

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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SENATE BILL 255
Judiciary Committee Substitute Adopted 3/23/21

Short Title: 2021 AOC Legislative Changes.-AB

(Public)

Sponsors:

Referred to:

March 15, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES AND TECHNICAL CORRECTIONS TO THE
3 LAWS GOVERNING THE ADMINISTRATION OF JUSTICE.
4 The General Assembly of North Carolina enacts:

5
6 **MEDICAL MALPRACTICE JURY INSTRUCTIONS AND JUDICIAL ASSIGNMENT**

7 **SECTION 1.(a)** Rule 51 of G.S. 1A-1 is amended by adding a new subsection to
8 read:

9 "(d) Final instructions to the jury. – In civil cases subject to G.S. 90-21.11, the court shall
10 reduce the oral instructions given to the jury to writing. Upon the jury retiring for deliberation,
11 the court is encouraged to and may provide the jury a written copy of the oral instructions for the
12 jury to take into the jury room during deliberation."

13 **SECTION 1.(b)** G.S. 7A-47.3 is amended by adding a new subsection to read:

14 "(e) The senior resident superior court judge, in consultation with the parties to the case,
15 shall designate a specific resident judge or a specific judge assigned to hold court in the district
16 to preside over all proceedings in a case subject to G.S. 90-21.11."

17 **SECTION 1.(c)** This section becomes effective October 1, 2021. Subsection (a) of
18 this section applies to actions filed on or after that date.

19
20 **ADJUST MASTER JURY POOL TO ACCOUNT FOR THE COVID-19 PANDEMIC**

21 **SECTION 2.** Notwithstanding G.S. 9-2(f), the master jury list for the 2022-2023
22 biennium shall contain not less than one and one-quarter times and not more than three times as
23 many names as were drawn for jury duty in all courts in the county during the 2018-2019
24 biennium if the jury commission determines that those numbers would be more representative of
25 the required number of jurors than the number of names drawn during the previous biennium.
26 Notwithstanding G.S. 9-2(f), in a county preparing an annual master jury list for 2022 as
27 authorized by G.S. 9-2(a), the master jury list shall contain not less than one and one-quarter
28 times and not more than three times as many names drawn during 2019 if the jury commission
29 determines that those numbers would be more representative of the required number of jurors
30 than the number of names drawn during the previous year. A master jury list for the 2022-2023
31 biennium or for the 2022 year shall not include fewer than 500 names. In counties in which a
32 different panel of jurors is selected for each day of the week, there is no limit to the number of
33 names that may be placed on the master jury list for the 2022-2023 biennium or 2022 year.

34
35 **CLARIFY VARIOUS PROCEDURES RELATED TO THE ENFORCEMENT OF**
36 **JUDGMENTS**



1 **SECTION 3.(a)** G.S. 1C-1603 reads as rewritten:

2 "**§ 1C-1603. Procedure for setting aside exempt property.**

3 (a) Motion or Petition; Notice. –

4 ...

5 (4) After judgment, except as provided in subdivision (3) of this subsection or
6 when exemptions have already been designated, the clerk may not issue an
7 execution or writ of possession unless notice from the court has been served
8 upon the judgment debtor advising the debtor of the debtor's rights. The notice
9 is not required if the exemptions under G.S. 1C-1601 are inapplicable based
10 on an exception in G.S. 1C-1601(e). The judgment creditor must cause the
11 notice, which must be accompanied by the form for the statement by the debtor
12 under subsection (c1) of this section, to be served on the debtor as provided in
13 G.S. 1A-1, Rule 4(j)(1). If the judgment debtor cannot be served as provided
14 under G.S. 1A-1, Rule 4(j)(1), the judgment creditor may serve the judgment
15 debtor by mailing a copy of the notice to the judgment debtor at the debtor's
16 last known address. Proof of service by certified or registered mail or personal
17 service is as provided in G.S. 1A-1, Rule 4. The judgment creditor may prove
18 service by mailing to last known address by filing a certificate that the notice
19 was served indicating the circumstances warranting the use of such service
20 and the date and address of service.

21 ...

22 (b) Contents of Motion or Petition. – The motion or petition must:

23 (1) Name the judgment ~~debtor;~~debtor.

24 (2) Name the judgment creditors of the debtor insofar as they are known to the
25 ~~movant;~~movant.

26 (3) If it is a motion to modify a previously allocated exemption, describe the
27 change of condition (if the movant received notice of the exemption hearing)
28 and the modification desired.

29 ...

30 (e) Procedure for Setting Aside Exempt Property. –

31 ...

32 (2) If the judgment debtor does not file a motion to designate exemptions with a
33 schedule of assets within 20 days after notice of the debtor's rights was served
34 in accordance with subdivision (4) of subsection (a) of this section, or if the
35 debtor does not request a hearing before the clerk within 20 days after service
36 of the notice of rights and appear at the requested hearing, the judgment debtor
37 has waived the exemptions provided in this ~~Article and in Sections 1 and 2 of~~
38 ~~Article X of the North Carolina Constitution.~~Article. Upon request of the
39 judgment creditor, the clerk must issue a writ of execution or writ of
40 possession.

