

GENERAL ASSEMBLY OF NORTH CAROLINA  
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HOUSE BILL 236  
Committee Substitute Favorable 4/19/17  
Third Edition Engrossed 4/26/17

Short Title: NCAOC Omnibus Bill.

(Public)

Sponsors:

Referred to:

March 6, 2017

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE CLERK TO APPOINT AN INTERIM GUARDIAN AD LITEM ON THE CLERK'S OWN MOTION; TO PROVIDE FOR THE CLERK TO EXTEND THE TIME FOR FILING INVENTORY IN THE PROPERTY OF THE DECEASED; TO PROVIDE FOR ISSUANCE OF AN ORDER FOR AN ARREST WHEN A PERSON FAILS TO APPEAR AFTER BEING SERVED WITH A SHOW CAUSE IN A CIVIL PROCEEDING; TO AMEND HOW COSTS IN ADMINISTRATION OF ESTATES ARE ASSESSED; TO ALLOW FOR TEMPORARY ASSISTANCE FOR DISTRICT ATTORNEYS WHEN THERE IS A CONFLICT OF INTEREST; AND TO AMEND OTHER STATUTES GOVERNING THE GENERAL COURT OF JUSTICE, AS RECOMMENDED BY THE NORTH CAROLINA ADMINISTRATIVE OFFICE OF THE COURTS, AND TO AUTHORIZE THE TEMPORARY APPOINTMENT OF COUNSEL FOR CERTAIN COUNCIL OF STATE MEMBERS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 1A-1, Rule 5(e), reads as rewritten:

**"Rule 5. Service and filing of pleadings and other papers.**

...

- (e) (1) Filing with the court defined. – The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of the ~~court~~, court, pursuant to the rules promulgated under G.S. 7A-109 or subsection (e)(2) hereunder, except that the judge may permit the papers to be filed with him, in which event he shall note thereon the filing date and forthwith transmit them to the office of the clerk.
- (2) Filing by electronic means. – If, pursuant to ~~G.S. 7A-34~~ G.S. 7A-34, G.S. 7A-49.5, and G.S. 7A-343, the Supreme Court and the Administrative Officer of the Courts establish uniform rules, regulations, costs, procedures and specifications for the filing of pleadings or other court papers by electronic means, filing may be made by the electronic means when, in the manner, and to the extent provided therein.
- (3) The failure to affix a date stamp or file stamp on any order or judgment filed in a civil action, estate proceeding, or special proceeding shall not affect the sufficiency, validity, or enforceability of the order or judgment if the clerk or the court, after giving the parties adequate notice and opportunity to be heard, enters the order or judgment nunc pro tunc to the date of filing."



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1           **SECTION 2.** G.S. 1A-1, Rule 58, reads as rewritten:

2       **"Rule 58. Entry of judgment.**

3           Subject to the provisions of Rule 54(b), a judgment is entered when it is reduced to writing,  
4 signed by the judge, and filed with the clerk of ~~court~~ court pursuant to Rule 5. The party  
5 designated by the judge or, if the judge does not otherwise designate, the party who prepares  
6 the judgment, shall serve a copy of the judgment upon all other parties within three days after  
7 the judgment is entered. Service and proof of service shall be in accordance with Rule 5. If  
8 service is by mail, three days shall be added to the time periods prescribed by Rule 50(b), Rule  
9 52(b), and Rule 59. All time periods within which a party may further act pursuant to Rule  
10 50(b), Rule 52(b), or Rule 59 shall be tolled for the duration of any period of noncompliance  
11 with this service requirement, provided however that no time period under Rule 50(b), Rule  
12 52(b), or Rule 59 shall be tolled longer than 90 days from the date the judgment is entered.  
13 Subject to the provisions of Rule 7(b)(4), consent for the signing and entry of a judgment out of  
14 term, session, county, and district shall be deemed to have been given unless an express  
15 objection to such action was made on the record prior to the end of the term or session at which  
16 the matter was heard.

17           Notwithstanding any other law to the contrary, any judgment entered by a magistrate in a  
18 small claims action pursuant to Article 19 of Chapter 7A shall be entered in accordance with  
19 this Rule except judgments announced and signed in open court at the conclusion of a trial are  
20 considered to be served on the parties, and copies of any judgment not announced and signed in  
21 open court at the conclusion of a trial shall be served by the magistrate on all parties in  
22 accordance with this Rule, within three days after the judgment is entered. If service is by mail,  
23 three days shall be added to the time periods prescribed by G.S. 7A-228. All time periods  
24 within which a party may further act pursuant to G.S. 7A-228 shall be tolled for the duration of  
25 any period of noncompliance of this service requirement, provided that no time period shall be  
26 tolled longer than 90 days from the date judgment is entered."

