

1 as to whether to choose to submit a plan is in the discretion of the area authority after
2 weighing the policy goal stated in this subsection and in G.S. 122C-101. The single
3 portal of entry and exit policy for State and area mental health and substance abuse
4 facilities does not preclude those individuals who have the resources to pay for the cost of
5 inpatient hospital care without the use of any (i) public fund appropriated to the area
6 authority or (ii) Medicaid funds from making use of the procedures to be followed in
7 areas without a single portal plan.

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

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

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

35 (d) Residents of a county in a designated single portal area who do not have the
36 resources to pay for the cost of inpatient hospital care without the use of any (i) public
37 funds appropriated to the area authority or (ii) Medicaid funds shall be admitted to or
38 discharged from State and area facilities through the area authority as described in the
39 area's single portal of entry and exit policy."

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

41 "**§ 122C-201. Declaration of policy.**

42 It is State policy to encourage voluntary admissions to facilities. It is further State
43 policy that no individual shall be involuntarily committed to a 24-hour facility unless he

1 ~~that individual is mentally ill or a substance abuser and dangerous to himself-self or others,~~
2 ~~or unless he is mentally retarded and, because of an accompanying behavior disorder, is~~
3 ~~dangerous to others.~~ others. All admissions and commitments shall be accomplished under
4 conditions that protect the dignity and constitutional rights of the individual.

5 It is further State policy that, except as provided in G.S. 122C-212(b), individuals
6 who have been voluntarily admitted shall be discharged upon application and that
7 involuntarily committed individuals shall be discharged as soon as a less restrictive mode
8 of treatment is appropriate."

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

10 "**§ 122C-204. ~~Civil liability~~ Liability for corruptly attempting admission or**
11 **commitment.**

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

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

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

20 Sec. 4.1. G.S. 122C-206 is amended by inserting a new subsection to read:

21 "(b1) Persons with mental retardation and mental illness, committed pursuant to Part
22 7A of this Article, may be transferred from one 24-hour facility to another following the
23 same procedures specified in subsection (b) of this section. In addition, the area authority
24 responsible for arranging respondent's inpatient placement pursuant to G.S. 122C-
25 280.12(b)(2) shall be consulted before the proposed transfer so that the area authority
26 may determine the most appropriate available facility for the respondent's inpatient
27 treatment."

28 Sec. 5. Article 5 of Chapter 122C of the General Statutes is amended by
29 adding a new section to read:

30 "**§ 122C-209.1. Review of advance instruction for mental health treatment required.**

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

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

40 "**§ 122C-210.1. Immunity from liability.**

41 No facility or any of its officials, staff, or employees, or any physician or other
42 individual who is responsible for the custody, examination, management, supervision,
43 treatment, or release of a client and who follows accepted professional judgment,

1 practice, and standards is civilly liable, personally or otherwise, for actions arising from
2 these responsibilities or for actions of the client. This immunity is in addition to any other
3 legal immunity from liability to which these facilities or individuals may be ~~entitled.~~
4 entitled and applies to actions performed in connection with, or arising out of, the
5 admission or commitment of any individual pursuant to this Article."

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

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

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

15 "**§ 122C-252. Twenty-four hour facilities for custody and treatment of involuntary**
16 **clients.**

17 State facilities, 24-hour facilities licensed under this ~~Chapter~~ Chapter, or hospitals
18 licensed under Chapter 131E may be designated by the Secretary as facilities for the
19 custody and treatment of involuntary clients. Designation of these facilities shall be made
20 in accordance with rules of the Secretary that assure the protection of the client and the
21 general public. Facilities so designated may detain a client under the procedures of Parts
22 ~~7-7, 7A,~~ and 8 of this Article both before a district court hearing and after commitment of
23 the respondent."

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

26 "**PART 7. INVOLUNTARY COMMITMENT OF THE MENTALLY ILL**
27 ~~**AND THE MENTALLY RETARDED WITH BEHAVIOR DISORDERS;**~~
28 **FACILITIES FOR THE MENTALLY ILL."**

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

30 "**§ 122C-261. ~~Affidavit~~ In areas without a single portal plan for mental health**
31 **facilities; affidavit and petition before clerk or ~~magistrate;~~ magistrate when**
32 **immediate hospitalization is not necessary; custody order.**

33 (a) ~~Anyone~~ In an area without a valid single portal of entry and exit plan pursuant
34 to G.S. 122C-132, anyone who has knowledge of an individual who is: (i) ~~is~~ mentally ill
35 and either (i) dangerous to ~~himself, self,~~ as defined in G.S. 122C-3(11)a., or dangerous to
36 others, as defined in G.S. 122C-3(11)b., or (ii) in need of treatment in order to prevent
37 further disability or deterioration that would predictably result in ~~dangerousness,~~ or (ii)
38 mentally retarded and, because of an accompanying behavior disorder, is dangerous to others, as
39 defined in G.S. 122C-3(11)b., ~~dangerousness,~~ may appear before a clerk or assistant or
40 deputy clerk of superior court or a magistrate and execute an affidavit to this effect, and
41 petition the clerk or magistrate for issuance of an order to take the respondent into
42 custody for examination by a physician or eligible psychologist. The affidavit shall
43 include the facts on which the affiant's opinion is based. If, based on the affidavit or

1 based on information provided by the area authority, the clerk or magistrate has reason to
2 believe that the respondent is mentally retarded, the clerk or magistrate shall proceed
3 according to the provisions of Part 7A of this Article. Jurisdiction under this subsection
4 is in the clerk or magistrate in the county where the respondent resides or is found. In an
5 area with a single portal plan, if anyone contacts a clerk, assistant or deputy clerk, or a
6 magistrate about an individual described in this subsection, the clerk, assistant or deputy
7 clerk, or magistrate shall proceed in accordance with G.S. 122C-261.1, unless the
8 individual has the resources to pay for the cost of inpatient hospital care without the use
9 of any (i) public funds appropriated to the area authority or (ii) Medicaid funds.

10 (b) If the clerk or magistrate finds reasonable grounds to believe that the facts
11 alleged in the affidavit are true and that the respondent is probably ~~(i)~~ mentally ill and
12 either (i) dangerous to ~~himself, self,~~ as defined in G.S. 122C-3(11)a., or dangerous to
13 others, as defined in G.S. 122C-3(11)b., or (ii) in need of treatment in order to prevent
14 further disability or deterioration that would predictably result in dangerousness, ~~or (ii)~~
15 ~~mentally retarded and, because of an accompanying behavior disorder, is dangerous to others, as~~
16 ~~defined in G.S. 122C-3(11)b., he~~ the clerk or magistrate shall issue an order to a ~~law-~~
17 ~~enforcement~~ law enforcement officer or any other person authorized under G.S. 122C-251
18 to take the respondent into custody for examination by a physician or eligible
19 psychologist. The clerk or magistrate shall provide the petitioner and the respondent, if
20 present, with specific information regarding the next steps that will occur for the
21 respondent.

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

25 (d) If the affiant is a physician or eligible psychologist, ~~he~~ the affiant may execute
26 the affidavit before any official authorized to administer oaths. ~~He~~ This affiant is not
27 required to appear before the clerk or magistrate for this purpose. ~~His~~ This affiant's
28 examination shall comply with the requirements of the initial examination as provided in
29 G.S. 122C-263(c). If the physician or eligible psychologist recommends outpatient
30 commitment and the clerk or magistrate finds probable cause to believe that the
31 respondent meets the criteria for outpatient commitment, ~~he~~ the clerk or magistrate shall
32 issue an order that a hearing before a district court judge be held to determine whether the
33 respondent will be involuntarily committed. If a physician or eligible psychologist
34 recommends outpatient commitment, ~~he~~ the clerk or magistrate shall provide the
35 respondent with written notice of any scheduled appointment and the name, address, and
36 telephone number of the proposed outpatient treatment physician or center. If the
37 physician or eligible psychologist recommends inpatient commitment and the clerk or
38 magistrate finds probable cause to believe that the respondent meets the criteria for
39 inpatient commitment, ~~he~~ the clerk or magistrate shall issue an order for transportation to
40 or custody at a 24-hour facility described in G.S. 122C-252. If a physician or eligible
41 psychologist executes an affidavit for inpatient commitment of a respondent, a second
42 physician shall be required to perform the examination required by G.S. 122C-266.

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

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

13 Sec. 11. Part 7 of Article 5 of Chapter 122C of the General Statutes is
14 amended by adding a new section to read:

15 "§ 122C-261.1. In areas with a single portal plan for mental health facilities;
16 custody order and transportation.

17 (a) In an area with a valid single portal of entry and exit plan pursuant to G.S.
18 122C-132, anyone, including a law enforcement officer, who has knowledge of an
19 individual who is subject to commitment according to the criteria of G.S. 122C-261(a)
20 and who requires immediate treatment to prevent harm to self or others, may transport the
21 individual directly to a facility in accordance with the single portal plan, for examination
22 by a physician or eligible psychologist in accordance with G.S. 122C-263(c).

