

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1179\*

Short Title: Future of the Courts.

(Public)

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Sponsors: Senator Ballance.

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Referred to: Judiciary.

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May 20, 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.