

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE DRH50233-LN-179* (03/06)

Short Title: Amend MH/DD/SA Statutes/Rename Facilities.-AB (Public)

Sponsors: Representative Insko.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND THE MENTAL HEALTH, DEVELOPMENTAL
DISABILITIES, AND SUBSTANCE ABUSE SERVICES STATUTES AND TO
RENAME MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND
SUBSTANCE ABUSE SERVICES FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 122C-3 is amended by adding the following new
subdivisions to read:

"(13e) 'Eligible clinical social worker.' – A licensed Clinical Social Worker who is licensed by the North Carolina Social Work Certification and Licensure Board and has successfully completed a training course and passed an examination pertaining to the first level commitment examinations described in G.S. 122C-261 through G.S. 122C-263 and G.S. 122C-281 through G.S. 122C-283. The Secretary of Health and Human Services shall adopt rules pertaining to a uniform training curriculum and examination. The eligible clinical social worker must have 24-hour access to supervision from a physician or eligible psychologist and must consult with and document the receipt of approval of the physician or eligible psychologist prior to releasing an individual from a commitment petition. This consultation may be via voice, video, or face to face.

(13f) 'Eligible psychiatric nurse.' – A Psychiatric-Mental Health Clinical Nurse Specialist in Advanced Practice or a Psychiatric-Mental Health Nurse Practitioner who is licensed by the North Carolina Board of Nursing and has successfully completed a training course and passed an examination pertaining to the first level commitment examinations described in G.S. 122C-261 through G.S. 122C-263 and

1 G.S. 122C-281 through G.S. 122C-283. The Secretary of Health and
2 Human Services shall adopt rules pertaining to a uniform training
3 curriculum and examination. The eligible psychiatric nurse must have
4 24-hour access to supervision from a physician or eligible psychologist
5 and must consult with and document the receipt of approval of the
6 physician or eligible psychologist prior to releasing an individual from
7 a commitment petition. This consultation may be via voice, video, or
8 face to face.

9 (13g) 'Eligible clinical addictions specialist.' – A masters level Licensed
10 Clinical Addictions Specialist who is licensed as such by the North
11 Carolina Substance Abuse Professional Practice Board and has
12 successfully completed a training course and passed an examination
13 pertaining to the first level commitment examinations described in
14 G.S. 122C-261 through G.S. 122C-263 and G.S. 122C-281 through
15 G.S. 122C-283. The Secretary of Health and Human Services shall
16 adopt rules pertaining to a uniform training curriculum and
17 examination. The eligible clinical addictions specialist must have 24-
18 hour access to supervision from a physician or eligible psychologist
19 and must consult with and document receipt of approval of the
20 physician or eligible psychologist prior to releasing an individual from
21 a commitment petition. This consultation may be via voice, video, or
22 face to face."

23 **SECTION 1.(b)** G.S. 122C-112.1 is amended by adding the following new
24 subdivisions to read:

- 25 "(34) Develop and adopt rules to implement a standardized statewide fee
26 schedule and sliding fee scale policy for implementation by LMEs and
27 providers.
- 28 (35) Adopt rules to standardize processes of mental health, developmental
29 disabilities, and substance abuse services providers and ensure that
30 LMEs monitor and provide technical assistance to providers in
31 accordance with these rules."

32 **SECTION 2.** G.S. 122C-146 reads as rewritten:

33 **"§ 122C-146. Fee for service.**

34 The area authority and its contractual agencies shall ~~prepare fee schedules~~
35 implement the standardized fee schedule and sliding fee scale policy developed by the
36 Secretary for services and shall make every reasonable effort to collect appropriate
37 reimbursement for costs in providing these services from individuals or entities able to
38 pay, including insurance and third-party payment, except that individuals may not be
39 charged for free services, as required in "The Amendments to the Education of the
40 Handicapped Act", P.L. 99-457, provided to eligible infants and toddlers and their
41 families. This exemption from charges does not exempt insurers or other third-party
42 payors from being charged for payment for these services, if the person who is legally
43 responsible for any eligible infant or toddler is first advised that the person may or may
44 not grant permission for the insurer or other payor to be billed for the free services.

1 However, no individual may be refused services because of an inability to pay. All
2 funds collected from fees from area authority operated services shall be used for the
3 fiscal operation or capital improvements of the area authority's programs. The collection
4 of fees by an area authority may not be used as justification for reduction or
5 replacement of the budgeted commitment of local tax revenue. All funds collected from
6 fees by contractual provider agencies shall be used to provide services to target
7 population consumers."

8 **SECTION 3.** G.S. 122C-181(a) reads as rewritten:

9 "(a) Except as provided in subsection (b) of this section, the Secretary shall
10 operate the following facilities:

11 (1) ~~For the mentally ill:~~Psychiatric Hospitals:

- 12 a. Cherry Hospital;
13 ~~b. Dorothea Dix Hospital;~~
14 ~~c. John Umstead Hospital; and~~
15 a1. Central Regional Hospital; and
16 ~~d. Broughton Hospital; and~~
17 b1. Broughton Hospital.