27           **SECTION 3.** G.S. 28A-9-2(a) reads as rewritten:

28       **"§ 28A-9-2. Summary revocation.**

29           (a) Grounds. – Letters testamentary, letters of administration, or letters of collection,  
30 shall be revoked by the clerk of superior court without hearing when:

- 31           (1) After letters of administration or collection have been issued, a will is  
32 subsequently admitted to probate.
- 33           (2) After letters testamentary have been issued:
  - 34           a. The will is set aside, or
  - 35           b. A subsequent testamentary paper revoking the appointment of the  
36 executor is admitted to probate.
- 37           (3) Any personal representative or collector required to give a new bond or  
38 furnish additional security pursuant to G.S. 28A-8-3 fails to do so within the  
39 time ordered.
- 40           (4) A nonresident personal representative refuses or fails to obey any citation,  
41 notice, or process served on that nonresident personal representative or the  
42 process agent of the nonresident personal representative.
- 43           (5) A trustee in bankruptcy, liquidating agent, or receiver has been appointed for  
44 any personal representative or collector, or any personal representative or  
45 collector has executed an assignment for the benefit of creditors.
- 46           (6) A personal representative has failed to file an inventory or an annual account  
47 with the clerk of superior court, as required by Article 20 and Article 21 of  
48 this Chapter, and proceedings to compel such filing pursuant to  
49 G.S. 28A-20-2 or 28A-21-4 cannot be had because service cannot be  
50 completed because the personal representative cannot be found.

1           (7)    A personal representative or collector is a licensed attorney, and the clerk is  
2           in receipt of an order entered pursuant to G.S. 84-28 enjoining, suspending,  
3           or disbarring the attorney."

4           **SECTION 4.** G.S. 35A-1290 reads as rewritten:

5    "**§ 35A-1290. Removal by Clerk.**

6           ...

7           (b)    It is the clerk's duty to remove a guardian or to take other action sufficient to protect  
8    the ward's interests in the following cases:

- 9           (1)    The guardian wastes the ward's money or estate or converts it to his own use.  
10          (2)    The guardian in any manner mismanages the ward's estate.  
11          (3)    The guardian neglects to care for or maintain the ward or his dependents in a  
12          suitable manner.  
13          (4)    The guardian or his sureties are likely to become insolvent or to become  
14          nonresidents of the State.  
15          (5)    The original appointment was made on the basis of a false representation or  
16          a mistake.  
17          (6)    The guardian has violated a fiduciary duty through default or misconduct.  
18          (7)    The guardian has a private interest, whether direct or indirect, that might  
19          tend to hinder or be adverse to carrying out his duties as guardian.

20          (e)    ~~It is the clerk's duty to remove a guardian or to take other action sufficient to protect~~  
21    ~~the ward's interests in the following cases:~~

- 22          ~~(1)(8)~~ The guardian has been adjudged incompetent by a court of competent  
23          jurisdiction and has not been restored to competence.  
24          ~~(2)(9)~~ The guardian has been convicted of a felony under the laws of the United  
25          States or of any state or territory of the United States or of the District of  
26          Columbia and his citizenship has not been restored.  
27          ~~(3)(10)~~ The guardian was originally unqualified for appointment and continues to be  
28          unqualified, or the guardian would no longer qualify for appointment as  
29          guardian due to a change in residence, a change in the charter of a corporate  
30          guardian, or any other reason.  
31          ~~(4)(11)~~ The guardian is the ward's spouse and has lost his rights as provided by  
32          Chapter 31A of the General Statutes.  
33          ~~(5)(12)~~ The guardian fails to post, renew, or increase a bond as required by law or  
34          by order of the court.  
35          ~~(6)(13)~~ The guardian refuses or fails without justification to obey any citation,  
36          notice, or process served on him in regard to the guardianship.  
37          ~~(7)(14)~~ The guardian fails to file required accountings with the clerk.  
38          ~~(8)(15)~~ The clerk finds the guardian unsuitable to continue serving as guardian for  
39          any reason.  
40          ~~(9)(16)~~ The guardian is a nonresident of the State and refuses or fails to obey any  
41          citation, notice, or process served on the guardian or the guardian's process  
42          agent.  
43          (17)   The guardian is a licensed attorney, and the clerk is in receipt of an order  
44          entered pursuant to G.S. 84-28 enjoining, suspending, or disbarring the  
45          attorney."

46          **SECTION 5.** G.S. 30-17 reads as rewritten:

47    "**§ 30-17. When children entitled to an allowance.**

48          Whenever any parent dies survived by any child under the age of 18 years, including an  
49          adopted child or a child with whom the widow may be pregnant at the death of her husband, or  
50          a child who is less than 22 years of age and is a full-time student in any educational institution,  
51          or a child under 21 years of age who has been declared mentally incompetent, or a child under

1 21 years of age who is totally disabled, or any other person under the age of 18 years residing  
2 with the deceased parent at the time of death to whom the deceased parent or the surviving  
3 parent stood in loco parentis, every such child shall be entitled to receive an allowance of five  
4 thousand dollars (\$5,000) for the child's support for the year next ensuing the death of the  
5 parent. The allowance shall be in addition to the child's share of the deceased parent's estate and  
6 shall be exempt from any lien by judgment or execution against the property of the deceased  
7 parent. The personal representative of the deceased parent shall, within one year after the  
8 parent's death, assign to every such child the allowance herein provided for; but if there is no  
9 personal representative or if the personal representative fails or refuses to act within 10 days  
10 after written application by a guardian or next friend on behalf of the child, the allowance may  
11 be assigned by a magistrate or clerk of court upon application.

