

NORTH CAROLINA GENERAL ASSEMBLY  
1961 SESSION

CHAPTER 438  
HOUSE BILL 539

AN ACT TO CONSOLIDATE AND REWRITE THE SPECIAL LAWS RELATING  
TO THE RECORDER'S COURT OF THE CITY OF CHARLOTTE IN  
MECKLENBURG COUNTY.

The General Assembly of North Carolina do enact:

Section 1. Section 56 of Chapter 342 of the Private Laws of 1907, Section 3 of Chapter 338 of the Private Laws of 1909, Section 53 of Chapter 366 of the Public-Local Laws of 1939, and Chapter 318 of the Session Laws of 1955, relating to the Recorder's Court of the City of Charlotte in Mecklenburg County are consolidated and rewritten to read as follows:

"Section 1. The special court for the trial of misdemeanors heretofore created and established, the Recorder's Court of the City of Charlotte, hereinafter referred to as the Court, is hereby continued. The Court is a court of record and the Chief Recorder of the Court shall be its presiding officer and chief judge.

"Sec. 2. The Court is an established Court and to it, and any component division of the Court, is allotted and distributed all judicial power and jurisdiction, which is or may be conferred under the general law upon criminal courts inferior to the Superior Court, except as limited by the provisions of this Act.

"The Court is additionally regulated and authorized, in exercising its powers and jurisdiction, to employ the following methods:

(1) From time to time multiple divisions of the Court may be organized and reorganized and divisional dockets arranged and rearranged.

(2) Multiple divisional sessions and hearings in chambers and in open Court may be conducted at the same time or at different times, and at different places.

(3) The Court is constituted a multijudge Court of multiple divisions each presided over by an assigned judge, and any person appointed Recorder, any Vice Recorder or Associate Recorder, shall be a judge and shall have and exercise all the powers, duties, responsibilities and prerogatives, in chambers or otherwise, which may be conferred under the general law upon judges of criminal courts inferior to the Superior Court, except as limited by the provisions of this Act.

(4) The Chief Recorder shall have the power to determine from time to time the facts as to whether additional divisions of the Court may be needed in order to improve and expedite the administration of criminal justice in the Court. The Chief Recorder may take into account the factors of population growth, number of case filings, the benefits of divisional specialization, the length and difficulty of cases, reasonable

projections of any of these factors, and any other factors which may have a reasonable bearing upon the improvement of the administration of justice in the Court and the need for additional divisions.

(5) The Chief Recorder shall have and exercise general administrative superintendence over the Court and may, by rule or otherwise, make provisions to implement the basic power of the Court to function as a multi-judge Court in multiple divisions, and provisions concerning any other administrative details connected with any power, function or procedure of the Court.

(6) The Court shall not sit en banc, and no appeal or judicial review shall lie from one judge of the Court to another or to the Court en banc.

(7) Divisional hearings of the Court may be conducted by the Chief Recorder, or by any Vice Recorder or Associate Recorder. For the Court they may hear, try and determine any cause, or any part of any proceeding in any cause of which the Court may have jurisdiction, and perform any other judicial function which may be required or permitted by this Act or by any provision of the general law for criminal courts inferior to the Superior Court, or for any judge or presiding officer thereof.

"Sec. 3. The Chief Recorder for the Court shall exercise the power equivalent to that of judges of the Superior Courts under G. S. 15-116 to hear and determine petitions for remission and other relief in bond forfeiture cases, and the Solicitor shall have authority to prosecute for judgment absolute on any forfeited recognizance and related proceedings.

"Sec. 4. The City Council of the City of Charlotte shall elect the judges of the Court as follows:

(1) Each City Council which is elected to office shall, before July 1 next following its election, elect a Chief Recorder and such number of Associate Recorders as the Chief Recorder may find necessary to insure the proper operation of the Court. The terms of office of the Chief Recorder and of the Associate Recorders shall commence on July 1 of the year of their election and shall continue for two years and until their successors are elected and have qualified. Vacancies may be filled by the City Council for the unexpired term.