23 (1) If the individual meets the criteria required in G.S. 122C-261(a), the
24 physician or eligible psychologist shall so certify in writing before any
25 official authorized to administer oaths. The certificate shall also state
26 the reason that the individual requires immediate treatment. If the
27 physician or eligible psychologist has reason to believe that the
28 individual is mentally retarded, the physician or psychologist shall
29 continue according to the provisions of Part 7A of this Article.

30 (2) If the physician or eligible psychologist executes the oath, appearance
31 before a magistrate shall be waived. The physician or eligible
32 psychologist shall send the result of this inquiry and a copy of the
33 certificate to the clerk of superior court by the most reliable and
34 expeditious means. If it cannot be reasonably anticipated that the clerk
35 will receive the copy within 24 hours, excluding Saturday, Sunday, and
36 holidays, of the time that it was signed, the physician or eligible
37 psychologist shall also communicate the findings to the clerk by
38 telephone.

39 (3) The physician's or eligible psychologist's certificate, if it indicates that
40 the individual meets the criteria for inpatient commitment and requires
41 immediate treatment to prevent harm to self or others, shall serve as the
42 custody order, and the law enforcement officer or other designated
43 person shall provide transportation in accordance with G.S. 122C-251

1 for examination and treatment pending a district court hearing. The
2 respondent shall be transported to a 24-hour facility designated in the
3 single portal plan or, if the respondent has the resources to pay for the
4 cost of inpatient hospital care without the use of any (i) public funds
5 appropriated to the area authority or (ii) Medicaid funds, transported to
6 a private facility that has agreed to admit the respondent.

7 (4) Respondents received at a 24-hour facility under the provisions of this
8 section shall be examined by a second physician in accordance with
9 G.S. 122C-266. After receipt of notification that the district court has
10 determined reasonable grounds for the commitment, further proceedings
11 shall be carried out in the same way as for other respondents under this
12 Part.

13 (b) In an area with a valid single portal of entry and exit plan pursuant to G.S.
14 122C-132, anyone who has knowledge of an individual who is subject to commitment
15 according to the criteria of G.S. 122C-261(a) may describe the behavior of the individual
16 to a qualified crisis services professional.

17 (1) If the person requesting commitment contacts the qualified crisis
18 services professional by telephone and the qualified crisis services
19 professional is able to form a reasonable belief, based on the
20 information provided by the person requesting commitment and any
21 other relevant information known to the qualified crisis services
22 professional, that the individual probably meets the commitment criteria
23 as provided in G.S. 122C-261(a), the qualified crisis services
24 professional shall execute an affidavit to this effect before any official
25 authorized to administer oaths. This affiant is not required to appear
26 before the clerk or magistrate for this purpose. The qualified crisis
27 services professional shall also fill out a statement containing the facts
28 on which the request for commitment is based and containing an
29 acknowledgment that the person signing is aware of the penalty
30 pursuant to G.S. 122C-204(b) for giving false information. The
31 qualified crisis services professional shall provide to the clerk or
32 assistant or deputy clerk or magistrate a copy of the unsigned statement
33 and the affidavit containing the recommendation of the qualified crisis
34 services professional that the clerk or magistrate issue a custody order.
35 The unsigned statement and the affidavit containing the
36 recommendation may be transmitted to the clerk or magistrate by
37 facsimile. The original of the affidavit shall be forwarded to the clerk
38 within 48 hours. If the clerk or magistrate issues a custody order
39 pursuant to subsection (e) of this section, the magistrate or clerk shall
40 give the unsigned statement to the person to whom the clerk or
41 magistrate gives the custody order and that person shall contact the
42 person requesting commitment and obtain the signature of the person
43 requesting commitment before taking the respondent into custody,

1 unless doing so would place any person in danger, in which case that
2 person may take action to ensure the safety of those present prior to
3 obtaining the signature. If the person requesting commitment refuses to
4 sign the statement, the person to whom the clerk or magistrate has given
5 the custody order shall determine whether to take the respondent into
6 custody pursuant to the criteria of subsection (a) of this section.

7 (2) If the person requesting commitment contacts the qualified crisis
8 services professional by telephone, but the qualified crisis services
9 professional is not satisfied that the information provided is an adequate
10 basis on which to recommend the issuance of a custody order, the
11 qualified crisis services professional may require the person to appear
12 before the qualified crisis services professional and sign a written
13 statement before determining whether to recommend that the clerk or
14 magistrate issue a custody order.

15 (3) If the person requesting commitment appears in person before the
16 qualified crisis services professional, the person shall sign a statement
17 containing the facts on which the request for commitment is based and
18 containing an acknowledgment that the person is aware of the penalty
19 pursuant to G.S. 122C-204(b) for giving false information. If the
20 qualified crisis services professional is able to form a reasonable belief,
21 based on the information provided by the person requesting
22 commitment and any other relevant information known to the qualified
23 crisis services professional, that the individual probably meets the
24 commitment criteria as provided in G.S. 122C-261(a), the qualified
25 crisis services professional shall execute an affidavit to that effect
26 before any official authorized to administer oaths. This affiant is not
27 required to appear before the clerk or magistrate for this purpose. The
28 qualified crisis services professional shall provide to the clerk or
29 magistrate a copy of the signed statement and a copy of the affidavit
30 containing the recommendation that a custody order should be issued.
31 The statement and the affidavit containing the recommendation may be
32 transmitted to the clerk or magistrate by facsimile. The original of the
33 statement and the affidavit shall be forwarded to the clerk within 48
34 hours.

35 (4) The qualified crisis services professional shall provide the person
36 requesting commitment with specific information regarding the next
37 steps that will occur for the respondent. At first contact with the
38 individual subject to commitment, the qualified crisis services
39 professional shall provide the person subject to commitment with
40 specific information regarding the next steps that may occur.

41 (6) The magistrate or clerk may require the personal appearance of the
42 person requesting commitment in order to make the determination
43 whether there are reasonable grounds to believe that the facts alleged in

1 the statement are true and that the respondent probably meets the
2 commitment criteria prescribed by G.S. 122C-261(a).

3 (c) In an area with a valid single portal of entry and exit plan pursuant to G.S.
4 122C-132, anyone who has knowledge of an individual who is mentally ill and either (i)
5 dangerous to self, as defined in G.S. 122C-3(11)a., or dangerous to others, as defined in
6 G.S. 122C-3(11)b., or (ii) in need of treatment in order to prevent further disability or
7 deterioration that would predictably result in dangerousness, may appear before a clerk or
8 assistant or deputy clerk of superior court or a magistrate and execute an affidavit to this
9 effect, and petition the clerk or magistrate for issuance of an order to take the respondent
10 into custody for examination by a physician or eligible psychologist. The affidavit shall
11 include the facts on which the affiant's opinion is based. Before making a determination
12 to issue a custody order, the clerk or magistrate shall contact the area authority to
13 determine if there are more appropriate resources available through the area authority to
14 assist the person requesting commitment or the person who may be in need of treatment.
15 If, based on the affidavit or based on information provided by the area authority, the clerk
16 or magistrate has reason to believe that the respondent is mentally retarded, the clerk or
17 magistrate shall proceed according to the provisions of Part 7A of this Article.

18 (d) Jurisdiction under this section is in the clerk or magistrate in the county where
19 the respondent resides or is found.

20 (e) If the clerk or magistrate finds reasonable grounds to believe that the facts
21 alleged in the statement and affidavit referred to in subsection (b) of this section or the
22 affidavit referred to in subsection (c) of this section are true and that the respondent is
23 probably mentally ill and either (i) dangerous to self, as defined in G.S. 122C-3(11)a., or
24 dangerous to others, as defined in G.S. 122C-3(11)b., or (ii) in need of treatment in order
25 to prevent further disability or deterioration that would predictably result in
26 dangerousness, the clerk or magistrate shall issue an order to a law enforcement officer or
27 any other person authorized under G.S. 122C-251 to take the respondent into custody for
28 examination by a physician or eligible psychologist in accordance with the single portal
29 plan and with G.S. 122C-263(c). The clerk or magistrate shall provide the petitioner and
30 the respondent, if present, with specific information regarding the next steps that will
31 occur for the respondent.

