

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

**SENATE BILL 255
RATIFIED BILL**

AN ACT TO MAKE VARIOUS CHANGES AND TECHNICAL CORRECTIONS TO THE
LAWS GOVERNING THE ADMINISTRATION OF JUSTICE.

The General Assembly of North Carolina enacts:

MEDICAL MALPRACTICE JURY INSTRUCTIONS AND JUDICIAL ASSIGNMENT

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

"(d) Final instructions to the jury. – In civil cases subject to G.S. 90-21.11(2), the court shall reduce the oral instructions given to the jury to writing. Upon the jury retiring for deliberation, the court is encouraged to and may provide the jury a written copy of the oral instructions for the jury to take into the jury room during deliberation."

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

"(e) The senior resident superior court judge, in consultation with the parties to the case, shall designate a specific resident judge or a specific judge assigned to hold court in the district to preside over all proceedings in a case subject to G.S. 90-21.11(2)."

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

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

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

CLARIFY VARIOUS PROCEDURES RELATED TO THE ENFORCEMENT OF JUDGMENTS

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

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

(a) Motion or Petition; Notice. –

...

(4) After judgment, except as provided in subdivision (3) of this subsection or when exemptions have already been designated, the clerk may not issue an



execution or writ of possession unless notice from the court has been served upon the judgment debtor advising the debtor of the debtor's rights. The notice is not required if the exemptions under G.S. 1C-1601 are inapplicable based on an exception in G.S. 1C-1601(e). The judgment creditor must cause the notice, which must be accompanied by the form for the statement by the debtor under subsection (c1) of this section, to be served on the debtor as provided in G.S. 1A-1, Rule 4(j)(1). If the judgment debtor cannot be served as provided under G.S. 1A-1, Rule 4(j)(1), the judgment creditor may serve the judgment debtor by mailing a copy of the notice to the judgment debtor at the debtor's last known address. Proof of service by certified or registered mail or personal service is as provided in G.S. 1A-1, Rule 4. The judgment creditor may prove service by mailing to last known address by filing a certificate that the notice was served indicating the circumstances warranting the use of such service and the date and address of service.

- ...
- (b) Contents of Motion or Petition. – The motion or petition must:
- (1) Name the judgment ~~debtor;~~debtor.
 - (2) Name the judgment creditors of the debtor insofar as they are known to the ~~movant;~~movant.
 - (3) If it is a motion to modify a previously allocated exemption, describe the change of condition (if the movant received notice of the exemption hearing) and the modification desired.

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

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

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

...."

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

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 ~~17~~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 Senate and one upon recommendation of the Speaker of the House of Representatives. ~~The Court of Appeals judge shall act as chair of the Commission.~~ The General Assembly shall also appoint alternate Commission members for the Commission members the General Assembly has appointed to serve in the event of scheduling conflicts, conflicts of interest, disability, or other disqualification arising in a particular case. The alternate members shall have the same qualifications for appointment as the original members.

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

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

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

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

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

~~(f) Commission Staff. – The chair of the Commission may employ, if funds are appropriated for that purpose, an executive director, Commission counsel, investigator, and any support staff as may be necessary to assist the Commission in carrying out its duties. With the approval of the Chief Justice, for specific cases, the chair also may employ special counsel or call upon the Attorney General to furnish counsel. In addition, with the approval of the Chief Justice, for specific cases, the chair or executive director also may call upon the Director of the~~

State Bureau of Investigation to furnish an investigator who shall serve under the supervision of the executive director. While performing duties for the Commission, the executive director, counsel, and investigator have authority throughout the State to serve subpoenas or other process issued by the Commission in the same manner and with the same effect as an officer authorized to serve process of the General Court of Justice.

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

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

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

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

...

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

...."

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

CLARIFY COURT PLEA EXCEPTIONS

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

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

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

...."

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

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

The clerk of superior court:

- (1) Has and exercises all of the judicial powers and duties in respect of actions and proceedings pending from time to time in the district court of ~~his~~ the clerk's county which are now or hereafter conferred or imposed upon ~~him~~ the clerk by law in respect of actions and proceedings pending in the superior court of ~~his county;~~ the clerk's county.
- (2) Performs all of the clerical, administrative and fiscal functions required in the operation of the district court of ~~his~~ the clerk's county in the same manner as ~~he~~ the clerk is required to perform ~~such~~ functions in the operation of the superior court of ~~his county;~~ the clerk's county.

