

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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SENATE DRS55290-LL-163 (3/11)

Short Title: AOC Omnibus Courts Act.

(Public)

Sponsors: Senator Clodfelter.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE NUMBER OF FULL-TIME ASSISTANT DISTRICT ATTORNEY POSITIONS FOR PROSECUTORIAL DISTRICT 26, TO AUTHORIZE A COUNTY OR CITY TO USE EXCESS FACILITY FEES WITHOUT THE APPROVAL OF THE ADMINISTRATIVE OFFICE OF THE COURTS, TO AUTHORIZE THE ADMINISTRATIVE OFFICE OF THE COURTS TO SET THE WORTHLESS CHECK FEE AMOUNT, TO AUTHORIZE THE DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE COURTS TO ELECT A RETIREMENT SYSTEM, TO ADD TO THE DIRECTOR'S POWERS AND DUTIES THE ESTABLISHMENT AND STAFFING OF AN INTERNAL AUDITING DIVISION FOR THE JUDICIAL DEPARTMENT, TO MODIFY CERTAIN STATUTES RELATED TO DRUG TREATMENT COURTS, AND TO CLARIFY THE EMERGENCY POWERS OF THE CHIEF JUSTICE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-60(a1) reads as rewritten:

"(a1) The counties of the State are organized into prosecutorial districts, and each district has the counties and the number of full-time assistant district attorneys set forth in the following table:

Prosecutorial District	Counties	No. of Full-Time Asst. District Attorneys
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	11
2	Beaufort, Hyde, Martin, Tyrrell, Washington	8
3A	Pitt	11
3B	Carteret, Craven, Pamlico	12
4	Duplin, Jones, Onslow, Sampson	18
5	New Hanover, Pender	18
6A	Halifax	5
6B	Bertie, Hertford, Northampton	6
7	Edgecombe, Nash, Wilson	19
8	Greene, Lenoir, Wayne	14



1	9	Franklin, Granville,	12
2		Vance, Warren	
3	9A	Person, Caswell	6
4	10	Wake	42
5	11	Harnett, Johnston, Lee	19
6	12	Cumberland	23
7	13	Bladen, Brunswick, Columbus	13
8	14	Durham	18
9	15A	Alamance	11
10	15B	Orange, Chatham	10
11	16A	Scotland, Hoke	7
12	16B	Robeson	13
13	17A	Rockingham	7
14	17B	Stokes, Surry	8
15	18	Guilford	32
16	19A	Cabarrus	9
17	19B	Montgomery, Randolph	10
18	19C	Rowan	8
19	19D	Moore	5
20	20A	Anson, Richmond,	12
21		Stanly	
22	20B	Union	10
23	21	Forsyth	25
24	22A	Alexander, Iredell	11
25	22B	Davidson, Davie	11
26	23	Alleghany, Ashe, Wilkes,	8
27		Yadkin	
28	24	Avery, Madison, Mitchell,	7
29		Watauga, Yancey	
30	25	Burke, Caldwell, Catawba	19
31	26	Mecklenburg	58 62
32	27A	Gaston	15
33	27B	Cleveland,	11
34		Lincoln	
35	28	Buncombe	14
36	29A	McDowell, Rutherford	7
37	29B	Henderson, Polk, Transylvania	8
38	30	Cherokee, Clay, Graham,	11
39		Haywood, Jackson, Macon,	
40		Swain."	

SECTION 2. G.S. 7A-304(a)(2) reads as rewritten:

"(2) For the use of the courtroom and related judicial facilities, the sum of twelve dollars (\$12.00) in the district court, including cases before a magistrate, and the sum of thirty dollars (\$30.00) in superior court, to be remitted to the county in which the judgment is rendered. In all cases where the judgment is rendered in facilities provided by a municipality, the facilities fee shall be paid to the municipality. Funds derived from the facilities fees shall be used exclusively by the county or municipality for providing, maintaining, and constructing adequate courtroom and related judicial facilities, including: adequate space and furniture for judges, district attorneys, public defenders and other personnel of the Office of Indigent Defense Services, magistrates,

1 juries, and other court related personnel; office space, furniture and vaults
2 for the clerk; jail and juvenile detention facilities; free parking for jurors; and
3 a law library (including books) if one has heretofore been established or if
4 the governing body hereafter decides to establish one. In the event the funds
5 derived from the facilities fees exceed what is needed for these purposes, the
6 county or municipality ~~may, with the approval of the Administrative Officer~~
7 ~~of the Courts as to the amount, may~~ use any or all of the excess to retire
8 outstanding indebtedness incurred in the construction of the facilities, or to
9 reimburse the county or municipality for funds expended in constructing or
10 renovating the facilities (without incurring any indebtedness) within a period
11 of two years before or after the date a district court is established in such
12 county, or to supplement the operations of the General Court of Justice in the
13 county."

