

Article 12.

Clerk of Superior Court.

**§ 7A-100. Election; term of office; oath; vacancy; office and office hours; appointment of acting clerk.**

(a) A clerk of the superior court for each county shall be elected by the qualified voters thereof, to hold office for a term of four years, in the manner prescribed by Chapter 163 of the General Statutes. The clerk, before entering on the duties of his office, shall take the oath of office prescribed by law. If the office of clerk of superior court becomes vacant otherwise than by the expiration of the term, or if the people fail to elect a clerk, the senior regular resident superior court judge for the county shall fill the vacancy by appointment until an election can be regularly held. In cases of death or resignation of the clerk, the senior regular resident superior court judge, pending appointment of a successor clerk, may appoint an acting clerk of superior court for a period of not longer than 30 days.

(b) The county commissioners shall provide an office for the clerk in the courthouse or other suitable place in the county seat. The clerk shall observe such office hours and holidays as may be directed by the Administrative Officer of the Courts. (Const., art. 4, ss. 16, 17, 29; C.C.P., ss. 139-141; 1871-72, c. 136; Code, ss. 74, 76, 78, 80, 114, 115; 1903, c. 467; Rev., ss. 890-893, 895, 909, 910; C.S., ss. 926, 930, 931, 945, 946; 1935, c. 348; 1939, c. 82; 1941, c. 329; 1949, c. 122, ss. 1, 2; 1971, c. 363, s. 1; 1973, c. 240; 2017-6, s. 3; 2018-146, ss. 3.1(a), (b), 6.1.)

**§ 7A-101. Compensation.**

(a) The clerk of superior court is a full-time employee of the State and shall receive an annual salary, payable in equal monthly installments, based on the number of State-funded assistant and deputy clerks of court as determined by the Administrative Office of Court's workload formula, according to the following schedule:

Assistants and Deputies	Annual Salary
0-19	\$104,300
20-29	115,280
30-49	126,259
50-99	137,238
100 and above	139,983

If the number of State-funded assistant and deputy clerks of court as determined by the Administrative Office of Court's workload formula changes, the salary of the clerk shall be changed, on July 1 of the fiscal year for which the change is reported, to the salary appropriate for that new number, except that the salary of an incumbent clerk shall not be decreased by any change in that number during the clerk's continuance in office.

(a1) Repealed by Session Laws 2019-209, s. 3.5(a), effective July 1, 2019.

(b) The clerk shall receive no fees or commission by virtue of the clerk's office. The salary set forth in this section is the clerk's sole official compensation.

(c) In lieu of merit and other increment raises paid to regular State employees, a clerk of superior court shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the clerk's annual salary payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, nineteen and two-tenths percent (19.2%) after 20 years of service, and twenty-four percent (24%) after 25 years of service. "Service" means service in the elective position of clerk of superior court, as an assistant clerk of court, and as a supervisor of clerks of superior court with

the Administrative Office of the Courts and does not include service as a deputy or acting clerk. "Service" also means service as a justice, judge, or magistrate of the General Court of Justice or as a district attorney. (1965, c. 310, s. 1; 1967, c. 691, s. 5; 1969, c. 1186, s. 3; 1971, c. 877, ss. 1, 2; 1973, c. 571, ss. 1, 2; 1975, c. 956, s. 7; 1975, 2nd Sess., c. 983, s. 11; 1977, c. 802, s. 42; 1977, 2nd Sess., c. 1136, s. 13; 1979, c. 838, s. 85; 1979, 2nd Sess., c. 1137, s. 12; 1981, c. 964, s. 14; c. 1127, s. 12; 1983, c. 761, ss. 200, 247, 249; 1983 (Reg. Sess., 1984), c. 1034, ss. 86, 87; c. 1109, s. 13.1; 1985, c. 479, s. 211; c. 689, s. 3; c. 698, s. 10(c); 1985 (Reg. Sess., 1986), c. 1014, s. 34; 1987, c. 738, s. 20; 1987 (Reg. Sess., 1988), c. 1086, s. 14; c. 1100, ss. 16(a), 17; 1989, c. 752, s. 31; c. 799, s. 27(a); 1991 (Reg. Sess., 1992), c. 900, s. 40; c. 1039, s. 21; 1993, c. 321, s. 57(a); 1993 (Reg. Sess., 1994), c. 769, s. 7.10(a); 1996, 2nd Ex. Sess., c. 18, s. 28.4; 1997-443, s. 33.9; 1998-153, s. 7; 1999-237, s. 28.4; 2000-67, s. 26.4; 2000-140, s. 93.1(b); 2001-424, ss. 12.2(b), 32.5; 2004-124, s. 31.5(b); 2005-276, ss. 29.5, 29.23B; 2006-66, s. 22.5; 2007-323, ss. 28.5, 28.18A(e); 2008-107, s. 26.5; 2012-142, s. 25.1A(e); 2014-100, s. 35.3(d); 2016-94, s. 36.4; 2017-57, s. 35.4A; 2018-5, s. 35.5; 2019-209, s. 3.5(a), (b); 2021-180, s. 39.6(a), (a1); 2022-62, s. 54.5(a); 2022-74, s. 39.6(a), (b).)