18 (2) ~~For the mentally retarded:~~Developmental Centers:

- 19 a. Caswell Developmental Center;
20 ~~b. O'Berry Center;~~
21 c. Murdoch Developmental Center; and
22 c1. J. Iverson Riddle Developmental Center.
23 ~~d. Western Carolina Center; and~~
24 ~~e. Black Mountain Center; and~~

25 (3) ~~For substance abusers:~~Alcohol and Drug Treatment Centers:

- 26 a. Walter B. Jones Alcohol and Drug Abuse Treatment ~~Center at~~
27 ~~Greenville; Center;~~
28 ~~b. Alcohol and Drug Abuse Treatment Center at John Umstead~~
29 ~~Hospital; and~~
30 b1. R.J. Blackley Alcohol and Drug Abuse Treatment Center; and
31 ~~c. Julian F. Keith Alcohol and Drug Abuse Treatment Center; and~~
32 ~~Center.~~

33 (4) ~~As special care facilities:~~Neuro-Medical Treatment Centers:

- 34 a. North Carolina Special Care Center;
35 ~~b. Whitaker School; and~~
36 ~~c. Wright School.~~
37 a1. Wilson Neuro-Medical Treatment Center;
38 b1. Black Mountain Neuro-Medical Treatment Center; and
39 c1. O'Berry Neuro-Medical Treatment Center.

40 (5) Residential Programs for Children:

- 41 a. Whitaker School; and
42 b. Wright School."

43 **SECTION 4.(a)** G.S. 122C-205(d) reads as rewritten:

44 "**§ 122C-205. Return of clients to 24-hour facilities.**

1 ...
 2 (d) In the situations described in subsections (a) and (b) of this section, the
 3 responsible professional shall also notify or cause to be notified as soon as practicable:
 4 (1) The next of kin of the client or legally responsible person for the
 5 client;
 6 (2) The clerk of superior court of the county of commitment of the client;
 7 (3) The area authority of the county of residence of the client, if
 8 appropriate;
 9 (4) ~~The physician or eligible psychologist~~physician, eligible psychologist,
 10 eligible clinical social worker, eligible masters level psychiatric nurse,
 11 or eligible clinical addictions specialist who performed the first
 12 examination for a commitment of the client, if appropriate; and
 13 (5) Any official who has placed a detainer on a client as described in
 14 subdivision (a)(5) of this section
 15 of the escape or breach of condition of the client's release upon occurrence of either
 16 action and of his subsequent return to the facility."

17 **SECTION 4.(b)** G.S. 122C-261 reads as rewritten:

18 **"§ 122C-261. Affidavit and petition before clerk or magistrate when immediate**
 19 **hospitalization is not necessary; custody order.**

20 (a) Anyone who has knowledge of an individual who is mentally ill and either (i)
 21 dangerous to self, as defined in G.S. 122C-3(11)a., or dangerous to others, as defined in
 22 G.S. 122C-3(11)b., or (ii) in need of treatment in order to prevent further disability or
 23 deterioration that would predictably result in dangerousness, may appear before a clerk
 24 or assistant or deputy clerk of superior court or a magistrate and execute an affidavit to
 25 this effect, and petition the clerk or magistrate for issuance of an order to take the
 26 respondent into custody for examination by a ~~physician or eligible~~
 27 ~~psychologist~~physician, eligible psychologist, eligible clinical social worker, eligible
 28 masters level psychiatric nurse, or eligible clinical addictions specialist. The affidavit
 29 shall include the facts on which the affiant's opinion is based. If the affiant has
 30 knowledge or reasonably believes that the respondent, in addition to being mentally ill,
 31 is also mentally retarded, this fact shall be stated in the affidavit. Jurisdiction under this
 32 subsection is in the clerk or magistrate in the county where the respondent resides or is
 33 found.

34 (b) If the clerk or magistrate finds reasonable grounds to believe that the facts
 35 alleged in the affidavit are true and that the respondent is probably mentally ill and
 36 either (i) dangerous to self, as defined in G.S. 122C-3(11)a., or dangerous to others, as
 37 defined in G.S. 122C-3(11)b., or (ii) in need of treatment in order to prevent further
 38 disability or deterioration that would predictably result in dangerousness, the clerk or
 39 magistrate shall issue an order to a law enforcement officer or any other person
 40 authorized under G.S. 122C-251 to take the respondent into custody for examination by
 41 a ~~physician or eligible psychologist~~physician, eligible psychologist, eligible clinical
 42 social worker, eligible masters level psychiatric nurse, or eligible clinical addictions
 43 specialist.

1 If the clerk or magistrate finds that, in addition to probably being mentally ill, the
2 respondent is also probably mentally retarded, the clerk or magistrate shall contact the
3 area authority before issuing a custody order and the area authority shall designate the
4 facility to which the respondent is to be taken for examination by a ~~physician or eligible~~
5 ~~psychologist, physician, eligible psychologist, eligible clinical social worker, eligible~~
6 ~~masters level psychiatric nurse, or eligible clinical addictions specialist.~~ The clerk or
7 magistrate shall provide the petitioner and the respondent, if present, with specific
8 information regarding the next steps that will occur for the respondent.

