

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1243

Short Title: Clerks of Court on Commissions.

(Public)

Sponsors: Senators Rand; Ballance, Cooper, Dalton, Kinnaird, Miller, Odom, and Soles.

Referred to: Judiciary.

May 21, 1998

A BILL TO BE ENTITLED

1 AN ACT TO ADD CLERKS OF COURT TO THE SENTENCING AND POLICY
2 ADVISORY COMMISSION, THE CRIMINAL JUSTICE ADVISORY BOARD,
3 AND THE GOVERNOR'S CRIME COMMISSION.
4

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 164-37 reads as rewritten:

7 "**§ 164-37. Membership; chairman; meetings; quorum.**

8 The Commission shall consist of ~~28~~29 members as follows:

- 9 (1) The Chief Justice of the North Carolina Supreme Court shall appoint a
10 sitting or former Justice or judge of the General Court of Justice, who
11 shall serve as Chairman of the Commission;
- 12 (2) The Chief Judge of the North Carolina Court of Appeals, or another
13 judge on the Court of Appeals, serving as his designee;
- 14 (3) The Secretary of Correction or his designee;
- 15 (4) The Secretary of Crime Control and Public Safety or his designee;
- 16 (5) The Chairman of the Parole Commission, or his designee;
- 17 (6) The President of the Conference of Superior Court Judges or his
18 designee;
- 19 (7) The President of the District Court Judges Association or his designee;

- 1 (8) The President of the North Carolina Sheriff's Association or his
2 designee;
- 3 (9) The President of the North Carolina Association of Chiefs of Police or
4 his designee;
- 5 (10) One member of the public at large, who is not currently licensed to
6 practice law in North Carolina, to be appointed by the Governor;
- 7 (11) One member to be appointed by the Lieutenant Governor;
- 8 (12) Three members of the House of Representatives, to be appointed by the
9 Speaker of the House;
- 10 (13) Three members of the Senate, to be appointed by the President Pro
11 Tempore of the Senate;
- 12 (14) The President Pro Tempore of the Senate shall appoint the
13 representative of the North Carolina Community Sentencing
14 Association that is recommended by the President of that organization;
- 15 (15) The Speaker of the House of Representatives shall appoint the member
16 of the business community that is recommended by the President of the
17 North Carolina Retail Merchants Association;
- 18 (16) The Chief Justice of the North Carolina Supreme Court shall appoint the
19 criminal defense attorney that is recommended by the President of the
20 North Carolina Academy of Trial Lawyers;
- 21 (17) The President of the Conference of District Attorneys or his designee;
- 22 (18) The Lieutenant Governor shall appoint the member of the North
23 Carolina Victim Assistance Network that is recommended by the
24 President of that organization;
- 25 (19) A rehabilitated former prison inmate, to be appointed by the Chairman
26 of the Commission;
- 27 (20) The President of the North Carolina Association of County
28 Commissioners or his designee;
- 29 (21) The Governor shall appoint the member of the academic community,
30 with a background in criminal justice or corrections policy, that is
31 recommended by the President of The University of North Carolina;
- 32 (22) The Attorney General, or a member of his staff, to be appointed by the
33 Attorney General;
- 34 (23) The Governor shall appoint the member of the North Carolina Bar
35 Association that is recommended by the President of that organization.
- 36 (24) A member of the Justice Fellowship Task Force, who is a resident of
37 North Carolina, to be appointed by the Chairman of the Commission.
- 38 (25) The President of the Association of Clerks of Superior Court of North
39 Carolina, or his designee.

40 The Commission shall have its initial meeting no later than September 1, 1990, at the
41 call of the Chairman. The Commission shall meet a minimum of four regular meetings
42 each year. The Commission may also hold special meetings at the call of the Chairman,
43 or by any four members of the Commission, upon such notice and in such manner as may

1 be fixed by the rules of the Commission. A majority of the members of the Commission
2 shall constitute a quorum."

3 Section 2. G.S. 143B-273.6 reads as rewritten:

4 **"§ 143B-273.6. State Criminal Justice Partnership Advisory Board; members;
5 terms; chairperson.**

6 (a) There is created the State Criminal Justice Partnership Advisory Board. The
7 State Board shall act as an advisory body to the Secretary with regards to this Article.
8 The State Board shall consist of ~~21~~22 members as follows:

9 (1) A member of the Senate.

10 (2) A member of the House of Representatives.

11 (3) A judge of the Superior Court.

12 (4) A judge of the district court.

13 (5) A district attorney.

14 (6) A criminal defense attorney.

15 (7) A county sheriff.

16 (8) A chief of a city police department.

17 (9) Two county commissioners, one from a predominantly urban county
18 and one from a predominantly rural county.

