



# HOUSE BILL 470: Administration of Justice Changes.

2019-2020 General Assembly

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<b>Committee:</b>		<b>Date:</b>	January 23, 2020
<b>Introduced by:</b>		<b>Prepared by:</b>	Jennifer H. Bedford
<b>Analysis of:</b>	S.L. 2019-243		Staff Attorney

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**OVERVIEW:** *S.L. 2019-243 does the following:*

- *Makes changes and technical corrections requested by the Administrative Office of the Courts (AOC).*
- *Directs the Supreme Court to make rules regarding e-filing and e-signing of court documents.*
- *Requires the Administrative Office of the Courts to report the rules created to the General Assembly by March 31, 2020.*
- *Amends fees and makes changes to processes in civil court, as recommended by the Conference of Superior Court Clerks.*
- *Makes technical corrections, conforming changes, and clarifications to various statutes as requested by State agencies.*
- *Amends the rules of civil and criminal procedure by requiring a judge to grant a continuance if requested to fulfill certain obligations to the State.*
- *Clarifies that the scope of Judicial Standards Commission investigations is limited to conduct and not matters of law.*

*This act has various effective dates. Please see the full summary for more detail, and the act for specific effective dates.*

## **ACT 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(a)** directs the Supreme Court to make rules regarding e-filing and e-signing including security procedures and submission of a form of ID.

**Section 3(b)** requires AOC to report the rules for e-filing to JPS Oversight by March 31, 2020.

**Section 3(c)** amends the mental state for the crime of perjury from "knowingly and intentionally". (Current law is "willfully and corruptly".)

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**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:

- 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 **ten vehicles** in a special proceeding seeking authorization to sell the vehicle to satisfy a possessory lien. (Current law has no limit.)

**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 19.5** clarifies that juvenile fingerprints may be maintained under certain circumstances by local crime labs that work with law enforcement. (Current law allows SBI and FBI.)

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**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.

**Section 21.5** corrects a duplication of victim notification in the Victims' Rights implementation, as requested by the Conference of DAs.

**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.

**Section 29.5** corrects the Servicemembers' Civil Relief Act, as requested by the National Guard.

## **PART IV. AMEND THE RULES OF CIVIL AND CRIMINAL PROCEDURE REGARDING GOOD-CAUSE CONTINUANCES**

**Part IV of this act** requires a judge to grant a continuance if requested to fulfill certain obligations to the State.

## **PART V. CLARIFY THE SCOPE OF JUDICIAL STANDARDS COMMISSION INVESTIGATIONS**

**Part V** clarifies that the scope of Judicial Standards Commission investigations is limited to conduct and not matters of law.

**EFFECTIVE DATES:** Please see the act for specific effective dates.