



HOUSE BILL 252: Bail Bond/Bondsmen Provisions/Other Changes.

2021-2022 General Assembly

Committee:		Date:	August 10, 2022
Introduced by:		Prepared by:	Susan Sitze
Analysis of:	S.L. 2022-73		Staff Attorney

OVERVIEW: *S.L. 2022-73 does all of the following:*

- *Revises the qualifications and examination requirements for bail bondsmen and runners.*
- *Modifies the grounds for setting aside a bail bond forfeiture and makes conforming changes to the disclosures required to be contained in a notice of forfeiture.*
- *Authorizes the State to exercise concurrent jurisdiction for offenses committed by juveniles on United States military bases located within the State.*
- *Authorizes all Department of Defense special agents to assist State and local law enforcement agencies.*
- *Provides the process for conducting an election held following a vacancy in the office of district court judge as required by S.L. 2021-180, depending on when in the election cycle the vacancy occurs.*
- *Makes technical corrections to other legislation.*

This act contains varying effective dates. Please see the full summary for details.

CURRENT LAW AND BILL ANALYSIS:

Section 1 requires an applicant for licensure as a bail bondsman or runner to be a legal resident or a documented citizen of the United States. This section became effective July 11, 2022, and applies to applications submitted on or after that date.

Section 2 permits an applicant who fails an examination to be licensed as a professional bondsman, surety bondsman, or runner to retake the examination within 90 days (previously one year), upon payment of an additional examination fee. An applicant who fails the reexamination must file a new application to be examined again and must wait at least one year after the failed reexamination to file the new application.

Section 3 makes the following modifications to the procedures related to bond forfeiture:

- Adds the following additional grounds for setting aside a forfeiture:
 - That notice of forfeiture was not given within 30 days after the failure to appear.
 - That the court refused to issue an order for arrest for the defendant's failure to appear.
- Modifies the notice required to disclose the additional grounds for setting aside a forfeiture and to make corrections to reflect all other existing grounds accurately.

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- Modifies the procedure for motions to set aside a forfeiture as follows:
 - Requires that a motion to set aside a forfeiture for failure to provide notice within 30 days of the failure to appear must be filed within 30 days of the notice of forfeiture actually being issued. All other motions to set aside can be filed within the current 150 day period.
 - Clarifies that two separate motions can be filed if one of the motions is for failure to provide notice within 30 days of the failure to appear.
- Clarifies that a motion for relief from final judgement of forfeiture cannot be granted solely for failure to provide notice within 30 days of the failure to appear.

This section becomes effective December 1, 2022, and applies to forfeitures entered on or after that date.

Section 4 recodifies G.S. 20-107 (Injuring or tampering with vehicle) as G.S. 14-160.4 and makes a conforming change to G.S. 20-49. This section becomes effective December 1, 2022, and applies to offenses committed on or after that date.

Section 5 addresses violations of the law by a juvenile on a United States military base within the State, which are currently under the exclusive jurisdiction of the United States, as follows:

- Authorizes the State to exercise concurrent jurisdiction over juveniles that commit a violation of federal law on a US military installation within the State if both of the following apply:
 - The US Attorney, or the US District Court, for the applicable district in North Carolina waives exclusive jurisdiction.
 - The violation of federal law is also a crime or infraction under State law.
- When concurrent jurisdiction has been established, grants jurisdiction to the juvenile court over any juvenile alleged to be delinquent as the result of an act committed on a military installation that is a crime or infraction under State law.
- Amends the definition of vulnerable juvenile to include a 6- to 10-year old juvenile who commits an act on a military installation that is a crime or infraction under State law and who is not a delinquent juvenile.

This section becomes effective December 1, 2022, and applies to acts committed on or after that date.

Section 6 amends G.S. 15A-406(a), which provides a list of full-time law enforcement officers employed by the federal government who are authorized to assist local and state authorities, upon their request, to include all special agents who work for the Department of Defense.

Section 7 provides the process for conducting an election held following a vacancy in the office of district court judge as required by S.L. 2021-180, depending on when in the election cycle the vacancy occurs.

Under current law, election of the Superior and District Court Divisions of the General Court of Justice are by district. Sections 9 and 10 of Article IV of the North Carolina Constitution grant the General Assembly authority to divide the State, from time to time, into a convenient number of judicial districts and divisions. The General Assembly sets the number of judges per district. Each judge must reside in and be a registered voter in the district for which he or she is elected. Article VI, Sec. 6 and Sec. 8 of the NC Constitution.

District court judges serve four-year terms. Section 10 of Article IV of the North Carolina Constitution provides that a vacancy for district court judge is to be filled for the unexpired term and authorizes the General Assembly to legislate the process for filling such vacancy. In S.L. 2021-180, effective November 18, 2021, the General Assembly provided that the Governor is to appoint an individual to fill a vacancy

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in the office of district court judge, with the appointee serving until January 1 following the next even-year general election held more than 60 days after the vacancy occurs, at which time an election is held to fill the remainder of the unexpired term or an election is to be held for a new term as appropriate.

With respect to the appointment, the bar of the judicial district where the vacancy occurs must nominate five persons who reside in the judicial district and who are duly authorized to practice law in the district for consideration by the Governor. This nomination occurs by vote of the bar members who reside within the district. Prior to filling the vacancy, the Governor must give due consideration to the nominees provided by the judicial district bar. G.S. 163-9 and G.S. 7A-142.

Section 7, as amended by S.L. 2022-72, provides the process for an election following a vacancy in the office of district court judge for any reason other than expiration of a term, for any vacancy occurring on or after July 11, 2022. For a vacancy occurring prior to the opening of the filing period for the office, the election is to be conducted in accordance with the general laws governing elections. For a vacancy occurring after the opening of the filing period for the office, the election is to be conducted in accordance with the general laws governing elections, except for the following:

- Each political party executive committee for the district in which the vacancy occurs can, within seven calendar days of the vacancy occurring, nominate an individual to be listed on the ballot.
- The State Board of Elections must set the time for the filing of written petitions by individuals seeking to appear on the ballot as an unaffiliated candidate, provided that the time for filing such petitions is open for at least three full business days and end within seven calendar days of the vacancy occurring.
- Candidates must file a statement of economic interest with the State Ethics Commission no later than 10 calendar days of the vacancy occurring to be listed on the ballot.
- The State Board of Elections can delay the date that absentee ballots must be made available for voting if county boards of elections are unable to meet the 60-day deadline for making absentee ballots available to voters.

This section became effective July 11, 2022, and applies to vacancies occurring on or after that date.

Section 8 makes a technical modification to S.L. 2022-32. Please see the summary for that act for further details.

Section 9 makes a technical correction to S.L. 2022-47. Please see the summary for that act for further details.

Section 10 adds a new section to S.L. 2022-74 to make a technical correction specifying the correct entity to receive funds appropriated by that act. This section became effective July 1, 2022.

EFFECTIVE DATE: Except as otherwise provided, this act became effective July 11, 2022.

Bill Patterson and Jessica Sammons, Staff Attorneys, and Jennifer Bedford, former Staff Attorney, substantially contributed to this summary.