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

35 (g) When a physician or eligible psychologist is the affiant, the physician or
36 psychologist may execute the affidavit before any official authorized to administer oaths.
37 This affiant is not required to appear before the clerk or magistrate for this purpose. This
38 affiant's examination shall comply with the requirements of the initial examination as
39 provided in G.S. 122C-263(c). If the physician or eligible psychologist recommends
40 outpatient commitment and the clerk or magistrate finds probable cause to believe that
41 the respondent meets the criteria for outpatient commitment, the clerk or magistrate shall
42 issue an order that a hearing before a district court judge be held to determine whether the
43 respondent will be involuntarily committed. If the physician or eligible psychologist

1 recommends outpatient commitment, the clerk or magistrate shall provide the respondent
2 with written notice of any scheduled appointment and the name, address, and telephone
3 number of the proposed outpatient treatment physician or center. If the physician or
4 eligible psychologist recommends inpatient commitment and the clerk or magistrate finds
5 probable cause to believe that the respondent meets the criteria for inpatient commitment,
6 the clerk or magistrate shall issue an order for transportation to or custody at a 24-hour
7 facility designated in the single portal plan or, if the respondent has the resources to pay
8 for the cost of inpatient hospital care without the use of any (i) public funds appropriated
9 to the area authority or (ii) Medicaid funds, transportation to or custody at a private
10 facility that has agreed to admit the respondent. If a physician or eligible psychologist
11 executes an affidavit for inpatient commitment of a respondent, a second physician shall
12 be required to perform the examination required by G.S. 122C-266.

13 (h) Upon receipt of the custody order of the clerk or magistrate, or a custody order
14 issued by the court pursuant to G.S. 15A-1003, a law enforcement officer or other person
15 designated in the order shall take the respondent into custody within 24 hours after the
16 order is signed and proceed according to G.S. 122C-263.1."

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

18 "**§ 122C-262. Special-emergency—In areas without a single portal plan for mental**
19 **health facilities; procedure for individuals needing immediate**
20 **hospitalization.**

21 (a) ~~Anyone,~~ In an area without a valid single portal of entry and exit plan pursuant
22 to G.S. 122C-132, anyone, including a law enforcement officer, who has knowledge of an
23 individual who is subject to inpatient commitment according to the criteria of G.S. 122C-
24 261(a) and who requires immediate hospitalization to prevent harm to ~~himself-self~~ or
25 others, may transport the individual directly to an area facility or other place, including a
26 State facility for the mentally ill, for examination by a physician or eligible ~~psychologist,~~
27 psychologist in accordance with G.S. 122C-263(a)-G.S. 122C-263(c).

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

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

42 (d) Anyone, including a law enforcement officer if necessary, may transport the
43 individual to a 24-hour facility described in G.S. 122C-252 for examination and treatment

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

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

14 Sec. 13. (a) The catch line of G.S. 122C-263 reads as rewritten:

15 "**§ 122C-263. Duties of law enforcement—In areas without a single portal plan for**
16 **mental health facilities, duties of law enforcement officer; first**
17 **examination by physician or eligible psychologist.**"

18 (b) G.S. 122C-263(a) reads as rewritten:

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

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

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

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

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

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

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

- 4 a. The respondent is mentally ill;
- 5 b. The respondent is capable of surviving safely in the community
6 with available supervision from family, friends, or others;
- 7 c. Based on the respondent's psychiatric history, the respondent is
8 in need of treatment in order to prevent further disability or
9 deterioration ~~which~~—that would predictably result in
10 dangerousness as defined by G.S. 122C-3(11); and
- 11 d. ~~His~~ The respondent's current mental status or the nature of his
12 respondent's illness limits or negates his ~~the respondent's~~ ability
13 to make an informed decision to seek voluntarily or comply with
14 recommended treatment;

15 The physician or eligible psychologist shall so show on ~~his~~ the
16 examination report and shall recommend outpatient commitment. In
17 addition the examining physician or eligible psychologist shall show the
18 name, address, and telephone number of the proposed outpatient
19 treatment physician or center. The person designated in the order to
20 provide transportation shall return the respondent to ~~his~~ the respondent's
21 regular residence ~~or~~ or, with the respondent's consent, to the home of a
22 consenting individual, and ~~he~~ the respondent shall be released from
23 custody.

24 (2) If the physician or eligible psychologist finds that the respondent is
25 mentally ill and is dangerous to ~~himself~~ self, as defined in G.S. 122C-
26 3(11)a., or others, as defined in G.S. 122C-3(11)b., ~~or is mentally~~
27 ~~retarded, and because of an accompanying behavior disorder, is dangerous to~~
28 ~~others, as defined in G.S. 122C 3(11)b., he~~ the physician or eligible
29 psychologist shall recommend inpatient commitment, and ~~he~~ shall so
30 show on ~~his~~ the examination report. The ~~law enforcement~~ 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 ~~his~~ care at a private 24-hour facility, the
35 ~~law enforcement~~ law enforcement officer or other designated person
36 shall take the respondent to a State facility for the mentally ill
37 designated by the Commission in accordance with G.S. ~~143B-157(a)(1)a~~
38 143B-147(a)(1)a for custody, observation, and treatment and
39 immediately notify the clerk of superior court of ~~his actions~~ this action.

40 (3) If the physician or eligible psychologist finds that neither condition
41 described in subdivisions (1) or (2) of this subsection exists, ~~the~~
42 ~~respondent shall be released and the proceedings shall be terminated.~~ The
43 person designated in the order to provide transportation shall return the

1 respondent to the respondent's regular residence or, with the
2 respondent's consent, to the home of a consenting individual, and the
3 respondent shall be released from custody.

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

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

10 "(g) The physician or eligible psychologist, at the completion of the examination,
11 shall provide the respondent with specific information regarding the next steps that will
12 occur."

13 Sec. 13.1. Part 7 of Article 5 of Chapter 122C of the General Statutes is
14 amended by adding a new section to read:

15 "**§ 122C-263.1. In areas with a single portal plan for mental health facilities, duties**
16 **of law enforcement officer; first examination by physician or eligible**
17 **psychologist.**

18 (a) In an area with a valid single portal of entry and exit plan pursuant to G.S.
19 122C-132, without unnecessary delay after assuming custody, the law enforcement
20 officer or the individual designated by the clerk or magistrate under G.S. 122C-251 to
21 provide transportation shall take the respondent to an area facility designated in the single
22 portal plan for examination by a physician or eligible psychologist, according to
23 subsection (c) of this section.

24 (b) Notwithstanding subsection (a) of this section, if:

25 (1) The affiant who obtained the custody order is a physician or eligible
26 psychologist who recommends inpatient commitment; or

27 (2) The custody order states that the respondent was charged with a violent
28 crime, including a crime involving assault with a deadly weapon, and
29 the respondent was found incapable of proceeding;

30 then the law enforcement officer shall take respondent directly to a 24-hour facility
31 designated in the single portal plan or, if the respondent has the resources to pay for the
32 cost of inpatient care without the use of any (i) public funds appropriated to the area
33 authority or (ii) Medicaid funds, take respondent directly to a private 24-hour facility that
34 has agreed to admit the respondent and is designated pursuant to G.S. 122C-252. If a
35 physician or eligible psychologist executes an affidavit for inpatient commitment, a
36 second physician shall be required to perform the examination required by G.S. 122C-
37 266.

38 (c) The physician or eligible psychologist described in subsection (a) of this
39 section shall examine the respondent as soon as possible, and in any event within 24
40 hours, after the respondent is presented for examination. The examination shall include
41 an assessment of the respondent, according to G.S. 122C-263(c).

42 (d) After the conclusion of the examination, the physician or eligible psychologist
43 shall make the following determinations:

- 1 (1) If the physician or eligible psychologist finds that the respondent meets
2 the criteria of G.S. 122C-263(d)(1), the physician or eligible
3 psychologist shall so show on the examination report and shall
4 recommend outpatient commitment. In addition, the examining
5 physician or eligible psychologist shall show the name, address, and
6 telephone number of the proposed outpatient treatment physician or
7 center. The person designated in the order to provide transportation
8 shall return the respondent to the respondent's regular residence or, with
9 the respondent's consent, to the home of a consenting individual, and the
10 respondent shall be released from custody.
- 11 (2) If the physician or eligible psychologist finds that the respondent is
12 mentally ill and either dangerous to self, as defined in G.S. 122C-
13 3(11)a., or dangerous to others, as defined in G.S. 122C-3(11)b., the
14 physician or eligible psychologist shall recommend inpatient
15 commitment and shall so show on the examination report. The law
16 enforcement officer or other designated person shall take the respondent
17 to a 24-hour facility for custody, observation, and treatment pending a
18 district court hearing. The respondent shall be transported to a 24-hour
19 facility designated in the single portal plan or, if the respondent has the
20 resources to pay for the cost of inpatient hospital care without the use of
21 any (i) public funds appropriated to the area authority or (ii) Medicaid
22 funds, transported to a private 24-hour facility that has agreed to admit
23 the respondent and is designated pursuant to G.S. 122C-252.
- 24 (3) If the physician or eligible psychologist finds that neither condition
25 described in subdivision (1) or (2) of this subsection exists, the
26 proceedings shall be terminated. The person designated in the order to
27 provide transportation shall return the respondent to the respondent's
28 regular residence or, with the respondent's consent, to the home of a
29 consenting individual, and the respondent shall be released from
30 custody.
- 31 (4) If the physician or eligible psychologist has reason to believe that the
32 respondent is mentally retarded, the physician or eligible psychologist
33 shall proceed according to the provisions of Part 7A of this Article,
34 unless the respondent is being evaluated for commitment pursuant to the
35 provisions of G.S. 15A-1003 or G.S. 15A-1321.
- 36 (e) The findings of the physician or eligible psychologist and the facts on which
37 they are based shall be in writing in all cases. The physician or eligible psychologist
38 shall send a copy of the findings to the clerk of superior court by the most reliable and
39 expeditious means. If it cannot be reasonably anticipated that the clerk will receive the
40 copy within 48 hours of the time that it was signed, the physician or eligible psychologist
41 shall also communicate the findings to the clerk by telephone.
- 42 (f) When outpatient commitment is recommended, the examining physician or
43 eligible psychologist, if different from the proposed outpatient treatment physician or

