



ADMINISTRATIVE OFFICE OF THE COURTS

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## MEMORANDUM

TO: Trial Court Officials<sup>1</sup>

FROM: The Office of General Counsel

DATE: September 27, 2023

SUBJECT: 2023 Legislative Changes for Court Costs and Fees

During the 2023 Long Session, the General Assembly enacted legislation affecting court costs. This memo will address the changes for costs resulting from the 2023 Long Session that were enacted by the following legislation:

- Session Law 2023-34 (House Bill 116), Modify district attorney laws<sup>2</sup>
- Session Law 2023-88 (House Bill 181), Estate Administration Changes<sup>3</sup>
- Session Law 2023-103 (House Bill 193), Various court changes/AOC omnibus<sup>4</sup>
- House Bill 259, Appropriations Act of 2023 (or “the budget bill”)<sup>5</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 effective dates of these bills vary, as noted below.<sup>6</sup> Previous charts, memos, and FAQs can be found by conducting a specific search based on year on the NCAOC website.<sup>7</sup>

The 2023 Long Session is ongoing and has not been adjourned by the General Assembly. If additional legislation impacting court costs is enacted after this memo is published, the Office of General Counsel will send out another memo to cover that legislation.

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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 North Carolina Administrative Office of the Courts (NCAOC) website at <https://www.nccourts.org/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.gov/Sessions/2023/Bills/House/PDF/H116v6.pdf>

<sup>3</sup> <https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H181v4.pdf>

<sup>4</sup> <https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H193v6.pdf>

<sup>5</sup> As of the date of this memo’s publication, HB 259 has not yet been chaptered as session law, but Governor Cooper’s public statements indicate that he will allow it to become law without his signature, which will occur in early October. <https://governor.nc.gov/news/press-releases/2023/09/22/gov-cooper-statement-passage-state-budget-and-medicaid-expansion>. Therefore, in order to avoid the necessity of a second court costs memo in early October, HB 259’s change to G.S. 7A-350 is addressed here prior to its full enactment. The ratified version of HB 259 is available at: <https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H259v6.pdf>

<sup>6</sup> The text of a session law can be found on the General Assembly 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>7</sup> <https://www.nccourts.gov/help-topics/fees-and-payments>



**Bills of Costs** will not be updated because there are no changes to actual cost accounts as a result of the legislative changes discussed in this memo.

**FMS and Cash Receipting** will not be updated because there are no changes to actual cost accounts as a result of the legislative changes discussed in this memo.

### **General Costs and Fee Procedures**

There are no changes to the amounts of or procedures for the general costs and fees paid by a party as of October 1, 2023.

### **Criminal Court Costs and Fee Procedures**

NEW Fee Procedures for Mediations in District Court Criminal Cases. G.S. 7A-38.7(a); S.L. 2023-34, §7.

Session Law 2023-34, Section 7, amended G.S. 7A-38.7(a) to provide that if a dispute resolution fee is paid by an outside source other than the parties to the action, the dispute resolution fee may be paid directly to the community mediation center providing services rather than to the clerk. Amended G.S. 7A-38.7(a) also provides that the court may, upon motion of the district attorney and affirmative consent of a community mediation center, waive or reduce the dispute resolution fee as applied to an entire class of criminal cases by administrative order or otherwise if the court finds: 1) that a program exists in the judicial district that operates in compliance with G.S. 7A-38.3D; and 2) that the dispute resolution fee prevents access to a community mediation center. A community mediation center may withdraw its consent to waive the dispute resolution fees assessed for an entire class of criminal cases by providing written notice to the district attorney. Since the scope of the waiver is within the court's discretion, no specific AOC form changes are anticipated.

This section of SL 2023-34 applies to proceedings on or after October 1, 2023.

NEW Repeal of Annual Legislative Report on Fee Waiver Notice Implementation. G.S. 7A-304(a2); S.L. 2023-103, § 4.

G.S. 7A-304(a) mandates that "No court may waive or remit all or part of any court fines or costs without providing notice and opportunity to be heard by all government entities directly affected." In order to relieve local courts of the obligation to provide these notices, the NCAOC provides monthly notices to affected agencies and keeps a registry of their responses, if any, available for trial court officials.<sup>8</sup> Previously, G.S. 7A-304(a2) required the NCAOC to report annually to the Joint Legislative Oversight Committee on Justice and Public Safety on the implementation of those notices. Session Law 2023-103, section 4, repealed the NCAOC's annual report to the General Assembly under subsection (a2), but G.S. 7A-304(a)'s mandate that the notice be provided to affected government entities prior to any waiver remains in effect, so the NCAOC's monthly notices to those agencies will continue.

