

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 859

Short Title: MH Commitment Law.

(Public)

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Sponsors: Senators Martin of Guilford, Conder, and Warren.

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Referred to: Children and Human Resources

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April 26, 1995

A BILL TO BE ENTITLED

AN ACT TO AMEND THE MENTAL HEALTH COMMITMENT LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122C-3 is amended by inserting a new subdivision to read:

"(30b) 'Qualified crisis services professional' means an individual trained and privileged by the area authority to evaluate the circumstances of a crisis and the characteristics of a person with mental illness who may be in need of commitment, and to issue custody orders."

Sec. 2. G.S. 122C-132 reads as rewritten:

**"§ 122C-132. Single portal of entry and exit designation for mental health and substance abuse facilities.**

(a) The public system should provide for a single portal of entry and exit policy for State and area mental health and substance abuse facilities. In order to accomplish this objective, an area authority desiring designation as a single portal area shall present to the Secretary a single portal of entry and exit plan approved by the area board. The decision as to whether to choose to submit a plan is in the discretion of the area authority after weighing the policy goal stated in this subsection and in G.S. 122C-101. The single portal of entry and exit policy for State and area mental health and substance abuse facilities does not preclude those individuals whose cost of care will not be paid in full or

1 in part with public funds from making use of the procedures to be followed in areas  
2 without a single portal plan.

3 (b) In order for a single portal area to be designated, the single portal of entry and  
4 exit plan shall be subject to approval by the Secretary. Once an area is designated by the  
5 Secretary as a single portal area, any changes to the plan shall be subject to approval by  
6 the Secretary. ~~However, an approved plan and designation as a single portal area shall remain in~~  
7 ~~force pending approval of any changes.~~ In order for a single portal plan approved before  
8 July 1, 1995, to remain in force, it shall be reviewed by the area authority, show evidence  
9 of renewal of the agreements provided for in subdivision (c)(5) below, and be reapproved  
10 by the Secretary after July 1, 1995.

11 (c) The plan shall include but not be limited to:

- 12 (1) A specific listing of facilities to be covered by the single portal of entry  
13 and exit plan;
- 14 (2) Procedures for review of individuals to be admitted to or discharged  
15 from State and area facilities;
- 16 (3) Procedures for shared responsibility when individuals are admitted  
17 directly to a State facility;
- 18 (3a) Procedures for treatment of mentally retarded individuals with mental  
19 illness who are committed to the area authority pursuant to Part 7A of  
20 Article 5 of this Chapter;
- 21 (4) Evidence of incorporation of these plans within the contracts between  
22 the area authority and the State facilities as required by G.S. 122C-  
23 143(c) and with other public and private agencies as required in G.S.  
24 122C-141;
- 25 (5) Evidence of cooperative arrangements with local law enforcement, local  
26 courts, and the local medical society; ~~and~~
- 27 (6) Procedures for review of citizen ~~complaints.~~ complaints; and
- 28 (7) Criteria for the designation of two or more persons to act as qualified  
29 crisis services professionals.

30 (d) Residents of a county in a designated single portal area whose cost of care will  
31 be paid in full or in part with public funds shall be admitted to or discharged from State  
32 and area facilities through the area authority as described in the area's single portal of  
33 entry and exit policy."

34 Sec. 3. G.S. 122C-201 reads as rewritten:

35 "**§ 122C-201. Declaration of policy.**

36 It is State policy to encourage voluntary admissions to facilities. It is further State  
37 policy that no individual shall be involuntarily committed to a 24-hour facility unless ~~he~~  
38 that individual is mentally ill or a substance abuser and dangerous to himself-self or others,  
39 ~~or unless he is mentally retarded and, because of an accompanying behavior disorder, is~~  
40 ~~dangerous to others.~~ others. All admissions and commitments shall be accomplished under  
41 conditions that protect the dignity and constitutional rights of the individual.

42 It is further State policy that, except as provided in G.S. 122C-212(b), individuals  
43 who have been voluntarily admitted shall be discharged upon application and that

1 involuntarily committed individuals shall be discharged as soon as a less restrictive mode  
2 of treatment is appropriate."

3 Sec. 4. (a) G.S. 122C-204 reads as rewritten:

4 "**§ 122C-204. ~~Civil liability~~ Liability for corruptly attempting admission or**  
5 **commitment.**

6 (a) Nothing in this Article relieves from liability in any suit instituted in the courts  
7 of this State any individual who unlawfully, maliciously, and corruptly attempts to admit  
8 or commit any individual to any facility under this Article.

9 (b) Knowingly providing false information in an attempt to admit or commit an  
10 individual to any facility under this Article or that results in a person being taken into  
11 custody pursuant to the provisions of this Article is a Class 2 misdemeanor."

12 (b) This section becomes effective December 1, 1995, and applies to offenses  
13 committed on or after that date.

14 Sec. 5. Article 5 of Chapter 122C of the General Statutes reads as rewritten:

15 "**§ 122C-209.1. Review of advance instruction for mental health treatment required.**

16 Whenever the area authority is contacted regarding an individual under consideration  
17 for the issuance of a custody order or whenever an individual is considered for voluntary  
18 admission or involuntary commitment to a facility, the physician, eligible psychologist,  
19 qualified crisis services professional, or another designated person shall determine  
20 whether the individual has presented an advance instruction for mental health treatment  
21 executed pursuant to Article 3, Part 2 of this Chapter. If there is an advance instruction  
22 on file, it shall be considered in accordance with the provisions of Article 3, Part 2 of this  
23 Chapter, prior to making a decision regarding custody, admission, or commitment."

24 Sec. 6. G.S. 122C-210.1 reads as rewritten:

25 "**§ 122C-210.1. Immunity from liability.**

26 No facility or any of its officials, staff, or employees, or any physician or other  
27 individual who is responsible for the custody, examination, management, supervision,  
28 treatment, or release of a client and who follows accepted professional judgment,  
29 practice, and standards is civilly liable, personally or otherwise, for actions arising from  
30 these responsibilities or for actions of the client. This immunity is in addition to any other  
31 legal immunity from liability to which these facilities or individuals may be entitled."

32 Sec. 7. G.S. 122C-251(c) reads as rewritten:

33 "(c) Transportation of a respondent may be by city- or county-owned vehicles or by  
34 private vehicle by contract with the city or county. To the extent feasible, ~~law-~~  
35 ~~enforcement~~ law enforcement officers transporting respondents shall dress in plain clothes  
36 and shall travel in unmarked vehicles. Further, law enforcement officers, to the extent  
37 possible, shall advise respondents when taking them into custody that they are not under  
38 arrest and have not committed a crime, but are being transported to receive treatment and  
39 for their own safety and that of others."

40 Sec. 8. G.S. 122C-252 reads as rewritten:

41 "**§ 122C-252. Twenty-four hour facilities for custody and treatment of involuntary**  
42 **clients.**

1 State facilities, 24-hour facilities licensed under this ~~Chapter~~ Chapter, or hospitals  
2 licensed under Chapter 131E may be designated by the Secretary as facilities for the  
3 custody and treatment of involuntary clients. Designation of these facilities shall be made  
4 in accordance with rules of the Secretary that assure the protection of the client and the  
5 general public. Facilities so designated may detain a client under the procedures of Parts  
6 ~~7-7~~, 7A, and 8 of this Article both before a district court hearing and after commitment of  
7 the respondent."

8 Sec. 9. The title of Part 7 of Article 5 of Chapter 122C of the General Statutes  
9 reads as rewritten:

10 **"PART 7. INVOLUNTARY COMMITMENT OF THE MENTALLY ILL**  
11 **~~AND THE MENTALLY RETARDED WITH BEHAVIOR DISORDERS;~~**  
12 **FACILITIES FOR THE MENTALLY ILL."**

13 Sec. 10. G.S. 122C-261 reads as rewritten:

14 "**§ 122C-261. Affidavit—In areas without a single portal plan for mental health**  
15 **facilities; affidavit and petition before clerk or magistrate; magistrate when**  
16 **immediate hospitalization is not necessary; custody order.**

17 (a) ~~Anyone~~ In an area without a valid single portal of entry and exit plan pursuant  
18 to G.S. 122C-132, anyone who has knowledge of an individual who ~~is~~ ~~(i)~~ is mentally ill  
19 and either dangerous to ~~himself~~, self, as defined in G.S. 122C-3(11)a., or others, as  
20 defined in G.S. 122C-3(11)b., or in need of treatment in order to prevent further disability  
21 or deterioration that would predictably result in ~~dangerousness~~, or ~~(ii)~~ mentally retarded and,  
22 ~~because of an accompanying behavior disorder, is dangerous to others, as defined in G.S. 122C-~~  
23 ~~3(11)b.,~~ dangerousness, may appear before a clerk or assistant or deputy clerk of superior  
24 court or a magistrate and execute an affidavit to this effect, and petition the clerk or  
25 magistrate for issuance of an order to take the respondent into custody for examination by  
26 a physician or eligible psychologist. The affidavit shall include the facts on which the  
27 affiant's opinion is based. If, based on the affidavit or based on information provided by  
28 the area authority, the clerk or magistrate has reason to believe that the respondent is  
29 mentally retarded, the clerk or magistrate shall proceed according to the provisions of  
30 Part 7A of this Article. Jurisdiction under this subsection is in the clerk or magistrate in  
31 the county where the respondent resides or is found. In an area with a single portal plan,  
32 if anyone contacts a clerk, assistant or deputy clerk, or a magistrate about an individual  
33 described in this subsection, the clerk, assistant or deputy clerk, or magistrate shall  
34 proceed in accordance with G.S. 122C-261.1, unless no public funds will be used to pay  
35 for the cost of the individual's care.

36 (b) If the clerk or magistrate finds reasonable grounds to believe that the facts  
37 alleged in the affidavit are true and that the respondent is probably ~~(i)~~ mentally ill and  
38 either dangerous to ~~himself~~, self, as defined in G.S. 122C-3(11)a., or others, as defined in  
39 G.S. 122C-3(11)b., or in need of treatment in order to prevent further disability or  
40 deterioration that would predictably result in ~~dangerousness~~, or ~~(ii)~~ mentally retarded and,  
41 ~~because of an accompanying behavior disorder, is dangerous to others, as defined in G.S. 122C-~~  
42 ~~3(11)b.,~~ he the clerk or magistrate shall issue an order to a law enforcement law  
43 enforcement officer or any other person authorized under G.S. 122C-251 to take the

1 respondent into custody for examination by a physician or eligible psychologist. The  
2 clerk or magistrate shall provide the petitioner and the respondent, if present, with  
3 specific information regarding the next steps that will occur for the respondent or, if no  
4 custody order was issued, information regarding whom to contact in order to protest this  
5 determination.

6 (c) If the clerk or magistrate issues a custody order, ~~he~~the clerk or magistrate shall  
7 also make inquiry in any reliable way as to whether the respondent is indigent within the  
8 meaning of G.S. 7A-450. A magistrate shall report the result of this inquiry to the clerk.

