Chapter 7A.

Judicial Department.

SUBCHAPTER I. GENERAL COURT OF JUSTICE.

Article 1.

Judicial Power and Organization.

§ 7A-1. Short title.

This Chapter shall be known and may be cited as the "Judicial Department Act of 1965." (1965, c. 310, s. 1.)

§ 7A-2. Purpose of Chapter.

This Chapter is intended to implement Article IV of the Constitution of North Carolina and promote the just and prompt disposition of litigation by:

(1) Providing a new chapter in the General Statutes into which, at a time not later than January 1, 1971, when the General Court of Justice is fully operational in all counties of the State, all statutes concerning the organization, jurisdiction and administration of each division of the General Court of Justice may be placed;

(2) Amending certain laws with respect to the superior court division to conform them to the laws set forth in this Chapter, to the end that each trial division may be a harmonious part of the General Court of Justice;

(3) Creating the district court division of the General Court of Justice, and the Administrative Office of the Courts;

(4) Establishing in accordance with a fixed schedule the various district courts of the district court division;

(5) Providing for the organization, jurisdiction and procedures necessary for the operation of the district court division;

(6) Providing for the financial support of the judicial department, and for uniform costs and fees in the trial divisions of the General Court of Justice;

(7) Providing for an orderly transition from the present system of courts to a uniform system completely operational in all counties of the State not later than January 1, 1971;

(8) Repealing certain laws inconsistent with the foregoing purposes; and

(9) Effectuating other purposes incidental and supplemental to the foregoing enumerated purposes. (1965, c. 310, s. 1.)

§ 7A-3. Judicial power; transition provisions.

Except for the judicial power vested in the court for the trial of impeachments, and except for such judicial power as may from time to time be vested by the General Assembly in administrative agencies, the judicial power of the State is vested exclusively in the General Court of Justice. Provided, that all existing courts of the State inferior to the superior courts, including justice of the peace courts and mayor's courts, shall continue to exist and to exercise the judicial powers vested in them by law until specifically abolished by law, or until the establishment within the county of their situs of a district court, or until January 1, 1971, whichever event shall first occur. Judgments of inferior courts which cease to exist under the provisions of this section continue in force and

effect as though the issuing court continued to exist, and the General Court of Justice is hereby vested with jurisdiction to enforce such judgments. (1965, c. 310, s. 1.)

§ 7A-4. Composition and organization.

The General Court of Justice constitutes a unified judicial system for purposes of jurisdiction, operation and administration, and consists of an appellate division, a superior court division, and a district court division. (1965, c. 310, s. 1.)

Article 1A.

Retention Elections.

§ 7A-4.1. Retention elections.

(a) A Justice of the Supreme Court who was elected to that office by vote of the voters who desires to continue in office shall be subject to approval by the qualified voters of the whole State in a retention election at the general election immediately preceding the expiration of the elected term. Approval shall be by a majority of votes cast on the issue of the justice's retention in accordance with this Article.

(b) If a Justice of the Supreme Court was appointed to fill a vacancy to that office, then the next election for that office shall be by ballot as provided by Article 25 of Chapter 163 of the General Statutes. Following that election, the justice shall be eligible for retention election as provided for in this Article.

(c) A justice seeking retention shall indicate the desire to continue in office by filing a notice to that effect with the Bipartisan State Board of Elections and Ethics Enforcement no later than 12:00 noon on the first business day of July in the year prior to the general election immediately preceding the expiration of the elected term. The notice shall be on a form provided by the Bipartisan State Board of Elections and Ethics Enforcement. Notice may be withdrawn at any time prior to December 15 of that year. If no retention notice is filed, or if it is filed and timely withdrawn, then an election shall be held the next year to elect a successor in accordance with Article 25 of Chapter 163 of the General Statutes.

(d) At the time of filing the notice under this Article, the justice shall pay to the Bipartisan State Board of Elections and Ethics Enforcement a filing fee for the office the candidate seeks in the amount of one percent (1%) of the annual salary of the office sought.

(e) Except as provided for in this Article, retention elections shall be conducted and canvassed in accordance with rules of the Bipartisan State Board of Elections and Ethics Enforcement in the same general manner as general elections under Chapter 163A of the General Statutes. The Bipartisan State Board of Elections and Ethics Enforcement shall certify the results.

(f) The question on the ballot shall be substantially in the following form, as appropriate:

Justices of the Supreme Court.

"[ ] FOR [ ] AGAINST

The retention of [name of Justice] on the North Carolina Supreme Court for a new term of eight years."

(g) If a person who has filed a notice of intent for a retention election dies or is removed from office prior to the time that the ballots are printed, the retention election is cancelled and the vacancy shall be filled as provided by law. If a person who has filed a notice calling a retention election dies or is removed from office after the ballots are printed, the Bipartisan State Board of Elections and Ethics Enforcement may cancel the retention election if it determines that the ballots can be reprinted without significant expense. If the ballots cannot be reprinted, then the results of the retention election shall be ineffective. (2015-66, s. 1; 2017-6, s. 3.)

§ 7A-4.2. Retention approval; failure to retain.

(a) If the voters vote to approve the retention in office, the justice shall be retained for a new eight-year term.

(b) If the voters fail to approve the retention in office, the office shall be deemed vacant at the end of the term of office, and the vacancy shall be filled as provided by law. (2015-66, s. 1.)

§ 7A-4.3. Reserved for future codification purposes.

§ 7A-4.4. Reserved for future codification purposes.

§ 7A-4.5. Reserved for future codification purposes.

§ 7A-4.6. Reserved for future codification purposes.

§ 7A-4.7. Reserved for future codification purposes.

§ 7A-4.8. Reserved for future codification purposes.

§ 7A-4.9. Reserved for future codification purposes.

§ 7A-4.10. Reserved for future codification purposes.

§ 7A-4.11. Reserved for future codification purposes.

§ 7A-4.12. Reserved for future codification purposes.

§ 7A-4.13. Reserved for future codification purposes.

§ 7A-4.14. Reserved for future codification purposes.

§ 7A-4.15. Reserved for future codification purposes.

§ 7A-4.16. Reserved for future codification purposes.

§ 7A-4.17. Reserved for future codification purposes.

§ 7A-4.18. Reserved for future codification purposes.

§ 7A-4.19. Reserved for future codification purposes.

Article 1B.

Age Limits for Service as Justice or Judge.

§ 7A-4.20. Age limit for service as justice or judge: exception.

No justice or judge of the General Court of Justice may continue in office beyond the last day of the month in which he attains his seventy-second birthday, but justices and judges so retired may be recalled for periods of temporary service as provided in Subchapters II and III of this chapter. (1971, c. 508, s. 1; c. 1194; 1973, c. 248; 1977, c. 736, s. 5; 1981, c. 455, s. 1; 1991 (Reg. Sess., 1992), c. 873, s. 1.)

§ 7A-4.21. Validation of official actions of district court judges of twenty-fifth judicial district performed after mandatory retirement age.

No official action performed by any judge of the twenty-fifth judicial district of the district court division of the General Court of Justice shall be declared to be invalid by reason of the fact that the judge was beyond the mandatory retirement age set out in G.S. 7A-4.20 at the time of his performing any such act; provided this section shall only apply to those official actions performed prior to May 1, 1977. (1977, c. 389.)

SUBCHAPTER II. APPELLATE DIVISION OF THE GENERAL COURT OF JUSTICE.

Article 2.

Appellate Division Organization.

§ 7A-5. Organization.

The appellate division of the General Court of Justice consists of the Supreme Court and the Court of Appeals. (1965, c. 310, s. 1; 1967, c. 108, s. 1.)

§ 7A-6. Appellate division reporters; reports.

(a) The Supreme Court shall appoint one or more reporters for the appellate division, to serve at its pleasure. It shall be the duty of the reporters to prepare for publication the opinions of the Supreme Court and the Court of Appeals. The salary of the reporters shall be fixed by the Administrative Officer of the Courts, subject to the approval of the Supreme Court.

(b) The Administrative Officer of the Courts shall contract for the printing of the reports of the Supreme Court and the Court of Appeals, and for the advance sheets of each court. He shall select a printer for the reports and prescribe such contract terms as will insure issuance of the reports as soon as practicable after a sufficient number of opinions are filed. He shall make such contract after consultation with the Department of

Administration and comparison of prices for similar work in other states to such an extent as may be practicable. He shall also sell the reports and advance sheets of the appellate division, to the general public, at a price not less than cost nor more than cost plus ten percent (10%), to be fixed by him in his discretion. Proceeds of such sales shall be remitted to the State treasury.

(b1) In addition to and as an alternative to the provisions for the publication and sale of the appellate division reports of subsection (a) and subsection (b) of this section, the Supreme Court may designate a commercial law publisher's reports and advance sheets of the opinions of the Supreme Court and the Court of Appeals as the Official Reports of the Appellate Division, or the Administrative Officer of the Courts, with the approval of the Supreme Court, may contract with a commercial law publisher or publishers to act as printer and vendor of the reports and advance sheets of the Supreme Court and the Court of Appeals upon such terms as the Supreme Court deems advisable after consultation with the Department of Administration.

(c) Repealed by Session Laws 2018-40, s. 1, effective June 22, 2018. (1967, c. 108, s. 1; c. 691, s. 57; 1969, c. 1190, s. 1; 1971, c. 377, s. 2; 1975, c. 879, s. 46; 1977, c. 721, s. 1; 1987, c. 404; 2018-40, s. 1.)

§ 7A-7. Law clerks; secretaries and stenographers.

(a) Each justice and judge of the appellate division is entitled to the services of not more than two research assistants, who must be graduates of an accredited law school. The salaries of research assistants shall be set by the Administrative Officer of the Courts, subject to the approval of the Supreme Court.

(b) The Administrative Officer of the Courts shall determine the number and salaries of all secretaries and stenographers in the appellate division. (1967, c. 108, s. 1; 1985, c. 698, s. 8(a).)

§ 7A-8. Reserved for future codification purposes.

§ 7A-9. Reserved for future codification purposes.

Article 3.

The Supreme Court.

§ 7A-10. Organization; compensation of justices.

(a) The Supreme Court shall consist of a Chief Justice and six associate justices, elected by the qualified voters of the State for terms of eight years. Such election shall be under Article 25 of Chapter 163 of the General Statutes or Article 1A of this Chapter. Before entering upon the duties of the office, each justice shall take an oath of office. Four justices shall constitute a quorum for the transaction of the business of the court. Except as otherwise provided in this subsection, sessions of the court shall be held in the city of Raleigh, and scheduled by rule of court so as to discharge expeditiously the court's business. The court may by rule hold sessions not more than twice annually in the Old Chowan County Courthouse (1767) in the Town of Edenton, which is a State-owned court

facility that is designated as a National Historic Landmark by the United States Department of the Interior. The court may by rule hold sessions not more than twice annually in the City of Morganton; unless a more suitable site is identified by the court, the court shall meet in the Old Burke County Courthouse, the location of summer sessions of the Supreme Court from 1847-1862.

(b) The Chief Justice and each of the associate justices shall receive the annual salary provided in Current Operations Appropriations Act. Each justice is entitled to reimbursement for travel and subsistence expenses at the rate allowed State employees generally.

(b1) In addition to the reimbursement for travel and subsistence expenses authorized by subsection (b) of this section, and notwithstanding G.S. 138-6, each justice whose permanent residence is at least 50 miles from the City of Raleigh shall also be reimbursed for the mileage the justice travels each week to the City of Raleigh from the justice's home for business of the court. The reimbursement authorized by this subsection shall be calculated for each justice by multiplying the actual round-trip mileage from that justice's home to the City of Raleigh by a rate-per-mile established by the Director of the Administrative Office of the Courts, but not to exceed the business standard mileage rate set by the Internal Revenue Service.

(c) In lieu of merit and other increment raises paid to regular State employees, the Chief Justice and each of the Associate Justices shall receive as longevity pay an annual amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, nineteen and two-tenths percent (19.2%) after 20 years of service, and twenty-four percent (24%) after 25 years of service. "Service" means service as a justice or judge of the General Court of Justice, as a member of the Utilities Commission, or as an administrative law judge. Service shall also mean service as a district attorney or as a clerk of superior court. (1967, c. 108, s. 1; 1983, c. 761, s. 242; 1983 (Reg. Sess., 1984), c. 1034, s. 165; c. 1109, ss. 11, 13.1; 1985, c. 698, s. 10(a); 1997-56, s. 1; 2007-323, ss. 14.21(a), 28.18A(a); 2015-66, s. 2; 2015-89, s. 1; 2017-57, s. 35.4(d).)

§ 7A-10.1. Authority to prescribe standards of judicial conduct.

The Supreme Court is authorized, by rule, to prescribe standards of judicial conduct for the guidance of all justices and judges of the General Court of Justice. (1973, c. 89.)

§ 7A-11. Clerk of the Supreme Court; salary; bond; fees; oath.

The clerk of the Supreme Court shall be appointed by the Supreme Court to serve at its pleasure. The annual salary of the clerk shall be fixed by the Administrative Officer of the Courts, subject to the approval of the Supreme Court. The clerk may appoint assistants in the number and at the salaries fixed by the Administrative Officer of the Courts. The clerk shall perform such duties as the Supreme Court may assign, and shall be bonded to the State, for faithful performance of duty, in the same manner as the clerk of the superior court, and in such amount as the Administrative Officer of the Courts shall determine. He

shall adopt a seal of office, to be approved by the Supreme Court. A fee bill for services rendered by the clerk shall be fixed by rules of the Supreme Court, and all such fees shall be remitted to the State treasury. Charges to litigants for the reproduction of appellate records and briefs shall be fixed by rule of the Supreme Court and remitted to the Appellate Courts Printing and Computer Operations Fund established in G.S. 7A-343.3. The operations of the Clerk of the Supreme Court shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. Before entering upon the duties of his office, the clerk shall take the oath of office prescribed by law. (1967, c. 108, s. 1; 1969, c. 1190, s. 2; 1973, c. 750; 1983, c. 913, s. 3; 2002-126, s. 2.2(j).)

§ 7A-12. Supreme Court marshal.

The Supreme Court may appoint a marshal to serve at its pleasure, and to perform such duties as it may assign. The marshal shall have the criminal and civil powers of a sheriff, and any additional powers necessary to execute the orders of the appellate division in any county of the State. His salary shall be fixed by the Administrative Officer, subject to the approval of the Supreme Court. The marshal may appoint such assistants, and at such salaries, as may be authorized by the Administrative Officer of the Courts. The Supreme Court, in its discretion, may appoint the Supreme Court librarian, or some other suitable employee of the court, to serve in the additional capacity of marshal. (1967, c. 108, s. 1.)

§ 7A-13. Supreme Court library; functions; librarian; library committee; seal of office.

(a) The Supreme Court shall appoint a librarian of the Supreme Court library, to serve at the pleasure of the court. The annual salary of the librarian shall be fixed by the Administrative Officer of the Courts, subject to the approval of the Supreme Court. The librarian may appoint assistants in numbers and at salaries to be fixed by the Administrative Officer of the Courts.

(b) The primary function of the Supreme Court library is to serve the appellate division of the General Court of Justice, but it may render service to the trial divisions of the General Court of Justice, to State agencies, and to the general public, under such regulations as the librarian, subject to the approval of the library committee, may promulgate.

(c) The library shall be maintained in the city of Raleigh, except that if the Court of Appeals sits regularly in locations other than the city of Raleigh, branch libraries may be established at such locations for the use of the Court of Appeals.

(d) The librarian shall promulgate rules and regulations for the use of the library, subject to the approval of a library committee, to be composed of two justices of the Supreme Court appointed by the Chief Justice, and one judge of the Court of Appeals appointed by the Chief Judge.

(e) The librarian may adopt a seal of office.

(f) The librarian may operate a copying service by means of which he may furnish certified or uncertified copies of all or portions of any document, paper, book, or other writing in the library that legally may be copied. When a certificate is made under his hand

and attested by his official seal, it shall be received as prima facie evidence of the correctness of the matter therein contained, and as such shall receive full faith and credit. The fees for copies shall be approved by the library committee, and the fees so collected shall be administered in the same manner as the charges to litigants for the reproduction of appellate records and briefs. (1967, c. 108, s. 1.)

§ 7A-14. Reprints of Supreme Court Reports.

The Supreme Court is authorized to have such of the Reports of the Supreme Court of the State of North Carolina as are not on hand for sale, republished and numbered consecutively, retaining the present numbers and names of the reporters and by means of star pages in the margin retaining the original numbering of the pages. The Supreme Court is authorized to have such Reports reprinted without any alteration from the original edition thereof, except as may be directed by the Supreme Court. The contract for such reprinting and republishing shall be made by the Administrative Office of the Courts in the manner prescribed in G.S. 7A-6. Such republication shall thus continue until the State shall have for sale all of such Reports; and hereafter when the editions of any number or volume of the Supreme Court Reports shall be exhausted, it shall be the duty of the Supreme Court to have the same reprinted under the provisions of this section and G.S. 7A-6. In reprinting the Reports that have already been annotated, the annotations and the additional indexes therein shall be retained. (Code, s. 3634; 1885, c. 309; 1889, c. 473, ss. 1-4, 6; Rev., s. 5361; 1907, c. 503; 1917, cc. 201, 292; C.S., s. 7671; 1923, c. 176; 1929, c. 39, s. 2; 1975, c. 328.)

§ 7A-15. Reserved for future codification purposes.

Article 4.

Court of Appeals.

§ 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.

On or after December 15, 2000, the Governor shall appoint three additional judges to increase the number of judges to 15.

On or after January 1, 2017, whenever the seat of an incumbent judge becomes vacant prior to the expiration of the judge's term due to the death, resignation, retirement, impeachment, or removal pursuant to G.S. 7A-374.2(8) of the incumbent judge, that seat is abolished until the total number of Court of Appeals seats is decreased to 12.

The Court of Appeals shall sit in panels of three judges each and may also sit en banc to hear or rehear any cause upon a vote of the majority of the judges of the court. The Chief Judge insofar as practicable shall assign the members to panels in such fashion that each member sits a substantially equal number of times with each other member, shall preside when a member of a panel, and shall designate the presiding judge of the other panel or panels.

Except as may be provided in G.S. 7A-32, three judges shall constitute a quorum for the transaction of the business of the court when sitting in panels of three judges, and a majority of the then sitting judges on the Court of Appeals shall constitute a quorum for the transaction of the business of the court when sitting en banc.

In the event the Chief Judge is unable, on account of absence or temporary incapacity, to perform the duties placed upon him as Chief Judge, the Chief Justice shall appoint an acting Chief Judge from the other judges of the Court, to temporarily discharge the duties of Chief Judge. (1967, c. 108, s. 1; 1969, c. 1190, s. 3; 1973, c. 301; 1977, c. 1047; 2000-67, s. 15.5(a); 2004-203, s. 16; 2016-125, 4th Ex. Sess., s. 22(a); 2017-7, s. 1.)

§ 7A-17: Repealed by Session Laws 1969, c. 1190, s. 57.

§ 7A-18. Compensation of judges.

(a) The Chief Judge and each associate judge of the Court of Appeals shall receive the annual salary provided in the Current Operations Appropriations Act. Each judge is entitled to reimbursement for travel and subsistence expenses at the rate allowed State employees generally.

(a1) In addition to the reimbursement for travel and subsistence expenses authorized by subsection (a) of this section, and notwithstanding G.S. 138-6, each judge whose permanent residence is at least 50 miles from the City of Raleigh shall also be reimbursed for the mileage the judge travels each week to the City of Raleigh from the judge's home for business of the court. The reimbursement authorized by this subsection shall be calculated for each judge by multiplying the actual round-trip mileage from that judge's home to the City of Raleigh by a rate-per-mile established by the Director of the Administrative Office of the Courts, but not to exceed the business standard mileage rate set by the Internal Revenue Service.

(b) In lieu of merit and other increment raises paid to regular State employees, a judge of the Court of Appeals shall receive as longevity pay an annual amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, nineteen and two-tenths percent (19.2%) after 20 years of service, and twenty-four percent (24%) after 25 years of service. "Service" means service as a justice or judge of the General Court of Justice, as a member of the Utilities Commission, as an administrative law judge, or as the Director of the Administrative Office of the Courts. Service shall also mean service as a district attorney or as a clerk of superior court. (1967, c. 108, s. 1; 1983, c. 761, s. 243; 1983 (Reg. Sess., 1984), c. 1034, s. 165; c. 1109, ss. 11, 13.1; 1985, c. 698, s. 10(a); 2007-323, ss. 14.21(b), 28.18A(b); 2015-241, s. 30.3(e); 2017-57, s. 35.4(e).)

§ 7A-19. Seats and sessions of court.

(a) The Court of Appeals shall sit in Raleigh, and at such other locations within the State as the Supreme Court may designate.

(b) The Department of Administration shall provide adequate quarters for the Court of Appeals.

(c) The Chief Judge shall schedule sessions of the court as required to discharge expeditiously the court's business. (1967, c. 108, s. 1.)

§ 7A-20. Clerk; oath; bond; salary; assistants; fees.

(a) The Court of Appeals shall appoint a clerk to serve at its pleasure. Before entering upon his duties, the clerk shall take the oath of office prescribed for the clerk of the Supreme Court, conformed to the office of clerk of the Court of Appeals, and shall be bonded, in the same manner as the clerk of superior court, in an amount prescribed by the Administrative Officer of the Courts, payable to the State, for the faithful performance of his duties. The salary of the clerk shall be fixed by the Administrative Officer of the Courts, subject to the approval of the Court of Appeals. The number and salaries of his assistants, and their bonds, if required, shall be fixed by the Administrative Officer of the Courts. The clerk shall adopt a seal of office, to be approved by the Court of Appeals.

(b) Subject to approval of the Supreme Court, the Court of Appeals shall promulgate from time to time a fee bill for services rendered by the clerk, and such fees shall be remitted to the State Treasurer. Charges to litigants for the reproduction of appellate

records and briefs shall be fixed by rule of the Supreme Court and remitted to the Appellate Courts Printing and Computer Operations Fund established in G.S. 7A-343.3. The operations of the Court of Appeals shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. (1967, c. 108, s. 1; 1983, c. 913, s. 4; 2002-126, s. 2.2(k).)

§ 7A-21. Marshal; powers; salary.

The Court of Appeals may appoint a marshal to serve at its pleasure and to perform such duties as it may assign. The marshal shall have the criminal and civil powers of a sheriff and any additional powers necessary to execute the orders of the appellate division in any county of the State. His salary shall be fixed by the Administrative Officer, subject to the approval of the Court of Appeals. (1981, c. 485.)

§ 7A-22. Reserved for future codification purposes.

§ 7A-23. Reserved for future codification purposes.

§ 7A-24. Reserved for future codification purposes.

Article 5.

Jurisdiction.

§ 7A-25. Original jurisdiction of the Supreme Court.

The Supreme Court has original jurisdiction to hear claims against the State, but its decisions shall be merely recommendatory; no process in the nature of execution shall issue thereon; the decisions shall be reported to the next session of the General Assembly for its action. The court shall by rule prescribe the procedures to be followed in the proper exercise of the jurisdiction conferred by this section. (1967, c. 108, s. 1.)

§ 7A-26. Appellate jurisdiction of the Supreme Court and the Court of Appeals.

The Supreme Court and the Court of Appeals respectively have jurisdiction to review upon appeal decisions of the several courts of the General Court of Justice and of administrative agencies, upon matters of law or legal inference, in accordance with the system of appeals provided in this Article. (1967, c. 108, s. 1.)

§ 7A-27. Appeals of right from the courts of the trial divisions.

(a) Appeal lies of right directly to the Supreme Court in any of the following cases:

(1) All cases in which the defendant is convicted of murder in the first degree and the judgment of the superior court includes a sentence of death.

(2) From any final judgment in a case designated as a mandatory complex business case pursuant to G.S. 7A-45.4 or designated as a discretionary complex business case pursuant to Rule 2.1 of the General Rules of Practice for the Superior and District Courts.

(3) From any interlocutory order of a Business Court Judge that does any of the following:
   a. Affects a substantial right.
   b. In effect determines the action and prevents a judgment from which an appeal might be taken.
   c. Discontinues the action.
   d. Grants or refuses a new trial.
(4) Any trial court's decision regarding class action certification under G.S. 1A-1, Rule 23.
(5) **(Effective January 1, 2019 – see editor's note)** Any order that terminates parental rights or denies a petition or motion to terminate parental rights.

(a1) Repealed by Session Laws 2016-125, s. 22(b), 4th Ex. Sess., effective December 1, 2016.

(b) Except as provided in subsection (a) of this section, appeal lies of right directly to the Court of Appeals in any of the following cases:
(1) From any final judgment of a superior court, other than one based on a plea of guilty or nolo contendere, including any final judgment entered upon review of a decision of an administrative agency, except for a final judgment entered upon review of a court martial under G.S. 127A-62.
(2) From any final judgment of a district court in a civil action.
(3) From any interlocutory order or judgment of a superior court or district court in a civil action or proceeding that does any of the following:
   a. Affects a substantial right.
   b. In effect determines the action and prevents a judgment from which an appeal might be taken.
   c. Discontinues the action.
   d. Grants or refuses a new trial.
   e. Determines a claim prosecuted under G.S. 50-19.1.
   f. Grants temporary injunctive relief restraining the State or a political subdivision of the State from enforcing the operation or execution of an act of the General Assembly. This sub-subdivision only applies where the State or a political subdivision of the State is a party in the civil action.
(4) From any other order or judgment of the superior court from which an appeal is authorized by statute.

(c) through (e) Repealed by Session Laws 2013-411, s. 1, effective August 23, 2013.

(1967, c. 108, s. 1; 1971, c. 377, s. 3; 1973, c. 704; 1977, c. 711, s. 4; 1987, c. 679; 1995, c. 204, s. 1; 2010-193, s. 17; 2013-411, s. 1; 2014-100, s. 18B.16(e); 2014-102, s. 1; 2015-264, s. 1(b); 2016-125, 4th Ex. Sess., s. 22(b); 2017-7, s. 2.)

§ 7A-28. Decisions of Court of Appeals on post-trial motions for appropriate relief, valuation of exempt property, or courts-martial are final.

(a) Decisions of the Court of Appeals upon review of motions for appropriate relief listed in G.S. 15A-1415(b) are final and not subject to further review in the Supreme Court by appeal, motion, certification, writ, or otherwise.

(b) Decisions of the Court of Appeals upon review of valuation of exempt property under G.S. 1C are final and not subject to further review in the Supreme Court by appeal, motion, certification, writ, or otherwise.

(c) Decisions of the Court of Appeals upon review of courts-martial under G.S. 127A-62 are final and not subject to further review in the Supreme Court by appeal, motion, certification, writ, or otherwise. (1981, c. 470, s. 1; 1981 (Reg. Sess., 1982), c. 1224, s. 16.; 2010-193, s. 18.)

§ 7A-29. Appeals of right from certain administrative agencies.

(a) From any final order or decision of the North Carolina Utilities Commission not governed by subsection (b) of this section, the Department of Health and Human Services under G.S. 131E-188(b), the North Carolina Industrial Commission, the North Carolina State Bar under G.S. 84-28, the Property Tax Commission under G.S. 105-290 and G.S. 105-342, the Commissioner of Insurance under G.S. 58-2-80, the Bipartisan State Board of Elections and Ethics Enforcement under G.S. 163A-1030, the Office of Administrative Hearings under G.S. 126-34.02, or the Secretary of Environmental Quality under G.S. 104E-6.2 or G.S. 130A-293, appeal as of right lies directly to the Court of Appeals.

(b) From any final order or decision of the Utilities Commission in a general rate case, appeal as of right lies directly to the Supreme Court. (1967, c. 108, s. 1; 1971, c. 703, s. 5; 1975, c. 582, s. 12; 1979, c. 584, s. 1; 1981, c. 704, s. 28; 1983, c. 526, s. 1; c. 761, s. 188; 1983 (Reg. Sess., 1984), c. 1000, s. 2; c. 1087, s. 2; c. 1113, s. 2; 1985, c. 462, s. 3; 1987, c. 850, s. 2; 1991, c. 546, s. 2; c. 679, s. 2; 1993, c. 501, s. 2; 1995, c. 115, s. 1; c. 504, s. 2; c. 509, s. 2; 1997-443, ss. 11A.118(a), 11A.119(a); 2003-63, s. 1; 2006-155, s. 1.1; 2013-382, s. 6.4; 2015-241, s. 14.30(v); 2017-6, s. 3.)

§ 7A-30. Appeals of right from certain decisions of the Court of Appeals.

Except as provided in G.S. 7A-28, an appeal lies of right to the Supreme Court from any decision of the Court of Appeals rendered in a case:

(1) Which directly involves a substantial question arising under the Constitution of the United States or of this State, or

(2) In which there is a dissent when the Court of Appeals is sitting in a panel of three judges. An appeal of right pursuant to this subdivision is not effective until after the Court of Appeals sitting en banc has rendered a decision in the case, if the Court of Appeals hears the case en banc, or until after the time for filing a motion for rehearing of the cause by the Court of Appeals has expired or the Court of Appeals has denied the motion for rehearing. (1967, c. 108, s. 1; 1983, c. 526, s. 2; 2016-125, 4th Ex. Sess., s. 22(c).)

§ 7A-31. Discretionary review by the Supreme Court.

(a) In any cause in which appeal is taken to the Court of Appeals, including any cause heard while the Court of Appeals was sitting en banc, except a cause appealed from the North Carolina Industrial Commission, the North Carolina State Bar pursuant to G.S. 84-28, the Property Tax Commission pursuant to G.S. 105-345, the Board of State Contract Appeals pursuant to G.S. 143-135.9, the Commissioner of Insurance pursuant to G.S. 58-2-80 or G.S. 58-65-131(c), a court-martial pursuant to G.S. 127A-62, a motion for appropriate relief, or valuation of exempt property pursuant to G.S. 7A-28, the Supreme Court may, in its discretion, on motion of any party to the cause or on its own motion, certify the cause for review by the Supreme Court, either before or after it has been determined by the Court of Appeals. A cause appealed to the Court of Appeals from any of the administrative bodies listed in the preceding sentence may be certified in similar fashion, but only after determination of the cause in the Court of Appeals. The effect of such certification is to transfer the cause from the Court of Appeals to the Supreme Court for review by the Supreme Court. If the cause is certified for transfer to the Supreme Court before its determination in the Court of Appeals, review is not had in the Court of Appeals but the cause is forthwith transferred for review in the first instance by the Supreme Court. If the cause is certified for transfer to the Supreme Court after its determination by the Court of Appeals, the Supreme Court reviews the decision of the Court of Appeals.

Except in courts-martial and motions within the purview of G.S. 7A-28, the State may move for certification for review of any criminal cause, but only after determination of the cause by the Court of Appeals.

(b) In causes subject to certification under subsection (a) of this section, certification may be made by the Supreme Court before determination of the cause by the Court of Appeals when in the opinion of the Supreme Court any of the following apply:

(1) The subject matter of the appeal has significant public interest.
(2) The cause involves legal principles of major significance to the jurisprudence of the State.
(3) Delay in final adjudication is likely to result from failure to certify and thereby cause substantial harm.
(4) The work load of the courts of the appellate division is such that the expeditious administration of justice requires certification.
(5) The subject matter of the appeal is important in overseeing the jurisdiction and integrity of the court system.

(c) In causes subject to certification under subsection (a) of this section, certification may be made by the Supreme Court after determination of the cause by the Court of Appeals when in the opinion of the Supreme Court any of the following apply:

(1) The subject matter of the appeal has significant public interest.
(2) The cause involves legal principles of major significance to the jurisprudence of the State.
(3) The decision of the Court of Appeals appears likely to be in conflict with a decision of the Supreme Court.

Interlocutory determinations by the Court of Appeals, including orders remanding the cause for a new trial or for other proceedings, shall be certified for review by the Supreme Court only upon a determination by the Supreme Court that failure to certify would cause a delay in final adjudication which would probably result in substantial harm.

(d) The procedure for certification by the Supreme Court on its own motion, or upon petition of a party, shall be prescribed by rule of the Supreme Court. (1967, c. 108, s. 1; 1969, c. 1044; 1975, c. 555; 1977, c. 711, s. 5; 1981, c. 470, s. 2; 1981 (Reg. Sess., 1982), c. 1224, s. 17; c. 1253, s. 1; 1983, c. 526, s. 3; c. 761, s. 189; 2010-193, s. 19; 2016-125, 4th Ex. Sess., s. 22(d); 2017-7, s. 3.)

§ 7A-31.1. Discretionary Review by the Court of Appeals.

(a) In the case of a court-martial in which appeal is taken to the Wake County Superior Court under G.S. 127A-62, the Court of Appeals may, in its discretion, on motion of any party to the cause or on its own motion, certify the cause for review by the Court of Appeals after it has been reviewed by the Wake County Superior Court. The effect of such certification is to transfer the cause from the Wake County Superior Court to the Court of Appeals, and the Court of Appeals reviews the decision by the Wake County Superior Court.

(b) In causes subject to certification under subsection (a) of this section, certification may be made by the Court of Appeals after determination of the cause by the Wake County Superior Court when in the opinion of the Court of Appeals:

(1) The subject matter of the appeal has significant public interest, or

(2) The cause involves legal principles of major significance to the jurisprudence of the State, or

(3) The decision of the Wake County Superior Court appears likely to be in conflict with a decision of the United States Court of Appeals for the Armed Forces.

Interlocutory determinations by the Wake County Superior Court, including orders remanding the cause for a new trial or for other proceedings, shall be certified for review by the Court of Appeals only upon a determination by the Court of Appeals that failure to certify would cause a delay in final adjudication which would probably result in substantial harm.

(c) Any rules for practice and procedure for review of courts-martial that may be required shall be prescribed pursuant to G.S. 7A-33. (2010-193, s. 20.)

§ 7A-32. Power of Supreme Court and Court of Appeals to issue remedial writs.

(a) The Supreme Court and the Court of Appeals have jurisdiction, exercisable by any one of the justices or judges of the respective courts, to issue the writ of habeas corpus upon the application of any person described in G.S. 17-3, according to the practice and procedure provided therefor in chapter 17 of the General Statutes, and to rule of the Supreme Court.

(b) The Supreme Court has jurisdiction, exercisable by one justice or by such number of justices as the court may by rule provide, to issue the prerogative writs, including mandamus, prohibition, certiorari, and supersedeas, in aid of its own jurisdiction or in exercise of its general power to supervise and control the proceedings of any of the other courts of the General Court of

Justice. The practice and procedure shall be as provided by statute or rule of the Supreme Court, or, in the absence of statute or rule, according to the practice and procedure of the common law.

(c) The Court of Appeals has jurisdiction, exercisable by one judge or by such number of judges as the Supreme Court may by rule provide, to issue the prerogative writs, including mandamus, prohibition, certiorari, and supersedeas, in aid of its own jurisdiction, or to supervise and control the proceedings of any of the trial courts of the General Court of Justice, and of the Utilities Commission and the Industrial Commission. The practice and procedure shall be as provided by statute or rule of the Supreme Court, or, in the absence of statute or rule, according to the practice and procedure of the common law. (1967, c. 108, s. 1.)

§ 7A-33. Supreme Court to prescribe appellate division rules of practice and procedure.

The Supreme Court shall prescribe rules of practice and procedure designed to procure the expeditious and inexpensive disposition of all litigation in the appellate division. (1967, c. 108, s. 1.)

§ 7A-34. Rules of practice and procedure in trial courts.

The Supreme Court is hereby authorized to prescribe rules of practice and procedure for the superior and district courts supplementary to, and not inconsistent with, acts of the General Assembly. (1967, c. 108, s. 1.)

§ 7A-34.1: Repealed by Session Laws 2011-145, s. 31.23(f), effective July 1, 2011.

§ 7A-35. Repealed by Session Laws 1971, c. 377, s. 32.

§ 7A-36. Repealed by Session Laws 1969, c. 1190, s. 57.

§ 7A-37: Repealed by Session Laws 1993, c. 553, s. 1.

§ 7A-37.1. Statewide court-ordered, nonbinding arbitration in certain civil actions.

(a) The General Assembly finds that court-ordered, nonbinding arbitration may be a more economical, efficient and satisfactory procedure to resolve certain civil actions than by traditional civil litigation and therefore authorizes court-ordered nonbinding arbitration as an alternative civil procedure, subject to these provisions.

(b) The Supreme Court of North Carolina may adopt rules governing this procedure and may supervise its implementation and operation through the Administrative Office of the Courts. These rules shall ensure that no party is deprived of the right to jury trial and that any party dissatisfied with an arbitration award may have trial de novo.

(c) Except as otherwise provided in rules promulgated by the Supreme Court of North Carolina pursuant to subsection (b) of this section, this procedure shall be employed in all civil actions in district court, unless all parties to the action waive arbitration under this section.

(c1) Except as provided in subsection (c2) of this section, in cases referred to nonbinding arbitration as provided in this section, a fee of one hundred dollars ($100.00) shall be assessed per arbitration, to be divided equally among the parties, to cover the cost of providing arbitrators. Fees assessed under this section shall be paid to the clerk of

superior court in the county where the case was filed and remitted by the clerk to the State Treasurer.

(c2) In appeals in small claims actions under Article 19 of Chapter 7A of the General Statutes, if (i) the arbitrator finds in favor of the appellee, (ii) the arbitrator's decision is appealed for trial de novo under G.S. 7A-229, and (iii) the arbitrator's decision is affirmed on appeal, then the court shall consider the fact that the arbitrator's decision was affirmed as a significant factor in favor of assessing all court costs and attorneys' fees associated with the case in both the original action and the two appeals, including the arbitration fee assessed under subsection (c1) of this section, against the appellant.

(d) This procedure may be implemented in a judicial district, in selected counties within a district, or in any court within a district, if the Director of the Administrative Office of the Courts, and the cognizant Senior Resident Superior Court Judge or the Chief District Court Judge of any court selected for this procedure, determine that use of this procedure may assist in the administration of justice toward achieving objectives stated in subsection (a) of this section in a judicial district, county, or court. The Director of the Administrative Office of the Courts, acting upon the recommendation of the cognizant Senior Resident Superior Court Judge or Chief District Court Judge of any court selected for this procedure, may terminate this procedure in any judicial district, county, or court upon a determination that its use has not accomplished objectives stated in subsection (a) of this section.

(e) Arbitrators in this procedure shall have the same immunity as judges from civil liability for their official conduct. (1989, c. 301, s. 1; 2002-126, s. 14.3(a); 2003-284, s. 36A.1; 2013-159, s. 3; 2013-225, s. 1.)

§ 7A-38: Repealed by Session Laws 1995, c. 500, s. 3.

§ 7A-38.1. Mediated settlement conferences in superior court civil actions.

(a) Purpose. – The General Assembly finds that a system of court-ordered mediated settlement conferences should be established to facilitate the settlement of superior court civil actions and to make civil litigation more economical, efficient, and satisfactory to litigants and the State. Therefore, this section is enacted to require parties to superior court civil actions and their representatives to attend a pretrial, mediated settlement conference conducted pursuant to this section and pursuant to rules of the Supreme Court adopted to implement this section.

(b) Definitions. – As used in this section:

(1) "Mediated settlement conference" means a pretrial, court-ordered conference of the parties to a civil action and their representatives conducted by a mediator.

(2) "Mediation" means an informal process conducted by a mediator with the objective of helping parties voluntarily settle their dispute.

(3) "Mediator" means a neutral person who acts to encourage and facilitate a resolution of a pending civil action. A mediator does not make an award or render a judgment as to the merits of the action.

(c) Rules of procedure. – The Supreme Court may adopt rules to implement this section.

(d) Statewide implementation. – Mediated settlement conferences authorized by this section shall be implemented in all judicial districts as soon as practicable, as determined by the Director of the Administrative Office of the Courts.

(e) Cases selected for mediated settlement conferences. – The senior resident superior court judge of any participating district may order a mediated settlement conference for any superior court civil action pending in the district. The senior resident superior court judge may by local rule order all cases, not otherwise exempted by the Supreme Court rule, to mediated settlement conference.

(f) Attendance of parties. – The parties to a superior court civil action in which a mediated settlement conference is ordered, their attorneys and other persons or entities with authority, by law or by contract, to settle the parties' claims shall attend the mediated settlement conference unless excused by rules of the Supreme Court or by order of the senior resident superior court judge. Nothing in this section shall require any party or other participant in the conference to make a settlement offer or demand which it deems is contrary to its best interests.

(g) Sanctions. – Any person required to attend a mediated settlement conference or other settlement procedure under this section who, without good cause, fails to attend or fails to pay any or all of the mediator's or other neutral's fee in compliance with this section and the rules promulgated by the Supreme Court to implement this section is subject to the contempt powers of the court and monetary sanctions imposed by a resident or presiding superior court judge. The monetary sanctions may include the payment of fines, attorneys' fees, mediator and neutral fees, and the expenses and loss of earnings incurred by persons attending the procedure. A party seeking sanctions against another party or person shall do so in a written motion stating the grounds for the motion and the relief sought. The motion shall be served upon all parties and upon any person against whom the sanctions are being sought. The court may initiate sanction proceedings upon its own motion by the entry of a show cause order. If the court imposes sanctions, it shall do so, after notice and a hearing, in a written order, making findings of fact and conclusions of law. An order imposing sanctions shall be reviewable upon appeal where the entire record as submitted shall be reviewed to determine whether the order is supported by substantial evidence.

(h) Selection of mediator. – The parties to a superior court civil action in which a mediated settlement conference is to be held pursuant to this section shall have the right to designate a mediator. Upon failure of the parties to designate a mediator within the time established by the rules of the Supreme Court, a mediator shall be appointed by the senior resident superior court judge.

(i) Promotion of other settlement procedures. – Nothing in this section is intended to preclude the use of other dispute resolution methods within the superior court. Parties to a superior court civil action are encouraged to select other available dispute resolution methods. The senior resident superior court judge, at the request of and with the consent of the parties, may order the parties to attend and participate in any other settlement procedure authorized by rules of the Supreme Court or by the local superior court rules, in lieu of

attending a mediated settlement conference. Neutral third parties acting pursuant to this section shall be selected and compensated in accordance with such rules or pursuant to agreement of the parties. Nothing in this section shall prohibit the parties from participating in, or the court from ordering, other dispute resolution procedures, including arbitration to the extent authorized under State or federal law.

(j) Immunity. – Mediator and other neutrals acting pursuant to this section shall have judicial immunity in the same manner and to the same extent as a judge of the General Court of Justice, except that mediators and other neutrals may be disciplined in accordance with enforcement procedures adopted by the Supreme Court pursuant to G.S. 7A-38.2.

(k) Costs of mediated settlement conference. – Costs of mediated settlement conferences shall be borne by the parties. Unless otherwise ordered by the court or agreed to by the parties, the mediator's fees shall be paid in equal shares by the parties. For purposes of this section, multiple parties shall be considered one party when they are represented by the same counsel. The rules adopted by the Supreme Court implementing this section shall set out a method whereby parties found by the court to be unable to pay the costs of the mediated settlement conference are afforded an opportunity to participate without cost. The rules adopted by the Supreme Court shall set the fees to be paid a mediator appointed by a judge upon the failure of the parties to designate a mediator.

(*l*) Inadmissibility of negotiations. – Evidence of statements made and conduct occurring in a mediated settlement conference or other settlement proceeding conducted under this section, whether attributable to a party, the mediator, other neutral, or a neutral observer present at the settlement proceeding, shall not be subject to discovery and shall be inadmissible in any proceeding in the action or other civil actions on the same claim, except:

(1) In proceedings for sanctions under this section;
(2) In proceedings to enforce or rescind a settlement of the action;
(3) In disciplinary hearings before the State Bar or the Dispute Resolution Commission; or
(4) In proceedings to enforce laws concerning juvenile or elder abuse.

As used in this section, the term "neutral observer" includes persons seeking mediator certification, persons studying dispute resolution processes, and persons acting as interpreters.

No settlement agreement to resolve any or all issues reached at the proceeding conducted under this subsection or during its recesses shall be enforceable unless it has been reduced to writing and signed by the parties against whom enforcement is sought. No evidence otherwise discoverable shall be inadmissible merely because it is presented or discussed in a mediated settlement conference or other settlement proceeding.

No mediator, other neutral, or neutral observer present at a settlement proceeding shall be compelled to testify or produce evidence concerning statements made and conduct occurring in anticipation of, during, or as a follow-up to a mediated settlement conference or other settlement proceeding pursuant to this section in any civil proceeding for any purpose, including proceedings to enforce or rescind a settlement of the action, except to attest to the signing of any agreements, and except proceedings for sanctions under this

section, disciplinary hearings before the State Bar or the Dispute Resolution Commission, and proceedings to enforce laws concerning juvenile or elder abuse.

(m) Right to jury trial. – Nothing in this section or the rules adopted by the Supreme Court implementing this section shall restrict the right to jury trial. (1995, c. 500, s. 1; 1999-354, s. 5; 2005-167, s. 1; 2008-194, s. 8(a); 2015-57, s. 1; 2017-158, s. 26.7(a).)

§ 7A-38.2. Regulation of mediators and other neutrals.

(a) The Supreme Court may adopt standards of conduct for mediators and other neutrals who are certified or otherwise qualified pursuant to G.S. 7A-38.1, 7A-38.3, 7A-38.3B, 7A-38.3D, 7A-38.3E, and 7A-38.4A, or who participate in proceedings conducted pursuant to those sections. The standards may also regulate mediator and other neutral training programs. The Supreme Court may adopt procedures for the enforcement of those standards.

(b) The administration of the certification and qualification of mediators and other neutrals, and mediator and other neutral training programs shall be conducted through the Dispute Resolution Commission, established under the Judicial Department. The Supreme Court shall adopt rules and regulations governing the operation of the Commission. The Commission shall exercise all of its duties independently of the Director of the Administrative Office of the Courts, except that the Commission shall consult with the Director regarding personnel and budgeting matters.

(c) The Dispute Resolution Commission shall consist of 17 members: five judges appointed by the Chief Justice of the Supreme Court, at least two of whom shall be active superior court judges, and at least two of whom shall be active district court judges; one clerk of superior court appointed by the Chief Justice of the Supreme Court; two mediators certified to conduct superior court mediated settlement conferences and two mediators certified to conduct equitable distribution mediated settlement conferences appointed by the Chief Justice of the Supreme Court; one certified district criminal court mediator who is a representative of a community mediation center appointed by the Chief Justice of the Supreme Court; a district attorney appointed by the Chief Justice of the Supreme Court; two practicing attorneys who are not certified as mediators appointed by the President of the North Carolina State Bar, one of whom shall be a family law specialist; and three citizens knowledgeable about mediation, one of whom shall be appointed by the Governor, one by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, and one by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. Commission members shall serve three-year terms and shall be ineligible to serve more than two consecutive terms. Members appointed to fill unexpired terms shall be eligible to serve two consecutive terms upon the expiration of the unexpired term. The Chief Justice shall designate one of the members to serve as chair for a two-year term. Members of the Commission shall be compensated pursuant to G.S. 138-5.

Vacancies shall be filled for unexpired terms and full terms in the same manner as incumbents were appointed. Appointing authorities may receive and consider suggestions and recommendations of persons for appointment from the Dispute Resolution

Commission, the Family Law, Litigation, and Dispute Resolution Sections of the North Carolina Bar Association, the North Carolina Association of Professional Family Mediators, the North Carolina Conference of Clerks of Superior Court, the North Carolina Conference of Court Administrators, the Mediation Network of North Carolina, the Dispute Resolution Committee of the Supreme Court, the Conference of Chief District Court Judges, the Conference of Superior Court Judges, the Director of the Administrative Office of the Courts, and the Child Custody Mediation Advisory Committee of the Administrative Office of the Courts.

(d) An administrative fee, not to exceed two hundred dollars ($200.00) per certification, may be charged by the Dispute Resolution Commission to applicants for certification and annual renewal of certification for mediators and mediation training programs operating under this Article. The fees collected shall be deposited in a Dispute Resolution Fund. The Fund shall be established within the Judicial Department as a nonreverting, interest-bearing special revenue account. Accordingly, interest and other investment income earned by the Fund shall be credited to it. All moneys collected through the fees authorized and assessed under this statute shall be remitted to the Fund. Moneys in the Fund shall be used to support the operations of the Commission and used at the direction of the Commission.

(e) The chair of the Commission may employ an executive director and other staff as necessary to assist the Commission in carrying out its duties. The chair may also employ special counsel or call upon the Attorney General to furnish counsel to assist the Commission in conducting hearings pursuant to its certification or qualification and regulatory responsibilities. Special counsel or counsel furnished by the Attorney General may present the evidence in support of a denial or revocation of certification or qualification or a complaint against a mediator, other neutral, training program, or trainers or staff affiliated with a program. Special counsel or counsel furnished by the Attorney General may also represent the Commission when its final determinations are the subject of an appeal.

(f) In connection with any investigation or hearing conducted pursuant to an application for certification or qualification of any mediator, other neutral, or training program, or conducted pursuant to any disciplinary matter, the chair of the Dispute Resolution Commission or his/her designee, may:

(1) Administer oaths and affirmations;

(2) Sign and issue subpoenas in the name of the Dispute Resolution Commission or direct its executive secretary to issue such subpoenas on its behalf requiring attendance and the giving of testimony by witnesses and the production of books, papers, and other documentary evidence;

(3) Apply to the General Court of Justice, Superior Court Division, for any order necessary to enforce the powers conferred in this section, including an order for injunctive relief pursuant to G.S. 1A-1, Rule 65, when a certified mediator's conduct necessitates prompt action.

(g) The General Court of Justice, Superior Court Division, may enforce subpoenas issued in the name of the Dispute Resolution Commission and requiring attendance and

the giving of testimony by witnesses and the production of books, papers, and other documentary evidence.

(h) The Commission shall keep confidential all information in its files pertaining to the initial and renewal applications for certification of mediators, the qualification of other neutrals, and the initial and renewal applications for certification or qualification of training programs for mediators or other neutrals, except that in the case of an initial or renewal application for certification in the District Criminal Court Mediation Program, Commission staff shall notify the Executive Director of the Mediation Network of North Carolina, Inc., and the Executive Director of the community mediation center that is sponsoring the application of any matter regarding the qualifications, character, conduct, or fitness to practice of the applicant. The Commission shall also keep confidential the identity of those persons requesting informal guidance or the issuance of formal advisory opinions from the Commission or its staff.

All information in the Commission's disciplinary files pertaining to a complaint regarding the moral character, conduct, or fitness to practice of a mediator, other neutral, trainer, or other training program personnel shall remain confidential, unless the subject of the complaint requests otherwise, until such time as all of the following conditions are met:

(1) A preliminary investigation is completed.

(2) A determination is made that probable cause exists to believe that the words or actions of the mediator, neutral, trainer, or other training program personnel:

a. Violate standards for the conduct of mediators or other neutrals;

b. Violate other standards of professional conduct to which the mediator, neutral, trainer, or other training program personnel is subject;

c. Violate program rules or applicable governing law; or

d. Consist of conduct or actions that are inconsistent with good moral character or reflect a lack of fitness to serve as a mediator, other neutral, trainer, or other training program personnel.

(3) One of the following events has occurred:

a. The respondent does not appeal the determination before the time permitted for an appeal has expired.

b. Upon a timely filed appeal, the Commission holds a hearing and issues a decision affirming the determination.

Upon a finding of probable cause under this subsection against a mediator arising out of a mediated settlement conference, Commission staff shall provide notice of the finding of probable cause to any mediation program or agency under whose auspices the mediated settlement conference was conducted. Commission shall also make reasonable efforts to notify any such agency or program of any public sanction imposed by the Commission pursuant to Supreme Court rules governing the operation of the Commission against a certified mediator who serves as a mediator for any such agency or program. Commission staff and members of the Grievance and Disciplinary Committee of the Commission may share information with other committee chairs or committees of the Commission when relevant to a review of any matter before such other committee.

The Commission may publish names, contact information, and biographical information for mediators, neutrals, and training programs that have been certified or qualified.

(i) All appeals from denials of initial applications for mediator certification and initial applications for mediator training program certification shall be held in private, unless the applicant requests a public hearing. Appeals from a denial of a mediator or mediator training program application for certification renewal or reinstatement that relate to moral character, conduct, or fitness to practice shall be open to the public, except that for good cause shown, the presiding officer may exclude from the hearing room all persons except the parties, counsel, and those engaged in the hearing. All other appeals from denials of a mediator training program's application for certification renewal shall be held in private, unless the applicant requests a public hearing.

(j) Appeals from the Commission's initial determination after review and investigation of a complaint that probable cause exists to believe that the conduct of a mediator, neutral, trainer, or other training program personnel violated a provision set out in subdivision (2) of subsection (h) of this section shall be open to the public, except that for good cause shown, the presiding officer may exclude from the hearing room all persons except the parties, counsel, and those engaged in the hearing. No hearing shall be closed to the public over the objection of the mediator, neutral, trainer, or training program personnel that is the subject of the complaint.

(k) Appeals of final determinations by the Commission to deny certification or renewal of certification, to revoke certification, or to discipline a mediator, trainer, or other training program personnel shall be filed in the General Court of Justice, Wake County Superior Court Division. Notice of appeal shall be filed within 30 days of the date of the Commission's decision.

(*l*) The Commission may issue a cease and desist letter to any individual who falsely represents himself or herself to the public as certified or as eligible to be certified pursuant to this section, or who uses any words, letters, titles, signs, cards, Web site postings, or advertisements that expressly or implicitly convey such misrepresentation to the public. If the individual continues to make such false representations after receipt of the cease and desist letter, the Commission, through its Chair, may petition the Superior Court of Wake County for an injunction restraining the individual's conduct and for any other relief that the court deems appropriate. (1995, c. 500, s. 1; 1998-212, s. 16.19(b), (c); 2005-167, ss. 2, 4; 2007-387, ss. 2, 3; 2010-169, s. 21(b); 2011-145, s. 15.5; 2011-411, s. 5; 2017-158, s. 26.8.)

§ 7A-38.3. Prelitigation mediation of farm nuisance disputes.

(a) Definitions. – As used in this section:

(1) "Farm nuisance dispute" means a claim that the farming activity of a farm resident constitutes a nuisance.

(2) "Farm resident" means a person holding an interest in fee, under a real estate contract, or under a lease, in land used for farming activity when that person manages the operations on the land.

(3) "Farming activity" means the cultivation of farmland for the production of crops, fruits, vegetables, ornamental and flowering plants, and the utilization of farmland for the production of dairy, livestock, poultry, and all other forms of agricultural products having a domestic or foreign market.

(4) "Mediator" means a neutral person who acts to encourage and facilitate a resolution of a farm nuisance dispute.

(5) "Nuisance" means an action that is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property.

(6) "Party" means any person having a dispute with a farm resident.

(7) "Person" means a natural person, or any corporation, trust, or limited partnership as defined in G.S. 59-102.

(b) Voluntary Mediation. – The parties to a farm nuisance dispute may agree at any time to mediation of the dispute under the provisions of this section.

(c) Mandatory Mediation. – Prior to bringing a civil action involving a farm nuisance dispute, a farm resident or any other party shall initiate mediation pursuant to this section. If a farm resident or any other party brings an action involving a farm nuisance dispute, this action shall, upon the motion of any party prior to trial, be dismissed without prejudice by the court unless any one or more of the following apply:

(1) The dispute involves a claim that has been brought as a class action.

(2) The nonmoving party has satisfied the requirements of this section and such is indicated in a mediator's certification issued under subsection (g) of this section.

(3) The court finds that a mediator improperly failed to issue a certification indicating that the nonmoving party satisfied the requirements of this section.

(4) The court finds good cause for a failure to attempt mediation. Good cause includes, but is not limited to, a determination that the time delay required for mediation would likely result in irreparable harm or that injunctive relief is otherwise warranted.

(d) Initiation of Mediation. – Prelitigation mediation of a farm nuisance dispute shall be initiated by filing a request for mediation with the clerk of superior court in a county in which the action may be brought. The Administrative Office of the Courts shall prescribe a request for mediation form. The party filing the request for mediation also shall mail a copy of the request by certified mail, return receipt requested, to each party to the dispute. The clerk shall provide each party with a list of mediators certified by the Dispute Resolution Commission. If the parties agree in writing to the selection of a mediator from that list, the clerk shall appoint that mediator selected by the parties. If the parties do not agree on the selection of a mediator, the party filing the request for mediation shall bring the matter to the attention of the clerk, and a mediator shall be appointed by the senior resident superior court judge. The clerk shall notify the mediator and the parties of the appointment of the mediator.

(e) Mediation Procedure. – Except as otherwise expressly provided in this section, mediation under this section shall be conducted in accordance with the provisions for mediated settlement of civil cases in G.S. 7A-38.1 and G.S. 7A-38.2 and rules and standards adopted pursuant to those sections. The Supreme Court may adopt additional rules and standards to implement this section, including an exemption from the provisions of G.S. 7A-38.1 for cases in which mediation was attempted under this section.

(f) Waiver of Mediation. – The parties to the dispute may waive the mediation required by this section by informing the mediator of their waiver in writing. No costs shall be assessed to any party if all parties waive mediation prior to the occurrence of an initial mediation meeting.

(g) Certification That Mediation Concluded. – Immediately upon a waiver of mediation under subsection (f) of this section or upon the conclusion of mediation, the mediator shall prepare a certification stating the date on which the mediation was concluded and the general results of the mediation, including, as applicable, that the parties waived the mediation, that an agreement was reached, that mediation was attempted but an agreement was not reached, or that one or more parties, to be specified in the certification, failed or refused without good cause to attend one or more mediation meetings or otherwise participate in the mediation. The mediator shall file the original of the certification with the clerk and provide a copy to each party. Each party to the mediation has satisfied the requirements of this section upon the filing of the certification, except any party specified in the certification as having failed or refused to attend one or more mediation meetings or otherwise participate. The sanctions in G.S. 7A-38.1(g) do not apply to prelitigation mediation conducted under this section.

(h) Time Periods Tolled. – Any applicable statutes of limitations relating to a farm nuisance dispute shall be tolled upon the filing of a request for mediation under this section, until 30 days after the date on which the mediation is concluded as set forth in the mediator's certification, or if the mediator fails to set forth such date, until 30 days after the filing of the certification under subsection (g) of this section. The filing of a request for prelitigation mediation under subsection (d) of this section does not constitute the commencement or the bringing of an action involving a farm nuisance dispute. (1995, c. 500, s. 1; 2013-314, s. 2.)

§ 7A-38.3A. Prelitigation mediation of insurance claims.

(a) Initiation of Mediation. – Prelitigation mediation of an insurance claim may be initiated by an insurer that has provided the policy limits in accordance with G.S. 58-3-33 by filing a request for mediation with the clerk of superior court in a county in which the action may be brought. The insurer also shall mail a copy of the request by certified mail, return receipt requested, to the person who requested the information under G.S. 58-3-33.

(b) Costs of Mediation. – Costs of mediation, including the mediator's fees, shall be borne by the insurer and claimant equally. When an attorney represents a party to the mediation, that party shall pay his or her attorneys' fees.

(c) Mediation Procedure. – Except as otherwise expressly provided in this section, mediation under this section shall be conducted in accordance with the provisions for mediated settlement of civil cases in G.S. 7A-38.1 and G.S. 7A-38.2, and rules and standards adopted

pursuant to those sections. The Supreme Court may adopt additional rules and standards to implement this section, including an exemption from the provisions of G.S. 7A-38.1 for cases in which mediation was attempted under this section.

(d) Certification That Mediation Concluded. – Upon the conclusion of mediation, the mediator shall prepare a certification stating the date on which the mediation was concluded and the general results of the mediation, including, as applicable, that an agreement was reached, that mediation was attempted but an agreement was not reached, or that one or more parties, to be specified in the certification, failed or refused without good cause to attend one or more mediation meetings or otherwise participate in the mediation. The mediator shall file the original of the certification with the clerk and provide a copy to each party. Each party to the mediation has satisfied the requirements of this section upon the filing of the certification, except any party specified in the certification as having failed or refused to attend one or more mediation meetings or otherwise participate. The sanctions in G.S. 7A-38.1(g) do not apply to prelitigation mediation conducted under this section.

(e) Time Periods Tolled. – Time periods relating to the filing of a claim or the taking of other action with respect to an insurance claim, including any applicable statutes of limitations, shall be tolled upon the filing of a request for mediation under this section, until 30 days after the date on which the mediation is concluded as set forth in the mediator's certification or, if the mediator fails to set forth such date, until 30 days after the filing of the certification under subsection (d) of this section.

(f) Medical Malpractice Claims Excluded. – This section does not apply to claims seeking recovery for medical malpractice. (2003-307, s. 2.)

§ 7A-38.3B. Mediation in matters within the jurisdiction of the clerk of superior court.

(a) Purpose. – The General Assembly finds that the clerk of superior court in the General Court of Justice should have the discretion and authority to order that mediation be conducted in matters within the clerk's jurisdiction in order to facilitate a more economical, efficient, and satisfactory resolution of those matters.

(b) Enabling Authority. – The clerk of superior court may order that mediation be conducted in any matter in which the clerk has exclusive or original jurisdiction, except for matters under Chapters 45 and 48 of the General Statutes and except in matters in which the jurisdiction of the clerk is ancillary. The Supreme Court may adopt rules to implement this section. Such mediations shall be conducted pursuant to this section and the Supreme Court rules as adopted.

(c) Attendance. – In those matters ordered to mediation pursuant to this section, the following persons or entities, along with their attorneys, may be ordered by the clerk to attend the mediation:

(1) Named parties.

(2) Interested persons, meaning persons or entities who have a right, interest, or claim in the matter; heirs or devisees in matters under Chapter 28A of the General Statutes, next of kin under Chapter 35A of the General Statutes, and other persons or entities as the clerk deems necessary for the adjudication of the matter. The meaning of "interested person" may vary according to the issues involved in the matter.

(3) Nonparty participants, meaning any other person or entity identified by the clerk as possessing useful information about the matter and whose attendance would be beneficial to the mediation.

(4) Fiduciaries, meaning persons or entities who serve as fiduciaries, as that term is defined by G.S. 36A-22.1, of named parties, interested persons, or nonparty participants.

Any person or entity ordered to attend a mediation shall be notified of its date, time, and location and shall attend unless excused by rules of the Supreme Court or by order of the clerk. No one attending the mediation shall be required to make a settlement offer or demand that it deems contrary to its best interests.

(d) Selection of Mediator. – Persons ordered to mediation pursuant to this section have the right to designate a mediator in accordance with rules promulgated by the Supreme Court implementing this section. Upon failure of those persons to agree upon a designation within the time established by rules of the Supreme Court, a mediator certified by the Dispute Resolution Commission pursuant to those rules shall be appointed by the clerk.

(e) Immunity. – Mediators acting pursuant to this section shall have judicial immunity in the same manner and to the same extent as a judge of the General Court of Justice, except that mediators may be disciplined in accordance with procedures adopted by the Supreme Court pursuant to G.S. 7A-38.2.

(f) Costs of Mediation. – Costs of mediation under this section shall be borne by the named parties, interested persons, and fiduciaries ordered to attend the mediation. The rules adopted by the Supreme Court implementing this section shall set out the manner in which costs shall be paid and a method by which an opportunity to participate without cost shall be afforded to persons found by the clerk to be unable to pay their share of the costs of mediation. Costs may only be assessed against the estate of a decedent, the estate of an adjudicated or alleged incompetent, a trust corpus, or against a fiduciary upon the entry of a written order making specific findings of fact justifying the taxing of costs.

(g) Inadmissibility of Negotiations. – Evidence of statements made or conduct occurring during a mediation conducted pursuant to this section, whether attributable to any participant, mediator, expert, or neutral observer, shall not be subject to discovery and shall be inadmissible in any proceeding in the matter or other civil actions on the same claim, except in:

(1) Proceedings for sanctions pursuant to this section;

(2) Proceedings to enforce or rescind a written and signed settlement agreement;

(3) Incompetency, guardianship, or estate proceedings in which a mediated agreement is presented to the clerk;

(4) Disciplinary hearings before the State Bar or the Dispute Resolution Commission; or

(5) Proceedings for abuse, neglect, or dependency of a juvenile, or for abuse, neglect, or exploitation of an adult, for which there is a duty to report

under G.S. 7B-301 and Article 6 of Chapter 108A of the General Statutes, respectively.

No evidence otherwise discoverable shall be inadmissible merely because it is presented or discussed in mediation.

As used in this section, the term "neutral observer" includes persons seeking mediator certification, persons studying dispute resolution processes, and persons acting as interpreters.

(h) Testimony. – No mediator or neutral observer shall be compelled to testify or produce evidence concerning statements made and conduct occurring in anticipation of, during, or as a follow-up to the mediation in any civil proceeding for any purpose, including proceedings to enforce or rescind a settlement of the matter except to attest to the signing of any agreements reached in mediation, and except in:

(1) Proceedings for sanctions pursuant to this section;

(2) Disciplinary hearings before the State Bar or the Dispute Resolution Commission; or

(3) Proceedings for abuse, neglect, or dependency of a juvenile, or for abuse, neglect, or exploitation of an adult, for which there is a duty to report under G.S. 7B-301 and Article 6 of Chapter 108A of the General Statutes, respectively.

(i) Agreements. – In matters before the clerk in which agreements are reached in a mediation conducted pursuant to this section, or during one of its recesses, those agreements shall be treated as follows:

(1) Where as a matter of law, a matter may be resolved by agreement of the parties, a settlement is enforceable only if it has been reduced to writing and signed by the parties against whom enforcement is sought.

(2) In all other matters before the clerk, including guardianship and estate matters, all agreements shall be delivered to the clerk for consideration in deciding the matter.

(j) Sanctions. – Any person ordered to attend a mediation conducted pursuant to this section and rules of the Supreme Court who, without good cause, fails to attend the mediation or fails to pay any or all of the mediator's fee in compliance with this section and the rules promulgated by the Supreme Court to implement this section, is subject to the contempt powers of the clerk and monetary sanctions. The monetary sanctions may include the payment of fines, attorneys' fees, mediator fees, and the expenses and loss of earnings incurred by persons attending the mediation. If the clerk imposes sanctions, the clerk shall do so, after notice and a hearing, in a written order, making findings of fact and conclusions of law. An order imposing sanctions is reviewable by the superior court in accordance with G.S. 1-301.2 and G.S. 1-301.3, as applicable, and thereafter by the appellate courts in accordance with G.S. 7A-38.1(g).

(k) Authority to Supplement Procedural Details. – The clerk of superior court shall make all those orders just and necessary to safeguard the interests of all persons and may supplement all necessary procedural details not inconsistent with rules adopted by the

Supreme Court implementing this section. (2005-67, s. 1; 2008-194, s. 8(b); 2015-57, s. 2; 2017-158, s. 26.7(c).)

§ 7A-38.3C: Repealed by Session Laws 2007-491, s. 4, effective August 21, 2007.

§ 7A-38.3D. Mediation in matters within the jurisdiction of the district criminal courts.

(a) Purpose. – The General Assembly finds that it is in the public interest to promote high standards for persons who mediate matters in district criminal court. To that end, a program of certification for these mediators shall be established in judicial districts designated by the Dispute Resolution Commission and the Director of the Administrative Office of the Courts and in which the chief district court judge, the district attorney, and the community mediation center agree to participate. This section does not supersede G.S. 7A-38.5.

(b) Enabling Authority. – In each district, the court may encourage mediation for any criminal district court action pending in the district, and the district attorney may delay prosecution of those actions so that the mediation may take place.

(c) Program Administration. – A community mediation center established under G.S. 7A-38.5 and located in a district designated under subsection (a) of this section shall assist the court in administering a program providing mediation services in district criminal court cases. A community mediation center may assist in the screening and scheduling of cases for mediation and provide certified volunteer or staff mediators to conduct district criminal court mediations.

(d) Rules of Procedure. – The Supreme Court shall adopt rules to implement this section. Each mediation shall be conducted pursuant to this section and the Supreme Court Rules as adopted.

(e) Mediator Authority. – In the mediator's discretion, any person whose presence and participation may assist in resolving the dispute or addressing any issues underlying the mediation may be permitted to attend and participate. The mediator shall have discretion to exclude any individual who seeks to attend the mediation but whose participation the mediator deems would be counterproductive. Lawyers for the participants may attend and participate in the mediation.

(f) Mediator Qualification. – The Supreme Court shall establish requirements for the certification or qualification of mediators serving under this section. The Court shall also establish requirements for the qualification of training programs and trainers, including community mediation center staff, that train these mediators. The Court shall also adopt rules regulating the conduct of these mediators and trainers.

(g) Oversight and Evaluation. – The Supreme Court may require community mediation centers and their volunteer or staff mediators to collect and report caseload statistics, referral sources, fees collected, and any other information deemed essential for program oversight and evaluation purposes.

(h) Immunity. – A mediator under this section has judicial immunity in the same manner and to the same extent as a judge of the General Court of Justice, except that a

mediator may be disciplined in accordance with procedures adopted by the Supreme Court. A community mediation center and its staff involved in supplying volunteer or staff mediators or other personnel to schedule cases or perform other duties under this section are immune from suit in any civil action, except in any case of willful or wanton misconduct.

(i) Confidentiality. – Any memorandum, work note, or product of the mediator and any case file maintained by a community mediation center acting under this section and any mediator certification application are confidential.

(j) Inadmissibility of Negotiations. – Evidence of any statement made and conduct occurring during a mediation under this section shall not be subject to discovery and shall be inadmissible in any proceeding in the action from which the mediation arises. Any participant in a mediation conducted under this section, including the mediator, may report to law enforcement personnel any statement made or conduct occurring during the mediation process that threatens or threatened the safety of any person or property. A mediator has discretion to warn a person whose safety or property has been threatened. No evidence otherwise discoverable is inadmissible for the reason it is presented or discussed in a mediated settlement conference or other settlement proceeding under this section.

(k) Testimony. – No mediator or neutral observer present at the mediation shall be compelled to testify or produce evidence concerning statements made and conduct occurring in or related to a mediation conducted under this section in any proceeding in the same action for any purpose, except in:

(1) Proceedings for abuse, neglect, or dependency of a juvenile, or for abuse, neglect, or exploitation of an adult, for which there is a duty to report under G.S. 7B-301 and Article 6 of Chapter 108A of the General Statutes, respectively.

(2) Disciplinary hearings before the State Bar or the Dispute Resolution Commission.

(3) Proceedings in which the mediator acts as a witness pursuant to subsection (j) of this section.

(4) Trials of a felony, during which a presiding judge may compel the disclosure of any evidence arising out of the mediation, excluding a statement made by the defendant in the action under mediation, if it is to be introduced in the trial or disposition of the felony and the judge determines that the introduction of the evidence is necessary to the proper administration of justice and the evidence cannot be obtained from any other source.

(*l*) Written Agreements. – Any agreement reached in mediation is enforceable only if it has been reduced to writing and signed by the parties against whom enforcement is sought. A non-attorney mediator may assist parties in reducing the agreement to writing.

(m) Dispute Resolution Fee. – A dispute resolution fee shall be assessed and paid to the clerk in advance of mediation as set forth in G.S. 7A-38.7. By agreement, all or any portion of the fee may be paid by a person other than the defendant.

(n) Definitions. – As used in this section, the following definitions apply:

(1) Court. – A district court judge, a district attorney, or the designee of a district court judge or district attorney.

(2) Neutral observer. – Includes any person seeking mediator certification, any person studying any dispute resolution process, and any person acting as an interpreter. (2007-387, s. 1; 2012-194, s. 63.3(b); 2015-57, s. 3; 2016-107, s. 7; 2017-158, s. 26.7(d).)

§ 7A-38.3E. Mediation of public records disputes.

(a) Voluntary Mediation. – The parties to a public records dispute under Chapter 132 of the General Statutes may agree at any time prior to filing a civil action under Chapter 132 of the General Statutes to mediation of the dispute under the provisions of this section. Mediation of a public records dispute shall be initiated by filing a request for mediation with the clerk of superior court in a county in which the action may be brought.

(b) Mandatory Mediation. – Subsequent to filing a civil action under Chapter 132 of the General Statutes, a person shall initiate mediation pursuant to this section. Such mediation shall be initiated no later than 30 days from the filing of responsive pleadings with the clerk in the county where the action is filed.

(c) Initiation of Mediation. – The Administrative Office of the Courts shall prescribe a request for mediation form. The party filing the request for mediation shall mail a copy of the request by certified mail, return receipt requested, to each party to the dispute. The clerk shall provide each party with a list of mediators certified by the Dispute Resolution Commission. If the parties agree in writing to the selection of a mediator from that list, the clerk shall appoint that mediator selected by the parties. If the parties do not agree on the selection of a mediator, the party filing the request for mediation shall bring the matter to the attention of the clerk, and a mediator shall be appointed by the senior resident superior court judge. The clerk shall notify the mediator and the parties of the appointment of the mediator.

(d) Mediation Procedure. – Except as otherwise expressly provided in this section, mediation under this section shall be conducted in accordance with the provisions for mediated settlement of civil cases in G.S. 7A-38.1 and G.S. 7A-38.2 and rules and standards adopted pursuant to those sections. The Supreme Court may adopt additional rules and standards to implement this section, including an exemption from the provisions of G.S. 7A-38.1 for cases in which mediation was attempted under this section.

(e) Waiver of Mediation. – The parties to the dispute may waive the mediation required by this section by informing the mediator of the parties' waiver in writing. No costs shall be assessed to any party if all parties waive mediation prior to the occurrence of an initial mediation meeting.

(f) Certification That Mediation Concluded. – Immediately upon a waiver of mediation under subsection (e) of this section or upon the conclusion of mediation, the mediator shall prepare a certification stating the date on which the mediation was concluded and the general results of the mediation, including, as applicable, that the parties waived the mediation, that an agreement was reached, that mediation was attempted but an agreement was not reached, or that one or more parties, to be specified in the certification,

failed or refused without good cause to attend one or more mediation meetings or otherwise participate in the mediation. The mediator shall file the original of the certification with the clerk and provide a copy to each party.

(g) Time Periods Tolled. – Time periods relating to the filing of a claim or the taking of other action with respect to a public records dispute, including any applicable statutes of limitations, shall be tolled upon the filing of a request for mediation under this section, until 30 days after the date on which the mediation is concluded as set forth in the mediator's certification, or if the mediator fails to set forth such date, until 30 days after the filing of the certification under subsection (f) of this section.

(h) [Other Remedies Not Affected.] – Nothing in this section shall prevent a party seeking production of public records from seeking injunctive or other relief, including production of public records prior to any scheduled mediation. (2010-169, s. 21(a).)

§ 7A-38.3F. Prelitigation mediation of condominium and homeowners association disputes.

(a) Definitions. – The following definitions apply in this section:

(1) Association. – An association of unit or lot owners organized as allowed under North Carolina law, including G.S. 47C-3-101 and G.S. 47F-3-101.

(2) Dispute. – Any matter relating to real estate under the jurisdiction of an association about which the member and association cannot agree. The term "dispute" does not include matters expressly exempted in subsection (b) of this section.

(3) Executive board. – The body, regardless of name, designated in the declaration to act on behalf of an association.

(4) Mediator. – A neutral person who acts to encourage and facilitate a resolution of a dispute between an association and a member.

(5) Member. – A person who is a member of an association of unit or lot owners organized as allowed under North Carolina law, including G.S. 47C-3-101 and G.S. 47F-3-101.

(6) Party or parties. – An association or member who is involved in a dispute, as that term is defined in subdivision (2) of this subsection.

(b) Voluntary Prelitigation Mediation. – Prior to filing a civil action, the parties to a dispute arising under Chapter 47C of the General Statutes (North Carolina Condominium Act), Chapter 47F of the General Statutes (North Carolina Planned Community Act), or an association's declaration, bylaws, or rules and regulations are encouraged to initiate mediation pursuant to this section. However, disputes related solely to a member's failure to timely pay an association assessment or any fines or fees associated with the levying or collection of an association assessment are not covered under this section.

