

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 252
Committee Substitute Favorable 4/14/21
Committee Substitute #2 Favorable 4/14/21
Senate Judiciary Committee Substitute Adopted 6/14/22
Proposed Conference Committee Substitute H252-PCCS40820-SA-7

Short Title: Bail Bond/Bondsmen Provisions/Other Changes.

(Public)

Sponsors:

Referred to:

March 10, 2021

A BILL TO BE ENTITLED

AN ACT TO MODIFY QUALIFICATIONS AND TESTING PROCEDURES FOR BAIL
BONDSMEN AND RUNNERS, TO MODIFY VARIOUS PROVISIONS RELATED TO
BAIL BOND FORFEITURES, TO RECODIFY THE OFFENSE OF VEHICLE
TAMPERING, TO AUTHORIZE THE STATE TO EXERCISE CONCURRENT
JURISDICTION FOR OFFENSES COMMITTED BY JUVENILES ON UNITED STATES
MILITARY BASES LOCATED WITHIN THE STATE, TO ALLOW ALL SPECIAL
AGENTS OF THE DEPARTMENT OF DEFENSE TO ASSIST STATE AND LOCAL
LAW ENFORCEMENT UPON REQUEST, TO CLARIFY VACANCY ELECTIONS FOR
DISTRICT COURT JUDGES, AND TO MAKE TECHNICAL CORRECTIONS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 58-71-50(b) is amended by adding a new subdivision to read:

"(9) Be a legal resident or a documented citizen of the United States of America."

SECTION 1.(b) This section is effective when it becomes law and applies to
applications submitted on or after that date.

SECTION 2. G.S. 58-71-70 reads as rewritten:

"§ 58-71-70. **Examination; fees.**

Each applicant for a license as a professional bondsman, surety bondsman, or runner shall
appear in person and take an examination prepared by the Commissioner testing the applicant's
ability and qualifications. Each applicant is eligible for examination 30 days after the date the
application is received by the Commissioner. If an applicant is unable to complete the
examination requirement within 30 days after notification from the Commissioner of the
applicant's eligibility to take the examination, the applicant shall again be subject to the criminal
history record check prescribed by G.S. 58-71-50(a) so that current information is available for
review with the application. Each examination shall be held at a time and place as designated by
the Commissioner. Each applicant shall be given notice of the designated time and place no
sooner than 15 days before the examination. The Commissioner may contract with a person to
process applications for the examination and administer and grade the examination in the same
manner as for agent examinations under Article 33 of this Chapter.

The fee for each examination is twenty-five dollars (\$25.00) plus an amount that offsets the
cost of any contract for examination services. This examination fee is nonrefundable.

~~An applicant who fails an examination may take a subsequent examination, but at least one
year must intervene between examinations.~~



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1 Any applicant who fails to pass the examination shall within 90 days be entitled to
2 reexamination upon the payment of an additional examination fee. If the applicant fails to pass
3 the reexamination, the applicant shall file a new application before the applicant can again be
4 examined. One year must intervene from the date of the reexamination before the applicant is
5 allowed to file a new application."

6 **SECTION 3.(a)** G.S. 15A-544.3 reads as rewritten:

7 **"§ 15A-544.3. Entry of forfeiture.**

8 (a) If a defendant who was released under Part 1 of this Article upon execution of a bail
9 bond fails on any occasion to appear before the court as required, the court shall enter a forfeiture
10 for the amount of that bail bond in favor of the State against the defendant and against each surety
11 on the bail bond.

12 (b) The forfeiture shall contain the following information:

13 ...

