



ADMINISTRATIVE OFFICE OF THE COURTS

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## MEMORANDUM

TO: Clerks of Superior Court<sup>1</sup>  
Magistrates  
Superior Court Judges  
District Court Judges  
District Attorneys  
Public Defenders

FROM: Jonathan Redford Harris, General Counsel  
Nicole Brinkley, Assistant Legal Counsel  
Elizabeth Croom, Assistant Legal Counsel  
Tina Krasner, Assistant Legal Counsel  
Jo McCants, Assistant Legal Counsel  
Matt Osborne, Deputy Legal Counsel  
Troy Page, Assistant Legal Counsel  
Latoya Powell, Assistant Legal Counsel  
Laura Allison Smith, Assistant Legal Counsel

DATE: November 26, 2018

RE: 2018 Legislative Changes for Court Costs and Fees

The General Assembly ended the 2018 short session with the enactment of minimal legislation affecting court costs. This memo will address the few changes for costs resulting from the 2018 short session, as well as one change from the 2017 session, that were enacted by the following legislation:

- Session Law 2018-79 (House Bill 774, Amend Certificates of Relief)<sup>2</sup>
- Session Law 2018-72 (House Bill 670, Protect Educational Property)<sup>3</sup>
- Session Law 2018-75 (Senate Bill 162, Human Trafficking Restorative Justice)<sup>4</sup>
- Session Law 2018-40 (Senate Bill 168, 2018 AOC Omnibus Changes)<sup>5</sup>
- Session Law 2017-211 (Senate Bill 16, The Business Regulatory Reform Act of 2017)<sup>6</sup>

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<sup>1</sup> We ask that clerks provide a copy of this memo to local law enforcement agencies and to personnel in your offices. This memo will be available on the Fees and Payments page on the NCAOC website at <https://www.nccourts.gov/help-topics/fees-and-payments> and on the NCAOC Juno site for Judicial Branch users at <https://juno.nccourts.org/legal-memos>, under the Category for Court Costs Memos.

<sup>2</sup> <https://www.ncleg.net/Sessions/2017/Bills/House/PDF/H774v6.pdf>

<sup>3</sup> <https://www.ncleg.net/Sessions/2017/Bills/House/PDF/H670v5.pdf>

<sup>4</sup> <https://www.ncleg.net/Sessions/2017/Bills/Senate/PDF/S162v6.pdf>

<sup>5</sup> <https://www.ncleg.net/Sessions/2017/Bills/Senate/PDF/S168v5.pdf>

<sup>6</sup> <https://www.ncleg.net/Sessions/2017/Bills/Senate/PDF/S16v6.pdf>

The effective dates of these five bills vary, as noted below, beginning March 1, 2018 when the cost change in S.L. 2017-211 became effective.<sup>7</sup>

This memorandum addresses only costs and cost procedures that are changing. It does not include a comprehensive description of the costs that apply to a particular case. For the total costs to be assessed in a particular case, see the relevant cost chart for each case type. The current cost charts for each case type were revised minimally. Previous charts, memos, and FAQs can be found by conducting a specific search based on year on the Administrative Office of the Courts' (NCAOC) website.<sup>8</sup>

**Bills of costs** will be updated and made available electronically overnight on December 1, 2018.

**FMS** and **Cash Receipting** will be updated overnight on December 1, 2018. Any new account numbers will be posted in the FMS Message Center at the appropriate time. Any necessary instructions about changes to other applications will be distributed by the relevant application team.

### **General Costs – GCF/Allocation Changes**

There were no changes to allocation of funds.

### **Criminal Costs/Fees**

NEW Certificate of Relief Fee. G.S. 15A-173.2(h); S.L. 2018-79, §§1 and 4

Session Law 2018-79, Section 1, amends the law regarding Certificates of Relief in Article 6 of G.S. Ch. 15A. The amended law, in addition to changing eligibility for Certificates of Relief, creates a one-time fee of \$50.00 assessed and collected by the clerk of superior court at the time of filing, unless the petitioner is indigent. The fee is waived by the clerk of superior court upon a petitioner showing proof that the one-time fee was previously paid, even if in a different county. Certificate of Relief fees under G.S. 15A-173.2(h) are collected with all petitions filed on or after December 1, 2018 and deposited in the General Fund. The Certificate of Relief Petition and Order form and instructions (AOC-CR-273; instructions) have been updated and PDF versions of these forms will be publicized on December 1, 2018 and available on the NCAOC web site at <https://www.nccourts.gov/documents/forms>.<sup>9</sup>

NEW Expunction Eligibility. G.S. 15A-145.7; S.L. 2018-72, §§4 and 7

Session Law 2018-72, Section 4, provides that offenders guilty of violations under G.S. 14-277.5, 14-277.6, or 14-277.7, who received a conditional discharge and subsequent dismissal and meet other criteria, are eligible to apply to the court for an expunction of all records related to the offense. The application must be filed in the county where charged. The fee is \$175.00. Cashiers will code this fee

