

**North Carolina**

# Clerk of Superior Court

**Procedures Manual**

**2012 • Volume 1**

**Joan G. Brannon**

**Ann M. Anderson**

Review provided by the Clerks' Manual Committee:

Honorable James C. Stanford, Clerk of Superior Court, Orange County, Chairman

Honorable Jo Ann C. Averette, Clerk of Superior Court, Granville County

Honorable Rena W. Turner, Clerk of Superior Court, Iredell County

Honorable Andrew J. Whitley, Clerk of Superior Court, Wilson County

Assistance to the committee provided by AOC counsel:

Pamela W. Best, Deputy Legal Counsel

Amy L. Funderburk, Assistant Legal Counsel

Troy D. Page, Assistant Legal Counsel

Editorial support provided by Jan S. Simmons, School of Government

Preparation of this manual was made possible by funding from  
the North Carolina Administrative Office of the Courts.



The School of Government at the University of North Carolina at Chapel Hill works to improve the lives of North Carolinians by engaging in practical scholarship that helps public officials and citizens understand and improve state and local government. Established in 1931 as the Institute of Government, the School provides educational, advisory, and research services for state and local governments. The School of Government is also home to a nationally ranked graduate program in public administration and specialized centers focused on information technology and environmental finance.

As the largest university-based local government training, advisory, and research organization in the United States, the School of Government offers up to 200 courses, webinars, and specialized conferences for more than 12,000 public officials each year. In addition, faculty members annually publish approximately fifty books, book chapters, bulletins, and other reference works related to state and local government. Each day that the General Assembly is in session, the School produces the *Daily Bulletin*, which reports on the day's activities for members of the legislature and others who need to follow the course of legislation.

The Master of Public Administration Program is a full-time, two-year program that serves up to sixty students annually. It consistently ranks among the best public administration graduate programs in the country, particularly in city management. With courses ranging from public policy analysis to ethics and management, the program educates leaders for local, state, and federal governments and nonprofit organizations.

Operating support for the School of Government's programs and activities comes from many sources, including state appropriations, local government membership dues, private contributions, publication sales, course fees, and service contracts. Visit [www.sog.unc.edu](http://www.sog.unc.edu) or call 919.966.5381 for more information on the School's courses, publications, programs, and services.

Michael R. Smith, DEAN

Thomas H. Thornburg, SENIOR ASSOCIATE DEAN

Frayda S. Bluestein, ASSOCIATE DEAN FOR FACULTY DEVELOPMENT

L. Ellen Bradley, ASSOCIATE DEAN FOR PROGRAMS AND MARKETING

Todd A. Nicolet, ASSOCIATE DEAN FOR OPERATIONS

Ann Cary Simpson, ASSOCIATE DEAN FOR DEVELOPMENT

Bradley G. Volk, ASSOCIATE DEAN FOR ADMINISTRATION

#### FACULTY

Whitney Afonso

Gregory S. Allison

David N. Ammons

Ann M. Anderson

A. Fleming Bell, II

Maureen M. Berner

Mark F. Botts

Michael Crowell

Leisha DeHart-Davis

Shea Riggsbee Denning

James C. Drennan

Richard D. Ducker

Joseph S. Ferrell

Alyson A. Grine

Norma Houston

Cheryl Daniels Howell

Jeffrey A. Hughes

Willow S. Jacobson

Robert P. Joyce

Kenneth L. Joyner

Diane M. Juffras

Dona G. Lewandowski

Adam Lovelady

James M. Markham

Janet Mason

Christopher B. McLaughlin

Laurie L. Mesibov

Kara A. Millonzi

Jill D. Moore

Jonathan Q. Morgan

Ricardo S. Morse

C. Tyler Mulligan

David W. Owens

William C. Rivenbark

Dale J. Roenigk

John Rubin

Jessica Smith

Karl W. Smith

Carl W. Stenberg III

John B. Stephens

Charles Szypszak

Shannon H. Tufts

Vaughn Upshaw

Aimee N. Wall

Jeffrey B. Welty

Richard B. Whisnant

© 2012

School of Government

The University of North Carolina at Chapel Hill

Use of this publication for commercial purposes or without acknowledgment of its source is prohibited. Reproducing, distributing, or otherwise making available to a non-purchaser the entire publication, or a substantial portion of it, without express permission, is prohibited.