41 ...

42 (12) Appeal from a designation of exempt property by the clerk is to the district
43 court judge. A party has 10 days from the date of entry of an order to appeal.
44 Appeal from a designation of exempt property by a district court judge is to
45 the Court of Appeals. Decisions of the Court of Appeals with regard to
46 questions of valuation of property are final as provided in G.S. 7A-28. Other
47 questions may be appealed as provided in G.S. 7A-30 and 7A-31.

48 "

49 **SECTION 3.(b)** This section is effective when it becomes law and applies to motions
50 and petitions filed on or after that date.

51

DISPUTE RESOLUTION COMMISSION STATUTORY CHANGES

SECTION 4.(a) G.S. 7A-38.2 reads as rewritten:

"§ 7A-38.2. Regulation of mediators and other neutrals.

...

(c) The Dispute Resolution Commission shall consist of ~~47~~18 members: five judges appointed by the Chief Justice of the Supreme Court, at least two of whom shall be active superior court judges, and at least two of whom shall be active district court judges; one clerk of superior court appointed by the Chief Justice of the Supreme Court; two mediators certified to conduct superior court mediated settlement conferences and two mediators certified to conduct equitable distribution mediated settlement conferences appointed by the Chief Justice of the Supreme Court; one certified district criminal court mediator who is a representative of a community mediation center appointed by the Chief Justice of the Supreme Court; a district attorney appointed by the Chief Justice of the Supreme Court; a court management staff member appointed by the Chief Justice of the Supreme Court; two practicing attorneys who are not certified as mediators appointed by the President of the North Carolina State Bar, one of whom shall be a family law specialist; and three citizens knowledgeable about mediation, one of whom shall be appointed by the Governor, one by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, and one by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. Commission members shall serve three-year terms and shall be ineligible to serve more than two consecutive terms. Members appointed to fill unexpired terms shall be eligible to serve two consecutive terms upon the expiration of the unexpired term. The Chief Justice shall designate one of the members to serve as chair for a two-year term. Members of the Commission shall be compensated pursuant to G.S. 138-5.

Vacancies shall be filled for unexpired terms and full terms in the same manner as incumbents were appointed. Appointing authorities may receive and consider suggestions and recommendations of persons for appointment from the Dispute Resolution Commission, the Family Law, Litigation, and Dispute Resolution Sections of the North Carolina Bar Association, the North Carolina Association of Professional Family Mediators, the North Carolina Conference of Clerks of Superior Court, the North Carolina Conference of Court Administrators, the Mediation Network of North Carolina, the Dispute Resolution Committee of the Supreme Court, the Conference of Chief District Court Judges, the Conference of Superior Court Judges, the Director of the Administrative Office of the Courts, and the Child Custody Mediation Advisory Committee of the Administrative Office of the Courts.

...

(m) Members of the Commission and its employees are immune from civil suit for all conduct undertaken in the course of their official duties."

SECTION 4.(b) This section is effective when it becomes law and applies to conduct occurring on or after that date.

JUDICIAL STANDARDS COMMISSION ALTERNATE MEMBERS AND TECHNICAL CORRECTIONS

SECTION 5. G.S. 7A-375 reads as rewritten:

"§ 7A-375. Judicial Standards Commission.

(a) Composition. — The Judicial Standards Commission shall consist of the following residents of North Carolina: one Court of Appeals judge, two superior court judges, and two district court judges, each appointed by the Chief Justice of the Supreme Court; four members of the State Bar who have actively practiced in the courts of the State for at least 10 years, elected by the State Bar Council; and four citizens who are not judges, active or retired, nor members of the State Bar, two appointed by the Governor, and two appointed by the General Assembly in accordance with G.S. 120-121, one upon recommendation of the President Pro Tempore of the

1 Senate and one upon recommendation of the Speaker of the House of Representatives. ~~The Court~~
2 ~~of Appeals judge shall act as chair of the Commission.~~ The General Assembly shall also appoint
3 alternate Commission members for the Commission members the General Assembly has
4 appointed to serve in the event of scheduling conflicts, conflicts of interest, disability, or other
5 disqualification arising in a particular case. The alternate members shall have the same
6 qualifications for appointment as the original members.

7 (a1) Terms. – The Court of Appeals judge shall act as chair of the Commission and shall
8 serve at the pleasure of the Chief Justice. Terms of other Commission members shall be for six
9 years. No member who has served a full six-year term is eligible for reappointment. Members
10 who are not judges are entitled to per diem, and all members are entitled to reimbursement for
11 travel and subsistence expenses at the rate applicable to members of State boards and
12 commissions generally for each day engaged in official business.