12 If the child resides with the surviving spouse of the deceased parent at the time the  
13 allowance is paid, the allowance shall be paid to the surviving spouse for the benefit of the  
14 child. If the child resides with its surviving parent who is other than the surviving spouse of the  
15 deceased parent, the allowance shall be paid to the surviving parent for the use and benefit of  
16 the child. The payment shall be made regardless of whether the deceased died testate or  
17 intestate or whether the surviving spouse petitioned for an elective share under Article 1A of  
18 Chapter 30 of the General Statutes. Provided, however, the allowance shall not be available to a  
19 deceased father's child born out of wedlock, unless the deceased father has recognized the  
20 paternity of the child by deed, will, or other paper-writing, or unless the deceased father died  
21 prior to or within one year after the birth of the child and is established to have been the father  
22 of the child by DNA testing. If the child does not reside with a surviving spouse or a surviving  
23 parent when the allowance is paid, the allowance shall be paid to the child's general  
24 ~~guardian, guardian or guardian of the estate,~~ if any, and if none, to the clerk of the superior court  
25 who shall receive and disburse the allowance for the benefit of the child."

26 **SECTION 6.** G.S. 35A-1114 reads as rewritten:

27 "**§ 35A-1114. Appointment of interim guardian.**

28 (a) At the time of or subsequent to the filing of a petition under this Article, the  
29 petitioner or guardian ad litem may also file a verified motion with the clerk seeking the  
30 appointment of an interim guardian.

31 (b) The motion filed by the petitioner or guardian ad litem shall set forth facts tending  
32 to show:

- 33 (1) That there is reasonable cause to believe that the respondent is incompetent,  
34 and
- 35 (2) One or both of the following:
  - 36 a. That the respondent is in a condition that constitutes or reasonably  
37 appears to constitute an imminent or foreseeable risk of harm to his  
38 physical well-being and that requires immediate intervention;
  - 39 b. That there is or reasonably appears to be an imminent or foreseeable  
40 risk of harm to the respondent's estate that requires immediate  
41 intervention in order to protect the respondent's interest, and
- 42 (3) That the respondent needs an interim guardian to be appointed immediately  
43 to intervene on his behalf prior to the adjudication hearing.

44 (c) Upon filing of the motion for appointment of an interim ~~guardian, guardian by the~~  
45 petitioner or the guardian ad litem, the clerk shall immediately set a date, time, and place for a  
46 hearing on the motion. The motion and a notice setting the date, time, and place for the hearing  
47 shall be served promptly on the respondent and on his counsel or guardian ad litem and other  
48 persons the clerk may designate. The hearing shall be held as soon as possible but no later than  
49 15 days after the motion has been served on the respondent.

50 (c1) The motion and notice setting the date, time, and place for the hearing shall be  
51 served promptly on the petitioner, the respondent and on his counsel or guardian ad litem, and

1 other persons the clerk may designate. The hearing shall be held as soon as possible but not  
2 later than 15 days after the motion has been served on the respondent.

3 ...."

4 **SECTION 7.** G.S. 35A-1112 reads as rewritten:

5 **"§ 35A-1112. Hearing on petition; adjudication order.**

6 ...

7 (b1) At the hearing on the petition, on the clerk's own motion, the clerk may appoint an  
8 interim guardian pursuant to G.S. 35A-1114(d) and (e) if the clerk determines such an  
9 appointment to be in the best interests of the respondent.

10 ...."

11 **SECTION 8.** G.S. 28A-20-1 reads as rewritten:

12 **"§ 28A-20-1. Inventory within three months.**

13 EveryUnless the time for filing the inventory has been extended by the clerk of superior  
14 court, every personal representative and collector, within three months after the qualification of  
15 that personal representative or collector, shall return to the clerk, on oath, a just, true and  
16 perfect inventory of all the real and personal property of the deceased, which have come to the  
17 hands of the personal representative or collector, or to the hands of any person for the personal  
18 representative or collector, which inventory shall be signed by the personal representative or  
19 collector and be recorded by the clerk."

20 **SECTION 9.** G.S. 28A-21-1 reads as rewritten:

21 **"§ 28A-21-1. Annual accounts.**

22 Until the final account has been filed pursuant to G.S. 28A-21-2, the personal representative  
23 or collector shall, for so long as any of the property of the estate remains in the control, custody  
24 or possession of the personal representative or collector, file annually in the office of the clerk  
25 of superior court an inventory and account, under oath, of the amount of property received by  
26 the personal representative or collector, or invested by the personal representative or collector,  
27 and the manner and nature of such investment, and the receipts and disbursements of the  
28 personal representative or collector for the past year. Such accounts shall be due 30 days after  
29 the expiration of one year from the date of qualification of the personal representative or  
30 collector, or if a fiscal year is selected by the fifteenth day of the fourth month after the close of  
31 the fiscal year selected by the personal representative or collector, and annually on the same  
32 date thereafter. The election of a fiscal year shall be made by the personal representative or  
33 collector upon filing of the first annual account. In no event may a personal representative or  
34 collector select a fiscal year-end which is more than twelve months from the date of death of  
35 the decedent or, in the case of trust administration, the date of the opening of the trust. Any  
36 fiscal year selected may not be changed without the permission of the clerk of superior court.