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

...."

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

CLARIFY TIME ALLOWED FOR DEFENDANT APPELLANT TO MAKE RENTAL PAYMENTS UNDER RESIDENTIAL RENTAL AGREEMENT

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

"(a) If the judgment in district court is against the defendant appellant, it shall be sufficient to stay execution of the judgment during the 30-day time period for taking an appeal provided for in Rule 3 of the North Carolina Rules of Appellate Procedure if the defendant appellant posts a bond as provided in G.S. 42-34(b), and no additional security under G.S. 1-292 is required. If the defendant appellant fails to make rental payments as provided in the undertaking within five business days of the day rent is due under the terms of the residential rental agreement, the clerk of superior court shall, upon application of the plaintiff appellee, immediately issue a writ of possession, and the sheriff shall dispossess the defendant appellant as provided in G.S. 42-36.2."

ALLOW COURT PROCEEDINGS BY AUDIO/VIDEO TRANSMISSION

SECTION 9.(a) Article 7 of Chapter 7A of the General Statutes is amended by adding a new section to read:

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

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

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

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

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

(e) Except as otherwise permitted by law, when the right to confront witnesses or be present is implicated in criminal or juvenile delinquency proceedings, the court may not proceed by audio and video transmission unless the court has obtained a knowing, intelligent, and voluntary waiver of the defendant's or juvenile respondent's rights.

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

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

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

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

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

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

SECTION 9.(b) This section is effective when it becomes law and applies to proceedings occurring on or after that date.

MODIFY VARIOUS PROVISIONS ALLOWING FOR REMOTE OR DIGITAL COURT PROCEEDINGS

SECTION 10.(a) G.S. 7B-1906(h) is repealed.

SECTION 10.(b) G.S. 15A-101.1(2) reads as rewritten:

"(2) "Document" means any pleading, criminal process, subpoena, complaint, motion, application, notice, affidavit, commission, waiver, consent, dismissal, order, judgment, or other writing intended in a criminal or contempt proceeding to authorize or require an action, to record a decision or to communicate or record information. ~~The term does not include search warrants.~~ A document may be created and exist in paper form or in electronic

form or in both forms. Each document shall contain the legible, printed name of the person who signed the document."

SECTION 10.(c) G.S. 15A-245(a) reads as rewritten:

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

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

SECTION 10.(d) G.S. 15A-304(d) reads as rewritten:

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

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

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

SECTION 10.(e) G.S. 15A-511(a1) is repealed.

SECTION 10.(f) G.S. 15A-532 reads as rewritten:

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

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

(b) ~~Any proceeding under this Article to determine, modify, or revoke conditions of pretrial release in a noncapital case may be conducted by an audio and video transmission between the judicial official and the defendant in which the parties can see and hear each other. If the defendant has counsel, the defendant shall be allowed to communicate fully and~~

confidentially with his attorney during the proceeding. Upon motion of the defendant, the court may not use an audio and video transmission.

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

SECTION 10.(g) G.S. 15A-601 reads as rewritten:

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

...

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

~~(a2) Prior to the use of audio and video transmission pursuant to subsection (a1) of this section, the procedures and type of equipment for audio and video transmission shall be submitted to the Administrative Office of the Courts by the senior regular resident superior court judge for a judicial district or set of districts and approved by the Administrative Office of the Courts.~~

...."

SECTION 10.(h) G.S. 15A-941 reads as rewritten:

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

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

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

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

...."

SECTION 10.(i) G.S. 50B-2(e) reads as rewritten:

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

SECTION 10.(j) G.S. 50C-6(e) is repealed.

