

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007**

S

3

**SENATE BILL 1130  
Judiciary I (Civil) Committee Substitute Adopted 5/22/07  
House Committee Substitute Favorable 7/27/07**

Short Title: Open Discovery/AOC Changes.

(Public)

---

Sponsors:

---

Referred to:

---

March 22, 2007

A BILL TO BE ENTITLED

1 AN ACT CLARIFYING THAT DEFENDANTS MUST HAVE ACCESS TO THE  
2 COMPLETE FILES OF ALL LAW ENFORCEMENT, TO MAKE CHANGES TO  
3 THE STATE BUDGET ACT AS IT APPLIES TO THE JUDICIAL BRANCH, TO  
4 ADD A NEW DUTY TO THE DIRECTOR'S POWERS AND DUTIES, TO  
5 MODIFY OR REPEAL CERTAIN STATUTES RELATED TO DRUG  
6 TREATMENT COURTS, TO ESTABLISH A PILOT PROGRAM IN SEVERAL  
7 COUNTIES FOR ELECTRONIC COURT FILINGS, TO MAKE CLARIFYING  
8 CHANGES FOR CONTINUING TRAINING FOR MAGISTRATES; AND TO  
9 PROHIBIT MAGISTRATES FROM THE PRIVATE PRACTICE OF LAW.

10 The General Assembly of North Carolina enacts:

11 **SECTION 1.** G.S. 15A-903(a)(1) reads as rewritten:

12 "(1) Make available to the defendant the complete files of all law  
13 enforcement and prosecutorial agencies involved in the investigation  
14 of the crimes committed or the prosecution of the defendant. The term  
15 "file" includes the defendant's statements, the codefendants'  
16 statements, witness statements, investigating officers' notes, results of  
17 tests and examinations, or any other matter or evidence obtained  
18 during the investigation of the offenses alleged to have been  
19 committed by the defendant. The term "prosecutorial agency" includes  
20 any public or private entity that obtains information on behalf of a law  
21 enforcement agency or prosecutor in connection with the investigation  
22 of the crimes committed or the prosecution of the defendant. Oral  
23 statements shall be in written or recorded form. The defendant shall  
24 have the right to inspect and copy or photograph any materials  
25 contained therein and, under appropriate safeguards, to inspect,  
26 examine, and test any physical evidence or sample contained therein."

27 **SECTION 2.** G.S. 143C-1-1(b) reads as rewritten:  
28

1       "(b) The provisions of this Chapter shall apply to every State ~~agency~~agency,  
2 unless specifically exempted herein, and to every non-State entity that receives or  
3 expends any State funds. No State agency or non-State entity shall expend any State  
4 funds except in accordance with an act of appropriation and the requirements of this  
5 Chapter. The provisions of Chapter 120 of the General Statutes shall continue to apply  
6 to the General Assembly and to control its expenditures and in the event of a conflict  
7 with this Chapter, the provisions of Chapter 120 of the General Statutes shall control.  
8 Nothing in this Chapter abrogates or diminishes the inherent power of the legislative,  
9 executive, or judicial branch."

10       **SECTION 3.** G.S. 143C-3-2 reads as rewritten:

11       "**§ 143C-3-2. Budget estimate for the judicial branch.**

12       The Administrative Officer of the Courts shall give the Director an estimate of the  
13 financial needs of the judicial branch for the upcoming fiscal period in accordance with  
14 the schedule prescribed by the Director. The estimates for the judiciary shall be  
15 approved and certified by the Chief Justice. The estimates shall be itemized in  
16 accordance with the accounting classifications adopted by the Controller. The Director  
17 shall include these estimates for the judicial branch in the budget the Director submits to  
18 the General Assembly. The Director may recommend changes to these estimates in the  
19 budget ~~submitted~~the Director submits to the General Assembly."

20       **SECTION 4.** G.S. 143C-3-5(a) reads as rewritten:

21       "(a) Budget Proposals. – The Governor shall present budget ~~recommendations~~  
22 recommendations, consistent with G.S. 143C-3-1, 143C-3-2, and 143C-3-3 to each  
23 regular session of the General Assembly at a mutually agreeable time to be fixed by  
24 joint resolution."

25       **SECTION 5.** G.S. 143C-4-6(b) reads as rewritten:

26       "(b) Increase in Size Limitation. – To the extent that any percent increase in  
27 appropriations for a fiscal year for (i) Medicaid, (ii) operation of prisons, or (iii)  
28 operation of the courts or ~~(iii)~~(iv) the costs of providing health insurance for teachers  
29 and State employees, exceeds the percent increase in State personal income growth for  
30 the same period, the limitation on the size of the General Fund operating budget  
31 provided in subsection (a) of this section for that fiscal year shall be increased by the  
32 dollar amount represented by the excess percentage. For all subsequent fiscal years, the  
33 percent limitation contained in subsection (a) shall then be increased to reflect that  
34 dollar adjustment."