1 center, shall give the respondent a written notice listing the name, address, and telephone
2 number of the proposed outpatient treatment physician or center and directing the
3 respondent to appear at the address at a specified date and time. Before the appointment,
4 the examining physician or eligible psychologist shall notify by telephone the designated
5 outpatient treatment physician or center and shall send a copy of the notice and the
6 examination report to the physician or center.

7 (g) At the completion of the examination, the physician or eligible psychologist
8 shall provide the respondent with specific information regarding the next steps that will
9 occur."

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

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

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

22 "(a) Except as provided in subsections (b) and (e), within 24 hours of arrival at a
23 24-hour facility described in G.S. 122C-252, the respondent shall be examined by a
24 physician. This physician shall not be the same physician who completed the certificate
25 or examination under the provisions of G.S. 122C-261.1 or G.S. 122C-263(a). The
26 examination shall include but is not limited to the assessment specified in G.S. 122C-
27 263(c).

28 (1) If the physician finds that the respondent is mentally ill and is dangerous
29 to ~~himself, self,~~ as defined by G.S. 122C-3(11)a., or others, as defined by
30 G.S. 122C-3(11)b., ~~or is mentally retarded and, because of an accompanying~~
31 ~~behavior disorder, is dangerous to others, as defined in G.S. 122C-3(11)b.,~~ he
32 the physician shall hold the respondent at the facility pending the district
33 court hearing.

34 (2) If the physician finds that the respondent meets the criteria for
35 outpatient commitment under G.S. 122C-263(d)(1), ~~he~~ the physician
36 shall show ~~his~~ these findings on the physician's examination report,
37 release the respondent pending the district court hearing, and notify the
38 clerk of superior court of the county where the petition was initiated of
39 ~~his~~ these findings. In addition, the examining physician shall show on
40 the examination report the name, address, and telephone number of the
41 proposed outpatient treatment physician or center. ~~He~~ The physician
42 shall give the respondent a written notice listing the name, address, and
43 telephone number of the proposed outpatient treatment physician or

1 center and directing the respondent to appear at that address at a
2 specified date and time. The examining physician before the
3 appointment shall notify by telephone and shall send a copy of the
4 notice and ~~his~~the examination report to the proposed outpatient
5 treatment physician or center.

6 (3) If the physician finds that the respondent does not meet the criteria for
7 commitment under either G.S. 122C-263(d)(1) or G.S. 122C-263(d)(2),
8 ~~he~~the physician shall release the respondent and the proceedings shall
9 be terminated.

10 (4) If the respondent is released under subdivisions (2) or (3) of this
11 subsection, the ~~law enforcement~~law enforcement officer or other person
12 designated to provide transportation shall return the respondent to the
13 ~~originating county~~respondent's residence in the originating county or, if
14 requested by the respondent, to another location in the originating
15 county.

16 (5) If the physician or eligible psychologist has reason to believe that the
17 respondent is mentally retarded, the physician or eligible psychologist
18 shall proceed according to the provisions of Part 7A of this Article
19 unless the respondent was sent to the 24-hour facility pursuant to the
20 provisions of G.S. 15A-1003 or G.S. 15A-1321."

21 (b) G.S. 122C-266(e) reads as rewritten:

22 "(e) If the 24-hour facility described in G.S. 122C-252 or G.S. 122C-262 is the
23 facility in which the first examination by a physician or eligible psychologist occurred
24 and is the same facility in which the respondent is held, the second examination ~~must~~
25 shall occur not later than the following regular working day."

26 Sec. 16. (a) G.S. 122C-268(a) reads as rewritten:

27 "(a) A hearing shall be held in district court within 10 days of the day the
28 respondent is taken into law enforcement custody pursuant to G.S. ~~122C-261(e)~~122C-
29 261(e), 122C-261.1, or 122C-262. A continuance of not more than five days may be
30 granted upon motion of:

31 (1) The court;

32 (2) Respondent's counsel; or

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

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

36 "(j) To support an inpatient commitment order, the court shall find by clear,
37 cogent, and convincing evidence that the respondent is mentally ill and dangerous to
38 ~~himself, self,~~ as defined in G.S. 122C-3(11)a., or dangerous to others, as defined in G.S.
39 ~~122C-3(11)b., or is mentally retarded and, because of an accompanying behavior disorder, is~~
40 ~~dangerous to others, as defined in~~ G.S. 122C-3(11)b. The court shall record the facts that
41 support its findings."

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

1 (a) The senior regular resident superior court judge of a superior court district or
2 set of districts as defined in G.S. 7A-41.1 in which a State facility for the mentally ill is
3 located shall appoint an attorney licensed to practice in North Carolina as special counsel
4 for indigent respondents who are mentally ill ~~or mentally retarded with an accompanying~~
5 ~~behavior disorder.~~ ill. This special counsel shall serve at the pleasure of the appointing
6 judge, may not privately practice law, and shall receive annual compensation within the
7 salary range for assistant district attorneys as fixed by the Administrative Officer of the
8 Courts. The special counsel shall represent all indigent respondents at all hearings,
9 rehearings, and supplemental hearings held at the State facility and on appeals held under
10 this Article. Special counsel shall determine indigency in accordance with G.S. 7A-
11 450(a). Indigency is subject to redetermination by the presiding judge."

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

13 (f) The Attorney General may employ four attorneys, one to be assigned by him
14 full-time to each of the State facilities for the mentally ill, to represent the State's interest
15 at commitment hearings, rehearings and supplemental hearings held under this Article at
16 the State facilities for respondents admitted to those facilities pursuant to Part 3, 4, 7, 7A,
17 or 8 of this Article or G.S. 15A-1321 and to provide liaison and consultation services
18 concerning these matters. These attorneys are subject to Chapter 126 of the General
19 Statutes and shall also perform additional duties as may be assigned by the Attorney
20 General. The attorney employed by the Attorney General in accordance with G.S. 114-
21 4.2B shall represent the State's interest at commitment hearings, rehearings and
22 supplemental hearings held for respondents admitted to the University of North Carolina
23 Hospitals at Chapel Hill pursuant to Part 3, 4, 7, 7A, or 8 of this Article or G.S. 15A-
24 1321."

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

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

- 29 (1) If the court finds by clear, cogent, and convincing evidence that the
30 respondent is mentally ill; that ~~he~~ the respondent is capable of surviving
31 safely in the community with available supervision from family, friends,
32 or others; that based on respondent's psychiatric history, the respondent
33 is in need of treatment in order to prevent further disability or
34 deterioration that would predictably result in dangerousness as defined
35 by G.S. 122C-3(11); and that the respondent's current mental status or
36 the nature of ~~his~~ the respondent's illness limits or negates ~~his~~ the
37 respondent's ability to make an informed decision voluntarily to seek or
38 comply with recommended treatment, it may order outpatient
39 commitment for a period not in excess of 90 days. If the commitment
40 proceedings were initiated as the result of the respondent's being
41 charged with a violent crime, including a crime involving an assault
42 with a deadly weapon, and the respondent was found incapable of
43 proceeding, the commitment order shall so show.