(c) Initiation of Mediation. – Either an association or a member may contact the North Carolina Dispute Resolution Commission or the Mediation Network of North Carolina for the name of a mediator or community mediation center. Upon contacting a mediator, either the association or member may supply to the mediator the physical address of the other party, or the party's representative, and the party's telephone number and e-mail

address, if known. The mediator shall contact the party, or the party's representative, to notify him or her of the request to mediate. If the parties agree to mediate, they shall request in writing that the mediator schedule the mediation. The mediator shall then notify the parties in writing of the date, time, and location of the mediation, which shall be scheduled not later than 25 days after the mediator receives the written request from the parties.

(d) Mediation Procedure. – The following procedures shall apply to mediation under this section:

(1) Attendance. – The mediator shall determine who may attend mediation. The mediator may require the executive board or a large group of members to designate one or more persons to serve as their representatives in the mediation.

(2) All parties are expected to attend mediation. The mediator may allow a party to participate in mediation by telephone or other electronic means if the mediator determines that the party has a compelling reason to do so.

(3) If the parties cannot reach a final agreement in mediation because to do so would require the approval of the full executive board or the approval of a majority or some other percentage of the members of the association, the mediator may recess the mediation meeting to allow the executive board or members to review and vote on the agreement.

(e) Decline Mediation. – Either party to a dispute may decline mediation under this section. If either party declines mediation after mediation has been initiated under subsection (c) of this section but mediation has not been held, the party declining mediation shall inform the mediator and the other party in writing of his or her decision to decline mediation. No costs shall be assessed to any party if either party declines mediation prior to the occurrence of an initial mediation meeting.

(f) Costs of Mediation. – The costs of mediation, including the mediator's fees, shall be shared equally by the parties unless otherwise agreed to by the parties. Fees shall be due and payable at the end of each mediation meeting. When an attorney represents a party to the mediation, that party shall pay his or her attorneys' fees.

(g) Certification That Mediation Concluded. – Upon the conclusion of mediation, the mediator shall prepare a certification stating the date on which the mediation was concluded and a statement that an agreement was reached or that mediation was attempted but an agreement was not reached. If both parties participate in mediation and a cause of action involving the dispute mediated is later filed, either party may file the certificate with the clerk of court, and the parties shall not be required to mediate again under any provision of law.

(h) Inadmissibility of Evidence. – Evidence of statements made and conduct occurring during mediation under this section shall not be subject to discovery and shall be inadmissible in any proceeding in a civil action arising from the dispute which was the subject of that mediation; except proceedings to enforce or rescind a settlement agreement reached at that mediation, disciplinary proceedings before the State Bar or Dispute Resolution Commission, or proceedings to enforce laws concerning juvenile or elder abuse.

No evidence otherwise discoverable shall be inadmissible merely because it is presented or discussed in a mediation under this section.

No mediator shall be compelled to testify or produce evidence concerning statements made and conduct occurring in anticipation of, during, or as a follow-up to a mediation pursuant to this section in any civil proceeding for any purpose, including proceedings to enforce or rescind the settlement agreement; except in disciplinary hearings before the State Bar or Dispute Resolution Commission and proceedings to enforce laws concerning juvenile or elder abuse, and except in proceedings to enforce or rescind an agreement reached in a mediation under this section, but only to attest to the signing of the agreement.

(i) Time Periods Tolled. – Time periods relating to the filing of a civil action, including any applicable statutes of limitations or statutes of repose, with respect to a dispute described in subsection (a) of this section, shall be tolled upon the initiation of mediation under this section until 30 days after the date on which the mediation is concluded as set forth in the mediator's certification. For purposes of this section, "initiation of mediation" shall be defined as the date upon which both parties have signed the written request to schedule the mediation.

(j) Association Duty to Notify. – Each association shall, in writing, notify the members of the association each year that they may initiate mediation under this section to try to resolve a dispute with the association. The association shall publish the notice required in this subsection on the association's Web site; but if the association does not have a Web site, the association shall publish the notice at the same time and in the same manner as the names and addresses of all officers and board members of the association are published as provided in G.S. 47C-3-103 and G.S. 47F-3-103. (2013-127, s. 1.)

§ 7A-38.4: Repealed by Session Laws 2001-320, s. 1.

§ 7A-38.4A. Settlement procedures in district court actions.

(a) The General Assembly finds that a system of settlement events should be established to facilitate the settlement of district court actions involving equitable distribution, alimony, or support and to make that litigation more economical, efficient, and satisfactory to the parties, their representatives, and the State. District courts should be able to require parties to those actions and their representatives to attend a pretrial mediated settlement conference or other settlement procedure conducted under this section and rules adopted by the Supreme Court to implement this section.

(b) The definitions in G.S. 7A-38.1(b)(2) and (b)(3) apply in this section.

(c) Any chief district court judge in a judicial district may order a mediated settlement conference or another settlement procedure, as provided under subsection (g) of this section, for any action pending in that district involving issues of equitable distribution, alimony, child or post separation support, or claims arising out of contracts between the parties under G.S. 52-10, G.S. 52-10.1, or Chapter 52B of the General Statutes. The chief district court judge may adopt local rules that order settlement procedures in all of the foregoing actions and designate other district court judges or administrative personnel to issue orders implementing those settlement procedures. However, local rules adopted by a

chief district court judge shall not be inconsistent with any rules adopted by the Supreme Court.

(d) The parties to a district court action where a mediated settlement conference or other settlement procedure is ordered, their attorneys, and other persons or entities with authority, by law or contract, to settle a party's claim, shall attend the mediated settlement conference or other settlement procedure, unless the rules ordering the settlement procedure provide otherwise. No party or other participant in a mediated settlement conference or other settlement procedure is required to make a settlement offer or demand that the party or participant deems contrary to that party's or participant's best interests. Parties who have been victims of domestic violence may be excused from physically attending or participating in a mediated settlement conference or other settlement procedure.

(e) Any person required to attend a mediated settlement conference or other settlement procedure under this section who, without good cause fails to attend or fails to pay any or all of the mediator or other neutral's fee in compliance with this section is subject to the contempt powers of the court and monetary sanctions imposed by a district court judge. A party seeking sanctions against another party or person shall do so in a written motion stating the grounds for the motion and the relief sought. The motion shall be served upon all parties and upon any person against whom sanctions are being sought. The court may initiate sanction proceedings upon its own motion by the entry of a show cause order. If the court imposes sanctions, it shall do so, after notice and hearing, in a written order making findings of fact and conclusions of law. An order imposing sanctions is reviewable upon appeal, and the entire record shall be reviewed to determine whether the order is supported by substantial evidence.

(f) The parties to a district court action in which a mediated settlement conference is to be held under this section shall have the right to designate a mediator. Upon failure of the parties to designate within the time established by the rules adopted by the Supreme Court, a mediator shall be appointed by a district court judge.

(g) A chief district court judge or that judge's designee, at the request of a party and with the consent of all parties, may order the parties to attend and participate in any other settlement procedure authorized by rules adopted by the Supreme Court or adopted by local district court rules, in lieu of attending a mediated settlement conference. Neutrals acting under this section shall be selected and compensated in accordance with rules adopted by the Supreme Court. Nothing herein shall prohibit the parties from participating in other dispute resolution procedures, including arbitration, to the extent authorized under State or federal law. Nothing herein shall prohibit the parties from participating in mediation at a community mediation center operating under G.S. 7A-38.5.

(h) Mediators and other neutrals acting under this section shall have judicial immunity in the same manner and to the same extent as a judge of the General Court of Justice, except that mediators and other neutrals may be disciplined in accordance with enforcement procedures adopted by the Supreme Court under G.S. 7A-38.2.

(i) Costs of mediated settlement conferences and other settlement procedures shall be borne by the parties. Unless otherwise ordered by the court or agreed to by the parties,

the mediator's fees shall be paid in equal shares by the parties. The rules adopted by the Supreme Court shall set out a method whereby a party found by the court to be unable to pay the costs of settlement procedures is afforded an opportunity to participate without cost to that party and without expenditure of State funds.

(j) Evidence of statements made and conduct occurring in a mediated settlement conference or other settlement proceeding conducted under this section, whether attributable to a party, the mediator, other neutral, or a neutral observer present at the settlement proceeding, shall not be subject to discovery and shall be inadmissible in any proceeding in the action or other civil actions on the same claim, except:

(1) In proceedings for sanctions under this section;
(2) In proceedings to enforce or rescind a settlement of the action;
(3) In disciplinary proceedings before the State Bar or the Dispute Resolution Commission; or
(4) In proceedings to enforce laws concerning juvenile or elder abuse.

As used in this subsection, the term "neutral observer" includes persons seeking mediator certification, persons studying dispute resolution processes, and persons acting as interpreters.

No settlement agreement to resolve any or all issues reached at the proceeding conducted under this section or during its recesses shall be enforceable unless it has been reduced to writing and signed by the parties against whom enforcement is sought and in all other respects complies with the requirements of Chapter 50 of the General Statutes. No evidence otherwise discoverable shall be inadmissible merely because it is presented or discussed in a settlement proceeding.

No mediator, other neutral, or neutral observer present at a settlement proceeding under this section, shall be compelled to testify or produce evidence concerning statements made and conduct occurring in anticipation of, during, or as a follow-up to a mediated settlement conference or other settlement proceeding pursuant to this section in any civil proceeding for any purpose, including proceedings to enforce or rescind a settlement of the action, except to attest to the signing of any agreements, and except proceedings for sanctions under this section, disciplinary hearings before the State Bar or the Dispute Resolution Commission, and proceedings to enforce laws concerning juvenile or elder abuse.

(k) The Supreme Court may adopt standards for the certification and conduct of mediators and other neutrals who participate in settlement procedures conducted under this section. The standards may also regulate mediator training programs. The Supreme Court may adopt procedures for the enforcement of those standards. The administration of mediator certification, regulation of mediator conduct, and decertification shall be conducted through the Dispute Resolution Commission.

(*l*) An administrative fee not to exceed two hundred dollars ($200.00) may be charged by the Administrative Office of the Courts to applicants for certification and annual renewal of certification for mediators and mediator training programs operating under this section. The fees collected may be used by the Director of the Administrative Office of the Courts to establish and maintain the operations of the Commission and its

staff. The administrative fee shall be set by the Director of the Administrative Office of the Courts in consultation with the Dispute Resolution Commission.

(m) The Administrative Office of the Courts, in consultation with the Dispute Resolution Commission, may require the chief district court judge of any district to report statistical data about settlement procedures conducted under this section for administrative purposes.

(n) Nothing in this section or in rules adopted by the Supreme Court implementing this section shall restrict a party's right to a trial by jury.

(o) The Supreme Court may adopt rules to implement this section. (1997-229, s. 1; 1998-212, s. 16.19(a); 1999-354, s. 6; 2000-140, s. 1; 2001-320, s. 2; 2001-487, s. 39; 2005-167, s. 3; 2008-194, s. 8(c); 2015-57, s. 4; 2017-158, s. 26.7(b).)

§ 7A-38.5. Community mediation centers.

(a) The General Assembly finds that it is in the public interest to encourage the establishment of community mediation centers, also known as dispute settlement centers or dispute resolution centers, to support the work of these centers in facilitating communication, understanding, reconciliation, and settlement of conflicts in communities, courts, and schools, and to promote the widest possible use of these centers by the courts and law enforcement officials across the State. A center may establish and charge fees for its services other than for criminal court mediations. Fees for criminal court mediation are set forth in G.S. 7A-38.7, and centers and mediators shall not charge any other fees in such cases.

(b) Community mediation centers, functioning as or within nonprofit organizations and local governmental entities, may receive referrals from courts, law enforcement agencies, and other public entities for the purpose of facilitating communication, understanding, reconciliation, and settlement of conflicts.

(c) Each chief district court judge and district attorney shall encourage mediation for any criminal district court action pending in the district when the judge and district attorney determine that mediation is an appropriate alternative.

(d) Each chief district court judge shall encourage mediation for any civil district court action pending in the district when the judge determines that mediation is an appropriate alternative.

(e) Except as provided in this subsection and subsection (f) of this section, each chief district court judge and district attorney shall refer any misdemeanor criminal action in district court that is generated by a citizen-initiated arrest warrant or criminal summons to the local mediation center for resolution, except for (i) any case involving domestic violence; (ii) any case in which the judge or the district attorney determine that mediation would be inappropriate; or (iii) any case being tried in a county in which mediation services are not available. The mediation center shall have 45 days to resolve each case and report back to the court with a resolution. The district attorney shall delay prosecution in order for the mediation to occur. If the case is not resolved through mediation within 45 days of referral, or if any party declines to enter into mediation, the court may proceed with the case as a criminal action. For purposes of this section, the term "citizen-initiated arrest

warrant or criminal summons" means a warrant or summons issued pursuant to G.S. 15A-303 or G.S. 15A-304 by a magistrate or other judicial official based upon information supplied through the oath or affirmation of a private citizen.

(f) Any prosecutorial district may opt out of the mandatory mediation under subsection (e) of this section if the district attorney files a statement with the chief district court judge declaring that subsection shall not apply within the prosecutorial district.

(g) Nothing in this section is intended to prohibit or delay the appointment or engagement of an attorney for a defendant in a criminal case. (1999-354, s. 1; 2011-145, s. 31.24(b); 2012-194, s. 63.3(a); 2016-107, s. 8.)

§ 7A-38.6: Repealed by Session Laws 2014-100, s. 18B.1(g), effective July 1, 2014.

§ 7A-38.7. Dispute resolution fee for cases referred to mediation.

(a) In each criminal case filed in the General Court of Justice that is referred to a community mediation center, a dispute resolution fee shall be assessed in the sum of sixty dollars ($60.00) per mediation of that criminal case, in accordance with subsection (c) of this section, to support the services provided by the community mediation centers and the Mediation Network of North Carolina. Prior to mediation, the court shall cause the mediation participants to be informed that the dispute resolution fee shall be paid as part of any mediation of a criminal case. The fee shall be paid to the clerk in advance of the mediation. Fees assessed under this section shall be paid to the clerk of superior court in the county where the case was filed and remitted by the clerk to the Mediation Network of North Carolina. The Mediation Network may retain up to three dollars ($3.00) of this amount as an allowance for its administrative expenses. The Mediation Network must remit the remainder of this amount to the community mediation center that mediated the case. The court may waive or reduce a fee assessed under this section only upon entry of a written order, supported by findings of fact and conclusions of law, determining there is just cause to grant the waiver or reduction.

(b) Before providing the district attorney with a dismissal form, the community mediation center shall require proof that the defendant has paid the dispute resolution fee as required by subsection (a) of this section and shall attach the receipt to the dismissal form.

(c) All related criminal charges per defendant that are subject to mediation shall be treated as a single criminal case for the purpose of calculating the sixty-dollar ($60.00) dispute resolution fee. In advance of the mediation, the participants, including all complainants, defendants, and other parties to the mediation, shall discuss whether the dispute resolution fee shall be allocated between them. If the participants do not reach agreement on an allocation of the dispute resolution fee, then the fee shall be the responsibility of the defendant, unless the court waives or reduces the fee upon entry of a written order, supported by findings of fact and conclusions of law, determining there is just cause to waive or reduce the fee. In connection with any mediation subject to this section, no mediator or any other community mediation center volunteer or employee shall receive any payment directly from any participant in the mediation, regardless of whether

the payment is a dispute resolution fee, cost of court, restitution, or any other fee required by law or court order. No mediator or community mediation center shall charge or collect any fees for mediating criminal cases other than the dispute resolution fee assessed pursuant to subsection (a) of this section. (2002-126, s. 29A.11(a); 2003-284, s. 13.13; 2011-145, s. 31.24(d); 2012-142, s. 16.6(a); 2016-107, s. 9.)

§ 7A-39. Cancellation of court sessions and closing court offices; extension of statutes of limitations and other emergency orders in catastrophic conditions.

(a) Cancellation of Court Sessions, Closing Court Offices. – In response to adverse weather or other emergency situations, including catastrophic conditions, any session of any court of the General Court of Justice may be cancelled, postponed, or altered by judicial officials, and court offices may be closed by judicial branch hiring authorities, pursuant to uniform statewide guidelines prescribed by the Director of the Administrative Office of the Courts. As used in this section, "catastrophic conditions" means any set of circumstances that makes it impossible or extremely hazardous for judicial officials, employees, parties, witnesses, or other persons with business before the courts to reach a courthouse, or that creates a significant risk of physical harm to persons in a courthouse, or that would otherwise convince a reasonable person to avoid traveling to or being in a courthouse.

(b) Authority of Chief Justice. – When the Chief Justice of the North Carolina Supreme Court determines and declares that catastrophic conditions exist or have existed in one or more counties of the State, the Chief Justice may by order entered pursuant to this subsection:

(1) Extend, to a date certain no fewer than 10 days after the effective date of the order, the time or period of limitation within which pleadings, motions, notices, and other documents and papers may be timely filed and other acts may be timely done in civil actions, criminal actions, estates, and special proceedings in each county named in the order. The Chief Justice may enter an order under this subsection during the catastrophic conditions or at any time after such conditions have ceased to exist. The order shall be in writing and shall become effective for each affected county upon the date set forth in the order, and if no date is set forth in the order, then upon the date the order is signed by the Chief Justice.

(2) Issue any emergency directives that, notwithstanding any other provision of law, are necessary to ensure the continuing operation of essential trial or appellate court functions, including the designation or assignment of judicial officials who may be authorized to act in the general or specific matters stated in the emergency order, and the designation of the county or counties and specific locations within the State where such matters may be heard, conducted, or otherwise transacted. The Chief Justice may enter such emergency orders under this subsection in response to existing or impending catastrophic conditions or their consequences. An emergency order under this subsection shall expire the sooner of the date stated in the order, or 30 days from issuance of the order, but the order may be extended in whole or in part by the Chief Justice for additional

30-day periods if the Chief Justice determines that the directives remain necessary.

(c) In Chambers Jurisdiction Not Affected. – Nothing in this section prohibits a judge or other judicial officer from exercising, during adverse weather or other emergency situations, including catastrophic conditions, any in chambers or ex parte jurisdiction conferred by law upon that judge or judicial officer, as provided by law. The effectiveness of any such exercise shall not be affected by a determination by the Chief Justice that catastrophic conditions existed at the time it was exercised.

(d) Nothing in this section shall be construed to abrogate or diminish the inherent judicial powers of the Chief Justice or the Judicial Branch. (2000-166, s. 1; 2006-187, s. 6; 2009-516, s. 11.)

Article 6.

Retirement of Justices and Judges of the Appellate Division; Retirement Compensation; Recall to Emergency Service; Disability Retirement.

§ 7A-39.1. Justice, emergency justice, judge and emergency judge defined.

(a) As herein used "justice of the Supreme Court" includes the Chief Justice of the Supreme Court and "judge of the Court of Appeals" includes the Chief Judge of the Court of Appeals, unless the context clearly indicates a contrary intent.

(b) As used herein, "emergency justice", "emergency judge", or "emergency recall judge" means any justice of the Supreme Court or any judge of the Court of Appeals, respectively, who has retired subject to recall for temporary service. (1967, c. 108, s. 1; 1985, c. 698, s. 16(a); 1995, c. 108, s. 2.)

§ 7A-39.2. Age and service requirements for retirement of justices of the Supreme Court and judges of the Court of Appeals.

(a) Any justice of the Supreme Court or judge of the Court of Appeals who has attained the age of 65 years, and who has served for a total of 15 years, whether consecutive or not, on the Supreme Court, the Court of Appeals, or the superior court, or as Administrative Officer of the Courts, or in any combination of these offices, may retire from his present office and receive for life compensation equal to two thirds of the total annual compensation, including longevity, but excluding any payments in the nature of reimbursement for expenses, from time to time received by the occupant or occupants of the office from which he retired.

(b) Any justice of the Supreme Court or judge of the Court of Appeals who has attained the age of 65 years, and who has served as justice or judge, or both, in the Appellate Division for 12 consecutive years may retire and receive for life compensation equal to two thirds of the total annual compensation, including longevity, but excluding any payments in the nature of reimbursement for expenses, from time to time received by the occupant or occupants of the office from which he retired.

(c) Any justice or judge of the Appellate Division, who has served for a total of 24 years, whether continuously or not, as justice of the Supreme Court, judge of the Court of Appeals, judge of the superior court, or Administrative Officer of the Courts, or in any combination of these offices, may retire, regardless of age, and receive for life compensation equal to two thirds of the total annual compensation, including longevity, but excluding any payments in the nature of

reimbursement for expenses, from time to time received by the occupant or occupants of the office from which he retired. In determining eligibility for retirement under this subsection, time served as a district solicitor of the superior court prior to January 1, 1971, may be included, provided the person has served at least eight years as a justice, judge, or Administrative Officer of the Courts, or in any combination of these offices.

(d) For purposes of this section, the "occupant or occupants of the office from which" the retired judge retired will be deemed to be a judge or justice of the Appellate Division holding the same office and with the same service as the retired judge had immediately prior to retirement. (1967, c. 108, s. 1; 1971, c. 508, s. 2; 1983 (Reg. Sess., 1984), c. 1109, ss. 13.6-13.9.)

§ 7A-39.3. Retired justices and judges may become emergency justices and judges subject to recall to active service; compensation for emergency justices and judges on recall.

(a) Justices of the Supreme Court and judges of the Court of Appeals who have not reached the mandatory retirement age specified in G.S. 7A-4.20, but who have retired under the provisions of G.S. 7A-39.2, or under the Uniform Judicial Retirement Act after having completed 12 years of creditable service, may apply as provided in G.S. 7A-39.6 to become emergency justices or judges and upon being commissioned as an emergency justice or emergency judge shall be subject to temporary recall to active service in place of a justice or judge who is temporarily incapacitated as provided in G.S. 7A-39.5.

(b) In addition to the compensation or retirement allowance he would otherwise be entitled to receive by law, each emergency justice or emergency judge recalled for temporary active service shall be paid by the State his actual expenses, plus three hundred dollars ($300.00) for each day of active service rendered upon recall. No recalled retired or emergency justice or judge shall receive from the State total annual compensation for judicial services in excess of that received by an active justice or judge of the bench to which the justice or judge is being recalled. (1967, c. 108, s. 1; 1973, c. 640, s. 3; 1977, c. 736, s. 1; 1979, c. 884, s. 1; 1981, c. 455, s. 3; c. 859, s. 46; 1981 (Reg. Sess., 1982), c. 1253, s. 2; 1983, c. 784; 1985, c. 698, ss. 9(a), 16(b); 1987 (Reg. Sess., 1988), c. 1086, s. 31(a); 2002-159, s. 25.)

§ 7A-39.4. Retirement creates vacancy.

The retirement of any justice of the Supreme Court or any judge of the Court of Appeals under the provisions of this Article shall create a vacancy in his office to be filled as provided by law. (1967, c. 108, s. 1.)

§ 7A-39.5. Recall of emergency justice or emergency judge upon temporary incapacity of a justice or judge.

(a) Upon the request of any justice of the Supreme Court who has been advised in writing by a reputable and competent physician that he is temporarily incapable of performing efficiently and promptly all the duties of his office, the Chief Justice may recall any emergency justice who, in his opinion, is competent to perform the duties of an associate justice, to serve temporarily in the place of the justice in whose behalf he is recalled; provided, that when the incapacity of a justice of the Supreme Court is such that he cannot request the recall of an emergency justice to serve in his place, an order of recall may be issued by the Chief Justice upon satisfactory medical proof of the facts upon which the order of recall must be based. Orders of recall shall be in writing and entered upon the minutes of the court.

(b) Upon the request of any judge of the Court of Appeals who has been advised in writing by a reputable and competent physician that he is temporarily incapable of performing efficiently and promptly all the duties of his office, the Chief Judge may recall any emergency judge who, in his opinion, is competent to perform the duties of a judge of the Court of Appeals, to serve temporarily in the place of the judge in whose behalf he is recalled; provided, that when the incapacity of a judge of the Court of Appeals is such that he cannot request the recall of an emergency judge to serve in his place, an order of recall may be issued by the Chief Judge upon satisfactory medical proof of the facts upon which the order of recall must be based. If the Chief Judge does not recall an emergency judge to serve in the place of the temporarily incapacitated judge, the Chief Justice may recall an emergency justice who, in his opinion, is competent to perform the duties of a judge of the Court of Appeals, to serve temporarily in the place of the judge in whose behalf he is recalled. In no case, however, may more than one emergency justice or emergency judge serve on one panel of the Court of Appeals at any given time. Orders of recall shall be in writing and entered upon the minutes of the court. (1967, c. 108, s. 1; 1985, c. 698, s. 16(c).)

§ 7A-39.6. Application to the Governor; commission as emergency justice or emergency judge.

No retired justice of the Supreme Court or retired judge of the Court of Appeals may become an emergency justice or emergency judge except upon his written application to the Governor certifying his desire and ability to serve as an emergency justice or emergency judge. If the Governor is satisfied that the applicant qualifies under G.S. 7A-39.3(a) to become an emergency justice or emergency judge and that he is physically and mentally able to perform the official duties of an emergency justice or emergency judge, he shall issue to such applicant a commission as an emergency justice or emergency judge of the court from which he retired. The commission shall be effective upon the date of its issue and shall terminate when the judge to whom it is issued reaches the maximum age for judicial service under G.S. 7A-4.20(a). (1967, c. 108, s. 1; 1977, c. 736, s. 2; 1979, c. 884, s. 2.)

§ 7A-39.7. Jurisdiction and authority of emergency justices and emergency judges.

An emergency justice or emergency judge shall not have or possess any jurisdiction or authority to hear arguments or participate in the consideration and decision of any cause or perform any other duty or function of a justice of the Supreme Court or judge of the Court of Appeals, respectively, except while serving under an order of recall and in respect to appeals, motions, and other matters heard, considered, and decided by the court during the period of his temporary service under such order; and the justice of the Supreme Court or judge of the Court of Appeals in whose behalf an emergency justice or emergency judge is recalled to active service shall be disqualified to participate in the consideration and decision of any question presented to the court by appeal, motion or otherwise in which any emergency justice or emergency judge recalled in his behalf participated. (1967, c. 108, s. 1.)

§ 7A-39.8. Court authorized to adopt rules.

The Supreme Court shall prescribe rules respecting the filing of opinions prepared by an emergency justice or an emergency judge after his period of temporary service has expired, and any other matter deemed necessary and consistent with the provisions of this Article. (1967, c. 108, s. 1.)

§ 7A-39.9. Chief Justice and Chief Judge may recall and terminate recall of justices and judges; procedure when Chief Justice or Chief Judge incapacitated.

(a) Decisions of the Chief Justice and the Chief Judge regarding recall of emergency justices and emergency judges, when not in conflict with the provisions of this Article, are final.

(b) The Chief Justice or Chief Judge, may, at any time, in his discretion, cancel any order of recall issued by him or fix the termination date thereof.

(c) Whenever the Chief Justice is the justice in whose behalf an emergency justice is recalled to temporary service, the powers vested in him as Chief Justice by this article shall be exercised by the associate justice senior in point of time served on the Supreme Court. Whenever the Chief Judge is the judge in whose behalf an emergency judge or justice is recalled to temporary service the powers vested in him as Chief Judge by this article shall be exercised by the associate judge senior in point of time served on the Court of Appeals. If two or more judges have served the same length of time on the Court of Appeals, the eldest shall be deemed the senior judge. (1967, c. 108, s. 1; 1985, c. 698, s. 16(d), (e).)

§ 7A-39.10. Article applicable to previously retired justices.

All provisions of this Article shall apply to every justice of the Supreme Court who has heretofore retired and is receiving compensation as an emergency justice. (1967, c. 108, s. 1.)

§ 7A-39.11. Retirement on account of total and permanent disability.

Every justice of the Supreme Court or judge of the Court of Appeals who has served for eight years or more on the Supreme Court, the Court of Appeals, or the superior court, or as Administrative Officer of the Courts, or in any combination of these offices, and who while in active service becomes totally and permanently disabled so as to be unable to perform efficiently the duties of his office, and who retires by reason of such disability, shall receive for life compensation equal to two thirds of the annual salary from time to time received by the occupant or occupants of the office from which he retired. In determining whether a judge is eligible for retirement under this section, time served as district solicitor of the superior court prior to January 1, 1971, may be included. Whenever any justice or judge claims retirement benefits under this section on account of total and permanent disability, the Governor and Council of State, acting together, shall, after notice and an opportunity to be heard is given the applicant, by a majority vote of said body, make findings of fact from the evidence offered. Such findings of fact shall be reduced to writing and entered upon the minutes of the Council of State. The findings so made shall be conclusive as to such matters and determine the right of the applicant to retirement benefits under this section. Justices and judges retired under the provisions of this section are not subject to recall as emergency justices or judges. (1967, c. 108, s. 1.)

§ 7A-39.12. Applicability of §§ 7A-39.2 and 7A-39.11.

The provisions of G.S. 7A-39.2 and 7A-39.11 shall apply only to justices and judges who entered into office prior to January 1, 1974. The extent of such application is specified in Chapter 135, Article 4 (Uniform Judicial Retirement Act). (1973, c. 640, s. 5.)

§ 7A-39.13. Recall of active and emergency justices and judges who have reached mandatory retirement age.

Justices and judges retired because they have reached the mandatory retirement age, and emergency justices and judges whose commissions have expired because they have reached the mandatory retirement age, may be temporarily recalled to active service under the following circumstances:

(1) The justice or judge must consent to the recall.

(2) The Chief Justice may recall retired justices to serve on the Supreme Court or on the Court of Appeals, and the Chief Judge may recall retired judges of the Court of Appeals to serve on that court.

(3) The period of recall shall not exceed six months, but it may be renewed for an additional six months if the emergency for which the recall was ordered continues.

(4) Prior to recall, the Chief Justice or the Chief Judge, as the case may be, shall satisfy himself that the justice or judge being recalled is capable of efficiently and promptly performing the duties of the office to which recalled.

(5) Recall is authorized only to replace an active justice or judge who is temporarily incapacitated.

(6) Jurisdiction and authority of a recalled justice or judge is as specified in G.S. 7A-39.7.

(7) The Supreme Court and the Court of Appeals, as the case may be, shall prescribe rules respecting the filing of opinions prepared by a retired justice or judge after his period of temporary service has expired, and respecting any other matter deemed necessary and consistent with this section.

(8) Compensation of recalled retired justices and judges is the same as for recalled emergency justices and judges under G.S. 7A-39.3(b).

(9) Recall shall be evidenced by a commission signed by the Chief Justice or Chief Judge, as the case may be. (1981, c. 455, s. 2; 1985, c. 698, s. 16(f).)

§ 7A-39.14. Recall by Chief Justice of retired or emergency justices or judges for temporary vacancy.

(a) In addition to the authority granted to the Chief Justice under G.S. 7A-39.5 to recall emergency justices and under G.S. 7A-39.13 to recall retired justices, the Chief Justice may recall not more than one retired or emergency justice or retired emergency judge of the Court of Appeals, including an emergency justice or judge whose commission has expired because he has reached the mandatory retirement age, in the following circumstances:

(1) If a vacancy exists on the Supreme Court, he may recall an emergency or retired justice to serve on that court until the vacancy is filled in accordance with law.

(2) If a vacancy exists on the Court of Appeals, he may recall an emergency or retired justice of the Supreme Court or judge of the Court of Appeals to serve on the Court of Appeals until the vacancy is filled in accordance with law.

(3) With the concurrence of a majority of the Supreme Court, he may recall an emergency or retired justice to serve on the Supreme Court in place of a sitting justice who, as determined by the Chief Justice, is temporarily unable to perform all of the duties of his office.

(4) With the concurrence of a majority of the Supreme Court, he may recall an emergency or retired justice of the Supreme Court or judge of the Court of Appeals to serve on the Court of Appeals in place of a sitting judge who, as

determined by the Chief Justice, is temporarily unable to perform all of the duties of his office.

(b) No judge or justice may be recalled unless he consents to the recall. Orders of recall issued pursuant to this section must be in writing and entered on the minutes of the court. In addition, if the judge or justice is recalled pursuant to subdivision (a)(3) or (a)(4), the order shall contain a finding by the Chief Justice setting out, in detail, the reason for the recall.

(c) A judge or justice recalled pursuant to subdivision (a)(1) or (a)(2) of this section:

(1) Has the same authority and jurisdiction granted to emergency justices and judges under G.S. 7A-39.7;

(2) Is subject to rules adopted pursuant to G.S. 7A-39.8 regarding filing of opinions and other matters; and

(3) Is compensated as are other retired or emergency justices or judges recalled for service pursuant to G.S. 7A-39.5 or G.S. 7A-39.13.

(d) A judge or justice recalled pursuant to subdivision (a)(3) or (a)(4) of this section:

(1) Has the same authority and jurisdiction granted to emergency justices and judges under G.S. 7A-39.7;

(2) Is subject to rules adopted pursuant to G.S. 7A-39.8 regarding filing of opinions and other matters;

(3) May, after the return of the judge or justice in whose place he was sitting, complete the duties assigned to him before the return of that judge or justice; and

(4) Is compensated as are other retired or emergency justices or judges recalled for service pursuant to G.S. 7A-39.5 or G.S. 7A-39.13.

(e) A retired or emergency justice or judge may serve on the Supreme Court or Court of Appeals pursuant to subdivision (a)(3) or (a)(4) only if he is recalled to serve temporarily in place of a sitting justice or judge who is not temporarily incapacitated under circumstances that would permit temporary service of the retired or emergency justice or judge pursuant to G.S. 7A-39.5 or G.S. 7A-39.13. This section does not authorize more than seven justices to serve on the Supreme Court at any given time, nor does it authorize more than 15 justices and judges to serve on the Court of Appeals at any given time. In no case may more than one emergency justice or emergency judge serve on one panel of the Court of Appeals at any given time.

(f) Repealed by Session Laws 1989, c. 795, s. 27.1. (1985, c. 698, s. 15(a), (b); 1985 (Reg. Sess., 1986), c. 851, s. 3; c. 1014, s. 225; 1987, c. 703, s. 5; c. 738, ss. 131(a), (b); 1989, c. 795, s. 27.1; 2009-570, s. 1.)

§ 7A-39.15. Emergency recall judges of the Court of Appeals.

(a) A retired justice or judge of the Appellate Division of the General Court of Justice is eligible to be appointed as an emergency recall judge of the Court of Appeals under the following circumstances:

(1) The justice or judge has retired under the provisions of the Consolidated Judicial Retirement Act, Article 4 of Chapter 135 of the General Statutes, or is eligible to receive a retirement allowance under that act;

(2) The justice or judge has not reached the mandatory retirement age specified in G.S. 7A-4.20;

(3) The justice or judge has served a total of at least five years as a judge or justice of the General Court of Justice, provided that at least six months was served in

the Appellate Division, whether or not otherwise eligible to serve as an emergency justice or judge of the Appellate Division of the General Court of Justice;

(4) The judicial service of the justice or judge ended within the preceding 15 years; and

(5) The justice or judge has applied to the Governor for appointment as an emergency recall judge of the Court of Appeals in the same manner as is provided for application in G.S. 7A-53. If the Governor is satisfied that the applicant meets the requirements of this section and is physically and mentally able to perform the duties of a judge of the Court of Appeals, the Governor shall issue a commission appointing the applicant as an emergency recall judge of the Court of Appeals until the applicant reaches the mandatory retirement age for judges of the Court of Appeals specified in G.S. 7A-4.20.

Any former justice or judge of the Appellate Division of the General Court of Justice who otherwise meets the requirements of this section to be appointed an emergency recall judge of the Court of Appeals, but who has already reached the mandatory retirement age for judges of the Court of Appeals set forth in G.S. 7A-4.20, may apply to the Governor to be appointed as an emergency recall judge of the Court of Appeals as provided in this section. If the Governor issues a commission to the applicant, the retired justice or judge is subject to recall as an emergency recall judge of the Court of Appeals as provided in this section.

(b) Notwithstanding any other provision of law, the Chief Judge of the Court of Appeals may recall and assign one or more emergency recall judges of the Court of Appeals, not to exceed three at any one time, provided funds are available, if the Chief Judge determines that one or more emergency recall judges of the Court of Appeals are necessary to discharge the court's business expeditiously.

(c) Any emergency recall judge of the Court of Appeals appointed as provided in this section shall be subject to recall in the following manner:

(1) The judge shall consent to the recall;

(2) The Chief Judge of the Court of Appeals may order the recall;

(3) Prior to ordering recall, the Chief Judge of the Court of Appeals shall be satisfied that the recalled judge is capable of efficiently and promptly discharging the duties of the office to which recalled;

(4) Orders of recall and assignment shall be in writing, evidenced by a commission signed by the Chief Judge of the Court of Appeals, and entered upon the minutes of the permanent records of the Court of Appeals;

(5) Compensation, expenses, and allowances of emergency recall judges of the Court of Appeals are the same as for recalled emergency superior court judges under G.S. 7A-52(b);

(6) Emergency recall judges assigned under those provisions shall have the same powers and duties, when duly assigned to hold court, as provided for by law for judges of the Court of Appeals;

(7) Emergency recall judges of the Court of Appeals are subject to assignment in the same manner as provided for by G.S. 7A-16 and G.S. 7A-19;

(8) Emergency recall judges of the Court of Appeals shall be subject to rules adopted pursuant to G.S. 7A-39.8 regarding the filing of opinions and other matters;

(9) Emergency recall judges of the Court of Appeals shall be subject to the provisions and requirements of the Canons of Judicial Conduct during the term of assignment; and

(10) An emergency recall judge of the Court of Appeals shall not engage in the practice of law during any period for which the emergency recall Court of Appeals judgeship is commissioned. However, this subdivision shall not be construed to prohibit an emergency recall judge of the Court of Appeals appointed pursuant to this section from serving as a referee, arbitrator, or mediator during service as an emergency recall judge of the Court of Appeals so long as the service does not conflict with or interfere with the judge's service as an emergency recall judge of the Court of Appeals.

(d) A justice or judge commissioned as an emergency recall judge of the Court of Appeals is also eligible to receive a commission as an emergency special superior court judge. However, no justice or judge who has been recalled as provided in this section shall, during the period so recalled and assigned, contemporaneously serve as an emergency special superior court judge or emergency justice of the General Court of Justice. (1995, c. 108, s. 1.)

SUBCHAPTER III. SUPERIOR COURT DIVISION OF THE GENERAL COURT OF JUSTICE.

Article 7.

Organization.

§ 7A-40. Composition; judicial powers of clerk.

The Superior Court Division of the General Court of Justice consists of the several superior courts of the State. The clerk of superior court in the exercise of the judicial power conferred upon him as ex officio judge of probate, and in the exercise of other judicial powers conferred upon him by law in respect of special proceedings and the administration of guardianships and trusts, is a judicial officer of the Superior Court Division, and not a separate court. (1965, c. 310, s. 1; 1967, c. 691, s. 1; 1969, c. 1190, s. 4; 1971, c. 377, s. 4.)

§ 7A-41. Superior court divisions and districts; judges.

(a) The counties of the State are organized into judicial divisions and superior court districts, and each superior court district has the counties, and the number of regular resident superior court judges set forth in the following table, and for districts of less than a whole county, as set out in subsection (b) of this section:

Judicial Division	Superior Court District	Counties	No. of Resident Judges
First	1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	2
First	2	Beaufort, Hyde,	1

		Martin, Tyrrell, Washington	
First	3A	Pitt	2
Second	3B	Carteret, Craven, Pamlico	3
Second	4	Duplin, Jones, Onslow, Sampson	2
Second	5A	(part of New Hanover, Pender see subsection (b))	1 5
	5B	(part of New Hanover, see subsection (b))	1
	5C	(part of New Hanover, see subsection (b))	1
First	6A	Halifax	1
First	6B	Bertie, Hertford, Northampton	1
First	7A	Nash	1
First	7B	(part of Wilson, part of Edgecombe, see subsection (b))	1
First	7C	(part of Wilson, part of Edgecombe, see subsection (b))	1
Second	8A	Lenoir and Greene	1
Second	8B	Wayne	1
First	9	Franklin, Granville, Person, Vance, Warren	2
Third	10A	(part of Wake, see subsection (b))	1
Third	10B	(part of Wake, see subsection (b))	1
Third	10C	(part of Wake, see subsection (b))	1
Third	10D	(part of Wake, see subsection (b))	1
Third	10E	(part of Wake, see subsection (b))	1
Third	10F	(part of Wake, see subsection (b))	1
Third	11A	Harnett, Lee	1
Third	11B	Johnston	1
Third	12A	(part of Cumberland, see subsection (b))	1
Third	12B	(part of Cumberland,	1

		see subsection (b))	
Third	12C	(part of Cumberland, see subsection (b))	2
Second	13A	Bladen, Columbus	1
Second	13B	Brunswick	1
First	14A	(part of Durham, see subsection (b))	1
First	14B	(part of Durham, see subsection (b))	3
Third	15A	Alamance	2
Fourth	15B	Orange, Chatham	2
Third	16A	Anson, Richmond, Scotland	2
Second	16B	Robeson	2
Fourth	17A	Caswell, Rockingham	2
Fourth	17B	Stokes, Surry	1
Fourth	18A	(part of Guilford, see subsection (b))	1
Fourth	18B	(part of Guilford, see subsection (b))	1
Fourth	18C	(part of Guilford, see subsection (b))	1
Fourth	18D	(part of Guilford, see subsection (b))	1
Fourth	18E	(part of Guilford, see subsection (b))	1
Fourth	19A	Cabarrus	1
Third	19B	Randolph	2
Fourth	19C	Rowan	1
Third	19D	Hoke, Moore	2
Third	20A	Montgomery, Stanly	2
Third	20B	Union	2
Fourth	21A	(part of Forsyth, see subsection (b))	1
Fourth	21B	(part of Forsyth, see subsection (b))	1
Fourth	21C	(part of Forsyth, see subsection (b))	1
Fourth	21D	(part of Forsyth, see subsection (b))	1
Fourth	22A	Alexander, Iredell	2
Fourth	22B	Davidson, Davie	2
Fourth	23	Alleghany, Ashe, Wilkes, Yadkin	1
Fifth	24	Avery, Madison, Mitchell,	2

		Watauga, Yancey	
Fifth	25A	Burke, Caldwell	2
Fifth	25B	Catawba	2
Fifth	26A	(part of Mecklenburg, see subsection (b))	1
Fifth	26B	(part of Mecklenburg, see subsection (b))	1
Fifth	26C	(part of Mecklenburg, see subsection (b))	1
	26D	(part of Mecklenburg, see subsection (b))	1
	26E	(part of Mecklenburg, see subsection (b))	1
	26F	(part of Mecklenburg, see subsection (b))	1
	26G	(part of Mecklenburg, see subsection (b))	1
	26H	(part of Mecklenburg, see subsection (b))	1
Fifth	27A	Gaston	2
Fifth	27B	Cleveland, Lincoln	2
Fifth	28	Buncombe	2
Fifth	29A	McDowell, Rutherford	1
Fifth	29B	Henderson, Polk, Transylvania	1
Fifth	30A	Cherokee, Clay, Graham, Macon, Swain	1
Fifth	30B	Haywood, Jackson	1.

(b) For superior court districts of less than a whole county, or with part of one county with part of another, the composition of the district and the number of judges is as follows:

(1) District 5A: New Hanover County: VTD CF01, VTD CF02, VTD CF03, VTD H01, VTD W25, VTD W27; Pender County. It has one judge.

(2) District 5B: New Hanover County: VTD H02, VTD H03, VTD H04, VTD H05, VTD H06, VTD H07, VTD H08, VTD H09, VTD M02, VTD M05, VTD W13, VTD W18, VTD W24, VTD W28, VTD WB. It has one judge.

(3) District 5C: New Hanover County: VTD FP01, VTD FP02, VTD FP03, VTD FP04, VTD FP05, VTD M03, VTD M04, VTD W03, VTD W08, VTD W12, VTD W15, VTD W16, VTD W17, VTD W21, VTD W26, VTD W29, VTD W30, VTD W31. It has one judge.

(4) District 7B: Edgecombe County: VTD: 1101: Block(s) 0650213001035; VTD: 1201, VTD: 1202, VTD: 1203, VTD: 1204, VTD: 1205: Block(s) 0650203001005, 0650203001006, 0650203001007, 0650203001008,

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(5) District 7C: Edgecombe County: VTD: 0101, VTD: 0102, VTD: 0103, VTD: 0104, VTD: 0201, VTD: 0301, VTD: 0401, VTD: 0501, VTD: 0601, VTD: 0701, VTD: 0801, VTD: 0901, VTD: 1001, VTD: 1101: Block(s) 0650213001009, 0650213001034, 0650213002000, 0650213002001, 0650213002002, 0650213002003, 0650213002004, 0650213002005, 0650213002006, 0650213002007, 0650213002008, 0650213002009, 0650213002010, 0650213002011, 0650213002012, 0650213002013, 0650213002014, 0650213002015, 0650213002016, 0650213002017, 0650213002018, 0650213002019, 0650213002022, 0650213002025, 0650213002026, 0650213002027, 0650213002028, 0650213002029, 0650213002035, 0650213002036, 0650213002037, 0650213002038, 0650213002039, 0650213002040, 0650213002041, 0650213002042, 0650213002043, 0650213002044, 0650213002045, 0650213002046, 0650213002048, 0650213002049, 0650213002050, 0650213002051, 0650213002052, 0650213002053, 0650213002054, 0650213002055, 0650213002056, 0650213002057, 0650213002058, 0650213002059, 0650213002060, 0650213002061, 0650213002062,

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(6) Superior Court District 10A consists of Wake County Precincts: VTD: 01-01, VTD: 01-02, VTD: 01-06, VTD: 01-07, VTD: 01-14, VTD: 01-16, VTD: 01-23, VTD: 01-29, VTD: 01-31, VTD: 01-32, VTD: 01-33, VTD: 01-41, VTD: 01-48, VTD: 01-49, VTD: 04-01, VTD: 04-02, VTD: 04-03, VTD: 04-04, VTD: 04-06, VTD: 04-07, VTD: 04-10, VTD: 04-11, VTD: 04-12, VTD: 04-13, VTD: 04-14, VTD: 04-15, VTD: 04-16, VTD: 04-19, VTD: 04-20, VTD: 04-21, VTD: 11-02, VTD: 18-01, VTD: 18-04, VTD: 18-06, VTD: 18-08. It has one judge.

(7) Superior Court District 10B consists of Wake County Precincts: VTD: 01-12, VTD: 01-13, VTD: 01-18, VTD: 01-19, VTD: 01-20, VTD: 01-21, VTD: 01-22, VTD: 01-25, VTD: 01-26, VTD: 01-27, VTD: 01-34, VTD: 01-35, VTD: 01-38, VTD: 01-40, VTD: 01-46, VTD: 01-50, VTD: 13-01: Block(s) 1830527043000, 1830527043023, 1830527043024, 1830540081000, 1830540081001, 1830540081002, 1830540081003, 1830540081004, 1830540081005, 1830540081006, 1830540081007, 1830540081008, 1830540081009, 1830540081010, 1830540081011,

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(8) Superior Court District 10C consists of Wake County Precincts: VTD: 02-01, VTD: 02-02, VTD: 02-03, VTD: 02-04, VTD: 02-05, VTD: 02-06, VTD: 07-02, VTD: 07-06, VTD: 07-07, VTD: 07-11, VTD: 07-12, VTD: 08-02, VTD: 08-03, VTD: 08-04, VTD: 08-05, VTD: 08-06, VTD: 08-07, VTD: 08-08, VTD: 08-09, VTD: 08-10, VTD: 08-11, VTD: 13-10, VTD: 13-11, VTD: 14-01, VTD: 14-02, VTD: 19-03, VTD: 19-04, VTD: 19-05, VTD: 19-06, VTD: 19-07, VTD: 19-09, VTD: 19-10, VTD: 19-11, VTD: 19-12. It has one judge.

(9) Superior Court District 10D consists of Wake County Precincts: VTD: 01-03, VTD: 01-04, VTD: 01-05, VTD: 01-09, VTD: 01-10, VTD: 01-11, VTD: 01-15, VTD: 01-17, VTD: 01-30, VTD: 01-36, VTD: 01-37, VTD: 01-39, VTD: 01-43, VTD: 01-45, VTD: 01-51, VTD: 04-05, VTD: 04-08, VTD: 04-09, VTD: 04-17, VTD: 04-18, VTD: 05-01, VTD: 05-03, VTD: 05-04, VTD: 05-05, VTD: 05-06, VTD: 07-01, VTD: 07-03, VTD: 07-04, VTD: 07-05, VTD: 07-09, VTD: 07-10, VTD: 07-13, VTD: 11-01, VTD: 20-02, VTD: 20-04, VTD: 20-10. It has one judge.

(10) Superior Court District 10E consists of Wake County Precincts: VTD: 01-28, VTD: 01-42, VTD: 01-44, VTD: 01-47, VTD: 09-01, VTD: 09-02, VTD: 09-03, VTD: 10-01, VTD: 10-02, VTD: 10-03, VTD: 10-04, VTD:

13-01: Block(s) 1830541041000, 1830541041001, 1830541041002, 1830541041003, 1830541041004, 1830541041005, 1830541041006, 1830541041007, 1830541041008, 1830541041009, 1830541041010, 1830541041011, 1830541041012, 1830541041013, 1830541041014, 1830541041015, 1830541041016, 1830541041017, 1830541041018, 1830541041019, 1830541041020, 1830541041021, 1830541042028; VTD: 13-02, VTD: 13-06, VTD: 13-08, VTD: 13-09, VTD: 15-01, VTD: 15-03, VTD: 15-04, VTD: 16-01, VTD: 16-04, VTD: 16-05, VTD: 16-07, VTD: 16-09, VTD: 17-01, VTD: 17-02, VTD: 17-03, VTD: 17-04, VTD: 17-05, VTD: 19-16, VTD: 19-17. It has one judge.

(11) Superior Court District 10F consists of Wake County Precincts: VTD: 03-00, VTD: 06-01, VTD: 06-04, VTD: 06-05, VTD: 06-06, VTD: 06-07, VTD: 12-01, VTD: 12-02, VTD: 12-04, VTD: 12-05, VTD: 12-06, VTD: 12-07, VTD: 12-08, VTD: 12-09, VTD: 15-02, VTD: 18-02, VTD: 18-03, VTD: 18-05, VTD: 18-07, VTD: 20-01, VTD: 20-03, VTD: 20-05, VTD: 20-06, VTD: 20-08, VTD: 20-09, VTD: 20-11, VTD: 20-12. It has one judge.

(12) District 12A: Cumberland County: VTD: AH49, VTD: CC18: Block(s) 0510007011012, 0510007011013, 0510007011014, 0510007011015, 0510007011016, 0510007011021, 0510007011034, 0510007011035, 0510007013011, 0510007013012, 0510007013013, 0510007013014, 0510007013015, 0510007013016, 0510007013017, 0510007013018, 0510007013019, 0510007013020, 0510007013021, 0510007013022, 0510007013023, 0510007013024, 0510007013025, 0510007013026, 0510007013027, 0510007013028, 0510007013029, 0510007013030, 0510007013031, 0510007013032, 0510007022007, 0510007022008; VTD: CC24: 0510020011058, 0510020021002, 0510033022004; VTD: CC25, VTD: CC27, VTD: CC29, VTD: CC31, VTD: CC32, VTD: CC33, VTD: CC34, VTD: CU02, VTD: G10: Block(s) 0510016011001, 0510016011002, 0510016011004, 0510016011005, 0510016011006, 0510016011007, 0510016011009, 0510016011010, 0510016011011, 0510016011012, 0510016011013, 0510016011014, 0510016011015, 0510016011016, 0510016011017, 0510016011018, 0510016011019, 0510016011020, 0510016011021, 0510016011022, 0510016011023, 0510016011024, 0510016011025, 0510016011026, 0510016011027, 0510016011032, 0510016011041, 0510016012041, 0510031021000, 0510031021001, 0510031021002, 0510031021003, 0510031021004, 0510031021005, 0510031021006, 0510031021007, 0510031021008, 0510031021009, 0510031021010, 0510031021011, 0510031021012, 0510031021013, 0510031021014, 0510031021015, 0510031021016, 0510031021017, 0510031021018, 0510031021019, 0510031021020, 0510031021021, 0510031021022, 0510031021023, 0510031021024, 0510031021025, 0510031021026, 0510031021027, 0510031021028,

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(14) District 12C: Cumberland County: VTD: AL51, VTD: CC04, VTD: CC06, VTD: CC07, VTD: CC08, VTD: CC10, VTD: CC12, VTD: CC13: Block(s) 0510009004000, 0510009004020; VTD: CC14, VTD: CC15: Block(s) 0510006001000, 0510006001001, 0510006001002, 0510006001003, 0510006001004, 0510006001005, 0510006001006, 0510006001007, 0510006001008, 0510006001009, 0510006001010, 0510006001011, 0510006001012, 0510006001013, 0510006001014, 0510006001015, 0510006001016, 0510006002000, 0510006002001, 0510006002002, 0510006002003, 0510006002004, 0510006002005, 0510006002006, 0510006002007, 0510006002008, 0510006002009, 0510018001000, 0510018001001, 0510018001002, 0510018001003, 0510018001004, 0510018001005, 0510018001006, 0510018001007, 0510018001008, 0510018001009, 0510018002000, 0510018002001, 0510018002002, 0510038003035; VTD: CC18: 0510007022006, 0510007022010, 0510007022011, 0510007022013, 0510007022014, 0510007022015, 0510007022016, 0510007022017, 0510007022018, 0510007022019, 0510007022020, 0510007022021, 0510007022022, 0510007022023, 0510007022024, 0510007022025, 0510007022026, 0510038003030, 0510038003031, 0510038003032, 0510038003055; VTD: CC21, VTD: CC24: Block(s) 0510020011006, 0510020011007, 0510020011008, 0510020011010, 0510020011011, 0510020011012, 0510020011013, 0510020011014, 0510020011015, 0510020011016, 0510020011025, 0510020011026, 0510020011030, 0510020011031,

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(15) District 14A: Durham County: VTD: 09, VTD: 12, VTD: 13, VTD: 14, VTD: 15, VTD: 18, VTD: 31: Block(s) 0630010013033, 0630018024009; VTD: 34, VTD: 35: Block(s) 0630020211023, 0630020212002, 0630020212003, 0630020212004, 0630020212005, 0630020212006, 0630020212007, 0630020212008, 0630020212009,

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(16) District 14B: Durham County: VTD: 01, VTD: 02, VTD: 03, VTD: 04, VTD: 05, VTD: 06, VTD: 07, VTD: 08, VTD: 10, VTD: 16, VTD: 17, VTD: 19, VTD: 20, VTD: 21, VTD: 22, VTD: 23, VTD: 24, VTD: 25, VTD: 26, VTD: 27, VTD: 28, VTD: 29, VTD: 30-1, VTD: 30-2, VTD: 31: Block(s) 0630010013034, 0630010013038, 0630010013039, 0630010013040, 0630010013043, 0630018071037, 0630018071038, 0630018091000, 0630018091001, 0630018091002, 0630018091003, 0630018091004, 0630018091005, 0630018091006, 0630018091007, 0630018091008, 0630018091009, 0630018091010, 0630018091011, 0630018091012, 0630018091013, 0630018091014, 0630018091015, 0630018091016, 0630018091017, 0630018091018, 0630018091019, 0630018091020, 0630018091021, 0630018091022, 0630018091023, 0630018091024, 0630018091025, 0630018091026, 0630018091027, 0630018091028, 0630018091029, 0630018091030, 0630018091031, 0630018091032, 0630018091033, 0630018091034, 0630018091035, 0630018091036, 0630018091037, 0630018091038, 0630018091041, 0630018091042, 0630018091043, 0630018091044, 0630018091045, 0630018091046, 0630018091062, 0630018091063, 0630018091064, 0630018091065, 0630018091066, 0630018091067, 0630018091071, 0630018091072, 0630018091073, 0630018091074, 0630018091077, 0630018091079, 0630018091080, 0630018092000, 0630018092001, 0630018092002, 0630018092003, 0630018092004, 0630018092005, 0630018092006, 0630018092007, 0630018092008, 0630018092009, 0630018092010, 0630018092011, 0630018092012, 0630018092013, 0630018092014, 0630018092015, 0630018092016, 0630018092017, 0630018092018, 0630018092019, 0630018092020, 0630018092021, 0630018092022, 0630018092023, 0630018092024, 0630018092027, 0630018092028, 0630018092029, 0630018092030, 0630018092031, 0630018092032, 0630018092033, 0630020271000, 0630020271001, 0630020271002, 0630020271003, 0630020271004, 0630020271005, 0630020271006, 0630020271007, 0630020271008, 0630020271009, 0630020271010, 0630020271011, 0630020271012, 0630020271013, 0630020271014, 0630020271015, 0630020271016, 0630020271017, 0630020271018, 0630020271019, 0630020271020, 0630020271021, 0630020271022, 0630020271023, 0630020271024, 0630020271025, 0630020271054, 0630020271055, 0630020271063, 0630020271064, 0630020271065, 0630020271067, 0630020271070, 0630020271071, 0639801001012, 0639801001013; VTD: 32, VTD: 33, VTD: 35: Block(s) 0630020131000, 0630020131001, 0630020131002,

0630020131003, 0630020131004, 0630020131005, 0630020131006, 0630020131007, 0630020131008, 0630020131009, 0630020131010, 0630020131011, 0630020131012, 0630020131013, 0630020131014, 0630020132000, 0630020132001, 0630020132002, 0630020132003, 0630020132004, 0630020132005, 0630020132006, 0630020132007, 0630020132008, 0630020132009, 0630020132010, 0630020132011, 0630020132012, 0630020132013, 0630020132014, 0630020132015, 0630020133000, 0630020133001, 0630020133002, 0630020133003, 0630020133004, 0630020133005, 0630020133006, 0630020133007, 0630020133008, 0630020133009, 0630020133010, 0630020133011, 0630020133012, 0630020133013, 0630020133014, 0630020133015, 0630020133016, 0630020133017, 0630020133018, 0630020133019, 0630020202000, 0630020202001, 0630020202002, 0630020202003, 0630020202004, 0630020202005, 0630020202006, 0630020202007, 0630020202008, 0630020202009, 0630020202010, 0630020202011, 0630020202012, 0630020202013, 0630020202014, 0630020202015, 0630020202016, 0630020202017, 0630020202018, 0630020202019, 0630020202020, 0630020202021, 0630020202022, 0630020202023, 0630020202024, 0630020202025, 0630020202026, 0630020202027, 0630020202028, 0630020202029, 0630020202030, 0630020202031, 0630020202032, 0630020202033, 0630020202034, 0630020202035, 0630020202036, 0630020202037, 0630020202038, 0630020202039, 0630020202040, 0630020202041, 0630020202042, 0630020202043, 0630020202044, 0630020202045, 0630020202046, 0630020202047, 0630020202048, 0630020202049, 0630020202050, 0630020202051, 0630020202052, 0630020202053, 0630020202054, 0630020202055, 0630020202056, 0630020202057, 0630020202058, 0630020211021, 0630020211022, 0630020211024, 0630020211049, 0630020211050, 0630020212011, 0630020212014, 0630020212017, 0630020212019, 0630020272070, 0630020272071, 0630020272072, 0630020272073, 0630020272074, 0630020272075; VTD: 36, VTD: 37, VTD: 38, VTD: 39, VTD: 43, VTD: 44, VTD: 45, VTD: 46, VTD: 47, VTD: 50, VTD: 51, VTD: 52, VTD: 53-2. It has three judges.

(17) District 18A: Guilford County: VTD: FEN1, VTD: FEN2, VTD: G04, VTD: G05, VTD: G06, VTD: G46, VTD: G52, VTD: G67, VTD: G68, VTD: G69, VTD: G70, VTD: G71, VTD: G72, VTD: G73, VTD: G74, VTD: G75, VTD: NCLAY1, VTD: NCLAY2, VTD: PG1, VTD: PG2, VTD: SCLAY. It has one judge.

(18) District 18B: Guilford County: VTD: H01, VTD: H02, VTD: H03, VTD: H04, VTD: H05, VTD: H06, VTD: H07, VTD: H08, VTD: H09, VTD: H10, VTD: H11, VTD: H12, VTD: H13, VTD: H14, VTD: H15, VTD: H16, VTD: H17, VTD: H18, VTD: H19A, VTD: H19B, VTD: H20A, VTD: H20B, VTD: H21, VTD: H22, VTD: H23, VTD: H24, VTD: H25,

VTD: H26, VTD: H27, VTD: HP, VTD: JAM1, VTD: JAM5, VTD: NDRI, VTD: SDRI. It has one judge.

(19) District 18C: Guilford County: VTD: CG1, VTD: CG2, VTD: CG3A, VTD: CG3B, VTD: FR1, VTD: FR2, VTD: FR3, VTD: FR4, VTD: FR5, VTD: G17, VTD: G30, VTD: G31, VTD: G32, VTD: G33, VTD: G34, VTD: G36, VTD: G37, VTD: G38, VTD: G39, VTD: G40A1, VTD: G40A2, VTD: G40B, VTD: G41, VTD: G42, VTD: G43, VTD: G64, VTD: G65, VTD: G66, VTD: JAM2, VTD: JAM3, VTD: JAM4, VTD: MON3, VTD: NCGR1, VTD: NCGR2, VTD: OR1, VTD: OR2, VTD: SF1, VTD: SF2, VTD: SF3, VTD: SF4, VTD: STOK. It has one judge.

(20) District 18D: Guilford County: VTD: G01, VTD: G11, VTD: G12, VTD: G13, VTD: G14, VTD: G15, VTD: G16, VTD: G19, VTD: G35, VTD: G44, VTD: G45, VTD: G47, VTD: G48, VTD: G49, VTD: G50, VTD: G51, VTD: G53, VTD: G54, VTD: G55, VTD: G56, VTD: G57, VTD: G58, VTD: G59, VTD: G60, VTD: G61, VTD: G62, VTD: G63, VTD: SUM1, VTD: SUM2, VTD: SUM3, VTD: SUM4. It has one judge.

(21) District 18E: Guilford County: VTD: G02, VTD: G03, VTD: G07, VTD: G08, VTD: G09, VTD: G10, VTD: G18, VTD: G20, VTD: G21, VTD: G22, VTD: G23, VTD: G24, VTD: G25, VTD: G26, VTD: G27, VTD: G28, VTD: G29, VTD: GIB, VTD: GR, VTD: JEF1, VTD: JEF2, VTD: JEF3, VTD: JEF4, VTD: MON1, VTD: MON2, VTD: NMAD, VTD: NWASH, VTD: RC1, VTD: RC2, VTD: SMAD, VTD: SWASH. It has one judge.

(22) District 21A: Forsyth County: VTD: 051, VTD: 052, VTD: 053, VTD: 054, VTD: 055, VTD: 071, VTD: 072, VTD: 073, VTD: 074, VTD: 075, VTD: 091, VTD: 092, VTD: 122, VTD: 123, VTD: 131, VTD: 132, VTD: 133, VTD: 701, VTD: 702, VTD: 703, VTD: 704, VTD: 705, VTD: 706, VTD: 707, VTD: 708, VTD: 709, VTD: 806, VTD: 807, VTD: 808. It has one judge.

(23) District 21B: Forsyth County: VTD: 042, VTD: 043, VTD: 501, VTD: 502, VTD: 503, VTD: 504, VTD: 505, VTD: 506, VTD: 507, VTD: 601, VTD: 602, VTD: 603, VTD: 604, VTD: 605, VTD: 606, VTD: 607, VTD: 901, VTD: 902, VTD: 903, VTD: 904, VTD: 905, VTD: 907. It has one judge.

(24) District 21C: Forsyth County: VTD: 011, VTD: 012, VTD: 013, VTD: 014, VTD: 015, VTD: 021, VTD: 031, VTD: 032, VTD: 033, VTD: 034, VTD: 061, VTD: 062, VTD: 063, VTD: 064, VTD: 065, VTD: 066, VTD: 067, VTD: 068, VTD: 101, VTD: 111, VTD: 112, VTD: 801, VTD: 802, VTD: 803, VTD: 804, VTD: 805, VTD: 809, VTD: 906, VTD: 908, VTD: 909. It has one judge.

(25) District 21D: Forsyth County: VTD: 081, VTD: 082, VTD: 083, VTD: 201, VTD: 203, VTD: 204, VTD: 205, VTD: 206, VTD: 207, VTD: 301,

VTD: 302, VTD: 303, VTD: 304, VTD: 305, VTD: 306, VTD: 401, VTD: 402, VTD: 403, VTD: 404, VTD: 405. It has one judge.

(26) District 26A: Mecklenburg County: VTD 001, VTD 008, VTD 018, VTD 019, VTD 032, VTD 035, VTD 036, VTD 047, VTD 048, VTD 057, VTD 067, VTD 069, VTD 071, VTD 074, VTD 091, VTD 096, VTD 103, VTD 106, VTD 113, VTD 119, VTD 136, VTD 215, VTD 216, VTD 217, VTD 218, VTD 219, VTD 220, VTD 221, VTD 233, VTD 234, VTD 236. It has one judge.

(27) District 26B: Mecklenburg County: VTD 070, VTD 072, VTD 073, VTD 075, VTD 076, VTD 086, VTD 087, VTD 088, VTD 090, VTD 092, VTD 093, VTD 100, VTD 101, VTD 110, VTD 111, VTD 112, VTD 114, VTD 118, VTD 121, VTD 131, VTD 137, VTD 139.1, VTD 140, VTD 144, VTD 226, VTD 227, VTD 232. It has one judge.

(28) District 26C: Mecklenburg County: VTD 127, VTD 133, VTD 134, VTD 142, VTD 143, VTD 150, VTD 151, VTD 202, VTD 206, VTD 207, VTD 208, VTD 209, VTD 223.1, VTD 224, VTD 240, VTD 241, VTD 242. It has one judge.

(29) District 26D: Mecklenburg County: VTD 037, VTD 038, VTD 049, VTD 050, VTD 051, VTD 058, VTD 059, VTD 077, VTD 097, VTD 098, VTD 120, VTD 122, VTD 129, VTD 138, VTD 147, VTD 148, VTD 225, VTD 228, VTD 229, VTD 230, VTD 231, VTD 243. It has one judge.

(30) District 26E: Mecklenburg County: VTD 002, VTD 005, VTD 007, VTD 009, VTD 010, VTD 012, VTD 013, VTD 014, VTD 016, VTD 017, VTD 020, VTD 021, VTD 022, VTD 023, VTD 024, VTD 025, VTD 029, VTD 031, VTD 039, VTD 040, VTD 041, VTD 046, VTD 052, VTD 053, VTD 078.1, VTD 079, VTD 080, VTD 081, VTD 109, VTD 200. It has one judge.

(31) District 26F: Mecklenburg County: VTD 011, VTD 015, VTD 026, VTD 027, VTD 028, VTD 030, VTD 042, VTD 044, VTD 054, VTD 055, VTD 056, VTD 082, VTD 089, VTD 128, VTD 135, VTD 210, VTD 211, VTD 213, VTD 214, VTD 222, VTD 238.1. It has one judge.

(32) District 26G: Mecklenburg County: VTD 003, VTD 004, VTD 043, VTD 060, VTD 061, VTD 104, VTD 105, VTD 107.1, VTD 123, VTD 126, VTD 132, VTD 141, VTD 145, VTD 146, VTD 149, VTD 204.1, VTD 212, VTD 237, VTD 239. It has one judge.

(33) District 26H: Mecklenburg County: VTD 006, VTD 033, VTD 034, VTD 045, VTD 062, VTD 063, VTD 064, VTD 065, VTD 066, VTD 068, VTD 083, VTD 084, VTD 085, VTD 094, VTD 095, VTD 099, VTD 102, VTD 108, VTD 115, VTD 116, VTD 117, VTD 124, VTD 125, VTD 130, VTD 201, VTD 203, VTD 205, VTD 235. It has one judge.

(b1) The qualified voters of District 4 shall elect all judges established for District 4 in subsection (a) of this section, but only persons who reside in Onslow County may be

candidates for one of the judgeships and only persons who reside in Duplin, Jones, or Sampson County may be candidates for the remaining judgeship.

(c) In subsection (b) above, the names and boundaries of voting tabulation districts, tracts, block groups, and blocks specified in this section are as shown on the 2010 Census Redistricting TIGER/Line Shapefiles.

(c1) If any voting tabulation district boundary is changed, that change shall not change the boundary of a judicial district, which shall remain the same as it is depicted by the 2010 Census Redistricting TIGER/Line Shapefiles.

(c2) The Legislative Services Officer shall certify a true copy of the block assignment file associated with any mapping software used to generate the language in subsection (b) of this section. The certified true copy of the block assignment file shall be delivered by the Legislative Services Officer to the Principal Clerk of the Senate and the Principal Clerk of the House of Representatives. If any area within North Carolina is not assigned to a specific district by subsection (b) of this section, the certified true copy of the block assignment file delivered to the Principal Clerk of the Senate and the Principal Clerk of the House of Representatives shall control.

(d) The several judges, their terms of office, and their assignments to districts are as follows:

(1) In the first superior court district, J. Herbert Small and Thomas S. Watts serve terms expiring December 31, 1994.

(2) In the second superior court district, William C. Griffin serves a term expiring December 31, 1994.

(3) In the third-A superior court district, David E. Reid serves a term expiring on December 31, 1992.

(4) In the third-B superior court district, Herbert O. Phillips, III, serves a term expiring on December 31, 1994.

(5) In the fourth-A superior court district, Henry L. Stevens, III, serves a term expiring December 31, 1994.

(6) In the fourth-B superior court district, James R. Strickland serves a term expiring December 31, 1992.

(7) In the fifth superior court district, no election shall be held in 1992 for the full term of the seat now occupied by Bradford Tillery, and the holder of that seat shall serve until a successor is elected in 1994 and qualifies. The succeeding term begins January 1, 1995. In the fifth superior court district, Napoleon B. Barefoot serves a term expiring December 31, 1994.

(8) In the sixth-A superior court district, Richard B. Allsbrook serves a term expiring December 31, 1990.

(9) In the sixth-B superior court district, a judge shall be elected in 1988 to serve an eight-year term beginning January 1, 1989.

(10) In the seventh-A superior court district, Charles B. Winberry, serves a term expiring December 31, 1994.

(11) In the seventh-B superior court district, a judge shall be elected in 1988 to serve an eight-year term beginning January 1, 1989.

(12) In the seventh-C superior court district, Franklin R. Brown serves a term expiring December 31, 1990.

(13) In the eighth-A superior court district, James D. Llewellyn serves a term expiring December 31, 1994.

(14) In the eighth-B superior court district, Paul M. Wright serves a term expiring December 31, 1992.

(15) In the ninth superior court district, Robert H. Hobgood and Henry W. Hight, Jr., serve terms expiring December 31, 1994.

(16) In the tenth-A superior court district, a judge shall be elected in 1988 to serve an eight-year term beginning January 1, 1989.

(17) In the tenth-B superior court district, Robert L. Farmer serves a term expiring December 31, 1992. In the tenth-B superior court district, no election shall be held in 1990 for the full term of the seat now occupied by Henry V. Barnette, Jr., and the holder of that seat shall serve until a successor is elected in 1992 and qualifies. The succeeding term begins January 1, 1993.

(18) In the tenth-C superior court district, Edwin S. Preston, serves a term expiring December 31, 1990. In the tenth-D superior court district, Donald Stephens serves a term expiring December 31, 1988.

(19) In the eleventh superior court district, Wiley F. Bowen serves a term expiring December 31, 1990.

(20) In the twelfth-A superior court district, D.B. Herring, Jr., serves a term expiring December 31, 1990.

(21) In the twelfth-B superior court district, a judge shall be elected in 1988 to serve an eight-year term beginning January 1, 1989.

(22) In the twelfth-C superior court district, no election shall be held in 1992 for the full term of the seat now occupied by Coy E. Brewer, Jr., and the holder of that seat shall serve until a successor is elected in 1994 and qualifies. The succeeding term begins January 1, 1995. In the twelfth-C superior court district, E. Lynn Johnson serves a term expiring December 31, 1994.

(23) In the thirteenth superior court district, Giles R. Clark serves a term expiring December 31, 1994.

(24) In the fourteenth-A superior court district, a judge shall be elected in 1988 to serve an eight-year term beginning January 1, 1989.

(25) In the fourteenth-B superior court district, no election shall be held in 1992 for the full term of the seat now occupied by Anthony M. Brannon, and the holder of that seat shall serve until a successor is elected in 1994 and qualifies. The succeeding term begins July 1, 1995.

(26) In the fourteenth-B superior court district, no election shall be held in 1990 for the full term of the seat now occupied by Thomas H. Lee, and the holder of that seat shall serve until a successor is elected in 1994 and qualifies. The succeeding term begins January 1, 1995. In the

fourteenth-B superior court district, J. Milton Read, Jr., serves a term expiring December 31, 1994.

(27) In the fifteenth-A superior court district, J.B. Allen, Jr., serves a term expiring December 31, 1994.

(28) In the fifteenth-B superior court district, F. Gordon Battle serves a term expiring December 31, 1994.

(29) In the sixteenth-A superior court district, B. Craig Ellis serves a term expiring December 31, 1994.

(30) In the sixteenth-B superior court district, a judge shall be elected in 1988 to serve an eight-year term beginning January 1, 1989. In the sixteenth-B judicial [superior court] district, a judge shall be appointed by the Governor to serve until the results of the 1990 general election are certified. A person shall be elected in the 1990 general election to serve the remainder of the term expiring December 31, 1996.

(31) In the seventeenth-A superior court district, Melzer A. Morgan, Jr., serves a term expiring December 31, 1990.

(32) In the seventeenth-B superior court district, James M. Long serves a term expiring December 31, 1994.

(33) In the eighteenth-A superior court district, a judge shall be elected in 1988 to serve an eight-year term beginning January 1, 1989.

(34) In the eighteenth-B superior court district, Edward K. Washington's term expired December 31, 1986, but he is holding over because of a court order enjoining an election from being held in 1986. A successor shall be elected in 1988 to serve an eight-year term beginning January 1, 1989.

(35) In the eighteenth-C superior court district, W. Douglas Albright serves a term expiring December 31, 1990.

(36) In the eighteenth-D superior court district, Thomas W. Ross's term expired December 31, 1986, but he is holding over because of a court order enjoining an election from being held in 1986. A successor shall be elected in 1988 to serve an eight-year term beginning January 1, 1989.

(37) In the eighteenth-E superior court district, Joseph John's term expired December 31, 1986, but he is holding over because of a court order enjoining an election from being held in 1986. A successor shall be elected in 1988 to serve an eight-year term beginning January 1, 1989.

(38) In the nineteenth-A superior court district, James C. Davis serves a term expiring December 31, 1992.

(39) In the nineteenth-B1 superior court district, Russell G. Walker, Jr., serves a term expiring December 31, 1990. No election shall be held in 1998 for the full term of the seat now occupied by Russell G. Walker, Jr., and the holder of that seat shall serve until a successor is elected in 2000 and qualifies. The succeeding term shall begin January 1, 2001. The superior court judgeship held on June 12, 1996, in Superior Court District 20A by a resident of Moore County (James M. Webb) is allocated to Superior

Court District 19B2. The term of that judge expires December 31, 2000. The judge's successor shall be elected in the 2000 general election.

(40) In the nineteenth-C superior court district, Thomas W. Seay, Jr., serves a term expiring December 31, 1990.

(41) In the twentieth-A superior court district, F. Fetzer Mills serves a term expiring December 31, 1992.

(42) In the twentieth-B superior court district, William H. Helms serves a term expiring December 31, 1990.

(43) In the twenty-first-A superior court district, William Z. Wood serves a term expiring December 31, 1990.

(44) In the twenty-first-B superior court district, Judson D. DeRamus, Jr., serves a term expiring December 31, 1988.

(45) In the twenty-first-C superior court district, William H. Freeman serves a term expiring December 31, 1990.