14 **SECTION 3.** G.S. 7A-308(c) reads as rewritten:

15 "(c) A person who participates in a program for the collection of worthless checks under
16 G.S. 14-107.2 must pay a fee ~~of sixty dollars (\$60.00)~~ as set by the Director of the
17 Administrative Office of the Courts to cover the costs of administering the program. The fee
18 collected under this subsection must be remitted to the State by the clerk of the court in the
19 county in which the program is established and credited to the Collection of Worthless Checks
20 Fund. The Collection of Worthless Checks Fund is created as a special revenue fund. Revenue
21 in the Fund does not revert at the end of the fiscal year, and interest and other investment
22 income earned by the Fund accrues to the Fund. The money in the Fund is subject to
23 appropriation by the General Assembly and may be used solely for the expenses of the
24 programs established under G.S. 14-107.2 for the collection of worthless checks, including
25 personnel, equipment, and other costs of district attorneys' offices that are attributable to the
26 provision of these programs."

27 **SECTION 4.(a)** G.S. 7A-341 reads as rewritten:

28 "**§ 7A-341. Appointment and compensation of Director.**

29 The Director shall be appointed by the Chief Justice of the Supreme Court, to serve at his
30 pleasure. He shall receive the annual salary provided in the Current Operations Appropriations
31 Act, payable monthly, and reimbursement for travel and subsistence expenses at the same rate
32 as State employees generally and longevity pay at the rates and for the service designated in
33 G.S. 7A-44(b) for a judge of the superior court. ~~Service~~ The Director shall have the option at
34 any time to elect to participate in the Consolidated Judicial Retirement System or the Teachers'
35 and State Employees' Retirement System. If the Director elects to participate in the
36 Consolidated Judicial Retirement System, service as Director shall be equivalent to service as a
37 superior court judge for the purposes of entitlement to retirement pay or to retirement for
38 disability."

39 **SECTION 4.(b)** G.S. 135-53(9) reads as rewritten:

40 "(9) "Judge" shall mean any justice or judge of the General Court of Justice and
41 the administrative officer of the ~~courts~~ courts, if the administrative officer of
42 the courts elects to participate in this System pursuant to G.S. 7A-341."

43 **SECTION 5.** G.S. 143-745(a) reads as rewritten:

44 "(a) For the purposes of this section:

- 45 (1) "Agency head" means the Governor, a Council of State member, a cabinet
46 secretary, ~~the Chief Justice of the Supreme Court~~, the President of The
47 University of North Carolina, and the Superintendent of Public Instruction.
48 (2) "State agency" means each department created pursuant to Chapter 143A or
49 143B of the General Statutes, ~~the Judicial Branch~~, The University of North
50 Carolina, and the Department of Public Instruction."

51 **SECTION 6.** G.S. 7A-343 reads as rewritten:

