



The Daily Bulletin: 2019-10-09

PUBLIC/HOUSE BILLS

H 470 (2019-2020) **ADMINISTRATION OF JUSTICE CHANGES. (NEW)** Filed Mar 26 2019, *AN ACT TO MAKE VARIOUS CHANGES AND TECHNICAL CORRECTIONS TO THE LAW GOVERNING THE ADMINISTRATION OF JUSTICE.*

House committee substitute deletes the provisions of the 2nd edition and now provides the following.

Part I.

Amends GS 7A-52 to allow emergency judges to be assigned in the event of a medical leave of absence, in addition to the disability, of a sitting judge. Adds that an emergency judge may be assigned: when a disaster declaration is made; upon assignment by the Chief Justice of a Rule 2.1 exceptional case to an emergency judge; and when court coverage is needed by holdover sessions, administrative responsibilities of the chief district court judge, or cases in which a judge has a conflict or judicial educational responsibilities.

Amends GS 7A-38.2 by adding that the chair of the Dispute Resolution Commission may collect a fee from any person who appeals an adverse determination to the full Commission for a hearing and fails to attend without good cause. Sets the fee at the lesser of the Commission's actual expenses for the hearing or \$2,500, and requires that the fees be deposited into the Dispute Resolution Fund. Makes clarifying changes. Applies to hearings held on or after December 1, 2019.

Enacts GS 7A-98 to provide for unsworn written declarations under penalty of perjury to have the same force and effect as sworn declarations in all court proceedings or pursuant to any rule, regulation, order, or requirement requiring or permitting matters to be supported or proved in writing by oath or affirmation. Excludes oral testimony; oaths of office; and any statement under oath or affirmation required to be taken before a specified official other than a notary public. Sets forth the form for sufficient declarations under the statute. Provides for electronic declaration if the Supreme Court promulgates rules authorizing filing and electronic signatures in any court proceeding. Amends GS 14-209, which sets forth the offense of perjury as a Class F felony, to include the willful and corrupt commission of perjury in any unsworn declaration in the form prescribed by new GS 7A-98. Enacts GS 1-148.1 and GS 15A-101.2 to provide for unsworn declarations in civil pleadings and criminal actions. Effective 30 days after the Director of the Administrative Office of the Courts (AOC) certifies to the NC Supreme Court that the AOC is ready to begin implementation of an integrated case management system adopted pursuant to the e-Courts initiative.

Amends GS 7A-308 to exempt attorneys filing secured leave documents pursuant to Supreme Court rules from specified clerk fees.

Amends GS 7A-343 to require the report on business court site activities be submitted annually instead of semiannually.

Amends GS 7A-346.2 by removing the requirements to report on the economic viability of the worthless check collection programs.

Repeals GS 7A-346.3, which required an impaired driving integrated data system report.

Amends GS 15A-502 to allow either the sheriff or other designated agency (was, sheriff only) to inform the court when a person fails to appear for court-ordered fingerprinting.

Amends GS 15A-1452 as follows. Requires the clerk of superior court to enter an order reflecting the fact and directing compliance when an appeal is withdrawn for a judgment that imposed an active sentence or imposed only monetary obligations without probation. Requires that if the appellate division affirms a judgment that imposed an active sentence or imposed only monetary obligations without probation, the superior court clerk must file the directive and order compliance with its terms. Requires that the clerk, when an appeal is withdrawn for a judgment imposing a suspended sentence, notify the district attorney, who must calendar a review hearing as now required by the statute. Adds that if the appellate division affirms a judgment that imposed a suspended sentence, the clerk of superior court must file the direction and bring the matter to the

attention of the district attorney, who must calendar a review hearing as now provided for in the statute. Specifies that at such a hearing, the defendant is entitled to be present and represented by counsel to the same extent as in the original sentencing hearing; sets out additional requirements for the hearing. Effective December 1, 2019, and applies to any mandate of the appellate division received in the trial division on or after that date.

Amends GS 20-217 requiring that the clerk of superior court notify the Division of Motor Vehicles of any person who fails to pay a fine or costs imposed under the statute (which requires motor vehicles to stop for properly marked and designated school buses in certain instances) within 40 (was, 20) days of the date specified in the court's judgement.