35       **SECTION 6.** G.S. 143C-6-2(b) reads as rewritten:

36       "(b) Revenue Collections. – The Director, with the assistance of the Secretary of  
37 Revenue and other officials collecting or receiving appropriated State revenue, shall  
38 continuously survey the revenue collections. If the Director finds that revenues to any  
39 fund, when added to the beginning unreserved fund balance in that fund, will be  
40 insufficient to support appropriations from that fund, the Director shall immediately  
41 notify the General Assembly that a deficit is anticipated. The Director shall consult with  
42 the Chief Justice to identify expenditure reductions and other lawful measures the Chief  
43 Justice and Judicial Branch can implement to reduce expenditures. The Director shall  
44 report in a timely manner to the General Assembly a plan containing the expenditure

1 reductions and other lawful measures as the Director is implementing in order to avert  
2 the deficit. The Director's plan shall include expenditure reductions and other lawful  
3 measures identified by the Chief Justice and Judicial Branch as methods to reduce  
4 expenditures. The Director may recommend changes to the expenditure reductions and  
5 other lawful measures identified by the Chief Justice and Judicial Branch as methods to  
6 reduce expenditures in the plan the Director submits to the General Assembly."

7 **SECTION 7.** G.S.143C-6-4 is amended by adding a new subsection to read:

8 "(i) Transfers in Programs, Objects, and Line Items in the Judicial Branch  
9 Budget. – The Chief Justice of the Supreme Court may approve transfers and  
10 expenditures for more than was authorized in the enacted budget for programs, objects,  
11 or line items in the budget of the judicial branch and shall report transfers quarterly,  
12 beginning October 31, to the Joint Legislative Commission on Governmental  
13 Operations on transfers approved by the Chief Justice."

14 **SECTION 8.** G.S. 143C-6-6(c) reads as rewritten:

15 "(c) This section does not apply to ~~The University of North Carolina~~Carolina or  
16 the judicial branch."

17 **SECTION 9.** G.S. 143C-7-1(a) reads as rewritten:

18 "(a) Report to Director. – ~~A State agency~~agency, other than the judicial branch,  
19 that submits to the federal government or to any other party an application for funds that  
20 will be subject to this Chapter shall first provide to the Director a copy of the  
21 application along with any related information the Director may require. The judicial  
22 branch shall provide the Director with a copy of the application and any related  
23 information after making the application."

24 **SECTION 10.** G.S. 143C-10-3(a) reads as rewritten:

25 "(a) ~~State Officer~~Officers or EmployeeEmployees of the Executive Branch. –  
26 The Governor may suspend from the performance of his or her duties any State officer  
27 or ~~employee~~employee of the executive branch except an officer elected by the people,  
28 who persists, after notice and warning, in failing or refusing to comply with the  
29 provisions of this Chapter or any lawful administrative directive issued pursuant to this  
30 Chapter. Before acting to suspend, the Governor shall give the accused notice and an  
31 opportunity to be heard in his or her own defense. The Governor shall report the facts  
32 leading to suspension to the Attorney General who may initiate appropriate criminal or  
33 civil proceedings. The Governor may apply to the General Court of Justice for a  
34 restraining order and injunction if a suspended officer or employee persists in  
35 performing official acts."

36 **SECTION 11.** G.S. 7A-343 reads as rewritten:

37 "§ 7A-343. **Duties of Director.**

38 The Director is the Administrative Officer of the Courts, and ~~his~~the director's duties  
39 include all of the following:

- 40 (1) Collect and compile statistical data and other information on the  
41 judicial and financial operation of the courts and on the operation of  
42 other offices directly related to and serving the ~~courts;~~courts.
- 43 (2) Determine the state of the dockets and evaluate the practices and  
44 procedures of the courts, and make recommendations concerning the