SECTION 10.(k) G.S. 50C-7 reads as rewritten:

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

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

SECTION 10.(l) G.S. 122C-268(g) reads as rewritten:

"(g) To the extent feasible, hearings shall be held in an appropriate room at the facility in which the respondent is being treated in a manner approved by the chief district court judge if the facility is located within the presiding judge's district court district as defined in G.S. 7A-133. Hearings may be held in the judge's chambers. A hearing may not be held in a regular courtroom, over objection of the respondent, if in the discretion of a judge a more suitable place is available. ~~A hearing may be held by audio and video transmission between the treatment facility and a courtroom in a manner that allows (i) the judge and the respondent to see and hear each other and (ii) the respondent to communicate fully and confidentially with the respondent's counsel during the proceeding. Prior to any hearing held by audio and video transmission, the chief district court judge shall submit to the Administrative Office of the Courts the procedures and type of equipment for audio and video transmission for approval by the Administrative Office of the Courts. Notwithstanding the provisions of this subsection, if the respondent, through counsel, objects to a hearing held by audio and video transmission, the hearing shall be held in the physical presence of the presiding district court judge. Regardless of the manner and location for hearings, hearings shall be held in a manner that complies with any applicable federal and State laws governing the confidentiality and security of confidential information, including any information transmitted from the treatment facility by audio and video transmission. information.~~ If the respondent has counsel, the respondent shall be allowed to communicate fully and confidentially with his attorney during the proceeding. ~~Prior to the use of the audio and video transmission, the procedures and type of equipment for audio and video transmission shall be submitted to the Administrative Office of the Courts by the chief district court judge and approved by the Administrative Office of the Courts.~~"

SECTION 10.(m) This section is effective when it becomes law and applies to proceedings occurring on or after that date.

EXPAND THE ABILITY OF THE CHIEF JUSTICE OF THE SUPREME COURT TO ASSIGN EMERGENCY JUDGES TO HOLD REGULAR AND SPECIAL SESSIONS OF COURT

SECTION 11.(a) Notwithstanding the limitations set forth in G.S. 7A-52(a), the Chief Justice of the Supreme Court may expand the active list of emergency superior court judges to no more than 25 emergency superior court judges.

SECTION 11.(b) In addition to the reasons found in G.S. 7A-52(a)(1) through (7) that the Chief Justice may assign emergency judges, the Chief Justice may also assign emergency judges to hold regular or special sessions of court to address case management issues created by the COVID-19 pandemic.

SECTION 11.(c) This section is effective when it becomes law and shall expire on July 1, 2022.

MEDIATED SETTLEMENT AGREEMENTS SIGNED BY PARTIES' DESIGNEES

SECTION 12.(a) G.S. 7A-38.1(l) reads as rewritten:

"(l) Inadmissibility of negotiations. – Evidence of statements made and conduct occurring in a mediated settlement conference or other settlement proceeding conducted under this section, whether attributable to a party, the mediator, other neutral, or a neutral observer present at the

settlement proceeding, shall not be subject to discovery and shall be inadmissible in any proceeding in the action or other civil actions on the same claim, except:

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

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

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

...."

SECTION 12.(b) G.S. 7A-38.3B(i) reads as rewritten:

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

- (1) Where as a matter of law, a matter may be resolved by agreement of the parties, a settlement is enforceable only if it has been reduced to writing and signed by the parties against whom enforcement is ~~sought~~ sought or signed by their designees.
- (2) In all other matters before the clerk, including guardianship and estate matters, all agreements shall be delivered to the clerk for consideration in deciding the matter."

SECTION 12.(c) This section is effective when it becomes law and applies to settlement agreements reached on or after that date.

DIRECT ADMINISTRATIVE OFFICE OF THE COURTS TO DEVELOP RULES OF CONDUCT FOR MAGISTRATES

SECTION 13.(a) Article 16 of Chapter 7A of the General Statutes is amended by adding a new section to read:

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

The Administrative Office of the Courts shall prescribe rules of conduct for all magistrates not inconsistent with the Constitution of the United States or inconsistent with the Constitution of the State of North Carolina. The rules of conduct shall apply to all magistrates and shall include rules governing the following:

- (1) Standards of professional conduct and timeliness.
- (2) Required duties and responsibilities.
- (3) Methods for ethical decision making.
- (4) Any other topic deemed relevant by the Administrative Office of the Courts."

SECTION 13.(b) The Administrative Office of the Courts shall prescribe the rules required by subsection (a) of this section by October 1, 2021.

SECTION 13.(c) This section becomes effective October 1, 2021, and applies to magistrate conduct on or after that date.