Amends GS 84-32 to require that final judgments of censure, whether issued by the State Bar Grievance Committee or the disciplinary hearing commissioner, as well as suspension or disbarment orders issued by the disciplinary hearing commission, be entered upon the judgment docket of the superior court where the respondent resides or practices and on the minutes of the NC Supreme Court. Adds that final determinations of incapacity or disability must be entered upon the judgment docket of the superior court in the same manner as those final judgments, whether issued by the State Bar Grievance Committee or the disciplinary hearing commission, and are effective statewide.

Amends GS 105A-8 to require contested claim hearings for any unit of the Judicial Branch to be conducted in accordance with the administrative procedures approved by the AOC Director and the Director of Indigent Defense Services. Establishes original jurisdiction for clerks of superior court where a judgement has been docketed to hear a contested claim and not transfer the matter to district or superior court. Establishes original jurisdiction for the AOC Director to hear contested claims of the Judicial Branch not arising out of a docketed judgement. Amends GS 105A-9 to entitle a party to appeal to superior court for a hearing de novo within 10 days of an order of the clerk of superior court, the AOC Director, or a designee. Provides for filing of the appeal. Makes conforming changes to GS 7A-498.6 to require the Director of Indigent Defense Services to collaborate with the AOC Director in developing administrative procedures regarding Judicial Branch contested claim hearings. Applies to notices issued on or after July 1, 2020.

Part II.

Amends GS 7A-307 to provide that the only cost assessed when an estate is administered or settled under GS 28A-25-6 (concerning payment to clerk of money owed decedent) is a \$20 fee. Increases the fee for hearing a petition for year's allowance to surviving spouse or child, in cases not assigned to a magistrate, from \$8 to \$20. Amends GS 7A-309 (Magistrate's special fees), increasing the magistrate fee for hearing a petition for year's allowance to surviving spouse or child, issuing notices to commissioners, allotting the same and making return from \$8 to \$20. Additionally, increases the magistrate fee for performing a marriage ceremony from \$20 to \$50. Applies to petitions filed on or after January 1, 2020.

Amends GS 7A-308 by adding a \$300 fee for in rem foreclosures when the property is sold under execution. Makes conforming and clarifying changes to GS 105-375. Applies to execution sales conducted on or after December 1, 2019.

Repeals GS 7A-809, which required a report on the status of implementation of character recognition software when removing requested personal information from images or copies of publicly accessible official records.

Amends GS 11-7.1 to authorize retired clerks to administer oaths of office.

Amends GS 28A-25-6 to require a motion of the clerk or application of an interested party before the clerk of superior court, when no administrator has been appointed, to disburse money received under the statute to pay the surviving spouse's and children's year's allowance and other claims.

Amends GS 42-34 to provide that the specified deadlines related to summary ejectment actions are based on business days.

Amends GS 44A-4, which allows a lienor to institute a special proceeding to sell a vehicle which has a fair market value of less than \$800 in cases in which the certified mail notice is returned undeliverable or if the legal title holder cannot be reasonably ascertained. Limits the special proceeding to one vehicle (previously, allowed for the special proceeding to include more than one vehicle so long as the proceeds of each sale were only subject to valid claims). Applies to applications filed on or after December 1, 2019.

Amends GS 48-2-403 to require that the petitioner, rather than the clerk of court, deliver notice of an adoption proceeding to the specified agencies, and requires proof of service to be submitted to the court.

Part III.

Amends GS 7A-11 and GS 7A-20 by making language gender-neutral.

Amends GS 7A-354 to clarify that the ex officio members of the Human Trafficking Commission are nonvoting members.

Amends GS 15A-145.8, as enacted by SL 2019-186, concerning expunction of records when charges are remanded to district court for juvenile adjudication. Requires the court to order the expunction of DNA records when the person's charges have been remanded to district court for juvenile adjudication (was, when the person's case has been dismissed by the trial court) and the person's DNA record or profile has been included in the State DNA Database and the person's DNA sample is stored in the Databank as a result of the charges that were remanded. Also amends the requirements of the order to include the name and address of the person and the person's attorney, rather than of the defendant and the defendant's attorney. Applies to offenses committed on or after December 1, 2019.

