

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

H

1

HOUSE BILL 1199

Short Title: Involuntary Commitment Affidavit.

(Public)

---

Sponsors: Representative Holliman.

---

Referred to: Judiciary I.

---

April 13, 2005

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT A PHYSICIAN OR ELIGIBLE PSYCHOLOGIST  
2 MAY FILE AN AFFIDAVIT FOR INVOLUNTARY COMMITMENT WITH THE  
3 CLERK OR MAGISTRATE EITHER BY HAND DELIVERY OF THE  
4 ORIGINAL AFFIDAVIT OR BY FACSIMILE TRANSMISSION OF A PAPER  
5 COPY OF THE AFFIDAVIT BEARING THE ORIGINAL SIGNATURE OF THE  
6 AFFIANT.  
7

8 The General Assembly of North Carolina enacts:

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

10 "**§ 122C-261. Affidavit and petition before clerk or magistrate when immediate**  
11 **hospitalization is not necessary; custody order.**

12 ...

13 (d) If the affiant is a physician or eligible psychologist, the affiant may execute  
14 the affidavit before any official authorized to administer oaths. This affiant is not  
15 required to appear before the clerk or magistrate for this purpose. This affiant shall file  
16 the affidavit with the clerk or magistrate by delivering to the clerk or magistrate the  
17 original affidavit or a copy in paper form that is printed through the facsimile  
18 transmission of the affidavit bearing the original signature of the affiant. This affiant's  
19 examination shall comply with the requirements of the initial examination as provided  
20 in G.S. 122C-263(c). If the physician or eligible psychologist recommends outpatient  
21 commitment and the clerk or magistrate finds probable cause to believe that the  
22 respondent meets the criteria for outpatient commitment, the clerk or magistrate shall  
23 issue an order that a hearing before a district court judge be held to determine whether  
24 the respondent will be involuntarily committed. The physician or eligible psychologist  
25 shall provide the respondent with written notice of any scheduled appointment and the  
26 name, address, and telephone number of the proposed outpatient treatment physician or  
27 center. If the physician or eligible psychologist recommends inpatient commitment and  
28 the clerk or magistrate finds probable cause to believe that the respondent meets the  
29 criteria for inpatient commitment, the clerk or magistrate shall issue an order for

1 transportation to or custody at a 24-hour facility described in G.S. 122C-252. However,  
2 if the clerk or magistrate finds probable cause to believe that the respondent, in addition  
3 to being mentally ill, is also mentally retarded, the clerk or magistrate shall contact the  
4 area authority before issuing the order and the area authority shall designate the facility  
5 to which the respondent is to be transported. If a physician or eligible psychologist  
6 executes an affidavit for inpatient commitment of a respondent, a second physician shall  
7 be required to perform the examination required by G.S. 122C-266."

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