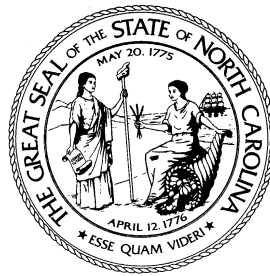


Biennial Report
To The
General Assembly
Of North Carolina
2023-2025



THE GENERAL STATUTES COMMISSION

**REPORT OF THE
GENERAL STATUTES COMMISSION
2023-2025**

TO THE GENERAL ASSEMBLY OF NORTH CAROLINA:

The General Assembly adopted the General Statutes as the general law in North Carolina in 1943 and at the time assigned to the Division of Legislative Drafting and Codification of Statutes of the Attorney General's Office the duty of keeping the laws as clear and concise as possible by means of continuous statutory research and correction.

The General Statutes Commission was created by the General Assembly in 1945 for the purpose of advising the Division of Legislative Drafting in its continuous statutory research and correction, in the publication of the General Statutes, and in making a continuing study of all matters involved in the preparation and publication of modern codes of law. In 1951, the General Assembly expressly authorized the General Statutes Commission to recommend substantive changes in the law. In 1981, the General Assembly expressly authorized the General Statutes Commission to receive and consider proposed changes in the law recommended by The American Law Institute, by the National Conference of Commissioners on Uniform State Laws (also known as the Uniform Law Commission), or by other learned bodies.

Effective June 1, 2011, the General Assembly transferred the General Statutes Commission and its staff and the remaining functions of the Division of Legislative Drafting and Codification of Statutes from the Department of Justice to the General Assembly. The transfer was made by Session Law 2011-97. Under that session law, the Commission is located within the General Assembly for administrative purposes but continues to exercise all its prescribed statutory powers independently.

MEMBERSHIP AND MEETINGS OF THE COMMISSION DURING THE BIENNIUM

Twelve returning members served during the biennium: Chair Sabra J. Faires of Cary, the appointee of the General Statutes Commission, Vice-Chair Peter G. Pappas of Greensboro, the appointee of the President of the North Carolina Bar Association, Senator Amy S. Galey of Burlington, the appointee of the President Pro Tempore of the Senate, Representative Ted Davis, Jr., of Wilmington, the appointee of the Speaker of the House, Professor John J. Korzen of Kernersville, the appointee of the Dean of the Wake Forest University School of Law, Mr. Marc D. Bishop of Greensboro, an appointee of the Governor, Mr. Carlton M. Mansfield of Pembroke, an appointee of the Governor, Professor Lewis Moore Everett of Durham, the appointee of the Dean of The University of North Carolina School of Law, Professor Shelly Bibb DeAdder of Durham, the appointee of the Dean of the North Carolina Central University School of Law, Professor Andrew J. Haile of Summerfield, the appointee of the Dean of the Elon University School of Law, Professor Sarah H. Ludington of Durham, the appointee of the Dean of the Duke University School of Law, and Mr. Joseph J. Kalo IV of Chapel Hill, the appointee of the President of the North Carolina State Bar.

One new member was appointed during the biennium: Professor Lisa Lukasik of Cary was appointed by the Dean of the Campbell University School of Law to replace Professor Michael B. Kent of Cary.

The General Statutes Commission meets regularly on the first Friday of each month except July and August. Special meetings may be called by the chair or by any two members of the Commission whenever the work of the Commission requires. The Commission's policies are available through the Revisor of Statutes, Bill Drafting Division, North Carolina General Assembly, 300 N. Salisbury Street, Suite 401, Raleigh, North Carolina 27603-5925; telephone (919) 733-6660; email address David.Unwin@ncleg.gov.

PUBLICATION OF THE GENERAL STATUTES

A 2023 replacement set of the General Statutes of North Carolina, consisting of 30 volumes plus two index volumes (volumes 31 and 32), was published in December 2023. The 30 volumes in the 2023 replacement set include two additional volumes that resulted from the splitting of former Volumes 14 through 16 into Volumes 14 through 18 to reduce the size of the volumes. The 2023 replacement set contains the general laws of a permanent nature enacted by the General Assembly through Session Laws 2023-122.

A 2024 edition of the Annotated Rules of North Carolina, consisting of two volumes, was published in December 2023, and a supplement was published in June 2024.

A 2024 Special Supplement to the 2023 replacement set of the General Statutes of North Carolina, consisting of two volumes, was published in April 2024. The 2024 Special Supplement is a cumulative supplement that contains the general laws of a permanent nature enacted by the General Assembly from Session Laws 2023-123 through 2023-151.