9 (d) If the affiant is a physician or eligible psychologist, ~~he~~the affiant may execute  
10 the affidavit before any official authorized to administer oaths. ~~He~~This affiant is not  
11 required to appear before the clerk or magistrate for this purpose. ~~His~~This affiant's  
12 examination shall comply with the requirements of the initial examination as provided in  
13 G.S. 122C-263(c). If the physician or eligible psychologist recommends outpatient  
14 commitment and the clerk or magistrate finds probable cause to believe that the  
15 respondent meets the criteria for outpatient commitment, ~~he~~the clerk or magistrate shall  
16 issue an order that a hearing before a district court judge be held to determine whether the  
17 respondent will be involuntarily committed. If a physician or eligible psychologist  
18 recommends outpatient commitment, ~~he~~the clerk or magistrate shall provide the  
19 respondent with written notice of any scheduled appointment and the name, address, and  
20 telephone number of the proposed outpatient treatment physician or center. If the  
21 physician or eligible psychologist recommends inpatient commitment and the clerk or  
22 magistrate finds probable cause to believe that the respondent meets the criteria for  
23 inpatient commitment, ~~he~~the clerk or magistrate shall issue an order for transportation to  
24 or custody at a 24-hour facility described in G.S. 122C-252. If a physician or eligible  
25 psychologist executes an affidavit for inpatient commitment of a respondent, a second  
26 physician shall be required to perform the examination required by G.S. 122C-266.

27 (e) Upon receipt of the custody order of the clerk or magistrate or a custody order  
28 issued by the court pursuant to G.S. 15A-1003, a ~~law enforcement~~law enforcement officer  
29 or other person designated in the order shall take the respondent into custody within 24  
30 hours after the order is signed, and proceed according to G.S. 122C-263.

31 ~~(f) When a petition is filed for an individual who is a resident of a single portal~~  
32 ~~area, the procedures for examination by a physician or eligible psychologist as set forth in~~  
33 ~~G.S. 122C-263 shall be carried out in accordance with the area plan. When an individual~~  
34 ~~from a single portal area is presented for commitment at a 24-hour area or State facility~~  
35 ~~directly, he may be accepted for admission in accordance with G.S. 122C-266. The~~  
36 ~~facility shall notify the area authority within 24 hours of the admission and further~~  
37 ~~planning of treatment for the client is the joint responsibility of the area authority and the~~  
38 ~~facility as prescribed in the area plan."~~

39 Sec. 11. Part 7 of Article V of Chapter 122C of the General Statutes is  
40 amended by adding a new section to read:

41 **"§ 122C-261.1. In areas with a single portal plan for mental health facilities;**  
42 **custody and examination.**

1       (a) In an area with a valid single portal of entry and exit plan pursuant to G.S.  
2 122C-132, anyone, including a law enforcement officer, who has knowledge of an  
3 individual who is subject to commitment according to the criteria of G.S. 122C-261(a)  
4 and who requires immediate treatment to prevent harm to self or others, may transport the  
5 individual directly to a facility in accordance with the single portal plan, for examination  
6 by a physician or eligible psychologist, in accordance with G.S. 122C-263(c).

7       (b) Anyone who has knowledge of an individual who is subject to commitment  
8 according to the criteria of G.S. 122C-261(a), but is unable to transport the individual,  
9 may describe the behavior of the individual to a qualified crisis services professional.

10       (1) If the person requesting commitment contacts the qualified crisis  
11 services professional by telephone and the qualified crisis services  
12 professional is satisfied that the information provided is an adequate  
13 basis on which to issue a custody order, that professional shall fill out a  
14 statement containing the facts on which the request for commitment is  
15 based and containing an acknowledgement that the person signing is  
16 aware of the penalty pursuant to G.S. 122C-204(b) for giving false  
17 information. The qualified crisis services professional shall provide to  
18 the clerk or assistant or deputy clerk or magistrate a copy of the  
19 unsigned statement and the signed recommendation of the qualified  
20 crises services professional that the clerk or magistrate issue a custody  
21 order. The clerk or magistrate shall give the unsigned statement to the  
22 person to whom the clerk or magistrate gives the custody order and that  
23 person shall contact the person requesting commitment and obtain the  
24 signature of the person requesting commitment before taking the  
25 respondent into custody, unless doing so would place any person in  
26 danger, in which case that person may take action to ensure the safety of  
27 those present prior to obtaining the signature. If the person requesting  
28 commitment refuses to sign the statement, the person to whom the clerk  
29 or magistrate has given the custody order shall determine whether to  
30 take the respondent into custody pursuant to the criteria of subsection  
31 (a) of this section.

32       (2) If the person requesting commitment contacts the qualified crisis  
33 services professional by telephone, but the qualified crisis services  
34 professional is not satisfied that the information provided is an adequate  
35 basis on which to issue a custody order, the qualified crisis services  
36 professional may require the person to appear in person and make a  
37 written statement before determining whether to recommend that the  
38 clerk or magistrate issue a custody order.

39       (3) If the person requesting commitment appears in person before the  
40 qualified crisis services professional, the person shall sign a statement  
41 containing the facts on which the request for commitment is based and  
42 containing an acknowledgment that the person is aware of the penalty  
43 pursuant to G.S. 122C-204(b) for giving false information.

- 1           (4) If the qualified crisis services professional is able to form a reasonable  
2 belief, based on the information, that the individual is subject to  
3 commitment according to the criteria of G.S. 122C-261(a), the  
4 professional shall provide to the clerk or magistrate a copy of the  
5 statement, whether signed or unsigned, and a written and signed  
6 recommendation that a custody order should be issued. The statement  
7 and recommendation may be transmitted to the clerk or magistrate by  
8 facsimile. If the statement is signed, the original shall be forwarded to  
9 the clerk within 48 hours.
- 10          (5) The qualified crisis services professional shall provide the person  
11 requesting commitment with specific information regarding the next  
12 steps that will occur for the respondent or, if no custody order is issued,  
13 information regarding whom to contact in order to protest this  
14 determination. At first contact with the individual subject to  
15 commitment, the qualified crisis services professional shall provide the  
16 person subject to commitment with specific information regarding the  
17 next steps that may occur.
- 18          (6) Anyone who has knowledge of an individual who is mentally ill and  
19 either dangerous to self, as defined in G.S. 122C-3(11)a., or others, as  
20 defined in G.S. 122C-3(11)b., or in need of treatment in order to prevent  
21 further disability or deterioration that would predictably result in  
22 dangerousness, may appear before a clerk or assistant or deputy clerk of  
23 superior court or a magistrate and execute an affidavit to this effect, and  
24 petition the clerk or magistrate for issuance of an order to take the  
25 respondent into custody for examination by a physician or eligible  
26 psychologist. The affidavit shall include the facts on which the affiant's  
27 opinion is based. If, based on the affidavit or based on information  
28 provided by the area authority, the clerk or magistrate has reason to  
29 believe that the respondent is mentally retarded, the clerk or magistrate  
30 shall proceed according to the provisions of Part 7A. Jurisdiction under  
31 this subsection is in the clerk or magistrate in the county where the  
32 respondent resides or is found. Before making a determination to issue  
33 a custody order, the clerk or magistrate shall contact the area authority  
34 to determine if there are more appropriate resources available through  
35 the area authority to assist the person requesting commitment or the  
36 person who may be in need of treatment.
- 37          (7) If the clerk or magistrate finds reasonable grounds to believe that the  
38 facts alleged in the affidavit or statement are true and that the  
39 respondent is probably mentally ill and either dangerous to self, as  
40 defined in G.S. 122C-3(11)a., or others, as defined in G.S. 122C-  
41 3(11)b., or in need of treatment in order to prevent further disability or  
42 deterioration that would predictably result in dangerousness, and that  
43 more appropriate resources are not available through the area authority

1           to assist the person requesting commitment or the person who may be in  
2           need of treatment, the clerk or magistrate shall issue an order to a law  
3           enforcement officer or any other person authorized under G.S. 122C-  
4           251 to take the respondent into custody for examination by a physician  
5           or eligible psychologist, in accordance with the single portal plan and  
6           with G.S. 122C-263(c).

7           (c) Upon examination by the physician or eligible psychologist, if the individual  
8           meets the criteria required in G.S. 112C-261(a), the physician or eligible psychologist  
9           shall so certify in writing. The certificate shall also include the facts on which the  
10           physician's or eligible psychologist's opinion is based and shall state whether the  
11           individual meets the criteria of G.S. 122C-263(d)(1) for outpatient commitment or meets  
12           the criteria of G.S. 122C-263(d)(2) for inpatient commitment. If the physician or eligible  
13           psychologist has reason to believe that the individual is mentally retarded, the physician  
14           or psychologist shall continue according to the provisions of Part 7A.

15           (d) A representative of the area authority shall inquire in any reliable way as to  
16           whether the respondent is indigent within the meaning of G.S. 7A-450. The physician or  
17           eligible psychologist shall send the result of this inquiry and a copy of the certificate to  
18           the clerk of superior court by the most reliable and expeditious means. If it cannot be  
19           reasonably anticipated that the clerk will receive the copy within 24 hours, excluding  
20           Saturday, Sunday, and holidays, of the time that it was signed, the physician or eligible  
21           psychologist shall also communicate the findings to the clerk by telephone.

22           (e) The physician's or eligible psychologist's certificate, if it indicates that the  
23           individual meets the criteria for inpatient commitment, shall serve as the custody order,  
24           and the law enforcement officer or other designated person shall provide transportation in  
25           accordance with G.S. 122C-251 to a 24-hour facility designated in the single portal plan  
26           or to a private facility that has agreed to admit the respondent, if no public funds will be  
27           used to pay for the respondent's care. If the physician or eligible psychologist determines  
28           that the individual meets the criteria for outpatient commitment, the physician or eligible  
29           psychologist shall provide the respondent with written notice of any scheduled  
30           appointment and the name, address, and telephone number of the proposed outpatient  
31           treatment facility.

32           (f) Respondents received at a 24-hour facility under the provisions of this section  
33           shall be examined by a second physician in accordance with G.S. 122C-266. After  
34           receipt of notification that the district court has determined reasonable grounds for the  
35           commitment, further proceedings shall be carried out in the same way as for all other  
36           respondents under this Part."

37           Sec. 12. G.S. 122C-262 reads as rewritten:

38           "**§ 122C-262. Special-emergency** **In areas without a single portal plan for mental**  
39           **health facilities; procedure for individuals needing immediate**  
40           **hospitalization.**

41           (a) ~~Anyone,~~ In an area without a valid single portal of entry and exit plan pursuant  
42           to G.S. 122C-132, anyone, including a law enforcement officer, who has knowledge of an  
43           individual who is subject to inpatient commitment according to the criteria of G.S. 122C-



1 261(a) and who requires immediate hospitalization to prevent harm to ~~himself~~ self or  
2 others, may transport the individual directly to an area facility or other place, including a  
3 State facility for the mentally ill, for examination by a physician or eligible psychologist,  
4 in accordance with G.S. 122C-263(a).

5 (b) ~~If~~ Upon examination by the physician or eligible psychologist, if the individual  
6 meets the criteria required in G.S. 122C-261(a), the physician or eligible psychologist  
7 shall so certify in writing before any official authorized to administer oaths. The  
8 certificate shall also state the reason that the individual requires immediate  
9 hospitalization. If the physician or eligible psychologist has reason to believe that the  
10 individual is mentally retarded, the physician or eligible psychologist shall continue  
11 according to the provisions of Part 7A of this Article.