19 (10) A representative of an existing community-based corrections program.

20 (11) A member of the public who has been the victim of a crime.

21 (12) A rehabilitated ex-offender.

22 (13) A member of the business community.

23 (14) Three members of the general public, one of whom is a person
24 recovering from chemical dependency or who is a previous consumer of
25 substance abuse treatment services.

26 (15) A victim service provider.

27 (16) A member selected from each of the following service areas: mental
28 health, substance abuse, and employment and training.

29 (17) A clerk of superior court.

30 (b) The membership of the State Board shall be selected as follows:

31 (1) The Governor shall appoint the following members: the county sheriff,
32 the chief of a city police department, the member of the public who has
33 been the victim of a crime, a rehabilitated ex-offender, the members
34 selected from each of the service areas.

35 (2) The Lieutenant Governor shall appoint the following members: the
36 member of the business community, one member of the general public
37 who is a person recovering from chemical dependency or who is a
38 previous consumer of substance abuse treatment services, the victim
39 service provider.

40 (3) The Chief Justice of the North Carolina Supreme Court shall appoint the
41 following members: the superior court judge, the district court judge,
42 the district attorney, the clerk of superior court, the criminal defense

1 attorney, the representative of an existing community-based corrections
2 program.

3 (4) The President Pro Tempore of the Senate shall appoint the following
4 members: the member of the Senate, the county commissioner from a
5 predominantly urban county, one member of the general public.

6 (5) The Speaker of the House shall appoint the following members: the
7 member of the House of Representatives, the county commissioner from
8 a predominantly rural county, one member of the general public.

9 In appointing the members of the State Board, the appointing authorities shall make
10 every effort to ensure fair geographic representation of the State Board membership and
11 that minority persons and women are fairly represented.

12 (c) The initial members shall serve staggered terms, one-third shall be appointed
13 for a term of one year, one-third shall be appointed for a term of two years, and one-third
14 shall be appointed for a term of three years. The members identified in subdivisions (1)
15 through (7) of subsection (a) of this section shall be appointed initially for a term of one
16 year. The members identified in subdivisions (8) through (13) in subsection (a) of this
17 section shall be appointed initially for a term of two years. The members identified in
18 subdivisions (14) through (16) of subsection (a) of this section shall each be appointed for
19 a term of three years. The additional member identified in subdivision (17) in subsection
20 (a) of this section shall be appointed initially for a term of three years.

21 At the end of their respective terms of office their successors shall be appointed for
22 terms of three years. A vacancy occurring before the expiration of the term of office
23 shall be filled in the same manner as original appointments for the remainder of the term.
24 Members may be reappointed without limitation.

25 (d) Each appointing authority shall have the power to remove a member it
26 appointed from the State Board for misfeasance, malfeasance, or nonfeasance.

27 (e) The members of the State Board shall, within 30 days after the last initial
28 appointment is made, meet and elect one member as chairman and one member as vice-
29 chairman.

30 (f) The State Board shall meet at least quarterly and may also hold special
31 meetings at the call of the chairman. For purposes of transacting business, a majority of
32 the membership shall constitute a quorum.

33 (g) Any member who has an interest in a governmental agency or unit or private
34 nonprofit agency which is applying for a State-County Criminal Justice Partnership grant
35 or which has received a grant and which is the subject of an inquiry or vote by a grant
36 oversight committee, shall publicly disclose that interest on the record and shall take no
37 part in discussion or have any vote in regard to any matter directly affecting that
38 particular grant applicant or grantee. 'Interest' in a grant applicant or grantee shall mean a
39 formal and direct connection to the entity, including, but not limited to, employment,
40 partnership, serving as an elected official, board member, director, officer, or trustee, or
41 being an immediate family member of someone who has such a connection to the grant
42 applicant or grantee.

1 (h) The members of the State Board shall serve without compensation but shall be
2 reimbursed for necessary travel and subsistence expenses."

3 Section 3. G.S. 143B-478 reads as rewritten:

4 **"§ 143B-478. Governor's Crime Commission – creation; composition; terms;
5 meetings, etc.**

6 (a) There is hereby created the Governor's Crime Commission of the Department
7 of Crime Control and Public Safety. The Commission shall consist of 34 voting
8 members and six nonvoting members. The composition of the Commission shall be as
9 follows:

10 (1) The voting members shall be:

11 a. The Governor, the Chief Justice of the Supreme Court of North
12 Carolina (or his alternate), the Attorney General, the Director of
13 the Administrative Office of the Courts, the Secretary of the
14 Department of Human Resources, the Secretary of the
15 Department of Correction, and the Superintendent of Public
16 Instruction;

17 b. A judge of superior court, a judge of district court specializing in
18 juvenile matters, a chief district court judge, a clerk of superior
19 court, and a district attorney;

20 c. A defense attorney, three sheriffs (one of whom shall be from a
21 'high crime area'), three police executives (one of whom shall be
22 from a 'high crime area'), six citizens (two with knowledge of
23 juvenile delinquency and the public school system, two of whom
24 shall be under the age of 21 at the time of their appointment, one
25 representative of a 'private juvenile delinquency program,' and
26 one in the discretion of the Governor), three county
27 commissioners or county officials, and three mayors or municipal
28 officials;

29 d. Two members of the North Carolina House of Representatives
30 and two members of the North Carolina Senate.