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

13 (d) If the affiant is a ~~physician or eligible psychologist, physician, eligible~~
14 ~~psychologist, eligible clinical social worker, eligible masters level psychiatric nurse, or~~
15 ~~eligible clinical addictions specialist,~~ the affiant may execute the affidavit before any
16 official authorized to administer oaths. This affiant is not required to appear before the
17 clerk or magistrate for this purpose. This affiant shall file the affidavit with the clerk or
18 magistrate by delivering to the clerk or magistrate the original affidavit or a copy in
19 paper form that is printed through the facsimile transmission of the affidavit. If the
20 affidavit is filed through facsimile transmission, the affiant shall mail the original
21 affidavit no later than five days after the facsimile transmission of the affidavit to the
22 clerk or magistrate to be filed by the clerk or magistrate with the facsimile copy of the
23 affidavit. This affiant's examination shall comply with the requirements of the initial
24 examination as provided in G.S. 122C-263(c). If the ~~physician or eligible psychologist~~
25 ~~physician, eligible psychologist, eligible clinical social worker, eligible masters level~~
26 ~~psychiatric nurse, or eligible clinical addictions specialist~~ recommends outpatient
27 commitment and the clerk or magistrate finds probable cause to believe that the
28 respondent meets the criteria for outpatient commitment, the clerk or magistrate shall
29 issue an order that a hearing before a district court judge be held to determine whether
30 the respondent will be involuntarily committed. The ~~physician or eligible psychologist~~
31 ~~physician, eligible psychologist, eligible clinical social worker, eligible masters level~~
32 ~~psychiatric nurse, or eligible clinical addictions specialist~~ shall provide the respondent
33 with written notice of any scheduled appointment and the name, address, and telephone
34 number of the proposed outpatient treatment physician or center. If the ~~physician or~~
35 ~~eligible psychologist, physician, eligible psychologist, eligible clinical social worker,~~
36 ~~eligible masters level psychiatric nurse, or eligible clinical addictions specialist~~
37 recommends inpatient commitment and the clerk or magistrate finds probable cause to
38 believe that the respondent meets the criteria for inpatient commitment, the clerk or
39 magistrate shall issue an order for transportation to or custody at a 24-hour facility
40 described in G.S. 122C-252. However, if the clerk or magistrate finds probable cause to
41 believe that the respondent, in addition to being mentally ill, is also mentally retarded,
42 the clerk or magistrate shall contact the area authority before issuing the order and the
43 area authority shall designate the facility to which the respondent is to be transported. If
44 a ~~physician or eligible psychologist, physician, eligible psychologist, eligible clinical~~

1 social worker, eligible masters level psychiatric nurse, or eligible clinical addictions
2 specialist executes an affidavit for inpatient commitment of a respondent, a second
3 physician shall be required to perform the examination required by G.S. 122C-266.

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

9 (f) When a petition is filed for an individual who is a resident of a single portal
10 area, the procedures for examination by a ~~physician or eligible psychologist~~ physician,
11 eligible psychologist, eligible clinical social worker, eligible masters level psychiatric
12 nurse, or eligible clinical addictions specialist as set forth in G.S. 122C-263 shall be
13 carried out in accordance with the area plan. Prior to issuance of a custody order for a
14 respondent who resides in an area authority with a single portal plan, the clerk or
15 magistrate shall communicate with the area authority to determine the appropriate
16 24-hour facility to which the respondent should be admitted according to the area plan
17 or to determine if there are more appropriate resources available through the area
18 authority to assist the petitioner or the respondent. When an individual from a single
19 portal area is presented for commitment at a 24-hour area or State facility directly, the
20 individual may not be accepted for admission until the facility notifies the area authority
21 and the area authority agrees to the admission. If the area authority does not agree to the
22 admission, it shall determine the appropriate 24-hour facility to which the individual
23 should be admitted according to the area plan or determine if there are more appropriate
24 resources available through the area authority to assist the individual. If the area
25 authority agrees to the admission, further planning of treatment for the client is the joint
26 responsibility of the area authority and the facility as prescribed in the area plan.

27 Notwithstanding the provisions of this section, in no event shall an individual known
28 or reasonably believed to be mentally retarded be admitted to a State psychiatric
29 hospital, except as follows:

- 30 (1) Persons described in G.S. 122C-266(b);
- 31 (2) Persons admitted pursuant to G.S. 15A-1321;
- 32 (3) Respondents who are so extremely dangerous as to pose a serious
33 threat to the community and to other patients committed to non-State
34 hospital psychiatric inpatient units, as determined by the Director of
35 the Division of Mental Health, Developmental Disabilities, and
36 Substance Abuse Services or his designee; and
- 37 (4) Respondents who are so gravely disabled by both multiple disorders
38 and medical fragility or multiple disorders and deafness that alternative
39 care is inappropriate, as determined by the Director of the Division of
40 Mental Health, Developmental Disabilities, and Substance Abuse
41 Services or his designee.

42 Individuals transported to a State facility for the mentally ill who are not admitted by
43 the facility may be transported by law enforcement officers or designated staff of the

1 State facility in State-owned vehicles to an appropriate 24-hour facility that provides
2 psychiatric inpatient care.

3 No later than 24 hours after the transfer, the responsible professional at the original
4 facility shall notify the petitioner, the clerk of court, and, if consent is granted by the
5 respondent, the next of kin, that the transfer has been completed.

6 (g) After July 1, 2007, the Local Management Entities involved in the First Level
7 Commitment Pilot Program, as specified in S.L. 2003-178 will be able to continue
8 operation under the guidelines of the Pilot until such time as administrative rules are
9 adopted. The Secretary of Health and Human Services shall adopt rules pursuant to this
10 section."

11 **SECTION 4.(c)** G.S. 122C-262(a), 122C-262(b), and 122C-262(c) read as
12 rewritten:

13 **"§ 122C-262. Special emergency procedure for individuals needing immediate**
14 **hospitalization.**

15 (a) Anyone, including a law enforcement officer, who has knowledge of an
16 individual who is subject to inpatient commitment according to the criteria of
17 G.S. 122C-261(a) and who requires immediate hospitalization to prevent harm to self or
18 others, may transport the individual directly to an area facility or other place, including
19 a State facility for the mentally ill, for examination by a ~~physician or eligible~~
20 psychologist physician, eligible psychologist, eligible clinical social worker, eligible
21 masters level psychiatric nurse, or eligible clinical addictions specialist in accordance
22 with G.S. 122C-263(c).