12 (c) If the physician or eligible psychologist executes the oath, appearance before a  
13 magistrate shall be waived. The physician or eligible psychologist shall send a copy of  
14 the certificate to the clerk of superior court by the most reliable and expeditious means.  
15 If it cannot be reasonably anticipated that the clerk will receive the copy within 24 ~~hours~~  
16 ~~(excluding hours, excluding Saturday, Sunday and holidays)~~ Sunday, and holidays, of the  
17 time that it was signed, the physician or eligible psychologist shall also communicate ~~his~~  
18 the findings to the clerk by telephone.

19 (d) Anyone, including a law enforcement officer if necessary, may transport the  
20 individual to a 24-hour facility described in G.S. 122C-252 for examination and treatment  
21 pending a district court hearing. If there is no area 24-hour facility and if the respondent  
22 is indigent and unable to pay for ~~his~~ care at a private 24-hour facility, the law  
23 enforcement officer or other designated person providing transportation shall take the  
24 respondent to a State facility for the mentally ill designated by the Commission in  
25 accordance with G.S. 143B-147(a)(1)a and immediately notify the clerk of superior court  
26 of ~~his actions~~ this action. The physician's or eligible psychologist's certificate shall serve  
27 as the custody order and the law enforcement officer or other designated person shall  
28 provide transportation in accordance with the provisions of G.S. 122C-251.

29 (e) Respondents received at a 24-hour facility under the provisions of this section  
30 shall be examined by a second physician in accordance with G.S. 122C-266. After  
31 receipt of notification that the ~~District Court~~ district court has determined reasonable  
32 grounds for the commitment, further proceedings shall be carried out in the same way as  
33 for all other respondents under this Part."

34 Sec. 13. (a) G.S. 122C-263(a) reads as rewritten:

35 "(a) ~~Without~~ In an area without a valid single portal of entry and exit plan pursuant  
36 to G.S. 122C-132, without unnecessary delay after assuming custody, the ~~law enforcement~~  
37 law enforcement officer or the individual designated by the clerk or magistrate under  
38 G.S. 122C-251(g) to provide transportation shall take the respondent to an area facility  
39 for examination by a physician or eligible psychologist; if a physician or eligible  
40 psychologist is not available in the area facility, ~~he~~ the person designated to provide  
41 transportation shall take the respondent to any physician or eligible psychologist locally  
42 available. If a physician or eligible psychologist is not immediately available, the  
43 respondent may be temporarily detained in an area facility, if one is available; if an area

1 facility is not available, ~~he~~ the respondent may be detained under appropriate supervision  
2 in ~~his~~ the respondent's home, in a private hospital or a clinic, in a general hospital, or in a  
3 State facility for the mentally ill, but not in a jail or other penal facility."

4 (b) G.S. 122C-263(c) reads as rewritten:

5 "(c) The physician or eligible psychologist described in subsection (a) of this  
6 section shall examine the respondent as soon as possible, and in any event within 24  
7 hours, after the respondent is presented for examination. The examination shall include  
8 but is not limited to an assessment of the respondent's:

- 9 (1) Current and previous mental illness ~~or mental retardation~~ including, if  
10 available, previous treatment history;
- 11 (2) Dangerousness to ~~himself~~, self, as defined in G.S. 122C-3(11)a. or  
12 others, as defined in G.S. 122C-3(11)b.;
- 13 (3) Ability to survive safely without inpatient commitment, including the  
14 availability of supervision from family, friends or others; and
- 15 (4) Capacity to make an informed decision concerning treatment."

16 (c) G.S. 122C-263(d) reads as rewritten:

17 "(d) After the conclusion of the examination the physician or eligible psychologist  
18 shall make the following determinations:

19 (1) If the physician or eligible psychologist finds that:

- 20 a. The respondent is mentally ill;
- 21 b. The respondent is capable of surviving safely in the community  
22 with available supervision from family, friends, or others;
- 23 c. Based on the respondent's psychiatric history, the respondent is  
24 in need of treatment in order to prevent further disability or  
25 deterioration ~~which~~ that would predictably result in  
26 dangerousness as defined by G.S. 122C-3(11); and
- 27 d. ~~His~~ The respondent's current mental status or the nature of ~~his~~ the  
28 respondent's illness limits or negates ~~his~~ the respondent's ability  
29 to make an informed decision to seek voluntarily or comply with  
30 recommended treatment;

31 The physician or eligible psychologist shall so show on ~~his~~ the  
32 examination report and shall recommend outpatient commitment. In  
33 addition the examining physician or eligible psychologist shall show the  
34 name, address, and telephone number of the proposed outpatient  
35 treatment physician or center. The person designated in the order to  
36 provide transportation shall return the respondent to ~~his~~ the respondent's  
37 regular residence or to the home of a consenting individual, and ~~he~~ the  
38 respondent shall be released from custody.

39 (2) If the physician or eligible psychologist finds that the respondent is  
40 mentally ill and is dangerous to ~~himself~~, self, as defined in G.S. 122C-  
41 3(11)a., or others, as defined in G.S. 122C-3(11)b., ~~or is mentally~~  
42 ~~retarded, and because of an accompanying behavior disorder, is dangerous to~~  
43 ~~others, as defined in G.S. 122C-3(11)b.,~~ he the physician or eligible

1           psychologist shall recommend inpatient commitment, and ~~he~~ shall so  
2           show on ~~his~~ the examination report. The ~~law enforcement~~ law  
3           enforcement officer or other designated person shall take the respondent  
4           to a 24-hour facility described in G.S. 122C-252 pending a district court  
5           hearing. If there is no area 24-hour facility and if the respondent is  
6           indigent and unable to pay for ~~his~~ care at a private 24-hour facility, the  
7           ~~law enforcement~~ law enforcement officer or other designated person  
8           shall take the respondent to a State facility for the mentally ill  
9           designated by the Commission in accordance with G.S. ~~143B-157(a)(1)a~~  
10          143B-147(a)(1)a. for custody, observation, and treatment and  
11          immediately notify the clerk of superior court of ~~his actions.~~ this action.

12          (3) If the physician or eligible psychologist finds that neither condition  
13          described in subdivisions (1) or (2) of this subsection exists, the  
14          respondent shall be released and the proceedings terminated.

15          (4) If the physician or eligible psychologist has reason to believe that the  
16          respondent is mentally retarded, the physician or eligible psychologist  
17          shall proceed according to the provisions of Part 7A, unless the  
18          respondent is being evaluated for commitment pursuant to the  
19          provisions of G.S. 15A-1003 or G.S. 15A-1321."

20          (d) G.S. 122C-263 is amended by adding a new subsection to read:

21          "(g) The physician or eligible psychologist, at the completion of the examination,  
22          shall provide the individual who initiated the involuntary action with specific information  
23          regarding the next steps that will occur for the respondent and information regarding  
24          whom to contact in order to protest the outcome of the examination."

25          Sec. 14. G.S. 122C-264(b1) reads as rewritten:

26          "(b1) Upon receipt of a physician's or eligible psychologist's certificate that a  
27          respondent meets the criteria of G.S. 122C-261(a) and that immediate hospitalization is  
28          needed, needed pursuant to G.S. 122C-262, or that the respondent meets the criteria of  
29          G.S. 122C-261(a) pursuant to G.S. 122C-261.1, the clerk of superior court of the county  
30          where the 24-hour treatment facility is located shall submit the certificate to the Chief  
31          District Court Judge. The court shall review the certificate within 24 hours (excluding  
32          hours, excluding Saturday, Sunday and holidays) Sunday, and holidays, for a finding of  
33          reasonable grounds in accordance with 122C-261(b). The clerk shall notify the 24-hour  
34          treatment facility of the court's findings by telephone and shall proceed as set forth in  
35          subsections (b), ~~(e)~~ (c), and (f) of this section."

36          Sec. 15. (a) G.S. 122C-266(a) reads as rewritten:

37          "(a) Except as provided in subsections (b) and (e), within 24 hours of arrival at a  
38          24-hour facility described in G.S. 122C-252, the respondent shall be examined by a  
39          physician. This physician shall not be the same physician who completed the certificate  
40          or examination under the provisions of G.S. 122C-261.1 or G.S. 122C-263(a). The  
41          examination shall include but is not limited to the assessment specified in G.S. 122C-  
42          263(c).

- 1 (1) If the physician finds that the respondent is mentally ill and is dangerous  
2 to ~~himself, self~~, as defined by G.S. 122C-3(11)a., or others, as defined by  
3 G.S. 122C-3(11)b., ~~or is mentally retarded and, because of an accompanying~~  
4 ~~behavior disorder, is dangerous to others, as defined in G.S. 122C-3(11)b.~~, ~~he~~  
5 the physician shall hold the respondent at the facility pending the district  
6 court hearing.
- 7 (2) If the physician finds that the respondent meets the criteria for  
8 outpatient commitment under G.S. 122C-263(d)(1), ~~he~~ the physician  
9 shall show ~~his~~ these findings on the physician's examination report,  
10 release the respondent pending the district court hearing, and notify the  
11 clerk of superior court of the county where the petition was initiated of  
12 ~~his~~ these findings. In addition, the examining physician shall show on  
13 the examination report the name, address, and telephone number of the  
14 proposed outpatient treatment physician or center. ~~He~~ The physician  
15 shall give the respondent a written notice listing the name, address, and  
16 telephone number of the proposed outpatient treatment physician or  
17 center and directing the respondent to appear at that address at a  
18 specified date and time. The examining physician before the  
19 appointment shall notify by telephone and shall send a copy of the  
20 notice and ~~his~~ the examination report to the proposed outpatient  
21 treatment physician or center.
- 22 (3) If the physician finds that the respondent does not meet the criteria for  
23 commitment under either G.S. 122C-263(d)(1) or G.S. 122C-263(d)(2),  
24 ~~he~~ the physician shall release the respondent and the proceedings shall  
25 be terminated.
- 26 (4) If the respondent is released under subdivisions (2) or (3) of this  
27 subsection, the ~~law enforcement~~ law enforcement officer or other person  
28 designated to provide transportation shall return the respondent to the  
29 originating county.
- 30 (5) If the physician or eligible psychologist has reason to believe that the  
31 respondent is mentally retarded, the physician or eligible psychologist  
32 shall proceed according to the provisions of Part 7A of this Article  
33 unless the respondent was sent to the 24-hour facility pursuant to the  
34 provisions of G.S. 15A-1003 or G.S. 15A-1321."
- 35 (b) G.S 122C-266(e) reads as rewritten:
- 36 "(e) If the 24-hour facility described in G.S. 122C-252 or G.S. 122C-262 is the  
37 facility in which the first examination by a physician or eligible psychologist occurred  
38 and is the same facility in which the respondent is held, the second examination ~~must~~  
39 shall occur not later than the following regular working day."
- 40 Sec. 16. (a) G.S. 122C-268(a) reads as rewritten:
- 41 "(a) A hearing shall be held in district court within 10 days of the day the  
42 respondent is taken into law enforcement custody pursuant to G.S. ~~122C-261(e).~~ 122C-

1 261(e), 122C-261.1, or 122C-262. A continuance of not more than five days may be  
2 granted upon motion of:

- 3 (1) The court;
- 4 (2) Respondent's counsel; or
- 5 (3) The State, sufficiently in advance to avoid movement of the  
6 respondent."