**§ 7A-102. Assistant and deputy clerks; appointment; number; salaries; duties.**

(a) The numbers and salaries of assistant clerks, deputy clerks, and other employees in the office of each clerk of superior court shall be determined by the Administrative Officer of the Courts after consultation with the clerk concerned. However, no office of clerk of superior court shall have fewer than five total staff positions in addition to the elected clerk of superior court. All personnel in the clerk's office are employees of the State. The clerk appoints the assistants, deputies, and other employees in the clerk's office to serve at his or her pleasure. Assistant and deputy clerks shall take the oath of office prescribed for clerks of superior court, conformed to the office of assistant or deputy clerk, as the case may be. Except as provided by subsection (c2) of this section, the job classifications and related salaries of each employee within the office of each superior court clerk shall be subject to the approval of the Administrative Officer of the Courts after consultation with each clerk concerned and shall be subject to the availability of funds appropriated for that purpose by the General Assembly.

(b) An assistant clerk is authorized to perform all the duties and functions of the office of clerk of superior court, and any act of an assistant clerk is entitled to the same faith and credit as that of the clerk. A deputy clerk is authorized to certify the existence and correctness of any record in the clerk's office, to take the proofs and examinations of the witnesses touching the execution of a will as required by G.S. 31-17, and to perform any other ministerial act which the clerk may be authorized and empowered to do, in his own name and without reciting the name of his principal. The clerk is responsible for the acts of his assistants and deputies. With the consent of the clerk of superior court of each county and the consent of the presiding judge in any proceeding, an assistant or deputy clerk is authorized to perform all the duties and functions of the office of the clerk of superior court in another county in any proceeding in the district or superior court that has been transferred to that county from the county in which the assistant or deputy clerk is employed.

(c) Notwithstanding the provisions of subsection (a), the Administrative Officer of the Courts shall establish an incremental salary plan for assistant clerks and for deputy clerks based on a series of salary steps corresponding to the steps contained in the Salary Plan for State Employees adopted by the Office of State Human Resources, subject to a minimum and a maximum annual salary as set forth below. On and after July 1, 1985, each assistant clerk and each deputy clerk shall be eligible for an annual step increase in his salary plan based on satisfactory

job performance as determined by each clerk. Notwithstanding the foregoing, if an assistant or deputy clerk's years of service in the office of superior court clerk would warrant an annual salary greater than the salary first established under this section, that assistant or deputy clerk shall be eligible on and after July 1, 1984, for an annual step increase in his salary plan. Furthermore, on and after July 1, 1985, that assistant or deputy clerk shall be eligible for an increase of two steps in his salary plan, and shall remain eligible for a two-step increase each year as recommended by each clerk until that assistant or deputy clerk's annual salary corresponds to his number of years of service. Any person covered by this subsection who would not receive a step increase in fiscal year 1995-96 because that person is at the top of the salary range as it existed for fiscal year 1994-95 shall receive a salary increase to the maximum annual salary provided by subsection (c1) of this section.

(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time deputy clerk serving as head bookkeeper per county, shall be paid an annual salary subject to the following minimum and maximum rates:

Assistant Clerks and Head Bookkeeper	Annual Salary
Minimum	\$37,254
Maximum	68,828
Deputy Clerks	Annual Salary
Minimum	\$33,419
Maximum	54,056

(c2) The clerk of superior court may appoint assistant clerks, deputy clerks, and a head bookkeeper and set their salaries above the minimum rate established for the positions by subsection (c1) of this section if, in the clerk's discretion, (i) the needs of the clerk's office would be best served by an appointment above the minimum rate, (ii) the appointee's skills and experience support the higher rate, and (iii) the Administrative Office of the Courts certifies that there are sufficient funds available.

(d) Full-time assistant clerks, licensed to practice law in North Carolina, who are employed in the office of superior court clerk on and after July 1, 1984, and full-time assistant clerks possessing a masters degree in business administration, public administration, accounting, or other similar discipline from an accredited college or university who are employed in the office of superior court clerk on and after July 1, 1997, are authorized an annual salary of not less than three-fourths of the maximum annual salary established for assistant clerks; the clerk of superior court, with the approval of the Administrative Office of the Courts, may establish a higher annual salary but that salary shall not be higher than the maximum annual salary established for assistant clerks. Full-time assistant clerks, holding a law degree from an accredited law school, who are employed in the office of superior court clerk on and after July 1, 1984, are authorized an annual salary of not less than two-thirds of the maximum annual salary established for assistant clerks; the clerk of superior court, with the approval of the Administrative Office of the Courts, may establish a higher annual salary, but the entry-level salary may not be more than three-fourths of the maximum annual salary established for assistant clerks, and in no event may be higher than the maximum annual salary established for assistant clerks. Except as provided by subsection (c2) of this section, the entry-level annual salary for all other assistant and deputy clerks employed on and after July 1, 1984, shall be at the minimum rates as herein established.

