them or in their presence, and for other offenses evincing a flouting of their authority as enforcement officers or constituting a threat to public peace and order which would tend to subvert the authority of the State if ignored. In particular, they are authorized, subject to the direction of the administrative superiors, to arrest for violations of G.S. 14-223, 14-225, 14-269, 14-415.35, and 14-277.

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PART III. STANDARDIZE AND ENSURE UNIFORMITY OF CONCEALED HANDGUN PERMIT APPLICATIONS AND MAKE CONFORMING CHANGES

SECTION 3.1. G.S. 14-415.10 reads as rewritten:

"§ 14-415.10. Definitions.

The following definitions apply to this Article:

- Oualified former sworn law enforcement officer. An individual who retired (4) from service as a law enforcement officer with a local, State, campus police, or company police agency in North Carolina, other than for reasons of mental disability, who has been retired as a sworn law enforcement officer two-five years or less from the date of the permit application, and who satisfies all of the following:
 - Immediately before retirement, the individual was a qualified law a. enforcement officer with a local, State, or company police agency in North Carolina.
 - The individual has a nonforfeitable right to benefits under the retirement b. plan of the local, State, or company police agency as a law enforcement officer; or has 20 or more aggregate years of law enforcement service and has retired from a company police agency that does not have a retirement plan; or has 20 or more aggregate years of part-time or auxiliary law enforcement service.
 - The individual is not prohibited by State or federal law from receiving a c. firearm.
- Qualified retired correctional officer. An individual who retired from service (4a) as a State correctional officer, other than for reasons of mental disability, who has been retired as a correctional officer two-five years or less from the date of the permit application and who meets all of the following criteria:
 - Immediately before retirement, the individual met firearms training standards of the Division of Adult Correction of the Department of Public Safety and was authorized by the Division of Adult Correction of the Department of Public Safety to carry a handgun in the course of assigned duties.

SECTION 3.4. G.S. 14-415.15(a) reads as rewritten:

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"(a) Except as permitted under subsection (b) of this section, within 45-90 days after receipt of the items listed in G.S. 14-415.13 from an applicant, and receipt of the required records concerning the mental health or capacity of the applicant, the sheriff shall either issue or deny the permit. The sheriff may conduct any investigation necessary to determine the qualification or competency of the person applying for the permit, including record checks. The sheriff shall make the request for any records concerning the mental health or capacity of the applicant within 10 days of receipt of the items listed in G.S. 14-415.13. If the sheriff has not received the required records concerning mental health or capacity of the applicant after 45 days of the request, then the sheriff shall request the records again. No person, company, mental health provider, or governmental entity may charge additional fees to the applicant for background checks conducted under this subsection. A permit shall not be denied unless the applicant is determined to be ineligible pursuant to G.S. 14-415.12."

SECTION 3.5 G.S. 14-415.19(a) reads as rewritten:

"(a) The permit fees assessed under this Article are payable to the sheriff. The sheriff shall transmit the proceeds of these fees to the county finance officer to be remitted or credited by the county finance officer in accordance with the provisions of this section. Except as otherwise provided by this section, the permit fees are as follows:

Application fee	\$80.00 \$81.00
Renewal fee	\$75.00
Duplicate permit fee	\$15.00

The county finance officer shall remit forty five dollars (\$45.00) forty-six dollars (\$46.00) of each new application fee and forty dollars (\$40.00) of each renewal fee assessed under this subsection to the North Carolina Department of Public Safety for the costs of State and federal criminal record checks performed in connection with processing applications and for the implementation of the provisions of this Article. The remaining thirty-five dollars (\$35.00) of each application or renewal fee shall be used by the sheriff to pay the costs of administering this Article and for other law enforcement purposes. The county shall expend the restricted funds for these purposes only."

SECTION 3.6. This Part becomes effective October 1, 2017, and applies to permit applications submitted on or after that date.

PART IV. CONCEALED CARRY IN STATE LEGISLATIVE BUILDINGS.

SECTION 4.1. G.S. 120-32.1 is amended by adding the following subsections to read:

- "(c2) No rule adopted under this section shall prohibit a legislator, a legislative employee, or a qualified former sworn law enforcement officer who has a concealed handgun permit considered valid under Article 54B of Chapter 14 of the General Statutes or a current sworn law enforcement officer from carrying a concealed handgun on the premises of the State legislative buildings and grounds. The Legislative Services Commission may adopt a rule requiring a legislator, a legislative employee, a qualified former sworn law enforcement officer, or a current sworn law enforcement officer to provide notice to the Chief of the General Assembly Special Police, or the Chief's designee, before carrying the handgun on the premises of the State legislative buildings and grounds; however, once initial notice is provided as required by this subsection, no subsequent notification shall be required. The Legislative Services Commission may also adopt rules establishing a procedure for such notification.
- Notwithstanding subsection (c2) of this section, the Legislative Services Commission may adopt a rule prohibiting or regulating the carrying of a firearm openly or concealed in the Gallery of the State legislative building."

SECTION 4.2. G.S. 14-415.11(c)(3) reads as rewritten:

- "(c) Except as provided in G.S. 14-415.27, a permit does not authorize a person to carry a concealed handgun in any of the following:
 - (3) In an area prohibited by rule adopted under G.S. 120-32.1. G.S. 120-32.1, except that a legislator, legislative employee, or qualified former sworn law enforcement officer with a concealed handgun permit valid under Article 54B of this Chapter may carry a concealed handgun on the premises of the State legislative buildings and grounds as defined in G.S. 120-32.1(d); provided, he or she complies with any notice requirement adopted by the Legislative Services Commission."

SECTION 4.3. This Part becomes effective December 1, 2017.

PART V. CHANGES TO WEAPONS ON EDUCATIONAL PROPERTY

SECTION 5.1. G.S. 14-269.2 reads as rewritten:

"§ 14-269.2. Weapons on campus or other educational property.

- (a) The following definitions apply to this section:
 - (1) Educational property. Any school building or bus, school campus, grounds, recreational area, athletic field, or other property owned, used, or operated by any board of education or school board of trustees, or directors for the administration of any school.
 - (1a) Employee. A person employed by a local board of education or school whether the person is an adult or a minor.
 - (1b) School. A public or private school, community college, college, or university.
 - (1c) School operating hours. Any times when curricular or extracurricular activities are taking place on the premises and any time when the premises are being used for educational, instructional, or school-sponsored activities.
 - (2) Student. A person enrolled in a school or a person who has been suspended or expelled within the last five years from a school, whether the person is an adult or a minor.
 - (3) Switchblade knife. A knife containing a blade that opens automatically by the release of a spring or a similar contrivance.
 - (3a) Volunteer school safety resource officer. A person who volunteers as a school safety resource officer as provided by G.S. 162-26 or G.S. 160A-288.4.
 - (4) Weapon. Any device enumerated in subsection (b), (b1), or (d) of this section.
- (b) It shall be a Class I felony for any person knowingly to possess or carry, whether openly or concealed, any gun, rifle, pistol, or other firearm of any kind on educational property or to a curricular or extracurricular activity sponsored by a school. Unless the conduct is covered under some other provision of law providing greater punishment, any person who willfully discharges a firearm of any kind on educational property is guilty of a Class F felony. However, this subsection does not apply to a BB gun, stun gun, air rifle, or air pistol.
- (b1) It shall be a Class G felony for any person to possess or carry, whether openly or concealed, any dynamite cartridge, bomb, grenade, mine, or powerful explosive as defined in G.S. 14-284.1, on educational property or to a curricular or extracurricular activity sponsored by a school. This subsection shall not apply to fireworks.
- (b2) Restrictions on extracurricular activities listed in subsection (b) of this section do not apply if both of the following criteria are met:
 - (1) The person is not a participant in, or chaperone or spectator of, the extracurricular activity.
 - (2) The extracurricular activity is conducted in a public place, including, but not limited to, a restaurant, public park, or museum.

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The provisions of this section shall not apply to a person in a vehicle on a road not (k1)maintained by the school that crosses the educational property if the person has a weapon, including an open or concealed handgun, within the locked vehicle and the person remains within the locked vehicle while crossing the educational property and only unlocks the vehicle to allow the entrance or exit of another person.

The provisions of this section shall not apply to a person who has a concealed handgun permit that is valid under Article 54B of this Chapter, or who is exempt from obtaining a permit pursuant to that Article, if all of the following conditions apply:

- The person possesses and carries a handgun on educational property other than (1) an institution of higher education as defined by G.S. 116-143.1 or a nonpublic, post-secondary educational institution.
- The educational property is the location of both a school and a building that is a **(2)** place of religious worship as defined in G.S. 14-54.1. For the purposes of this subsection, property owned by a local board of education or board of county commissioners shall not be construed as a building that is a place of religious worship as defined in G.S. 14-54.1.
- The weapon is a handgun. (3)
- The handgun is only possessed and carried on educational property outside of (4) the school operating hours.
- It is an affirmative defense to a prosecution under subsection (b) or (f) of this section (1) that the person was authorized to have a concealed handgun in a locked vehicle pursuant to subsection (k) of this section and removed the handgun from the vehicle only in response to a threatening situation in which deadly force was justified pursuant to G.S. 14-51.3."
- SECTION 5.2. This Part becomes effective December 1, 2017, and applies to offenses committed on or after that date.

PART VI. PISTOL PERMIT/MENTAL HEALTH RECORD TO SHERIFF

SECTION 6.1. G.S. 14-404 reads as rewritten:

"§ 14-404. Issuance or refusal of permit; appeal from refusal; grounds for refusal; sheriff's fee.

- The application for a permit shall be on a form created by the State Bureau of (e1) Investigation in consultation with the North Carolina Sheriffs' Association. This application shall be used by all sheriffs and must be provided by the sheriff both electronically and in paper form. Only the following shall be required to be submitted by an applicant for a permit: No additional documentation or evidence shall be required to be submitted by an applicant for a permit except the following:
 - The permit application developed pursuant to this subsection. (1)
 - (2) Five dollars for each permit requested pursuant to subsection (e) of this section.
 - A government issued identification confirming the identity of the applicant. (3)
 - (4) Proof of residency.
 - (5)A signed release, in a form to be prescribed by the Administrative Office of the Court, that authorizes and requires disclosure to the sheriff of any court orders concerning the mental health or capacity of the applicant to be used for the sole purpose of determining whether the applicant is disqualified to receive a permit pursuant to this section.

No additional document or evidence shall be required from any applicant.

The sheriff shall request disclosure to the sheriff of any court orders concerning the mental health or mental capacity of the applicant to be used for the sole purpose of determining whether the applicant is disqualified to receive a permit pursuant to this section. Nothing in this

General Assembly Of North Carolina subsection shall be construed to increase the documentation an applicant is required to provide 1 2 under subsection (e1) of this section or to increase the time period set out in subsection (f) of this 3 section. The permit application shall also contain a conspicuous warning substantially as 4 (e3)5 follows: "By filing this permit application, I understand that I am giving the sheriff the authority to obtain 6 all criminal and mental health court orders required by State and federal law to determine permit 7 eligibility." 8 9 10 (i) A person or entity shall promptly disclose to the sheriff, upon presentation by the applicant or sheriff of an original or photocopied release form described in subdivision (5) of 11 12 subsection (e1) of this section, any court orders concerning the mental health or capacity of the applicant who signed the release form." 13 **SECTION 6.2.** G.S. 122C-54 reads as rewritten: 14 15 "§ 122C-54. Exceptions; abuse reports and court proceedings. 16 The record of involuntary commitment for inpatient or outpatient mental health 17 18 treatment or for substance abuse treatment required to be reported to the National Instant Criminal 19 Background Check System (NICS) by G.S. 14-409.43 shall be accessible only by the sheriff or the 20 sheriff's designee for the purposes of conducting background checks under G.S. 14 404 and shall 21 remain otherwise confidential as provided by this Article. 22 23

Notwithstanding G.S. 122C-207 and subsection (d) of this section, when a sheriff notifies the potential holder of a mental health order in writing that a particular individual has completed an application for a pistol purchase permit, the holder of any court orders that concern the mental health or mental capacity of an applicant for a pistol purchase permit shall, upon request, release to the sheriff of the county any and all mental health orders concerning the pistol purchase permit applicant.

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SECTION 6.3. This Part becomes effective August 1, 2017, and applies to applications for pistol purchases pending or submitted on or after that date.

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PART VII: OTHER CHANGES TO WEAPONS LAW AND ADDITIONAL CONFORMING CHANGES

SECTION 7.1. G.S. 14-269.1 reads as rewritten:

"§ 14-269.1. Confiscation and disposition of deadly weapons.

Upon conviction of any person for violation of G.S. 14-269, G.S. 14-269.7, or any other offense involving the use of a deadly weapon of a type referred to in G.S. 14-269, the deadly weapon with reference to which the defendant shall have been convicted shall be ordered confiscated and disposed of by the presiding judge at the trial in one of the following ways in the discretion of the presiding judge as provided in subdivision (1) of this section. If the owner of the weapon is the convicted defendant, then the weapon shall be disposed of as provided by subdivisions (4) through (6) of this section in the discretion of the presiding judge:

- By ordering the weapon returned to its rightful owner, but only when such owner is a person other than the defendant and has filed a petition for the recovery of such weapon with the presiding judge at the time of the defendant's conviction, and upon a finding by the presiding judge that petitioner is entitled to possession of same and that he was unlawfully deprived of the same without his consent.
- (3) Repealed by Session Laws 1994, Ex. Sess., c. 16, s. 2. (2),
- By ordering such weapon turned over to the sheriff of the county in which the (4) trial is held or his duly authorized agent to be destroyed if the firearm does not

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- have a legible, unique identification number or is unsafe for use because of wear, damage, age, or modification. The sheriff shall maintain a record of the destruction thereof.
- Repealed by Session Laws 2005-287, s. 3, effective August 22, 2005. (4a)
- By ordering the weapon turned over to a law enforcement agency in the county (4b)of trial for (i) the official use of the agency or (ii) sale, trade, or exchange by the agency to a federally licensed firearm dealer in accordance with all applicable State and federal firearm laws. The court may order a disposition of the firearm pursuant to this subdivision only upon the written request of the head or chief of the law enforcement agency or a designee of the head or chief of the law enforcement agency and only if the firearm has a legible, unique identification number. If the law enforcement agency sells the firearm, then the proceeds of the sale shall be remitted to the appropriate county finance officer as provided by G.S. 115C-452 to be used to maintain free public schools. The receiving law enforcement agency shall maintain a record and inventory of all firearms received pursuant to this subdivision.
- (5) By ordering such weapon turned over to the North Carolina State Crime Laboratory's weapons reference library for official use by that agency. The Laboratory shall maintain a record and inventory of all such weapons received.
- By ordering such weapons turned over to the North Carolina Justice Academy (6)for official use by that agency. The North Carolina Justice Academy shall maintain a record and inventory of all such weapons received.
- If the weapon is owned by the defendant, and the defendant is not convicted as provided in this section, the presiding judge shall order the weapon returned to the defendant."

SECTION 7.2. G.S. 15-11.1 reads as rewritten:

"§ 15-11.1. Seizure, custody and disposition of articles; exceptions.

- If a law-enforcement officer seizes property pursuant to lawful authority, he shall safely keep the property under the direction of the court or magistrate as long as necessary to assure that the property will be produced at and may be used as evidence in any trial. Upon application by the lawful owner or a person, firm or corporation entitled to possession or upon his own determination, the district attorney may release any property seized pursuant to his lawful authority if he determines that such property is no longer useful or necessary as evidence in a criminal trial and he is presented with satisfactory evidence of ownership. If the district attorney refuses to release such property, the lawful owner or a person, firm or corporation entitled to possession may make application to the court for return of the property. The court, after notice to all parties, including the defendant, and after hearing, may in its discretion order any or all of the property returned to the lawful owner or a person, firm or corporation entitled to possession. The court may enter such order as may be necessary to assure that the evidence will be available for use as evidence at the time of trial, and will otherwise protect the rights of all parties. Notwithstanding any other provision of law, photographs or other identification or analyses made of the property may be introduced at the time of the trial provided that the court determines that the introduction of such substitute evidence is not likely to substantially prejudice the rights of the defendant in the criminal trial.
- In the case of unknown or unapprehended defendants or of defendants willfully absent from the jurisdiction, the court shall determine whether an attorney should be appointed as guardian ad litem to represent and protect the interest of such unknown or absent defendants. Appointment shall be in accordance with rules adopted by the Office of Indigent Defense Services. The judicial findings concerning identification or value that are made at such hearing whereby property is returned to the lawful owner or a person, firm, or corporation entitled to possession, may be admissible into evidence at the trial. After final judgment all property lawfully seized by or otherwise coming into the possession of law-enforcement authorities shall be

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disposed of as the court or magistrate in its discretion orders, and may be forfeited and either sold or destroyed in accordance with due process of law.

- (b1) Notwithstanding subsections (a) and (b) of this section or any other provision of law, if the property seized is a firearm and the district attorney determines the firearm is no longer necessary or useful as evidence in a criminal trial, the district attorney, after notice to all parties known or believed by the district attorney to have an ownership or a possessory interest in the firearm, including the defendant, shall apply to the court for an order of disposition of the firearm. The judge, after hearing, may shall order the disposition of the firearm as provided in subdivision (1) of this subsection unless the rightful owner is the defendant. If the rightful owner is the defendant, then the judge may order the disposition of the firearm in one of the following ways: ways described by subdivisions (2) through (4) of this subsection:
 - (1) By ordering the firearm returned to its rightful owner, when the rightful owner is someone other than the defendant and upon findings by the court (i) that the person, firm, or corporation determined by the court to be the rightful owner is entitled to possession of the firearm and (ii) that the person, firm, or corporation determined by the court to be the rightful owner of the firearm was unlawfully deprived of the same or had no knowledge or reasonable belief of the defendant's intention to use the firearm unlawfully.
 - (2) By ordering the firearm returned to the defendant, but only if the defendant is not convicted of any criminal offense in connection with the possession or use of the firearm, the defendant is the rightful owner of the firearm, and the defendant is not otherwise ineligible to possess such firearm.
 - (3) By ordering the firearm turned over to be destroyed by the sheriff of the county in which the firearm was seized or by his duly authorized agent if the firearm does not have a legible, unique identification number or is unsafe for use because of wear, damage, age, or modification. The sheriff shall maintain a record of the destruction of the firearm.
 - (4) By ordering the firearm turned over to a law enforcement agency in the county of trial for (i) the official use of the agency or (ii) sale, trade, or exchange by the agency to a federally licensed firearm dealer in accordance with all applicable State and federal firearm laws. The court may order a disposition of the firearm pursuant to this subdivision only if the firearm has a legible, unique identification number. If the law enforcement agency sells the firearm, then the proceeds of the sale shall be remitted to the appropriate county finance officer as provided by G.S. 115C-452 to be used to maintain free public schools. The receiving law enforcement agency shall maintain a record and inventory of all firearms received pursuant to this subdivision.

This subsection (b1) is not applicable to seizures pursuant to G.S. 113-137 of firearms used only in connection with a violation of Article 22 of Chapter 113 of the General Statutes or any local wildlife hunting ordinance.

- (c) Any property, the forfeiture and disposition of which is specified in any general or special law, shall be disposed of in accordance therewith."
- **SECTION 7.3.** Article 35 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-277.6. Going armed to the terror of the people.

- (a) A person who arms himself or herself with an unusual and dangerous weapon for the purpose of terrifying others and goes about on public highways in a manner to cause terror to the people is guilty of a Class 1 misdemeanor.
- (b) No person shall be convicted of a violation of subsection (a) of this section based only on the person's possession or carrying of a handgun, whether openly or concealed."

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SECTION 7.4. This Part becomes effective December 1, 2017, and applies to offenses committed on or after that date.

PART VIII. DEVELOP COMPREHENSIVE FIREARM EDUCATION AND WILDLIFE CONSERVATION COURSES

SECTION 8.1 Article 8 of Chapter 115C of the General Statutes is amended by adding a new section to read:

The State Board of Education, in consultation with law enforcement agencies and firearms

"§ 115C-81.90. Firearm Safety Elective Course.

associations, shall develop a comprehensive firearm education course that can be offered as an elective at the high school level to facilitate the learning of science, technology, engineering, and mathematics (STEM) principles. The firearm safety course shall include history, mathematics, and firearms functions and applications. Firearm safety shall be a key component of the course of study. The course shall rely on input from law enforcement agencies and firearms associations as well as related scientific engineering and design-related educational sources. The course of instruction shall not permit the use or presence of live ammunition. The course shall be conducted under the supervision of an adult who has been approved by the school principal in accordance with G.S. 14-296.2(g)(1)."

SECTION 8.2. Article 8 of Chapter 115C of the General Statutes is amended by adding a new section to read:

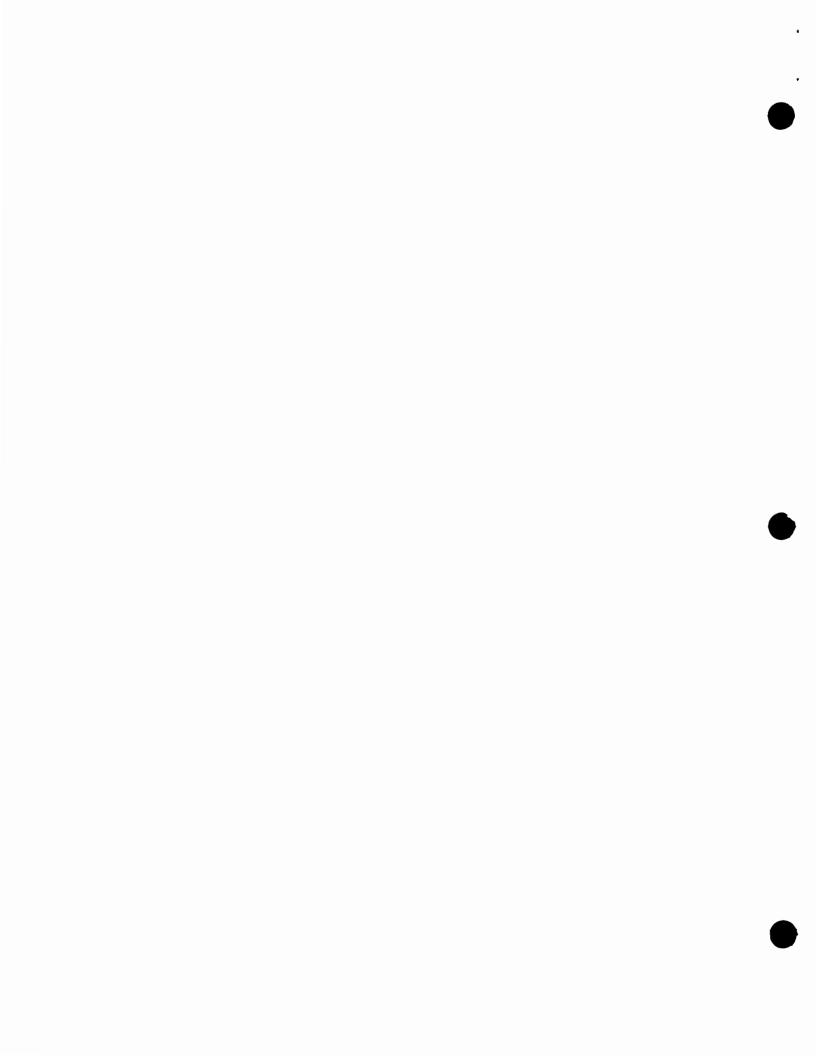
"§ 115C-81.95. Wildlife Conservation Elective Course.

