

## History and Evolution of Authority, Duties, and Responsibilities of the Clerk of Superior Court

- ✓ In 1965, Clerks of superior court became state employees with the implementation of court reform and the creation of a unified statewide court system.
- ✓ Clerks' jurisdiction has expanded and become more complex over time. Many legislative additions expanded the role of the clerk as demonstrated in the following examples:
  - Uniform Trust Act (2006)
  - Contested Estate Proceedings (2011)
  - Uniform Power of Attorney Act updates (2018)
  - NCAOC requirements
    - shift to electronic filing (2019)
  - Raise the Age Changes – Clerks workloads increase due to drafting orders (2019)
  - Misdemeanors are now done within 72 hours (2021)
- ✓ North Carolina's adoption of the Uniform Adult Guardianship & Protective Proceedings
  - Jurisdiction Act (UAGPPJA)
  - Clerks' jurisdiction for uncontested divorces
  - Jurisdiction for disputed real estate funds
  - Rise in self-representation / the pro se public
  - Concealed carry handgun permit searches
  - Jurisdiction for living probate cases
  - Additional expunction duties of the clerks offices that requiring added time per case file
  - Increased coordination of NCAOC and county officials
  - Continuation of Operations Plans (COOP)
  - Increased responsibility for interpreters
  - Recording hearings in civil district court – no longer have court reporters
  - State Auditors auditing not only money, but processes
  - Growing complexity in handling evidence properly, including incineration and fentanyl
- ✓ In the absence of district court judges, clerks conduct first appearance hearings, probation bond review hearings and extradition waivers.



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## THE NORTH CAROLINA CLERK OF SUPERIOR COURT EX OFFICIO JUDGE OF PROBATE



Learn about the crucial role of the clerk of superior court in the processing of cases and the disposition of justice.



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The **CLERK OF SUPERIOR COURT** is a constitutional office and is the hub of all judicial proceedings in each of the 100 counties in the state of North Carolina. Clerks provide direct access to justice and to our courts.

The **CLERK OF SUPERIOR COURT** has **FIVE** main responsibilities and authorities in all 100 counties:

**1** Unlike Clerks of Court in other states, in North Carolina the clerk of superior court is **PROBATE JUDGE**. As judge of probate, the clerk holds exclusive original jurisdiction over matters relating to the probate of wills and the administration of estates, including appointing personal representatives, auditing the accounting of representatives, and removing them from office if necessary.

The clerk also presides over adoptions, competency, power of attorney and guardianship proceedings, condemnation of private lands for public uses, partitions of property, foreclosures, and many other civil hearings, with jurisdiction over 46 types of actions.

**2** As **ADMINISTRATOR**, the clerk is charged with performing multiple ministerial acts such as the issuance of summons, setting up the court file, docketing and indexing case files, as well as issuing subpoenas to compel the attendance of an in-state witness and / or to compel the production of documents.

**3** As **RECORD KEEPER**, the clerk of court is solely responsible for the integrity of every case filed. This includes filing, processing, indexing, and maintaining every piece of paper filed each year in the North Carolina General Court of Justice.

All lawsuits, civil actions, criminal, proceedings, or other matters brought before the court are filed in the clerks' office. These records must be secured and maintained in a safe place not only for current use but for reference purposes and future examinations of all proceedings involving a person or persons. Except for juvenile files, adoption records and certain other confidential records, each document in the clerks' office is a public record and available for inspection at a reasonable time and place.

**4** As **COMPTROLLER**, the clerk of superior court is responsible for receiving, investing, and disbursing millions of dollars each year that come from court fees, traffic citations, fines, and other court related activity. On average, clerks of superior court receipt of \$600+ million to North Carolinians and to state and local governments.

- ✓ **\$200+ million** remitted to state treasurer (General Court of Justice, probation / parole, copy and transcript fees, community service fees, writ of executions, limited driving privileges, installment plan fees, electronic monitoring, arbitration, and dispute resolution fees).
- ✓ **300+ million** disbursed to citizens (restitution to victims, worthless check victims' restitution, condemnation awards, trusts, cash bonds, civil judgments, alimony, rent bonds).
- ✓ **\$60+ million** disbursed to local governments and schools (fines / forfeitures, jail and facility fees, license revocations, officer fees, lab fees).
- ✓ **\$35+ million** disbursed to other entities (law enforcement, Indigent Defense Services (IDS) fees, State Bar fees, license revocation, Domestic Violence Center Fund, misdemeanor confinement, Sate Bureau of Investigation (SBI) lab fees, Displaced Homemaker Fund, escheats, and satellite-based monitoring).
- ✓ **\$4.5+ million** receipts collected and disbursed for special operations (information technology, worthless check fees, arbitration fees, fee / payment recovery).

*Here are a few programs to which the clerk of superior court receipted and / or disbursed monies:*

<b>1</b>	Pre-Trial Release Program	<b>5</b>	Law Enforcement Retirement Fund
<b>2</b>	Worthless Check Program	<b>6</b>	Legal Aid (Legal Aid to DV Victims)
<b>3</b>	Local School Boards	<b>7</b>	SBI & Local Crime Labs
<b>4</b>	Family Court	<b>8</b>	Drug Court

**5** Finally, as a **LEADER** in their offices, the clerks of superior court supervise and manage over 2,650 employees statewide (43% of the Judicial Branch). While each county's staffing and resources may vary, the methods and mechanics of each clerks' office are very similar. There are typically six divisions (criminal, civil, juvenile, special proceedings, estates, and bookkeeping) with assistant clerks, deputy clerks, and a bookkeeper that staff the divisions. The size of clerks' office can range from a minimum staffing level of 5 to over 200 employees.

**The role of the clerk of superior court and ex officio judge of probate in the North Carolina Judicial Branch.**

Approximately 1 in 4 people in each county visit the clerks' office each year.



Here are just a few examples of reasons why people might have to visit the clerks' office:



**They are a Victim of Crime(s)**



**To Perform Jury Service**



**To Probate A Family Member's Will**



**To file for A Divorce**



**To Handle a Speeding Ticket**