(e) A clerk of superior court may apply to the Director of the Administrative Office of the Courts to enter into contracts with local governments for the provision by the State of services of assistant clerks, deputy clerks, and other employees in the office of each clerk of superior court pursuant to G.S. 153A-212.1 or G.S. 160A-289.1.

(f) The Director of the Administrative Office of the Courts may provide assistance requested pursuant to subsection (e) of this section only upon a showing by the senior resident superior court judge, supported by facts, that the overwhelming public interest warrants the use of additional resources for the speedy disposition of cases involving drug offenses, domestic violence, or other offenses involving a threat to public safety.

(g) The terms of any contract entered into with local governments pursuant to subsection (e) of this section shall be fixed by the Director of the Administrative Office of the Courts in each case. Nothing in this section shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this section or to obligate the Administrative Office of the Courts to provide the administrative costs of establishing or maintaining the positions or services provided for under this section. Further, nothing in this section shall be construed to obligate the Administrative Office of the Courts to maintain positions or services initially provided for under this section. (1777, c. 115, s. 86; P.R.; R.C., c. 19, s. 15; Code, s. 75; 1899, c. 235, ss. 2, 3; Rev., ss. 898-900; 1921, c. 32, ss. 1-3; C.S., ss. 934(a)-934(c), 935-937; 1951, c. 159, ss. 1, 2; 1959, c. 1297; 1963, c. 1187; 1965, c. 264; c. 310, s. 1; 1971, c. 363, s. 2; 1973, c. 678; 1983 (Reg. Sess., 1984), c. 1034, ss. 88, 89; 1985, c. 479, s. 212; c. 757, s. 190; 1985 (Reg. Sess., 1986), c. 1014, s. 35; 1987, c. 738, s. 21(a); 1987 (Reg. Sess., 1988), c. 1086, s. 15; 1989, c. 445; c. 752, s. 32; 1991 (Reg. Sess., 1992), c. 900, ss. 42, 119; 1993, c. 321, ss. 58, 59; 1993 (Reg. Sess., 1994), c. 769, ss. 7.11, 7.12; 1995, c. 507, s. 7.6(a), (b); 1996, 2nd Ex. Sess., c. 18, s. 28.5; 1997-443, ss. 33.12, 33.10(b); 1998-153, s. 8(b); 1999-237, s. 28.5; 2000-67, ss. 15.4(b), 26.5; 2001-424, s. 32.6; 2003-284, s. 30.14B; 2004-124, s. 31.6(b); 2005-276, s. 29.6; 2006-66, s. 22.6; 2007-323, s. 28.6; 2008-107, s. 26.6; 2011-145, s. 15.8; 2012-142, s. 25.1A(f); 2013-382, s. 9.1(c); 2014-100, s. 35.3(e); 2016-94, s. 36.5(a); 2017-57, s. 35.4B; 2018-5, s. 35.6; 2019-209, s. 3.6(a), (a1); 2021-180, s. 39.7(a), (a1); 2022-74, s. 39.7.)

**§ 7A-102.1. Transfer of sick leave earned as county or municipal employees by certain employees in offices of clerks of superior court.**

(a) All assistant clerks, deputy clerks and other employees of the clerks of the superior court of this State, secretaries to superior court judges and district attorneys, and court reporters of the superior courts, who have heretofore been, or shall hereafter be, changed in status from county employees to State employees by reason of the enactment of Chapter 7A of the General Statutes, shall be entitled to transfer sick leave accumulated as a county employee pursuant to any county system and standing to the credit of such employee at the time of such change of status to State employee, without any maximum limitation thereof. Such earned sick leave credit shall be certified to the Administrative Office of the Courts by the official or employee responsible for keeping sick leave records for the county, and the Administrative Office of the Courts shall accord such transferred sick leave credit the same status as if it had been earned as a State employee.

(b) All clerks, assistant clerks, deputy clerks and other employees of any court inferior to the superior court which has been or may be abolished by reason of the enactment of Chapter 7A of the General Statutes, who shall thereafter become a State employee by employment in the Judicial Department, shall be entitled to transfer sick leave earned as a municipal or county employee pursuant to any municipal or county system in effect on the date said court was

abolished, without any maximum limitation thereof. Such earned sick leave credit shall be certified to the Administrative Office of the Courts by the official or employee responsible for keeping sick leave records for the municipality or county, and the Administrative Office of the Courts shall accord such transferred sick leave credit the same status as if it had been earned as a State employee.

(c) Any employee covered by this section who retires on or after May 22, 1973, shall be given credit for all sick leave accumulated on May 22, 1973. (1967, c. 1187, ss. 1, 2; 1969, c. 1190, s. 8; 1973, c. 47, s. 2; c. 795, ss. 1-3.)