 The State Board of Education, in consultation with the Wildlife Resources Commission, the Division of Marine Fisheries, and the Wildlife Management Institute, shall develop a comprehensive course on the North American Model for Wildlife Conservation that can be offered as an elective at the high school level."

SECTION 8.3. This Part is effective when it becomes law and applies beginning with the 2018-2019 school year.

PART IX. EFFECTIVE DATE.

 SECTION 9.1. This section becomes effective July 1, 2017. Unless provided otherwise, the remainder of this act becomes effective December 1, 2017, and applies to offenses committed on or after that date.





HOUSE BILL 746: Omnibus Gun Changes.

Committee:

House Judiciary IV

Introduced by: Reps. Millis, Pittman, Burr, Speciale

Analysis of:

PCS to First Edition

H746-CSLH-5

Date:

May 31, 2017

Prepared by:

Kara McCraw, Brian

Gwyn, Jeremy Ray,

Emily Johnson Staff Attorneys

OVERVIEW: The PCS for House Bill 746 makes various changes to gun laws.

PART I. CARRY MODIFICATIONS

CURRENT LAW: G.S. 14-269 prohibits the carrying of concealed weapons, including handguns, with certain exceptions. Article 45B of Chapter 14 of the General Statutes establishes a process for obtaining a concealed handgun permit which authorizes an individual to carry a concealed handgun, subject to certain restrictions.

BILL ANALYSIS: Part I would allow individuals who are 18 or older, US citizens, and not otherwise prohibited by law, to carry a handgun, open or concealed, without a concealed handgun permit. Individuals would still be able attain a permit for out-of-state reciprocity or other purposes. Additionally, assistant district attorneys, in addition to district attorneys, would be able to carry a concealed handgun into a courtroom.

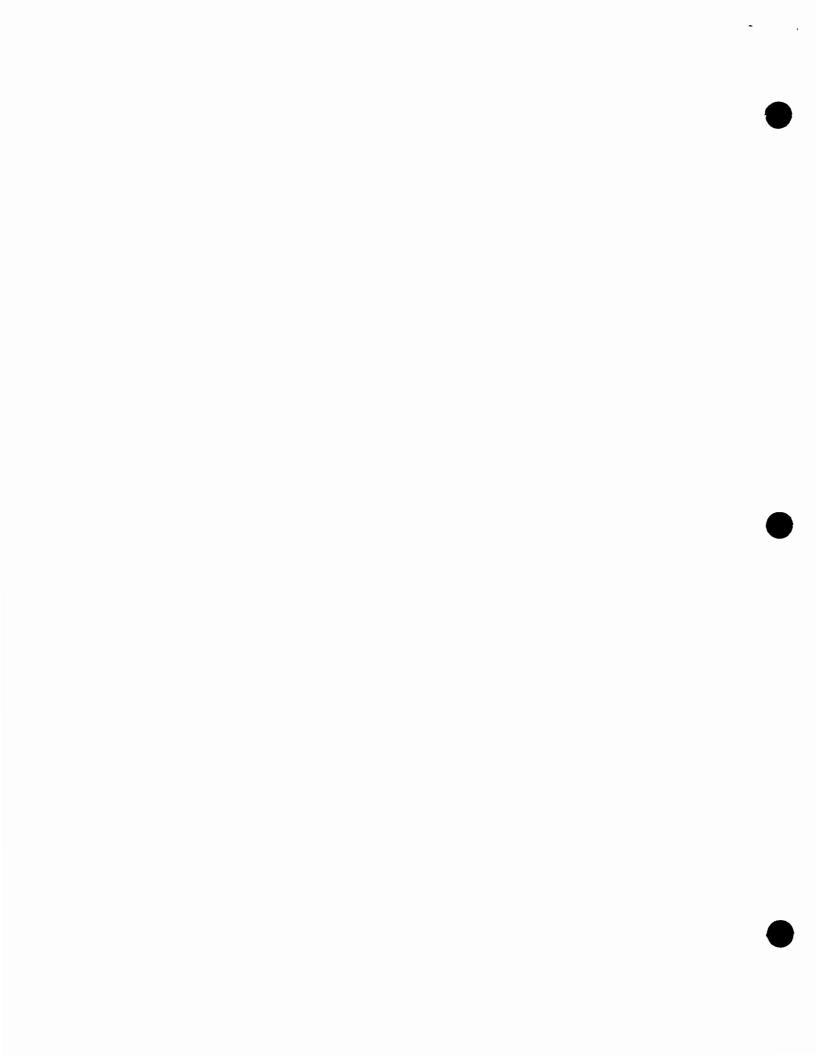
SECTIONS 1.1 - 1.4 would create a new Article 54C regulating the carrying of handguns and providing restrictions on carrying weapons in certain locations as follows:

- G.S. 14-415.35. Carrying Handguns.
 - Any person who is a United States citizen and is at least 18 years old may carry a handgun, openly or concealed, without a concealed handgun permit in North Carolina unless otherwise provided by State law or federal law.
 - A person would not be permitted to carry a handgun on posted private property, with certain exceptions.
 - A person would be prohibited from consuming alcohol while carrying a concealed handgun.
 - o It would be unlawful for anyone to carry a handgun if that person is:
 - Otherwise ineligible to own, possess, or receive a firearm under another provision of law.
 - Is under indictment, or a finding of probable cause that the person committed a felony.
 - Adjudicated guilty in any court of a felony.
 - A fugitive from justice.
 - An unlawful user of, or addicted to, marijuana, alcohol, or any depressant, stimulant, or narcotic drug.
 - Is currently, or has been previously adjudicated by a court to be a danger to self or others
 due to mental illness or lack of mental capacity.
 - Discharged under conditions other than honorable from the Armed Forces of the United States
 - Adjudicated guilty of, or received a prayer for judgment continued for certain violent misdemeanors, or prohibited from possessing a firearm due to conviction of a domestic violence crime.

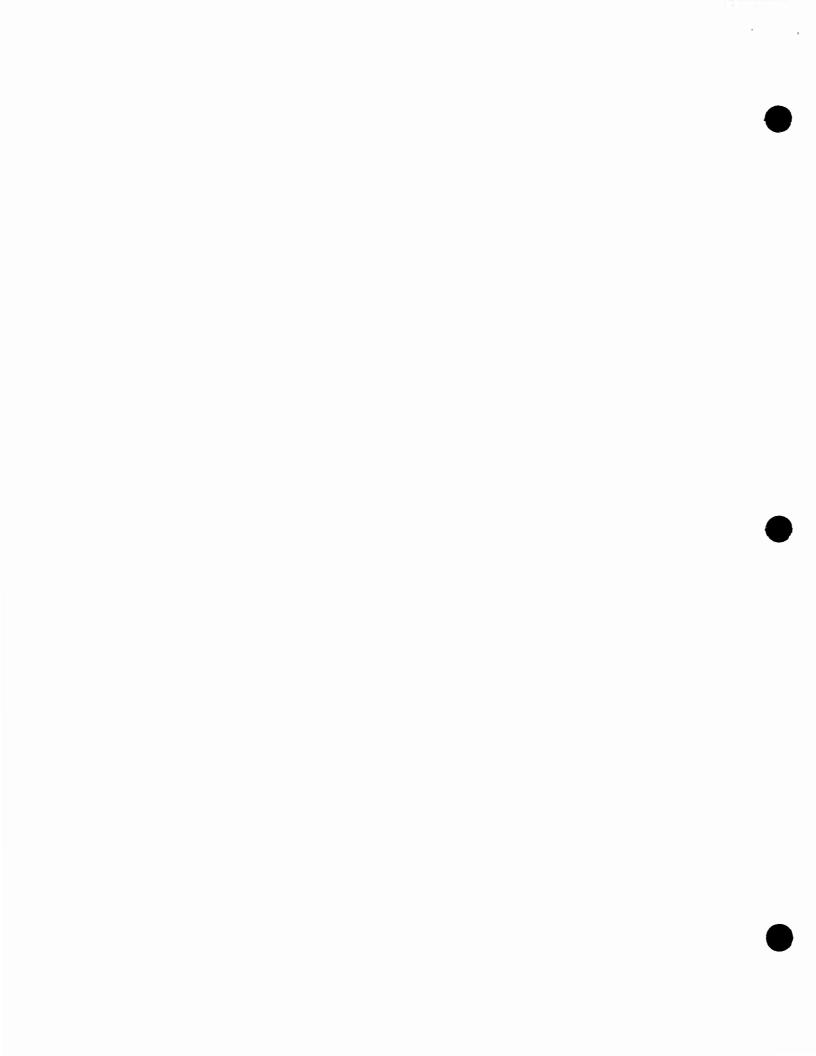




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- Is free on bond or personal recognizance for crimes that would make it unlawful for the person to be carrying a concealed weapon.
- Convicted of an impaired driving offense within three years of the date on which the person is carrying the concealed weapon.
- A person carrying a concealed handgun must carry valid identification and disclose to any law enforcement officer that the person is carrying a concealed handgun when approached or addressed.
- Violations of these provisions range from an infraction for minor first offenses to a Class H
 felony for more serious repeat offenses.
- G.S. 14-415.36. <u>Carrying weapons into assemblies and establishments where alcoholic beverages are</u> sold and consumed.
 - Subject to certain exceptions, would create a Class 1 misdemeanor offense for persons who carry
 a firearm into any assembly where a fee for admission is charged, or where alcoholic beverages
 are sold and consumed.
- G.S. 14-415.37. No firearms or other weapons on the premises of the State Capitol, Executive Mansion, or Western Residence of the Governor.
 - Subject to certain exceptions, would create an infraction offense for persons who carry a firearm on the premises of the State Capitol, Executive Mansion, or Western Residence of the Governor.
- G.S. 14-415.38. No firearms or other weapons in courthouses or buildings housing any court of the General Court of Justice.
 - Subject to certain exceptions, would create an infraction offense for persons who carry a firearm in a courthouse or other facilities while being used for court purposes.
- G.S. 14-415.39. Firearms and other weapons prohibited at picket lines and certain demonstrations.
 - Subject to certain exceptions, would create a Class 1 misdemeanor offense for persons who carry a firearm at a picket line and at certain demonstrations.
- G.S. 14-415.40. Unlawful to carry a handgun into certain areas.
 - Subject to certain exceptions, would create a catch-all Class 1 misdemeanor offense for persons who carry a firearm in:
 - The General Assembly is prohibited by rule.
 - Areas prohibited by federal law.
 - Law enforcement or correctional facilities.
- G.S. 14-415.41. Exceptions to statutes restricting firearms and other weapons.
 - Would create a list of exceptions to statutes detailed above restricting the carrying of firearms and other weapons. These exceptions were previously exceptions to restrictions to concealed handgun permit holders under G.S. 14-269, with the addition that assistant district attorneys, like district attorneys, may carry a concealed handgun in the courtroom. Other exceptions include, but are not limited to:
 - Law enforcement, Armed Forces of the United States, and National Guard in discharge of their official duties.
 - District attorneys, assistant district attorneys, and their investigators.
 - Superior and district court judges and administrative law judges.
 - Magistrates.
 - Registers of Deeds and Clerks of Court.
 - Correctional officers and probation/parole officers.
- G.S. 14-415.42. Carrying handgun on premises of State-owned rest areas and within State Parks System.
 - Would allow anyone who is otherwise lawfully allowed to carry a handgun to carry, openly or concealed, at any:
 - State-owned rest area or rest stop.
 - State-owned hunting and fishing reservation.
 - Grounds or waters within the State Park System.
- G.S. 14-415.10A Purpose.



House PCS 746

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 Would continue to make concealed handgun permits available for those who apply and are otherwise eligible to receive a permit under current law.

SECTIONS 1.5(a), and 1.5(b)

• Effective July 1, 2017, would require the North Carolina Criminal Justice Education and Training Standards Commission to update their training and education materials related to the possession and carrying of handguns to reflect the changes made under this bill.

EFFECTIVE DATE: Except as otherwise provided, this Part would become effective December 1, 2017.

PART II. CLARIFYING CHANGES TO CARRY MODIFICATIONS.

BILL ANALYSIS: Part II would make conforming changes based on the carry modifications in Part I.

PART III. STANDARDIZE AND ENSURE UNIFORMITY OF CONCEALED HANDGUN PERMIT APPLICATIONS

SECTION 3.1

CURRENT LAW: G.S. 14-415.10 provides a two year exemption from the firearms safety and training course for permits for qualified former sworn law enforcement officers, qualified retired correctional officers, and qualified retired probation or parole certified officers.

BILL ANALYSIS: Increases the exemption to five years.

SECTION 3.2

CURRENT LAW: Under G.S. 14-415.12(a)(3), one criterion that an applicant for a concealed handgun permit must satisfy is to "not suffer from a physical or mental infirmity that prevents the safe handling of a handgun." G.S. 14-415.12(b)(6) also requires denial of a permit based on adjudication by a court or an administrative determination by a government agency subject to judicial review that the person is lacking mental capacity or mentally ill.

BILL ANALYSIS: The PCS would modify the language to require that the applicant not have a currently diagnosed and ongoing mental disorder, as defined by the Diagnostic and Statistical Manual of Mental Disorders, that the sheriff determines would reasonably prevent the safe handling of a handgun.

It would also require denial of a concealed handgun permit to a person if adjudicated by a court to be a danger to self or others due to mental illness or lack of mental capacity. Administrative determinations by government agencies would no longer be considered as grounds for denial of a permit.

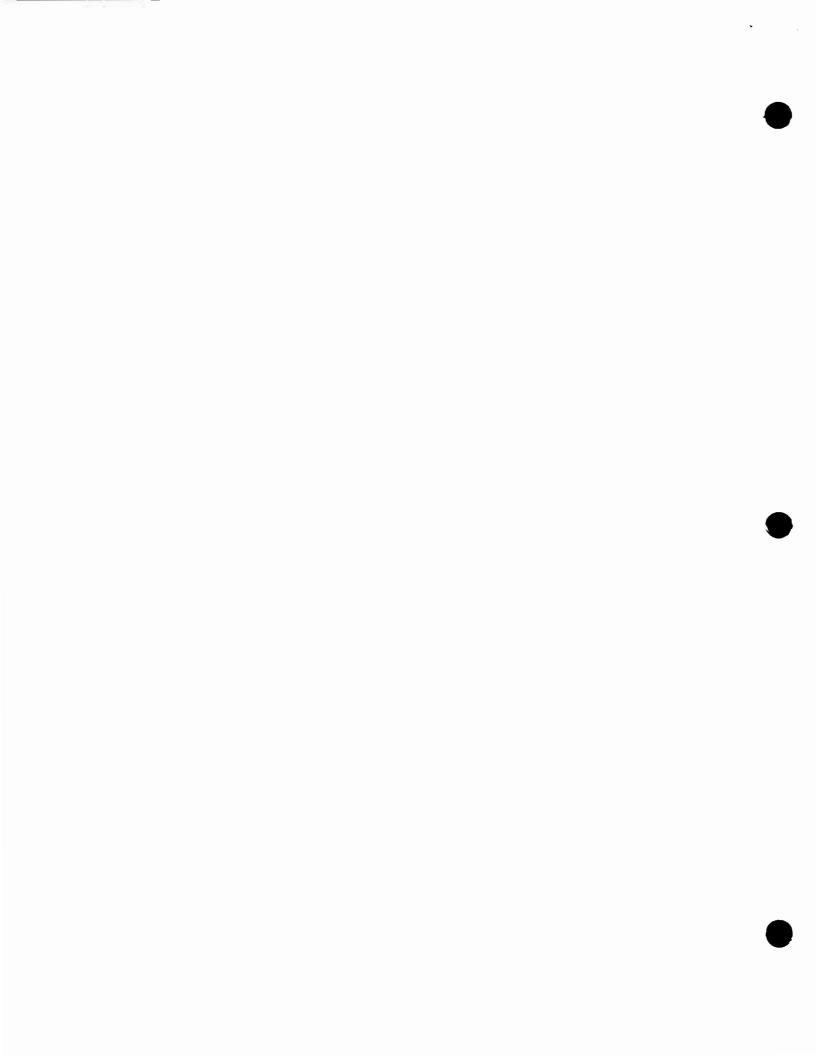
SECTION 3.3

CURRENT LAW: G.S. 14-415.13(a)(1) requires applicants for concealed handgun permits to submit an application to the sheriff and to sign a release for records related to mental health. Current law does not provide for scheduling of appointments for concealed handgun permit applications.

BILL ANALYSIS: The PCS authorizes a sheriff to schedule appointments for concealed handgun applications as long as the appointment is 15 business days or less from the date the applicant informs the sheriff that the applicant has all the proper information. The PCS also makes conforming changes to the release form requirements to reflect the changes in Section 3.2.

SECTION 3.4

CURRENT LAW: G.S. 14-415.15 requires a sheriff to either issue or deny a concealed handgun perm it within 45 days after receipt of the application and receipt of the required records concerning the mental health or capacity of the applicant.



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BILL ANALYSIS: The PCS would require the permit to be issued or denied within 90 calendar days of the application being submitted. The PCS would also require the sheriff to submit a second request for mental health records if no response to the first request was received within 45 days.

SECTION 3.5

CURRENT LAW: G.S. 14-415.19 requires a fee of \$80 for a new application for a concealed handgun permit.

BILL ANALYSIS: The PCS would require a fee of \$81 for a new application for a concealed handgun permit.

EFFECTIVE DATE: This Part would become effective October 1, 2017, and would apply to permit applications submitted on or after that date.

PART IV. CONCEALED CARRY IN STATE LEGISLATIVE BUILDINGS

CURRENT LAW: The Legislative Services Commission (LSC) is authorized to establish policies for the use of the State legislative buildings and grounds. The LSC rules cannot currently prohibit a person from transporting a firearm in a locked vehicle or vehicle compartment.

BILL ANALYSIS: Would provide that a legislator, legislative employee, or qualified former sworn law enforcement officer who has a valid concealed handgun permit or current sworn law enforcement officer may carry concealed on the premises of the State Legislative Building and the Legislative Office Building. Legislative Services could require those individuals to give notice to the General Assembly Police when carrying a handgun. The Legislative Services Commission could also adopt a rule that no one may carry a firearm in the Gallery of the State Legislative Building.

PART V. CHANGES TO WEAPONS ON EDUCATIONAL PROPERTY

CURRENT LAW: G.S. 14-296.2 restricts weapons on educational property and at extracurricular events. Current law also exempts a number of categories of individuals from the prohibition against carrying concealed weapons, and those same categories are exempted from the restrictions on weapons on educational property.

BILL ANALYSIS: Would make the following changes to restriction on education property:

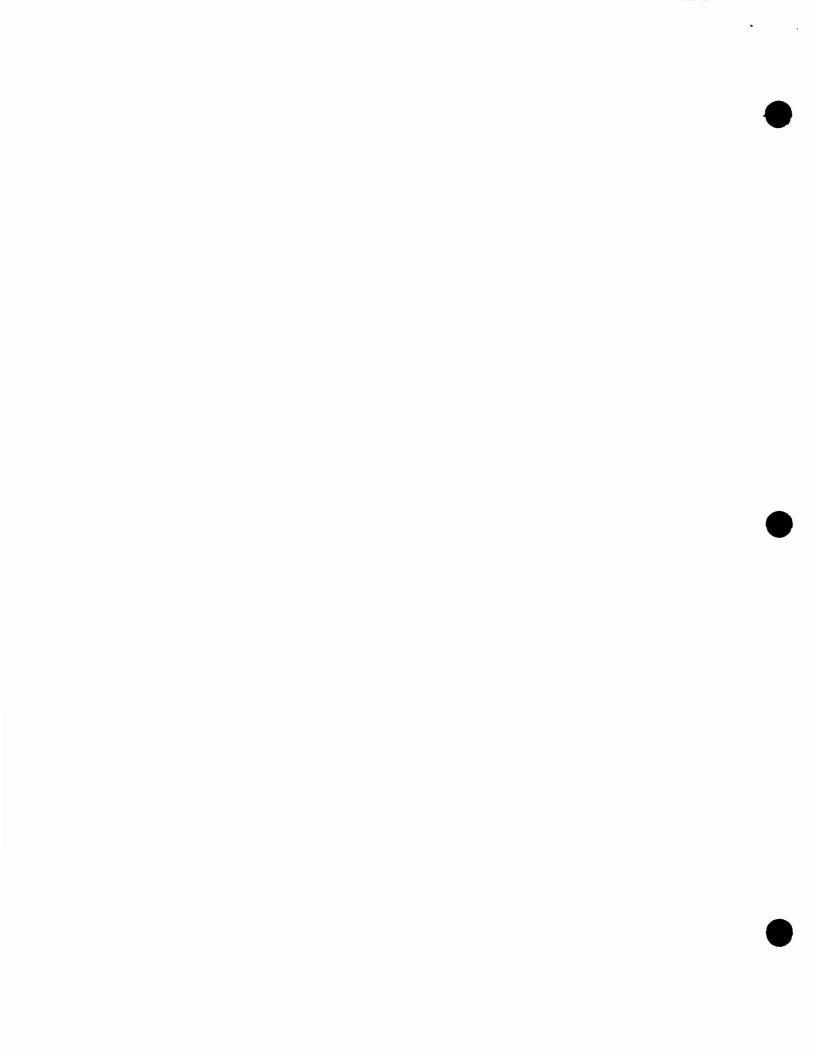
- Clarifies that the prohibition on weapons at an extracurricular activity sponsored by a school does not
 apply to persons not participating in, chaperoning, or spectating at the extracurricular activity when that
 extracurricular activity is conducted in a public place, including, but not limited to, a restaurant, public
 park, or museum.
- Allows an individual to drive in a locked vehicle on a public road across educational property with a weapon if the individual stays in the locked vehicle and only allows others to enter or exit the car.
- Authorizes an individual with a concealed handgun permit to carry a handgun on the premises of the
 place of religious worship that also serves as a private elementary and secondary school outside the
 operating hours of the school.

EFFECTIVE DATE: This Part would become effective December 1, 2017, and apply to offenses committed on or after that date.

PART VI. PISTOL PERMIT/MENTAL HEALTH RECORD TO SHER!FF

CURRENT LAW: Requires a signed release authorizing disclosure to the sheriff of any court orders concerning the mental health or capacity of the applicant when applying for a pistol permit.

BILL ANALYSIS: Removes the authorization for a signed release related to mental health in the application, and prohibition on requiring additional documents or evidence from an applicant. The bill would instead grant the sheriff discretion to request disclosure of court orders concerning the mental health or mental capacity of the applicant, and require holders of those orders to release them, upon request, to the sheriff of the county. It would



House PCS 746

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require the permit application to include a conspicuous warning stating that by filing the application, the individual understands that he or she is authorizing the sheriff to obtain criminal and mental health court orders.