(2) One or more persons may be elected from time to time by the City Council to the office of Vice Recorder to substitute in case of the temporary absence or disability on the part of the Chief Recorder or of any Associate Recorder. The term of office of any Vice Recorder shall be concurrent with that of the Chief or of any Associate Recorder for whom he may be elected to substitute.

(3) Any person elected shall be an elector of the City of Charlotte, duly qualified and competent to perform the duties of the office.

"The amount and manner of payment of the salary of the Chief Recorder and of any Associate Recorder shall be fixed and determined by the City Council, but shall not be diminished during the term of office. The City Council shall also fix and determine the compensation of any Vice Recorder for services rendered the Court.

"Sec. 5. Each City Council which is elected to office shall, before July 1 next following its election, elect a Solicitor and such number of Assistant Solicitors as the Solicitor may find necessary to insure the proper operation of the Court. The terms of

the Solicitor and of any Assistant Solicitor shall commence on July 1 in the year of their election and shall continue for two years and until their successors are elected and have qualified. Vacancies may be filled by the City Council for the unexpired term.

"The Solicitor of the Court from time to time may select a Solicitor pro tem to act in his absence, or in the absence of any Assistant Solicitor.

"Any person elected to the office of Solicitor or Assistant Solicitor shall be an elector of the City of Charlotte and duly qualified and competent to perform the duties of the office.

"The salaries of the Solicitor and of any Assistant Solicitor shall be fixed and determined by the City Council of Charlotte and shall not be diminished during the term of office. The City Council shall also fix and determine the compensation of any Solicitor pro tem for services rendered the Court.

"The Solicitor, Assistant Solicitors, or Solicitors pro tem shall attend upon and perform duty at sessions or divisional sessions of the Court, or in chambers, in accordance with assignment from time to time made by the Solicitor, said assignments being made in harmony with the multiple division organization of the Court and in the interest of the improvement of the administration of justice therein. The Solicitors of the Court shall have all duties, responsibilities, powers and authority which may be given by provisions of the general law to Solicitors or prosecuting attorneys of criminal courts inferior to the Superior Court, except as expressly limited by this Act.

"Sec. 6. The Charlotte City Council is authorized to appoint a Clerk and such Assistant Clerks as may be necessary to insure proper operation of the Court, and it may fix the amount and method of their compensation. The Clerk and Assistant Clerks shall serve at the will of the City Council. The Clerk and the Assistant Clerk are given all duties, responsibilities, power and authority as provided by the general law applicable to the office of Clerk of criminal courts inferior to the Superior Court.

"Sec. 7. The Court shall have jurisdiction and powers in criminal offenses as follows:

(1) Original jurisdiction as to all offenses and misdemeanors in violation of any ordinance of the City of Charlotte.

(2) In criminal offenses occurring within the corporate limits of the City of Charlotte, the jurisdiction and power which is now or may hereafter be given to justices of the peace.

(3) In criminal offenses occurring outside the corporate limits of the City of Charlotte but within the County of Mecklenburg, the jurisdiction and power which is now or may hereafter be given to justices of the peace.

(4) Original jurisdiction in all criminal offenses committed within the corporate limits of the City of Charlotte below the grade of felony, as defined by law, and all such offenses are hereby declared to be petty misdemeanors.

(5) Concurrent jurisdiction with other inferior courts now in existence or which may hereafter be created for Mecklenburg County as to all criminal offenses committed within the boundaries of the County of Mecklenburg and outside the corporate limits of the City of Charlotte below the grade of felony, as defined by law, and all such offenses are hereby declared to be petty misdemeanors.

(6) Jurisdiction to try all actions for the recovery of any penalty for the violation of any ordinance of the City of Charlotte, and such penalty may be sued for and recovered in said Court in the name of the City of Charlotte.

