



CHAPTER 7A  
ARTICLE 12 - CLERK OF SUPERIOR COURT

N.C.G.S. § 7A-105.

# Suspension, removal, and reinstatement of clerk.

| SOURCE                                                                   | LAST AMENDMENT IN THIS TEXT                       | RETRIEVED                    | SOURCE FINGERPRINT                                                    |
|--------------------------------------------------------------------------|---------------------------------------------------|------------------------------|-----------------------------------------------------------------------|
| General Statutes of North Carolina, as published by the General Assembly | S.L. 2025-54, s. 13(a) — fifth act in the lineage | 21 September 2026, 04:14 UTC | 47534dd31ae3e20662c39b4d - db55da204f3ab5e438107894 - a926a5dce0bdc8f |

**§ 7A-105(a)** A clerk of superior court may be suspended or removed from office for misconduct or mental or physical incapacity.

**§ 7A-105(b)** A proceeding to suspend or remove a clerk of superior court shall be commenced in the superior court division and county in which the clerk resides by filing in paper with the chief district court judge (i) a sworn affidavit charging one or more grounds for removal of the clerk of superior court and (ii) a certificate of service showing service on the respondent clerk in accordance with Rule 5(b1) of the Rules of Civil Procedure. Service of the sworn affidavit must be made in a manner provided under Rule 5(b) of the Rules of Civil Procedure. The sworn affidavits are subject to the requirements of Rule 11 of the Rules of Civil Procedure, including imposition of sanctions as appropriate by the court. The clerk shall collect superior court costs set forth in G.S. 7A-305, unless the proceeding is filed by an elected or appointed official of the North Carolina Judicial Branch, in which case costs shall be waived. No summons shall be issued. If the required court costs are not paid within 30 days of the proceeding being commenced, the chief district court judge shall forward the matter to the senior resident superior court judge who shall dismiss the proceeding without prejudice.

**§ 7A-105(c)** Upon commencement of the proceeding and confirmation of the payment of the costs required under subsection (b) of this section, the chief district court judge shall immediately provide notice of the filing to the senior regular resident superior court judge for the district or set of districts as defined in G.S. 7A-41.1(a) in which the respondent clerk's county of residence is located. Within 10 days of receiving notice,

the senior regular resident superior court judge shall review the sworn affidavit and determine, without a hearing, whether the charges, if true, constitute grounds for removal and whether there is probable cause for believing that the charges are true. If the judge finds either that the charges, if true, do not constitute grounds for removal or that no probable cause exists for believing that the charges are true, the judge shall dismiss the proceeding. Otherwise, the judge shall enter a written order, findings of fact, and conclusions of law detailing which charges would constitute grounds for removal and the probable cause for believing that those charges are true. If the judge finds facts based on the sworn affidavit that immediate and irreparable injury, loss, or damage will result to the public or the administration of justice if the clerk remains in office until a final determination of the charges on the merits, the judge also may enter an order suspending the clerk of superior court from performing the duties of the office until a final determination of the charges on the merits. The salary of the clerk of superior court continues during any such suspension. The court shall serve any order of dismissal, order establishing probable cause, or order of suspension on the parties under Rule 5 of the Rules of Civil Procedure as soon as practicable after entry of the order.

**§ 7A-105(d)**

If the proceeding is not dismissed, the senior regular resident superior court judge shall set a hearing upon the charges found to be supported by probable cause under subsection (c) of this section for not less than 30 days nor more than 60 days after service of the order establishing probable cause on the clerk, unless continued for good cause shown. In the hearing, the court shall hear evidence and make findings of fact and conclusions of law resolving the charges based on clear and convincing evidence. The hearing shall be recorded and open to the public. If the court concludes that grounds for removal exist, the superior court judge shall enter a written order, findings of fact, and conclusions of law permanently removing the clerk of superior court from office and terminating the clerk's salary. If the court finds that no grounds for removal exist, any pending suspension of the clerk shall end immediately and the court shall enter an order of dismissal.

The North Carolina Rules of Evidence shall apply to proceedings commenced under this section. The following North Carolina Rules of Civil Procedure shall apply to proceedings commenced under this section to the extent the Rules do not conflict with this section: Rule 5, Rule 11, Rule 45, Rule 46, Rule 52. The parties may issue process under Rule 45 to compel the attendance of witnesses at the hearing and to compel the production of evidence both prior to and at the hearing. Parties must exchange all evidence that they intend to offer at the hearing on the merits at least five days prior to the hearing along with a list of all witnesses that they intend to call.

- § 7A-105(e)

The clerk of superior court may appeal from an order of removal to the Court of Appeals on the basis of error of law by the presiding judge. Pending decision of the case on appeal, the clerk of superior court shall not perform any of the duties of the office. If, upon final determination, the clerk of superior court is ordered reinstated either by the appellate division or by the superior court upon remand, the clerk's salary shall be restored from the date of the original order of removal.
- § 7A-105(f)

If the clerk is prohibited from performing the duties of the office under this section prior to final resolution due either to an order of suspension or to an appeal of an order of removal, the judge shall appoint some qualified person to act as clerk until final resolution.
- § 7A-105(g)

The sworn affidavit and other filings related to the proceeding are confidential unless the senior regular resident superior court judge enters a written order establishing probable cause as described in subsection (c) of this section. The parties to the proceeding may obtain copies of the sworn affidavit and other filings related to the proceeding at any time.
- § 7A-105(h)

If criminal charges are filed against the clerk that relate to factual allegations in a pending sworn affidavit for removal and a judge entered a probable cause order pursuant to subsection (c) of this section, the presiding judge may stay the removal proceeding until the criminal case is resolved. A stay may be granted at any time in the proceeding following the probable cause determination.

END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS I  
5 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.

| 1967                                                                        |      | 1996          |           | 2025 |
|-----------------------------------------------------------------------------|------|---------------|-----------|------|
| TICK HEIGHT = ACTS IN THAT YEAR      DASHED = RECODIFICATION, NOT AMENDMENT |      |               |           |      |
| Nº                                                                          | YEAR | ACT           | CHARACTER |      |
| 01                                                                          | 1967 | c. 691, s. 6  | ENACTED   |      |
| 02                                                                          | 1971 | c. 363, s. 10 | AMENDED   |      |

|    |      |                        |         |
|----|------|------------------------|---------|
| 03 | 1973 | c. 47, s. 2            | AMENDED |
| 04 | 1973 | c. 148, s. 2           | AMENDED |
| 05 | 2025 | S.L. 2025-54, s. 13(a) | AMENDED |

APPARATUS II  
2 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. 7A-305     | (b)        | "superior court costs set forth in" |
| G.S. 7A-41.1(a) | (c)        | "set of districts as defined in"    |

APPARATUS III

Citation

FULL SECTION

N.C. Gen. Stat. § 7A-105 (2025).

PINPOINT

N.C. Gen. Stat. § 7A-105(a) (2025).

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  
(1967, c. 691, s. 6; 1971, c. 363, s. 10; 1973, c. 47, s. 2; c. 148, s. 2; 2025-54, s. 13(a).)

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