37 The personal representative or collector shall produce vouchers for all payments or verified  
38 proof for payments in lieu of vouchers. The clerk of superior court may examine, under oath,  
39 such accounting party, or any other person, concerning the receipts, disbursements or any other  
40 matter relating to the estate. The clerk of superior court must carefully review and audit such  
41 account and, if the clerk approves the account, the clerk must endorse the approval of the clerk  
42 thereon, which shall be prima facie evidence of correctness, and cause the same to be  
43 recorded."

44 **SECTION 10.** G.S. 28A-21-2 reads as rewritten:

45 **"§ 28A-21-2. Final accounts.**

46 (a) Unless the time for filing the final account has been extended by the clerk of  
47 superior court, the personal representative or collector must file the final account for settlement  
48 within one year after qualifying or within six months after receiving a State estate or  
49 inheritance tax release, or in the time period for filing an annual account pursuant to  
50 G.S. 28A-21-1, whichever is later. If no estate or inheritance tax return was required to be filed  
51 for the estate, the personal representative or collector shall so certify in the final account filed

1 with the clerk of superior court. Such certification shall list the amount and value of all of the  
2 decedent's property, and with respect to real estate, its particular location within or outside the  
3 State, including any property transferred by the decedent over which the decedent had retained  
4 any interest, or any property transferred within three years prior to the date of the decedent's  
5 death, and after being filed and accepted by the clerk of superior court shall be prima facie  
6 evidence that such property is free of any State inheritance or State estate tax liability. The  
7 personal representative or collector shall produce vouchers for all payments or verified proof  
8 for all payments in lieu of vouchers. With the approval of the clerk of superior court, such  
9 account may be filed voluntarily at any time. In all cases, the accounting shall be reviewed,  
10 audited and recorded by the clerk of superior court in the manner prescribed in G.S. 28A-21-1.

11 (a1) If no estate or inheritance tax return was required to be filed for the estate, the  
12 personal representative or collector shall so certify in the final account filed with the clerk of  
13 superior court. Such certification shall list the amount and value of all of the decedent's  
14 property and, with respect to real estate, its particular location within or outside the State,  
15 including any property transferred by the decedent over which the decedent had retained any  
16 interest, or any property transferred within three years prior to the date of the decedent's death,  
17 and, after being filed and accepted by the clerk of superior court, shall be prima facie evidence  
18 that such property is free from any State inheritance or State estate tax liability. This subsection  
19 only applies to estates of decedents who died before January 1, 2013.

20 (a2) The personal representative or collector shall produce vouchers for all payments or  
21 verified proof for all payments in lieu of vouchers. With the approval of the clerk of superior  
22 court, such account may be filed voluntarily at any time. In all cases, the accounting shall be  
23 reviewed, audited, and recorded by the clerk of superior court in the manner prescribed by  
24 G.S. 28A-21-1.

25 (b) Except as provided in subsection (a), after the date specified in the general notice to  
26 creditors as provided for in G.S. 28A-14-1, if all of the debts and other claims against the estate  
27 of the decedent duly presented and legally owing have been paid in the case of a solvent estate  
28 or satisfied pro rata according to applicable statutes in the case of an insolvent estate, the  
29 personal representative or collector may file the personal representative's or collector's final  
30 account to be reviewed, audited and recorded by the clerk of superior court. Nothing in this  
31 subsection shall be construed as limiting the right of the surviving spouse or minor children to  
32 file for allowances under G.S. 30-15 through 30-18 and the right of a surviving spouse to file  
33 for property rights under G.S. 29-30."

34 **SECTION 11.** G.S. 5A-23(b) reads as rewritten:

35 "(b) Except when the clerk of superior court has original subject matter jurisdiction and  
36 issued the order or when the General Statutes specifically provide for the exercise of contempt  
37 power by the clerk of superior court, proceedings under this section are before a district court  
38 judge, unless a court superior to the district court issued the order in which case the  
39 proceedings are before that court. When the proceedings are before a superior court, venue is in  
40 the superior court district or set of districts as defined in G.S. 7A-41.1 of the court which issued  
41 the order. Otherwise, venue is in the county where the order was issued."

42 **SECTION 12.** G.S. 15A-305(b) reads as rewritten:

43 "(b) When Issued. – An order for arrest may be issued when:

- 44 (1) A grand jury has returned a true bill of indictment against a defendant who is  
45 not in custody and who has not been released from custody pursuant to  
46 Article 26 of this Chapter, Bail, to answer to the charges in the bill of  
47 indictment.
- 48 (2) A defendant who has been arrested and released from custody pursuant to  
49 Article 26 of this Chapter, Bail, fails to appear as required.
- 50 (3) The defendant has failed to appear as required by a duly executed criminal  
51 summons issued pursuant to G.S. 15A-303 or a citation issued by a law

1 enforcement officer or other person authorized by statute pursuant to  
2 G.S. 15A-302 that charged the defendant with a misdemeanor.

3 (4) A defendant has violated the conditions of probation.

4 (5) In any criminal proceeding in which the defendant has become subject to the  
5 jurisdiction of the court, it becomes necessary to take the defendant into  
6 custody.

7 (6) It is authorized by G.S. 15A-803 in connection with material witness  
8 proceedings.

9 (7) The common-law writ of *habeas corpus* has heretofore been ~~issuable~~issuable,  
10 including when a person fails to appear after being served with a show cause  
11 order in a civil contempt proceeding.