- 1 (2) If the court finds by clear, cogent, and convincing evidence that the
2 respondent is mentally ill and is dangerous to ~~himself, self,~~ as defined in
3 G.S. 122C-3(11)a., or others, as defined in G.S. 122C-3(11)b., ~~or is~~
4 ~~mentally retarded and, because of an accompanying behavior disorder, is~~
5 ~~dangerous to others, as defined in G.S. 122C-3(11)b.,~~ it may order inpatient
6 commitment at a 24-hour facility described in G.S. 122C-252 for a
7 period not in excess of 90 days. However, ~~an individual who is mentally~~
8 ~~retarded and, because of an accompanying behavior disorder, is dangerous to~~
9 ~~others, as defined in G.S. 122C-3(11)b.,~~ no respondent may not be
10 committed to a State, area or private facility for the mentally retarded.
11 An individual who is mentally ill and dangerous to ~~himself, self,~~ as
12 defined in G.S. 122C-3(11)a., or others, as defined in G.S. 122C-
13 3(11)b., may also be committed to a combination of inpatient and
14 outpatient commitment at both a 24-hour facility and an outpatient
15 treatment physician or center for a period not in excess of 90 days. If the
16 commitment proceedings were initiated as the result of the respondent's
17 being charged with a violent crime, including a crime involving an
18 assault with a deadly weapon, and the respondent was found incapable
19 of proceeding, the commitment order shall so show. If the court orders
20 inpatient commitment for a respondent who is under an outpatient
21 commitment order, the outpatient commitment is terminated; and the
22 clerk of the superior court of the county where the district court hearing
23 is held shall send a notice of the inpatient commitment to the clerk of
24 superior court where the outpatient commitment was being supervised.
- 25 (3) If the court does not find that the respondent meets either of the
26 commitment criteria set out in subdivisions (1) and (2) of this
27 subsection, the respondent shall be discharged, and the facility in which
28 ~~he~~ the respondent was last a client so notified.
- 29 (4) Before ordering any outpatient commitment, the court shall make
30 findings of fact as to the availability of outpatient treatment. The court
31 shall also show on the order the outpatient treatment physician or center
32 who is to be responsible for the management and supervision of the
33 respondent's outpatient commitment. When an outpatient commitment
34 order is issued for a respondent held in a 24-hour facility, the court may
35 order the respondent held at the facility for no more than 72 hours in
36 order for the facility to notify the designated outpatient treatment
37 physician or center of the treatment needs of the respondent. The clerk
38 of court in the county where the facility is located shall send a copy of
39 the outpatient commitment order to the designated outpatient treatment
40 physician or center. If the outpatient commitment will be supervised in a
41 county other than the county where the commitment originated, the
42 court shall order venue for further court proceedings to be transferred to
43 the county where the outpatient commitment will be supervised. Upon

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

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

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

8 "§ 122C-280.1. In areas without a single portal plan for mental health facilities;
9 affidavit and petition before clerk or magistrate when immediate
10 hospitalization is not necessary; custody order.

11 (a) In an area without a valid single portal of entry and exit plan pursuant to G.S.
12 122C-132, anyone who has knowledge of an individual who is mentally retarded and
13 because of mental illness, either (i) dangerous to self, as defined in G.S. 122C-3(11)a., or
14 dangerous to others, as defined in G.S. 122C-3(11)b., or (ii) in need of treatment in order
15 to prevent further disability or deterioration that would predictably result in
16 dangerousness, may appear before a clerk or assistant or deputy clerk of superior court or
17 a magistrate and execute an affidavit to this effect, and petition the clerk or magistrate for
18 issuance of an order to take the respondent into custody for examination by a physician or
19 eligible psychologist. The affidavit shall include the facts on which the affiant's opinion
20 is based. Jurisdiction under this subsection is in the clerk or magistrate in the county
21 where the respondent resides or is found. In an area with a single portal plan, if anyone
22 contacts a clerk, assistant or deputy clerk, or a magistrate about an individual described in
23 this subsection, the clerk, assistant or deputy clerk, or magistrate shall proceed in
24 accordance with G.S. 122C-280.2, unless the individual has the resources to pay for the
25 cost of inpatient hospital care without the use of any (i) public funds appropriated to the
26 area authority or (ii) Medicaid funds.

27 (b) If the clerk or magistrate finds reasonable grounds to believe that the facts
28 alleged in the affidavit are true and that the respondent is probably mentally retarded and
29 because of mental illness is either (i) dangerous to self, as defined in G.S. 122C-3(11)a.,
30 or dangerous to others, as defined in G.S. 122C-3(11)b., or (ii) in need of treatment in
31 order to prevent further disability or deterioration that would predictably result in
32 dangerousness, the clerk or magistrate shall issue an order to a law enforcement officer or
33 any other person authorized under G.S. 122C-251 to take the respondent into custody for
34 examination by a physician or eligible psychologist. The clerk or magistrate shall
35 provide the petitioner, and the respondent, if present, with specific information regarding
36 the next steps that will occur for the respondent.

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

40 (d) If the affiant is a physician or eligible psychologist, the affiant may execute the
41 affidavit before any official authorized to administer oaths and is not required to appear
42 before the clerk or magistrate for this purpose. The physician's or eligible psychologist's
43 examination shall comply with the requirements of the initial examination as provided in

1 G.S. 122C-280.4(c). If the physician or eligible psychologist recommends outpatient
2 commitment and the clerk or magistrate finds probable cause to believe that the
3 respondent meets the criteria for outpatient commitment, the clerk or magistrate shall
4 issue an order that a hearing before a district court judge be held to determine whether the
5 respondent will be involuntarily committed. If a physician or eligible psychologist
6 recommends outpatient commitment, the clerk or magistrate shall provide the respondent
7 with written notice of any scheduled appointment and the name, address, and telephone
8 number of the proposed outpatient treatment physician or center. If the physician or
9 eligible psychologist recommends inpatient commitment and the clerk or magistrate finds
10 probable cause to believe that the respondent meets the criteria for inpatient commitment,
11 the clerk or magistrate shall issue an order for transportation to or custody at a 24-hour
12 facility described in G.S. 122C-252. If a physician or eligible psychologist executes an
13 affidavit for inpatient commitment of a respondent, a second physician shall be required
14 to perform the examination required by G.S. 122C-280.7.

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

18 **"§ 122C-280.2. In areas with single portal plans for mental health facilities; custody**
19 **order and transportation.**

20 (a) In an area with a valid single portal of entry and exit plan pursuant to G.S.
21 122C-132, anyone, including a law enforcement officer, who has knowledge of an
22 individual who is subject to commitment according to the criteria of G.S. 122C-280.1(a)
23 and who requires immediate treatment to prevent harm to self or others, may transport the
24 individual directly to a facility in accordance with the single portal plan, for examination
25 by a physician or eligible psychologist in accordance with G.S. 122C-280.5.

26 (1) If the individual meets the criteria required in G.S. 122C-280.1(a), the
27 physician or eligible psychologist shall so certify in writing before any
28 official authorized to administer oaths. The certificate shall also state
29 the reason that the individual requires immediate treatment. If the
30 physician or eligible psychologist has reason to believe that the
31 individual is not mentally retarded, the physician or eligible
32 psychologist shall continue according to the provisions of Part 7 of this
33 Article.

34 (2) If the physician or eligible psychologist executes the oath, appearance
35 before a magistrate shall be waived. The physician or eligible
36 psychologist shall send the result of this inquiry and a copy of the
37 certificate to the clerk of superior court by the most reliable and
38 expeditions means. If it cannot be reasonably anticipated that the clerk
39 will receive the copy within 24 hours, excluding Saturday, Sunday, and
40 holidays, of the time that it was signed, the physician or eligible
41 psychologist shall also communicate the findings to the clerk by
42 telephone.

1 (3) The physician's or eligible psychologist's certificate, if it indicates that
2 the individual meets the criteria for inpatient commitment and requires
3 immediate treatment to prevent harm to self or others, shall serve as the
4 custody order, and the law enforcement officer or other designated
5 person shall provide transportation in accordance with G.S. 122C-251
6 for examination and treatment pending a district court hearing. The
7 respondent shall be transported to a 24-hour facility designated in the
8 single portal plan or, if the respondent has the resources to pay for the
9 cost of inpatient hospital care without the use of any (i) public funds
10 appropriated to the area authority or (ii) Medicaid funds, transported to
11 a private facility that has agreed to admit the respondent.

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

18 (b) In an area with a valid single portal of entry and exit plan pursuant to G.S.
19 122C-132, anyone who has knowledge of an individual who is subject to commitment
20 according to the criteria of G.S. 122C-280.1(a) may describe the behavior of the
21 individual to a qualified crisis services professional.