(46) In the twenty-first-D superior court district, a judge shall be elected in 1988 to serve an eight-year term beginning January 1, 1989.

(47) In the twenty-second superior court district, no election shall be held in 1992 for the full term of the seat now occupied by Preston Cornelius, and the holder of that seat shall serve until a successor is elected in 1994 and qualifies. The succeeding term shall begin January 1, 1995. In the twenty-second superior court district, Robert A. Collier serves a term expiring December 31, 1994.

(48) In the twenty-third superior court district, Julius A. Rousseau, Jr., serves a term expiring December 31, 1990.

(49) In the twenty-fourth superior court district, Charles C. Lamm, Jr., serves a term expiring December 31, 1994.

(50) In the twenty-fifth-A superior court district, Claude S. Sitton serves a term expiring December 31, 1994.

(51) In the twenty-fifth-B superior court district, Forrest A. Ferrell serves a term expiring December 31, 1990.

(52) In the twenty-sixth-A superior court district, no election shall be held in 1994 for the full term of the seat now occupied by W. Terry Sherrill, and the holder of that seat shall serve until a successor is elected in 1996 and qualifies. The succeeding term shall begin January 1, 1997. In the twenty-sixth-A superior court district, a judge shall be elected in 1988 to serve an eight-year term beginning January 1, 1989.

(53) In the twenty-sixth-B superior court district, Frank W. Snepp, Jr., and Kenneth A. Griffin serve terms expiring December 31, 1990.

(54) In the twenty-sixth-C superior court district, no election shall be held in 1992 for the full term of the seat now occupied by Chase Boone Saunders, and the holder of that seat shall serve until a successor is elected in 1994 and qualifies. The succeeding term shall begin January 1, 1995. In the

twenty-sixth-C superior court district, Robert M. Burroughs serves a term expiring December 31, 1994.

(55) In the twenty-seventh-A superior court district, no election shall be held in 1988 for the full term of the seat now occupied by Robert E. Gaines, and the holder of that seat shall serve until a successor is elected in 1990 and qualifies. The succeeding term begins January 1, 1991. In the twenty-seventh-A superior court district, Robert W. Kirby serves a term expiring December 31, 1990.

(56) In the twenty-seventh-B superior court district, John M. Gardner serves a term expiring December 31, 1994.

(57) In the twenty-eighth superior court district, Robert D. Lewis and C. Walter Allen serve terms expiring December 31, 1990.

(58) In the twenty-ninth superior court district, Hollis M. Owens, Jr., serves a term expiring December 31, 1990.

(59) In the thirtieth-A superior court district, James U. Downs serves a term expiring December 31, 1990.

(60) In the thirtieth-B superior court district, Janet M. Hyatt serves a term expiring December 31, 1994. (1969, c. 1171, ss. 1-3; c. 1190, s. 4; 1971, c. 377, s. 5; c. 997; 1973, c. 47, s. 2; c. 646; c. 855, s. 1; 1975, c. 529; c. 956, ss. 1, 2; 1975, 2nd Sess., c. 983, s. 114; 1977, c. 1119, ss. 1, 3, 4; c. 1130, ss. 1, 2; 1977, 2nd Sess., c. 1238, s. 1; c. 1243, s. 4; 1979, c. 838, s. 119; c. 1072, s. 1; 1979, 2nd Sess., c. 1221, s. 1; 1981, c. 964, ss. 1, 2; 1981 (Reg. Sess., 1982), c. 1282, s. 71.2; 1983 (Reg. Sess., 1984), c. 1109, ss. 4, 4.1; 1985, c. 698, s. 11(a); 1987, c. 509, s. 1; c. 549, s. 6.6; c. 738, s. 124; 1987 (Reg. Sess., 1988), c. 1037, s. 1; c. 1056, ss. 14, 15; 1989, c. 795, s. 22(a); 1991, c. 746, s. 1; 1993, c. 321, ss. 200.4(a), 200.5(a), (d); 1995, c. 51, s. 1; c. 509, s. 3; 1995 (Reg. Sess., 1996), c. 589, s. 1(a), (c); 1998-212, s. 16.16A(a); 1998-217, s. 67.3(c); 1999-237, ss. 17.12(b), 17.19(a)-(d), 17.20(a)-(c); 1999-396, s. 1; 2000-67, s. 15.6(a); 2000-140, s. 36; 2001-333, ss. 1, 2; 2001-424, s. 22.4(b); 2001-507, ss. 3, 4; 2003-284, ss. 13.14(a), 13.14(b); 2004-124, s. 14.6(b); 2004-127, s. 2(a); 2005-276, ss. 14.2(a), 14.2(e1); 2006-96, s. 2; 2007-323, s. 14.25(a); 2011-203, ss. 1-3; 2011-417, s. 1; 2012-182, s. 2(a), (b); 2013-360, s. 18B.22(a); 2017-57, s. 18B.9(a); 2018-5, s. 18B.5(a); 2018-14, s. 1(a); 2018-121, ss. 1(a), 10.)

§ 7A-41.1. District and set of districts defined; senior resident superior court judges and their authority.

(a) In this section and in any other law which refers to this section:

(1) "District" means any superior court district established by G.S. 7A-41 which consists exclusively of one or more entire counties;

(2) "Set of districts" means any set of two or more superior court districts established under G.S. 7A-41, none of which consists exclusively of one

or more entire counties, but both or all of which include territory from the same county or counties and together comprise all of the territory of that county or those counties;

(3) "Regular resident superior court judge of the district or set of districts" means a regular superior court judge who is a resident judge of any of the superior court districts established under G.S. 7A-41 which comprise or are included in a district or set of districts as defined herein.

(b) There shall be one and only one senior resident superior court judge for each district or set of districts as defined in subsection (a) of this section, who shall be:

(1) Where there is only one regular resident superior court judge for the district, that judge; and

(2) Where there are two or more regular resident superior court judges for the district or set of districts, the judge who, from among all the regular resident superior court judges of the district or set of districts, has the most continuous service as a regular resident superior court judge; provided if two or more judges are of equal seniority, the oldest of those judges shall be the senior regular resident superior court judge.

(3) Where there is a set of districts, the Chief Justice of the Supreme Court shall designate one of the judges as senior resident superior court judge to serve in that capacity at the pleasure of the Chief Justice, if that set of districts are wholly contained in one county that is specified in law as the sole proper venue for certain actions.

(c) Senior resident superior court judges and regular resident superior court judges possess equal judicial jurisdiction, power, authority and status, but all duties placed by the Constitution or statutes on the resident judge of a superior court district, including the appointment to and removal from office, which are not related to a case, controversy or judicial proceeding and which do not involve the exercise of judicial power, shall be discharged, throughout a district as defined in subsection (a) of this section or throughout all of the districts comprising a set of districts so defined, for each county in that district or set of districts, by the senior resident superior court judge for that district or set of districts. That senior resident superior court judge alone among the superior court judges of that district or set of districts shall receive the salary and benefits of a senior resident superior court judge.

(d) A senior resident superior court judge for a district or set of districts as defined in subsection (a) of this section with two or more regular resident superior court judges, by notice in writing to the Administrative Officer of the Courts, may decline to exercise the authority vested in him by this section, in which event such authority shall be exercised by the regular resident superior court judge who, among the other regular resident superior court judges of the district or set of districts, is next senior in point of service or age, respectively.

(e) In the event a senior resident superior court judge for a district or set of districts with one or more regular resident superior court judges is unable, due to mental or physical incapacity, to exercise the authority vested in him by the statute, and the Chief Justice, in

his discretion, has determined that such incapacity exists, the Chief Justice shall appoint an acting senior regular resident superior court judge from the other regular resident judges of the district or set of districts, to exercise, temporarily, the authority of the senior regular resident judge. Such appointee shall serve at the pleasure of the Chief Justice and until his temporary appointment is vacated by appropriate order. (1987 (Reg. Sess., 1988), c. 1037, s. 2; 2010-105, s. 1; 2012-194, s. 63.5.)

§ 7A-41.2. Nomination and election of regular superior court judges.

Candidates for the office of regular superior court judge shall be both nominated and elected by the qualified voters of the superior court district for which the election is sought. (1996, 2nd Ex. Sess., c. 9, s. 1.)

§ 7A-42. Sessions of superior court in cities other than county seats.

(a) Sessions of the superior court shall be held in each city in the State which is not a county seat and which has a population of 35,000 or more, according to the 1960 federal census.

(a1) In addition to the sessions of superior court authorized by subsection (a) of this section, sessions of superior court in the following counties may be held in the additional seats of court listed by order of the Senior Resident Superior Court Judge after consultation with the Chief District Court Judge:

County	Additional Seats of Court
Davidson	Thomasville
Iredell	Mooresville

The courtrooms and related judicial facilities for these sessions of superior court may be provided by the municipality, and in such cases the facilities fee collected for the State by the clerk of superior court shall be remitted to the municipality to assist in meeting the expense of providing those facilities.

(b) For the purpose of segregating the cases to be tried in any city referred to in subsection (a), and to designate the place of trial, the clerk of superior court in any county having one or more such cities shall set up a criminal docket and a civil docket, which dockets shall indicate the cases and proceedings to be tried in each such city in his county. Such dockets shall bear the name of the city in which such sessions of court are to be held, followed by the word "Division." Summons in actions to be tried in any such city shall clearly designate the place of trial.

(c) For the purpose of determining the proper place of trial of any action or proceeding, whether civil or criminal, the county in which any city described in subsection (a) is located shall be divided into divisions, and the territory embraced in the division in which each such city is located shall consist of the township in which such city lies and all contiguous townships within such county, such division of the superior court to be known by the name of such city followed by the word "Division." All other townships of any such county shall constitute a division of the superior court to be known by the name of the county seat followed by the word "Division." All laws, rules, and regulations now or hereafter in force and effect in determining the proper venue as between the superior courts of the several counties of the State shall apply for the purpose of determining the proper place of trial as between such divisions within such county and as between each of such divisions and any other county of the superior court in North Carolina.

(d) The clerk of superior court of any county with an additional seat of superior court may, but shall not be required to, hear matters in any place other than at his office at the county seat.

(e) The grand jury for the several divisions of court of any county in which a city described in subsection (a) is located shall be drawn from the whole county, and may hold hearings and meetings at either the county seat or elsewhere within the county as it may elect, or as it may be directed by the judge holding any session of superior court within such county; provided, however, that in arranging the sessions of the court for the trial of criminal cases for any county in which any such city is located a session of one week or more shall be held at the county seat preceding any session of one week or more to be held in any such city, so as to facilitate the work of the grand jury, and so as to confine its meetings to the county seat as fully as may be practicable. All petit jurors for all sessions of court in the several divisions of such county shall be drawn, as now or hereafter provided by law, from the whole of the county in which any such city is located for all sessions of courts in the several divisions of such county.

(f) Special sessions of court for the trial of either civil or criminal cases in any city described in subsection (a) may be arranged as by law now or hereafter provided for special sessions of the superior court.

(g) All court records of all such divisions of the superior court of any such county shall be kept in the office of the clerk of the superior court at the county seat, but they may be temporarily removed under the direction and supervision of the clerk to any such division or divisions. No judgment or order rendered at any session held in any such city shall become a lien upon or otherwise affect the title to any real estate within such county until it has been docketed in the office of the clerk of the superior court at the county seat as now or may hereafter be provided by law; provided, that nothing herein shall affect the provisions of G.S. 1-233 and the equities therein provided for shall be preserved as to all judgments and orders rendered at any session of the superior court in any such city.

(h) It shall be the duty of the board of county commissioners of the county in which any such city is located to provide a suitable place for holding such sessions of court, and to provide for the payment of the extra expense, if any, of the sheriff and his deputies in attending the sessions of court of any such division, and the expense of keeping, housing and feeding prisoners while awaiting trial.

(i) Notwithstanding the provisions of this section, when exigent circumstances exist, sessions of superior court may be conducted at a location outside a county seat by order of the Senior Resident Superior Court Judge of a county, with the prior approval of the location and the facilities by the Administrative Office of the Courts and after consultation with the Clerk of Superior Court and county officials of the county. An order entered under this subsection shall be filed in the office of the Clerk of Superior Court in the county and posted at the courthouse within the county seat and notice shall be posted in other conspicuous locations. The order shall be limited to such session or sessions as are approved by the Chief Justice of the Supreme Court of North Carolina. (1943, c. 121; 1969, c. 1190, s. 48; 1987 (Reg. Sess., 1988), c. 1037, s. 2.1; 1997-304, s. 4.)

§ 7A-43. Reserved for future codification purposes.

§§ 7A-43.1 through 7A-43.3. Repealed by Session Laws 1967, c. 1049, s. 6.

§ 7A-44. Salary and expenses of superior court judge.

(a) A judge of the superior court, regular or special, shall receive the annual salary set forth in the Current Operations Appropriations Act, and in addition shall be paid the

same travel allowance as State employees generally by G.S. 138-6(a), provided that no travel allowance be paid for travel within his county of residence. The Administrative Officer of the Courts may also reimburse superior court judges, in addition to the above funds for travel, for travel and subsistence expenses incurred for professional education.

(b) In lieu of merit and other increment raises paid to regular State employees, a judge of the superior court, regular or special, shall receive as longevity pay an annual amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, nineteen and two-tenths percent (19.2%) after 20 years of service, and twenty-four percent (24%) after 25 years of service. "Service" means service as a justice or judge of the General Court of Justice, as a member of the Utilities Commission, as an administrative law judge, or as director or assistant director of the Administrative Office of the Courts. Service shall also mean service as a district attorney or as a clerk of superior court. (Code, ss. 918, 3734; 1891, c. 193; 1901, c. 167; 1905, c. 208; Rev., s. 2765; 1907, c. 988; 1909, c. 85; 1911, c. 82; 1919, c. 51; C.S., s. 3884; 1921, c. 25, s. 3; 1925, c. 227; 1927, c. 69, s. 2; 1949, c. 157, s. 1; 1953, c. 1080, s. 1; 1957, c. 1416; 1961, c. 957, s. 2; 1963, c. 839, s. 2; 1965, c. 921, s. 2; 1967, c. 691, s. 40; 1969, c. 1190, s. 36; 1973, c. 1474; 1975, 2nd Sess., c. 983, s. 13; 1977, c. 802, s. 41.1; 1979, 2nd Sess., c. 1137, s. 28; 1981, c. 964, s. 18; 1983, c. 761, s. 244; 1983 (Reg. Sess., 1984), c. 1034, s. 165; c. 1109, ss. 2.2, 11, 13.1; 1985, c. 698, s. 10(a); 1987 (Reg. Sess., 1988), c. 1086, s. 30(b); c. 1100, s. 15(c); 2007-323, s. 28.18A(c); 2009-451, s. 15.10; 2009-575, s. 13; 2017-57, s. 35.4(f).)

§ 7A-44.1. Secretarial and clerical help.

(a) Each senior resident superior court judge may appoint a judicial secretary to serve at his pleasure and under his direction the secretarial and clerical needs of the superior court judges of the district or set of districts as defined by G.S. 7A-41.1(a) for which he is the senior resident superior court judge. The appointment may be full-or part-time and the compensation and allowances of such secretary shall be fixed by the senior regular resident superior court judge, within limits determined by the Administrative Office of the Courts, and paid by the State.

(b) Each senior resident superior court judge may apply to the Director of the Administrative Office of the Courts to enter into contracts with local governments for the provision by the State of services of judicial secretaries pursuant to G.S. 153A-212.1 or G.S. 160A-289.1.

(c) The Director of the Administrative Office of the Courts may provide assistance requested pursuant to subsection (b) of this section only upon a showing by the senior resident superior court judge, supported by facts, that the overwhelming public interest warrants the use of additional resources for the speedy disposition of cases involving drug offenses, domestic violence, or other offenses involving a threat to public safety.

(d) The terms of any contract entered into with local governments pursuant to subsection (b) of this section shall be fixed by the Director of the Administrative Office of the Courts in each case. Nothing in this section shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this section or to obligate the Administrative Office of the Courts to provide the administrative costs of establishing or maintaining the positions or services provided for under this section. Further, nothing in this section shall be construed to

obligate the Administrative Office of the Courts to maintain positions or services initially provided for under this section. (1975, c. 956, s. 3; 1987 (Reg. Sess., 1988), c. 1037, s. 3; 2000-67, s. 15.4(a).)

§ 7A-45: Repealed by Session Laws 1987, c. 509, s. 7, effective January 1, 1989.

§ 7A-45.1. Special judges.

(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. 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-45.3, 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 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.

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 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.

(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. (1987, c. 738, s. 123(a); 1987 (Reg. Sess., 1988), c. 1037, s. 5; 1993, c. 321, s. 200.5(g); 1995, c. 507, s. 21.1(f); 1996, 2nd Ex. Sess., c. 18, s. 22.6(a); 1998-212, s. 16.22(a), (b); 1999-237, s. 17.12(a); 2000-67, s. 15.8(a); 2001-424, s. 22.4(a); 2004-124, s. 14.6(a); 2007-323, s. 14.24; 2014-100, s. 18B.6; 2015-241, s. 18A.19.)

§ 7A-45.2. Emergency special judges of the superior court; qualifications, appointment, removal, and authority.

(a) Any justice or judge of the appellate division of the General Court of Justice who:

(1) Retires under the provisions of the Consolidated Judicial Retirement Act, Article 4 of Chapter 135 of the General Statutes, or who is eligible to receive a retirement allowance under that act;

(2) Has not reached the mandatory retirement age specified in G.S. 7A-4.20;

(3) Has served at least five years as a superior court judge or five years as a justice or judge of the appellate division of the General Court of Justice, or any combination thereof, whether or not eligible to serve as an emergency justice or judge of the appellate division of the General Court of Justice; and

(4) Whose judicial service ended within the preceding 10 years;

may apply to the Governor for appointment as an emergency special superior court judge in the same manner as is provided for application as an emergency superior court judge in G.S. 7A-53. If the Governor is satisfied that the applicant meets the requirements of this section and is physically and mentally able to perform the duties of a superior court judge, the Governor shall issue a commission appointing the applicant as an emergency special superior court judge until the applicant reaches the mandatory retirement age for superior court judges specified in G.S. 7A-4.20.

(b) Any emergency special superior court judge appointed as provided in this section shall:

(1) Have the same powers and duties, when duly assigned to hold court, as provided for an emergency superior court judge by G.S. 7A-48;

(2) Be subject to assignment in the same manner as provided for an emergency superior court judge by G.S. 7A-46 and G.S. 7A-52(a);

(3) Receive the same compensation, expenses, and allowances, when assigned to hold court, as an emergency superior court judge as provided by G.S. 7A-52(b);

(4) Be subject to the provisions and requirements of the Canons of Judicial Conduct; and

(5) Not engage in the practice of law during any period for which the emergency special superior court judgeship is commissioned. However, this subdivision shall not be construed to prohibit an emergency special superior court judge appointed pursuant to this section from serving as a referee, arbitrator, or mediator, during service as an emergency special superior court judge when the service does not conflict with or interfere with the emergency special superior court judge's judicial service in emergency status.

(c) Upon reaching mandatory retirement age for superior court judges as set forth in G.S. 7A-4.20, any emergency special superior court judge appointed pursuant to this section, whose commission has expired, may be recalled as a recalled emergency special

superior court judge to preside over any regular or special session of the superior court under the following circumstances:

(1) The judge shall consent to the recall;
(2) The Chief Justice may order the recall;
(3) Prior to ordering recall, the Chief Justice shall be satisfied that the recalled judge is capable of efficiently and promptly discharging the duties of the office to which recalled;
(4) Jurisdiction of a recalled emergency special superior court judge is as set forth in G.S. 7A-48;
(5) Orders of recall and assignment shall be in writing and entered upon the minutes of the court to which assigned; and
(6) Compensation, expenses, and allowances of recalled emergency special superior court judges are the same as for recalled emergency superior court judges under G.S. 7A-52(b).
(7) The emergency special superior court judge is listed as active on the list described in G.S. 7A-52(a).

(d) Any former justice or judge of the appellate division of the General Court of Justice who otherwise meets the requirements of subsection (a) of this section to be appointed an emergency special superior court judge but has already reached the mandatory retirement age for superior court judges set forth in G.S. 7A-4.20 on retirement may, in lieu of serving as an emergency judge of the court from which he retired, apply to the Governor to be appointed as an emergency special superior court judge as provided in this section. If the Governor issues a commission to the applicant, the retired justice or judge is subject to recall as an emergency special superior court judge as provided in subsection (c) of this section.

(e) No justice or judge appointed as an emergency special superior court judge or subject to recall as provided in this section shall, during the period so appointed or subject to recall, contemporaneously serve as an emergency justice or judge of the appellate division of the General Court of Justice. (1993, c. 321, s. 199; 2017-57, s. 18B.11(a).)

§ 7A-45.3. Superior court judges designated for complex business cases.

The Chief Justice may exercise the authority under rules of practice prescribed pursuant to G.S. 7A-34 to designate one or more of the special superior court judges authorized by G.S. 7A-45.1 to hear and decide complex business cases as prescribed by the rules of practice. Any judge so designated shall be known as a Business Court Judge and shall preside in the Business Court. If there is more than one business court judge, including any judge serving as a senior business court judge pursuant to G.S. 7A-52(a1) or upon recall pursuant to G.S. 7A-57, the Chief Justice may designate one of them as the Chief Business Court Judge. If there is no designation by the Chief Justice, the judge with the longest term of service on the court shall serve as Chief Business Court Judge until the Chief Justice makes an appointment to the position. The presiding Business Court Judge shall issue a written opinion in connection with any order granting or denying a motion under G.S. 1A-1, Rule 12, 56, 59, or 60, or any order finally disposing of a complex business

case, other than an order effecting a settlement agreement or jury verdict. (2005-425, s. 1.1; 2014-102, s. 2; 2016-91, s. 1.)

§ 7A-45.4. Designation of complex business cases.

(a) Any party may designate as a mandatory complex business case an action that involves a material issue related to any of the following:

(1) Disputes involving the law governing corporations, except charitable and religious organizations qualified under G.S. 55A-1-40(4) on the grounds of religious purpose, partnerships, and limited liability companies, including disputes arising under Chapters 55, 55A, 55B, 57D, and 59 of the General Statutes.

(2) Disputes involving securities, including disputes arising under Chapter 78A of the General Statutes.

(3) Disputes involving antitrust law, including disputes arising under Chapter 75 of the General Statutes that do not arise solely under G.S. 75-1.1 or Article 2 of Chapter 75 of the General Statutes.

(4) Disputes involving trademark law, including disputes arising under Chapter 80 of the General Statutes.

(5) Disputes involving the ownership, use, licensing, lease, installation, or performance of intellectual property, including computer software, software applications, information technology and systems, data and data security, pharmaceuticals, biotechnology products, and bioscience technologies.

(6), (7) Repealed by Session Laws 2014-102, s. 3, effective October 1, 2014.

(8) Disputes involving trade secrets, including disputes arising under Article 24 of Chapter 66 of the General Statutes.

(9) Contract disputes in which all of the following conditions are met:

a. At least one plaintiff and at least one defendant is a corporation, partnership, or limited liability company, including any entity authorized to transact business in North Carolina under Chapter 55, 55A, 55B, 57D, or 59 of the General Statutes.

b. The complaint asserts a claim for breach of contract or seeks a declaration of rights, status, or other legal relations under a contract.

c. The amount in controversy computed in accordance with G.S. 7A-243 is at least one million dollars ($1,000,000).

d. All parties consent to the designation.

(b) The following actions shall be designated as mandatory complex business cases:

(1) An action involving a material issue related to tax law that has been the subject of a contested tax case for which judicial review is requested under G.S. 105-241.16, or a civil action under G.S. 105-241.17 containing a constitutional challenge to a tax statute, shall be designated as a mandatory complex business case by the petitioner or plaintiff.

(2) An action described in subdivision (1), (2), (3), (4), (5), or (8) of subsection (a) of this section in which the amount in controversy

computed in accordance with G.S. 7A-243 is at least five million dollars ($5,000,000) shall be designated as a mandatory complex business case by the party whose pleading caused the amount in controversy to equal or exceed five million dollars ($5,000,000).

(3) Repealed by Session Laws 2015-119, s. 6, effective June 29, 2015, and applicable to any action filed on or after that date.

(c) A party designating an action as a mandatory complex business case shall file a Notice of Designation in the Superior Court in which the action has been filed, shall contemporaneously serve the notice on each opposing party or counsel and on the Special Superior Court Judge for Complex Business Cases who is then the Chief Business Court Judge, and shall contemporaneously send a copy of the notice by e-mail to the Chief Justice of the Supreme Court for approval of the designation of the action as a mandatory complex business case. The Notice of Designation shall, in good faith and based on information reasonably available, succinctly state the basis of the designation and include a certificate by or on behalf of the designating party that the civil action meets the criteria for designation as a mandatory complex business case pursuant to subsection (a) or (b) of this section.

(d) The Notice of Designation shall be filed:

(1) By the plaintiff, the third-party plaintiff, or the petitioner for judicial review contemporaneously with the filing of the complaint, third-party complaint, or the petition for judicial review in the action.

(2) By any intervenor when the intervenor files a motion for permission to intervene in the action.

(3) By any defendant or any other party within 30 days of receipt of service of the pleading seeking relief from the defendant or party.

(4) By any party whose pleading caused the amount in controversy computed in accordance with G.S. 7A-243 to equal or exceed five million dollars ($5,000,000) contemporaneously with the filing of that pleading.

(e) Within 30 days after service of the Notice of Designation, any other party may, in good faith, file and serve an opposition to the designation of the action as a mandatory complex business case. The opposition to the designation of the action shall assert all grounds on which the party opposing designation objects to the designation, and any grounds not asserted shall be deemed conclusively waived. Within 30 days after the entry of an order staying a pending action pursuant to subsection (g) of this section, any party opposing the stay shall file an objection with the Business Court asserting all grounds on which the party objects to the case proceeding in the Business Court, and any grounds not asserted shall be deemed conclusively waived. Based on the opposition or on its own motion, the Business Court Judge shall rule by written order on the opposition or objection and determine whether the action should be designated as a mandatory complex business case. If a party disagrees with the decision, the party may appeal in accordance with G.S. 7A-27(a).

(f) Once a designation is filed under subsection (d) of this section, and after preliminary approval by the Chief Justice, a case shall be designated and administered a

complex business case. All proceedings in the action shall be before the Business Court Judge to whom it has been assigned unless and until an order has been entered under subsection (e) of this section ordering that the case not be designated a mandatory complex business case or the Chief Justice revokes approval. If complex business case status is revoked or denied, the action shall be treated as any other civil action, unless it is designated as an exceptional civil case or a discretionary complex business case pursuant to Rule 2.1 of the General Rules of Practice for the Superior and District Courts.

(g) If an action required to be designated as a mandatory complex business case pursuant to subsection (b) of this section is not so designated, the Superior Court in which the action has been filed shall, by order entered sua sponte, stay the action until it has been designated as a mandatory complex business case by the party required to do so in accordance with subsection (b) of this section.

(h) Nothing in this section is intended to permit actions for personal injury grounded in tort to be designated as mandatory complex business cases or to confer, enlarge, or diminish the subject matter jurisdiction of any court. (2005-425, s. 2; 2007-491, s. 4; 2014-102, s. 3; 2015-119, s. 6; 2016-91, s. 2.)

§ 7A-45.5: Repealed by Session Laws 2017-57, s. 18B.4(a), effective June 28, 2017.

§ 7A-46. Special sessions.

Whenever it appears to the Chief Justice of the Supreme Court that there is need for a special session of superior court in any county, he may order a special session in that county, and order any regular, special, or emergency judge to hold such session. The Chief Justice shall notify the clerk of the superior court of the county, who shall initiate action under Chapter 9 of the General Statutes to provide a jury for the special session, if a jury is required.

Special sessions have all the jurisdiction and powers that regular sessions have. (R.C., c. 31, s. 22; 1868-9, c. 273; 1876-7, c. 44; Code, ss. 914, 915, 916; Rev., ss. 1512, 1513, 1516; C.S., ss. 1450, 1452, 1455; Ex. Sess. 1924, c. 100; 1951, c. 491, ss. 1, 3; 1959, c. 360; 1969, c. 1190, s. 46.)

§ 7A-47. Powers of regular judges holding courts by assignment or exchange.

A regular superior court judge, duly assigned to hold the courts of a county, or holding such courts by exchange, shall have the same powers in the district or set of districts as defined in G.S. 7A-41.1(a) in which that county is located, in open court and in chambers as the resident judge or any judge regularly assigned to hold the courts of the district or set of districts as defined in G.S. 7A-41.1(a) has, and his jurisdiction in chambers shall extend until the session is adjourned or the session expires by operation of law, whichever is later. (1951, c. 740; 1969, c. 1190, s. 42; 1987 (Reg. Sess., 1988), c. 1037, s. 6.)

§ 7A-47.1. Jurisdiction in vacation or in session.

In any case in which the superior court in vacation has jurisdiction, and all the parties unite in the proceedings, they may apply for relief to the superior court in vacation, or during a session of court, at their election. Any regular resident superior court judge of the district or set of districts as defined in G.S. 7A-41.1(a) and any special superior court judge residing in the district or set of districts and the judge regularly presiding over the courts of the district or set of districts have concurrent jurisdiction throughout the district or set of districts in all matters and proceedings in

which the superior court has jurisdiction out of session; provided, that in all matters and proceedings not requiring a jury or in which a jury is waived, any regular resident superior court judge of the district or set of districts and any special superior court judge residing in the district or set of districts shall have concurrent jurisdiction throughout the district or set of districts with the judge holding the courts of the district or set of districts and any such regular or special superior court judge, in the exercise of such concurrent jurisdiction, may hear and pass upon such matters and proceedings in vacation, out of session or during a session of court. (1871-2, c. 3; Code, c. 10, s. 230; Rev., s. 1501; C.S., s. 1438; 1939, c. 69; 1945, c. 142; 1951, c. 78, s. 2; 1969, c. 1190, s. 47; 1987 (Reg. Sess., 1988), c. 1037, s. 7.)

§ 7A-47.2. Repealed by Session Laws 1987 (Reg. Sess., 1988), c. 1037,s. 8.

§ 7A-47.3. Rotation and assignment; sessions.

(a) To effect the intent of Article IV, Section 11 of the North Carolina Constitution, each regular resident superior court judge may, upon each rotation, be assigned to hold the courts either of one of the districts or of one of the sets of districts in that judge's judicial division.

(b) All sessions of superior court shall be for an entire county, whether that county comprises or is located in a district or in a set of districts and at each session all matters and proceedings arising anywhere in the county shall be heard.

(c) In making assignment of the judges of the superior court, the Chief Justice of the Supreme Court shall strive to allow each regular resident superior court judge to be assigned to the district or set of districts from which that regular resident superior court judge was elected or appointed no less than one-half of the calendar year.

(d) For purposes of this section, "district or set of districts" shall have the same meaning as in G.S. 7A-41.1(a). (1987, c. 509, s. 3; 738, s. 124; 1987 (Reg. Sess., 1988), c. 1037, s. 9; 2018-121, s. 5.)

§ 7A-48. Jurisdiction of emergency judges.

Emergency superior court judges have the same power and authority in all matters whatsoever, in the courts which they are assigned to hold, that regular judges holding the same courts would have. An emergency judge duly assigned to hold the courts of a county or district or set of districts as defined in G.S. 7A-41.1(a) has the same powers in that county and district or set of districts in open court and in chambers as a resident judge of the district or set of districts or any judge regularly assigned to hold the courts of the district or set of districts would have, but his jurisdiction in chambers extends only until the session is adjourned or the session expires by operation of law, whichever is later. (Ex. Sess. 1921, c. 94, s. 1; C.S., s. 1435(b); 1925, c. 8; 1941, c. 52, s. 2; 1951, c. 88; 1969, c. 1190, s. 39; 1987 (Reg. Sess., 1988), c. 1037, s. 10.)

§ 7A-49. Orders returnable to another judge; notice.

When any special or emergency judge makes any matter returnable before him, and thereafter he is called upon by the Chief Justice to hold court elsewhere, he shall order the matter heard before some other judge, setting forth in the order the time and place where it is to be heard, and he shall send copies of the order to the attorneys representing the parties in such matter. (Ex. Sess. 1921, c. 94, s. 2; C.S., s. 1435(c); 1951, c. 491, s. 1; 1969, c. 1190, s. 40.)

§ 7A-49.1. Disposition of motions when judge disqualified.

Whenever a judge before whom a motion is made, either in open court or in chambers, disqualifies himself from determining it, he may in his discretion refer the motion for disposition to a regular resident superior court judge of, or any judge regularly holding the courts of, the district or set of districts as defined in G.S. 7A-41.1(a) in which the county in which the cause arose is located, or of any adjoining district or set of districts, who shall have full power and authority to hear and determine the motion in the same manner as if he were the presiding judge of a session of superior court for that county. (1939, c. 48; 1961, c. 50; 1969, c. 1190, s. 43; 1987 (Reg. Sess., 1988), c. 1037, s. 11.)

§ 7A-49.2. Civil business at criminal sessions; criminal business at civil sessions.

(a) At criminal sessions of court, motions in civil actions may be heard upon due notice, and trials in civil actions may be heard by consent of parties. Motions for confirmation or rejection of referees' reports may also be heard upon 10 days' notice and judgment may be entered on such reports. The court may also enter consent orders and consent judgments, and try uncontested civil actions.

(b) For sessions of court designated for the trial of civil cases only, no grand juries shall be drawn and no criminal process shall be made returnable to any civil session. (1901, c. 28; Rev., ss. 1507, 1508; 1913, c. 196; Ex. Sess. 1913, c. 23; 1915, cc. 68, 240; 1917, c. 13; C.S., ss. 1444, 1445; 1931, c. 394; 1947, c. 25; 1969, c. 1190, s. 44; 1973, c. 503, s. 1.)

§ 7A-49.3. Repealed by Session Laws 1999-428, s. 2.

§ 7A-49.4. Superior court criminal case docketing.

(a) Criminal Docketing. – Criminal cases in superior court shall be calendared by the district attorney at administrative settings according to a criminal case docketing plan developed by the district attorney for each superior court district in consultation with the superior court judges residing in that district and after opportunity for comment by members of the local bar. Each criminal case docketing plan shall, at a minimum, comply with the provisions of this section, but may contain additional provisions not inconsistent with this section.

(b) Administrative Settings. – An administrative setting shall be calendared for each felony within 60 days of indictment or service of notice of indictment if required by law, or at the next regularly scheduled session of superior court if later than 60 days from indictment or service if required. At an administrative setting:

(1) The court shall determine the status of the defendant's representation by counsel;

(2) After hearing from the parties, the court shall set deadlines for the delivery of discovery, arraignment if necessary, and filing of motions;

(3) If the district attorney has made a determination regarding a plea arrangement, the district attorney shall inform the defendant as to whether a plea arrangement will be offered and the terms of any proposed plea arrangement, and the court may conduct a plea conference if supported by the interest of justice;

(4) The court may hear pending pretrial motions, set such motions for hearing on a date certain, or defer ruling on motions until the trial of the case; and

(5) The court may schedule more than one administrative setting if requested by the parties or if it is found to be necessary to promote the fair administration of justice in a timely manner.

Whenever practical, administrative settings shall be held by a superior court judge residing within the district, but may otherwise be held by any superior court judge.

If the parties have not otherwise agreed upon a trial date, then upon the conclusion of the final administrative setting, the district attorney shall announce a proposed trial date. The court shall set that date as the tentative trial date unless, after providing the parties an opportunity to be heard, the court determines that the interests of justice require the setting of a different date. In that event, the district attorney shall set another tentative trial date during the final administrative setting. The trial shall occur no sooner than 30 days after the final administrative setting, except by agreement of the State and the defendant.

Nothing in this section precludes the disposition of a criminal case by plea, deferred prosecution, or dismissal prior to an administrative setting.

(c) Definite Trial Date. – When a case has not otherwise been scheduled for trial within 120 days of indictment or of service of notice of indictment if required by law, then upon motion by the defendant at any time thereafter, the senior resident superior court judge, or a superior court judge designated by the senior resident superior court judge, may hold a hearing for the purpose of establishing a trial date for the defendant.

(d) Venue for Administrative Settings. – Venue for administrative settings may be in any county within the district when necessary to comply with the terms of the criminal case docketing plan. The presence of the defendant is only required for administrative settings held in the county where the case originated.

(e) Setting and Publishing of Trial Calendar. – No less than 10 working days before cases are calendared for trial, the district attorney shall publish the trial calendar. The trial calendar shall schedule the cases in the order in which the district attorney anticipates they will be called for trial and should not contain cases that the district attorney does not reasonably expect to be called for trial. In counties in which multiple sessions of court are being held, the district attorney may publish a trial calendar for each session of court.

(f) Order of Trial. – The district attorney, after calling the calendar and determining cases for pleas and other disposition, shall announce to the court the order in which the district attorney intends to call for trial the cases remaining on the calendar. Deviations from the announced order require approval by the presiding judge if the defendant whose case is called for trial objects; but the defendant may not object if all the cases scheduled to be heard before the defendant's case have been disposed of or delayed with the approval of the presiding judge or by consent of the State and the defendant. A case may be continued from the trial calendar only by consent of the State and the defendant or upon order of the presiding judge or resident superior court judge for good cause shown. The district attorney, after consultation with the parties, shall schedule a new trial date for cases not reached during that session of court.

(g) Nothing in this section shall be construed to deprive any victim of the rights granted under Article I, Section 37 of the North Carolina Constitution and Article 46 of Chapter 15A of the General Statutes.

(h) Nothing in this section shall be construed to affect the authority of the court in the call of cases calendared for trial. (1999-428, s. 1.)

§ 7A-49.5. Statewide electronic filing in courts.

(a) The General Assembly finds that the electronic filing of pleadings and other documents required to be filed with the courts may be a more economical, efficient, and satisfactory procedure to handle the volumes of paperwork routinely filed with, handled by, and disseminated by the courts of this State, and therefore authorizes the use of electronic filing in the courts of this State.

(b) The Supreme Court may adopt rules governing this process and associated costs and may supervise its implementation and operation through the Administrative Office of the Courts. The rules adopted under this section shall address the waiver of electronic fees for indigents.

(c) The Administrative Office of the Courts may contract with a vendor to provide electronic filing in the courts.

(d) Any funds received by the Administrative Office of the Courts from the vendor selected pursuant to subsection (c) of this section, other than applicable statutory court costs, as a result of electronic filing, shall be deposited in the Court Information Technology Fund in accordance with G.S. 7A-343.2. (2006-187, s. 2(c); 2007-323, s. 14.17(c); 2012-142, s. 16.5(f).)

Article 8.

Retirement of Judges of the Superior Court; Retirement Compensation for Superior Court Judges; Recall to Emergency Service of Judges of the District and Superior Court; Disability Retirement for Judges of the Superior Court.

§ 7A-50. Emergency judge defined.

As used in this Article "emergency judge" means any judge of the superior court who has retired subject to recall to active service for temporary duty. (1967, c. 108, s. 2.)

§ 7A-51. Age and service requirements for retirement of judges of the superior court and of the Administrative Officer of the Courts.

(a) Any judge of the superior court, or Administrative Officer of the Courts, who has attained the age of sixty-five years, and who has served for a total of fifteen years, whether consecutive or not, as a judge of the superior court, or as Administrative Officer of the Courts, or as judge of the superior court and as Administrative Officer of the Courts combined, may retire and receive for life compensation equal to two thirds of the total annual compensation, including longevity and additional payment for service as senior resident superior court judge, but excluding any payments in the nature of reimbursement for expenses or subsistence allowances, from time to time received by the occupant of the office from which he retired.

(b) Any judge of the superior court, or Administrative Officer of the Courts, who has served for twelve years, whether consecutive or not, as a judge of the superior court, or as Administrative Officer of the Courts, or as judge of the superior court and as Administrative Officer of the Courts combined may, at age sixty-eight, retire and receive for life compensation equal to two thirds of the total annual compensation, including longevity and additional payment for service as senior resident superior court judge, but excluding any payments in the nature of reimbursement for expenses or subsistence allowances, from time to time received by the occupant of the office from which he retired.

(c) Any person who has served for a total of twenty-four years, whether continuously or not, as a judge of the superior court, or as Administrative Officer of the Courts, or as judge of the superior court and as Administrative Officer of the Courts combined, may retire, regardless of age, and receive for life compensation equal to two thirds of the total annual compensation, including longevity and additional payment for service as senior resident superior court judge, but excluding any payments in the nature of reimbursement for expenses or subsistence allowances, from time to time received by the occupant of the office from which he retired. In determining whether a person meets the requirements of this subsection, time served as district attorney of the superior court prior to January 1, 1971, may be included, so long as the person has served at least eight years as a judge of the superior court, or as Administrative Officer of the Courts, or as judge of the superior court and Administrative Officer of the Courts combined.

(d) Repealed by Session Laws 1971, c. 508, s. 3.

(e) For purposes of this section, the "occupant or occupants of the office from which" the retired judge retired will be deemed to be a superior court judge holding the same office and with the same service as the retired judge had immediately prior to retirement. (1967, c. 108, s. 2; 1971, c. 508, s. 3; 1973, c. 47, s. 2; 1983 (Reg. Sess., 1984), c. 1109, ss. 13.10-13.13.)

§ 7A-52. Retired district and superior court judges may become emergency judges subject to recall to active service; compensation for emergency judges on recall.

(a) Judges of the district court and judges of the superior court who have not reached the mandatory retirement age specified in G.S. 7A-4.20, but who have retired under the provisions of G.S. 7A-51, or under the Uniform Judicial Retirement Act after having completed five years of creditable service, may apply as provided in G.S. 7A-53 to become emergency judges of the court from which they retired. From the commissioned emergency district, superior, and special superior court judges, the Chief Justice of the Supreme Court shall create two lists of active emergency judges and two lists of inactive emergency judges. For emergency superior and special superior court judges, the active list shall be limited to a combined total of 10 emergency judges; all other emergency superior and special superior court judges shall be on an inactive list. For emergency district court judges, the active list shall be limited to 25 emergency judges; all other emergency district court judges shall be on an inactive list. There is no limit to the number of emergency judges on either inactive list. In the Chief Justice's discretion, emergency judges may be added or removed from their respective active and inactive lists, as long as the respective numerical limits on the active lists are observed. The Chief Justice is requested to consider geographical distribution in assigning emergency judges to an active list but may utilize any factor in determining which emergency judges are assigned to an active list. The Chief Justice of the Supreme Court may order any emergency district, superior, or special superior court judge on an active list who, in his opinion, is competent to perform the duties of a judge, to hold regular or special sessions of the court from which the judge retired, as needed. Order of assignment shall be in writing and entered upon the minutes of the court to which such emergency judge is assigned. An emergency judge shall only be assigned in the event of a:

(1) Death of a sitting judge.

(2) Disability of a sitting judge.
(3) Recall to active military duty of a sitting judge.
(4) Retirement or removal of a sitting judge.
(5) Court case-management emergency.

(a1) An emergency judge of the superior court may be recalled to active service by the Chief Justice and assigned to hear and decide complex business cases if, at the time of the judge's retirement, all of the following conditions are met:

(1) The judge is a special superior court judge who is retiring from a term to which the judge was appointed pursuant to G.S. 7A-45.1.
(2) The judge is retiring from a term for which the judge was assigned by the Chief Justice to hear and decide complex business cases as a business court judge pursuant to G.S. 7A-45.3.
(3) The judge's nomination to serve a successive term in the same office is pending before the General Assembly, or was not acted upon by the General Assembly prior to adjournment sine die.
(4) If confirmed and appointed to the successive term of office for which nominated, the judge would reach mandatory retirement age before completing that term of office.

An emergency judge assigned to hear and decide complex business cases pursuant to this subsection shall be designated by the Chief Justice as a senior business court judge and shall be eligible to serve in that capacity for five years from the issuance date of the judge's commission under G.S. 7A-53 or until the judge's commission expires, whichever occurs first. Order of assignment shall be in writing and entered upon the minutes of the court to which such emergency judge is assigned. An emergency judge assigned to hear and decide complex business cases shall not be counted in the combined total of active emergency superior and special superior court judges described in subsection (a) of this section.

(b) In addition to the compensation or retirement allowance the judge would otherwise be entitled to receive by law, each emergency judge of the district or superior court who is assigned to temporary active service by the Chief Justice shall be paid by the State the judge's actual mileage and any necessary lodging and meal expenses, plus four hundred dollars ($400.00) for each day of active service rendered upon recall, and each emergency judge designated as a senior business court judge pursuant to subsection (a1) of this section shall be paid by the State the judge's actual expenses, plus five hundred dollars ($500.00) for each day of active service rendered upon recall as a senior business court judge. No day of active service rendered by an emergency judge pursuant to assignment under subsection (a) of this section shall overlap with a day of active service rendered pursuant to assignment under subsection (a1) of this section. No recalled retired trial judge shall receive from the State total annual compensation for judicial services in excess of that received by an active judge of the bench to which the judge is recalled. Emergency judges on an inactive list shall not receive reimbursement for continuing legal or judicial education. (1967, c. 108, s. 2; 1973, c. 640, s. 4; 1977, c. 736, s. 3; 1979, c. 878, s. 2; 1981, c. 455, s. 6; c. 859, s. 47; 1981 (Reg. Sess., 1982), c. 1253, s. 3; 1983, c. 784; 1985, c. 698, s. 9(b); 1987, c. 738, s. 132; 1987 (Reg. Sess., 1988), c. 1086, s. 31(b); 1989,

c. 116; 1993, c. 321, s. 200.3; 1998-212, s. 16.27(a); 2007-323, s. 14.26; 2007-345, s. 9; 2016-91, s. 3; 2017-57, s. 18B.11(b).)

§ 7A-53. Application to the Governor; commission as emergency judge.

No retired judge of the district or superior court may become an emergency judge except upon his written application to the Governor certifying his desire and ability to serve as an emergency judge. If the Governor is satisfied that the applicant qualifies under G.S. 7A-52(a) to become an emergency judge and that he is physically and mentally able to perform the official duties of an emergency judge, he shall issue to such applicant a commission as an emergency judge of the court from which he retired. The commission shall be effective upon the date of its issue and shall terminate when the judge to whom it is issued reaches the maximum age for judicial service under G.S. 7A-4.20(a). (1967, c. 108, s. 2; 1977, c. 736, s. 4; 1979, c. 878, s. 3.)

§ 7A-53.1. Jurisdiction of emergency district court judges.

Emergency district court judges have the same power and authority in all matters whatsoever, in the courts which they are assigned to hold, that regular district court judges holding the same courts would have. An emergency district court judge duly assigned to hold district court in a particular county or district has the same powers in the county or district in open court and in chambers as a resident district court judge or any district court judge regularly assigned to hold district court in that district, but his jurisdiction in chambers extends only until the session is adjourned or the session expires by operation of law, whichever is later. (1981, c. 455, s. 5.)

§ 7A-54. Article applicable to judges retired under prior law.

All judges of the superior court who have heretofore retired and who are receiving retirement compensation under the provisions of any judicial retirement law previously enacted shall be entitled to the benefits of this article. All such judges shall be subject to assignment as emergency judges by the Chief Justice of the Supreme Court, except judges retired for total disability. (1967, c. 108, s. 2.)

§ 7A-55. Retirement on account of total and permanent disability.

Every judge of the superior court or Administrative Officer of the Courts who has served for eight years or more on the superior court, or as Administrative Officer of the Courts, or on the superior court and as Administrative Officer of the Courts combined, and who while in active service becomes totally and permanently disabled so as to be unable to perform efficiently the duties of his office, and who retires by reason of such disability, shall receive for life compensation equal to two thirds of the annual salary from time to time received by the occupant of the office from which he retired. In determining whether a person meets the requirements for retirement under this section, time served as district solicitor of the superior court prior to January 1, 1971, may be included. Whenever any judge claims retirement benefits under this section on account of total and permanent disability, the Governor and Council of State, acting together, shall, after notice and an opportunity to be heard is given the applicant, by a majority vote of said body, make findings of fact from the evidence offered. Such findings of fact shall be reduced to writing and entered upon the minutes of the Council of State. The findings so made shall be conclusive as to such matters and determine the right of the applicant to retirement benefits under this section. Judges retired under the provisions of this section are not subject to recall as emergency judges. (1967, c. 108, s. 2.)

§ 7A-56. Applicability of §§ 7A-51 and 7A-55.

The provisions of G.S. 7A-51 and 7A-55 shall apply only to judges (and any Administrative Officer of the Courts) who entered office prior to January 1, 1974. The extent of such application is specified in Chapter 135, Article 4 (Uniform Judicial Retirement Act). (1973, c. 640, s. 6; 1975, c. 19, s. 2.)

§ 7A-57. Recall of active and emergency trial judges who have reached mandatory retirement age.

Superior and district court judges retired because they have reached the mandatory retirement age, and emergency superior and district court judges whose commissions have expired because they have reached the mandatory retirement age, may be recalled to preside over regular or special sessions of the court from which retired under the following circumstances:

(1) The judge must consent to the recall.

(2) The Chief Justice is authorized to order the recall.

(3) Prior to ordering recall, the Chief Justice shall be satisfied that the judge is capable of efficiently and promptly discharging the duties of the office to which recalled.

(4) Jurisdiction of a recalled retired superior court judge is as set forth in G.S. 7A-48, and jurisdiction of a recalled retired district court judge is as set forth in G.S. 7A-53.1.

(5) Orders of recall and assignment shall be in writing and entered upon the minutes of the court to which assigned.

(6) Compensation of recalled retired trial judges is the same as for recalled emergency trial judges under G.S. 7A-52(b).

(7) Recalled emergency judges who served as a senior business court judge and whose commission expired upon reaching the mandatory retirement age may be recalled by the Chief Justice and assigned to hear and decide complex business cases as a senior business court judge for up to five years from the issuance date of their commission under G.S. 7A-53.

(8) The emergency judge is listed as active on the list described in G.S. 7A-52(a). This does not apply to an emergency judge who qualifies under subdivision (7) of this section. (1981, ch. 455, s. 4; 2016-91, s. 4; 2017-57, s. 18B.11(c).)

§ 7A-58. Reserved for future codification purposes.

§ 7A-59. Reserved for future codification purposes.

Article 9.

District Attorneys and Prosecutorial Districts.

§ 7A-60. District attorneys and prosecutorial districts.

(a) The State shall be divided into prosecutorial districts, as shown in subsection (a1) of this section. There shall be a district attorney for each prosecutorial district, as provided in subsections (b) and (c) of this section who shall be a resident of the prosecutorial district for which elected. A vacancy in the office of district attorney shall be filled as provided in Article IV, Sec. 19 of the Constitution.

(a1) **(Effective January 1, 2019 through December 31, 2020)** The counties of the State are organized into prosecutorial districts, and each district has the counties and the number of full-time assistant district attorneys set forth in the following table:

Prosecutorial District	Counties	No. of Full-Time Asst. District Attorneys
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	11
2	Beaufort, Hyde, Martin, Tyrrell, Washington	8
3	Pitt	12
4	Carteret, Craven, Pamlico	13
5	Duplin, Jones, Onslow, Sampson	19
6	New Hanover, Pender	19
7	Bertie, Halifax, Hertford, Northampton	11
8	Edgecombe, Nash, Wilson	19
9	Greene, Lenoir, Wayne	14
10	Wake	42
11	Franklin, Granville, Person Vance, Warren	15
12	Harnett, Lee	11
13	Johnston	10
14	Cumberland	25
15	Bladen, Brunswick, Columbus	14
16	Durham	18
17	Alamance	12
18	Orange, Chatham	10
19	Scotland, Hoke	10
20	Robeson	12
21	Anson, Richmond	6
22	Caswell, Rockingham	8
23	Stokes, Surry	8
24	Guilford	34
25	Cabarrus	9
26	Mecklenburg	58
27	Rowan	9
28	Montgomery, Stanly	6

29	Moore	5
30	Union	11
31	Forsyth	27
32	Alexander, Iredell	12
33	Davidson, Davie	12
34	Alleghany, Ashe, Wilkes, Yadkin	9
35	Avery, Madison, Mitchell, Watauga, Yancey	8
36	Burke, Caldwell, Catawba	19
37	Randolph	10
38	Gaston	15
39	Cleveland, Lincoln	12
40	Buncombe	14
41	McDowell, Rutherford	8
42	Henderson, Polk, Transylvania	9
43	Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain.	12

(a1) **(Effective January 1, 2021 through December 31, 2022)** The counties of the State are organized into prosecutorial districts, and each district has the counties and the number of full-time assistant district attorneys set forth in the following table:

Prosecutorial District	Counties	No. of Full-Time Asst. District Attorneys
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	11
2	Beaufort, Hyde, Martin, Tyrrell, Washington	8
3	Pitt	12
4	Carteret, Craven, Pamlico	13
5	Duplin, Jones, Onslow, Sampson	19
6	New Hanover, Pender	19
7	Bertie, Halifax, Hertford, Northampton	11
8	Edgecombe, Nash, Wilson	19
9	Greene, Lenoir, Wayne	14
10	Wake	42
11	Franklin, Granville, Person Vance, Warren	15
12	Harnett, Lee	11
13	Johnston	10
14	Cumberland	25

15	Bladen, Brunswick, Columbus	14
16	Durham	18
17	Alamance	12
18	Orange, Chatham	10
20	Robeson	12
21	Anson, Richmond, Scotland	9
22	Caswell, Rockingham	8
23	Stokes, Surry	8
24	Guilford	34
25	Cabarrus	9
26	Mecklenburg	58
27	Rowan	9
29	Hoke, Moore	9
28	Montgomery, Stanly	6
30	Union	11
31	Forsyth	27
32	Alexander, Iredell	12
33	Davidson, Davie	12
34	Alleghany, Ashe, Wilkes, Yadkin	9
35	Avery, Madison, Mitchell, Watauga, Yancey	8
36	Burke, Caldwell, Catawba	19
37	Randolph	10
38	Gaston	15
39	Cleveland, Lincoln	12
40	Buncombe	14
41	McDowell, Rutherford	8
42	Henderson, Polk, Transylvania	9
43	Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain.	12

(a1) **(Effective January 1, 2023)** The counties of the State are organized into prosecutorial districts, and each district has the counties and the number of full-time assistant district attorneys set forth in the following table:

Prosecutorial District	Counties	No. of Full-Time Asst. District Attorneys
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	11
2	Beaufort, Hyde, Martin, Tyrrell, Washington	8
3	Pitt	12
4	Carteret, Craven, Pamlico	13

5	Duplin, Jones, Onslow, Sampson	19
6	New Hanover, Pender	19
7	Bertie, Halifax, Hertford, Northampton	11
8	Edgecombe, Nash, Wilson	19
9	Greene, Lenoir, Wayne	14
10	Wake	42
11	Franklin, Granville, Person Vance, Warren	15
12	Harnett, Lee	11
13	Johnston	10
14	Cumberland	25
15	Bladen, Brunswick, Columbus	14
16	Durham	18
17	Alamance	12
18	Orange, Chatham	10
20	Robeson	12
21	Anson, Richmond, Scotland	9
22	Caswell, Rockingham	8
23	Stokes, Surry	8
24	Guilford	34
25	Cabarrus	9
26	Mecklenburg	58
27	Rowan	9
28	Montgomery, Stanly	6
29	Hoke, Moore	9
30	Union	11
31	Forsyth	27
32	Alexander, Iredell	12
33	Davidson, Davie	12
34	Alleghany, Ashe, Wilkes, Yadkin	9
35	Avery, Madison, Mitchell, Watauga, Yancey	8
36	Burke, Caldwell	9
37	Randolph	10
38	Gaston	15
39	Cleveland, Lincoln	12
40	Buncombe	14
41	McDowell, Rutherford	8
42	Henderson, Polk, Transylvania	9
43	Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain.	12
44	Catawba	10

(a2) Repealed by Session Laws 2017-57, s. 18B.9(f), effective June 28, 2017.

(b) Except as provided in subsection (c) of this section, each district attorney for a prosecutorial district as defined in subsection (a1) of this section, other than District 19B, who is in office on December 31, 1988, shall continue in office for that prosecutorial district, for a term expiring December 31, 1990. In the general election of 1990, and every four years thereafter, a district attorney shall be elected for a four-year term for each prosecutorial district other than Districts 16A and 19B, and shall take office on the January 1 following such election. The district attorney for Prosecutorial District 19B, who is elected in the general election of 1988 for a four-year term beginning January 1, 1989, shall serve that term for Prosecutorial District 19B. In the general election of 1992, and every four years thereafter, a district attorney shall be elected for a four-year term for Prosecutorial Districts 16A and 19B and shall take office on the January 1 following such election.

(c) The office and term of the district attorney for Prosecutorial District 12 formerly consisting of Cumberland and Hoke Counties are allocated to Prosecutorial District 12 as defined by subsection (a1) of this section. The office and the term of the district attorney for former Prosecutorial District 16 consisting of Robeson and Scotland Counties are allocated to Prosecutorial District 16B as defined by subsection (a1) of this section. The initial district attorney for Prosecutorial District 16A as defined in subsection (a1) of this section shall be elected in the general election of November 1988, from nominations made in accordance with G.S. 163A-987 as if a vacancy had occurred in nomination, and shall serve an initial term expiring December 31, 1992. In all other respects, subsection (b) of this section shall apply to the district attorneys for Prosecutorial Districts 12, 16A, and 16B to the same extent as all other district attorneys. (1967, c. 1049, s. 1; 1975, c. 956, s. 4; 1977, c. 1130, s. 3; 1977, 2nd Sess., c. 1238, s. 2; 1981, c. 964, ss. 2, 3; 1987, c. 509, ss. 4, 5; c. 738, s. 127(a); 1987 (Reg. Sess., 1988), c. 1056, s. 1; c. 1086, s. 111; 1989, c. 770, ss. 1, 56; c. 795, s. 24(a), (e); 1991, c. 742, s. 13; 1991 (Reg. Sess., 1992), c. 900, s. 120(a), (b); 1993, c. 321, ss. 200.4(l), 200.7(a), (b); 1995, c. 507, s. 21.7; 1995 (Reg. Sess., 1996), c. 589, s. 3(a); 1996, 2nd Ex. Sess., c. 18, s. 22(a); 1997-443, s. 18.11(a); 1998-212, s. 16.20(a); 1999-237, s. 17.8(a); 2004-124, s. 14.6(h); 2005-276, s. 14.2(l); 2006-66, ss. 14.3(a), 14.19(a); 2007-323, ss. 14.14(a), (b), 14.25(j); 2008-107, s. 14.6; 2009-451, s. 15.17E(a); 2012-194, s. 1(b); 2013-360, s. 18B.22(k); 2014-100, s. 18B.7(a); 2017-6, s. 3; 2017-57, ss. 18B.9(e), (f), (h), (i); 2017-197, ss. 5.6(a)-(c); 2018-5, s. 18B.6; 2018-114, ss. 24(a), (b); 2018-121, ss. 3(a), 7.)

§ 7A-61. Duties of district attorney.

The district attorney shall prepare the trial dockets, prosecute in a timely manner in the name of the State all criminal actions and infractions requiring prosecution in the superior and district courts of the district attorney's prosecutorial district and advise the officers of justice in the district attorney's district. The district attorney shall also represent the State in juvenile cases in the superior and district courts in which the juvenile is represented by an attorney. The district attorney shall provide to the Attorney General any case files, records and additional information necessary for the Attorney General to conduct appeals

to the Appellate Division for cases from the district attorney's prosecutorial district. The Attorney General shall not delegate to the district attorney, or any other entity, the duty to represent the State in criminal and juvenile appeals. Each district attorney shall devote his full time to the duties of his office and shall not engage in the private practice of law. (1967, c. 1049, s. 1; 1969, c. 1190, s. 5; 1971, c. 377, s. 5.1; 1973, c. 47, s. 2; 1985, c. 764, s. 7; 1985 (Reg. Sess., 1986), c. 852, s. 17; 1987 (Reg. Sess., 1988), c. 1037, s. 12; 1999-428, s. 3; 2017-212, s. 5.2(b).)

§ 7A-62. Acting district attorney.

When a district attorney becomes for any reason unable to perform his duties, the Governor shall appoint an acting district attorney to serve during the period of disability. An acting district attorney has all the power, authority and duties of the regular district attorney. He shall take the oath of office prescribed for the regular district attorney, and shall receive the same compensation as the regular district attorney. (1967, c. 1049, s. 1; 1973, c. 47, s. 2.)

§ 7A-63. Assistant district attorneys.

Each district attorney shall be entitled to the number of full-time assistant district attorneys set out in this Subchapter to be appointed by the district attorney, to serve at the district attorney's pleasure. A vacancy in the office of assistant district attorney shall be filled in the same manner as the initial appointment. An assistant district attorney shall take the same oath of office as the district attorney, and shall perform such duties as may be assigned by the district attorney. The district attorney shall devote full time to the duties of the office and shall not engage in the private practice of law during his or her term. (1967, c. 1049, s. 1; 1969, c. 1190, s. 6; 1971, c. 377, s. 6; 1973, c. 47, s. 2; 2014-100, s. 18B.7(b); 2017-57, s. 18B.9(g).)

§ 7A-64. Temporary assistance for district attorneys.

(a) A district attorney may apply to the Director of the Administrative Office of the Courts to:

(1) Temporarily assign an assistant district attorney from another district, after consultation with the district attorney thereof, to assist in the prosecution of cases in the requesting district;

(2) Authorize the temporary appointment, by the requesting district attorney, of a qualified attorney to assist the requesting district attorney; or

(3) Enter into contracts with local governments for the provision of services by the State pursuant to G.S. 153A-212.1 or G.S. 160A-289.1.

(a1) Repealed by Session Laws 2012-7, s. 9, effective June 7, 2012.

(b) The Director of the Administrative Office of the Courts may provide this assistance only upon a showing by the requesting district attorney supported by facts, that:

(1) Criminal cases have accumulated on the dockets of the superior or district courts of the district beyond the capacity of the district attorney and the

district attorney's full-time assistants to keep the dockets reasonably current;

(2) The overwhelming public interest warrants the use of additional resources for the speedy disposition of cases involving drug offenses, domestic violence, or other offenses involving a threat to public safety; or

(3) There is a conflict of interest.

(c) The length of service and compensation of any temporary appointee or the terms of any contract entered into with local governments shall be fixed by Director of the Administrative Office of the Courts in each case. Nothing in this section shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this section or to obligate the Administrative Office of the Courts to provide the administrative costs of establishing or maintaining the positions or services provided for under this section. Further, nothing in this section shall be construed to obligate the Administrative Office of the Courts to maintain positions or services initially provided for under this section. (1967, c. 1049, s. 1; 1973, c. 47, s. 2; 1999-237, s. 17.17(a); 2000-67, s. 15.4(g); 2010-171, s. 2; 2012-7, s. 9; 2017-158, s. 14.)

§ 7A-65. Compensation and allowances of district attorneys and assistant district attorneys.

(a) The annual salary of:

(1) District attorneys shall be as provided in the Current Operations Appropriations Act.

(2) Full-time assistant district attorneys shall be as provided in the Current Operations Appropriations Act.

When traveling on official business, each district attorney and assistant district attorney is entitled to reimbursement for his or her subsistence expenses to the same extent as State employees generally. When traveling on official business outside his or her county of residence, each district attorney and assistant district attorney is entitled to reimbursement for travel expenses to the same extent as State employees generally. For purposes of this subsection, the term "official business" does not include regular, daily commuting between a person's home and the district attorney's office. Travel distances, for purposes of reimbursement for mileage, shall be determined according to the travel policy of the Administrative Office of the Courts.

(b) Repealed by Session Laws 1985, c. 689, s. 2.

(c) In lieu of merit and other increment raises paid to regular State employees, a district attorney shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, and nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, nineteen and two-tenths percent (19.2%) after 20 years of service, and twenty-four percent (24%) after 25 years of service. Service shall mean service in the elective position of a district attorney and shall not include service as a deputy or acting district attorney. Service shall also mean service as a justice or judge of the General Court of Justice, clerk of

superior court, assistant district attorney, public defender, appellate defender, or assistant public or appellate defender.

(d) In lieu of merit and other increment raises paid to regular State employees, an assistant district attorney shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, nineteen and two-tenths percent (19.2%) after 20 years of service, and twenty-four percent (24%) after 25 years of service. "Service" means service as an assistant district attorney, district attorney, resource prosecutor, public defender, appellate defender, assistant public or appellate defender, justice or judge of the General Court of Justice, or clerk of superior court. For purposes of this subsection, "resource prosecutor" means a former assistant district attorney who has left the employment of the district attorney's office to serve in a specific, time-limited position with the Conference of District Attorneys. (1967, c. 1049, s. 1; 1973, c. 47, s. 2; 1983, c. 761, ss. 246, 248; 1983 (Reg. Sess., 1984), c. 1034, ss. 92, 165; c. 1109, s. 13.1; 1985, c. 689, s. 2; c. 698, s. 10(b); 1985 (Reg. Sess., 1986), c. 1014, s. 224; 1987, c. 738, s. 33(a); 1995, c. 507, s. 7.4A; 1999-237, s. 28.19(a); 2000-67, s. 26.3A(a); 2003-284, ss. 30.19A(a), 30.19A(b); 2005-276, s. 29.23A; 2007-323, ss. 28.15A, 28.18A(d); 2009-451, s. 15.17B(b).)

§ 7A-66. Removal of district attorneys.

The following are grounds for suspension of a district attorney or for his removal from office:

(1) Mental or physical incapacity interfering with the performance of his duties which is, or is likely to become, permanent;
(2) Willful misconduct in office;
(3) Willful and persistent failure to perform his duties;
(4) Habitual intemperance;
(5) Conviction of a crime involving moral turpitude;
(6) Conduct prejudicial to the administration of justice which brings the office into disrepute; or
(7) Knowingly authorizing or permitting an assistant district attorney to commit any act constituting grounds for removal, as defined in subdivisions (1) through (6) hereof.

A proceeding to suspend or remove a district attorney is commenced by filing with the clerk of superior court of the county where the district attorney resides a sworn affidavit charging the district attorney with one or more grounds for removal. The clerk shall immediately bring the matter to the attention of the senior regular resident superior court judge for the district or set of districts as defined in G.S. 7A-41.1(a) in which the county is located who shall within 30 days either review and act on the charges or refer them for review and action within 30 days to another superior court judge residing in or regularly holding the courts of that district or set of districts. If the superior court judge upon review finds that the charges if true constitute grounds for suspension, and finds probable cause

for believing that the charges are true, he may enter an order suspending the district attorney from performing the duties of his office until a final determination of the charges on the merits. During the suspension the salary of the district attorney continues. If the superior court judge finds that the charges if true do not constitute grounds for suspension or finds that no probable cause exists for believing that the charges are true, he shall dismiss the proceeding.

If a hearing, with or without suspension, is ordered, the district attorney should receive immediate written notice of the proceedings and a true copy of the charges, and the matter shall be set for hearing not less than 10 days nor more than 30 days thereafter. The matter shall be set for hearing before the judge who originally examined the charges or before another regular superior court judge resident in or regularly holding the courts of that district or set of districts. The hearing shall be open to the public. All testimony shall be recorded. At the hearing the superior court judge shall hear evidence and make findings of fact and conclusions of law and if he finds that grounds for removal exist, he shall enter an order permanently removing the district attorney from office, and terminating his salary. If he finds that no grounds exist, he shall terminate the suspension, if any.

The district attorney may appeal from an order of removal to the Court of Appeals on the basis of error of law by the superior court judge. Pending decision of the case on appeal, the district attorney shall not perform any of the duties of his office. If, upon final determination, he is ordered reinstated either by the appellate division or by the superior court upon remand his salary shall be restored from the date of the original order of removal. (1967, c. 1049, s. 1; 1973, c. 47, s. 2; c. 148, s. 1; 1977, c. 21, ss. 1, 2; 1987 (Reg. Sess., 1988), c. 1037, s. 13.)

§ 7A-66.1. Office of solicitor may be denominated as office of district attorney; "solicitor" and "district attorney" made interchangeable; interchangeable use authorized in proceedings, documents, and quotations.

(a) The constitutional office of solicitor may be denominated as the office of "district attorney" for all purposes, and the terms "solicitor" and "district attorney" shall be identical in meaning and interchangeable in use. All terms derived from or related to the term "solicitor" may embody this denomination.

(b) Repealed by Session Laws 1975, c. 956, s. 5.

(c) The interchangeable use authorized in this section includes use in all forms of oral, written, visual, and other communication including:

(1) Oaths of office;
(2) Other oaths or orations required or permitted in court or official proceedings;
(3) Ballots;
(4) Statutes;
(5) Regulations;
(6) Ordinances;
(7) Judgments and other court orders and records;
(8) Opinions in cases;

(9) Contracts;
(10) Bylaws;
(11) Charters;
(12) Official commissions, orders of appointment, proclamations, executive orders, and other official papers or pronouncements of the Governor or any executive, legislative, or judicial official of the State or any of its subdivisions;
(13) Official and unofficial letterheads;
(14) Campaign advertisements;
(15) Official and unofficial public notices; and
(16) In all other contexts not enumerated.

The interchangeability authorized in this section extends to the privilege of substituting terminology in matter quoted in oral, written, and other modes of communication without making indication of such change, except where such change may result in a substantive misunderstanding. Reprints or certifications of the text of the Constitution of North Carolina made by the Secretary of State, however, must retain the original terminology and indicate in brackets beside the original terminology the appropriate alternative words. (1973, c. 47, s. 1; 1975, c. 956, s. 5.)

§ 7A-67. Repealed by Session Laws 1971, c. 377, s. 32.

§ 7A-68. Administrative assistants.

(a) Each district attorney shall be entitled to one administrative assistant to be appointed by the district attorney and to serve at his pleasure. The assistant need not be an attorney licensed to practice law in the State of North Carolina.

(b) It shall be the duty of the administrative assistant to assist the district attorney in preparing cases for trial and in expediting the criminal court docket, and to assist in such other duties as may be assigned by the district attorney.

(c) When traveling on official business, each administrative assistant is entitled to reimbursement for his subsistence and travel expenses to the same extent as State employees generally. (1973, c. 807.)

§ 7A-69. Investigatorial assistants.

The district attorney in prosecutorial districts 1, 3B, 4, 5, 7, 8, 11, 12, 13, 14, 15A, 15B, 16A, 18, 19B, 20A, 20B, 21, 22A, 22B, 24, 25, 26, 27A, 27B, 28, 29A, 29B, and 30 is entitled to one investigatorial assistant, and the district attorney in prosecutorial district 10 is entitled to two investigatorial assistants, to be appointed by the district attorney and to serve at his pleasure.

It shall be the duty of the investigatorial assistant to investigate cases preparatory to trial and to perform such other Duties as may be assigned by the district attorney. The investigatorial assistant is entitled to reimbursement for his subsistence and travel expenses to the same extent as State employees generally. (1975, c. 956, s. 6; 1977, c. 969, s. 1;

1981, c. 964, s. 2; 1993, c. 321, s. 200.7(e); 1997-443, s. 18.16; 1998-212, s. 16.21; 1999-237, s. 17.9; 2004-124, s. 14.7(a); 2005-276, s. 14.2(p); 2007-323, s. 14.25(n).)

§ 7A-69.1: Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 998, s. 3.

Article 10.

[Reserved]

§ 7A-70. Reserved for future codification purposes.

§ 7A-71. Reserved for future codification purposes.

§ 7A-72. Reserved for future codification purposes.

§ 7A-73. Reserved for future codification purposes.

§ 7A-74. Reserved for future codification purposes.

§ 7A-75. Reserved for future codification purposes.

§ 7A-76. Reserved for future codification purposes.

§ 7A-77. Reserved for future codification purposes.

§ 7A-78. Reserved for future codification purposes.

§ 7A-79. Reserved for future codification purposes.

§ 7A-80. Reserved for future codification purposes.

§ 7A-81. Reserved for future codification purposes.

§ 7A-82. Reserved for future codification purposes.

§ 7A-83. Reserved for future codification purposes.

§ 7A-84. Reserved for future codification purposes.

§ 7A-85. Reserved for future codification purposes.

§ 7A-86. Reserved for future codification purposes.

§ 7A-87. Reserved for future codification purposes.

§ 7A-88. Reserved for future codification purposes.

§ 7A-89. Reserved for future codification purposes.

§ 7A-90. Reserved for future codification purposes.

§ 7A-91. Reserved for future codification purposes.

§ 7A-92. Reserved for future codification purposes.

§ 7A-93. Reserved for future codification purposes.

§ 7A-94. Reserved for future codification purposes.

Article 11.

Special Regulations.

§ 7A-95. Reporting of trials.

(a) Court reporting personnel shall be utilized if available, for the reporting of trials in the superior court. If court reporters are not available in any county, electronic or other mechanical devices shall be provided by the Administrative Office of the Courts upon the request of the senior regular resident superior court judge.

(b) The Administrative Office of the Courts shall from time to time investigate the state of the art and techniques of recording testimony, and shall provide such electronic or mechanical devices as are found to be most efficient for this purpose.

(c) If an electronic or other mechanical device is utilized, it shall be the duty of the clerk of the superior court or some person designated by the clerk to operate the device while a trial is in progress, and the clerk shall thereafter preserve the record thus produced, which may be transcribed, as required, by any person designated by the Administrative Office of the Courts. If stenotype, shorthand, or stenomask equipment is used, the original tapes, notes, discs or other records are the property of the State, and the clerk shall keep them in his custody.

(d) Reporting of any trial may be waived by consent of the parties.

(e) Appointment of a reporter or reporters for superior court proceedings in each district or set of districts as defined in G.S. 7A-41.1(a) shall be made by the senior regular resident superior court judge of that district or set of districts. The compensation and allowances of reporters in each such district or set of districts shall be fixed by the senior regular resident superior court judge, within limits determined by the Administrative Officer of the Courts, and paid by the State.

(f) Repealed by Sessions Laws 1971, c. 377, s. 32. (1965, c. 310, s. 1; 1969, c. 1190, s. 7; 1971, c. 377, s. 32; 1987, c. 384, s. 1; 1987 (Reg. Sess., 1988), c. 1037, s. 14.)

§ 7A-96. Court adjourned by sheriff when judge not present.

If the judge of a superior court shall not be present to hold any session of court at the time fixed therefor, he may order the sheriff to adjourn the court to any day certain during the session, and on failure to hear from the judge it shall be the duty of the sheriff to adjourn the court from day to day, unless he shall be sooner informed that the judge for any reason cannot hold the session. (Code, s. 926; 1887, c. 13; 1901, c. 269; Rev., s. 1510; C.S., s. 1448; 1969, c. 1190, s. 49.)

§ 7A-97. Court's control of argument.

In all trials in the superior courts there shall be allowed two addresses to the jury for the State or plaintiff and two for the defendant, except in capital felonies, when there shall be no limit as to number. The judges of the superior court are authorized to limit the time of argument of counsel to the jury on the trial of actions, civil and criminal as follows: to not less than one hour on each side in misdemeanors and appeals from justices of the peace; to not less than two hours on each side in all other civil actions and in felonies less than capital; in capital felonies, the time of argument of counsel may not be limited otherwise than by consent, except that the court may limit the number of those who may address the jury to three counsel on each side. Where any greater number of addresses or any extension of time are desired, motion shall be made, and it shall be in the discretion of the judge to allow the same or not, as the interests of justice may require. In jury trials the whole case as well of law as of fact may be argued to the jury. (1903, c. 433; Rev., s. 216; C.S., s. 203; 1927, c. 52; 1995, c. 431, s. 7.)

§ 7A-98. Reserved for future codification purposes.

§ 7A-99. Reserved for future codification purposes.

Article 12.

Clerk of Superior Court.

§ 7A-100. Election; term of office; oath; vacancy; office and office hours; appointment of acting clerk.

