

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**HOUSE BILL 1269
RATIFIED BILL**

AN ACT TO AUTHORIZE A COUNTY OR CITY TO USE EXCESS FACILITY FEES WITHOUT THE APPROVAL OF THE ADMINISTRATIVE OFFICE OF THE COURTS, TO ADD TO THE DIRECTOR'S POWERS AND DUTIES THE ESTABLISHMENT AND STAFFING OF AN INTERNAL AUDITING DIVISION FOR THE JUDICIAL DEPARTMENT, TO MODIFY CERTAIN STATUTES RELATED TO DRUG TREATMENT COURTS, AND TO CLARIFY THE EMERGENCY POWERS OF THE CHIEF JUSTICE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-304(a)(2) reads as rewritten:

"(2) For the use of the courtroom and related judicial facilities, the sum of twelve dollars (\$12.00) in the district court, including cases before a magistrate, and the sum of thirty dollars (\$30.00) in superior court, to be remitted to the county in which the judgment is rendered. In all cases where the judgment is rendered in facilities provided by a municipality, the facilities fee shall be paid to the municipality. Funds derived from the facilities fees shall be used exclusively by the county or municipality for providing, maintaining, and constructing adequate courtroom and related judicial facilities, including: adequate space and furniture for judges, district attorneys, public defenders and other personnel of the Office of Indigent Defense Services, magistrates, juries, and other court related personnel; office space, furniture and vaults for the clerk; jail and juvenile detention facilities; free parking for jurors; and a law library (including books) if one has heretofore been established or if the governing body hereafter decides to establish one. In the event the funds derived from the facilities fees exceed what is needed for these purposes, the county or municipality may, with the approval of the Administrative Officer of the Courts as to the amount, use any or all of the excess to retire outstanding indebtedness incurred in the construction of the facilities, or to reimburse the county or municipality for funds expended in constructing or renovating the facilities (without incurring any indebtedness) within a period of two years before or after the date a district court is established in such county, or to supplement the operations of the General Court of Justice in the county."

SECTION 2. G.S. 143-745(a) reads as rewritten:

"(a) For the purposes of this section:

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

SECTION 3. G.S. 7A-343 reads as rewritten:

"§ 7A-343. Duties of Director.

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

- (1) Collect and compile statistical data and other information on the judicial and financial operation of the courts and on the operation of other offices directly related to and serving the courts.



- (2) Determine the state of the dockets and evaluate the practices and procedures of the courts, and make recommendations concerning the number of judges, district attorneys, and magistrates required for the efficient administration of justice.
- (3) Prescribe uniform administrative and business methods, systems, forms and records to be used in the offices of the clerks of superior court.
- (3a) Maintain and staff as necessary an Internal Audit Division of the Judicial Department and the Administrative Office of the Courts that:
 - a. Evaluates and discloses potential weaknesses in the effectiveness of internal controls in the court system for the purpose of safeguarding public funds and assets and minimizing incidences of fraud, waste, and abuse.
 - b. Examines and analyzes the design and effectiveness of administrative and procedural operations.
 - c. Ensures overall compliance with federal and State laws, internal and external regulations, rules and procedures, and other applicable requirements.
 - d. Inspects and reviews the effectiveness and efficiency of processes and proceedings conducted by judicial officers.
 - e. Collaborates with other divisions to guide, direct, and support court officials in efforts to conform to both recommended and required compliance standards.
 - f. Executes routine audits of the Judicial Department's systems and controls, including, but not limited to:
 - 1. Accounting systems and controls.
 - 2. Administrative systems and controls.
 - 3. Electronic data processing systems and controls.
- (4) Prepare and submit budget estimates of State appropriations necessary for the maintenance and operation of the Judicial Department, and authorize expenditures from funds appropriated for these purposes.
- (5) Investigate, make recommendations concerning, and assist in the securing of adequate physical accommodations for the General Court of Justice.
- (6) Procure, distribute, exchange, transfer, and assign such equipment, books, forms and supplies as are to be acquired with State funds for the General Court of Justice.
- (7) Make recommendations for the improvement of the operations of the Judicial Department.
- (8) Prepare and submit an annual report on the work of the Judicial Department to the Chief Justice, and transmit a copy to each member of the General Assembly.
- (9) Assist the Chief Justice in performing his duties relating to the transfer of district court judges for temporary or specialized duty.
- (9a) Establish and operate systems and services that provide for electronic filing in the court system and further provide electronic transaction processing and access to court information systems pursuant to G.S. 7A-343.2.
- (9b) Enter into contracts with one or more private vendors to provide for the payment of fines, fees, and costs due to the court by credit, charge, or debit cards; such contracts may provide for the assessment of a convenience or transaction fee by the vendor to cover the costs of providing this service.
- (9c) Prescribe policies and procedures for the appointment and payment of foreign language interpreters in those cases specified in G.S. 7A-314(f). These policies and procedures shall be applied uniformly throughout the General Court of Justice. After consultation with the Joint Legislative Commission on Governmental Operations, the Director may also convert contractual foreign language interpreter positions to permanent State positions when the Director determines that it is more cost-effective to do so.
- (9d) Analyze the use of contractual positions in the Judicial Department and, after consultation with the Joint Legislative Commission on Governmental Operations, convert contractual positions to permanent State positions when