22 (1) If the person requesting commitment contacts the qualified crisis
23 services professional by telephone and the qualified crisis services
24 professional is able to form a reasonable belief, based on the
25 information provided by the person requesting commitment and any
26 other relevant information known to the qualified crisis services
27 professional, that the individual probably meets the commitment criteria
28 as provided in G.S. 122C-261(a), the qualified crisis services
29 professional shall execute an affidavit to this effect before any official
30 authorized to administer oaths. This affiant is not required to appear
31 before the clerk or magistrate for this purpose. The qualified crisis
32 services professional shall also fill out a statement containing the facts
33 on which the request for commitment is based and containing an
34 acknowledgment that the person signing is aware of the penalty
35 pursuant to G.S. 122C-204(b) for giving false information. The
36 qualified crisis services professional shall provide to the clerk or
37 assistant or deputy clerk or magistrate a copy of the unsigned statement
38 and the affidavit containing the recommendation of the qualified crisis
39 services professional that the clerk or magistrate issue a custody order.
40 The unsigned statement and the affidavit may be transmitted to the clerk
41 or magistrate by facsimile. The original of the affidavit shall be
42 forwarded to the clerk within 48 hours. If the clerk or magistrate issues
43 a custody order pursuant to subsection (e) of this section, the magistrate

1 or clerk shall give the unsigned statement to the person to whom the
2 clerk or magistrate gives the custody order and that person shall contact
3 the person requesting commitment and obtain the signature of the
4 person requesting commitment before taking the respondent into
5 custody, unless doing so would place any person in danger, in which
6 case that person may take action to ensure the safety of those present
7 prior to obtaining the signature. If the person requesting commitment
8 refuses to sign the statement, the person to whom the clerk or magistrate
9 has given the custody order shall determine whether to take the
10 respondent into custody pursuant to the criteria of subsection (a) of this
11 section.

12 (2) If the person requesting commitment contacts the qualified crisis
13 services professional by telephone but the qualified crisis services
14 professional is not satisfied that the information provided is an adequate
15 basis on which to recommend the issuance of a custody order, the
16 qualified crisis services professional may require the person to appear
17 before the qualified crisis services professional and sign a written
18 statement before determining whether to recommend that the clerk or
19 magistrate issue a custody order.

20 (3) If the person requesting commitment appears in person before the
21 qualified crisis services professional, the person shall sign a statement
22 containing the facts on which the request for commitment is based and
23 containing an acknowledgment that the person is aware of the penalty
24 pursuant to G.S. 122C-204(b) for giving false information. If the
25 qualified crisis services professional is able to form a reasonable belief,
26 based on the information provided by the person requesting
27 commitment and any other relevant information known to the qualified
28 crisis services professional, that the individual probably meets the
29 commitment criteria as provided in G.S. 122C-280.1(a), the qualified
30 crisis services professional shall execute an affidavit to that effect
31 before any official authorized to administer oaths. This affiant is not
32 required to appear before the clerk or magistrate for this purpose. The
33 qualified crisis services professional shall provide to the clerk or
34 magistrate a copy of the signed statement, and a copy of the affidavit
35 containing the recommendation that a custody order should be issued.
36 The statement and affidavit may be transmitted to the clerk or
37 magistrate by facsimile. The original of the statement and the affidavit
38 shall be forwarded to the clerk within 48 hours.

39 (4) The qualified crisis services professional shall provide the person
40 requesting commitment with specific information regarding the next
41 steps that will occur for the respondent. At first contact with the
42 individual subject to commitment, the qualified crisis services

1 professional shall provide the person subject to commitment with
2 specific information regarding the next steps that may occur.

3 (5) The magistrate or clerk may require the personal appearance of the
4 person requesting commitment in order to make the determination
5 whether there are reasonable grounds to believe that the facts alleged in
6 the statement are true and that the respondent probably meets the
7 commitment criteria prescribed by G.S. 122C-280.1(a).

8 (c) In an area with a valid single portal of entry and exit plan pursuant to G.S.
9 122C-132, anyone who has knowledge of an individual who is mentally retarded and,
10 because of mental illness, is either (i) dangerous to self, as defined in G.S. 122C-3(11)a.,
11 or dangerous to others, as defined in G.S. 122C-3(11)b., or (ii) in need of treatment in
12 order to prevent further disability or deterioration that would predictably result in
13 dangerousness, may appear before a clerk or assistant or deputy clerk of superior court or
14 a magistrate and execute an affidavit to this effect, and petition the clerk or magistrate for
15 issuance of an order to take the respondent into custody for examination by a physician or
16 eligible psychologist. The affidavit shall include the facts on which the affiant's opinion
17 is based. Before making a determination to issue a custody order, the clerk or magistrate
18 shall contact the area authority to determine if there are more appropriate resources
19 available through the area authority to assist the person requesting commitment or the
20 person who may be in need of treatment. If, based on the affidavit or based on
21 information provided by the area authority, the clerk or magistrate has reason to believe
22 that the respondent is not mentally retarded, the clerk or magistrate shall proceed
23 according to the provisions of Part 7 of this Article.

24 (d) Jurisdiction under this section is in the clerk or magistrate in the county where
25 the respondent resides or is found.

26 (e) If the clerk or magistrate finds reasonable grounds to believe that the facts
27 alleged in the statement referred to in subsection (b) of this section or the affidavit
28 referred to in subsection (c) of this section are true and that the respondent is probably
29 mentally retarded and, because of a mental illness, is either (i) dangerous to self, as
30 defined in G.S. 122C-3(11)a., or dangerous to others, as defined in G.S. 122C-3(11)b., or
31 (ii) in need of treatment in order to prevent further disability or deterioration that would
32 predictably result in dangerousness, the clerk or magistrate shall issue an order to a law
33 enforcement officer or any other person authorized under G.S. 122C-251 to take the
34 respondent into custody for examination by a physician or eligible psychologist in
35 accordance with the single portal plan and with G.S. 122C-280.5(c). The clerk or
36 magistrate shall provide the petitioner and the respondent, if present, with specific
37 information regarding the next steps that will occur for the respondent.

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

41 (g) When a physician or eligible psychologist is the affiant, the physician or
42 eligible psychologist may execute the affidavit before any official authorized to
43 administer oaths. This affiant is not required to appear before the clerk or magistrate for

1 this purpose. This affiant's examination shall comply with the requirements of the initial
2 examination as provided in G.S. 122C-280.4(c). If the physician or eligible psychologist
3 recommends outpatient commitment and the clerk or magistrate finds probable cause to
4 believe that the respondent meets the criteria for outpatient commitment, the clerk or
5 magistrate shall issue an order that a hearing before a district court judge be held to
6 determine whether the respondent will be involuntarily committed. If the physician or
7 eligible psychologist recommends outpatient commitment, the clerk or magistrate shall
8 provide the respondent with written notice of any scheduled appointment and the name,
9 address, and telephone number of the proposed outpatient treatment physician or center.
10 If the physician or eligible psychologist recommends inpatient commitment and the clerk
11 or magistrate finds probable cause to believe that the respondent meets the criteria for
12 inpatient commitment, the clerk or magistrate shall issue an order for transportation to or
13 custody at a 24-hour facility designated in the single portal plan or, if the respondent has
14 the resources to pay for the cost of inpatient hospital care without the use of any (i) public
15 funds appropriated to the area authority or (ii) Medicaid funds, transportation to or
16 custody at a private facility that has agreed to admit the respondent. If a physician or
17 eligible psychologist executes an affidavit for inpatient commitment of a respondent, a
18 second physician shall be required to perform the examination required by G.S. 122C-
19 280.8.

20 (h) Upon receipt of the custody order of the clerk or magistrate, or a custody order
21 issued by the court pursuant to G.S. 15A-1003, a law enforcement officer or other person
22 designated in the order shall take the respondent into custody within 24 hours after the
23 order is signed and proceed according to G.S. 122C-280.5.

24 **"§ 122C-280.3. In areas without a single portal plan for mental health facilities;**
25 **procedure 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-280.8. 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. In areas without a single portal plan for mental health facilities,**
19 **duties of law enforcement officer; first examination by physician or**
20 **eligible psychologist.**

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

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

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

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

1 (2) Dangerousness to self, as defined in G.S. 122C-3(11)a., or others, as
2 defined in G.S. 122C-3(11)b.;
3 (3) Ability to survive safely without inpatient commitment, including the
4 availability of supervision from family, friends, or others; and
5 (4) Capacity to make an informed decision concerning treatment.
6 (d) After the conclusion of the examination, the physician or eligible psychologist
7 shall make the following determinations:

8 (1) If the physician or eligible psychologist finds that:
9 a. The respondent is mentally retarded and mentally ill;
10 b. The respondent is capable of surviving safely in the community
11 with available supervision from family, friends, or others;
12 c. Based on the respondent's psychiatric history, the respondent is
13 in need of treatment in order to prevent further disability or
14 deterioration which would predictably result in dangerousness, as
15 defined by G.S. 122C-3(11); and
16 d. The respondent's current mental status or the nature of the
17 respondent's illness limits or negates the respondent's ability to
18 make an informed decision to seek voluntarily or comply with
19 recommended treatment.

20 The physician or eligible psychologist shall so show on the examination
21 report and shall recommend outpatient commitment. In addition, the
22 examining physician or eligible psychologist shall show the name,
23 address, and telephone number of the proposed outpatient treatment
24 facility. The person designated in the order to provide transportation
25 shall return the respondent to the respondent's regular residence or, with
26 the respondent's consent, to the home of a consenting individual and
27 shall release the respondent from custody.