7 (b) G.S. 122C-268(j) reads as rewritten:

8 "(j) To support an inpatient commitment order, the court shall find by clear,  
9 cogent, and convincing evidence that the respondent is mentally ill and dangerous to  
10 ~~himself, self,~~ as defined in G.S. 122C-3(11)a., or others, as defined in ~~G.S. 122C-3(11)b., or~~  
11 ~~is mentally retarded and, because of an accompanying behavior disorder, is dangerous to others,~~  
12 ~~as defined in G.S. 122C-3(11)b.~~ The court shall record the facts that support its findings."

13 Sec. 17. (a) G.S. 122C-270(a) reads as rewritten:

14 "(a) The senior regular resident superior court judge of a superior court district or  
15 set of districts as defined in G.S. 7A-41.1 in which a State facility for the mentally ill is  
16 located shall appoint an attorney licensed to practice in North Carolina as special counsel  
17 for indigent respondents who are mentally ~~ill or mentally retarded with an accompanying~~  
18 ~~behavior disorder.~~ ill. This special counsel shall serve at the pleasure of the appointing  
19 judge, may not privately practice law, and shall receive annual compensation within the  
20 salary range for assistant district attorneys as fixed by the Administrative Officer of the  
21 Courts. The special counsel shall represent all indigent respondents at all hearings,  
22 rehearings, and supplemental hearings held at the State facility and on appeals held under  
23 this Article. Special counsel shall determine indigency in accordance with G.S. 7A-  
24 450(a). Indigency is subject to redetermination by the presiding judge."

25 (b) G.S. 122C-270(f) reads as rewritten:

26 "(f) The Attorney General may employ four attorneys, one to be assigned by him  
27 full-time to each of the State facilities for the mentally ill, to represent the State's interest  
28 at commitment hearings, rehearings and supplemental hearings held under this Article at  
29 the State facilities for respondents admitted to those facilities pursuant to Part 3, 4, 7, 7A,  
30 or 8 of this Article or G.S. 15A-1321 and to provide liaison and consultation services  
31 concerning these matters. These attorneys are subject to Chapter 126 of the General  
32 Statutes and shall also perform additional duties as may be assigned by the Attorney  
33 General. The attorney employed by the Attorney General in accordance with G.S. 114-  
34 4.2B shall represent the State's interest at commitment hearings, rehearings and  
35 supplemental hearings held for respondents admitted to the University of North Carolina  
36 Hospitals at Chapel Hill pursuant to Part 3, 4, 7, 7A, or 8 of this Article or G.S. 15A-  
37 1321."

38 Sec. 18. G.S. 122C-271(b) reads as rewritten:

39 "(b) If the respondent has been held in a 24-hour facility pending the district court  
40 hearing pursuant to G.S. 122C-268, the court may make one of the following  
41 dispositions:

- 42 (1) If the court finds by clear, cogent, and convincing evidence that the  
43 respondent is mentally ill; that ~~he~~ the respondent is capable of surviving

1 safely in the community with available supervision from family, friends,  
2 or others; that based on respondent's psychiatric history, the respondent  
3 is in need of treatment in order to prevent further disability or  
4 deterioration that would predictably result in dangerousness as defined  
5 by G.S. 122C-3(11); and that the respondent's current mental status or  
6 the nature of ~~his~~the respondent's illness limits or negates ~~his~~the  
7 respondent's ability to make an informed decision voluntarily to seek or  
8 comply with recommended treatment, it may order outpatient  
9 commitment for a period not in excess of 90 days. If the commitment  
10 proceedings were initiated as the result of the respondent's being  
11 charged with a violent crime, including a crime involving an assault  
12 with a deadly weapon, and the respondent was found incapable of  
13 proceeding, the commitment order shall so show.

- 14 (2) If the court finds by clear, cogent, and convincing evidence that the  
15 respondent is mentally ill and is dangerous to ~~himself, self,~~ as defined in  
16 G.S. 122C-3(11)a., or others, as defined in G.S. 122C-3(11)b., ~~or is~~  
17 ~~mentally retarded and, because of an accompanying behavior disorder, is~~  
18 ~~dangerous to others, as defined in G.S. 122C-3(11)b.,~~ it may order inpatient  
19 commitment at a 24-hour facility described in G.S. 122C-252 for a  
20 period not in excess of 90 days. However, ~~an individual who is mentally~~  
21 ~~retarded and, because of an accompanying behavior disorder, is dangerous to~~  
22 ~~others, as defined in G.S. 122C-3(11)b.,~~ no respondent may not be  
23 committed to a State, area or private facility for the mentally retarded.  
24 An individual who is mentally ill and dangerous to ~~himself, self,~~ as  
25 defined in G.S. 122C-3(11)a., or others, as defined in G.S. 122C-  
26 3(11)b., may also be committed to a combination of inpatient and  
27 outpatient commitment at both a 24-hour facility and an outpatient  
28 treatment physician or center for a period not in excess of 90 days. If the  
29 commitment proceedings were initiated as the result of the respondent's  
30 being charged with a violent crime, including a crime involving an  
31 assault with a deadly weapon, and the respondent was found incapable  
32 of proceeding, the commitment order shall so show. If the court orders  
33 inpatient commitment for a respondent who is under an outpatient  
34 commitment order, the outpatient commitment is terminated; and the  
35 clerk of the superior court of the county where the district court hearing  
36 is held shall send a notice of the inpatient commitment to the clerk of  
37 superior court where the outpatient commitment was being supervised.
- 38 (3) If the court does not find that the respondent meets either of the  
39 commitment criteria set out in subdivisions (1) and (2) of this  
40 subsection, the respondent shall be discharged, and the facility in which  
41 ~~he~~the respondent was last a client so notified.
- 42 (4) Before ordering any outpatient commitment, the court shall make  
43 findings of fact as to the availability of outpatient treatment. The court

1 shall also show on the order the outpatient treatment physician or center  
2 who is to be responsible for the management and supervision of the  
3 respondent's outpatient commitment. When an outpatient commitment  
4 order is issued for a respondent held in a 24-hour facility, the court may  
5 order the respondent held at the facility for no more than 72 hours in  
6 order for the facility to notify the designated outpatient treatment  
7 physician or center of the treatment needs of the respondent. The clerk  
8 of court in the county where the facility is located shall send a copy of  
9 the outpatient commitment order to the designated outpatient treatment  
10 physician or center. If the outpatient commitment will be supervised in a  
11 county other than the county where the commitment originated, the  
12 court shall order venue for further court proceedings to be transferred to  
13 the county where the outpatient commitment will be supervised. Upon  
14 an order changing venue, the clerk of superior court in the county where  
15 the commitment originated shall transfer the file to the clerk of superior  
16 court in the county where the outpatient commitment is to be  
17 supervised."

18 Sec. 19. Article 5 of Chapter 122C of the General Statutes is amended by  
19 inserting a new Part to read:

20 "Part 7A. Involuntary Commitment of the Mentally Retarded With Mental Illness.

21 "§ 122C-280.1. In areas without a single portal plan for mental health facilities;  
22 affidavit and petition before clerk or magistrate when immediate  
23 hospitalization is not necessary; custody order.

24 (a) In an area without a valid single portal of entry and exit plan pursuant to G.S.  
25 122C-132, anyone who has knowledge of an individual who is mentally retarded and  
26 because of mental illness, either dangerous to self, as defined in G.S. 122C-3(11)a., or  
27 others as defined in G.S. 122C-3(11)b., or in need of treatment in order to prevent further  
28 disability or deterioration that would predictably result in dangerousness, may appear  
29 before a clerk or assistant or deputy clerk of superior court or a magistrate and execute an  
30 affidavit to this effect, and petition the clerk or magistrate for issuance of an order to take  
31 the respondent into custody for examination by a physician or eligible psychologist. The  
32 affidavit shall include the facts on which the affiant's opinion is based. Jurisdiction under  
33 this subsection is in the clerk or magistrate in the county where the respondent resides or  
34 is found. In an area with a single portal plan, if anyone contacts a clerk, assistant or  
35 deputy clerk, or a magistrate about an individual described in this subsection, the clerk,  
36 assistant or deputy clerk, or magistrate shall proceed in accordance with G.S. 122C-  
37 280.2, unless no public funds will be used to pay for the person's care.

38 (b) If the clerk or magistrate finds reasonable grounds to believe that the facts  
39 alleged in the affidavit are true and that the respondent is probably mentally retarded and  
40 because of mental illness is either dangerous to self, as defined in G.S. 122C-3(11)a., or  
41 others, as defined in G.S. 122C-3(11)b., or in need of treatment in order to prevent further  
42 disability or deterioration that would predictably result in dangerousness, the clerk or  
43 magistrate shall issue an order to a law enforcement officer or any other person

1 authorized under G.S. 122C-251 to take the respondent into custody for examination by a  
2 physician or eligible psychologist. The clerk or magistrate shall provide the petitioner,  
3 and the respondent, if present, with specific information regarding the next steps that will  
4 occur for the respondent or, if no custody order was issued, information regarding whom  
5 to contact in order to protest this determination.

6 (c) If the clerk or magistrate issues a custody order, the clerk or magistrate shall  
7 also make inquiry in any reliable way as to whether the respondent is indigent within the  
8 meaning of G.S. 7A-450. A magistrate shall report the result of this inquiry to the clerk.

9 (d) If the affiant is a physician or eligible psychologist, the affiant may execute the  
10 affidavit before any official authorized to administer oaths and is not required to appear  
11 before the clerk or magistrate for this purpose. The physician's or psychologist's  
12 examination shall comply with the requirements of the initial examination as provided in  
13 G.S. 122C-280.4(c). If the physician or eligible psychologist recommends outpatient  
14 commitment and the clerk or magistrate finds probable cause to believe that the  
15 respondent meets the criteria for outpatient commitment, the clerk or magistrate shall  
16 issue an order that a hearing before a district court judge be held to determine whether the  
17 respondent will be involuntarily committed. If a physician or eligible psychologist  
18 recommends outpatient commitment, the clerk or magistrate shall provide the respondent  
19 with written notice of any scheduled appointment and the name, address, and telephone  
20 number of the proposed outpatient treatment physician or center. If the physician or  
21 eligible psychologist recommends inpatient commitment and the clerk or magistrate finds  
22 probable cause to believe that the respondent meets the criteria for inpatient commitment,  
23 the clerk or magistrate shall issue an order for transportation to or custody at a 24-hour  
24 facility described in G.S. 122C-252. If a physician or eligible psychologist executes an  
25 affidavit for inpatient commitment of a respondent, a second physician shall be required  
26 to perform the examination required by G.S. 122C-280.7.

27 (e) Upon receipt of the custody order of the clerk or magistrate, a law enforcement  
28 officer or other person designated in the order shall take the respondent into custody  
29 within 24 hours after the order is signed and proceed according to G.S. 122C-280.4.

30 **§ 122C-280.2. In areas with single portal plans for mental health facilities; custody**  
31 **and examination.**

32 (a) In an area with a valid single portal of entry and exit plan pursuant to G.S.  
33 122C-132, anyone, including a law enforcement officer, who has knowledge of an  
34 individual who is subject to commitment according to the criteria of G.S. 122C-280.1(a)  
35 and who requires immediate treatment to prevent harm to self or others, may transport the  
36 individual directly to a facility in accordance with the single portal plan, for examination  
37 by a physician or eligible psychologist, in accordance with G.S. 122C-280.4.