the Director determines it is in the best interests of the Judicial Department to do so.

- (10) Perform such additional duties and exercise such additional powers as may be prescribed by statute or assigned by the Chief Justice."

SECTION 4. G.S. 7A-108 reads as rewritten:

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

~~The Administrative Office of the Courts, subject to the approval of the State Auditor, 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."

SECTION 5. Article 29 of Chapter 7A of the General Statutes is amended by adding a new section to read:

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

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

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

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

SECTION 6. Article 29 of Chapter 7A of the General Statutes is amended by adding a new section to read:

"§ 7A-343.5. Definitions.

The following definitions apply in this Article:

- (1) "Internal auditing" means an independent, objective assurance and consulting activity designed to add value to and improve an organization's operations. Internal auditing helps an organization accomplish its objectives by using a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, controls, and governance processes. The types of audits the internal auditors may provide include, but are not limited to:
- a. Efficiency or economy audits to evaluate areas at risk and require improvements to promote operating effectiveness and efficiency, mitigate the risk of liability, and realize economies.
 - b. Financial audits to determine whether financial operations are properly functioning.
 - c. Compliance audits or reviews to assess compliance with laws and regulations.
 - d. Internal control audits to assess the controls related to financial transactions and reporting.
 - e. Case file and procedural audits to ensure efficiency, effectiveness, and compliance.

- f. Performance and management audits entail an objective and systematic examination of evidence to provide an independent assessment of the performance and management of a program against objective criteria as well as assessments that provide a prospective focus or that synthesize information on best practices.
 - g. Investigative or fraud audits to make an independent assessment of allegations of fraud, misuse, or process manipulation or alleged violations of federal, State, or local laws.
- (2) "Accounting system" means the total structure of records and procedures which discover, record, classify, and report information on the financial position and operating results of the Judicial Department, or a segment of the Judicial Department, or any of its funds, balanced account groups, and organizational components."

SECTION 7.(a) G.S. 7A-271 is amended by adding a new subsection to read:

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

SECTION 7.(b) If Senate Bill 851, 2009 Regular Session, becomes law, G.S. 7A-271(f) as enacted by that act is repealed.

SECTION 8.(a) G.S. 7A-272 is amended by adding a new subsection to read:

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

SECTION 8.(b) If Senate Bill 851, 2009 Regular Session, becomes law, G.S. 7A-272(e) as enacted by that act is repealed.

SECTION 9. G.S. 15A-1344(a) reads as rewritten:

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

SECTION 10.(a) G.S. 15A-1344 is amended by adding a new subsection to read:

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

SECTION 10.(b) If Senate Bill 851, 2009 Regular Session, becomes law, G.S. 15A-1344(a1) as enacted by that act is repealed.

SECTION 11. G.S. 7A-39 reads as rewritten:

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

(a) Cancellation of Court Sessions, Closing Court Offices. – In response to adverse weather or other emergency situations, including catastrophic conditions, any session of any

court of the General Court of Justice may be cancelled, postponed, or altered by judicial officials, and court offices may be closed by judicial branch hiring authorities, pursuant to uniform statewide guidelines prescribed by the Director of the Administrative Office of the Courts. As used in this section, "catastrophic conditions" means any set of circumstances that makes it impossible or extremely hazardous for judicial officials, employees, parties, witnesses, or other persons with business before the courts to reach a courthouse, or that creates a significant risk of physical harm to persons in a courthouse, or that would otherwise convince a reasonable person to avoid traveling to or being in a courthouse.

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

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

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

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

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

SECTION 12. Sections 7(a), 8(a), 9, and 10(a) of this act become effective December 1, 2009, and apply to probation judgments entered or deferred prosecution agreements executed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of August, 2009.

Marc Basnight
President Pro Tempore of the Senate

Joe Hackney
Speaker of the House of Representatives

Beverly E. Perdue
Governor

Approved _____m. this _____ day of _____, 2009