(a) A clerk of the superior court for each county shall be elected by the qualified voters thereof, to hold office for a term of four years, in the manner prescribed by Subchapter III of Chapter 163A of the General Statutes. The clerk, before entering on the duties of his office, shall take the oath of office prescribed by law. If the office of clerk of superior court becomes vacant otherwise than by the expiration of the term, or if the people fail to elect a clerk, the senior regular resident superior court judge for the county shall fill the vacancy by appointment until an election can be regularly held. In cases of death or resignation of the clerk, the senior regular resident superior court judge, pending appointment of a successor clerk, may appoint an acting clerk of superior court for a period of not longer than 30 days.

(b) The county commissioners shall provide an office for the clerk in the courthouse or other suitable place in the county seat. The clerk shall observe such office hours and holidays as may be directed by the Administrative Officer of the Courts. (Const., art. 4, ss. 16, 17, 29; C.C.P., ss. 139-141; 1871-72, c. 136; Code, ss. 74, 76, 78, 80, 114, 115; 1903, c. 467; Rev., ss. 890-893, 895, 909, 910; C.S., ss. 926, 930, 931, 945, 946; 1935, c. 348; 1939, c. 82; 1941, c. 329; 1949, c. 122, ss. 1, 2; 1971, c. 363, s. 1; 1973, c. 240; 2017-6, s. 3.)

§ 7A-101. Compensation.

(a) The clerk of superior court is a full-time employee of the State and shall receive an annual salary, payable in equal monthly installments, based on the population of the

county as determined in subsection (a1) of this section, according to the following schedule:

Population	Annual Salary
Less than 100,000	$90,972
100,000 to 149,999	101,831
150,000 to 249,999	112,690
250,000 and above	123,554

When a county changes from one population group to another, the salary of the clerk shall be changed, on July 1 of the fiscal year for which the change is reported, to the salary appropriate for the new population group, except that the salary of an incumbent clerk shall not be decreased by any change in population group during his continuance in office.

(a1) For purposes of subsection (a) of this section, the population of a county for any fiscal year shall be the population for the beginning of that fiscal year as reported by the Office of State Budget and Management to the Administrative Office of the Courts prior to the beginning of that fiscal year.

(b) The clerk shall receive no fees or commission by virtue of his office. The salary set forth in this section is the clerk's sole official compensation, but if, on June 30, 1975, the salary of a particular clerk, by reason of previous but no longer authorized merit increments, is higher than that set forth in the table, that higher salary shall not be reduced during his continuance in office.

(c) In lieu of merit and other increment raises paid to regular State employees, a clerk of superior court shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the clerk's annual salary payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, nineteen and two-tenths percent (19.2%) after 20 years of service, and twenty-four percent (24%) after 25 years of service. Service shall mean service in the elective position of clerk of superior court, as an assistant clerk of court and as a supervisor of clerks of superior court with the Administrative Office of the Courts and shall not include service as a deputy or acting clerk. Service shall also mean service as a justice, judge, or magistrate of the General Court of Justice or as a district attorney. (1965, c. 310, s. 1; 1967, c. 691, s. 5; 1969, c. 1186, s. 3; 1971, c. 877, ss. 1, 2; 1973, c. 571, ss. 1, 2; 1975, c. 956, s. 7; 1975, 2nd Sess., c. 983, s. 11; 1977, c. 802, s. 42; 1977, 2nd Sess., c. 1136, s. 13; 1979, c. 838, s. 85; 1979, 2nd Sess., c. 1137, s. 12; 1981, c. 964, s. 14; c. 1127, s. 12; 1983, c. 761, ss. 200, 247, 249; 1983 (Reg. Sess., 1984), c. 1034, ss. 86, 87; c. 1109, s. 13.1; 1985, c. 479, s. 211; c. 689, s. 3; c. 698, s. 10(c); 1985 (Reg. Sess., 1986), c. 1014, s. 34; 1987, c. 738, s. 20; 1987 (Reg. Sess., 1988), c. 1086, s. 14; c. 1100, ss. 16(a), 17; 1989, c. 752, s. 31; c. 799, s. 27(a); 1991 (Reg. Sess., 1992), c. 900, s. 40; c. 1039, s. 21; 1993, c. 321, s. 57(a); 1993 (Reg. Sess., 1994), c. 769, s. 7.10(a); 1996, 2nd Ex. Sess., c. 18, s. 28.4; 1997-443, s. 33.9; 1998-153, s. 7; 1999-237, s. 28.4; 2000-67, s. 26.4; 2000-140, s. 93.1(b); 2001-424, ss. 12.2(b), 32.5; 2004-124, s. 31.5(b); 2005-276, ss. 29.5, 29.23B; 2006-66, s. 22.5; 2007-323, ss. 28.5, 28.18A(e); 2008-107, s. 26.5; 2012-142, s. 25.1A(e); 2014-100, s. 35.3(d); 2016-94, s. 36.4; 2017-57, s. 35.4A; 2018-5, s. 35.5.)

§ 7A-102. Assistant and deputy clerks; appointment; number; salaries; duties.

(a) The numbers and salaries of assistant clerks, deputy clerks, and other employees in the office of each clerk of superior court shall be determined by the Administrative Officer of the Courts after consultation with the clerk concerned. However, no office of clerk of superior court shall have fewer than five total staff positions in addition to the elected clerk of superior court. All personnel in the clerk's office are employees of the State. The clerk appoints the assistants, deputies, and other employees in the clerk's office to serve at his or her pleasure. Assistant and deputy clerks shall take the oath of office prescribed for clerks of superior court, conformed to the office of assistant or deputy clerk, as the case may be. Except as provided by subsection (c2) of this section, the job classifications and related salaries of each employee within the office of each superior court clerk shall be subject to the approval of the Administrative Officer of the Courts after consultation with each clerk concerned and shall be subject to the availability of funds appropriated for that purpose by the General Assembly.

(b) An assistant clerk is authorized to perform all the duties and functions of the office of clerk of superior court, and any act of an assistant clerk is entitled to the same faith and credit as that of the clerk. A deputy clerk is authorized to certify the existence and correctness of any record in the clerk's office, to take the proofs and examinations of the witnesses touching the execution of a will as required by G.S. 31-17, and to perform any other ministerial act which the clerk may be authorized and empowered to do, in his own name and without reciting the name of his principal. The clerk is responsible for the acts of his assistants and deputies. With the consent of the clerk of superior court of each county and the consent of the presiding judge in any proceeding, an assistant or deputy clerk is authorized to perform all the duties and functions of the office of the clerk of superior court in another county in any proceeding in the district or superior court that has been transferred to that county from the county in which the assistant or deputy clerk is employed.

(c) Notwithstanding the provisions of subsection (a), the Administrative Officer of the Courts shall establish an incremental salary plan for assistant clerks and for deputy clerks based on a series of salary steps corresponding to the steps contained in the Salary Plan for State Employees adopted by the Office of State Human Resources, subject to a minimum and a maximum annual salary as set forth below. On and after July 1, 1985, each assistant clerk and each deputy clerk shall be eligible for an annual step increase in his salary plan based on satisfactory job performance as determined by each clerk. Notwithstanding the foregoing, if an assistant or deputy clerk's years of service in the office of superior court clerk would warrant an annual salary greater than the salary first established under this section, that assistant or deputy clerk shall be eligible on and after July 1, 1984, for an annual step increase in his salary plan. Furthermore, on and after July 1, 1985, that assistant or deputy clerk shall be eligible for an increase of two steps in his salary plan, and shall remain eligible for a two-step increase each year as recommended by each clerk until that assistant or deputy clerk's annual salary corresponds to his number of years of service. Any person covered by this subsection who would not receive a step increase in fiscal year 1995-96 because that person is at the top of the salary range as it

existed for fiscal year 1994-95 shall receive a salary increase to the maximum annual salary provided by subsection (c1) of this section.

(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time deputy clerk serving as head bookkeeper per county, shall be paid an annual salary subject to the following minimum and maximum rates:

Assistant Clerks and Head Bookkeeper	Annual Salary
Minimum	$34,780
Maximum	61,162

Deputy Clerks	Annual Salary
Minimum	$31,200
Maximum	48,034.

(c2) The clerk of superior court may appoint assistant clerks, deputy clerks, and a head bookkeeper and set their salaries above the minimum rate established for the positions by subsection (c1) of this section if, in the clerk's discretion, (i) the needs of the clerk's office would be best served by an appointment above the minimum rate, (ii) the appointee's skills and experience support the higher rate, and (iii) the Administrative Office of the Courts certifies that there are sufficient funds available.

(d) Full-time assistant clerks, licensed to practice law in North Carolina, who are employed in the office of superior court clerk on and after July 1, 1984, and full-time assistant clerks possessing a masters degree in business administration, public administration, accounting, or other similar discipline from an accredited college or university who are employed in the office of superior court clerk on and after July 1, 1997, are authorized an annual salary of not less than three-fourths of the maximum annual salary established for assistant clerks; the clerk of superior court, with the approval of the Administrative Office of the Courts, may establish a higher annual salary but that salary shall not be higher than the maximum annual salary established for assistant clerks. Full-time assistant clerks, holding a law degree from an accredited law school, who are employed in the office of superior court clerk on and after July 1, 1984, are authorized an annual salary of not less than two-thirds of the maximum annual salary established for assistant clerks; the clerk of superior court, with the approval of the Administrative Office of the Courts, may establish a higher annual salary, but the entry-level salary may not be more than three-fourths of the maximum annual salary established for assistant clerks, and in no event may be higher than the maximum annual salary established for assistant clerks. Except as provided by subsection (c2) of this section, the entry-level annual salary for all other assistant and deputy clerks employed on and after July 1, 1984, shall be at the minimum rates as herein established.

(e) A clerk of superior court may apply to the Director of the Administrative Office of the Courts to enter into contracts with local governments for the provision by the State of services of assistant clerks, deputy clerks, and other employees in the office of each clerk of superior court pursuant to G.S. 153A-212.1 or G.S. 160A-289.1.

(f) The Director of the Administrative Office of the Courts may provide assistance requested pursuant to subsection (e) of this section only upon a showing by the senior resident superior court judge, supported by facts, that the overwhelming public interest warrants the use of additional resources for the speedy disposition of cases involving drug offenses, domestic violence, or other offenses involving a threat to public safety.

(g) The terms of any contract entered into with local governments pursuant to subsection (e) of this section shall be fixed by the Director of the Administrative Office of the Courts in each case. Nothing in this section shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this section or to obligate the Administrative Office of the Courts to provide the administrative costs of establishing or maintaining the positions or services provided for under this section. Further, nothing in this section shall be construed to obligate the Administrative Office of the Courts to maintain positions or services initially provided for under this section. (1777, c. 115, s. 86; P.R.; R.C., c. 19, s. 15; Code, s. 75; 1899, c. 235, ss. 2, 3; Rev., ss. 898-900; 1921, c. 32, ss. 1-3; C.S., ss. 934(a)-934(c), 935-937; 1951, c. 159, ss. 1, 2; 1959, c. 1297; 1963, c. 1187; 1965, c. 264; c. 310, s. 1; 1971, c. 363, s. 2; 1973, c. 678; 1983 (Reg. Sess., 1984), c. 1034, ss. 88, 89; 1985, c. 479, s. 212; c. 757, s. 190; 1985 (Reg. Sess., 1986), c. 1014, s. 35; 1987, c. 738, s. 21(a); 1987 (Reg. Sess., 1988), c. 1086, s. 15; 1989, c. 445; c. 752, s. 32; 1991 (Reg. Sess., 1992), c. 900, ss. 42, 119; 1993, c. 321, ss. 58, 59; 1993 (Reg. Sess., 1994), c. 769, ss. 7.11, 7.12; 1995, c. 507, s. 7.6(a), (b); 1996, 2nd Ex. Sess., c. 18, s. 28.5; 1997-443, ss. 33.12, 33.10(b); 1998-153, s. 8(b); 1999-237, s. 28.5; 2000-67, ss. 15.4(b), 26.5; 2001-424, s. 32.6; 2003-284, s. 30.14B; 2004-124, s. 31.6(b); 2005-276, s. 29.6; 2006-66, s. 22.6; 2007-323, s. 28.6; 2008-107, s. 26.6; 2011-145, s. 15.8; 2012-142, s. 25.1A(f); 2013-382, s. 9.1(c); 2014-100, s. 35.3(e); 2016-94, s. 36.5(a); 2017-57, s. 35.4B; 2018-5, s. 35.6.)

§ 7A-102.1. Transfer of sick leave earned as county or municipal employees by certain employees in offices of clerks of superior court.

(a) All assistant clerks, deputy clerks and other employees of the clerks of the superior court of this State, secretaries to superior court judges and district attorneys, and court reporters of the superior courts, who have heretofore been, or shall hereafter be, changed in status from county employees to State employees by reason of the enactment of Chapter 7A of the General Statutes, shall be entitled to transfer sick leave accumulated as a county employee pursuant to any county system and standing to the credit of such employee at the time of such change of status to State employee, without any maximum limitation thereof. Such earned sick leave credit shall be certified to the Administrative Office of the Courts by the official or employee responsible for keeping sick leave records for the county, and the Administrative Office of the Courts shall accord such transferred sick leave credit the same status as if it had been earned as a State employee.

(b) All clerks, assistant clerks, deputy clerks and other employees of any court inferior to the superior court which has been or may be abolished by reason of the enactment of Chapter 7A of the General Statutes, who shall thereafter become a State employee by employment in the Judicial Department, shall be entitled to transfer sick leave

earned as a municipal or county employee pursuant to any municipal or county system in effect on the date said court was abolished, without any maximum limitation thereof. Such earned sick leave credit shall be certified to the Administrative Office of the Courts by the official or employee responsible for keeping sick leave records for the municipality or county, and the Administrative Office of the Courts shall accord such transferred sick leave credit the same status as if it had been earned as a State employee.

(c) Any employee covered by this section who retires on or after May 22, 1973, shall be given credit for all sick leave accumulated on May 22, 1973. (1967, c. 1187, ss. 1, 2; 1969, c. 1190, s. 8; 1973, c. 47, s. 2; c. 795, ss. 1-3.)

§ 7A-103. Authority of clerk of superior court.

The clerk of superior court is authorized to:

(1) Issue subpoenas to compel the attendance of any witness residing or being in the State, or to compel the production of any document or paper, material to any inquiry in his court.

(2) Administer oaths, and to take acknowledgment and proof of the execution of all instruments or writings.

(3) Issue commissions to take the testimony of any witness within or without the State.

(4) Issue citations and orders to show cause to parties in all matters cognizable in his court, and to compel the appearance of such parties.

(5) Enforce all lawful orders and decrees, by execution or otherwise, against those who fail to comply therewith or to execute lawful process. Process may be issued by the clerk, to be executed in any county of the State, and to be returned before him.

(6) Certify and exemplify, under seal of his court, all documents, papers or records therein, which shall be received in evidence in all the courts of the State.

(7) Preserve order in this court, punish criminal contempts, and hold persons in civil contempt; subject to the limitations contained in Chapter 5A of the General Statutes of North Carolina.

(8) Adjourn any proceeding pending before him from time to time.

(9) Open, vacate, modify, set aside, or enter as of a former time, decrees or orders of his court.

(10) Enter default or judgment in any action or proceeding pending in his court as authorized by law.

(11) Award costs and disbursements as prescribed by law, to be paid personally, or out of the estate or fund, in any proceeding before him.

(12) Compel an accounting by magistrates and compel the return to the clerk of superior court by the person having possession thereof, of all money, records, papers, dockets and books held by such magistrate by virtue or color of his office.

(13) Grant and revoke letters testamentary, letters of administration, and letters of trusteeship.
(14) Appoint and remove guardians and trustees, as provided by law.
(15) Audit the accounts of fiduciaries, as required by law.
(16) Exercise jurisdiction conferred on him in every other case prescribed by law. (C.C.P., ss. 417, 418, 442; Code, ss. 103, 108; 1901, c. 614, s. 2; Rev., s. 901; 1919, c. 140; C. S., s. 938; 1949, c. 57, s. 1; 1951, c. 28, s. 1; 1961, c. 341, s. 2; 1971, c. 363, s. 3; 1979, 2nd Sess., c. 1080, s. 5.)

§ 7A-104. Disqualification; waiver; removal; when judge acts.

(a) The clerk shall not exercise any judicial powers in relation to any estate, proceeding, or civil action:

(1) If he has, or claims to have, an interest by distribution, by will, or as creditor or otherwise;
(2) If he is so related to any person having or claiming such an interest that he would, by reason of such relationship, be disqualified as a juror, but the disqualification on this ground ceases unless the objection is made at the first hearing of the matter before him;
(3) If clerk or the clerk's spouse is a party or a subscribing witness to any deed of conveyance, testamentary paper or nuncupative will, but this disqualification ceases when such deed, testamentary paper, or will has been finally admitted to probate by another clerk, or before the judge of the superior court;
(4) If clerk or the clerk's spouse is named as executor or trustee in any testamentary or other paper, but this disqualification ceases when the will or other paper is finally admitted to probate by another clerk, or before the judge of the superior court. The clerk may renounce the executorship and endorse the renunciation on the will or on some paper attached thereto, before it is propounded for probate, in which case the renunciation must be recorded with the will if it is admitted to probate.

(a1) The clerk may disqualify himself in a proceeding in circumstances justifying disqualification or recusement by a judge.

(a2) The parties may waive the disqualification specified in this section, and upon the filing of such written waiver, the clerk shall act as in other cases.

(b) When any of the disqualifications specified in this section exist, and there is no waiver thereof, or when there is no renunciation under subdivision (a)(4) of this section, any party in interest may apply to a superior court judge who has jurisdiction pursuant to G.S. 7A-47.1 or G.S. 7A-48 in that county, for an order to remove the proceedings to the clerk of superior court of an adjoining county in the district or set of districts; or he may apply to the judge to make either in vacation or during a session of court all necessary orders and judgments in any proceeding in which the clerk is disqualified, and the judge in such cases is hereby authorized to make any and all necessary orders and judgments as if he had the same original jurisdiction as the clerk over such proceedings.

(c) In any case in which the clerk of the superior court is executor, administrator, collector, or guardian of an estate at the time of his election or appointment to office, in order to enable him to settle such estate, a superior court judge who has jurisdiction pursuant to G.S. 7A-47.1 or G.S. 7A-48 in that county may make such orders as may be necessary in the settlement of the estate; and he may audit the accounts or appoint a commissioner to audit the accounts of such executor or administrator, and report to him for his approval, and when the accounts are so approved, the judge shall order the proper records to be made by the clerk. (C.C.P., ss. 419-421; 1871-72, cc. 196, 197; Code, ss. 104-107; Rev., ss. 902-905; 1913, c. 70, s. 1; C.S., ss. 939-942; 1935, c. 110, s. 1; 1971, c. 363, s. 4; 1977, c. 546; 1987 (Reg. Sess., 1988), c. 1037, s. 15; 1989, c. 493, s. 1.)

§ 7A-105. Suspension, removal, and reinstatement of clerk.

A clerk of superior court may be suspended or removed from office for willful misconduct or mental or physical incapacity, and reinstated, under the same procedures as are applicable to a superior court district attorney, except that the procedure shall be initiated by the filing of a sworn affidavit with the chief district judge of the district in which the clerk resides, and the hearing shall be conducted by the senior regular resident superior court judge serving the county of the clerk's residence. If suspension is ordered, the judge shall appoint some qualified person to act as clerk during the period of the suspension. (1967, c. 691, s. 6; 1971, c. 363, s. 10; 1973, c. 47, s. 2; c. 148, s. 2.)

§ 7A-106. Custody of records and property of office.

(a) It is the duty of the clerk of superior court, upon going out of office for any reason, to deliver to his successor, or such person as the senior regular resident superior court judge may designate, all records, books, papers, moneys, and property belonging to his office, and obtain receipts therefor.

(b) Any clerk going out of office or such other person having custody of the records, books, papers, moneys, and property of the office who fails to transfer and deliver them as directed shall forfeit and pay the State one thousand dollars ($1,000), which shall be sued for by the district attorney. (R.C., c. 19, s. 14; C.C.P., s. 142; Code, ss. 81, 124; Rev., ss. 906, 907; C.S., s. 943; 1971, c. 363, s. 5; 1973, c. 47, s. 2.)

§ 7A-107. Bonds of clerks, assistant and deputy clerks, and employees of office.

The Administrative Officer of the Courts shall require, or purchase, in such amounts as he deems proper, individual or blanket bonds for any and all clerks of superior court, assistant clerks, deputy clerks, and other persons employed in the offices of the various clerks of superior court, or one blanket bond covering all such clerks and other persons, such bond or bonds to be conditioned upon faithful performance of duty, and made payable to the State. The premiums shall be paid by the State. (1965, c. 310, s. 1; 1967, c. 691, s. 7; 1971, c. 363, ss. 10, 11.1; c. 518, s. 2.)

§ 7A-108. Accounting for fees and other receipts; audit.

The Administrative Office of the Courts shall establish procedures for the receipt, deposit, protection, investment, and disbursement of all funds coming into the hands of the clerk of superior court. The fees to be remitted to counties and municipalities shall be paid to them monthly by the clerk of superior court.

The operations of the Administrative Office of the Courts and the Clerks of Superior Court shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. (1965, c. 310, s. 1; 1969, c. 1190, s. 9; 1971, c. 363, s. 10; 1983, c. 913, s. 5; 2009-516, s. 4.)

§ 7A-109. Record-keeping procedures.

(a) Each clerk shall maintain such records, files, dockets and indexes as are prescribed by rules of the Director of the Administrative Office of the Courts. Except as prohibited by law, these records shall be open to the inspection of the public during regular office hours, and shall include civil actions, special proceedings, estates, criminal actions, juvenile actions, minutes of the court, judgments, liens, lis pendens, and all other records required by law to be maintained. The rules prescribed by the Director shall be designed to accomplish the following purposes:

(1) To provide an accurate record of every determinative legal action, proceeding, or event which may affect the person or property of any individual, firm, corporation, or association;

(2) To provide a record during the pendency of a case that allows for the efficient handling of the matter by the court from its initiation to conclusion and also affords information as to the progress of the case;

(3) To provide security against the loss or destruction of original documents during their useful life and a permanent record for historical uses;

(4) To provide a system of indexing that will afford adequate access to all records maintained by the clerk;

(5) To provide, to the extent possible, for the maintenance of records affecting the same action or proceeding in one rather than several units; and

(6) To provide a reservoir of information useful to those interested in measuring the effectiveness of the laws and the efficiency of the courts in administering them.

(a1) The minutes maintained by the clerk pursuant to this subsection shall record the date and time of each convening of district and superior court, as well as the date and time of each recess or adjournment of district and superior court with no further business before the court.

(b) The rules shall provide for indexing according to the minimum criteria set out below:

(1) Civil actions. – the names of all parties;

(2) Special proceedings. – the names of all parties;

(3) Administration of estates. – the name of the estate and in the case of testacy the name of each devisee;

(4) Criminal actions. – the names of all defendants;
(5) Juvenile actions. – the names of all juveniles;
(6) Judgments, liens, lis pendens, etc. – the names of all parties against whom a lien has been created by the docketing of a judgment, notice of lien, transcript, certificate, or similar document and the names of all parties in those cases in which a notice of lis pendens has been filed with the clerk and abstracted on the judgment docket.

(c) The rules shall require that all documents received for docketing shall be immediately indexed either on a permanent or temporary index. The rules may prescribe any technological process deemed appropriate for the economical and efficient indexing, storage and retrieval of information.

(d) In order to facilitate public access to the electronic data processing records or any compilation of electronic court records or data of the clerks of superior court, except where public access is prohibited by law, the Director may enter into one or more nonexclusive contracts under reasonable cost recovery terms with third parties to provide remote electronic access to the electronic data processing records or any compilation of electronic court records or data of the clerks of superior court by the public. Neither the Director nor the Administrative Office of the Courts is the custodian of the records of the clerks of superior court or of the electronic data processing records or any compilation of electronic court records or data of the clerks of superior court. Costs recovered pursuant to this subsection shall be remitted to the State Treasurer to be held in the Court Information Technology Fund established in G.S. 7A-343.2.

(e) If any contracts entered into under subsection (d) of this section are in effect during any calendar year, the Director of the Administrative Office of the Courts shall submit to the House of Representatives Appropriations Committee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety not later than February 1 of the following year a report on all those contracts. (Code, ss. 83, 95, 96, 97, 112, 1789; 1887, c. 178, s. 2; 1889, c. 181, s. 4; 1893, c. 52; 1899, c. 1, s. 17; cc. 82, 110; 1901, c. 2, s. 9; c. 89, s. 13; c. 550, s. 3; 1903, c. 51; c. 359, s. 6; 1905, c. 360, s. 2; Rev., s. 915; 1919, c. 78, s. 7; c. 152; c. 197, s. 4; c. 314; C.S., s. 952; 1937, c. 93; 1953, c. 259; c. 973, s. 3; 1959, c. 1073, s. 3; c. 1163, s. 3; 1961, c. 341, ss. 3, 4; c. 960; 1965, c. 489; 1967, c. 691, s. 39; c. 823, s. 2; 1971, c. 192; c. 363, s. 6; 1997-199, ss. 1, 2; 1999-237, s. 17.15(c); 2011-145, s. 15.6(b); 2012-142, s. 16.5(g); 2013-360, s. 18B.8(a); 2015-241, s. 18A.24; 2017-57, s. 18B.3(a).)

§ 7A-109.1. List of prisoners furnished to judges.

(a) The clerk of superior court must furnish to each judge presiding over a criminal court a report listing the name, reason for confinement, period of confinement, and, when appropriate, charge or charges, amount of bail and conditions of release, and next scheduled court appearance of each person listed on the most recent report filed under the provisions of G.S. 153A-229.

(b) The clerk must file the report with superior court judges presiding over mixed or criminal sessions at the beginning of each session and must file the report with district

court judges at each session or weekly, whichever is the less frequent. (1973, c. 1286, s. 5; 1975, c. 166, s. 22.)

§ 7A-109.2. (Contingent expiration date – see notes) Records of dispositions in criminal cases.

Each clerk of superior court shall ensure that all records of dispositions in criminal cases, including those records filed electronically, contain all the essential information about the case, including the identity of the presiding judge and the attorneys representing the State and the defendant. (1998-208, s. 2.)

§ 7A-109.2. (Contingent effective date – see notes) Records of dispositions in criminal cases; impaired driving integrated data system.

(a) Each clerk of superior court shall ensure that all records of dispositions in criminal cases, including those records filed electronically, contain all the essential information about the case, including the the name of the presiding judge and the attorneys representing the State and the defendant.

(b) In addition to the information required by subsection (a) of this section for all offenses involving impaired driving as defined by G.S. 20-4.01, all charges of driving while license revoked for an impaired driving license revocation as defined by G.S. 20-28.2, and any other violation of the motor vehicle code involving the operation of a vehicle and the possession, consumption, use, or transportation of alcoholic beverages, the clerk shall include in the electronic records the following information:

(1) The reasons for any pretrial dismissal by the court.

(2) The alcohol concentration reported by the charging officer or chemical analyst, if any.

(3) The reasons for any suppression of evidence. (1998-208, s. 2; 2006-253, s. 20.1.)

§ 7A-109.3. Delivery of commitment order.

(a) Whenever the district court sentences a person to imprisonment and commitment to the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety pursuant to G.S. 15A-1352, the clerk of superior court shall furnish the sheriff with the signed order of commitment within 48 hours of the issuance of the sentence.

(b) Whenever the superior court sentences a person to imprisonment and commitment to the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety pursuant to G.S. 15A-1352, the clerk of superior court shall furnish the sheriff with the signed order of commitment within 72 hours of the issuance of the sentence. (1999-237, s. 18.10(c); 2011-145, s. 19.1(h); 2017-186, s. 2(b).)

§ 7A-109.4. Records of offenses involving impaired driving.

The clerk of superior court shall maintain all records relating to an offense involving impaired driving as defined in G.S. 20-4.01(24a) for a minimum of 10 years from the date of conviction. Prior to destroying the record, the clerk shall record the name of the

defendant, the judge, the prosecutor, and the attorney or whether there was a waiver of attorney, the alcohol concentration or the fact of refusal, the sentence imposed, and whether the case was appealed to superior court and its disposition. (2006-253, s. 24.)

§ 7A-110: Repealed by Session Laws 2015-40, s. 7, effective July 1, 2015.

§ 7A-111. Receipt and disbursement of insurance and other moneys for minors and incapacitated adults.

(a) When a minor under 18 years of age is named beneficiary in a policy or policies of insurance, and the insured dies prior to the majority of such minor, and the proceeds of each individual policy do not exceed fifty thousand dollars ($50,000) such proceeds may be paid to and, if paid, shall be received by the public guardian or clerk of the superior court of the county wherein the beneficiary is domiciled. The receipt of the public guardian or clerk shall be a full and complete discharge of the insurer issuing the policy or policies to the extent of the amount paid to such public guardian or clerk.

Any person having in his possession fifty thousand dollars ($50,000) or less for any minor under 18 years of age for whom there is no guardian, may pay such moneys into the office of the public guardian, if any, or the office of the clerk of superior court of the county of the recipient's domicile. The receipt of the public guardian or clerk shall constitute a valid release of the payor's obligation to the extent of the sum delivered to the clerk.

The clerk is authorized under this section to receive, to administer and to disburse the monies held in such sum or sums and at such time or times as in his judgment is in the best interest of the child, except that the clerk must first determine that the parents or other persons responsible for the child's support and maintenance are financially unable to provide the necessities for such child, and also that the child is in need of maintenance and support or other necessities, including, when appropriate, education. The clerk shall require receipts or paid vouchers showing that the monies disbursed under this section were used for the exclusive use and benefit of the child.

(b) When an adult who is mentally incapable on account of sickness, old age, disease or other infirmity to manage his own affairs is named beneficiary in a policy or policies of insurance, and the insured dies during the incapacity of such adult, and the proceeds of each individual policy do not exceed five thousand dollars ($5,000) such proceeds may be paid to and, if paid, shall be received by the public guardian or clerk of the superior court of the county wherein the beneficiary is domiciled. A certificate of mental incapacity, signed by a physician or reputable person who has had an opportunity to observe the mental condition of an adult beneficiary, filed with the clerk, is prima facie evidence of the mental incapacity of such adult, and authorizes the clerk to receive and administer funds under this section. The receipt of the public guardian or clerk shall be a full and complete discharge of the insurer issuing the policy or policies to the extent of the amount paid to such public guardian or clerk.

Any person having in his possession five thousand dollars ($5,000) or less for any incapacitated adult for whom there is no guardian, may pay such monies into the office of the public guardian, if any, or the office of the clerk of superior court of the county of the

recipient's domicile. The clerk's receipt shall constitute a valid release of the payor's obligation to the extent of the sum delivered to the clerk.

The clerk is authorized to receive, to administer and, upon a finding of fact that it is in the best interest of the incapacitated adult, to disburse funds directly to a creditor, a relative or to some discreet and solvent neighbor or friend for the purpose of handling the property and affairs of the incapacitated adult. The clerk shall require receipts or paid vouchers showing that the monies disbursed under this section were used for the exclusive use and benefit of the incapacitated adult.

(c) Any monies paid to the clerk of the superior court under subsection (a) of this section shall also include the name, last known address, social security number or taxpayer identification number of the beneficiary or payee, and the name and address of the nearest relative of the beneficiary or payee.

(d) The determination of incapacity authorized in subsection (b) of this section is separate and distinct from the procedure for the determination of incompetency provided in Chapter 35A. (1899, c. 82; Rev., s. 924; 1911, c. 29, s. 1; 1919, c. 91; C.S., s. 962; Ex. Sess., 1924, c. 1, s. 1; 1927, c. 76; 1929, c. 15; 1933, c. 363; 1937, c. 201; 1945, c. 160, ss. 1, 2; 1949, c. 188; 1953, c. 101; 1959, c. 794, ss. 1, 2; 1961, c. 377; 1971, c. 363, s. 8; c. 1231, s. 1; 1983, c. 65, s. 3; 1987, c. 29; c. 550, s. 14; 2018-40, s. 2.1.)

§ 7A-112. Investment of funds in clerk's hands.

(a) The clerk of the superior court may in his or her discretion invest moneys secured by virtue or color of the clerk's office or as receiver in any of the following securities:

(1) Obligations of the United States or obligations fully guaranteed both as to principal and interest by the United States;

(2) Obligations of the State of North Carolina;

(3) Obligations of North Carolina cities or counties approved by the Local Government Commission; and

(4) Shares of any building and loan association organized under the laws of this State, or of any federal savings and loan association having its principal office in this State, and certificates of deposit for time deposits or savings accounts in any bank or trust company authorized to do business in North Carolina, to the extent in each instance that such shares or deposits are insured by the State or federal government or any agency thereof or by any mutual deposit guaranty association authorized by the Commissioner of Banks of North Carolina to do business in North Carolina pursuant to Article 7A of Chapter 54 of the General Statutes. If the clerk desires to deposit in a bank, saving and loan, or trust company funds entrusted to the clerk by virtue or color of the clerk's office, beyond the extent that such deposits are insured by the State or federal government or an agency thereof or by any mutual deposit guaranty association authorized by the Commissioner of Banks of North Carolina to do business in North Carolina pursuant to Article 7A of Chapter 54 of the General Statutes, the clerk shall require such depository to furnish a

corporate surety bond or obligations of the United States or obligations fully guaranteed both as to principal and interest by the United States or obligations of the State of North Carolina, or of counties and municipalities of North Carolina whose obligations have been approved by the Local Government Commission.

(b) When money in a single account in excess of ten thousand dollars ($10,000) is received by the clerk by virtue or color of the clerk's office and it can reasonably be expected that the money will remain on deposit with the clerk in excess of six months from date of receipt, the money exceeding ten thousand dollars ($10,000) shall be invested by the clerk within 60 days of receipt in investments authorized by this section. The first ten thousand dollars ($10,000) of these accounts and money in a single account totaling less than ten thousand dollars ($10,000), received by the clerk by virtue or color of the clerk's office, shall be invested, or administered, or invested and administered, by the clerk in accordance with regulations promulgated by the Administrative Officer of the Courts. This subsection shall not apply to cash bonds or to money received by the clerk to be disbursed to governmental units.

(c) The State Auditor is hereby authorized and empowered to inspect the records of the clerk to insure compliance with this section, and shall report noncompliance with the provisions of this section to the Administrative Officer of the Courts.

(d) It shall be unlawful for the clerk of the superior court of any county receiving any money by virtue or color of the clerk's office to apply or invest any of those monies except as authorized under this section. Any clerk violating the provisions of this section shall be guilty of a Class 1 misdemeanor. (1931, c. 281, ss. 1-3, 5; 1937, c. 188; 1939, cc. 86, 110; 1943, c. 543; 1971, c. 363, s. 9; c. 956, s. 1; 1973, c. 1446, s. 4; 1975, c. 496, ss. 1, 2; 1989, c. 76, s. 13; 1993, c. 539, s. 4; 1994, Ex. Sess., c. 24, s. 14(c); 1993 (Reg. Sess., 1994), c. 656, s. 1; 2001-193, s. 16; 2015-216, s. 1.)

§ 7A-112.1. Deposit of money held by clerks.

The clerk of superior court shall deposit any funds that he receives by virtue of his office, except funds invested pursuant to G.S. 7A-112, in an interest-bearing checking account or accounts in a bank, savings and loan, or trust company licensed to do business in North Carolina, at the maximum feasible interest rate available taking into consideration prevailing interest rates and the checking account services provided to the clerk's office by the bank, savings and loan, or trust company. The funds deposited in such checking accounts shall be guaranteed to the same extent and in the same manner as funds invested pursuant to G.S. 7A-112. (1985, c. 475, s. 1.)

§ 7A-113. Bookkeeping and accounting systems equipment.

Notwithstanding the provisions of G.S. 147-64.6(10), proposed changes in the kinds of bookkeeping and accounting systems equipment employed by the clerk of superior court shall be subject to review and approval by the Office of State Budget and Management. The Administrative Officer of the Courts shall, prior to implementing any change in the kinds of equipment, file with the Office of State Budget and Management a request for

approval of the change, along with supporting information. If within 30 days of the filing of the request the Office of State Budget and Management has not disapproved the request, the request shall be deemed to be approved. (1983 (Reg. Sess., 1984), c. 1109, s. 9; 2000-140, s. 93.1(a); 2001-424, s. 12.2(b).)

§ 7A-114. Where practical, provision of secure area for domestic violence victims waiting for hearing.

Where practical, upon request of a domestic violence victim, the clerk of Superior Court of any county shall coordinate with the county Sheriff to make available to the victim a secure area, segregated from the general population of the courtroom, to await hearing of their court case. The Clerk shall notify the presiding judge on the date of the hearing that the victim is present in a segregated location. (2007-15, s. 2.)

§ 7A-115. Reserved for future codification purposes.

§ 7A-116. Reserved for future codification purposes.

§ 7A-117. Reserved for future codification purposes.

§ 7A-118. Reserved for future codification purposes.

§ 7A-119. Reserved for future codification purposes.

§ 7A-120. Reserved for future codification purposes.

§ 7A-121. Reserved for future codification purposes.

§ 7A-122. Reserved for future codification purposes.

§ 7A-123. Reserved for future codification purposes.

§ 7A-124. Reserved for future codification purposes.

§ 7A-125. Reserved for future codification purposes.

§ 7A-126. Reserved for future codification purposes.

§ 7A-127. Reserved for future codification purposes.

§ 7A-128. Reserved for future codification purposes.

§ 7A-129. Reserved for future codification purposes.

SUBCHAPTER IV. DISTRICT COURT DIVISION OF THE GENERAL COURT OF JUSTICE.

Article 13.

Creation and Organization of the District Court Division.

§ 7A-130. Creation of district court division and district court districts; seats of court.

The district court division of the General Court of Justice is hereby created. It consists of various district courts organized in territorial districts. The numbers and boundaries of the districts are as provided by G.S. 7A-133. The district court shall sit in the county seat of each county, and at such additional places in each county as the General Assembly may authorize, except that sessions of court are not required at an additional seat of court unless the chief district judge and the Administrative Officer of the Courts concur in a finding that the facilities are adequate. (1965, c. 310, s. 1; 1987, c. 509, s. 14; c. 738, s. 124.)

§ 7A-131. Establishment of district courts.

District courts are established, within districts, in accordance with the following schedule:

(1) On the first Monday in December, 1966, the first, the twelfth, the fourteenth, the sixteenth, the twenty-fifth, and the thirtieth districts;

(2) On the first Monday in December, 1968, the second, the third, the fourth, the fifth, the sixth, the seventh, the eighth, the ninth, the tenth, the eleventh, the thirteenth, the fifteenth, the eighteenth, the twentieth, the twenty-first, the twenty-fourth, the twenty-sixth, the twenty-seventh, and the twenty-ninth districts;

(3) On the first Monday in December, 1970, the seventeenth, the nineteenth, the twenty-second, the twenty-third, and the twenty-eighth districts. (1965, c. 310, s. 1.)

§ 7A-132. Judges, district attorneys, full-time assistant district attorneys and magistrates for district court districts.

Each district court district shall have one or more judges and one district attorney. Each county within each district shall have at least one magistrate.

For each district the General Assembly shall prescribe the numbers of district judges, and the numbers of full-time assistant district attorneys. For each county within each district the General Assembly shall prescribe a minimum number of magistrates. (1965, c. 310, s. 1; 1967, c. 1049, s. 5; 1973, c. 47, s. 2; 2006-187, s. 7(b).)

§ 7A-133. Numbers of judges by districts; numbers of magistrates and additional seats of court, by counties.

(a) Each district court district shall have the numbers of judges as set forth in the following table:

District	Judges	County
1	5	Camden
		Chowan
		Currituck
		Dare

		Gates
		Pasquotank
		Perquimans
2	4	Martin
		Beaufort
		Tyrrell
		Hyde
		Washington
3A	5	Pitt
3B	6	Craven
		Pamlico
		Carteret
4	8	Sampson
		Duplin
		Jones
		Onslow
5	9	New Hanover
		Pender
6	4	Northampton
		Bertie
		Hertford
		Halifax
7	7	Nash
		Edgecombe
		Wilson
8	6	Wayne
		Greene
		Lenoir
9	5	Granville
		(part of Vance
		see subsection
		(b))
		Franklin
		Person
9B	2	Warren
		(part of Vance
		see subsection (b))
10A	3	(part of Wake
		see subsection (b))
10B	3	(part of Wake
		see subsection (b))
10C	3	(part of Wake
		see subsection (b))
10D	6	(part of Wake
		see subsection (b))
10E	3	(part of Wake

		see subsection (b))
10F	3	(part of Wake see subsection (b))
11	11	Harnett Johnston Lee
12	10	Cumberland
13	6	Bladen Brunswick Columbus
14	7	Durham
15A	4	Alamance
15B	5	Orange Chatham
16A	4	Scotland Anson Richmond
16B	5	Robeson
17A	4	Caswell Rockingham
17B	4	Stokes Surry
18	14	Guilford
19A	5	Cabarrus
19B	5	Randolph
19C	5	Rowan
19D	4	Hoke, Moore
20A	3	Montgomery, Stanly
20B	1	(part of Union see subsection (b))
20C	2	(part of Union see subsection (b))
20D	1	Union
21	11	Forsyth
22A	5	Alexander Iredell
22B	6	Davidson Davie
23	4	Alleghany Ashe Wilkes Yadkin
24	4	Avery Madison

		Mitchell Watauga Yancey
25	9	Burke Caldwell Catawba
26A	3	(part of Mecklenburg see subsection (b))
26B	3	(part of Mecklenburg see subsection (b))
26C	2	(part of Mecklenburg see subsection (b))
26D	2	(part of Mecklenburg see subsection (b))
26E	3	(part of Mecklenburg see subsection (b))
26F	3	(part of Mecklenburg see subsection (b))
26G	2	(part of Mecklenburg see subsection (b))
26H	3	(part of Mecklenburg see subsection (b))
27A	7	Gaston
27B	6	Cleveland Lincoln
28	7	Buncombe
29A	3	McDowell Rutherford
29B	4	Henderson Polk Transylvania
30	6	Cherokee Clay Graham Haywood Jackson Macon Swain.

(b) For district court districts of less than a whole county, or with part or all of one county with part of another, the composition of the district is as follows:

(1) District Court District 9 consists of Person, Franklin and Granville Counties and the remainder of Vance County not in District Court District 9B.

(2) District Court District 9B consists of Warren County and VTD EH1, VTD MIDD, VTD NH1, VTD NH2, VTD TWNS, VTD WMSB of Vance County.

(3) District Court District 20C consists of the remainder of Union County not in District Court District 20B.

(4) District Court District 20B consists of Precinct 01: Tract 204.01: Block Group 2: Block 2040, Block 2057, Block 2058, Block 2060, Block 2061, Block 2062, Block 2064, Block 2065; Tract 204.02: Block Group 2: Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034; Block Group 3: Block 3000, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047; Block Group 4: Block 4035, Block 4054, Block 4055; Precinct 02: Tract 205: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1037, Block 1038; Block Group 2: Block 2081, Block 2082, Block 2092, Block 2099, Block 2100, Block 2101, Block 2102; Tract 206: Block Group 3: Block 3036, Block 3038, Block 3039, Block 3040, Block 3048; Block Group 4: Block 4053; Precinct 03, Precinct 04, Precinct 06: Tract 202.02: Block Group 1: Block 1012, Block 1013, Block 1014, Block 1015, Block 1017, Block 1018, Block 1021, Block 1022, Block 1023; Tract 204.01: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2033, Block 2034, Block 2035, Block 2036, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2056, Block 2063, Block 2999; Precinct 08, Precinct 09, Precinct 10, Precinct 13,

Precinct 23: Tract 206: Block Group 4: Block 4051; Precinct 25: Tract 206: Block Group 4: Block 4036; Precinct 34, Precinct 36, Precinct 43 of Union County.

(5) District 10A: Wake County: VTD 01-42, VTD 01-47, VTD 02-01, VTD 02-02, VTD 02-03, VTD 02-04, VTD 02-05, VTD 02-06, VTD 07-02, VTD 07-06, VTD 07-07, VTD 08-04, VTD 08-05, VTD 08-07, VTD 09-01, VTD 09-03, VTD 10-01, VTD 13-10, VTD 13-11, VTD 14-01, VTD 14-02, VTD 19-03, VTD 19-04, VTD 19-05, VTD 19-06, VTD 19-07, VTD 19-09, VTD 19-10, VTD 19-11, VTD 19-12.

(6) District 10B: Wake County: VTD 09-02, VTD 10-02, VTD 10-03, VTD 10-04, VTD 13-01, VTD 13-07, VTD 13-08, VTD 13-09, VTD 16-08, VTD 17-02, VTD 17-03, VTD 17-04, VTD 17-06, VTD 17-07, VTD 17-08, VTD 17-09, VTD 17-11, VTD 19-16, VTD 19-17.

(7) District 10C: Wake County: VTD 01-04, VTD 01-09, VTD 01-10, VTD 01-12, VTD 01-13, VTD 01-14, VTD 01-15, VTD 01-17, VTD 01-18, VTD 01-28, VTD 01-30, VTD 01-34, VTD 01-36, VTD 01-37, VTD 01-38, VTD 01-39, VTD 01-43, VTD 01-44, VTD 01-45, VTD 01-46, VTD 01-51, VTD 07-03, VTD 07-04, VTD 07-05, VTD 07-09, VTD 07-11, VTD 07-12, VTD 07-13, VTD 08-02, VTD 08-06, VTD 08-09, VTD 13-02, VTD 13-05, VTD 13-06, VTD 17-01, VTD 17-05, VTD 17-10.

(8) District 10D: Wake County: VTD 01-01, VTD 01-02, VTD 01-03, VTD 01-05, VTD 01-06, VTD 01-07, VTD 01-11, VTD 01-16, VTD 01-29, VTD 01-33, VTD 01-49, VTD 04-01, VTD 04-02, VTD 04-03, VTD 04-04, VTD 04-05, VTD 04-06, VTD 04-07, VTD 04-08, VTD 04-09, VTD 04-10, VTD 04-11, VTD 04-12, VTD 04-14, VTD 04-15, VTD 04-16, VTD 04-17, VTD 04-18, VTD 04-20, VTD 04-21, VTD 05-05, VTD 06-05, VTD 06-07, VTD 07-01, VTD 07-10, VTD 08-03, VTD 08-08, VTD 08-10, VTD 08-11, VTD 11-01, VTD 11-02, VTD 12-01, VTD 12-02, VTD 12-04, VTD 12-05, VTD 12-06, VTD 12-07, VTD 12-09, VTD 15-01, VTD 15-02, VTD 15-03, VTD 15-04, VTD 16-01, VTD 16-05, VTD 16-09, VTD 18-02, VTD 18-03, VTD 18-05, VTD 20-03, VTD 20-05, VTD 20-09.

(9) District 10E: Wake County: VTD 01-19, VTD 01-20, VTD 01-21, VTD 01-22, VTD 01-23, VTD 01-25, VTD 01-26, VTD 01-27, VTD 01-31, VTD 01-32, VTD 01-35, VTD 01-40, VTD 01-41, VTD 01-48, VTD 01-50, VTD 16-02, VTD 16-03, VTD 16-04, VTD 16-06, VTD 16-07, VTD 18-01, VTD 18-04, VTD 18-06, VTD 18-07, VTD 18-08.

(10) District 10F: Wake County: VTD 03-00, VTD 04-13, VTD 04-19, VTD 05-01, VTD 05-03, VTD 05-04, VTD 05-06, VTD 06-01, VTD 06-04, VTD 06-06, VTD 12-08, VTD 20-01, VTD 20-02, VTD 20-04, VTD 20-06, VTD 20-08, VTD 20-10, VTD 20-11, VTD 20-12.

(11) District 26A: Mecklenburg County: VTD 001, VTD 008, VTD 018, VTD 019, VTD 032, VTD 035, VTD 036, VTD 047, VTD 048, VTD 057, VTD 067, VTD 069, VTD 071, VTD 074, VTD 091, VTD 096, VTD 103, VTD 106, VTD 113, VTD 119, VTD 136, VTD 215, VTD 216, VTD 217, VTD 218, VTD 219, VTD 220, VTD 221, VTD 233, VTD 234, VTD 236.

(12) District 26B: Mecklenburg County: VTD 070, VTD 072, VTD 073, VTD 075, VTD 076, VTD 086, VTD 087, VTD 088, VTD 090, VTD 092, VTD 093, VTD 100, VTD 101, VTD 110, VTD 111, VTD 112, VTD 114, VTD 118, VTD 121, VTD 131, VTD 137, VTD 139.1, VTD 140, VTD 144, VTD 226, VTD 227, VTD 232.

(13) District 26C: Mecklenburg County: VTD 127, VTD 133, VTD 134, VTD 142, VTD 143, VTD 150, VTD 151, VTD 202, VTD 206, VTD 207, VTD 208, VTD 209, VTD 223.1, VTD 224, VTD 240, VTD 241, VTD 242.

(14) District 26D: Mecklenburg County: VTD 037, VTD 038, VTD 049, VTD 050, VTD 051, VTD 058, VTD 059, VTD 077, VTD 097, VTD 098, VTD 120, VTD 122, VTD 129, VTD 138, VTD 147, VTD 148, VTD 225, VTD 228, VTD 229, VTD 230, VTD 231, VTD 243.

(15) District 26E: Mecklenburg County: VTD 002, VTD 005, VTD 007, VTD 009, VTD 010, VTD 012, VTD 013, VTD 014, VTD 016, VTD 017, VTD 020, VTD 021, VTD 022, VTD 023, VTD 024, VTD 025, VTD 029, VTD 031, VTD 039, VTD 040, VTD 041, VTD 046, VTD 052, VTD 053, VTD 078.1, VTD 079, VTD 080, VTD 081, VTD 109, VTD 200.

(16) District 26F: Mecklenburg County: VTD 011, VTD 015, VTD 026, VTD 027, VTD 028, VTD 030, VTD 042, VTD 044, VTD 054, VTD 055, VTD 056, VTD 082, VTD 089, VTD 128, VTD 135, VTD 210, VTD 211, VTD 213, VTD 214, VTD 222, VTD 238.1.

(17) District 26G: Mecklenburg County: VTD 003, VTD 004, VTD 043, VTD 060, VTD 061, VTD 104, VTD 105, VTD 107.1, VTD 123, VTD 126, VTD 132, VTD 141, VTD 145, VTD 146, VTD 149, VTD 204.1, VTD 212, VTD 237, VTD 239.

(18) District 26H: Mecklenburg County: VTD 006, VTD 033, VTD 034, VTD 045, VTD 062, VTD 063, VTD 064, VTD 065, VTD 066, VTD 068, VTD 083, VTD 084, VTD 085, VTD 094, VTD 095, VTD 099, VTD 102, VTD 108, VTD 115, VTD 116, VTD 117, VTD 124, VTD 125, VTD 130, VTD 201, VTD 203, VTD 205, VTD 235.

The names and boundaries of voting tabulation districts specified for Mecklenburg County, Wake County, and Vance County in this section are as shown on the 2010 Census Redistricting TIGER/Line Shapefiles. Precinct boundaries for Union County are those shown on the Legislative Services Office's redistricting computer database on January 1, 2005; and for other counties are those reported by the United States Bureau of the Census under Public Law 94-171 for the 1990 Census in the IVTD Version of the TIGER files.

(b1) The qualified voters of District Court District 11 shall elect all eight judges established for the District in subsection (a) of this section, but only persons who reside in

Johnston County may be candidates for five of the judgeships, only persons who reside in Harnett County may be candidates for two of the judgeships, and only persons who reside in Lee County may be candidates for the remaining judgeship.

(b2) The qualified voters of District Court District 13 shall elect all six judges established for the District in subsection (a) of this section, but only persons who reside in Bladen County may be candidates for one of those judgeships, only persons who reside in Columbus County may be candidates for two of those judgeships, and only persons who reside in Brunswick County may be candidates for three of those judgeships. These district court judgeships shall be numbered and assigned for residency purposes as follows:

(1) Seat number one, established for residents of Brunswick County by this section, shall be the seat currently held by Judge Barefoot.
(2) Seat number two, established for residents of Brunswick County by this section, shall be the seat currently held by Judge Fairley.
(3) Seat number three, established for residents of Brunswick County by this section, shall be the seat currently held by Judge Warren.
(4) Seat number four, established for residents of Columbus County by this section, shall be the seat currently held by Judge Jolly.
(5) Seat number five, established for residents of Columbus County by this section, shall be the seat currently held by Judge Tyler.
(6) Seat number six, established for residents of Bladen County by this section, shall be the seat currently held by Judge Ussery.

(b3) The qualified voters of District Court District 22A shall elect all five judges established for the District in subsection (a) of this section, but only persons who reside in Alexander County may be candidates for two of the judgeships, and only persons who reside in Iredell County may be candidates for three of the judgeships.

(b4) The qualified voters of District Court District 22B shall elect all six judges established for the District in subsection (a) of this section, but only persons who reside in Davie County may be candidates for two of the judgeships, and only persons who reside in Davidson County may be candidates for four of the judgeships.

(b5) **(Effective January 1, 2021, with elections in 2020 to be held accordingly)** The qualified voters of District 16A shall elect all judges established for District 16A in subsection (a) of this section, but only persons who reside in Anson County may be candidates for one of the judgeships, only persons who reside in Scotland County may be candidates for one of the judgeships, and only persons who reside in Richmond County may be candidates for the remaining judgeships. In order to implement this section the following shall apply in order to transition from at large seats to residency requirements:

(1) In 2020, and every four years thereafter, the district court judgeship requiring a resident of Anson County shall be elected, and a district court judgeship requiring a resident of Richmond County shall be elected.
(2) In 2022, and every four years thereafter, the district court judgeship requiring a resident of Scotland County shall be elected, and a district court judgeship requiring a resident of Richmond County shall be elected.

(b6) **(Effective January 1, 2021, with elections in 2020 to be held accordingly)** The qualified voters of District 20A shall elect all judges established for District 20A in subsection (a) of this section, but only persons who reside in Montgomery County may be candidates for one of the judgeships, and only persons who reside in Montgomery or Stanly County may be candidates for the remaining judgeships.

(b7) Subject to the provisions of this subsection, the qualified voters of District 25 shall elect all judges established for District 25 in subsection (a) of this section, but only persons who reside in Catawba County may be candidates for five of the judgeships, and only persons who reside in Burke or Caldwell County may be candidates for the remaining judgeships. In order to implement this section the following shall apply in order to transition from at large seats to residency requirements:

(1) Transition of seats; regular elections. – For any district court judgeship that is held by a resident of Burke or Caldwell Counties on July 1, 2018, at the next general election after July 1, 2018, that district court judgeship shall be filled only by a person who is a resident of Burke or Caldwell Counties. Until such time as three district court judgeships transition under subdivision (2) of this subsection, for any district court judgeship that is held by a resident of Catawba County on July 1, 2018, that district court judgeship shall, at the next general election after July 1, 2018, be filled only by a person who is a resident of Burke, Caldwell, or Catawba County.

(2) Transition of seats; vacancies. – Upon each of the first three district court judgeship vacancies occurring in District Court District 25 after July 1, 2018, due to death, resignation, removal, or retirement of a person who is a resident of Catawba County holding a judgeship on July 1, 2018, that vacancy shall be filled according to law for the remainder of the unfilled term. At the next general election held for that district court judgeship, only persons who reside in Burke or Caldwell County may be candidates for that district court judgeship. Any primary associated with that general election for that district court judgeship after the completion of the term shall also be held accordingly, in accordance with this subsection.

(3) Notification to State Board. – Upon each of the first three district court judgeship vacancies occurring after July 1, 2018, in District Court District 25 due to the death, resignation, removal, or retirement of a person who is a resident of Catawba County holding a judgeship on July 1, 2018, the Director of the Administrative Office of the Courts shall provide written notice of the vacancy to the State Board of Elections and Ethics Enforcement. During the filing period for that district court judgeship at the next general election held for that district court judgeship, the State Board of Elections and Ethics Enforcement shall ensure that only persons who reside in Burke or Caldwell County may file as candidates for that district court judgeship in accordance [with] this subsection.

(4) Final transition. – If a total of three district court judgeships have not transferred under subdivision (2) of this subsection to be eligible to be held by only persons who are residents of Burke or Caldwell Counties by January 1, 2030, a sufficient number of district court judgeships to total three district court judgeships shall be transferred to be held by only persons who are residents of Burke or Caldwell Counties on January 1, 2031, and the 2030 elections shall be held accordingly.

(c) Each county shall have the numbers of magistrates and additional seats of district court, as set forth in the following table:

County	Magistrates Min.	Additional Seats of Court
Camden	3	
Chowan	3	
Currituck	3	
Dare	4	
Gates	2	
Pasquotank	4	
Perquimans	3	
Martin	3	
Beaufort	4	
Tyrrell	3	
Hyde	3.5	
Washington	3	
Pitt	10.5	Farmville Ayden
Craven	8	Havelock
Pamlico	3	
Carteret	6	
Sampson	5	
Duplin	4	
Jones	2	
Onslow	11	
New Hanover	11	
Pender	3.8	
Halifax	7	Roanoke Rapids, Scotland Neck
Northampton	3	
Bertie	3	
Hertford	3	
Nash	9	Rocky Mount
Edgecombe	7	Rocky Mount
Wilson	7	
Wayne	9	Mount Olive
Greene	3	
Lenoir	7	La Grange
Granville	5	

Vance	6	
Warren	3	
Franklin	4	
Person	4	
Caswell	3	
Wake	18.5	Apex, Wendell, Fuquay-Varina, Wake Forest
Harnett	8	Dunn
Johnston	10	Benson, Clayton, Selma
Lee	5	
Cumberland	19	
Bladen	3	
Brunswick	8	
Columbus	5	Tabor City
Durham	13	
Alamance	12	Burlington
Orange	7	Chapel Hill
Chatham	4	Siler City
Scotland	5	
Hoke	3	
Robeson	12	Fairmont, Maxton, Pembroke, Red Springs, Rowland, St. Pauls
Rockingham	7	Reidsville, Eden, Madison
Stokes	3	
Surry	6	Mt. Airy
Guilford	24.4	High Point
Cabarrus	9	Kannapolis
Montgomery	3	
Randolph	9	Liberty
Rowan	9	
Stanly	5	
Union	7	
Anson	3	
Richmond	5	Hamlet
Moore	5	Southern Pines
Forsyth	15	Kernersville

Alexander	3	
Davidson	8	Thomasville
Davie	3	
Iredell	9	Mooresville
Alleghany	2	
Ashe	3	
Wilkes	6	
Yadkin	3	
Avery	3	
Madison	3	
Mitchell	3	
Watauga	4	
Yancey	3	
Burke	5.6	
Caldwell	6	
Catawba	10	Hickory
Mecklenburg	26.50	
Gaston	17	
Cleveland	7	
Lincoln	5	
Buncombe	15	
Henderson	6.5	
McDowell	3	
Polk	3	
Rutherford	6	
Transylvania	3	
Cherokee	3	
Clay	2	
Graham	2	
Haywood	5	Canton
Jackson	3	
Macon	3	
Swain	3	

(1965, c. 310, s. 1; 1967, c. 691, s. 8; 1969, c. 1190, s. 10; c. 1254; 1971, c. 377, s. 7; cc. 727, 840, 841, 842, 843, 865, 866, 898; 1973, cc. 132, 373, 483; c. 838, s. 1; c. 1376; 1975, c. 956, ss. 8, 10; 1977, cc. 121, 122; c. 678, s. 2; c. 947, s. 1; c. 1130, ss. 4, 5; 1977, 2nd Sess., c. 1238, s. 3; c. 1243, ss. 3, 6; 1979, c. 465; c. 838, ss. 117, 118; c. 1072, ss. 2, 3; 1979, 2nd Sess., c. 1221, s. 2; 1981, c. 964, s. 4; 1983, c. 881, s. 5; 1983 (Reg. Sess., 1984), c. 1109, s. 5; 1985, c. 698, ss. 7(a), 12; 1985 (Reg. Sess., 1986), c. 1014, s. 222; 1987, c. 738, ss. 126(a), 130(a); 1987 (Reg. Sess., 1988), c. 1056, s. 4; c. 1075; c. 1100, s. 17.2(a); 1989, c. 795, s. 23(a), (d), (h); 1991, c. 742, ss. 11, 12(a); 1993, c. 321, ss. 200.4(e), 200.6(a), (d); 1993 (Reg. Sess., 1994), c. 769, s. 24.9; 1995, c. 507, s. 21.1(c); 1995 (Reg. Sess., 1996), c. 589, s. 2(a); 1996, 2nd Ex. Sess., c. 18, ss. 22.4, 22.7(a); 1997-443, ss. 18.12(a), 18.13; 1998-212, ss. 16.11, 16.16(a); 1998-217, s. 67.3(a); 1999-237, ss. 17.4, 17.6(a); 2000-67, ss. 15.2, 15.3(a); 2001-400, s. 1; 2001-424, ss. 22.16, 22.17(a); 2003-284, s. 13.8; 2004-124, ss. 14.1(a), 14.6(e); 2005-276, s. 14.2(f), (f1); 2005-345, s. 27(a), (b); 2006-66,

ss. 14.4(a), 14.5; 2006-96, s. 1; 2006-187, s. 7(a); 2006-221, s. 14(a); 2006-264, s. 93(a); 2007-323, ss. 14.13(a), (d), 14.25(e), (f); 2007-484, s. 25(a), 36; 2008-107, s. 14.13(a); 2009-341, s. 1; 2012-194, s. 1(c), (d); 2013-360, s. 18B.22(f); 2016-94, s. 19B.3(a); 2017-57, s. 18B.9(c); 2018-14, s. 2(a); 2018-121, s. 2(a).)

§ 7A-134. Repealed by Session Laws 1973, c. 1339, s. 2.

§ 7A-135. Transfer of pending cases when present inferior courts replaced by district courts.

On the date that the district court is established in any county, cases pending in the inferior court or courts of that county shall be transferred to the appropriate division of the General Court of Justice, and all records of these courts shall be transferred to the office of clerk of superior court in that county pursuant to rule of Supreme Court. (1965, c. 310, s. 1.)

§ 7A-136. Reserved for future codification purposes.

§ 7A-137. Reserved for future codification purposes.

§ 7A-138. Reserved for future codification purposes.

§ 7A-139. Reserved for future codification purposes.

Article 14.

District Judges.

§ 7A-140. Number; election; term; qualification; oath.

There shall be at least one district judge for each district. Each district judge shall be elected by the qualified voters of the district court district in which he or she is to serve at the time of the election for members of the General Assembly. The number of judges for each district shall be determined by the General Assembly. Each judge shall be a resident of the district for which elected, and shall serve a term of four years, beginning on the first day in January next after election.

Each district judge shall devote his or her full time to the duties of the office. He or she shall not practice law during the term, nor shall he or she during such term be the partner or associate of any person engaged in the practice of law.

Before entering upon his or her duties, each district judge, in addition to other oaths prescribed by law, shall take the oath of office prescribed for a judge of the General Court of Justice. (1965, c. 310, s. 1; 1969, c. 1190, s. 11; 2005-425, s. 3.1.)

§ 7A-141. Designation of chief judge; assignment of judge to another district for temporary or specialized duty.

When more than one judge is authorized in a district, the Chief Justice of the Supreme Court shall designate one of the judges as chief district judge to serve in such capacity at the pleasure of the Chief Justice. In a single judge district, the judge is the chief district judge.

The Chief Justice may transfer a district judge from one district to another for temporary or specialized duty. (1965, c. 310, s. 1.)

§ 7A-142. Vacancies in office.

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. (1965, c. 310, s. 1; 1975, c. 441; 1981, c. 763, ss. 1, 2; 1985 (Reg. Sess., 1986), c. 1006, s. 1; 1987 (Reg. Sess., 1988), c. 1037, s. 16; c. 1056, s. 7; c. 1086, s. 112(b); 1991, c. 742, s. 16; 1999-237, s. 17.10; 2001-403, s. 2(a); 2002-159, s. 58; 2011-28, s. 2; 2013-387, s. 4.)

§ 7A-143. Repealed by Session Laws 1973, c. 148, s. 6.

§ 7A-144. Compensation.

(a) Each judge shall receive the annual salary provided in the Current Operations Appropriations Act, and reimbursement on the same basis as State employees generally, for his or her necessary subsistence expenses and for travel expenses when on official business outside the judge's county of residence. For purposes of this subsection, the term "official business" does not include regular, daily commuting between a judge's home and the court. Travel distances, for purposes of reimbursement for mileage, shall be determined according to the travel policy of the Administrative Office of the Courts.

(b) Notwithstanding merit, longevity and other increment raises paid to regular State employees, a judge of the district court shall receive as longevity pay an annual amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, nineteen and two-tenths percent (19.2%) after 20 years of service, and twenty-four percent (24%) after 25 years of service. "Service" means service as a justice or judge of the General Court of Justice, as a member of the Utilities Commission, as an administrative law judge, or as director or assistant director of the Administrative Office of the Courts. Service shall also mean service as a district attorney or as a clerk of superior court. (1965, c. 310, s. 1; 1967, c. 691, s. 10; 1983, c. 761, s. 245; 1983 (Reg. Sess., 1984), c. 1034, s. 165; c. 1109, ss. 11, 13.1; 1985, c. 698, s. 10(a); 1987 (Reg. Sess., 1988), c. 1100, s. 15(d); 1989, c. 770, s. 5; 2007-323, s. 28.18A(f); 2009-451, s. 15.17B(a); 2017-57, s. 35.4(g).)

§ 7A-145. Repealed by Session Laws 1971, c. 377, s. 32.

§ 7A-146. Administrative authority and duties of chief district judge.

The chief district judge, subject to the general supervision of the Chief Justice of the Supreme Court, has administrative supervision and authority over the operation of the district courts and magistrates in his district. These powers and duties include, but are not limited to, the following:

(1) Arranging schedules and assigning district judges for sessions of district courts.

(2) Arranging or supervising the calendaring of noncriminal matters for trial or hearing.

(3) Supervising the clerk of superior court in the discharge of the clerical functions of the district court.

(4) Assigning matters to magistrates, and consistent with the salaries set by the Administrative Officer of the Courts, prescribing times and places at which magistrates shall be available for the performance of their duties; however, the chief district judge may in writing delegate his authority to prescribe times and places at which magistrates in a particular county shall be available for the performance of their duties to another district court judge or the clerk of the superior court, or the judge may appoint a chief magistrate to fulfill some or all of the duties under subdivision (12) of this section, and the person to whom such authority is delegated shall make monthly reports to the chief district judge of the times and places actually served by each magistrate.

(5) Making arrangements with proper authorities for the drawing of civil court jury panels and determining which sessions of district court shall be jury sessions.

(6) Arranging for the reporting of civil cases by court reporters or other authorized means.

(7) Arranging sessions, to the extent practicable for the trial of specialized cases, including traffic, domestic relations, and other types of cases, and assigning district judges to preside over these sessions so as to permit maximum practicable specialization by individual judges.

(8) Repealed by Session Laws 1991 (Regular Session, 1992), c. 900, s. 118(b), effective July 15, 1992.

(9) Assigning magistrates during an emergency to temporary duty outside the county of their residence but within that district pursuant to the policies and procedures prescribed under G.S. 7A-343(11); and, upon the request of a chief district judge of an adjoining district and upon the approval of the Administrative Officer of the Courts, to temporary duty in the district of the requesting chief district judge pursuant to the policies and procedures prescribed under G.S. 7A-343(11).

(10) Designating another district judge of his district as acting chief district judge, to act during the absence or disability of the chief district judge.

(11) Designating certain magistrates to appoint counsel and accept waivers of counsel pursuant to Article 36 of this Chapter. This designation does not

give any magistrate the authority to appoint counsel or accept waivers of counsel for potentially capital offenses, as defined by rules adopted by the Office of Indigent Defense Services.

(12) Designating a full-time magistrate in a county to serve as chief magistrate for that county for an indefinite term and at the judge's pleasure. The chief magistrate shall have the derivative administrative authority assigned by the chief district court judge under subdivision (4) of this section. This subdivision applies only to counties in which the chief district court judge determines that designating a chief magistrate would be in the interest of justice. (1965, c. 310, s. 1; 1971, c. 377, s. 8; 1977, c. 945, s. 1; 1983, c. 586, s. 1; 1983 (Reg. Sess., 1984), c. 1034, s. 85; 1985, c. 425, s. 2; c. 764, s. 8; 1985 (Reg. Sess., 1986), c. 852, s. 17; 1991 (Reg. Sess., 1992), c. 900, s. 118(b); 2009-419, s. 2; 2011-411, s. 2(b); 2013-89, s. 1; 2015-247, s. 3(a).)

§ 7A-147. Specialized judgeships.

(a) Prior to January 1 of each year in which elections for district court judges are to be held, the Administrative Officer of the Courts may, with the approval of the chief district judge, designate one or more judgeships in districts having three or more judgeships, as specialized judgeships, naming in each case the specialty. Designations shall become effective when filed with the Bipartisan State Board of Elections and Ethics Enforcement. Nominees for the position or positions of specialist judge shall be made in the ensuing primary and the position or positions shall be filled at the general election thereafter. The Bipartisan State Board of Elections and Ethics Enforcement shall prepare primary and general election ballots to effectuate the purposes of this section.

(b) The designation of a specialized judgeship shall in no way impair the right of the chief district judge to arrange sessions for the trial of specialized cases and to assign any district judge to preside over these sessions. A judge elected to a specialized judgeship has the same powers as a regular district judge.

(c) The policy of the State is to encourage specialization in juvenile cases by district court judges who are qualified by training and temperament to be effective in relating to youth and in the use of appropriate community resources to meet their needs. The Administrative Office of the Courts is therefore authorized to encourage judges who hear juvenile cases to secure appropriate training whether or not they were elected to a specialized judgeship as provided herein. Such training shall be provided within the funds available to the Administrative Office of the Courts for such training, and judges attending such training shall be reimbursed for travel and subsistence expenses at the same rate as is applicable to other State employees.

The Administrative Office of the Courts shall develop a plan whereby a district court judge may be better qualified to hear juvenile cases by reason of training, experience, and demonstrated ability. Any district court judge who completes the training under this plan shall receive a certificate to this effect from the Administrative Office of the Courts. In districts where there is a district court judge who has completed this training as herein

provided, the chief district judge shall give due consideration in the assignment of such cases where practical and feasible. (1965, c. 310, s. 1; 1975, c. 823; 1979, c. 622, s. 1; 2017-6, s. 3.)

§ 7A-148. Annual conference of chief district judges.

(a) The chief district judges of the various district court districts shall meet at least once a year upon call of the Chief Justice of the Supreme Court to discuss mutual problems affecting the courts and the improvement of court operations, to prepare and adopt uniform schedules of offenses for the types of offenses specified in G.S. 7A-273(2) and G.S. 7A-273(2a) for which magistrates and clerks of court may accept written appearances, waivers of trial or hearing and pleas of guilty or admissions of responsibility, and establish a schedule of penalties or fines therefor, and to take such further action as may be found practicable and desirable to promote the uniform administration of justice.

(b) The chief district judges shall prescribe a multicopy uniform traffic ticket and complaint for exclusive use in each county of the State not later than December 31, 1970. (1965, c. 310, s. 1; 1967, c. 691, s. 11; 1983, c. 586, s. 2; 1985, c. 425, s. 1; c. 764, s. 9; 1985 (Reg. Sess., 1986), c. 852, s. 17; 1991, c. 151, s. 1; c. 609, s. 2; 1991 (Reg. Sess., 1992), c. 900, s. 118(a); 1999-80, s. 2.)

§ 7A-149. Jurisdiction; sessions.

(a) Notwithstanding any other provision of law, a district court judge of a district court district which is in a set of districts as defined by G.S. 7A-200 has jurisdiction in the entire county or counties in which the district is located to the same extent as if the district encompassed the entire county, and has jurisdiction in the entire set of districts to the same extent as if the district encompassed the entire set of districts.

(b) All sessions of district court shall be for an entire county, whether that county comprises or is located in a district or in a set of districts as defined in G.S. 7A-200, and at each session all matters and proceedings arising anywhere in the county may be heard.

(c) All clerks of court for a county have jurisdiction over the entire county, notwithstanding that the county may be part of a set of districts. (1995, c. 507, s. 21.1(b).)

§ 7A-150. Reserved for future codification purposes.

§ 7A-151. Reserved for future codification purposes.

§ 7A-152. Reserved for future codification purposes.

§ 7A-153. Reserved for future codification purposes.

§ 7A-154. Reserved for future codification purposes.

§ 7A-155. Reserved for future codification purposes.

§ 7A-156. Reserved for future codification purposes.

§ 7A-157. Reserved for future codification purposes.

§ 7A-158. Reserved for future codification purposes.

§ 7A-159. Reserved for future codification purposes.

Article 15.

District Prosecutors.

§§ 7A-160 through 7A-165: Repealed by Session Laws 1967, c. 1049, s. 6.

§ 7A-166. Reserved for future codification purposes.

§ 7A-167. Reserved for future codification purposes.

§ 7A-168. Reserved for future codification purposes.

§ 7A-169. Reserved for future codification purposes.

Article 16.

Magistrates.

§ 7A-170. Nature of office and oath; age limit for service.

(a) A magistrate is an officer of the district court. Before entering upon the duties of his office, a magistrate shall take the oath of office prescribed for a magistrate of the General Court of Justice. A magistrate possesses all the powers of his office at all times during his term.

(b) No magistrate may continue in office beyond the last day of the month in which the magistrate reaches the mandatory retirement age for justices and judges of the General Court of Justice specified in G.S. 7A-4.20. (1965, c. 310, s. 1; 1969, c. 1190, s. 13; 1977, c. 945, s. 2; 2013-277, s. 1.)

§ 7A-171. Numbers; appointment and terms; vacancies.

(a) The General Assembly shall establish a minimum quota of magistrates for each county. In no county shall the minimum quota be less than one. The number of magistrates in a county, above the minimum quota set by the General Assembly, is determined by the Administrative Office of the Courts after consultation with the chief district court judge for the district in which the county is located.

(a1) The initial term of appointment for a magistrate is two years and subsequent terms shall be for a period of four years. The term of office begins on the first day of January of the odd-numbered year after appointment. The service of an individual as a magistrate filling a vacancy as provided in subsection (d) of this section does not constitute an initial term. For purposes of this section, any term of office for a magistrate who has served a two-year term is for four years even if the two-year term of appointment was

before the effective date of this section, the term is after a break in service, or the term is for appointment in a different county from the county where the two-year term of office was served.

(b) Not earlier than the Tuesday after the first Monday nor later than the third Monday in December of each even-numbered year, the clerk of the superior court shall submit to the senior regular resident superior court judge of the district or set of districts as defined in G.S. 7A-41.1(a) in which the clerk's county is located the names of two (or more, if requested by the judge) nominees for each magisterial office for the county for which the term of office of the magistrate holding that position shall expire on December 31 of that year. Not later than the fourth Monday in December, the senior regular resident superior court judge shall, from the nominations submitted by the clerk of the superior court, appoint magistrates to fill the positions for each county of the judge's district or set of districts.

(c) If an additional magisterial office for a county is approved to commence on January 1 of an odd-numbered year, the new position shall be filled as provided in subsection (b) of this section. If the additional position takes effect at any other time, it is to be filled as provided in subsection (d) of this section.

(d) Within 30 days after a vacancy in the office of magistrate occurs the clerk of superior court shall submit to the senior regular resident superior court judge the names of two (or more, if so requested by the judge) nominees for the office vacated. Within 15 days after receipt of the nominations the senior regular resident superior court judge shall appoint from the nominations received a magistrate who shall take office immediately and shall serve until December 31 of the even-numbered year, and thereafter the position shall be filled as provided in subsection (b) of this section. (1965, c. 310, s. 1; 1967, c. 691, s. 15; 1971, s. 84, s. 1; 1973, c. 503, s. 2; 1977, c. 945, ss. 3, 4; 1987 (Reg. Sess., 1988), c. 1037, s. 17; 2004-128, s. 19; 2006-187, s. 7(c).)