A 2024 Interim Supplement to the 2023 replacement set of the General Statutes of North Carolina, consisting of two volumes, and a 2024 Replacement Index, consisting of two volumes, were published in November 2024. The 2024 Interim Supplement is a cumulative supplement that contains the acts of a general and permanent nature enacted by the General Assembly in Session Laws 2023-123 through 2023-151 and Session Laws 2024-1 through 2024-45.

A 2025 edition of the Annotated Rules of North Carolina, consisting of two volumes, was published in December 2024, and a supplement will be published later this year.

TRUSTS DRAFTING COMMITTEE

The General Statutes Commission originally created the Trusts Drafting Committee in 1973 to draft a revision of the trust laws of the State. The Committee's initial project was a revision of Chapter 36 of the General Statutes, containing the trust statutes of North Carolina, which was enacted as Chapter 685 of the 1977 Session Laws. Since that time, the Committee has provided the General Statutes Commission with expertise in the areas of estates, trusts, and property and has prepared legislative proposals for the Commission's consideration; many of these have been

enacted by the General Assembly. Members of the Committee during the biennium were Ms. Erica A. Ferranti, Professor John F. DeStefano, and Professor Rosa Newman-Ruffin. The Revisor of Statutes serves as an ex officio member of the Committee.

CONSULTATION WITH OTHER GROUPS

The General Statutes Commission has sincerely appreciated the assistance and expertise from the following groups during the biennium: North Carolina General Assembly, North Carolina Bar Association, North Carolina Creditors Bar Association, Center for Responsible Lending, University of North Carolina School of Government, North Carolina Institute of Medicine, North Carolina Department of Health and Human Services, North Carolina Department of Justice, North Carolina Department of Environmental Quality, North Carolina Department of Natural and Cultural Resources, North Carolina Department of Insurance, North Carolina Administrative Office of the Courts, North Carolina Office of the Commissioner of Banks, North Carolina Medical Board, North Carolina Board for the Licensing of Geologists, Equal Rights Amendment – North Carolina Alliance, North Carolina Association of Registers of Deeds, Lake Norman Marine Commission, and Lake Wylie Marine Commission. The Commission continues its interest in the work of the Uniform Law Commission and The American Law Institute.

The General Statutes Commission has continued its efforts to circulate its proposals among individuals and groups believed to be interested in the various topics considered by the Commission.

The General Statutes Commission welcomes and solicits recommendations from any source as to areas for further legislation. Recommendations may be brought to the attention of the Revisor of Statutes, Bill Drafting Division, North Carolina General Assembly, 300 North Salisbury Street, Suite 401, Raleigh, North Carolina 27603-5925; telephone (919) 733-6660; email address David.Unwin@ncleg.gov. The Revisor of Statutes may also be contacted for legislative history of the Commission's legislative proposals.

LEGISLATION RECOMMENDED TO THE 2023 GENERAL ASSEMBLY

The following chart shows bills recommended by the General Statutes Commission to the 2023 General Assembly and their disposition:

General Statutes Commission – Recommended Bill Chart 2023-2024				
Bill Number	Short Title	GSC Docket	Long Title	Session Law
<u>HB 103</u>	GSC Technical Corrections 2023	DN 23-1	An act to make technical corrections to the General Statutes and session laws, as recommended by the General Statutes Commission.	2023-46

Bill Number	Short Title	GSC Docket	Long Title	Session Law
HB 104	GSC Unif. Unreg. Child Cust. Trfr. Act/Art. 3	DN 22-2	An act to enact Article Three of the Uniform Unregulated Child Custody Transfer Act, as recommended by the General Statutes Commission.	Not Enacted
HB 144	GSC Uniform Public Expression Protection Act	DN 21-3	An act to enact the Uniform Public Expression Protection Act, as recommended by the General Statutes Commission.	Not Enacted
SB 110	GSC Unif. Community Prop. Disp. at Death Act	DN 21-9	An act to enact the Uniform Community Property Disposition at Death Act, as recommended by the General Statutes Commission.	Not Enacted
SB 112	GSC Conveyances Between Spouses	DN 22-3	An act to provide for the effect that conveyances of real property between spouses have on certain marital property rights and to make technical corrections, as recommended by the General Statutes Commission.	Not Enacted
SB 307	GSC NC Uniform Electronic Wills Act	DN 20-4	An act to enact the North Carolina Uniform Electronic Wills Act, as recommended by the General Statutes Commission.	Not Enacted
SB 327	GSC Assignments of Error	DN 21-6	An act to conform the General Statutes to the North Carolina Rules of Appellate Procedure by updating obsolete references to "assignments of error" and "exceptions" and to make other technical changes, as recommended by the General Statutes Commission.	2023-54
HB 917	GSC Technical Corrections 2024	DN 24-1	An act to make technical corrections to the General Statutes and session laws, as recommended by the General Statutes Commission, and to make other technical corrections.	Not Enacted
HB 938	GSC Moral Turpitude/ Occupational Licensure	DN 22-4	An act to clarify the prohibition on denying licensure based on a determination that a conviction is for a crime of moral turpitude, to make corresponding changes to occupational and State agency licensure statutes, and to make other technical	Not Enacted