23 (b) Upon examination by the ~~physician or eligible psychologist, physician,~~
24 eligible psychologist, eligible clinical social worker, eligible masters level psychiatric
25 nurse, or eligible clinical addictions specialist, if the individual meets the criteria
26 required in G.S. 122C-261(a), the ~~physician or eligible psychologist-physician, eligible~~
27 psychologist, eligible clinical social worker, eligible masters level psychiatric nurse, or
28 eligible clinical addictions specialist shall so certify in writing before any official
29 authorized to administer oaths. The certificate shall also state the reason that the
30 individual requires immediate hospitalization. If the ~~physician or eligible psychologist~~
31 physician, eligible psychologist, eligible clinical social worker, eligible masters level
32 psychiatric nurse, or eligible clinical addictions specialist knows or has reason to
33 believe that the individual is mentally retarded, the certificate shall so state.

34 (c) If the ~~physician or eligible psychologist-physician, eligible psychologist,~~
35 eligible clinical social worker, eligible masters level psychiatric nurse, or eligible
36 clinical addictions specialist executes the oath, appearance before a magistrate shall be
37 waived. The ~~physician or eligible psychologist-physician, eligible psychologist, eligible~~
38 clinical social worker, eligible masters level psychiatric nurse, or eligible clinical
39 addictions specialist shall send a copy of the certificate to the clerk of superior court by
40 the most reliable and expeditious means. If it cannot be reasonably anticipated that the
41 clerk will receive the copy within 24 hours, excluding Saturday, Sunday, and holidays,
42 of the time that it was signed, the ~~physician or eligible psychologist-physician, eligible~~
43 psychologist, eligible clinical social worker, eligible masters level psychiatric nurse, or

1 eligible clinical addictions specialist shall also communicate the findings to the clerk by
2 telephone.

3 ..."

4 **SECTION 4.(d)** G.S. 122C-263 reads as rewritten:

5 "**§ 122C-263. Duties of law-enforcement officer; first examination by ~~physieian or~~**
6 **eligible psychologist, physician, eligible psychologist, eligible clinical**
7 **social worker, eligible masters level psychiatric nurse, or eligible clinical**
8 **addictions specialist.**

9 (a) Without unnecessary delay after assuming custody, the law enforcement
10 officer or the individual designated by the clerk or magistrate under G.S. 122C-251(g)
11 to provide transportation shall take the respondent to an area facility for examination by
12 a ~~physieian or eligible psychologist, physician, eligible psychologist, eligible clinical~~
13 ~~social worker, eligible masters level psychiatric nurse, or eligible clinical addictions~~
14 ~~specialist; if a ~~physieian or eligible psychologist~~ physician, eligible psychologist,~~
15 ~~eligible clinical social worker, eligible masters level psychiatric nurse, or eligible~~
16 ~~clinical addictions specialist~~ is not available in the area facility, the person designated to
17 provide transportation shall take the respondent to any ~~physieian or eligible~~
18 ~~psychologist-physician, eligible psychologist, eligible clinical social worker, eligible~~
19 ~~masters level psychiatric nurse, or eligible clinical addictions specialist~~ locally
20 available. If a ~~physieian or eligible psychologist~~ physician, eligible psychologist,
21 eligible clinical social worker, eligible masters level psychiatric nurse, or eligible
22 clinical addictions specialist is not immediately available, the respondent may be
23 temporarily detained in an area facility, if one is available; if an area facility is not
24 available, the respondent may be detained under appropriate supervision in the
25 respondent's home, in a private hospital or a clinic, in a general hospital, or in a State
26 facility for the mentally ill, but not in a jail or other penal facility.

27 (b) The examination set forth in subsection (a) of this section is not required if:

- 28 (1) The affiant who obtained the custody order is a ~~physieian or eligible~~
29 ~~psychologist-physician, eligible psychologist, eligible clinical social~~
30 ~~worker, eligible masters level psychiatric nurse, or eligible clinical~~
31 ~~addictions specialist~~ who recommends inpatient commitment;
32 (2) The custody order states that the respondent was charged with a
33 violent crime, including a crime involving assault with a deadly
34 weapon, and he was found incapable of proceeding; or
35 (3) Repealed by Session Laws 1987, c. 596, s. 3.

36 In any of these cases, the law-enforcement officer shall take the respondent directly to a
37 24-hour facility described in G.S. 122C-252.

38 (c) The ~~physieian or eligible psychologist~~ physician, eligible psychologist,
39 eligible clinical social worker, eligible masters level psychiatric nurse, or eligible
40 clinical addictions specialist described in subsection (a) of this section shall examine the
41 respondent as soon as possible, and in any event within 24 hours, after the respondent is
42 presented for examination. The examination shall include but is not limited to an
43 assessment of the respondent's:

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

8 (d) After the conclusion of the examination the ~~physician or eligible psychologist~~
9 physician, eligible psychologist, eligible clinical social worker, eligible masters level
10 psychiatric nurse, or eligible clinical addictions specialist shall make the following
11 determinations:

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

26 The ~~physician or eligible psychologist~~ physician, eligible psychologist,
27 eligible clinical social worker, eligible masters level psychiatric nurse,
28 or eligible clinical addictions specialist finds shall so show on the
29 examination report and shall recommend outpatient commitment. In
30 addition the examining ~~physician or eligible psychologist~~ physician,
31 eligible psychologist, eligible clinical social worker, eligible masters
32 level psychiatric nurse, or eligible clinical addictions specialist shall
33 recommend inpatient commitment, shall show the name, address, and
34 telephone number of the proposed outpatient treatment physician or
35 center. The person designated in the order to provide transportation
36 shall return the respondent to the respondent's regular residence or,
37 with the respondent's consent, to the home of a consenting individual
38 located in the originating county, and the respondent shall be released
39 from custody.