14 (9) The following notice: "TO THE DEFENDANT AND EACH SURETY
15 NAMED ABOVE: The defendant named above has failed to appear as
16 required before the court in the case identified above. A forfeiture for the
17 amount of the bail bond shown above was entered in favor of the State against
18 the defendant and each surety named above on the date of forfeiture shown
19 above. This forfeiture will be set aside if, on or before the final judgment date
20 shown above, satisfactory evidence is presented to the court that one of the
21 following events has occurred: (i) the defendant's failure to appear has been
22 stricken by the court in which the defendant was required to appear and any
23 order for arrest that was issued for that failure to appear is recalled, (ii) all
24 charges for which the defendant was bonded to appear have been finally
25 disposed of by the court other than by the State's taking a voluntary dismissal
26 with leave, (iii) the defendant has been surrendered by a surety or bail agent
27 to a sheriff of this State as provided by law, (iv) the defendant has been served
28 with an Order for Arrest for the Failure to Appear on the criminal charge in
29 the case in question as evidenced by a copy of an official court record,
30 including an electronic record, (v) the defendant died before or within the
31 period between the forfeiture and the final judgment as demonstrated by the
32 presentation of a death certificate, (vi) the defendant was incarcerated in a unit
33 of the Division of Adult Correction and Juvenile Justice of the Department of
34 Public Safety and is serving a sentence or in a unit of the Federal Bureau of
35 Prisons located within the borders of the State at the time of the failure to
36 appear as evidenced by a copy of an official court record or a copy of a
37 document from the Division of Adult Correction and Juvenile Justice of the
38 Department of Public Safety or Federal Bureau of Prisons, ~~or~~ (vii) the
39 defendant was incarcerated in a local, state, or federal detention center, jail, or
40 prison located anywhere within the borders of the United States at the time of
41 the failure to appear, or between the failure to appear and the final judgment
42 date, and the district attorney for the county in which the charges are pending
43 was notified of the defendant's incarceration while the defendant was still
44 incarcerated and the defendant remains incarcerated for a period of 10 days
45 following the district attorney's receipt of notice, as evidenced by a copy of
46 the written notice served on the district attorney via hand delivery or certified
47 mail and written documentation of date upon which the defendant was
48 released from incarceration, if the defendant was released prior to the time the
49 motion to set aside was ~~filed~~-filed, (viii) notice of forfeiture was not provided
50 pursuant to G.S. 15A-544.4(e), or (ix) the court refused to issue an order for
51 arrest for the defendant's failure to appear, as evidenced by a copy of an

1 official court record, including an electronic record. The forfeiture will not be
 2 set aside for any other reason. If this forfeiture is not set aside on or before the
 3 final judgment date shown above, and if no motion to set it aside is pending
 4 on that date, the forfeiture will become a final judgment on that date. The final
 5 judgment will be enforceable by execution against the defendant and any
 6 accommodation bondsman and professional bondsman on the bond. The final
 7 judgment will also be reported to the Department of Insurance. Further, no
 8 surety will be allowed to execute any bail bond in the above county until the
 9 final judgment is satisfied in full."

10 **SECTION 3.(b)** G.S. 15A-544.4(e) reads as rewritten:

11 "(e) Notice under this section shall be mailed not later than the 30th day after the date on
 12 which the defendant fails to appear as required and a call and fail is ordered. ~~If notice under this~~
 13 ~~section is not given within the prescribed time, the forfeiture shall not become a final judgment~~
 14 ~~and shall not be enforced or reported to the Department of Insurance."~~

15 **SECTION 3.(c)** G.S. 15A-544.5 reads as rewritten:

16 "**§ 15A-544.5. Setting aside forfeiture.**

17 ...

18 (b) Reasons for Set Aside. – Except as provided by subsection (f) of this section, a
 19 forfeiture shall be set aside for any one of the following reasons, and none other:

20 ...

21 (8) Notice of the forfeiture was not provided pursuant to G.S. 15A-544.4(e).

22 (9) The court refused to issue an order for arrest for the defendant's failure to
 23 appear, as evidenced by a copy of an official court record, including an
 24 electronic record.

25 (c) Procedure When Failure to Appear Is Stricken. – If the court before which a
 26 defendant's appearance was secured by a bail bond enters an order striking the defendant's failure
 27 to appear and recalling any order for arrest issued for that failure to appear, that court ~~may~~shall
 28 simultaneously enter an order setting aside any forfeiture of that bail bond. When an order setting
 29 aside a forfeiture is entered, the defendant's further appearances shall continue to be secured by
 30 that bail bond unless the court orders otherwise.

31 (d) Motion Procedure. – If a forfeiture is not set aside under subsection (c) of this section,
 32 the only procedure for setting it aside is as follows:

33 (1) ~~At any time before the expiration of 150 days after the date on which notice~~
 34 ~~was given under G.S. 15A-544.4, any~~ Any of the following parties on a bail
 35 bond may make a written motion that the forfeiture be set aside:

36 a. The defendant.

37 b. Any surety.

38 c. A professional bondsman or a runner acting on behalf of a professional
 39 bondsman.

40 d. A bail agent acting on behalf of an insurance company.

41 The written motion shall state the reason for the motion and attach to the
 42 motion the evidence specified in subsection (b) of this section.

