GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

SESSION LAW 2016-107
SENATE BILL 508

AN ACT TO MAKE VARIOUS AMENDMENTS TO THE BAIL BOND, COLLECTION AGENCY, AND CRIMINAL MEDIATION LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-534 reads as rewritten:

"§ 15A-534. Procedure for determining conditions of pretrial release.

...

(d) The judicial official authorizing pretrial release under this section must issue an appropriate order containing a statement of the conditions imposed, if any; inform the defendant in writing of the penalties applicable to violations of the conditions of his release; and advise him that his arrest will be ordered immediately upon any violation. The order of release must be filed with the clerk and a copy given the ~~defendant.~~defendant and any surety, or the agent thereof who is executing the bond for the defendant's release pursuant to that order.

...

(h) A bail bond posted pursuant to this section is effective and binding upon the obligor throughout all stages of the proceeding in the trial division of the General Court of Justice until the entry of judgment in the district court from which no appeal is taken or the entry of judgment in the superior court. The obligation of an obligor, however, is terminated at an earlier time if:

(1) A judge authorized to do so releases the obligor from his bond; or
(2) The principal is surrendered by a surety in accordance with G.S. 15A-540; or
(3) The proceeding is terminated by voluntary dismissal by the State before forfeiture is ordered under G.S. 15A-544.3; or
(4) Prayer for judgment has been continued indefinitely in the district ~~court.~~court; or
(5) The court has placed the defendant on probation pursuant to a deferred prosecution or conditional discharge.

...."

SECTION 2. G.S. 15A-544.7(d) reads as rewritten:

"(d) ~~Sureties.~~Sureties, Professional Bail Bondsmen, Bail Agents, and Runners May Not Execute Bonds in County. – After a final judgment is docketed as provided in this section, no surety named in the judgment shall become a surety on any bail bond in the county in which the judgment is docketed until the judgment is satisfied in full. In addition, no professional bail bondsman, bail agent, or runner whose name appears on a bond posted in that person's licensed capacity for which a final judgment of forfeiture has been entered shall sign any bond in any licensed capacity statewide until the judgment is satisfied in full."

SECTION 3. G.S. 58-71-80 reads as rewritten:

"§ 58-71-80. Grounds for denial, suspension, probation, revocation, or nonrenewal of licenses.

(a) The Commissioner may deny, place on probation, suspend, revoke, or refuse to renew any license issued under this Article, in accordance with the provisions of Article 3A of Chapter 150B of the General Statutes, for any one or more of the following causes:

...

(14d) Failure to pay State or federal income tax or any liens that result from such failure to comply with any administrative or court order directing payment of State or federal income tax after entry of a final judgment or ~~order finding the violation to have been willful.~~order.

...

(d) The Commissioner shall retain the authority to enforce the provisions of, and impose any penalty or remedy authorized by, this Chapter against any person who is under investigation for or charged with a violation of this Chapter even if the person's license or registration has been surrendered or has lapsed.

(e) Notwithstanding the notice and hearing requirements of subsection (a) of this section or G.S. 58-71-85, and in addition to the authority granted to the Commissioner under G.S. 150B-3, the Commissioner may order summary suspension of a license upon a written finding of good cause to believe that emergency action is required to protect the public health, safety, or welfare or to avoid a significant risk of unsatisfied bond forfeitures. The order shall be effective on the date specified in the order or upon service of the certified copy of the order at the last known address of the licensee, whichever is later, and shall remain effective during the proceedings to suspend, revoke, or refuse renewal provided for in this section. Those proceedings shall be promptly commenced and determined."

SECTION 4. G.S. 58-71-75 reads as rewritten:

"**§ 58-71-75. License renewal; criminal history record checks; renewal fees.**

(a) ~~Annual~~ Biennial Renewal. – A license of a bail bondsman and a license of a runner shall be renewed on July 1 of each even year upon payment of the applicable ~~annual~~ biennial renewal fee. In ~~even-numbered years, in~~ addition to paying the ~~annual~~ biennial renewal fee, an applicant seeking renewal must submit an application for renewal in accordance with this section. The Commissioner is not required to print renewal licenses.