EFFECTIVE DATE: This Part would become August 1, 2017, and apply to applications for pistol purchases pending or submitted on or after that date.

PART VII: OTHER CHANGES TO WEAPONS LAW AND ADDITIONAL CONFORMING CHANGES

SECTION 7.1

CURRENT LAW: A judge has discretion to dispose of a deadly weapon used in commission of a crime for which a person has been convicted in several different ways, including returning it to the owner or turning it over to law enforcement or certain State agencies.

BILL ANALYSIS: The PCS would remove some of the judge's discretion in disposing of the weapon. If the owner of the weapon is not the convicted defendant, the judge must order return of the weapon to the rightful owner after certain findings are made. If the owner of the weapon is the convicted defendant, the judge has discretion to dispose of the weapon by turning it over to various agencies. If the defendant is the lawful owner and is not convicted, the judge must order the weapon returned.

SECTION 7.2

CURRENT LAW: A judge has discretion to dispose of a firearm lawfully seized that the district attorney determines is no longer needed by returning the firearm to its rightful owner or turning it over to law enforcement or certain State agencies.

BILL ANALYSIS: The PCS would remove some of the judge's discretion in disposing of the weapon. If the owner of the weapon is not the defendant, the judge must order return of the weapon to the rightful owner after certain findings are made. If the owner of the weapon is the defendant, the judge has discretion to return the gun to the defendant or dispose of the weapon by turning it over to various agencies.

SECTIONS 7.3

BILL ANALYSIS: Would codify a common law offense by creating a Class 1 misdemeanor offense for a person who arms his or herself with an unusual and dangerous weapon for the purpose of terrifying others and goes about on a public highway to cause such terror. A person would not be guilty of such offense by virtue of that person possessing or carrying a handgun.

EFFECTIVE DATE: this Part would become effective December 1, 2017, and apply to offenses committed on or after that date.

PART VIII. DEVELOP COMPREHENSIVE FIREARM EDUCATION AND WILDLIFE CONSERVATION COURSE

BILL ANALYSIS: Would require the State Board of Education to develop two high school elective course in comprehensive firearm education and in wildlife conservation, respectively.

EFFECTIVE DATE: This Part would become effective when it becomes law and applies beginning with the 2018-2019 school year.

EFFECTIVE DATE: The effective date clause is effective July 1, 2017. Unless otherwise provided, the remainder of the act would become effective December 1, 2017, and apply to offenses committed on or after that date.

		•
•		



H746-ABE-44 [v.3]

Page 1 of 2

Amends Title [NO] H746-CSTC-39 [v.17] Date May 31

,2017

Representative Alexander

moves to amend the bill on page 2, line 6 by deleting the word "marijuana,";

And on page 11, line 32, by rewriting the line to read:

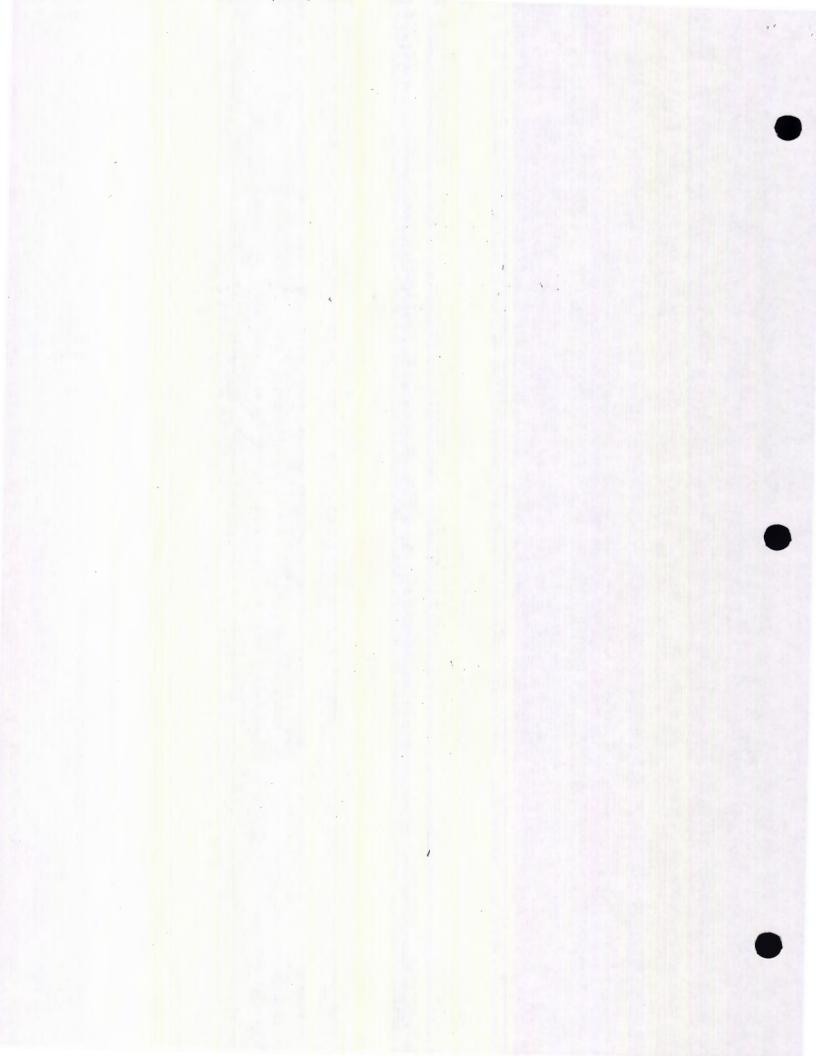
"(4) The petitioner is an unlawful user of, or addicted to, marijuana, alcohol, or any";

And on page 16, lines 7 - 8 by inserting between the lines:

"(5) Is an unlawful user of, or addicted to-to, marijuana, alcohol, or any depressant, stimulant, or narcotic drug, or any other controlled substance as defined in 21 U.S.C. § 802.";

failed X





AMENDMENT NO.	P
(to be filled in by	
Principal Clerk)	

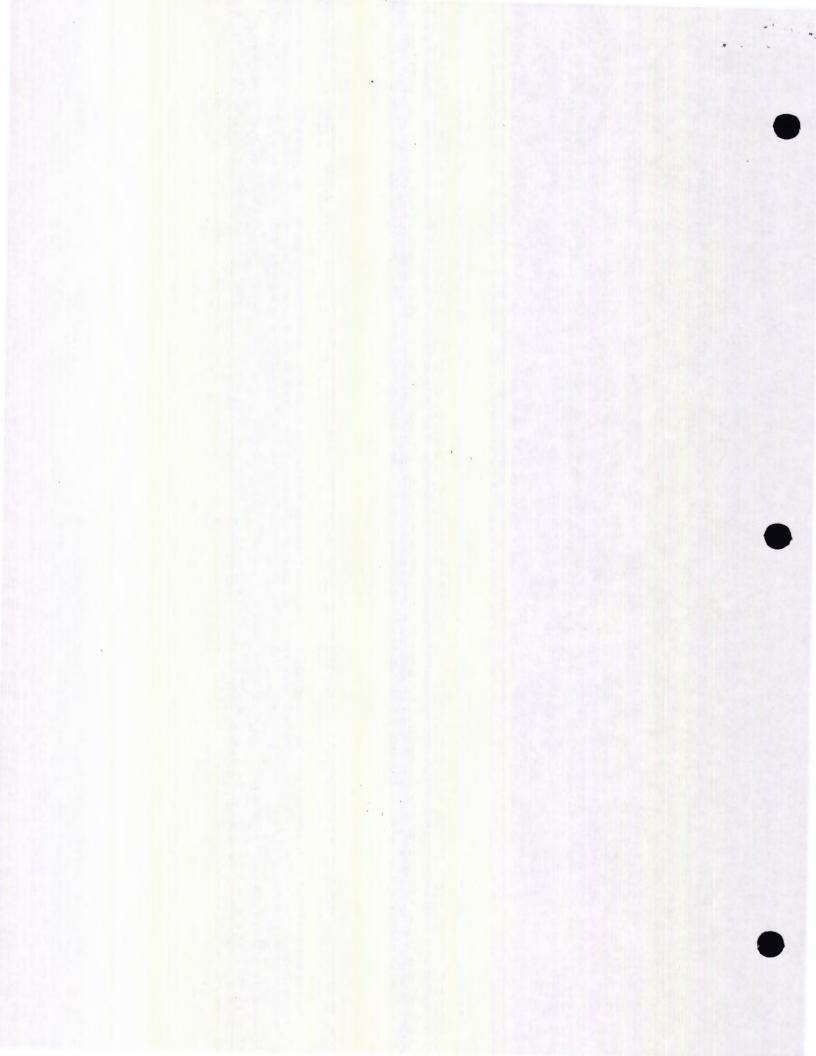
TABLED ____

H746-ABE-44 [v.3]

Page 2 of 2

	1 age 2 of 2
And on pa	age 19, lines 32 – 33 by inserting between the lines:
"(c)	 A permit may not be issued to the following persons: One who is under an indictment or information for or has been convicted in any state, or in any court of the United States, of a felony (other than an offense pertaining to antitrust violations, unfair trade practices, or restraint of trade). However, a person who has been convicted of a felony in a cour of any state or in a court of the United States and (i) who is later pardoned or (ii) whose firearms rights have been restored pursuant to G.S. 14-415.4 may obtain a permit, if the purchase or receipt of a pistol permitted in thi Article does not violate a condition of the pardon or restoration of firearm rights. One who is a fugitive from justice. One who is an unlawful user of or addicted to marijuana or any depressant stimulant, or narcotic drug (as defined in 21 U.S.C. § 802)"
SIGNED	Amendment Sponsor
SIGNED	Committee Chair if Senate Committee Amendment
	"(c)

ADOPTED _____ FAILED ____





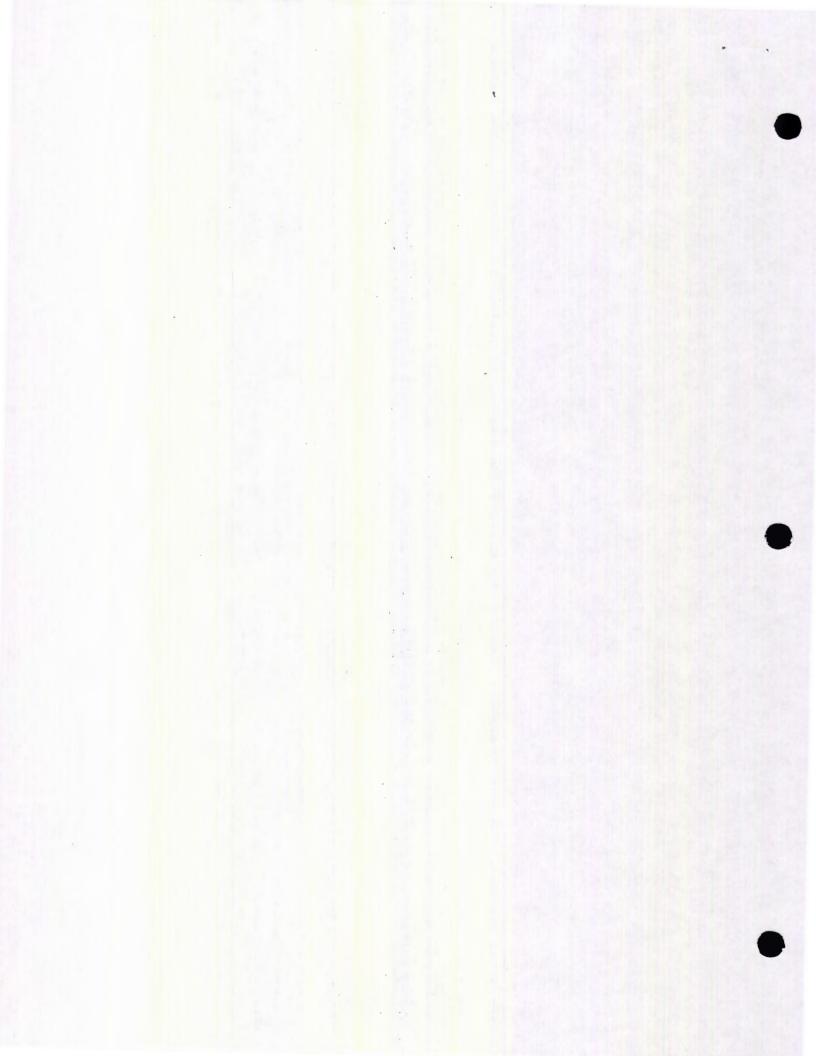
AMENDMENT NO.______ (to be filled in by Principal Clerk) H746-ARQ-22 [v.6] Page 1 of 1 .2017 Amends Title [NO] H746-CSTC-39 [v.17] Representative Alexander moves to amend the bill on page 6, line 6, by rewriting the line to read: 1 2 "the Division of Adult Correction of the Department of Public Safety. Any person who is a current or former member of the General Assembly and 3 (16)who has a concealed handgun permit that is valid under Article 54B of this 4 5 Chapter.""; 6 7 and on page 9, lines 27-28, by inserting the following between those lines: 8 9 "(10) Any person who is a current or former member of the General Assembly, provided that the current or former member does not carry a concealed 10 weapon while consuming alcohol or an unlawful controlled substance or 11 while alcohol or an unlawful controlled substance remains in the current or 12 former member's body.". 13 Amendment Sponsor SIGNED Committee Chair if Senate Committee Amendment

FAILED

ADOPTED



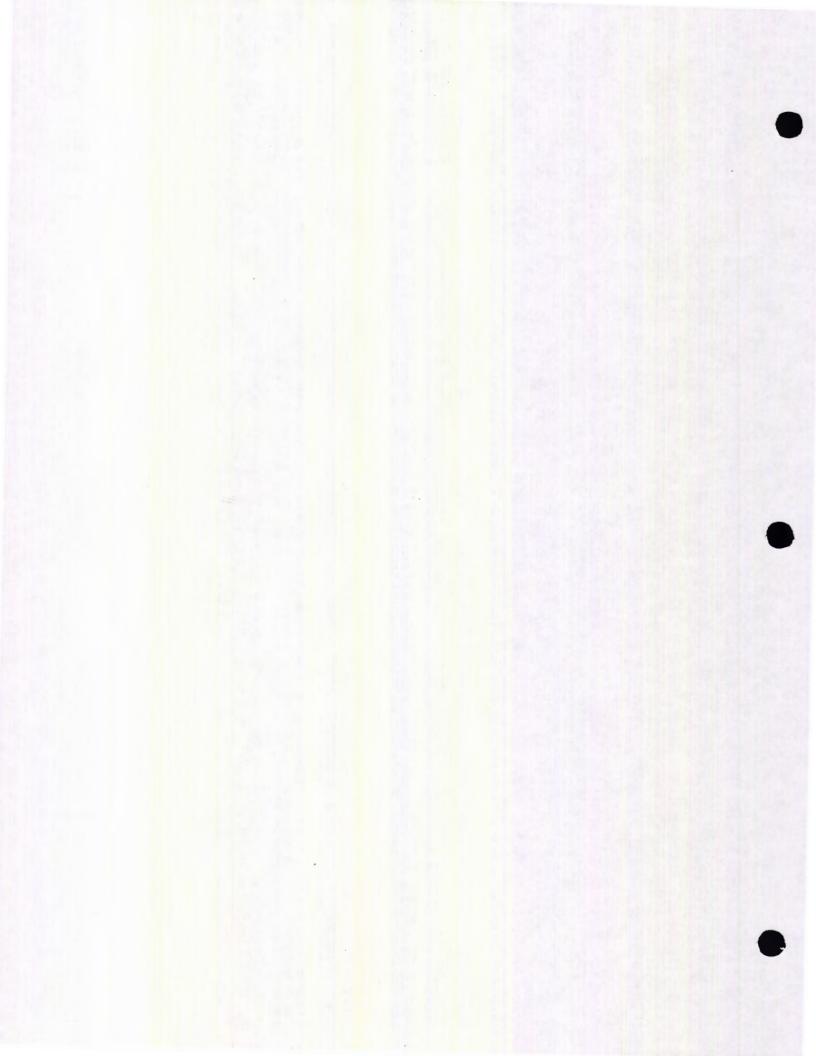
TABLED





		4	AMENDMENT NO. (to be filled in by	3
	H746-ARQ-21 [v.2]		Principal Clerk)	Page 1 of 1
	Amends Title [NO] H746-CSTC-39 [v.17]	Date _	May 31	,2017
	Representative Alexander			
	moves to amend the bill on page 1, line 15, by deleting	ng " <u>18</u> " ar	nd substituting "21".	
3				
	SIGNED COO College Amendment Sponsor	>		
	SIGNED			
	Committee Chair if Senate Committee A	Amendmo	ent	
	ADOPTED FAILED		TABLED	







H746-ATC-82 [v.1]

AMENDMENT NO. 4

(to be filled in by
Principal Clerk)

Page 1 of 2

Amends Title [NO] H746-CSTC-39 Date May 31 .2017

Representative Belk

1 2 3

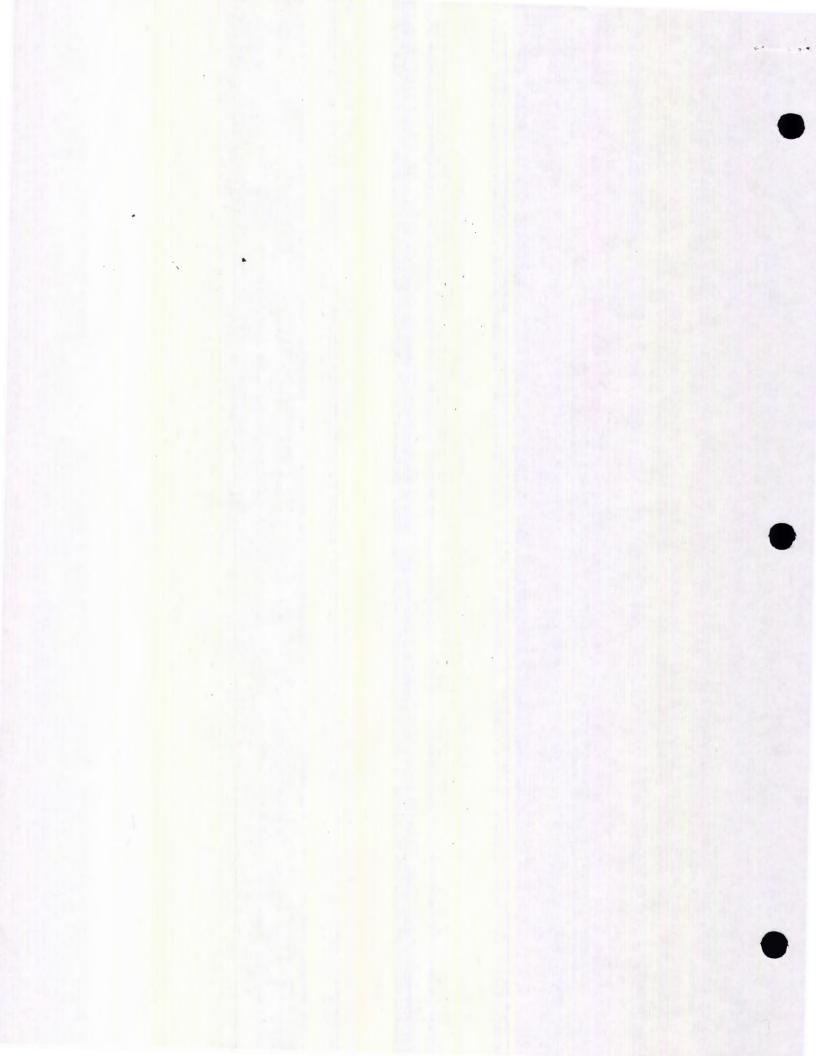
moves to amend the bill on page 2, lines 9-13, by rewriting those lines to read:

"(6) Is currently, or has been previously adjudicated by a court or administratively determined by a governmental agency whose decisions are subject to judicial review to be, a danger to self or others due to mental illness or lack of mental capacity. Receipt of previous consultative services or outpatient treatment alone shall not disqualify any citizen under this subdivision. Further, a person shall not be ineligible under this subdivision if the person's rights have been restored under G.S. 14-409.42.";

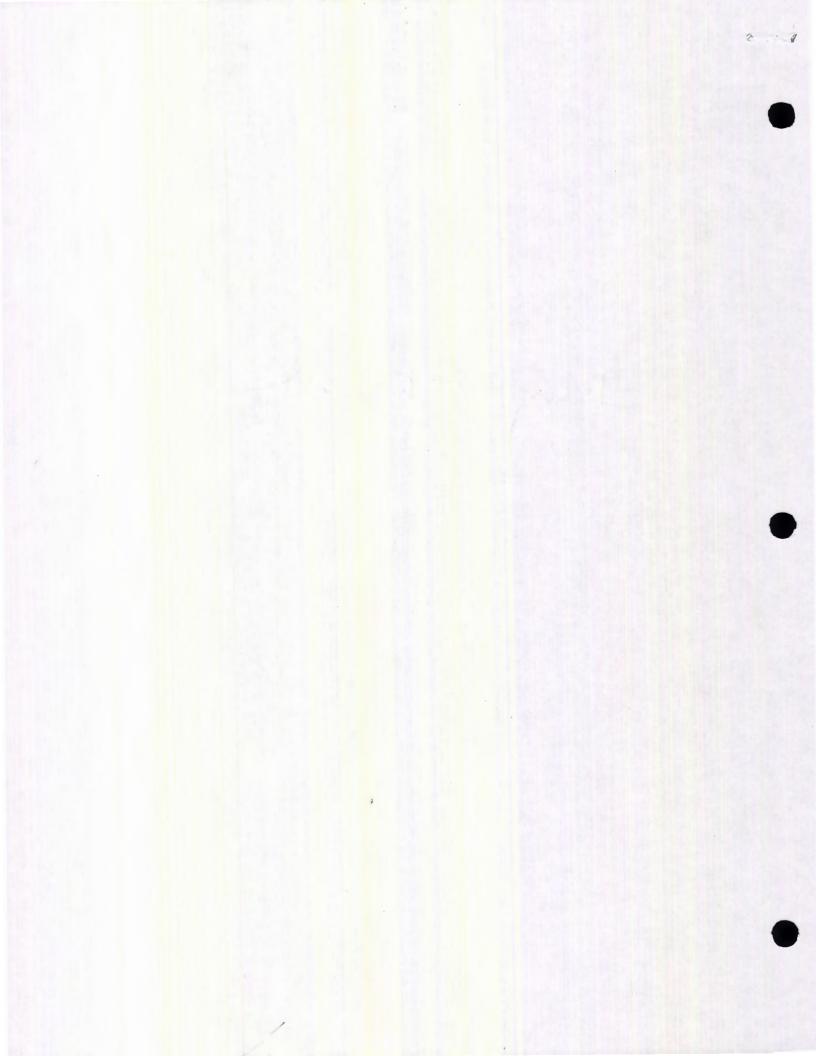
and on page 16, lines 8-13, by rewriting those lines to read:

"(6) Is currently, or has been previously adjudicated by a court or administratively determined by a governmental agency whose decisions are subject to judicial review to be, lacking mental capacity or mentally ill. a danger to self or others due to mental illness or lack of mental capacity. Receipt of previous consultative services or outpatient treatment alone shall not disqualify an applicant under this subdivision.";