13 (b) ~~The Court of Appeals judge shall serve at the pleasure of the Chief Justice. Terms of~~
14 ~~other Commission members shall be for six years. No member who has served a full six-year~~
15 ~~term is eligible for reappointment. If Vacancies. – A vacancy on the Commission arises upon the~~
16 ~~resignation or death of a member or if a member ceases to have the qualifications required for~~
17 ~~the member's appointment, that person ceases to be a member. appointment. Vacancies of~~
18 ~~members, other than those appointed by the General Assembly, are filled in the same manner as~~
19 ~~the original appointment, for the remainder of the term. Vacancies of members appointed by the~~
20 ~~General Assembly are filled as provided under G.S. 120-122. Members who are not judges are~~
21 ~~entitled to per diem and all members are entitled to reimbursement for travel and subsistence~~
22 ~~expenses at the rate applicable to members of State boards and commissions generally, for each~~
23 ~~day engaged in official business.~~ by the alternate member appointed pursuant to subsection (a) of
24 this section and shall serve for the remainder of the unexpired term. In the absence of an alternate
25 member appointed by the General Assembly pursuant to subsection (a) of this section, or if an
26 alternate member is unable to serve, such vacancy shall be filled as provided under G.S. 120-122.

27 (c) Disability or Disqualification. – If a member of the Commission who is a judge
28 appointed by the Chief Justice becomes disabled, or becomes a respondent before the
29 Commission, the Chief Justice shall appoint an alternate member to serve during the period of
30 disability or disqualification. The alternate member shall be from the same division of the
31 General Court of Justice as the judge whose place the alternate member takes. If a member of the
32 Commission who is not a judge becomes disabled, disabled or is disqualified from participating
33 in a disciplinary proceeding, the Governor, if he appointed the disabled member, shall appoint,
34 or the State Bar Council, if it elected the disabled member, shall elect, an alternate member to
35 serve during the period of disability. disability or disqualification. If a member of the
36 Commission who is not a judge and who was appointed by the General Assembly becomes
37 disabled, an disabled or is disqualified from participating in a disciplinary proceeding, the chair
38 of the Commission shall call upon the alternate member shall be appointed to serve during the
39 period of disability in the same manner as if there were a vacancy to be filled under G.S. 120-122.
40 In a particular case, if a member becomes disqualified, or is successfully challenged for cause,
41 the member's seat for that case shall be filled by an alternate member selected as provided in this
42 subsection. appointed pursuant to subsection (a) of this section.

43 (d) Extended Terms to Complete Proceedings. – A member may serve after expiration of
44 the member's term only to participate until the conclusion of a disciplinary proceeding begun
45 before expiration of the member's term. Such participation shall not prevent the successor from
46 taking office, but the successor may not participate in the proceeding for which the predecessor's
47 term was extended. This subsection shall apply also to any judicial member whose membership
48 on the Commission is automatically terminated by retirement or resignation from judicial office,
49 or expiration of the term of judicial office.

50 (e) Civil Immunity. – Members of the Commission and its employees are immune from
51 civil suit for all conduct undertaken in the course of their official duties.

1 (f) Commission Staff. – The chair of the Commission may employ, if funds are
 2 appropriated for that purpose, an executive director, Commission counsel, investigator, and any
 3 support staff as may be necessary to assist the Commission in carrying out its duties. With the
 4 approval of the Chief Justice, for specific cases, the chair also may employ special counsel or
 5 call upon the Attorney General to furnish counsel. In addition, with the approval of the Chief
 6 Justice, for specific cases, the chair or executive director also may call upon the Director of the
 7 State Bureau of Investigation to furnish an investigator who shall serve under the supervision of
 8 the executive director. While performing duties for the Commission, the executive director,
 9 counsel, and investigator have authority throughout the State to serve subpoenas or other process
 10 issued by the Commission in the same manner and with the same effect as an officer authorized
 11 to serve process of the General Court of Justice.

12 (g) Rules. – The Commission may adopt, and may amend from time to time, its own rules
 13 of procedure for the performance of the duties and responsibilities prescribed by this Article,
 14 subject to the approval of the Supreme Court."
 15

16 CLARIFY ORDER FOR ARREST FOR FAILURE TO APPEAR FOLLOWING 17 RECEIPT OF CRIMINAL SUMMONS

18 **SECTION 6.(a)** G.S. 15A-305(b) reads as rewritten:

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

20 ...

- 21 (3) The defendant has failed to appear as required by a duly executed criminal
 22 summons issued pursuant to G.S. 15A-303 that charged the defendant with a
 23 criminal offense, or a citation issued by a law enforcement officer or other
 24 person authorized by statute pursuant to G.S. 15A-302 that charged the
 25 defendant with a misdemeanor.