43 (1a) A motion to set aside a forfeiture for the reason described in subdivision (8)
 44 of subsection (b) of this section shall be filed within 30 days of the date notice
 45 was given pursuant to G.S. 15A-544.4(d). A motion to set aside a forfeiture
 46 for any other reason in subsection (b) of this section may be filed at any time
 47 before the expiration of 150 days after the date on which notice was given
 48 pursuant to G.S. 15A-544.4(d).

49 ...

50 (e) Only One Motion Per Forfeiture. – No more than one motion to set aside a specific
 51 forfeiture may be considered by the ~~court~~court, except that the court may consider two separate

1 motions if one is a motion to set aside for the reason described in subdivision (8) of subsection
2 (b) of this section.

3"

4 **SECTION 3.(d)** G.S. 15A-544.8 reads as rewritten:

5 **"§ 15A-544.8. Relief from final judgment of forfeiture.**

6 ...

7 (b) Reasons. – The court may grant the defendant or any surety named in the judgment
8 relief from the judgment, for the following reasons, and none other:

9 (1) The person seeking relief was not given notice as provided in G.S. 15A-544.4.
10 However, the court shall not grant relief under this subdivision solely due to
11 the court's failure to provide notice within 30 days as required by
12 G.S. 15A-544.4(e).

13 (2) Other extraordinary circumstances exist that the court, in its discretion,
14 determines should entitle that person to relief.

15"

16 **SECTION 3.(e)** This section becomes effective December 1, 2022, and applies to
17 forfeitures entered on or after that date.

18 **SECTION 4.(a)** G.S. 20-107 is recodified as G.S. 14-160.4.

19 **SECTION 4.(b)** G.S. 20-49 reads as rewritten:

20 **"§ 20-49. Police authority of Division.**

21 The Commissioner and such officers and inspectors of the Division as he shall designate and
22 all members of the Highway Patrol and law enforcement officers of the Department of Public
23 Safety shall have the power:

24 (1) Of peace officers for the purpose of enforcing the provisions of this ~~Article~~
25 Article, G.S. 14-160.4, and of any other law regulating the operation of
26 vehicles or the use of the highways.

27"

28 **SECTION 4.(c)** This section becomes effective December 1, 2022, and applies to
29 offenses committed on or after that date.

30 **SECTION 5.(a)** G.S. 104-11.1 reads as rewritten:

31 **"§ 104-11.1. Governor may accept a retrocession of jurisdiction over federal ~~areas~~areas;**
32 **authorization for concurrent juvenile jurisdiction.**

33 (a) Whenever a duly authorized official or agent of the United States, acting pursuant to
34 authority conferred by the Congress, notifies the Governor or any other State official, department
35 or agency, that the United States desires or is willing to relinquish to the State the jurisdiction, or
36 a portion thereof, held by the United States over the lands designated in such notice, the Governor
37 may, in his discretion, accept such relinquishment. Such acceptance may be made by sending a
38 notice of acceptance to the official or agent designated by the United States to receive such notice
39 of acceptance. The Governor shall send a signed copy of the notice of acceptance, together with
40 the notice of relinquishment received from the United States, to the Secretary of State, who shall
41 maintain a permanent file of said notices.

42 Upon the sending of said notice of acceptance to the designated official or agent of the United
43 States, the State shall immediately have such jurisdiction over the lands designated in the notice
44 of relinquishment as said notice shall specify.

45 The provisions of this ~~section~~subsection shall apply to the relinquishment of jurisdiction
46 acquired by the United States under the provisions of this Chapter or any other provision of law.

47 (b) Notwithstanding any other provision of this Article, the State shall exercise
48 concurrent jurisdiction with the United States over a military installation of the United States
49 Department of Defense located within the State in a matter relating to a violation of federal law
50 by a juvenile within the boundaries of that military installation, if all of the following criteria are
51 met:

(1) The United States Attorney, or the United States District Court, for the applicable district in North Carolina waives exclusive jurisdiction.

(2) The violation of federal law is also a crime or infraction under State law."

SECTION 5.(b) Article 16 of Chapter 7B of the General Statutes is amended by adding a new section to read:

"§ 7B-1605. Jurisdiction over certain delinquent juveniles.

When concurrent jurisdiction has been established pursuant to G.S. 104-11.1(b), the court has exclusive original jurisdiction over any case involving a juvenile who is alleged to be delinquent as the result of an act committed within the boundaries of a military installation that is a crime or infraction under State law."

SECTION 5.(c) G.S. 7B-1501 reads as rewritten:

"§ 7B-1501. Definitions.

