

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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1

HOUSE BILL 1321*

Short Title: Future of the Courts.

(Public)

Sponsors: Representatives Daughtry; and Baddour.

Referred to: Judiciary I.

May 19, 1998

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPROVE THE STATE COURT SYSTEM BY IMPLEMENTING
3 CERTAIN RECOMMENDATIONS OF THE COMMISSION FOR THE FUTURE
4 OF JUSTICE AND THE COURTS IN NORTH CAROLINA AND TO MAKE
5 OTHER CHANGES IN THE OPERATIONS OF THE COURTS.

6 The General Assembly of North Carolina enacts:

7 Section 1. Chapter 7A of the General Statutes is amended by adding a new
8 Article to read:

9 **“ARTICLE 7A.**

10 **“STATE JUDICIAL COUNCIL.**

11 **“§ 7A-49.4. Composition of State Judicial Council.**

12 (a) The State Judicial Council shall consist of 18 members as follows:

13 (1) The Chief Justice, who chairs the Council;

14 (2) The Chief Judge of the Court of Appeals;

15 (3) A district attorney chosen by the Conference of District Attorneys;

16 (4) A public defender chosen by the public defenders;

17 (5) A superior court judge chosen by the Conference of Superior Court
18 Judges;

19 (6) A district court judge chosen by the Conference of District Court
20 Judges;

- 1 (7) An attorney appointed by the Council of the State Bar;
2 (8) One attorney and one nonattorney appointed by the Chief Justice;
3 (9) Two nonattorneys and one attorney appointed by the Governor;
4 (10) Two nonattorneys and one attorney appointed by the General Assembly
5 upon the recommendation of the Speaker of the House of
6 Representatives; and
7 (11) Two nonattorneys and one attorney appointed by the General Assembly
8 upon the recommendation of the President Pro Tempore of the Senate.

9 (b) The Chief Justice and the Chief Judge shall be members of the State Judicial
10 Council during their terms in those judicial offices. The terms of the other members
11 selected initially for the State Judicial Council shall be as follows:

- 12 (1) One year. – The district court judge, the nonattorney appointed by the
13 Chief Justice, one nonattorney appointed upon the recommendation of
14 the Speaker of the House of Representatives, and the attorney appointed
15 upon the recommendation of the President Pro Tempore of the Senate.
16 (2) Two years. – The district attorney, one nonattorney appointed by the
17 Governor, the attorney appointed upon the recommendation of the
18 Speaker of the House of Representatives, and one nonattorney
19 appointed upon the recommendation of the President Pro Tempore of
20 the Senate.
21 (3) Three years. – The public defender, the attorney appointed by the
22 Governor, one nonattorney appointed by the President Pro Tempore of
23 the Senate, and one nonattorney appointed upon the recommendation of
24 the Speaker of the House of Representatives.
25 (4) Four years. – The superior court judge, the attorney appointed by the
26 State Bar Council, the attorney appointed by the Chief Justice, and one
27 nonattorney appointed by the Governor.

28 After these initial terms, the members of the State Judicial Council shall serve terms
29 of four years. All terms of members shall begin on January 1 and end on December 31.
30 No member may serve more than two consecutive full terms. Any vacancy on the
31 Council shall be filled by a person appointed by the official or entity who appointed the
32 person vacating the position.

33 (c) If an official or entity is authorized to appoint more than one member of the
34 State Judicial Council, the members appointed by that official or entity must reside in
35 different judicial districts.

36 (d) No incumbent member of the General Assembly or any incumbent judicial
37 official, other than the ones specifically identified by office in subsection (a) of this
38 section, may serve on the State Judicial Council.

39 (e) The appointing authorities shall confer with each other and attempt to arrange
40 their appointments so that the members of the State Judicial Council fairly represent each
41 area of the State, both genders, and each major racial group.

42 **"§ 7A-49.5. Duties of the State Judicial Council.**

- 43 (a) The State Judicial Council shall:

- 1 (1) Study the judicial system and report periodically to the Chief Justice on
2 its findings;
- 3 (2) Advise the Chief Justice on priorities for funding;
- 4 (3) Review and advise the Chief Justice on the budget prepared by the
5 Director of the Administrative Office of the Courts for submission to
6 the General Assembly;
- 7 (4) Study and recommend to the General Assembly the salaries of justices
8 and judges;
- 9 (5) Recommend to the General Assembly changes in the expense
10 allowances, benefits, and other compensation for judicial officials;
- 11 (6) If a judgeship becomes vacant, review whether the judgeship is still
12 needed for that district and, if it is not, recommend to the Chief Justice
13 whether the judgeship should be transferred to another district or should
14 be abolished;
- 15 (7) Advise or assist the Chief Justice, as requested, on any other matter
16 concerning the operation of the courts.

17 (b) If requested to do so by the Governor, the 13 members of the State Judicial
18 Council who are not judges, district attorneys, or public defenders shall constitute an
19 appellate nominating panel to nominate candidates to the Governor for appointment to
20 vacancies on the Supreme Court and Court of Appeals.

21 (c) The State Judicial Council, with the assistance of the Director of the
22 Administrative Office of the Courts, shall recommend to the Chief Justice performance
23 standards for all courts and all judicial officials and shall recommend procedures for
24 periodic evaluation of the court system and individual judicial officials and employees. If
25 these standards are implemented by the Chief Justice, the Director of the Administrative
26 Office of the Courts shall inform each judicial official of the standards being used to
27 evaluate that official's performance. If implemented, the evaluation of each judge shall
28 include assessments from other judges, litigants, jurors, and attorneys, as well as a self-
29 evaluation by the judge. Summaries of the evaluations of justices and judges shall be
30 made available to the public, in a manner to be determined by the Council.

