

NORTH CAROLINA GENERAL ASSEMBLY
1973 SESSION

CHAPTER 108
HOUSE BILL 64

AN ACT TO DELETE REFERENCES TO JUSTICE OF THE PEACE AND CONSTABLE AND OTHERWISE CONFORM VARIOUS SECTIONS OF THE GENERAL STATUTES TO THE TERMINOLOGY AND PROCEDURE OF THE JUDICIAL DEPARTMENT ACT OF 1965, AS AMENDED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-73.1 is amended by changing the comma (,) after "misdemeanor" in line four to a period (.), and deleting the remainder of the section.

Sec. 2. G.S. 14-121 is amended by deleting from lines three and four "justice of the peace" and inserting in lieu thereof "magistrate".

Sec. 3. G.S. 14-134 is amended by deleting from line six "justice of the peace" and by deleting from lines nine and 12 "justice", and inserting in lieu thereof in each case "magistrate".

Sec. 4. G.S. 14-181 and 14-182 are repealed.

Sec. 5. G.S. 14-230 is amended by deleting from line two "justice of the peace" and inserting in lieu thereof "magistrate", by deleting from lines two and three "recorder, prosecuting attorney of any recorder's court,", and by deleting from line four "constable".

Sec. 6. G.S. 14-232 is amended by deleting from line two "justice of the peace" and inserting in lieu thereof "magistrate", and by deleting from line three "constable".

Sec. 7. G.S. 14-239 is amended by deleting "constable" from lines three, six, and eight.

Sec. 8. G.S. 14-240 is amended by deleting "constable" from line five.

Sec. 9. G.S. 14-245 is repealed.

Sec. 10. G.S. 14-246 is amended by deleting from each of lines one and two "justice of the peace" and inserting in lieu thereof "magistrate", and by inserting "all money," in line four after "books,".

Sec. 11. G.S. 14-298 is amended by deleting from line one "justices of the peace," and by deleting from line two ".constables".

Sec. 12. G.S. 14-299 is amended by deleting from lines four and five "justice of the peace or other", and by deleting from line five "his or".

Sec. 13. G.S. 14-337 is repealed.

Sec. 14. G.S. 26-1 is rewritten to read as follows:

"In the trial of actions upon contracts either of the defendants may show in evidence that he is surety, and if it be satisfactorily shown, the jury in their verdict, or the magistrate in his judgment, shall distinguish the principal and surety, which shall be endorsed on the execution by the clerk of superior court."

Sec. 15. G.S. 26-3 is rewritten to read as follows:

"Any person who may have paid money for and on account of those for whom he became surety, upon producing to the clerk of superior court, a receipt, and showing that an execution has issued, and he has satisfied the same, and making it appear by sufficient testimony that he has expended any sum of money as the surety of such person, may move the clerk for judgment against his principal for the amount which he has actually paid; a citation having previously

issued against the principal to show cause why execution should not be awarded; and should the principal not show sufficient cause, the clerk shall award execution against the principal."

Sec. 16. G.S. 26-6 is rewritten to read as follows:

"Whenever any judgment shall be obtained against a principal and his surety, and the principal debtor shall desire to stay the execution thereon, but the surety is unwilling that such stay shall be had, the surety may cause his dissent thereto to be entered by the judge or clerk, which shall absolve him from all liability to the surety who may stay the same. And the sheriff or other officer, who may have the collection of the debt, shall make the money out of the property of the principal debtor, and that of the surety for the stay of execution, if he can, before he shall sell the property of the surety before judgment."

Sec. 17. G.S. 42-19 is amended by deleting "constable" from lines three and four, and inserting in lieu thereof "sheriff".

Sec. 18. G.S. 54-32 is amended by deleting from the fifth line "before any justice of the peace" and inserting in lieu thereof "in the district court".

Sec. 19. G.S. 54-166 is amended by deleting "Supreme Court" from line 24 of subsection (c), and inserting "appellate division" in lieu thereof.

Sec. 20. G.S. 58-236 is amended by deleting from lines 15 and 16 "as in cases of appeal from a justice of the peace".

Sec. 21. G.S. 62-65(b) is amended in lines seven and eight by deleting "Justices of the Supreme Court and judges of the superior courts.", and inserting in lieu thereof "justices and judges of the General Court of Justice."

Sec. 22. G.S. 66-2 is repealed.

Sec. 23. G.S. 66-9 is amended by deleting from lines three and four of the second paragraph "before a justice of the peace" and inserting in lieu thereof "in the district court".