- 40 (2) If the ~~physician or eligible psychologist~~ physician, eligible
41 psychologist, eligible clinical social worker, eligible masters level
42 psychiatric nurse, or eligible clinical addictions specialist finds that
43 the respondent is mentally ill and is dangerous to self, as defined in
44 G.S. 122C-3(11)a., or others, as defined in G.S. 122C-3(11)b., the

1 ~~physician or eligible psychologist~~ physician, eligible psychologist,
2 eligible clinical social worker, eligible masters level psychiatric nurse,
3 or eligible clinical addictions specialist shall recommend inpatient
4 commitment, and shall so show on the examination report. If, in
5 addition to mental illness and dangerousness, the physician or eligible
6 psychologist also finds that the respondent is known or reasonably
7 believed to be mentally retarded, this finding shall be shown on the
8 report. The law enforcement officer or other designated person shall
9 take the respondent to a 24-hour facility described in G.S. 122C-252
10 pending a district court hearing. If there is no area 24-hour facility and
11 if the respondent is indigent and unable to pay for care at a private
12 24-hour facility, the law enforcement officer or other designated
13 person shall take the respondent to a State facility for the mentally ill
14 designated by the Commission in accordance with
15 G.S. 143B-147(a)(1)a. for custody, observation, and treatment and
16 immediately notify the clerk of superior court of this action.

17 In the event an individual known or reasonably believed to be
18 mentally retarded is transported to a State facility for the mentally ill,
19 in no event shall that individual be admitted to that facility except as
20 follows:

- 21 a. Persons described in G.S. 122C-266(b);
- 22 b. Persons admitted pursuant to G.S. 15A-1321;
- 23 c. Respondents who are so extremely dangerous as to pose a
24 serious threat to the community and to other patients committed
25 to non-State hospital psychiatric inpatient units, as determined
26 by the Director of the Division of Mental Health,
27 Developmental Disabilities, and Substance Abuse Services or
28 his designee; and
- 29 d. Respondents who are so gravely disabled by both multiple
30 disorders and medical fragility or multiple disorders and
31 deafness that alternative care is inappropriate, as determined by
32 the Director of the Division of Mental Health, Developmental
33 Disabilities, and Substance Abuse Services or his designee.

34 Individuals transported to a State facility for the mentally ill who
35 are not admitted by the facility may be transported by law enforcement
36 officers or designated staff of the State facility in State-owned vehicles
37 to an appropriate 24-hour facility that provides psychiatric inpatient
38 care.

39 No later than 24 hours after the transfer, the responsible
40 professional at the original facility shall notify the petitioner, the clerk
41 of court, and, if consent is granted by the respondent, the next of kin,
42 that the transfer has been completed.

- 43 (3) If the ~~physician or eligible psychologist~~ physician, eligible
44 psychologist, eligible clinical social worker, eligible masters level

1 psychiatric nurse, or eligible clinical addictions specialist finds that
2 neither condition described in subdivisions (1) or (2) of this subsection
3 exists, the proceedings shall be terminated. The person designated in
4 the order to provide transportation shall return the respondent to the
5 respondent's regular residence or, with the respondent's consent, to the
6 home of a consenting individual located in the originating county and
7 the respondent shall be released from custody.

8 (e) The findings of the ~~physician or eligible psychologist~~ physician, eligible
9 psychologist, eligible clinical social worker, eligible masters level psychiatric nurse, or
10 eligible clinical addictions specialist and the facts on which they are based shall be in
11 writing in all cases. The ~~physician or eligible psychologist~~ physician, eligible
12 psychologist, eligible clinical social worker, eligible masters level psychiatric nurse, or
13 eligible clinical addictions specialist shall send a copy of the findings to the clerk of
14 superior court by the most reliable and expeditious means. If it cannot be reasonably
15 anticipated that the clerk will receive the copy within 48 hours of the time that it was
16 signed, the ~~physician or eligible psychologist~~ physician, eligible psychologist, eligible
17 clinical social worker, eligible masters level psychiatric nurse, or eligible clinical
18 addictions specialist shall also communicate his findings to the clerk by telephone.

19 (f) When outpatient commitment is recommended, the examining ~~physician or~~
20 ~~eligible psychologist,~~ physician, eligible psychologist, eligible clinical social worker,
21 eligible masters level psychiatric nurse, or eligible clinical addictions specialist, if
22 different from the proposed outpatient treatment physician or center, shall give the
23 respondent a written notice listing the name, address, and telephone number of the
24 proposed outpatient treatment physician or center and directing the respondent to appear
25 at the address at a specified date and time. The examining ~~physician or eligible~~
26 ~~psychologist~~ physician, eligible psychologist, eligible clinical social worker, eligible
27 masters level psychiatric nurse, or eligible clinical addictions specialist before the
28 appointment shall notify by telephone the designated outpatient treatment physician or
29 center and shall send a copy of the notice and his examination report to the physician or
30 center.

