

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 519
HOUSE BILL 179

AN ACT TO MAKE TECHNICAL AMENDMENTS TO CHAPTERS 14 AND 122 OF THE
GENERAL STATUTES TO CLARIFY PROCEDURES FOR THE HANDLING OF THE
PUBLIC INEBRIATE AND CHRONIC ALCOHOLICS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-445 is amended by adding new subsections to read:

"(c) Whenever any person charged with committing a misdemeanor under G.S. 14-444 enters a plea to the charge, the court may, without entering a judgment, defer further proceedings for up to 15 days to determine whether the person is suffering from alcoholism.

(d) If he believes it will be of value in making his determination, the district court judge may direct an alcoholism court counselor, if available, to conduct a prehearing review of the alleged alcoholic's drinking history in order to gather additional information as to whether the defendant is suffering from alcoholism."

Sec. 2. G.S. 14-447(b) is amended by adding a new sentence to read:

"This authority to arrest and then issue a citation is granted as an exception to the requirements of G.S. 15A-501(2)."

Sec. 3. G.S. 122-58.22(a) is amended by adding a new sentence to the subsection to read:

"The judicial determination that the respondent is an alcoholic in need of care shall be based on clear, cogent and convincing evidence."

Sec. 4. G.S. 122-58.22 is amended by adding a new subsection to read:

"(g) The director of a public or private alcoholism treatment facility shall discharge a committed respondent unconditionally at any time he determines that the respondent is no longer in need of care. Notice of discharge shall be furnished to the clerk of superior court of the county of commitment and the county in which the facility is located."

Sec. 5. G.S. 122-65.11(d) is amended by rewriting this subsection to read:

"(d) The procedures for commitment of an alcoholic in need of care under the provisions of this Article are as follows:

- (1) Any person who has knowledge that a person assisted to a shelter or treatment facility under subdivisions (a)(3) or (a)(4) of this section is an alcoholic in need of care as defined by G.S. 122-58.22 or G.S. 122-58.23 may appear before a clerk or deputy clerk of superior court or a magistrate of district court and execute an affidavit to this effect and petition the clerk or magistrate for issuance of an order that the person be detained until he can appear before a district court judge for a hearing to determine if he is an alcoholic in need of care. The affidavit shall include the facts on which the affiant's opinion is based. The respondent must be found in or be a resident of the county in which the clerk or magistrate holds office.
- (2) If the clerk or magistrate finds reasonable grounds to believe the facts as alleged in the affidavit are true and that the respondent is an alcoholic in need of care, he may issue an order to a law enforcement officer that the

- respondent remain in the shelter or treatment facility until he can appear before a district court judge to determine if he is an alcoholic in need of care.
- (3) The clerk or magistrate may direct that the person be kept at the facility to which he was taken under subdivision (a)(3) or (a)(4) of this section or at any other facility approved for this purpose by the Department of Human Resources. If the jail was used as a shelter-care facility under (a)(3) of this section and G.S. 122-65.13, the respondent must be ordered to be taken to a facility approved by the Department of Human Resources for this purpose.
 - (4) The respondent may be detained no more than 10 days for this purpose, and if a hearing is not held within 10 days after the respondent is taken into custody, the respondent shall be released.
 - (5) Pending the district court hearing the qualified physician attending the respondent may administer to the respondent reasonable and appropriate medication and treatment that is consistent with accepted medical standards.
 - (6) If the district court judge is unable to make a determination whether the person is an alcoholic in need of care at the time the alleged alcoholic is initially brought before him, he may order the person to return to court at any time within the next 15 days to complete the determination.
 - (7) If he believes it will be of value in making his determination, the district court judge may direct an alcoholism court counselor, if available, to conduct a prehearing review of the alleged alcoholic's drinking history and make recommendations on the proper disposition for the person if he is found to be an alcoholic in need of care."

Sec. 6. This act shall become effective on July 1, 1981.

In the General Assembly read three times and ratified, this the 5th day of June,

1981.