31 (2) The nonvoting members shall be the Director of the State Bureau of
32 Investigation, the Secretary of the Department of Crime Control and
33 Public Safety, the Director of the Division of Youth Services of the
34 Department of Human Resources, the Administrator for Juvenile
35 Services of the Administrative Office of the Courts, the Director of the
36 Division of Prisons and the Director of the Division of Adult Probation
37 and Paroles.

38 (b) The membership of the Commission shall be selected as follows:

39 (1) The following members shall serve by virtue of their office: the
40 Governor, the Chief Justice of the Supreme Court, the Attorney General,
41 the Director of the Administrative Office of the Courts, the Secretary of
42 the Department of Human Resources, the Secretary of the Department
43 of Correction, the Director of the State Bureau of Investigation, the

1 Secretary of the Department of Crime Control and Public Safety, the
2 Director of the Division of Prisons, the Director of the Division of Adult
3 Probation and Paroles, the Director of the Division of Youth Services,
4 the Administrator for Juvenile Services of the Administrative Office of
5 the Courts, and the Superintendent of Public Instruction. Should the
6 Chief Justice of the Supreme Court choose not to serve, his alternate
7 shall be selected by the Governor from a list submitted by the Chief
8 Justice which list must contain no less than three nominees from the
9 membership of the Supreme Court.

10 (2) The following members shall be appointed by the Governor: the district
11 attorney, the defense attorney, the three sheriffs, the three police
12 executives, the six citizens, the three county commissioners or county
13 officials, the three mayors or municipal officials.

14 (3) The following members shall be appointed by the Governor from a list
15 submitted by the Chief Justice of the Supreme Court, which list shall
16 contain no less than three nominees for each position and which list
17 must be submitted within 30 days after the occurrence of any vacancy in
18 the judicial membership: the judge of superior court, the clerk of
19 superior court, the judge of district court specializing in juvenile
20 matters, and the chief district court judge.

21 (4) The two members of the House of Representatives provided by
22 subdivision (a)(1)d. of this section shall be appointed by the Speaker of
23 the House of Representatives and the two members of the Senate
24 provided by subdivision (a)(1)d. of this section shall be appointed by the
25 President Pro Tempore of the Senate. These members shall perform the
26 advisory review of the State plan for the General Assembly as permitted
27 by section 206 of the Crime Control Act of 1976 (Public Law 94-503).

28 (5) The Governor may serve as chairman, designating a vice-chairman to
29 serve at his pleasure, or he may designate a chairman and vice-chairman
30 both of whom shall serve at his pleasure.

31 (c) The initial members of the Commission shall be those appointed pursuant to
32 subsection (b) above, which appointments shall be made by March 1, 1977. The terms of
33 the present members of the Governor's Commission on Law and Order shall expire on
34 February 28, 1977. Effective March 1, 1977, the Governor shall appoint members, other
35 than those serving by virtue of their office, to serve staggered terms; seven shall be
36 appointed for one-year terms, seven for two-year terms, and seven for three-year terms.
37 At the end of their respective terms of office their successors shall be appointed for terms
38 of three years and until their successors are appointed and qualified. The Commission
39 members from the House and Senate shall serve two-year terms effective March 1, of
40 each odd-numbered year; and they shall not be disqualified from Commission
41 membership because of failure to seek or attain reelection to the General Assembly, but
42 resignation or removal from office as a member of the General Assembly shall constitute
43 resignation or removal from the Commission. Any other Commission member no longer

1 serving in the office from which he qualified for appointment shall be disqualified from
2 membership on the Commission. Any appointment to fill a vacancy on the Commission
3 created by the resignation, dismissal, death, disability, or disqualification of a member
4 shall be for the balance of the unexpired term.

5 (d) The Governor shall have the power to remove any member from the
6 Commission for misfeasance, malfeasance or nonfeasance.

7 (e) The Commission shall meet quarterly and at other times at the call of the
8 chairman or upon written request of at least eight of the members. A majority of the
9 voting members shall constitute a quorum for the transaction of business."

10 Section 4. This act is effective when it becomes law.