

Issues for Consideration by the Chief District Court Judge and Magistrates as a Result of Session Law 2025-27

Effective Date: November 1, 2025

Applicable Statutes: New G.S. 108A-106.1 and -106.2

[Session Law 2025-27, Part V](#) makes changes to North Carolina adult protective services law related to emergency petitions and ex parte orders authorizing the provision of emergency services to a disabled adult. The following topics identify key issues for consideration and decision-making at the local level to assist in implementation of this new law. For more information about the legislative changes resulting from S.L. 2025-27, refer to [this blog post](#).

1. Decision Whether to Authorize Magistrates.

The chief district court judge (the “chief”) has discretion to authorize magistrates to hear ex parte motions for the provision of emergency services and enter an ex parte order for emergency services. G.S. 108A-106.2(a).

- a. Authorization decision: The chief considers whether or not to authorize one or more magistrates.
- b. Recommended practice: If the chief authorizes one or more magistrates, the authorization may be documented in a written administrative order.

2. If the Chief Authorizes One or More Magistrates.

- a. Content of the authorization. The authorization may include:
 - i. A statement expressly authorizing one or more magistrates to hear ex parte motions and enter ex parte orders under G.S. 108A-106.2.
 - ii. Identification of which magistrates are authorized (G.S. 108A-106.2(a) provides that one or more magistrates may be authorized).
 - iii. Conditions defining when a judge “is not and will not be available to hear the motion” under G.S. 108A-106.2(a), such as the district court is not in session, the clerk’s office is closed, or specific weekends or holidays. Note, the conditions may not authorize the magistrate to enter an ex parte order if the district court is in session. An authorized magistrate may only enter the ex parte order if the magistrate determines at the time of the petitioner seeks the ex parte order (i) the district court is not in session,

and (ii) a district court judge “is not and will not be available to hear the motion.” G.S. 108A-106.2(a).

- b. Appointment of a guardian ad litem (GAL) attorney after-hours.
 - i. Establish guidance for judges and authorized magistrates on how to determine who to appoint as guardian ad litem attorney if the judge or authorized magistrate determines the disabled adult lacks the capacity to waive the right to counsel pursuant to G.S. 108A-105(b) and an ex parte order is entered after-hours.

3. If the Chief Does Not Authorize One or More Magistrates.

If chief does not authorize magistrates to hear ex parte motions and enter ex parte orders, establish guidance on the procedures to contact a district court judge to hear the ex parte motion and enter the order granting or denying the request for ex parte relief if it is after hours (guidance for the magistrate) or it is during hours the clerk’s office is open but the district court is not in session (guidance for the clerk).

4. Establish After-Hours Scheduling Procedures.

Whether or not magistrates are authorized to enter ex parte orders, if an ex parte order is entered when the clerk’s office is closed, establish direction to the magistrate regarding when to schedule the emergency services hearing.