Amends GS 15A-1469(b1) by correcting a statutory cross-reference. Effective December 1, 2019.

Amends GS 28A-2-4 by correcting a statutory cross-reference.

Amends GS 30-29 to require that a petition for spousal allowance set out that the decedent's state exceed \$60,000 (was, \$30,000).

Amends GS 32C-1-116 to expand the clerk of superior court's exclusive jurisdiction to include determining the compensation and expenses for an agent under GS 32C-1-112(b) and GS 32C-1-112(c) (previously, limited to determining compensation for an agent under GS 32C-1-112(b)).

Repeals GS 45-21.21(f), which required a foreclosure sale to begin at the time designated in the notice of sale and never later than an hour after the time fixed, and required sales to be held between 10 a.m. and 4 p.m. on any day on which the Clerk's office is normally open. Amends GS 45-21.23 to require that the sale be held between 10 a.m. and 4 p.m. on any day when the Clerk's office is normally open (was, on any day other than Sunday or a legal holiday when the courthouse is closed for transactions). Repeals GS 45-21.29(k)(5a), as amended by SL 2019-53, concerning the order of possession for real property sold under power of sale pursuant to Article 2A, which required compliance with the federal Protecting Tenants at Foreclosure Act (PTFA), if applicable.

Amends GS 101-2 to make a clarifying change.

Amends SL 2018-40, Section 8.2, by specifying that the effective date applies to testamentary distribution to a minor made on or after the effective date of January 1, 2019. Retroactively effective January 1, 2019.

Amends GS 14-118.6, as amended by SL 2019-117, to authorize the clerk of court to refuse to file a purported lien or encumbrance that the clerk has a reasonable suspicion that the lien or encumbrance is materially false, fictitious, or fraudulent (previously, cross-referenced the substantively identical description of *false* set out in subsection (a) of the statute). Additionally prohibits filing, indexing, or docketing documents against a property until the document is approved by the appropriate judicial official (previously, this restriction was limited to properties of a public officer or public employee). Effective December 1, 2019.

Part IV.

Amends GS 1A-1, Rule 40, concerning the assignment of cases for trial and continuances. Modifies and adds to the service that constitutes good cause for granting a continuance to now include any service in carrying out any duties as a member of the General Assembly or service on the Rules Review Commission or any other board, commission, or authority as an appointee of the Governor, the Lieutenant Governor, or the General Assembly (was, service as a member of the General Assembly or the Rules Review Commission). Makes language gender-neutral. Makes conforming changes to GS 15A-952. Effective December 1, 2019.

Part V.

Amends GS 7A-377 by prohibiting the Judicial Standards Commission (Commission) from investigating when its own motion or a written complaint by a citizen is based substantially upon a legal ruling by a district or superior court judge and the ruling has not yet been reviewed and ruled upon by either the NC Court of Appeals or the NC Supreme Court. Limits the review to judicial conduct and prohibits reviewing matters of law. Applies to complaints or investigations pending on or after the date the act becomes law.

Changes the act's long title.

Intro. by Stevens.

GS 1, GS 1A, GS 7A, GS 11, GS 14, GS 15A, GS 20, GS 28A, GS 30, GS 32C, GS 42, GS 44A, GS 45, GS 48, GS 50, GS 84, GS 101, GS 105, GS 105A

[View summary](#)

Courts/Judiciary, Civil, Civil Law, Civil Procedure, Family Law, Motor Vehicle, Court System, Criminal Justice, Criminal Law and Procedure, Development, Land Use and Housing, Property and Housing

H 511 (2019-2020) **NORTH CAROLINA FIRST STEP ACT. (NEW)** Filed Mar 28 2019, *AN ACT TO INCREASE JUDICIAL DISCRETION IN SENTENCING FOR DRUG TRAFFICKING OFFENSES.*

Senate committee substitute to the 3rd edition makes the following changes.