(b) Renewal Application. – In even-numbered years, a bail bondsman or runner seeking to renew a license shall provide the ~~Commissioner, not less than 30 days~~ Commissioner prior to the expiration date of the bail bondsman's or runner's current license, all of the following:

(1) A renewal application containing all of the following:

a. Proof that the applicant is a resident of this State as required by G.S. 58-71-50(c).

b. Proof that the applicant meets the qualifications set out in G.S. 58-71-50(b)(5) through G.S. 58-71-50(b)(7).

c. The information required by G.S. 58-2-69.

(2) The ~~annual~~ biennial renewal fee as provided in subsection (d) of this section.

~~(3) A complete set of fingerprints of the bail bondsman or runner and a fee to cover the cost of conducting the criminal history record check. The fingerprints shall be submitted in the manner prescribed by the Commissioner and shall be certified by an authorized law enforcement officer.~~

(c) Criminal History Record Check. – ~~Upon receipt of a license renewal application in an even-numbered year,~~ For every other biennial license renewal cycle, the Commissioner shall conduct a criminal history record check of the applicant seeking renewal in accordance with G.S. 58-71-51. Along with the renewal application requirements provided in subsection (b) of this section, a bail bondsman or runner seeking to renew a license every other biennial license renewal cycle shall provide the Commissioner with a complete set of fingerprints of the bail bondsman or runner and a fee to cover the cost of conducting the criminal history record check. The fingerprints shall be submitted in the manner prescribed by the Commissioner and shall be certified by an authorized law enforcement officer.

(d) Fee. – The renewal fee for a runner's license is ~~sixty dollars ($60.00).~~ one hundred twenty dollars ($120.00). The renewal fee for a bail bondsman's license is ~~one hundred dollars ($100.00).~~ two hundred dollars ($200.00). A renewed license continues in effect until suspended or revoked for cause."

SECTION 5. G.S. 58-70-5 reads as rewritten:

"**§ 58-70-5. Application to Commissioner for permit.**

Any person, firm, corporation or association desiring to secure a permit as provided by G.S. 58-70-1, shall make application to the Commissioner of Insurance for each location at which such person, firm, corporation or association desires to carry on the collection agency business as hereinafter defined. Nothing in this section shall be construed to require that a person, firm, corporation, or association secure a permit for a remote location from which a single employee works under the control and monitoring of a collection agency through telecommunications and computer links, so long as all of the following conditions are met:

(1) Records required to be kept under G.S. 58-70-25 are not maintained at the remote location.
(2) The remote location is not held open to the public as a place of business.
(3) The person, firm, corporation, or association has a valid permit issued pursuant to this Article for at least one physical location in this State.

~~Such~~ An applicant shall be entitled to a permit upon submission to the Commissioner of Insurance of the following:

...."

SECTION 6. G.S. 58-70-20(a) reads as rewritten:

"(a) As a condition precedent to the issuance of any permit under this Article, every applicant for a permit shall file with the Commissioner a bond in favor of the State of North Carolina that is executed by a surety company licensed to transact surety business in this State. The bond shall be maintained in force during the permit period, continuous in form, and remain in effect until all moneys collected have been accounted for. The bond shall expressly provide that the bond is for the benefit of any person, firm or corporation for whom the collection agency engages in the collection of accounts. The bond shall be in the amount of ten thousand dollars ($10,000) for the initial permit. The amount of the bond for any renewal permit shall be no less than ten thousand dollars ($10,000), nor more than ~~seventy-five thousand dollars ($75,000),~~ thirty thousand dollars ($30,000), and shall be computed as follows: The total collections paid directly to the collection agency less commissions earned by the collection agency on those collections for the calendar year ending immediately prior to the date of application, multiplied by one-sixth."

SECTION 7. G.S. 7A-38.3D(m) reads as rewritten:

"§ 7A-38.3D. Mediation in matters within the jurisdiction of the district criminal courts.

...

(m) ~~Dismissal~~ Dispute Resolution Fee. – ~~Where an agreement has been reached in mediation and the case will be dismissed, the defendant shall pay to the clerk the dismissal fee of court set forth in G.S. 7A-38.7.~~ A dispute resolution fee shall be assessed and paid to the clerk in advance of mediation as set forth in G.S. 7A-38.7. By agreement, all or any portion of the fee may be paid by a person other than the defendant."

SECTION 8. G.S. 7A-38.5 reads as rewritten:

"§ 7A-38.5. Community mediation centers.