26"

27 **SECTION 6.(b)** This section is effective when it becomes law and applies to orders
 28 for arrests issued on or after that date.
 29

30 CLARIFY COURT PLEA EXCEPTIONS

31 **SECTION 7.(a)** G.S. 15A-1011(a) reads as rewritten:

32 "(a) A defendant may plead not guilty, guilty, or no contest "(nolo contendere)." A plea
 33 may be received only from the defendant himself in open court except ~~when~~in any of the
 34 following circumstances:

- 35 (1) The defendant is a corporation, in which case the plea may be entered by
 36 counsel or a corporate ~~officer~~officer.
 37 (2) There is a waiver of arraignment and a filing of a written plea of not guilty
 38 under ~~G.S. 15A-945~~G.S. 15A-945.
 39 (3) In misdemeanor cases when there is a written waiver of appearance submitted
 40 with the approval of the presiding ~~judge~~judge.
 41 (4) Written pleas ~~in traffic cases, hunting and fishing offenses under Chapter 113,~~
 42 ~~and boating offenses under Chapter 75A~~ for the types of offenses specified in
 43 G.S. 7A-273(2) and G.S. 7A-273(2a) are authorized under G.S. 7A-146(8);
 44 ~~or~~G.S. 7A-148(a).

45"

46 **SECTION 7.(b)** G.S. 7A-180 reads as rewritten:

47 "**§ 7A-180. Functions of clerk of superior court in district court matters.**

48 The clerk of superior court:

- 49 (1) Has and exercises all of the judicial powers and duties in respect of actions
 50 and proceedings pending from time to time in the district court of ~~his~~the
 51 clerk's county which are now or hereafter conferred or imposed upon ~~him~~the

1 clerk by law in respect of actions and proceedings pending in the superior
2 court of ~~his county;~~the clerk's county.

- 3 (2) Performs all of the clerical, administrative and fiscal functions required in the
4 operation of the district court of ~~his~~the clerk's county in the same manner as
5 ~~he~~the clerk is required to perform ~~such~~ functions in the operation of the
6 superior court of ~~his county;~~the clerk's county.
- 7 (3) Maintains, under the supervision of the Administrative Office of the Courts,
8 an office of uniform consolidated records of all judicial proceedings in the
9 superior court division and the district court division of the General Court of
10 Justice in ~~his~~the clerk's county. Those records shall include civil actions,
11 special proceedings, estates, criminal actions, juvenile actions, minutes of the
12 court and all other records required by law to be maintained. The form and
13 procedure for filing, docketing, indexing, and recording shall be as prescribed
14 by the Administrative Officer of the Courts notwithstanding any contrary
15 statutory provision as to the title and form of the record or as a method of
16 ~~indexing;~~indexing.
- 17 (4) Has the power to accept written appearances, waivers of trial or hearing and
18 pleas of guilty or admissions of responsibility for the types of offenses
19 specified in G.S. 7A-273(2) and G.S. 7A-273(2a) in accordance with the
20 schedules of offenses promulgated by the Conference of Chief District Judges
21 pursuant to G.S. 7A-148, and in ~~such~~those cases, to enter judgment and
22 collect the fine or penalty and ~~eosts;~~costs.
- 23 (5) Has the power to issue warrants of arrest valid throughout the State, and search
24 warrants valid throughout the county of the issuing ~~elrk;~~clerk.
- 25 (6) Has the power to conduct an initial appearance in accordance with Chapter
26 15A, Article 24, Initial Appearance, and to fix conditions of release in
27 accordance with Chapter 15A, Article 26, ~~Bail;~~Bail.
- 28 (7) Continues to exercise all powers, duties and authority ~~theretofore~~ vested in or
29 imposed upon clerks of superior court by general law, with the exception of
30 jurisdiction in juvenile ~~matters;~~ and matters.
- 31 (8) Has the power to accept written appearances, waivers of trial and pleas of
32 guilty to violations of G.S. 14-107 when restitution, including service charges
33 and processing fees allowed under G.S. 14-107, is made, the amount of the
34 check is two thousand dollars (\$2,000) or less, and the warrant does not charge
35 a fourth or subsequent violation of this statute, and, in ~~such~~those cases, to
36 enter ~~such~~ judgments as the chief district judge shall direct and, forward the
37 amounts collected as restitution to the appropriate prosecuting witnesses and
38 to collect the costs.

39"

40 **SECTION 7.(c)** This section is effective when it becomes law and applies to pleas
41 received on or after that date.

42
43 **CLARIFY TIME ALLOWED FOR DEFENDANT APPELLANT TO MAKE RENTAL**
44 **PAYMENTS UNDER RESIDENTIAL RENTAL AGREEMENT**

45 **SECTION 8.(a)** G.S. 42-34.1(a) reads as rewritten:

46 "(a) If the judgment in district court is against the defendant appellant, it shall be sufficient
47 to stay execution of the judgment during the 30-day time period for taking an appeal provided
48 for in Rule 3 of the North Carolina Rules of Appellate Procedure if the defendant appellant posts
49 a bond as provided in G.S. 42-34(b), and no additional security under G.S. 1-292 is required. If
50 the defendant appellant fails to make rental payments as provided in the undertaking within five
51 business days of the day rent is due under the terms of the residential rental agreement, the clerk

1 of superior court shall, upon application of the plaintiff appellee, immediately issue a writ of
2 possession, and the sheriff shall dispossess the defendant appellant as provided in G.S. 42-36.2."