1 **"§ 7A-343. Duties of Director.**

2 The Director is the Administrative Officer of the Courts, and the Director's duties include
3 all of the following:

- 4 (1) Collect and compile statistical data and other information on the judicial and
5 financial operation of the courts and on the operation of other offices directly
6 related to and serving the courts.
- 7 (2) Determine the state of the dockets and evaluate the practices and procedures
8 of the courts, and make recommendations concerning the number of judges,
9 district attorneys, and magistrates required for the efficient administration of
10 justice.
- 11 (3) Prescribe uniform administrative and business methods, systems, forms and
12 records to be used in the offices of the clerks of superior court.
- 13 (3a) Establish and staff as necessary an Internal Audit Division of the Judicial
14 Department and the Administrative Office of the Courts that:
- 15 a. Evaluates and discloses potential weaknesses in the effectiveness of
16 internal controls in the court system for the purpose of safeguarding
17 public funds and assets and minimizing incidences of fraud, waste,
18 and abuse.
- 19 b. Examines and analyzes the design and effectiveness of administrative
20 and procedural operations.
- 21 c. Ensures overall compliance with federal and State laws, internal and
22 external regulations, rules and procedures, and other applicable
23 requirements.
- 24 d. Inspects and reviews the effectiveness and efficiency of processes
25 and proceedings conducted by judicial officers.
- 26 e. Collaborates with other divisions to guide, direct, and support court
27 officials in efforts to conform to both recommended and required
28 compliance standards.
- 29 f. Executes routine audits of the Judicial Department's systems and
30 controls, including, but not limited to:
- 31 1. Accounting systems and controls.
32 2. Administrative systems and controls.
33 3. Electronic data processing systems and controls.
- 34 (4) Prepare and submit budget estimates of State appropriations necessary for
35 the maintenance and operation of the Judicial Department, and authorize
36 expenditures from funds appropriated for these purposes.
- 37 (5) Investigate, make recommendations concerning, and assist in the securing of
38 adequate physical accommodations for the General Court of Justice.
- 39 (6) Procure, distribute, exchange, transfer, and assign such equipment, books,
40 forms and supplies as are to be acquired with State funds for the General
41 Court of Justice.
- 42 (7) Make recommendations for the improvement of the operations of the
43 Judicial Department.
- 44 (8) Prepare and submit an annual report on the work of the Judicial Department
45 to the Chief Justice, and transmit a copy to each member of the General
46 Assembly.
- 47 (9) Assist the Chief Justice in performing his duties relating to the transfer of
48 district court judges for temporary or specialized duty.
- 49 (9a) Establish and operate systems and services that provide for electronic filing
50 in the court system and further provide electronic transaction processing and
51 access to court information systems pursuant to G.S. 7A-343.2.

- 1 (9b) Enter into contracts with one or more private vendors to provide for the
2 payment of fines, fees, and costs due to the court by credit, charge, or debit
3 cards; such contracts may provide for the assessment of a convenience or
4 transaction fee by the vendor to cover the costs of providing this service.
- 5 (9c) Prescribe policies and procedures for the appointment and payment of
6 foreign language interpreters in those cases specified in G.S. 7A-314(f).
7 These policies and procedures shall be applied uniformly throughout the
8 General Court of Justice. After consultation with the Joint Legislative
9 Commission on Governmental Operations, the Director may also convert
10 contractual foreign language interpreter positions to permanent State
11 positions when the Director determines that it is more cost-effective to do so.
- 12 (9d) Analyze the use of contractual positions in the Judicial Department and, after
13 consultation with the Joint Legislative Commission on Governmental
14 Operations, convert contractual positions to permanent State positions when
15 the Director determines it is in the best interests of the Judicial Department
16 to do so.
- 17 (10) Perform such additional duties and exercise such additional powers as may
18 be prescribed by statute or assigned by the Chief Justice."

19 **SECTION 7.** G.S. 7A-108 reads as rewritten:

20 **"§ 7A-108. Accounting for fees and other receipts; annual audit.**

21 The Administrative Office of the Courts, ~~subject to the approval of the State Auditor,~~
22 Courts shall establish procedures for the receipt, deposit, protection, investment, and
23 disbursement of all funds coming into the hands of the clerk of superior court. The fees to be
24 remitted to counties and municipalities shall be paid to them monthly by the clerk of superior
25 court.

26 The operations of the Administrative Office of the Courts and the Clerks of Superior Court
27 shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of
28 the General Statutes."

29 **SECTION 8.** Article 29 of Chapter 7A of the General Statutes is amended by
30 adding a new section to read:

31 **"§ 7A-343.4. Internal audit standards; report and work papers.**

32 (a) Internal audits shall comply with current Standards for the Professional Practice of
33 Internal Auditing issued by the Institute for Internal Auditors and, when appropriate,
34 Government Auditing Standards issued by the Comptroller General of the United States.

35 (b) Except as otherwise provided in this section, the Internal Audit Division shall
36 maintain all audit reports, examinations, investigations, surveys, drafts, work papers, and all
37 other documents prepared by the auditors in accordance with the North Carolina Court
38 System's Rules of Recordkeeping and Records Retention and Disposition Schedule (the
39 "Rules"). Except as provided in this section, or upon an order issued in Wake County Superior
40 Court upon 10 days' notice and hearing finding that access is necessary to a proper
41 administration of justice, audit work papers, drafts, and all audit documents other than the final
42 audit report are available only to the Internal Audit Division, the Director, the Chief Financial
43 Officer, Legal Services, and other persons in the auditor's discretion for the limited purpose of
44 ensuring the accuracy and reliability of the final audit report. Pertinent work papers and other
45 supportive material related to issued audit reports may be, at the discretion of the auditor and
46 unless otherwise prohibited by law, made available for inspection by duly authorized
47 representatives of the State and federal government who desire access to and inspection of such
48 records in connection with some matter officially before them, including criminal
49 investigations.

