

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 964
HOUSE BILL 42

AN ACT TO AUTHORIZE ADDITIONAL JUDICIAL OFFICIALS THROUGHOUT THE STATE, TO INCREASE LEGAL COUNSEL FEES AND TO PROVIDE FOR OTHER RELATED MATTERS.

The General Assembly of North Carolina enacts:

Section 1. Effective September 1, 1981, G.S. 7A-41 is amended in the first sentence by deleting the number "33" and substituting "34".

Sec. 2. (a) G.S. 7A-41 is further amended in the Table so that the number of resident superior court judges and the total number of full-time assistant district attorneys for the indicated judicial districts read:

Judicial District	No. of Resident Judges	No. of Full-Time Asst. District Attorneys
1	1	5
4	2	8
7	2	7
8	2	8
9	1	5
10	4	15
13	1	5
19A	2	5
21	3	9
30	1	4.

(b) Effective September 1, 1981, G.S. 7A-41 is further amended by deleting all reference to the Seventeenth Judicial District and by substituting the following:

Judicial District	Counties	No. of Resident Judges	No. of Full-Time Asst. District Attorneys
17A	Caswell		
	Rockingham	1	2
17B	Stokes		
	Surry	1	2."

All positions authorized by this act for Judicial Districts 17A and 17B are effective September 1, 1981.

Effective September 1, 1981, the current resident superior court judge assigned to the Seventeenth Judicial District is allocated to Judicial District 17B. The additional resident superior court judge authorized by this subsection for Judicial District 17A shall be appointed by the Governor pursuant to subsection (d) of this section.

Effective September 1, 1981, two of the four current assistant district attorneys allocated to the district attorney in the Seventeenth Judicial/Prosecutorial District are allocated to the district attorney in Judicial /Prosecutorial District 17A and the remaining two to the district attorney in Judicial/Prosecutorial District 17B.

(c)(1) G.S. 7A-60(a) is amended by inserting at the end of the first sentence, before the period, the phrase ", except as provided in this section".

(c)(2) G.S. 7A-60 is amended by adding a new paragraph to the end to read:

"Effective October 1, 1981, the third prosecutorial district is divided into two prosecutorial districts, to be known as Prosecutorial Districts 3A and 3B. District 3A shall consist of Pitt County, and District 3B shall consist of Craven, Carteret and Pamlico Counties. The current district attorney of the third prosecutorial district shall become the district attorney for Prosecutorial District 3A. The Governor shall appoint a district attorney for Prosecutorial District 3B. The appointee shall serve until January 1, 1983, and his successor shall be chosen in the general election of November 1982, to serve a four-year term beginning January 1, 1983."

(c)(3) Effective October 1, 1981, G.S. 7A-69 is amended in the first sentence by deleting the phrase "third," and by substituting the following: "third-B,".

(c)(4) Effective October 1, 1981, the current assistant district attorneys, the administrative assistant, the investigatorial assistant and the two secretaries allocated to the district attorney's office in the third prosecutorial district shall be allocated as follows: the administrative assistant, one secretary and four of the assistant district attorneys to Prosecutorial District 3A and the remaining four assistant district attorneys, the investigatorial assistant and one secretary to 3B.

(d) The vacancies in the judgeships authorized by this section shall be filled by appointments by the Governor. The appointees shall serve until the first day of January, 1983. The appointees' successors shall be chosen in the general election of November 1982, to serve an eight-year term beginning the first day of January, 1983.

Sec. 3. G.S. 7A-60 is amended by adding a new paragraph to the end to read:

"Effective September 1, 1981, the Seventeenth Prosecutorial District is divided into two prosecutorial districts, to be known as Prosecutorial Districts 17A and 17B. District 17A shall consist of Caswell and Rockingham Counties, and District 17B shall consist of Stokes and Surry Counties. The current district attorney of the Seventeenth Prosecutorial District shall become the district attorney for Prosecutorial District 17B. A new district attorney position is created by this act for Prosecutorial District 17A and shall be filled by appointment by the Governor. The appointee shall serve until January 1, 1983, and his successor shall be chosen in the general election of November, 1982, to serve a four-year term beginning January 1, 1983."