28 (2) If the physician or eligible psychologist finds that the respondent is
29 mentally retarded and because of a mental illness is dangerous to self, as
30 defined in G.S. 122C-3(11)a., or others, as defined in G.S. 122C-
31 3(11)b., the physician or psychologist shall recommend inpatient
32 commitment and shall so show on the examination report. The law
33 enforcement officer or other designated person shall take the respondent
34 to a 24-hour facility described in G.S. 122C-252 pending a district court
35 hearing. If there is no area 24-hour facility and if the respondent is
36 indigent and unable to pay for care at a private 24-hour facility, the law
37 enforcement officer or other designated person shall take the respondent
38 to a State facility for the mentally ill designated by the Commission in
39 accordance with G.S. 143B-147(a)(1)a. for custody, observation, and
40 treatment and immediately notify the clerk of superior court of this
41 action.

42 (3) If the physician or eligible psychologist finds that neither condition
43 described in subdivision (1) or (2) of this subsection exists, the

1 proceedings shall be terminated. The person designated in the order to
2 provide transportation shall return the respondent to the respondent's
3 regular residence or, with the respondent's consent, to the home of a
4 consenting individual, and the respondent shall be released from
5 custody.

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

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

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

23 (g) The physician or eligible psychologist, at the completion of the examination,
24 shall provide the respondent with specific information regarding the next steps that will
25 occur.

26 **"§ 122C-280.5. In areas with a single portal plan for mental health facilities, duties**
27 **of law enforcement officer; first examination by physician or eligible**
28 **psychologist.**

29 (a) In an area with a valid single portal of entry and exit plan pursuant to G.S.
30 122C-132, without unnecessary delay after assuming custody, the law enforcement
31 officer or the individual designated by the clerk or magistrate under G.S. 122C-251 to
32 provide transportation shall take the respondent to an area facility designated in the single
33 portal plan for examination by a physician or eligible psychologist, according to
34 subsection (c) of this section.

35 (b) Notwithstanding subsection (a) of this section, if:

36 (1) The affiant who obtained the custody order is a physician or eligible
37 psychologist who recommends inpatient commitment; or

38 (2) The custody order states that the respondent was charged with a violent
39 crime, including a crime involving assault with a deadly weapon, and
40 the respondent was found incapable of proceeding;

41 then the law enforcement officer shall take respondent directly to a 24-hour facility
42 designated in the single portal plan or, if the respondent has the resources to pay for the
43 cost of inpatient care without the use of any (i) public funds appropriated to the area

1 authority or (ii) Medicaid funds, take respondent directly to a private 24-hour facility that
2 has agreed to admit the respondent and is designated pursuant to G.S. 122C-252. If a
3 physician or eligible psychologist executes an affidavit for inpatient commitment, a
4 second physician shall be required to perform the examination required by G.S. 122C-
5 280.8.

6 (c) The physician or eligible psychologist described in subsection (a) of this
7 section shall examine the respondent as soon as possible, and in any event within 24
8 hours, after the respondent is presented for examination. The examination shall include
9 an assessment of the respondent, according to G.S. 122C-280.4(c).

10 (d) After the conclusion of the examination, the physician or eligible psychologist
11 shall make the following determinations:

12 (1) If the physician or eligible psychologist finds that the respondent meets
13 the criteria of G.S. 122C-280.4(d)(1), the physician or eligible
14 psychologist shall so show on the examination report and shall
15 recommend outpatient commitment. In addition, the examining
16 physician or eligible psychologist shall show the name, address, and
17 telephone number of the proposed outpatient treatment physician or
18 center. The person designated in the order to provide transportation
19 shall return the respondent to the respondent's regular residence or to the
20 home of a consenting individual, and the respondent shall be released
21 from custody.

22 (2) If the physician or eligible psychologist finds that the respondent is
23 mentally retarded and, because of mental illness, is either dangerous to
24 self, as defined in G.S. 122C-3(11)a., or dangerous to others, as defined
25 in G.S. 122C-3(11)b., the physician or eligible psychologist shall
26 recommend inpatient commitment and shall so show on the examination
27 report. The law enforcement officer or other designated person shall
28 take the respondent to a 24-hour facility for custody, observation, and
29 treatment pending a district court hearing. The respondent shall be
30 transported to a 24-hour facility designated in the single portal plan or,
31 if the respondent has the resources to pay for the cost of inpatient
32 hospital care without the use of any (i) public funds appropriated to the
33 area authority or (ii) Medicaid funds, transported to a private 24-hour
34 facility that has agreed to admit the respondent and is designated
35 pursuant to G.S. 122C-252.

36 (3) If the physician or eligible psychologist finds that neither condition
37 described in subdivision (1) or (2) of this subsection exists, the
38 proceedings shall be terminated. The person designated in the order to
39 provide transportation shall return the respondent to the respondent's
40 regular residence or, with the respondent's consent, to the home of a
41 consenting individual, and the respondent shall be released from
42 custody.

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

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

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

19 (g) At the completion of the examination, the physician or eligible psychologist
20 shall provide the respondent with specific information regarding the next steps that will
21 occur.

22 **"§ 122C-280.6. 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-280.7. 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-280.8. 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 respondent's
37 residence in the originating county or, if requested by the respondent, to
38 another location in the originating county.

39 (5) If the physician or eligible psychologist has reason to believe that the
40 respondent is not mentally retarded, the physician or eligible
41 psychologist shall proceed according to the provisions of Part 7 of this
42 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-280.9. 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-280.4(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-280.10. 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-280.11. 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-280.10, 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-280.6. The requesting
17 clerk shall appoint as counsel for indigent respondents the counsel provided for in G.S.
18 122C-280.10(c).

19 **"§ 122C-280.12. 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
29 dangerousness, as defined in G.S. 122C-3(11); and that the respondent's
30 current mental status or the nature of respondent's illness limits or
31 negates the respondent's ability to make an informed decision to seek
32 voluntarily or comply with recommended treatment, it may order
33 outpatient commitment to the area authority for a period not in excess of
34 90 days.

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

39 (b) If the respondent has been held in a 24-hour facility pending the district court
40 hearing pursuant to G.S. 122C-280.10, 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 retarded and mentally ill; that the respondent is

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

11 (2) If the court finds by clear, cogent, and convincing evidence that the
12 respondent is mentally retarded and because of a mental illness is
13 dangerous to self, as defined in G.S. 122C-3(11)a., or dangerous to
14 others, as defined in G.S. 122C-3(11)b., it may order inpatient
15 commitment for a period not in excess of 90 days to the area authority
16 that serves the catchment area in which the respondent resides. As soon
17 as possible, and in any event, within 72 hours, the area authority shall
18 arrange inpatient treatment at a 24-hour facility designated pursuant to
19 G.S. 122C-252 that is most appropriate to the respondent's conditions
20 and needs. At the hearing, the area authority shall notify the court and
21 the respondent's counsel of the name and address of the 24-hour facility
22 where the respondent will receive inpatient treatment. An individual
23 who is mentally retarded and because of a mental illness is dangerous to
24 self, as defined in G.S. 122C-3(11)a., or dangerous to others, as defined
25 in G.S. 122C-3(11)b., may also be committed to the area authority for a
26 combination of inpatient and outpatient commitment for a period not in
27 excess of 90 days. If the court orders inpatient commitment for a
28 respondent who is under an outpatient commitment order, the outpatient
29 commitment is terminated, and the clerk of the superior court of the
30 county where the district court hearing is held shall send a notice of the
31 inpatient commitment to the clerk of superior court where the outpatient
32 commitment was being supervised.

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

37 (4) Before ordering any outpatient commitment, the court shall make
38 findings of fact as to the availability of outpatient treatment. The court
39 shall also show on the order the area authority who is to be responsible
40 for the management and supervision of the respondent's outpatient
41 commitment. When an outpatient commitment order is issued for a
42 respondent held in a 24-hour facility, the court may order the respondent
43 held at the facility for no more than 72 hours in order for the facility to

1 notify the designated area authority of the treatment needs of the
2 respondent. The clerk of court in the county where the facility is
3 located shall send a copy of the outpatient commitment order to the
4 designated area authority. If the outpatient commitment will be
5 supervised in a county other than the county where the commitment
6 originated, the court shall order venue for further court proceedings to
7 be transferred to the county where the outpatient commitment will be
8 supervised. Upon an order changing venue, the clerk of superior court
9 in the county where the commitment originated shall transfer the file to
10 the clerk of superior court in the county where the outpatient
11 commitment is to be supervised.

- 12 (5) The area authority has responsibility for managing and supervising the
13 treatment of persons who have been committed to its custody under the
14 provisions of this Part, whether residing in a 24-hour facility or
15 elsewhere.