		AMENDMENT NO (to be filled in by
	H746-ATC-8	
	11/10/11/0 0	Page 2 of 2
1 2	and on page 1	5, lines 45-47, by rewriting those lines to read:
3 4 5		"b. Records showing that the applicant is currently, or has been previously, adjudicated by a court or administratively determined by a governmental agency whose decisions are subject to judicial review
6		to be, a danger to self or others due to mental illness or lack of
7		mental capacity.".
,	SIGNED	new 6BS
		Amendment Sponsor
	SIGNED	
		Committee Chair if Senate Committee Amendment
	ADOPTED	FAILED TABLED





AMENDMENT NO. (to be filled in by H746-ABE-46 [v.4] Principal Clerk) Page 1 of 1 .2017 Amends Title [NO] Date H746-CSTC-39 [v.17] Representative Beasley moves to amend the bill on page 2, lines 46 - 47 by inserting between the lines: "(15) From the date on which the person is carrying the handgun, has been convicted of a violation of this section within the past three years or has been convicted of two or more violations of this section within the past five years.". **SIGNED SIGNED** Committee Chair if Senate Committee Amendment

TABLED

FAILED

1

23

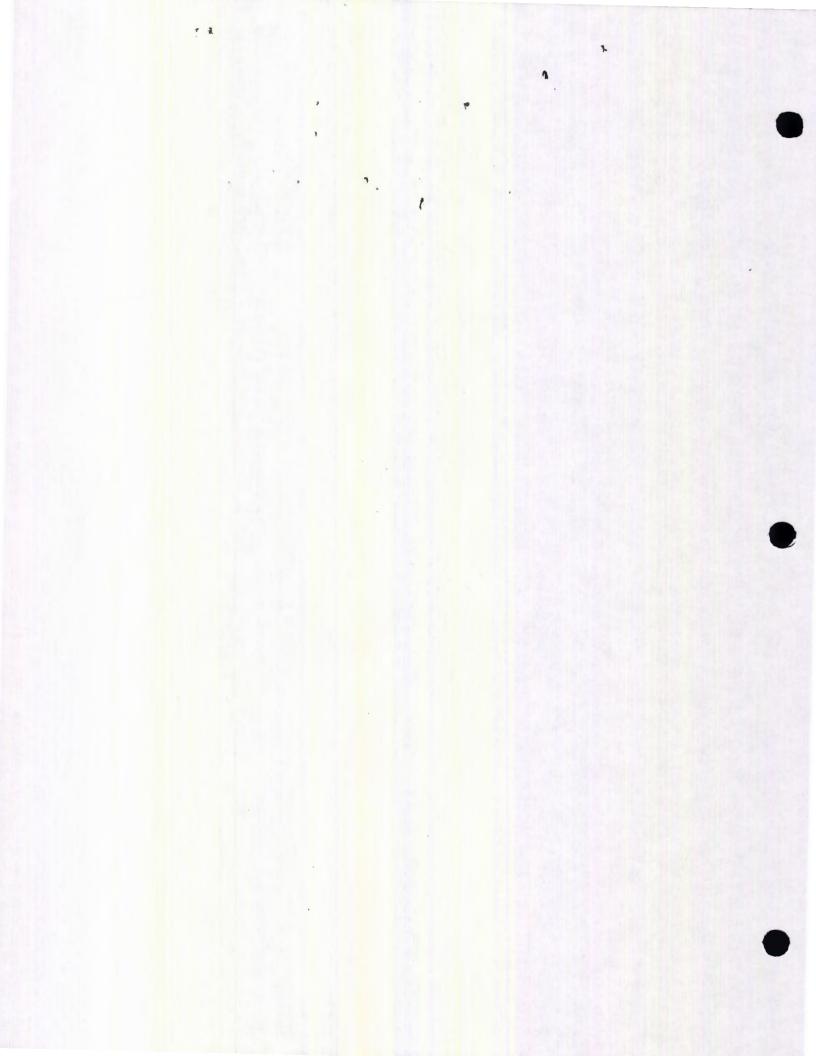
4

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78

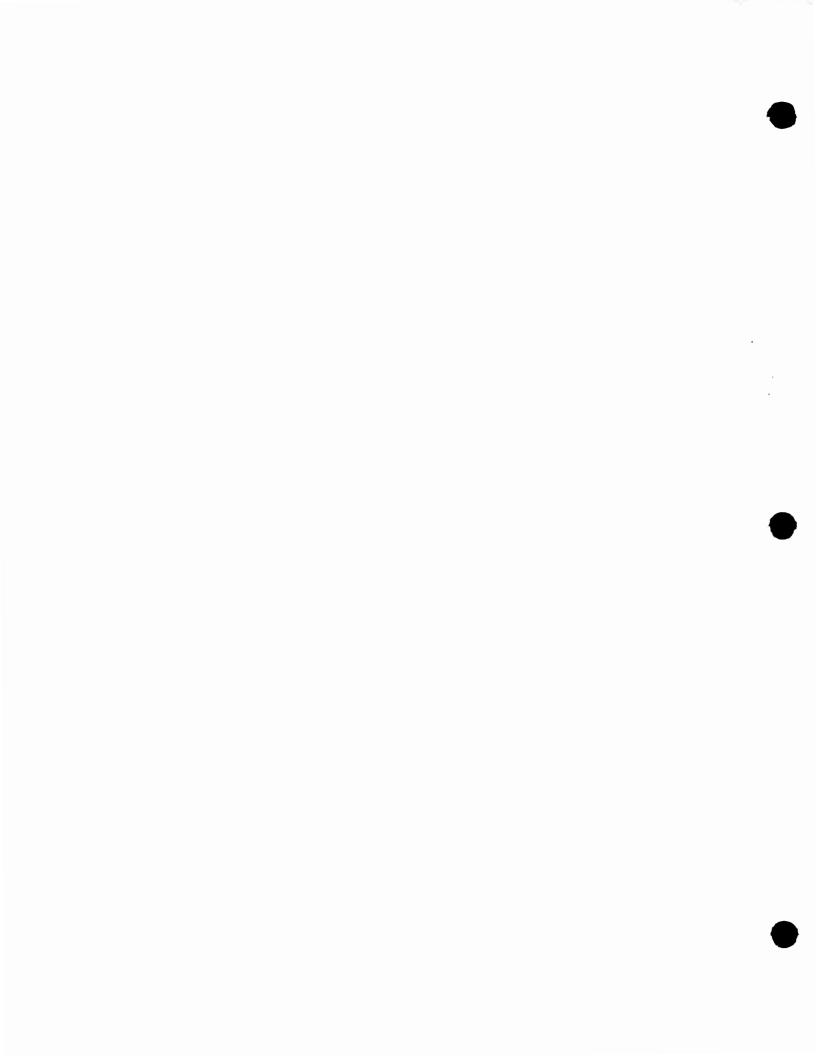
ADOPTED





Guest Speaker Signup

	Committee Judiciary IL Date 05/31/2017
2	1. Daniel Patrick For GRN(
3	2. ANTHONY ROMETTE FOR NRA
I	3. Christy Clark Against Moms Demand Act
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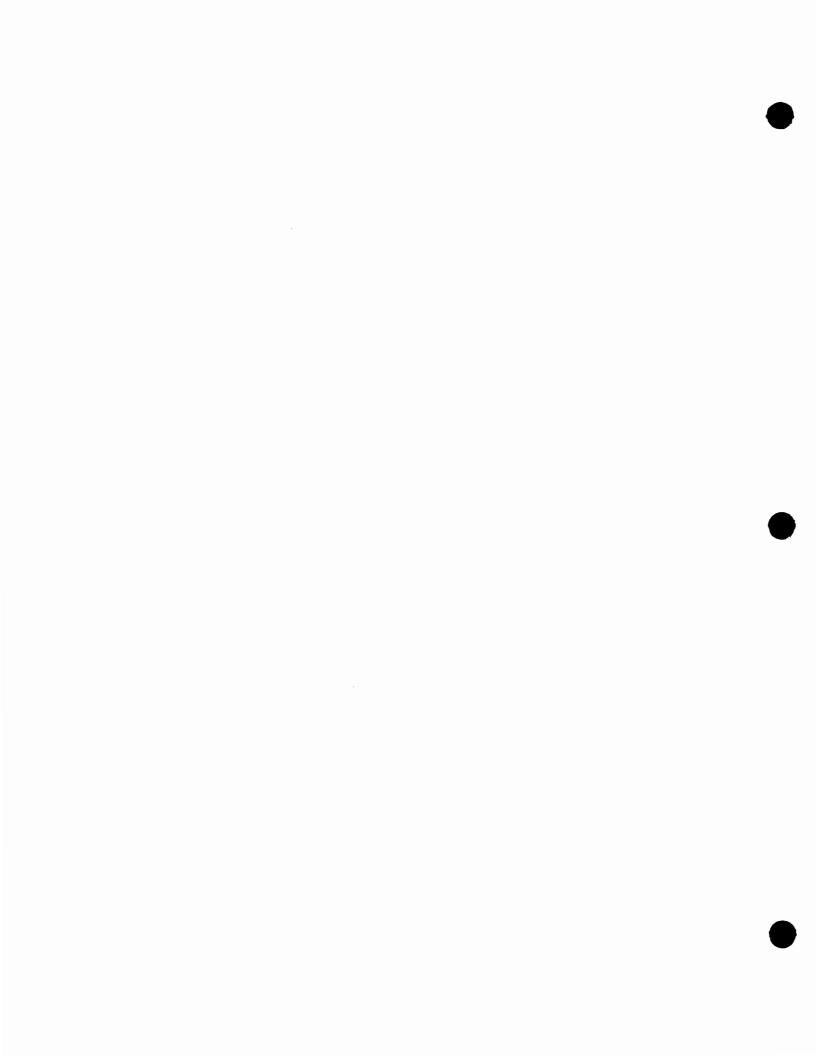


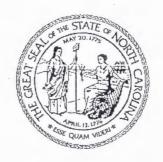


NAME OF MEETING: Judiciary TV

DATE: 05 31 2017
PLEASE SIGN IN BELOW

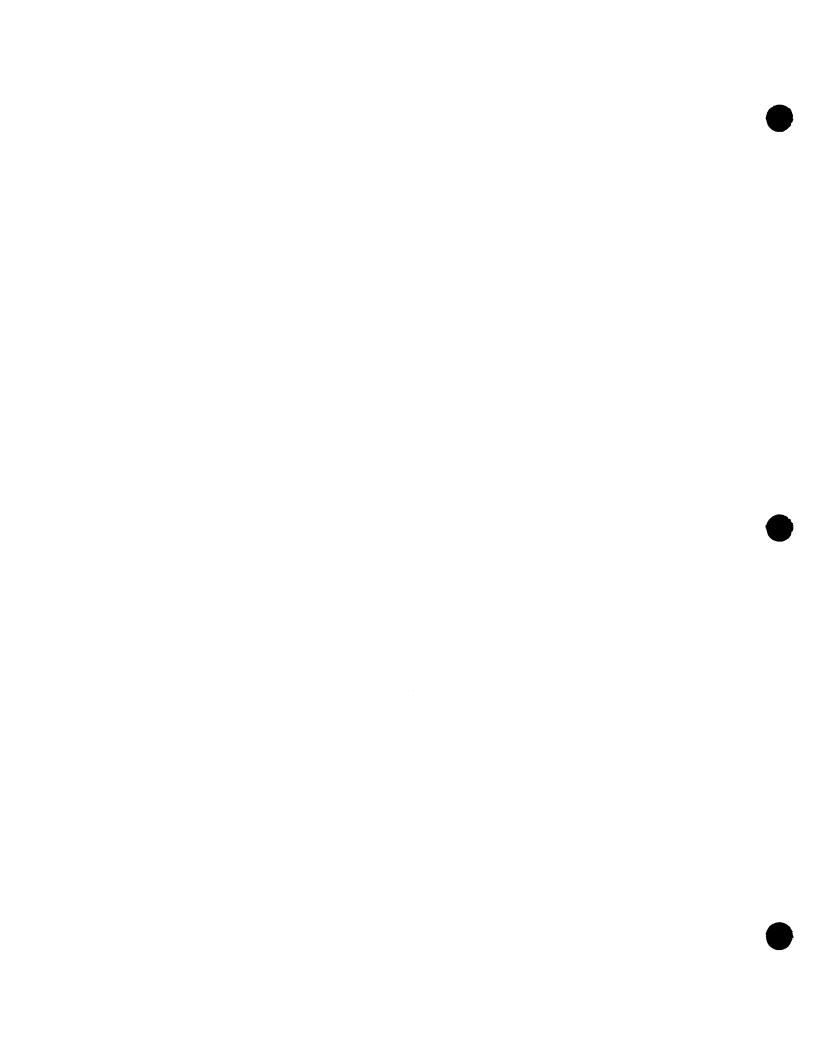
NAME	FIRM OR AGENCY
Dennis Allen	NCRPA
ANTHONY ROMLKTTK	NRA
Che Medurer	KTS
Hampton Billips	KTS
Sux David	Newfeams
Gason Joynes	nowyany
Person Bulton	GOLDON A SH
Cristal Feldingen	SAI
Sw. Am Formest	Nems
Eddie Caldwell	NC Sheriffs' AssN.
Katyling	5p
BRIAN LEWIS	NIW FRAME
David Ferril	V3
lindson paris	Faveloth inlun
Slizabeth Brei	313
Clar McCline	50
Paul Sherme	NCFB





NAME O	F MEETING: Judiciary	TV
DATE:	05 /31 /2017 PLEASE SIGN IN BELOW	

NAME	FIRM OR AGENCY
Swan Anthony	LWV
Isabel Villa- Fina	NCE
Sett Peter	NCR

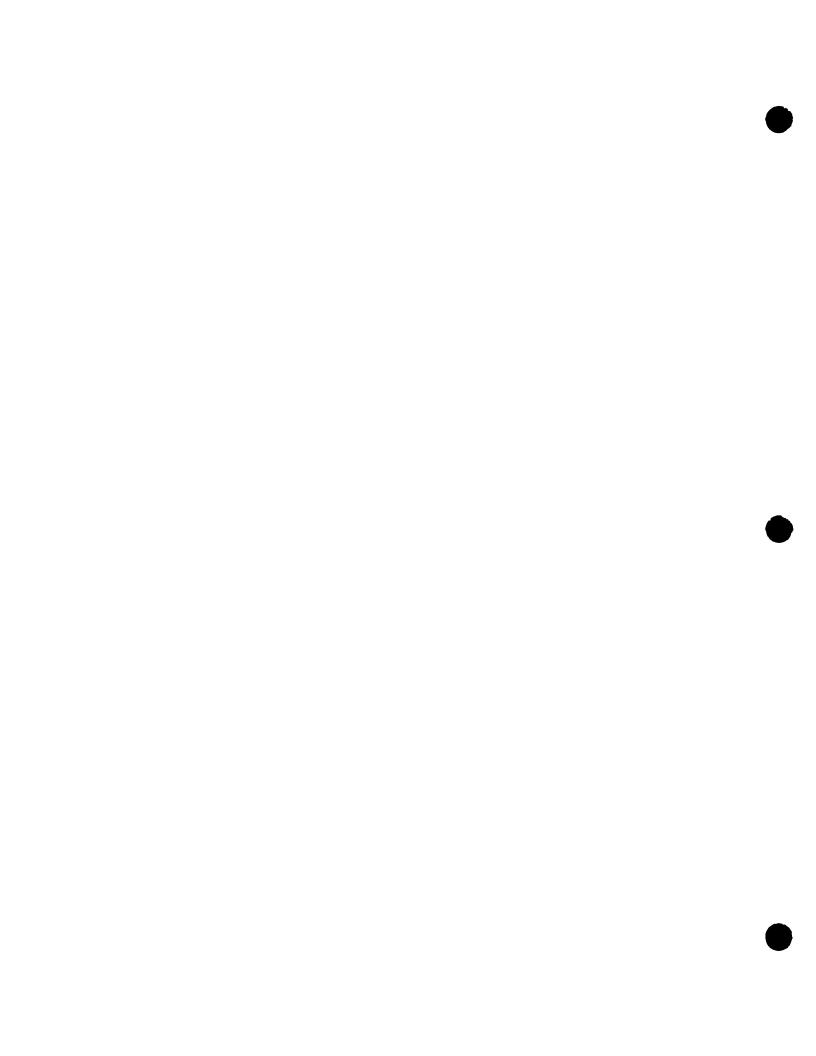




NAME OF MEETING: Judiciary TV

DATE: 05 31 2017
PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Christy Clark	Moms Demand Action
Hope Williams,	Nacu
som plost	NCICH
Boylenth	MWC
Julies	MWC
Der Moret	UNCGA
Jonathan Kappler	UNCGA
Michelle Brooks	ECU
Mark Lanier	UNCW
Andrew Caste	UNC Greensbaro
Chris Broughton	MVC
Jimme Williamson	No community Colleges
Noel Fritisch	NC Gun Rights GRNC
G SHUTE	GRNC
Betty Boran	UNC Charlet
TIllysee	NP
Courtney Johnson	NP
es Adlis	CSA



1House Committee on Judiciary IV Wednesday, June 28, 2017 at 12:00 Noon Room 423

MINUTES

The House Committee on Judiciary IV met at 12:00 Noon on June 28, 2017 in Room 423. Representatives Alexander, Beasley, Belk, Blackwell, Burr, Butler, Cleveland, Garrison, Jones, Potts, Richardson, Riddell, Setzer, Torbett, and Warren attended.

Representative Hugh Blackwell presided.

The following bill was considered.

Senate Joint Resolution 36 – Convention of the States

Chairman Blackwell made the motion for the bill to be heard. Rep. Bert Jones explained the bill. Discussion from committee members followed.

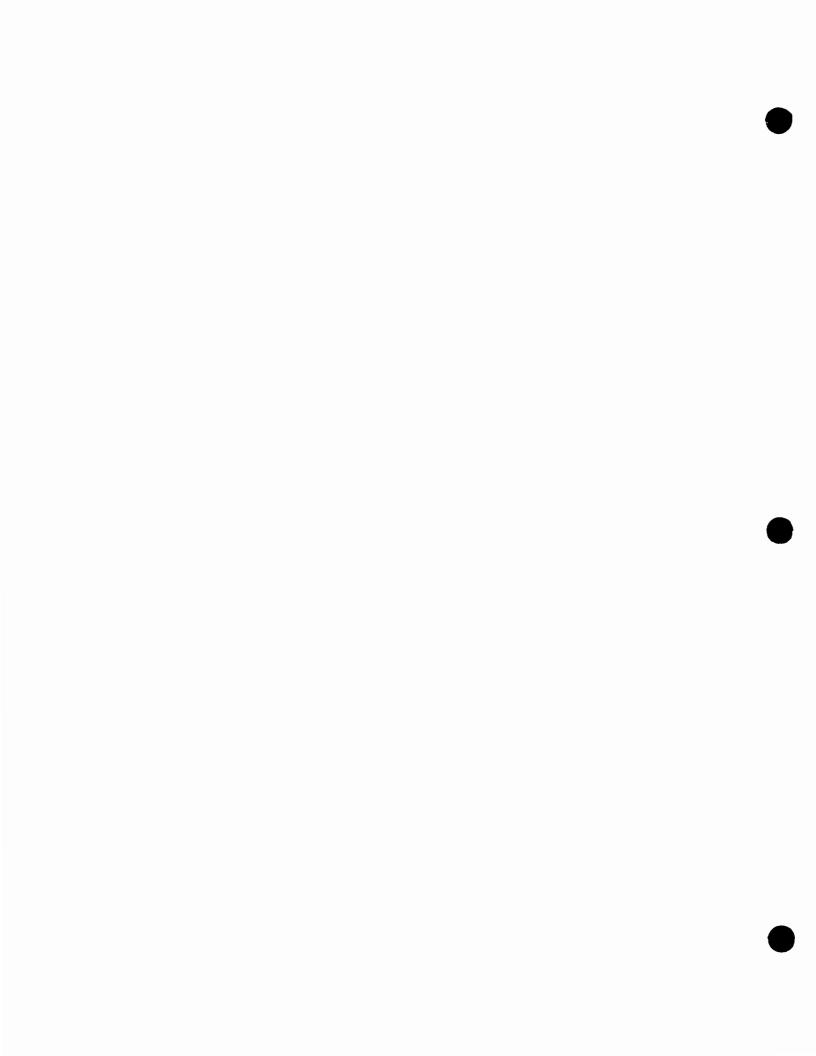
Guest speakers in opposition to SRJ 36 were Wynne Coleman from No Convention of States NC and Rep. Michael Speciale, NC House of Representatives, District 3. Speakers from the Convention of States in support of SRJ 36 were Gary Kanady, Michael Westrich and Gary Lyons.

Rep. Larry Potts motioned for a favorable report. A vote by Division was called. Upon division, a favorable report was adopted with 8 votes in the affirmative and 6 votes in the negative.

The meeting adjourned at 1:58 PM.

Rep. Hugh Blackwell, Presiding

Dixie Riehm, Committee Clerk



House Committee on Judiciary IV Wednesday, June 28, 2017, 10:00 AM 423 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO. SHORT TITLE

SJR 36 Convention of the States.

SPONSOR

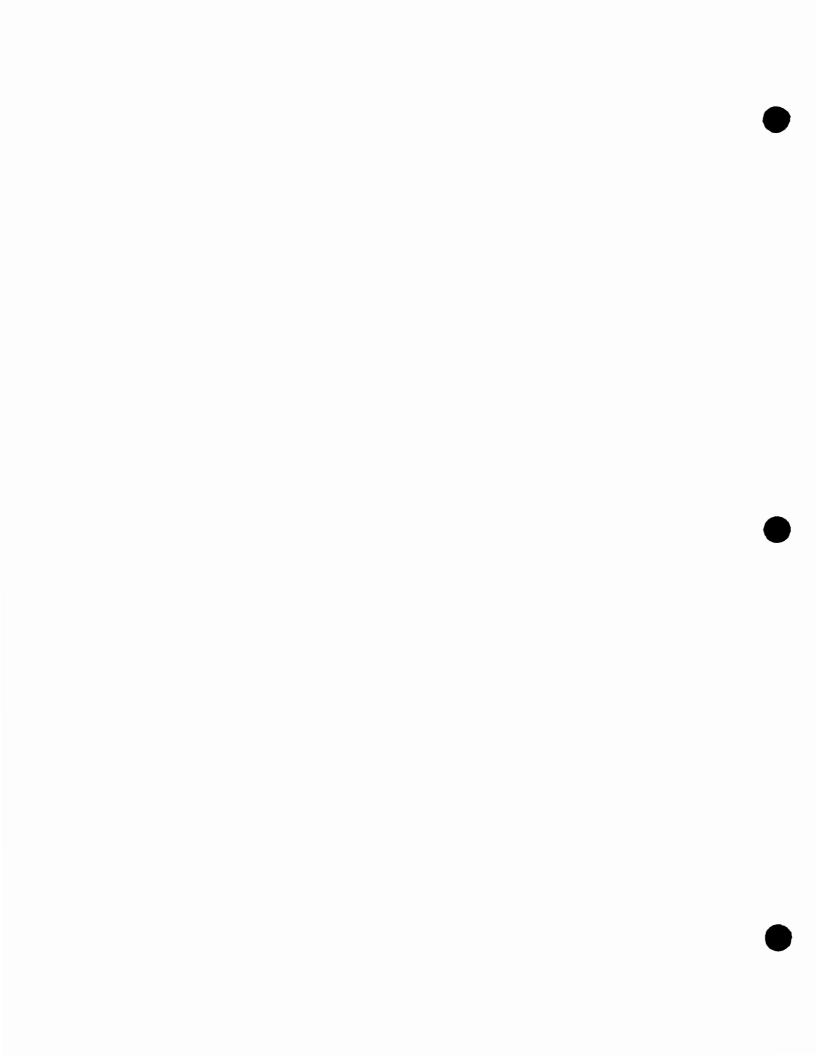
Senator Sanderson Senator Hise Senator Tucker

Presentations

Rep. Blackwell will chair the meeting.

