



HOUSE BILL 226: 2019 AOC Legislative Changes.

2019-2020 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	Date:	April 10, 2019
Introduced by:	Rep. R. Turner	Prepared by:	Samantha Yarborough*
Analysis of:	Third Edition		Staff Attorney

OVERVIEW: *House Bill 226 would make various changes and technical corrections to the laws governing the administration of justice as requested by the Administrative Office of the Courts (AOC).*

House Bill 226 would make the following fee changes:

- *Section 7 establishes a new fee (lesser of actual costs or \$2,500) assessed to any person who appeals an adverse determination to the Judicial Department's Dispute Resolution Commission and fails to appear at the hearing.*
- *Section 12 imposes a new fee of \$20 on certain estates and increases the fees from \$8 to \$20 for certain petitions.*
- *Section 14 imposes \$300 fee for in rem foreclosures.*

BILL ANALYSIS:

PART I. PROPOSED STATUTORY CHANGES AS RECOMMENDED BY THE ADMINISTRATIVE OFFICE OF THE COURTS

Section 1 modifies the circumstances when an emergency judge may be assigned to include the medical leave of absence of a sitting judge, a disaster declaration in a judicial district, and conflict of a sitting judge.

Section 2 eliminates the requirement for notice and opportunity to be heard by all government entities directly affected by a waiver of court costs. The section also eliminates an annual report requirement for the Administrative Office of the Courts (AOC) to report on the implementation of the notice requirement.

Section 3 reduces the number of reports to be submitted each year by AOC. Specifically, the section makes a previously semiannual report on the activities of each NC business court site an annual report. The section eliminates 4 reports including: (1) a report on the viability of worthless check collection programs, (2) a report on remanded cases from Superior Court where a defendant has withdrawn a notice of appeal, (3) a report to show the types of dispositions for the State by county, judge, prosecutor, and defense attorney, and (4) a report on waivers of criminal court costs.

Section 4 makes a conforming change to the requirements of a petition for spousal allowance to reflect the current maximum spousal yearly allowance.

Section 5 makes clarifying changes to the days when foreclosure sales are permitted.

Section 6 clarifies the procedures for docketing State Bar orders and final determinations.

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House Bill 226

Page 2

Section 7 establishes a new fee (lesser of actual costs or \$2,500) assessed to any person who appeals an adverse determination to the Judicial Department's Dispute Resolution Commission and fails to appear at the hearing. This section is effective July 1, 2019 and applies to hearings held on or after that date.

Section 8 makes a conforming change to clarify if a person fails to appear for fingerprinting to be performed by a designated agency other than a Sheriff, that agency will report the non-compliance to the court.

Section 9 clarifies procedures for clerks and district attorneys to follow in executing a sentence when an appeal is withdrawn or upon determination of an appeal by the appellate division. This section is effective December 1, 2019 and applies to any mandate of the appellate division received in the trial division on or after that date.

Section 10 makes a conforming change to the notification period for failure to pay required fines or costs.

Section 11 makes the petitioner (not the clerk) responsible for giving notice of the adoption proceeding to any agency that has undertaken but not yet completed a preplacement assessment and any agency ordered to make a report to the court.

PART II. PROPOSED STATUTORY CHANGES AS RECOMMENDED BY THE CONFERENCE OF SUPERIOR COURT CLERKS

Section 12 imposes a new fee of \$20 on certain estates and increases the fees from \$8 to \$20 for certain petitions. This section is effective January 1, 2020, and applies to petitions filed on or after that date.

Section 13 eliminates the requirement to submit an annual report on the implementation of character recognition software.

Section 14 imposes \$300 fee for in rem foreclosures. This section is effective October 1, 2019, and applies to execution sales conducted on or after that date.

Section 15 authorizes retired clerks to administer oaths.

Section 16 clarifies a clerk will upon their own motion or upon the application of an interested party disburse funds owed to a decedent.

Section 17 makes a clarifying change to the time periods in summary ejection actions.

PART III. TECHNICAL CORRECTIONS

Section 18 makes the statutes governing appellate clerks gender-neutral.

Section 19 makes a technical correction to clarify the ex-officio members of the Human Trafficking Commission are non-voting members.

Section 20 corrects a typographical error.

Section 21 corrects a statutory citation.

Section 22 corrects a statutory citation.

Section 23 makes a technical correction to the North Carolina Uniform Power of Attorney Act.

Section 24 makes a technical correction to the residency requirement for filing a petition for a name change.

Section 25 makes a clarifying change to the effective date for increase of the maximum testamentary distribution to a minor.

House Bill 226

Page 3

Section 27 sets a filing period for a request for a hearing on a contested claim of the Judicial Department of 60 days after the Judicial Department has mailed the debtor notice of the proposed setoff. This section clarifies that an order of a judicial official serves as prima facie evidence that an issue has been litigated. This section is effective January 1, 2020 and applies to notices on or after that date.

EFFECTIVE DATE: Except as otherwise provided, this act is effective when it becomes law.

Greg Roney and Tawanda Foster with the Legislative Analysis Division substantially contributed to this summary.