38 (b) Anyone who has knowledge of an individual who is subject to commitment  
39 according to the criteria of G.S. 122C-261(a), but is unable to transport the individual,  
40 may describe the behavior of the individual to a qualified crisis services professional.

41 (1) If the person requesting commitment contacts the qualified crisis  
42 services professional by telephone and the qualified crisis services  
43 professional is satisfied that the information provided is an adequate



1 basis on which to issue a custody order, the professional shall fill out a  
2 statement containing the facts on which the request for commitment is  
3 based and containing an acknowledgment that the person signing is  
4 aware of the penalty pursuant to G.S. 122C-204(b) for giving false  
5 information. The qualified crisis services professional shall provide to  
6 the clerk or assistant or deputy clerk of superior court or magistrate a  
7 copy of the unsigned statement and the signed recommendation of the  
8 qualified crises services professional that the clerk or magistrate issue a  
9 custody order. The clerk or magistrate shall give the unsigned statement  
10 to the person to whom the clerk or magistrate gives the custody order  
11 and that person shall contact the person requesting commitment and  
12 obtain the signature of the person requesting commitment before taking  
13 the respondent into custody, unless doing so would place any person in  
14 danger, in which case the person to whom the custody order has been  
15 given may take action to ensure the safety of those present prior to  
16 obtaining the signature. If the person requesting commitment refuses to  
17 sign the statement, the person to whom the custody order has been given  
18 shall determine whether to take the respondent into custody pursuant to  
19 the criteria of subsection (a) of this section.

20 (2) If the person requesting commitment contacts the qualified crisis  
21 services professional by telephone but the qualified services  
22 professional is not satisfied that the information provided is an adequate  
23 basis on which to issue a custody order, the qualified crisis services  
24 professional may require the person to appear in person and make a  
25 written statement before determining whether to recommend that the  
26 clerk or magistrate issue a custody order.

27 (3) If the person requesting commitment appears in person before the  
28 qualified crisis services professional, the person shall sign a statement  
29 containing the facts on which the request for commitment is based and  
30 containing an acknowledgment that the person is aware of the penalty  
31 pursuant to G.S. 122C-204(b) for giving false information.

32 (4) If the qualified crisis services professional is able to form a reasonable  
33 belief, based on the information, that the individual is subject to  
34 commitment according to the criteria of G.S. 122C-261(a), the qualified  
35 crisis services professional shall provide to the clerk or magistrate a  
36 copy of the statement, whether signed or unsigned, and a written and  
37 signed recommendation that a custody order should be issued. The  
38 statement and recommendation may be transmitted to the clerk or  
39 magistrate by facsimile. If the statement is signed, the original shall be  
40 forwarded to the clerk within 48 hours.

41 (5) The qualified crisis services professional shall provide the person  
42 requesting commitment with specific information regarding the next  
43 steps that will occur for the respondent or, if no custody order is issued,

1 information regarding whom to contact in order to protest this  
2 determination. At first contact with the individual subject to  
3 commitment, the qualified crisis services professional shall provide the  
4 person subject to commitment with specific information regarding the  
5 next steps that may occur.

6 (6) Anyone who has knowledge of an individual who is mentally retarded  
7 and because of a mental illness is either dangerous to self, as defined in  
8 G.S. 122C-3(11)a., or others, as defined in G.S. 122C-3(11)b., or in  
9 need of treatment in order to prevent further disability or deterioration  
10 that would predictably result in dangerousness, may appear before a  
11 clerk or assistant or deputy clerk of superior court or a magistrate and  
12 execute an affidavit to this effect, and petition the clerk or magistrate for  
13 issuance of an order to take the respondent into custody for examination  
14 by a physician or eligible psychologist. The affidavit shall include the  
15 facts on which the affiant's opinion is based. If, based on the affidavit  
16 or based on information provided by the area authority, the clerk or  
17 magistrate has reason to believe that the respondent is not mentally  
18 retarded, the clerk or magistrate shall proceed according to the  
19 provisions of Part 7. Jurisdiction under this subsection is in the clerk or  
20 magistrate in the county where the respondent resides or is found.  
21 Before making a determination to issue a custody order, the clerk or  
22 magistrate shall contact the area authority to determine if there are more  
23 appropriate resources available through the area authority to assist the  
24 person requesting commitment or the person who may be in need of  
25 treatment.

26 (7) If the clerk or magistrate finds reasonable grounds to believe that the  
27 facts alleged in the affidavit or statement are true and that the  
28 respondent is probably mentally retarded and because of a mental illness  
29 is either dangerous to self, as defined in G.S. 122C-3(11)a., or others, as  
30 defined in G.S. 122C-3(11)b., or in need of treatment in order to prevent  
31 further disability or deterioration that would predictably result in  
32 dangerousness, and that more appropriate resources are not available  
33 through the area authority to assist the person requesting commitment or  
34 the person who may be in need of treatment, the clerk or magistrate  
35 shall issue an order to a law enforcement officer of any other person  
36 authorized under G.S. 122C-251 to take the respondent into custody for  
37 examination by a physician or eligible psychologist, in accordance with  
38 the single portal plan and with G.S. 122C-263(c).

39 (c) Upon examination, if the individual subject to commitment meets the criteria  
40 required in G.S. 122C-280.1(a), the physician or eligible psychologist shall so certify in  
41 writing. The certificate shall also include the facts on which the physician's or eligible  
42 psychologist's opinion is based and shall state whether the individual meets the criteria of  
43 G.S. 122C-280.4(d)(1) for outpatient commitment or meets the criteria of G.S. 122C-

1 280.4(d)(2) for inpatient commitment. If the physician or eligible psychologist has  
2 reason to believe that the individual is not mentally retarded, the physician or  
3 psychologist shall continue according to the provisions of Part 7 of this Article.

4 (d) A representative of the area authority shall inquire in any reliable way as to  
5 whether the respondent is indigent within the meaning of G.S. 7A-450. The physician or  
6 eligible psychologist shall send the result of this inquiry and a copy of the certificate to  
7 the clerk of superior court by the most reliable and expeditious means. If it cannot be  
8 reasonably anticipated that the clerk will receive the copy within 24 hours, excluding  
9 Saturday, Sunday, and holidays, of the time that it was signed, the physician or eligible  
10 psychologist shall also communicate these findings to the clerk by telephone.

11 (e) The physician's or eligible psychologist's certificate, if it indicates that the  
12 individual meets the criteria for inpatient commitment, shall serve as the custody order  
13 and the law enforcement officer or other designated person shall provide transportation to  
14 the area 24-hour facility in accordance with the single portal plan and with the provisions  
15 of G.S. 122C-251. If the physician or eligible psychologist determines that the individual  
16 meets the criteria for outpatient commitment, the physician or psychologist shall provide  
17 the respondent with written notice of any scheduled appointment and the name, address,  
18 and telephone number of the proposed outpatient treatment center or physician.

19 (f) Respondents received at a 24-hour facility under the provisions of this section  
20 shall be examined by a second physician in accordance with G.S. 122C-280.7. After  
21 receipt of notification that the district court has determined reasonable grounds for the  
22 commitment, further proceedings shall be carried out in the same way as for all other  
23 respondents under this Part.

24 **"§ 122C-280.3. In areas without a single portal plan for mental facilities; procedure**  
25 **for individuals needing immediate hospitalization.**

26 (a) In an area without a valid single portal of entry and exit plan pursuant to G.S.  
27 122C-132, anyone, including a law enforcement officer, who has knowledge of an  
28 individual who is subject to inpatient commitment according to the criteria of G.S. 122C-  
29 280.1(a) and who requires immediate hospitalization to prevent harm to self or others,  
30 may transport the individual directly to an area facility or other place, including a State  
31 facility for the mentally ill, for examination by a physician or eligible psychologist, in  
32 accordance with G.S. 122C-280.4(c).

33 (b) Upon examination by the physician or eligible psychologist, if the individual  
34 meets the criteria required in G.S. 122C-280.1(a), the physician or eligible psychologist  
35 shall so certify in writing before any official authorized to administer oaths. The  
36 certificate shall also state the reason that the individual requires immediate  
37 hospitalization. If the physician or eligible psychologist has reason to believe that the  
38 individual is not mentally retarded, the physician or psychologist shall continue according  
39 to the provisions of Part 7 of this Article.

40 (c) If the physician or eligible psychologist executes the oath, appearance before a  
41 magistrate shall be waived. The physician or eligible psychologist shall send a copy of  
42 the certificate to the clerk of superior court by the most reliable and expeditious means.  
43 If it cannot be reasonably anticipated that the clerk will receive the copy within 24 hours,

1 excluding Saturday, Sunday, and holidays, of the time that it was signed, the physician or  
2 eligible psychologist shall also communicate these findings to the clerk by telephone.

3 (d) Anyone, including a law enforcement officer if necessary, may transport the  
4 individual to a 24-hour facility described in G.S. 122C-252 for examination and treatment  
5 pending a district court hearing. If there is no area 24-hour facility and if the respondent  
6 is indigent and unable to pay for care at a private 24-hour facility, the law enforcement  
7 officer or other designated person providing transportation shall take the respondent to a  
8 State facility for the mentally ill designated by the Commission in accordance with G.S.  
9 143B-147(a)(1)a. and immediately notify the clerk of superior court of this action. The  
10 physician's or eligible psychologist's certificate shall serve as the custody order, and the  
11 law enforcement officer or other designated person shall provide transportation in  
12 accordance with the provisions of G.S. 122C-251.

13 (e) Respondents received at a 24-hour facility under the provisions of this section  
14 shall be examined by a second physician in accordance with G.S. 122C-280.7. After  
15 receipt of notification that the district court has determined reasonable grounds for the  
16 commitment, further proceedings shall be carried out in the same way as for all other  
17 respondents under this Part.

18 **"§ 122C-280.4. Duties of law enforcement officer; first examination by physician or**  
19 **eligible psychologist.**

20 (a) In an area without a valid single portal of entry and exit plan pursuant to G.S.  
21 122C-132, without unnecessary delay after assuming custody, the law enforcement  
22 officer or the individual designated by the clerk or magistrate under G.S. 122C-251(g) to  
23 provide transportation shall take the respondent to an area facility for examination by a  
24 physician or eligible psychologist; if a physician or eligible psychologist is not available  
25 in the area facility, the person providing transportation shall take the respondent to any  
26 physician or eligible psychologist locally available. If a physician or eligible  
27 psychologist is not immediately available, the respondent may be temporarily detained in  
28 an area facility, if one is available; if an area facility is not available, the respondent may  
29 be detained under appropriate supervision in the respondent's home, in a private hospital  
30 or a clinic, in a general hospital, or in a State facility for the mentally ill, but not in a jail  
31 or other penal facility.

32 (b) The examination set forth in subsection (a) of this section is not required if the  
33 affiant who obtained the custody order is a physician or eligible psychologist who  
34 recommends inpatient commitment. In this case, the law enforcement officer shall take  
35 the respondent directly to a 24-hour facility described in G.S. 122C-252.