31 (g) The ~~physician or eligible psychologist,~~ physician, eligible psychologist,
32 eligible clinical social worker, eligible masters level psychiatric nurse, or eligible
33 clinical addictions specialist, at the completion of the examination, shall provide the
34 respondent with specific information regarding the next steps that will occur."

35 **SECTION 4.(e)** G.S. 122C-264(a), 122C-264(b), and 122C-264(b1) read as
36 rewritten:

37 "**§ 122C-264. Duties of clerk of superior court and the district attorney.**

38 (a) Upon the clerk of superior court's receipt of a ~~physician's or eligible~~
39 ~~psychologist's~~ finding by a physician, eligible psychologist, eligible clinical social
40 worker, eligible masters level psychiatric nurse, or eligible clinical addictions specialist
41 that the respondent meets the criteria of G.S. 122C-263(d)(1) and that outpatient
42 commitment is recommended, the clerk of superior court of the county where the
43 petition was initiated, upon direction of a district court judge, shall calendar the matter
44 for hearing and shall notify the respondent, the proposed outpatient treatment physician

1 or center, and the petitioner of the time and place of the hearing. The petitioner may file
2 a written waiver of his right to notice under this subsection with the clerk of court.

3 (b) Upon receipt by the clerk of superior court of a ~~physician's or eligible~~
4 ~~psychologist's~~ finding by a physician, eligible psychologist, eligible clinical social
5 worker, eligible masters level psychiatric nurse, or eligible clinical addictions specialist
6 that a respondent meets the criteria of G.S. 122C-263(d)(2) and that inpatient
7 commitment is recommended, the clerk of superior court of the county where the
8 24-hour facility is located shall, after determination required by G.S. 122C-261(c) and
9 upon direction of a district court judge, assign counsel if necessary, calendar the matter
10 for hearing, and notify the respondent, his counsel, and the petitioner of the time and
11 place of the hearing. The petitioner may file a written waiver of his right to notice under
12 this subsection with the clerk of court.

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

23 ..."

24 **SECTION 4.(f)** G.S. 122C-265(a) reads as rewritten:

25 "(a) If a respondent, who has been recommended for outpatient commitment by an
26 examining ~~physician or eligible psychologist~~ physician, eligible psychologist, eligible
27 clinical social worker, eligible masters level psychiatric nurse, or eligible clinical
28 addictions specialist different from the proposed outpatient treatment physician or
29 center, fails to appear for examination by the proposed outpatient treatment physician or
30 center at the designated time, the physician or center shall notify the clerk of superior
31 court who shall issue an order to a law-enforcement officer or other person authorized
32 under G.S. 122C-251 to take the respondent into custody and take him immediately to
33 the outpatient treatment physician or center for evaluation. The custody order is valid
34 throughout the State. The law-enforcement officer may wait during the examination and
35 return the respondent to his home after the examination."

36 **SECTION 4.(g)** G.S. 122C-266(e) reads as rewritten:

37 "(e) If the 24-hour facility described in G.S. 122C-252 or G.S. 122C-262 is the
38 facility in which the first examination by a ~~physician or eligible psychologist~~ physician,
39 eligible psychologist, eligible clinical social worker, eligible masters level psychiatric
40 nurse, or eligible clinical addictions specialist occurred and is the same facility in which
41 the respondent is held, the second examination shall occur not later than the following
42 regular working day."

43 **SECTION 4.(h)** G.S. 122C-273 (a)(2) reads as rewritten:

1 (a) Unless prohibited by Chapter 90 of the General Statutes, if the commitment
2 order directs outpatient treatment, the outpatient treatment physician may prescribe or
3 administer, or the center may administer, to the respondent reasonable and appropriate
4 medication and treatment that are consistent with accepted medical standards.

5 ...

6 (2) If the respondent fails to comply, but does not clearly refuse to
7 comply, with all or part of the prescribed treatment after reasonable
8 effort to solicit the respondent's compliance, the physician, the
9 physician's designee, or the center may request the court to order the
10 respondent taken into custody for the purpose of examination. Upon
11 receipt of this request, the clerk shall issue an order to a
12 law-enforcement officer to take the respondent into custody and to
13 take him immediately to the designated outpatient treatment physician
14 or center for examination. The custody order is valid throughout the
15 State. The law-enforcement officer shall turn the respondent over to
16 the custody of the physician or center who shall conduct the
17 examination and then release the respondent. The law-enforcement
18 officer may wait during the examination and return the respondent to
19 his home after the examination. An examination conducted under this
20 subsection in which a ~~physician or eligible psychologist~~ physician,
21 eligible psychologist, eligible clinical social worker, eligible masters
22 level psychiatric nurse, or eligible clinical addictions specialist
23 determines that the respondent meets the criteria for inpatient
24 commitment may be substituted for the first examination required by
25 G.S. 122C-263 if the clerk or magistrate issues a custody order within
26 six hours after the examination was performed."

27 **SECTION 4.(i)** G.S. 122C-281 reads as rewritten:

28 **"§ 122C-281. Affidavit and petition before clerk or magistrate; custody order.**

29 (a) Any individual who has knowledge of a substance abuser who is dangerous to
30 himself or others may appear before a clerk or assistant or deputy clerk of superior court
31 or a magistrate, execute an affidavit to this effect, and petition the clerk or magistrate
32 for issuance of an order to take the respondent into custody for examination by a
33 ~~physician or eligible psychologist.~~ physician, eligible psychologist, eligible clinical
34 social worker, eligible masters level psychiatric nurse, or eligible clinical addictions
35 specialist.