### **§ 7A-103. Authority of clerk of superior court.**

The clerk of superior court is authorized to:

- (1) Issue subpoenas to compel the attendance of any witness residing or being in the State, or to compel the production of any document or paper, material to any inquiry in his court.
- (2) Administer oaths, and to take acknowledgment and proof of the execution of all instruments or writings.
- (3) Issue commissions to take the testimony of any witness within or without the State.
- (4) Issue citations and orders to show cause to parties in all matters cognizable in his court, and to compel the appearance of such parties.
- (5) Enforce all lawful orders and decrees, by execution or otherwise, against those who fail to comply therewith or to execute lawful process. Process may be issued by the clerk, to be executed in any county of the State, and to be returned before him.
- (6) Certify and exemplify, under seal of his court, all documents, papers or records therein, which shall be received in evidence in all the courts of the State.
- (7) Preserve order in this court, punish criminal contempts, and hold persons in civil contempt; subject to the limitations contained in Chapter 5A of the General Statutes of North Carolina.
- (8) Adjourn any proceeding pending before him from time to time.
- (9) Open, vacate, modify, set aside, or enter as of a former time, decrees or orders of his court.
- (10) Enter default or judgment in any action or proceeding pending in his court as authorized by law.
- (11) Award costs and disbursements as prescribed by law, to be paid personally, or out of the estate or fund, in any proceeding before him.
- (12) Compel an accounting by magistrates and compel the return to the clerk of superior court by the person having possession thereof, of all money, records, papers, dockets and books held by such magistrate by virtue or color of his office.
- (13) Grant and revoke letters testamentary, letters of administration, and letters of trusteeship.
- (14) Appoint and remove guardians and trustees, as provided by law.
- (15) Audit the accounts of fiduciaries, as required by law.
- (16) Exercise jurisdiction conferred on him in every other case prescribed by law. (C.C.P., ss. 417, 418, 442; Code, ss. 103, 108; 1901, c. 614, s. 2; Rev., s. 901;

1919, c. 140; C. S., s. 938; 1949, c. 57, s. 1; 1951, c. 28, s. 1; 1961, c. 341, s. 2; 1971, c. 363, s. 3; 1979, 2nd Sess., c. 1080, s. 5.)

**§ 7A-104. Disqualification; waiver; removal; when judge acts.**

(a) The clerk shall not exercise any judicial powers in relation to any estate, proceeding, or civil action:

- (1) If he has, or claims to have, an interest by distribution, by will, or as creditor or otherwise;
- (2) If he is so related to any person having or claiming such an interest that he would, by reason of such relationship, be disqualified as a juror, but the disqualification on this ground ceases unless the objection is made at the first hearing of the matter before him;
- (3) If clerk or the clerk's spouse is a party or a subscribing witness to any deed of conveyance, testamentary paper or nuncupative will, but this disqualification ceases when such deed, testamentary paper, or will has been finally admitted to probate by another clerk, or before the judge of the superior court;
- (4) If clerk or the clerk's spouse is named as executor or trustee in any testamentary or other paper, but this disqualification ceases when the will or other paper is finally admitted to probate by another clerk, or before the judge of the superior court. The clerk may renounce the executorship and endorse the renunciation on the will or on some paper attached thereto, before it is propounded for probate, in which case the renunciation must be recorded with the will if it is admitted to probate.

(a1) The clerk may disqualify himself in a proceeding in circumstances justifying disqualification or recusement by a judge.

(a2) The parties may waive the disqualification specified in this section, and upon the filing of such written waiver, the clerk shall act as in other cases.

(b) When any of the disqualifications specified in this section exist, and there is no waiver thereof, or when there is no renunciation under subdivision (a)(4) of this section, any party in interest may apply to a superior court judge who has jurisdiction pursuant to G.S. 7A-47.1 or G.S. 7A-48 in that county, for an order to remove the proceedings to the clerk of superior court of an adjoining county in the district or set of districts; or he may apply to the judge to make either in vacation or during a session of court all necessary orders and judgments in any proceeding in which the clerk is disqualified, and the judge in such cases is hereby authorized to make any and all necessary orders and judgments as if he had the same original jurisdiction as the clerk over such proceedings.

(c) In any case in which the clerk of the superior court is executor, administrator, collector, or guardian of an estate at the time of his election or appointment to office, in order to enable him to settle such estate, a superior court judge who has jurisdiction pursuant to G.S. 7A-47.1 or G.S. 7A-48 in that county may make such orders as may be necessary in the settlement of the estate; and he may audit the accounts or appoint a commissioner to audit the accounts of such executor or administrator, and report to him for his approval, and when the accounts are so approved, the judge shall order the proper records to be made by the clerk. (C.C.P., ss. 419-421; 1871-72, cc. 196, 197; Code, ss. 104-107; Rev., ss. 902-905; 1913, c. 70, s. 1; C.S., ss. 939-942; 1935, c. 110, s. 1; 1971, c. 363, s. 4; 1977, c. 546; 1987 (Reg. Sess., 1988), c. 1037, s. 15; 1989, c. 493, s. 1.)