Modifies proposed GS 90-95(h)(5a), which requires a judge sentencing a person for a drug trafficking conviction or conspiracy to commit the same to impose the applicable minimum prison term provided by subsection (h). Maintains the sentencing judge's authority to reduce the fine and sentence consistent with the applicable offense and classification and prior record level provided in specified State law, if the judge enters into the record specified findings; however, adds that the findings cannot be entered until after a hearing and an opportunity for the district attorney to present evidence, including evidence from the investigating law enforcement officer, other law enforcement officers, or witnesses with knowledge of the defendant's conduct at any time before sentencing. Modifies and adds to the specific findings the sentencing judge must enter into the record to include: the defendant did not use violence or a credible threat of violence, or possess a firearm or other dangerous weapon, in the commission of any other violation of law; the defendant has successfully completed a treatment program approved by the Court to address the admitted substance abuse disorder (previously, only required participation or agreement to participate in a program); there is no substantial evidence that the defendant has ever engaged in the sale, manufacture, delivery or transport of a controlled substance or intent to commit the same (previously, substantial evidence does not exist that the defendant was involved in the sale or delivery of a controlled substance during the commission of the offense for which the defendant is being sentenced); the defendant, to the best of his or her knowledge, has provided all reasonable assistance in the identification, arrest, or conviction of any accomplices, accessories, co-conspirators, or principals; the defendant is being sentenced for trafficking, or conspiracy to commit trafficking, for possession of an amount of a controlled substance that is not of a quantity greater than the lowest category for which a defendant can be convicted for trafficking under GS 90-95(h); and the defendant is being sentenced solely for trafficking, or conspiracy to commit trafficking, as a result of possession of a controlled substance. Makes further technical and clarifying changes.

Deletes previous Section 4 (amending GS 15A-1368.2 concerning post-release supervision eligibility).

Makes the following changes to previous Section 5, which allows a person serving an active sentence imposed solely for a violation of GS 90-95(h), or conspiracy to commit a violation under GS 90-95(i), committed before the section becomes effective, to file a motion for appropriate relief for a modification of the person's sentence. Specifies that a motion for appropriate relief may only be granted if the following conditions are met: (1) the motion is filed within 36 months of the effective date of the act; (2) the person seeking a sentence modification has no other felony conviction under GS 90-95; (3) the person was convicted solely for trafficking, or conspiracy to commit trafficking, as a result of possession of a controlled substance; and (4) the person seeking sentence modification was sentenced for trafficking, or conspiracy to commit trafficking, of a controlled substance that was not of a quantity greater than the lowest category for which a defendant may be convicted for trafficking of that controlled substance under GS 90-95(h).

Amends the study on criminal justice data as follows. Removes the Administrative Office of the Courts from those entities conducting the study. Requires that the study identify criminal justice data elements related to individuals who have been charged with infractions or criminal offenses currently collected and maintained (was, identify the criminal justice data elements currently collected and maintained by jails, courts, and prisons). Amends the study's purposes. Allows the Department of Information Technology (Department) to also seek input from the Division of Adult Correction and Juvenile Justice when conducting the study. Amends the issues to be examined in the study as follows: (1) requires examination of the

data elements currently being collected by prisons and jails with regard to individuals who have been charged with or incarcerated for criminal offenses (was, the data element currently being collected by each local and regional detention facility with regard to each individual admitted to jail and each facility's operation) and adds planned (not just current) systems for collecting, recording, maintaining, and searching data elements; (2) includes systems planned or under development (not just current systems) for collecting, recording, maintaining, and searching data elements with regard to individuals who have been charged with infractions or criminal offenses; (3) requires studying steps to create a statewide program to integrate data from courts, jails, and prison data systems, including options for integrating data currently collected as well as for addressing any data gaps identified, and options for making data elements available to law enforcement, judicial officials, and policymakers in an open electronic format; requires inclusion of the costs and options to fund such a program; and (4) expands and clarifies the requirement to review best practices of other states. Removes the requirements to study the data elements needed for policy makers to understand the criminal justice system; gaps in data elements and where any data elements currently collected are inaccessible or made difficult to assess or study because of certain aspects of data management and entry and actions to address those barriers; and any other related issues that the Department deems necessary. Changes the due date of the study report from March 15, 2020, to December 1, 2020.

Changes the act's long title.

Intro. by Grange, Szoka, Goodwin.