12 (8) When a defendant fails to appear as required in a show cause order issued in  
13 a criminal proceeding.

14 (9) It is authorized by G.S. 5A-16 in connection with contempt proceedings."

15 **SECTION 13.** G.S. 7A-307 reads as rewritten:

16 **"§ 7A-307. Costs in administration of estates.**

17 (a) In the administration of the estates of decedents, minors, incompetents, of missing  
18 persons, and of trusts under wills and under powers of attorney, in trust proceedings under  
19 G.S. 36C-2-203, in estate proceedings under G.S. 28A-2-4, and in collections of personal  
20 property by affidavit, the following costs shall be assessed:

21 (1) For the use of the courtroom and related judicial facilities, the sum of ten  
22 dollars (\$10.00), to be remitted to the county. Funds derived from the  
23 facilities fees shall be used in the same manner, for the same purposes, and  
24 subject to the same restrictions, as facilities fees assessed in criminal actions.

25 (1a) For the upgrade, maintenance, and operation of the judicial and county  
26 courthouse telecommunications and data connectivity, the sum of four  
27 dollars (\$4.00), to be credited to the Court Information Technology Fund.

28 (2) For support of the General Court of Justice, the sum of one hundred six  
29 dollars (\$106.00), plus an additional forty cents (40¢) per one hundred  
30 dollars (\$100.00), or major fraction thereof, of the gross estate, not to exceed  
31 six thousand dollars (\$6,000). Gross estate shall include the fair market  
32 value of all personalty when received, and all proceeds from the sale of  
33 realty coming into the hands of the fiduciary, but shall not include the value  
34 of realty. In collections of personal property by affidavit, the fee based on  
35 the gross estate shall be computed from the information in the final affidavit  
36 of collection made pursuant to G.S. 28A-25-3 and shall be paid when that  
37 affidavit is filed. In all other cases, this fee shall be computed from the  
38 information reported in the ~~inventory and shall be paid when the inventory is~~  
39 ~~filed with the clerk.~~inventory. If additional gross estate, including income,  
40 comes into the hands of the fiduciary after the filing of the inventory, the fee  
41 for such additional value shall be ~~assessed and paid upon~~computed from the  
42 information reported in the filing of any account or report disclosing such  
43 additional value. For each filing the minimum fee shall be fifteen dollars  
44 (\$15.00). Sums collected under this subdivision shall be remitted to the State  
45 Treasurer. The State Treasurer shall remit the sum of one dollar and fifty  
46 cents (\$1.50) of each one hundred six-dollar (\$106.00) General Court of  
47 Justice fee collected under this subdivision to the North Carolina State Bar  
48 for the provision of services described in G.S. 7A-474.4.

49 (2a) Notwithstanding subdivision (2) of this subsection, the fee of forty cents  
50 (40¢) per one hundred dollars (\$100.00), or major fraction, of the gross  
51 estate, not to exceed six thousand dollars (\$6,000), shall not be assessed on

personalty received by a trust under a will when the estate of the decedent was administered under Chapters 28 or 28A of the General Statutes. Instead, a fee of twenty dollars (\$20.00) shall be assessed on the filing of each annual and final account. However, the fee shall be assessed only on newly contributed or acquired assets, all interest or other income that accrues or is earned on or with respect to any existing or newly contributed or acquired assets, and realized gains on the sale of any and all trust assets. Newly contributed or acquired assets do not include assets acquired by the sale, transfer, exchange, or otherwise of the amount of trust property on which fees were previously assessed.

(2b) Notwithstanding subdivisions (1) and (2) of this subsection, no costs shall be assessed when the estate is administered or settled pursuant to G.S. 28A-25-6.

(2c) Notwithstanding subdivision (2) of this subsection, the fee of forty cents (40¢) per one hundred dollars (\$100.00), or major fraction, of the gross estate shall not be assessed on the gross estate of a trust that is the subject of a proceeding under G.S. 36C-2-203 if there is no requirement in the trust that accountings be filed with the clerk.

(2d) Notwithstanding subdivisions (1) and (2) of this subsection, the only cost assessed in connection with the qualification of a limited personal representative under G.S. 28A-29-1 shall be a fee of twenty dollars (\$20.00) to be assessed upon the filing of the petition.

(3) For probate of a will without qualification of a personal representative, the clerk shall assess a facilities fee as provided in subdivision (1) of this subsection and shall assess for support of the General Court of Justice, the sum of twenty dollars (\$20.00).

(4) For the support of the General Court of Justice, the sum of twenty dollars (\$20.00) shall accompany any filing of a notice of hearing on a motion not listed in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed to a notice of hearing on a motion containing as a sole claim for relief the taxing of costs, including attorneys' fees, or to a motion filed pursuant to G.S. 1C-1602 or G.S. 1C-1603. No more than one fee shall be assessed for any motion for which a notice of hearing is filed, regardless of whether the hearing is continued, rescheduled, or otherwise delayed.

(5) For the filing of a caveat to a will, the clerk shall assess for support of the General Court of Justice, the sum of two hundred dollars (\$200.00).