3 **SECTION 8.(b)** This section becomes effective October 1, 2021, and applies to
4 applications to the clerk of superior court for a writ of possession made on or after that date.

5 6 **CLARIFY SCOPE OF MAGISTRATE MARRIAGE RECUSAL**

7 **SECTION 9.(a)** G.S. 51-5.5 reads as rewritten:

8 "**§ 51-5.5. Recusal of certain public officials.**

9 (a) Every magistrate has the right to recuse from performing all lawful marriages as a
10 magistrate under this Chapter based upon any sincerely held religious objection. Such recusal
11 shall be upon notice to the chief district court judge and is in effect for at least six months from
12 the time delivered to the chief district court judge. The recusing magistrate may not perform any
13 marriage as a magistrate under this Chapter until the recusal is rescinded in writing. The chief
14 district court judge shall ensure that all individuals issued a marriage license seeking to be
15 married before a magistrate may marry.

16 Notwithstanding the provisions of this subsection, a magistrate who is also an ordained
17 minister otherwise legally authorized to solemnize marriages in the State is not prohibited from
18 performing lawful marriages as a minister based upon a decision of recusal under this subsection.

19 "...."

20 **SECTION 9.(b)** This section is effective when it becomes law and applies to
21 marriages performed prior to, on the day of, and after that date.

22 23 **ALLOW COURT PROCEEDINGS BY AUDIO/VIDEO TRANSMISSION**

24 **SECTION 10.(a)** Article 7 of Chapter 7A of the General Statutes is amended by
25 adding a new section to read:

26 "**§ 7A-49.6. Proceedings conducted by audio and video transmission.**

27 (a) Except as otherwise provided in this section, judicial officials may conduct
28 proceedings of all types using an audio and video transmission in which the parties, the presiding
29 official, and any other participants can see and hear each other. Judicial officials conducting
30 proceedings by audio and video transmission under this section must safeguard the constitutional
31 rights of those persons involved in the proceeding and preserve the integrity of the judicial
32 process.

33 (b) Each party to a proceeding involving audio and video transmission must be able to
34 communicate fully and confidentially with his or her attorney if the party is represented by an
35 attorney.

36 (c) In a proceeding involving a jury, the court may allow a witness to testify by audio and
37 video transmission only upon finding in the record that good cause exists for doing so under the
38 circumstances.

39 (d) When the right to confront witnesses or be present is implicated in criminal or juvenile
40 delinquency proceedings, the court may not proceed by audio and video transmission unless (i)
41 the court has obtained a knowing, intelligent, and voluntary waiver of the defendant's or juvenile
42 respondent's rights or (ii) the court finds that the use of audio and video transmission in the
43 absence of a waiver is necessary to further an important State interest and will not materially
44 prejudice the defendant's or juvenile respondent's rights.

45 (e) A party may object to conducting a proceeding by audio and video transmission. If
46 the presiding official finds that the party has demonstrated good cause for the objection, the
47 proceeding must not be held by audio and video transmission. If there is no objection, or if there
48 is an objection and good cause is not shown, the presiding official may conduct the proceeding
49 by audio and video transmission.

1 (f) Proceedings conducted by audio and video transmission shall be held in a manner that
2 complies with any applicable federal and State laws governing the confidentiality and security
3 of confidential information.

4 (g) If the proceeding is one that is open to the public, then the presiding official must
5 facilitate access to the proceeding by the public and the media as nearly as practicable to the
6 access that would be available were the proceeding conducted in person.

7 (h) If the proceeding is required by law to be recorded, then the audio and video
8 transmission must be recorded in accordance with G.S. 7A-95, G.S. 7A-198, and other laws, as
9 applicable.

10 (i) This section is not intended to limit the court's authority to receive remote testimony
11 pursuant to statutes that otherwise permit it, including G.S. 15A-1225.1, 15A-1225.2,
12 15A-1225.3, 20-139.1, 8C-1, Rule 616, 50A-111, and 52C-3-315(f).

13 (j) All proceedings under this section shall be conducted using videoconferencing
14 applications approved by the Administrative Office of the Courts.

15 (k) As used herein, the term "judicial official" has the same meaning as in
16 G.S. 15A-101(5)."

17 **SECTION 10.(b)** This section becomes effective April 1, 2021, and applies to
18 proceedings occurring on or after that date.

