

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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**HOUSE BILL 1199
Committee Substitute Favorable 5/16/05
Senate Judiciary II Committee Substitute Adopted 6/14/05**

Short Title: Involuntary Commitment Affidavit.

(Public)

Sponsors:

Referred to:

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.
6

7 The General Assembly of North Carolina enacts:

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

9 **"§ 122C-261. Affidavit and petition before clerk or magistrate when immediate
10 hospitalization is not necessary; custody order.**

11 ...

12 (d) If the affiant is a physician or eligible psychologist, the affiant may execute
13 the affidavit before any official authorized to administer oaths. This affiant is not
14 required to appear before the clerk or magistrate for this purpose. This affiant shall file
15 the affidavit with the clerk or magistrate by delivering to the clerk or magistrate the
16 original affidavit or a copy in paper form that is printed through the facsimile
17 transmission of the affidavit. If the affidavit is filed through facsimile transmission, the
18 affiant shall mail the original affidavit no later than five days after the facsimile
19 transmission of the affidavit to the clerk or magistrate to be filed by the clerk or
20 magistrate with the facsimile copy of the affidavit. This affiant's examination shall
21 comply with the requirements of the initial examination as provided in
22 G.S. 122C-263(c). If the physician or eligible psychologist recommends outpatient
23 commitment and the clerk or magistrate finds probable cause to believe that the
24 respondent meets the criteria for outpatient commitment, the clerk or magistrate shall
25 issue an order that a hearing before a district court judge be held to determine whether
26 the respondent will be involuntarily committed. The physician or eligible psychologist
27 shall provide the respondent with written notice of any scheduled appointment and the
28 name, address, and telephone number of the proposed outpatient treatment physician or

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

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