**§ 7A-105. Suspension, removal, and reinstatement of clerk.**

A clerk of superior court may be suspended or removed from office for willful misconduct or mental or physical incapacity, and reinstated, under the same procedures as are applicable to a superior court district attorney, except that the procedure shall be initiated by the filing of a sworn affidavit with the chief district judge of the district in which the clerk resides, and the hearing shall be conducted by the senior regular resident superior court judge serving the county of the clerk's residence. If suspension is ordered, the judge shall appoint some qualified person to act as clerk during the period of the suspension. (1967, c. 691, s. 6; 1971, c. 363, s. 10; 1973, c. 47, s. 2; c. 148, s. 2.)

**§ 7A-106. Custody of records and property of office.**

(a) It is the duty of the clerk of superior court, upon going out of office for any reason, to deliver to his successor, or such person as the senior regular resident superior court judge may designate, all records, books, papers, moneys, and property belonging to his office, and obtain receipts therefor.

(b) Any clerk going out of office or such other person having custody of the records, books, papers, moneys, and property of the office who fails to transfer and deliver them as directed shall forfeit and pay the State one thousand dollars (\$1,000), which shall be sued for by the district attorney. (R.C., c. 19, s. 14; C.C.P., s. 142; Code, ss. 81, 124; Rev., ss. 906, 907; C.S., s. 943; 1971, c. 363, s. 5; 1973, c. 47, s. 2.)

**§ 7A-107. Bonds of clerks, assistant and deputy clerks, and employees of office.**

The Administrative Officer of the Courts shall require, or purchase, in such amounts as he deems proper, individual or blanket bonds for any and all clerks of superior court, assistant clerks, deputy clerks, and other persons employed in the offices of the various clerks of superior court, or one blanket bond covering all such clerks and other persons, such bond or bonds to be conditioned upon faithful performance of duty, and made payable to the State. The premiums shall be paid by the State. (1965, c. 310, s. 1; 1967, c. 691, s. 7; 1971, c. 363, ss. 10, 11.1; c. 518, s. 2.)

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

The Administrative Office of the Courts shall establish procedures for the receipt, deposit, protection, investment, and disbursement of all funds coming into the hands of the clerk of superior court. The fees to be remitted to counties and municipalities shall be paid to them monthly by the clerk of superior court.

The operations of the Administrative Office of the Courts and the Clerks of Superior Court shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. (1965, c. 310, s. 1; 1969, c. 1190, s. 9; 1971, c. 363, s. 10; 1983, c. 913, s. 5; 2009-516, s. 4.)

**§ 7A-109. Record-keeping procedures.**

(a) Each clerk shall maintain such records, files, dockets and indexes as are prescribed by rules of the Director of the Administrative Office of the Courts. Except as prohibited by law, these records shall be open to the inspection of the public during regular office hours, and shall include civil actions, special proceedings, estates, criminal actions, juvenile actions, minutes of the court, judgments, liens, lis pendens, and all other records required by law to be maintained. The rules prescribed by the Director shall be designed to accomplish the following purposes:

- (1) To provide an accurate record of every determinative legal action, proceeding, or event which may affect the person or property of any individual, firm, corporation, or association;
- (2) To provide a record during the pendency of a case that allows for the efficient handling of the matter by the court from its initiation to conclusion and also affords information as to the progress of the case;
- (3) To provide security against the loss or destruction of original documents during their useful life and a permanent record for historical uses;
- (4) To provide a system of indexing that will afford adequate access to all records maintained by the clerk;
- (5) To provide, to the extent possible, for the maintenance of records affecting the same action or proceeding in one rather than several units; and
- (6) To provide a reservoir of information useful to those interested in measuring the effectiveness of the laws and the efficiency of the courts in administering them.

(a1) The minutes maintained by the clerk pursuant to this subsection shall record the date and time of each convening of district and superior court, as well as the date and time of each recess or adjournment of district and superior court with no further business before the court.

- (b) The rules shall provide for indexing according to the minimum criteria set out below:
- (1) Civil actions. – the names of all parties;
  - (2) Special proceedings. – the names of all parties;
  - (3) Administration of estates. – the name of the estate and in the case of testacy the name of each devisee;
  - (4) Criminal actions. – the names of all defendants;
  - (5) Juvenile actions. – the names of all juveniles;
  - (6) Judgments, liens, lis pendens, etc. – the names of all parties against whom a lien has been created by the docketing of a judgment, notice of lien, transcript, certificate, or similar document and the names of all parties in those cases in which a notice of lis pendens has been filed with the clerk and abstracted on the judgment docket.

(c) The rules shall require that all documents received for docketing shall be immediately indexed either on a permanent or temporary index. The rules may prescribe any technological process deemed appropriate for the economical and efficient indexing, storage and retrieval of information.