36 The affidavit shall include the facts on which the affiant's opinion is based.
37 Jurisdiction under this subsection is in the clerk or magistrate in the county where the
38 respondent resides or is found.

39 (b) If the clerk or magistrate finds reasonable grounds to believe that the facts
40 alleged in the affidavit are true and that the respondent is probably a substance abuser
41 and dangerous to himself or others, he shall issue an order to a law-enforcement officer
42 or any other person authorized by G.S. 122C-251 to take the respondent into custody for
43 examination by a ~~physician or eligible psychologist.~~ physician, eligible psychologist,

1 eligible clinical social worker, eligible masters level psychiatric nurse, or eligible
2 clinical addictions specialist.

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

6 (d) If the affiant is a ~~physician or eligible psychologist~~, physician, eligible
7 psychologist, eligible clinical social worker, eligible masters level psychiatric nurse, or
8 eligible clinical addictions specialist, he may execute the affidavit before any official
9 authorized to administer oaths. He is not required to appear before the clerk or
10 magistrate for this purpose. His examination shall comply with the requirements of the
11 initial examination as provided in G.S. 122C-283(c). If the ~~physician or eligible~~
12 ~~psychologist~~ physician, eligible psychologist, eligible clinical social worker, eligible
13 masters level psychiatric nurse, or eligible clinical addictions specialist recommends
14 commitment and the clerk or magistrate finds probable cause to believe that the
15 respondent meets the criteria for commitment, he shall issue an order for transportation
16 to or custody at a 24-hour facility or release the respondent, pending hearing, as
17 described in G.S. 122C-283(d)(1). If a ~~physician or eligible psychologist~~ physician,
18 eligible psychologist, eligible clinical social worker, eligible masters level psychiatric
19 nurse, or eligible clinical addictions specialist executes an affidavit for commitment of a
20 respondent, a second qualified professional shall perform the examination required by
21 G.S. 122C-285.

22 (e) Upon receipt of the custody order of the clerk or magistrate, a
23 law-enforcement officer or other person designated in the order shall take the
24 respondent into custody within 24 hours after the order is signed. The custody order is
25 valid throughout the State.

26 (f) When a petition is filed for an individual who is a resident of a single portal
27 area, the procedures for examination by a ~~physician or eligible psychologist~~ physician,
28 eligible psychologist, eligible clinical social worker, eligible masters level psychiatric
29 nurse, or eligible clinical addictions specialist as set forth in G.S. 122C-283(c) shall be
30 carried out in accordance with the area plan. When an individual from a single portal
31 area is presented for commitment at a facility directly, he may be accepted for
32 admission in accordance with G.S. 122C-285. The facility shall notify the area authority
33 within 24 hours of admission and further planning of treatment for the individual is the
34 joint responsibility of the area authority and the facility as prescribed in the area plan.

35 (g) After July 1, 2007, the Local Management Entities involved in the First Level
36 Commitment Pilot Program, as specified in S.L. 2003-178, will be able to continue
37 operation under the guidelines of the Pilot until such time as administrative rules are
38 adopted. The Secretary of Health and Human Services shall adopt rules pursuant to this
39 section."

40 **SECTION 4.(j)** G.S. 122C-282 reads as rewritten:

41 "**§ 122C-282. Special emergency procedure for violent individuals.**

42 When an individual subject to commitment under the provisions of this Part is also
43 violent and requires restraint and when delay in taking him to a ~~physician or eligible~~
44 ~~psychologist~~ physician, eligible psychologist, eligible clinical social worker, eligible

1 masters level psychiatric nurse, or eligible clinical addictions specialist for examination
2 would likely endanger life or property, a law-enforcement officer may take the person
3 into custody and take him immediately before a magistrate or clerk. The
4 law-enforcement officer shall execute the affidavit required by G.S. 122C-281 and in
5 addition shall swear that the respondent is violent and requires restraint and that delay in
6 taking the respondent to a ~~physician or eligible psychologist~~ physician, eligible
7 psychologist, eligible clinical social worker, eligible masters level psychiatric nurse, or
8 eligible clinical addictions specialist for an examination would endanger life or
9 property.

10 If the clerk or magistrate finds by clear, cogent, and convincing evidence that the
11 facts stated in the affidavit are true, that the respondent is in fact violent and requires
12 restraint, and that delay in taking the respondent to a ~~physician or eligible psychologist~~
13 physician, eligible psychologist, eligible clinical social worker, eligible masters level
14 psychiatric nurse, or eligible clinical addictions specialist for an examination would
15 endanger life or property, he shall order the law-enforcement officer to take the
16 respondent directly to a 24-hour facility described in G.S. 122C-252.

17 Respondents received at a 24-hour facility under the provisions of this section shall
18 be examined and processed thereafter in the same way as all other respondents under
19 this Part."