50 (c) Where the professional guidelines, government standards, and the Rules fail to
51 specify or are in conflict, the Rules shall govern."

1 **SECTION 9.** Article 29 of Chapter 7A of the General Statutes is amended by
2 adding a new section to read:

3 **"§ 7A-343.5. Definitions.**

4 The following definitions apply in this Article:

5 (1) "Internal auditing" means an independent, objective assurance and
6 consulting activity designed to add value to and improve an organization's
7 operations. Internal auditing helps an organization accomplish its objectives
8 by using a systematic, disciplined approach to evaluate and improve the
9 effectiveness of risk management, controls, and governance processes. The
10 types of audits the internal auditors may provide include, but are not limited
11 to:

- 12 a. Efficiency or economy audits to evaluate areas at risk and require
13 improvements to promote operating effectiveness and efficiency,
14 mitigate the risk of liability, and realize economies.
15 b. Financial audits to determine whether financial operations are
16 properly functioning.
17 c. Compliance audits or reviews to assess compliance with laws and
18 regulations.
19 d. Internal control audits to assess the controls related to financial
20 transactions and reporting.
21 e. Case file and procedural audits to ensure efficiency, effectiveness,
22 and compliance.
23 f. Performance and management audits entail an objective and
24 systematic examination of evidence to provide an independent
25 assessment of the performance and management of a program against
26 objective criteria as well as assessments that provide a prospective
27 focus or that synthesize information on best practices.
28 g. Investigative or fraud audits to make an independent assessment of
29 allegations of fraud, misuse, or process manipulation or alleged
30 violations of federal, State, or local laws.

31 (2) "Accounting system" means the total structure of records and procedures
32 which discover, record, classify, and report information on the financial
33 position and operating results of the Judicial Department, or a segment of the
34 Judicial Department, or any of its funds, balanced account groups, and
35 organizational components."

36 **SECTION 10.** G.S. 7A-271 is amended by adding a new subsection to read:

37 "(f) The superior court has exclusive jurisdiction over all hearings to revoke probation
38 pursuant to G.S. 15A-1345(e) where the district court is supervising a drug treatment court
39 probation judgment under G.S. 7A-272(e), except that the district court has jurisdiction to
40 conduct the revocation proceedings when the chief district court judge and the senior resident
41 superior court judge agree that it is in the interest of justice that the proceedings be conducted
42 by the district court. If the district court exercises jurisdiction under this subsection to revoke
43 probation, appeal of an order revoking probation is to the appellate division."

44 **SECTION 11.** G.S. 7A-272 is amended by adding a new subsection to read:

45 "(e) With the consent of the chief district court judge and the senior resident superior
46 court judge, the district court has jurisdiction to preside over the supervision of a probation
47 judgment entered in superior court in which the defendant is required to participate in a drug
48 treatment court program pursuant to G.S. 15A-1343(b1)(2b) or is participating in the drug
49 treatment court pursuant to a deferred prosecution agreement under G.S. 15A-1341(a2). The
50 district court may modify or extend the probation judgment, but jurisdiction to revoke
51 probation supervised under this subsection is as provided in G.S. 7A-271(f)."

1 **SECTION 12.** G.S. 15A-1344(a) reads as rewritten:

2 "(a) Authority to Alter or Revoke. – Except as provided in subsection (a1) or (b),
3 probation may be reduced, terminated, continued, extended, modified, or revoked by any judge
4 entitled to sit in the court which imposed probation and who is resident or presiding in the
5 district court district as defined in G.S. 7A-133 or superior court district or set of districts as
6 defined in G.S. 7A-41.1, as the case may be, where the sentence of probation was imposed,
7 where the probationer violates probation, or where the probationer resides. Upon a finding that
8 an offender sentenced to community punishment under Article 81B has violated one or more
9 conditions of probation, the court's authority to modify the probation judgment includes the
10 authority to require the offender to comply with conditions of probation that would otherwise
11 make the sentence an intermediate punishment. The district attorney of the prosecutorial district
12 as defined in G.S. 7A-60 in which probation was imposed must be given reasonable notice of
13 any hearing to affect probation substantially."

