

WHAT THE CLERK OF SUPERIOR COURT DOES

CLERK OF SUPERIOR COURT PROCEDURES MANUAL, PG. 10.17 AND 10.18

The clerk, as a judicial officer of the superior court, has *judicial* responsibilities in the following areas:

- Probate of wills, administration of decedents' estates, estate proceedings. G.S. 7A-240, -241; G.S. 28A-2-1; G.S. 28A-2-4.
- Incompetency proceedings. G.S. Ch. 35A.
- Guardianships. G.S. 35A-1203.
- Trust proceedings. G.S. Ch. 36C.
- Settlement of partnership affairs of surviving partners. G.S. Ch. 59, Art. 3.
- Administration of small estates. G.S. Ch. 28A, Art. 25.
- Summary administration. G.S. 28A-28-1.
- Temporary estate administration by collectors. G.S. Ch. 28A, Art. 11.
- Special proceedings (more than 40 different proceedings). G.S. 1-3.
- Attorneys-in-fact (i.e., persons with power of attorney). G.S. 32A-11.
- Writs of execution. G.S. 1-305.
- Attachment and garnishment. G.S. Ch. 1, Art. 35.
- Arrest and bail. G.S. 1-411.
- Supplemental proceedings. G.S. Ch. 1, Art. 31.
- Claim and delivery. G.S. 1-474.
- Setting aside exemptions. G.S. 1C-1601.
- Foreclosure under power of sale. G.S. Ch. 45, Art. 2A.
- Summary remedy of surety against principal. G.S. 26-3.
- Judicial sales. G.S. 1-339.1.
- Foreclosure of tax liens. G.S. 105-374.
- Voluntary dismissals. G.S. 1-209; G.S. 1A-1, Rule 41(a).
- Consent judgments. G.S. 1-209(2).
- Default judgments. G.S. 1-209(4); G.S. 1A-1, Rule 55.
- Confessions of judgment. G.S. 1A-1, Rule 68.1.
- All questions of practice and procedure and all other matters over which jurisdiction is given to superior court, except when a judge or a regular session is referred to. G.S. 1-13.
- Any power or duty conferred on the superior court by statute ("court" means the clerk of superior court unless otherwise specifically stated or reference is made to a regular session). G.S. 1-7.
- Punishes criminal contempt and holds persons in civil contempt. G.S. 7A-103(7).
- Written appearances, waiver of trial or hearing, and pleas of guilty in certain traffic offenses, hunting, fishing, and boating violations, and alcohol beverage control offenses. G.S. 7A-180(4).
- Issue warrants of arrest valid throughout state, search warrants valid in the county. G.S. 7A-180(5).
- Initial appearance and pretrial release. G.S. 7A-180(6); G.S. Ch. 15A, Art. 24, Art. 26.
- Execution of bond forfeitures. G.S. 15A-544.1.
- First appearances when the judge is not available. G.S. 15A-601(e).
- Determinations of indigency. G.S. 7A-452(c)(1).
- Written appearances, waivers of trial, pleas of guilty for violations of worthless-check statute. G.S. 7A-180(8).
- Waiver in extradition proceedings. G.S. 15A-746.
- Sterilization proceedings of a ward when medically necessary. G.S. 35A-1245.
- Issues custody orders for involuntary commitment. G.S. 122C-261.
- When appropriate, appoints mediators in matters before the clerk. G.S. 7A-38.3B.

The clerk has many responsibilities besides judicial ones. Here is a list of *some* of the other functions.

- Operates unified record keeping system of all civil actions, special proceedings, estates, criminal actions, juvenile actions, minutes of the court, judgments, liens, lis pendens, and numerous other records required by law. G.S. 7A-109(a); G.S. 7A-180(3); G.S. 7A-255.
- Maintains judgment docket. G.S. 1-233; G.S. 1-239; G.S. 1-245; G.S. 1-246.
- Keeps public documents for use in the county, including acts of the General Assembly and appellate division reports. G.S. 14-241; G.S. 147-51.
- Is custodian of evidence in civil and criminal trials. Sup. and Dist. Ct. R. 14.

- Issues civil summons. G.S. 1A-1, Rules 3 and 4; G.S. 7A-255.
- Issues subpoenas. G.S. 1A-1, Rule 45; G.S. 7A-103(1).
- Invests money received and held by his or her office in trust. G.S. 7A-112.
- Receives and administers insurance or other money on behalf of minors and incapacitated adults. G.S. 7A-111.
- Can receive funds when a guardian is removed until a successor is appointed. G.S. 35A-1294.
- Acts as custodian of funds for upkeep of cemetery plots. G.S. 65-91.
- Administers oaths, takes acknowledgments and proof of execution of instruments. G.S. 7A-103(2).
- Certifies documents. G.S. 7A-103(6).
- Keeps a list of prisoners with pertinent data compiled from information the sheriff is required to furnish. G.S. 7A-109.1; G.S. 153A-229.
- Receives driver's licenses that are required to be surrendered. G.S. 20-24.
- Provides the Secretary of Revenue with a list of attorneys who practice law in the county. G.S. 7A-110.
- Sends a report of all divorces and annulments granted in the preceding month to the State Registrar of Vital Statistics. G.S. 130A-111.
- Notifies the Commissioner of Motor Vehicles of those adjudicated incompetent or committed for treatment of alcoholism or drug addiction. G.S. 20-17.1(b).
- Notifies the secretary-treasurer of the North Carolina State Bar when an attorney is convicted of any criminal offense, is disciplined, is found in contempt or adjudged incompetent. G.S. 84-36.1.
- Furnishes county commissioners with a list of licensed sureties. G.S. 58-73-10.
- Fills a vacancy on the county board of commissioners when the board itself does not fill it. G.S. 153A-27.
- Draws panels of jurors and provides clerical assistance to the county's jury commission in compiling the county's list of prospective jurors and appoints one member of the jury commission. G.S. 9-1; G.S. 9-5.
- Administers oaths to certain officials and to jurors and witnesses. G.S. Ch. 11.
- Nominates candidates for appointment as magistrates. G.S. 7A-171(b); N.C. Const. art. IV, § 10.
- Appoints public administrators and public guardians. G.S. 28A-12-1; G.S. 35A-1270.
- In child support cases, maintains official records (IV-D cases) and official records and case data (non-IV-D cases previously enforced by clerk), mails notices of delinquency, and issues orders to show cause. G.S. 50-13.9; G.S. 15A-1344.1.
- Has duties under the Uniform Interstate Family Support Act to establish/enforce out of state support orders. G.S. Ch. 52C.
- Maintains a separate index of medical malpractice actions. G.S. 1A-1, Rule 3(b).