

**LEGISLATIVE
UPDATE-2021**

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Budget

<p>Senate-June, 2021</p> <ul style="list-style-type: none"> ▪ No funding to raise PAC rates ▪ No additional positions in PD offices ▪ No new PD offices 	<p>House-August, 2021</p> <ul style="list-style-type: none"> ▪ \$6.8 Million for rate restoration <ul style="list-style-type: none"> ✓ \$5 Million recurring new PAC appropriation ✓ Increase in the current Indigent Defense fee from \$2 to \$5, generating another \$1.8 Million (annualized) for the PAC. ▪ New Public Defender program in #27B (Cleveland/Lincoln).
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Budget

The next step is for the two chambers to conference to work out their differences.

Contact your elected representatives in both chambers of the North Carolina General Assembly as soon as possible to encourage them to support the House version of the budget, and encourage your colleagues, friends, and family to do the same.

<https://www.ncleg.gov/FindYourLegislators>

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Rate Increase Costs

District Court Criminal	\$55	\$5	\$ 1.41 million	\$10	\$ 2.82 million
District Court Civil	\$55	\$5	\$ 1.38 million	\$10	\$ 2.76 million
Delinquency	\$55	\$5	\$ 165,000	\$10	\$ 330,000

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Rule 5

House Bill 679 was effective 10/1/2020 amends N.C. Gen. Stat. § 1A-1, Rule 5:

- ✓Parties represented by an attorney may be served by email. Consent is not required. The email must be sent by 5:00 p.m. EST on a business day, otherwise it is considered served on the next business day.
- ✓An unrepresented party may only be served by email if they have consented to such service, "and a copy of the consent is filed with the court by any party."
- ✓Where electronic filing is available, service is achieved by eFiling, unless a party is not registered in the system.
- ✓Other methods of service, including hand-delivery, fax, and mail are still acceptable.
- ✓Certificates of Service-If you're serving by email (or fax), the certificate of service must include the email address (or fax number) of every person served by that method.

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Remote hearings

SB 255 was effective for all hearings on or after 6/18/2021. Enacts new G.S. 7A-49.6, permitting judicial officials to "conduct proceedings of all types using audio and video transmission." Judicial officials are required to safeguard the constitutional rights of persons involved in the proceeding and preserve the integrity of the judicial process. The following specific requirements apply:

- ✓Each party must be able to communicate fully and confidentially with his or her attorney.
- ✓A party may object to a remote proceeding. If the presiding official finds good cause, the proceeding may not be held by audio and video transmission.
- ✓Remote proceedings must comply with federal and State laws governing confidential information.
- ✓If the proceeding must be recorded, then the audio and video transmission must be recorded.
- ✓Remote proceedings must be conducted using videoconferencing applications approved by the Administrative Office of the Courts.

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Appeals

SB 113 was effective for appeals filed on or after 7/1/2021.

- ✓ TPR appeals and TPR/CRE appeals go to the NC Court of Appeals.
- ✓ Director of the Administrative Office of the Courts is to prepare and submit an annual report on appeals of termination of parental rights cases and transmit by February 1 of each year to the Chief Justice and the General Assembly.

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CIP bill

HB 132 effective October 1, 2021.

- 1) Definition of Relative
- 2) Sibling placement and contact
- 3) Provisional counsel-copies of pleadings
- 4) Medically assisted treatment
- 5) CRE and plan of reunification
- 6) Motion to modify
- 7) Interstate Compact on the Placement of Children

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Relative

G.S. 7B-101(18a). A relative is "an individual directly related to the juvenile by blood, marriage, or adoption, including a grandparent, sibling, aunt, or uncle."

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Sibling placement and visitation

7B-505(a1) and 7B-903.1(c1) added to require a DSS director to make reasonable efforts to place siblings together and if not placed together, to provide frequent visitation or contact.

Efforts not required if the director documents that such a placement would be contrary to the safety or well-being of any of the siblings.

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Provisionally appointed counsel

7B-602 and 7B-1101.1(a). The clerk is to provide a copy of the petition and summons to any attorney appointed provisionally in an abuse/neglect/dependency or termination of parental rights action.

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Medication-Assisted Treatment

7B-904(c1) states:

“If the court has ordered an individual to comply with a plan of treatment for substance use disorder, including opioid dependency, that individual shall not be in violation of the terms or conditions of that part of the court's order if he or she is compliant with medication-assisted treatment.”

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CRE = eliminating reunification

7B-906.2(b) requires that reunification be eliminated as a permanent plan when reunification efforts are ceased.

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Motion to modify

7B-1000 amended to read:

“(a) Upon motion in the cause or petition, and after notice, the court may conduct a modification hearing to determine whether the order of the court is in the best interests of the juvenile. The court may modify the order in light of changes in circumstances or the needs of the juvenile and address the issues raised in the motion that do not require a review or permanency planning hearing pursuant to G.S. 7B-906.1.”

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ICPC

This repeals 7B-3807, which was enacted in 2019 and gave the regulations promulgated by the Association of Administrators of the Interstate Compact on the Placement of Children (ICPC) the effect of law in North Carolina.

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MOU

MOU with State DSS to receive IV-E funds. States can receive up to 50% federal Title IV-E reimbursement for the costs of providing "independent legal representation by an attorney" for a parent whose child "is a candidate for title IV-E foster care or in foster care" throughout all stages of foster care legal proceedings.

NC's plan for the funds:

1. Develop an interdisciplinary model of parent representation in North Carolina.
2. Implement a multiprong approach to develop and retain qualified parent attorneys:
 - a. Increase the hourly rate paid to attorneys
 - b. Hire parent attorneys to supplement parent defense rosters in districts with insufficient numbers of parent attorneys
 - c. Establish paid internships for law students

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Child Welfare Specialization

"The North Carolina State Bar Board of Legal Specialization hereby designates child welfare law as a specialty for which certification of specialists under the North Carolina Plan of Legal Specialization is permitted."

Approved 4/16/2021.

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