Bill Number	Short Title	GSC Docket	Long Title	Session Law
			corrections, as recommended by the General Statutes Commission.	
SB 765	GSC Add Member from High Point Law School	DN 24-2	An act to add a member from the High Point University School of Law to the General Statutes Commission, as recommended by the General Statutes Commission.	Not Enacted
SB 767	GSC Attorneys' Fees in Debt Instruments	DN 22-7	An act to clarify how a creditor may enforce an obligation to pay attorneys' fees in a debt instrument and to remove the default rate for these fees, as recommended by the General Statutes Commission.	Not Enacted

The General Statutes Commission also recommended three drafts that were not filed as bills during the biennium: GSC Uniform Comm. Code/Emerging Technologies (DN 22-5), GSC Uniform Child Abduction Prevention Act (DN 23-2), and GSC Electronic Signatures (DN 23-3).

RECOMMENDED LEGISLATION, 2025

During the biennium, the General Statutes Commission has received suggestions for statutory changes from various sources, including practicing attorneys, State agencies and other groups, and its own membership. In addition, the Commission has from time to time undertaken studies of specific areas of the law to determine the need for statutory change. The Commission reviewed all suggested changes and docketed those that it believed warranted further consideration. Some have resulted in recommended bills, and others are still under consideration.

The proposals set out below have been considered by the Commission and found to warrant recommendation to the General Assembly. A brief description of each proposal is set out and, in addition, a separate memorandum for each proposal will be made available to the members of the General Assembly.

The Commission, acting pursuant to its statutory duty under G.S. 164-13 to consider Uniform Acts promulgated by the Uniform Law Commission and to recommend other substantive changes in the law, therefore recommends enactment of the following proposals:

1. **An act to enact the Uniform Community Property Disposition at Death Act.** This proposal enacts the Uniform Community Property Disposition at Death Act, an act recently promulgated by the Uniform Law Commission. This Act is an update of the Uniform Disposition of Community Property Rights at Death Act, which was enacted as Chapter 31C of the General Statutes. This Act addresses the situation where a married couple acquires community property in a state recognizing community property and then moves to North Carolina or acquires real property in North Carolina using proceeds from community property. This Act provides a set of default rules to govern the disposition of community property upon the death of one of the spouses.

(DN 21-9)

2. **An act to enact the Uniform Child Abduction Prevention Act and to enact Article Three of the Uniform Unregulated Child Custody Transfer Act.** This proposal enacts the Uniform Child Abduction Prevention Act and Article 3 of the Uniform Unregulated Child Custody Transfer Act. The Uniform Child Abduction Prevention Act gives courts a means to identify whether there is a credible risk of child abduction and the authority to order a wide variety of abduction prevention measures. Article 3 of the Uniform Unregulated Child Custody Transfer Act is designed to prevent the unlawful transfers of custody of minors by better preparing adoptive parents for issues that may arise when caring for certain adopted minors. It requires adoption agencies to provide certain information to certain prospective adoptive parents of minors.

(DN 22-2; DN 23-2)

3. **An act to provide for the effect that conveyances of real property between spouses have on certain marital property rights.** This proposal, requested by the Real Property Section and Family Law Section of the North Carolina Bar Association, provides for the effect that conveyances of real property between spouses have on certain marital property rights. It provides that a spouse who conveys real property to another spouse may waive the right to take an elective life estate in the real property in the instrument of conveyance. However, a spouse who conveys real property to another spouse cannot waive a right to equitable distribution in the real property in the instrument of conveyance. A right to equitable distribution in real property may only be waived in a separate instrument pursuant to G.S. 50-20.

