



# HOUSE BILL 113: 2021 AOC Legislative Changes.

2021-2022 General Assembly

<b>Committee:</b>	House Rules, Calendar, and Operations of the House	<b>Date:</b>	April 27, 2021
<b>Introduced by:</b>	Rep. Stevens	<b>Prepared by:</b>	Brad Krehely
<b>Analysis of:</b>	Third Edition		Staff Attorney

**OVERVIEW:** *House Bill 113 would make makes certain changes requested by the Administrative Office of the Courts (AOC) to the General Statutes.*

## BILL ANALYSIS:

**Section 1** would add an additional member to the Dispute Resolution Commission (Commission) who would be a court management staff member appointed by the Chief Justice. Additionally, all members of the Commission and its employees would get immunity from civil suit in their official capacity. The Commission administers the certification and qualification of mediators.

**Section 2(a)** would amend the Rules of Civil Procedure to require that a judge write out the oral jury charge in medical malpractice cases and encourages the judge to provide a written copy to the jury to use during deliberations.

**Section 2(b)** would require that a specific judge be designated to handle all medical malpractice cases in each district.

**Section 3** would remove the years 2020 and 2021 from the calculation of upcoming master jury service lists.

**Section 4** would require the General Assembly to appoint alternate members who would serve on the Judicial Standards Commission (Commission) when one (or both) of the two members regularly appointed by the General Assembly is unable to serve due to any unavailability. The Commission was created to investigate allegations of judicial misconduct. There are 13 members appointed to the Commission and the General Assembly appoints two of these members. Under current law, if one (or both) of these members was unable to serve, and the General Assembly was not in session, a replacement would be recommended by the General Assembly leadership to the Governor who could accept or reject the recommended person.

This section also makes certain technical and conforming changes.

**Section 5** would clarify that an order for arrest may be issued for a defendant who has failed to appear in court after being charged with a felony or a misdemeanor by a criminal summons.

**Section 6** would update G.S. 15A-1011(a)(4) to make it consistent with other statutes that allow defendants to enter pleas without personally appearing in court for certain misdemeanor or infraction cases, such as traffic, hunting, and fishing offenses.

**Section 7** would allow a magistrate *who is also an ordained minister* to perform a marriage in his private capacity as an ordained minister even if the magistrate has elected to recuse himself from performing all marriages as a magistrate. G.S. 51-5.5 currently authorizes a magistrate to recuse himself from performing

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lawful marriages based upon a religious objection, but if the magistrate makes this election, he cannot perform *any* marriages.

**Section 8** would clarify that a debtor seeking to claim constitutional exemptions is not subject to the 20 day notice requirement related to claiming statutory exemptions.

**Section 9** would clarify that a tenant-defendant who has a pending appeal in a landlord-tenant case must pay rent within five *business* days after it is due to the court clerk. This change makes G.S. 42-34.1 consistent with other provisions in the General Statutes which measure time in *business* days.

**Section 10** would authorize all court proceedings to proceed by video conference and make conforming changes within the General Statutes to reflect this change.

**Section 11(a)** would allow the Chief Justice to expand the list active list of emergency superior court judges to no more than 25.

**Section 11(b)** would allow the Chief Justice to assign emergency judges to hold regular or special sessions of court to address case management issued created by the COVID-19 pandemic.

**Section 12** would clarify that litigants could be charged for "document management" in addition to reproduction of appellate records and briefs. These sections reflect that appellate courts' document management duties extend beyond printing documents for the parties.

**Section 13** would amend G.S. 1-239 to clarify the date on which a payment made to the clerk through execution should be applied and credited and would make additional conforming changes to related statutes.

**Section 14** would clarify that mediated settlement agreements may be signed by a party's designee.

**Section 15** would create a severability clause providing that if any section or provision of the act is declared unconstitutional or invalid, it does not affect the validity of the act as a whole or any other part of the act.

**EFFECTIVE DATE:** Section 2(a) becomes effective October 1, 2021, and applies to actions filed on or after that date, and Section 2(b) becomes effective October 1, 2021. Section 10 is effective when it becomes law and applies to proceedings occurring on or after that date. Section 11 is effective when it becomes law and expires on July 1, 2022. Section 14 is effective when it becomes law and applies to settlement agreements reached on or after that date. The remainder of this act is effective when it becomes law.

\*Robert Ryan and Susan Sitze, Staff Attorneys for the Legislative Analysis Division, contributed substantially to the drafting of this summary.