EXP, which will populate with the correct existing account codes for disbursement (\$122.50 to DPS and \$52.50 to NCAOC). This provision applies to offenses committed on or after December 1, 2018.<sup>10</sup>

NEW Motor Vehicle Lighting Equipment Requirement. G.S. 20-129; S.L. 2017-211, §12.(a)

Session Law 2017-211, Section 12.(a), amended G.S. 20-129 to add a new subsection (h) requiring every motor vehicle originally equipped with white backup lamps to have the lamps in operating condition. A

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<sup>7</sup> The text of a session law can be found on the General Assembly's website at the following link. Select the applicable year and enter the session law number in the "Look-Up" fields at the top of the page. <http://www.ncleg.net/gascripts/EnactedLegislation/ELTOC.pl?sType=Law>

<sup>8</sup> <https://www.nccourts.gov/help-topics/fees-and-payments>

<sup>9</sup> The November 16, 2018 memo entitled "2018 Legislation Affecting Certificates of Relief" is available on the NCAOC Juno site for Judicial Branch users at <https://juno.nccourts.org/legal-memos>, under the Category for Criminal Memos.

<sup>10</sup> The November 2, 2018 memo entitled "2018 Legislation - Threats of Mass Violence - S.L. 2018-72 (HB 670)" is available on the NCAOC Juno site for Judicial Branch users at <https://juno.nccourts.org/legal-memos>, under the Category for Criminal Memos.

defendant who is found responsible for this offense must pay the \$50.00 improper equipment fee pursuant to G.S. 7A-304(a)(4b). Although this legislation was enacted on October 5, 2017, this provision did not become effective until March 1, 2018 and applies to offenses committed on or after that date.<sup>11</sup>

## **Finance**

Escheat of Restitution Awards for Victims of Human Trafficking. G.S. 14-43.20(b), (f); S.L. 2018-75, §4.(a)

Although not technically a change to “court costs,” S.L. 2018-75 enacts a change to the escheat process for certain restitution awards resulting from convictions of human trafficking offenses. Upon a specific finding by the court that a victim of such an offense is “unavailable” to claim restitution, and after the lapse of a minimum waiting period, the clerk will escheat unclaimed restitution to the Crime Victims Compensation Fund, G.S. 15B-23, rather than via the usual escheat process. For additional detail on this escheat variation, see the memo of November 7, 2018, “2018 Legislation - Human Trafficking Restitution Changes - S.L. 2018-75.”<sup>12</sup> The NCAOC Financial Services Division will distribute further guidance to clerks about how to maintain and disburse restitution payments subject to the new escheat provision.

## **Civil Court Costs**

There were no changes to amounts of civil costs paid by a party.

## **Special Proceedings Court Costs**

There were no changes to amounts of special proceedings costs paid by a party.

## **Estates Court Costs/Fees**

CLARIFY that Court Costs and Fees in Administration of Estates Apply to Power of Attorney Administration and Proceedings under G.S. 32C-1-116(a). G.S. 7A-307(a); S.L. 2018-40, §3

Effective June 22, 2018, Session Law 2018-40, Section 3, amended G.S. 7A-307(a) clarifying that costs and fees assessed in the administration of estates outlined in G.S. 7A-307(a) also apply to power of attorney administrations filed with the clerk of superior court and to petitions to initiate power of attorney proceedings under G.S. 32C-1-116(a) where the clerk of superior court has jurisdiction. This estates cost provision was addressed in a prior memo released on June 25, 2018.<sup>13</sup>

There were no other changes through December 1, 2018 to amounts of estates costs and fees.

## **Conclusion**

Court officials with questions or concerns about the costs and fee changes described should contact NCAOC’s Training & Development Field Support Analyst (formerly Court Services Analyst) or Financial Management Analyst (FMA) for the county.<sup>14</sup>

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<sup>11</sup> See February 5, 2018 email from Matt Osborne, Deputy Counsel in the Office of General Counsel, entitled “new backup lamps offense eff. 1 March 2018.” The inclusion of this topic in the costs memo does not indicate a change, but is noted because the offense has been added to the Improper Equipment Fee Appendix to the criminal cost chart.

<sup>12</sup> Available on the NCAOC Juno site for Judicial Branch users at <https://juno.nccourts.org/legal-memos>, under the Category for Criminal Memos.

<sup>13</sup> The June 25, 2018 memo entitled “Court Costs and Fees in Administration of Estates Apply to Power of Attorney Administration and Proceedings under G.S. 32C-1-116(a)” is available on the NCAOC Juno site for Judicial Branch users at <https://juno.nccourts.org/legal-memos>, under the Categories for Estates Memos and Court Costs Memos.

<sup>14</sup>NCAOC Training & Development County/District Field Assignments can be found at the following Juno link: <http://juno.nccourts.org/sites/default/files/Directories%20Files/county-district-field-assignments.pdf>.

