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1986

NORTH CAROLINA COURTS COMMISSION

STATE LEGISLATIVE BUILDING  
RALEIGH, NORTH CAROLINA 27611

H. PARKS HELMS, CHAIRMAN  
CHARLOTTE

June 5, 1986

The Honorable Robert B. Jordan, III  
Lieutenant Governor

The Honorable Liston B. Ramsey  
Speaker of the House

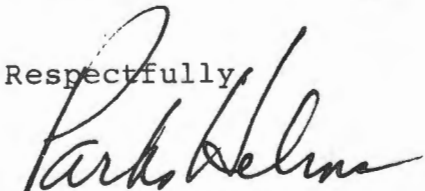
Gentlemen:

Pursuant to the provisions of G.S. 7A-505, the North Carolina Courts Commission is pleased to submit its interim report to the 1986 General Assembly.

Since the adjournment of the 1985 Session the Commission has held regular meetings in Raleigh and has heard from various citizens and officials. As a result of these hearings and after deliberation the Commission is pleased to recommend passage of proposed legislation as referred to in the attached Summary. The bills recommended will be introduced by designated members of the Commission or by other members of the General Assembly and I urge that these proposals be given your early and favorable consideration.

In addition to the proposed bills, the Commission has adopted two resolutions which I commend to you and to the members of the General Assembly for your thoughtful consideration.

Respectfully,

  
H. Parks Helms

HPH:cj

Attachment

cc: Members,  
1986 General Assembly

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RALEIGH, NORTH CAROLINA

SUMMARY OF LEGISLATION  
PROPOSED BY  
NORTH CAROLINA COURTS COMMISSION  
TO THE 1986 SESSION  
OF THE GENERAL ASSEMBLY

The Courts Commission recommends passage of the following bills:

1. AN ACT TO ELIMINATE NUMBERED SEATS FOR ELECTION OF JUDGES OF THE SUPERIOR COURT TO MEET OBJECTIONS UNDER SECTION 5 OF THE VOTING RIGHTS ACT; AN ACT TO MAKE PROVISIONS FOR FILLING UNEXPIRED TERMS FOR SUPERIOR COURT JUDGE IN THE SAME YEAR AS FULL TERMS, BY CONSIDERING UNEXPIRED TERMS AS SEPARATE OFFICE FOR THE PURPOSE OF APPLYING A DESIGNATED SEAT RULE; and AN ACT TO MAKE PROVISIONS FOR FILLING UNEXPIRED TERMS FOR SUPERIOR COURT JUDGE IN THE SAME YEAR AS FULL TERMS, WITHOUT APPLYING A DESIGNATED SEAT RULE EXCEPT WHEN THE VACANCY OCCURS SO CLOSE TO THE ELECTION THAT IT IS AN ADMINISTRATIVE NECESSITY. These three acts will enable the state to conduct orderly elections for the superior court judgeships subject to election this year and will remove the statute requiring that superior court elections be for numbered seats. The numbered seat law was objected to by the United States Justice Department pursuant to Section 5 of the Voting Rights Act and cannot be enforced until that decision is reversed. The state Attorney General's office has decided not to seek further review of the Justice Department's decision on numbered seats; thus the bill on numbered seats is necessary. The other two acts provide a mechanism to fill vacancies when elections are held in a single district for terms of different lengths. There is no provision in the election law to deal with this problem because the numbered seat law has made such a provision unnecessary.

2. AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE STATUTES CREATING INFRACTIONS. This bill makes various corrections to the infractions law enacted as Chapter 764 by the 1985 Session of the General Assembly. The changes are technical and clarify the meaning of the new law. The bill also delays the effective date of the new law from July 1 to September 1, 1986. The delay will enable the court officials who have new duties under the law to discuss it at their conferences this summer in order to be prepared for it when it becomes effective. The September 1 date is also the date that the infraction of purchase or possession of beer or wine by a 19- or 20-year old becomes effective, and the procedure in Ch. 764 need to be in place by then to provide a structure to dispose of those infractions.

