

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 635*

Short Title: Involuntary Commitment Custody Orders. (Public)

Sponsors: Representatives Lambeth, Conrad, Terry, and Hanes (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Judiciary Subcommittee C.

April 10, 2013

1 A BILL TO BE ENTITLED
2 AN ACT ALLOWING A CLERK OR ASSISTANT OR DEPUTY CLERK OF SUPERIOR
3 COURT OR A MAGISTRATE TO ISSUE BY FACSIMILE TRANSMISSION AN
4 INVOLUNTARY INPATIENT COMMITMENT CUSTODY ORDER TO A
5 PETITIONING PHYSICIAN, ELIGIBLE PSYCHOLOGIST, OR DESIGNEE AT A
6 TWENTY-FOUR-HOUR FACILITY WHEN THE RESPONDENT IS ALREADY
7 PHYSICALLY PRESENT AT THE TWENTY-FOUR-HOUR FACILITY.

8 The General Assembly of North Carolina enacts:

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

10 "(d) If the affiant is a physician or eligible psychologist, ~~the~~ all of the following apply:

11 (1) The affiant may execute the affidavit before any official authorized to
12 administer oaths. This affiant is not required to appear before the clerk or
13 magistrate for this purpose. This affiant shall file the affidavit with the clerk
14 or magistrate by delivering to the clerk or magistrate the original affidavit or
15 a copy in paper form that is printed through the facsimile transmission of the
16 affidavit. If the affidavit is filed through facsimile transmission, the affiant
17 shall mail the original affidavit no later than five days after the facsimile
18 transmission of the affidavit to the clerk or magistrate to be filed by the clerk
19 or magistrate with the facsimile copy of the affidavit.

20 (2) This affiant's examination shall comply with the requirements of the initial
21 examination as provided in G.S. 122C-263(c).

22 (3) If the physician or eligible psychologist recommends outpatient commitment
23 and the clerk or magistrate finds probable cause to believe that the
24 respondent meets the criteria for outpatient commitment, the clerk or
25 magistrate shall issue an order that a hearing before a district court judge be
26 held to determine whether the respondent will be involuntarily committed.
27 The physician or eligible psychologist shall provide the respondent with
28 written notice of any scheduled appointment and the name, address, and
29 telephone number of the proposed outpatient treatment physician or center.
30 The physician or eligible psychologist shall contact the local management
31 entity that serves the county where the respondent resides or the local
32 management entity that coordinated services for the respondent to inform the
33 local management entity that the respondent has been scheduled for an
34 appointment with an outpatient treatment physician or center.



1 (4) If the physician or eligible psychologist recommends inpatient commitment
2 and the clerk or magistrate finds probable cause to believe that the
3 respondent meets the criteria for inpatient commitment, the clerk or
4 magistrate shall issue an order for transportation to or custody at a 24-hour
5 facility described in G.S. 122C-252, provided that if a 24-hour facility is not
6 immediately available or appropriate to the respondent's medical condition,
7 the respondent may be temporarily detained under appropriate supervision
8 and, upon further examination, released in accordance with
9 G.S. 122C-263(d)(2).

10 (5) If the affiant is a physician or eligible psychologist at a 24-hour facility
11 described in G.S. 122C-252 who recommends inpatient commitment; the
12 respondent is physically present on the premises of the same 24-hour
13 facility; and the clerk or magistrate finds probable cause to believe that the
14 respondent meets the criteria for inpatient commitment, then the clerk or
15 magistrate may issue by facsimile transmission an order to the physician or
16 eligible psychologist at the 24-hour facility, or a designee, to take the
17 respondent into custody at the 24-hour facility and proceed according to
18 G.S. 122C-266. Upon receipt of the custody order, the physician or eligible
19 psychologist at the 24-hour facility, or a designee, shall immediately (i)
20 notify the respondent that the respondent is not under arrest and has not
21 committed a crime but is being taken into custody to receive treatment and
22 for the respondent's own safety and the safety of others, (ii) take the
23 respondent into custody, and (iii) complete and sign the appropriate portion
24 of the custody order and return the order to the clerk or magistrate by
25 facsimile transmission. The physician or eligible psychologist, or a designee,
26 shall mail the original custody order no later than five days after transmitting
27 it by facsimile to the clerk or magistrate. The clerk or magistrate shall file
28 the original custody order with the facsimile copy of the custody order.
29 Notwithstanding the provisions of this subdivision, a clerk or magistrate
30 shall not issue a custody order to a physician or eligible psychologist at a
31 24-hour facility, or a designee, who has not completed training in proper
32 service and return of service. As used in this subdivision, the term
33 "designee" includes the 24-hour facility's on-site police security personnel.

34 (6) If the clerk or magistrate finds probable cause to believe that the respondent,
35 in addition to being mentally ill, is also mentally retarded, the clerk or
36 magistrate shall contact the area authority before issuing the order and the
37 area authority shall designate the facility to which the respondent is to be
38 transported.

39 (7) If a physician or eligible psychologist executes an affidavit for inpatient
40 commitment of a respondent, a second physician shall be required to
41 perform the examination required by G.S. 122C-266."

42 **SECTION 2.** G.S. 122C-261(e) reads as rewritten:

43 "(e) ~~Upon~~ Except as provided in subsection (d) of this section, upon receipt of the
44 custody order of the clerk or magistrate or a custody order issued by the court pursuant to
45 G.S. 15A-1003, a law enforcement officer or other person designated in the order shall take the
46 respondent into custody within 24 hours after the order is signed, and proceed according to
47 G.S. 122C-263. The custody order is valid throughout the State."

48 **SECTION 3.** This act becomes effective October 1, 2013.