



CHAPTER 122C

ARTICLE 5 - PROCEDURES FOR ADMISSION AND DISCHARGE OF CLIENTS

N.C.G.S. § 122C-268.1.

Inpatient commitment; hearing following automatic commitment.

SOURCE	LAST AMENDMENT IN THIS TEXT	RETRIEVED	SOURCE FINGERPRINT
General Statutes of North Carolina, as published by the General Assembly	S.L. 2000-144, s. 40 — fourth act in the lineage	21 September 2026, 02:55 UTC	e2c843b15e0cb62fe14cbc27 - c00c3b3f8709a602f7fb377b - 00199e468ca3fdce

§ 122C-268.1(a) A respondent who is committed pursuant to G.S. 15A-1321 shall be provided a hearing, unless waived, before the expiration of 50 days from the date of his commitment.

§ 122C-268.1(b) The district attorney in the county in which the respondent was found not guilty by reason of insanity may represent the State's interest at the hearing, rehearings, and supplemental rehearings. Notwithstanding the provisions of G.S. 122C-269, if the district attorney elects to represent the State's interest, upon motion of the district attorney, the venue for the hearing, rehearings, and supplemental rehearings shall be the county in which the respondent was found not guilty by reason of insanity. If the district attorney declines to represent the State's interest, then the representation shall be determined as follows. An attorney, who is a member of the staff of the Attorney General assigned to one of the State's facilities for the mentally ill or the psychiatric service of the University of North Carolina Hospitals at Chapel Hill, may represent the State's interest at commitment hearings, rehearings, and supplemental hearings. Alternatively, the Attorney General may, in his discretion, designate an attorney who is a member of his staff to represent the State's interest at any commitment hearing, rehearing, or supplemental hearing.

§ 122C-268.1(c) The clerk shall give notice of the time and place of the hearing as provided in G.S. 122C-264(d1).

§ 122C-268.1(d) The respondent shall be represented by counsel of his choice, or if he is indigent within the meaning of G.S. 7A-450 or refuses to retain counsel if financially able to do so, he

shall be represented by counsel appointed in accordance with rules adopted by the Office of Indigent Defense Services.

§ 122C-268.1(e) With the consent of the court, counsel may in writing waive the presence of the respondent.

§ 122C-268.1(f) Certified copies of reports and findings of physicians and psychologists and previous and current medical records are admissible in evidence, but the respondent's right to confront and cross-examine witnesses may not be denied.

§ 122C-268.1(g) The hearing shall take place in the trial division in which the original trial was held. The hearing shall be open to the public. For purposes of this subsection, "trial division" means either the superior court division or the district court division of the General Court of Justice.

§ 122C-268.1(h) A copy of all documents admitted into evidence and a transcript of the proceedings shall be furnished to the respondent on request by the clerk upon the direction of the presiding judge. If the respondent is indigent, the copies shall be provided at State expense.

§ 122C-268.1(i) The respondent shall bear the burden to prove by a preponderance of the evidence that he (i) no longer has a mental illness as defined in G.S. 122C-3(21), or (ii) is no longer dangerous to others as defined in G.S. 122C-3(11)b. If the court is so satisfied, then the court shall order the respondent discharged and released. If the court finds that the respondent has not met his burden of proof, then the court shall order that inpatient commitment continue at a 24-hour facility designated pursuant to G.S. 122C-252 for a period not to exceed 90 days. The court shall make a written record of the facts that support its findings.

§ 122C-268.1(j) Nothing in this section shall limit the respondent's right to habeas corpus relief.

END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS I
4 ACTS

Amendment lineage

The State prints this history as a single parenthetical at the foot of the section. It is reproduced verbatim in the colophon and unpacked below in order of enactment.

	1991		1996		2000
	TICK HEIGHT = ACTS IN THAT YEAR		DASHED = RECODIFICATION, NOT AMENDMENT		
Nº	YEAR	ACT			CHARACTER
01	1991	c. 37, s. 2			ENACTED
02	1991	1991 (Reg. Sess., 1992), c. 1034, ss. 2, 3			AMENDED
03	1995	c. 140, s. 1			AMENDED
04	2000	S.L. 2000-144, s. 40			AMENDED

APPARATUS II
7 AUTHORITIES

Authorities referenced

Every G.S. cross-reference appearing in the text of this section, in order of first appearance. Nothing is characterized; the operative language is quoted from the section itself.

REFERENCE	APPEARS IN	OPERATIVE LANGUAGE IN THIS SECTION
G.S. 15A-1321	(a)	"respondent who is committed pursuant to"
G.S. 122C-269	(b)	"supplemental rehearings. Notwithstanding the provisions of"
G.S. 122C-264(d1)	(c)	"of the hearing as provided in"
G.S. 7A-450	(d)	"is indigent within the meaning of"
G.S. 122C-3(21), or (ii)	(i)	"a mental illness as defined in"
G.S. 122C-3(11)	(i)	"dangerous to others as defined in"
G.S. 122C-252	(i)	"a 24-hour facility designated pursuant to"

APPARATUS III

Citation

FULL SECTION

N.C. Gen. Stat. § 122C-268.1 (2000).

PINPOINT

N.C. Gen. Stat. § 122C-268.1(a) (2000).

Pinpoint keys are set in the left margin of the text rather than line numbers: subsection designators are stable across editions and paper sizes, line numbers are not.

COLOPHON

Provenance

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This is not the official text. The official text is published by the General Assembly of North Carolina.

HISTORY PARENTHETICAL, AS PRINTED BY THE STATE

(1991, c. 37, s. 2; 1991 (Reg. Sess., 1992), c. 1034, ss. 2, 3; 1995, c. 140, s. 1; 2000-144, s. 40.)

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