Other Business

Adjournment



GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

SENATE JOINT RESOLUTION 36

S

Sponsors:	Senators Sanderson, Hise, Tucker (Primary Sponsors); and Krawiec.	
Referred to:	Rules and Operations of the Senate	

February 8, 2017

A JOINT RESOLUTION APPLYING TO CONGRESS FOR AN ARTICLE V CONVENTION OF THE STATES WITH THE PURPOSE OF PROPOSING AMENDMENTS TO THE UNITED STATES CONSTITUTION.

Whereas, the Founders of the Constitution of the United States empowered State Legislators to be guardians against actual or potential abuses of power by the federal government; and

Whereas, the federal government has increasingly usurped legitimate roles of the States; and

Whereas, the federal government has created a crushing national debt through unsustainable budgeting and spending; and

Whereas, it is the solemn duty of the States to protect freedom and opportunity for our citizens, including the generations to come; and

Whereas, Article V of the Constitution of the United States authorizes a process to propose amendments to the United States Constitution through a Convention of the States to place clear restraints on these and related abuses of power; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The Legislature of the State of North Carolina hereby applies to Congress, under the provisions of Article V of the Constitution of the United States, for the calling of a Convention of the States limited to proposing amendments to the United States Constitution that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office for its officials and for members of Congress.

SECTION 2. This application constitutes a continuing application in accordance with Article V of the Constitution of the United States until the legislatures of at least two-thirds of the several States have made applications on the same subject. This application expires on December 31, 2026.

SECTION 3. The Secretary of State shall transmit copies of this application to the President of the United States, the Secretary of the United States Senate, the Speaker and Clerk of the United States House of Representatives, the members of North Carolina's congressional delegation, and the presiding officers of all state legislatures in the several States requesting their cooperation.

SECTION 4. This resolution is effective upon ratification.







SENATE JOINT RESOLUTION 36: Convention of the States.

2017-2018 General Assembly

Committee: House Judiciary IV

Introduced by: Sens. Sanderson, Hise, Tucker

Analysis of: First Edition

Date: June 28, 2017

Prepared by: Kara McCraw

Staff Attorney

OVERVIEW: Senate Joint Resolution 36 would request that Congress call an Article V Convention for proposing amendments to the United State Constitution.

[As introduced, this bill was identical to H44, as introduced by Reps. Bert Jones, Millis, Riddell, Setzer, which is currently in House Judiciary I.]

CURRENT LAW: Article V of the United States Constitution provides that the federal Constitution can be amended in the following ways:

For proposal of amendments:

- Two-thirds of Congress can propose amendments, or
- Two-thirds of state legislatures (34 states) can request that Congress call a convention for proposing amendments. (Article V Convention)

Ratification of amendments may be made by either:

- Three-fourths of state legislatures (38 states), or
- Three-fourths of state conventions.

BILL ANALYSIS: SJR 36 would request that Congress call an Article V convention for proposing amendments to the United State Constitution on:

- Imposing fiscal restraints on the federal government.
- Limiting the power and jurisdiction of the federal government.
- Limiting the terms of office for federal government officials and for members of Congress.

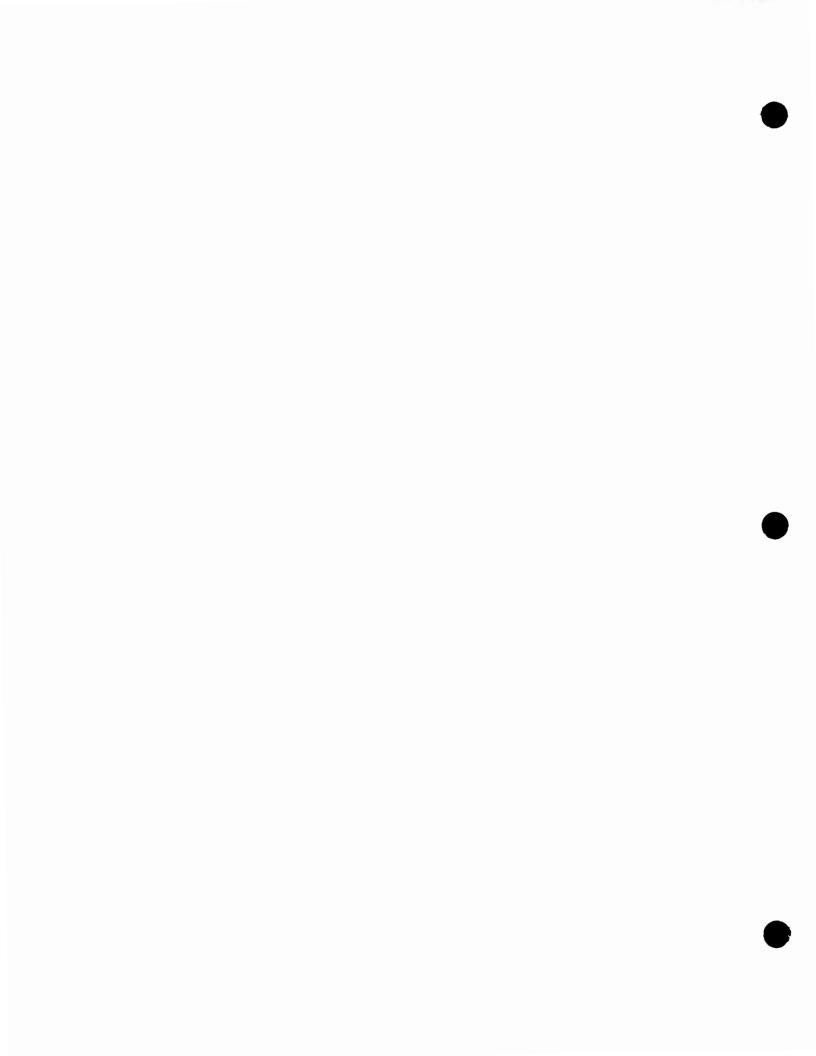
The application for a convention would continue until its expiration on December 31, 2026. The North Carolina Secretary of State would be required to transmit the application to the President of the United State, the Secretary of the United States Senate, the Speaker and Clerk of the United States House of Representatives, the members of North Carolina's congressional delegation, and the presiding officers of all state legislatures in the several States requesting their cooperation.

EFFECTIVE DATE: SJR 36 would become effective on ratification.





Legislative Analysis Division 919-733-2578



NORTH CAROLINA GENERAL ASSEMBLY HOUSE OF REPRESENTATIVES

JUDICIARY IV COMMITTEE REPORT Representative Hugh Blackwell, Co-Chair Representative Justin P. Burr, Co-Chair

FAVORABLE

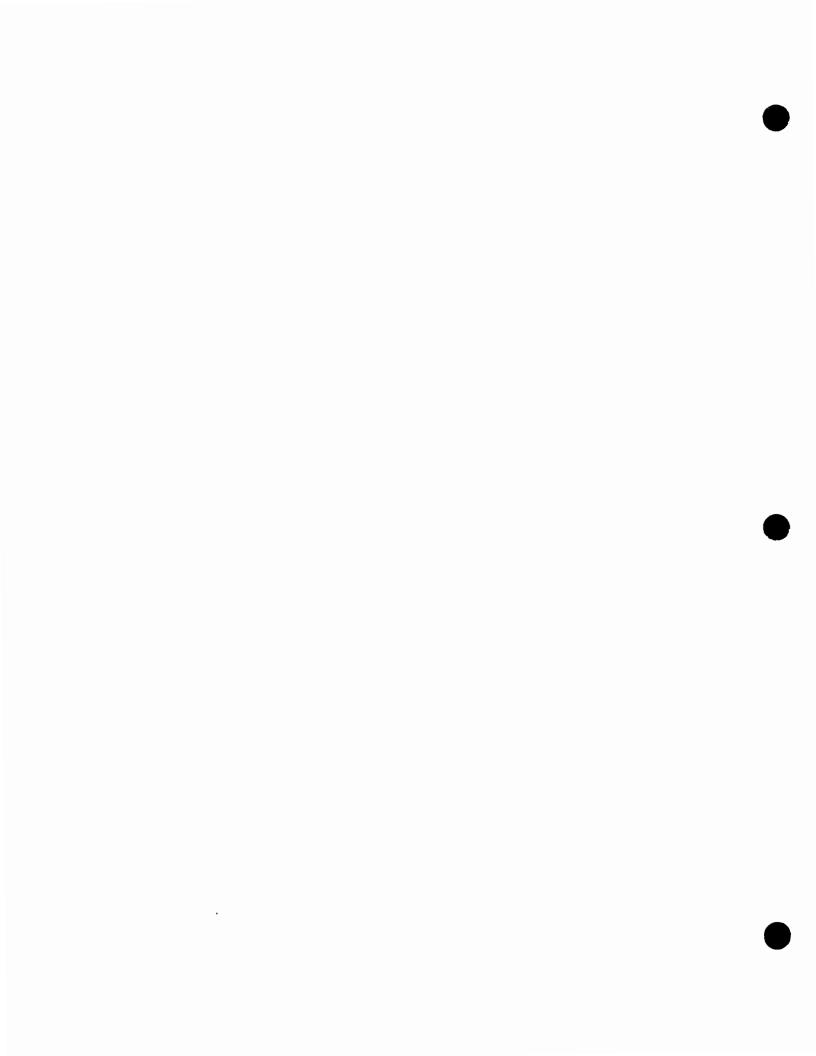
SJR **36** Convention of the States.

Draft Number: None
Serial Referral: None
Recommended Referral: None
Long Title Amended: No

Floor Manager: Bert Jones

TOTAL REPORTED: 1

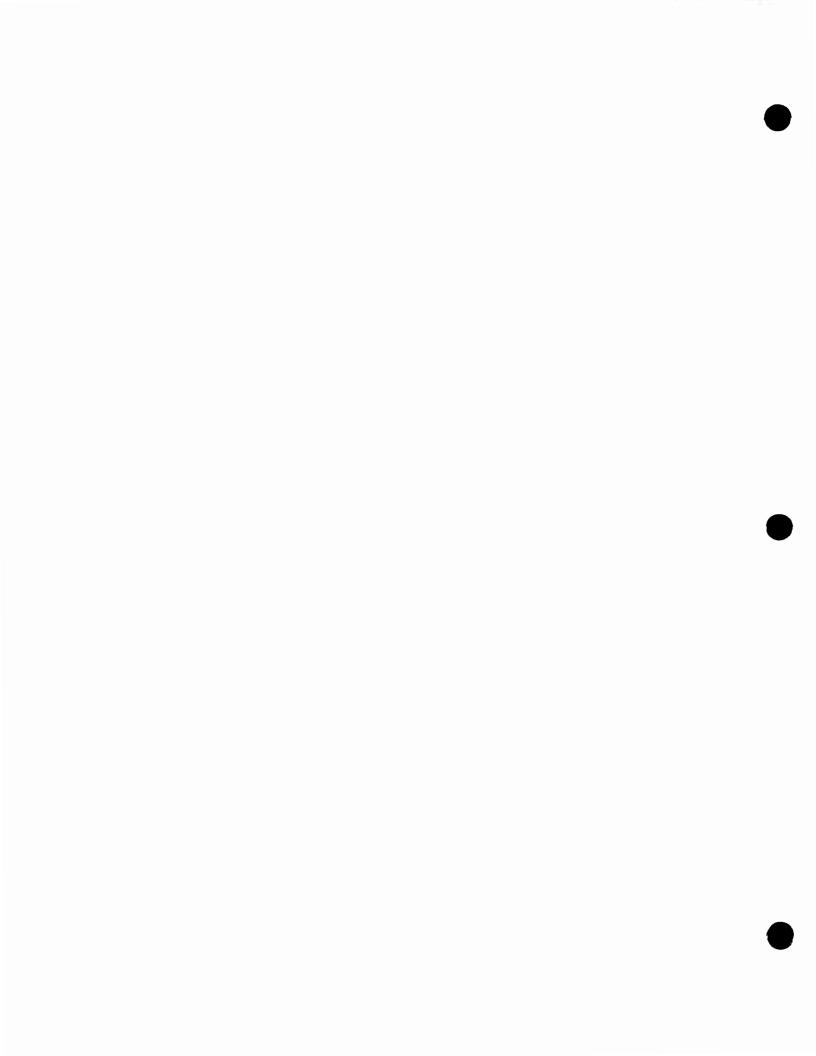




Guest Speaker Signup

Committee_House Committee on Judiciary IV Date 6/28/2017

Against	1. Wynner Coleman, No Convention of States-N	(
Ganit	2. Michael Speciale	
For	3. Gary Kannay Convention of States	Ŝ
For	4. Michael Westrich Convention of State	S
Fal	5. Fin Wilson	
000	6. Gary Lyons Convention of States	>
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House Committee on Judiciary IV

6/28/2017

Name of Committee

Date

NAME	FIRM OR AGENCY AND ADDRESS
Schuyler weisel	Office of GOV Cooper
Kenn Barko	Reco
Chris Broughton	MWC
Carolne Perry	Mak Hest
Rachel Won	Surth Anderson
Melistamukroun	acuce.
Bob Phill ps	HE CLNC
Carl Gilmore	(cNC
Mill Herry	
and and	CCNC
Ruth Merkle	LA to Rep Butler

		_

House Committee on Judiciary IV

6/28/2017

Name of Committee

Date

NAME	FIRM OR AGENCY AND ADDRESS
Tim Wilson	Convention of states. (cos)
Gary Lyans	COS
Mille Westrich	(05
GARY KANADY	C05
JOHN ANT KOWIAK	· cos
Sevia 12 Clark	Lilie -
Amanda Finelly	SEANC
(avson Buts	SEANC
Patrick Burns	ATIT
LACKL	AT_3T
he Thomas	TAG

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House Committee on Judiciary IV

6/28/2017

Name of Committee

Date

NAME	FIRM OR AGENCY AND ADDRESS		
Tony MEGWEN Swann Birdsog Oge Rayall	ACUI-NC NEFPE		

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House Committee on Judiciary IV

6/28/2017

Name of Committee

Date

NAME	FIRM OR AGENCY AND ADDRESS
WIII Rierson	Carolina Journal
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Committee Sergeants at Arms

NAME O	F COMMITTEE_	House Committee on Judicia	ry IV
DATE: 6/28/2017		Room: 423/424	
		House Sgt-At Arms:	
1. Name:	Jonas Cherry		
Vame: _	Dean Marshbourne		٠
		•	
5. Name: _			
*		Senate Sgt-At Arms:	
Name:			
Name:	Addition		
Name:			
Name:		•	
Name:			

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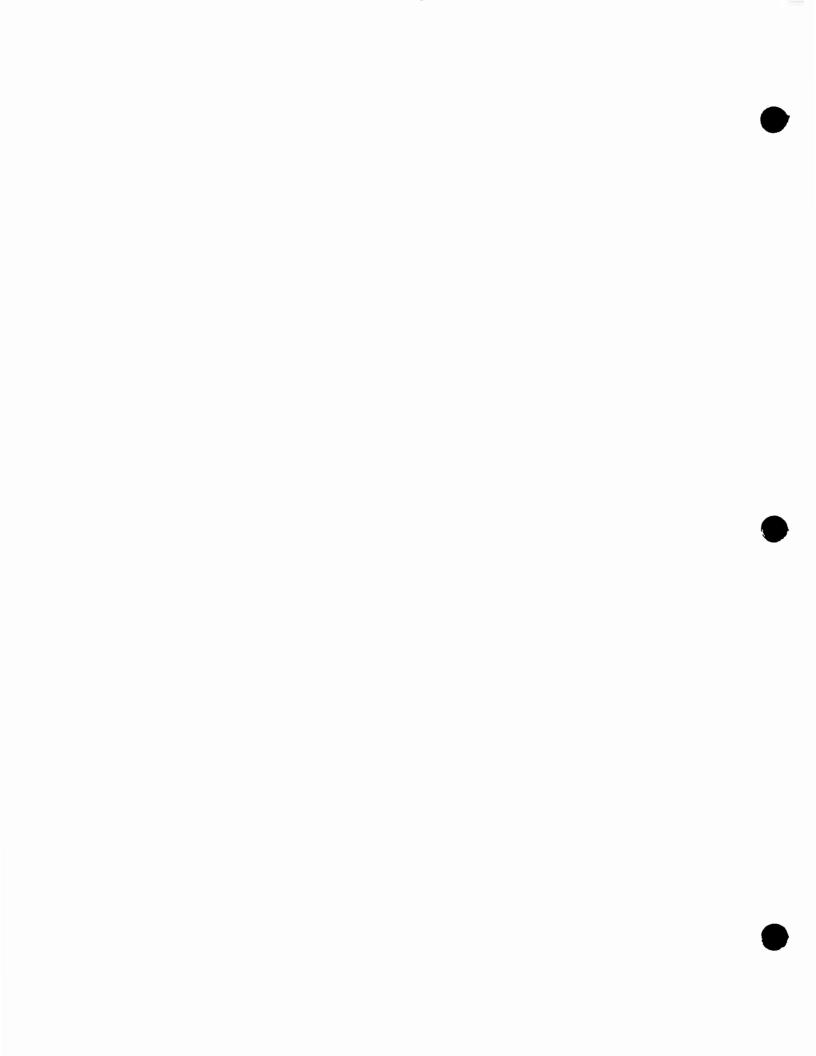


HOUSE COMMITTEE JUDICIARY IV

2018 SHORT SESSION

CHAIRS: REP. HUGH BLACKWELL REP. JUSTIN BURR

CLERKS: DINA LONG
DIXIE RIEHM



HOUSE COMMITTEE ON JUDICIARY IV

2018 SHORT SESSION

Clerks: Dixie Riehm and Dina Long



Rep. Hugh Blackwell Co-Chair



Rep. Justin Burr Co-Chair



Rep. Alexander Member



Rep. Beasley Member



Rep. Belk Member



Rep. Butler Member



Rep. Cleveland Member



Rep. Garrison Member



Rep. Jones Member



Rep. Potts Member



Rep. Richardson Member



Rep. Riddell Member



Rep. Setzer Member



Rep. Torbett Member



Rep. Warren Member



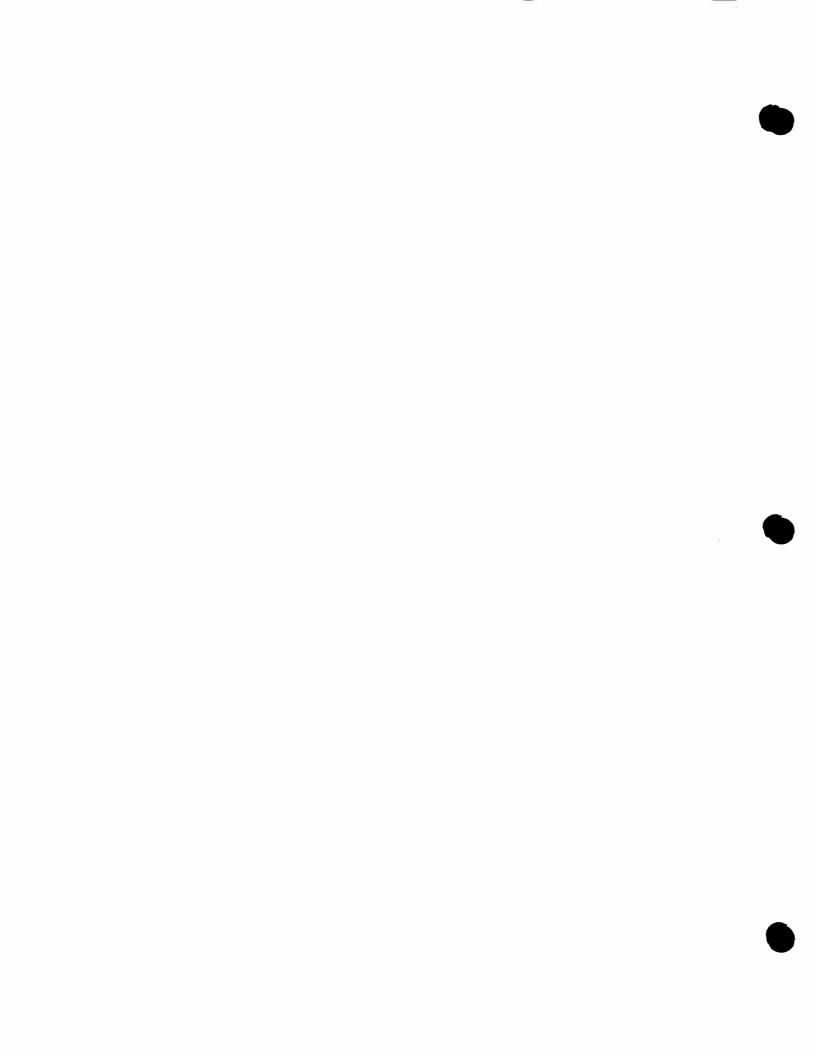
HOUSE COMMITTEE ON JUDICIARY 4

2018 SHORT SESSION

MEMBER	<u>ASSISTANT</u>	<u>PHONE</u>	OFFICE	<u>SEAT</u>
Rep. Hugh Blackwell	Dixie Riehm	733-5805	541	102
Rep. Justin Burr	Dina Long	733-5908	307 A	16
Rep. Kelly Alexander	Marjorie Connor	733-5778	404	35
Rep. Mary Belk	Ralph Belk	733-5607	1424	116
Rep. Deb Butler	Ruth Merckle	733-5754	1424	82
Rep. George Cleveland	Pamela Ahlin	715-6707	417 A	8
Rep. Terry Garrison	Cindy Garrison	733-5824	1017	95
Rep. Bert Jones	Brenda Oils	733-5779	416 A	54
Rep. Larry Potts	Caroline Craig	715-0873	607	110
Rep. Bobbie Richardson	Anna Meadows	715-3032	1217	81
Rep. Dennis Riddell	Polly Riddell	733-5905	533	99
Rep. Mitchell Setzer	Margaret Herring	733-4948	2204	2
Rep. John Torbett	Viddia Torbett	733-5868	538	41
Rep. Harry Warren	Cristy Yates	733-5784	611	56