§ 7A-171.1. Duty hours, salary, and travel expenses within county.

(a) The Administrative Officer of the Courts, after consultation with the chief district judge and pursuant to the following provisions, shall set an annual salary for each magistrate:

(1) A full-time magistrate shall be paid the annual salary indicated in the table set out in this subdivision. A full-time magistrate is a magistrate who is assigned to work an average of not less than 40 hours a week during the term of office. The Administrative Officer of the Courts shall designate whether a magistrate is full-time. Initial appointment shall be at the entry rate. A magistrate's salary shall increase to the next step every two years on the anniversary of the date the magistrate was originally appointed for increases to Steps 1 through 3, and every four years on the anniversary of the date the magistrate was originally appointed for increases to Steps 4 through 6.

Table of Salaries of Full-Time Magistrates

Step Level	Annual Salary	
	Minimum	Maximum
Entry Rate		$38,620
Step 1	$40,309	$41,471
Step 2	$43,297	$44,546
Step 3	$46,459	$47,802
Step 4	$50,248	$51,704
Step 5	$54,814	$56,404
Step 6	$59,929	$61,670.

(2) A part-time magistrate is a magistrate who is assigned to work an average of less than 40 hours of work a week during the term, except that no magistrate shall be assigned an average of less than 10 hours of work a week during the term. A part-time magistrate is included, in accordance with G.S. 7A-170, under the provisions of G.S. 135-1(10) and G.S. 135-40.2(a). The Administrative Officer of the Courts designates whether a magistrate is a part-time magistrate. A part-time magistrate shall receive an annual salary based on the following formula: The average number of hours a week that a part-time magistrate is assigned work during the term shall be multiplied by the annual salary payable to a full-time magistrate who has the same number of years of service prior to the beginning of that term as does the part-time magistrate and the product of that multiplication shall be divided by the number 40. The quotient shall be the annual salary payable to that part-time magistrate.

(3) Notwithstanding any other provision of this subsection, a magistrate who is licensed to practice law in North Carolina or any other state shall receive the annual salary provided in the Table in subdivision (1) of this subsection for Step 4.

(a1) Repealed by Session Laws 2018-5, s. 35.7, effective July 1, 2018.

(a2) The Administrative Officer of the Courts shall provide magistrates with longevity pay at the same rates as are provided by the State to its employees subject to the North Carolina Human Resources Act.

(b) Notwithstanding G.S. 138-6, a magistrate may not be reimbursed by the State for travel expenses incurred on official business within the county in which the magistrate resides. (1977, c. 945, s. 5; 1979, c. 838, s. 84; c. 991; 1979, 2nd Sess., c. 1137, s. 11; 1981, c. 914, s. 1; c. 1127, s. 11; 1983, c. 761, s. 199; c. 923, s. 217; 1983 (Reg. Sess., 1984), c. 1034, ss. 84, 211; 1985, c. 479, s. 210; c. 698, ss. 13(a), (b) (14); 791, s. 39.1; 1985 (Reg. Sess., 1986), c. 1014, ss. 36, 223(a); 1987, c. 564, s. 12; c. 738, ss. 22, 34; 1987 (Reg. Sess., 1988), c. 1086, s. 16; 1989, c. 752, s. 33; 1991, c. 742, s. 14(a); 1991 (Reg. Sess., 1992), c. 900, ss. 41, 43; c. 1044, s. 9.1; 1993, c. 321, s. 60; 1993 (Reg. Sess., 1994), c. 769, s. 7.13(b), (c); 1995, c. 507, s. 7.7(a), (b); 1996, 2nd Ex. Sess., c. 18, s. 28.6(a), (b); 1999-237, s. 28.6(a), (b); 2000-67, s. 26.6; 2001-424, s. 32.7; 2004-124, s. 31.7(b); 2005-276, s. 29.7(a), (b); 2006-66, s. 22.7(a), (b); 2007-323, ss. 28.7(a), (b); 2008-107, ss. 26.7(a), (b); 2012-142, s. 25.1A(g), (h); 2013-382, s. 9.1(c); 2014-100, s. 35.3(f), (g); 2016-94, s. 36.6(a); 2017-57, s. 35.4C; 2018-5, s. 35.7.)

§ 7A-171.2. Qualifications for nomination or renomination.

(a) In order to be eligible for nomination or for renomination as a magistrate an individual shall be a resident of the county for which he is appointed.

(b) To be eligible for nomination as a magistrate, an individual shall have at least eight years' experience as the clerk of superior court in a county of this State or shall have a four-year degree from an accredited senior institution of higher education or shall have a two-year associate degree and four years of work experience in a related field, including teaching, social services, law enforcement, arbitration or mediation, the court system, or counseling. The Administrative Officer of the Courts may determine whether the work experience is sufficiently related to the duties of the office of magistrate for the purposes of this subsection. In determining whether an individual's work experience is in a related field, the Administrative Officer of the Courts shall consider the requisite knowledge, skills, and abilities for the office of magistrate.

The eligibility requirements prescribed by this subsection do not apply to individuals holding the office of magistrate on June 30, 1994, and do not apply to individuals who have been nominated by June 30, 1994, but who have not been appointed or taken the oath of office by that date.

(c) In order to be eligible for renomination as a magistrate an individual shall have successfully completed the course of basic training for magistrates prescribed by G.S. 7A-177.

(d) Notwithstanding any other provision of this subsection, an individual who holds the office of magistrate on July 1, 1977, shall not be required to have successfully completed the course of basic training for magistrates prescribed by G.S. 7A-177 in order to be eligible for renomination as a magistrate. (1977, c. 945, s. 6; 1993 (Reg. Sess., 1994), c. 769, s. 7.13(a); 2003-381, s. 1.)

§ 7A-172. Repealed by Session Laws 1977, c. 945, s. 5.

§ 7A-173. Suspension; removal; reinstatement.

(a) A magistrate may be suspended from performing the duties of his office by the chief district judge of the district court district in which his county is located, or removed from office by the senior regular resident superior court judge of, or any regular superior court judge holding court in, the district or set of districts as defined in G.S. 7A-41.1(a) in which the county is located. Grounds for suspension or removal are the same as for a judge of the General Court of Justice.

(b) Suspension from performing the duties of the office may be ordered upon filing of sworn written charges in the office of clerk of superior court for the county in which the magistrate resides. If the chief district judge, upon examination of the sworn charges, finds that the charges, if true, constitute grounds for removal, he may enter an order suspending the magistrate from performing the duties of his office until a final determination of the charges on the merits. During suspension the salary of the magistrate continues.

(c) If a hearing, with or without suspension, is ordered, the magistrate against whom the charges have been made shall be given immediate written notice of the proceedings and a true copy of the charges, and the matter shall be set by the chief district judge for hearing before the senior regular resident superior court judge or a regular superior court judge holding court in the district or set of districts as defined in G.S. 7A-41.1(a) in which the county is located. The hearing shall be held in a county within the district or set of districts not less than 10 days nor more than 30 days after the magistrate has received a copy of the charges. The hearing shall be open to the public. All testimony offered shall be recorded. At the hearing the superior court judge shall receive evidence, and make findings of fact and conclusions of law. If he finds that grounds for removal exist, he shall enter an order permanently removing the magistrate from office, and terminating his salary. If he finds that no such grounds exist, he shall terminate the suspension, if any.

(d) A magistrate may appeal from an order of removal to the Court of Appeals on the basis of error of law by the superior court judge. Pending decision of the case on appeal, the magistrate shall not perform any of the duties of his office. If, upon final determination, he is ordered reinstated, either by the appellate division or by the superior court on remand, his salary shall be restored from the date of the original order of removal. (1965, c. 310, s. 1; 1967, c. 108, s. 4; 1973, c. 148, ss. 3, 4; 1987 (Reg. Sess., 1988), c. 1037, s. 18.)

§ 7A-174. Bonds.

Prior to taking office, magistrates shall be bonded, individually or collectively, in such amount or amounts as the Administrative Officer of the Courts shall determine. The bond or bonds shall be conditioned upon the faithful performance of the duties of the office of magistrate. The Administrative Officer shall procure such bond or bonds from any indemnity or guaranty company authorized to do business in North Carolina, and the premium or premiums shall be paid by the State. (1965, c. 310, s. 1.)

§ 7A-175. Records to be kept.

A magistrate shall keep such dockets, accounts, and other records, under the general supervision of the clerk of superior court, as may be prescribed by the Administrative Office of the Courts. (1965, c. 310, s. 1.)

§ 7A-176. Office of justice of the peace abolished.

The office of justice of the peace is abolished in each county upon the establishment of a district court therein. (1965, c. 310, s. 1.)

§ 7A-177. Training course in duties of magistrate.

(a) Within six months of taking the oath of office as a magistrate for the first time, a magistrate is required to attend and satisfactorily complete a course of basic training of at least 40 hours in the civil and criminal duties of a magistrate. The Administrative Office of the Courts is authorized to contract with the School of Government at the University of North Carolina at Chapel Hill or with any other qualified educational organization to

conduct this training, and to reimburse magistrates for travel and subsistence expenses incurred in taking such training.

(b) In addition to the basic training course required under subsection (a) of this section, continuing education courses shall be provided at such times and locations as necessary to assure that they are conveniently available to all magistrates without extensive travel to other parts of the State. (1975, c. 956, s. 11; 1983 (Reg. Sess., 1984), c. 1116, s. 87; 2006-264, s. 29(a); 2007-393, s. 15; 2007-484, s. 25.5; 2008-187, s. 2.)

§ 7A-178. Magistrate as child support hearing officer.

A magistrate who meets the qualifications of G.S. 50-39 and is properly designated pursuant to G.S. Chapter 50, Article 2, to serve as a child support hearing officer, may serve in that capacity and has the authority and responsibility assigned to child support hearing officers by Chapter 50. (1985 (Reg. Sess., 1986), c. 993, s. 2.)

§ 7A-179. Reserved for future codification purposes.

Article 17.

Clerical Functions in the District Court.

§ 7A-180. Functions of clerk of superior court in district court matters.

The clerk of superior court:

(1) Has and exercises all of the judicial powers and duties in respect of actions and proceedings pending from time to time in the district court of his county which are now or hereafter conferred or imposed upon him by law in respect of actions and proceedings pending in the superior court of his county;

(2) Performs all of the clerical, administrative and fiscal functions required in the operation of the district court of his county in the same manner as he is required to perform such functions in the operation of the superior court of his county;

(3) Maintains, under the supervision of the Administrative Office of the Courts, an office of uniform consolidated records of all judicial proceedings in the superior court division and the district court division of the General Court of Justice in his county. Those records shall include civil actions, special proceedings, estates, criminal actions, juvenile actions, minutes of the court and all other records required by law to be maintained. The form and procedure for filing, docketing, indexing, and recording shall be as prescribed by the Administrative Officer of the Courts notwithstanding any contrary statutory provision as to the title and form of the record or as a method of indexing;

(4) Has the power to accept written appearances, waivers of trial or hearing and pleas of guilty or admissions of responsibility for the types of offenses specified in G.S. 7A-273(2) in accordance with the schedules of offenses promulgated by the Conference of Chief District Judges pursuant to G.S. 7A-148, and in such cases, to enter judgment and collect the fine or penalty and costs;

(5) Has the power to issue warrants of arrest valid throughout the State, and search warrants valid throughout the county of the issuing clerk;

(6) Has the power to conduct an initial appearance in accordance with Chapter 15A, Article 24, Initial Appearance, and to fix conditions of release in accordance with Chapter 15A, Article 26, Bail;

(7) Continues to exercise all powers, duties and authority theretofore vested in or imposed upon clerks of superior court by general law, with the exception of jurisdiction in juvenile matters; and

(8) Has the power to accept written appearances, waivers of trial and pleas of guilty to violations of G.S. 14-107 when restitution, including service charges and processing fees allowed under G.S. 14-107, is made, the amount of the check is two thousand dollars ($2,000) or less, and the warrant does not charge a fourth or subsequent violation of this statute, and, in such cases, to enter such judgments as the chief district judge shall direct and, forward the amounts collected as restitution to the appropriate prosecuting witnesses and to collect the costs.

(9) Repealed by Session Laws 1991 (Reg. Sess., 1992), c. 900, s. 118(c). (1965, c. 310, s. 1; 1967, c. 691, s. 16; 1969, c. 1190, s. 14; 1973, c. 503, ss. 3, 4; c. 1286, s. 6; 1975, c. 166, s. 23; c. 626, s. 2; 1981, c. 142; 1983, c. 586, s. 4; 1985, c. 425, s. 3, c. 764, s. 10; 1985 (Reg. Sess., 1986), c. 852, s. 17; 1987, c. 355, s. 3; 1989 (Reg. Sess., 1990), c. 1041, s. 2; 1991, c. 520, s. 1; 1991 (Reg. Sess., 1992), c. 900, s. 118(c); 1993, c. 374, s. 3.)

§ 7A-181. Functions of assistant and deputy clerks of superior court in district court matters.

Assistant and deputy clerks of superior court:

(1) Have the same powers and duties with respect to matters in the district court division as they have in the superior court division;

(2) Have the same powers as the clerk of superior court with respect to the issuance of warrants and acceptance of written appearances, waivers of trial and pleas of guilty; and

(3) Have the same power as the clerk of superior court to fix conditions of release in accordance with Chapter 15A, Article 26, Bail, and the same power as the clerk of superior court to conduct an initial appearance in accordance with Chapter 15A, Article 24, Initial Appearance. (1965, c. 310, s. 1; 1967, c. 691, s. 17; 1973, c. 503, s. 5; 1975, c. 166, s. 24; c. 626, s. 3.)

§ 7A-182. Clerical functions at additional seats of court.

(a) In any county in which the General Assembly has authorized the district court to hold sessions at a place or places in addition to the county seat, the clerk of superior court shall furnish assistant and deputy clerks to the extent necessary to process efficiently the judicial business at such additional seat or seats of court. Only such records as are necessary for the expeditious processing of current judicial business shall be kept at the additional seat or seats of court. The office of the clerk of superior court at the county seat shall remain the permanent depository of official records.

(b) If an additional seat of a district court is designated for any municipality located in more than one county of a district, the clerical functions for that seat of court shall be provided by the clerks of superior court of the contiguous counties, in accordance with standing rules issued by the chief district judge, after consultation with the clerks concerned and a committee of the district

bar appointed for this purpose. An assistant or deputy clerk assigned to a seat of district court described in this subsection shall have the same powers and authority as if he were acting in his own county. (1965, c. 310, s. 1; 1967, c. 691, s. 18; 1969, c. 1190, s. 15.)

§ 7A-183. Clerk or assistant clerk as child support hearing officer.

A clerk or assistant clerk of superior court who meets the qualifications of G.S. 50-39 and is properly designated pursuant to G.S. Chapter 50, Article 2, to serve as a child support hearing officer, may serve in that capacity and has the authority and responsibility assigned to child support hearing officers by Chapter 50. (1985 (Reg. Sess., 1986), c. 993, s. 3.)

§ 7A-184. Reserved for future codification purposes.

§ 7A-185. Reserved for future codification purposes.

§ 7A-186. Reserved for future codification purposes.

§ 7A-187. Reserved for future codification purposes.

§ 7A-188. Reserved for future codification purposes.

§ 7A-189. Reserved for future codification purposes.

Article 18.

District Court Practice and Procedure Generally.

§ 7A-190. District courts always open.

The district courts shall be deemed always open for the disposition of matters properly cognizable by them. But all trials on the merits shall be conducted at trial sessions regularly scheduled as provided in this Chapter. (1965, c. 310, s. 1.)

§ 7A-191. Trials; hearings and orders in chambers.

All trials on the merits and all hearings on infractions conducted pursuant to Article 66 of Chapter 15A shall be conducted in open court and so far as convenient in a regular courtroom. All other proceedings, hearings, and acts may be done or conducted by a judge in chambers in the absence of the clerk or other court officials and at any place within the district; but no hearing may be held, nor order entered, in any cause outside the district in which it is pending without the consent of all parties affected thereby. (1965, c. 310, s. 1; 1985, c. 764, s. 11; 1985 (Reg. Sess., 1986), c. 852, s. 17.)

§ 7A-191.1. Recording of proceeding in which defendant pleads guilty or no contest to felony in district court.

The trial judge shall require that a true, complete, and accurate record be made of the proceeding in which a defendant pleads guilty or no contest to a Class H or I felony pursuant to G.S. 7A-272. (1995 (Reg. Sess., 1996), c. 725, s. 4.)

§ 7A-192. By whom power of district court to enter interlocutory orders exercised.

Any district judge may hear motions and enter interlocutory orders in causes regularly calendared for trial or for the disposition of motions, at any session to which the district judge has been assigned to preside. The chief district judge and any district judge designated by written order or rule of the chief district judge, may in chambers hear motions and enter interlocutory orders in all causes pending in the district courts of the district, including causes transferred from the superior court to the district court under the provisions of this Chapter. The designation is effective from the time filed in the office of the clerk of superior court of each county of the district until revoked or amended by written order of the chief district judge. (1965, c. 310, s. 1; 1969, c. 1190, s. 16.)

§ 7A-193. Civil procedure generally.

Except as otherwise provided in this Chapter, the civil procedure provided in Chapters 1 and 1A of the General Statutes applies in the district court division of the General Court of Justice. Where there is reference in Chapters 1 and 1A of the General Statutes to the superior court, it shall be deemed to refer also to the district court in respect of causes in the district court division. (1965, c. 310, s. 1; 1969, c. 1190, s. 17.)

§ 7A-194. Repealed by Session Laws 1977, c. 711, s. 33.

§ 7A-195. Repealed by Session Laws 1969, c. 911, s. 5.

§ 7A-196. Jury trials.

(a) In civil cases in the district court there shall be a right to trial by a jury of 12 in conformity with Rules 38 and 39 of the Rules of Civil Procedure.

(b) In criminal cases there shall be no jury trials in the district court. Upon appeal to superior court trial shall be de novo, with jury trial as provided by law.

(c) In adjudicatory hearings for infractions, there shall be no right to trial by jury in the district court. (1965, c. 310, s. 1; 1967, c. 954, s. 3; 1985, c. 764, s. 12; 1985 (Reg. Sess., 1986), c. 852, s. 17.)

§ 7A-197. Petit jurors.

Unless otherwise provided in this Chapter, the provisions of Chapter 9 of the General Statutes with respect to petit jurors for the trial of civil actions in the superior court are applicable to the trial of civil actions in the district court. (1965, c. 310, s. 1.)

§ 7A-198. Reporting of civil trials.

(a) Court-reporting personnel shall be utilized, if available, for the reporting of civil trials in the district court. If court reporters are not available in any county, electronic or other mechanical devices shall be provided by the Administrative Office of the Courts upon request of the chief district judge.

(b) The Administrative Office of the Courts shall from time to time investigate the state of the art and techniques of recording testimony, and shall provide such electronic or mechanical devices as are found to be most efficient for this purpose.

(c) If an electronic or other mechanical device is utilized, it shall be the duty of the clerk of the superior court or some other person designated by him to operate the device while a trial is in progress, and the clerk shall thereafter preserve the record thus produced,

which may be transcribed, as required, by any person designated by the Administrative Office of the Courts. If stenotype, shorthand, or stenomask equipment is used, the original tapes, notes, discs, or other records are the property of the State, and the clerk shall keep them in his custody.

(d) Reporting of any trial may be waived by consent of the parties.

(e) Reporting will not be provided in ex parte or emergency hearings before a judge pursuant to Chapter 50B or 50C of the General Statutes, trials before magistrates, or in hearings to adjudicate and dispose of infractions in the district court.

(f) Appointment of a reporter or reporters for district court proceedings in each district court district shall be made by the chief district judge for that district. The compensation and allowances of reporters in each district shall be fixed by the chief district judge, within limits determined by the Administrative Officer of the Courts, and paid by the State.

(g) A party to a civil trial in district court may request a private agreement from the opposing party or parties to share equally in the cost of a court reporter to be selected from a list provided by the Administrative Office of the Courts. If the opposing party does not consent to share this cost, the requesting party may nevertheless pay to have a court reporter present to record the trial and, in the event that the opposing party appeals the case, that party shall reimburse the party providing the court reporter in full for the costs incurred for the court reporter's services and transcripts.

In the event that the recording device in a civil trial conducted without a court reporter fails for any reason to provide a reasonably accurate record of the trial for purposes of appeal, then the trial judge shall grant a motion for a new trial made by a losing party whose request pursuant to this section to share the cost of a court reporter was not consented to by the opposing party. (1965, c. 310, s. 1; 1969, c. 1190, s. 18; 1985, c. 764, s. 13; 1985 (Reg. Sess., 1986), c. 852, s. 17; 1987, c. 384, s. 2; 1987 (Reg. Sess., 1988), c. 1037, s. 19; 1996, 2nd Ex. Sess., c. 18, s. 22.11; 2015-173, s. 5.)

§ 7A-199. Special venue rule when district court sits without jury in seat of court lying in more than one county; where judgments recorded.

(a) In any nonjury civil action or juvenile matter properly pending in the district court division, regularly assigned for a hearing or trial before a district judge at a seat of the district court in a municipality the corporate limits of which extend into two or more contiguous counties, venue is properly laid for such trial or hearing if by statute or common law it is properly laid in any of the contiguous counties.

(b) In any jury civil action regularly assigned for a hearing or trial before a district judge at a seat of the district court in a municipality the corporate limits of which extend into two or more contiguous counties, venue is properly laid for such jury trial if by statute or common law it is properly laid in any of the contiguous counties; provided, however, any such action shall be instituted in the county of proper venue, and the jurors summoned shall be from the county where such action was instituted. Notwithstanding the fact that the place of trial within such municipality is in a different county from the county where such action was commenced, the sheriff of the county where such action was commenced is authorized to summon the jurors to appear at such

place of trial. Such jurors shall be subject to the same challenge as other jurors, except challenges for nonresidence in the county of trial.

(c) A district court judge sitting at a seat of court described in this section may, in criminal cases, conduct preliminary hearings and try misdemeanors arising within the corporate limits of the municipality plus the territory embraced within a distance of one mile in all directions therefrom.

If the corporate limits of the municipality extend into two or more counties, each of which is in a separate district court district, a district court judge assigned to sit at the seat of court has the same authority over criminal cases arising in the municipality and the territory embraced within a distance of one mile in all directions that he would have if the corporate limits of the municipality were solely located in a single district court district. Judges assigned to sit in such a municipality shall be assigned by the chief district court judge serving the district in which a majority of the voters of the municipality reside, but offenses arising in a portion of the municipality in which a minority of the voters reside shall not be disposed of in the municipality unless the chief district court judge for that district consents in writing to the disposition of criminal cases in the municipality. However, for charges brought by municipal law enforcement officers only, if the corporate limits of the municipality extend into four or more counties, each of which is in a separate district court district, offenses arising in a portion of the municipality in which a minority of the voters reside shall be disposed of in the portion of the municipality in which a majority of the voters reside without obtaining the consent of the chief district court judge for the district in which the offense occurred.

(d) The judgment or order rendered in any civil action or juvenile matter heard or tried under the authority of this section shall be recorded in the county where the action was commenced. The judgment or finding of probable cause or other determination in any criminal action heard or tried under the authority of this section shall be recorded in the county where the offense was committed. (1967, c. 691, s. 19; 1989, c. 795, s. 23(c2); 2009-398, s. 1.)

§ 7A-200. District and set of districts defined; chief district court judges and their authority.

(a) In this section:

(1) "District" means any district court district established by G.S. 7A-133 which consists exclusively of one or more entire counties;

(2) "Set of districts" means any set of two or more district court districts established under G.S. 7A-133, none of which consists exclusively of one or more entire counties, but both or all of which include territory from the same county or counties and together comprise all of the territory of that county or those counties; "set of districts" also means a set of three district court districts in one county, one consisting of the entire county and the other two consisting of parts of that county; and

(3) "Chief district court judge" means in the case of a set of districts, the chief district court judge for those districts, designated by the chief justice from among the district court judges for the districts in the set of districts.

(b) Whenever by law a duty is imposed upon the chief district court judge, it means for a set of districts the chief district court judge designated under subsection (a)(3) of this section. (1995, c. 507, s. 21.1(a); 2007-484, s. 25(c).)

§ 7A-201. Reserved for future codification purposes.

§ 7A-202. Reserved for future codification purposes.

§ 7A-203. Reserved for future codification purposes.

§ 7A-204. Reserved for future codification purposes.

§ 7A-205. Reserved for future codification purposes.

§ 7A-206. Reserved for future codification purposes.

§ 7A-207. Reserved for future codification purposes.

§ 7A-208. Reserved for future codification purposes.

§ 7A-209. Reserved for future codification purposes.

Article 19.

Small Claim Actions in District Court.

§ 7A-210. Small claim action defined.

For purposes of this Article a small claim action is a civil action wherein:

(1) The amount in controversy, computed in accordance with G.S. 7A-243, does not exceed ten thousand dollars ($10,000); and

(2) The only principal relief prayed is monetary, or the recovery of specific personal property, or summary ejectment, or any combination of the foregoing in properly joined claims; and

(3) The plaintiff has requested assignment to a magistrate in the manner provided in this Article.

The seeking of the ancillary remedy of claim and delivery or an order from the clerk of superior court for the relinquishment of property subject to a lien pursuant to G.S 44A-4(a) does not prevent an action otherwise qualifying as a small claim under this Article from so qualifying. (1965, c. 310, s. 1; 1973, c. 1267, s. 1; 1979, c. 144, s. 1; 1981, c. 555, s. 1; 1985, c. 329; c. 655, s. 1; 1989, c. 311, s. 1; 1993, c. 107, s. 1; c. 553, s. 73(a); 1999-411, s. 1; 2004-128, s. 1; 2013-159, s. 1.)

§ 7A-211. Small claim actions assignable to magistrates.

In the interest of speedy and convenient determination, the chief district judge may, in his discretion, by specific order or general rule, assign to any magistrate of his district any small claim action pending in his district if the defendant is a resident of the county in which the magistrate resides. If there is more than one defendant, at least one of them must be a bona fide resident of the county in which the magistrate resides. (1965, c. 310, s. 1, 1967, c. 1165.)

§ 7A-211.1. Actions to enforce motor vehicle mechanic and storage liens.

Notwithstanding the provisions of G.S. 7A-210(2) and 7A-211, the chief district judge may in his discretion, by specific order or general rule, assign to any magistrate of his district actions to enforce motor vehicle mechanic and storage liens arising under G.S. 44A-2(d) or 20-77(d) when the claim arose in the county in which the magistrate resides. The defendant may be subjected to the jurisdiction of the court over his person by the methods provided in G.S. 7A-217 or 1A-1, Rules 4(j) and 4(j1), Rules of Civil Procedure. (1977, c. 86, s. 1; 1979, c. 602, s. 1; 2000-185, s. 1.)

§ 7A-212. Judgment of magistrate in civil action improperly assigned or not assigned.

No judgment of the district court rendered by a magistrate in a civil action assigned to him by the chief district judge is void, voidable, or irregular for the reason that the action is not one properly assignable to the magistrate under this article. The sole remedy for improper assignment is appeal for trial de novo before a district judge in the manner provided in this article. No judgment rendered by a magistrate in a civil action is valid when the action was not assigned to him by the chief district judge. (1965, c. 310, s. 1.)

§ 7A-213. Procedure for commencement of action; request for and notice of assignment.

The plaintiff files his complaint in a small claim action in the office of the clerk of superior court of the county wherein the defendant, or one of the defendants resides. The designation "Small Claim" on the face of the complaint is a request for assignment. If, pursuant to order or rule, the action is assigned to a magistrate, the clerk issues a magistrate summons substantially in the form prescribed in this Article as soon as practicable after the assignment is made. The issuance of a magistrate summons commences the action. After service of the magistrate summons on the defendant, the clerk gives written notice of the assignment to the plaintiff. The notice of assignment identifies the action, designates the magistrate to whom assignment is made, and specifies the time, date and place of trial. By any convenient means the clerk notifies the magistrate of the assignment and the setting. (1965, c. 310, s. 1; 1969, c. 1190, s. 19; 1971, c. 377, s. 9.)

§ 7A-214. Time within which trial is set.

The time for trial of a small claim action is set not later than 30 days after the action is commenced. Except in an action demanding summary ejectment, if the time set for trial is earlier than five days after service of the magistrate summons, the magistrate shall order a continuance. By consent of all parties the time for trial may be changed from the time set. For good cause shown, the magistrate to whom the action is assigned may grant continuances from time to time. (1965, c. 310, s. 1; 2009-359, s. 1.)

§ 7A-215. Procedure upon nonassignment of small claim action.

Failure of the chief district judge to assign a claim within five days after filing of a complaint requesting its assignment constitutes nonassignment. The chief district judge may sooner order nonassignment. Upon nonassignment, the clerk immediately issues

summons in the manner and form provided for commencement of civil actions generally, whereupon process is served, return made, and pleadings are required to be filed in the manner provided for civil actions generally. Upon issuing civil summons, the clerk gives written notice of nonassignment to the plaintiff. The plaintiff within five days after notice of nonassignment, and the defendant before or with the filing of his answer, may request a jury trial. Failure within the times so limited to request a jury trial constitutes a waiver of the right thereto. Upon the joining of issue, the clerk places the action upon the civil issue docket for trial in the district court division. (1965, c. 310, s. 1.)

§ 7A-216. Form of complaint.

The complaint in a small claim action shall be in writing, signed by the party or his attorney, except the complaint in an action for summary ejectment may be signed by an agent for the plaintiff. It need be in no particular form, but is sufficient if in a form which enables a person of common understanding to know what is meant. In any event, the forms prescribed in this Article are sufficient under this requirement, and are intended to indicate the simplicity and brevity of statement contemplated. Demurrers and motions to challenge the legal and formal sufficiency of a complaint in an assigned small claim action shall not be used. But at any time after its filing, the clerk, the chief district judge, or the magistrate to whom such an action is assigned may, on oral or written ex parte motion of the defendant, or on his own motion, order the plaintiff to perfect the statement of his claim before proceeding to its determination, and shall grant extensions of time to plead and continuances of trial pending any perfecting of statement ordered. (1965, c. 310, s. 1; 1971, c. 377, s. 10.)

§ 7A-217. Methods of subjecting person of defendant to jurisdiction.

When by order or rule a small claim action is assigned to a magistrate, the court may obtain jurisdiction over the person of the defendant by the following methods:

(1) By delivering a copy of the summons and of the complaint to the defendant or by leaving copies thereof at the defendant's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. When the defendant is under any legal disability, the defendant may be subjected to personal jurisdiction only by personal service of process in the manner provided by G.S. 1A-1, Rule 4(j)(2).

(2) When the defendant is not under any legal disability, the defendant may be served by registered or certified mail, signature confirmation, or designated delivery service as provided in G.S. 1A-1, Rule 4(j). Proof of service is as provided in G.S. 1A-1, Rule 4(j2).

(3) When the defendant is under no legal disability, the defendant may be subjected to the jurisdiction of the court over the person of the defendant by written acceptance of service or by voluntary appearance.

(4) In summary ejectment cases only, service as provided in G.S. 42-29 is also authorized. (1965, c. 310, s. 1; 1969, c. 1190, s. 20; 1973, c. 90; 1983, c. 332, s. 3; 2011-332, s. 1.1.)

§ 7A-218. Answer of defendant.

At any time prior to the time set for trial, the defendant may file a written answer admitting or denying all or any of the allegations in the complaint, or pleading new matter in avoidance. No particular form is required, but it is sufficient if in a form to enable a person of common understanding to know the nature of the defense intended. A general denial of all the allegations of the complaint is permissible.

Failure of defendant to file a written answer after being subjected to the jurisdiction of the court over his person constitutes a general denial. (1965, c. 310, s. 1; 1967, c. 691, s. 20.)

§ 7A-219. Certain counterclaims; cross claims; third-party claims not permissible.

No counterclaim, cross claim or third-party claim which would make the amount in controversy exceed the jurisdictional amount established by G.S. 7A-210(1) is permissible in a small claim action assigned to a magistrate. No determination of fact or law in an assigned small claim action estops a party thereto in any subsequent action which, except for this section, might have been asserted under the Code of Civil Procedure as a counterclaim in the small claim action. Notwithstanding G.S. 1A-1, Rule 13, failure by a defendant to file a counterclaim in a small claims action assigned to a magistrate, or failure by a defendant to appeal a judgment in a small claims action to district court, shall not bar such claims in a separate action. (1965, c. 310, s. 1; 1973, c. 1267, s. 2; 1979, c. 144, s. 2; 1981, c. 555, s. 2; 1985, c. 329; 1989, c. 311, s. 2; 1993, c. 553, s. 73(b); 2005-423, s. 9.)

§ 7A-220. No required pleadings other than complaint.

There are no required pleadings in assigned small claim actions other than the complaint. Answers and counterclaims may be filed by the defendant in accordance with G.S. 7A-218 and G.S. 7A-219. Any new matter pleaded in avoidance in the answer is deemed denied or avoided. On appeal from the judgment of the magistrate for trial de novo before a district judge, the judge shall allow appropriate counterclaims, cross claims, third party claims, replies, and answers to cross claims, in accordance with G.S. 1A-1, et seq. (1965, c. 310, s. 1; 1987, c. 628.)

§ 7A-221. Objections to venue and jurisdiction over person.

By motion prior to filing answer, or in the answer, the defendant may object that the venue is improper, or move for change of venue, or object to the jurisdiction of the court over his person. These motions or objections are heard on notice by the chief district judge or a district judge designated by order or rule of the chief district judge. Assignment to the magistrate is suspended pending determination of the objection, and the clerk gives notice of the suspension by any convenient means to the magistrate to whom the action has been assigned. All these objections are waived if not made prior to the date set for trial. If venue is determined to be improper, or is ordered changed, the action is transferred to the district court of the new venue, and is not thereafter assigned to a magistrate, but proceeds as in the case of civil actions generally. (1965, c. 310, s. 1.)

§ 7A-222. General trial practice and procedure.

(a) Trial of a small claim action before a magistrate is without a jury. The rules of evidence applicable in the trial of civil actions generally are observed. At the conclusion of plaintiff's evidence the magistrate may render judgment of dismissal if plaintiff has failed to establish a prima facie case. If a judgment of dismissal is not rendered the defendant may introduce evidence. At the conclusion of all the evidence the magistrate may render judgment or may in his discretion reserve judgment for a period not in excess of 10 days, except as provided in subsection (b) of this section.

(b) In a small claim action for summary ejectment, the magistrate shall render judgment on the same day on which the conclusion of all the evidence and submission of legal authorities occurs, unless the parties concur on an extension of additional time for entering the judgment and except for more complex summary ejectment cases, in which event the magistrate shall render judgment within five business days of the hearing. Complex summary ejectment cases include cases brought for criminal activity, breaches other than nonpayment of rent, evictions involving SECTION 8 of the Housing Act of 1937 (42 U.S.C. § 1437f) or public housing tenants, and cases with counterclaims.

(c) Notwithstanding G.S. 84-4, a party in a small claim action shall not be required to obtain legal representation. (1965, c. 310, s. 1; 1971, c. 377, s. 11; 2013-334, s. 1; 2017-143, s. 2(a).)

§ 7A-223. Practice and procedure in small claim actions for summary ejectment.

(a) In any small claim action demanding summary ejectment or past due rent, or both, the complaint may be signed by an agent acting for the plaintiff who has actual knowledge of the facts alleged in the complaint. If a small claim action demanding summary ejectment is assigned to a magistrate, the practice and procedure prescribed for commencement, form and service of process, assignment, pleadings, and trial in small claim actions generally are observed, except that if the defendant by written answer denies the title of the plaintiff, the action is placed on the civil issue docket of the district court division for trial before a district judge. In such event, the clerk withdraws assignment of the action from the magistrate and immediately gives written notice of withdrawal, by any convenient means, to the plaintiff and the magistrate to whom the action has been assigned. The plaintiff, within five days after receipt of the notice, and the defendant, in his answer, may request trial by jury. Failure to request jury trial within the time limited is a waiver of the right to trial by jury.

(b) If either party in a small claim action for summary ejectment moves for a continuance, the magistrate shall render a decision on the motion in accordance with Rule 40(b) of the Rules of Civil Procedure. The magistrate shall not continue a matter for more than five days or until the next session of small claims court, whichever is longer, without the consent of both parties.

(b1) In any small claim action demanding summary ejectment and monetary damages, and where service of process has been achieved solely by first-class mail and affixing the summons and complaint to the premises pursuant to G.S. 42-29, the plaintiff,

or an agent pursuant to subsection (a) of this section, may request that the claim for summary ejectment be severed from the claim for monetary damages. Upon a finding that personal service was not achieved for one or more defendants, the magistrate shall sever the claim for monetary damages and proceed with the claim for summary ejectment. If the magistrate severs the claim for monetary damages, the plaintiff may extend the action in accordance with G.S. 1A-1, Rule 4(d). The judgment of the magistrate in the severed claim for summary ejectment shall not prejudice the claims or defenses of any party in the severed claim for monetary damages.

(c) The Administrative Office of the Courts is directed to develop a form for parties in small claim actions for summary ejectment to inform them of the time line and process in summary ejectment actions. The clerk of superior court shall make the form available to the parties. (1965, c. 310, s. 1; 1967, c. 691, s. 21; 1971, c. 377, s. 12; 2013-334, ss. 2, 6; 2017-143, s. 1.)

§ 7A-224. Rendition and entry of judgment.

Judgment in a small claim action is rendered in writing and signed by the magistrate. The judgment so rendered is a judgment of the district court, and is recorded and indexed as are judgments of the district and superior court generally. Entry is made as soon as practicable after rendition. (1965, c. 310, s. 1; 1969, c. 1190, s. 21.)

§ 7A-225. Lien and execution of judgment.

From the time of docketing, the judgment rendered by a magistrate in a small claim action constitutes a lien and is subject to execution in the manner provided in Chapter 1, Article 28, of the General Statutes. (1965, c. 310, s. 1.)

§ 7A-226. Priority of judgment when appeal taken.

When appeal is taken from a judgment in a small claim action, the lien acquired by docketing merges into any judgment rendered after trial de novo on appeal, continues as a lien from the first docketing, and has priority over any judgment docketed subsequent to the first docketing. (1965, c. 310, s. 1.)

§ 7A-227. Stay of execution on appeal.

Appeal from judgment of a magistrate does not stay execution if the judgment is for recovery of specific property. Such execution may be stayed by order of the clerk of superior court upon petition by the appellant accompanied by undertaking in writing, executed by one or more sufficient sureties approved by the clerk, to the effect that if judgment be rendered against appellant the sureties will pay the amount thereof with costs awarded against the appellant. Appeal from judgment of a magistrate does stay execution if the judgment is for money damages. This section shall not require any undertaking of appellants in summary ejectment actions other than those imposed by Chapter 42 of the General Statutes. (1965, c. 310, s. 1; 1967, c. 24, s. 1; 1977, c. 844; 1979, c. 820, s. 9.)

§ 7A-228. New trial before magistrate; appeal for trial de novo; how appeal perfected; oral notice; dismissal.

(a) The chief district court judge may authorize magistrates to hear motions to set aside an order or judgment pursuant to G.S. 1A-1, Rule 60(b)(1) and order a new trial before a magistrate. The exercise of the authority of the chief district court judge in allowing magistrates to hear Rule 60(b)(1) motions shall not be construed to limit the authority of the district court to hear motions pursuant to Rule 60(b)(1) through (6) of the Rules of Civil Procedure for relief from a judgment or order entered by a magistrate and, if granted, to order a new trial before a magistrate. After final disposition before the magistrate, the sole remedy for an aggrieved party is appeal for trial de novo before a district court judge or a jury. Notice of appeal may be given orally in open court upon announcement or after entry of judgment. If not announced in open court, written notice of appeal must be filed in the office of the clerk of superior court within 10 days after entry of judgment. The appeal must be perfected in the manner set out in subsection (b). Upon announcement of the appeal in open court or upon receipt of the written notice of appeal, the appeal shall be noted upon the judgment. If the judgment was mailed to the parties, then the time computations for appeal of such judgment shall be pursuant to G.S. 1A-1, Rule 6.

(b) The appeal shall be perfected by (1) oral announcement of appeal in open court; or (2) by filing notice of appeal in the office of the clerk of superior court within 10 days after entry of judgment pursuant to subsection (a), and by serving a copy of the notice of appeal on all parties pursuant to G.S. 1A-1, Rule 5. Failure to pay the costs of court to appeal within 10 days after entry of judgment in a summary ejectment action, and within 20 days after entry of judgment in all other actions, shall result in the automatic dismissal of the appeal. Notwithstanding the foregoing deadlines, if an appealing party petitions to qualify as an indigent for the appeal and is denied, that party shall have an additional five days to perfect the appeal by paying the court costs. The failure to demand a trial by jury in district court by the appealing party before the time to perfect the appeal has expired is a waiver of the right thereto.

(b1) A person desiring to appeal as an indigent shall, within 10 days of entry of judgment by the magistrate, file an affidavit that he or she is unable by reason of poverty to pay the costs of appeal. Within 20 days after entry of judgment, a superior or district court judge, magistrate, or the clerk of the superior court may authorize a person to appeal to district court as an indigent if the person is unable to pay the costs of appeal. The clerk of superior court shall authorize a person to appeal as an indigent if the person files the required affidavit and meets one or more of the criteria listed in G.S. 1-110. A superior or district court judge, a magistrate, or the clerk of the superior court may authorize a person who does not meet any of the criteria listed in G.S. 1-110 to appeal as an indigent if the person cannot pay the costs of appeal.

The district court may dismiss an appeal and require the person filing the appeal to pay the court costs advanced if the allegations contained in the affidavit are determined to be untrue or if the court is satisfied that the action is frivolous or malicious. If the court dismisses the appeal, the court shall affirm the judgment of the magistrate.

(c) Whenever such appeal is docketed and is regularly set for trial, and the appellant fails to appear and prosecute his appeal, the presiding judge may have the appellant called and the appeal dismissed; and in such case the judgment of the magistrate shall be affirmed.

(d) When a defendant in a summary ejectment action has given notice of appeal and perfected the appeal in accordance with G.S. 7A-228(b), the plaintiff may serve upon the defendant a motion to dismiss the appeal if the defendant:

(1) Failed to raise a defense orally or in writing in the small claims court;
(2) Failed to file a motion, answer, or counterclaim in the district court; and
(3) Failed to comply with any obligation set forth in the Bond to Stay Execution on Appeal of Summary Ejectment Judgment entered by the court.

The motion to dismiss the appeal shall list all of the deficiencies committed by the defendant, as described in subdivisions (1), (2), and (3) of this subsection, and shall state that the court will decide the motion to dismiss without a hearing if the defendant fails to respond within 10 days of receipt of the motion. The defendant may defeat the motion to dismiss by responding within 10 days of receipt of the motion by doing any of the following acts: (i) filing a responsive motion, answer, or counterclaim and serving the plaintiff with a copy thereof or (ii) paying the amount due under the bond to stay execution, if any amount is owed by the defendant. If the defendant is not required by law to make any payment under the bond to stay execution, the court shall not use the failure to make a payment as a basis to dismiss the appeal. The court shall review the file, determine whether the motion satisfies the requirements of this subsection, determine whether the defendant has made a sufficient response to defeat the motion, and shall enter an order resolving the matter without a hearing.

(e) Notwithstanding G.S. 84-4, any party in an action appealed for a trial de novo, as provided for in this section, shall not be required to obtain legal representation. (1965, c. 310, s. 1; 1969, c. 1190, s. 22; 1979, 2nd Sess., c. 1328, s. 3; 1981, c. 599, s. 3; 1985, c. 753, ss. 1, 2; 1987, c. 553; 1993, c. 435, s. 2; 1998-120, s. 1; 2013-334, s. 3; 2014-115, s. 19(a); 2017-143, s. 2(b).)

§ 7A-229. Trial de novo on appeal.

Upon appeal noted, the clerk of superior court places the action upon the civil issue docket of the district court division. The district judge before whom the action is tried may order repleading or further pleading by some or all of the parties; may try the action on stipulation as to the issue; or may try it on the pleadings as filed. (1965, c. 310, s. 1.)

§ 7A-230. Jury trial on appeal.

The appellant in his written notice of appeal may demand a jury on the trial de novo. Within 10 days after receipt of the notice of appeal stating that the costs of the appeal have been paid, any appellee by written notice served on all parties and on the clerk of superior court may demand a jury on the trial de novo. (1965, c. 310, s. 1; 1981, c. 599, s. 3.)

§ 7A-231. Provisional and incidental remedies.

The provisional and incidental remedies of claim and delivery, subpoena duces tecum, production of documents and orders for the relinquishment of property subject to a

possessory lien pursuant to G.S. 44A-4(a) are obtainable in small claims actions. The practice and procedure provided therefor in respect of civil actions generally is observed, conformed as may be required. No other provisional or incidental remedies are obtainable while the action is pending before the magistrate. (1965, c. 310, s. 1; 1985, c. 655, s. 3.)

§ 7A-232. Forms.

The following forms are sufficient for the purposes indicated under this article. Substantial conformity is sufficient.

FORM 1.

MAGISTRATE SUMMONS

NORTH CAROLINA | General Court of Justice
District Court Division
_____COUNTY | Before the Magistrate

A. B., Plaintiff
v. SUMMONS
C. D., Defendant

To the above-named Defendant:

You are hereby summoned to appear before His Honor_____, Magistrate of the District Court, at _____ (time)_____, on ____ (date)____, at the _____ (address) _____in the _____ (city)_____, then and there to defend against proof of the claim stated in the complaint filed in this action, copy of which is served herewith. You may file written answer making defense to the claim in the office of the Clerk of Superior Court _____ County in_____, N. C., not later than the time set for trial. If you do not file answer, plaintiff must nevertheless prove his claim before the Magistrate. But if you fail to appear and defend against the proof offered, judgment for the relief demanded in the complaint may be rendered against you.

This _____ day of _____ (month)_____, _____.

_____
Clerk of Superior Court
_____County

FORM 2.

NOTICE OF NON-ASSIGNMENT OF ACTION

NORTH CAROLINA | General Court of Justice
District Court Division
_____County

A. B., Plaintiff
v. NOTICE OF NON-ASSIGNMENT
C. D., Defendant OF ACTION

To the above-named Plaintiff:

Take notice that the civil action styled as above which you requested be assigned for trial before a Magistrate will not be assigned. Thirty-day summons to answer is being issued for service upon defendant, and upon the joining of issue this action will be placed on the civil issue docket for trial before a district judge.

This _____ day of _____ (month)_____, _____.

Clerk of Superior Court
_____County

FORM 3.

NOTICE OF ASSIGNMENT OF ACTION

NORTH CAROLINA | General Court of Justice
District Court Division
_____COUNTY | Before the Magistrate

A. B., Plaintiff
v. NOTICE OF ASSIGNMENT
C. D., Defendant OF ACTION

To the above-named Plaintiff:

Take notice that the civil action styled as above, commenced by you as plaintiff, has been assigned for trial before His Honor_____, Magistrate of the District Court, at _____ (time) _____on_____ (date)_____, at _____ (address) _____in _____ (city)_____, N.C.

_____
Clerk of Superior Court
_____County

FORM 4.

COMPLAINT ON A PROMISSORY NOTE

NORTH CAROLINA | General Court of Justice
District Court Division
_____COUNTY | SMALL CLAIM

A. B., Plaintiff
v. COMPLAINT
C. D., Defendant

1. Plaintiff is a resident of _____ County; defendant is a resident of _____ County.

2. Defendant on or about January 1, 1964, executed and delivered to plaintiff a promissory note (in the following words and figures: (here set out the note verbatim)); (a copy of which is annexed as Exhibit_____); (whereby defendant promised to pay to

plaintiff or order on June 1, 1964, the sum of two hundred and fifty dollars ($250.00) with interest thereon at the rate of six percent (6%) per annum).

3. Defendant owes the plaintiff the amount of said note and interest.

Wherefore plaintiff demands judgment against defendant for the sum of two hundred and fifty dollars ($250.00), interest and costs.

This _____ day of_____, _____

_____

(signed) A. B., Plaintiff
(or E. F., Attorney for Plaintiff)

Service by mail is, is not, requested.

_____

(signed) A. B., Plaintiff
(or E. F., Attorney for Plaintiff)

FORM 5.

COMPLAINT ON AN ACCOUNT

(Caption as in form 4)

1. (Allegation of residence of parties)

2. Defendant owes plaintiff two hundred and fifty dollars ($250.00) according to the account annexed as Exhibit A.

Wherefore (etc., as in form 4).

FORM 6.

COMPLAINT FOR GOODS SOLD AND DELIVERED

(Caption as in form 4)

1. (Allegation of residence of parties)

2. Defendant owes plaintiff two hundred and fifty dollars ($250.00) for goods sold and delivered to defendant between June 1, 1965, and December 1, 1965.

Wherefore (etc., as in form 4).

FORM 7.

COMPLAINT FOR MONEY LENT

(Caption as in form 4)

1. (Allegation of residence of parties)

2. Defendant owes plaintiff two hundred and fifty dollars ($250.00) for money lent by plaintiff to defendant on or about June 1, 1965.

Wherefore (etc., as in form 4.)

FORM 8.

COMPLAINT FOR CONVERSION

(Caption as in form 4)

1. (Allegation of residence of parties)

2. On or about June 1, 1965, defendant converted to his own use a set of plumbing tools of the value of two hundred and fifty dollars ($250.00), the property of plaintiff.

Wherefore (etc., as in form 4).

FORM 9.

COMPLAINT FOR INJURY TO PERSON OR PROPERTY

(Caption as in form 4)

1. (Allegation of residence of parties)

2. On or about June 1, 1965, at the intersection of Main and Church Streets in the Town of Ashley, N. C., defendant (intentionally struck plaintiff a blow in the face) (negligently drove a bicycle into plaintiff) (intentionally tore plaintiff's clothing) (negligently drove a motorcycle into the side of plaintiff's automobile).

3. As a result (plaintiff suffered great pain of body and mind, and incurred expenses for medical attention and hospitalization in the sum of one hundred and fifty dollars ($150.00) (plaintiff suffered damage to his property above described in the sum of two hundred and fifty dollars ($250.00).

Wherefore (etc., as in form 4).

FORM 10.

COMPLAINT TO RECOVER POSSESSION OF CHATTEL

(Caption as in form 4)

1. (Allegation of residence of parties)

2. Defendant has in his possession a set of plumber's tools of the value of two hundred dollars ($200.00), the property of plaintiff. Plaintiff is entitled to immediate possession of the same but defendant refuses on demand to deliver the same to plaintiff.

3. Defendant has unlawfully kept possession of the property above described since on or about June 1, 1965, and has thereby deprived plaintiff of its use, to his damage in the sum of fifty dollars ($50.00).

Wherefore plaintiff demands judgment against defendant for the recovery of possession of the property above described and for the sum of fifty dollars ($50.00), interest and costs. (etc., as in form 4).

FORM 11.

COMPLAINT IN SUMMARY EJECTMENT

(Caption as in form 4)

1. (Allegation of residence of parties)

2. Defendant entered into possession of a tract of land (briefly described) as a lessee of plaintiff (or as lessee of E. F. who, after making the lease, assigned his estate to the plaintiff); the term of defendant expired on the 1st day of June, 1965 (or his term has ceased

by nonpayment of rent, or otherwise, as the fact may be); the plaintiff has demanded possession of the premises of the defendant, who refused to surrender it, but holds over; the estate of plaintiff is still subsisting, and the plaintiff is entitled to immediate possession.

3. Defendant owes plaintiff the sum of fifty dollars ($50.00) for rent of the premises from the 1st of May, 1965, to the 1st day of June, 1965, and one hundred dollars ($100.00) for the occupation of the premises since the 1st day of June, 1965 to the present.

Wherefore, plaintiff demands judgment against defendant that he be put in immediate possession of the premises, and that he recover the sum of one hundred and fifty dollars ($150.00), interest and costs. (etc., as in form 4). (1965, c. 310, s. 1; 1971, c. 1181, s. 2; 1999-456, s. 59.)

§ 7A-233. Reserved for future codification purposes.

§ 7A-234. Reserved for future codification purposes.

§ 7A-235. Reserved for future codification purposes.

§ 7A-236. Reserved for future codification purposes.

§ 7A-237. Reserved for future codification purposes.

§ 7A-238. Reserved for future codification purposes.

§ 7A-239. Reserved for future codification purposes.

SUBCHAPTER V. JURISDICTION AND POWERS OF THE TRIAL DIVISIONS OF THE GENERAL COURT OF JUSTICE.

Article 20.

Original Civil Jurisdiction of the Trial Divisions.

§ 7A-240. Original civil jurisdiction generally.

Except for the original jurisdiction in respect of claims against the State which is vested in the Supreme Court, original general jurisdiction of all justiciable matters of a civil nature cognizable in the General Court of Justice is vested in the aggregate in the superior court division and the district court division as the trial divisions of the General Court of Justice. Except in respect of proceedings in probate and the administration of decedents' estates, the original civil jurisdiction so vested in the trial divisions is vested concurrently in each division. (1965, c. 310, s. 1.)

§ 7A-241. Original jurisdiction in probate and administration of decedents' estates.

Exclusive original jurisdiction for the probate of wills and the administration of decedents' estates is vested in the superior court division, and is exercised by the superior courts and by the clerks of superior court as ex officio judges of probate according to the practice and procedure provided by law. (1965, c. 310, s. 1.)

§ 7A-242. Concurrently held original jurisdiction allocated between trial divisions.

For the efficient administration of justice in respect of civil matters as to which the trial divisions have concurrent original jurisdiction, the respective divisions are constituted proper or improper for the trial and determination of specific actions and proceedings in accordance with the allocations provided in this Article. But no judgment rendered by any court of the trial divisions in any civil action or proceeding as to which the trial divisions have concurrent original jurisdiction is void or voidable for the sole reason that it was rendered by the court of a trial division which by such allocation is improper for the trial and determination of the civil action or proceeding. (1965, c. 310, s. 1.)

§ 7A-243. Proper division for trial of civil actions generally determined by amount in controversy.

Except as otherwise provided in this Article, the district court division is the proper division for the trial of all civil actions in which the amount in controversy is twenty-five thousand dollars ($25,000) or less; and the superior court division is the proper division for the trial of all civil actions in which the amount in controversy exceeds twenty-five thousand dollars ($25,000).

For purposes of determining the amount in controversy, the following rules apply whether the relief prayed is monetary or nonmonetary, or both, and with respect to claims asserted by complaint, counterclaim, cross-complaint or third-party complaint:

(1) The amount in controversy is computed without regard to interest and costs.

(2) Where monetary relief is prayed, the amount prayed for is in controversy unless the pleading in question shows to a legal certainty that the amount claimed cannot be recovered under the applicable measure of damages. The value of any property seized in attachment, claim and delivery, or other ancillary proceeding, is not in controversy and is not considered in determining the amount in controversy.

(3) Where no monetary relief is sought, but the relief sought would establish, enforce, or avoid an obligation, right or title, the value of the obligation, right, or title is in controversy. Where the owner or legal possessor of property seeks recovery of property on which a lien is asserted pursuant to G.S. 44A-4(a) the amount in controversy is that portion of the asserted lien which is disputed. The judge may require by rule or order that parties make a good faith estimate of the value of any nonmonetary relief sought.

(4) a. Except as provided in subparagraph c of this subdivision, where a single party asserts two or more properly joined claims, the claims are aggregated in computing the amount in controversy.

b. Except as provided in subparagraph c, where there are two or more parties properly joined in an action and their interests are aligned, their claims are aggregated in computing the amount in controversy.

c. No claims are aggregated which are mutually exclusive and in the alternative, or which are successive, in the sense that satisfaction of one claim will bar recovery upon the other.

d. Where there are two or more claims not subject to aggregation the highest claim is the amount in controversy.

(5) Where the value of the relief to a claimant differs from the cost thereof to an opposing party, the higher amount is used in determining the amount in controversy. (1965, c. 310, s. 1; 1981 (Reg. Sess., 1982), c. 1225; 1985, c. 655, s. 2; 2013-159, s. 2.)

§ 7A-244. Domestic relations.

The district court division is the proper division without regard to the amount in controversy, for the trial of civil actions and proceedings for annulment, divorce, equitable distribution of property, alimony, child support, child custody and the enforcement of separation or property settlement agreements between spouses, or recovery for the breach thereof. (1965, c. 310, s. 1; 1981, c. 815, s. 5; 1987, c. 573, s. 1.)

§ 7A-245. Injunctive and declaratory relief to enforce or invalidate statutes; constitutional rights.

(a) The superior court division is the proper division without regard to the amount in controversy, for the trial of civil actions where the principal relief prayed is

(1) Injunctive relief against the enforcement of any statute, ordinance, or regulation;

(2) Injunctive relief to compel enforcement of any statute, ordinance, or regulation;

(3) Declaratory relief to establish or disestablish the validity of any statute, ordinance, or regulation; or

(4) The enforcement or declaration of any claim of constitutional right.

(b) When a case is otherwise properly in the district court division, a prayer for injunctive or declaratory relief by any party not a plaintiff on grounds stated in this section is not ground for transfer. (1965, c. 310, s. 1.)

§ 7A-246. Special proceedings; exceptions; guardianship and trust administration.

The superior court division is the proper division, without regard to the amount in controversy, for the hearing and trial of all special proceedings except proceedings under the Protection of the Abused, Neglected or Exploited Disabled Adult Act (Article 6 of Chapter 108A of the General Statutes), proceedings for the protection of disabled and older adults from financial exploitation (Article 6A of Chapter 108A of the General Statutes), proceedings for involuntary commitment to treatment facilities (Article 5 of Chapter 122C of the General Statutes), adoption proceedings (Chapter 48 of the General Statutes), and of all proceedings involving the appointment of guardians and the administration by legal guardians and trustees of express trusts of the estates of their wards and beneficiaries, according to the practice and procedure provided by law for the particular proceeding. (1965, c. 310, s. 1; 1973, c. 726, s. 5; c. 1378, s. 3; 1981, c. 682, s. 1; 1985, c. 689, s. 4; 1995, c. 88, s. 7; 2014-115, s. 44(c).)

§ 7A-247. Quo warranto.

The superior court division is the proper division, without regard to the amount in controversy, for the trial of all civil actions seeking as principal relief the remedy of quo warranto, according to the practice and procedure provided for obtaining that remedy. (1965, c. 310, s. 1; 1971, c. 377, s. 13.)

§ 7A-248. Condemnation actions and proceedings.

The superior court division is the proper division, without regard to the amount in controversy, for the trial of all actions and proceedings wherein property is being taken by condemnation in exercise of the power of eminent domain, according to the practice and procedure provided by law for the particular action or proceeding. Nothing in this section is in derogation of the validity of such administrative or quasi-judicial procedures for value appraisal as may be provided for the particular action or proceeding prior to the raising of justiciable issues of fact or law requiring determination in the superior court. (1965, c. 310, s. 1.)

§ 7A-249. Corporate receiverships.

The superior court division is the proper division, without regard to the amount in controversy, for actions for corporate receiverships under Chapter 1, Article 38, of the General Statutes, and proceedings under Chapters 55 (North Carolina Business Corporation Act) and 55A (Nonprofit Corporation Act) of the General Statutes. (1965, c. 310, s. 1; 1973, c. 503, s. 6; 1989 (Reg. Sess., 1990), c. 1024, s. 3.)

§ 7A-250. Review of decisions of administrative agencies.

(a) Except as otherwise provided in subsections (b) and (c) of this section, the superior court division is the proper division, without regard to the amount in controversy, for review by original action or proceeding, or by appeal, of the decisions of administrative agencies, according to the practice and procedure provided for the particular action, proceeding, or appeal.

(b) The Court of Appeals shall have jurisdiction to review final orders or decisions of the North Carolina Utilities Commission and the North Carolina Industrial Commission, as provided in Article 5 of this Chapter, and any order or decision of the Commissioner of Insurance described in G.S. 58-2-80.

(c) Appeals from rulings of county game commissions shall be heard in the district court division. The appeal shall be heard de novo before a district court judge sitting in the county in which the game commission whose ruling is being appealed is located. (1965, c. 310, s. 1; 1967, c. 108, s. 6; 1973, c. 503, s. 7; 1981, c. 444.)

§ 7A-251. Appeal from clerk to judge.

(a) In all matters properly cognizable in the superior court division which are heard originally before the clerk of superior court, appeals lie to the judge of superior court having jurisdiction from all orders and judgments of the clerk for review in all matters of law or legal inference, in accordance with the procedure provided in Chapter 1 of the General Statutes.

(b) In all matters properly cognizable in the district court division which are heard originally before the clerk of superior court, appeals lie to the judge of district court having jurisdiction from all orders and judgments of the clerk for review in all matters of law or legal inference, in accordance with the procedure provided in Chapter 1 of the General Statutes. (1965, c. 310, s. 1; 1995, c. 88, s. 8.)

§ 7A-252. Repealed by Session Laws 1971, c. 377, s. 32.

§ 7A-253. Infractions.

Except as provided in G.S. 7A-271(d), original, exclusive jurisdiction for the adjudication and disposition of infractions lies in the district court division. (1985, c. 764, s. 14; 1985 (Reg. Sess., 1986), c. 852, s. 17.)

§ 7A-254. Reserved for future codification purposes.

Article 21.

Institution, Docketing, and Transferring Civil Causes in the Trial Divisions.

§ 7A-255. Clerk of superior court processes all actions and proceedings.

All civil actions and proceedings in the General Court of Justice are instituted in, and the original records thereof are maintained in, the office of the clerk of superior court, without regard to the trial divisions in which the cause is pending from time to time. When the commencement of an action or proceeding requires issuance of summons, the clerk of superior court issues the summons, and such summons runs and is valid as general process of the State without regard to the trial division in which the action or proceeding may be pending from time to time. (1965, c. 310, s. 1; 1967, c. 691, s. 22.)

§ 7A-256. Causes docketed and retained in originally designated trial division until transferred.

Upon the institution of any action or proceeding in the General Court of Justice the party instituting it designates upon the face of the originating pleading or other originating paper when filed, which trial division of the General Court of Justice he deems proper for disposition of the cause. The clerk dockets the cause for the trial division so designated and the cause is retained for complete disposition in that division unless thereafter transferred in accordance with the provisions of this Article. If no designation is made the clerk dockets the cause for the superior court division, and the cause is retained for complete disposition in that division unless thereafter transferred in accordance with the provisions of this Article. (1965, c. 310, s. 1.)

§ 7A-257. Waiver of proper division.

Any party may move for transfer between the trial divisions as provided in this Article. Failure of a party to move for transfer within the time prescribed is a waiver of any objection to the division, except that there shall be no waiver of the jurisdiction of the superior court division in probate of wills and administration of decedents' estates. Where more than one party is aligned in interest, any party may move for transfer of the entire case, notwithstanding waiver by other parties or coparties. A waiver of objection to the division does not prevent the judge from ordering a transfer on his own motion as provided in this Article. (1965, c. 310, s. 1.)

§ 7A-258. Motion to transfer.

(a) Any party, including the plaintiff, may move on notice to all parties to transfer the civil action or special proceeding to the proper division when the division in which the case is pending is improper under the rules stated in this Subchapter. A motion to transfer to another division may

also be made if all parties to the action or proceeding consent thereto, and if the judge deems the transfer will facilitate the efficient administration of justice.

(b) A motion to transfer is filed in the action or proceeding sought to be transferred, but it is heard and determined by a judge of the superior court division whether the case is pending in that division or not. A superior court judge who has jurisdiction under G.S. 7A-47.1 or G.S. 7A-48 in the district or set of districts as defined in G.S. 7A-41.1(a) in which the county is located, may hear and determine such motion. The motion is heard and determined in a county within that district or set of districts, except by consent of the parties.

(c) A motion to transfer by any party other than the plaintiff must be filed within 30 days after the moving party is served with a copy of the pleading which justifies transfer. A motion to transfer by the plaintiff, if based upon the pleading of any other party, must be filed within 20 days after the pleading has been filed. A motion to transfer by any party, based upon an amendment to his own pleading must be made not later than 10 days after such amendment is filed. In no event is a motion to transfer made or determined after the case has been called for trial. Failure to move for transfer within the required time is a waiver of any objection to the division in which the case is pending, except in matters of probate of wills or administration of decedents' estates.

(d) A motion to transfer is in writing and contains:

(1) A short and direct statement of the grounds for transfer with specific reference to the provision of this Chapter which determines the proper division; and

(2) A statement by an attorney for the moving party, or if the party is not represented by counsel, a statement by the party that the motion is made in the good faith belief that it may be properly granted and that he intends no amendment which would affect propriety of transfer.

(e) A motion to transfer is made on notice to all parties.

(f) Objection to the jurisdiction of the court over person or property is waived when a motion to transfer is filed unless such objection is raised at the time of filing or before. In no other case does the filing of a motion to transfer waive any rights under other motions or pleadings, nor does it prevent the filing of other motions or pleadings, except as provided in Rule 12 of the Rules of Civil Procedure. The filing of a motion to transfer does not stay further proceedings in the case except that:

(1) Involuntary dismissal is not ordered while a motion to transfer is pending;

(2) Assignment to a magistrate is not ordered while a motion to transfer is pending; and

(3) A change of venue is not ordered while a motion to transfer is pending, except by consent.

When a change of venue is ordered by consent while a motion to transfer is pending, the motion to transfer is determined in the new venue. The filing of a motion to transfer does not enlarge the time for filing responsive pleadings, nor does the filing of any other motion or pleading waive any rights under the motion to transfer.

(g) The motion for transfer provided herein is the sole method for seeking a transfer, and no transfer is effected by the use of mandamus, injunction, prohibition, certiorari, or other extraordinary writs; provided, however, that transfer may be sought in a responsive pleading when permitted by Rules 7(b) and 12(b) of the Rules of Civil Procedure.

(h) Transfer is effected when an order of transfer is filed. When transfer is ordered, the clerk makes appropriate entries on the dockets of each division and transfers the file of the case to the new division. No further proceedings are taken in the division from which the case is

transferred. Papers filed after a transfer are properly filed notwithstanding any erroneous reference to the division from which the case is transferred. All orders made prior to transfer including restraining orders, remain effective after transfer, as if no transfer had been made, until modified or set aside in the division to which the case is transferred.

(i) A claim of new or different relief asserted after transfer has been effected does not authorize a second transfer. (1965, c. 310, s. 1; 1967, c. 954, s. 3; 1969, c. 1190, s. 22 1/2; 1971, c. 377, s. 14; 1987 (Reg. Sess., 1988), c. 1037, s. 20.)

§ 7A-259. Transfer on judge's own motion.

(a) If no party has moved for transfer within the time allowed to parties, any superior court judge who may hear and determine motions to transfer may order a transfer upon his own motion for the purpose of efficient administration of the trial divisions at any time before the case is calendared for trial. Transfer is not made on the judge's own motion unless the pleadings clearly show that the case is pending in an improper division. No hearing is held on such transfers, but the parties are given prompt notice when transfer is effected. Nothing in this section affects the power of the clerk to transfer matters and proceedings pending before him when an issue of fact is raised.

(b) When a district court is established in a district, any superior court judge authorized to hear and determine motions to transfer may, on his own motion, subject to the requirements of subsection (a), transfer to the district court cases pending in the superior court. (1965, c. 310, s. 1; 1967, c. 691, s. 23.)

§ 7A-260. Review of transfer matters.

Orders transferring or refusing to transfer are not immediately appealable, even for abuse of discretion. Such orders are reviewable only by the appellate division on appeal from a final judgment. If on review, such an order is found erroneous, reversal or remand is not granted unless prejudice is shown. If, on review, a new trial or partial new trial is ordered for other reasons, the appellate division may specify the proper division for new trial and order a transfer thereto. (1965, c. 310, s. 1; 1967, c. 108, s. 7.)

§ 7A-261. Repealed by Session Laws 1971, c. 377, s. 32.

§ 7A-262. Reserved for future codification purposes.

§ 7A-263. Reserved for future codification purposes.

§ 7A-264. Reserved for future codification purposes.

§ 7A-265. Reserved for future codification purposes.

§ 7A-266. Reserved for future codification purposes.

§ 7A-267. Reserved for future codification purposes.

§ 7A-268. Reserved for future codification purposes.

§ 7A-269. Reserved for future codification purposes.

Article 22.

Jurisdiction of the Trial Divisions in Criminal Actions.

§ 7A-270. Generally.

General jurisdiction for the trial of criminal actions is vested in the superior court and the district court divisions of the General Court of Justice. (1965, c. 310, s. 1.)

§ 7A-271. Jurisdiction of superior court.

(a) The superior court has exclusive, original jurisdiction over all criminal actions not assigned to the district court division by this Article, except that the superior court has jurisdiction to try a misdemeanor:

(1) Which is a lesser included offense of a felony on which an indictment has been returned, or a felony information as to which an indictment has been properly waived; or

(2) When the charge is initiated by presentment; or

(3) Which may be properly consolidated for trial with a felony under G.S. 15A-926;

(4) To which a plea of guilty or nolo contendere is tendered in lieu of a felony charge; or

(5) When a misdemeanor conviction is appealed to the superior court for trial de novo, to accept a guilty plea to a lesser included or related charge.

(b) Appeals by the State or the defendant from the district court are to the superior court. The jurisdiction of the superior court over misdemeanors appealed from the district court to the superior court for trial de novo is the same as the district court had in the first instance, and when that conviction resulted from a plea arrangement between the defendant and the State pursuant to which misdemeanor charges were dismissed, reduced, or modified, to try those charges in the form and to the extent that they subsisted in the district court immediately prior to entry of the defendant and the State of the plea arrangement.

(c) When a district court is established in a district, any superior court judge presiding over a criminal session of court shall order transferred to the district court any pending misdemeanor which does not fall within the provisions of subsection (a), and which is not pending in the superior court on appeal from a lower court.

(d) The criminal jurisdiction of the superior court includes the jurisdiction to dispose of infractions only in the following circumstances:

(1) If the infraction is a lesser-included violation of a criminal action properly before the court, the court must submit the infraction for the jury's consideration in factually appropriate cases.

(2) If the infraction is a lesser-included violation of a criminal action properly before the court, or if it is a related charge, the court may accept admissions of responsibility for the infraction. A proper pleading for the criminal action is sufficient to support a finding of responsibility for the lesser-included infraction.

(e) The superior court has exclusive jurisdiction over all hearings held pursuant to G.S. 15A-1345(e) where the district court had accepted a defendant's plea of guilty or no contest to a felony under the provisions of G.S. 7A-272(c), except that the district court shall have jurisdiction to hear these matters with the consent of the State and the defendant.

(f) The superior court has exclusive jurisdiction over all hearings to revoke probation pursuant to G.S. 15A-1345(e) where the district court is supervising a drug treatment court or therapeutic court probation judgment under G.S. 7A-272(e), except that the district court has jurisdiction to conduct the revocation proceedings when the chief district court judge and the senior resident superior court judge agree that it is in the interest of justice that the proceedings be conducted by the district court. If the district court exercises jurisdiction under this subsection to revoke probation, appeal of an order revoking probation is to the appellate division. (1965, c. 310, s. 1; 1967, c. 691, s. 24; 1969, c. 1190, ss. 23, 24; 1971, c. 377, s. 15; 1977, c. 711, s. 6; 1979, 2nd Sess., c. 1328, s. 2; 1985, c. 764, s. 15; 1985 (Reg. Sess., 1986), c. 852, s. 17; 2004-128, s. 2; 2009-452, s. 1; 2009-516, s. 7(a), (b); 2010-96, s. 26(a); 2010-97, s. 13.)

§ 7A-272. Jurisdiction of district court; concurrent jurisdiction in guilty or no contest pleas for certain felony offenses; appellate and appropriate relief procedures applicable.

(a) Except as provided in this Article, the district court has exclusive, original jurisdiction for the trial of criminal actions, including municipal ordinance violations, below the grade of felony, and the same are hereby declared to be petty misdemeanors.

(b) The district court has jurisdiction to conduct preliminary examinations and to bind the accused over for trial upon waiver of preliminary examination or upon a finding of probable cause, making appropriate orders as to bail or commitment.

(c) With the consent of the presiding district court judge, the prosecutor, and the defendant, the district court has jurisdiction to accept a defendant's plea of guilty or no contest to a Class H or I felony if:

(1) The defendant is charged with a felony in an information filed pursuant to G.S. 15A-644.1, the felony is pending in district court, and the defendant has not been indicted for the offense; or

(2) The defendant has been indicted for a criminal offense but the defendant's case is transferred from superior court to district court pursuant to G.S. 15A-1029.1.

(d) Provisions in Chapter 15A of the General Statutes apply to a plea authorized under subsection (c) of this section as if the plea had been entered in superior court, so that a district court judge is authorized to act in these matters in the same manner as a superior court judge would be authorized to act if the plea had been entered in superior court, and appeals that are authorized in these matters are to the appellate division.

(e) With the consent of the chief district court judge and the senior resident superior court judge, the district court has jurisdiction to preside over the supervision of a probation judgment entered in superior court in which the defendant is required to participate in a drug treatment court program pursuant to G.S. 15A-1343(b1)(2b) or a therapeutic court as

defined in subsection (f) of this section, or is participating in the drug treatment court pursuant to a deferred prosecution agreement under G.S. 15A-1341(a2) or the terms of a conditional discharge under G.S. 15A-1341(a5). The district court may modify or extend the probation judgment, but jurisdiction to revoke probation supervised under this subsection is as provided in G.S. 7A-271(f).

(f) As used in subsection (e) of this section, the term "therapeutic court" refers to a court, other than drug treatment court established pursuant to Article 62 of Chapter 7A of the General Statutes, in which a criminal defendant, either as a condition of probation or pursuant to a deferred prosecution agreement or the terms of a conditional discharge under G.S. 15A-1341, is ordered to participate in specified activities designed to address underlying problems of substance abuse and mental illness that contribute to the person's criminal activity. The ordered activities shall, at a minimum, require the person to participate in treatment and attend regular court sessions of the therapeutic court over an extended period of time. The senior resident superior court judge and the chief district court judge shall agree in writing that the therapeutic court is being established and shall file the written agreement with the Administrative Office of the Courts before jurisdiction established by subsection (e) of this section may be exercised by the district court. (1965, c. 310, s. 1; 1995 (Reg. Sess., 1996), c. 725, ss. 1, 2; 2009-452, s. 2; 2009-516, s. 8(a), (b); 2010-96, s. 26(b); 2010-97, s. 13; 2014-119, s. 2(b).)

§ 7A-273. Powers of magistrates in infractions or criminal actions.

In criminal actions or infractions, any magistrate has power:

(1) In infraction cases in which the maximum penalty that can be imposed is not more than fifty dollars ($50.00), exclusive of costs, or in Class 3 misdemeanors, other than the types of infractions and misdemeanors specified in subdivision (2) of this section, to accept guilty pleas or admissions of responsibility and enter judgment;

(2) In misdemeanor or infraction cases involving alcohol offenses under Chapter 18B of the General Statutes, traffic offenses, hunting, fishing, State park and recreation area rule offenses under Chapters 113 and 143B of the General Statutes, boating offenses under Chapter 75A of the General Statutes, open burning offenses under Article 78 of Chapter 106 of the General Statutes, and littering offenses under G.S. 14-399(c) and G.S. 14-399(c1), to accept written appearances, waivers of trial or hearing and pleas of guilty or admissions of responsibility, in accordance with the schedule of offenses and fines or penalties promulgated by the Conference of Chief District Judges pursuant to G.S. 7A-148, and in such cases, to enter judgment and collect the fines or penalties and costs;

(2a) In misdemeanor cases involving the violation of a county ordinance authorized by law regulating the use of dune or beach buggies or other power-driven vehicles specified by the governing body of the county on the foreshore, beach strand, or the barrier dune system, to accept written appearances, waivers of trial or hearing, and pleas of guilty or admissions

of responsibility, in accordance with the schedule of offenses and fines or penalties promulgated by the Conference of Chief District Court Judges pursuant to G.S. 7A-148, and in such cases, to enter judgment and collect the fines or penalties and costs;

(3) To issue arrest warrants valid throughout the State;

(4) To issue search warrants valid throughout the county;

(5) To grant bail before trial for any noncapital offense;

(6) Notwithstanding the provisions of subdivision (1) of this section, to hear and enter judgment as the chief district judge shall direct in all worthless check cases brought under G.S. 14-107, when the amount of the check is two thousand dollars ($2,000) or less. Provided, however, that under this section magistrates may not impose a prison sentence longer than 30 days;

(7) To conduct an initial appearance as provided in G.S. 15A-511; and

(8) To accept written appearances, waivers of trial and pleas of guilty in violations of G.S. 14-107 when the amount of the check is two thousand dollars ($2,000) or less, restitution, including service charges and processing fees allowed by G.S. 14-107, is made, and the warrant does not charge a fourth or subsequent violation of this statute, and in these cases to enter judgments as the chief district judge directs.