- 1 number of judges, district attorneys, and magistrates required for the  
2 efficient administration of ~~justice~~; justice.
- 3 (3) Prescribe uniform administrative and business methods, systems,  
4 forms and records to be used in the offices of the clerks of superior  
5 ~~court~~; court.
- 6 (4) Prepare and submit budget estimates of State appropriations necessary  
7 for the maintenance and operation of the Judicial Department, and  
8 authorize expenditures from funds appropriated for these  
9 ~~purposes~~; purposes.
- 10 (5) Investigate, make recommendations concerning, and assist in the  
11 securing of adequate physical accommodations for the General Court  
12 of ~~Justice~~; Justice.
- 13 (6) Procure, distribute, exchange, transfer, and assign such equipment,  
14 books, forms and supplies as are to be acquired with State funds for  
15 the General Court of ~~Justice~~; Justice.
- 16 (7) Make recommendations for the improvement of the operations of the  
17 ~~Judicial Department~~; Department.
- 18 (8) Prepare and submit an annual report on the work of the Judicial  
19 Department to the Chief Justice, and transmit a copy to each member  
20 of the ~~General Assembly~~; Assembly.
- 21 (9) Assist the Chief Justice in performing his duties relating to the transfer  
22 of district court judges for temporary or specialized ~~duty~~; duty.
- 23 (9a) Establish and operate systems and services that provide for electronic  
24 filing in the court system and further provide electronic transaction  
25 processing and access to court information systems pursuant to  
26 ~~G.S. 7A-343.2; and~~ G.S. 7A-343.2.
- 27 (9b) Enter into contracts with one or more private vendors to provide for  
28 the payment of fines, fees, and costs due to the court by credit, charge,  
29 or debit cards; such contracts may provide for the assessment of a  
30 convenience or transaction fee by the vendor to cover the costs of  
31 providing this ~~service~~; service.
- 32 (9c) Prescribe policies and procedures for the appointment and payment of  
33 foreign language interpreters in those cases specified in  
34 G.S. 7A-314(f). These policies and procedures shall be applied  
35 uniformly throughout the General Court of Justice. After consultation  
36 with the Joint Legislative Commission on Governmental Operations,  
37 the Director may also convert contractual foreign language interpreter  
38 positions to permanent State positions when the Director determines  
39 that it is more cost-effective to do ~~so~~; so.
- 40 (9d) Analyze the use of contractual positions in the Judicial Department  
41 and, after consultation with the Joint Legislative Commission on  
42 Governmental Operations, convert contractual positions to permanent  
43 State positions when the Director determines it is in the best interests  
44 of the Judicial Department to do so.

1 (10) Perform such additional duties and exercise such additional powers as  
2 may be prescribed by statute or assigned by the Chief Justice."

3 **SECTION 12.** G.S. 7A-794 reads as rewritten:

4 "**§ 7A-794. Fund administration.**

5 The Drug Treatment Court Program Fund is created in the Administrative Office of  
6 the Courts and is administered by the Director of the Administrative Office of the  
7 Courts in consultation with the State Drug Treatment Court Advisory Committee. ~~The~~  
8 ~~Director of the Administrative Office of the Courts shall award grants from this Fund~~  
9 ~~and implement local drug treatment court programs. Grants shall be awarded based~~  
10 ~~upon the general guidelines set forth by the Director of the Administrative Office of the~~  
11 ~~Courts and the State Drug Treatment Court Advisory Committee."~~

12 **SECTION 13.** G.S. 7A-798 is repealed.

13 **SECTION 14** G.S. 7A-801 reads as rewritten:

14 "**§ 7A-801. ~~Plan for evaluation.~~ Monitoring and annual report.**

15 The Administrative Office of the Courts shall ~~develop a statewide model and~~  
16 ~~conduct ongoing evaluations of~~ monitor all State-recognized and funded local drug  
17 treatment court programs. A report of these evaluations shall be submitted courts,  
18 prepare an annual report on the implementation, operation, and effectiveness of the  
19 statewide drug treatment court program, and submit the report to the General Assembly  
20 by March 1 of each year. Each local drug treatment court program shall submit  
21 evaluation reports to the Administrative Office of the Courts as requested."

22 **SECTION 15.(a)** The Administrative Office of the Courts may conduct a  
23 pilot project in multiple counties to evaluate a system for the electronic filing, case  
24 processing, and case management of civil cases and special proceedings filed in the  
25 General Court of Justice. The Administrative Office of the Courts may designate the  
26 case types which will be subject to mandatory electronic filing, case processing, and  
27 case management during the pilot project. No county may be selected without the  
28 concurrence of the senior resident superior court judge, the chief district court judge,  
29 and the clerk of superior court. Notwithstanding the requirements of Chapter 1A and  
30 Chapter 7A of the General Statutes, the Supreme Court and the Administrative Office of  
31 the Courts shall establish rules, regulations, costs, procedures, and specifications for  
32 electronic filing, case processing, and case management under the pilot. Provided,  
33 however, Rule 4 of the Rules of Civil Procedure shall govern service of process of  
34 pleadings that are currently required to be served pursuant to Rule 4 of the Rules of  
35 Civil Procedure.

36 **SECTION 15.(b)** Subsection (a) of this section expires June 30, 2009.

37 **SECTION 16.** G.S. 7A-49.5(c) reads as rewritten:

38 "(c) The Administrative Office of the Courts may contract with a vendor to  
39 provide electronic filing in the ~~courts, provided that the costs for the hardware and~~  
40 ~~software are not paid using State funds.~~ courts."

