

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

**HOUSE BILL 252
RATIFIED BILL**

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.~~

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

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

"§ 15A-544.3. Entry of forfeiture.



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

(b) The forfeiture shall contain the following information:

...

(9) The following notice: "TO THE DEFENDANT AND EACH SURETY NAMED ABOVE: The defendant named above has failed to appear as required before the court in the case identified above. A forfeiture for the amount of the bail bond shown above was entered in favor of the State against the defendant and each surety named above on the date of forfeiture shown above. This forfeiture will be set aside if, on or before the final judgment date shown above, satisfactory evidence is presented to the court that one of the following events has occurred: (i) the defendant's failure to appear has been stricken by the court in which the defendant was required to appear and any order for arrest that was issued for that failure to appear is recalled, (ii) all charges for which the defendant was bonded to appear have been finally disposed by the court other than by the State's taking a voluntary dismissal with leave, (iii) the defendant has been surrendered by a surety or bail agent to a sheriff of this State as provided by law, (iv) the defendant has been served with an Order for Arrest for the Failure to Appear on the criminal charge in the case in question as evidenced by a copy of an official court record, including an electronic record, (v) the defendant died before or within the period between the forfeiture and the final judgment as demonstrated by the presentation of a death certificate, (vi) the defendant was incarcerated in a unit of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and is serving a sentence or in a unit of the Federal Bureau of Prisons located within the borders of the State at the time of the failure to appear as evidenced by a copy of an official court record or a copy of a document from the Division of Adult Correction and Juvenile Justice of the Department of Public Safety or Federal Bureau of Prisons, ~~or~~ (vii) the defendant was incarcerated in a local, state, or federal detention center, jail, or prison located anywhere within the borders of the United States at the time of the failure to appear, or between the failure to appear and the final judgment date, and the district attorney for the county in which the charges are pending was notified of the defendant's incarceration while the defendant was still incarcerated and the defendant remains incarcerated for a period of 10 days following the district attorney's receipt of notice, as evidenced by a copy of the written notice served on the district attorney via hand delivery or certified mail and written documentation of date upon which the defendant was released from incarceration, if the defendant was released prior to the time the motion to set aside was ~~filed.~~ filed, (viii) notice of forfeiture was not provided pursuant to G.S. 15A-544.4(e), or (ix) the court refused to issue an order for arrest for the defendant's failure to appear, as evidenced by a copy of an official court record, including an electronic record. The forfeiture will not be set aside for any other reason. If this forfeiture is not set aside on or before the final judgment date shown above, and if no motion to set it aside is pending on that date, the forfeiture will become a final judgment on that date. The final judgment will be enforceable by execution against the defendant and any accommodation bondsman and professional bondsman on the bond. The final judgment will also be reported to the Department of Insurance. Further, no

surety will be allowed to execute any bail bond in the above county until the final judgment is satisfied in full."

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

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

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

"§ 15A-544.5. Setting aside forfeiture.

...

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

...

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

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

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

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

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

a. The defendant.

b. Any surety.

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

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

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

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

...

(e) Only One Motion Per Forfeiture. – No more than one motion to set aside a specific forfeiture may be considered by the ~~court~~ court, except that the court may consider two separate motions if one is a motion to set aside for the reason described in subdivision (8) of subsection (b) of this section.

...."

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

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

...

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

- (1) The person seeking relief was not given notice as provided in G.S. 15A-544.4. However, the court shall not grant relief under this subdivision solely due to the court's failure to provide notice within 30 days as required by G.S. 15A-544.4(e).
- (2) Other extraordinary circumstances exist that the court, in its discretion, determines should entitle that person to relief.

...."

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

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

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

"§ 20-49. Police authority of Division.

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

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

...."

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

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

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

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

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

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

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

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

"§ 7A-142. Vacancies in office.

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

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

- ~~(1) Provided, that when the unexpired term of the office in which the vacancy has occurred expires on the first day of January succeeding the next election for members of the General Assembly, If the unexpired term of office ends on the first day of January following the next election for members of the General Assembly, the Governor shall appoint to fill the vacancy for the unexpired term of office, and the election shall be for a four-year term.~~
- ~~(2) If the unexpired term of office ends on the first day of January two years following the next election for members of the General Assembly, the Governor shall appoint to fill the vacancy until the election is certified, and the election shall be for the unexpired term of office.~~

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

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

- (1) If the vacancy occurs prior to the opening of the filing period for the office as provided in G.S. 163-106.2, the election shall be conducted in accordance with the general laws governing elections in Chapter 163 of the General Statutes.
- (2) If the vacancy occurs after the opening of the filing period for the office as provided in G.S. 163-106.2, the election shall be conducted in accordance with the general laws governing elections in Chapter 163 of the General Statutes, except for the following:
 - a. Each political party executive committee for the district in which the vacancy occurs may nominate an individual to be listed on the general election ballots in accordance with G.S. 163-114. This nomination shall occur, and the nomination shall be submitted to the State Board of Elections, within seven calendar days of the vacancy occurring.
 - b. Individuals seeking to appear on the general election ballots as an unaffiliated candidate shall comply with G.S. 163-122, except that the State Board of Elections shall set the time for the filing of written petitions, provided that the time for filing of written petitions is open for at least three full business days and concludes within seven calendar days of the vacancy occurring.
 - c. In order to be listed on the general election ballots, individuals who are nominated by a political party executive committee or who file a written petition to appear on the general election ballots as an unaffiliated candidate must submit a statement of economic interest to the State Ethics Commission as required by G.S. 138A-22 no later than 10 calendar days of the vacancy occurring.
 - d. The State Board of Elections may delay the date by which a county board of elections must make absentee ballots available for voting pursuant to G.S. 163-227.10 if the timing of the vacancy makes compliance with the 60-day deadline impossible."

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

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

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

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

"§ 90-94. Schedule VI controlled substances.

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

The following controlled substances are included in this schedule:

- (1) Marijuana.
- (2) Tetrahydrocannabinols, except for tetrahydrocannabinols found in ~~hemp or hemp products~~; a product with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis.
- (3) Repealed by Session Laws 2017-115, s. 8, effective December 1, 2017, and applicable to offenses committed on or after that date."

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

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

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

"SCIF GRANT CORRECTIONS

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

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

SECTION 11. Except as otherwise provided, this act is effective when it becomes law.
In the General Assembly read three times and ratified this the 1st day of July, 2022.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

Roy Cooper
Governor

Approved _____m. this _____ day of _____, 2022