GS 90

[View summary](#)

Courts/Judiciary, Criminal Justice, Corrections (Sentencing/Probation), Criminal Law and Procedure

H 1001 (2019-2020) [RAISE THE AGE FUNDING. \(NEW\)](#) Filed Apr 25 2019, *AN ACT CONSISTENT WITH HOUSE BILL 966 OF THE 2019 REGULAR SESSION PROVIDING THE RESOURCES NECESSARY TO IMPLEMENT THE LEGISLATION KNOWN AS RAISE THE AGE.*

Correction: House committee substitute to the 1st edition amends GS 7A-133(a) to remove (not add) one district court judge from District 10D (part of Wake). Effective January 1, 2021, and requires elections conducted in 2020 to comply with these changes.

Intro. by Boles, Murphy, C. Smith.

APPROP, GS 7A

[View summary](#)

Courts/Judiciary, Juvenile Law, Court System, Criminal Justice, Corrections (Sentencing/Probation), Government, Budget/Appropriations, State Agencies, Department of Justice, Department of Public Safety, State Government, State Personnel

PUBLIC/SENATE BILLS

S 312 (2019-2020) [RELIEF TO OCRACOKE SCHOOL/HURRICANE DORIAN. \(NEW\)](#) Filed Mar 19 2019, *AN ACT TO PROVIDE RELIEF TO THE OCRACOKE SCHOOL TO ACCOMMODATE EXTRAORDINARY CIRCUMSTANCES DUE TO HURRICANE DORIAN.*

House committee substitute deletes the provisions of the 1st edition and now provides the following.

Authorizes the governing body of a local school administrative unit that closed a school under its control for more than 18 days due to Hurricane Dorian, to pursue the following options regarding missed instructional time in September and October 2019:

(1) make up any number of the instructional days or equivalent hours missed, (2) deem as completed any number of the instructional days or equivalent hours missed up to a total of 20 days, or (3) implement any combination of the previous options. Deems all employees who were employed by a local school administrative unit and assigned to a school closed for

more than 18 days due to weather conditions related to Hurricane Dorian to have been employed and compensated in the same manner they would have had they worked on the scheduled instructional days missed during September and October 2019.

Changes the act's titles.

Intro. by Ford, Bishop.

UNCODIFIED, GS 31, GS 31A, GS 31B

[View summary](#)

**Education, Elementary and Secondary Education,
Government, State Government, State Personnel**

S 579 (2019-2020) [PRISON REFORM ACT OF 2019](#). Filed Apr 3 2019, *AN ACT AUTHORIZING THE JOINT LEGISLATIVE PROGRAM EVALUATION COMMITTEE TO DIRECT THE PROGRAM EVALUATION DIVISION TO STUDY ALTERNATIVE ORGANIZATION AND MANAGEMENT STRUCTURES FOR THE DIVISION OF ADULT CORRECTION AND JUVENILE JUSTICE OF THE DEPARTMENT OF PUBLIC SAFETY.*

House committee substitute makes the following changes to the 2nd edition.

Modifies the directives set forth regarding the Program Evaluation Division's study of alternative organization and management structures of the Division of Adult Correction and Juvenile Justice (Division) of the Department of Public Safety (DPS). Requires the Program Evaluation Division (PED) to also consult with the Fiscal Research Division in addition to DPS.

Modifies the four identified alternatives to be studied. No longer includes a transfer of the authority, powers, duties, and functions of the Treatment of Effective Community Supervision Program and the Justice Reinvestment Council in the first and third identified alternatives for creating the Department of Correction and establishing the Division of Correction.

Additionally, consistently refers to creating the Department of Juvenile Justice and Delinquency Prevention throughout the second identified alternative (previously, also referred to as the Department of Juvenile Justice). Modifies the fourth identified alternative to provide for the establishment of the Division of Juvenile Justice and Delinquency Prevention (previously, the Division of Juvenile Justice). Makes further clarifying, organizational, and technical changes to the fourth identified alternative. Adds a fifth alternative to be studied: establishment of the Division of Adult Correction and Juvenile Justice.