This section of SL 2023-103 became effective when it became law on July 21, 2023.

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<sup>8</sup> <https://www.nccourts.gov/documents/publications/costfine-waiver-and-remission-agency-response-registry>

NEW Annual Report on Criminal Court Costs Waivers to Include Dollar Amounts. G.S. 7A-350; HB 259 (Appropriations Act of 2023), § 16.22(a).

Currently, G.S. 7A-350 requires that the NCAOC (i) maintain records of cases in which the court found just cause to waive costs under G.S. 7A-304(a) and (ii) report annually to the chairs of the House and Senate Appropriation Committees on Justice and Public Safety the aggregate of those waivers by the district and by the name of each judge. House Bill 259 (Appropriations Act of 2023 or “the budget bill,” expected to become law in the first week of October), Section 16.22(a), amends G.S. 7A-350 to require that the report of all cases in which a judge makes a finding of just cause to grant a waiver of criminal court costs under G.S. 7A-304(a) include an exact or best estimate of the dollar amount of each waiver.

This change applies to waivers granted on or after January 1, 2024.

### **Civil Court Costs and Fee Procedures**

There are no changes to the amounts of or procedures for civil court costs and fees paid by a party as of October 1, 2023.

### **Special Proceedings Costs and Fee Procedures**

There are no changes to the amounts of or procedures for special proceedings costs paid by a party as of October 1, 2023.

### **Estates Court Costs and Fee Procedures**

NEW Fee Procedures for Collection of Personal Property by Affidavit. G.S. 7A-307(b); S.L. 2023-88, § 7.

Session Law 2023-88, Section 7, amended G.S. 7A-307(b) in three ways: First, in collections of personal property by affidavit under Chapter 28A, Article 25 of the General Statutes, amended G.S. 7A-307(b) will require the Facilities Fee (\$10.00), Telecommunications and Data Connectivity Fee (\$4.00), and General Court of Justice Fee (\$106.00) to be paid at the time of filing the qualifying affidavit pursuant to G.S. 28A-25-1. By contrast, the current statute only requires the Facilities Fee (\$10.00) and a portion of the General Court of Justice Fee (\$30.00) to be paid at the time of filing the qualifying affidavit. While this amendment changes the procedure for assessing fees for collection of personal property by affidavit, it does not change the total amount collected by the Clerk.

Second, upon the written request of an affiant for collection of personal property by affidavit, all fees under G.S. 7A-307 shall be waived if: 1) the amount to be collected is five thousand dollars (\$5,000) or less and 2) the sole source of the assets of the estate is held in the Escheat Fund pursuant to Article 1A of Chapter 116B. Amended G.S. 7A-307(b) also provides that any fees paid by an affiant prior to submitting a written request for waiver of fees shall not be refunded by the court. If an affiant collects additional assets that disqualify the affiant from a waiver after the affiant has already received a waiver, the court costs otherwise applicable to the collection of personal property by affidavit shall apply.

Third, the Clerk is required to assess all applicable fees for the filing of an affidavit even when the sole asset of the estate is a cause of action. Currently, if the sole asset of the estate is a cause of action, the applicable fees for the filing of the affidavit are delayed unless and until a fiduciary qualifies and opens a full estate administration. The amendments to G.S. 7A-307(b) repeal this language thus eliminating the delayed assessing of fees for the filing of an affidavit when the sole asset of the estate is a cause of action.

This section of SL 2023-88 applies to affidavits filed on or after January 1, 2024. OGC will publish a more detailed memo describing the impact of SL 2023-88 on G.S. 7A-307 closer to the effective date.

### **Magistrates' Fees and Fee Procedures**

There are no changes to the amounts of or procedures for magistrate fees paid by a party as of October 1, 2023.

### **Registrations and Miscellaneous Court Costs and Fee Procedures**

There are no changes to the amounts of or procedures for registrations and miscellaneous court costs paid by a party as of October 1, 2023.

### **Conclusion**

Trial court officials with questions or concerns about the changes described above should contact the NCAOC's Business System Analyst (BSA) or Financial Management Analyst (FMA) for the county.<sup>9</sup>

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<sup>9</sup> NCAOC's BSA field support assignments can be found at the following Juno link:

<https://juno.nccourts.org/resources/references/bapm-field-support-staff-assignments-map>.

NCAOC's FMA territories can be found at the following Juno link: <https://juno.nccourts.org/resources/references/financial-management-analysts-territories-map>.