(a) The General Assembly finds that it is in the public interest to encourage the establishment of community mediation centers, also known as dispute settlement centers or dispute resolution centers, to support the work of these centers in facilitating communication, understanding, reconciliation, and settlement of conflicts in communities, courts, and schools, and to promote the widest possible use of these centers by the courts and law enforcement officials across the State. A center may establish and charge fees for its ~~services.~~services other than for criminal court mediations. Fees for criminal court mediation are set forth in G.S. 7A-38.7, and centers and mediators shall not charge any other fees in such cases.

...

(e) Except as provided in this subsection and subsection (f) of this section, each chief district court judge and district attorney shall refer any misdemeanor criminal action in district court that is generated by a citizen-initiated arrest warrant or criminal summons to the local mediation center for resolution, except for (i) any case involving domestic violence; (ii) any case in which the judge or the district attorney determine that mediation would be inappropriate; or (iii) any case being tried in a county in which mediation services are not available. The mediation center shall have ~~30~~ 45 days to resolve each case and report back to the court with a resolution. The district attorney shall delay prosecution in order for the mediation to occur. If the case is not resolved through mediation within ~~30~~ 45 days of referral, or if any party declines to enter into mediation, the court may proceed with the case as a criminal action. For purposes of this section, the term "citizen-initiated arrest ~~warrant"~~ warrant or criminal summons" means a warrant or summons issued pursuant to G.S. 15A-303 or G.S. 15A-304 by a magistrate or other judicial official based upon information supplied through the oath or affirmation of a private citizen.

...

(g) Nothing in this section is intended to prohibit or delay the appointment or engagement of an attorney for a defendant in a criminal case."

SECTION 9. G.S. 7A-38.7 reads as rewritten:

"§ 7A-38.7. **Dispute resolution fee for cases ~~resolved in~~ referred to mediation.**

(a) In each criminal case filed in the General Court of Justice that is ~~resolved through referral~~ referred to a community mediation center, a dispute resolution fee shall be assessed in the sum of sixty dollars ($60.00) per mediation of that criminal case, in accordance with subsection (c) of this section, to support the services provided by the community mediation centers and the Mediation Network of North Carolina. Prior to mediation, the court shall cause the mediation participants to be informed that the dispute resolution fee shall be paid as part of any mediation of a criminal case. The fee shall be paid to the clerk in advance of the mediation. Fees assessed under this section shall be paid to the clerk of superior court in the county where the case was filed and remitted by the clerk to the Mediation Network of North Carolina. The Mediation Network may retain up to three dollars ($3.00) of this amount as an allowance for its administrative expenses. The Mediation Network must remit the remainder of this amount to the community mediation center that mediated the case. The court may waive or reduce a fee assessed under this section only upon entry of a written order, supported by findings of fact and conclusions of law, determining there is just cause to grant the waiver or reduction.

(b) Before providing the district attorney with a dismissal form, the community mediation center shall require proof that the defendant has paid the dispute resolution fee as required by subsection (a) of this section and shall attach the receipt to the dismissal form.

(c) All related criminal charges per defendant that are subject to mediation shall be treated as a single criminal case for the purpose of calculating the sixty-dollar ($60.00) dispute resolution fee. In advance of the mediation, the participants, including all complainants, defendants, and other parties to the mediation, shall discuss whether the dispute resolution fee shall be allocated between them. If the participants do not reach agreement on an allocation of the dispute resolution fee, then the fee shall be the responsibility of the defendant, unless the court waives or reduces the fee upon entry of a written order, supported by findings of fact and conclusions of law, determining there is just cause to waive or reduce the fee. In connection with any mediation subject to this section, no mediator or any other community mediation center volunteer or employee shall receive any payment directly from any participant in the mediation, regardless of whether the payment is a dispute resolution fee, cost of court, restitution, or any other fee required by law or court order. No mediator or community mediation center shall charge or collect any fees for mediating criminal cases other than the dispute resolution fee assessed pursuant to subsection (a) of this section."

SECTION 10. Sections 1 and 2 of this act become effective December 1, 2016, and Section 2 of this act applies to bonds executed on or after that date. Section 3 of this act becomes effective October 1, 2016. Sections 5 and 6 of this act become effective October 1, 2016, and apply to permits filed or renewed on or after that date. Sections 7, 8, and 9 of this act become effective October 1, 2016, and apply to criminal cases referred to mediation on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 1st day of July, 2016.

s/ Louis M. Pate, Jr.
Presiding Officer of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 4:03 p.m. this 22nd day of July, 2016