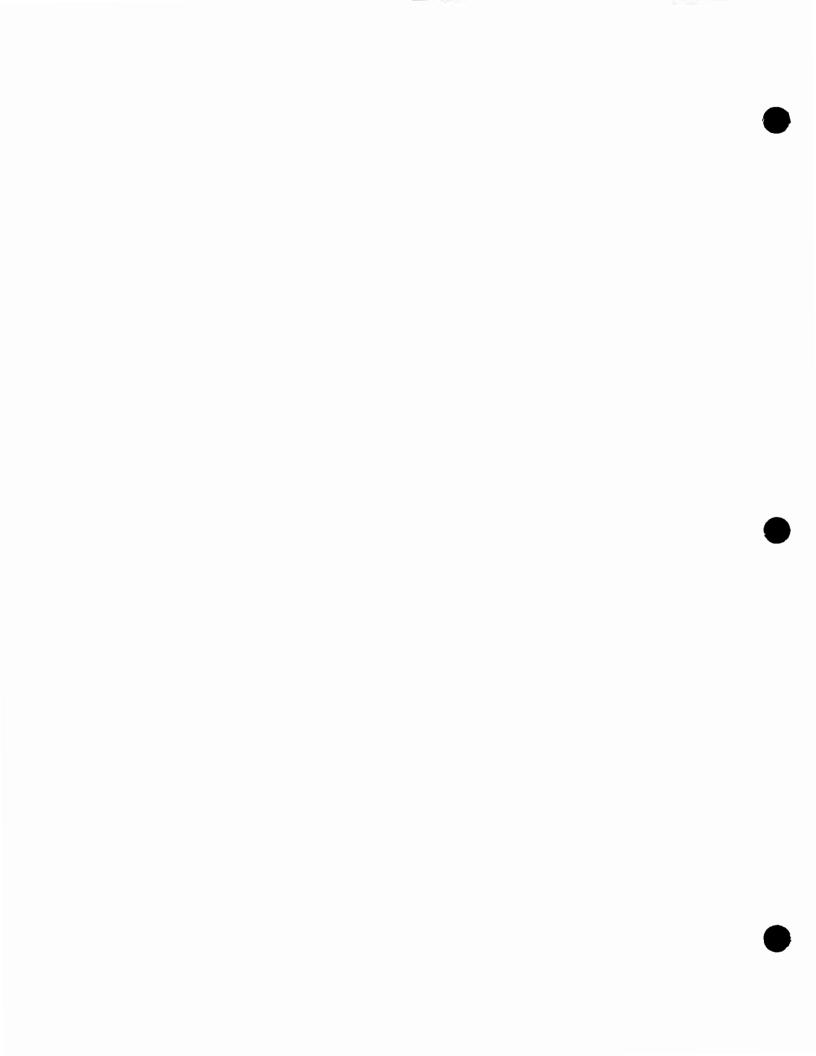
STAFF

Kara McCraw LAD
Brian Gwyn LAD
Jeremy Ray LAD



ATTENDANCE JUDICIARY 4 2018 SHORT SESSION

DATES MEMBERS:	05/30/2018							
Rep. Hugh Blackwell, Co-Chair	X							
Rep. Justin Burr, Co-Chair	X							
Rep. Kelly Alexander	X							
Rep. Chaz Beasley	X							
Rep. Mary Belk	X							
Rep. Deb Butler	X							
Rep. George Cleveland	X							
Rep. Terry Garrison	X							
Rep. Bert Jones	X							
Rep. Larry Potts	X							
Rep. Bobbie Richardson	X							
Rep. Dennis Riddell	X							
Rep. Mitchell Setzer	X							
Rep. John Torbett								
Rep. Harry Warren	X							
CLERKS:								
Dixie Riehm	X							
Dina Long	X		+		-			
STAFF:								
Kara McCraw, LAD	X							
Brian Gwyn, LAD								
Jeremy Ray, LAD								



House Committee on Judiciary IV Wednesday, May 30, 2018 at 10:00 AM Room 415

MINUTES

The House Committee on Judiciary IV met at 10:00 AM 0n May 30, 2018 in Room 415. Representatives Alexander, Beasley, Belk, Blackwell, Burr, Butler, Cleveland, Garrison, Jones, Potts, Richardson, Riddell, Setzer, and Warren attended. Kara McCraw and Drupti Chauhan from Legislative Analysis Division were committee staff for the meeting.

Representative Blackwell presided.

The following bill was considered.

House Bill 279, PCS H279-CSTCf-54 (v.2) - Fantasy Sports Regulation

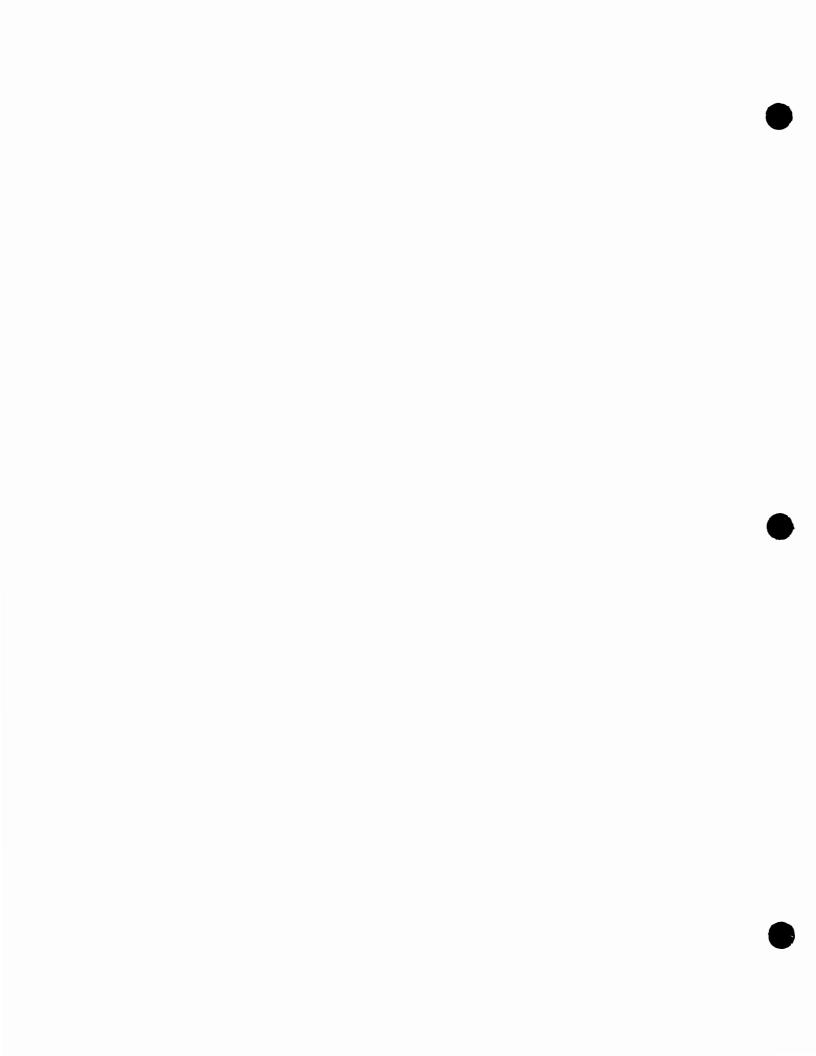
The chair called the PCS up for discussion. Bill sponsors, Representatives Saine, Hardister and Hanes spoke to the bill. Chairman Blackwell invited questions and discussion of the bill from the committee members and opened the floor for comments by interested persons from the audience.

Speakers in opposition to the bill were John Rustan from NC Family Policy Council and Reverend Mark Creech from Christian Action League. Legal counsel for Draft King and Fan Duel, Christopher Grimm, spoke in support of the bill. Leo John, liaison for the office of the North Carolina Secretary of State, and Chris Pool from Alcohol Law Enforcement discussed the impact of the legislation on their departments. Questions and discussion by committee members followed.

Representative Harry Warren introduced Amendment H279-ABE-83 (v.4). After discussion, Rep. Warren's motion to approve his amendment was approved by voice vote. After limited further discussion, the bill sponsors requested that it be withdrawn from further discussion. The chair allowed the withdrawal request and declared the meeting adjourned at 10:56 AM.

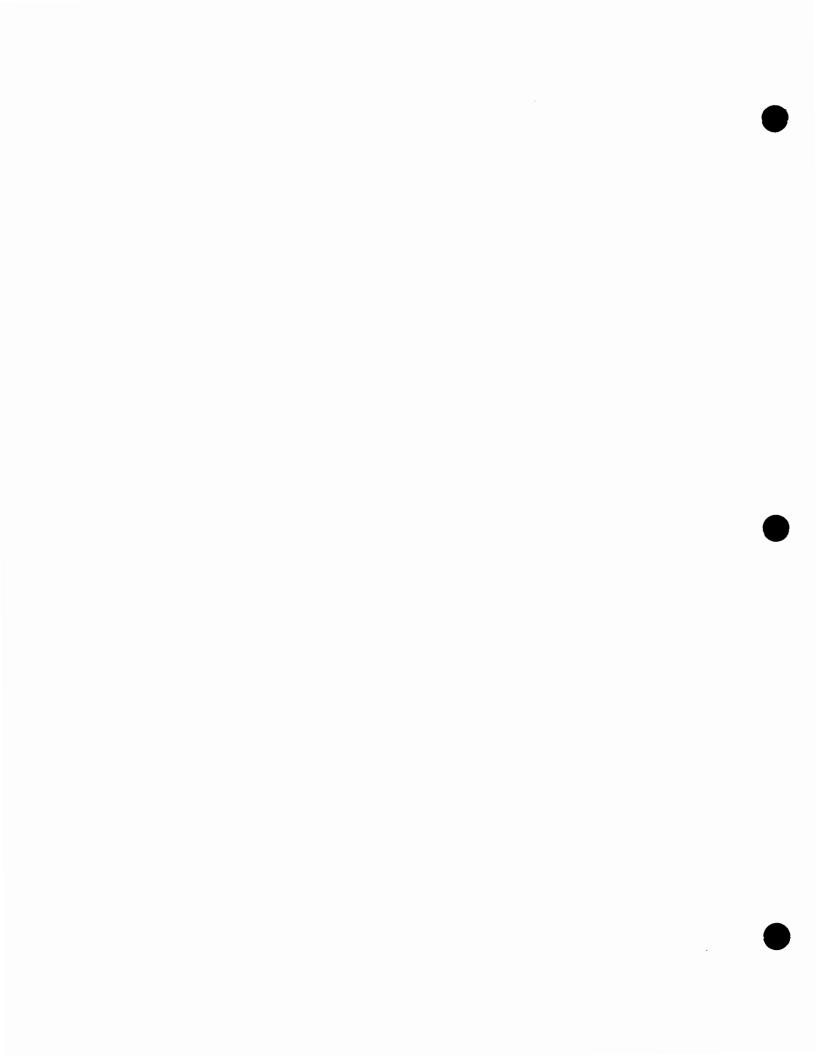
Rep. Hugh Blackwell, Presiding

Dixie Riehm. Committee Clerk



ATTACHMENTS

- 1. Committee notice
- 2. Committee agenda
- 3. House Bill 279, PCS CSTCf-54 (v.2) Fantasy Sports Regulation
- 4. House Bill 279 Analysis/Staff Attorney Kara McCraw
- 5. Amendment Rep. Harry Warren
- 6. Amendment Rep. Bert Jones
- 7. Handout
- 8. Visitor registration
- 9. Pages
- 10. Guest speakers



Dixie Riehm (Rep. Hugh Blackwell)

From: Dixie Riehm (Rep. Hugh Blackwell)

Sent: Thursday, May 24, 2018 02:54 PM

To: Rep. Jason Saine; Rep. Jon Hardister; Rep. Edward Hanes; Rep. Duane Hall

Cc: Elise Yost (Rep. Jason Saine); Jayne Nelson (Rep. Jon Hardister); Wanda Kay (Rep.

Edward Hanes)

Subject: <NCGA> House Judiciary IV Committee Meeting Notice for Wednesday, May 30, 2018

at 10:00 AM

Attachments: Add Meeting to Calendar_LINC_.ics

NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2017-2018 SESSION

You are hereby notified that the **House Committee on Judiciary IV** will meet as follows:

DAY & DATE: Wednesday, May 30, 2018

FIME: 10:00 AM LOCATION: 415 LOB

COMMENTS: Rep. Blackwell will chair the meeting.

The following bills will be considered:

BILL NO. SHORT TITLE SPONSOR

HB 279 Fantasy Sports Regulation. Representative Saine

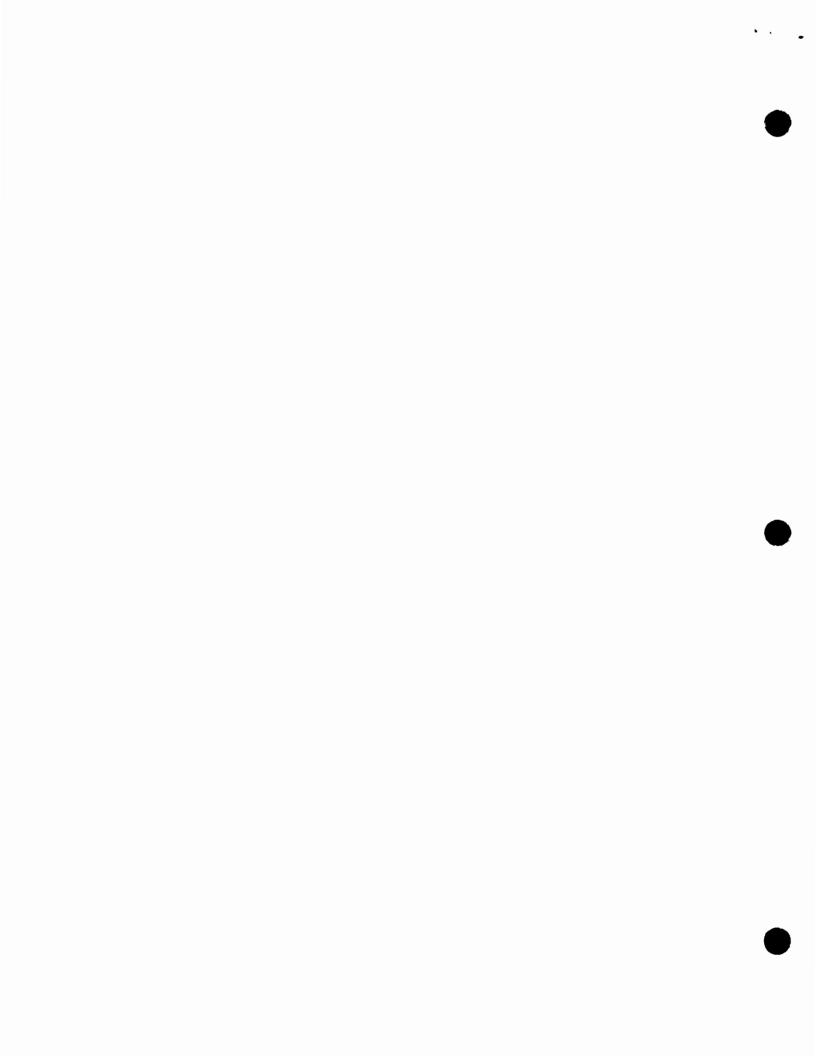
Representative Hardister Representative Hanes Representative Duane Hall



Respectfully,

Representative Hugh Blackwell, Co-Chair Representative Justin P. Burr, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 2:52 PM on Thursday, May 24, 2018.
Principal Clerk Reading Clerk – House Chamber
Dixie Riehm (Committee Assistant)



House Committee on Judiciary IV Wednesday, May 30, 2018, 10:00 AM 415 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO. SHORT TITLE

HB 279 Fantasy Sports Regulation.

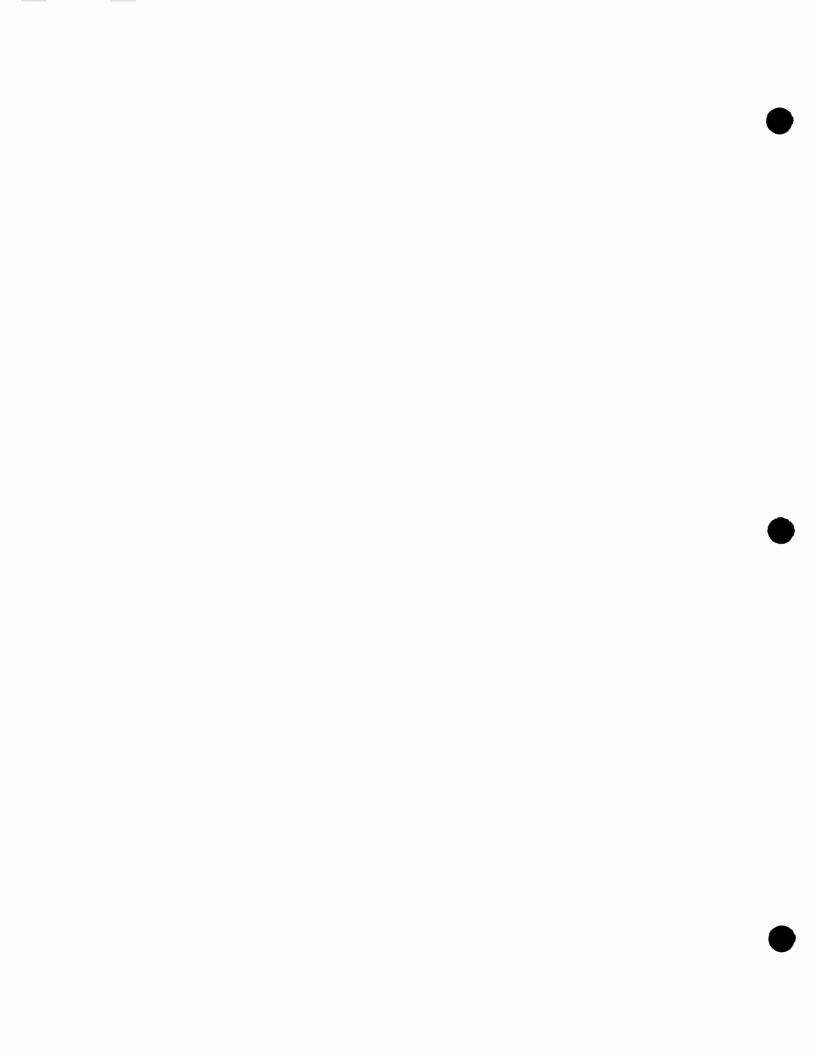
SPONSOR

Representative Saine Representative Hardister Representative Hanes Representative Duane Hall

Presentations

Other Business

Adjournment



GENERAL ASSEMBLY OF NORTH CAROLINA **SESSION 2017**

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D

HOUSE BILL 279 PROPOSED COMMITTEE SUBSTITUTE H279-CSTCf-54 [v.2] 05/29/2018 08:46:52 PM

Short Title: Fantasy Sports Regulation.

(Public)

Sponsors: Referred to:

		March 9, 2017
1		A BILL TO BE ENTITLED
2	AN ACT TO RE	QUIRE REGISTRATION OF FANTASY SPORTS CONTEST OPERATORS
3		DEPARTMENT OF THE SECRETARY OF STATE.
4	The General Ass	embly of North Carolina enacts:
5		FION 1. The General Statutes are amended by adding a new Chapter to read:
6		"Chapter 78E.
7		"Fantasy Sports Contests.
8	"§ 78E-1. Title.	
9	This Chapter	shall be known and may be cited as the "Fantasy Sports Contests Act."
0	"§ 78E-2. Defin	itions.
1	In this Chapt	er, unless the context otherwise requires, the following definitions shall apply:
12	(1)	ALE The Alcohol Law Enforcement branch of the Department of Public
13		Safety.
14	(2)	Department The Department of the Secretary of State.
15	<u>(3)</u>	Entry fee. – Cash or cash equivalent that is required to be paid by a participant
16		to an operator in order to participate in a fantasy contest.
17	<u>(4)</u>	Fantasy contest An online fantasy or simulated game or contest in which an
18		entry fee is charged and all of the following conditions apply:
19		a. The value of all prizes and awards offered to winning players is
20		established and made known to the players in advance of a contest that
21		is open to the general public.
22		b. All winning outcomes reflect the relative knowledge and skill of the
23		players and shall be determined by accumulated statistical results of
24		the performance of individuals, including athletes in the case of sports
21 22 23 24 25 26 27 28		events.
26		c. No winning outcome is based on the score, point spread, or any
27		performance of any single actual team or combination of teams or
		solely on any single performance of an individual athlete or participant
29		in any single actual event.
30	(5)	Location percentage. – The percentage for the operator, rounded to the nearest
31		tenth of a percent (1/10 of 1%), of the total amount of entry fees collected
32		from players located in this State, divided by the total entry fees collected by
33		the operator from all players.
34	(6)	Net revenue. – The amount equal to the total of all entry fees that an operator



collects from all players, less the total of all sums paid out as winnings to all

General Assemb	ly Of North Carolina Session 2017
	players, multiplied by the location percentage. The term includes the value of
	any promotional tickets and credits.
(7)	
(7)	Operator. – A person or entity that offers fantasy contests to members of the
	public. The term does not include an Internet service provider or a provider of
	mobile data services merely as a result of that entity's transporting general
	traffic that may include a fantasy contest.
(8)	<u>Player.</u> – A person who participates in a fantasy contest offered by an operator.
(9)	Principal stockholder. – Any person who individually, or in concert with the
	person's spouse and immediate family members, (i) beneficially owns or
	controls, directly or indirectly, at least fifteen percent (15%) of the equity
	ownership of an operator or (ii) has the power to vote or cause the vote of at
	least fifteen percent (15%) of an operator.
8 78E-3. Appli	cation for registration; expiration and renewal.
	ntasy contest shall be offered in this State unless the operator has been registered
rith the Departm	
	plicant for registration shall be registered by the Department if the applicant
	ollowing requirements:
	Submission of an application by an operator, on a form to be prescribed by the
(1)	Department, that contains all of the following information:
	1 1 1 1 1 1 1 1 1
	a. The name and principal address of the applicant. The address of any offices of the applicant in this State and its
	b. The address of any offices of the operator in this State and its
	registered agent within this State. If the operator does not maintain an
	office in this State, the name and address of the person having custody
	of its financial records.
	<u>c.</u> The location and date the operator was legally established and the form
	of its organization.
	d. The names and addresses of the officers, directors, trustees, and
	principal salaried executive staff officer of the operator.
	e. The name and address of each principal stockholder of the operator, if
	any.
	f. Any information the Department deems necessary to ensure
	compliance with the provisions of this Chapter.
(2)	Submission of evidence satisfactory to the Department that the operator has
	established commercially reasonable procedures for fantasy contests that are
	intended to do the following:
	a. Prevent the operator and its employees and their immediate family
	members living in the same household from competing in any public
	fantasy contest offered by the operator in which a cash prize is offered.
	b. Prevent the sharing of information by fantasy contest players that has
	the potential to affect a fantasy contest that is obtained as a result of or
	by virtue of a person's employment and that is not publicly available.
	Y7 'C 1 . 1 ' .1 .10 C
	<u>d.</u> Ensure that players participating in a fantasy contest are restricted from entering any fantasy contest where the outcome is determined, in
	trom entering any tantasy contest where the officione is determined in
	whole or part, on the accumulated statistical results of a team of
	whole or part, on the accumulated statistical results of a team of individuals in which such players are participants.
	whole or part, on the accumulated statistical results of a team of individuals in which such players are participants. e. Allow individuals, upon request, to restrict themselves from entering
	 whole or part, on the accumulated statistical results of a team of individuals in which such players are participants. e. Allow individuals, upon request, to restrict themselves from entering a fantasy contest and take reasonable steps to prevent those individuals
	 whole or part, on the accumulated statistical results of a team of individuals in which such players are participants. e. Allow individuals, upon request, to restrict themselves from entering a fantasy contest and take reasonable steps to prevent those individuals from entering the operator's fantasy contests.
	 whole or part, on the accumulated statistical results of a team of individuals in which such players are participants. e. Allow individuals, upon request, to restrict themselves from entering a fantasy contest and take reasonable steps to prevent those individuals

prevent any player from submitting more than the maximum allowable number.