Printed in the United States of America

17 16 15 14 13 12 3 4 5

ISBN 978-1-56011-716-2

∞ This publication is printed on permanent, acid-free paper in compliance with the North Carolina General Statutes.

♻️ Printed on recycled paper

## Foreword

This edition of the North Carolina Clerk of Superior Court Procedures Manual updates the edition published in 2003. This edition was made possible by the tireless efforts of Joan Brannon, who led the revision effort until her final retirement from the School of Government in December 2010. It has been made far better by the help of a dedicated committee of clerks and AOC legal counsel. The committee met monthly over a long period of time to share practical knowledge and wise counsel about the subjects the manual covers.

The Procedures Manual is designed as a reference for clerks of superior court and their assistants and deputies. While it is broad in scope, the book does not attempt to deal with all duties of the clerk. Instead, it primarily sets out the law related to most judicial proceedings that clerks conduct.

Discovery of errors and omissions and ideas for additions or improvements should be brought to the attention of the School of Government. We sincerely thank the North Carolina Administrative Office of the Courts for support of this project.

Ann M. Anderson

---

# NORTH CAROLINA CLERK OF SUPERIOR COURT PROCEDURES MANUAL

## TABLE OF CONTENTS

---

### VOLUME I

PART I—INTRODUCTION.....	Chapter	Page
Office of the Clerk (August 2012).....		10.1
Ethics for Clerks of Superior Court (May 2010).....		11.1
Judicial Responsibilities of the Clerk (December 2011).....		12.1
Liability of the Clerk (June 2010).....		13.1
Oaths of Office (May 2010).....		14.1
Public Records (May 2010).....		15.1
PART II—CRIMINAL PROCEDURES		
Initial Appearance and Setting Conditions of Pretrial Release (September 2012).....		20.1
First Appearance When Judge Not Available (November 2008).....		21.1
Criminal Appearance Bonds: Taking Secured Bonds (June 2009).....		22.1
Criminal Appearance Bonds: Regulating Bondsmen (This chapter has been deleted).....		23.1
Bond Forfeiture (September 2009).....		24.1
Duties of the Clerk in Extradition Cases (March 2009).....		25.1
Clerk’s Handling of Evidence (December 2011).....		52.1
PART III—CIVIL PROCEDURES		
Judgments		
Confessions of Judgment (August 2009).....		30.1
Default Judgments (April 2010).....		31.1
Docketing, Crediting and Canceling Judgments (November 2010).....		32.1
Entry of Judgment: Rule 58 (March 2009).....		33.1
Prejudgment Remedies		
Attachments (September 2009).....		34.1
Claim and Delivery (September 2009).....		35.1
Postjudgment Remedies		
Proceedings Supplemental to Execution (October 2010).....		36.1
Setting Aside Exemptions (May 2010).....		37.1
Writs of Execution (October 2010).....		38.1
Writs of Possession for Real Property (January 2010).....		39.1
Writs of Possession for Personal Property (January 2010).....		40.1
Civil Domestic Violence Protective Orders (September 2012).....		41.1
Handling Small Claims (February 2010).....		42.1
Judicial Sales (April 2010).....		43.1
PART IV—COURTROOM PROCEDURES		
Courtroom Duties of the Clerk (June 2010).....		50.1
Courtroom Oaths (June 2010).....		51.1

