

3.12 Public Intoxication

A. Alternatives for Law Enforcement Officers to Address Public Intoxication

“Public Intoxication,” Chapter 122C, Article 5, Part 9, provides a variety of alternatives for law enforcement officers dealing with an intoxicated individual, including substance abuse commitment. G.S. 122C-301(a). In addition to substance abuse commitment, other publicly-funded programs might include a voluntary residential treatment facility, provision of counseling and group programs, and referral to group programs such as Alcoholics Anonymous and Narcotics Anonymous. Private counseling and residential treatment programs are available to those able to pay. The public intoxication statutes provide options for law enforcement officers dealing with the immediate problems resulting from public intoxication and are directed toward providing emergency medical care and a place to sober up rather than ongoing treatment.

B. Substance Abuse Commitment

Law enforcement officers may initiate substance abuse commitment proceedings for those who meet the commitment criteria. G.S. 122C-301(a)(5). The right to appointment of counsel under Chapter 122C attaches only after a substance abuse commitment petition is filed and commitment has been recommended.

C. 24-Hour Detention by Shelter or Medical Facility

The law enforcement officer may transport an intoxicated person in need of food, clothing, or shelter, but not in need of immediate medical care, to a private or public shelter. An intoxicated person in need of immediate medical care may be transported to an area facility, hospital, physician’s office, or other appropriate health care facility until sober or for a maximum of twenty-four hours. G.S. 122C-301. Counsel should be aware of this legally allowed detention without process because a distressed potential client might call while being detained.

D. Use of Jail

An officer may transport an intoxicated individual to a city or county jail in limited circumstances, which can never be done during a mental health commitment. The person must be in need of food, clothing, or shelter, but not in need of immediate medical care, and no other facility is “readily available.” G.S. 122C-303. Again, the person may be detained only until sober or for a maximum of twenty-four hours. *Id.*