APPLICATION OF FUNDS AND PROCEEDS PAID TO THE CLERK BY SHERIFF

SECTION 14.(a) G.S. 1-239 reads as rewritten:

"§ 1-239. Paid to clerk; docket credited; transcript to other counties; notice to attorney for judgment creditor; judgment creditor to give notice of payment; entry of payment on docket; penalty for failure to give notice of payment.

...

(c) Upon receipt by the judgment creditor of any payment of money upon a judgment, the judgment creditor shall within 60 days after receipt of the payment give satisfactory notice thereof to the clerk of the superior court in which the judgment was rendered, ~~and the which~~ notice shall specify the date and amount of the payment received. If the creditor provides to the clerk a single notice of multiple payments from the debtor, the notice shall specify the date of each individual payment and the amount received on each date. The clerk shall thereafter promptly enter the any such payment on the judgment docket of the court, and the crediting each payment against the judgment as of the date received by the creditor. The clerk shall immediately forward a certificate thereof to the clerk of the superior court of each county to whom a transcript of the judgment has been sent, and the clerk of each superior court shall thereafter promptly enter the same on the judgment docket of the court and file the original with the judgment roll in the action. If the judgment creditor fails to file the notice required by this subsection within 30 days following written demand by the debtor, he may be required to pay a civil penalty of one hundred dollars (\$100.00) in addition to attorneys' fees and any loss caused to the debtor by such failure. The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(d) Payment of money judgment to clerk's office under execution.

(1) When proceeds are paid to the clerk as a result of levy and an execution sale pursuant to Article 29B of this Chapter, the proceeds shall be credited and applied to the judgment as of the date the proceeds are received by the clerk.

(2) When funds are paid to the clerk pursuant to the levy under execution without an execution sale, the funds shall be credited and applied to the judgment as of the date the funds are collected."

SECTION 14.(b) G.S. 1-310 reads as rewritten:

"§ 1-310. When dated and returnable.

Executions shall be dated as of the day on which they were issued, and shall be returnable to the court from which they were issued not more than 90 days from said date, and no executions against property shall issue until 10 days after entry of judgment. The sheriff shall separately notate on the return of execution for a judgment requiring the payment of money (i) any amount collected without an execution sale and the date of collection and, if multiple payments to the sheriff are collected on different dates pursuant to a single writ of execution, the individual dates of collection and the amount collected on each date and (ii) the date of levy and description of property levied and sold through an execution sale pursuant to Article 29B of this Chapter."

SECTION 14.(c) G.S. 1-339.70 reads as rewritten:

"§ 1-339.70. Disposition of proceeds of sale.

(a) After deducting all sums due him on account of the sale, including the expenses incurred in caring for the property so long as his responsibility for such care continued, the sheriff shall pay the proceeds of the sale to the clerk of the superior court who issued the execution, and the clerk shall furnish the sheriff a receipt therefor.

(a1) Proceeds paid by the sheriff to the clerk resulting from an execution sale shall be credited and applied to the judgment as of the date the proceeds are received by the clerk.

...."

SECTION 14.(d) G.S. 162-18 reads as rewritten:

"§ 162-18. Payment of money collected on execution.

In all cases where a sheriff has collected money upon an execution placed in his hands, if there be no bona fide contest over the application thereof, he shall immediately pay the same ~~to the plaintiff, or~~ into the office of the clerk of the court from which the execution issued."

SECTION 14.(e) This section is effective when it becomes law.

CLARIFY NOTICE OF EXPUNCTION ORDERS

SECTION 15. G.S. 15A-150 reads as rewritten:

"§ 15A-150. Notification requirements.

...

(b) Notification to Other State and Local Agencies. – Unless otherwise instructed by the Administrative Office of the Courts pursuant to an agreement entered into under subsection (e) of this section for the electronic or facsimile transmission of information, the clerk of superior court in each county in North Carolina shall send a certified copy of an order granting an expunction to a person named in subsection (a) of this section to (i) all of the agencies listed in this subsection and (ii) the person granted the expunction. Expunctions granted pursuant to G.S. 15A-146(a4) are excluded from all clerk of superior court notice provisions of this subsection. An agency receiving an order under this subsection shall purge from its records all entries made as a result of the charge or conviction ordered expunged, except as provided in G.S. 15A-151. The list of agencies is as follows:

- (1) The sheriff, chief of police, or other arresting agency.
- (2) When applicable, the Division of Motor Vehicles.
- (3) Any State or local agency identified by the petition as bearing record of the offense that has been expunged.
- (4) The Department of Public Safety, Combined Records Section.
- (5) The State Bureau of Investigation.