(6) Notwithstanding subdivisions (1) and (2) of this subsection, the only cost assessed in connection with the reopening of an estate administration under G.S. 28A-23-5 shall be forty cents (40¢) per one hundred dollars (\$100.00), or major fraction, of any additional gross estate, including income, coming into the hands of the fiduciary after the estate is reopened; provided that the total cost assessed when added to the total cost assessed in all prior administrations of the estate shall not exceed six thousand dollars (\$6,000).

(b) In collections of personal property by affidavit, the facilities fee and thirty dollars (\$30.00) of the General Court of Justice fee shall be paid at the time of filing the qualifying affidavit pursuant to G.S. 28A-25-1. ~~In all other cases, these fees shall be paid at the time of filing of the first inventory.~~ If the sole asset of the estate is a cause of action, these fees shall be paid at the time of the qualification of the fiduciary.

(b1) The clerk shall assess the following miscellaneous fees:

- (1) Filing and indexing a will with no probate
  - first page..... \$ 1.00



- 1                               – each additional page or fraction thereof..... .25
- 2           (2)   Issuing letters to fiduciaries, per letter over five letters issued..... 1.00
- 3           (3)   Inventory of safe deposits of a decedent, per box, per day ..... 15.00
- 4           (4)   Taking a deposition ..... 10.00
- 5           (5)   Docketing and indexing a will probated in another county in the State
- 6                               – first page..... 6.00
- 7                               – each additional page or fraction thereof..... .25
- 8           (6)   Hearing petition for year's allowance to surviving spouse or
- 9                               child,
- 10                              in cases not assigned to a magistrate, and allotting the same..... 8.00
- 11       (c)   The following additional expenses, when incurred, are also assessable or
- 12   recoverable, as the case may be:
- 13           (1)   Witness fees, as provided by law.
- 14           (2)   Counsel fees, as provided by law.
- 15           (3)   Costs on appeal, of the original transcript of testimony, if any, insofar as
- 16                              essential to the appeal.
- 17           (4)   Fees for personal service of civil process, and other sheriff's fees, as
- 18                              provided by law.
- 19           (5)   Fees of guardians ad litem, referees, receivers, commissioners, surveyors,
- 20                              arbitrators, appraisers, and other similar court appointees, as provided by
- 21                              law.
- 22       (d)   Costs assessed before the clerk shall be added to costs assessable on appeal to the
- 23   judge or upon transfer to the civil issue docket.
- 24       (e)   Nothing in this section shall affect the liability of the respective parties for costs, as
- 25   provided by law."

**SECTION 14.** G.S. 7A-64 reads as rewritten:

**"§ 7A-64. Temporary assistance for district attorneys.**

- 28       (a)   A district attorney may apply to the Director of the Administrative Office of the
- 29   Courts to:
- 30           (1)   Temporarily assign an assistant district attorney from another district, after
- 31                              consultation with the district attorney thereof, to assist in the prosecution of
- 32                              cases in the requesting district;
- 33           (2)   Authorize the temporary appointment, by the requesting district attorney, of
- 34                              a qualified attorney to assist the requesting district attorney; or
- 35           (3)   Enter into contracts with local governments for the provision of services by
- 36                              the State pursuant to G.S. 153A-212.1 or G.S. 160A-289.1.
- 37       (a1)  Repealed by Session Laws 2012-7, s. 9, effective June 7, 2012.
- 38       (b)   The Director of the Administrative Office of the Courts may provide this assistance
- 39   only upon a showing by the requesting district attorney ~~or the Chair of the North Carolina~~
- 40   ~~Innocence Inquiry Commission, as appropriate, supported~~supported by facts, that:
- 41           (1)   Criminal cases have accumulated on the dockets of the superior or district
- 42                              courts of the district beyond the capacity of the district attorney and the
- 43                              district attorney's full-time assistants to keep the dockets reasonably current;
- 44           (2)   The overwhelming public interest warrants the use of additional resources
- 45                              for the speedy disposition of cases involving drug offenses, domestic
- 46                              violence, or other offenses involving a threat to public safety; or
- 47           (3)   ~~There is an allegation of or evidence of prosecutorial misconduct in the case~~
- 48                              ~~that is the subject of the hearing under G.S. 15A-1469.~~There is a conflict of
- 49                              interest.
- 50       (c)   The length of service and compensation of any temporary appointee or the terms of
- 51   any contract entered into with local governments shall be fixed by Director of the

1 Administrative Office of the Courts in each case. Nothing in this section shall be construed to  
2 obligate the General Assembly to make any appropriation to implement the provisions of this  
3 section or to obligate the Administrative Office of the Courts to provide the administrative  
4 costs of establishing or maintaining the positions or services provided for under this section.  
5 Further, nothing in this section shall be construed to obligate the Administrative Office of the  
6 Courts to maintain positions or services initially provided for under this section."

7 **SECTION 16.** G.S. 122C-268(g) reads as rewritten:

8 "(g) Hearings may be held in an appropriate room not used for treatment of clients at the  
9 facility in which the respondent is being treated if it is located within the judge's district court  
10 district as defined in G.S. 7A-133, by ~~interactive videoconferencing audio and video~~  
11 transmission between a treatment facility and a ~~courtroom, courtroom~~ in which the judge and  
12 the respondent can see and hear each other, or in the judge's chambers. A hearing may not be  
13 held in a regular courtroom, over objection of the respondent, if in the discretion of a judge a  
14 more suitable place is available. If the respondent has counsel, the respondent shall be allowed  
15 to communicate fully and confidentially with his attorney during the proceeding. Prior to the  
16 use of the audio and video transmission, the procedures and type of equipment for audio and  
17 video transmission shall be submitted to the Administrative Office of the Courts by the chief  
18 district court judge and approved by the Administrative Office of the Courts."