(9) Repealed by Session Laws 1991 (Regular Session, 1992), c. 900, s. 118(d). (1965, c. 310, s. 1; 1969, c. 876, s. 2; c. 1190, s. 25; 1973, c. 6; c. 503, s. 8; c. 1286, s. 7; 1975, c. 626, s. 4; 1977, c. 873, s. 1; 1979, c. 144, s. 3; 1981, c. 555, s. 3; 1983, c. 586, s. 5; 1985, c. 425, s. 4; c. 764, s. 16; 1985 (Reg. Sess., 1986), c. 852, s. 17; 1987, c. 355, ss. 1, 2; 1989, c. 343; c. 763; 1989 (Reg. Sess., 1990), c. 1041, s. 1; 1991, c. 520, s. 2; 1991 (Reg. Sess., 1992), c. 900, s. 118(d); 1993, c. 374, s. 4; c. 538, s. 35; 1994, Ex. Sess., c. 14, s. 1; c. 24, s. 14(b); 1999-80, s. 1; 2002-159, s. 1; 2014-115, s. 20; 2015-241, s. 14.30(aa1).)

§ 7A-274. Power of mayors, law-enforcement officers, etc., to issue warrants and set bail restricted.

The power of mayors, law-enforcement officers, and other persons not officers of the General Court of Justice to issue arrest, search, or peace warrants, or to set bail, is terminated in any district court district upon the establishment of a district court therein. (1965, c. 310, s. 1.)

§ 7A-275. Repealed by Session Laws 1971, c. 377, s. 32.

§ 7A-276. Reserved for future codification purposes.

Article 22A.

Prohibited Orders.

§ 7A-276.1. Court orders prohibiting publication or broadcast of reports of open court proceedings or reports of public records banned.

No court shall make or issue any rule or order banning, prohibiting, or restricting the publication or broadcast of any report concerning any of the following: any evidence, testimony, argument, ruling, verdict, decision, judgment, or other matter occurring in open court in any hearing, trial, or other proceeding, civil or criminal; and no court shall issue any rule or order sealing, prohibiting, restricting the publication or broadcast of the contents of any public record as defined by any statute of this State, which is required to be open to public inspection under any valid statute, regulation, or rule of common law. If any rule or order is made or issued by any court in violation of the provisions of this statute, it shall be null and void and of no effect, and no person shall be punished for contempt for the violation of any such void rule or order. (1977, c. 711, s. 3.)

Article 23.

Jurisdiction and Procedure Applicable to Children.

§§ 7A-277 through 7A-289: Repealed by Session Laws 1979, c. 815, s. 1.

Article 24.

Juvenile Services.

§§ 7A-289.1 through 7A-289.6: Repealed by Session Laws 1998-202, s. 1(a).

§ 7A-289.7: Repealed by Session Laws 1979, c. 815, s. 1.

§ 7A-289.8: Reserved for future codification purposes.

§ 7A-289.9: Reserved for future codification purposes.

§ 7A-289.10: Reserved for future codification purposes.

§ 7A-289.11: Reserved for future codification purposes.

§ 7A-289.12: Reserved for future codification purposes.

Article 24A.

Delinquency Prevention and Youth Services.

§§ 7A-289.13 through 7A-289.16: Repealed by Session Laws 1998-202, s. 1(a).

§ 7A-289.17: Reserved for future codification purposes.

§ 7A-289.18: Reserved for future codification purposes.

§ 7A-289.19: Reserved for future codification purposes.

§ 7A-289.20: Reserved for future codification purposes.

§ 7A-289.21: Reserved for future codification purposes.

Article 24B.

Termination of Parental Rights.

§§ 7A-289.22 through 7A-289.23. Repealed by Session Laws 1998-202, s. 5.

§ 7A-289.23A. Recodified as § 7B-1102.

§§ 7A-289.24 through 7A-289.35: Repealed by Session Laws 1998-202, s. 5.

Article 25.

Jurisdiction and Procedure in Criminal Appeals from District Courts.

§ 7A-290. Appeals from district court in criminal cases; notice; appeal bond.

Any defendant convicted in district court before the magistrate may appeal to the district court for trial de novo before the district court judge. Any defendant convicted in district court before the judge may appeal to the superior court for trial de novo. Notice of appeal may be given orally in open court, or to the clerk in writing within 10 days of entry of judgment. Upon expiration of the 10-day period in which an appeal may be entered, if an appeal has been entered and not withdrawn, the clerk shall transfer the case to the district or superior court docket. The original bail shall stand pending appeal, unless the judge orders bail denied, increased, or reduced. (1965, c. 310, s. 1; 1967, c. 601, s. 1; 1969, c. 876, s. 3; c. 911, s. 5; c. 1190, s. 26; 1971, c. 377, s. 16.)

Article 26.

Additional Powers of District Court Judges and Magistrates.

§ 7A-291. Additional powers of district court judges.

In addition to the jurisdiction and powers assigned in this Chapter, a district court judge has the following powers:

(1) To administer oaths;
(2) To punish for contempt;
(3) To compel the attendance of witnesses and the production of evidence;
(4) To set bail;
(5) To issue arrest warrants valid throughout the State, and search warrants valid throughout the district of issue; and
(6) To issue all process and orders necessary or proper in the exercise of his powers and authority, and to effectuate his lawful judgments and decrees. (1965, c. 310, s. 1; 1969, c. 1190, s. 27; 1973, c. 1286, s. 11.)

§ 7A-292. Additional powers of magistrates.

(a) In addition to the jurisdiction and powers assigned in this Chapter to the magistrate in civil and criminal actions, each magistrate has the following additional powers:

(1) To administer oaths.
(2) To punish for direct criminal contempt subject to the limitations contained in Chapter 5A of the General Statutes of North Carolina.
(3) When authorized by the chief district judge, to take depositions and examinations before trial.
(4) To issue subpoenas and capiases valid throughout the county.
(5) To take affidavits for the verification of pleadings.
(6) To issue writs of habeas corpus ad testificandum, as provided in G.S. 17-41.
(7) To assign a year's allowance to the surviving spouse and a child's allowance to the children as provided in Chapter 30, Article 4, of the General Statutes.
(8) To take acknowledgments of instruments, as provided in G.S. 47-1.
(9) To perform the marriage ceremony, as provided in G.S. 51-1.
(10) To take acknowledgment of a written contract or separation agreement between husband and wife.
(11) Repealed by Session Laws 1973, c. 503, s. 9.
(12) To assess contribution for damages or for work done on a dam, canal, or ditch, as provided in G.S. 156-15.
(13) Repealed by Session Laws 1973, c. 503, s. 9.
(14) To accept the filing of complaints and to issue summons pursuant to Article 4 of Chapter 42A of the General Statutes in expedited eviction proceedings when the office of the clerk of superior court is closed.
(15) When authorized by the chief district judge, as permitted in G.S. 7A-146(11), to provide for appointment of counsel and acceptance of waivers of counsel pursuant to Article 36 of this Chapter.
(16) To appoint an umpire to determine motor vehicle liability policy diminution in value, as provided in G.S. 20-279.21(d1).

(b) The authority granted to magistrates under G.S. 51-1 and subdivision (a)(9) of this section is a responsibility given collectively to the magistrates in a county and is not a duty imposed upon each individual magistrate. The chief district court judge shall ensure that marriages before a magistrate are available to be performed at least a total of 10 hours per week, over at least three business days per week. (1965, c. 310, s. 1; 1967, c. 691, s. 25; 1971, c. 377, s. 17; 1973, c. 503, s. 9; 1977, c. 375, s. 4; 1979, 2nd Sess., c. 1080, s. 6; 1994, Ex. Sess., c. 4, s. 4; 1999-420, s. 4; 1999-456, s. 9(a), (b); 2009-419, s. 1; 2009-440, s. 2; 2009-566, s. 28; 2009-570, s. 48.2; 2015-75, s. 4; 2015-247, s. 3(b).)

§ 7A-293. Special authority of a magistrate assigned to a municipality located in more than one county of a district court district.

A magistrate assigned to an incorporated municipality, the boundaries of which lie in more than one county of a district court district, may, in criminal matters, exercise the powers granted by G.S. 7A-273 as if the corporate limits plus the territory embraced within a distance of one mile in all directions therefrom were located wholly within the magistrate's county of residence. Appeals from a magistrate exercising the authority granted by this section shall be taken in the district court in the county in which the offense was committed. A magistrate exercising the special authority granted by this section shall transmit all records, reports, and monies collected to the clerk of the superior court of the county in which the offense was committed. In addition, if a magistrate is assigned to an incorporated municipality, the boundaries of which lie in two or more district court districts, the magistrate may exercise the powers described in this section as if the counties were in the same district court district, if the clerks of superior court and the chief district court judges serving the districts in which the municipality is located agree in writing that the exercise of this special authority would promote the administration of justice in the municipality and in the districts. However, if a magistrate is assigned to an incorporated municipality, the boundaries of which lie in four or more counties, each of which is in a separate district court district, the magistrate may exercise the powers described in this section as if all the counties were in the same district court district, without the necessity of such an agreement between the clerks and judges of the affected counties, and the records, reports, and monies collected in connection with the exercise of that authority shall be transmitted to the clerk of the superior court district for the county in which the offense was committed. (1967, c. 691, s. 26; 1989, c. 795, s. 23(c1); 2009-398, s. 2.)

§ 7A-294: Reserved for future codification purposes.

§ 7A-295: Reserved for future codification purposes.

§ 7A-296: Reserved for future codification purposes.

§ 7A-297: Reserved for future codification purposes.

§ 7A-298: Reserved for future codification purposes.

§ 7A-299: Reserved for future codification purposes.

SUBCHAPTER VI. REVENUES AND EXPENSES OF THE JUDICIAL DEPARTMENT.

Article 27.

Expenses of the Judicial Department.

§ 7A-300. Expenses paid from State funds.

(a) The operating expenses of the Judicial Department shall be paid from State funds, out of appropriations for this purpose made by the General Assembly, or from funds provided by local governments pursuant to G.S. 7A-300.1, 153A-212.1, or 160A-289.1. The Administrative Office of the Courts shall prepare budget estimates to cover these

expenses, including therein the following items and such other items as are deemed necessary for the proper functioning of the Judicial Department:

(1) Salaries, departmental expense, printing and other costs of the appellate division;

(2) Salaries and expenses of superior court judges, district attorneys, assistant district attorneys, public defenders, and assistant public defenders, and fees and expenses of counsel assigned to represent indigents under the provisions of Subchapter IX of this Chapter;

(3) Salaries, travel expenses, departmental expense, printing and other costs of the Administrative Office of the Courts;

(4) Salaries and travel expenses of district judges, magistrates, and family court counselors;

(5) Salaries and travel expenses of clerks of superior court, their assistants, deputies, and other employees, and the expenses of their offices, including supplies and materials, postage, telephone and telegraph, bonds and insurance, equipment, and other necessary items;

(6) Fees and travel expenses of jurors, and of witnesses required to be paid by the State;

(7) Compensation and allowances of court reporters;

(8) Briefs for counsel and transcripts and other records for adequate appellate review when an appeal is taken by an indigent person;

(9) Transcripts of preliminary hearings in indigency cases and, in cases in which the defendant pays for a transcript of the preliminary hearing, a copy for the district attorney;

(10) Transcript of the evidence and trial court charge furnished the district attorney when a criminal action is appealed to the appellate division;

(11) All other expenses arising out of the operations of the Judicial Department which by law are made the responsibility of the State; and

(12) Operating expenses of the Judicial Council and the Judicial Standards Commission.

(b) Repealed by Session Laws 1971, c. 377, s. 32. (1965, c. 310, s. 1; 1967, c. 108, s. 9; c. 1049, s. 5; 1969, c. 1013, s. 2; 1971, c. 377, ss. 18, 21; 1973, c. 47, s. 2; c. 503, ss. 10, 11; 2000-67, s. 15.4(c); 2010-31, s. 29.7(a).)

§ 7A-300.1. Local supplementation of salaries for certain officers and employees.

(a) In order to attract and retain the best qualified officers and employees for positions in the Judicial Branch of government, the Administrative Office of the Courts may contract with the governing body of a city or county for the provision of local funds to supplement the salaries of Judicial Department employees, other than elected officials and magistrates, who serve the superior court district, district court district, or prosecutorial district containing that unit of local government. Any employee who receives salary supplementation under this section shall be notified before receiving it that the supplementation is subject to the availability of local funds, may be discontinued at any

time, and is not "compensation" for purposes of the Teachers' and State Employees' Retirement System or the Consolidated Judicial Retirement System.

(b) This section applies only to (i) cities with a population of 300,000 or more according to the most recent estimate of the Office of State Budget and Management and (ii) counties with a population of 300,000 or over according to the most recent estimate of the Office of State Budget and Management. (2010-31, s. 29.7(b).)

§ 7A-301. Disbursement of expenses.

The salaries and expenses of all personnel in the Judicial Department and other operating expenses shall be paid out of the State treasury upon warrants duly drawn thereon, except that the Administrative Office of the Courts and the Department of Administration, with the approval of the State Auditor, may establish alternative procedures for the prompt payment of juror fees, witness fees, and other small expense items. (1965, c. 310, s. 1.)

§ 7A-302. Counties and municipalities responsible for physical facilities.

In each county in which a district court has been established, courtrooms, office space for juvenile court counselors and support staff as assigned by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, and related judicial facilities (including furniture), as defined in this Subchapter, shall be provided by the county, except that courtrooms and related judicial facilities may, with the approval of the administrative Officer of the Courts, after consultation with county and municipal authorities, be provided by a municipality in the county. To assist a county or municipality in meeting the expense of providing courtrooms and related judicial facilities, a part of the costs of court, known as the "facilities fee," collected for the State by the clerk of superior court, shall be remitted to the county or municipality providing the facilities. (1965, c. 310, s. 1; 1998-202, s. 15; 2000-137, s. 4(a); 2007-323, s. 14.16; 2008-107, s. 29.8(f); 2011-145, s. 19.1(*l*); 2017-186, s. 2(c).)

§ 7A-303. Equipment and supplies in clerk's office.

Upon the establishment of the district court in any county, supplies and all equipment in the office of the clerk of superior court shall become the property of the State. (1965, c. 310, s. 1.)

Article 28.

Uniform Costs and Fees in the Trial Divisions.

§ 7A-304. Costs in criminal actions.

(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected. No costs may be assessed when a case is dismissed. Only upon entry of a written order, supported by

findings of fact and conclusions of law, determining that there is just cause, the court may (i) waive costs assessed under this section or (ii) waive or reduce costs assessed under subdivision (7), (8), (8a), (11), (12), or (13) of this section. No court may waive or remit all or part of any court fines or costs without providing notice and opportunity to be heard by all government entities directly affected. The court shall provide notice to the government entities directly affected of (i) the date and time of the hearing and (ii) the right to be heard and make an objection to the remission or waiver of all or part of the order of court costs at least 15 days prior to hearing. Notice shall be made to the government entities affected by first-class mail to the address provided for receipt of court costs paid pursuant to the order. [The costs are listed below:]

(1) For each arrest or personal service of criminal process, including citations and subpoenas, the sum of five dollars ($5.00), to be remitted to the county wherein the arrest was made or process was served, except that in those cases in which the arrest was made or process served by a law-enforcement officer employed by a municipality, the fee shall be paid to the municipality employing the officer.

(2) For the use of the courtroom and related judicial facilities, the sum of twelve dollars ($12.00) in the district court, including cases before a magistrate, and the sum of thirty dollars ($30.00) in superior court, to be remitted to the county in which the judgment is rendered. In all cases where the judgment is rendered in facilities provided by a municipality, the facilities fee shall be paid to the municipality. Funds derived from the facilities fees shall be used exclusively by the county or municipality for providing, maintaining, and constructing adequate courtroom and related judicial facilities, including: adequate space and furniture for judges, district attorneys, public defenders and other personnel of the Office of Indigent Defense Services, magistrates, juries, and other court related personnel; office space, furniture and vaults for the clerk; jail and juvenile detention facilities; free parking for jurors; and a law library (including books) if one has heretofore been established or if the governing body hereafter decides to establish one. In the event the funds derived from the facilities fees exceed what is needed for these purposes, the county or municipality may use any or all of the excess to retire outstanding indebtedness incurred in the construction of the facilities, or to reimburse the county or municipality for funds expended in constructing or renovating the facilities (without incurring any indebtedness) within a period of two years before or after the date a district court is established in such county, or to supplement the operations of the General Court of Justice in the county.

(2a) For the upgrade, maintenance, and operation of the judicial and county courthouse telecommunications and data connectivity, the sum of four dollars ($4.00), to be credited to the Court Information Technology Fund.

(2b) Repealed by Session Laws 2015-241, s. 18A.11, effective July 1, 2015.

(3) For the retirement and insurance benefits of both State and local government law-enforcement officers, the sum of six dollars and twenty-five cents ($6.25), to be remitted to the State Treasurer. Fifty cents (50¢) of this sum shall be administered as is provided in Article 12C of Chapter 143 of the General Statutes. Five dollars and seventy-five cents ($5.75) of this sum shall be administered as is provided in Article 12E of Chapter 143 of the General Statutes, with one dollar and twenty-five cents ($1.25) being administered in accordance with the provisions of G.S. 143-166.50(e).

(3a) For the supplemental pension benefits of sheriffs, the sum of one dollar twenty-five cents ($1.25) to be remitted to the Department of Justice and administered under the provisions of Article 12H of Chapter 143 of the General Statutes.

(3b) For the services, staffing, and operations of the Criminal Justice Education and Standards Commission, the sum of two dollars ($2.00) to be remitted to the Department of Justice.

(4) For support of the General Court of Justice, the sum of one hundred forty-seven dollars and fifty cents ($147.50) in the district court, including cases before a magistrate, and the sum of one hundred fifty-four dollars and fifty cents ($154.50) in the superior court, to be remitted to the State Treasurer. For a person convicted of a felony in superior court who has made a first appearance in district court, both the district court and superior court fees shall be assessed. The State Treasurer shall remit the sum of ninety-five cents ($.95) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.19.

(4a) For support of the General Court of Justice, the sum of ten dollars ($10.00) for all offenses arising under Chapter 20 of the General Statutes, to be remitted to the State Treasurer.

(4b) For additional support of the General Court of Justice, the sum of fifty dollars ($50.00) for all offenses arising under Chapter 20 of the General Statutes and resulting in a conviction of an improper equipment offense, to be remitted to the State Treasurer.

(5) For using pretrial release services, the district or superior court judge shall, upon conviction, impose a fee of fifteen dollars ($15.00) to be remitted to the county providing the pretrial release services. This cost shall be assessed and collected only if the defendant had been accepted and released to the supervision of the agency providing the pretrial release services.

(6) For support of the General Court of Justice, the sum of two hundred dollars ($200.00) is payable by a defendant who fails to appear to answer the charge as scheduled, unless within 20 days after the scheduled appearance, the person either appears in court to answer the charge or

disposes of the charge pursuant to G.S. 7A-146, and the sum of fifty dollars ($50.00) is payable by a defendant who fails to pay a fine, penalty, or costs within 40 days of the date specified in the court's judgment. Upon a showing to the court that the defendant failed to appear because of an error or omission of a judicial official, a prosecutor, or a law-enforcement officer, the court shall waive the fee for failure to appear. These fees shall be remitted to the State Treasurer.

(7) For the services of the North Carolina State Crime Laboratory facilities, the district or superior court judge shall, upon conviction, order payment of the sum of six hundred dollars ($600.00) to be remitted to the Department of Justice for support of the Laboratory. This cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratories have performed DNA analysis of the crime, tests of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent.

(8) For the services of any crime laboratory facility operated by a local government or group of local governments, the district or superior court judge shall, upon conviction, order payment of the sum of six hundred dollars ($600.00) to be remitted to the general fund of the local governmental unit that operates the laboratory to be used for law enforcement purposes. The cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratory has performed DNA analysis of the crime, test of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent. The costs shall be assessed only if the court finds that the work performed at the local government's laboratory is the equivalent of the same kind of work performed by the North Carolina State Crime Laboratory under subdivision (7) of this subsection.

(8a) For the services of any private hospital performing toxicological testing under contract with a prosecutorial district, the district or superior court judge shall, upon conviction, order payment of the sum of six hundred dollars ($600.00) to be remitted to the State Treasurer for the support of the General Court of Justice. The cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratory has performed testing of bodily fluids of the defendant for the presence of alcohol or controlled substances. The costs shall be assessed only if the court finds that the work performed by the local hospital is the equivalent of the same kind of work performed by the North Carolina State Crime Laboratory under subdivision (7) of this subsection.

(9) For the support and services of the State DNA Database and DNA Databank, the sum of two dollars ($2.00). This amount is annually appropriated to the Department of Justice for this purpose. Notwithstanding the provisions of subsection (e) of this section, this cost does not apply to infractions.

(9a) For the services of the North Carolina State Crime Laboratory facilities, the district or superior court judge shall, upon conviction, order payment of the sum of six hundred dollars ($600.00) to be remitted to the Department of Justice to be used for laboratory purposes. This cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratories have performed digital forensics, including the seizure, forensic imaging, and acquisition and analysis of digital media.

(9b) For the services of any crime laboratory facility operated by a local government or group of local governments, the district or superior court judge shall, upon conviction, order payment of the sum of six hundred dollars ($600.00) to be remitted to the general fund of the local law enforcement unit to be used for laboratory purposes. The cost shall be assessed only in (i) cases in which, as part of the investigation leading to the defendant's conviction, the laboratory has performed digital forensics, including the seizure, forensic imaging, and acquisition and analysis of digital media, and (ii) if the court finds that the work performed at the local government's laboratory is the equivalent of the same kind of work performed by the North Carolina State Crime Laboratory under subdivision (9a) of this subsection.

(10) For support of the General Court of Justice, the sum of one hundred dollars ($100.00) is payable by a defendant convicted under G.S. 20-138.1 or G.S. 20-138.2, for a second or subsequent conviction under G.S. 20-138.2A, or for a second or subsequent conviction under G.S. 20-138.2B, to be remitted to the State Treasurer. This fee shall be in addition to the fee required by subdivision (4a) of this subsection.

(11) For the services of an expert witness employed by the North Carolina State Crime Laboratory who completes a chemical analysis pursuant to G.S. 20-139.1, a forensic analysis pursuant to G.S. 8-58.20, or a digital forensics analysis and provides testimony about that analysis in a defendant's trial, the district or superior court judge shall, upon conviction of the defendant, order payment of the sum of six hundred dollars ($600.00) to be remitted to the Department of Justice for support of the State Crime Laboratory. This cost shall be assessed only in cases in which the expert witness provides testimony about the chemical or forensic analysis in the defendant's trial and shall be in addition to any cost assessed under subdivision (7) or (9a) of this subsection.

(12) For the services of an expert witness employed by a crime laboratory operated by a local government or group of local governments who completes a chemical analysis pursuant to G.S. 20-139.1, a forensic analysis pursuant to G.S. 8-58.20, or a digital forensics analysis and provides testimony about that analysis in a defendant's trial, the district or superior court judge shall, upon conviction of the defendant, order payment of the sum of six hundred dollars ($600.00) to be remitted to the general fund of the local governmental unit that operates the laboratory to be used for the local law enforcement laboratory. This cost shall be assessed only in cases in which the expert witness provides testimony about the chemical or forensic analysis in the defendant's trial and shall be in addition to any cost assessed under subdivision (8) or (9b) of this subsection.

(13) For the services of an expert witness employed by a private hospital performing toxicological testing under contract with a prosecutorial district who completes a chemical analysis pursuant to G.S. 20-139.1 and provides testimony about that analysis in a defendant's trial, the district or superior court judge shall, upon conviction of the defendant, order payment of the sum of six hundred dollars ($600.00) to be remitted to the State Treasurer for the support of the General Court of Justice. This cost shall be assessed only in cases in which the expert witness provides testimony about the chemical analysis in the defendant's trial and shall be in addition to any cost assessed under subdivision (8a) of this subsection.

(a1) Repealed by Session Laws 1997-475, s. 4.1.

(a2) The Administrative Office of the Courts shall report on October 1, 2018, and annually thereafter, to the Joint Legislative Oversight Committee on Justice and Public Safety on the implementation of the notice of waiver of costs to the government entities directly affected as required by subsection (a) of this section.

(b) On appeal, costs are cumulative, and costs assessed before a magistrate shall be added to costs assessed in the district court, and costs assessed in the district court shall be added to costs assessed in the superior court, except that the fee for the Law-Enforcement Officers' Benefit and Retirement Fund and the Sheriffs' Supplemental Pension Fund and the fee for pretrial release services shall be assessed only once in each case. No superior court costs shall be assessed against a defendant who gives notice of appeal from the district court but withdraws it prior to the expiration of the 10-day period for entering notice of appeal. When a case is reversed on appeal, the defendant shall not be liable for costs, and the State shall be liable for the cost of printing records and briefs in the Appellate Division.

(c) Witness fees, expenses for blood tests and comparisons incurred by G.S. 8-50.1(a), jail fees and cost of necessary trial transcripts shall be assessed as provided by law in addition to other costs set out in this section. Nothing in this section shall limit the power or discretion of the judge in imposing fines or forfeitures or ordering restitution.

(d) (1) In any criminal case in which the liability for costs, fines, restitution, attorneys' fees, or any other lawful charge has been finally determined, the clerk of superior

court shall, unless otherwise ordered by the presiding judge, disburse such funds when paid in accordance with the following priorities:

a. Sums in restitution to the victim entitled thereto;
b. Costs due the county;
c. Costs due the city;
d. Fines to the county school fund;
e. Sums in restitution prorated among the persons other than the victim entitled thereto;
f. Costs due the State;
g. Attorney's fees, including appointment fees assessed pursuant to G.S. 7A-455.1.

(2) Sums in restitution received by the clerk of superior court shall be disbursed when:

a. Complete restitution has been received; or
b. When, in the opinion of the clerk, additional payments in restriction will not be collected; or
c. Upon the request of the person or persons entitled thereto; and
d. In any event, at least once each calendar year.

(e) Unless otherwise provided by law, the costs assessed pursuant to this section for criminal actions disposed of in the district court are also applicable to infractions disposed of in the district court. The costs assessed in superior court for criminal actions appealed from district court to superior court are also applicable to infractions appealed to superior court. If an infraction is disposed of in the superior court pursuant to G.S. 7A-271(d), costs applicable to the original charge are applicable to the infraction.

(f) The court may allow a defendant owing monetary obligations under this section to either make payment in full when costs are assessed or make payment on an installment plan arranged with the court. Defendants making use of an installment plan shall pay a onetime setup fee of twenty dollars ($20.00) to cover the additional costs to the court of receiving and disbursing installment payments. Fees collected under this subsection shall be remitted to the State Treasurer for support of the General Court of Justice.

(g) Changes to the costs or fees in this section apply to costs or fees assessed or collected on or after the effective date of the change. However, in misdemeanor or infraction cases disposed of on or after the effective date by written appearance, waiver of trial or hearing, or plea of guilt or admission of responsibility pursuant to G.S. 7A-180(4) or G.S. 7A-273(2), and within the time limit imposed by G.S. 7A-304(a)(6), in which the citation or other criminal process was issued before the effective date, the costs or fees shall be the lesser of those specified in this section as amended, or those specified in the notice portion of the defendant's or respondent's copy of the citation or other criminal process, if any costs or fees are specified in that notice. (1965, c. 310, s. 1; 1967, c. 601, s. 2; c. 691, ss. 27-29; c. 1049, s. 5; 1969, c. 1013, s. 3; c. 1190, ss. 28, 29; 1971, c. 377, ss. 19-21; c. 1129; 1973, c. 47, s. 2; 1975, c. 558, ss. 1, 2; 1975, 2nd Sess., c. 980, s. 1; 1979, c. 576, s. 3; 1981, c. 369; c. 691, s. 1; c. 896, s. 2; c. 959, s. 1; 1983, c. 713, ss. 2, 3; 1983 (Reg. Sess., 1984), c. 1034, s. 249; 1985, c. 479, s. 196(a); c. 729, ss. 2-4; c. 764, s. 17; 1986, Ex. Sess., c. 5; 1985 (Reg. Sess., 1986), c. 852, s. 17; c. 1015, s. 1; 1989, c. 664,

ss. 1, 2; c. 786, s. 1; 1989 (Reg. Sess., 1990), c. 1044, s. 1; 1991, c. 742, s. 15(a); 1991 (Reg. Sess., 1992), c. 811, s. 1; 1993, c. 313, s. 2; 1996, 2nd Ex. Sess., c. 18, s. 22.13(a); 1997-475, s. 4.1; 1998-212, ss. 19.4(k), 29A.12(a); 2000-109, s. 4(a); 2000-144, s. 2; 2001-424, s. 22.14(a); 2002-126, ss. 29A.4(a), 29A.8(a), 29A.9(b); 2003-284, s. 30.19B(a); 2004-186, s. 4.4; 2005-250, s. 1; 2005-276, ss. 43.1(a), 29.30(b); 2005-363, s. 1; 2007-323, s. 30.8(a); 2008-107, s. 29.8(a); 2008-118, s. 2.9(a); 2009-451, s. 15.20(a), (b), (c); 2009-516, s. 1; 2009-575, s. 13A; 2010-31, s. 15.5(a); 2010-123, s. 6.1; 2010-147, s. 7.1; 2011-19, s. 5; 2011-145, ss. 15.10(a), 19.1(h), 31.23(a), 31.23B, 31.26(b), (c), 31.26A; 2011-191, s. 4; 2011-192, s. 7(n), (o); 2011-326, s. 2; 2011-391, ss. 63(a), (b), 66; 2012-142, ss. 16.5(b), 16.6(b); 2013-360, ss. 17.6(g), 18B.18(a), 18B.19(a); 2014-100, s. 18B.14(a); 2015-241, ss. 18A.11, 18A.23(b); 2015-247, s. 1(a); 2017-57, ss. 18B.5(a), 18B.6(a), 18B.10(a); 2018-5, s. 18B.1.)

§ 7A-305. Costs in civil actions.

(a) In every civil action in the superior or district court, except for actions brought under Chapter 50B of the General Statutes, shall be assessed:

(1) For the use of the courtroom and related judicial facilities, the sum of twelve dollars ($12.00) in cases heard before a magistrate, and the sum of sixteen dollars ($16.00) in district and superior court, to be remitted to the county in which the judgment is rendered, except that in all cases in which the judgment is rendered in facilities provided by a municipality, the facilities fee shall be paid to the municipality. Funds derived from the facilities fees shall be used in the same manner, for the same purposes, and subject to the same restrictions, as facilities fees assessed in criminal actions.

(1a) For the upgrade, maintenance, and operation of the judicial and county courthouse telecommunications and data connectivity, the sum of four dollars ($4.00), to be credited to the Court Information Technology Fund.

(2) For support of the General Court of Justice, the sum of one hundred eighty dollars ($180.00) in the superior court and the sum of one hundred thirty dollars ($130.00) in the district court except that if the case is assigned to a magistrate the sum shall be eighty dollars ($80.00). If a case is designated as a mandatory complex business case under G.S. 7A-45.4, upon assignment to a Business Court Judge, the party filing the designation shall pay an additional one thousand one hundred dollars ($1,100) for support of the General Court of Justice. If a case is designated as a complex business case under Rule 2.1 and Rule 2.2 of the General Rules of Practice for the Superior and District Courts, upon assignment to a Business Court Judge, the plaintiff shall pay an additional one thousand one hundred dollars ($1,100) for support of the General Court of Justice. Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of ninety-five cents ($.95) of each fee collected under this subdivision to the

North Carolina State Bar for the provision of services described in G.S. 7A-474.19.

(a1) Costs apply to any and all additional and subsequent actions filed by amendment or counterclaim to the original action brought under Chapter 50B of the General Statutes, unless such additional and subsequent amendment or counterclaim to the action is limited to requests for relief authorized by Chapter 50B of the General Statutes.

(a2) In every action for absolute divorce filed in the district court, a cost of seventy-five dollars ($75.00) shall be assessed against the person filing the divorce action. Costs collected by the clerk pursuant to this subsection shall be remitted to the State Treasurer, who shall deposit seventy-five dollars ($75.00) to the Domestic Violence Center Fund established under G.S. 50B-9. Costs assessed under this subsection shall be in addition to any other costs assessed under this section.

(a3), (a4) Repealed by Session Laws 2008-118, s. 2.9(c), effective July 1, 2008.

(a5) In every civil action in the superior or district court wherein a party files a pleading containing one or more counterclaims, third-party complaints, or cross-claims, except for counterclaim and cross-claim actions brought under Chapter 50B of the General Statutes for which costs are assessed pursuant to subsection (a1) of this section, the following shall be assessed:

(1) For the use of the courtroom and related judicial facilities, the sum of twelve dollars ($12.00) in cases heard before a magistrate, and the sum of sixteen dollars ($16.00) in district and superior court, to be remitted to the municipality providing the facilities in which the judgment is rendered. If a municipality does not provide the facilities in which the judgment is rendered, the sum is to be remitted to the county in which the judgment is rendered. Funds derived from the facilities' fees shall be used in the same manner, for the same purposes, and subject to the same restrictions as facilities' fees assessed in criminal actions.

(2) For the upgrade, maintenance, and operation of the judicial and county courthouse phone systems, the sum of four dollars ($4.00), to be credited to the Court Information Technology Fund.

(3) For support of the General Court of Justice, the sum of one hundred eighty dollars ($180.00) in the superior court, except that if a case is assigned to a special superior court judge as a complex business case under G.S. 7A-45.3, filing fees shall be collected and disbursed in accordance with subsection (a) of this section, and the sum of one hundred thirty dollars ($130.00) in the district court, except that if the case is assigned to a magistrate, the sum shall be eighty dollars ($80.00). Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of ninety-five cents ($.95) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.19.

(b) On appeal, costs are cumulative, and when cases heard before a magistrate are appealed to the district court, the General Court of Justice fee and the facilities fee

applicable in the district court shall be added to the fees assessed before the magistrate. When an order of the clerk of the superior court is appealed to either the district court or the superior court, no additional General Court of Justice fee or facilities fee shall be assessed.

(b1) When a defendant files an answer in an action filed as a small claim which requires the entire case to be withdrawn from a magistrate and transferred to the district court, the difference between the General Court of Justice fee and facilities fee applicable to the district court and the General Court of Justice fee and facilities fee applicable to cases heard by a magistrate shall be assessed. The defendant is responsible for paying the fee.

(c) The clerk of superior court, at the time of the filing of the papers initiating the action or the appeal, shall collect as advance court costs, the facilities fee, General Court of Justice fee, and the divorce fee imposed under subsection (a2) of this section, except in suits by an indigent. The clerk shall also collect the fee for discovery procedures under Rule 27(a) and (b) at the time of the filing of the verified petition.

(d) The following expenses, when incurred, are assessable or recoverable, as the case may be. The expenses set forth in this subsection are complete and exclusive and constitute a limit on the trial court's discretion to tax costs pursuant to G.S. 6-20:

(1) Witness fees, as provided by law.
(2) Jail fees, as provided by law.
(3) Counsel fees, as provided by law.
(4) Expense of service of process by certified mail and by publication.
(5) Costs on appeal to the superior court, or to the appellate division, as the case may be, of the original transcript of testimony, if any, insofar as essential to the appeal.
(6) Fees for personal service and civil process and other sheriff's fees, as provided by law. Fees for personal service by a private process server may be recoverable in an amount equal to the actual cost of such service or fifty dollars ($50.00), whichever is less, unless the court finds that due to difficulty of service a greater amount is appropriate.
(7) Fees of mediators appointed by the court, mediators agreed upon by the parties, guardians ad litem, referees, receivers, commissioners, surveyors, arbitrators, appraisers, and other similar court appointees, as provided by law. The fee of such appointees shall include reasonable reimbursement for stenographic assistance, when necessary.
(8) Fees of interpreters, when authorized and approved by the court.
(9) Premiums for surety bonds for prosecution, as authorized by G.S. 1-109.
(10) Reasonable and necessary expenses for stenographic and videographic assistance directly related to the taking of depositions and for the cost of deposition transcripts.
(11) Reasonable and necessary fees of expert witnesses solely for actual time spent providing testimony at trial, deposition, or other proceedings.

(12) The fee assessed pursuant to subdivision (2) of subsection (a) of this section upon assignment of a case to a special superior court judge as a complex business case.

Nothing in this subsection or in G.S. 6-20 shall be construed to limit the trial court's authority to award fees and expenses in connection with pretrial discovery matters as provided in Rule 26(b) or Rule 37 of the Rules of Civil Procedure, and no award of costs made pursuant to this section or pursuant to G.S. 6-20 shall reverse or modify any such orders entered in connection with pretrial discovery.

(e) Nothing in this section shall affect the liability of the respective parties for costs as provided by law.

(f) For the support of the General Court of Justice, the sum of twenty dollars ($20.00) shall accompany any filing of a notice of hearing on a motion not listed in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed to a notice of hearing on a motion containing as a sole claim for relief the taxing of costs, including attorneys' fees, to a motion filed pursuant to G.S. 1C-1602 or G.S. 1C-1603, or to a motion filed by a child support enforcement agency established pursuant to Part D of Title IV of the Social Security Act. No more than one fee shall be assessed for any motion for which a notice of hearing is filed, regardless of whether the hearing is continued, rescheduled, or otherwise delayed. (1965, c. 310, s. 1; 1967, c. 108, s. 10; c. 691, s. 30; 1971, c. 377, ss. 23, 24; c. 1181, s. 1; 1973, c. 503, ss. 12-14; c. 1267, s. 3; 1975, c. 558, s. 3; 1975, 2nd Sess., c. 980, ss. 2, 3; 1979, 2nd Sess., c. 1234, s. 1; 1981, c. 555, s. 6; c. 691, s. 2; 1983, c. 713, ss. 4-6; 1989, c. 786, s. 2; 1991, c. 742, s. 15(b); 1991 (Reg. Sess., 1992), c. 811, s. 2; 1993, c. 435, s. 6; 1995, c. 275, s. 2; 1998-212, s. 29A.12(b); 1998-219, ss. 2, 3; 2000-109, s. 4(b); 2001-424, s. 22.14(b); 2002-126, ss. 29A.4(b), 29A.6(e); 2004-186, s. 4.3; 2005-276, s. 43.1(b); 2005-405, s. 5; 2005-425, s. 1.2; 2007-212, s. 3; 2007-293, s. 2; 2007-323, ss. 30.8(b), 30.10(a), 30.11(a), (c); 2007-345, ss. 9.1(a), (c); 2008-107, ss. 29.1(a), 29.8(b); 2008-118, s. 2.9(c); 2008-193, s. 2; 2009-451, s. 15.20(d), (e); 2010-31, ss. 15.5(b), 15.8(a); 2010-123, s. 6.1; 2011-145, s. 31.23(b); 2012-142, s. 16.5(c); 2013-225, ss. 2, 3, 4(a); 2013-360, ss. 18B.17(a), 30.2(a), 30.2(a1); 2013-363, s. 7.1; 2014-102, s. 4; 2015-241, s. 18A.23(c); 2017-57, s. 18B.10(b); 2017-197, s. 5.4A(a).)

§ 7A-305.1. Discovery, fee on filing verified petition.

When discovery procedures under Rule 27 of the Rules of Civil Procedure are utilized, the sum of twenty dollars ($20.00) shall be assessed and collected by the clerk at the time of the filing of the verified petition. If a civil action is subsequently initiated, the twenty dollars ($20.00) shall be credited against costs in the civil action. (1971, c. 377, s. 22.)

§ 7A-306. Costs in special proceedings.

(a) In every special proceeding in the superior court, the following costs shall be assessed:

(1) For the use of the courtroom and related judicial facilities, the sum of ten dollars ($10.00) to be remitted to the county. Funds derived from the facilities fees shall be used in the same manner, for the same purposes,

and subject to the same restrictions, as facilities fees assessed in criminal actions.

(1a) For the upgrade, maintenance, and operation of the judicial and county courthouse telecommunications and data connectivity, the sum of four dollars ($4.00), to be credited to the Court Information Technology Fund.

(2) For support of the General Court of Justice the sum of one hundred six dollars ($106.00). In addition, in proceedings involving land, except boundary disputes, if the fair market value of the land involved is over one hundred dollars ($100.00), there shall be an additional sum of thirty cents (30¢) per one hundred dollars ($100.00) of value, or major fraction thereof, not to exceed a maximum additional sum of two hundred dollars ($200.00). Fair market value is determined by the sale price if there is a sale, the appraiser's valuation if there is no sale, or the appraised value from the property tax records if there is neither a sale nor an appraiser's valuation. Sums collected under this subdivision shall be remitted to the State Treasurer.

(b) The facilities fee and thirty dollars ($30.00) of the General Court of Justice fee are payable at the time the proceeding is initiated.

(c) The following additional expenses, when incurred, are assessable or recoverable, as the case may be:

(1) Witness fees, as provided by law.

(2) Counsel fees, as provided by law.

(3) Costs on appeal, of the original transcript of testimony, if any, insofar as essential to the appeal.

(4) Fees for personal service of civil process, and other sheriff's fees, and for service by publication, as provided by law.

(5) Fees of guardians ad litem, referees, receivers, commissioners, surveyors, arbitrators, appraisers, and other similar court appointees, as provided by law. The fees of such appointees shall include reasonable reimbursement for stenographic assistance, when necessary.

(d) Costs assessed before the clerk shall be added to costs assessable on appeal to the judge or upon transfer to the civil issue docket.

(e) Nothing in this section shall affect the liability of the respective parties for costs, as provided by law.

(f) This section does not apply to a foreclosure under power of sale in a deed of trust or mortgage.

(g) For the support of the General Court of Justice, the sum of twenty dollars ($20.00) shall accompany any filing of a notice of hearing on a motion not listed in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed to a notice of hearing on a motion containing as a sole claim for relief the taxing of costs, including attorneys' fees, or to a motion filed pursuant to G.S. 1C-1602 or G.S. 1C-1603. No more than one fee shall be assessed for any motion for which a notice of hearing is filed, regardless of whether the hearing is continued, rescheduled, or otherwise delayed. (1965, c. 310, s. 1; 1967, c.

24, s. 2; 1971, c. 377, s. 25; c. 1181, s. 1; 1973, c. 503, s. 15; 1981, c. 691, s. 3; 1983, c. 713, ss. 7-9; c. 881, s. 4; 1985, c. 511, s. 1; 1989, c. 646, s. 1; 1991 (Reg. Sess., 1992), c. 811, s. 3; 1998-212, s. 29A.12(c); 2000-109, s. 4(c); 2001-424, s. 22.14(c); 2002-135, s. 1; 2005-276, s. 43.1(c); 2007-323, s. 30.8(c); 2008-107, s. 29.8(c); 2009-451, s. 15.20(f), (g); 2011-145, s. 31.23(c); 2012-142, s. 16.5(d); 2013-225, s. 4(b); 2013-360, s. 18B.17(b); 2015-241, s. 18A.23(d); 2017-197, s. 5.4A(b).)

§ 7A-307. Costs in administration of estates.

(a) In the administration of the estates of decedents, minors, incompetents, of missing persons, in the administration of trusts under wills and under powers of attorney, in trust proceedings under G.S. 36C-2-203, in estate proceedings under G.S. 28A-2-4, in power of attorney proceedings under G.S. 32C-1-116(a), and in collections of personal property by affidavit, the following costs shall be assessed:

(1) For the use of the courtroom and related judicial facilities, the sum of ten dollars ($10.00), to be remitted to the county. Funds derived from the facilities fees shall be used in the same manner, for the same purposes, and subject to the same restrictions, as facilities fees assessed in criminal actions.

(1a) For the upgrade, maintenance, and operation of the judicial and county courthouse telecommunications and data connectivity, the sum of four dollars ($4.00), to be credited to the Court Information Technology Fund.

(2) For support of the General Court of Justice, the sum of one hundred six dollars ($106.00), plus an additional forty cents (40¢) per one hundred dollars ($100.00), or major fraction thereof, of the gross estate, not to exceed six thousand dollars ($6,000). Gross estate shall include the fair market value of all personal property when received, and all proceeds from the sale of realty coming into the hands of the fiduciary, but shall not include the value of realty. In collections of personal property by affidavit, the fee based on the gross estate shall be computed from the information in the final affidavit of collection made pursuant to G.S. 28A-25-3 and shall be paid when that affidavit is filed. In all other cases, this fee shall be computed from the information reported in the inventory. If additional gross estate, including income, comes into the hands of the fiduciary after the filing of the inventory, the fee for such additional value shall be computed from the information reported in the account or report disclosing such additional value. For each filing the minimum fee shall be fifteen dollars ($15.00). Sums collected under this subdivision shall be remitted to the State Treasurer.

(2a) Notwithstanding subdivision (2) of this subsection, the fee of forty cents (40¢) per one hundred dollars ($100.00), or major fraction, of the gross estate, not to exceed six thousand dollars ($6,000), shall not be assessed on personal property received by a trust under a will when the estate of the decedent was administered under Chapters 28 or 28A of the General

Statutes. Instead, a fee of twenty dollars ($20.00) shall be assessed on the filing of each annual and final account. However, the fee shall be assessed only on newly contributed or acquired assets, all interest or other income that accrues or is earned on or with respect to any existing or newly contributed or acquired assets, and realized gains on the sale of any and all trust assets. Newly contributed or acquired assets do not include assets acquired by the sale, transfer, exchange, or otherwise of the amount of trust property on which fees were previously assessed.

(2b) Notwithstanding subdivisions (1) and (2) of this subsection, no costs shall be assessed when the estate is administered or settled pursuant to G.S. 28A-25-6.

(2c) Notwithstanding subdivision (2) of this subsection, the fee of forty cents (40¢) per one hundred dollars ($100.00), or major fraction, of the gross estate shall not be assessed on the gross estate of a trust that is the subject of a proceeding under G.S. 36C-2-203 if there is no requirement in the trust that accountings be filed with the clerk.

(2d) Notwithstanding subdivisions (1) and (2) of this subsection, the only cost assessed in connection with the qualification of a limited personal representative under G.S. 28A-29-1 shall be a fee of twenty dollars ($20.00) to be assessed upon the filing of the petition.

(3) For probate of a will without qualification of a personal representative, the clerk shall assess a facilities fee as provided in subdivision (1) of this subsection and shall assess for support of the General Court of Justice, the sum of twenty dollars ($20.00).

(4) For the support of the General Court of Justice, the sum of twenty dollars ($20.00) shall accompany any filing of a notice of hearing on a motion not listed in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed to a notice of hearing on a motion containing as a sole claim for relief the taxing of costs, including attorneys' fees, or to a motion filed pursuant to G.S. 1C-1602 or G.S. 1C-1603. No more than one fee shall be assessed for any motion for which a notice of hearing is filed, regardless of whether the hearing is continued, rescheduled, or otherwise delayed.

(5) For the filing of a caveat to a will, the clerk shall assess for support of the General Court of Justice, the sum of two hundred dollars ($200.00).

(6) Notwithstanding subdivisions (1) and (2) of this subsection, the only cost assessed in connection with the reopening of an estate administration under G.S. 28A-23-5 shall be forty cents (40¢) per one hundred dollars ($100.00), or major fraction, of any additional gross estate, including income, coming into the hands of the fiduciary after the estate is reopened; provided that the total cost assessed when added to the total cost assessed in all prior administrations of the estate shall not exceed six thousand dollars ($6,000).

(b) In collections of personal property by affidavit, the facilities fee and thirty dollars ($30.00) of the General Court of Justice fee shall be paid at the time of filing the qualifying affidavit pursuant to G.S. 28A-25-1. If the sole asset of the estate is a cause of action, these fees shall be paid at the time of the qualification of the fiduciary.

(b1) The clerk shall assess the following miscellaneous fees:

(1) Filing and indexing a will with no probate
- first page ..... $ 1.00
- each additional page or fraction thereof 25

(2) Issuing letters to fiduciaries, per letter over five letters issued 1.00

(3) Inventory of safe deposits of a decedent, per box, per day 15.00

(4) Taking a deposition..... 10.00

(5) Docketing and indexing a will probated in another county in the State
- first page 6.00
- each additional page or fraction thereof 25

(6) Hearing petition for year's allowance to surviving spouse or child, in cases not assigned to a magistrate, and allotting the same 8.00

(c) The following additional expenses, when incurred, are also assessable or recoverable, as the case may be:

(1) Witness fees, as provided by law.

(2) Counsel fees, as provided by law.

(3) Costs on appeal, of the original transcript of testimony, if any, insofar as essential to the appeal.

(4) Fees for personal service of civil process, and other sheriff's fees, as provided by law.

(5) Fees of guardians ad litem, referees, receivers, commissioners, surveyors, arbitrators, appraisers, and other similar court appointees, as provided by law.

(d) Costs assessed before the clerk shall be added to costs assessable on appeal to the judge or upon transfer to the civil issue docket.

(e) Nothing in this section shall affect the liability of the respective parties for costs, as provided by law. (1965, c. 310, s. 1; 1967, c. 691, s. 31; 1969, c. 1190, s. 30; 1971, c. 1181, s. 1; 1973, c. 1335, s. 1; 1981, c. 691, s. 4; 1983, c. 713, ss. 10-17; 1985, c. 481, ss. 1-5; 1985 (Reg. Sess., 1986), c. 855; 1987, c. 837; 1989, c. 719; 1991 (Reg. Sess., 1992), c. 811, ss. 4, 5; 1997-310, s. 4; 1998-212, s. 29A.12(d); 2000-109, s. 4(d); 2001-413, s. 1.2; 2001-424, s. 22.14(d); 2002-135, ss. 2, 3; 2005-276, s. 43.1(d); 2007-323, ss. 30.8(d), 30.10(b); 2008-107, s. 29.8(d); 2008-193, s. 2; 2009-444, s. 3; 2009-451, s. 15.20(h), (i); 2009-570, s. 29; 2011-145, s. 31.23(d); 2011-344, s. 2; 2011-391, s. 62; 2012-142, s. 16.5(e); 2013-225, s. 4(c); 2013-360, s. 18B.17(c); 2015-241, s. 18A.23(e); 2017-158, s. 13; 2017-197, s. 5.4A(c); 2018-40, s. 3.)

§ 7A-308. Miscellaneous fees and commissions.

(a) The following miscellaneous fees and commissions shall be collected by the clerk of superior court and remitted to the State for the support of the General Court of Justice:

(1) Foreclosure under power of sale in deed of trust or mortgage $300.00
If the property is sold under the power of sale, an additional amount will be charged, determined by the following formula: forty-five cents (.45) per one hundred dollars ($100.00), or major fraction thereof, of the final sale price. If the amount determined by the formula is less than ten dollars ($10.00), a minimum ten dollar ($10.00) fee will be collected. If the amount determined by the formula is more than five hundred dollars ($500.00), a maximum five hundred-dollar ($500.00) fee will be collected.

(2) Proceeding supplemental to execution 30.00

(3) Confession of judgment 25.00

(4) Taking a deposition.....10.00

(5) Execution 25.00

(6) Notice of resumption of former name 10.00

(7) Taking an acknowledgment or administering an oath, or both, with or without seal, each certificate (except that oaths of office shall be administered to public officials without charge)..... $2.00

(8) Bond, taking justification or approving 10.00

(9) Certificate, under seal 3.00

(10) Exemplification of records 10.00

(11) Recording or docketing (including indexing) any document
– first page 6.00
- each additional page or fraction thereof 25

(12) Preparation of copies – first page (of each document copied) 2.00
- each additional page or fraction thereof 25

(13) Preparation and docketing of transcript of judgment 10.00

(14) Substitution of trustee in deed of trust 10.00

(15) Execution of passport application – the amount allowed by federal law

(16) Repealed by Session Laws 1989, c. 783, s. 2.

(17) Criminal record search except if search is requested by an agency of the State or any of its political subdivisions or by an agency of the United States or by a petitioner in a proceeding under Article 2 of General Statutes Chapter 20..... 25.00

(18) Filing the affirmations, acknowledgments, agreements and resulting orders entered into under the provisions of G.S. 110-132 and G.S. 110-133..... 6.00

(19) Repealed by Session Laws 1989, c. 783, s. 3.

(20) Filing a motion to assert a right of access under G.S. 1-72.1 .....30.00

(21) In civil matters, except in actions commenced or prosecuted by a child support enforcement agency established pursuant to Part D of Title IV of the Social Security Act, all alias and pluries summons issued and all endorsements issued on an original summons ..... $15.00.

(b) The fees and commissions set forth in this section are not chargeable when the service is performed as a part of the regular disposition of any action or special proceeding or the administration of an estate. When a transaction involves more than one of the services set forth in this section, only the greater service fee shall be charged. The Director of the Administrative Office of the courts shall issue guidelines pursuant to G.S. 7A-343(3) to be followed in administering this subsection.

(b1) The fees set forth in subdivisions (9) and (12) of subsection (a) of this section are not chargeable when copies or certificates under seal are requested by an attorney who has been appointed or who is under contract with the Office of Indigent Defense Services to represent an indigent person at State expense, if the request is made in connection with the appointed case or the contract and during the duration of the appointment or the contract.

(b2) The fees set forth in subdivision (11) of subsection (a) of this section are not chargeable when service is performed or documents are filed pursuant to the provisions of G.S. 14-112.3.

(c) A person who participates in a program for the collection of worthless checks under G.S. 14-107.2 must pay a fee of sixty dollars ($60.00). The fee collected under this subsection must be remitted to the State by the clerk of the court in the county in which the program is established and credited to the Collection of Worthless Checks Fund. The Collection of Worthless Checks Fund is created as a special revenue fund. Revenue in the Fund does not revert at the end of the fiscal year, and interest and other investment income earned by the Fund accrues to the Fund. The money in the Fund is subject to appropriation by the General Assembly and may be used solely for the expenses of the programs established under G.S. 14-107.2 for the collection of worthless checks, including personnel, equipment, and other costs of district attorneys' offices that are attributable to the provision of these programs. (1965, c. 310, s. 1; 1967, c. 691, ss. 32, 33; 1969, c. 1190, s. 31; 1971, c. 956, s. 2; 1973, c. 503, s. 16; c. 886; 1975, c. 829; 1981, c. 313, s. 1; 1983, c. 713, s. 18; 1985, c. 475, ss. 2, 3; c. 481, ss. 6-8; c. 511, s. 2; 1989, c. 783, ss. 2-4; c. 786, ss. 1, 3; 1997-114, s. 1; 1997-443, s. 18.22(a); 1998-23, s. 11; 1998-212, s. 16.3; 1999-237, s. 17.7; 2000-67, s. 15.3A(a); 2000-109, s. 4(e); 2001-516, s. 2; 2002-126, ss. 29A.7(a), 29A.13.1(a); 2002-135, s. 4; 2003-284, s. 36A.2; 2005-251, s. 1; 2007-323, ss. 30.8(e), (f), 30.10(c); 2008-193, s. 2; 2009-317, s. 1; 2009-451, s. 15.20(l); 2011-145, s. 31.23(e), (g); 2011-285, s. 1; 2011-391, s. 66.1; 2013-225, s. 4(d), (e); 2015-182, s. 3.5.)

§ 7A-308.1. Fees on deposits and investments.

On all funds received by the clerk by virtue or color of his office and deposited pursuant to G.S. 7A-112.1 or invested pursuant to G.S. 7A-112, one or both of the fees provided for in this section shall be assessed and collected as follows:

(1) On all funds deposited by the clerk in an interest bearing checking account pursuant to G.S. 7A-112.1, a fee of four percent (4%) of each principal amount so deposited shall be assessed and collected, subject to the following conditions:

a. The fee shall be collected from interest earnings only and shall not exceed the amount of the interest earnings on any principal amount so deposited, or seven hundred fifty dollars ($750.00), whichever is less;

b. All fees collected pursuant to this subsection shall be paid to the county as court facilities fees and used as prescribed in G.S. 7A-304(a)(2);

c. All interest earnings in excess of the prescribed fee shall be remitted to the beneficial owner or owners of any principal amount when that amount is withdrawn and distributed by the clerk; and

d. If any principal amount is withdrawn from the checking account and invested pursuant to G.S. 7A-112, any interest in excess of the prescribed clerk's fee which is invested with the principal amount shall be included in the fund upon which the fee provided for in subdivision (2) is computed.

(2) On all funds to be invested by the clerk pursuant to G.S. 7A-112, a fee equal to five percent (5%) of each fund shall be assessed and collected, subject to the following conditions:

a. The fee shall be charged and deducted from each fund before the fund is invested, and only the balance shall be invested;

b. Over the life of an account, the fees charged on the initial funds and all funds subsequently placed with the clerk for that account shall not exceed the investment earnings on the account or one thousand dollars ($1,000), whichever is less;

c. All fees collected pursuant to this subsection shall be remitted to the State Treasurer for the support of the General Court of Justice; and

d. Any fees charged in excess of the cumulative investment earnings on an account shall be refunded and all investment earnings in excess of the prescribed fee shall be remitted to the beneficial owner or owners when all funds in that account are finally withdrawn and distributed by the clerk. (1989, c. 783, s. 5.)

§ 7A-309. Magistrate's special fees.

The following special fees shall be collected by the magistrate and remitted to the clerk of superior court for the use of the State in support of the General Court of Justice:

(1)	Performing marriage ceremony	$20.00
(2)	Hearing petition for year's allowance to surviving spouse or child, issuing notices to commissioners, allotting the same, and making return	8.00
(3)	Taking a deposition	10.00
(4)	Proof of execution or acknowledgment of any instrument	2.00
(5)	Performing any other statutory function not incident to a civil or criminal action	$ 2.00.

(1965, c. 310, s. 1; 1973, c. 503, s. 17; 1983, c. 713, s. 19; 2002-126, s. 29A.10(a).)

§ 7A-310. Fees of commissioners and assessors appointed by magistrate.

Any person appointed by a magistrate as a commissioner or assessor, and who shall serve, shall be paid the sum of two dollars ($2.00), to be taxed as a part of the bill of costs of the proceeding. (1965, c. 310, s. 1.)

§ 7A-311. Uniform civil process fees.

(a) In a civil action or special proceeding, except for actions brought under Chapter 50B of the General Statutes, the following fees and commissions shall be assessed, collected, and remitted to the county:

(1) a. For each item of civil process served, including summons, subpoenas, notices, motions, orders, writs and pleadings, the sum of thirty dollars ($30.00). When two or more items of civil process are served simultaneously on one party, only one thirty-dollar ($30.00) fee shall be charged.

b. When an item of civil process is served on two or more persons or organizations, a separate service charge shall be made for each person or organization. The process fee shall be remitted to the county. This subsection shall not apply to service of summons to jurors.

c. At least fifty percent (50%) of the fees collected pursuant to this subdivision shall be used by the county to ensure the timely service of process within the county, which may include the hiring of additional law enforcement personnel upon the recommendation of the sheriff.

(2) For the seizure of personal property and its care after seizure, all necessary expenses, in addition to any fees for service of process.

(3) For all sales by the sheriff of property, either real or personal, or for funds collected by the sheriff under any judgment, five percent (5%) on the first five hundred dollars ($500.00), and two and one-half percent (2 1/2%) on all sums over five hundred dollars ($500.00), plus necessary expenses of sale. Whenever an execution is issued to the sheriff, and subsequently while the execution is in force and outstanding, and after the sheriff has served or attempted to serve such execution, the judgment, or any part thereof, is paid directly or indirectly to the judgment creditor, the fee herein is payable to the sheriff on the amount so paid. The judgment creditor shall be responsible for collecting and paying all execution fees on amounts paid directly to the judgment creditor.

(4) For execution of a judgment of ejectment, all necessary expenses, in addition to any fees for service of process.

(5) For necessary transportation of individuals to or from State institutions or another state, the same mileage and subsistence allowances as are provided for State employees.

(b) All fees that are required to be assessed, collected, and remitted under subsection (a) of this section shall be collected in advance (except in suits in forma pauperis) except

those contingent on sales prices or statutory commissions. When the fee is not collected in advance or at the time of assessment, a lien shall exist in favor of the county on all property of the party owing the fee. If the fee remains unpaid it shall be entered as a judgment against the debtor and shall be docketed in the judgment docket in the office of the clerk of superior court.

(c) The process fees and commissions set forth in this section are complete and exclusive and in lieu of any and all other process fees and commissions in civil actions and special proceedings. (1965, c. 310, s. 1; 1967, c. 691, s. 34; 1969, c. 1190, s. 31 1/2; 1973, c. 417, ss. 1, 2; c. 503, s. 18; c. 1139; 1979, c. 801, s. 2; 1989 (Reg. Sess., 1990), c. 1044, s. 2; 1998-212, s. 29A.12(e); 2002-126, ss. 29A.6(f), 29A.6(g); 2004-113, s. 1; 2011-145, s. 31.26(d); 2011-192, s. 7(n); 2015-55, s. 2.)

§ 7A-312. Uniform fees for jurors; meals.

(a) A juror in the General Court of Justice including a petit juror, or a coroner's juror, but excluding a grand juror, shall receive twelve dollars ($12.00) for the first day of service and twenty dollars ($20.00) per day afterwards, except that if any person serves as a juror for more than five days in any 24-month period, the juror shall receive forty dollars ($40.00) per day for each day of service in excess of five days. A grand juror shall receive twenty dollars ($20.00) per day. A juror required to remain overnight at the site of the trial shall be furnished adequate accommodations and subsistence. If required by the presiding judge to remain in a body during the trial of a case, meals shall be furnished the jurors during the period of sequestration. Jurors from out of the county summoned to sit on a special venire shall receive mileage at the same rate as State employees. Persons summoned as jurors shall be exempt during their period of service from paying a ferry toll required under G.S. 136-82 to travel to and from their homes and the site of that service.

(b) Notwithstanding subsection (a) of this section, the Administrative Office of the Courts may select a judicial district to operate a pilot program in which a juror may waive payment of the per diem fees provided for in that subsection. A juror waiving the fee may designate that the fee be used for any of the following services, if such services are provided in the district: (i) client treatment and service programs associated with a drug treatment or DWI treatment court program; (ii) courthouse self-help centers; (iii) courthouse child care centers; (iv) legal aid programs operated by a nonprofit corporation operating within the district; and (v) the Crime Victims Compensation Fund. If no such services are provided within the district, then waived fees are transferred to the Crime Victims Compensation Fund. (1965, c. 310, s. 1; 1967, c. 1169; 1969, c. 1190, s. 32; 1971, c. 377, s. 26; 1973, c. 503, s. 19; 1979, c. 985; 1983, c. 881, ss. 2, 3; 1989, c. 646, s. 2; 1995, c. 324, ss. 21.1(a), (c); 2006-66, s. 14.17; 2006-187, s. 9; 2007-393, s. 16; 2012-180, s. 13.)

§ 7A-313. Uniform jail fees.

Persons who are lawfully confined in jail awaiting trial shall be liable to the county or municipality maintaining the jail in the sum of ten dollars ($10.00) for each 24 hours' confinement, or fraction thereof, except that a person so confined shall not be liable for this

fee if the case or proceeding against him is dismissed, or if acquitted, or if judgment is arrested, or if probable cause is not found, or if the grand jury fails to return a true bill.

Persons who are ordered to pay jail fees pursuant to a probationary sentence shall be liable to the county or municipality maintaining the jail at the same per diem rate paid by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety to local jails for maintaining a prisoner, as set by the General Assembly in its appropriations acts. (1965, c. 310, s. 1; 1969, c. 1190, s. 33; 1973, c. 503, s. 20; 1975, c. 444; 1989, c. 733, s. 1; 2000-109, s. 5; 2000-140, s. 104; 2011-145, ss. 19.1(h), 31.26(e); 2011-192, s. 7(n); 2017-186, s. 2(d).)

§ 7A-313.1. Fee for costs of electronic monitoring.

A county that provides the personnel, equipment, and other costs of providing electronic monitoring as a condition of an offender's bond or pretrial release may collect a fee from the offender that is the lesser of the amount of the jail fee authorized in G.S. 7A-313 or the actual cost of providing the electronic monitoring. A county may not collect a fee from an offender who is determined to be indigent and entitled to court-appointed counsel. (2011-378, s. 1.)

§ 7A-314. Uniform fees for witnesses; experts; limit on number.

(a) A witness under subpoena, bound over, or recognized, other than a salaried State, county, or municipal law-enforcement officer, or an out-of-state witness in a criminal case, whether to testify before the court, Judicial Standards Commission, jury of view, magistrate, clerk, referee, commissioner, appraiser, or arbitrator shall be entitled to receive five dollars ($5.00) per day, or fraction thereof, during his attendance, which, except as to witnesses before the Judicial Standards Commission, must be certified to the clerk of superior court. Compensation of witnesses acting on behalf of the court or prosecutorial offices shall be paid in accordance with the rules established by the Administrative Office of the Courts. Compensation of witnesses provided under G.S. 7A-454 shall be in accordance with rules established by the Office of Indigent Defense Services.

(b) A witness entitled to the fee set forth in subsection (a) of this section, and a law-enforcement officer who qualifies as a witness, shall be entitled to receive reimbursement for travel expenses as follows:

(1) A witness whose residence is outside the county of appearance but within 75 miles of the place of appearance shall be entitled to receive mileage reimbursement at the rate currently authorized for State employees, for each mile necessarily traveled from his place of resident to the place of appearance and return, each day. Reimbursements to witnesses acting on behalf of the court or prosecutorial offices shall be paid in accordance with the rules established by the Administrative Office of the Courts. Reimbursements to witnesses provided under G.S. 7A-454 shall be in accordance with rules established by the Office of Indigent Defense Services.

(2) A witness whose residence is outside the county of appearance and more than 75 miles from the place of appearance shall be entitled to receive mileage reimbursement at the rate currently authorized State employees for one round-trip from his place of residence to the place of appearance. A witness required to appear more than one day shall be entitled to receive reimbursement for actual expenses incurred for lodging and meals not to exceed the maximum currently authorized for State employees, in lieu of daily mileage. Reimbursements to witnesses acting on behalf of the court or prosecutorial offices shall be paid in accordance with the rules established by the Administrative Office of the Courts. Reimbursements to witnesses provided under G.S. 7A-454 shall be in accordance with rules established by the Office of Indigent Defense Services.

(c) A witness who resides in a state other than North Carolina and who appears for the purpose of testifying in a criminal action and proves his attendance may be compensated at the rate allowed to State officers and employees by subdivisions (1) and (2) of G.S. 138-6(a) for one round-trip from his place of residence to the place of appearance, and five dollars ($5.00) for each day that he is required to travel and attend as a witness, upon order of the court based upon a finding that the person was a necessary witness. If such a witness is required to appear more than one day, he is also entitled to reimbursement for actual expenses incurred for lodging and meals, not to exceed the maximum currently authorized for State employees. Reimbursements to witnesses acting on behalf of the court or prosecutorial offices shall be paid in accordance with the rules established by the Administrative Office of the Courts. Reimbursements to witnesses provided under G.S. 7A-454 shall be in accordance with rules established by the Office of Indigent Defense Services.

(d) Subject to the specific limitations set forth in G.S. 7A-305(d)(11), an expert witness, other than a salaried State, county, or municipal law-enforcement officer, shall receive such compensation and allowances as the court, or the Judicial Standards Commission, in its discretion, may authorize. A law-enforcement officer who appears as an expert witness shall receive reimbursement for travel expenses only, as provided in subsection (b) of this section. Compensation of experts acting on behalf of the court or prosecutorial offices shall be paid in accordance with the rules established by the Administrative Office of the Courts. Compensation of experts provided under G.S. 7A-454 shall be in accordance with rules established by the Office of Indigent Defense Services.

(e) If more than two witnesses are subpoenaed, bound over, or recognized, to prove a single material fact, the expense of the additional witnesses shall be borne by the party issuing or requesting the subpoena.

(f) Repealed by Session Laws 2012-142, s. 16.3(a), effective July 1, 2012. (1965, c. 310, s. 1; 1969, c. 1190, s. 34; 1971, c. 377, s. 27; 1973, c. 503, ss. 21, 22; 1983, c. 713, s. 20; 1998-212, s. 16.25(a); 2000-144, s. 3; 2006-187, s. 5(a); 2007-323, s. 14.23; 2010-31, s. 15.7; 2011-391, s. 64; 2012-142, s. 16.3(a); 2015-153, s. 2.)

§ 7A-314.1. Family court fees.

(a) The Administrative Office of the Courts may charge a uniform fee of not more than fifty dollars ($50.00) per hour to persons receiving the services of a supervised visitation and exchange center through a family court program. The fees collected under this section may be used by the Director of the Administrative Office of the Courts to support the continued operation of supervised visitation and exchange centers which provide services to family court clients regarding domestic violence, substance abuse, mental illness, parental alienation, and other issues.

(b) The Director of the Administrative Office of the Courts may establish a procedure for persons to apply for a reduction in the fee, based upon the person's ability to pay as a result of indigence, status as a victim of domestic violence, or other circumstances. (2004-110, s. 7.1; 2013-304, s. 1.)

§ 7A-315. Liability of State for witness fees in criminal cases when defendant not liable.

In a criminal action, if no prosecuting witness is designated by the court as liable for the costs, and the defendant is acquitted, or convicted and unable to pay, or a nolle prosequi is entered, or judgment is arrested, or probable cause is not found, or the grand jury fails to return a true bill, the State shall be liable for the witness fees allowed per G.S. 7A-314 and any expenses for blood tests and comparisons incurred per G.S. 8-50.1(a). (1965, c. 310, s. 1; 1979, c. 576, s. 4.)

§ 7A-316. Payment of witness fees in criminal actions.

A witness in a criminal action who is entitled to a witness fee and who proves his attendance prior to assessment of the bill of costs shall be paid by the clerk from State funds and the amount disbursed shall be assessed in the bill of costs. When the State is liable for the fee, a witness who proves his attendance not later than the last day of court in the week in which the trial was completed shall be paid by the clerk from State funds. If more than two witnesses shall be subpoenaed, bound over, or recognized, to prove a single material fact, disbursements to such additional witnesses shall be charged against the party issuing or requesting the subpoena. (1965, c. 310, s. 1; 1971, c. 377, s. 28.)

§ 7A-317. Counties and municipalities required to advance costs and fees.

(a) Counties and municipalities required to advance pay all costs and fees due to the court at the time of filing. The clerk of superior court may consent to allow the county or municipality to pay all costs and fees within 45 days of the date of the filing of any action in lieu of paying costs and fees at the time of filing.

(b) The clerk of superior court shall withhold all facilities fees due to be remitted to a county or municipality when the county or municipality does not pay costs and fees due to the court within 90 days of the date of filing any action. (1967, c. 691, s. 35; 2007-323, s. 30.10(d); 2008-193, ss. 1-3; 2013-225, s. 5.)

§ 7A-317.1. Disposition of fees in counties with unincorporated seats of court.

Notwithstanding any other provision of this Article, if a municipality listed in G.S. 7A-133 as an additional seat of district court is not incorporated, the arrest, facilities, and jail fees which would ordinarily accrue thereto, shall instead accrue to the county in which the unincorporated municipality is located. (1969, c. 1190, s. 34 1/2.)

§ 7A-318. Determination and disbursement of costs on and after date district court established.

(a) On and after the date that the district court is established in a judicial district, costs in every action, proceeding or other matter pending in the General Court of Justice in that district, shall be assessed as provided in this Article, unless costs have been finally assessed according to prior law. In computing costs as provided in this section, the parties shall be given credit for any fees, costs, and commissions paid in the pending action, proceeding or other matter, before the district court was established in the district, except that no refunds are authorized.

(b) In the administration of estates, costs shall be considered finally assessed according to prior law when they have been assessed at the time of the filing of any inventory, account, or other report. Costs at any filing on or after the date the district court is established in a judicial district shall be assessed as provided in this Article.

(c) When the General Court of Justice fee and the facilities fee are assessed as provided in this Article and credit is given for fees, costs, and commissions paid before the district court was established in the district, the actual amount thereafter received by the clerk shall be remitted to the State for the support of the General Court of Justice.

(d) When costs have been finally assessed according to prior law, but come into the hands of the clerk after the district court is established in the district, funds so received shall be disbursed according to prior law.

(e) Cost funds in the hands of the clerk at the time the district court is established shall be disbursed according to prior law. (1965, c. 310, s. 1; 1967, c. 691, s. 35.)

§ 7A-319. Repealed by Session Laws 1971, c. 377, s. 32.

§ 7A-320. Costs are exclusive.

The costs set forth in this Article are complete and exclusive, and in lieu of any other costs and fees. (1983, c. 713, s. 1.)

§ 7A-321. Collection of offender fines and fees assessed by the court; collection assistance fee.

(a) The Judicial Department may, in lieu of payment by cash or check, accept payment by credit card, charge card, or debit card for the fines, fees, and costs owed to the courts by offenders.

(b) In attempting to collect the fines, fees, costs, and restitution owed by offenders not sentenced to supervised probation or active time, the Administrative Office of the Courts may do the following:

(1) Assess a collection assistance fee if an amount due remains unpaid for 30 days after the time period allotted by the court. The amount of the collection assistance fee shall not exceed the average cost of collecting the debt or twenty percent (20%) of the amount past due, whichever is less.

(2) Enter into contracts with a collection agency, agencies, or municipal or county government agencies to collect unpaid amounts owed. The Administrative Office of the Courts may provide by such contract for the collection assistance fee to be retained by the agency or agencies that collect the amounts owed.

(3) Intercept tax refund checks under Chapter 105A of the General Statutes, the Setoff Debt Collection Act.

(c) Repealed by Session Laws 2011-323, s. 1, effective July 1, 2011, and applicable to cases adjudicated on or after that date.

(d) The court shall retain a collection assistance fee in the amount of ten percent (10%) of any cost or fee collected by the Department pursuant to this Article or Chapter 20 of the General Statutes and remitted to an agency of the State or any of its political subdivisions, other than a cost or fee listed in this subsection. The court shall remit the collection assistance fee to the State Treasurer for the support of the General Court of Justice.

The collection assistance fee shall not be retained from the following:

(1) Costs and fees designated by law for remission to or use by an agency or program of the Judicial Department or for support of the General Court of Justice.

(2) Costs and fees designated by law for remission to the General Fund.

(3) Costs and fees designated by law for remission to the Statewide Misdemeanant Confinement Fund. (2006-187, s. 1(a); 2007-323, s. 30.9(a); 2009-451, s. 15.20(m); 2009-575, s. 14; 2011-145, s. 31.26(f1); 2011-192, ss. 7(n), 7(p); 2011-323, s. 1.)

§ 7A-322. Reserved for future codification purposes.

§ 7A-323. Reserved for future codification purposes.

§ 7A-324. Reserved for future codification purposes.

§ 7A-325. Reserved for future codification purposes.

§ 7A-326. Reserved for future codification purposes.

§ 7A-327. Reserved for future codification purposes.

§ 7A-328. Reserved for future codification purposes.

§ 7A-329. Reserved for future codification purposes.

§ 7A-330. Reserved for future codification purposes.