(7) As to all felonies committed within the boundaries of the County of Mecklenburg, jurisdiction to conduct probable cause hearings and to act as a committing magistrate according to the powers and procedures provided under any provision of the general law applicable to criminal courts inferior to the Superior Court.

"Sec. 8. Any Recorder is authorized to issue warrants, precepts and process in connection with the commission of any offense, the investigation thereof, and the enforcement of all orders and process in criminal cases before the Court. All such criminal process may be issued and directed to any lawful officer on the police force of the City of Charlotte or of Mecklenburg County, or the sheriff, constable, or any other lawful officer. As to all criminal process, warrants, precepts and otherwise, any Recorder of the Court shall have all the power given under the general law to judicial officers of criminal courts inferior to the Superior Court.

"Sec. 9. Any justice of the peace of Mecklenburg County may issue warrants in criminal actions and may make the same returnable to the Recorder's Court of the City of Charlotte.

"In all cases heard by justices of the peace and other committing magistrates in which the justice or other committing magistrate may not have final jurisdiction, and in which probable cause of guilt is found, and of which the Court may have jurisdiction, the justice or other committing magistrate shall bind the person charged over in a reasonable recognizance with sufficient surety to appear in the Court, and in default of such recognizance the person charged shall be committed to the common jail of Mecklenburg County awaiting trial or hearing in the Court.

"Sec. 10. Cases involving criminal charges against the mayor or members of the City Council or any member of the police force of the City of Charlotte shall not be triable in this Court, but shall be triable in any court which would have jurisdiction in case the Recorder's Court of the City of Charlotte did not exist.

"Sec. 11. The Court shall hold daily sessions except on Sundays and legal holidays at the City Hall or at any other suitable places which may be provided by the governing board of the City of Charlotte. The Chief Recorder, in his discretion, shall determine whether or not any Saturday session of the Court or of any of its divisions shall be held, and may also determine the beginning hour of any session of the Court or any of its divisions.

"Sec. 12. The Chief Recorder may in his discretion cause to be kept by one or more stenographers, who may be employed and paid by the City of Charlotte, a record of the proceedings had in the Court and may direct any such record to be transcribed and typewritten into books furnished by the City of Charlotte, which shall be in addition to the official record proper required by the general law to be kept by or under the direction of the Clerk of said Court.

"Sec. 13. The practice and the proceedings in the Recorder's Court shall be the same as are now or may hereafter be prescribed by law in the Superior Court, insofar as the

same may reasonably be applied in the sound judgment and discretion of the Court, but trial by jury shall not be afforded in said Court.

"Sec. 14. Upon conviction of any person in the Court, he may be punished by fine or imprisonment or both, as provided by the general law, and the Court shall have the power to order any sentence imposed to be served in the county jail of Mecklenburg County.

"Sec. 15. In all cases resulting in conviction or the imposition of any penalty, the person against whom judgment may be rendered in the Court shall have the right of appeal to the Superior Court of Mecklenburg! County, according to the manner prescribed in the general law. In case of appeal the defendant may, in the discretion of the Court, be required to give bond with sufficient surety for his appearance at the next succeeding term of the Superior Court, and in default thereof the defendant shall be committed to the common jail of Mecklenburg County until he shall be discharged according to law.

"Sec. 16. The costs in the Recorder's Court shall be as follows:

Affidavit to Obtain Warrant .....	\$ 2.50
Warrant for Arrest .....	2.50
Arrest or Service of Warrant .....	2.50
Trial and Judgment .....	2.50
Police Emergency Fund .....	1.00
State Law Enforcement Officers' Benefit and Retirement Fund .....	<u>2.00</u>
Total .....	\$13.00

"All fees or costs of the Court, and any fees for serving process or appearance as witnesses, or otherwise, of any police officer of the City of Charlotte shall be the property of the City of Charlotte and paid over to the City Treasurer.

"Sec. 17. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act, which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable."

Sec. 2. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1961.