36 (c) The physician or eligible psychologist described in subsection (a) of this  
37 section shall examine the respondent as soon as possible, and in any event within 24  
38 hours, after the respondent is presented for examination. The examination shall include,  
39 but is not limited to, an assessment of the respondent's:

40 (1) Current and previous mental illness and mental retardation including, if  
41 available, previous treatment history;

42 (2) Dangerousness to self, as defined in G.S. 122C-3(11)a., or others, as  
43 defined in G.S. 122C-3(11)b.;

- 1           (3) Ability to survive safely without inpatient commitment, including the  
2           availability of supervision from family, friends, or others; and  
3           (4) Capacity to make an informed decision concerning treatment.  
4       (d) After the conclusion of the examination, the physician or eligible psychologist  
5 shall make the following determinations:  
6           (1) If the physician or eligible psychologist finds that:  
7           a. The respondent is mentally retarded and mentally ill;  
8           b. The respondent is capable of surviving safely in the community  
9           with available supervision from family, friends, or others;  
10          c. Based on the respondent's psychiatric history, the respondent is  
11          in need of treatment in order to prevent further disability or  
12          deterioration which would predictably result in dangerousness as  
13          defined by G.S. 122C-3(11); and  
14          d. The respondent's current mental status or the nature of the  
15          respondent's illness limits or negates the respondent's ability to  
16          make an informed decision to seek voluntarily or comply with  
17          recommended treatment.  
18          The physician or eligible psychologist shall so show on the examination  
19          report and shall recommend outpatient commitment. In addition, the  
20          examining physician or eligible psychologist shall show the name,  
21          address, and telephone number of the proposed outpatient treatment  
22          facility. The person designated in the order to provide transportation  
23          shall return the respondent to the respondent's regular residence or to the  
24          home of a consenting individual and shall release the respondent from  
25          custody.  
26          (2) If the physician or eligible psychologist finds that the respondent is  
27          mentally retarded and because of a mental illness is dangerous to self as  
28          defined in G.S. 122C-3(11)a., or others, as defined in G.S. 122C-  
29          3(11)b., the physician or psychologist shall recommend inpatient  
30          commitment and shall so show on the examination report. The law  
31          enforcement officer or other designated person shall take the respondent  
32          to a 24-hour facility described in G.S. 122C-252 pending a district court  
33          hearing. If there is no area 24-hour facility and if the respondent is  
34          indigent and unable to pay for care at a private 24-hour facility, the law  
35          enforcement officer or other designated person shall take the respondent  
36          to a State facility for the mentally ill designated by the Commission in  
37          accordance with G.S. 143B-147(a)(1)a. for custody, observation, and  
38          treatment and immediately notify the clerk of superior court of this  
39          action.  
40          (3) If the physician or eligible psychologist finds that neither condition  
41          described in subdivision (1) or (2) of this subsection exists, the  
42          respondent shall be released and the proceedings terminated.

1           (4) If the physician or eligible psychologist has reason to believe that the  
2           respondent is not mentally retarded, the physician or psychologist shall  
3           proceed according to the provisions of Part 7 of this Article.

4           (e) The findings of the physician or eligible psychologist and the facts on which  
5           they are based shall be in writing in all cases. The physician or eligible psychologist  
6           shall send a copy of the findings to the clerk of superior court by the most reliable and  
7           expeditious means. If it cannot be reasonably anticipated that the clerk will receive the  
8           copy within 48 hours of the time that it was signed, the physician or eligible psychologist  
9           shall also communicate these findings to the clerk by telephone.

10          (f) When outpatient commitment is recommended, the examining physician or  
11          eligible psychologist, if different from the proposed outpatient treatment physician or  
12          center, shall give the respondent a written notice listing the name, address, and telephone  
13          number of the proposed outpatient treatment facility and directing the respondent to  
14          appear at the address at a specified date and time. The examining physician or eligible  
15          psychologist before the appointment shall notify by telephone the designated outpatient  
16          treatment facility and shall send a copy of the notice and the examination report to the  
17          facility.

18          (g) The physician or eligible psychologist, at the completion of the examination,  
19          shall provide the individual who initiated the involuntary action with specific information  
20          regarding the next steps that will occur for the respondent, and information regarding  
21          whom to contact in order to protest the outcome of the examination.

22          **"§ 122C-280.5. Duties of clerk of superior court.**

23          (a) Upon receipt of a physician's or eligible psychologist's finding that the  
24          respondent meets the criteria of G.S. 122C-280.4(d)(1) and that outpatient commitment is  
25          recommended, the clerk of superior court of the county where the petitioner or certificate  
26          was initiated, upon direction of a district court judge, shall calendar the matter for hearing  
27          and shall notify the respondent, the proposed outpatient treatment physician or center,  
28          and the petitioner of the time and place of the hearing. The petitioner may file a written  
29          waiver of the petitioner's right to notice under this subsection with the clerk of court.

30          (b) Upon receipt of a physician's or eligible psychologist's finding that a  
31          respondent meets the criteria of G.S. 122C-280.4(d)(2) and that inpatient commitment is  
32          recommended, the clerk of superior court of the county where the 24-hour facility is  
33          located shall, after determination required by G.S. 122C-280.1(c) and upon direction of a  
34          district court judge, assign counsel if necessary, calendar the matter for hearing, and  
35          notify the respondent, respondent's counsel, and the petitioner of the time and place of the  
36          hearing. The petitioner may file a written waiver of the right to notice under this  
37          subsection with the clerk of court.

38          (c) Upon receipt of a physician's or eligible psychologist's certificate that a  
39          respondent meets the criteria of G.S. 122C-280.1(a) and that immediate hospitalization is  
40          needed pursuant to G.S. 122C-280.3, or that the respondent meets the criteria of G.S.  
41          122C-280.1(a) pursuant to G.S. 122C-280.2, the clerk of superior court of the county  
42          where the treatment facility is located shall submit the certificate to the Chief District  
43          Court Judge. The court shall review the certificate within 24 hours, excluding Saturday,

1 Sunday, and holidays, for a finding of reasonable grounds in accordance with G.S. 122C-  
2 280.1(b). The clerk shall notify the treatment facility of the court's findings by telephone  
3 and shall proceed as set forth in subsections (b), (d), and (f) of this section.

4 (d) Notice to the respondent, required by subsections (a) and (b) of this section,  
5 shall be given as provided in G.S. 1A-1, Rule 4(j) at least 72 hours before the hearing.  
6 Notice to other individuals shall be sent at least 72 hours before the hearing by first-class  
7 mail postage prepaid to the individual's last known address. G.S. 1A-1, Rule 6 shall not  
8 apply.

9 (e) The clerk of superior court of the county where outpatient commitment is to be  
10 supervised shall keep a separate list regarding outpatient commitment and shall prepare  
11 quarterly reports listing all active cases, the assigned supervisor, and the disposition of all  
12 hearings, supplemental hearings, and rehearings.

13 (f) The clerk of superior court of the county where inpatient commitment hearings  
14 and rehearings are held shall provide all notices, send all records, and maintain a record  
15 of all proceedings as required by this Part; provided that if the respondent has been  
16 committed to a 24-hour facility in a county other than the respondent's county of  
17 residence and the district court hearing is held in the county of the facility, the clerk of  
18 superior court in the county of the facility shall forward the record of the proceedings to  
19 the clerk of superior court in the county of the respondent's residence, where they shall be  
20 maintained by the receiving clerk.

21 **"§ 122C-280.6. Outpatient commitment; examination and treatment pending**  
22 **hearing.**

23 (a) If a respondent fails to appear for examination by the area authority at the  
24 designated time, the area authority shall issue an order to a law enforcement officer or  
25 other person authorized under G.S. 122C-251 to take the respondent into custody and to  
26 take the respondent immediately to the area authority for evaluation. The law  
27 enforcement officer may wait during the examination and return the respondent to the  
28 respondent's home after the examination.

29 (b) The examining physician at the area authority may prescribe for the respondent  
30 reasonable and appropriate medication and treatment that are consistent with accepted  
31 medical standards pending the district court hearing.

32 (c) In no event may a respondent released on a recommendation that the  
33 respondent meets the outpatient commitment criteria be physically forced to take  
34 medication or forcibly detained for treatment pending a district court hearing.

35 (d) If at any time pending the district court hearing, the area authority determines  
36 that the respondent does not meet the criteria of G.S. 122C-280.4(d)(1), it shall release  
37 the respondent and notify the clerk of court and the proceedings shall be terminated.

38 (e) If a respondent becomes dangerous to self, as defined in G.S. 122C-3(11)a., or  
39 others, as defined in G.S. 122C-3(11)b., pending a district court hearing on outpatient  
40 commitment, new proceedings for involuntary inpatient commitment may be initiated.

41 (f) If an inpatient commitment proceeding is initiated pending the hearing for  
42 outpatient commitment and the respondent is admitted to a 24-hour facility to be held for  
43 an inpatient commitment hearing, notice shall be sent by the clerk of court in the county

1 where the respondent is being held to the clerk of court of the county where the outpatient  
2 commitment was initiated and the outpatient commitment proceeding shall be terminated.

3 **"§ 122C-280.7. Inpatient commitment; second examination and treatment pending**  
4 **hearing.**

5 (a) Except as provided in subsection (d) of this section, within 24 hours of arrival  
6 at a 24-hour facility described in G.S. 122C-252, the respondent shall be examined by a  
7 physician. This physician shall not be the same physician who completed the certificate  
8 or examination under the provisions of G.S. 122C-280.2 or G.S. 122C-280.4(a). The  
9 examination shall include, but is not limited to, the assessment specified in G.S. 122C-  
10 280.4(c).

11 (1) If the physician finds that the respondent is mentally retarded and  
12 because of a mental illness is dangerous to self, as defined by G.S.  
13 122C-3(11)a., or others, as defined by G.S. 122C-3(11)b., the physician  
14 shall hold the respondent at the facility pending the district court  
15 hearing.

16 (2) If the physician finds that the respondent meets the criteria for  
17 outpatient commitment under G.S. 122C-280.4(d)(1), the physician  
18 shall show these findings on the physician's examination report, release  
19 the respondent pending the district court hearing, and notify the clerk of  
20 superior court of the county where the petition was initiated of these  
21 findings. In addition, the examining physician shall show on the  
22 examination report the name, address, and telephone number of the  
23 proposed outpatient treatment physician or center and shall give the  
24 respondent a written notice listing the name, address, and telephone  
25 number of the proposed outpatient treatment facility and directing the  
26 respondent to appear at that address at a specified date and time. The  
27 examining physician, before the appointment, shall notify by telephone  
28 and shall send a copy of the notice and the examination report to the  
29 proposed outpatient treatment facility.

30 (3) If the physician finds that the respondent does not meet the criteria for  
31 commitment under either G.S. 122C-280.4(d)(1) or G.S. 122C-  
32 280.4(d)(2), the physician shall release the respondent and the  
33 proceedings shall be terminated.

34 (4) If the respondent is released under subdivision (2) or (3) of this  
35 subsection, the law enforcement officer or other person designated to  
36 provide transportation shall return the respondent to the originating  
37 county.

38 (5) If the physician or eligible psychologist has reason to believe that the  
39 respondent is not mentally retarded, the physician or eligible  
40 psychologist shall proceed according to the provisions of Part 7 of this  
41 Article.



1       (b) The findings of the physician and the facts on which they are based shall be in  
2 writing, in all cases. A copy of the findings shall be sent to the clerk of superior court by  
3 reliable and expeditious means.

4       (c) Pending the district court hearing, the physician attending the respondent may  
5 administer to the respondent reasonable and appropriate medication and treatment that is  
6 consistent with accepted medical standards. If at any time pending the district court  
7 hearing, the attending physician determines that the respondent no longer meets the  
8 criteria of either G.S. 122C-280.4(d)(1) or (d)(2), the physician shall release the  
9 respondent and notify the clerk of court and the proceedings shall be terminated.

