

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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HOUSE BILL 635\*  
Committee Substitute Favorable 4/24/13

Short Title: Involuntary Commitment Custody Orders.

(Public)

Sponsors:

Referred to:

April 10, 2013

A BILL TO BE ENTITLED

1 AN ACT TO (1) ALLOW A CLERK OR ASSISTANT OR DEPUTY CLERK OF SUPERIOR  
2 COURT OR A MAGISTRATE TO ISSUE BY FACSIMILE OR ELECTRONIC MAIL  
3 TRANSMISSION AN INVOLUNTARY INPATIENT COMMITMENT CUSTODY  
4 ORDER TO A PETITIONING PHYSICIAN, ELIGIBLE PSYCHOLOGIST, OR  
5 DESIGNEE AT A TWENTY-FOUR-HOUR FACILITY WHEN THE RESPONDENT IS  
6 ALREADY PHYSICALLY PRESENT AT THE TWENTY-FOUR-HOUR FACILITY, (2)  
7 ESTABLISH PROTOCOLS FOR THE TRAINING OF PHYSICIANS, ELIGIBLE  
8 PSYCHOLOGISTS, OR DESIGNEES, AND (3) DIRECT THE SECRETARY OF THE  
9 DEPARTMENT OF HEALTH AND HUMAN SERVICES TO REVIEW AND REVISE  
10 THE RULES DESIGNATING FACILITIES FOR THE CUSTODY AND TREATMENT  
11 OF INVOLUNTARY CLIENTS.  
12

13 The General Assembly of North Carolina enacts:

14 **SECTION 1.** G.S. 122C-261(d) reads as rewritten:

15 "(d) If the affiant is a physician or eligible psychologist, ~~the~~ all of the following apply:

16 (1) The affiant may execute the affidavit before any official authorized to  
17 administer oaths. This affiant is not required to appear before the clerk or  
18 magistrate for this purpose. This affiant shall file the affidavit with the clerk  
19 or magistrate by delivering to the clerk or magistrate the original affidavit or  
20 a copy in paper form that is printed through the facsimile transmission of the  
21 affidavit. If the affidavit is filed through facsimile transmission, the affiant  
22 shall mail the original affidavit no later than five days after the facsimile  
23 transmission of the affidavit to the clerk or magistrate to be filed by the clerk  
24 or magistrate with the facsimile copy of the affidavit.

25 (2) This affiant's examination shall comply with the requirements of the initial  
26 examination as provided in G.S. 122C-263(c).

27 (3) If the physician or eligible psychologist recommends outpatient commitment  
28 and the clerk or magistrate finds probable cause to believe that the  
29 respondent meets the criteria for outpatient commitment, the clerk or  
30 magistrate shall issue an order that a hearing before a district court judge be  
31 held to determine whether the respondent will be involuntarily committed.  
32 The physician or eligible psychologist shall provide the respondent with  
33 written notice of any scheduled appointment and the name, address, and  
34 telephone number of the proposed outpatient treatment physician or center.  
35 The physician or eligible psychologist shall contact the local management  
36 entity that serves the county where the respondent resides or the local



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1 management entity that coordinated services for the respondent to inform the  
2 local management entity that the respondent has been scheduled for an  
3 appointment with an outpatient treatment physician or center.

4 (4) If the physician or eligible psychologist recommends inpatient commitment  
5 and the clerk or magistrate finds probable cause to believe that the  
6 respondent meets the criteria for inpatient commitment, the clerk or  
7 magistrate shall issue an order for transportation to or custody at a 24-hour  
8 facility described in G.S. 122C-252, provided that if a 24-hour facility is not  
9 immediately available or appropriate to the respondent's medical condition,  
10 the respondent may be temporarily detained under appropriate supervision  
11 and, upon further examination, released in accordance with  
12 G.S. 122C-263(d)(2).

13 (5) If the affiant is a physician or eligible psychologist at a 24-hour facility  
14 described in G.S. 122C-252 who recommends inpatient commitment; the  
15 respondent is physically present on the premises of the same 24-hour  
16 facility; and the clerk or magistrate finds probable cause to believe that the  
17 respondent meets the criteria for inpatient commitment, then the clerk or  
18 magistrate may issue an order by facsimile transmission or may issue an  
19 electronically scanned order by electronic transmission to the physician or  
20 eligible psychologist at the 24-hour facility, or a designee, to take the  
21 respondent into custody at the 24-hour facility and proceed according to  
22 G.S. 122C-266. Upon receipt of the custody order, the physician or eligible  
23 psychologist at the 24-hour facility, or a designee, shall immediately (i)  
24 notify the respondent that the respondent is not under arrest and has not  
25 committed a crime but is being taken into custody to receive treatment and  
26 for the respondent's own safety and the safety of others, (ii) take the  
27 respondent into custody, and (iii) complete and sign the appropriate portion  
28 of the custody order and return the order to the clerk or magistrate either by  
29 facsimile transmission or by scanning it and sending it by electronic  
30 transmission. The physician or eligible psychologist, or a designee, shall  
31 mail the original custody order no later than five days after returning it by  
32 means of facsimile or electronic transmission to the clerk or magistrate. The  
33 clerk or magistrate shall file the original custody order with the copy of the  
34 custody order that was electronically returned.

35 a. Notwithstanding the provisions of this subdivision, a clerk or  
36 magistrate shall not issue a custody order to a physician or eligible  
37 psychologist at a 24-hour facility, or a designee, if the physician or  
38 eligible psychologist, or a designee, has not completed training in  
39 proper service and return of service. As used in this subdivision, the  
40 term "designee" includes the 24-hour facility's on-site police security  
41 personnel.

42 b. The Department of Health and Human Services shall cooperate and  
43 collaborate with the Administrative Office of the Courts and the  
44 UNC School of Government to develop protocols to implement this  
45 section, including a procedure for notifying clerks and magistrates of  
46 the names of the physicians, psychologists, and designees who have  
47 completed the training. The Secretary of the Department shall  
48 oversee implementation of these protocols.

49 (6) If the clerk or magistrate finds probable cause to believe that the respondent,  
50 in addition to being mentally ill, is also mentally retarded, the clerk or  
51 magistrate shall contact the area authority before issuing the order and the

1 area authority shall designate the facility to which the respondent is to be  
2 transported.

3 (7) If a physician or eligible psychologist executes an affidavit for inpatient  
4 commitment of a respondent, a second physician shall be required to  
5 perform the examination required by G.S. 122C-266."

6 **SECTION 2.** G.S. 122C-261(e) reads as rewritten:

7 "(e) ~~Upon~~ Except as provided in subdivision (5) of subsection (d) of this section, upon  
8 receipt of the custody order of the clerk or magistrate or a custody order issued by the court  
9 pursuant to G.S. 15A-1003, a law enforcement officer or other person designated in the order  
10 shall take the respondent into custody within 24 hours after the order is signed, and proceed  
11 according to G.S. 122C-263. The custody order is valid throughout the State."

12 **SECTION 3.** The Secretary of the Department of Health and Human Services shall  
13 review and update its list of facilities designated under G.S. 122C-252 as facilities for the  
14 custody and treatment of involuntary clients. The Secretary shall ensure that each designation  
15 identifies the specific units or areas of the 24-hour facility to which the designation applies and  
16 includes all units or areas necessary to facilitate the orderly and safe movement of a respondent  
17 from one unit or area to another.

18 **SECTION 4.** This act becomes effective October 1, 2013.