- g. Segregate player funds from operational funds in separate accounts and maintain a reserve in the form of cash, cash equivalents, irrevocable letter of credit, bond, credit card and payment processor accounts and receivables, or a combination thereof, in an amount sufficient to pay all prizes and awards offered to winning participants.

 Prevent fantasy contests based on the performances of participants in
- h. Prevent fantasy contests based on the performances of participants in collegiate, high school, or youth athletic competitions.
- (3) Submission of an initial registration fee equal to ten percent (10%) of the operator's gross fantasy contest revenues from the previous calendar year; provided, however, that the fee shall not be less than two thousand five hundred dollars (\$2,500) or more than ten thousand dollars (\$10,000).
- (c) Registrations issued pursuant to this Chapter shall expire five years after issuance or renewal. The Department shall renew the registration of an operator that submits a completed application in accordance with subsection (b) of this section and a renewal fee equal to the lesser of five thousand dollars (\$5,000) or ten percent (10%) of the operator's net revenue from the previous calendar year.
- (d) An operator applying for registration or renewal of a registration may operate during the application period unless the Department has reasonable cause to believe that the operator is or may be in violation of the provisions of this Chapter and the Department requires the operator to suspend all fantasy contests until registration or renewal of registration is issued or denied.
- (e) The Department shall issue a registration within 60 days of receipt of the application for registration. If the registration is not issued, the Department shall provide the operator with the justification for not issuing such registration with specificity.

"§ 78E-4. Denial, revocation, or suspension of registration; hearings; civil penalties.

- (a) The Department may deny, revoke, or suspend a registration upon determination that an operator, or any officer, partner, principal stockholder, or director of the operator, has done any of the following:
 - (1) Knowingly made a false statement of material fact or has deliberately failed to disclose any information requested.
 - (2) Committed an illegal, corrupt, or fraudulent act, practice, or conduct in connection with any fantasy contest in any jurisdiction, or has been convicted of a felony, a crime of moral turpitude, or any criminal offense involving dishonesty or breach of trust within 10 years prior to the date of application for registration.
 - (3) Knowingly failed to comply with the provisions of this Chapter or of any requirements of the Department.
 - (4) Defaulted in the payment of any obligation or debt due to the State.
 - (5) Fails to be qualified to do business in this State or is not subject to the jurisdiction of the courts of this State.
- (b) After a hearing with 30 days' notice, the Department may suspend or revoke an operator's registration where a violation of this Chapter has been found by a preponderance of the evidence. In addition, the Department may assess a civil penalty not in excess of one thousand dollars (\$1,000) for any violation of this Chapter demonstrated by a preponderance of the evidence; provided, however, that the penalty shall not exceed ten thousand dollars (\$10,000) for a continuing violation. The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. After a hearing, the Department may revoke a registration if it finds that facts not known by it at the time it considered the application indicate that such registration should not have been issued. For

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the purposes of this section, a single act or omission by an operator that affects one or more players shall be treated as a single violation.

- (c) If the Department determines that a violation of this Chapter has occurred and emergency action is required to protect the public health, safety, and welfare, the Department may suspend any registration for a period of not more than seven business days pending a hearing and final determination. The Department shall notify the operator of the date, time, and place of the hearing at least five business days prior to the hearing.
- (d) If the Department denies, suspends, or revokes a registration, or assesses a civil penalty in accordance with this Chapter, the Department shall issue written notice to the operator. An operator aggrieved by the Department's action may seek review in accordance with Chapter 150B of the General Statutes.

"§ 78E-5. Reporting and audit requirements.

A registered operator shall do all of the following:

- (1) File an annual report with the Department indicating compliance with this Chapter.
- (2) Conduct an independent financial audit and submit to the Department a copy of the independent financial audit report no less frequently than every two years. The audit shall be consistent with the standards established by the American Institute of Certified Public Accountants and may be part of a national audit conducted by a certified public accountant.
- (3) Notify and update the Department of any material change to the information provided in the application for registration under G.S. 78E-3.
- (4) Notify the Department if the operator ceases to offer fantasy contests in this State.

"§ 78E-6. Change of ownership or acquisition of interest in operator.

If any person acquires a controlling interest of a registered operator, the operator shall amend the application for registration with the Department in accordance with this act to reflect that information. The operator may continue to operate during the registration period unless the Department has reasonable cause to believe that person is or may be in violation of the provisions of this Chapter. The Department may require the operator to suspend the operation of any fantasy contest until registration is issued or denied.

"§ 78E-7. Powers and duties of the Department.

- (a) The Department shall have all powers and duties necessary to carry out the provisions of this Chapter. The Department shall, in accordance with Chapter 150B of the General Statutes, adopt rules necessary to carry out the provisions of this Chapter.
- (b) The Department may apply to the superior court for an injunction to restrain any person or operator from violating the provisions of this Chapter or its rules. Actions under this section shall be brought in the county where the operator maintains its principal place of business or where the alleged acts occurred.
- (c) Whenever the Department has reasonable cause to believe that a violation of any of the provisions of this Chapter may have occurred, the Department may request that ALE conduct an investigation into any operator to determine whether one or more violations have occurred. ALE may assess the reasonable cost of such investigation, not to exceed two thousand five hundred dollars (\$2,500), to the operator who is the subject of the investigation. If the operator does not remit the assessment to ALE within 90 days, the Department may temporarily suspend such operator's registration until such assessment is remitted.

"§ 78E-8. Confidential information.

Reports, data, or documents submitted to the Department pursuant to the audit requirements of this Chapter and records submitted to the Department as part of an application for registration or renewal that contain information about the character or financial responsibility of the operator

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or its principal stockholders are confidential and shall not be considered public records within the meaning of Chapter 132 of the General Statutes.

"§ 78E-9. Fantasy contests not considered gambling.

Fantasy contests conducted pursuant to this Chapter do not constitute gambling, lotteries, gaming, or any activity or enterprise subject to or prohibited by Chapter 14, 16, or 19 of the General Statutes, or any other provision of law. The award of prize money for any fantasy contest shall not be deemed to be part of any gaming contract prohibited pursuant to Chapter 16 of the General Statutes.

"§ 78E-10. Operator control of contests.

Nothing in this Chapter shall be construed to limit the ability of an operator to control or conduct its contests or to provide a uniform gameplay platform for players in multiple jurisdictions."

SECTION 2. G.S. 18B-500 reads as rewritten:

"§ 18B-500. Alcohol law-enforcement agents.

- (b) Subject Matter Jurisdiction. After taking the oath prescribed for a peace officer, an alcohol law-enforcement agent shall have authority to arrest and take other investigatory and enforcement actions for any criminal offense. The primary responsibility of an agent shall be enforcement of the ABC and lottery laws.laws, as well as the enforcement of the provisions of Chapter 78E of the General Statutes.
- (c) Territorial Jurisdiction. An alcohol law-enforcement agent is a State officer with jurisdiction throughout the State.
- (d) Service of Commission-Orders. Alcohol law-enforcement agents may serve and execute notices, orders, or demands issued by the Secretary of State, pursuant to Chapter 78E of the General Statutes, the Alcoholic Beverage Control Commission—Commission, or the North Carolina State Lottery Commission for the surrender of permits or relating to any administrative proceeding. While serving and executing such notices, orders, or demands, alcohol law-enforcement agents shall have all the power and authority possessed by law-enforcement officers when executing an arrest warrant.

SECTION 3. An operator applying for registration under this act who has been in continuous operation in this State for at least 180 days as of the effective date of this act may continue to offer fantasy contests to persons located in the State until 60 days after applications for registration are published by the Department. Operators who have applied for registration during that 60 day period may continue to operate while the registration is pending. Operators who have not registered shall cease operations within this State by the expiration of the 60 day period.

SECTION 4. This act becomes effective January 1, 2019.

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HOUSE BILL 279: Fantasy Sports Regulation.

2017-2018 General Assembly

Committee:

House Judiciary IV

Date: May 30, 2018

Introduced by:

Reps. Saine, Hardister, Hanes, Duane Hall

Prepared by: Kara McCraw*

Analysis of:

PCS to First Edition

Staff Attorney

H279-CSTCf-54

OVERVIEW: House Bill 279 would require registration of fantasy contest operations with the Department of the Secretary of State ("Department"); require registration renewal every five years after issuance or renewal; impose fees for registration and subsequent renewals; provide the Department with authority to deny, revoke, or suspend registrations for certain violations; require audits and reports to be submitted to the Department; and authorize Alcohol Law Enforcement (ALE) agents to enforce registration requirements.

The PCS to HB 279 would change the effective date from January 1, 2018 to January 1, 2019, and make various clarifying and technical changes, including adding a definition for the term ALE, correcting terminology to consistently use defined terms, correcting a cross-citation, and making technical changes to conform to drafting conventions.

CURRENT LAW: G.S. 14-292 regulates the operation of gambling in North Carolina. "Except as provided in Chapter 18C of the General Statutes or in Part 2 of this Article, any person or organization that operates any game of chance or any person who plays at or bets on any game of chance at which any money, property or other thing of value is bet, whether the same be in stake or not, shall be guilty of a Class 2 misdemeanor.

BILL ANALYSIS: The PCS would create a new Chapter 78E regulating fantasy contests and exempting it from the provisions of Chapter 14 of the General Statutes.

SECTION 1. The new chapter would include the following:

§ 78E-2. Definitions.

Would create a definition section for terms specifically used under Chapter 78E, including a definition of "fantasy contest" as an online fantasy or simulated game or contest with an entry fee where all of the following conditions apply:

- The value of all prizes and awards offered to winning players is established and made known to the players in advance of a contest that is open to the general public.
- All winning outcomes reflect the relative knowledge and skill of the players and are be determined
 by accumulated statistical results of the performance of individuals, including athletes in the case
 of sports events.
- No winning outcome is based on the score, point spread, or any performance of any single actual team or combination of teams or solely on any single performance of an individual athlete or participant in any single actual event.

§ 78E-3. Application for registration; expiration and renewal.

Karen Cochrane-Brown Director



Legislative Analysis Division 919-733-2578

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House PCS 279

Page 2

- Would require every operator of a fantasy contest to register with the Department.
- An applicant would be required to meet all of the following for registration as a fantasy contest operator:
 - Submission of application prescribed by the Department.
 - O Submission of evidence to the Department that the operator has established commercially reasonable procedures intended to protect players. This includes:
 - Preventing operators and their families and employees from participating in fantasy contests where a cash prize is offered.
 - Prohibiting sharing of publically unavailable information for an advantage.
 - Ensuring players are at least eighteen years of age.
 - Prohibiting fantasy contests where outcomes are determined by the statistical results of a team of individuals.
 - Allowing individuals upon request, to restrict themselves from continuing to participate in fantasy contests.
 - Disclosing the maximum number of entries allowed per player in each fantasy contest and preventing any more than allowed per contest from being submitted.
 - Segregating operational and player funds and providing reserves adequate to pay out prizes and awards.
 - Only allowing fantasy contests based on professional sports. No collegiate, high school, or youth athletic competitions.
- Impose registration fees. Initial registration fees for applicants would be equal to 10% of the operator's gross revenues from the previous calendar year, which would be no less than \$2,500 dollars, but no greater than \$10,000 dollars.
- Each registration would expire after 5 years and a new application would be submitted for a renewal. The fee for renewal would equal the lesser of \$5,000 dollars, or 10% of the operator's net revenue from the previous calendar year.
- A grace period for registration would be allowed for operators who have been in operation for at least 180 days as of the effective date of this act. Operators would also be allowed to continue operations while applying for registration or renewal when certain conditions are met.
- The Department would be required to issue registrations within 60 days of receipt of application, and if not, provide the operator with specific justification for not issuing a registration.
- Would allow operators applying for registration who have been in operation for 180 days as of the
 effective date of the act to continue to offer fantasy contests until 60 days after applications are
 due to the Department.

§78E-4. Denial, revocation, or suspension of registration; hearings; civil penalties.

- The Department could deny, revoke, or suspend a registration for the following reasons:
 - o Applicant knowingly made a false statement of material fact, or deliberately failed to disclose any information requested.
 - o Illegal, corrupt, or fraudulent activity in connection with a fantasy contest in any jurisdiction; conviction of a felony, crime of moral turpitude, or breach of trust within ten years of date of application.

House PCS 279

Page 3

- o Failure to comply with any provision of the Chapter.
- O Default in payment of obligation or debt due to the State.
- Not qualified to do business in this State or not subject to the jurisdiction of this State's courts
- After a hearing with 30 days' notice, the Department could act on a violation of the Chapter upon a preponderance of the evidence. A civil penalty could be assessed not to exceed \$1,000 dollars, and could not exceed \$10,000 dollars for a continuing violation.
- The Department could temporarily suspend a registration for no more than 7 days to protect the public health, safety and welfare.
- In the event the Department denied, suspended, or revoked a registration, or assessed a civil penalty, the Department would be required to issue written notice, and an aggrieved operator could seek review in accordance with Chapter 150B of the General Statutes.

§ 78E-5. Reporting and audit requirements.

• An operator would be required to file an annual report with the Department and conduct an independent financial audit and submit such audit report every two years.

§ 78E-6. Change of ownership or acquisition in operator.

• Any change in control of ownership would require registration with the Department.

§ 78E-7. Powers and Duties of the Department.

- Would require the Department to adopt rules necessary to carry out the requirements of the Chapter.
- The Department could apply for an injunction with the superior court for violations arising under this Chapter.
- The Department could request that Alcohol Law Enforcement (ALE) conduct an investigation into any operator when reasonable cause exists that a violation of this Chapter has occurred.
- Would allow ALE to assess reasonable costs for an investigation related to the provisions of this Chapter to an operator up to \$2,500 dollars.

§ 78E-8. Confidential information.

• Information disclosed for audits under this Chapter would not be considered public records under Chapter 132 of the General Statutes.

§ 78E-9. Fantasy contests not considered gambling.

• Would exempt fantasy contests from gambling, lotteries, gaming or any activity prohibited under Chapters 14, 16, or 19 of the General Statutes.

§ 78E-10. Operator control of contests.

• Would allow operators the ability to conduct contests consistent with the requirements of this Chapter, and maintain uniform gameplay in multiple jurisdictions.

SECTION 2 adds the provisions of Chapter 78E as a new law enforcement responsibility for ALE.

 Would add enforcement of the provisions of Chapter 78E to ALE agent's subject matter jurisdiction.

House PCS 279

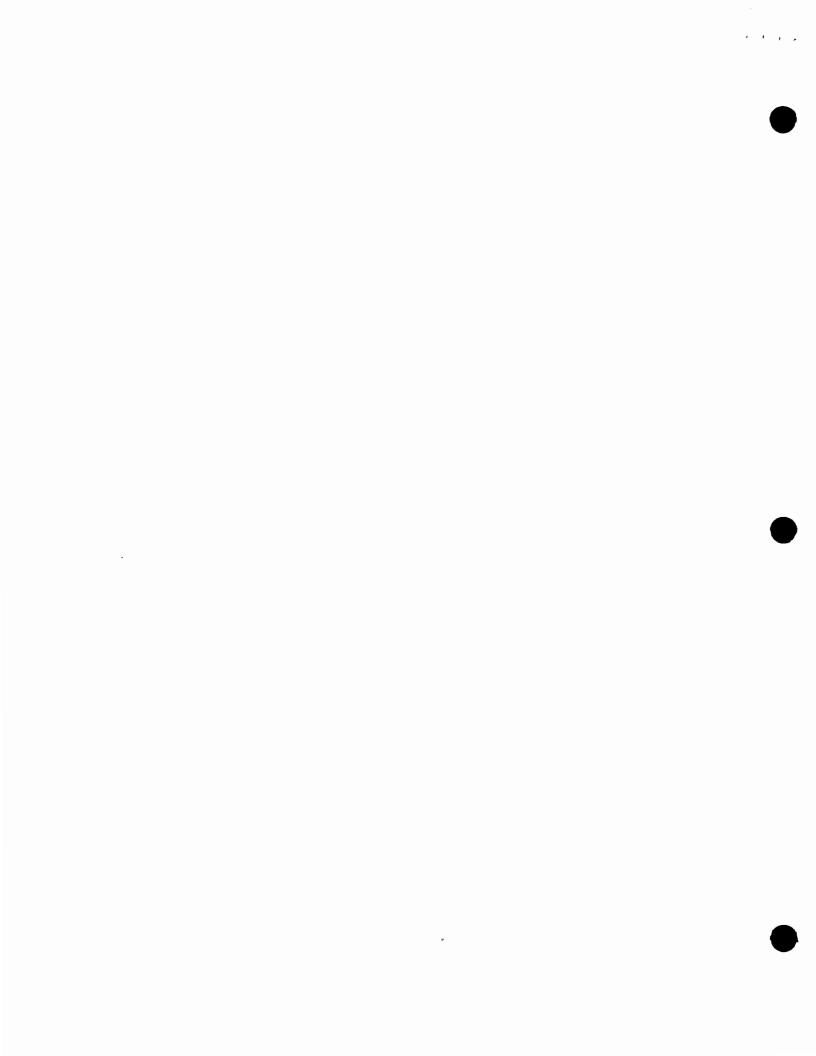
Page 4

 Would allow ALE agents to execute notices, orders, or demands issued by the Department arising under Chapter 78E.

EFFECTIVE DATE: This act would become effective January 1, 2019.

BACKGROUND: Fantasy contests ordinarily involve players creating a lineup from selectively chosen athletes of a specific sports league, such as professional basketball, football, hockey, or other sport. Players compete against one another by comparing the statistical performance of each player's lineup during a designated period, such as a season, or single game, to decide whose lineup performed better during that designated period – this is generally determined by points. Athletes are awarded points for their statistical performance in certain categories and the players' lineup with the most accumulated points wins. Players are rewarded for their performance with various prizes after paying an entry fee to an operator for the chance to compete against other players.

^{*}This summary was substantially contributed to by Jeremy Ray, Committee Counsel.



House Judiciary IV

Notes for Agenda Items May 30, 2018 Rep. Blackwell, Chair

HB 279 - Fantasy Sports Regulation

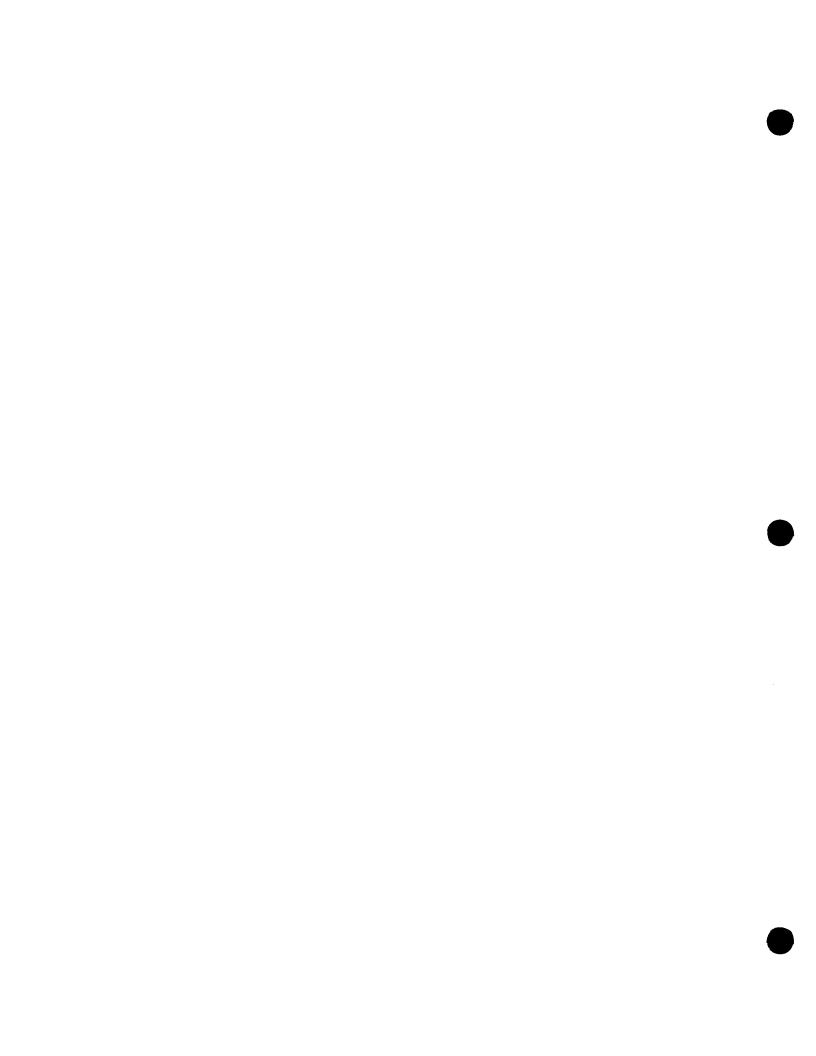
- Bill Sponsors Saine; Hardister; Hanes; Duane Hall
- Staff Members Kara
- There is a PCS
- There are amendments:
 - o Warren H279-ABE-83

If there are no amendments to the PCS,

THE MOTION (IF FAVORABLE) SHOULD BE: <u>FAVORABLE TO THE PROPOSED COMMITTEE</u> <u>SUBSTITUTE AND AN UNFAVORABLE REPORT TO THE ORIGINAL BILL.</u>

If there are amendments to the PCS,

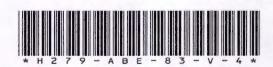
THE MOTION (IF FAVORABLE) SHOULD BE: <u>FAVORABLE TO THE PROPOSED COMMITTEE</u> <u>SUBSTITUTE AS AMENDED</u>, <u>ROLLED INTO A NEW PROPOSED COMMITTEE SUBSTITUTE</u>, <u>WITH A FAVORABLE REPORT TO THE NEW COMMITTEE SUBSTITUTE AND AN UNFAVORABLE REPORT TO THE ORIGINAL BILL</u>.