20 **MODIFY VARIOUS PROVISIONS ALLOWING FOR REMOTE OR DIGITAL COURT** 21 **PROCEEDINGS**

22 **SECTION 11.(a)** G.S. 7B-1906(h) is repealed.

23 **SECTION 11.(b)** G.S. 15A-101.1(2) reads as rewritten:

24 "(2) "Document" means any pleading, criminal process, subpoena, complaint,
25 motion, application, notice, affidavit, commission, waiver, consent, dismissal,
26 order, judgment, or other writing intended in a criminal or contempt
27 proceeding to authorize or require an action, to record a decision or to
28 communicate or record information. ~~The term does not include search~~
29 ~~warrants.~~A document may be created and exist in paper form or in electronic
30 form or in both forms. Each document shall contain the legible, printed name
31 of the person who signed the document."

32 **SECTION 11.(c)** G.S. 15A-245(a) reads as rewritten:

33 "(a) Before acting on the application, the issuing official may examine on oath the
34 applicant or any other person who may possess pertinent information, but information other than
35 that contained in the affidavit may not be considered by the issuing official in determining
36 whether probable cause exists for the issuance of the warrant unless the information is either
37 recorded or contemporaneously summarized in the record or on the face of the warrant by the
38 issuing official. The information must be shown by one or ~~more~~ both of the following:

39 (1) ~~Affidavit;~~ Affidavit.

40 (2) Oral testimony under oath or affirmation before the issuing ~~official;~~ official.

41 (3) ~~Oral testimony under oath or affirmation presented by a sworn law~~
42 ~~enforcement officer to the issuing official by means of an audio and video~~
43 ~~transmission in which both parties can see and hear each other. Prior to the~~
44 ~~use of audio and video transmission pursuant to this subdivision, the~~
45 ~~procedures and type of equipment for audio and video transmission shall be~~
46 ~~submitted to the Administrative Office of the Courts by the senior regular~~
47 ~~resident superior court judge and the chief district court judge for a judicial~~
48 ~~district or set of districts and approved by the Administrative Office of the~~
49 ~~Courts."~~

50 **SECTION 11.(d)** G.S. 15A-304(d) reads as rewritten:

1 "(d) Showing of Probable Cause. – A judicial official may issue a warrant for arrest only
2 when he is supplied with sufficient information, supported by oath or affirmation, to make an
3 independent judgment that there is probable cause to believe that a crime has been committed
4 and that the person to be arrested committed it. The information must be shown by one or ~~more~~
5 both of the following:

- 6 (1) ~~Affidavit;~~Affidavit.
7 (2) Oral testimony under oath or affirmation before the issuing ~~official;~~official.
8 (3) ~~Oral testimony under oath or affirmation presented by a sworn law~~
9 ~~enforcement officer to the issuing official by means of an audio and video~~
10 ~~transmission in which both parties can see and hear each other. Prior to the~~
11 ~~use of audio and video transmission pursuant to this subdivision, the~~
12 ~~procedures and type of equipment for audio and video transmission shall be~~
13 ~~submitted to the Administrative Office of the Courts by the senior regular~~
14 ~~resident superior court judge and the chief district court judge for a judicial~~
15 ~~district or set of districts and approved by the Administrative Office of the~~
16 ~~Courts.~~

17 If the information is insufficient to show probable cause, the warrant may not be issued. A
18 judicial official shall not refuse to issue a warrant for the arrest of a person solely because a prior
19 warrant has been issued for the arrest of another person involved in the same matter."

20 **SECTION 11.(e)** G.S. 15A-511(a1) is repealed.

21 **SECTION 11.(f)** G.S. 15A-532 reads as rewritten:

22 "**§ 15A-532. Persons authorized to determine conditions for release; use of two-way audio**
23 **and video transmission.**release.

24 (a) Judicial officials may determine conditions for release of persons ~~brought before them~~
25 ~~or as provided in subsection (b) of this section, in proceedings over which they are presiding, in~~
26 accordance with this Article.

27 ~~(b) Any proceeding under this Article to determine, modify, or revoke conditions of~~
28 ~~pretrial release in a noncapital case may be conducted by an audio and video transmission~~
29 ~~between the judicial official and the defendant in which the parties can see and hear each other.~~
30 ~~If the defendant has counsel, the defendant shall be allowed to communicate fully and~~
31 ~~confidentially with his attorney during the proceeding. Upon motion of the defendant, the court~~
32 ~~may not use an audio and video transmission.~~

33 ~~(c) Prior to the use of audio and video transmission pursuant to subsection (b) of this~~
34 ~~section, the procedures and type of equipment for audio and video transmission shall be~~
35 ~~submitted to the Administrative Office of the Courts by the senior regular resident superior court~~
36 ~~judge for a judicial district or set of districts and approved by the Administrative Office of the~~
37 ~~Courts."~~

38 **SECTION 11.(g)** G.S. 15A-601 reads as rewritten:

39 "**§ 15A-601. First appearance before a district court judge; right in felony and other cases**
40 **in original jurisdiction of superior court; consolidation of first appearance**
41 **before magistrate and before district court judge; first appearance before clerk**
42 **of superior court; use of two-way audio and video transmission.**court.