14 **SECTION 13.** G.S. 15A-1344 is amended by adding a new subsection to read:

15 "(a1) Authority to Supervise Probation in Drug Treatment Court. – Jurisdiction to
16 supervise and revoke probation imposed in cases in which the offender is required to participate
17 in a drug treatment court is as provided in GS 7A-272(e) and GS 7A-271(f). Proceedings to
18 modify or revoke probation in these cases must be held in the county in which the drug
19 treatment court or problem-solving court is located."

20 **SECTION 14.** G.S. 7A-39 reads as rewritten:

21 "**§ 7A-39. Cancellation of court sessions and closing court offices; extension of statutes of**
22 **limitations and other emergency orders in catastrophic conditions.**

23 (a) Cancellation of Court Sessions, Closing Court Offices. – In response to adverse
24 weather or other emergency situations, including catastrophic conditions, any session of any
25 court of the General Court of Justice may be cancelled, postponed, or altered by judicial
26 officials, and court offices may be closed by judicial branch hiring authorities, pursuant to
27 uniform statewide guidelines prescribed by the Director of the Administrative Office of the
28 Courts. As used in this section, "catastrophic conditions" means any set of circumstances that
29 make it impossible or extremely hazardous for judicial officials, employees, parties, witnesses,
30 or other persons with business before the courts to reach a courthouse, or that create a
31 significant risk of physical harm to persons in a courthouse, or that would otherwise convince a
32 reasonable person to avoid traveling to or being in a courthouse.

33 (b) Authority of Chief Justice. – When the Chief Justice of the North Carolina Supreme
34 Court determines and declares that catastrophic conditions exist or have existed in one or more
35 counties of the State, the Chief Justice may by order entered pursuant to this ~~subsection extend,~~
36 subsection:

37 (1) Extend, to a date certain no fewer than 10 days after the effective date of the
38 order, the time or period of limitation within which pleadings, motions,
39 notices, and other documents and papers may be timely filed and other acts
40 may be timely done in civil actions, criminal actions, estates, and special
41 proceedings in each county named in the order. ~~(1) Catastrophic~~
42 ~~conditions defined. – As used in this subsection, "catastrophic conditions"~~
43 ~~means any set of circumstances that make it impossible or extremely~~
44 ~~hazardous for judicial officials, employees, parties, witnesses, or other~~
45 ~~persons with business before the courts to reach a courthouse, or that create a~~
46 ~~significant risk of physical harm to persons in a courthouse, or that would~~
47 ~~otherwise convince a reasonable person to avoid travelling to or being in the~~
48 ~~courthouse. (2) Entry of order. – The Chief Justice may enter an order~~
49 ~~under this subsection during the catastrophic conditions or at any time after~~
50 ~~catastrophic such~~ conditions have ceased to exist. The order shall be in
51 writing and shall become effective for each affected county upon the date set

1 forth in the order, and if no date is set forth in the order, then upon the date
2 the order is signed by the Chief Justice.

3 (2) Issue any emergency directives that, notwithstanding any other provision of
4 law, are necessary to ensure the continuing operation of essential trial or
5 appellate court functions, including the designation or assignment of judicial
6 officials who may be authorized to act in the general or specific matters
7 stated in the emergency order, and the designation of the county or counties
8 and specific locations within the State where such matters may be heard,
9 conducted, or otherwise transacted. The Chief Justice may enter such
10 emergency orders under this subsection in response to existing or impending
11 catastrophic conditions or their consequences. An emergency order under
12 this subsection shall expire the sooner of the date stated in the order, or 30
13 days from issuance of the order, but the order may be extended in whole or
14 in part by the Chief Justice for additional 30-day periods if the Chief Justice
15 determines that the directives remain necessary.

16 (c) In Chambers Jurisdiction Not Affected. – Nothing in this section prohibits a judge
17 or other judicial officer from exercising, during adverse weather or other emergency situations,
18 including catastrophic conditions, any in chambers or ex parte jurisdiction conferred by law
19 upon that judge or judicial officer, as provided by law. The effectiveness of any such exercise
20 shall not be affected by a determination by the Chief Justice that catastrophic conditions existed
21 at the time it was exercised.

22 (d) Nothing in this section shall be construed to abrogate or diminish the inherent
23 judicial powers of the Chief Justice or the Judicial Branch."

24 **SECTION 15.** Sections 10 through 13 of this act become effective December 1,
25 2009, and apply to probation judgments entered or deferred prosecution agreements executed
26 on or after that date. The remainder of this act becomes effective July 1, 2009.