(d) In order to facilitate public access to the electronic data processing records or any compilation of electronic court records or data of the clerks of superior court, except where public access is prohibited by law, the Director may enter into one or more nonexclusive contracts under reasonable cost recovery terms with third parties to provide remote electronic access to the electronic data processing records or any compilation of electronic court records or data of the clerks of superior court by the public. Neither the Director nor the Administrative Office of the Courts is the custodian of the records of the clerks of superior court or of the electronic data processing records or any compilation of electronic court records or data of the clerks of superior court. Costs recovered pursuant to this subsection shall be remitted to the State Treasurer to be held in the Court Information Technology Fund established in G.S. 7A-343.2.

(e) Repealed by Session Laws 2022-47, s. 9(a), effective July 7, 2022. (Code, ss. 83, 95, 96, 97, 112, 1789; 1887, c. 178, s. 2; 1889, c. 181, s. 4; 1893, c. 52; 1899, c. 1, s. 17; cc. 82, 110;



1901, c. 2, s. 9; c. 89, s. 13; c. 550, s. 3; 1903, c. 51; c. 359, s. 6; 1905, c. 360, s. 2; Rev., s. 915; 1919, c. 78, s. 7; c. 152; c. 197, s. 4; c. 314; C.S., s. 952; 1937, c. 93; 1953, c. 259; c. 973, s. 3; 1959, c. 1073, s. 3; c. 1163, s. 3; 1961, c. 341, ss. 3, 4; c. 960; 1965, c. 489; 1967, c. 691, s. 39; c. 823, s. 2; 1971, c. 192; c. 363, s. 6; 1997-199, ss. 1, 2; 1999-237, s. 17.15(c); 2011-145, s. 15.6(b); 2012-142, s. 16.5(g); 2013-360, s. 18B.8(a); 2015-241, s. 18A.24; 2017-57, s. 18B.3(a); 2022-47, s. 9(a).)

**§ 7A-109.1. List of prisoners furnished to judges.**

(a) The clerk of superior court must furnish to each judge presiding over a criminal court a report listing the name, reason for confinement, period of confinement, and, when appropriate, charge or charges, amount of bail and conditions of release, and next scheduled court appearance of each person listed on the most recent report filed under the provisions of G.S. 153A-229.

(b) The clerk must file the report with superior court judges presiding over mixed or criminal sessions at the beginning of each session and must file the report with district court judges at each session or weekly, whichever is the less frequent. (1973, c. 1286, s. 5; 1975, c. 166, s. 22.)

**§ 7A-109.2. (Contingent expiration date – see notes) Records of dispositions in criminal cases.**

Each clerk of superior court shall ensure that all records of dispositions in criminal cases, including those records filed electronically, contain all the essential information about the case, including the identity of the presiding judge and the attorneys representing the State and the defendant. (1998-208, s. 2.)

**§ 7A-109.2. (Contingent effective date – see notes) Records of dispositions in criminal cases; impaired driving integrated data system.**

(a) Each clerk of superior court shall ensure that all records of dispositions in criminal cases, including those records filed electronically, contain all the essential information about the case, including the the name of the presiding judge and the attorneys representing the State and the defendant.

(b) In addition to the information required by subsection (a) of this section for all offenses involving impaired driving as defined by G.S. 20-4.01, all charges of driving while license revoked for an impaired driving license revocation as defined by G.S. 20-28.2, and any other violation of the motor vehicle code involving the operation of a vehicle and the possession, consumption, use, or transportation of alcoholic beverages, the clerk shall include in the electronic records the following information:

- (1) The reasons for any pretrial dismissal by the court.
- (2) The alcohol concentration reported by the charging officer or chemical analyst, if any.
- (3) The reasons for any suppression of evidence. (1998-208, s. 2; 2006-253, s. 20.1.)

**§ 7A-109.3. Delivery of commitment order.**

(a) Whenever the district court sentences a person to imprisonment and commitment to the custody of the Division of Prisons of the Department of Adult Correction pursuant to G.S. 15A-1352, the clerk of superior court shall furnish the sheriff with the signed order of commitment within 48 hours of the issuance of the sentence.

(a) If the district court sentences a person under the age of 18 to imprisonment and commitment, the clerk of superior court shall furnish the detention facility approved by the Division of Juvenile Justice with the signed order of commitment within 48 hours of the issuance of the sentence.

(b) Whenever the superior court sentences a person to imprisonment and commitment to the custody of the Division of Prisons of the Department of Adult Correction pursuant to G.S. 15A-1352, the clerk of superior court shall furnish the sheriff with the signed order of commitment within 72 hours of the issuance of the sentence.

(c) If the superior court sentences a person under the age of 18 to imprisonment and commitment, the clerk of superior court shall furnish the detention facility approved by the Division of Juvenile Justice with the signed order of commitment within 48 hours of the issuance of the sentence. (1999-237, s. 18.10(c); 2011-145, s. 19.1(h); 2017-186, s. 2(b); 2020-83, s. 8(a); 2021-180, s. 19C.9(p), (z).)

#### **§ 7A-109.4. Records of offenses involving impaired driving.**

The clerk of superior court shall maintain all records relating to an offense involving impaired driving as defined in G.S. 20-4.01(24a) for a minimum of 10 years from the date of conviction. Prior to destroying the record, the clerk shall record the name of the defendant, the judge, the prosecutor, and the attorney or whether there was a waiver of attorney, the alcohol concentration or the fact of refusal, the sentence imposed, and whether the case was appealed to superior court and its disposition. (2006-253, s. 24.)

