



HOUSE BILL 470: Administration of Justice Changes.

2019-2020 General Assembly

Committee: Senate Rules and Operations of the Senate	Date: October 9, 2019
Introduced by: Rep. Stevens	Prepared by: Jennifer H. Bedford
Analysis of: Third Edition	Staff Attorney

OVERVIEW: *House Bill 470 would make changes and technical corrections requested by the Administrative Office of the Courts (AOC) and the Conference of Superior Court Clerks; clarify the scope of Judicial Standards Commission investigations, and clarify the service to the State that may be considered good cause for court continuances.*

*Many of the provisions are from the 6th Edition of House Bill 226, 2019 AOC Legislative Changes.

BILL ANALYSIS:

PART I. CHANGES RECOMMENDED BY THE ADMINISTRATIVE OFFICE OF THE COURTS

Section 1 expands the circumstances in which an emergency judge may be assigned.

Section 2 establishes a new fee for appealing an adverse determination to the Judicial Department's Dispute Resolution Commission and failing to appear at the Commission hearing.

Section 3 expands perjury to certain unsworn written declarations.

Section 4 provides that there is no filing fee when an attorney designates a period of secure leave.

Section 5 reduces the reports required to be filed by the Administrative Office of the Court (AOC), and eliminates the impaired driving data report initiated in 2006 to track DWI dispositions.

Section 6 expands the agencies required to report to the court if a person fails to appear for fingerprinting.

Section 7 clarifies the procedure if an appeal is withdrawn by the defendant, or affirmed by the appellate division.

Section 8 increases the 20 day Division of Motor Vehicle notification period for failure to pay fines or costs, to 40 days.

Section 9 provides the procedures for docketing orders and final determinations by the State Bar.

Section 10(a) provides the authority for administrative procedures and jurisdiction for docketing orders and final determinations by the State Bar.

Section 10(b) permits a party aggrieved by an order or decision of the hearing to appeal to the superior court for a *de novo* hearing.

Section 10(c) makes a conforming change to the statutory responsibilities of the Director of Indigent Services.

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

Section 11 and 12 amend fees in the following ways:

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- Creates a fee of \$20 for filing certain estate administration applications.
- Increases the fee from \$8 to \$20 for a surviving spouse or child to petition for the year's allowance.
- Increases the fee for performing a marriage ceremony from \$20 to \$50.
- Increases the fee for taking a deposition from \$8 to \$20.
- Creates a \$300 fee payable to the Clerk of Court for *in rem* foreclosures if the property is sold under execution.

Section 13 eliminates the requirement for the Clerks and Registers of Deeds to submit an annual report on the implementation of character recognition software.

Section 14 adds retired clerks to the retired justices and judges that may administer oaths.

Section 15 allows that in addition to the clerk's own motion, an interested party may apply for the disbursement of funds owed to a decedent when no administrator has been appointed.

Section 16 clarifies that the five days related to a summary ejectment action are five business days.

Section 17 provides that a lienor may not include more than one vehicle in a special proceeding seeking authorization to sell the vehicle to satisfy a possessory lien.

Section 18 makes the petitioner, rather than the clerk, responsible for giving notice of a petition to adopt to any agency undertaking placement, and providing proof of service to the court.

PART III. TECHNICAL CORRECTIONS

Section 19 makes gendered language gender-neutral.

Section 20 clarifies that ex-officio members of the Human Trafficking Commission aren't voting members.

Section 21 amends Raise the Age implementation legislation to reflect that records of a juvenile's DNA profile must be expunged when the charges are remanded to juvenile court.

Sections 22 and 23 correct statutory citations.

Section 24 makes a conforming change to the estate value requirement of a petition for spousal allowance to reflect the current maximum spousal yearly allowance.

Section 25 allows the Clerk to determine expenses in addition to compensation, for an agent under the North Carolina Uniform Power of Attorney Act.

Section 26(a) repeals a provision that is duplicated in Section 26.(b).

Section 26(b) clarifies that foreclosure sales are permitted on a day when the clerk's office is open.

Section 26(c) eliminates an ambiguity that arose when State law was amended to reflect the federal Protecting Tenants at Foreclosure act.

Section 27 changes "lives" to "resides" for filing a petition for a name change.

Section 28 makes a clarifying change to the effective date for increase of the maximum testamentary distribution to a minor.

Section 29 makes conforming changes to the law regarding filing a false lien, in accordance with the legislative intent of S.L. 2019-117.

PART VI. GOOD CAUSE CONTINUANCES

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Section 30 clarifies that in addition to being a member of the General Assembly, any service to the State as a Legislative or Executive Appointee may be considered good cause for a judge to grant a continuance.

PART V. CLARIFY THE SCOPE OF JUDICIAL STANDARDS COMMISSION INVESTIGATIONS

Section 31 clarifies that Judicial Standards Commission investigations are limited to conduct and not matters of law.

EFFECTIVE DATES: Please see the bill for specific effective dates.

**Tawanda Foster contributed to this summary.*