

§ 15A-101.1. Electronic technology in criminal process and procedure.

As used in this Chapter, in Chapter 7A of the General Statutes, in Chapter 15 of the General Statutes, and in all other provisions of the General Statutes that deal with criminal process or procedure:

- (1) "Copy" means all identical versions of a document created or existing in paper form, including the original and all other identical versions of the document in paper form.
- (2) "Document" means any pleading, criminal process, subpoena, complaint, motion, application, notice, affidavit, commission, waiver, consent, dismissal, order, judgment, or other writing intended in a criminal or contempt proceeding to authorize or require an action, to record a decision or to communicate or record information. The term does not include search warrants. A document may be created and exist in paper form or in electronic form or in both forms. Each document shall contain the legible, printed name of the person who signed the document.
- (3) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, Internet, or similar capabilities.
- (3a) "Electronic monitoring" or "electronically monitor" or "satellite-based monitoring" means monitoring with an electronic monitoring device that is not removed from a person's body, that is utilized by the supervising agency in conjunction with a Web-based computer system that actively monitors, identifies, tracks, and records a person's location at least once every minute 24 hours a day, that has a battery life of at least 48 hours without being recharged, that timely records and reports or records the person's presence near or within a crime scene or prohibited area or the person's departure from a specified geographic location, and that has incorporated into the software the ability to automatically compare crime scene data with locations of all persons being electronically monitored so as to provide any correlation daily or in real time. In areas of the State where lack of cellular coverage requires the use of an alternative device, the supervising agency shall use an alternative device that works in concert with the software and records location and tracking data for later download and crime scene comparison.
- (4) "Electronic Repository" means an automated electronic repository for criminal process created and maintained pursuant to G.S. 15A-301.1.
- (5) "Electronic signature" means any electronic method of signing a document that meets each of the following requirements:
 - a. Identifies and authenticates a particular person as the signer of the document, is unique to the person using it, is capable of certification, and is under the sole control of the person using it.
 - b. Is attached to or logically associated with the document in such a manner that if the document is altered in any way without authorization of the signer, the signature is invalidated.
 - c. Indicates that person's intent to issue, enter or otherwise authenticate the document.
- (6) "Entered" means signed and filed in the office of the clerk of superior court of the county in which the document is to be entered. A document may be entered in either paper form or electronic form.
- (7) "Filing" or "filed" means:

- a. When the document is in paper form, delivering the original document to the office where the document is to be filed. Filing is complete when the original document is received in the office where the document is to be filed.
 - b. When the document is in electronic form, creating and saving the document, or transmitting it, in such a way that it is unalterably retained in the electronic records of the office where the document is to be filed. A document is "unalterably retained" in an electronic record when it may not be edited or otherwise altered except by a person with authorization to do so. Filing is complete when the document has first been unalterably retained in the electronic records of the office where the document is to be filed.
- (8) "Issued" applies to documents in either paper form or electronic form. A document that is first created in paper form is issued when it is signed. A document that is first created in electronic form is issued when it is signed, filed in the office of the clerk of superior court of the county for which it is to be issued, and retained in the Electronic Repository.
- (9) "Original" means:
- a. A document first created and existing only in paper form, bearing the original signature of the person who signed it. The term also includes each copy in paper form that is printed through the facsimile transmission of the copy bearing the original signature of the person who signed it.
 - b. A document existing in electronic form, including the electronic form of the document and any copy that is printed from the electronic form.
- (10) "Signature" means any symbol, including, but not limited to, the name of an individual, which is executed by that individual, personally or through an authorized agent, with the intent to authenticate or to effect the issuance or entry of a document. The term includes an electronic signature. A document may be signed by the use of any manual, mechanical or electronic means that causes the individual's signature to appear in or on the document. Any party challenging the validity of a signature shall have the burden of pleading, producing evidence, and proving the following:
- a. The signature was not the act of the person whose signature it appears to be.
 - b. If the signature is an electronic signature, the requirements of subdivision (5) of this section have not been met. (2002-64, s. 1; 2011-245, s. 2(a); 2012-194, s. 6.)