In this Subchapter, unless the context clearly requires otherwise, the following words have the listed meanings. The singular includes the plural, unless otherwise specified:

...

(27b) Vulnerable juvenile. –

a. Any juvenile who, while less than 10 years of age but at least 6 years of age, commits a crime or infraction under State law or under an ordinance of local government, including violation of the motor vehicle laws, and is not a delinquent juvenile.

b. Any juvenile who, while less than 10 years of age but at least 6 years of age, commits an act within the boundaries of a military installation that is a crime or infraction under State law and is not a delinquent juvenile.

...."

SECTION 5.(d) This section becomes effective December 1, 2022, and applies to acts committed on or after that date.

SECTION 6. G.S. 15A-406(a) reads as rewritten:

"(a) For purposes of this section, "federal law enforcement officer" means any of the following persons who are employed as full-time law enforcement officers by the federal government and who are authorized to carry firearms in the performance of their duties:

(1) United States Secret Service special ~~agents~~;agents.

(2) Federal Bureau of Investigation special ~~agents~~;agents.

(3) Bureau of Alcohol, Tobacco and Firearms special ~~agents~~;agents.

(4) ~~United States Naval Investigative Service special agents~~;Special agents of the Department of Defense, including:

a. Army Criminal Investigation Division.

b. Naval Criminal Investigative Service.

c. Air Force Office of Special Investigations.

d. Defense Criminal Investigative Service.

(5) Drug Enforcement Administration special ~~agents~~;agents.

(6) United States Customs Service ~~officers~~;officers.

(7) United States Postal Service ~~inspectors~~;inspectors.

(8) Internal Revenue Service special ~~agents~~;agents.

(9) United States Marshals Service marshals and ~~deputies~~;deputies.

(10) United States Forest Service ~~officers~~;officers.

(11) National Park Service ~~officers~~;officers.

(12) United States Fish and Wildlife Service ~~officers~~;officers.

(13) Immigration and Naturalization Service ~~officers~~;officers.

(14) Tennessee Valley Authority ~~officers~~; and officers.

(15) Veterans Administration police officers."

1 **SECTION 7.(a)** G.S. 7A-142 reads as rewritten:

2 "**§ 7A-142. Vacancies in office.**

3 (a) A vacancy in the office of district judge occurring for causes other than expiration of
4 term shall be filled by appointment of the ~~Governor,~~ Governor. The appointee shall serve until
5 an election is conducted at the same time as the next election for members of the General
6 Assembly that is more than 60 days after the vacancy occurs, as provided in this section.

7 (b) An appointee shall hold office ~~until January 1 next following the election for members~~
8 ~~of the General Assembly that is held more than 60 days after the vacancy occurs,~~ at which time
9 ~~an election shall be held to fill the unexpired term of office.~~ as follows:

10 (1) ~~Provided, that when the unexpired term of the office in which the vacancy has~~
11 ~~occurred expires on the first day of January succeeding the next election for~~
12 ~~members of the General Assembly, If the unexpired term of office ends on the~~
13 first day of January following the next election for members of the General
14 Assembly, the Governor shall appoint to fill the vacancy for the unexpired
15 term of office, and the election shall be for a four-year term.

16 (2) If the unexpired term of office ends on the first day of January two years
17 following the next election for members of the General Assembly, the
18 Governor shall appoint to fill the vacancy until the election is certified, and
19 the election shall be for the unexpired term of office.

20 (c) Prior to the appointment, the bar of the judicial district, as defined in G.S. 84-19, shall
21 nominate five persons who are residents of the judicial district who are duly authorized to practice
22 law in the district for consideration by the Governor. The nominees shall be selected by vote of
23 only those bar members who reside in the district. In the event fewer than five persons are
24 nominated, upon providing the nominations to the Governor, the bar shall certify that there were
25 insufficient nominations in the district to comply with this section. Prior to filling the vacancy,
26 the Governor shall give due consideration to the nominations provided by the bar of the judicial
27 district.

28 (d) For any election held under this section, the following shall apply:

29 (1) If the vacancy occurs prior to the opening of the filing period for the office as
30 provided in G.S. 163-106.2, the election shall be conducted in accordance
31 with the general laws governing elections in Chapter 163 of the General
32 Statutes.

33 (2) If the vacancy occurs after the opening of the filing period for the office as
34 provided in G.S. 163-106.2, the election shall be conducted in accordance
35 with the general laws governing elections in Chapter 163 of the General
36 Statutes, except for the following:

37 a. Each political party executive committee for the district in which the
38 vacancy occurs may nominate an individual to be listed on the general
39 election ballots in accordance with G.S. 163-114. This nomination
40 shall occur, and the nomination shall be submitted to the State Board
41 of Elections, within seven calendar days of the vacancy occurring.

