

§ 122C-268. Inpatient commitment; district court hearing.

(a) A hearing shall be held in district court within 10 days of the day the respondent is taken into law enforcement custody pursuant to G.S. 122C-261(e) or G.S. 122C-262. A continuance of not more than five days may be granted upon motion of:

- (1) The court;
- (2) Respondent's counsel; or
- (3) The State, sufficiently in advance to avoid movement of the respondent.

(b) The attorney, who is a member of the staff of the Attorney General assigned to one of the State's facilities for the mentally ill or the psychiatric service of the University of North Carolina Hospitals at Chapel Hill, shall represent the State's interest at commitment hearings, rehearings, and supplemental hearings held for respondents admitted pursuant to this Part or G.S. 15A-1321 at the facility to which he is assigned.

In addition, the Attorney General may, in his discretion, designate an attorney who is a member of his staff to represent the State's interest at any commitment hearing, rehearing, or supplemental hearing held in a place other than at one of the State's facilities for the mentally ill or the psychiatric service of the University of North Carolina Hospitals at Chapel Hill.

(c) If the respondent's custody order indicates that he was charged with a violent crime, including a crime involving an assault with a deadly weapon, and that he was found incapable of proceeding, the clerk shall give notice of the time and place of the hearing as provided in G.S. 122C-264(d). The district attorney in the county in which the respondent was found incapable of proceeding may represent the State's interest at the hearing.

(d) The respondent shall be represented by counsel of his choice; or if he is indigent within the meaning of G.S. 7A-450 or refuses to retain counsel if financially able to do so, he shall be represented by counsel appointed in accordance with rules adopted by the Office of Indigent Defense Services.

(e) With the consent of the court, counsel may in writing waive the presence of the respondent.

(f) Certified copies of reports and findings of physicians and psychologists and previous and current medical records are admissible in evidence, but the respondent's right to confront and cross-examine witnesses may not be denied.

(g) Hearings may be held in an appropriate room not used for treatment of clients at the facility in which the respondent is being treated if it is located within the judge's district court district as defined in G.S. 7A-133, by audio and video transmission between a treatment facility and a courtroom in which the judge and the respondent can see and hear each other, or 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. 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.

(h) The hearing shall be closed to the public unless the respondent requests otherwise.

(i) A copy of all documents admitted into evidence and a transcript of the proceedings shall be furnished to the respondent on request by the clerk upon the direction of a district court judge. If the respondent is indigent, the copies shall be provided at State expense.

(j) To support an inpatient commitment order, the court shall find by clear, cogent, and convincing evidence that the respondent is mentally ill and dangerous to self, as defined in G.S. 122C-3(11)a., or dangerous to others, as defined in G.S. 122C-3(11)b. The court shall record the facts that support its findings. (1985, c. 589, s. 2; c. 695, s. 8; 1985 (Reg. Sess., 1986), c. 1014, s. 195(b); 1987 (Reg. Sess., 1988), c. 1037, s. 114; 1989, c. 141, s. 11; 1989 G.S. 122C-268

(Reg. Sess., 1990), c. 823, s. 7; 1991, c. 37, s. 10; c. 257, s. 2; 1995 (Reg. Sess., 1996), c. 739, s. 11(a), (b); 2000-144, s. 39; 2014-107, s. 6.1; 2017-158, s. 16.)