Sec. 24. G.S. 67-3 is amended by deleting from the third line "justice of the peace of" and inserting in lieu thereof "judge of the district court in".

Sec. 25. G.S. 73-23 is repealed.

Sec. 26. G.S. 76-11 is rewritten to read as follows:

"Each member of the board shall have the power and authority to hear and determine any matter of dispute between any pilot and any master of a vessel, or between pilots themselves respecting the pilotage of any vessel, and any member of the board may issue a warrant against any pilot for the recovery of any demand which one pilot may have against another, relative to pilotage, and for the recovery of any forfeiture or penalty provided by law, relating to pilotage on Cape Fear River and Bar, or provided by any bylaw or rule or regulation enacted by the board by virtue of any such law, which warrant the sheriff in New Hanover or Brunswick counties shall execute together with any other process authorized by this article. On any warrant issued as herein provided, any one of the commissioners may give judgment for any sum not exceeding five hundred dollars (\$500.00), and may issue execution thereon, in like manner as is provided for the issuing of execution on judgments rendered by magistrates, which writ of execution shall be executed agreeably to the law regulating levy and sale under executions issuing from the General Court of Justice. Any member of the board shall have authority to issue summons for witnesses and to administer oaths, and hearings before any member of the board on any matters as provided in this section shall conform as nearly as possible to procedure provided by law in courts of magistrates. From any judgment rendered by any member of the board, either party shall have the right of appeal to the district court of New Hanover or Brunswick counties, in the same manner as appeals from judgments of magistrates."

Sec. 27. G.S. 76-18 is amended by rewriting subsection (2) to read as follows:

"(2) To arrest any person violating this chapter, and to immediately bring the offender before a magistrate of the county in which such offense may be committed."

Sec. 28. G.S. 76-25 is amended by deleting from line eight "justice of the peace", and inserting in lieu thereof "magistrate".

Sec. 29. G.S. 76-37 is amended by deleting from line 26 "justice of the peace" and inserting in lieu thereof "clerk of the superior court or magistrate".

Sec. 30. G.S. 76-50 is amended by deleting from lines five and six "before a justice of the peace, if the sum be within his jurisdiction" and inserting in lieu thereof "in the district court".

Sec. 31. G.S. 76-67 is rewritten to read as follows:

"Each member of the board shall have power and authority to hear and determine any matter of dispute between any pilot and any master of a vessel, or between pilots themselves respecting the pilotage of any vessel, and any member of the board may issue a warrant against any pilot for the recovery of any demand which one pilot may have against another, relative to pilotage, and for the recovery of any forfeiture or penalty provided by law, relating to pilotage in Old Topsail Inlet and Beaufort bar, or provided by any bylaw or rule or regulation enacted by the board by virtue of any such law, which warrant the sheriff in Carteret County shall execute together with any other process authorized by this article. On any warrant issued as herein provided, any one of the commissioners may give judgment for any sum not exceeding five hundred dollars (\$500.00), and may issue execution thereon, in like manner as is provided for the issuing of execution on judgments rendered by magistrates, which writ of execution shall be executed agreeably to the law regulating the levy and sale under executions issuing from the General Court of Justice. Any member of the board shall have authority to issue summons for witnesses and to administer oaths, and hearings before any member of the Board on any matters as provided in this section shall conform as nearly as possible to procedure provided by law in courts of magistrates. From any judgment rendered by any member of the board, either party shall have the right of appeal to the district court of Carteret County, in the same manner as appeals from judgments of magistrates."

Sec. 32. G.S. 80-25 is amended by deleting from lines six and seven ", and shall receive for the recording of such copies a fee of fifty cents".

Sec. 33. G.S. 80-28 is amended as follows: delete from line three "justice of the peace" and insert in lieu thereof "magistrate"; delete from lines six and 11 "justice" and insert in lieu thereof in each case "magistrate"; delete from line seven ", constable"; and delete "for trial" from the end of the last sentence.

Sec. 34. G.S. 80-29 is rewritten to read as follows:

"If any person shall be found to be guilty of violating any of the provisions of this article, the court trying such person and imposing the punishment herein prescribed shall also award possession to the owner of all the property involved in such violation."

Sec. 35. G.S. 84-1 is amended by deleting "justice of the Supreme Court, judge of the Court of Appeals, or judge of the superior court," and inserting in lieu thereof "justice or judge of the General Court of Justice".

Sec. 36. G.S. 84-2 is amended by deleting from line two "prosecutor, full- time assistant prosecutor,", inserting in lieu thereof "public defender, assistant public defender,", and by deleting from line four "nor any justice of the peace".