Sec. 4. (a) G.S. 7A-133 is amended in that Table so that the number of district court judges and the quota of magistrates for the indicated judicial districts and counties read:

Magistrates					
District	Judges	County	Min.	Max.	
1	3	Dare	2	4	
9	4	Vance	3	5	
		Franklin	3	6	
		Granville	3	7	
10	8	Wake	12	16	
11	4	Harnett	7	11	
14	4	Durham	8	11	
15B	3	Orange	4	8	
16	4	Robeson	8	16	
19B	2	Montgomery	2	4	
20	5	Stanly	5	6	
24	3	Avery	3	4	
26	10	Mecklenburg	15	26	
29	4	Transylvania	2	4	

(b) Effective September 1, 1981, G.S. 7A-133 is further amended in the Table by deleting all reference to the Seventeenth Judicial district and by substituting the following:

"District	Judges	County	Magistrates		Additional Seats of Court
			Min.	Max.	
17A	2	Caswell	2	4	Reidsville Eden Madison
		Rockingham	4	9	
	2	Stokes	2	4	
		Surry	5	8	Mt. Airy"

The four current district court judges allocated to the Seventeenth Judicial District are to serve in both Judicial Districts 17A and 17B until the first Monday in December, 1982. As of the first Monday in December, 1982, two of these four current district court judges or their successors are assigned to Judicial District 17A and two of the four current district court judges or their successors are assigned to Judicial District 17B.

(c) The vacancies in the judgeships authorized by this section shall be filled by appointments by the Governor. The appointees shall serve until the first Monday in December, 1982. The appointees' successors shall be chosen in the general election of November 1982, to serve a four year term beginning the first Monday in December, 1982.

(d) In addition to the new magistrates' positions authorized by the change in the quotas pursuant to subsection (a) of this section, additional magistrates' positions are authorized in the following counties as follows:

County	Magistrates
Martin	1
Craven	1
Duplin	1
Halifax	1
Cumberland	2
Caswell	1
Guilford	1
Moore	1
Yancey	1.

Sec. 5. (a) New secretarial positions are created and allocated to the resident superior court judges in the judicial districts and in the numbers as follows:

District	Secretaries
4	1
11	1
15A	1
27A	1
27B	1
29	1.

(b) Effective September 1, 1981, one of the two secretaries currently allocated to the superior court judge in the Seventeenth Judicial District is allocated to the superior court judge in Judicial District 17A and the second to the superior court judge in Judicial District 17B.

Sec. 6. (a) New superior court reporter positions are created and allocated to the judicial districts and in the numbers as follows:

District	Reporters
1	1
4	1
11	1

21

1.

(b) Effective September 1, 1981, the court reporter position currently allocated to the superior court in the Seventeenth Judicial District is allocated to Judicial District 17B, and a new court reporter position is created and allocated to the superior court in Judicial District 17A.

(c) A new district court reporter position is created and allocated to the district court in Judicial District 5.

Sec. 7. New deputy clerk of superior court positions are created and allocated to the counties and in the numbers as follows:

County	Deputy Clerks
Beaufort	1
Bladen	1
Caswell	1
Catawba	1
Columbus	1
Craven	1
Dare	1
Davie	1
Duplin	1
Durham	2
Edgecombe	1
Forsyth	2
Granville	1
Guilford	2
Halifax	1
Haywood	1
Hertford	1
Iredell	1
Johnston	1
Lee	1
Lenoir	1
Macon	1
Mecklenburg	2
Moore	1
New Hanover	2
Northampton	1
Onslow	1
Orange	1
Person	1
Richmond	1
Sampson	1
Scotland	1
Stanly	1
Surry	1
Vance	1
Wake	3
Warren	1
Wayne	1
Wilson	1
Yadkin	1.

Sec. 8. New witness assistant coordinator positions are created and allocated to the prosecutorial districts and in the numbers as follows:

District	Witness Assistant Coordinators
10	1
12	1
14	1
15B	1
18	1
21	1
28	1.

Sec. 9. (a) New secretarial positions are created and allocated to the district attorney's office in the prosecutorial districts and in the numbers as follows:

District	Secretaries
4	1
7	1
10	1
13	1
14	1.