19 **SECTION 17.** G.S. 58-76-15 reads as rewritten:

20 "**§ 58-76-15. Summary remedy on official bond.**

21 When a sheriff, coroner, ~~clerk,~~ county or town treasurer, or other officer, collects or  
22 receives any money by virtue or under color of his office, and on demand fails to pay the same  
23 to the person entitled to require the payment thereof, the person thereby aggrieved may move  
24 for judgment in the superior court against such officer and his sureties for any sum demanded;  
25 and the court shall try the same and render judgment at the session when the motion shall be  
26 made, but 10 days' notice in writing of the motion must have been previously given."

27 **SECTION 18.** G.S. 58-76-25 reads as rewritten:

28 "**§ 58-76-25. Evidence against principal admissible against sureties.**

29 In actions brought upon the official bonds of ~~clerks of courts,~~ sheriffs, coroners, or other  
30 public officers, and also upon the bonds of executors, administrators, collectors or guardians,  
31 when it may be necessary for the plaintiff to prove any default of the principal obligors, any  
32 receipt or acknowledgment of such obligors, or any other matter or thing which by law would  
33 be admissible and competent for or toward proving the same as against him, shall in like  
34 manner be admissible and competent as presumptive evidence only against all or any of his  
35 sureties who may be defendants with or without him in said actions."

36 **SECTION 19.** G.S. 1-110(b) reads as rewritten:

37 "(b) Whenever a motion to proceed as an indigent is filed pro se by an inmate in the  
38 custody of the Division of Adult Correction of the Department of Public Safety, the motion to  
39 proceed as an indigent and the proposed complaint shall be presented to any superior court  
40 judge of the judicial district. This judge shall determine whether the complaint is frivolous. In  
41 the discretion of the court, a frivolous case may be dismissed by order. The clerk of superior  
42 court shall serve a copy of the order of dismissal upon the prison inmate. If the judge  
43 determines that the inmate may proceed as an indigent, the clerk of superior court shall issue  
44 service of process nunc pro tunc to the date of filing upon the defendant shall issue without  
45 further order of the court.defendant."

46 **SECTION 20.** G.S. 1A-1, Rule 3, reads as rewritten:

47 "**Rule 3. Commencement of action.**

48 (a) A civil action is commenced by filing a complaint with the court. The clerk shall  
49 enter the date of filing on the original complaint, and such entry shall be prima facie evidence  
50 of the date of filing.

51 A civil action may also be commenced by the issuance of a summons when

- 1 (1) A person makes application to the court stating the nature and purpose of his  
2 action and requesting permission to file his complaint within 20 days and  
3 (2) The court makes an order stating the nature and purpose of the action and  
4 granting the requested permission.

5 The summons and the court's order shall be served in accordance with the provisions of Rule 4.  
6 When the complaint is filed it shall be served in accordance with the provisions of Rule 4 or by  
7 registered mail if the plaintiff so elects. If the complaint is not filed within the period specified  
8 in the clerk's order, the action shall abate.

9 ~~(b) The clerk shall maintain as prescribed by the Administrative Office of the Courts a~~  
10 ~~separate index of all medical malpractice actions, as defined in G.S. 90-21.11. Upon the~~  
11 ~~commencement of a medical malpractice action, the clerk shall provide a current copy of the~~  
12 ~~index to the senior regular resident judge of the district in which the action is pending."~~

13 **SECTION 21.** G.S. 122C-264 reads as rewritten:

14 "**§ 122C-264. Duties of clerk of superior court and the district attorney.**

15 ...

16 ~~(e) The clerk of superior court of the county where outpatient commitment is to be~~  
17 ~~supervised shall keep a separate list regarding outpatient commitment and shall prepare~~  
18 ~~quarterly reports listing all active cases, the assigned supervisor, and the disposition of all~~  
19 ~~hearings, supplemental hearings, and rehearings.~~

20 (f) The clerk of superior court of the county where inpatient commitment hearings and  
21 rehearings are held shall provide all notices, send all records and maintain a record of all  
22 proceedings as required by this Part; provided that if the respondent has been committed to a  
23 24-hour facility in a county other than his county of residence and the district court hearing is  
24 held in the county of the facility, the clerk of superior court in the county of the facility shall  
25 forward the record of the proceedings to the clerk of superior court in the county of  
26 respondent's residence, where they shall be maintained by receiving clerk."

27 **SECTION 22.** G.S. 14-208.12A(a) reads as rewritten:

28 "(a) Ten years from the date of initial county registration, a person required to register  
29 under this Part may petition the superior court to terminate the 30-year registration requirement  
30 if the person has not been convicted of a subsequent offense requiring registration under this  
31 Article.

32 If the reportable conviction is for an offense that occurred in North Carolina, the petition  
33 shall be filed in the district where the person was convicted of the offense.