**§ 7A-110:** Repealed by Session Laws 2015-40, s. 7, effective July 1, 2015.

#### **§ 7A-111. Receipt and disbursement of insurance and other moneys for minors and incapacitated adults.**

(a) When a minor under 18 years of age is named beneficiary in a policy or policies of insurance, and the insured dies prior to the majority of such minor, and the proceeds of each individual policy do not exceed fifty thousand dollars (\$50,000) such proceeds may be paid to and, if paid, shall be received by the public guardian or clerk of the superior court of the county wherein the beneficiary is domiciled. The receipt of the public guardian or clerk shall be a full and complete discharge of the insurer issuing the policy or policies to the extent of the amount paid to such public guardian or clerk.

Any person having in his possession fifty thousand dollars (\$50,000) or less for any minor under 18 years of age for whom there is no guardian, may pay such moneys into the office of the public guardian, if any, or the office of the clerk of superior court of the county of the recipient's domicile. The receipt of the public guardian or clerk shall constitute a valid release of the payor's obligation to the extent of the sum delivered to the clerk.

The clerk is authorized under this section to receive, to administer and to disburse the monies held in such sum or sums and at such time or times as in his judgment is in the best interest of the child, except that the clerk must first determine that the parents or other persons responsible for the child's support and maintenance are financially unable to provide the necessities for such child, and also that the child is in need of maintenance and support or other necessities, including, when appropriate, education. The clerk shall require receipts or paid vouchers showing that the monies disbursed under this section were used for the exclusive use and benefit of the child.

(b) When an adult who is mentally incapable on account of sickness, old age, disease or other infirmity to manage his own affairs is named beneficiary in a policy or policies of insurance, and the insured dies during the incapacity of such adult, and the proceeds of each individual policy do not exceed five thousand dollars (\$5,000) such proceeds may be paid to and, if paid, shall be received by the public guardian or clerk of the superior court of the county wherein the beneficiary is domiciled. A certificate of mental incapacity, signed by a physician or reputable person who has had an opportunity to observe the mental condition of an adult beneficiary, filed with the clerk, is prima facie evidence of the mental incapacity of such adult, and authorizes the clerk to receive and administer funds under this section. The receipt of the public guardian or clerk shall be a full and complete discharge of the insurer issuing the policy or policies to the extent of the amount paid to such public guardian or clerk.

Any person having in his possession five thousand dollars (\$5,000) or less for any incapacitated adult for whom there is no guardian, may pay such monies into the office of the public guardian, if any, or the office of the clerk of superior court of the county of the recipient's domicile. The clerk's receipt shall constitute a valid release of the payor's obligation to the extent of the sum delivered to the clerk.

The clerk is authorized to receive, to administer and, upon a finding of fact that it is in the best interest of the incapacitated adult, to disburse funds directly to a creditor, a relative or to some discreet and solvent neighbor or friend for the purpose of handling the property and affairs of the incapacitated adult. The clerk shall require receipts or paid vouchers showing that the monies disbursed under this section were used for the exclusive use and benefit of the incapacitated adult.

(c) Any monies paid to the clerk of the superior court under subsection (a) of this section shall also include the name, last known address, social security number or taxpayer identification number of the beneficiary or payee, and the name and address of the nearest relative of the beneficiary or payee.

(d) The determination of incapacity authorized in subsection (b) of this section is separate and distinct from the procedure for the determination of incompetency provided in Chapter 35A. (1899, c. 82; Rev., s. 924; 1911, c. 29, s. 1; 1919, c. 91; C.S., s. 962; Ex. Sess., 1924, c. 1, s. 1; 1927, c. 76; 1929, c. 15; 1933, c. 363; 1937, c. 201; 1945, c. 160, ss. 1, 2; 1949, c. 188; 1953, c. 101; 1959, c. 794, ss. 1, 2; 1961, c. 377; 1971, c. 363, s. 8; c. 1231, s. 1; 1983, c. 65, s. 3; 1987, c. 29; c. 550, s. 14; 2018-40, s. 2.1.)