(b) Effective September 1, 1981, the current secretary allocated to the district attorney's office in Judicial/Prosecutorial District 17 is allocated to the district attorney's office in Judicial/Prosecutorial District 17B. A new secretarial position is created and allocated to the district attorney's office in Judicial/Prosecutorial District 17A.

Sec. 10. From the funds appropriated to the Judicial Department by Chapter 859, 1981 Session Laws, there is allocated to the Administrative Office of the Courts moneys sufficient to fund the positions authorized and created by Sections 1 through 9 of this act.

Sec. 11. (a) Funds appropriated by Chapter 859, 1981 Session Laws, to the Judicial Department for indigent counsel may be used, beginning October 1, 1981, for the Appellate Defender Office established under Article 38 of Chapter 7A of the General Statutes.

(b) Chapter 7A of the General Statutes is amended by adding a new Article 38 to read:

"ARTICLE 38.

"Appellate Defender Office.

"§ 7A-475. Appellate defender office established. — (a) There is established the office of appellate defender.

(b) The appellate defender shall be an attorney licensed to practice law in North Carolina and shall devote his full time to the duties of the office.

"§ 7A-476. Term of office. — The initial term of office of the appellate defender shall be from October 1, 1981, through June 30, 1985. Subsequent terms shall be four years.

"§ 7A-477. Appointment and removal. — (a) The appellate defender shall be appointed by the Governor.

(b) A vacancy in the office of appellate defender shall be filled by appointment by the Governor for the unexpired term.

(c) The appellate defender may be suspended or removed from office and reinstated for the same causes and under the same procedures as are applicable to removal of a district attorney.

"§ 7A-478. Duties of appellate defender. — The appellate defender shall:

- (1) Represent indigent persons subsequent to conviction in trial courts pursuant to assignments by trial court judges under the general supervision of the Chief Justice of the Supreme Court of North Carolina. The appellate defender shall only accept that number of assignments and maintain that

caseload which will insure quality criminal defense appellate services consistent with the resources available to the appellate defender.

(2) Maintain a repository of briefs prepared by the appellate defender to be made available to private counsel representing indigents in criminal cases.

(3) Provide continuing legal education training to assistant appellate defenders and to private counsel representing indigents in criminal appeals, as resources are available.

"§ 7A-479. Staff. — The appellate defender shall appoint assistants and staff, not to exceed the number authorized by the Administrative Office of the Courts. The assistants and staff shall serve at the pleasure of the appellate defender.

"§ 7A-480. Funds. — Funds to operate the office of appellate defender, including office space, office equipment, supplies, postage, telephone, library, staff salaries, training and travel, shall be provided by the Administrative Office of the Courts from funds authorized by law. Salaries shall be set by the Administrative Office of the Courts.

"§ 7A-481. Acceptance of property. — The Administrative Office of the Courts may accept the property purchased by the Appellate Defender Project for North Carolina, pursuant to the National Legal Aid and Defender Association Agreement with Legal Services of North Carolina, Inc., dated August 15, 1980.

"§ 7A-482. The appellate defender shall keep appropriate records and make periodic reports, as requested, to the Administrative Office of the Courts.

"§7A-483. Effective date. — This Article shall become effective October 1, 1981, and shall expire June 30, 1985."

Sec. 12. From the funds appropriated to the Judicial Department by Chapter 859, 1981 Session Laws, there is allocated to the Administrative Office of the Courts the sum of seven thousand five hundred dollars (\$7,500) for fiscal year 1981-82 and the sum of seven thousand five hundred dollars (\$7,500) for fiscal year 1982-83 to fund the Interpreters for the Deal Program established by H.B. 427, 1981 Session, if enacted.

Sec. 13. From the funds appropriated to the Judicial Department by Chapter 859, 1981 Session Laws, there is allocated to the district attorney of Prosecutorial District 15B the sum of six thousand dollars (\$6,000) for fiscal year 1981-82 and the sum of six thousand dollars (\$6,000) for fiscal year 1982-83 to provide operating expenses for the Dispute Settlement Center, Inc., established in 1978 in Orange County.