10       (d) If the 24-hour facility described in G.S. 122C-252 or G.S. 122C-280.3 is the  
11 facility in which the first examination by a physician or eligible psychologist occurred  
12 and is the same facility in which the respondent is held, the second examination shall  
13 occur not later than the following regular working day.

14 **"§ 122C-280.8. Outpatient commitment; district court hearing.**

15       (a) A hearing shall be held in district court within 10 days of the day the  
16 respondent is taken into law enforcement custody pursuant to G.S. 122C-280.1(e), 122C-  
17 280.2, or 122C-280.3. Upon its own motion or upon motion of the proposed outpatient  
18 treatment physician or the respondent, the court may grant a continuance of not more  
19 than five days.

20       (b) The respondent shall be present at the hearing, unless the respondent's counsel  
21 waives the respondent's presence with the consent of the court. A subpoena may be  
22 issued to compel the respondent's presence at a hearing. The petitioner and the proposed  
23 outpatient treatment physician or designee may be present and may provide testimony.

24       (c) Certified copies of reports and findings of physicians and psychologists and  
25 medical records of previous and current treatment are admissible in evidence.

26       (d) At the hearing to determine the necessity and appropriateness of outpatient  
27 commitment, the respondent need not, but may, be represented by counsel. However, if  
28 the court determines that the legal or factual issues raised are of such complexity that the  
29 assistance of counsel is necessary for an adequate presentation of the merits or that the  
30 respondent is unable to speak for the respondent, the court may continue the case for not  
31 more than five days and order the appointment of counsel for an indigent respondent.

32       (e) Hearings may be held at the area facility in which the respondent is being  
33 treated, if it is located within the judge's district court district as defined in G.S. 7A-133,  
34 or in the judge's chambers. A hearing shall not be held in a regular courtroom, over  
35 objection of the respondent, if in the discretion of a judge, a more suitable place is  
36 available.

37       (f) The hearing shall be closed to the public unless the respondent requests  
38 otherwise.

39       (g) A copy of all documents admitted into evidence and a transcript of the  
40 proceedings shall be furnished to the respondent on request by the clerk upon the  
41 direction of a district court judge. If the client is indigent, the copies shall be provided at  
42 State expense.

1       (h) To support an outpatient commitment order, the court shall find by clear,  
2 cogent, and convincing evidence that the respondent meets the criteria specified in G.S.  
3 122C-208.4(d)(1). The court shall record the facts that support its findings and shall  
4 show on the order the center or physician who is responsible for the management and  
5 supervision of the respondent's outpatient commitment.

6 **"§ 122C-280.9. Inpatient commitment; district court hearing.**

7       (a) A hearing shall be held in district court within 10 days of the day the  
8 respondent is taken into law enforcement custody pursuant to G.S. 122C-280.1(e), 122C-  
9 280.2, or 122C-280.3. A continuance of not more than five days may be granted upon  
10 motion of:

11           (1) The court;

12           (2) Respondent's counsel; or

13           (3) The State, sufficiently in advance to avoid movement of the respondent.

14       (b) The attorney, who is a member of the staff of the Attorney General assigned to  
15 one of the State's facilities for the mentally ill or the psychiatric service of the University  
16 of North Carolina Hospitals at Chapel Hill, shall represent the State's interest at  
17 commitment hearings, rehearings, and supplemental hearings held for respondents  
18 admitted pursuant to this Part at the facility to which the attorney is assigned.

19       In addition, the Attorney General may designate an attorney who is a member of the  
20 Attorney General's staff to represent the State's interest at any commitment hearing,  
21 rehearing, or supplemental hearing held in a place other than at one of the State's facilities  
22 for the mentally ill or the psychiatric service of the University of North Carolina  
23 Hospitals at Chapel Hill.

24       (c) The respondent shall be represented by counsel of the respondent's choice; or if  
25 the respondent is indigent within the meaning of G.S. 7A-450 or refuses to retain counsel  
26 if financially able to do so, the respondent shall be represented by counsel appointed by  
27 the court.

28       (d) With the consent of the court, counsel for the respondent may in writing waive  
29 the presence of the respondent.

30       (e) Certified copies of reports and findings of physicians and psychologists and  
31 previous and current medical records are admissible in evidence, but the respondent's  
32 right to confront and cross-examine witnesses shall not be denied.

33       (f) Hearings may be held in an appropriate room not used for treatment of clients  
34 at the facility in which the respondent is being treated if it is located within the judge's  
35 district court district as defined in G.S. 7A-133 or in the judge's chambers. A hearing  
36 shall not be held in a regular courtroom, over objection of the respondent, if, in the  
37 discretion of a judge, a more suitable place is available.

38       (g) The hearing shall be closed to the public unless the respondent requests  
39 otherwise.

40       (h) A copy of all documents admitted into evidence and a transcript of the  
41 proceedings shall be furnished to the respondent on request by the clerk upon the  
42 direction of a district court judge. If the respondent is indigent, the copies shall be  
43 provided at State expense.

1 (i) To support an inpatient commitment order, the court shall find by clear,  
2 cogent, and convincing evidence that the respondent is mentally ill and dangerous to self,  
3 as defined in G.S. 122C-3(11)a., or others, as defined in G.S. 122C-3(11)b. The court  
4 shall record the facts that support its findings.

5 **"§ 122C-280.10. Venue of district court hearing when respondent held at a 24-hour**  
6 **facility pending hearing.**

7 (a) In all cases where the respondent is held at a 24-hour facility pending hearing  
8 as provided in G.S. 122C-280.9, unless the respondent through counsel objects to the  
9 venue, the hearing shall be held in the county in which the facility is located. Upon  
10 objection to venue, the hearing shall be held in the county where the petition was  
11 initiated.

12 (b) An official of the facility shall immediately notify the clerk of superior court of  
13 the county in which the facility is located of a determination to hold the respondent  
14 pending hearing. That clerk shall request transmittal of all documents pertinent to the  
15 proceedings from the clerk of superior court where the proceedings were initiated. The  
16 requesting clerk shall assume all duties set forth in G.S. 122C-280.5. The requesting  
17 clerk shall appoint as counsel for indigent respondents the counsel provided for in G.S.  
18 122C-280.9(c).

19 **"§ 122C-280.11. Disposition.**

20 (a) If an examining physician or eligible psychologist has recommended outpatient  
21 commitment and the respondent has been released pending the district court hearing, the  
22 court may make one of the following dispositions:

23 (1) If the court finds by clear, cogent, and convincing evidence that the  
24 respondent is mentally retarded and mentally ill; that the respondent is  
25 capable of surviving safely in the community with available supervision  
26 from family, friends, or others; that based on respondent's treatment  
27 history, the respondent is in need of treatment in order to prevent further  
28 disability or deterioration that would predictably result in dangerousness  
29 as defined in G.S. 122C-3(11); and that the respondent's current mental  
30 status or the nature of respondent's illness limits or negates the  
31 respondent's ability to make an informed decision to seek voluntarily or  
32 comply with recommended treatment, it may order outpatient  
33 commitment to the area authority for a period not in excess of 90 days.

34 (2) If the court does not find that the respondent meets the criteria of  
35 commitment set out in subdivision (1) of this subsection, the respondent  
36 shall be discharged and the facility at which the respondent was last a  
37 client so notified.

38 (b) If the respondent has been held in a 24-hour facility pending the district court  
39 hearing pursuant to G.S. 122C-280.9, the court may make one of the following  
40 dispositions:

41 (1) If the court finds by clear, cogent, and convincing evidence that the  
42 respondent is mentally retarded and mentally ill; that the respondent is  
43 capable of surviving safely in the community with available supervision

1           from family, friends, or others; that based on respondent's psychiatric  
2           history, the respondent is in need of treatment in order to prevent further  
3           disability or deterioration that would predictably result in dangerousness  
4           as defined by G.S. 122C-3(11); and that the respondent's current mental  
5           status or the nature of the respondent's illness limits or negates the  
6           respondent's ability to make an informed decision voluntarily to seek or  
7           comply with recommended treatment, it may order outpatient  
8           commitment to the area authority for a period not in excess of 90 days.

9           (2) If the court finds by clear, cogent, and convincing evidence that the  
10           respondent is mentally retarded and because of a mental illness is  
11           dangerous to self, as defined in G.S. 122C-3(11)a., or others, as defined  
12           in G.S. 122C-3(11)b., it may order inpatient commitment under the  
13           supervision of the area authority where respondent resides for a period  
14           not in excess of 90 days. The area authority shall determine the most  
15           appropriate facility for the client's inpatient treatment. An individual  
16           who is mentally retarded and because of a mental illness is dangerous to  
17           self, as defined in G.S. 122C-3(11)a., or others, as defined in G.S.  
18           122C-3(11)b., may also be committed to a combination of inpatient and  
19           outpatient commitment under the supervision of the area authority for a  
20           period not in excess of 90 days. If the court orders inpatient  
21           commitment for a respondent who is under an outpatient commitment  
22           order, the outpatient commitment is terminated; and the clerk of the  
23           superior court of the county where the district court hearing is held shall  
24           send a notice of the inpatient commitment to the clerk of superior court  
25           where the outpatient commitment was being supervised.

26           (3) If the court does not find that the respondent meets either of the  
27           commitment criteria set out in subdivisions (1) and (2) of this  
28           subsection, the respondent shall be discharged, and the facility in which  
29           the respondent was last a client so notified.

30           (4) Before ordering any outpatient commitment, the court shall make  
31           findings of fact as to the availability of outpatient treatment. The court  
32           shall also show on the order the area authority who is to be responsible  
33           for the management and supervision of the respondent's outpatient  
34           commitment. When an outpatient commitment order is issued for a  
35           respondent held in a 24-hour facility, the court may order the respondent  
36           held at the facility for no more than 72 hours in order for the facility to  
37           notify the designated area authority of the treatment needs of the  
38           respondent. The clerk of court in the county where the facility is  
39           located shall send a copy of the outpatient commitment order to the  
40           designated area authority. If the outpatient commitment will be  
41           supervised in a county other than the county where the commitment  
42           originated, the court shall order venue for further court proceedings to  
43           be transferred to the county where the outpatient commitment will be

1 supervised. Upon an order changing venue, the clerk of superior court  
2 in the county where the commitment originated shall transfer the file to  
3 the clerk of superior court in the county where the outpatient  
4 commitment is to be supervised.

5 **"§ 122C-280.12. Appeal.**

6 Judgment of the district court is final. Appeal may be had to the Court of Appeals by  
7 the State or by any party on the record as in civil cases. Appeal does not stay the  
8 commitment unless so ordered by the Court of Appeals. The Attorney General represents  
9 the State's interest on appeal. The district court retains limited jurisdiction for the  
10 purpose of hearing all reviews, rehearings, or supplemental hearings allowed or required  
11 under this Part.

12 **"§ 122C-280.13. Duties for follow-up on commitment order.**

13 (a) Unless prohibited by Chapter 90 of the General Statutes, if the commitment  
14 order directs outpatient treatment, the physician at the area authority may prescribe or  
15 administer, or the area authority may administer, to the respondent reasonable and  
16 appropriate medication and treatment that are consistent with accepted medical standards.