Sec. 37. G.S. 84-3 is repealed.

Sec. 38. G.S. 85-9 is amended by deleting from the last line "as in the case of an appeal from a justice of the peace".

Sec. 39. G.S. 85A-22 is rewritten to read as follows:

"The following persons or classes shall not be bail bondsmen or runners and shall not directly or indirectly receive any benefits from the execution of any bail bond: jailers, police officers, magistrates, sheriffs, deputy sheriffs, and any person having the power to arrest or having anything to do with the control of federal, State, county or municipal prisoners."

Sec. 40. G.S. 90-158.31 is amended by deleting from line three ", constable", deleting from line four "issued out of the superior courts", and deleting the last sentence.

Sec. 41. G.S. 95-4 is amended by deleting from line four of subsection (6) "justice of the peace or", and by deleting from line six "or the prosecuting attorney of any city or county court,".

Sec. 42. G.S. 95-52 is amended by deleting from lines five and six "before a justice of the peace".

Sec. 43. G.S. 96-10 is amended by deleting from subsection (b)(1) thereof the sentence beginning in line 24 that refers to a clerk's fee.

Sec. 44. G.S. 98-3 is amended by deleting from the second line of the last paragraph "at term".

Sec. 45. G.S. 98-6 is amended by deleting from line seven "at term".

Sec. 46. G.S. 98-14 is amended by deleting from line one of subsection (4) "at term" and by deleting from line two of subsection (6)"at term,".

Sec. 47. G.S. 103-3 is amended by deleting from line two ",constable".

Sec. 48. G.S. 104B-8 is amended by deleting from line three of subsection (b) "and constables".

Sec. 49. G.S. 105-22 is amended by deleting subsection (c).

Sec. 50. G.S. 105-24 is amended by deleting all words following "interest." in line 40 through "repealed." in line 51.

Sec. 51. G.S. 105-109 is amended by deleting from line 11 of subsection (d) "before some justice of the peace or recorder in the county".

Sec. 52. G.S. 105-375(b) is amended by deleting the second sentence which refers to special books for filing tax certificates.

Sec. 53. G.S. 106-125 is amended by deleting from lines two and three of subsection (b) "the judge of any recorder's, county," and inserting in lieu thereof "a judge of the district".

Sec. 54. G.S. 106-126 is amended by deleting from line two "a recorder's, county, or superior court" and inserting in lieu thereof "the superior court".

Sec. 55. G.S. 106-284.12 is amended by deleting from line 15 "and the solicitors of inferior courts".

Sec. 56. G.S. 106-459 is amended by inserting a period (.) after "same" in line four and deleting all thereafter.

Sec. 57. G.S. 109-25 is amended by deleting from line seven of paragraph one "or justice of the peace", deleting paragraph two, and by inserting a period (.) after "sale" in line two of paragraph four, and deleting all thereafter.

Sec. 58. G.S. 109-30 is amended by deleting from line three ", or of the justice,".

Sec. 59. G.S. 109-34 is amended by deleting from line three "constable,".

Sec. 60. G.S. 109-36 is amended in line two by deleting "constable," and in line seven by deleting "term" and inserting "session" in lieu thereof.

Sec. 61. G.S. 109-38 is amended by deleting from line two "constables,".

Sec. 62. G.S. 109-39 is amended by deleting from line two ", coroner or constable" and inserting in lieu thereof "or coroner".

Sec. 63. G.S. 112-28 is amended by deleting from line six "or a justice of the peace".

Sec. 64. G.S. 113-50 is rewritten to read as follows: "The minimum fine for any offense mentioned in the preceding section (Sec. 113-49) committed within any State forest shall be fifty dollars (\$50.00) if within the jurisdiction of the district court, and twenty-five dollars (\$25.00) if within the jurisdiction of the magistrate."

Sec. 65. G.S. 113-55 is amended by deleting from line seven "justice of the peace" and inserting in lieu thereof "magistrate".

Sec. 66. G.S. 113-92 is amended by deleting from line three "constables", and by deleting all after the first sentence.

Sec. 67. G.S. 116-44 is amended by changing the semi-colon (;) in line four to a period (.) and deleting the remainder of the first sentence.

Sec. 68. G.S. 120-11 is amended by deleting from lines one and two "justice of the peace, or any".

Sec. 69. G.S. 120-16 is amended by deleting from line four "before any justice of the peace" and inserting in lieu thereof "in the district court".

Sec. 70. G.S. 120-44 is amended by deleting from line five "justice of the peace" and inserting in lieu thereof "magistrate".