16 **"§ 122C-280.13. Appeal.**

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

23 **"§ 122C-280.14. Duties for follow-up on commitment order.**

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

- 28 (1) If the respondent fails to comply or clearly refuses to comply with all or
29 part of the prescribed treatment, the area authority shall make all
30 reasonable effort to solicit the respondent's compliance. These efforts
31 shall be documented and reported to the court with a request for a
32 supplemental hearing.

- 33 (2) If the respondent fails to comply, but does not clearly refuse to comply,
34 with all or part of the prescribed treatment after reasonable effort to
35 solicit the respondent's compliance, the area authority shall issue a
36 custody order to a law enforcement officer or any other person
37 authorized under G.S. 122C-251 to take the respondent into custody for
38 the purpose of examination. The law enforcement officer shall turn the
39 respondent over to the custody of the area authority who shall conduct
40 the examination and then release the respondent. The law enforcement
41 officer may wait during the examination and return the respondent to the
42 respondent's home, or to a designated 24-hour facility if directed by the
43 physician or eligible psychologist, after the examination. An

1 examination conducted under this subsection in which a physician or
2 eligible psychologist determines that the respondent meets the criteria
3 for inpatient commitment may be substituted for the first examination
4 required by G.S. 122C-280.4.

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

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

12 (5) Any individual who has knowledge that a respondent on outpatient
13 commitment has become dangerous to self, as defined by G.S. 122C-
14 3(11)a., or others, as defined in G.S. 122C-3(11)b., may initiate an
15 inpatient commitment as provided in this Part. If the respondent is
16 committed as an inpatient, the outpatient commitment shall be
17 terminated and notice sent by the clerk of court in the county where the
18 respondent is committed as an inpatient to the clerk of court of the
19 county where the outpatient commitment is being supervised.

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

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

27 (d) If the commitment order directs inpatient treatment, the physician attending the
28 respondent may administer to the respondent reasonable and appropriate medication and
29 treatment that are consistent with accepted medical standards. The attending physician
30 shall release or discharge the respondent in accordance with G.S. 122C-280.18.

31 **§ 122C-280.15. Supplemental hearings.**

32 (a) Upon receipt of a request for a supplemental hearing, the clerk shall calendar a
33 hearing to be held within 14 days and notify, at least 72 hours before the hearing, the
34 petitioner, the respondent, the respondent's attorney, if any, and the area authority. The
35 clerk shall notify the respondent at least 72 hours before the hearing by personally
36 -serving on the respondent an order to appear. Other persons shall be notified as provided
37 in G.S. 122C-280.6(d).

38 (b) The procedures for the hearing shall follow G.S. 122C-280.9.

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

42 (1) Upon finding probable cause to believe that the respondent is mentally
43 retarded and because of a mental illness is dangerous to self, as defined

1 in G.S. 122C-3(11)a., or others, as defined in G.S. 122C-3(11)b., order
2 an examination by the same or different physician or eligible
3 psychologist as provided in G.S. 122C-280.4(c) in order to determine
4 the necessity for continued outpatient or inpatient commitment;

5 (2) Reissue or change the outpatient commitment order in accordance with
6 G.S. 122C-280.12; or

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

8 (d) At the supplemental hearing for a respondent who has moved or intends to
9 move to another county, the court shall determine if the respondent meets the criteria for
10 outpatient commitment set out in G.S. 122C-280.4(d)(1). If the court determines that the
11 respondent no longer meets the criteria for outpatient commitment, it shall discharge the
12 respondent from the order and dismiss the case. If the court determines that the
13 respondent continues to meet the criteria for outpatient commitment, it shall continue the
14 outpatient commitment but shall designate the area authority at the respondent's new
15 residence to be responsible for the management or supervision of the respondent's
16 outpatient commitment. The court shall order the respondent to appear for treatment at
17 the address of the treatment center of the newly designated area authority and shall order
18 venue for further court proceedings under the outpatient commitment to be transferred to
19 the new county of supervision. Upon an order changing venue, the clerk of court in the
20 county where the outpatient commitment has been supervised shall transfer the records
21 regarding the outpatient commitment to the clerk of court in the county where the
22 commitment will be supervised. Also, the clerk of court in the county where the
23 outpatient commitment has been supervised shall send a copy of the court's order
24 directing the continuation of outpatient treatment under new supervision to the newly
25 designated area authority.

26 (e) Any time during the term of an outpatient commitment order or conditional
27 release from an inpatient commitment, a respondent may apply to the court for a
28 supplemental hearing for the purpose of discharge from the order. The application shall
29 be made in writing by the respondent to the clerk of superior court of the county where
30 the commitment is being supervised. At the supplemental hearing, the court shall
31 determine whether the respondent continues to meet the criteria specified in G.S. 122C-
32 280.4(d)(1). The court may either reissue or change the commitment order or discharge
33 the respondent and dismiss the case.

34 (f) At supplemental hearings requested pursuant to G.S. 122C-280.18(a) for
35 transfer from inpatient to outpatient commitment, the court shall determine whether the
36 respondent meets the criteria for either inpatient or outpatient commitment. If the court
37 determines that the respondent continues to meet the criteria for inpatient commitment, it
38 shall order the continuation of the original commitment order. If the court determines
39 that the respondent meets the criteria for outpatient commitment, it shall order outpatient
40 commitment to the area authority for a period of time not in excess of 90 days. If the
41 court finds that the respondent does not meet either criteria, the respondent shall be
42 discharged and the case dismissed.

43 **§ 122C-280.16. Outpatient commitment; rehearings.**

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

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

11 (c) If the court finds that the respondent no longer meets the criteria of G.S. 122C-
12 280.4(d)(1), it shall unconditionally discharge the respondent. A copy of the discharge
13 order shall be furnished by the clerk to the designated area authority. If the respondent
14 continues to meet the criteria of G.S. 122C-280.4(d)(1), the court may order outpatient
15 commitment for an additional period not in excess of 180 days.

16 **"§ 122C-280.17. Inpatient commitment; rehearings.**

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

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

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

31 (d) At rehearings the court may make the same dispositions authorized in G.S.
32 122C-280.12(b) except that a second commitment order may be for an additional period
33 not in excess of 180 days.

34 (e) Fifteen days before the end of the second commitment period and annually
35 thereafter, the attending physician shall review and evaluate the condition of each
36 respondent in consultation with the area authority; and if the physician determines that a
37 respondent is in continued need of inpatient commitment or, in the alternative, in need of
38 outpatient commitment, or a combination of both, the physician shall so notify the
39 respondent, the respondent's counsel, and the clerk of superior court of the county in
40 which the facility is located. Unless the respondent through counsel files with the clerk a
41 written waiver of the respondent's right to a rehearing, the clerk, on order of a district
42 court judge of the district in which the facility is located, shall calendar a rehearing for
43 not later than the end of the current commitment period. The procedures and standards

1 for the rehearing are the same as for the first rehearing. No third or subsequent inpatient
2 recommitment order shall be for a period longer than one year.

3 (f) At any rehearings, the court has the option to order outpatient commitment for
4 a period not in excess of 180 days in accordance with the criteria specified in G.S. 122C-
5 280.4(d)(1) and following the procedures as specified in this Article.

6 **"§ 122C-280.18. Release and conditional release; judicial review.**

7 (a) The attending physician shall discharge a committed respondent
8 unconditionally at any time the physician determines that the respondent is no longer in
9 need of inpatient commitment. However, if the attending physician determines that the
10 respondent meets the criteria for outpatient commitment as defined in G.S. 122C-
11 280.4(d)(1), the physician may request the clerk to calendar a supplemental hearing to
12 determine whether an outpatient commitment order shall be issued. The attending
13 physician may also release a respondent conditionally for periods not in excess of the
14 remaining days of the inpatient commitment on specified medically appropriate
15 conditions. Violation of the conditions is grounds for return of the respondent to the
16 releasing facility. A law enforcement officer, on request of the attending physician or
17 qualified crisis services professional, shall take a conditional releasee into custody and
18 return this person to the facility in accordance with G.S. 122C-205. Notice of discharge
19 and of conditional release shall be furnished to the clerk of superior court of the county of
20 commitment and of the county in which the facility is located.

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

25 Sec. 19.1. The Mental Health Study Commission shall examine the entire civil
26 commitment process with the goal of placing full responsibility for involuntary
27 commitments on area mental health, developmental disabilities, and substance abuse
28 authorities, in accordance with due process, and of improving quality outcomes in crisis
29 services. The Commission shall report its findings, together with draft legislation and
30 cost analyses, to the 1995 General Assembly by May 1, 1996.

31 Sec. 19.2. Nothing in this act shall require hospitals licensed under G.S. 131E
32 or G.S. 122C to contract with area mental health, developmental disabilities and
33 substance abuse authorities to provide inpatient or outpatient treatment for persons who
34 are mentally retarded with mental illness.

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