Details the transfer of authorities, powers, duties and functions involved in this alternative. Provides that the new Division would be an independent agency, administratively located in DPS, and managed under the direction and supervision of the Director who would serve as chief executive officer of the Division and be solely responsible for the Division's management.

Also modifies and adds to the information to be studied for each of the five identified alternatives. Adds an analysis of the separation of specified support areas and any other necessary aspects to the organization information to be studied for each alternative. Adds an analysis of the financial means necessary to cover the structural budget of each function currently and under any proposed alternative to the budget information required to be included in the study for each alternative. Regarding the written statement of all relevant considerations required to be included for each identified alternative in the study, adds a new requirement for the inclusion of any impact separation might have on coordination and cooperation between agencies concerning intelligence sharing, joint law enforcement operations, and training. Adds a new requirement for a cost analysis to be included in the study for each identified alternative, specifically including the full cost of a new department of division, inclusive of indirect costs, and the cost to fund incentive programs and address any structural budget deficits.

Changes the date by which PED must submit its findings to the specified NCGA committees, from May 1, 2020, to November 1, 2020.

Makes conforming changes.

Intro. by Steinburg, McKissick, Sanderson.

STUDY

[View summary](#)

**Courts/Judiciary, Criminal Justice, Corrections
(Sentencing/Probation), Government, General Assembly, State
Agencies, Department of Public Safety**

ACTIONS ON BILLS**PUBLIC BILLS****H 100: DOT BUDGET FOR 2019-2021 BIENNIUM. (NEW)**

House: Concurred In S Com Sub

House: Ordered Enrolled

H 387: GROWING G.R.E.A.T (NEW)

House: Ratified

H 399: EXTEND TAX CREDITS/OTHER FINANCE CHANGES. (NEW)

Senate: Passed 2nd Reading

H 470: ADMINISTRATION OF JUSTICE CHANGES. (NEW)

Senate: Reptd Fav Com Substitute

Senate: Com Substitute Adopted

Senate: Re-ref Com On Finance

Senate: Reptd Fav

Senate: Re-ref Com On Rules and Operations of the Senate

Senate: Reptd Fav

H 511: NORTH CAROLINA FIRST STEP ACT. (NEW)

Senate: Reptd Fav Com Substitute

Senate: Com Substitute Adopted

Senate: Re-ref Com On Rules and Operations of the Senate

Senate: Reptd Fav

H 1001: RAISE THE AGE FUNDING. (NEW)

Senate: Passed 2nd Reading

Senate: Passed 3rd Reading

Senate: Ordered Enrolled

S 61: COMMUNITY COLLEGES BUDGET/2019-2021 BIENNIUM. (NEW)

House: Passed 2nd Reading

House: Passed 3rd Reading

S 312: RELIEF TO OCRACOKE SCHOOL/HURRICANE DORIAN. (NEW)

House: Reptd Fav Com Substitute

House: Cal Pursuant Rule 36(b)

House: Added to Calendar

House: Passed 2nd Reading

House: Passed 3rd Reading

S 572: UNIVERSITY SYSTEM RISK MANAGEMENT PROVISIONS. (NEW)

Senate: Withdrawn From Com

Senate: Placed On Cal For 10/10/2019

S 579: PRISON REFORM ACT OF 2019.

House: Reptd Fav Com Substitute

House: Cal Pursuant Rule 36(b)

House: Added to Calendar

House: Passed 2nd Reading

House: Passed 3rd Reading

LOCAL BILLS

H 181: REPEAL YANCEYVILLE ANNEXATION. (NEW)

House: Ruled Material

House: Cal Pursuant 36(b)

House: Added to Calendar

House: Failed Concur In S Com Sub

House: Conf Com Appointed

© 2019 School of Government The University of North Carolina at Chapel Hill

This work is copyrighted and subject to "fair use" as permitted by federal copyright law. No portion of this publication may be reproduced or transmitted in any form or by any means without the express written permission of the publisher. Distribution by third parties is prohibited. Prohibited distribution includes, but is not limited to, posting, e-mailing, faxing, archiving in a public database, installing on intranets or servers, and redistributing via a computer network or in printed form. Unauthorized use or reproduction may result in legal action against the unauthorized user.

[Print Version](#)