#### **§ 7A-112. Investment of funds in clerk's hands.**

(a) The clerk of the superior court may in his or her discretion invest moneys secured by virtue or color of the clerk's office or as receiver in any of the following securities:

- (1) Obligations of the United States or obligations fully guaranteed both as to principal and interest by the United States;
- (2) Obligations of the State of North Carolina;
- (3) Obligations of North Carolina cities or counties approved by the Local Government Commission; and
- (4) Shares of any building and loan association organized under the laws of this State, or of any federal savings and loan association having its principal office in this State, and certificates of deposit for time deposits or savings accounts in any bank or trust company authorized to do business in North Carolina, to the extent in each instance that such shares or deposits are insured by the State or federal government or any agency thereof or by any mutual deposit guaranty

association authorized by the Commissioner of Banks of North Carolina to do business in North Carolina pursuant to Article 7A of Chapter 54 of the General Statutes. If the clerk desires to deposit in a bank, saving and loan, or trust company funds entrusted to the clerk by virtue or color of the clerk's office, beyond the extent that such deposits are insured by the State or federal government or an agency thereof or by any mutual deposit guaranty association authorized by the Commissioner of Banks of North Carolina to do business in North Carolina pursuant to Article 7A of Chapter 54 of the General Statutes, the clerk shall require such depository to furnish a corporate surety bond or obligations of the United States or obligations fully guaranteed both as to principal and interest by the United States or obligations of the State of North Carolina, or of counties and municipalities of North Carolina whose obligations have been approved by the Local Government Commission.

(b) When money in a single account in excess of ten thousand dollars (\$10,000) is received by the clerk by virtue or color of the clerk's office and it can reasonably be expected that the money will remain on deposit with the clerk in excess of six months from date of receipt, the money exceeding ten thousand dollars (\$10,000) shall be invested by the clerk within 60 days of receipt in investments authorized by this section. The first ten thousand dollars (\$10,000) of these accounts and money in a single account totaling less than ten thousand dollars (\$10,000), received by the clerk by virtue or color of the clerk's office, shall be invested, or administered, or invested and administered, by the clerk in accordance with regulations promulgated by the Administrative Officer of the Courts. This subsection shall not apply to cash bonds or to money received by the clerk to be disbursed to governmental units.

(c) The State Auditor is hereby authorized and empowered to inspect the records of the clerk to insure compliance with this section, and shall report noncompliance with the provisions of this section to the Administrative Officer of the Courts.

(d) It shall be unlawful for the clerk of the superior court of any county receiving any money by virtue or color of the clerk's office to apply or invest any of those monies except as authorized under this section. Any clerk violating the provisions of this section shall be guilty of a Class 1 misdemeanor. (1931, c. 281, ss. 1-3, 5; 1937, c. 188; 1939, cc. 86, 110; 1943, c. 543; 1971, c. 363, s. 9; c. 956, s. 1; 1973, c. 1446, s. 4; 1975, c. 496, ss. 1, 2; 1989, c. 76, s. 13; 1993, c. 539, s. 4; 1994, Ex. Sess., c. 24, s. 14(c); 1993 (Reg. Sess., 1994), c. 656, s. 1; 2001-193, s. 16; 2015-216, s. 1.)

#### **§ 7A-112.1. Deposit of money held by clerks.**

The clerk of superior court shall deposit any funds that he receives by virtue of his office, except funds invested pursuant to G.S. 7A-112, in an interest-bearing checking account or accounts in a bank, savings and loan, or trust company licensed to do business in North Carolina, at the maximum feasible interest rate available taking into consideration prevailing interest rates and the checking account services provided to the clerk's office by the bank, savings and loan, or trust company. The funds deposited in such checking accounts shall be guaranteed to the same extent and in the same manner as funds invested pursuant to G.S. 7A-112. (1985, c. 475, s. 1.)

#### **§ 7A-113. Bookkeeping and accounting systems equipment.**

Notwithstanding the provisions of G.S. 147-64.6(10), proposed changes in the kinds of bookkeeping and accounting systems equipment employed by the clerk of superior court shall be

subject to review and approval by the Office of State Budget and Management. The Administrative Officer of the Courts shall, prior to implementing any change in the kinds of equipment, file with the Office of State Budget and Management a request for approval of the change, along with supporting information. If within 30 days of the filing of the request the Office of State Budget and Management has not disapproved the request, the request shall be deemed to be approved. (1983 (Reg. Sess., 1984), c. 1109, s. 9; 2000-140, s. 93.1(a); 2001-424, s. 12.2(b).)

**§ 7A-114. Where practical, provision of secure area for domestic violence victims waiting for hearing.**

Where practical, upon request of a domestic violence victim, the clerk of Superior Court of any county shall coordinate with the county Sheriff to make available to the victim a secure area, segregated from the general population of the courtroom, to await hearing of their court case. The Clerk shall notify the presiding judge on the date of the hearing that the victim is present in a segregated location. (2007-15, s. 2.)

§ 7A-115. Reserved for future codification purposes.

§ 7A-116. Reserved for future codification purposes.

§ 7A-117. Reserved for future codification purposes.

§ 7A-118. Reserved for future codification purposes.

§ 7A-119. Reserved for future codification purposes.

§ 7A-120. Reserved for future codification purposes.

§ 7A-121. Reserved for future codification purposes.

§ 7A-122. Reserved for future codification purposes.

§ 7A-123. Reserved for future codification purposes.

§ 7A-124. Reserved for future codification purposes.

§ 7A-125. Reserved for future codification purposes.

§ 7A-126. Reserved for future codification purposes.

§ 7A-127. Reserved for future codification purposes.

§ 7A-128. Reserved for future codification purposes.

§ 7A-129. Reserved for future codification purposes.