20 **SECTION 4.(k)** G.S. 122C-283 reads as rewritten:

21 "**§ 122C-283. Duties of law-enforcement officer; first examination by ~~physician or~~**
22 **~~eligible psychologist.~~ physician, eligible psychologist, eligible clinical**
23 **social worker, eligible masters level psychiatric nurse, or eligible clinical**
24 **addictions specialist.**

25 (a) Without unnecessary delay after assuming custody, the law-enforcement
26 officer or the individual designated by the clerk or magistrate under G.S. 122C-251(g)
27 to provide transportation shall take the respondent to an area facility for examination by
28 a ~~physician or eligible psychologist~~; if a ~~physician or eligible psychologist~~ physician,
29 eligible psychologist, eligible clinical social worker, eligible masters level psychiatric
30 nurse, or eligible clinical addictions specialist; if a physician, eligible psychologist,
31 eligible clinical social worker, eligible masters level psychiatric nurse, or eligible
32 clinical addictions specialist is not available in the area facility, he shall take the
33 respondent to any ~~physician or eligible psychologist~~ physician, eligible psychologist,
34 eligible clinical social worker, eligible masters level psychiatric nurse, or eligible
35 clinical addictions specialist locally available. If a ~~physician or eligible psychologist~~
36 physician, eligible psychologist, eligible clinical social worker, eligible masters level
37 psychiatric nurse, or eligible clinical addictions specialist is not immediately available,
38 the respondent may be temporarily detained in an area facility if one is available; if an
39 area facility is not available, he may be detained under appropriate supervision, in his
40 home, in a private hospital or a clinic, or in a general hospital, but not in a jail or other
41 penal facility.

42 (b) The examination set forth in subsection (a) of this section is not required if:

43 (1) The affiant who obtained the custody order is a ~~physician or eligible~~
44 psychologist; physician, eligible psychologist, eligible clinical social

1 worker, eligible masters level psychiatric nurse, or eligible clinical
2 addictions specialist; or

- 3 (2) The respondent is in custody under the special emergency procedure
4 described in G.S. 122C-282.

5 In these cases when it is recommended that the respondent be detained in a 24-hour
6 facility, the law-enforcement officer shall take the respondent directly to a 24-hour
7 facility described in G.S. 122C-252.

8 (c) The ~~physician or eligible psychologist~~ physician, eligible psychologist,
9 eligible clinical social worker, eligible masters level psychiatric nurse, or eligible
10 clinical addictions specialist described in subsection (a) of this section shall examine the
11 respondent as soon as possible, and in any event within 24 hours, after the respondent is
12 presented for examination. The examination shall include but is not limited to an
13 assessment of the respondent's:

- 14 (1) Current and previous substance abuse including, if available, previous
15 treatment history; and

- 16 (2) Dangerousness to himself or others as defined in G.S. 122C-3(11).

17 (d) After the conclusion of the examination the ~~physician or eligible psychologist~~
18 physician, eligible psychologist, eligible clinical social worker, eligible masters level
19 psychiatric nurse, or eligible clinical addictions specialist shall make the following
20 determinations:

- 21 (1) If the ~~physician or eligible psychologist~~ physician, eligible
22 psychologist, eligible clinical social worker, eligible masters level
23 psychiatric nurse, or eligible clinical addictions specialist finds that the
24 respondent is a substance abuser and is dangerous to himself or others,
25 he shall recommend commitment and whether the respondent should
26 be released or be held at a 24-hour facility pending hearing and shall
27 so show on [the] his examination report. Based on the ~~physician's or~~
28 ~~eligible psychologist's recommendation~~ recommendation of the
29 physician, eligible psychologist, eligible clinical social worker, eligible
30 masters level psychiatric nurse, or eligible clinical addictions specialist
31 the law-enforcement officer or other designated individual shall take
32 the respondent to a 24-hour facility described in G.S. 122C-252 or
33 release the respondent.

- 34 (2) If the ~~physician or eligible psychologist~~ physician, eligible
35 psychologist, eligible clinical social worker, eligible masters level
36 psychiatric nurse, or eligible clinical addictions specialist finds that the
37 condition described in subdivision (1) of this subsection does not exist,
38 the respondent shall be released and the proceedings terminated.

39 (e) The findings of the ~~physician or eligible psychologist~~ physician, eligible
40 psychologist, eligible clinical social worker, eligible masters level psychiatric nurse, or
41 eligible clinical addictions specialist and the facts on which they are based shall be in
42 writing in all cases. A copy of the findings shall be sent to the clerk of superior court by
43 the most reliable and expeditious means. If it cannot be reasonably anticipated that the

1 clerk will receive the copy within 48 hours of the time that it was signed, the physician
2 or eligible psychologist shall also communicate his findings to the clerk by telephone."

3 **SECTION 4.(l)** G.S. 122C-284(a) reads as rewritten:

4 "(a) Upon receipt by the clerk of superior court of the findings of a physician's or
5 eligible psychologist's finding ~~physician, eligible psychologist, eligible clinical social~~
6 worker, eligible masters level psychiatric nurse, or eligible clinical addictions specialist
7 that a respondent is a substance abuser and dangerous to himself or others and that
8 commitment is recommended, the clerk of superior court of the county where the
9 facility is located, if the respondent is held in a 24-hour facility, or the clerk of superior
10 court where the petition was initiated shall upon direction of a district court judge assign
11 counsel, calendar the matter for hearing, and notify the respondent, his counsel, and the
12 petitioner of the time and place of the hearing. The petitioner may file a written waiver
13 of his right to notice under this subsection with the clerk of court."

14 **SECTION 4.(m)** G.S. 122C-285(b) reads as rewritten:

15 "(b) If the 24-hour facility described in G.S. 122C-252 is the facility in which the
16 first examination by a ~~physician or eligible psychologist~~ physician, eligible
17 psychologist, eligible clinical social worker, eligible masters level psychiatric nurse, or
18 eligible clinical addictions specialist occurred and is the same facility in which the
19 respondent is held, the second examination must occur not later than the following
20 regular working day."

21 **SECTION 5.** This act is effective when it becomes law.