H279-ABE-83 [v.4]	AMENDMENT (to be filled in Principal Clea	•
Amends Title [YES] H279-CSTCf-54	Date	,2018
Representative Warren		
moves to amend the bill on page 1, line 3, by	rewriting the line to read:	
"AND TO CREATE THE NORTH CAROLI	NA GAMING COMMISSION.	H.,
"§ 18C-180. Title. This Article shall be known and may be compared to the shall be known and the	the General Statutes is amended article 9. Sports Contests. Eited as the "Fantasy Sports Contested as the "Fantasy Sports Contested as the following definite Enforcement branch of the Decomposition of the Decompositio	tests Act." tions shall apply: partment of Public ";
and on page 2, line 16, through page 4, line 49 "Commission" anywhere that term appears;), by replacing the term "Departm	nent" with the term
and on page 2, line 13, by rewriting that line	to read:	
""§ 18C-182. Application for registration;	expiration and renewal.";	
and on page 3, line 26, by rewriting that line	to read:	
""§ 18C-183. Denial, revocation, or suspen	sion of registration; hearings;	civil penalties.";

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AMENDMENT NO. ______
(to be filled in by
Principal Clerk)

H279-ABE-83 [v.4]

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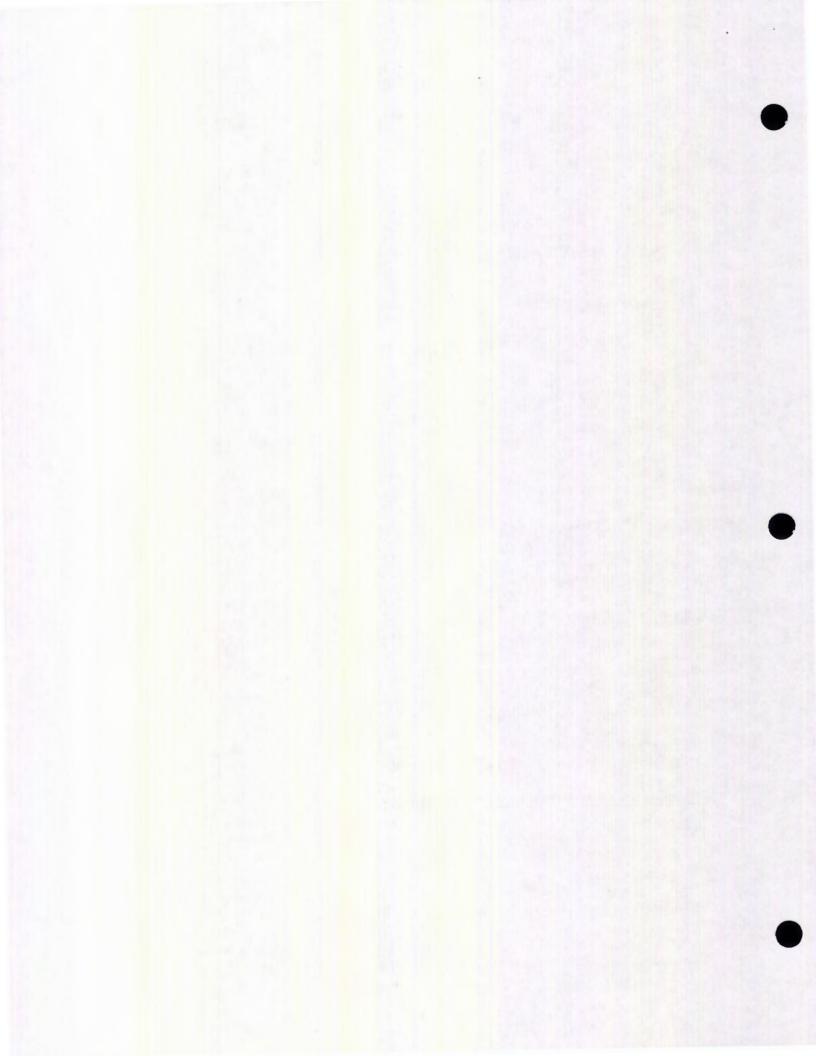
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Page 2 of 4

1	and on page 4, line 12, by rewriting that line to read:
2	
3	""§ 18C-184. Reporting and audit requirements.";
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6	and on page 4, line 22, by rewriting that line to read:
7	and on page 4, time 22, by rewriting that time to read.
8	"provided in the application for registration under G.S. 18C-182.";
)	provided in the approximation registration under Charles 1922.
)	
	and on page 4, line 25, by rewriting that line to read:
2	
3	""§ 18C-185. Change of ownership or acquisition of interest in operator.";
-	
	and on page 4, line 32, by rewriting that line to read:
	""§ 18C-186. Powers and duties of the Department.";
)	
)	
	and on page 4, line 47, by rewriting that line to read:
	HIR 100 107 C-El-4-1: f
	""§ 18C-187. Confidential information.";
	and on page 5, line 3, by rewriting that line to read:
	and on page 3, time 3, by fewriting that time to read.
	""§ 18C-188. Fantasy contests not considered gambling.";
	g 100 100: I aneasy concesses not considered gamening,
	and on page 5, line 9, by rewriting that line to read:
	and an page 1, and 1, 1, 1
	""§ 18C-189. Operator control of contests.";
	and on page 5, line 13-38, by rewriting those lines to read:
	"SECTION 2. G.S. 18B-500 reads as rewritten:
	"§ 18B-500. Alcohol law-enforcement agents.

Subject Matter Jurisdiction. - After taking the oath prescribed for a peace officer, an

alcohol law-enforcement agent shall have authority to arrest and take other investigatory and



AMENDMENT NO	
(to be filled in by	
Principal Clerk)	

H279-ABE-83 [v.4]

Page 3 of 4

enforcement actions for any criminal offense. The primary responsibility of an agent shall be enforcement of the ABC and ABC, gaming, boxing, fantasy sports, and lottery laws.

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(d) Service of Commission Orders. – Alcohol law-enforcement agents may serve and execute notices, orders, or demands issued by the Alcoholic Beverage Control Commission or the North Carolina State Lottery Gaming Commission for the surrender of permits or relating to any administrative proceeding. While serving and executing such notices, orders, or demands, alcohol law-enforcement agents shall have all the power and authority possessed by law-enforcement officers when executing an arrest warrant.

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SECTION 3. G.S. 143-655(c) reads as rewritten:

"(c) State Boxing Revenue Account. – There is created the State Boxing Revenue Account within the Department of Public Safety. Commerce. Monies collected pursuant to the provisions of this Article shall be credited to the Account and applied to the administration of the Article."

SECTION 4 Recodification; Name Change; Technical and Conforming Changes. – The Revisor of Statutes shall recodify Part 2 of Article 37 of Chapter 14 of the General Statutes, Bingo and Raffles, and Article 68 of Chapter 143 of the General Statutes, Regulation of Boxing, into new Articles under Chapter 18C of the General Statutes.

When recodifying, the Revisor is authorized to change all references to the North Carolina State Lottery Commission to instead be references to the North Carolina Gaming Commission. The Revisor is also authorized to change all references in Article 68 of Chapter 143 of the General Statutes to the Alcohol Law Enforcement Branch of the Department of Public Safety, Branch, and the Secretary of Public Safety to the North Carolina Gaming Commission. The Revisor may separate subsections of existing statutory sections into new sections and, when necessary to organize relevant law into its proper place in Chapter 18C of the General Statutes, as amended by this act, may rearrange sentences that currently appear within subsections. The Revisor may modify statutory citations throughout the General Statutes, as appropriate, and may modify any references to statutory divisions, such as "Chapter," "Subchapter," "Article," "Part," "section," and "subsection," adjust the order of lists of multiple statutes to maintain statutory order, correct terms and conform names and titles changed by this act, eliminate duplicative references to the Lottery Commission that result from the changes authorized by this section, and make conforming changes to catch lines and references to catch lines. The Revisor may also adjust subject and verb agreement and the placement of conjunctions. The Revisor shall consult with the North Carolina State Lottery Commission, the Alcohol Law Enforcement Branch of the Department of Public Safety, and the State Bureau of Investigation on this recodification.

SECTION 5. The North Carolina Gaming Commission, as established by this act, may take the necessary actions to develop and implement any licensing and application process authorized by this act. Beginning January 1, 2019, the North Carolina Gaming Commission may accept applications, charge and collect fees, and issue licenses, as authorized by this act.

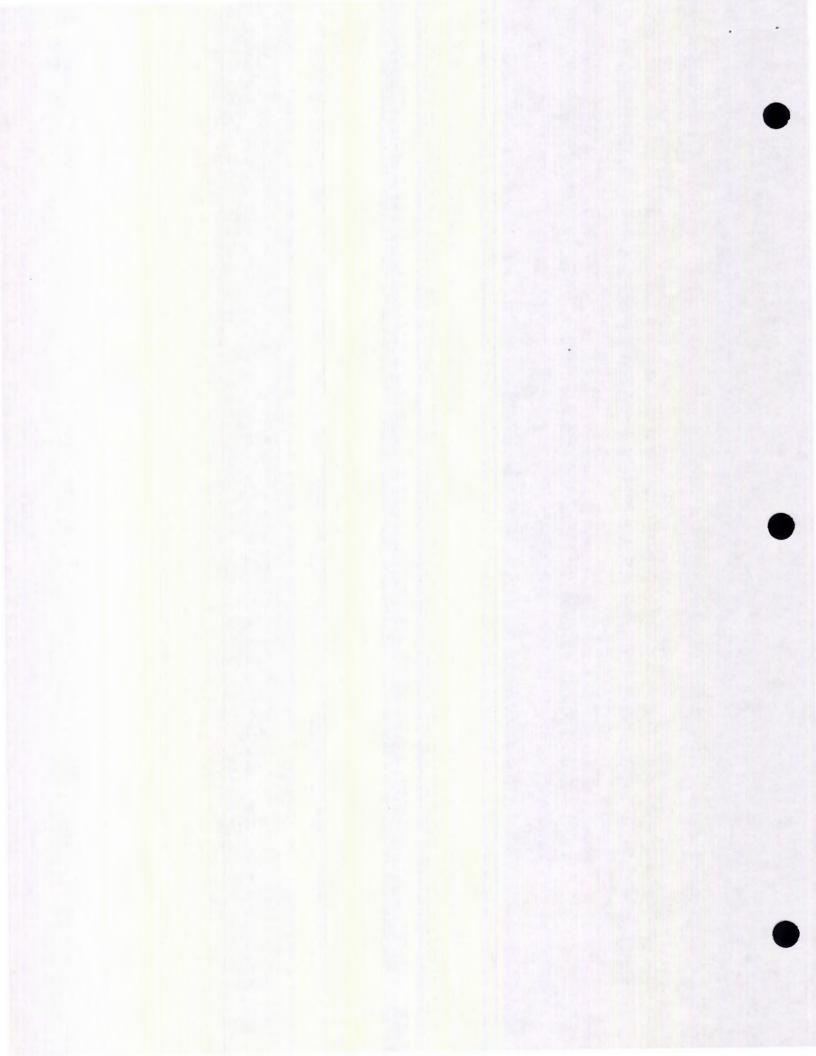
SECTION 6. An operator applying for registration under Section 1 of this act who has been in continuous operation in this State for at least 180 days as of the effective date of this act may continue to offer fantasy contests to persons located in the State until 60 days after applications for registration are published by the North Carolina Gaming Commission. Operators

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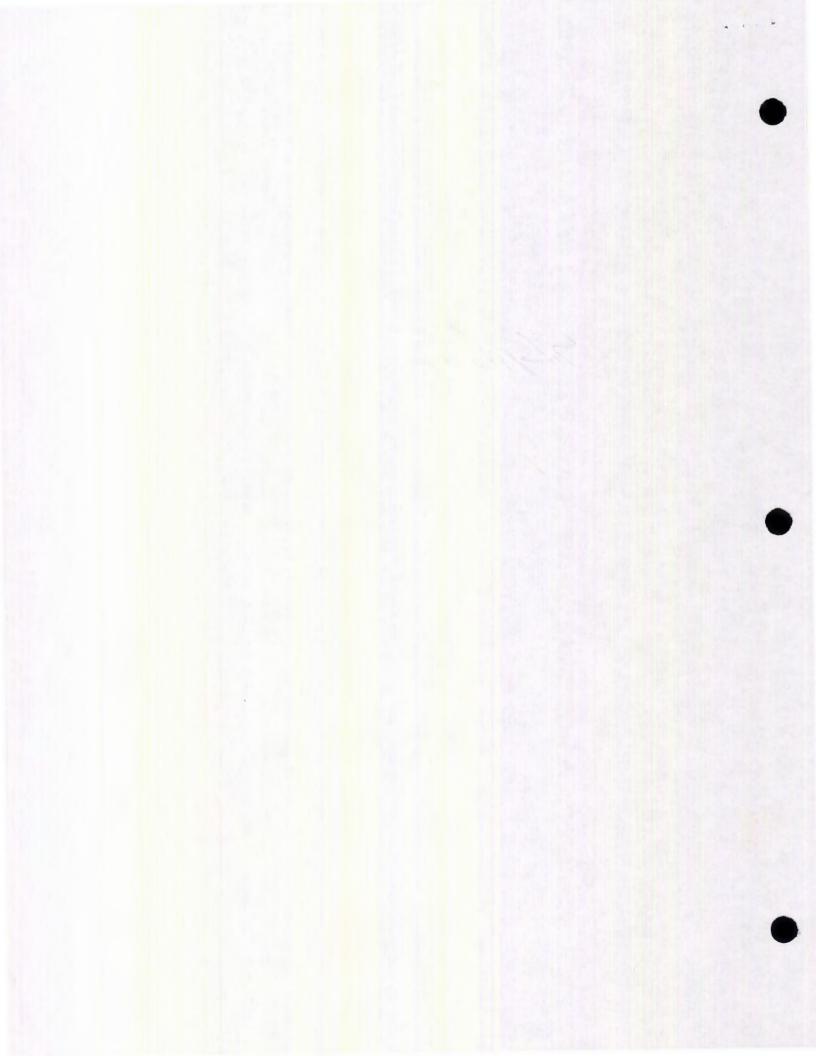
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AMENDMENT NO._

	H279-ABE-83 [v.4]	(to be filled in by Principal Clerk)
		Page 4 of 4
1 2 3 4 5	registration is pending. Operators who have by the expiration of the 60 day period.	nat 60 day period may continue to operate while the not registered shall cease operations within this State th 4 of this act become effective January 1, 2019. The comes law.".
	SIGNED Symanus Amendment S	ponsor
	SIGNED	
	Committee Chair if Senate Co	ommittee Amendment
	ADOPTED FAILED	TABLED



NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

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H. B. No. 21	9		DATE	5/30/18	
			Amend	ment No(to be filled in by	
COMMITTEE SU	BSTITUTE CSTCF-	54 (v.2)		Principal Clerk)	
Rep.) Sen.)) Jones	·			
1 moves to amer	nd the bill on page	5		, lines 3 - 9	
2 / \WHICH CI	ANGES THE TITLE				
3 by restu	rewriting th	a lines to	(cao):		
4 "78E-	9. Operator	control of	contests.	1	
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- HB 279 does not expand gambling; rather it puts those parameters in place so operators of fantasy sports games cannot
 - Offer sports gambling under the guise of fantasy sports
 - Allow minors to play
 - Use players' funds for the operation of their company
 - Allow pro players or officials, or other industry insiders to play
- To date, 19 other states (including Virginia, Mississippi, Tennessee, Missouri and Arkansas) have passed laws to define and regulate fantasy sports.
- Regarding potential impact on the states tribal gaming:
 - Online fantasy sports have been around for decades, with the latest version coming into practice in 2012
 - Harrah's Cherokee casino has seen steady revenue growth, growing from \$386 million in 2010, to \$513 million in 2015, to a 63% increase in each tribal member's share received between 2010 and 2016.
 - Also, legislation in other states has had no impact on casino revenues as NY and MO both passed fantasy sports laws in 2016 and both states continues to see significant growth in casino revenue after passing fantasy sports bills:
 - NY
 - 2014 \$1898 million
 - 2015 \$1951 million
 - 2016 \$2018 million
 - MO
 - 2014 \$1660 million
 - 2015 \$1702 million
 - 2016 \$1715 million

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VISITOR REGISTRATION SHEET

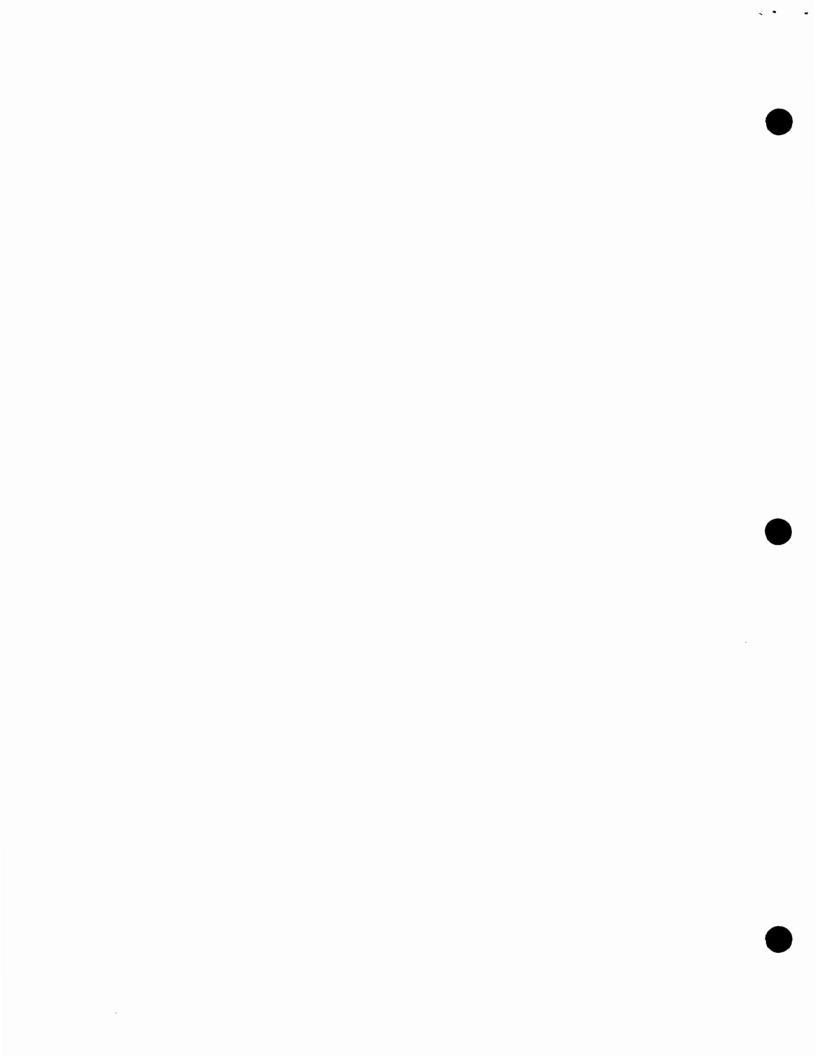
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Name of Committee

5/30/18 Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Houten Robinson	NGRMA
Savah Bales	Brudder (HSS.
Jorathon Symbally	//
Laura De VIVO	DÉS
Dapline Macie	hep. Helly alexander
Jake Sipe	NCFPC
Gere Royall	NEFFE
Leo John	Secretary of State
Donting Delick	75
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VISITOR REGISTRATION SHEET

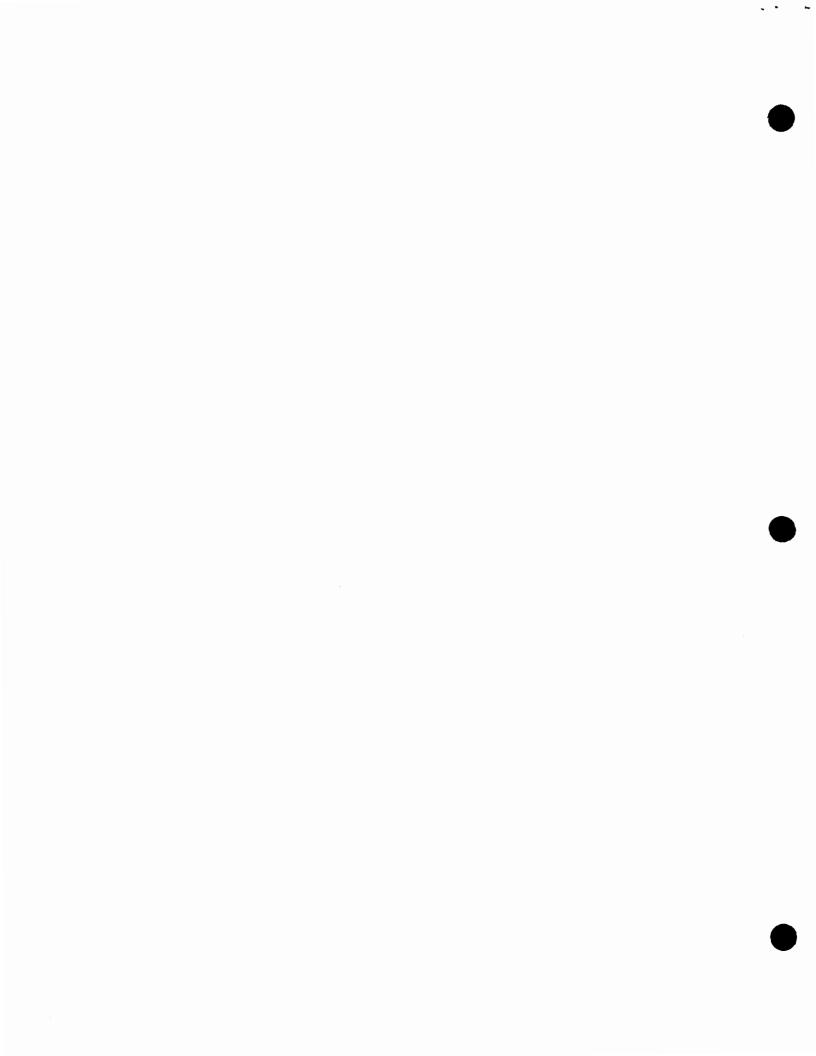
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Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS			
John Rustin	NC Family Policy Consil			
Angel Sams	Dis			
Ivan Petropoulos	D\$S			
Stacie Stern	Fan Duel			
Chais Grimm	Fandary Sparts			
Sarah Koch	Deaffline			
Lindsey Dowling	FSP			
Tontaker	FSP			



House Pages Assignments Wednesday, May 30, 2018

Session: 12:30 PM

Committee	Room	Time	Staff	Member
Judiciary IV	415	10:00 AM	Ann Ham	Rep. Tim Moore
			Patrick McElligott	Rep. Tim Moore
			Hayden Savery	Rep. Jean Farmer-Butterfield
			Kennedy Young	Rep. John Ager
State and Local Government	544	10:00 AM	Samantha Capers	Rep. Pat B. Hurley
			Jackson Hopper	Rep. Nelson Dollar
			Hannah Pippin	Rep. Chris Malone
			Marcquise Smith, Jr.	Rep. George Graham

	9	

GUEST SPEAKERS

- 1. John Rustin NC Family Policy Council
- 2. Mark Creech Christian Action League
- 3. Christopher Grimm Draft King and Fan Duel Legal Counsel
- 4. Leo John Legislative liaison, NC Secretary of State
- 5. Chris Pool Alcohol Law Enforcement