43 ...

44 ~~(a1) A first appearance in a noncapital case may be conducted by an audio and video~~
45 ~~transmission between the judge and the defendant in which the parties can see and hear each~~
46 ~~other. If the defendant has counsel, the defendant shall be allowed to communicate fully and~~
47 ~~confidentially with his attorney during the proceeding.~~

48 ~~(a2) Prior to the use of audio and video transmission pursuant to subsection (a1) of this~~
49 ~~section, the procedures and type of equipment for audio and video transmission shall be~~
50 ~~submitted to the Administrative Office of the Courts by the senior regular resident superior court~~

1 judge for a judicial district or set of districts and approved by the Administrative Office of the
2 Courts.

3"

4 **SECTION 11.(h)** G.S. 15A-941 reads as rewritten:

5 "**§ 15A-941. Arraignment before judge only upon written request; use of two-way audio
6 and video transmission; entry of not guilty plea if not arraigned.**

7 (a) Arraignment consists of bringing a defendant in open court or as provided in
8 subsection (b) of this section before a judge having jurisdiction to try the offense, advising him
9 of the charges pending against him, and directing him to plead. The prosecutor must read the
10 charges or fairly summarize them to the defendant. If the defendant fails to plead, the court must
11 record that fact, and the defendant must be tried as if he had pleaded not guilty.

12 (b) An arraignment in a noncapital case may be conducted by an audio and video
13 transmission between the judge and the defendant in which the parties can see and hear each
14 other. If the defendant has counsel, the defendant shall be allowed to communicate fully and
15 confidentially with his attorney during the proceeding.

16 (c) Prior to the use of audio and video transmission pursuant to subsection (b) of this
17 section, the procedures and type of equipment for audio and video transmission shall be
18 submitted to the Administrative Office of the Courts by the senior regular resident superior court
19 judge for the judicial district or set of districts and approved by the Administrative Office of the
20 Courts.

21"

22 **SECTION 11.(i)** G.S. 50B-2(e) reads as rewritten:

23 "(e) All documents filed, issued, registered, or served in an action under this Chapter
24 relating to an ex parte, emergency, or permanent domestic violence protective order may be filed
25 electronically. Hearings held to consider ex parte relief pursuant to subsection (c) of this section
26 may be held via video conference. Hearings held to consider emergency or permanent relief
27 pursuant to subsections (a) or (b) of this section shall not be held via video conference."

28 **SECTION 11.(j)** G.S. 50C-6(e) is repealed.

29 **SECTION 11.(k)** G.S. 50C-7 reads as rewritten:

30 "**§ 50C-7. Permanent civil no-contact order.**

31 Upon a finding that the victim has suffered an act of unlawful conduct committed by the
32 respondent, a permanent civil no-contact order may issue if the court additionally finds that
33 process was properly served on the respondent, the respondent has answered the complaint and
34 notice of hearing was given, or the respondent is in default. No permanent civil no-contact order
35 shall be issued without notice to the respondent. Hearings held to consider permanent relief
36 pursuant to this section shall not be held via video conference."

37 **SECTION 11.(l)** G.S. 122C-268(g) reads as rewritten:

38 "(g) To the extent feasible, hearings shall be held in an appropriate room at the facility in
39 which the respondent is being treated in a manner approved by the chief district court judge if
40 the facility is located within the presiding judge's district court district as defined in G.S. 7A-133.
41 Hearings may be held in the judge's chambers. A hearing may not be held in a regular courtroom,
42 over objection of the respondent, if in the discretion of a judge a more suitable place is available.
43 A hearing may be held by audio and video transmission between the treatment facility and a
44 courtroom in a manner that allows (i) the judge and the respondent to see and hear each other and
45 (ii) the respondent to communicate fully and confidentially with the respondent's counsel during
46 the proceeding. Prior to any hearing held by audio and video transmission, the chief district court
47 judge shall submit to the Administrative Office of the Courts the procedures and type of
48 equipment for audio and video transmission for approval by the Administrative Office of the
49 Courts. Notwithstanding the provisions of this subsection, if the respondent, through counsel,
50 objects to a hearing held by audio and video transmission, the hearing shall be held in the physical
51 presence of the presiding district court judge. Regardless of the manner and location for hearings,

1 hearings shall be held in a manner that complies with any applicable federal and State laws
2 governing the confidentiality and security of confidential information, including any information
3 ~~transmitted from the treatment facility by audio and video transmission.~~ information. If the
4 respondent has counsel, the respondent shall be allowed to communicate fully and confidentially
5 with his attorney during the proceeding. ~~Prior to the use of the audio and video transmission, the~~
6 ~~procedures and type of equipment for audio and video transmission shall be submitted to the~~
7 ~~Administrative Office of the Courts by the chief district court judge and approved by the~~
8 ~~Administrative Office of the Courts."~~

9 **SECTION 11.(m)** This section becomes effective April 1, 2021, and applies to
10 proceedings occurring on or after that date.