§ 7A-331. Reserved for future codification purposes.

§ 7A-332. Reserved for future codification purposes.

§ 7A-333. Reserved for future codification purposes.

§ 7A-334. Reserved for future codification purposes.

§ 7A-335. Reserved for future codification purposes.

§ 7A-336. Reserved for future codification purposes.

§ 7A-337. Reserved for future codification purposes.

§ 7A-338. Reserved for future codification purposes.

§ 7A-339. Reserved for future codification purposes.

SUBCHAPTER VII. ADMINISTRATIVE MATTERS.

Article 29.

Administrative Office of the Courts.

§ 7A-340. Administrative Office of the Courts; establishment; officers.

There is hereby established a State office to be known as the Administrative Office of the Courts. It shall be supervised by a Director, assisted by an assistant director. (1965, c. 310, s. 1.)

§ 7A-341. Appointment and compensation of Director.

The Director shall be appointed by the Chief Justice of the Supreme Court, to serve at the pleasure of the Chief Justice. The Director's annual compensation shall be the same salary amount set for the Chief Judge of the Court of Appeals as provided in the Current Operations Appropriations Act, payable monthly, and reimbursement for travel and subsistence expenses at the same rate as State employees generally and longevity pay at the rates and for the service designated in G.S. 7A-18 for a judge of the Court of Appeals. Service as Director shall be equivalent to service as a judge of the Court of Appeals for the purposes of entitlement to retirement pay or to retirement for disability. (1965, c. 310, s. 1; 1967, c. 691, s. 36; 1983 (Reg. Sess., 1984), c. 1034, s. 165; 1987 (Reg. Sess., 1988), c. 1100, s. 15(a); 2015-241, s. 30.3(f).)

§ 7A-342. Appointment and compensation of assistant director and other employees.

The assistant director shall also be appointed by the Chief Justice, to serve at his pleasure. The assistant director shall receive the annual salary provided in the Current Operations Appropriations Act, payable monthly, and reimbursement for travel and subsistence expenses at the same rate as State employees generally and longevity pay at the rates and for the service designated in G.S. 7A-144(b) for a judge of the district court.

The Director may appoint such other assistant and employees as are necessary to enable him to perform the duties of his office. (1965, c. 310, s. 1; 1967, c. 691, s. 37; 1983 (Reg. Sess., 1984), c. 1034, s. 165; 1987 (Reg. Sess., 1988), c. 1100, s. 15(b).)

§ 7A-343. Duties of Director.

The Director is the Administrative Officer of the Courts, and the Director's duties include all of the following:

(1) Collect and compile statistical data and other information on the judicial and financial operation of the courts and on the operation of other offices directly related to and serving the courts.

(2) Determine the state of the dockets and evaluate the practices and procedures of the courts, and make recommendations concerning the number of judges, district attorneys, and magistrates required for the efficient administration of justice.

(3) Prescribe uniform administrative and business methods, systems, forms and records to be used in the offices of the clerks of superior court.

(3a) Maintain and staff as necessary an Internal Audit Division of the Judicial Department and the Administrative Office of the Courts that:

a. Evaluates and discloses potential weaknesses in the effectiveness of internal controls in the court system for the purpose of safeguarding public funds and assets and minimizing incidences of fraud, waste, and abuse.

b. Examines and analyzes the design and effectiveness of administrative and procedural operations.

c. Ensures overall compliance with federal and State laws, internal and external regulations, rules and procedures, and other applicable requirements.

d. Inspects and reviews the effectiveness and efficiency of processes and proceedings conducted by judicial officers.

e. Collaborates with other divisions to guide, direct, and support court officials in efforts to conform to both recommended and required compliance standards.

f. Executes routine audits of the Judicial Department's systems and controls, including, but not limited to:

1. Accounting systems and controls.
2. Administrative systems and controls.
3. Electronic data processing systems and controls.

(4) Prepare and submit budget estimates of State appropriations necessary for the maintenance and operation of the Judicial Department, and authorize expenditures from funds appropriated for these purposes.

(5) Investigate, make recommendations concerning, and assist in the securing of adequate physical accommodations for the General Court of Justice.

(6) Procure, distribute, exchange, transfer, and assign such equipment, books, forms and supplies as are to be acquired with State funds for the General Court of Justice.

(7) Make recommendations for the improvement of the operations of the Judicial Department.

(8) Prepare and submit an annual report on the work of the Judicial Department to the Chief Justice, and transmit a copy by March 15 of each year to the Chairs of the House of Representatives and Senate Appropriations Committees on Justice and Public Safety and to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety.

(8a) Prepare and submit a semiannual report on the activities of each North Carolina business court site to the Chief Justice, the chairs of the House of Representatives Appropriations Committee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety, the chairs of the of the Joint Legislative Oversight Committee on Justice and Public Safety, and all other members of the General Assembly on February 1 and August 1. The report shall include the following information for each business court site:

a. The number of new, closed, and pending cases for the previous three years.

b. The average age of pending cases.

c. The number of motions pending over six months after being filed.

d. The number of cases in which bench trials have been concluded for over six months without entry of judgment, including any accompanying explanation provided by the Business Court.

The August 1 report shall include an accounting of all business court activities for the previous fiscal year, including the itemized annual expenditures.

(9) Assist the Chief Justice in performing his duties relating to the transfer of district court judges for temporary or specialized duty.

(9a) Establish and operate systems and services that provide for electronic filing in the court system and further provide electronic transaction processing and access to court information systems pursuant to G.S. 7A-343.2.

(9b) Enter into contracts with one or more private vendors to provide for the payment of fines, fees, and costs due to the court by credit, charge, or

debit cards; such contracts may provide for the assessment of a convenience or transaction fee by the vendor to cover the costs of providing this service.

(9c) Prescribe policies and procedures for the appointment and payment of foreign language interpreters. These policies and procedures shall be applied uniformly throughout the General Court of Justice. After consultation with the Joint Legislative Commission on Governmental Operations, the Director may also convert contractual foreign language interpreter positions to permanent State positions when the Director determines that it is more cost-effective to do so.

(9d) Analyze the use of contractual positions in the Judicial Department and, after consultation with the Joint Legislative Commission on Governmental Operations, convert contractual positions to permanent State positions when the Director determines it is in the best interests of the Judicial Department to do so.

(9e) Prescribe policies and procedures for the appointment and payment of deaf and hearing-impaired interpreters, in accordance with G.S. 8B-8(a), for those cases specified in G.S. 8B-8(b) and (c). These policies and procedures shall be applied uniformly throughout the General Court of Justice. After consultation with the Joint Legislative Commission on Governmental Operations, the Director may also convert contractual hearing-impaired interpreter positions to permanent State positions when the Director determines that it is more cost-effective to do so.

(9f) Prescribe policies and procedures for the payment of those experts acting on behalf of the court or prosecutorial offices, as provided for in G.S. 7A-314(d).

(9g) Prescribe policies and procedures for chief district court judges to establish school-justice partnerships with local law enforcement agencies, local boards of education, and local school administrative units with the goal of reducing in-school arrests, out-of-school suspensions, and expulsions.

(10) Perform such additional duties and exercise such additional powers as may be prescribed by statute or assigned by the Chief Justice.

(11) Prescribe policies and procedures for the assignment and compensation of magistrates performing temporary duty outside their county of residence during an emergency, as provided for in G.S. 7A-146(9).

(12) Issue photographic identification cards to appropriate Judicial Department employees and officials authorizing those employees and officials to travel to and from, enter, and work in court and court-related locations for the conduct or support of essential court operations in preparation for, during, or in the aftermath of emergency situations, including, but not limited to, catastrophic conditions. Notwithstanding any other provision of the law, and notwithstanding any emergency

restrictions on travel or closures that may have been issued due to the emergency situations, an identification card issued pursuant to this subdivision shall be honored by all State and local law enforcement, emergency and health officers, and other authorities to permit the person to whom the card was issued to travel to and from court and court-related locations and otherwise carry out the purposes authorized by this subdivision. An identification card issued pursuant to this subdivision shall set forth its effective date and the full name, position, and employing unit of the person to whom the card is issued, with a provision, signed by the person, stating that the person is credentialed solely for the purposes stated in this subdivision and that the card shall not be used for any other purpose.

(13) Prescribe policies and procedures and establish and operate systems for the exchange of criminal and civil information from and to the Judicial Department and local, State, and federal governments and the Eastern Band of Cherokee Indians.

(14) Transfer equipment and supply funds to the appropriate programs and between programs as the equipment priorities and supply consumptions occur during the operating year.

(15) Notwithstanding the provisions of G.S. 138-6(a)(1), elect to establish a per-mile reimbursement rate for transportation by privately owned vehicles at a rate less than the business standard mileage rate set by the Internal Revenue Service. (1965, c. 310, s. 1; 1967, c. 1049, s. 5; 1973, c. 47, s. 2; 1999-237, s. 17.15(a); 2006-187, ss. 1(b), 2(b), 5(b); 2007-393, s. 11; 2009-516, s. 3; 2010-31, s. 15.12.; 2011-411, s. 2(a); 2012-142, s. 16.3(b); 2014-100, s. 18B.1(a); 2014-102, s. 5; 2015-241, s. 18A.1; 2017-57, ss. 16D.4(aa), 18B.4(b).)

§ 7A-343.1. Distribution of copies of the appellate division reports.

(a) The Administrative Officer of the Courts shall, upon request and at the State's expense, distribute such number of copies of the appellate division reports to federal, State departments and agencies, and to educational institutions of instruction, as follows:

Attorney General	5
Utilities Commission	1
Industrial Commission	1
Office of Administrative Hearings	2
Archives and History, Division of	1
Legislative Building Library	2
Justices of the Supreme Court	1 ea.
Judges of the Court of Appeals	1 ea.
Judges of the Superior Court	1 ea.
Clerks of the Superior Court	1 ea.
District Attorneys	1 ea.

Supreme Court of North Carolina Library	AS MANY AS REQUESTED
Appellate Division Reporter	1
University of North Carolina School of Law	5
North Carolina Central University School of Law	5
Duke University School of Law	5
Wake Forest University School of Law	5
Elon University School of Law	5
Campbell University School of Law	5
United States Department of Justice	1
Library of Congress	1
Federal Judges resident in North Carolina	1 ea.
Librarian, Supreme Court of the United States	1
United States Attorneys resident in North Carolina	1 ea.
Supreme Court Library exchange list	1
Cherokee Supreme Court, Eastern Band of Cherokee Indians	3

The copies of reports furnished to each justice of the Supreme Court and judge of the Court of Appeals as set out in the table above may be retained personally by the justice or judge.

(b) A recipient listed in subsection (a) of this section may choose not to receive its copies of the appellate division reports, or choose to receive fewer than the number of copies allotted to it, by notifying the Administrative Officer of the Courts in writing. Should the recipient again wish to receive its full allotment of the appellate division reports, the recipient shall notify the Administrative Officer of the Courts in writing, and the Administrative Officer of the Courts may, in his or her discretion, resume distribution to the recipient. (1973, c. 476, s. 84; 1977, c. 379, s. 2; c. 771, s. 4; 1979, c. 899, s. 1; 1979, 2nd Sess., c. 1278; 1985 (Reg. Sess., 1986), c. 1022, s. 2; 1987, c. 877, s. 1; 1989, c. 727, s. 218(1); 1993, c. 257, s. 19; 1995, c. 166, s. 1; c. 509, s. 4; 1997-261, s. 109; 1997-443, s. 11A.7; 1998-202, s. 4(a); 2000-137, s. 4(b); 2001-280, s. 1; 2011-145, ss. 19.1(g), 19.1(dd); 2011-401, s. 3.1; 2013-382, s. 9.1(c); 2015-40, s. 1; 2015-241, ss. 14.30(s), (u); 2017-186, s. 2(e); 2018-40, s. 5.)

§ 7A-343.2. Court Information Technology Fund.

(a) Fund. – The Court Information Technology Fund is established within the Judicial Department as a special revenue fund. Interest and other investment income earned by the Fund accrues to it. The Fund consists of the following revenues:

(1) All monies collected by the Director pursuant to G.S. 7A-109(d) and G.S. 7A-49.5.

(2) State judicial facilities fees credited to the Fund under G.S. 7A-304 through G.S. 7A-307.

(b) Use. – Money in the Fund derived from State judicial facilities fees must be used to upgrade, maintain, and operate the judicial and county courthouse telecommunications

and data connectivity. All other monies in the Fund must be used to supplement funds otherwise available to the Judicial Department for court information technology and office automation needs.

(c) Report. – The Director must report annually by August 1 of each year to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety. The report must include the following:

(1) Amounts credited in the preceding fiscal year to the Fund.

(2) Amounts expended in the preceding fiscal year from the Fund and the purposes of the expenditures.

(3) Proposed expenditures of the monies in the Fund. (1999-237, s. 17.15(b); 2000-67, s. 15.1; 2006-187, s. 2(d); 2008-107, s. 29.8(e); 2009-570, s. 2; 2014-100, s. 18B.1(b); 2015-241, s. 18A.23(a).)

§ 7A-343.3. Appellate Courts Printing and Computer Operations Fund.

The Appellate Courts Printing and Computer Operations Fund is established within the Judicial Department as a nonreverting, interest-bearing special revenue account. Accordingly, interest and other investment income earned by the Fund shall be credited to it. All moneys collected through charges to litigants for the reproduction of appellate records and briefs under G.S. 7A-11 and G.S. 7A-20(b) shall be remitted to the State Treasurer and held in this Fund. Moneys in the Fund shall be used to support the print shop operations of the Supreme Court and the Court of Appeals, including personnel, maintenance, and capital costs. The Judicial Department may create and maintain receipt-supported positions for these purposes but shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety prior to creating such new positions. (2002-126, s. 14.12; 2015-40, s. 8.)

§ 7A-343.4. Internal audit standards; report and work papers.

(a) Internal audits shall comply with current Standards for the Professional Practice of Internal Auditing issued by the Institute for Internal Auditors and, when appropriate, Government Auditing Standards issued by the Comptroller General of the United States.

(b) Except as otherwise provided in this section, the Internal Audit Division shall maintain all audit reports, examinations, investigations, surveys, drafts, work papers, and all other documents prepared by the internal auditors in accordance with the North Carolina Court System's Rules of Recordkeeping and Records Retention and Disposition Schedule (the Rules). Except as provided in this section, or upon an order issued in Wake County Superior Court upon 10 days' notice and hearing finding that access is necessary to a proper administration of justice, audit work papers, drafts, and all audit documents other than the final audit report are available only to the Internal Audit Division, the Director, the Chief Financial Officer, Legal Services, and other persons in the internal auditor's discretion for the limited purpose of ensuring the accuracy and reliability of the final audit report. Pertinent work papers and other supportive material related to issued audit reports may be, at the discretion of the internal auditor and unless otherwise prohibited by law, made available for inspection by duly authorized representatives of the State and federal

government who desire access to and inspection of such records in connection with some matter officially before them, including criminal investigations.

(c) Where the professional guidelines, government standards, and the Rules fail to specify or are in conflict, the Rules shall govern. (2009-516, s. 5.)

§ 7A-343.5. Definitions.

The following definitions apply in this Article:

(1) "Accounting system" means the total structure of records and procedures which discover, record, classify, and report information on the financial position and operating results of the Judicial Department, or a segment of the Judicial Department, or any of its funds, balanced account groups, and organizational components.

(2) "Internal auditing" means an independent, objective assurance and consulting activity designed to add value to and improve an organization's operations. Internal auditing helps an organization accomplish its objectives by using a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, controls, and governance processes. The types of audits the internal auditors may provide include, but are not limited to:

a. Efficiency or economy audits to evaluate areas at risk and require improvements to promote operating effectiveness and efficiency, mitigate the risk of liability, and realize economies.

b. Financial audits to determine whether financial operations are properly functioning.

c. Compliance audits or reviews to assess compliance with laws and regulations.

d. Internal control audits to assess the controls related to financial transactions and reporting.

e. Case file and procedural audits to ensure efficiency, effectiveness, and compliance.

f. Performance and management audits entail an objective and systematic examination of evidence to provide an independent assessment of the performance and management of a program against objective criteria as well as assessments that provide a prospective focus or that synthesize information on best practices.

g. Investigative or fraud audits to make an independent assessment of allegations of fraud, misuse, or process manipulation or alleged violations of federal, State, or local laws. (2009-516, s. 6.)

§ 7A-343.6. Electronic filing in Chapter 50B and Chapter 50C cases.

The North Carolina Administrative Office of the Courts is authorized to develop a program for electronic filing in Chapter 50B and Chapter 50C cases in district court in all counties in North Carolina. In order to implement the program in one or more counties in a district, the chief district court judge in each district shall draft local rules and submit the rules to the Administrative Office of the Courts for approval. The local rules shall permit

the clerk of superior court for the county to accept electronically filed complaints requesting a domestic violence protective order pursuant to Chapter 50B of the General Statutes, or a civil no-contact order pursuant to Chapter 50C of the General Statutes, that are transmitted from a domestic violence program as defined in G.S. 8-53.12. The authorization for local rules shall be superseded by the promulgation of uniform State rules by the Supreme Court. (2015-62, s. 3(a).)

§ 7A-344: Repealed by Session Laws 2000-144, s. 4.

§ 7A-345. Duties of assistant director.

The assistant director is the administrative assistant to the Chief Justice, and his duties include the following:

(1) Assist the Chief Justice in performing his duties relating to the assignment of superior court judges;

(2) Assist the Supreme Court in preparing calendars of superior court trial sessions; and

(3) Performing such additional functions as may be assigned by the Chief Justice or the Director of the Administrative Office. (1965, c. 310, s. 1; 1969, c. 1013, s. 4.)

§ 7A-346. Information to be furnished to Administrative Officer.

All judges, district attorneys, public defenders, magistrates, clerks of superior court and other officers or employees of the courts and of offices directly related to and serving the courts shall on request furnish to the Administrative Officer information and statistical data relative to the work of the courts and of such offices and relative to the receipt and expenditure of public moneys for the operation thereof. (1965, c. 310, s. 1; 1967, c. 1049, s. 5; 1969, c. 1013, ss. 4, 5; 1973, c. 47, s. 2.)

§ 7A-346.1: Repealed by Session Laws 2000-67, s. 15(b).

§ 7A-346.2. Various reports to General Assembly.

(a) The Administrative Office of the Courts and the Office of Indigent Defense Services shall report by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Committees, to the Chairs of the House of Representatives Subcommittee on Justice and Public Safety, and to the Chairs of the Senate Appropriations Committee on Justice and Public Safety on contracts entered into with local governments for the provision of the services of assistant district attorneys, assistant public defenders, judicial secretaries, and employees in the office of the Clerk of Superior Court. The report shall include the number of applications made to the Administrative Office of the Courts or the Office of Indigent Defense Services for these contracts, the number of contracts entered for provision of these positions, and the dollar amounts of each contract.

(b) The Administrative Office of the Courts shall report by April 1 of each odd-numbered year to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public

Safety on the economic viability of the worthless check collection programs established by district attorneys pursuant to G.S. 14-107.2, including an assessment of whether any adjustments need to be made to ensure that the programs, on a statewide basis, are self-supporting.

(c) The Administrative Office of the Courts, in consultation with the Conference of Clerks of Superior Court, shall make any necessary modifications to its information systems to maintain records of all cases in which the defendant in a criminal case withdraws an appeal for trial de novo in superior court and the superior court judge has signed an order remanding the case to the district court and shall report on those remanded cases to the chairs of the Senate Appropriations Committee on Justice and Public Safety, the chairs of the House Appropriations Committee on Justice and Public Safety, and the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by February 1 of each year. The report shall (i) include the total number of remanded cases and also the total number of those cases for which the court has remitted costs and (ii) aggregate those totals by the district in which they were granted and by the name of each judge ordering remand. The Administrative Office of the Courts may obtain any information that may be needed from individual clerks of superior court in order to make the modifications necessary to maintain the records required under this section. (1999-237, s. 17.7(c); 2000-67, ss. 15.3A(b), 15.4(h); 2001-61, s. 2; 2001-424, s. 22.11(g); 2003-377, s. 4; 2015-247, s. 2.)

§ 7A-346.3. (Contingent effective date – see editor's note) Impaired driving integrated data system report.

The information compiled by G.S. 7A-109.2 shall be maintained in an Administrative Office of the Courts database. By March 1, the Administrative Office of the Courts shall provide an annual report of the previous calendar year to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Oversight Committee on Justice and Public Safety. The annual report shall show the types of dispositions for the entire State by county, by judge, by prosecutor, and by defense attorney. This report shall also include the amount of fines, costs, and fees ordered at the disposition of the charge, the amount of any subsequent reduction, amount collected, and the amount still owed, and compliance with sanctions of community service, jail, substance abuse assessment, treatment, and education. The Administrative Office of the Courts shall facilitate public access to the information collected under this section by posting this information on the court's Internet page in a manner accessible to the public and shall make reports of any information collected under this section available to the public upon request and without charge. (2006-253, s. 20.2; 2011-291, s. 2.1.)

§ 7A-347. District attorney legal assistants.

District attorney legal assistant positions are established under the district attorneys' offices. Each prosecutorial district is allocated at least one district attorney legal assistant to be employed by the district attorney. The Administrative Office of the Courts shall allocate additional assistants to prosecutorial districts on the basis of need and within available appropriations. Each district attorney may also use any volunteer or other

personnel to assist the assistant. The assistant is responsible for coordinating efforts of the law-enforcement and judicial systems to assure that each victim and witness is provided fair treatment under Article 45 of Chapter 15A, Fair Treatment for Victims and Witnesses and shall also provide administrative and legal support to the district attorney's office. (1985 (Reg. Sess., 1986), c. 998, s. 2; 1997-443, s. 18.7(c); 2015-241, s. 18A.8(a).)

§ 7A-348. Training and supervision of district attorney legal assistants.

Pursuant to the provisions of G.S. 7A-413, the Conference of District Attorneys shall:

(1) Assist in establishing uniform statewide training for district attorney legal assistants; and

(2) Assist in the implementation and supervision of this program. (1985 (Reg. Sess., 1986), c. 998, s. 2; 1997-443, s. 18.7(d); 2001-424, s. 22.6(a); 2015-241, s. 18A.8(b).)

§ 7A-349. Criminal history record check; denial of employment, contract, or volunteer opportunity.

The Judicial Department may deny employment, a contract, or a volunteer opportunity to any person who refuses to consent to a criminal history check authorized under G.S. 143B-950 and may dismiss a current employee, terminate a contractor, or terminate a volunteer relationship if that employee, contractor, or volunteer refuses to consent to a criminal history record check authorized under G.S. 143B-950. (2006-187, s. 3(b); 2014-100, s. 17.1(s).)

§ 7A-350. Annual report on criminal court cost waivers.

The Administrative Office of the Courts shall maintain records of all cases in which a judge makes a finding of just cause to grant a waiver of criminal court costs under G.S. 7A-304(a) and shall report on those waivers to the chairs of the House of Representatives and Senate Appropriations Committees on Justice and Public Safety and the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by February 1 of each year. The report shall aggregate the waivers by the district in which the waiver or waivers were granted and by the name of each judge granting a waiver or waivers. (2015-241, s. 18A.3(a).)

§ 7A-351. Reserved for future codification purposes.

§ 7A-352. Reserved for future codification purposes.

§ 7A-353. Reserved for future codification purposes.

§ 7A-354. North Carolina Human Trafficking Commission.

(a) Establishment. – There is established in the Administrative Office of the Courts the North Carolina Human Trafficking Commission. For purposes of this section, "Commission" means the North Carolina Human Trafficking Commission.

(b) Membership. – The Commission shall consist of no more than 15 members as follows:

(1) The President Pro Tempore of the Senate shall appoint one representative from each of the following:
   a. The public at large.
   b. A county sheriff's office.
   c. A city or town police department.
   d. Legal Aid of North Carolina.

(2) The Speaker of the House of Representatives shall appoint one representative from each of the following:
   a. The public at large.
   b. North Carolina Coalition Against Human Trafficking.
   c. A faith-based shelter or benefits organization providing services to victims of human trafficking.
   d. A district attorney or an assistant district attorney.

(3) The Governor shall appoint one representative from each of the following:
   a. The Department of Labor.
   b. The Department of Justice.
   c. The Department of Public Safety.
   d. A health care representative.

(4) The following persons, or their designees, may serve as ex officio members of the Commission:
   a. The Director of the Administrative Office of the Courts.
   b. The President of the North Carolina Conference of Superior Court Judges.
   c. The President of the North Carolina Association of District Court Judges.

(c) Powers. – The Commission shall have the following powers:

(1) To apply for and receive, on behalf of the State, funding from federal, public or private initiatives, grant programs, or donors that will assist in examining and countering the problem of human trafficking in North Carolina.

(2) To commission, fund, and facilitate quantitative and qualitative research to explore the specific ways human trafficking is occurring in North Carolina and the links to international and domestic human trafficking, and to assist in creating measurement, assessment, and accountability mechanisms.

(3) To contribute to efforts to inform and educate law enforcement personnel, social services providers, and the general public about human trafficking so that human traffickers can be prosecuted and victim-survivors can receive appropriate services.

(4) To suggest new policies, procedures, or legislation to further the work of eradicating human trafficking and to provide assistance and review with new policies, procedures, and legislation.

(5) To assist in developing regional response teams or other coordinated efforts to counter human trafficking at the level of law enforcement, legal services, social services, and nonprofits.

(6) To identify gaps in law enforcement or service provision and recommend solutions to those gaps.

(7) To consider whether human trafficking should be added to the list of criminal convictions that require registration under the sex offender and public protection registration program.

(d) Terms and Chair. – Members shall serve two-year terms, with no prohibition against being reappointed. Any individual appointed to serve on the Commission shall serve until his or her successor is appointed and qualified. The chair shall be appointed biennially by the Governor from among the membership of the Commission.

(e) Meetings. – The chair shall convene the Commission. Meetings shall be held as often as necessary, but not less than four times a year.

(f) A majority of the members of the Commission shall constitute a quorum for the transaction of business. The affirmative vote of a majority of the members present at meetings of the Commission shall be necessary for action to be taken by the Commission.

(g) Vacancies. – A vacancy on the Commission or as chair of the Commission resulting from the resignation of a member or otherwise shall be filled in the same manner in which the original appointment was made, and the term shall be for the balance of the unexpired term.

(h) Removal. – The Commission may remove a member for misfeasance, malfeasance, nonfeasance, or neglect of duty.

(i) Compensation. – Commission members shall receive no per diem for their services but shall be entitled to receive travel allowances in accordance with the provisions of G.S. 138-5 or G.S. 138-6, as appropriate.

(j) Staffing. – The Administrative Office of the Courts shall be responsible for staffing the Commission.

(k) Funding. – From funds available to the Administrative Office of the Courts, the Director shall allocate monies to fund the work of the Commission. (2012-142, s. 15.3A(a)-(k); 2012-194, s. 55.5; 2013-368, ss. 23, 24; 2014-115, s. 47; 2018-5, s. 18B.7; 2018-75, s. 7; 2018-97, ss. 5.6(a), (b).)

Article 29A.

Trial Court Administrators.

§ 7A-355. Trial court administrators.

The following districts or sets of districts as defined in G.S. 7A-41.1(a) shall have trial court administrators: Set of districts 10A, 10B, 10C, 10D; District 22 and District 28, and such other

districts or sets of districts as may be designated by the Administrative Office of the Courts. (1979, c. 1072, s. 10; 1987 (Reg. Sess., 1988), c. 1037, s. 27.)

§ 7A-356. Duties.

The duties of each trial court administrator shall be to assist in managing civil dockets, to improve jury utilization and to perform such duties as may be assigned by the senior resident superior court judge of his district or set of districts as defined in G.S. 7A-41.1(a) or by other judges designated by that senior resident superior court judge. (1979, c. 1072, s. 10; 1987 (Reg. Sess., 1988), c. 1037, s. 28.)

§ 7A-357. Reserved for future codification purposes.

§ 7A-358. Reserved for future codification purposes.

§ 7A-359. Reserved for future codification purposes.

§ 7A-360. Reserved for future codification purposes.

§ 7A-361. Reserved for future codification purposes.

§ 7A-362. Reserved for future codification purposes.

§ 7A-363. Reserved for future codification purposes.

§ 7A-364. Reserved for future codification purposes.

§ 7A-365. Reserved for future codification purposes.

§ 7A-366. Reserved for future codification purposes.

§ 7A-367. Reserved for future codification purposes.

§ 7A-368. Reserved for future codification purposes.

§ 7A-369. Reserved for future codification purposes.

§ 7A-370. Reserved for future codification purposes.

§ 7A-371. Reserved for future codification purposes.

§ 7A-372. Reserved for future codification purposes.

§ 7A-373. Reserved for future codification purposes.

§ 7A-374. Reserved for future codification purposes.

Article 30.

Judicial Standards Commission.

§ 7A-374.1. Purpose.

The purpose of this Article is to provide for the investigation and resolution of inquiries concerning the qualification or conduct of any judge or justice of the General Court of Justice. The procedure for discipline of any judge or justice of the General Court of Justice shall be in accordance with this Article. Nothing in this Article shall affect the impeachment of judges under the North Carolina Constitution, Article IV, Sections 4 and 17. (2006-187, s. 11.)

§ 7A-374.2. Definitions.

Unless the context clearly requires otherwise, the definitions in this section shall apply throughout this Article:

(1) "Censure" means a finding by the Supreme Court, based upon a written recommendation by the Commission, that a judge has willfully engaged in misconduct prejudicial to the administration of justice that brings the judicial office into disrepute, but which does not warrant the suspension of the judge from the judge's judicial duties or the removal of the judge from judicial office. A censure may require that the judge follow a corrective course of action. Unless otherwise ordered by the Supreme Court, the judge shall personally appear in the Supreme Court to receive a censure.

(2) "Commission" means the North Carolina Judicial Standards Commission.

(3) "Incapacity" means any physical, mental, or emotional condition that seriously interferes with the ability of a judge to perform the duties of judicial office.

(4) "Investigation" means the gathering of information with respect to alleged misconduct or disability.

(5) "Judge" means any justice or judge of the General Court of Justice of North Carolina, including any retired justice or judge who is recalled for service as an emergency judge of any division of the General Court of Justice.

(6) "Letter of caution" means a written action of the Commission that cautions a judge not to engage in certain conduct that violates the Code of Judicial Conduct as adopted by the Supreme Court.

(7) "Public reprimand" means a finding by the Supreme Court, based upon a written recommendation by the Commission that a judge has violated the Code of Judicial Conduct and has engaged in conduct prejudicial to the administration of justice, but that misconduct is minor. A public reprimand may require that the judge follow a corrective course of action.

(8) "Remove" or "removal" means a finding by the Supreme Court, based upon a written recommendation by the Commission, that a judge should

be relieved of all duties of the judge's office and disqualified from holding further judicial office.

(9) "Suspend" or "suspension" means a finding by the Supreme Court, based upon a written recommendation by the Commission, that a judge should be relieved of the duties of the judge's office for a period of time, and upon conditions, including those regarding treatment and compensation, as may be specified by the Supreme Court. (2006-187, s. 11; 2013-404, s. 1.)

§ 7A-375. Judicial Standards Commission.

(a) The Judicial Standards Commission shall consist of the following residents of North Carolina: one Court of Appeals judge, two superior court judges, and two district court judges, each appointed by the Chief Justice of the Supreme Court; four members of the State Bar who have actively practiced in the courts of the State for at least 10 years, elected by the State Bar Council; and four citizens who are not judges, active or retired, nor members of the State Bar, two appointed by the Governor, and two appointed by the General Assembly in accordance with G.S. 120-121, one upon recommendation of the President Pro Tempore of the Senate and one upon recommendation of the Speaker of the House of Representatives. The Court of Appeals judge shall act as chair of the Commission.

(b) The Court of Appeals judge shall serve at the pleasure of the Chief Justice. Terms of other Commission members shall be for six years. No member who has served a full six-year term is eligible for reappointment. If a member ceases to have the qualifications required for the member's appointment, that person ceases to be a member. Vacancies of members, other than those appointed by the General Assembly, are filled in the same manner as the original appointment, for the remainder of the term. Vacancies of members appointed by the General Assembly are filled as provided under G.S. 120-122. Members who are not judges are entitled to per diem and all members are entitled to reimbursement for travel and subsistence expenses at the rate applicable to members of State boards and commissions generally, for each day engaged in official business.

(c) If a member of the Commission who is a judge becomes disabled, or becomes a respondent before the Commission, the Chief Justice shall appoint an alternate member to serve during the period of disability or disqualification. The alternate member shall be from the same division of the General Court of Justice as the judge whose place the alternate member takes. If a member of the Commission who is not a judge becomes disabled, the Governor, if he appointed the disabled member, shall appoint, or the State Bar Council, if it elected the disabled member, shall elect, an alternate member to serve during the period of disability. If a member of the Commission who is not a judge and who was appointed by the General Assembly becomes disabled, an alternate member shall be appointed to serve during the period of disability in the same manner as if there were a vacancy to be filled under G.S. 120-122. In a particular case, if a member becomes disqualified, or is successfully challenged for cause, the member's seat for that case shall be filled by an alternate member selected as provided in this subsection.

(d) A member may serve after expiration of the member's term only to participate until the conclusion of a disciplinary proceeding begun before expiration of the member's term. Such participation shall not prevent the successor from taking office, but the successor may not participate in the proceeding for which the predecessor's term was extended. This subsection shall apply also to any judicial member whose membership on the Commission is automatically

terminated by retirement or resignation from judicial office, or expiration of the term of judicial office.

(e) Members of the Commission and its employees are immune from civil suit for all conduct undertaken in the course of their official duties.

(f) The chair of the Commission may employ, if funds are appropriated for that purpose, an executive director, Commission counsel, investigator, and any support staff as may be necessary to assist the Commission in carrying out its duties. With the approval of the Chief Justice, for specific cases, the chair also may employ special counsel or call upon the Attorney General to furnish counsel. In addition, with the approval of the Chief Justice, for specific cases, the chair or executive director also may call upon the Director of the State Bureau of Investigation to furnish an investigator who shall serve under the supervision of the executive director. While performing duties for the Commission, the executive director, counsel, and investigator have authority throughout the State to serve subpoenas or other process issued by the Commission in the same manner and with the same effect as an officer authorized to serve process of the General Court of Justice.

(g) The Commission may adopt, and may amend from time to time, its own rules of procedure for the performance of the duties and responsibilities prescribed by this Article, subject to the approval of the Supreme Court. (1971, c. 590, s. 1; 1973, c. 50; 1975, c. 956, s. 13; 1997-72, s. 1; 2006-187, s. 11.)

§ 7A-376. Grounds for discipline by Commission; public reprimand, censure, suspension, or removal by the Supreme Court.

(a) The Commission, upon a determination that any judge has engaged in conduct that violates the North Carolina Code of Judicial Conduct as adopted by the Supreme Court but that is not of such a nature as would warrant a recommendation of public reprimand, censure, suspension, or removal, may issue to the judge a private letter of caution.

(b) Upon recommendation of the Commission, the Supreme Court may issue a public reprimand, censure, suspend, or remove any judge for willful misconduct in office, willful and persistent failure to perform the judge's duties, habitual intemperance, conviction of a crime involving moral turpitude, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute. A judge who is suspended for any of the foregoing reasons shall receive no compensation during the period of that suspension. A judge who is removed for any of the foregoing reasons shall receive no retirement compensation and is disqualified from holding further judicial office.

(c) Upon recommendation of the Commission, the Supreme Court may suspend, for a period of time the Supreme Court deems necessary, any judge for temporary physical or mental incapacity interfering with the performance of the judge's duties, and may remove any judge for physical or mental incapacity interfering with the performance of the judge's duties which is, or is likely to become, permanent. A judge who is suspended for temporary incapacity shall continue to receive compensation during the period of the suspension. A judge removed for mental or physical incapacity is entitled to retirement compensation if the judge has accumulated the years of creditable service required for incapacity or disability retirement under any provision of State law, but he shall not sit as an emergency justice or judge. (1971, c. 590, s. 1; 1979, c. 486, s. 2; 2006-187, s. 11; 2013-404, s. 2.)

§ 7A-377. Procedures.

(a) Any citizen of the State may file a written complaint with the Commission concerning the qualifications or conduct of any justice or judge of the General Court of Justice, and thereupon the Commission shall make such investigation as it deems necessary. The Commission may also make an investigation on its own motion. The Commission may issue process to compel the attendance of witnesses and the production of evidence, to administer oaths, and to punish for contempt. No justice or judge shall be recommended for public reprimand, censure, suspension, or removal unless he has been given a hearing affording due process of law.

(a1) Unless otherwise waived by the justice or judge involved, all papers filed with and proceedings before the Commission, including any investigation that the Commission may make, are confidential, and no person shall disclose information obtained from Commission proceedings or papers filed with or by the Commission, except as provided herein. Those papers are not subject to disclosure under Chapter 132 of the General Statutes.

(a2) Information submitted to the Commission or its staff, and testimony given in any proceeding before the Commission, shall be absolutely privileged, and no civil action predicated upon that information or testimony may be instituted against any complainant, witness, or his or her counsel.

(a3) If, after an investigation is completed, the Commission concludes that a letter of caution is appropriate, it shall issue to the judge a letter of caution in lieu of any further proceeding in the matter. The issuance of a letter of caution is confidential in accordance with subsection (a1) of this section.

(a4) Repealed by Session Laws 2013-404, s. 3, effective August 23, 2013.

(a5) If, after an investigation is completed, the Commission concludes that disciplinary proceedings should be instituted, the notice and statement of charges filed by the Commission, along with the answer and all other pleadings, remain confidential. Disciplinary hearings ordered by the Commission are confidential, and recommendations of the Commission to the Supreme Court, along with the record filed in support of such recommendations are confidential. Testimony and other evidence presented to the Commission is privileged in any action for defamation. At least five members of the Commission must concur in any recommendation to issue a public reprimand, censure, suspend, or remove any judge. A respondent who is recommended for public reprimand, censure, suspension, or removal is entitled to a copy of the proposed record to be filed with the Supreme Court, and if the respondent has objections to it, to have the record settled by the Commission's chair. The respondent is also entitled to present a brief and to argue the respondent's case, in person and through counsel, to the Supreme Court. A majority of the members of the Supreme Court voting must concur in any order of public reprimand, censure, suspension, or removal. The Supreme Court may approve the recommendation, remand for further proceedings, or reject the recommendation. A justice of the Supreme Court or a member of the Commission who is a judge is disqualified from acting in any case in which he is a respondent.

(a6) Upon issuance of a public reprimand, censure, suspension, or removal by the Supreme Court, the notice and statement of charges filed by the Commission along with the answer and all other pleadings, and recommendations of the Commission to the Supreme Court along with the record filed in support of such recommendations, are no longer confidential.

(b) Repealed by Session Laws 2006-187, s. 11, effective January 1, 2007.

(c) The Commission may issue advisory opinions to judges, in accordance with rules and procedures adopted by the Commission.

(d) The Commission has the same power as a trial court of the General Court of Justice to punish for contempt, or for refusal to obey lawful orders or process issued by the Commission. (1971, c. 590, s. 1; 1973, c. 808; 1989 (Reg. Sess., 1990), c. 995, s. 2; 1997-72, s. 2; 2006-187, s. 11; 2013-404, s. 3.)

§ 7A-378: Repealed by Session Laws 2013-404, s. 4, effective August 23, 2013.

§ 7A-379. Reserved for future codification purposes.

§ 7A-380. Reserved for future codification purposes.

§ 7A-381. Reserved for future codification purposes.

§ 7A-382. Reserved for future codification purposes.

§ 7A-383. Reserved for future codification purposes.

§ 7A-384. Reserved for future codification purposes.

§ 7A-385. Reserved for future codification purposes.

§ 7A-386. Reserved for future codification purposes.

§ 7A-387. Reserved for future codification purposes.

§ 7A-388. Reserved for future codification purposes.

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§ 7A-391. Reserved for future codification purposes.

§ 7A-392. Reserved for future codification purposes.

§ 7A-393. Reserved for future codification purposes.

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§ 7A-395. Reserved for future codification purposes.

§ 7A-396. Reserved for future codification purposes.

§ 7A-397. Reserved for future codification purposes.

§ 7A-398. Reserved for future codification purposes.

§ 7A-399. Reserved for future codification purposes.

Article 31.

Judicial Council.

§§ 7A-400 through 7A-408. Repealed by Session Laws 1983, c.774, s. 1.

Article 31A.

State Judicial Council.

§ 7A-409. Composition of State Judicial Council.

(a) The State Judicial Council shall consist of 18 members as follows:

(1) The Chief Justice, who chairs the Council;
(2) The Chief Judge of the Court of Appeals;
(3) A district attorney chosen by the Conference of District Attorneys;
(4) A public defender chosen by the public defenders;
(5) A superior court judge chosen by the Conference of Superior Court Judges;
(6) A district court judge chosen by the Conference of District Court Judges;
(7) A clerk of superior court chosen by the Association of Clerks of Superior Court of North Carolina;
(8) A magistrate appointed by the North Carolina Magistrates' Association;
(9) An attorney appointed by the Council of the State Bar;
(10) One attorney and one nonattorney appointed by the Chief Justice;
(11) One nonattorney and one attorney appointed by the Governor;
(12) One nonattorney and one attorney appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives;
(13) One nonattorney and one attorney appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate; and
(14) One member appointed by the Commission on Indigent Defense Services.

(b) The Chief Justice and the Chief Judge shall be members of the State Judicial Council during their terms in those judicial offices. The terms of the other members selected initially for the State Judicial Council shall be as follows:

(1) One year. – The district court judge, the attorney appointed upon the recommendation of the President Pro Tempore of the Senate, and the attorney

appointed upon the recommendation of the Speaker of the House of Representatives.

(2) Two years. – The district attorney, the magistrate, the nonattorney appointed by the Governor, and the nonattorney appointed by the Chief Justice.

(3) Three years. – The public defender, the attorney appointed by the Council of the State Bar, the nonattorney appointed upon the recommendation of the President Pro Tempore of the Senate, and the nonattorney appointed upon the recommendation of the Speaker of the House of Representatives.

(4) Four years. – The superior court judge, the clerk of superior court, the attorney appointed by the Governor, the attorney appointed by the Chief Justice, and the member appointed by the Commission on Indigent Defense Services.

After these initial terms, the members of the State Judicial Council shall serve terms of four years. All terms of members shall begin on January 1 and end on December 31. No member may serve more than two consecutive full terms. Any vacancy on the Council shall be filled by a person appointed by the official or entity who appointed the person vacating the position.

(c) If an official or entity is authorized to appoint more than one member of the State Judicial Council, the members appointed by that official or entity must reside in different judicial districts.

(d) No incumbent member of the General Assembly or incumbent judicial official, other than the ones specifically identified by office in subsection (a) of this section, may serve on the State Judicial Council.

(e) The appointing authorities shall confer with each other and attempt to arrange their appointments so that the members of the State Judicial Council fairly represent each area of the State, both genders, and each major racial group. (1999-390, s. 1; 2001-96, s. 1.)

§ 7A-409.1. Duties of the State Judicial Council.

(a) The State Judicial Council shall:

(1) Study the judicial system and report periodically to the Chief Justice on its findings;

(2) Advise the Chief Justice on priorities for funding;

(3) Review and advise the Chief Justice on the budget prepared by the Director of the Administrative Office of the Courts for submission to the General Assembly;

(4) Study and recommend to the General Assembly the salaries of justices and judges;

(5) Recommend to the General Assembly changes in the expense allowances, benefits, and other compensation for judicial officials;

(6) Recommend the creation of judgeships; and

(7) Advise or assist the Chief Justice, as requested, on any other matter concerning the operation of the courts.

(b) The State Judicial Council, with the assistance of the Director of the Administrative Office of the Courts, shall recommend to the Chief Justice performance standards for all courts and all judicial officials and shall recommend procedures for periodic evaluation of the court system and individual judicial officials and employees. If these standards are implemented by the Chief Justice, the Director of the Administrative

Office of the Courts shall inform each judicial official of the standards being used to evaluate that official's performance. If implemented, the evaluation of each judge shall include assessments from other judges, litigants, jurors, and attorneys, as well as a self-evaluation by the judge. Summaries of the evaluations of justices and judges shall be made available to the public, in a manner to be determined by the Council, but the data collected in producing the evaluations shall not be a public record.

(c) The State Judicial Council shall study and recommend guidelines for the assignment and management of cases, including the identification of different kinds of cases for different kinds of resolution. If the Chief Justice decides to implement these guidelines, the guidelines may provide that, except for good cause, each civil case subject to assignment to a trial judge should be directed first to an appropriate form of alternative dispute resolution. The guidelines may also provide for posttrial alternative dispute resolution before or as part of an appeal. The guidelines should not require absolute uniformity from district to district and should allow case management personnel within each district the flexibility to direct cases to the most appropriate means of resolution in that district.

(d) The State Judicial Council shall monitor the use of alternative dispute resolution throughout the court system and, with the assistance of the Director of the Administrative Office of the Courts and the Dispute Resolution Commission, evaluate the effectiveness of those programs.

(e) The State Judicial Council may recommend changes in the boundaries of the judicial districts or divisions.

(f) The State Judicial Council shall monitor the administration of justice and assess the effectiveness of the Judicial Branch in serving the public and to advise the Chief Justice and the General Assembly on changes needed to assist the General Court of Justice in better fulfilling its mission.

(g) The State Judicial Council shall report annually to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety, to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety, and to the Chief Justice no later than December 31 regarding the work of the North Carolina Innocence Inquiry Commission and shall include in its report the statistics regarding inquiries and any recommendations for changes. The House of Representatives and the Senate shall refer the report of the State Judicial Council to the Joint Legislative Oversight Committee on Justice and Public Safety and such other committees as the Speaker of the House of Representatives or the President Pro Tempore of the Senate shall deem appropriate, for their review. (1999-390, s. 1; 2006-184, s. 10; 2010-171, s. 5; 2011-291, s. 2.2; 2014-100, s. 18B.1(h).)

§ 7A-409.2. Compensation of the State Judicial Council.

Members of the State Judicial Council who are not officers or employees of the State shall receive compensation and reimbursement for travel and subsistence expenses at the rates specified in G.S. 138-5. Members of the State Judicial Council who are officers or employees of the State

shall receive reimbursement for travel and subsistence expenses at the rate set out in G.S. 138-6. (1999-390, s. 1.)

Article 31B.

Declaration of Vacancy, Suspension of Salary.

§ 7A-410. Vacancy exists on disbarment.

When a judge of the district court, judge of the superior court, judge of the Court of Appeals, justice of the Supreme Court, or a district attorney is no longer authorized to practice law in the courts of this State, the Governor shall declare the office vacant. Prior to making such declaration, the Governor shall notify the justice, judge, or district attorney at least 10 days in advance of taking such action and shall afford the justice, judge, or district attorney the opportunity to be heard on the matter. For purposes of this Article, the term "no longer authorized to practice law" means that the person has been disbarred or suspended and all appeals under G.S. 84-28 have been exhausted. (2007-104, s. 1.)

§ 7A-410.1. Suspension of salary.

When a justice, judge, or district attorney has been disbarred or suspended from the practice of law under G.S. 84-28 but the office has not been declared vacant under G.S. 7A-410, the salary of the justice, judge, or district attorney is suspended immediately. If the order of disbarment or suspension is reversed on appeal, the salary shall be paid retroactively from the date the salary was suspended. (2007-104, s. 1.)

SUBCHAPTER VIII. CONFERENCE OF DISTRICT ATTORNEYS.

Article 32.

Conference of District Attorneys.

§ 7A-411. Establishment and purpose.

There is created the Conference of District Attorneys of North Carolina, of which every district attorney in North Carolina is a member. The purpose of the Conference is to assist in improving the administration of justice in North Carolina by coordinating the prosecution efforts of the various district attorneys, by assisting them in the administration of their offices, and by exercising the powers and performing the duties provided for in this Article. (1983, c. 761, s. 152.)

§ 7A-412. Annual meetings; organization; election of officers.

(a) Annual Meetings. – The Conference shall meet annually at a time and place selected by the President of the Conference.

(b) Election of Officers. – Officers of the Conference are a President, a President-elect, a Vice-president, and other officers from among its membership that the Conference may designate in its bylaws. Officers are elected for one-year terms at the annual Conference, and take office on July 1 immediately following their election.

(c) Executive Committee. – The Executive Committee of the Conference consists of the President, the President-elect, the Vice-president, and four other members of the Conference. One

of these four members shall be the immediate past president if there is one and if he continues to be a member.

(d) Organization and Functioning; Bylaws. – The bylaws may provide for the organization and functioning of the Conference, including the powers and duties of its officers and committees. The bylaws shall state the number of members required to constitute a quorum at any meeting of the Conference or the Executive Committee. The bylaws shall set out the procedure for amending the bylaws.

(e) Calling Meetings; Duty to Attend. – The President or the Executive Committee may call a meeting of the Conference upon 10 days' notice to the members, except upon written waiver of notice signed by at least three-fourths of the members. A member should attend each meeting of the Conference and the Executive Committee of which he is given notice. Members are entitled to reimbursement for travel and subsistence expenses at the rate applicable to State employees. (1983, c. 761, s. 152.)

§ 7A-413. Powers of Conference.

(a) The Conference may:

(1) Cooperate with citizens and other public and private agencies to promote the effective administration of criminal justice.

(2) Assist prosecutors in the effective prosecution and trial of criminal offenses, and develop an advisory trial manual.

(3) Develop advisory manuals to assist prosecutors in the organization and administration of their offices, case management, calendaring, case tracking, filing, and office procedures.

(4) Cooperate with the Administrative Office of the Courts and the School of Government at the University of North Carolina at Chapel Hill concerning education and training programs for prosecutors and staff.

(b) The Conference may not adopt rules pursuant to Chapter 150B of the General Statutes. (1983, c. 761, s. 152; 1987, c. 827, s. 1; 2006-264, s. 29(b).)

§ 7A-414. Executive Secretary; clerical support.

The Conference may employ an executive secretary and any necessary supporting staff to assist it in carrying out its duties. (1983, c. 761, s. 152.)

§ 7A-415. Reserved for future codification purposes.

§ 7A-416. Reserved for future codification purposes.

§ 7A-417. Reserved for future codification purposes.

§ 7A-418. Reserved for future codification purposes.

§ 7A-419. Reserved for future codification purposes.

§ 7A-420. Reserved for future codification purposes.

§ 7A-421. Reserved for future codification purposes.

§ 7A-422. Reserved for future codification purposes.

§ 7A-423. Reserved for future codification purposes.

§ 7A-424. Reserved for future codification purposes.

§ 7A-425. Reserved for future codification purposes.

§ 7A-426. Reserved for future codification purposes.

§ 7A-427. Reserved for future codification purposes.

§ 7A-428. Reserved for future codification purposes.

§ 7A-429. Reserved for future codification purposes.

§ 7A-430. Reserved for future codification purposes.

§ 7A-431. Reserved for future codification purposes.

§ 7A-432. Reserved for future codification purposes.

§ 7A-433. Reserved for future codification purposes.

§ 7A-434. Reserved for future codification purposes.

§ 7A-435. Reserved for future codification purposes.

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§ 7A-437. Reserved for future codification purposes.

§ 7A-438. Reserved for future codification purposes.

§ 7A-439. Reserved for future codification purposes.

§ 7A-440. Reserved for future codification purposes.

§ 7A-441. Reserved for future codification purposes.

§ 7A-442. Reserved for future codification purposes.

§ 7A-443. Reserved for future codification purposes.

§ 7A-444. Reserved for future codification purposes.

§ 7A-445. Reserved for future codification purposes.

§ 7A-446. Reserved for future codification purposes.

§ 7A-447. Reserved for future codification purposes.

§ 7A-448. Reserved for future codification purposes.

§ 7A-449. Reserved for future codification purposes.

SUBCHAPTER IX. REPRESENTATION OF INDIGENT PERSONS.

Article 36.

Entitlement of Indigent Persons Generally.

§ 7A-450. Indigency; definition; entitlement; determination; change of status.

(a) An indigent person is a person who is financially unable to secure legal representation and to provide all other necessary expenses of representation in an action or proceeding enumerated in this Subchapter. An interpreter is a necessary expense as defined in Chapter 8B of the General Statutes for a deaf person who is entitled to counsel under this subsection.

(b) Whenever a person, under the standards and procedures set out in this Subchapter, is determined to be an indigent person entitled to counsel, it is the responsibility of the State to provide him with counsel and the other necessary expenses of representation. The professional relationship of counsel so provided to the indigent person he represents is the same as if counsel had been privately retained by the indigent person.

(b1) An indigent person indicted for murder may not be tried where the State is seeking the death penalty without an assistant counsel being appointed in a timely manner. If the indigent person is represented by the public defender's office, the requirement of an assistant counsel may be satisfied by the assignment to the case of an additional attorney from the public defender's staff.

(c) The question of indigency may be determined or redetermined by the court at any stage of the action or proceeding at which an indigent is entitled to representation.

(d) If, at any stage in the action or proceeding, a person previously determined to be indigent becomes financially able to secure legal representation and provide other necessary expenses of representation, he must inform the counsel appointed by the court to represent him of that fact. In such a case, that information is not included in the attorney client privilege, and counsel must promptly inform the court of that information. (1969, c. 1013, s. 1; 1981, c. 409, s. 2; c. 937, s. 3; 1985, c. 698, s. 22(a); 2000-144, s. 5.)

§ 7A-450.1. Responsibility for payment by certain fiduciaries.

It is the intent of the General Assembly that, whenever possible, if an attorney or guardian ad litem is appointed pursuant to G.S. 7A-451 for a person who is less than 18 years old or who is at least 18 years old but remains dependent on and domiciled with a parent or guardian, the parent, guardian, or any trustee in possession of funds or property for the benefit of the person, shall reimburse the State for the attorney or guardian ad litem fees, pursuant to the procedures established in G.S. 7A-450.2 and G.S. 7A-450.3. This section shall not apply in any case in which

the person for whom an attorney or guardian ad litem is appointed prevails. (1983, c. 726, s. 1; 1991 (Reg. Sess., 1992), c. 1030, s. 2.)

§ 7A-450.2. Determination of fiduciaries at indigency determination; summons; service of process.

At the same time as a person who is less than 18 years old or who is at least 18 years old but remains dependent on and domiciled with a parent or guardian is determined to be indigent, and has an attorney or guardian ad litem appointed pursuant to G.S. 7A-451, the court shall determine the identity and address of the parent, guardian or any trustee in possession of funds or property for the benefit of the person. The court shall issue a summons to the parent, guardian or trustee to be present at the dispositional hearing or the sentencing hearing or other appropriate hearing and to be a party to these hearings for the purpose of being determined responsible for reimbursing the State for the person's attorney or guardian ad litem fees, or to show cause why he should not be held responsible.

Both the issuance of the summons and the service of process shall be pursuant to G.S. 1A-1, Rule 4. (1983, c. 726, s. 1.)

§ 7A-450.3. Determination of responsibility at hearing.

At the dispositional, sentencing or other hearing of the person who is less than 18 years old or who is at least 18 years old but remains dependent on and domiciled with a parent or guardian, the court shall make a determination whether the parent, guardian or trustee should be held responsible for reimbursing the State for the person's attorney or guardian ad litem fees. This determination shall include the financial situation of the parent, guardian or trustee, the relationship of responsibility the parent, guardian or trustee bears to the person and any showings by the parent, guardian or trustee that the person is emancipated or not dependent. The test of the party's financial ability to pay is the test applied to appointment of an attorney in cases of indigency. Any provision of any deed, trust or other writing, which, if enforced, would defeat the intent or purpose of this section is contrary to the public policy of this State and is void insofar as it may apply to prohibit reimbursement to the State.

If the court determines that the parent, guardian or trustee is responsible for reimbursing the State for the attorney or guardian ad litem fees, the court shall so order. If the party does not comply with the order at the time of disposition, the court shall file a judgment against him for the amount due the State. (1983, c. 726, s. 1; 2005-254, s. 3.)

§ 7A-450.4. Exemptions.

General Statutes 7A-450.1, 7A-450.2 and 7A-450.3 do not authorize the court to require the Department of Health and Human Services or any county Department of Social Services to reimburse the State for fees. (1983, c. 726, s. 1; 1997-443, s. 11A.118(a).)

§ 7A-451. Scope of entitlement.

(a) An indigent person is entitled to services of counsel in the following actions and proceedings:

(1) Any case in which imprisonment, or a fine of five hundred dollars ($500.00), or more, is likely to be adjudged.

(2) A hearing on a petition for a writ of habeas corpus under Chapter 17 of the General Statutes.

(3) A motion for appropriate relief under Chapter 15A of the General Statutes if appointment of counsel is authorized by Chapter 15A of the General Statutes and the defendant has been convicted of a felony, has been fined five hundred dollars ($500.00) or more, or has been sentenced to a term of imprisonment.

(4) A hearing for revocation of probation.

(5) A hearing in which extradition to another state is sought.

(6) A proceeding for an inpatient involuntary commitment to a facility under Part 7 of Article 5 of Chapter 122C of the General Statutes, or a proceeding for commitment under Part 8 of Article 5 of Chapter 122C of the General Statutes.

(7) In any case of execution against the person under Chapter 1, Article 28 of the General Statutes, and in any civil arrest and bail proceeding under Chapter 1, Article 34, of the General Statutes.

(8) In the case of a juvenile, a hearing as a result of which commitment to an institution or transfer to the superior court for trial on a felony charge is possible.

(9) A hearing for revocation of parole at which the right to counsel is provided in accordance with the provisions of Chapter 148, Article 4, of the General Statutes.

(10) Repealed by Session Laws 2003, c. 13, s. 2(a), effective April 17, 2003, and applicable to all petitions for sterilization pending and orders authorizing sterilization that have not been executed as of April 17, 2003.

(11) A proceeding for the provision of protective services according to Chapter 108A, Article 6 of the General Statutes.

(12) In the case of a juvenile alleged to be abused, neglected, or dependent under Subchapter I of Chapter 7B of the General Statutes.

(13) A proceeding to find a person incompetent under Subchapter I of Chapter 35A, of the General Statutes.

(14) A proceeding to terminate parental rights where a guardian ad litem is appointed pursuant to G.S. 7B-1101.

(15) An action brought pursuant to Article 11 of Chapter 7B of the General Statutes to terminate an indigent person's parental rights.

(16) A proceeding involving consent for an abortion on an unemancipated minor pursuant to Article 1A, Part 2 of Chapter 90 of the General Statutes. G.S. 7A-450.1, 7A-450.2, and 7A-450.3 shall not apply to this proceeding.

(17) A proceeding involving limitation on freedom of movement or access pursuant to G.S. 130A-475 or G.S. 130A-145.

(18) A proceeding involving placement into satellite monitoring under Part 5 of Article 27A of Chapter 14 of the General Statutes.

(b) In each of the actions and proceedings enumerated in subsection (a) of this section, entitlement to the services of counsel begins as soon as feasible after the indigent

is taken into custody or service is made upon him of the charge, petition, notice or other initiating process. Entitlement continues through any critical stage of the action or proceeding, including, if applicable:

(1) An in-custody interrogation;

(2) A pretrial identification procedure which occurs after formal charges have been preferred and at which the presence of the indigent is required;

(3) A hearing for the reduction of bail, or to fix bail if bail has been earlier denied;

(4) A probable cause hearing;

(5) Trial and sentencing;

(6) Review of any judgment or decree pursuant to G.S. 7A-27, 7A-30(1), 7A-30(2), and Subchapter XIV of Chapter 15A of the General Statutes;

(7) In a capital case in which a defendant is under a sentence of death, subject to rules adopted by the Office of Indigent Defense Services, review of any judgment or decree rendered on direct appeal by the Supreme Court of North Carolina pursuant to the certiorari jurisdiction of the United States Supreme Court; and

(8) In a noncapital case, subject to rules adopted by the Office of Indigent Defense Services, review of any judgment or decree rendered on direct appeal by a court of the North Carolina Appellate Division pursuant to the certiorari jurisdiction of the United States Supreme Court, when the judgment or decree:

a. Decides an important question of federal law in a way that conflicts with relevant decisions of the United States Supreme Court, a federal Court of Appeals, or the court of last resort of another state;

b. Decides an important question of federal law that has not been, but should be, settled by the United States Supreme Court; or

c. Decides a question of federal law in the indigent's favor and the judgment or decree is challenged by opposing counsel through an attempt to invoke the certiorari jurisdiction of the United States Supreme Court.

(c) In any capital case, an indigent defendant who is under a sentence of death and desires counsel may apply to the Office of Indigent Defense Services for the appointment of counsel to represent the defendant in preparing, filing, and litigating a motion for appropriate relief. The application for the appointment of such postconviction counsel may be made prior to completion of review on direct appeal and shall be made no later than 10 days from the latest of the following:

(1) The mandate has been issued by the Supreme Court of North Carolina on direct appeal pursuant to N.C.R. App. P. 32(b) and the time for filing a petition for writ of certiorari to the United States Supreme Court has expired without a petition being filed;

(2) The United States Supreme Court denied a timely petition for writ of certiorari of the decision on direct appeal by the Supreme Court of North Carolina; or

(3) The United States Supreme Court granted the defendant's or the State's timely petition for writ of certiorari of the decision on direct appeal by the Supreme Court of North Carolina, but subsequently left the defendant's death sentence undisturbed.

(c1) Upon application, supported by the defendant's affidavit, the Office of Indigent Defense Services shall determine whether the defendant was previously adjudicated indigent for purposes of trial or direct appeal. If the defendant was previously adjudicated indigent, the defendant shall be presumed indigent for purposes of this subsection, and the Office of Indigent Defense Services shall appoint two counsel to represent the defendant. If the defendant was not previously adjudicated indigent, the Office of Indigent Defense Services shall request that the superior court in the district where the defendant was indicted determine whether the defendant is indigent. If the court finds that the defendant is indigent, the Office of Indigent Defense Services shall then appoint two counsel to represent the defendant.

(c2) The defendant does not have a right to be present at the time of appointment of counsel, and the appointment need not be made in open court.

(d) The appointment of counsel as provided in subsection (c) of this section and the procedure for compensation shall comply with rules adopted by the Office of Indigent Defense Services.

(e) No counsel appointed pursuant to subsection (c) of this section shall have previously represented the defendant at trial or on direct appeal in the case for which the appointment is made unless the defendant expressly requests continued representation and understandingly waives future allegations of ineffective assistance of counsel.

(e1) When the Supreme Court of North Carolina files an opinion affirming or reversing the judgment of the trial court in a case in which the defendant was sentenced to death, or files an opinion or decision with regard to such a defendant's postconviction petition for relief from a sentence of death, or when any federal court files or issues an opinion or decision in such circumstances, the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall, on the day the opinion or decision is filed or issued, permit counsel for the defendant to visit the defendant at the institution at which the defendant is confined. The visit shall be permitted during regular business hours for not less than one hour, unless a visit outside regular business hours is agreed to by both the institution's administrator and counsel for the defendant. This section shall not be construed to abridge the adequate and reasonable opportunity for attorneys to consult with clients sentenced to death generally and shall not be construed to mandate an attorney visit during an emergency at the institution at which a defendant is confined.

(f) A guardian ad litem shall be appointed to represent the best interest of an underage party seeking judicial authorization to marry pursuant to G.S. 51-2A. The appointment and duties of the guardian ad litem shall be governed by G.S. 51-2A. The procedure for compensation of the guardian ad litem shall comply with rules adopted by the Office of Indigent Defense Services. (1969, c. 1013, s. 1; 1973, c. 151, ss. 1, 3; c. 616; c. 726, s. 4; c. 1116, s. 1; c. 1125; c. 1320; c. 1378, s. 2; 1977, c. 711, ss. 7, 8; c. 725, s. 2; 1979, 2nd Sess., c. 1206, s. 3; 1981, c. 966, s. 4; 1983, c. 638, s. 23; c. 864, s. 4; 1985, c.

509, s. 1; c. 589, s. 3; 1987, c. 550, s. 16; 1995, c. 462, s. 3; 1995 (Reg. Sess., 1996), c. 719, s. 7; 1998-202, s. 13(a); 2000-144, s. 6; 2001-62, s. 14; 2002-179, s. 16; 2003-13, s. 2(a); 2005-250, s. 2; 2007-323, s. 14.19(a); 2009-91, s. 1; 2009-387, ss. 3, 5; 2011-145, s. 19.1(h); 2017-176, s. 1(c); 2017-186, s. 2(f).)

§ 7A-451.1. Counsel fees for outpatient involuntary commitment proceedings.

The State shall pay counsel fees for persons appointed pursuant to G.S. 122C-267(d). (1983, c. 638, s. 24; c. 864, s. 4; 1985, c. 589, s. 4; 1991, c. 761, s. 3.)

§ 7A-452. Source of counsel; fees; appellate records.

(a) Upon the court's determination that a person is indigent and entitled to counsel under this Article, counsel shall be appointed in accordance with rules adopted by the Office of Indigent Defense Services. In noncapital cases, the court shall assign counsel pursuant to rules adopted by the Office of Indigent Defense Services. In capital cases, the Office of Indigent Defense Services or designee of the Office of Indigent Defense Services shall assign counsel; at least one member of each capital defense team, where practicable, shall be a member of the bar in that division. In the courts of those counties which have a public defender, however, the public defender may tentatively assign himself or an assistant public defender to represent an indigent person, subject to subsequent determination of entitlement to counsel by the court and approval by the court in noncapital cases and by the Office of Indigent Defense Services in capital cases.

(b) Fees of assigned counsel and salaries and other operating expenses of the offices of the public defenders shall be borne by the State.

(c) (1) The clerk of superior court is authorized to make a determination of indigency and entitlement to counsel, as authorized by this Article. The word "court," as it is used in this Article and in any rules pursuant to this Article, includes the clerk of superior court.

(2) A judge of superior or district court having authority to determine entitlement to counsel in a particular case may give directions to the clerk with regard to the determination of entitlement to counsel in that case; may, if he finds it appropriate, change or modify the determination made by the clerk; and may set aside a finding of waiver of counsel made by the clerk.

(d) Unless a public defender or assistant public defender is appointed to serve, standby counsel appointed under G.S. 15A-1243 shall receive reasonable compensation to be paid by the State.

(e) In cases in which an indigent person has entered notice of appeal and appellate counsel has been appointed by the Office of Indigent Defense Services, the clerk of superior court shall make a copy of the complete trial division file in the case, make a copy of documentary exhibits upon request, and furnish those files and any requested documentary exhibits to the appointed attorney. (1969, c. 1013, s. 1; 1971, c. 377, s. 32; 1973, c. 1286, s. 8; 1977, c. 711, s. 9; 1987 (Reg. Sess., 1988), c. 1037, s. 29; 2000-144, s. 7; 2005-148, s. 1.)

§ 7A-453. Duty of custodian of a possibly indigent person; determination of indigency.

(a) In counties designated by the Office of Indigent Defense Services, the authority having custody of a person who is without counsel for more than 48 hours after being taken into custody

shall so inform the designee of the Office of Indigent Defense Services. The designee of the Office of Indigent Defense Services shall make a preliminary determination as to the person's entitlement to his services, and proceed accordingly. The court shall make the final determination.

(b) In counties that have not been designated by the Office of Indigent Defense Services, the authority having custody of a person who is without counsel for more than 48 hours after being taken into custody shall so inform the clerk of superior court.

(c) In any county, if a defendant, upon being taken into custody, states that he is indigent and desires counsel, the authority having custody shall immediately inform the designee of the Office of Indigent Defense Services or the clerk of superior court, as the case may be, who shall take action as provided in this Article.

(d) The duties imposed by this section upon authorities having custody of persons who may be indigent are in addition to the duties imposed upon arresting officers under G.S. 15-47. (1969, c. 1013, s. 1; 1973, c. 1286, s. 8; 1987 (Reg. Sess., 1988), c. 1037, s. 30; 2000-144, s. 8.)

§ 7A-454. Supporting services.

Fees for the services of an expert witness or other witnesses, paid in accordance with G.S. 7A-314, including travel expenses, lodging, and other appearance expenses, for an indigent person and other necessary expenses of counsel shall be paid by the State in accordance with rules adopted by the Office of Indigent Defense Services. (1969, c. 1013, s. 1; 2000-144, s. 9; 2011-145, s. 31.23C(b); 2011-391, s. 64.)

§ 7A-455. Partial indigency; liens; acquittals.

(a) If, in the opinion of the court, an indigent person is financially able to pay a portion, but not all, of the value of the legal services rendered for that person by assigned counsel, the public defender, or the appellate defender, and other necessary expenses of representation, the court shall order the partially indigent person to pay such portion to the clerk of superior court for transmission to the State treasury.

(b) In all cases the court shall direct that a judgment be entered in the office of the clerk of superior court for the money value of services rendered by assigned counsel, the public defender, or the appellate defender, plus any sums allowed for other necessary expenses of representing the indigent person, including any fees and expenses that may have been allowed prior to final determination of the action to assigned counsel pursuant to G.S. 7A-458, which shall constitute a lien as prescribed by the general law of the State applicable to judgments. Any reimbursement to the State as provided in subsection (a) of this section or any funds collected by reason of such judgment shall be deposited in the State treasury and credited against the judgment. The value of services shall be determined in accordance with rules adopted by the Office of Indigent Defense Services. The money value of services rendered by the public defender and the appellate defender shall be based upon the factors normally involved in fixing the fees of private attorneys, such as the nature of the case, the time, effort, and responsibility involved, and the fee usually charged in similar cases. A district court judge shall direct entry of judgment for actions or proceedings finally determined in the district court and a superior court judge shall direct entry of judgment for actions or proceedings originating in, heard on appeal in, or appealed

from the superior court. Even if the trial, appeal, hearing, or other proceeding is never held, preparation therefor is nevertheless compensable.

(b1) In every case in which the State is entitled to a lien pursuant to this section, the public defender shall at the time of sentencing or other conclusion of the proceedings petition the court to enter judgment for the value of the legal services rendered by the public defender, and the appellate defender shall upon completion of the appeal petition or request the trial court to enter judgment for the value of the legal services rendered by the appellate defender.

(c) No order for partial payment under subsection (a) of this section and no judgment under subsection (b) of this section shall be entered unless the indigent person is convicted. If the indigent person is convicted, the order or judgment shall become effective and the judgment shall be docketed and indexed pursuant to G.S. 1-233 et seq., in the amount then owing, upon the later of (i) the date upon which the conviction becomes final if the indigent person is not ordered, as a condition of probation, to pay the State of North Carolina for the costs of his representation in the case or (ii) the date upon which the indigent person's probation is terminated, is revoked, or expires if the indigent person is so ordered. No order for partial payment under subsection (a) of this section and no judgment under subsection (b) of this section shall be entered for the value of legal services rendered to perfect an appeal to the Appellate Division or in postconviction proceedings, if all of the matters that the person raised in the proceeding are vacated, reversed, or remanded for a new trial or resentencing.

(d) In all cases in which the entry of a judgment is authorized under G.S. 7A-450.1 through G.S. 7A-450.4 or under this section, the attorney, guardian ad litem, public defender, or appellate defender who rendered the services or incurred the expenses for which the judgment is to be entered shall make reasonable efforts to obtain the social security number, if any, of each person against whom judgment is to be entered. This number, a certification that the person has no social security number, or a certification that the social security number cannot be obtained with reasonable efforts shall be included in each fee application submitted by an assigned attorney, guardian ad litem, public defender, or appellate defender, and no order for payment entered upon an application which does not include the required social security number or certification shall be valid to authorize payment to the applicant from the Indigent Persons' Attorney Fee Fund. Each judgment docketed against any person under this section or under G.S. 7A-450.3 shall include the social security number, if any, of the judgment debtor. (1969, c. 1013, s. 1; 1983, c. 135, s. 2; 1983 (Reg. Sess., 1984), c. 1109, s. 12; 1985, c. 474, s. 9; 1989 (Reg. Sess., 1990), c. 946, ss. 5, 6; 1991, c. 761, s. 4; 1991 (Reg. Sess., 1992), c. 900, s. 116(a); 2000-144, s. 10; 2005-254, s. 1; 2013-41, s. 1.)

§ 7A-455.1. Appointment fee in criminal cases.

(a) In every criminal case in which counsel is appointed at the trial level, the judge shall order the defendant to pay to the clerk of court an appointment fee of sixty dollars ($60.00). No fee shall be due unless the person is convicted.

(b) The mandatory sixty-dollar ($60.00) fee may not be remitted or revoked by the court and shall be added to any amounts the court determines to be owed for the value of legal services rendered to the defendant and shall be collected in the same manner as attorneys' fees are collected for such representation.

(c) Repealed by Session Laws 2005-250 s. 3, effective August 4, 2005.

(d) Inability, failure, or refusal to pay the appointment fee shall not be grounds for denying appointment of counsel, for withdrawal of counsel, or for contempt.

(e) The appointment fee required by this section shall be assessed only once for each attorney appointment, regardless of the number of cases to which the attorney was assigned. An additional appointment fee shall not be assessed if the charges for which an attorney was appointed were reassigned to a different attorney.

(f) Of each appointment fee collected under this section, the sum of fifty-five dollars ($55.00) shall be credited to the Indigent Persons' Attorney Fee Fund and the sum of five dollars ($5.00) shall be credited to the Court Information Technology Fund under G.S. 7A-343.2. These fees shall not revert.

(g) The Office of Indigent Defense Services shall adopt rules and develop forms to govern implementation of this section. (2002-126, s. 29A.9(a); 2003-284, s. 13.11; 2005-250, s. 3; 2009-451, s. 15.17I(a); 2010-31, s. 15.11(a); 2012-142, s. 16.5(h).)

§ 7A-456. False statements; penalty.

(a) A false material statement made by a person under oath or affirmation in regard to the question of his indigency constitutes a Class I felony.

(b) A judicial official making the determination of indigency shall notify the person of the provisions of subsection (a) of this section.

(c) Repealed by Session Laws 1987 (Reg. Sess., 1988), c. 1100, s. 11.1. (1969, c. 1013, s. 1; 1987 (Reg. Sess., 1988), c. 1086, s. 113(c); c. 1100, s. 11.1; 1993 (Reg. Sess., 1994), c. 767, s. 19.)

§ 7A-457. Waiver of counsel; pleas of guilty.

(a) An indigent person who has been informed of his right to be represented by counsel at any in-court proceeding, may, in writing, waive the right to in-court representation by counsel in accordance with rules adopted by the Office of Indigent Defense Services. Any waiver of counsel shall be effective only if the court finds of record that at the time of waiver the indigent person acted with full awareness of his rights and of the consequences of the waiver. In making such a finding, the court shall consider, among other things, such matters as the person's age, education, familiarity with the English language, mental condition, and the complexity of the crime charged.

(b) If an indigent person waives counsel as provided in subsection (a), and pleads guilty to any offense, the court shall inform him of the nature of the offense and the possible consequences of his plea, and as a condition of accepting the plea of guilty the court shall examine the person and shall ascertain that the plea was freely, understandably and voluntarily made, without undue influence, compulsion or duress, and without promise of leniency.

(c) An indigent person who has been informed of his right to be represented by counsel at any out-of-court proceeding, may, either orally or in writing, waive the right to out-of-court representation by counsel. (1969, c. 1013, s. 1; 1971, c. 1243; 1973, c. 151, s. 3; 2000-144, s. 11.)

§ 7A-458. Counsel fees.

The fee to which an attorney who represents an indigent person is entitled shall be fixed in accordance with rules adopted by the Office of Indigent Defense Services. Fees shall be based on the factors normally considered in fixing attorneys' fees, such as the nature of the case, and the time, effort and responsibility involved. Fees shall not be set or ordered at rates higher than those established by the rules adopted under this section without the approval of the Office of Indigent Defense Services. Even if the trial, appeal, hearing or other proceeding is never held, preparation therefor is nevertheless compensable and, in capital cases and other extraordinary cases pending in superior court, a fee for services rendered and payment for expenses incurred may be allowed pending final determination of the case. (1969, c. 1013, s. 1; 1987 (Reg. Sess., 1988), c. 1086, s. 113(b); 1991 (Reg. Sess., 1992), c. 900, s. 116(b); 2000-144, s. 12; 2005-276, s. 14.13.)