34 If the reportable conviction is for an offense that occurred in another state, the petition shall  
35 be filed in the district where the person resides. A person who petitions to terminate the  
36 registration requirement for a reportable conviction that is an out-of-state offense shall also do  
37 the following: (i) provide written notice to the sheriff of the county where the person was  
38 convicted that the person is petitioning the court to terminate the registration requirement and  
39 (ii) include with the petition at the time of its filing, an affidavit, signed by the petitioner, that  
40 verifies that the petitioner has notified the sheriff of the county where the person was convicted  
41 of the petition and that provides the mailing address and contact information for that sheriff.

42 Regardless of where the offense occurred, if the defendant was convicted of a reportable  
43 offense in any federal court, the conviction will be treated as an out-of-state offense for the  
44 purposes of this section."

45 **SECTION 23.** G.S. 7B-2901(a) reads as rewritten:

46 "(a) The clerk shall maintain a complete record of all juvenile cases filed in the clerk's  
47 office alleging abuse, neglect, or dependency. The records shall be withheld from public  
48 inspection and, except as provided in this subsection, may be examined only by order of the  
49 court. The record shall include the summons, petition, custody order, court order, written  
50 motions, the electronic or mechanical recording of the hearing, and other papers filed in the  
51 proceeding. The recording of the hearing shall be reduced to a written transcript only when

1 notice of appeal has been timely given. After the time for appeal has expired with no appeal  
2 having been filed, the recording of the hearing may be erased or destroyed upon the written  
3 order of the ~~court~~court or in accordance with a retention schedule approved by the Director of  
4 the Administrative Office of the Courts and the Department of Natural and Cultural Resources  
5 under G.S. 121-5(c).

6 The following persons may examine the juvenile's record maintained pursuant to this  
7 subsection and obtain copies of written parts of the record without an order of the court:

- 8 (1) The person named in the petition as the juvenile;
- 9 (2) The guardian ad litem;
- 10 (3) The county department of social services; and
- 11 (4) The juvenile's parent, guardian, or custodian, or the attorney for the juvenile  
12 or the juvenile's parent, guardian, or custodian."

13 **SECTION 24.** G.S. 7B-3000(d) reads as rewritten:

14 "(d) Any portion of a juvenile's record consisting of an electronic or mechanical  
15 recording of a hearing shall be transcribed only when notice of appeal has been timely given  
16 and shall be copied electronically or mechanically, only by order of the court. After the time for  
17 appeal has expired with no appeal having been filed, the court may enter a written order  
18 directing the clerk to destroy the recording of the ~~hearing~~hearing or the recording may be  
19 destroyed in accordance with a retention schedule approved by the Director of the  
20 Administrative Office of the Courts and the Department of Natural and Cultural Resources  
21 under G.S.121-5(c)."

22 **SECTION 25.** G.S. 7B-603(b1) reads as rewritten:

23 "(b1) The court may require payment of the fee for an attorney appointed pursuant to  
24 G.S. 7B-602 or ~~G.S. 7B-1101~~G.S. 7B-1101.1 from the respondent. In no event shall the  
25 respondent be required to pay the fees for a court-appointed attorney in an abuse, neglect, or  
26 dependency proceeding unless the juvenile has been adjudicated to be abused, neglected, or  
27 dependent or, in a proceeding to terminate parental rights, unless the respondent's rights have  
28 been terminated. At the dispositional hearing or other appropriate hearing, the court shall make  
29 a determination whether the respondent should be held responsible for reimbursing the State for  
30 the respondent's attorneys' fees. This determination shall include the respondent's financial  
31 ability to pay.

32 If the court determines that the respondent is responsible for reimbursing the State for the  
33 respondent's attorneys' fees, the court shall so order. If the respondent does not comply with the  
34 order at the time of disposition, the court shall file a judgment against the respondent for the  
35 amount due the State."

36 **SECTION 26.** G.S. 84-2 reads as rewritten:

37 "**§ 84-2. Persons disqualified.**

38 No justice, judge, magistrate, full-time district attorney, full-time assistant district attorney,  
39 full-time public defender, full-time assistant public defender, clerk, deputy or assistant clerk of  
40 the General Court of Justice, register of deeds, deputy or assistant register of deeds, sheriff or  
41 deputy sheriff shall engage in the private practice of law. As used in this section, the private  
42 practice of law shall not include the performance of pro bono legal services by a lawyer, other  
43 than a justice or judge of the general court of justice, who is otherwise disqualified by this  
44 section if the pro bono services are sponsored or organized by a professional association of  
45 lawyers or a nonprofit corporation rendering legal services pursuant to G.S. 84-5.1. Persons  
46 violating this provision shall be guilty of a Class 3 misdemeanor and only fined not less than  
47 two hundred dollars (\$200.00)."

48 **SECTION 26.5.** Notwithstanding any other provision of law, a member of the  
49 Council of State who has prosecutorial authority may appoint a qualified attorney to assist the  
50 Council of State member in the execution of the duties of the member's office. The appointment

1 shall be temporary and the salary of the appointee shall be paid from funds appropriated by the  
2 General Assembly to the department but unspent at the time of the temporary appointment.  
3 **SECTION 27.** Section 22 of this act is effective when it becomes law and applies  
4 to petitions filed on or after that date. The remainder of this act is effective when it becomes  
5 law.