41 **SECTION 17.** G.S. 7A-177(b) reads as rewritten:

42 "(b) ~~Training~~ In addition to the basic training course required in subsection (a) of  
43 this section, continuing education courses shall be provided at such times and locations  
44 as necessary to assure that they are conveniently available to all magistrates without

1 extensive travel to other parts of the State. ~~Courses shall be provided in Asheville for~~  
2 ~~the magistrates from the western region of the State."~~

3 **SECTION 18.** G.S. 7A-312 reads as rewritten:

4 "**§ 7A-312. Uniform fees for jurors; meals.**

5 (a) A juror in the General Court of Justice including a petit juror, or a coroner's  
6 juror, but excluding a grand juror, shall receive twelve dollars (\$12.00) for the first day  
7 of service and twenty dollars (\$20.00) per day afterwards, except that if any person  
8 serves as a juror for more than five days in any 24-month period, the juror shall receive  
9 forty dollars (\$40.00) per day for each day of service in excess of five days. A grand  
10 juror shall receive twenty dollars (\$20.00) per day. A juror required to remain overnight  
11 at the site of the trial shall be furnished adequate accommodations and subsistence. If  
12 required by the presiding judge to remain in a body during the trial of a case, meals shall  
13 be furnished the jurors during the period of sequestration. Jurors from out of the county  
14 summoned to sit on a special venire shall receive mileage at the same rate as State  
15 employees.

16 (b) Notwithstanding subsection (a) of this section, the 26<sup>th</sup> Judicial District may  
17 operate a pilot program in which a juror may waive payment of the per diem fees  
18 provided for in that subsection. A juror waiving the fee may designate that the fee be  
19 used for any of following services, if such services are provided in the district: (i) client  
20 treatment and service programs associated with a drug treatment or DWI treatment court  
21 program; (ii) courthouse self-help centers; (iii) courthouse child care centers; (iv) legal  
22 aid programs operated by a nonprofit corporation operating within the district; and (v)  
23 the Crime Victims Compensation Fund. If no such services are provided within the  
24 district, then waived fees are transferred to the Crime Victims Compensation Fund."

25 **SECTION 19.** G.S. 7A-314(f) reads as rewritten:

26 "(f) In any case in which the Judicial Department is bearing the costs of  
27 representation for a party and that party or a witness for that party does not speak or  
28 understand the English language, and the court appoints a foreign language interpreter  
29 to assist that party or witness, the reasonable fee for the interpreter's services is payable  
30 from funds appropriated to the Administrative Office of the Courts. The court in order  
31 to facilitate the disposition of criminal or Chapter 50B cases during a session of court  
32 may authorize the use of the court interpreter, paid from funds appropriated to the  
33 Administrative Office of the Courts, in cases where an interpreter is necessary to assist  
34 the court in the efficient transaction of business. The appointment and payment shall be  
35 made in accordance with G.S. 7A-343(9c)."

36 **SECTION 20.** G.S. 7A-321 reads as rewritten:

37 "**§ 7A-321. Collection of offender fines and fees assessed by the court.**

38 (a) The Judicial Department may, in lieu of payment by cash or check, accept  
39 payment by credit card, charge card, or debit card for the fines, fees, and costs owed to  
40 the courts by offenders.

41 (b) In attempting to collect the fines, fees, and costs owed by offenders not  
42 sentenced to supervised probation, the Department may:

43 (1) Assess a collection assistance fee if an amount due remains unpaid for  
44 30 days after the time period allotted by the court. The amount of the

1                    collection assistance fee shall not exceed the average cost of collecting  
2                    the debt or twenty percent (20%) of the amount past due, whichever is  
3                    less.

4                    (2)    Enter into contracts with a collection agency or agencies to collect  
5                    unpaid fines, fees, and costs owed by offenders not sentenced to  
6                    supervised probation.

7                    (3)    Intercept tax refund checks under Chapter 105A of the General  
8                    Statutes, the Setoff Debt Collection Act.

9                    (c)    Should the Judicial Department use either of the methods listed in  
10                    subdivisions (b)(1) and (2) above to collect fines, fees, and costs owed by offenders not  
11                    sentenced to supervised probation, the department may not charge any additional cost of  
12                    collection pursuant to G.S. 115C-437."

13                    **SECTION 21.** G.S. 84-2 reads as rewritten:

14                    **"§ 84-2. Persons disqualified.**

15                    No justice, judge, magistrate, full-time district attorney, full-time assistant district  
16                    attorney, public defender, assistant public defender, clerk, deputy or assistant clerk of  
17                    the General Court of Justice, register of deeds, deputy or assistant register of deeds,  
18                    sheriff or deputy sheriff shall engage in the private practice of law. Persons violating  
19                    this provision shall be guilty of a Class 3 misdemeanor and only fined not less than two  
20                    hundred dollars (\$200.00)."

21                    **SECTION 22.** This act becomes effective October 1, 2007.