(DN 22-3)

4. **An act to clarify the prohibition on denying licensure based on a determination that a conviction is for a crime of moral turpitude, to make corresponding changes to occupational and State agency licensure statutes, and to make other technical corrections.** This proposal addresses direct conflicts between individual boards' licensure statutes and G.S. 93B-8.1's prohibitions and requirements regarding the use of criminal history records. This proposal removes conflict within the General Statutes without disrupting individual boards' licensure statutes.

(DN 22-4)

5. **An act to update the Uniform Commercial Code to govern transactions involving certain emerging technologies.** This proposal enacts the latest round of amendments to the Uniform Commercial Code ("UCC"), which were jointly promulgated by the Uniform Law Commission and American Law Institute in 2022. The UCC has been the law in every state since the 1970s and has been periodically updated over the decades. This proposal adds a new Article 12 on controllable electronic records and makes other changes relating to emerging technologies.

(DN 22-5)

6. **An act to clarify the use of electronic signatures in certain contexts, pursuant to a review directed by the General Assembly.** This proposal clarifies that an electronic signature may be used in a business contract with a reciprocal attorneys' fees provision and clarifies

that the Department of the Secretary of State may allow notary applications to be submitted electronically but that an initial application must be signed with pen and ink. This proposal is in response to a review directed by the General Assembly in Section 5.5 of S.L. 2023-134. (For more details about this review, please see the Commission's Report on Pen-and-Ink and Electronic Signatures to the General Assembly, dated April 5, 2024.)

(DN 23-3)

7. **An act to add a member from the High Point University School of Law to the General Statutes Commission.** This proposal adds a new member to the General Statutes Commission, to be appointed by the dean of the new High Point University School of Law. The Commission currently has a member from every other law school in the State, so this proposal ensures that each law school in the State is represented on the Commission.

(DN 24-2)

8. **An act to enact the Uniform Special Deposits Act.** This proposal enacts the Uniform Special Deposits Act, an act recently promulgated by the Uniform Law Commission. This Act is an "opt in" statute, which allows a bank and its customer to decide whether the Act applies to a given deposit. The Act clarifies (i) what a special deposit is, (ii) the treatment of a special deposit if a depositor goes bankrupt, (iii) the applicability of creditor process on a special deposit, and (iv) when a bank may exercise a right of recoupment or set off against a special deposit.

(DN 24-3)

In addition to these proposals, the Commission recommends for introduction two technical corrections bills, which correct errors in grammar, erroneous statutory references, and other obvious errors and make other technical changes in the General Statutes.

PENDING DOCKETS (dockets not covered in pending legislation)

- (1) DN 20-4 – Uniform Electronic Wills Act
- (2) DN 21-3 – Uniform Public Expression Protection Act
- (3) DN 21-7 – Uniform Pretrial Release and Detention Act
- (4) DN 22-6 – Uniform Electronic Estate Planning Documents Act
- (5) DN 22-7 – Attorneys' Fees in Notes

CONCLUSION

The General Statutes Commission is continuing its work as this report is prepared. Work not completed in time for submission to the 2025 General Assembly will be carried over into the next biennium.

In submitting this report, the Commission wishes to make grateful acknowledgment of the cooperation and support received from Mr. Paul Y. Coble, Legislative Services Officer of the North Carolina General Assembly, and Mr. Dan Etefagh, Director of the Legislative Drafting Division of the North Carolina General Assembly. The Commission is especially indebted to the following members of the Legislative Drafting Division of the North Carolina General Assembly for their dedicated service during the biennium: Mr. David C. Unwin, Revisor of Statutes, Ms. Caroline Pantoja, Assistant Revisor of Statutes, and Ms. Veronica Scott Johnson, Senior Legislative Secretary. In addition, the Commission wishes to express its appreciation for the valuable services rendered by Professor Michael B. Kent, who served as a member of the Commission.

The Commission further wishes to express its appreciation for the valuable assistance provided on behalf of the North Carolina Bar Association by the following persons: Ms. Michelle L. Frazier, Mr. David P. Ferrell, Mr. George T. Smith III, Mr. John T. McLean, Ms. Nancy Short Ferguson, Mr. Stephen F. Later, Mr. Mark T. Cain, and Ms. Linda Funke Johnson.

The Commission is most appreciative of the dedicated service of the members of the General Statutes Commission's Trusts Drafting Committee, as well as the assistance of the many groups that have cooperated with the Commission in its work, the members of the Bar, and others who have offered assistance and advice during the biennium.

This the 7th day of February 2025.

Respectfully submitted,

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Peter G. Pappas, Vice-Chair

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John J. Korzen
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THE GENERAL STATUTES COMMISSION 2023-2025 Biennial Report