3. AN ACT TO ALLOW ACCESS TO MENTAL COMMITMENT COURT RECORDS IN CERTAIN CIRCUMSTANCES. This bill adds two exceptions to the blanket rule adopted last session that all involuntary commitment court records must be treated as confidential unless specifically exempted by a court. The two exceptions are to allow officials who issue gun permits and litigants in the commitment process access to the records without the necessity of first obtaining a court order.

4. AN ACT TO AMEND THE LAW RELATING TO THE PROBATION SUPERVISION FEE. This bill clarifies the procedure for imposing and collecting the probation

supervision fee of \$10 per month. It also makes it clear that the parole supervision fee of \$10 per month applies to persons released on re-entry parole under the Fair Sentencing Act.

5. AN ACT TO PROVIDE THAT AN ASSISTANT DISTRICT ATTORNEY MAY NOT CONCURRENTLY HOLD ELECTIVE OFFICE.

6. AN ACT TO ADD THE ATTORNEY GENERAL TO THE COURTS COMMISSION AND TO ALLOW THE COMMISSION TO USE SUBCOMMITTEES.

7. AN ACT TO AUTHORIZE AN ARBITRATION PROGRAM IN THE TWENTY-SIXTH JUDICIAL DISTRICT. This bill authorizes the Supreme Court to expand the pilot project involving arbitration of civil cases to the Twenty-Sixth Judicial District. It would involve no state funds.

A RESOLUTION ON THE PROPER USE OF COURT  
COSTS TO FINANCE THE OPERATION OF THE COURTS

The Courts Commission recognizes that the state's policy on the assessment of court costs is a matter of continuing concern. The prospect of funding worthy governmental projects both in and out of the justice system from revenues derived from court costs is a tempting alternative when general revenues cannot be found to fund the project. The Commission opposes any yielding to that temptation.

In addition, the Commission recognizes that court costs assessed in a criminal case may seem to some to be an additional penalty for those convicted of a crime or infraction, and thus elimination of court costs in some cases seems attractive. The Commission believes, however, that it is of greater importance that the uniformity gained in the court reform efforts of the 1960's be retained; to that end, a fair level of court costs should be applied uniformly to all types of cases.

At its meeting on June 4, 1986, the Commission adopted the following resolution to express its views on these issues.

**NOW, THEREFORE, BE IT RESOLVED BY THE NORTH CAROLINA COURTS COMMISSION, THAT IT REAFFIRMS THE POSITION IT EXPRESSED IN ITS 1983 REPORT: "COURT COSTS SHOULD BE KEYED TO THE COST OF PERFORMING THE SERVICE FOR WHICH THEY ARE ASSESSED AND SHOULD BE RETURNED TO THE STATE. COURTS SHOULD NOT RAISE FUNDS FOR OTHER PROJECTS NO MATTER HOW WORTHY THE PROJECT."**

**THE COMMISSION FURTHER RESOLVES THAT IT REAFFIRMS THE LONG-STANDING POLICY OF THIS STATE THAT COURT COSTS SHOULD BE APPLIED UNIFORMLY TO ALL CASES.**

Adopted the Fourth of June, 1986  
H. Parks Helms  
Chairman, North Carolina Courts  
Commission

A RESOLUTION URGING THE GENERAL ASSEMBLY TO PROVIDE SOME RECORD  
KEEPING MEANS FOR DECISIONS BY THE JUSTICE DEPARTMENT UNDER  
SECTION 5 OF THE VOTING RIGHTS ACT OF 1965

Section 5 of the Voting Rights Act of 1965 requires that many state and local elections law changes be approved by either the United States Department of Justice or the United States District Court for the District of Columbia. In the 21 years since that act became effective, many laws have been reviewed under this process. There is currently no formal, central repository of the decisions of the Justice Department and the U. S. District Court, with the result that there is often uncertainty and confusion about the effects of many of the affected laws.

**NOW, THEREFORE, BE IT RESOLVED BY THE NORTH CAROLINA COURTS COMMISSION,  
THAT IT URGES THE GENERAL ASSEMBLY TO PROVIDE A CENTRAL REPOSITORY FOR FILING  
OF DECISIONS RENDERED UNDER SECTION FIVE OF THE VOTING RIGHTS ACT.**

Adopted the Fourth of June, 1986  
H. Parks Helms  
Chairman, North Carolina Courts  
Commission