17 (1) If the respondent fails to comply or clearly refuses to comply with all or  
18 part of the prescribed treatment, the area authority shall make all  
19 reasonable effort to solicit the respondent's compliance. These efforts  
20 shall be documented and reported to the court with a request for a  
21 supplemental hearing.

22 (2) If the respondent fails to comply, but does not clearly refuse to comply,  
23 with all or part of the prescribed treatment after reasonable effort to  
24 solicit the respondent's compliance, the area authority shall issue a  
25 custody order to a law enforcement officer or any other person  
26 authorized under G.S. 122C-251 to take the respondent into custody for  
27 the purpose of examination. The law enforcement officer shall turn the  
28 respondent over to the custody of the area authority who shall conduct  
29 the examination and then release the respondent. The law enforcement  
30 officer may wait during the examination and return the respondent to the  
31 respondent's home, or to a designated 24-hour facility if directed by the  
32 physician or eligible psychologist, after the examination. An  
33 examination conducted under this subsection in which a physician or  
34 eligible psychologist determines that the respondent meets the criteria  
35 for inpatient commitment may be substituted for the first examination  
36 required by G.S. 122C-280.4.

37 (3) In no case may the respondent be physically forced to take medication  
38 or forcibly detained for treatment unless the respondent poses an  
39 immediate danger to self or others. In these cases, inpatient  
40 commitment proceedings shall be initiated.

41 (4) At any time that the area authority finds that the respondent no longer  
42 meets the criteria set out in G.S. 122C-280.4(d)(1), the area authority  
43 shall so notify the court and the case shall be terminated.

1           (5) Any individual who has knowledge that a respondent on outpatient  
2 commitment has become dangerous to self, as defined by G.S. 122C-  
3 3(11)a., or others, as defined in G.S. 122C-3(11)b., may initiate an  
4 inpatient commitment as provided in this Part. If the respondent is  
5 committed as an inpatient, the outpatient commitment shall be  
6 terminated and notice sent by the clerk of court in the county where the  
7 respondent is committed as an inpatient to the clerk of court of the  
8 county where the outpatient commitment is being supervised.

9           (b) If the respondent on outpatient commitment intends to move or moves to  
10 another county within the State, the designated area authority shall request that the clerk  
11 of court in the county where the outpatient commitment is being supervised calendar a  
12 supplemental hearing.

13           (c) If the respondent moves to another state or to an unknown location, the  
14 designated area authority shall notify the clerk of superior court of the county where the  
15 outpatient commitment is supervised and the outpatient commitment shall be terminated.

16           (d) If the commitment order directs inpatient treatment, the physician attending the  
17 respondent may administer to the respondent reasonable and appropriate medication and  
18 treatment that are consistent with accepted medical standards. The attending physician  
19 shall release or discharge the respondent in accordance with G.S. 122C-280.17.

20 **"§ 122C-280.14. Supplemental hearings.**

21           (a) Upon receipt of a request for a supplemental hearing, the clerk shall calendar a  
22 hearing to be held within 14 days and notify, at least 72 hours before the hearing, the  
23 petitioner, the respondent, the respondent's attorney, if any, and the area authority. The  
24 clerk shall notify the respondent at least 72 hours before the hearing by personally  
25 serving on the respondent an order to appear. Other persons shall be notified as provided  
26 in G.S. 122C-280.5(d).

27           (b) The procedures for the hearing shall follow G.S. 122C-280.8.

28           (c) In supplemental hearings for alleged noncompliance, the court shall determine  
29 whether the respondent has failed to comply and, if so, the causes for noncompliance. If  
30 the court determines that the respondent has failed or refused to comply, it may:

31           (1) Upon finding probable cause to believe that the respondent is mentally  
32 retarded and because of a mental illness is dangerous to self, as defined  
33 in G.S. 122C-3(11)a., or others, as defined in G.S. 122C-3(11)b., order  
34 an examination by the same or different physician or eligible  
35 psychologist as provided in G.S. 122C-280.4(c) in order to determine  
36 the necessity for continued outpatient or inpatient commitment;

37           (2) Reissue or change the outpatient commitment order in accordance with  
38 G.S. 122C-280.11; or

39           (3) Discharge the respondent from the order and dismiss the case.

40           (d) At the supplemental hearing for a respondent who has moved or intends to  
41 move to another county, the court shall determine if the respondent meets the criteria for  
42 outpatient commitment set out in G.S. 122C-280.4(d)(1). If the court determines that the  
43 respondent no longer meets the criteria for outpatient commitment, it shall discharge the

1 respondent from the order and dismiss the case. If the court determines that the  
2 respondent continues to meet the criteria for outpatient commitment, it shall continue the  
3 outpatient commitment but shall designate the area authority at the respondent's new  
4 residence to be responsible for the management or supervision of the respondent's  
5 outpatient commitment. The court shall order the respondent to appear for treatment at  
6 the address of the treatment center of the newly designated area authority and shall order  
7 venue for further court proceedings under the outpatient commitment to be transferred to  
8 the new county of supervision. Upon an order changing venue, the clerk of court in the  
9 county where the outpatient commitment has been supervised shall transfer the records  
10 regarding the outpatient commitment to the clerk of court in the county where the  
11 commitment will be supervised. Also, the clerk of court in the county where the  
12 outpatient commitment has been supervised shall send a copy of the court's order  
13 directing the continuation of outpatient treatment under new supervision to the newly  
14 designated area authority.

15 (e) Any time during the term of an outpatient commitment order or conditional  
16 release from an inpatient commitment, a respondent may apply to the court for a  
17 supplemental hearing for the purpose of discharge from the order. The application shall  
18 be made in writing by the respondent to the clerk of superior court of the county where  
19 the commitment is being supervised. At the supplemental hearing, the court shall  
20 determine whether the respondent continues to meet the criteria specified in G.S. 122C-  
21 280.4(d)(1). The court may either reissue or change the commitment order or discharge  
22 the respondent and dismiss the case.

23 (f) At supplemental hearings requested pursuant to G.S. 122C-280.17(a) for  
24 transfer from inpatient to outpatient commitment, the court shall determine whether the  
25 respondent meets the criteria for either inpatient or outpatient commitment. If the court  
26 determines that the respondent continues to meet the criteria for inpatient commitment, it  
27 shall order the continuation of the original commitment order. If the court determines  
28 that the respondent meets the criteria for outpatient commitment, it shall order outpatient  
29 commitment to the area authority for a period of time not in excess of 90 days. If the  
30 court finds that the respondent does not meet either criteria, the respondent shall be  
31 discharged and the case dismissed.

32 **"§ 122C-280.15. Outpatient commitment; rehearings.**

33 (a) Fifteen days before the end of the initial or subsequent periods of outpatient  
34 commitment, if the area authority determines that the respondent continues to meet the  
35 criteria specified in G.S. 122C-280.4(d)(1), it shall so notify the clerk of superior court of  
36 the county where the outpatient commitment is supervised. If the respondent no longer  
37 meets the criteria, the area authority shall so notify the clerk who shall dismiss the case.  
38 The clerk, at least 10 days before the end of the commitment period, on order of the  
39 district court, shall calendar the rehearing.

40 (b) Notice and procedures of rehearings are governed by the same procedures as  
41 initial hearings, and the respondent has the same rights the respondent had at the initial  
42 hearing, including the right to appeal.

1 (c) If the court finds that the respondent no longer meets the criteria of G.S. 122C-  
2 280.4(d)(1), it shall unconditionally discharge the respondent. A copy of the discharge  
3 order shall be furnished by the clerk to the designated area authority. If the respondent  
4 continues to meet the criteria of G.S. 122C-280.4(d)(1), the court may order outpatient  
5 commitment for an additional period not in excess of 180 days.

6 **"§ 122C-280.16. Inpatient commitment; rehearings for respondents.**

7 (a) Fifteen days before the end of the initial inpatient commitment period, if the  
8 attending physician in consultation with the area authority determines that commitment  
9 of a respondent beyond the initial period will be necessary, the physician shall so notify  
10 the clerk of superior court of the county in which the facility is located. The clerk, at  
11 least 10 days before the end of the initial period, on order of a district court judge of the  
12 district court district as defined in G.S. 7A-133 in which the facility is located, shall  
13 calendar the rehearing.

14 (b) Rehearings shall be held at the facility in which the respondent is receiving  
15 treatment. The judge is a judge of the district court of the district court district as defined  
16 in G.S. 7A-133 in which the facility is located or a district court judge temporarily  
17 assigned to that district.

18 (c) Notice and proceedings of rehearings are governed by the same procedures as  
19 initial hearings and the respondent has the same rights the respondent had at the initial  
20 hearing including the right to appeal.

21 (d) At rehearings the court may make the same dispositions authorized in G.S.  
22 122C-280.11(b) except that a second commitment order may be for an additional period  
23 not in excess of 180 days.

24 (e) Fifteen days before the end of the second commitment period and annually  
25 thereafter, the attending physician shall review and evaluate the condition of each  
26 respondent in consultation with the area authority; and if the physician determines that a  
27 respondent is in continued need of inpatient commitment or, in the alternative, in need of  
28 outpatient commitment, or a combination of both, the physician shall so notify the  
29 respondent, the respondent's counsel, and the clerk of superior court of the county in  
30 which the facility is located. Unless the respondent through counsel files with the clerk a  
31 written waiver of the respondent's right to a rehearing, the clerk, on order of a district  
32 court judge of the district in which the facility is located, shall calendar a rehearing for  
33 not later than the end of the current commitment period. The procedures and standards  
34 for the rehearing are the same as for the first rehearing. No third or subsequent inpatient  
35 recommitment order shall be for a period longer than one year.

36 (f) At any rehearings, the court has the option to order outpatient commitment for  
37 a period not in excess of 180 days in accordance with the criteria specified in G.S. 122C-  
38 280.4(d)(1) and following the procedures as specified in this Article.

39 **"§ 122C-280.17. Release and conditional release; judicial review.**

40 (a) The attending physician shall discharge a committed respondent  
41 unconditionally at any time the physician determines that the respondent is no longer in  
42 need of inpatient commitment. However, if the attending physician determines that the  
43 respondent meets the criteria for outpatient commitment as defined in G.S. 122C-



1 280.4(d)(1), the physician may request the clerk to calendar a supplemental hearing to  
2 determine whether an outpatient commitment order shall be issued. The attending  
3 physician may also release a respondent conditionally for periods not in excess of the  
4 remaining days of the inpatient commitment on specified medically appropriate  
5 conditions. Violation of the conditions is grounds for return of the respondent to the  
6 releasing facility. A law enforcement officer, on request of the attending physician or  
7 qualified crisis services professional, shall take a conditional releasee into custody and  
8 return this person to the facility in accordance with G.S. 122C-205. Notice of discharge  
9 and of conditional release shall be furnished to the clerk of superior court of the county of  
10 commitment and of the county in which the facility is located.

11 (b) Prior to discharge or release of a committed respondent from a 24-hour facility  
12 that is not operated by the respondent's area authority, the attending physician shall plan  
13 jointly with the respondent's area authority. If the area authority has a single portal plan  
14 pursuant to G.S. 122C-132, the planning shall be carried out pursuant to the plan."

15 Sec. 20. This act becomes effective January 1, 1996, and applies to  
16 commitments on or after that date.