§ 7A-459: Repealed by Session Laws 2000-144, s. 13, as amended by Session Laws 2001-424, s. 22.11(c).

§ 7A-460: Reserved for future codification purposes.

§ 7A-461: Reserved for future codification purposes.

§ 7A-462: Reserved for future codification purposes.

§ 7A-463: Reserved for future codification purposes.

§ 7A-464: Reserved for future codification purposes.

Article 37.

The Public Defender.

§§ 7A-465 through 7A-467: Repealed by Session Laws 2000-144, s. 13, as amended by Session Laws 2001-424, s. 22.11(c).

§ 7A-468: Repealed by Session Laws 1987 (Regular Session, 1988), c. 1056, s. 13.

§§ 7A-469 through 7A-471: Repealed by Session Laws 2000-144, s. 13, as amended by Session Laws 2001-424, s. 22.11(c), effective July 1, 2001.

§ 7A-472. Reserved for future codification purposes.

§ 7A-473. Reserved for future codification purposes.

§ 7A-474. Reserved for future codification purposes.

Article 37A.

Access to Civil Justice Act.

§§ 7A-474.1 through 7A-474.5: Repealed by Session Laws 2017-57, s. 18B.10(c), effective June 28, 2017.

§ 7A-474.6: Reserved for future codification purposes.

§ 7A-474.7: Reserved for future codification purposes.

§ 7A-474.8: Reserved for future codification purposes.

§ 7A-474.9: Reserved for future codification purposes.

§ 7A-474.10: Reserved for future codification purposes.

§ 7A-474.11: Reserved for future codification purposes.

§ 7A-474.12: Reserved for future codification purposes.

§ 7A-474.13: Reserved for future codification purposes.

§ 7A-474.14: Reserved for future codification purposes.

§ 7A-474.15: Reserved for future codification purposes.

Article 37B.

Domestic Violence Victim Assistance Act.

§ 7A-474.16. Legislative findings and purpose.

The General Assembly of North Carolina declares it to be its purpose to provide access to legal representation for domestic violence victims in certain kinds of civil matters. The General Assembly finds that such representation can best be provided in an efficient, effective, and economic manner through established legal services programs in this State. (2004-186, s. 4.1.)

§ 7A-474.17. Definitions.

The following definitions shall apply throughout this Article, unless the context otherwise requires:

(1) "Domestic violence victim" means a resident of North Carolina that has been subjected to acts of domestic violence as defined in G.S. 50B-1. A resident is not required to seek a protective order under Chapter 50B of the General Statutes to qualify as a domestic violence victim under this Article.

(2) "Legal assistance" means the provision of any legal services, as defined by Chapter 84 of the General Statutes, consistent with this Article. Provided, that all legal services provided hereunder shall be performed consistently with the Rules of Professional Conduct promulgated by the North Carolina State Bar. Provided, further, that no funds appropriated under this Article shall be used for

lobbying to influence the passage or defeat of any legislation before any municipal, county, state, or national legislative body.

(3) "Established legal services program" means the following not-for-profit corporations using State funds to serve the counties listed: Pisgah Legal Services, serving Buncombe, Henderson, Madison, Polk, Rutherford, and Transylvania Counties; and Legal Aid of North Carolina; or any successor entity or entities of the named organizations, or, should any of the named organizations dissolve, the entity or entities providing substantially the same services in substantially the same service area. (2004-186, s. 4.1; 2008-194, s. 3(c).)

§ 7A-474.18. Eligible activities and limitations.

(a) Eligible Activities. – Funds appropriated under this Article shall be used only for the following purposes:

(1) To provide legal assistance to domestic violence victims.

(2) To provide education to domestic violence victims regarding their rights and duties under the law.

(3) To involve the private bar in the representation of domestic violence victims pursuant to this Article.

(b) Eligible Cases. – The funds shall be prioritized by each legal services program to serve the greatest number of eligible clients, with emphasis placed on representation of clients needing legal assistance with proceedings pursuant to Chapter 50B of the General Statutes. Legal assistance shall be provided to eligible clients under this Article only in the following types of cases:

(1) Actions for protective orders issued pursuant to Chapter 50B of the General Statutes;

(2) Child custody and visitation issues; and

(3) Legal services which ensure the safety of the client and the client's children.

(c) Limitations. – No funds appropriated under this Article shall be used for any of the following purposes:

(1) To provide legal assistance with respect to any criminal proceeding; or

(2) To provide legal assistance to any prisoner within the Division of Adult Correction and Juvenile Justice of the Department of Public Safety with regard to the terms of that person's incarceration. (2004-186, s. 4.1; 2011-145, s. 19.1(h); 2012-83, s. 16; 2017-186, s. 2(h).)

§ 7A-474.19. Funds.

Funds to provide representation pursuant to this Article shall be provided to the North Carolina State Bar for provision of direct services by and support of the established legal services programs. The North Carolina State Bar shall allocate these funds directly to each of the established legal services programs with Pisgah Legal Services receiving the allocation for Buncombe, Henderson, Madison, Polk, Rutherford, and Transylvania Counties. Funds shall be allocated to each program based on the counties served by that program using the following formula:

(1) Twenty percent (20%) based on a fixed equal dollar amount for each county.
(2) Eighty percent (80%) based on the rate of civil actions filed pursuant to Chapter 50B of the General Statutes in that county.

The North Carolina State Bar shall not use any of these funds for its administrative costs. (2004-186, s. 4.1; 2008-194, s. 3(d).)

§ 7A-474.20. Records and reports.

The established legal services programs shall keep appropriate records and make periodic reports, as requested, to the North Carolina State Bar. The North Carolina State Bar shall report annually to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on the amount of the funds disbursed and the use of the funds by each legal services program receiving funds. The report to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety shall be made by January 15 of each year beginning January 15, 2006. (2004-186, s. 4.1; 2013-360, s. 18B.5.)

Article 38.

Appellate Defender Office.

§§ 7A-475 through 7A-485: Expired.

Article 38A.

Appellate Defender Office.

§§ 7A-486 through 7A-486.7: Repealed by Session Laws 2000-144, s. 13, as amended by Session Laws 2001-424, s. 22.11(c), effective July 1, 2001.

§ 7A-487. Reserved for future codification purposes.

§ 7A-488. Reserved for future codification purposes.

Article 39.

Guardian Ad Litem Program.

§§ 7A-489 through 7A-493. Repealed by Session Laws 1998-202, s. 5, effective July 1, 1999.

Article 39A.

Custody and Visitation Mediation Program.

§ 7A-494. Custody and Visitation Mediation Program established.

(a) The Administrative Office of the Courts shall establish a Custody and Visitation Mediation Program to provide statewide and uniform services in accordance with G.S. 50-13.1 in cases involving unresolved issues about the custody or visitation of minor children. The Director

of the Administrative Office of the Courts shall appoint such AOC staff support required for planning, organizing, and administering such program on a statewide basis.

The purposes of the Custody and Visitation Mediation Program shall be to provide the services of skilled mediators to further the goals expressed in G.S. 50-13.1(b).

(b) Beginning on July 1, 1989, the Administrative Office of the Courts shall establish in phases a statewide custody mediation program comprised of local district programs to be established in all judicial districts of the State. Each local district program shall consist of: a qualified mediator or mediators to provide mediation services; and such clerical staff as the Administrative Office of the Courts in consultation with the local district program deems necessary. Such personnel, to be employed by the Chief District Court Judge of the district, may serve as full-time or part-time State employees or, in the alternative, such activities may be provided on a contractual basis when determined appropriate by the Administrative Office of the Courts. The Administrative Office of the Courts may authorize all or part of a program in one judicial district to be operated in conjunction with that of another district or districts. The Director of the Administrative Office of the Courts is authorized to approve contractual agreements for such services as executed by order of the Chief District Court Judge of a district court district; such contracts to be exempt from competitive bidding procedures under Chapter 143 of the General Statutes. The Administrative Office of the Courts shall promulgate rules and regulations necessary and appropriate for the administration of the program. Funds appropriated by the General Assembly for the establishment and maintenance of mediation programs under this Article shall be administered by the Administrative Office of the Courts.

(c) For a person to qualify to provide mediation services under this Article, that person shall show that he or she:

(1) Has at minimum a master's degree in psychology, social work, family counselling, or a comparable human relations discipline; and

(2) Has at least 40 hours of training in mediation techniques by a qualified instructor of mediation as determined by the Administrative Office of the Courts; and

(3) Has had professional training and experience relating to child development, family dynamics, or comparable areas; and

(4) Meets such other criteria as may be specified by the Administrative Office of the Courts. (1989, c. 795, s. 15.)

§ 7A-495. Implementation and administration.

(a) Local District Program. – The Administrative Office of the Courts shall, in cooperation with each Chief District Court Judge and other district personnel, implement and administer the program mandated by this Article.

(b) Advisory Committee Established. – The Director of the Administrative Office of the Courts shall appoint a Custody Mediation Advisory Committee consisting of at least five members to advise the Custody Mediation Program. The members of the Advisory Committee shall receive the same per diem and reimbursement for travel expenses as members of State boards and commissions generally. (1989, c. 795, s. 15.)

§ 7A-496. Reserved for future codification purposes.

§ 7A-497. Reserved for future codification purposes.

Article 39B.

Indigent Defense Services Act.

§ 7A-498. Title.

This Article shall be known and may be cited as the "Indigent Defense Services Act of 2000". (2000-144, s. 1.)

§ 7A-498.1. Purpose.

Whenever a person is determined to be indigent and entitled to counsel, it is the responsibility of the State under the federal and state constitutions to provide that person with counsel and the other necessary expenses of representation. The purpose of this Article is to:

(1) Enhance oversight of the delivery of counsel and related services provided at State expense;
(2) Improve the quality of representation and ensure the independence of counsel;
(3) Establish uniform policies and procedures for the delivery of services;
(4) Generate reliable statistical information in order to evaluate the services provided and funds expended; and
(5) Deliver services in the most efficient and cost-effective manner without sacrificing quality representation. (2000-144, s. 1.)

§ 7A-498.2. Establishment of Office of Indigent Defense Services.

(a) The Office of Indigent Defense Services, which is administered by the Director of Indigent Defense Services and includes the Commission on Indigent Defense Services and the Sentencing Services Program established in Article 61 of this Chapter, is created within the Administrative Office of the Courts. As used in this Article, "Office" means the Office of Indigent Defense Services, "Director" means the Director of Indigent Defense Services, and "Commission" means the Commission on Indigent Defense Services.

(b) Except as provided otherwise by this section, the Office of Indigent Defense Services may exercise its prescribed powers independently of the head of the Administrative Office of the Courts. The Office may enter into contracts, own property, and accept funds, grants, and gifts from any public or private source to pay expenses incident to implementing its purposes.

(c) The Director of the Administrative Office of the Courts shall provide general administrative support to the Office of Indigent Defense Services. The term "general administrative support" includes purchasing, payroll, and similar administrative services.

(d) The budget of the Office of Indigent Defense Services shall be a part of the budget of the Administrative Office of the Courts. The Administrative Office of the Courts shall conduct an annual audit of the budget of the Office of Indigent Defense Services.

(e) The Director of the Administrative Office of the Courts may modify the budget of the Office of Indigent Defense Services and may use funds appropriated to the Office without the approval of the Commission or the Office of Indigent Defense Services. (2000-144, s. 1; 2002-126, s. 14.7(b); 2015-241, s. 18A.17(b).)

§ 7A-498.3. Responsibilities of Office of Indigent Defense Services.

(a) The Office of Indigent Defense Services shall be responsible for establishing, supervising, and maintaining a system for providing legal representation and related services in the following cases:

(1) Cases in which an indigent person is subject to a deprivation of liberty or other constitutionally protected interest and is entitled by law to legal representation;

(2) Cases in which an indigent person is entitled to legal representation under G.S. 7A-451 and G.S. 7A-451.1;

(2a) Cases in which the State is legally obligated to provide legal assistance and access to the courts to inmates in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety; and

(3) Any other cases in which the Office of Indigent Defense Services is designated by statute as responsible for providing legal representation.

(b) The Office of Indigent Defense Services shall develop policies and procedures for determining indigency in cases subject to this Article, and those policies shall be applied uniformly throughout the State. Except in cases under subdivision (2a) of subsection (a) of this section, the court shall determine in each case whether a person is indigent and entitled to legal representation, and counsel shall be appointed as provided in G.S. 7A-452.

(b1) The Office of Indigent Defense Services shall develop a model appointment plan with minimum qualification standards for appointed private counsel by July 1, 2019, for adoption and promulgation by each judicial district. Judicial districts may request modifications to the model plan and qualification standards. If a judicial district has not adopted an appointment plan with the Indigent Defense Services' minimum qualification standards by January 2, 2021, the model plan and qualification standards developed by Indigent Defense Services will become effective on that date in that judicial district. Indigent Defense Services shall review the model plan and qualification standards every five years and, in the event it modifies the model plan and/or qualification standards, shall notify the judicial districts of the change. Judicial districts will have 18 months from the date Indigent Defense Services gives notice of a change to seek modifications to the revised model plan or to the qualification standards.

(c) In all cases subject to this Article, appointment of counsel, determination of compensation, appointment of experts, and use of funds for experts and other services related to legal representation shall be in accordance with rules and procedures adopted by the Office of Indigent Defense Services.

(d) The Office of Indigent Defense Services shall allocate and disburse funds appropriated for legal representation and related services in cases subject to this Article pursuant to rules and procedures established by the Office. (2000-144, s. 1; 2005-276, s. 14.9(a); 2011-145, s. 19.1(h); 2017-186, s. 2(i); 2018-40, s. 6.)

§ 7A-498.4. Establishment of Commission on Indigent Defense Services.

(a) The Commission on Indigent Defense Services is created within the Office of Indigent Defense Services and shall consist of 13 members. To create an effective working group, assure

continuity, and achieve staggered terms, the Commission shall be appointed as provided in this section.

(b) The members of the Commission shall be appointed as follows:

(1) The Chief Justice of the North Carolina Supreme Court shall appoint one member, who shall be an active or former member of the North Carolina judiciary.

(2) The Governor shall appoint one member, who shall be a nonattorney.

(3) The General Assembly shall appoint one member, who shall be an attorney, upon the recommendation of the President Pro Tempore of the Senate.

(4) The General Assembly shall appoint one member, who shall be an attorney, upon the recommendation of the Speaker of the House of Representatives.

(5) The North Carolina Public Defenders Association shall appoint member, who shall be an attorney.

(6) The North Carolina State Bar shall appoint one member, who shall be an attorney.

(7) The North Carolina Bar Association shall appoint one member, who shall be an attorney.

(8) The North Carolina Academy of Trial Lawyers shall appoint one member, who shall be an attorney.

(9) The North Carolina Association of Black Lawyers shall appoint one member, who shall be an attorney.

(10) The North Carolina Association of Women Lawyers shall appoint one member, who shall be an attorney.

(11) The Commission shall appoint three members, who shall reside in different judicial districts from one another. One appointee shall be a nonattorney, and one appointee may be an active member of the North Carolina judiciary. One appointee shall be Native American. The initial three members satisfying this subdivision shall be appointed as provided in subsection (k) of this section.

(c) The terms of members appointed pursuant to subsection (b) of this section shall be as follows:

(1) The initial appointments by the Chief Justice, the Governor, and the General Assembly shall be for four years.

(2) The initial appointments by the Public Defenders Association and State Bar, and one appointment by the Commission, shall be for three years.

(3) The initial appointments by the Bar Association and Trial Academy, and one appointment by the Commission, shall be for two years.

(4) The initial appointments by the Black Lawyers Association and Women Lawyers Association, and one appointment by the Commission, shall be for one year.

At the expiration of these initial terms, appointments shall be for four years and shall be made by the appointing authorities designated in subsection (b) of this section. No person shall serve more than two consecutive four-year terms plus any initial term of less than four years.

(d) Persons appointed to the Commission shall have significant experience in the defense of criminal or other cases subject to this Article or shall have demonstrated a strong commitment to quality representation in indigent defense matters. No active prosecutors or law enforcement officials, or active employees of such persons, may be appointed to or serve on the Commission.

No active judicial officials, or active employees of such persons, may be appointed to or serve on the Commission, except as provided in subsection (b) of this section. No active public defenders, active employees of public defenders, or other active employees of the Office of Indigent Defense Services may be appointed to or serve on the Commission, except that notwithstanding this subsection, G.S. 14-234, or any other provision of law, Commission members may include part-time public defenders employed by the Office of Indigent Defense Services and may include persons, or employees of persons or organizations, who provide legal services subject to this Article as contractors or appointed attorneys.

(e) All members of the Commission are entitled to vote on any matters coming before the Commission unless otherwise provided by rules adopted by the Commission concerning voting on matters in which a member has, or appears to have, a financial or other personal interest.

(f) Each member of the Commission shall serve until a successor in office has been appointed. Vacancies shall be filled by appointment by the appointing authority for the unexpired term. Removal of Commission members shall be in accordance with policies and procedures adopted by the Commission.

(g) A quorum for purposes of conducting Commission business shall be a majority of the members of the Commission.

(h) The Commission shall elect a Commission chair from the members of the Commission for a term of two years.

(i) The Director of Indigent Defense Services shall attend all Commission meetings except those relating to removal or reappointment of the Director or allegations of misconduct by the Director. The Director shall not vote on any matter decided by the Commission.

(j) Commission members shall not receive compensation but are entitled to be paid necessary subsistence and travel expenses in accordance with G.S. 138-5 and G.S. 138-6 as applicable.

(k) The Commission shall hold its first meeting no later than September 15, 2000. All appointments to the Commission specified in subdivisions (1) through (10) of subsection (b) of this section shall be made by the appointing authorities by September 1, 2000. The appointee of the Chief Justice shall convene the first meeting. No later than 30 days after its first meeting, the Commission shall make the appointments specified in subdivision (11) of subsection (b) of this section and shall elect its chair. (2000-144, s. 1; 2001-424, s. 22.11(b).)

§ 7A-498.5. Responsibilities of Commission.

(a) The Commission shall have as its principal purpose the development and improvement of programs by which the Office of Indigent Defense Services provides legal representation to indigent persons.

(b) The Commission shall appoint the Director of the Office of Indigent Defense Services, who shall be chosen on the basis of training, experience, and other qualifications. The Commission shall consult with the Chief Justice and Director of the Administrative Office of the Courts in selecting a Director, but shall have final authority in making the appointment.

(c) The Commission shall develop standards governing the provision of services under this Article. The standards shall include:

(1) Standards for maintaining and operating regional and district public defender offices and appellate defender offices, including requirements

regarding qualifications, training, and size of the legal and supporting staff;

(2) Standards prescribing minimum experience, training, and other qualifications for appointed counsel;

(3) Standards for public defender and appointed counsel caseloads;

(4) Standards for the performance of public defenders and appointed counsel;

(5) Standards for the independent, competent, and efficient representation of clients whose cases present conflicts of interest, in both the trial and appellate courts;

(6) Standards for providing and compensating experts and others who provide services related to legal representation;

(7) Standards for qualifications and performance in capital cases, consistent with any rules adopted by the Supreme Court; and

(8) Standards for determining indigency and for assessing and collecting the costs of legal representation and related services.

(d) The Commission shall determine the methods for delivering legal services to indigent persons eligible for legal representation under this Article and shall establish in each district or combination of districts a system of appointed counsel, contract counsel, part-time public defenders, public defender offices, appellate defender services, and other methods for delivering counsel services, or any combination of these services.

(e) In determining the method of services to be provided in a particular district, the Director shall consult with the district bar as defined in G.S. 84-19 and the judges of the district or districts under consideration. The Commission shall adopt procedures ensuring that affected local bars have the opportunity to be significantly involved in determining the method or methods for delivering services in their districts. The Commission shall solicit written comments from the affected local district bar, senior resident superior court judge, and chief district court judge. Those comments, along with the recommendations of the Commission, shall be forwarded to the members of the General Assembly who represent the affected district and to other interested parties.

(f) Subject to G.S. 7A-498.2(e) the Commission shall establish policies and procedures with respect to the distribution of funds appropriated under this Article, including rates of compensation for appointed counsel, schedules of allowable expenses, appointment and compensation of expert witnesses, and procedures for applying for and receiving compensation. The rate of compensation set for expert witnesses may be no greater than the rate set by the Administrative Office of the Courts under G.S. 7A-314(d).

(g) Repealed by Session Laws 2015-241, s. 18A.17(c), effective July 1, 2015.

(h) The Commission shall adopt such other rules and procedures as it deems necessary for the conduct of business by the Commission and the Office of Indigent Defense Services. (2000-144, s. 1; 2001-392, s. 2; 2011-145, s. 15.20; 2015-241, s. 18A.17(c); 2015-268, s. 6.3.)

§ 7A-498.6. Director of Indigent Defense Services.

(a) The Director of Indigent Defense Services shall be appointed by the Commission for a term of four years. The salary of the Director shall be set by the General Assembly in the Current Operations Appropriations Act, after consultation with the Commission. The Director may be removed during this term in the discretion of the Commission by a vote of two-thirds of all of the Commission members. The Director shall be an attorney licensed and eligible to practice in the courts of this State at the time of appointment and at all times during service as the Director.

(b) The Director shall:

(1) Prepare and submit to the Commission a proposed budget for the Office of Indigent Defense Services, an annual report containing pertinent data on the operations, costs, and needs of the Office, and such other information as the Commission may require;

(2) Assist the Commission in developing rules and standards for the delivery of services under this Article;

(3) Administer and coordinate the operations of the Office and supervise compliance with standards adopted by the Commission;

(4) Subject to policies and procedures established by the Commission, hire such professional, technical, and support personnel as deemed reasonably necessary for the efficient operation of the Office of Indigent Defense Services;

(5) Keep and maintain proper financial records for use in calculating the costs of the operations of the Office of Indigent Defense Services;

(6) Apply for and accept on behalf of the Office of Indigent Defense Services any funds that may become available from government grants, private gifts, donations, or devises from any source;

(7) Coordinate the services of the Office of Indigent Defense Services with any federal, county, or private programs established to provide assistance to indigent persons in cases subject to this Article and consult with professional bodies concerning improving the administration of indigent services;

(8) Conduct training programs for attorneys and others involved in the legal representation of persons subject to this Article;

(8a) Administer the Sentencing Services Program established in Article 61 of this Chapter; and

(9) Perform other duties as the Commission may assign.

(c) In lieu of merit and other increment raises paid to regular State employees, the Director of Indigent Defense Services shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, nineteen and two-tenths percent (19.2%) after 20 years of service, and twenty-four percent (24%) after 25 years of service. "Service" means service as Director of Indigent Defense Services, a public defender, appellate defender, assistant public or appellate

defender, district attorney, assistant district attorney, justice or judge of the General Court of Justice, or clerk of superior court. (2000-144, s. 1; 2002-126, s. 14.7(c); 2008-107, ss. 26.4(b), (c); 2011-284, s. 7.)

§ 7A-498.7. Public Defender Offices.

(a) The following counties of the State are organized into the defender districts listed below, and in each of those defender districts an office of public defender is established:

Defender District	Counties
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans
3A	Pitt
3B	Craven, Pamlico, Carteret
5	New Hanover
10	Wake
12	Cumberland
14	Durham
15B	Orange, Chatham
16A	Scotland, Hoke
16B	Robeson
18	Guilford
21	Forsyth
26	Mecklenburg
27A	Gaston
28	Buncombe
29A	McDowell, Rutherford
29B	Henderson, Polk, Transylvania

After notice to, and consultation with, the affected district bar, senior resident superior court judge, and chief district court judge, the Commission on Indigent Defense Services may recommend to the General Assembly that a district or regional public defender office be established. A legislative act is required in order to establish a new office or to abolish an existing office.

(b) For each new term, and to fill any vacancy, public defenders shall be appointed from a list of not less than three and not more than four names nominated as follows:

(1) Not less than two and not more than three by written ballot of the attorneys resident in the defender district who are licensed to practice law in North Carolina. The balloting shall be conducted pursuant to rules adopted by the Commission on Indigent Defense Services.

(2) One name submitted by the Administrative Officer of the Courts after consultation with the Director of the Office of Indigent Defense Services.

(b1) The appointment required under subsection (b) of this section shall be made by the senior resident superior court judge of the superior court district or set of districts as defined in G.S. 7A-41.1 that includes the county or counties of the defender district for which the public defender is being appointed.

(c) A public defender shall be an attorney licensed to practice law in North Carolina and shall devote full time to the duties of the office. In lieu of merit and other increment

raises paid to regular State employees, a public defender shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, nineteen and two-tenths percent (19.2%) after 20 years of service, and twenty-four percent (24%) after 25 years of service. "Service" means service as a public defender, appellate defender, assistant public or appellate defender, district attorney, assistant district attorney, justice or judge of the General Court of Justice, or clerk of superior court.

(c1) When traveling on official business, each public defender and assistant public defender is entitled to reimbursement for his or her subsistence expenses to the same extent as State employees generally. When traveling on official business outside his or her county of residence, each public defender and assistant public defender is entitled to reimbursement for travel expenses to the same extent as State employees generally. For purposes of this subsection, the term "official business" does not include regular, daily commuting between a person's home and the public defender's office. Travel distances, for purposes of reimbursement for mileage, shall be determined according to the travel policy of the Administrative Office of the Courts.

(d) Subject to standards adopted by the Commission, the day-to-day operation and administration of public defender offices shall be the responsibility of the public defender in charge of the office. The public defender shall keep appropriate records and make periodic reports, as requested, to the Director of the Office of Indigent Defense Services on matters related to the operation of the office.

(e) The Office of Indigent Defense Services shall procure office equipment and supplies for the public defender, and provide secretarial and library support from State funds appropriated to the public defender's office for this purpose.

(f) Each public defender is entitled to assistant public defenders, investigators, and other staff, full-time or part-time, as may be authorized by the Commission. Assistants, investigators, and other staff are appointed by the public defender and serve at the pleasure of the public defender. Average and minimum compensation of assistants shall be as provided in the biennial Current Operations Appropriations Act. The actual salaries of assistants shall be set by the public defender in charge of the office, subject to approval by the Commission. The Commission shall fix the compensation of investigators. Assistants and investigators shall perform such duties as may be assigned by the public defender.

(f1) In cases in which a public defender determines that a conflict of interest exists in the office, whenever practical, rather than obtaining private assigned counsel to resolve the conflict, the public defender may request the appointment of an assistant public defender from another office of public defender in the region to resolve the conflict.

(g) In lieu of merit and other increment raises paid to regular State employees, an assistant public defender shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of

service, nineteen and two-tenths percent (19.2%) after 20 years of service, and twenty-four percent (24%) after 25 years of service. "Service" means service as a public defender, appellate defender, assistant public or appellate defender, district attorney, assistant district attorney, justice or judge of the General Court of Justice, or clerk of superior court.

(h) The term of office of public defender appointed under this section is four years. A public defender or assistant public defender may be suspended or removed from office, and reinstated, for the same causes and under the same procedures as are applicable to removal of a district attorney.

(i) A public defender may apply to the Director of the Office of Indigent Defense Services to enter into contracts with local governments for the provision by the State of services of temporary assistant public defenders pursuant to G.S. 153A-212.1 or G.S. 160A-289.1.

(j) The Director of the Office of Indigent Defense Services may provide assistance requested pursuant to subsection (i) of this section only upon a showing by the requesting public defender, supported by facts, that the overwhelming public interest warrants the use of additional resources for the speedy disposition of cases involving drug offenses, domestic violence, or other offenses involving a threat to public safety.

(k) The terms of any contract entered into with local governments pursuant to subsection (i) of this section shall be fixed by the Director of the Office of Indigent Defense Services in each case. Nothing in this section shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this section or to obligate the Office of Indigent Defense Services to provide the administrative costs of establishing or maintaining the positions or services provided for under this section. Further, nothing in this section shall be construed to obligate the Office of Indigent Defense Services to maintain positions or services initially provided for under this section. (2000-144, s. 1; 2001-424, ss. 22.11(a), 22.11(d); 2002-126, s. 14.11(a); 2003-284, ss. 30.19A(c), (d); 2004-124, ss. 14.4(a), (b); 2005-276, s. 14.14(a); 2005-345, s. 50A; 2007-323, ss. 14.4(b), (d), 28.18A(g); 2008-107, s. 14.4; 2009-451, s. 15.17B(c); 2010-96, s. 27; 2011-145, s. 15.16(b); 2013-360, ss. 18A.5(a), 18A.6(a); 2018-5, s. 18A.2(a).)

§ 7A-498.8. Appellate Defender.

(a) The appellate defender shall be appointed by the Commission on Indigent Defense Services for a term of four years. A vacancy in the office of appellate defender shall be filled by appointment of the Commission on Indigent Defense Services for the unexpired term. The appellate defender may be suspended or removed from office for cause by two-thirds vote of all the members of the Commission on Indigent Defense Services. The Commission shall provide the appellate defender with timely written notice of the alleged causes and an opportunity for hearing before the Commission prior to taking any final action to remove or suspend the appellate defender, and the appellate defender shall be given written notice of the Commission's decision. The appellate defender may obtain judicial review of suspension or removal by the Commission by filing a petition within 30 days of receiving notice of the decision with the Superior Court of Wake County. Review of the Commission's decision shall be heard on the record and not as a de novo review or trial de novo. The Commission shall adopt rules implementing this section.

(b) The appellate defender shall perform such duties as may be directed by the Office of Indigent Defense Services, including:

(1) Representing indigent persons subsequent to conviction in trial courts. The Office of Indigent Defense Services may, following consultation with the appellate defender and consistent with the resources available to the appellate defender to ensure quality criminal defense services by the appellate defender's office, assign appeals, or authorize the appellate defender to assign appeals, to a local public defender's office or to private assigned counsel.

(2) Maintaining a clearinghouse of materials and a repository of briefs prepared by the appellate defender to be made available to private counsel representing indigents in criminal cases.

(3) Providing continuing legal education training to assistant appellate defenders and to private counsel representing indigents in criminal cases, including capital cases, as resources are available.

(4) Providing consulting services to attorneys representing defendants in capital cases.

(5) Recruiting qualified members of the private bar who are willing to provide representation in State and federal death penalty postconviction proceedings.

(6) In the appellate defender's discretion, serving as counsel of record for indigent defendants in capital cases in State court.

(6a) In the appellate defender's discretion, serving as counsel of record for indigent defendants in the United States Supreme Court pursuant to a petition for writ of certiorari of the decision on direct appeal by a court of the North Carolina Appellate Division.

(7) Undertaking other direct representation and consultation in capital cases pending in federal court only to the extent that such work is fully federally funded.

(c) The appellate defender shall appoint assistants and staff, not to exceed the number authorized by the Office of Indigent Defense Services. The assistants and staff shall serve at the pleasure of the appellate defender.

(d) Funds to operate the office of appellate defender, including office space, office equipment, supplies, postage, telephone, library, staff salaries, training, and travel, shall be provided by the Office of Indigent Defense Services from funds authorized by law. Salaries shall be set by the Office of Indigent Defense Services. (2000-144, s. 1; 2007-323, s. 14.19(b); 2008-187, s. 3.)

§ 7A-498.9. Annual report on Office of Indigent Defense Services.

The Office of Indigent Defense Services shall report to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and to the Chairs of the House of Representatives and Senate Committees on Justice and Public Safety by March 15 of each year on the following:

(1) The volume and cost of cases handled in each district by assigned counsel or public defenders;

(2) Actions taken by the Office to improve the cost-effectiveness and quality of indigent defense services, including the capital case program;

(3) Plans for changes in rules, standards, or regulations in the upcoming year; and

(4) Any recommended changes in law or funding procedures that would assist the Office in improving the management of funds expended for indigent defense services, including any recommendations concerning the feasibility and desirability of establishing regional public defender offices. (2014-100, s. 18B.1(j); 2015-241, s. 18B.1.)

§ 7A-499. Reserved for future codification purposes.

SUBCHAPTER X. NORTH CAROLINA COURTS COMMISSION.

Article 40.

North Carolina Courts Commission.

§§ 7A-500 through 7A-505: Repealed by Session Laws 1975, c. 956, s. 18.

Article 40A.

North Carolina Courts Commission.

§ 7A-506. Creation; members; terms; qualifications; vacancies.

(a) The North Carolina Courts Commission is created. Effective July 1, 1993, it shall consist of 28 members, seven to be appointed by the Governor, seven to be appointed by the Speaker of the House of Representatives, seven to be appointed by the President Pro Tempore of the Senate, and seven to be appointed by the Chief Justice of the Supreme Court.

(b) Of the appointees of the Chief Justice of the Supreme Court, one shall be a Justice of the Supreme Court, one shall be a Judge of the Court of Appeals, two shall be judges of superior court, two shall be district court judges, and one shall be a public member who is not an attorney and who is not an officer or employee of the Judicial Department.

(c) Of the seven appointees of the Governor, one shall be a district attorney, one shall be a practicing attorney, one shall be a clerk of superior court, at least three shall be members of the General Assembly, at least two shall not be attorneys, and of the nonattorneys, one shall be a public member who is not an officer or employee of the Judicial Department.

(d) Of the seven appointees of the Speaker of the House, at least three shall be practicing attorneys, at least three shall be members of the General Assembly, at least two shall not be attorneys, and of the non-attorneys, one shall be a public member who is not an officer or employee of the Judicial Department.

(e) Of the seven appointees of the President Pro Tempore of the Senate, at least three shall be practicing attorneys, at least three shall be members of the General Assembly, at least one shall be a magistrate, and one shall be a public member who is not an attorney and who is not an officer or employee of the Judicial Department.

(f) Of the initial appointments of each appointing authority, three shall be appointed for four-year terms to begin July 1, 1993, and three shall be appointed for two-year terms to begin July 1, 1993. The two public members appointed by the Governor and the Speaker of the House of Representatives shall be appointed for four-year terms to begin July 1, 1997. The two public

members appointed by the Chief Justice and the President Pro Tempore of the Senate shall be appointed for two-year terms to begin July 1, 1997. Successors shall be appointed for four-year terms.

(g) A vacancy in membership shall be filled for the remainder of the unexpired term by the appointing authority who made the original appointment. A member whose term expires may be reappointed. (1979, c. 1077, s. 1; 1981, c. 847; 1981 (Reg. Sess., 1982), c. 1253, s. 4; 1983, c. 181, ss. 1, 2; c. 774, s. 2; 1991, c. 739, s. 7; 1993, c. 438, s. 1; 1997-82, s. 1.)

§ 7A-507. Ex officio members.

The following additional members shall serve ex officio: the Administrative Officer of the Courts; a representative of the N.C. State Bar appointed by the Council thereof; and a representative of the N.C. Bar Association appointed by the Board of Governors thereof. The Administrative Officer of the Courts has no vote. (1979, c. 1077, s. 1; 1997-82, s. 2.)

§ 7A-508. Duties.

It shall be the duty of the Commission to make continuing studies of the structure, organization, jurisdiction, procedures and personnel of the Judicial Department and of the General Court of Justice and to make recommendations to the General Assembly for such changes therein as will facilitate the administration of justice. (1979, c. 1077, s. 1.)

§ 7A-509. Chair; meetings; compensation of members.

The Governor, after consultation with the Chief Justice of the Supreme Court, shall appoint a chair from the legislative members of the Commission. The term of the chair is two years, and the chair may be reappointed. The Commission shall meet at such times and places as the chair shall designate. The facilities of the State Legislative Building shall be available to the Commission, subject to approval of the Legislative Services Commission. The members of the Commission shall receive the same per diem and reimbursement for travel expenses as members of State boards and commissions generally. (1979, c. 1077, s. 1; 1993, c. 438, s. 2.)

§ 7A-510. Supporting services.

The Commission is authorized to contract for such professional and clerical services as are necessary in the proper performance of its duties. (1979, c. 1077, s. 1.)

§ 7A-511. Reserved for future codification purposes.

§ 7A-512. Reserved for future codification purposes.

§ 7A-513. Reserved for future codification purposes.

§ 7A-514. Reserved for future codification purposes.

§ 7A-515. Reserved for future codification purposes.

SUBCHAPTER XI. NORTH CAROLINA JUVENILE CODE.

Article 41.

Purpose; Definitions.

§§ 7A-516 through 7A-522. Repealed by Session Laws 1998-202, s. 5.

Article 42.

Jurisdiction.

§§ 7A-523 through 7A-529. Repealed by Session Laws 1998-202, s. 5.

Article 43.

Screening of Delinquency and Undisciplined Petitions.

§§ 7A-530 through 7A-541. Repealed by Session Laws 1998-202, s. 5.

Article 44.

Screening of Abuse and Neglect Complaints.

§§ 7A-542 through 7A-557. Repealed by Session Laws 1998-202, s. 5.

Article 45.

Venue; Petition; Summons.

§§ 7A-558 through 7A-570. Repealed by Session Laws 1998-202, s. 5.

Article 46.

Temporary Custody; Secure and Nonsecure Custody; Custody Hearings.

§§ 7A-571 through 7A-577. Repealed by Session Laws 1998-202, s. 5.

§ 7A-577.1. Recodified as § 7B-507.

§§ 7A-578 through 7A-583. Repealed by Session Laws 1998-202, s. 5.

Article 47.

Basic Rights.

§§ 7A-584 through 7A-593. Repealed by Session Laws 1998-202, s. 5.

Article 48.

Law-Enforcement Procedures in Delinquency Proceedings.

§§ 7A-594 through 7A-607. Repealed by Session Laws 1998-202, s. 5.

Article 49.

Transfer to Superior Court.

§§ 7A-608 through 7A-617. Repealed by Session Laws 1998-202, s. 5.

Article 50.

Discovery.

§§ 7A-618 through 7A-626. Repealed by Session Laws 1998-202, s. 5.

Article 51.

Hearing Procedures.

§§ 7A-627 through 7A-645. Repealed by Session Laws 1998-202, s. 5.

Article 52.

Dispositions.

§§ 7A-646 through 7A-657. Repealed by Session Laws 1998-202, s. 5.

§ 7A-657.1. Recodified as § 7B-907.

§§ 7A-658 through 7A-663. Repealed by Session Laws 1998-202, s. 5.

Article 53.

Modification and Enforcement of Dispositional Orders; Appeals.

§§ 7A-664 through 7A-674. Repealed by Session Laws 1998-202, s. 5.

Article 54.

Juvenile Records and Social Reports.

§§ 7A-675 through 7A-683. Repealed by Session Laws 1998-202, s. 5.

Article 55.

Interstate Compact on Juveniles.

§§ 7A-684 through 7A-716. Repealed by Session Laws 1998-202, s. 5.

Article 56.

Emancipation.

§§ 7A-717 through 7A-731. Repealed by Session Laws 1998-202, s. 5.

Article 57.

Judicial Consent for Emergency Surgical or Medical Treatment.

§§ 7A-732 through 7A-739. Repealed by Session Laws 1998-202, s. 5.

Article 58.

Juvenile Law Study Commission.

§§ 7A-740 through 7A-744. Repealed by Session Laws 1998-202, s. 5.

Article 59.

§§ 7A-745 through 7A-749. Repealed by Session Laws 1998-202, s. 5.

SUBCHAPTER XII. ADMINISTRATIVE HEARINGS.

Article 60.

Office of Administrative Hearings.

§ 7A-750. Creation; status; purpose.

There is created an Office of Administrative Hearings. The Office of Administrative Hearings is an independent, quasi-judicial agency under Article III, Sec. 11 of the Constitution and, in accordance with Article IV, Sec. 3 of the Constitution, has such judicial powers as may be reasonably necessary as an incident to the accomplishment of the purposes for which it is created. The Office of Administrative Hearings is established to ensure that administrative decisions are made in a fair and impartial manner to protect the due process rights of citizens who challenge administrative action and to provide a source of independent administrative law judges to conduct administrative hearings in contested cases in accordance with Chapter 150B of the General Statutes and thereby prevent the commingling of legislative, executive, and judicial functions in the administrative process. It shall also maintain dockets and records of contested cases and shall codify and publish all administrative rules. (1985, c. 746, s. 2; 1991, c. 103, s. 1; 2000-190, s. 2.)

§ 7A-751. Agency head; powers and duties; salaries of Chief Administrative Law Judge and other administrative law judges.

(a) The head of the Office of Administrative Hearings is the Chief Administrative Law Judge, who shall serve as Director of the Office. The Chief Administrative Law Judge

has the powers and duties conferred on that position by this Chapter and the Constitution and laws of this State and may adopt rules to implement the conferred powers and duties.

The salary of the Chief Administrative Law Judge shall be set in the Current Operations Appropriations Act. The salary of a Senior Administrative Law Judge shall be ninety-five percent (95%) of the salary of the Chief Administrative Law Judge.

In lieu of merit and other increment raises, the Chief Administrative Law Judge and any Senior Administrative Law Judge shall receive longevity pay on the same basis as is provided to employees of the State who are subject to the North Carolina Human Resources Act.

(b) The salary of other administrative law judges shall be ninety percent (90%) of the salary of the Chief Administrative Law Judge.

In lieu of merit and other increment raises, an administrative law judge shall receive longevity pay on the same basis as is provided to employees who are subject to the North Carolina Human Resources Act. (1985, c. 746, s. 2; 1987, c. 774, s. 1; c. 827, s. 1; 1987 (Reg. Sess., 1988), c. 1100, s. 16(b); c. 1111, s. 14(b); 1989, c. 500, s. 45; 1991, c. 103, s. 1; 1997-34, s. 11; 1997-443, s. 33.8; 2000-140, s. 38; 2013-382, s. 9.1(c); 2017-57, s. 35.4(c).)

§ 7A-752. Chief Administrative Law Judge; appointments; vacancy.

The Chief Administrative Law Judge of the Office of Administrative Hearings shall be appointed by the Chief Justice for a term of office of four years. The first Chief Administrative Law Judge shall be appointed as soon as practicable for a term to begin on the day of his appointment and to end on June 30, 1989. Successors to the first Chief Administrative Law Judge shall be appointed for a term to begin on July 1 of the year the preceding term ends and to end on June 30 four years later. A Chief Administrative Law Judge may continue to serve beyond his term until his successor is duly appointed and sworn, but any holdover shall not affect the expiration date of the succeeding term.

The Chief Administrative Law Judge shall designate one administrative law judge as senior administrative law judge. The senior administrative law judge may perform the duties of Chief Administrative Law Judge if the Chief Administrative Law Judge is absent or unable to serve temporarily for any reason. (1985, c. 746, s. 2; 1985 (Reg. Sess., 1986), c. 1022, ss. 3, 6(2), 6(3); 1987 (Reg. Sess., 1988), c. 1111, ss. 15, 25; 1991, c. 103, s. 1.)

§ 7A-753. Additional administrative law judges; appointment; specialization.

The Chief Administrative Law Judge shall appoint additional administrative law judges to serve in the Office of Administrative Hearings in such numbers as the General Assembly provides. No person shall be appointed or designated an administrative law judge except as provided in this Article.

The Chief Administrative Law Judge may designate certain administrative law judges as having the experience and expertise to preside at specific types of contested cases and assign only these designated administrative law judges to preside at those cases. (1985, c. 746, s. 2; 1985 (Reg. Sess., 1986), c. 1022, ss. 4, 6(2); 1987 (Reg. Sess., 1988), c. 1111, ss. 24, 25; 1991, c. 103, s. 1.)

§ 7A-754. Qualifications; standards of conduct; removal.

Only persons duly authorized to practice law in the General Court of Justice shall be eligible for appointment as the Director and chief administrative law judge or as an administrative law judge in the Office of Administrative Hearings. The Chief Administrative Law Judge and the administrative law judges shall comply with the Model Code of Judicial Conduct for State Administrative Law Judges, as adopted by the National Conference of Administrative Law Judges, Judicial Division, American Bar Association, (revised August 1998), as amended from time to time, except that the provisions of this section shall control as to the private practice of law in lieu of Canon 4G, and G.S. 126-13 shall control as to political activity in lieu of Canon 5. Failure to comply with the applicable provisions of the Model Code may constitute just cause for disciplinary action under Chapter 126 of the General Statutes and grounds for removal from office. Neither the chief administrative law judge nor any administrative law judge may engage in the private practice of law as defined in G.S. 84-2.1 while in office; violation of this provision shall constitute just cause for disciplinary action under Chapter 126 of the General Statutes and shall be grounds for removal from office. Each administrative law judge shall take the oaths required by Chapter 11 of the General Statutes. An administrative law judge may be removed from office by the Director of the Office of Administrative Hearings for just cause, as that term is used in G.S. 126-35 and this section. (1985, c. 746, s. 2; 1985 (Reg. Sess., 1986), c. 1022, s. 6(1), 6(3); 1991, c. 103, s. 1; 2000-190, s. 3.)

§ 7A-755. Expenses reimbursed.

The Chief Administrative Law Judge of the Office of Administrative Hearings and all administrative law judges shall be reimbursed for travel and subsistence expenses at the rates allowed to State officers and employees by G.S. 138-6(a). (1985, c. 746, s. 2; 1985 (Reg. Sess., 1986), c. 1022, s. 6(2); 1987 (Reg. Sess., 1988), c. 1111, s. 25; 1991, c. 103, s. 1.)

§ 7A-756. Power to administer oaths and issue subpoenas.

The chief administrative law judge and all administrative law judges in the Office of Administrative Hearings may, in connection with any pending or potential contested case under Chapter 150B:

(1) Administer oaths and affirmations;

(2) Sign and issue subpoenas in the name of the Office of Administrative Hearings requiring attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence; and

(3) Apply to the General Court of Justice, Superior Court Division, for any order necessary to enforce the powers conferred in this Article. (1985, c. 746, s. 2; 1985 (Reg. Sess., 1986), c. 1022, s. 6(1), 6(2); 1987, c. 827, s. 1; 1991, c. 103, s. 1.)

§ 7A-757. Temporary administrative law judges; appointments; powers and standards; fees.

When regularly appointed administrative law judges are unavailable, the Chief Administrative Law Judge of the Office of Administrative Hearings may contract with qualified individuals to serve as administrative law judges for specific assignments. A temporary administrative law judge shall have the same powers and adhere to the same standards as a regular administrative law judge in the conduct of a hearing. A temporary administrative law judge shall not be considered a State employee by virtue of this assignment, and shall be remunerated for his service at a rate not to

exceed three hundred dollars ($300.00) per day and shall be reimbursed for travel and subsistence expenses at the rate allowed to State officers and employees by G.S. 138-6(a). The Chief Administrative Law Judge may also designate a full-time State employee to serve as a temporary administrative law judge with the consent of the employee and his supervisor; however, the employee is not entitled to any additional pay for this service. (1985, c. 746, s. 2; 1985 (Reg. Sess., 1986), c. 1022, s. 5; 1987, c. 878, s. 14; 1987 (Reg. Sess., 1988), c. 1111, s. 25; 1991, c. 103, s. 1.)

§ 7A-758. Availability of administrative law judge to exempt agencies.

The Chief Administrative Law Judge of the Office of Administrative Hearings may, upon request of the head of the agency, provide an administrative law judge to preside at hearings of public bodies not otherwise authorized or required by statute to utilize an administrative law judge from the Office of Administrative Hearings including, but not limited to, State agencies exempt from the provisions of Chapter 150B, municipal corporations or other subdivisions of the State, and agencies of such subdivisions. (1985, c. 746, s. 2; 1987, c. 827, s. 1, c. 878, s. 15; 1987 (Reg. Sess., 1988), c. 1111, s. 25; 1991, c 103, s. 1.)

§ 7A-759. Role as deferral agency.

(a) The Office of Administrative Hearings is designated to serve as the State's deferral agency for cases deferred by the Equal Employment Opportunity Commission to the Office of Administrative Hearings as provided in Section 706 of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5, the Age Discrimination in Employment Act, 29 U.S.C. § 621 et seq., and the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq. for charges filed by State or local government employees covered under Chapter 126 of the General Statutes and shall have all of the powers and authority necessary to function as a deferral agency.

(b) The Chief Administrative Law Judge is authorized and directed to contract with the Equal Employment Opportunity Commission for the Office of Administrative Hearings to serve as a deferral agency and to establish and maintain a Civil Rights Division in the Office of Administrative Hearings to carry out the functions of a deferral agency.

(b1) As provided in the contract between the Office of Administrative Hearings and the Equal Employment Opportunity Commission, a deferred charge for purposes of 42 U.S.C. § 2000e-5(c) or (d) is a charge that is filed by a State or local government employee covered under Chapter 126 of the General Statutes and alleges an unlawful employment practice prohibited under that Chapter or any other State law. A deferred charge may be filed with either agency.

The date a deferred charge is filed with either agency is considered to be a commencement of proceedings under State law for purposes of 42 U.S.C. § 2000e-5(c) or (d). The filing of a deferred charge automatically tolls the time limit under G.S. 126-7.2, 126-35, 126-38, and 150B-23(f) and any other State law that sets a time limit for filing a contested case under Article 3 of Chapter 150B of the General Statutes alleging an unlawful employment practice. These time limits are tolled until the completion of the investigation and of any informal methods of resolution pursued pursuant to subsection (d) of this section.

(c) In investigating charges an employee of the Civil Rights Division of the Office of Administrative Hearings specifically designated by an order of the Chief Administrative Law Judge filed in the pending case may administer oaths and affirmations.

(c1) In investigating charges, an employee of the Civil Rights Division shall have access at reasonable times to State premises, records, and documents relevant to the charge and shall have the right to examine, photograph, and copy evidence. Any challenge to the Civil Rights Division to investigate the deferred charge shall not constitute grounds for denial or refusal to produce or allow access to the investigative evidence.

(d) Any charge not resolved by informal methods of conference, conciliation or persuasion may be heard as a contested case as provided in Article 3 of Chapter 150B of the General Statutes.

(e) An order entered by an administrative law judge after a contested case hearing on the merits of a deferred charge is a final agency decision and is binding on the parties. The administrative law judge may order whatever remedial action is appropriate to give full relief consistent with the requirements of federal statutes or regulations or State statutes or rules.

(f) In addition to the authority vested in G.S. 7A-756 and G.S. 150B-33, an administrative law judge may monitor compliance with any negotiated settlement, conciliation agreement or order entered in a deferred case.

(g) The standards of confidentiality established by federal statute or regulation for discrimination charges shall apply to deferred cases investigated or heard by the Office of Administrative Hearings.

(h) Nothing in this section shall be construed as limiting the authority or right of any federal agency to act under any federal statute or regulation.

(i) This section shall be broadly construed to further the general purposes stated in this section and the specific purposes of the particular provisions involved. (1987 (Reg. Sess., 1988), c. 1111, s. 14(c); 1993, c. 234, s. 1; 1997-513, s. 1; 1998-212, s. 22; 2011-398, s. 28.)

§ 7A-760. Number and status of employees; staff assignments; role of State Human Resources Commission.

(a) The number of administrative law judges and employees of the Office of Administrative Hearings shall be established by the General Assembly. The Chief Administrative Law Judge is exempt from provisions of the North Carolina Human Resources Act as provided by G.S. 126-5(c1)(27). All other employees of the Office of Administrative Hearings are subject to the North Carolina Human Resources Act.

(b) The Chief Administrative Law Judge shall appoint a Codifier of Rules to serve in the Office of Administrative Hearings. No person shall be appointed or designated the Codifier of Rules except as provided in this section. The salary of the Codifier of Rules shall be ninety percent (90%) of the salary of the Chief Administrative Law Judge. In lieu of merit and other increment raises, the Codifier of Rules shall receive longevity pay on the same basis as is provided to employees who are subject to the North Carolina Human

Resources Act. (2006-66, s. 18.2(d); 2006-221, s. 20; 2013-382, s. 9.1(c); 2015-241, s. 30.16(b).)

§ 7A-761. North Carolina Human Relations Commission.

(a) There is hereby created the North Carolina Human Relations Commission of the Civil Rights Division of the Office of Administrative Hearings. The North Carolina Human Relations Commission shall have the following functions and duties:

(1) To study problems concerning human relations;
(2) To promote equality of opportunity for all citizens;
(3) To promote understanding, respect, and goodwill among all citizens;
(4) To provide channels of communication among the races;
(5) To encourage the employment of qualified people without regard to race;
(6) To encourage youths to become better trained and qualified for employment;
(7) To receive on behalf of the Civil Rights Division of the Office of Administrative Hearings and to recommend expenditure of gifts and grants from public and private donors;
(8) To enlist the cooperation and assistance of all State and local government officials in the attainment of the objectives of the Commission;
(9) To assist local good neighborhood councils and biracial human relations committees in promoting activities related to the functions of the Commission enumerated above;
(10) To advise the Chief Administrative Law Judge upon any matter the Chief Administrative Law Judge may refer to it;
(11) To administer the provisions of the State Fair Housing Act as outlined in Chapter 41A of the General Statutes;
(12) To administer the provisions of Chapter 99D of the General Statutes.

(b) The Human Relations Commission of the Civil Rights Division of the Office of Administrative Hearings shall consist of 22 members. The Governor shall appoint one member from each of the 13 congressional districts, plus five members at large, including the chairperson. The Speaker of the North Carolina House of Representatives shall appoint two members to the Commission. The President Pro Tempore of the Senate shall appoint two members to the Commission. The terms of four of the members appointed by the Governor shall expire June 30, 1988. The terms of four of the members appointed by the Governor shall expire June 30, 1987. The terms of four of the members appointed by the Governor shall expire June 30, 1986. The terms of four of the members appointed by the Governor shall expire June 30, 1985. The terms of the members appointed by the Speaker of the North Carolina House of Representatives shall expire June 30, 1986. The terms of the members appointed by the Lieutenant Governor shall expire June 30, 1986. The initial term of office of the person appointed to represent the 12th Congressional District shall commence on January 3, 1993, and expire on June 30, 1996. At the end of the respective terms of office of the initial members of the Commission, the appointment of their successors shall be for terms of four years. No member of the commission shall serve more

than two consecutive terms. A member having served two consecutive terms shall be eligible for reappointment one year after the expiration of his second term. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be filled in the manner of the original appointment for the unexpired term.

(c) Members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(d) A majority of the Commission shall constitute a quorum for the transaction of business.

(e) All clerical and support services required by the Commission shall be supplied by the Office of Administrative Hearings. (1975, c. 879, ss. 34, 35; 1983, c. 461; 1983, c. 522, s. 2; 1989 (Reg. Sess., 1990), c. 979, s. 1(6), (7); 1991, c. 433, s. 3; 1991 (Reg. Sess., 1992), c. 1038, s. 20; 1995, c. 490, s. 26; 2001-486, s. 2.19; 2011-145, s. 20.1A(b); 2011-391, s. 45(a); 2017-57, ss. 31.1(b), (c).)

§ 7A-762. Reserved for future codification purposes.

§ 7A-763. Reserved for future codification purposes.

§ 7A-764. Reserved for future codification purposes.

§ 7A-765. Reserved for future codification purposes.

§ 7A-766. Reserved for future codification purposes.

§ 7A-767. Reserved for future codification purposes.

§ 7A-768. Reserved for future codification purposes.

§ 7A-769. Reserved for future codification purposes.

SUBCHAPTER XIII. SENTENCING SERVICES PROGRAM.

Article 61.

Sentencing Services Program.

§ 7A-770. Purpose.

This Article shall be known and may be cited as the "Sentencing Services Act." The purpose of this Article is to establish a statewide sentencing services program that will provide the judicial system with information that will assist that system in imposing sentences that make the most effective use of available resources. In furtherance of this purpose, this Article provides for the following:

(1) Establishment of local programs that can provide judges and other court officials with information about local correctional programs that are appropriate

for offenders who require a comprehensive sentencing plan that combines punishment, control, and rehabilitation services.

(2) Increased opportunities for certain felons to make restitution to victims of crime through financial reimbursement or community service.

(3) Local involvement in the development of sentencing services to assure that they are specifically designed to meet local needs.

(4) Effective use of available community corrections programs by advising judges and other court officials of the offenders most suited for a particular program. (1983, c. 909, s. 1; 1991, c. 566, ss. 2, 3; 1999-306, s. 1.)

§ 7A-771. Definitions.

As used in this Article:

(1) Recodified as subdivision (3b) by Session Laws 1999-306, s. 1, effective January 1, 2000.

(2) Recodified as subdivision (3a) by Session Laws 1999-306, s. 1, effective January 1, 2000.

(2a) "Director" means the Director of Indigent Defense Services.

(3) Repealed by Session Laws 1999-306, s. 1, effective January 1, 2000.

(3a) "Sentencing plan" means a plan presented in writing to the sentencing judge which provides a detailed assessment and description of the offender's background, including available information about past criminal activity, a matching of the specific offender's needs with available resources, and, if appropriate, the program's recommendations regarding an intermediate sentence.

(3b) "Sentencing services program" means an agency or State-run office within the superior court district which shall (i) prepare sentencing plans; (ii) arrange or contract with public and private agencies for necessary services for offenders; and (iii) assist offenders in initially obtaining services ordered as part of a sentence entered pursuant to a sentencing plan, if the assistance is not available otherwise.

(4) Repealed by Session Laws 1991, c. 566, s. 4.

(4a) "Superior court district" means a superior court district established by G.S. 7A-41 for those districts consisting of one or more entire counties, and otherwise means the applicable set of districts as that term is defined in G.S. 7A-41.1.

(5) Repealed by Session Laws 1999-306, s. 1, effective January 1, 2000. (1983, c. 909, s. 1; 1989, c. 770, s. 58; 1991, c. 566, ss. 2, 4; 1993 (Reg. Sess., 1994), c. 767, s. 14; 1995, c. 324, s. 21.9(c); 1997-57, s. 5; 1999-306, s. 1; 2002-126, s. 14.7(d).)

§ 7A-772. Allocation of funds.

(a) The Director may award grants in accordance with the policies established by this Article and in accordance with any laws made for that purpose, including appropriations acts and provisions in appropriations acts, and adopt regulations for the implementation, operation, and monitoring of sentencing services programs. Sentencing services programs that are grantees shall use the funds exclusively to develop a sentencing services program that provides sentencing

information to judges and other court officials. Grants shall be awarded by the Director to agencies whose comprehensive program plans promise best to meet the goals set forth herein. The Director shall consider the plan required by G.S. 7A-774 in making funding decisions. If a senior resident superior court judge has not formally endorsed the plan, the Director shall consider that fact in making grant decisions, but the Director may, if appropriate, award grants to a program in which the judge has not endorsed the plan as submitted.

(b) The Director may establish local sentencing services programs and appoint those staff as the Director deems necessary. These personnel may serve as full-time or part-time State employees or may be hired on a contractual basis when determined appropriate by the director. Contracts entered under the authority of this subsection shall be exempt from the competitive bidding procedures under Chapter 143 of the General Statutes. The Office of Indigent Defense Services shall adopt rules necessary and appropriate for the administration of the program. Funds appropriated by the General Assembly for the establishment and maintenance of sentencing services programs under this Article shall be administered by the Office of Indigent Defense Services. (1983, c. 909, s. 1; 1991, c. 566, ss. 2, 5; 1995, c. 324, s. 21.9(d); 1999-306, s. 1; 2002-126, s. 14.7(e).)

§ 7A-773. Responsibilities of a sentencing services program.

A sentencing services program shall be responsible for:

(1) Identifying offenders who:

a. Are charged with or have been offered a plea by the State for a felony offense for which the class of offense and prior record level authorize the court to impose an active punishment, but do not require that it do so;

b. Have a high risk of committing future crimes without appropriate sanctions and interventions; and

c. Would benefit from the preparation of an intensive and comprehensive sentencing plan of the type prepared by sentencing services programs.

(2) Preparing detailed sentencing services plans requested pursuant to G.S. 7A-773.1 for presentation to the sentencing judge.

(3) Contracting or arranging with public or private agencies for services described in the sentencing plan.

(4) Repealed by Session Laws 1999-306, s. 1. (1983, c. 909, s. 1; 1991, c. 566, s. 2; 1993 (Reg. Sess., 1994), c. 767, s. 15; 1995, c. 324, s. 21.9(e); 1999-306, s. 1.)

§ 7A-773.1. Who may request plans; disposition of plans; contents of plans.

(a) A judge presiding over a case in which the offender meets the criteria set forth in G.S. 7A-773(1) may request, at any time prior to the imposition of sentence, that the sentencing services program provide a sentencing plan. The court may also request, at any time prior to the imposition of sentence, that the program provide a sentencing plan in misdemeanor cases in which the class of offense is Class A1 or Class 1 and the prior conviction level is Level III, if the court determines that the preparation of such a plan is in the interest of justice. In addition, in cases in which the offender meets the criteria set forth in G.S. 7A-773, the defendant or a prosecutor, at any time before the court has accepted a guilty plea or received a guilty verdict, may request that the

program provide a plan. However, prior to an adjudication of guilt, a defendant may decline to participate in the preparation of a plan within a reasonable time after the request is made. In that case, no plan shall be prepared or presented to the court by the sentencing services program prior to an adjudication of guilt. A defendant's decision not to participate shall be made in writing and filed with the court. The comprehensive sentencing services program plan prepared pursuant to G.S. 7A-774 shall define what constitutes a reasonable time within the meaning of this subsection.

(b) Any sentencing plan prepared by a sentencing services program shall be presented to the court, the defendant, and the State in an appropriate manner.

(c) Sentencing plans prepared by sentencing services programs may include recommendations for use of any treatment or correctional resources available, unless the sentencing court instructs otherwise. Sentencing plans that identify an offender's needs for education, treatment, control, or other services shall, to the extent feasible, also identify resources to meet those needs. Plans may report that no intermediate punishment is appropriate under the circumstances of the case.

(d) To the extent allowed by law, the sentencing services program shall develop procedures to ensure that the program staff may work with offenders before a plea is entered. To that end, information obtained in the course of preparing a sentencing plan may not be used by the State for any purpose at trial and is subject to the provisions of G.S. 15A-1333. (1999-306, s. 1; 2000-67, s. 15.9(b).)

§ 7A-774. Requirements for a comprehensive sentencing services program plan.

Agencies applying for grants shall prepare a comprehensive sentencing services program plan for the development, implementation, operation, and improvement of a sentencing services program for the superior court district, as prescribed by the Director. The plan shall be updated annually and shall be submitted to the senior resident superior court judge for the superior court district for the judge's advice and written endorsement. The plan shall then be forwarded to the Director for approval. The plan shall include:

(1) Goals and objectives of the sentencing services program.

(2) Specification of the kinds or categories of offenders for whom the programs will provide sentencing information to the courts.

(3) Proposed procedures for the identification of appropriate offenders to comply with the plan and the criteria in G.S. 7A-773(1).

(4) Procedures for preparing and presenting plans to the court.

(4a) Strategies for ensuring that judges and court officials who are possible referral sources use the program's services in appropriate cases.

(5) Procedures for obtaining services from existing public or private agencies, and a detailed budget for staff, contracted services, and all other costs.

(6) to (8). Repealed by Session Laws 1999-306, s. 1. (1983, c. 909, s. 1; 1991, c. 566, ss. 2, 7; 1999-306, s. 1.)

§ 7A-775. Sentencing services board.

(a) Each sentencing services program shall establish a sentencing services board to provide direction and assistance to the sentencing services program in the implementation and evaluation of the plan. Sentencing services boards may be organized as nonprofit corporations under Chapter 55A of the General Statutes. The sentencing services board shall consist of not less than 12 members, and shall include, insofar as possible, judges, district attorneys, attorneys, social

workers, law-enforcement officers, probation officers, and other interested persons. The sentencing services board shall meet on a regular basis, and its duties include, but are not limited to, the following:

(1) Preparation and submission of the sentencing services program plan to the senior resident superior court judge and the Director annually, as provided in G.S. 7A-772(a);

(1a) Development of an annual budget for the program;

(2) Hiring, firing, and evaluation of program personnel;

(3) Selection of board members;

(4) Arranging for an annual financial audit.

(5) Development of procedures for contracting for services.

(b) If the board serves as an advisory board to a sentencing services program located in a local or State agency, the board's duties do not include budgeting and personnel decisions. (1983, c. 909, s. 1; 1991, c. 566, ss. 2, 6; 1999-306, s. 1; 2006-203, s. 11; 2006-264, s. 1(a).)

§ 7A-776. Limitation on use of funds.

Funds provided for use under the provisions of this Article shall not be used for the operating costs, construction, or any other costs associated with local jail confinement, or for any purpose other than the operation of a sentencing services program that complies with this Article. (1983, c. 909, s. 1; 1991, c. 566, s. 2; 1999-306, s. 1.)

§ 7A-777. Evaluation.

The Director shall evaluate each sentencing services program on an annual basis to determine the degree to which the program effectively meets the needs of the courts in its judicial district by providing them with sentencing information. In conducting the evaluation, the Director shall consider the goals and objectives established in the program's plan, as well as the extent to which the program is able to ensure that the offenders served by the plan meet the criteria established in G.S. 7A-773(1). (1983, c. 909, s. 1; 1991, c. 566, ss. 2, 7; 1999-306, s. 1.)

§ 7A-778. Reserved for future codification purposes.

§ 7A-779. Reserved for future codification purposes.

§ 7A-780. Reserved for future codification purposes.

§ 7A-781. Reserved for future codification purposes.

§ 7A-782. Reserved for future codification purposes.

§ 7A-783. Reserved for future codification purposes.

§ 7A-784. Reserved for future codification purposes.

§ 7A-785. Reserved for future codification purposes.

§ 7A-786. Reserved for future codification purposes.

§ 7A-787. Reserved for future codification purposes.

§ 7A-788. Reserved for future codification purposes.

§ 7A-789. Reserved for future codification purposes.

SUBCHAPTER XIV. DRUG TREATMENT COURTS.

Article 62.

North Carolina Drug Treatment Court Act.

§ 7A-790. Short title.

This Article shall be known and may be cited as the "North Carolina Drug Treatment Court Act of 1995". (1995, c. 507, s. 21.6(a); 1998-23, s. 9; 1998-212, s. 16.15(a).)

§ 7A-791. Purpose.

The General Assembly recognizes that a critical need exists in this State for judicial programs that will reduce the incidence of alcohol and other drug abuse or dependence and crimes, including the offense of driving while impaired, delinquent acts, and child abuse and neglect committed as a result of alcohol and other drug abuse or dependence, and child abuse and neglect where alcohol and other drug abuse or dependence are significant factors in the child abuse and neglect. It is the intent of the General Assembly by this Article to create a program to facilitate the creation of local drug treatment court programs and driving while impaired (DWI) treatment court programs. (1995, c. 507, s. 21.6(a); 1998-23, s. 9; 1998-212, s. 16.15(a), (b); 2001-424, s. 22.8(a); 2009-451, s. 15.11.)

§ 7A-792. Goals.

The goals of the drug treatment court programs funded under this Article include the following:

(1) To reduce alcoholism and other drug dependencies among adult and juvenile offenders and defendants and among respondents in juvenile petitions for abuse, neglect, or both;

(2) To reduce criminal and delinquent recidivism and the incidence of child abuse and neglect;

(3) To reduce the aclohol-related and other drug-related court workload;

(4) To increase the personal, familial, and societal accountability of adult and juvenile offenders and defendants and respondents in juvenile petitions for abuse, neglect, or both; and

(5) To promote effective interaction and use of resources among criminal and juvenile justice personnel, child protective services personnel, and community agencies. (1995, c. 507, s. 21.6(a); 1998-23, s. 9; 1998-212, s. 16.15(a); 2001-424, s. 22.8(b).)

§ 7A-793. Establishment of Program.

The North Carolina Drug Treatment Court Program is established in the Administrative Office of the Courts to facilitate the creation and funding of local drug treatment court programs. The

Director of the Administrative Office of the Courts shall provide any necessary staff for planning, organizing, and administering the program. Local drug treatment court programs funded pursuant to this Article shall be operated consistently with the guidelines adopted pursuant to G.S. 7A-795. Local drug treatment court programs established and funded pursuant to this Article may consist of adult drug treatment court programs, juvenile drug treatment court programs, family drug treatment court programs, or any combination of these programs. (1995, c. 507, s. 21.6(a); 1998-23, s. 9; 1998-212, s. 16.15(a), (c); 2001-424, s. 22.8(c).)

§ 7A-794. Fund administration.

The Drug Treatment Court Program Fund is created in the Administrative Office of the Courts and is administered by the Director of the Administrative Office of the Courts in consultation with the State Drug Treatment Court Advisory Committee. (1995, c. 507, s. 21.6(a); 1998-23, s. 9; 1998-212, s. 16.15(a), (d); 2007-393, s. 12.)

§ 7A-795. State Drug Treatment Court Advisory Committee.

The State Drug Treatment Court Advisory Committee is established to develop and recommend to the Director of the Administrative Office of the Courts guidelines for the drug treatment court program and to monitor local programs wherever they are implemented. The Committee shall be chaired by the Director or the Director's designee and shall consist of not less than seven members appointed by the Director and broadly representative of the courts, law enforcement, corrections, juvenile justice, child protective services, and substance abuse treatment communities. In developing guidelines, the Advisory Committee shall consider the Substance Abuse and the Courts Action Plan and other recommendations of the Substance Abuse and the Courts State Task Force. (1995, c. 507, s. 21.6(a); 1998-23, s. 9; 1998-212, s. 16.15(a), (e); 2001-424, s. 22.8(d).)

§ 7A-796. Local drug treatment court management committee.

Each judicial district choosing to establish a drug treatment court shall form a local drug treatment court management committee, which shall be comprised to assure representation appropriate to the type or types of drug treatment court operations to be conducted in the district and shall consist of persons appointed by the senior resident superior court judge with the concurrence of the chief district court judge and the district attorney for that district, chosen from the following list:

(1) A judge of the superior court;
(2) A judge of the district court;
(3) A district attorney or assistant district attorney;
(4) A public defender or assistant public defender in judicial districts served by a public defender;
(5) An attorney representing a county department of social services within the district;
(6) A representative of the guardian ad litem;
(7) A member of the private criminal defense bar;
(8) A member of the private bar who represents respondents in department of social services juvenile matters;
(9) A clerk of superior court;

(10) The trial court administrator in judicial districts served by a trial court administrator;
(11) The director or member of the child welfare services division of a county department of social services within the district;
(12) The chief juvenile court counselor for the district;
(13) A probation officer;
(14) A local law enforcement officer;
(15) A representative of the local school administrative unit;
(16) A representative of the local community college;
(17) A representative of the treatment providers;
(18) A representative of the area mental health program;
(19) Any local drug treatment coordinator; and
(20) Any other persons selected by the local management committee.

The local drug treatment court management committee shall develop local guidelines and procedures, not inconsistent with the State guidelines, that are necessary for the operation and evaluation of the local drug treatment court. (1995, c. 507, s. 21.6(a); 1998-23, s. 9; 1998-212, s. 16.15(a), (f); 2001-424, s. 22.8(e); 2008-187, s. 4.)

§ 7A-797. Eligible population; drug treatment court procedures.

The Director of the Administrative Office of the Courts, in conjunction with the State Drug Treatment Court Advisory Committee, shall develop criteria for eligibility and other procedural and substantive guidelines for drug treatment court operation. (1995, c. 507, s. 21.6(a); 1998-212, s. 16.15(a).)

§ 7A-798: Repealed by Session Laws 2007-393, s. 13, effective October 1, 2007.

§ 7A-799. Treatment not guaranteed.

Nothing contained in this Article shall confer a right or an expectation of a right to treatment for a defendant or offender within the criminal or juvenile justice system or a respondent in a juvenile petition for abuse, neglect, or both. (1995, c. 507, s. 21.6(a); 1998-23, s. 9; 1998-212, s. 16.15(a); 2001-424, s. 22.8(f).)

§ 7A-800. Payment of costs of treatment program.

Each defendant, offender, or respondent in a juvenile petition for abuse, neglect, or both, who receives treatment under a local drug treatment court program shall contribute to the cost of the alcohol and other drug abuse or dependency treatment received in the drug treatment court program, based upon guidelines developed by the local drug treatment court management committee. (1995, c. 507, s. 21.6(a); 1998-23, s. 9; 1998-212, s. 16.15(a), (h); 2001-424, s. 22.8(g).)

§ 7A-801. Monitoring and annual report.

The Administrative Office of the Courts shall monitor all State-recognized and funded local drug treatment courts, prepare an annual report on the implementation, operation, and effectiveness of the statewide drug treatment court program, and submit the report to the General Assembly by March 1 of each year. Each local drug treatment court program shall submit evaluation reports to

the Administrative Office of the Courts as requested. (1995, c. 507, s. 21.6(a); 1998-23, s. 9; 1998-212, s. 16.15(a), (i); 2007-393, s. 14.)

§ 7A-802. Reserved for future codification purposes.

§ 7A-803. Reserved for future codification purposes.

§ 7A-804. Reserved for future codification purposes.

SUBCHAPTER XV. CONFERENCE OF CLERKS OF SUPERIOR COURT.

Article 63.

Conference of Clerks of Superior Court.

§ 7A-805. Establishment and purpose.

There is created the Conference of Clerks of Superior Court of North Carolina, of which each clerk of superior court is a member. The purpose of the Conference is to assist in improving the administration of justice in North Carolina by coordinating the efforts of the various clerks of superior court, by assisting them in the administration of their offices, and by exercising the powers and performing the duties provided for in this Article. (2005-100, s. 1.)

§ 7A-806. Annual meetings; organization; election of officers.

(a) Annual Meetings. – The Conference shall meet each summer and winter at a time and place selected by the President of the Conference.

(b) Election of Officers. – Officers of the Conference are a President, two Vice Presidents, a Secretary, a Treasurer, and other officers from among its membership that the Conference may designate in its bylaws. Officers are elected for one-year terms at the annual summer conference and take office immediately following their election.

(c) Executive Committee. – The Executive Committee of the Conference consists of the President, the two Vice Presidents, the Secretary, the Treasurer, and seven other members of the Conference. One of these seven members shall be the immediate past president if there is one and that past president continues to be a member.

(d) Organization and Functioning; Bylaws. – The bylaws may provide for the organization and functioning of the Conference, including the powers and duties of its officers and committees. The bylaws shall state the number of members required to constitute a quorum at any meeting of the Conference or the Executive Committee. The bylaws shall set out the procedure for amending the bylaws.

(e) Calling Meetings; Duty to Attend. – The President or the Executive Committee may call a meeting of the Conference upon 10 days' notice to the members, except upon written waiver of notice signed by at least three-fourths of the members. A member should attend each meeting of the Conference and the Executive Committee of which he is given notice. Members are entitled to reimbursement for travel and subsistence expenses at the rate applicable to State employees. (2005-100, s. 1; 2006-66, s. 14.20(a); 2006-221, s. 15.)

§ 7A-807. Powers of Conference.

(a) The Conference may:

(1) Cooperate with citizens and other public and private agencies to promote the effective administration of justice.
(2) Develop advisory manuals to assist in the organization and administration of their offices, case management, calendaring, case tracking, filing, and office procedures.
(3) Work with the cooperation of the Administrative Office of the Courts and the Institute of Government of the School of Government at UNC-Chapel Hill to provide education and training programs for the clerks of superior court and their staff.

(b) The Conference may not adopt rules pursuant to Chapter 150B of the General Statutes. (2005-100, s. 1.)

§ 7A-808. Executive secretary; clerical support.

The Conference may employ an executive secretary and any necessary supporting staff to assist it in carrying out its duties. (2005-100, s. 1.)

§ 7A-809. Reports.

The Conference of Clerks of Superior Court shall, in consultation with the registers of deeds, annually study the status of the individual counties and judicial districts as to whether or not the clerks of superior court or the registers of deeds are implementing G.S. 132-1.10(f1) and report results of the study to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety and to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on or before March 1 of each year. (2009-355, s. 4; 2010-96, s. 1; 2014-100, s. 18B.1(c).)