Sec. 71. G.S. 122-16 is amended by deleting from line 14 "before any justice of the peace" and inserting in lieu thereof "in the district court".

Sec. 72. G.S. 122-22 is amended by deleting from line four "justice of the peace" and inserting in lieu thereof "magistrate", and by deleting from line nine "justice" and inserting in lieu thereof "magistrate".

Sec. 73. G.S. 122-33 is amended by deleting from the end of line nine the word "some", and further deleting lines 10 and 11, and inserting in lieu thereof "a magistrate, who may issue a warrant and proceed as in other criminal cases before him."

Sec. 74. G.S. 122-34 is amended by deleting from line three "justice of the peace of the county, or other".

Sec. 75. G.S. 122-43 is amended by deleting the second and fourth paragraphs, and by deleting from the second line of the third paragraph "seven cents (7¢)", and inserting in lieu thereof "ten cents (10¢)".

Sec. 76. G.S. 122-64 is amended by deleting "seven cents (7¢)" from line three of the second paragraph, inserting "ten cents (10¢)" in lieu thereof, and by deleting the last sentence from the second paragraph.

Sec. 77. G.S. 122-65.6 is amended by rewriting subsection (3) to read as follows:

"(3) 'Court' shall mean either the district or superior court division of the General Court of Justice."

Sec. 78. G.S. 122-84 is amended by deleting from line eight "term" and inserting in lieu thereof "session".

Sec. 79. G.S. 122-87 is amended by deleting from line five "criminal" and inserting in lieu thereof "district", by deleting from line nine "term" and inserting in lieu thereof "session", and by deleting from line 10 "criminal" and inserting in lieu thereof "district".

Sec. 80. G.S. 127-46 is amended by deleting from line three "constable,".

Sec. 81. G.S. 127-47 is amended by deleting from line seven "constable,".

Sec. 82. G.S. 128-16 is amended by rewriting the first three lines to read as follows: "Any sheriff or police officer shall be removed from office by the".

Sec. 83. G.S. 128-20 is amended by deleting from line three "term" and inserting in lieu thereof "session".

Sec. 84. G.S. 135-20(1) is amended by changing the comma (,) after "instrumentalities" to a period (.), and deleting all thereafter.

Sec. 85. G.S. 136-109 is amended by deleting "at term" from line nine of subsection (a) and from line five of subsection (d).

Sec. 86. G.S. 139-18 is amended by deleting from line 11 of subsection (d) "justice of the peace" and inserting in lieu thereof "magistrate".

Sec. 87. G.S. 139-21 is amended by deleting from line six subsection (e) "justice of the peace" and inserting in lieu thereof "magistrate".

Sec. 88. G.S. 143-215.5 is amended by deleting from each of lines 14 and 15 "Supreme Court" and inserting in lieu thereof in each case "appellate division".

Sec. 89. G.S. 143-215.15 is amended by deleting from each of lines 14 and 15 of subsection (g) "Supreme Court" and inserting in lieu thereof in each case "appellate division".

Sec. 90. G.S. 148-59 is amended by deleting from the second line "and the clerks of all inferior courts", and by deleting from subsection (3) "term" and inserting in lieu thereof "session".

Sec. 91. G.S. 150-30 is amended by deleting from line two and lines six and seven "Supreme Court", and inserting in lieu thereof in each case "appellate division".

Sec. 92. G.S. 152-7 is amended by deleting from line six of subsection (4) "before justices of the peace" and inserting in lieu thereof "in the district court".

Sec. 93. G.S. 152-10 is amended by deleting from line three "before a justice of the peace or a recorder", by deleting from line five "justices of the peace" and inserting in lieu thereof "magistrates", and by inserting "or district" after "superior" in line seven.

Sec. 94. G.S. 156-10 is amended by deleting from line 17 "at term time".

Sec. 95. G.S. 156-15 is amended by deleting from line seven "justice of the peace", by deleting from lines nine and 10 "justice", by inserting in lieu of each of the three deletions "magistrate", and by deleting the last sentence.

Sec. 96. G.S. 156-75 is amended by deleting from line eight "term time" and inserting in lieu thereof "session".

Sec. 97. G.S. 156-134 is amended by deleting from line six of the last paragraph "term" and inserting in lieu thereof "session".

Sec. 98. G.S. 162-14 is amended by deleting "term" from line 10 of paragraph one and inserting in lieu thereof "session", and by deleting paragraph three.

Sec. 99. G.S. 161-24, 162-6, and 162-7, and all other laws and parts of laws in conflict with this act, are repealed.

Sec. 100. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1973.