42 b. Individuals seeking to appear on the general election ballots as an
43 unaffiliated candidate shall comply with G.S. 163-122, except that the
44 State Board of Elections shall set the time for the filing of written
45 petitions, provided that the time for filing of written petitions is open
46 for at least three full business days and concludes within seven
47 calendar days of the vacancy occurring.

48 c. In order to be listed on the general election ballots, individuals who
49 are nominated by a political party executive committee or who file a
50 written petition to appear on the general election ballots as an
51 unaffiliated candidate must submit a statement of economic interest to

1 the State Ethics Commission as required by G.S. 138A-22 no later than
2 10 calendar days of the vacancy occurring.

3 d. The State Board of Elections may delay the date by which a county
4 board of elections must make absentee ballots available for voting
5 pursuant to G.S. 163-227.10 if the timing of the vacancy makes
6 compliance with the 60-day deadline impossible."

7 **SECTION 7.(b)** G.S. 163-9(d) reads as rewritten:

8 "(d) Vacancies in the office of district judge which occur before the expiration of a term
9 shall ~~not be filled by election. Vacancies in the office of district judge shall be filled in accordance~~
10 with G.S. 7A-142."

11 **SECTION 7.(c)** This section is effective when it becomes law. For vacancies
12 occurring after the close of the filing period on March 4, 2022, and before September 9, 2022,
13 the provisions in G.S. 7A-142(d)(2), as enacted by this section, shall apply.

14 **SECTION 8.** If Senate Bill 455, 2021 Regular Session, becomes law, G.S. 90-94, as
15 amended by Section 2 of that act, reads as rewritten:

16 "**§ 90-94. Schedule VI controlled substances.**

17 This schedule includes the controlled substances listed or to be listed by whatever official
18 name, common or usual name, chemical name, or trade name designated. In determining that
19 such substance comes within this schedule, the Commission shall find: no currently accepted
20 medical use in the United States, or a relatively low potential for abuse in terms of risk to public
21 health and potential to produce psychic or physiological dependence liability based upon present
22 medical knowledge, or a need for further and continuing study to develop scientific evidence of
23 its pharmacological effects.

24 The following controlled substances are included in this schedule:

25 (1) Marijuana.

26 (2) Tetrahydrocannabinols, except for tetrahydrocannabinols found in ~~hemp or~~
27 ~~hemp products~~; a product with a delta-9 tetrahydrocannabinol concentration of
28 not more than three-tenths of one percent (0.3%) on a dry weight basis.

29 (3) Repealed by Session Laws 2017-115, s. 8, effective December 1, 2017, and
30 applicable to offenses committed on or after that date."

31 **SECTION 9.** If House Bill 607, 2021 Regular Session, becomes law, then subsection
32 (t) of Section 16 of that act reads as rewritten:

33 "**SECTION 16.(t)** Subsections (m), (n), (o), and (p) of this section become effective January
34 1, 2023. ~~Subsection (n) of this section becomes effective December 1, 2022.~~ The remainder of
35 this section is effective when it becomes law."

36 **SECTION 10.(a)** If House Bill 103, 2021 Regular Session, becomes law, then Part
37 XL of that act is amended by adding a new section to read:

38 "**SCIF GRANT CORRECTIONS**

39 "**SECTION 40.13.** Notwithstanding the Committee Report referenced in Section 43.2 of this
40 act or any other provision of law to the contrary, the grant funds from the State Capital and
41 Infrastructure Fund to the Lumbee Nation, Inc., (i) for capital improvements or equipment at the
42 Cultural Center Dam in the sum of one million dollars (\$1,000,000) for the 2022-2023 fiscal year
43 shall instead be provided to The Lumbee Tribe of North Carolina for capital improvements or
44 equipment at the Cultural Center Dam and (ii) for capital improvements or equipment at the
45 Lumbee Tribe Historical Site in the sum of three hundred fifty thousand dollars (\$350,000) for
46 the 2022-2023 fiscal year shall instead be provided to The Lumbee Tribe of North Carolina for
47 capital improvements or equipment at the Lumbee Tribe Historical Site."

48 **SECTION 10.(b)** This section becomes effective July 1, 2022.

49 **SECTION 11.** Except as otherwise provided, this act is effective when it becomes
50 law.