Sec. 14. (a) G.S. 7A-101 is amended by deleting the first classification in the salary chart and by rewriting the second classification to read: "Less than 19,999 — \$19,056".

(b) From the funds appropriated to the Judicial Department by Chapter 859, 1981 Session Laws, there is allocated to the Administrative Office of the Courts forty-nine thousand two hundred thirty dollars (\$49,230) for fiscal year 1981-82 and forty-nine thousand two hundred eighty dollars (\$49,280) for fiscal year 1982-83 to fund the increases in salary and accompanying fringe benefits required by subsection (a) of this section.

Sec. 15. From the funds appropriated to the Judicial Department by Chapter 859, 1981 Session Laws, there is allocated to the Department of Crime Control and Public Safety the sum of one hundred fifty thousand dollars (\$150,000) for fiscal year 1981-82 and the sum of one hundred fifty thousand dollars (\$150,000) for fiscal year 1982-83 to fund the deferred prosecution, community service restitution and volunteer program for youthful and adult offenders authorized by S.B. 570, 1981 Session, if enacted.

Sec. 16. From the funds appropriated to the Judicial Department by Chapter 859, 1981 Session Laws, there is allocated to the Criminal Code Commission the sum of twenty thousand dollars (\$20,000) for fiscal year 1981-82 to provide funds for the winding up of the Commission.

Sec. 17. From the funds appropriated to the Judicial Department by Chapter 859, 1981 Session Laws, there is allocated to the Administrative Office of the Courts the sum of five

hundred thousand dollars (\$500,000) for fiscal year 1981-82 to provide court equipment and supplies.

Sec. 18. Effective January 1, 1981, G.S. 7A-44 is amended in the second sentence by deleting the word "education".

Sec. 19. (a) G.S. 122-98(a) as rewritten by Chapter 491, Session Laws of 1981, is amended by deleting the second sentence and substituting therefor the following:

"The territorial jurisdiction of these special police officers shall also include any property formerly a part of the original Camp Butner reservation, including: (i) both those areas currently owned and occupied by the State and its agencies and those which may have been leased or otherwise disposed of by the State; (ii) any property adjacent to that site that is owned or leased by the State or any political subdivision of the State: and (iii) any adjoining property."

(b) G.S. 122-98(b) as rewritten by Chapter 491, Session Laws of 1981, is amended by adding the following sentence thereto:

"Any civil or criminal process to be served on any person confined at any State facility within the territorial jurisdiction stated in subsection (a) shall be forwarded by the sheriff of the county in which the process originated to the Chief of the Butner Public Safety Department. Such process shall be served by a special police officer authorized by this section. The Secretary of Crime Control and Public Safety shall collect from the sheriff of the county in which the process originated one half of the uniform fee established for such process under G.S. 7A-304 or G.S. 7A-311 and transmit such sums collected to the General Fund."

(c) G.S. 20-125(b) is amended by inserting before the words "State Highway Patrol" in the first sentence thereof the words "Department of Crime Control and Public Safety including the".

(d) G.S. 143-166.13(a) is amended by adding a new subsection (17) to read as follows:

"(17) Sworn State Law Enforcement Officers with the power of arrest. Department of Crime Control and Public Safety."

(e) From the funds appropriated to the Judicial Department by Chapter 859, 1981 Session Laws, there is allocated to the Department of Crime Control and Public Safety the sum of one hundred eighty-five thousand two hundred thirty-three dollars (\$185,233) for fiscal year 1981-82 and the sum of one hundred fifty-five thousand eight hundred sixty dollars (\$155,860) for fiscal year 1982-83 to fund the provisions authorized by this section.

Sec. 20. Moneys remaining from the funds appropriated to the Judicial Department by Chapter 859, 1981 Session Laws, for the purposes set forth in this act, after the positions and programs authorized by Sections 1 through 19 of this act are funded, shall be held in a restrictive reserve fund. In addition, any budgeted funds authorized for positions and programs by this act which are not expended for the purpose authorized shall be held in this reserve fund. Moneys from this fund may be allocated only with the approval of the Joint Legislative Commission on Governmental Operations.

Sec. 21. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.