31 (d) The State Judicial Council shall monitor caseloads in the appellate courts to
32 determine whether cases are being handled expeditiously, whether those courts have
33 adequate resources, and whether the courts are able to maintain a proper balance between
34 criminal and civil matters. If needed to assure such a balance, the Council may
35 recommend the establishment of separate divisions of the Court of Appeals for criminal
36 and civil cases and establish procedures for the regular rotation of individual judges
37 between those divisions.

38 (e) The State Judicial Council shall study and recommend guidelines for the
39 assignment and management of cases, including the identification of different kinds of
40 cases for different kinds of resolution. If the Chief Justice decides to implement these
41 guidelines, they may provide that, except for good cause, each civil case subject to
42 assignment to a trial judge should be directed first to an appropriate form of alternative
43 dispute resolution. The guidelines may also provide for posttrial alternative dispute

1 resolution before or as part of an appeal. The guidelines should not require absolute
2 uniformity from district to district and should allow case management personnel within
3 each circuit the flexibility to direct cases to the most appropriate means of resolution in
4 that district.

5 (f) The State Judicial Council shall monitor the use of alternative dispute
6 resolution throughout the court system and, with the assistance of the Director of the
7 Administrative Office of the Courts and the Dispute Resolution Commission, evaluate the
8 effectiveness of those programs.

9 (g) The State Judicial Council may recommend to the Chief Justice changes in the
10 boundaries of the judicial districts.

11 (h) The State Judicial Council shall perform other functions as needed to monitor
12 the administration of justice and assess the effectiveness of the Judicial Branch in serving
13 the public and to advise the Chief Justice and the General Assembly on changes needed
14 to assist the General Court of Justice in better fulfilling its mission.

15 **"§ 7A-49.6. Compensation of the State Judicial Council.**

16 Members of the State Judicial Council who are not judicial officials or salaried public
17 officials shall be reimbursed for their travel, meal and lodging expenses while on Council
18 business at the same rate as provided in G.S. 120-3.1(a)(3) for members of the General
19 Assembly, and shall also be compensated at the rate of two hundred dollars (\$200.00) per
20 day for each day on official Council business."

21 Section 2. (a) The Administrative Office of the Courts shall establish pilot
22 programs for the holding of family court within no more than three district court
23 districts, no more than two of which shall contain an urban county. Each pilot program
24 shall be conducted following the guidelines for the establishment of family courts
25 contained in the report of the Commission for the Future of Justice and the Courts in
26 North Carolina and shall be assigned to hear all matters involving intrafamily rights,
27 relationships, and obligations, and all juvenile justice matters, including:

- 28 (1) Child abuse, neglect, and dependency;
- 29 (2) Delinquent and undisciplined juvenile matters;
- 30 (3) Emancipation of minors and termination of parental rights;
- 31 (4) Divorce;
- 32 (5) Annulment;
- 33 (6) Equitable distribution;
- 34 (7) Alimony and postseparation support;
- 35 (8) Child custody;
- 36 (9) Child support;
- 37 (10) Paternity;
- 38 (11) Adoption;
- 39 (12) Domestic violence civil restraining orders;
- 40 (13) Abortion consent waivers; and
- 41 (14) Adult protective services.

42 (b) The Administrative Office of the Courts shall report to the General Assembly
43 by March 1, 1999, on the establishment, number, and location of these pilot programs and

1 on their success in bringing consistency, efficiency, and fairness to the resolution of
2 family matters and their impact on caseloads in the district court division.

3 Section 3. G.S. 7A-49.3 reads as rewritten:

4 **"§ 7A-49.3. Calendar for criminal trial sessions.**

5 (a) At least one week before the beginning of any session of the superior court for
6 the trial of criminal cases, the district attorney shall file with the clerk of superior court a
7 calendar of the cases ~~he intends to call for trial to be tried~~ at that session. The calendar shall
8 fix a day for the trial of each case listed thereon. ~~The district attorney may place on the~~
9 ~~calendar for the first day of the session all cases which will require consideration by the grand~~
10 ~~jury without obligation to call such cases for trial on that day.~~ No case on the calendar may
11 be called for trial before the day fixed by the calendar except by consent or by order of
12 the court. ~~Any case docketed after the calendar has been filed with the clerk may be placed on~~
13 ~~the calendar at the discretion of the district attorney.~~ After the calendar has been filed with
14 the clerk, cases may be added to or removed from the calendar only by order of the court
15 pursuant to guidelines developed by the Supreme Court.

16 (a1) If he has not done so before the beginning of each session of superior court at
17 which criminal cases are to be heard, the District Attorney, after calling the calendar and
18 disposing of nonjury matters, including guilty pleas, if any such nonjury matters are to be
19 disposed of prior to the calling of cases for trial, shall announce to the court the order in
20 which ~~he intends to call for trial the~~ the calendar provides for the trial of the cases
21 remaining on the calendar. Deviations from the announced order of cases as listed on the
22 calendar require approval by the presiding judge, judge, if the defendant whose case is
23 called for trial objects; but the defendant may not object if all the cases scheduled to be heard
24 before his case have been disposed of or delayed with the approval of the presiding judge or by
25 consent.

26 (b) All witnesses shall be subpoenaed to appear on the date listed for the trial of
27 the case in which they are witnesses. Witnesses shall not be entitled to prove their
28 attendance for any day or days prior to the day on which the case in which they are
29 witnesses is set for trial, unless otherwise ordered by the presiding judge.

30 (c) Nothing in this section shall be construed to affect the authority of the court in
31 the call of cases for trial."

32 Section 4. Section 1 of this act becomes effective January 1, 1999. Section 3
33 of this act becomes effective December 1, 1998. The remainder of this act is effective
34 when it becomes law.