...

(e) The Director of the Administrative Office of the Courts may enter into an agreement with any of the State agencies listed in subsection (b) of this section for electronic or facsimile transmission of any information that must be provided under this section. The Administrative Office of the Courts also may provide notice to State and local agencies, in a manner and format determined by the Administrative Office of the Courts, of expunctions granted pursuant to G.S. 15A-146(a4)."

SERVICE OF MOTIONS/PROOF OF SERVICE

SECTION 16.(a) G.S. 15A-951 reads as rewritten:

"§ 15A-951. Motions in general; definition, service, and filing.

...

(b) Each written motion must be served upon the attorney of record for the opposing party or upon the defendant if he is not represented by counsel. Service upon the attorney or upon a party ~~may be made by delivering a copy of the motion to him or by mailing it to him at his address of record. Delivery of a copy within the meaning of this Article means handing it to the attorney or to the party or leaving it at the attorney's office with an associate or employee. Service by mail is complete upon deposit of the motion enclosed in a postpaid, properly addressed wrapper in a post office or official depository under the exclusive care and custody of the Postal Service of the United States; shall be made as provided in G.S. 1A-1, Rule 5.~~

(c) All written motions must be filed with the court. Proof of service must be made by filing with the court a ~~certificate;~~ certificate of service as provided in G.S. 1A-1, Rule 5(b1).

- (1) ~~By the prosecutor, attorney, or defendant making the motion that the paper was served in the manner prescribed; or~~
- (2) ~~Of acceptance of service by the prosecutor, attorney, or defendant to be served.~~

~~The certificate must show the date and method of service or the date of acceptance of service."~~

SECTION 16.(b) This section becomes effective July 1, 2021, and applies to motions made on or after that date.

DECLARATIONS UNDER PENALTY OF PERJURY

SECTION 17.(a) Article 11 of Chapter 7A of the General Statutes is amended by adding a new section to read:

"§ 7A-98. Unsworn declarations under penalty of perjury.

(a) Any matter required or permitted to be supported, evidenced, established, or proved in writing under oath or affirmation may, if filed electronically pursuant to rules promulgated by the Supreme Court under G.S. 7A-49.5, with like force and effect be supported, evidenced, established, or proved by an unsworn declaration in writing, subscribed by the declarant and dated, that the statement is true under penalty of perjury.

(b) Declarations given pursuant to this section shall be deemed sufficient if given in substantially the following form:

"I declare (or certify, verify, or state) under penalty of perjury under the laws of North Carolina that the foregoing is true and correct. Executed on (date). (Signature)."

(c) Except as otherwise provided by law, this section does not apply to, and such unsworn declarations shall not be deemed sufficient for, any of the following:

- (1) Oral testimony.
- (2) Oaths of office.
- (3) Any statement under oath or affirmation required to be taken before a specified official other than a notary public.
- (4) Any will or codicil executed pursuant to G.S. 31-11.6.
- (5) Any real property deed, contract, or lease requiring an acknowledgment pursuant to G.S. 47-17."

SECTION 17.(b) G.S. 14-209 reads as rewritten:

"§ 14-209. Punishment for perjury.

If any person knowingly and intentionally makes a false statement under oath or affirmation in any suit, controversy, matter or cause, or in any unsworn declaration deemed sufficient pursuant to G.S. 7A-98 depending in any of the courts of the State; in any deposition or affidavit taken pursuant to law; in any oath or affirmation duly administered of or concerning any matter or thing where such person is lawfully required to be sworn or affirmed, that person is guilty of perjury, and punished as a Class F felon."

SECTION 17.(c) This section becomes effective December 1, 2021, and applies to offenses committed on or after that date.

SEVERABILITY CLAUSE

SECTION 18. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

EFFECTIVE DATE

SECTION 19. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9th day of June, 2021.

s/ W. Ted Alexander
Presiding Officer of the Senate

s/ Tim Moore
Speaker of the House of Representatives

Roy Cooper
Governor

Approved _____m. this _____ day of _____, 2021