



SENATE BILL 303: Court/Out-of-State Atty Changes.

2023-2024 General Assembly

Committee:	House Judiciary 2. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	May 15, 2024
Introduced by:	Sens. Britt, Sanderson, McInnis	Prepared by:	Susan Sitze
Analysis of:	PCS to Third Edition S303-CSSA-44		Michael Johnston Staff Attorneys

OVERVIEW: *The Proposed Committee Substitute (PCS) for Senate Bill 303 would make various changes and technical corrections to the laws governing various aspects of the courts and would amend the statutes governing the conduct of out-of-state attorneys in this State.*

CURRENT LAW AND BILL ANALYSIS:

Section 1 would remove the requirement that adoption petitions retained by the clerk be the original petition.

Section 2 would remove the restriction that prevents filing briefs and memoranda with the clerk of court unless ordered by the court.

Section 3 would establish venue in Wake County for mandatory complex business cases and cases assigned to a business court judge. Jury trials would continue to be held in the county of origin.

This section becomes effective when the North Carolina Business Court implements the electronic filing system approved by the Director of the Administrative Office of the Courts (AOC).

Sections 4 through 11 would make various clarifying and technical corrections.

Section 12

Currently, G.S. 15A-533(h), requires a judge to set the conditions of pretrial release for a person who is arrested for a criminal offense while on pretrial release for another pending offense. However, a magistrate is authorized to set the conditions of pretrial release if the new offense is a violation of Chapter 20, other than an offense involving impaired driving or an offense involving death or serious injury by motor vehicle.

Section 12 would authorize a clerk of superior court to set conditions of pretrial release under the same circumstances as the magistrate.

This section becomes effective October 1, 2024, and applies to defendants arrested on or after that date.

Section 13 would establish a safe babies court to hear certain juvenile abuse, neglect, and dependency matters. Participation in the court would be determined by criteria established by the Administrative Office of the Courts.

Section 14 would authorize the Supreme Court to hold sessions in any location across the State in 2024, 2025, and 2026.

Section 15 would make the following changes to statutes relating to the involuntary commitment process:

Jeffrey Hudson
Director



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- Would allow the respondent's attorney access to the court file, including the petition. However, the attorney would not be allowed to share the petition with the respondent without obtaining a court order.
- Would allow a judge presiding over a criminal case that initiated the involuntary commitment proceeding to have access to the court file without filing a motion.
- Would authorize the following persons to obtain a court file number for an involuntary commitment proceeding:
 - A commitment examiner and their administrative support staff for the purpose of filing subsequent documentation in the court file.
 - A person desiring to petition pursuant to G.S. 14-409.42 for relief from the mental commitment bar to purchasing a firearm, for the purpose of providing complete information in the petition.

Sections 16 and 17 would make technical corrections to involuntary commitment.

Section 18 would require the petitioner and commitment examiner in an involuntary commitment proceeding to provide the social security number and drivers license number of the respondent if known, and the petitioner in an incompetency proceeding to provide the drivers license number of the respondent if known, for reporting to the National Instant Criminal Background Check System (NICS).

Section 19 would amend the eligibility criteria for appointment to a magistrate to authorize appointment of a person who has at least eight years of experience as a law enforcement officer.

Sections 20 through 23 would make technical corrections related to the repeal of the clerk's bond requirement in S.L. 2023-103.

Section 24 would change the number of the license plate issued to the AOC Director to J-99.

Section 25

Under G.S. 84-4, persons who are not members of the North Carolina State Bar generally cannot practice law in North Carolina. G.S. 84-4 also provides that persons who are not members of the North Carolina State Bar may not advertise to provide legal services.

Section 25 would make it a Class 1 misdemeanor, pursuant to G.S. 84-8, for attorneys not licensed in North Carolina to advertise to provide legal services in North Carolina that the attorney is not authorized to provide under State or federal law. This section would also impose civil liability, pursuant to G.S. 84-10.1, on an unlicensed attorney who knowingly advertises legal services in North Carolina if a person is harmed by the advertisement. The advertisement prohibition would apply even if the attorney would be eligible for pro hac vice admission under G.S. 84-4.1.

This section would become effective December 1, 2024, and apply to offenses committed, and causes of action arising, on or after that date.

Section 26

Under G.S. 84-4.1, attorneys who reside in another state and are admitted to practice law in that state may request pro hac vice status in North Carolina courts and other administrative agencies, despite not being licensed to practice law in North Carolina, if they provide the information listed in G.S. 84-4.1. Courts retain discretion to deny pro hac vice applications, and State courts have emphasized that

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attorneys not licensed in North Carolina should not habitually use pro hac vice motions to appear in North Carolina courts.

Section 26 would do the following:

- Change the definition of foreign attorney to include all attorneys not licensed in North Carolina, regardless of where they reside.
- Incorporate the definition of law firm contained in G.S. 1-642(6). A law firm would be defined as lawyers who practice law together in a partnership, professional corporation, sole proprietorship, limited liability company, or association, as well as lawyers employed in a legal services organization, the legal department of a corporation or other organization, or the legal department of a government or governmental subdivision, agency, or instrumentality.
- Require pro hac vice applications to be on a form approved by the Supreme Court.
- Require foreign attorneys to provide more information when requesting pro hac vice admission, including:
 - The foreign attorney's date of admission to the foreign state bar.
 - Proof of good standing from each foreign state bar to which the foreign attorney has been admitted.
 - More information about the identity of the client the foreign attorney seeks to represent.
 - A statement that the foreign attorney will report any taxable income to the North Carolina Department of Revenue.
- Remove the requirement that the foreign attorney demonstrate that the state in which the attorney is admitted grants pro hac vice admission to members of the North Carolina State Bar.
- Limit pro hac vice admission for each foreign attorney to no more than three unrelated cases in any 12-month period and no more than three active unrelated cases at any one time. Additionally, once a foreign attorney reaches either of these limits, the attorney's prohibition from further pro hac vice admission would apply to all other foreign attorneys at the same law firm.
- Establish that pro hac vice admission would not allow a foreign attorney to advertise to provide legal services in North Carolina that the attorney is not authorized to provide.

This section would become effective October 1, 2024, and apply to representation in civil proceedings filed and criminal offenses charged on or after that date.

Section 27

Pursuant to G.S. 84-28(a), the Council of the North Carolina State Bar has disciplinary jurisdiction over all attorneys admitted to practice law in North Carolina. Under G.S. 84-28(b), the North Carolina State Bar may discipline members of the North Carolina State Bar and attorneys who are admitted to practice law pro hac vice pursuant to G.S. 84-4.1. An attorney is subject to discipline if the attorney is convicted of, pleads guilty to, or pleads no contest to, a criminal offense showing professional unfitness, if the attorney violates the Rules of Professional Conduct, or if the attorney fails to comply with an investigation by the North Carolina State Bar.

Section 27 would extend the North Carolina State Bar's disciplinary jurisdiction to include all attorneys who offer or provide legal services in North Carolina, even if the attorney is not a member of the North Carolina State Bar or admitted pursuant to G.S. 84-4.1.

This section would become effective October 1, 2024.

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