11
12 **EXPAND THE ABILITY OF THE CHIEF JUSTICE OF THE SUPREME COURT TO**
13 **ASSIGN EMERGENCY JUDGES TO HOLD REGULAR AND SPECIAL SESSIONS OF**
14 **COURT**

15 **SECTION 12.(a)** Notwithstanding the limitations set forth in G.S. 7A-52(a), the
16 Chief Justice of the Supreme Court may expand the active list of emergency superior court judges
17 to no more than 25 emergency superior court judges.

18 **SECTION 12.(b)** In addition to the reasons found in G.S. 7A-52(a)(1) through (7)
19 that the Chief Justice may assign emergency judges, the Chief Justice may also assign emergency
20 judges to hold regular or special sessions of court to address case management issues created by
21 the COVID-19 pandemic.

22 **SECTION 12.(c)** This section is effective when it becomes law and shall expire on
23 July 1, 2022.

24
25 **MEDIATED SETTLEMENT AGREEMENTS SIGNED BY PARTIES' DESIGNEES**

26 **SECTION 13.(a)** G.S. 7A-38.1(l) reads as rewritten:

27 "(l) Inadmissibility of negotiations. – Evidence of statements made and conduct occurring
28 in a mediated settlement conference or other settlement proceeding conducted under this section,
29 whether attributable to a party, the mediator, other neutral, or a neutral observer present at the
30 settlement proceeding, shall not be subject to discovery and shall be inadmissible in any
31 proceeding in the action or other civil actions on the same claim, except:

- 32 (1) In proceedings for sanctions under this section;
33 (2) In proceedings to enforce or rescind a settlement of the action;
34 (3) In disciplinary hearings before the State Bar or the Dispute Resolution
35 Commission; or
36 (4) In proceedings to enforce laws concerning juvenile or elder abuse.

37 As used in this section, the term "neutral observer" includes persons seeking mediator
38 certification, persons studying dispute resolution processes, and persons acting as interpreters.

39 No settlement agreement to resolve any or all issues reached at the proceeding conducted
40 under this subsection or during its recesses shall be enforceable unless it has been reduced to
41 writing and signed by the parties against whom enforcement is ~~sought,~~ sought or signed by their
42 designees. No evidence otherwise discoverable shall be inadmissible merely because it is
43 presented or discussed in a mediated settlement conference or other settlement proceeding.

44"

45 **SECTION 13.(b)** G.S. 7A-38.3B(i) reads as rewritten:

46 "(i) Agreements. – In matters before the clerk in which agreements are reached in a
47 mediation conducted pursuant to this section, or during one of its recesses, those agreements shall
48 be treated as follows:

- 49 (1) Where as a matter of law, a matter may be resolved by agreement of the
50 parties, a settlement is enforceable only if it has been reduced to writing and

1 signed by the parties against whom enforcement is ~~sought~~ sought or signed by
2 their designees.

- 3 (2) In all other matters before the clerk, including guardianship and estate matters,
4 all agreements shall be delivered to the clerk for consideration in deciding the
5 matter."

6 **SECTION 13.(c)** This section is effective when it becomes law and applies to
7 settlement agreements reached on or after that date.

8
9 **DIRECT ADMINISTRATIVE OFFICE OF THE COURTS TO DEVELOP RULES OF**
10 **CONDUCT FOR MAGISTRATES**

11 **SECTION 14.(a)** Article 16 of Chapter 7A of the General Statutes is amended by
12 adding a new section to read:

13 **"§ 7A-171.3. Magistrate rules of conduct.**

14 The Administrative Office of the Courts shall prescribe rules of conduct for all magistrates.
15 The rules of conduct shall apply to all magistrates and shall include rules governing the
16 following:

17 (1) Standards of professional conduct and timeliness.

18 (2) Required duties and responsibilities.

19 (3) Methods for ethical decision making.

20 (4) Any other topic deemed relevant by the Administrative Office of the Courts."

21 **SECTION 14.(b)** The Administrative Office of the Courts shall prescribe the rules
22 required by subsection (a) of this section by October 1, 2021.

23 **SECTION 14.(c)** This section becomes effective October 1, 2021, and applies to
24 magistrate conduct on or after that date.

25
26 **SEVERABILITY CLAUSE**

27 **SECTION 15.** If any section or provision of this act is declared unconstitutional or
28 invalid by the courts, it does not affect the validity of this act as a whole or any part other than
29 the part so declared to be unconstitutional or invalid.

30
31 **EFFECTIVE DATE**

32 **SECTION 16.** Except as otherwise provided, this act is effective when it becomes
33 law.