



CHAPTER 35A

ARTICLE 3 - RESTORATION TO COMPETENCY

N.C.G.S. § 35A-1130.

Proceedings before clerk.

SOURCE	LAST AMENDMENT IN THIS TEXT	RETRIEVED	SOURCE FINGERPRINT
General Statutes of North Carolina, as published by the General Assembly	S.L. 2015-165, s. 2 — third act in the lineage	21 September 2026, 02:20 UTC	3a33ba68c54484fa2f603bb6 - bdc36c1b34067906935317be - 2275c2d8ba351171

§ 35A-1130(a) The guardian, ward, or any other interested person may petition for restoration of the ward to competency by filing a motion in the cause of the incompetency proceeding with the clerk who is exercising jurisdiction therein. The motion shall be verified and shall set forth facts tending to show that the ward is competent.

§ 35A-1130(b) Upon receipt of the motion, the clerk shall set a date, time, and place for a hearing, which shall be not less than 10 days or more than 30 days from service of the motion and notice of hearing on the ward and the guardian, or on the one of them who is not the petitioner, unless the clerk for good cause directs otherwise. The petitioner shall cause notice and a copy of the motion to be served on the guardian and ward (but not on one who is the petitioner) and any other parties to the incompetency proceeding. Service shall be in accordance with provisions of G.S. 1A-1, Rule 4, Rules of Civil Procedure.

§ 35A-1130(c) At the hearing on the motion, the ward shall be entitled to be represented by counsel or guardian ad litem, and a guardian ad litem shall be appointed in accordance with rules adopted by the Office of Indigent Defense Services if the ward is indigent and not represented by counsel. Upon motion of any party or the clerk's own motion, the clerk may order a multidisciplinary evaluation. The ward has a right, upon request by him, his counsel, or his guardian ad litem to trial by jury. Failure to request a trial by jury shall constitute a waiver of the right. The clerk may nevertheless require trial by jury in accordance with G.S. 1A-1, Rule 39(b), Rules of Civil Procedure, by entering an order for trial by jury on his own motion. Provided, if there is a jury in a proceeding

for restoration to competency, it shall be a jury of six persons selected in accordance with the provisions of Chapter 9 of the General Statutes.

§ 35A-1130(d) If the clerk or jury finds by a preponderance of the evidence that the ward is competent, the clerk shall enter an order adjudicating that the ward is restored to competency. Upon such adjudication, the ward is authorized to manage his or her affairs, make contracts, control and sell his or her property, both real and personal, and exercise all rights as if he or she had never been adjudicated incompetent. In addition, the clerk shall send a certified copy of the order adjudicating that the ward is restored to competency to the Division of Motor Vehicles.

§ 35A-1130(e) The filing and approval of final accounts from the guardian and the discharge of the guardian shall be as provided in Subchapter II of this Chapter.

§ 35A-1130(f) If the clerk or jury fails to find that the ward should be restored to competency, the clerk shall enter an order denying the petition. The ward may appeal from the clerk's order to the superior court for trial de novo.

END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS I
3 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.

1987		2001		2015
TICK HEIGHT = ACTS IN THAT YEAR		DASHED = RECODIFICATION, NOT AMENDMENT		
Nº	YEAR	ACT	CHARACTER	
01	1987	c. 550, s. 1	ENACTED	
02	2000	S.L. 2000-144, s. 34	AMENDED	
03	2015	S.L. 2015-165, s. 2	AMENDED	

APPARATUS II
1 AUTHORITY

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. 1A-1	(b)	"be in accordance with provisions of"

APPARATUS III

Citation

FULL SECTION
N.C. Gen. Stat. § 35A-1130 (2015).

PINPOINT
N.C. Gen. Stat. § 35A-1130(a) (2015).

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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HISTORY PARENTHETICAL, AS PRINTED BY THE STATE
(1987, c. 550, s. 1; 2000-144, s. 34; 2015-165, s. 2.)

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NORTH CAROLINA LAW — STATUTE EXPORT, FORMAT V1

