

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2005-135
HOUSE BILL 1199**

AN ACT TO PROVIDE THAT A PHYSICIAN OR ELIGIBLE PSYCHOLOGIST MAY FILE AN AFFIDAVIT FOR INVOLUNTARY COMMITMENT WITH THE CLERK OR MAGISTRATE EITHER BY HAND DELIVERY OF THE ORIGINAL AFFIDAVIT OR BY FACSIMILE TRANSMISSION OF A PAPER COPY OF THE AFFIDAVIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-261(d) reads as rewritten:

"§ 122C-261. Affidavit and petition before clerk or magistrate when immediate hospitalization is not necessary; custody order.

...

(d) If the affiant is a physician or eligible psychologist, the affiant may execute the affidavit before any official authorized to administer oaths. This affiant is not required to appear before the clerk or magistrate for this purpose. This affiant shall file the affidavit with the clerk or magistrate by delivering to the clerk or magistrate the original affidavit or a copy in paper form that is printed through the facsimile transmission of the affidavit. If the affidavit is filed through facsimile transmission, the affiant shall mail the original affidavit no later than five days after the facsimile transmission of the affidavit to the clerk or magistrate to be filed by the clerk or magistrate with the facsimile copy of the affidavit. This affiant's examination shall comply with the requirements of the initial examination as provided in G.S. 122C-263(c). If the physician or eligible psychologist recommends outpatient commitment and the clerk or magistrate finds probable cause to believe that the respondent meets the criteria for outpatient commitment, the clerk or magistrate shall issue an order that a hearing before a district court judge be held to determine whether the respondent will be involuntarily committed. The physician or eligible psychologist shall provide the respondent with written notice of any scheduled appointment and the name, address, and telephone number of the proposed outpatient treatment physician or center. If the physician or eligible psychologist recommends inpatient commitment and the clerk or magistrate finds probable cause to believe that the respondent meets the criteria for inpatient commitment, the clerk or magistrate shall issue an order for transportation to or custody at a 24-hour facility described in G.S. 122C-252. However, if the clerk or magistrate finds probable cause to believe that the respondent, in addition to being mentally ill, is also mentally retarded, the clerk or magistrate shall contact the area authority before issuing the order and the area authority shall designate the facility to which the respondent is to be transported. If a physician or eligible psychologist

executes an affidavit for inpatient commitment of a respondent, a second physician shall be required to perform the examination required by G.S. 122C-266."

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

In the General Assembly read three times and ratified this the 23rd day of June, 2005.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 2:39 p.m. this 29th day of June, 2005