Clerk’s Handling of Evidence (December 2011) .....	52.1
Clerk’s Responsibilities to the Jury Commission (June 2010).....	53.1
Clerk’s Responsibilities for Petit Juries (June 2010) .....	54.1
Clerk’s Responsibilities for the Grand Jury (June 2010) .....	55.1
Duties and Responsibilities of a Bailiff and a Grand Jury Officer (September 2010) .....	56.1

**PART V—CHILD SUPPORT**

Child Support (June 2012).....	60.1
--------------------------------	------

**VOLUME II**

**PART VI—ESTATES, GUARDIANSHIPS AND TRUSTS**

**Decedents’ Estates**

Decedents’ Estates: A Note about Effective Dates (November 2012) .....	II.i
Clerk’s Responsibilities as Judge of Probate: In General (December 2011).....	70.1
Overview of Decedent’s Estate Administration (December 2011) .....	71.1
Probate of a Will (December 2011) .....	72.1
Personal Representative: Qualification, Renunciation, Appointment, Resignation and Removal (July 2012) .....	73.1
Inventories and Accounts (July 2012) .....	74.1
Commissions and Attorney Fees of the Personal Representative (June 2011).....	75.1
Proceedings to Discover Assets of an Estate (December 2011) .....	76.1
Personal Property of Estates (July 2012) .....	77.1
Sale and Management of Real Property (July 2012) .....	78.1
Special Rights of a Surviving Spouse and Children (July 2012) .....	79.1
Right to an Elective Share (December 2011) .....	80.1
Assignment of Year’s Allowance of More Than \$20,000 (July 2012) .....	120.1
Distribution and Renunciation of Interests (July 2012) .....	81.1
Settlement and Reopening of an Estate (December 2011).....	82.1
Alternatives to Formal Administration (Small Estates and Summary Administration) (July 2012) .....	83.1
Wills Deposited for Safekeeping (September 2010).....	84.1

**Guardianship**

Incompetency Determinations (August 2011) .....	85.1
Guardianship (July 2012).....	86.1
Veterans’ Guardianship Act (November 2011) .....	87.1
Clerk’s Administration of Funds Owed to Minors and Incapacitated Adults (July 2011) .....	88.1
Trust Proceedings (July 2012).....	89.1

**PART VII—SPECIAL PROCEEDINGS**

Introduction to Special Proceedings (July 2012).....	100.1
Adoptions (September 2012) .....	110.1
<b>Estates and Guardianship</b>	
Assignment of Year’s Allowance of More Than \$20,000 (July 2012) .....	120.1
Proceeding Against Unknown Heirs of Decedent Before Distribution (September 2010).....	121.1
Proceeding by Foreign Guardian to Remove Ward’s Property From State (September 2010).....	122.1
Sale of Land to Create Assets (December 2011) .....	123.1
Sale, Mortgage, Exchange or Lease of A Ward’s Estate (August 2010).....	124.1

Foreclosure	
Foreclosure Under Power of Sale (August 2012) .....	130.1
Proceeding to Determine Ownership of Surplus Proceeds From Foreclosure Sale (September 2010) .....	131.1
Legitimation/Proof of Birth	
Proceedings by Putative Father to Legitimate Child (September 2010).....	140.1
Proceeding To Establish Facts of Birth (September 2010).....	141.1
Motor Vehicle Liens (September 2010) .....	150.1
Name Changes (August 2011).....	151.1
Real Property	
Cartway Proceeding (September 2010) .....	160.1
Condemnation by Private Condemnors (November 2010).....	161.1
Establishing and Monitoring A Drainage District (October 2010).....	162.1
Partition (November 2010) .....	163.1
Proceeding to Establish Boundary When Deed and Registry Destroyed (October 2010).....	164.1
Proceedings Under the Torrens Act for Land Registration (October 2010) .....	165.1
Settlement of Boundaries (October 2010) .....	166.1
 PART VIII—GLOSSARY .....	 170.1
 PART IX—INDEX.....	 200.1