

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 278

Short Title: Clerks of Court on Commissions.

(Public)

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Sponsors: Senator Cooper.

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Referred to: Judiciary I/Constitution

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March 1, 1995

A BILL TO BE ENTITLED

1 AN ACT TO ADD CLERKS OF COURT TO THE GENERAL STATUTES  
2 COMMISSION, THE SENTENCING AND POLICY ADVISORY COMMISSION,  
3 AND THE CRIMINAL JUSTICE ADVISORY BOARD.  
4

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 164-14(a) reads as rewritten:

7 "(a) The Commission shall consist of ~~12~~13 members, who shall be appointed as  
8 follows:

9 (1) One member, by the president of the North Carolina State Bar;

10 (2) One member, by the General Statutes Commission;

11 (3) One member, by the dean of the school of law of the University of  
12 North Carolina;

13 (4) One member, by the dean of the school of law of Duke University;

14 (5) One member, by the dean of the school of law of Wake Forest  
15 University;

16 (6) One member, by the Speaker of the House of Representatives of each  
17 General Assembly from the membership of the House;

18 (7) One member, by the President Pro Tempore of the Senate of each  
19 General Assembly from the membership of the Senate;

20 (8) Two members, by the Governor;

1 (9) One member, by the dean of the school of law of North Carolina Central  
2 University;

3 (10) One member by the president of the North Carolina Bar Association;

4 (11) One member, by the dean of the school of law of Campbell College.

5 (12) One member, by the president of the Association of Clerks of Superior  
6 Court of North Carolina.

7 (b) Appointments of original members of the Commission made by the president  
8 of the North Carolina State Bar, the president of the North Carolina Bar Association, the  
9 president of the Association of Clerks of Superior Court of North Carolina, and the deans  
10 of the schools of law of Duke University, the University of North Carolina, and Wake  
11 Forest University shall be for one year. Appointments of original members of the  
12 Commission made by the Speaker of the House of Representatives, the President of the  
13 Senate, and the Governor shall be for two years.

14 (c) After the appointment of the original members of the Commission,  
15 appointments by the president of the North Carolina State Bar, the General Statutes  
16 Commission, and the deans of the schools of law of North Carolina Central University,  
17 Duke University, the University of North Carolina, and Wake Forest University shall be  
18 made in the even-numbered years, and appointments made by the Speaker of the House  
19 of Representatives, the President Pro Tempore of the Senate, president of the North  
20 Carolina Bar Association, the president of the Association of Clerks of Superior Court of  
21 North Carolina, the dean of the School of Law of Campbell College and the Governor  
22 shall be made in the odd-numbered years. Such appointments shall be made for two-year  
23 terms beginning June first of the year when such appointments are to become effective  
24 and expiring May 31 two years thereafter. All such appointments shall be made not later  
25 than May 31 of the year when such appointments are to become effective.

26 (d) If any appointment provided for by this section is not made prior to June first  
27 of the year when it should become effective, a vacancy shall exist with respect thereto,  
28 and the vacancy shall then be filled by appointment by the Governor. If any member of  
29 the Commission dies or resigns during the term for which he was appointed, his  
30 successor for the unexpired term shall be appointed by the person who made the original  
31 appointment, as provided in G.S. 164-14, or by the successor of such person; and if such  
32 vacancy is not filled within 30 days after the vacancy occurs, it shall then be filled by  
33 appointment by the Governor. In any case where an appointment authorized to be made  
34 by G.S. 164-14(c) has not been made on or before July 31 of the year in which it was due  
35 to be made, a vacancy shall exist with respect to that appointment and the General  
36 Statutes Commission at its next meeting shall by majority vote fill the vacancy by  
37 appointment.

38 (e) All appointments shall be reported to the secretary of the Commission.

39 (f) Notwithstanding the expiration of the term of the appointment, the terms of  
40 members of the General Statutes Commission shall continue until the appointment of a  
41 successor has been made and reported to the secretary of the Commission."

42 Sec. 2. G.S. 164-37 reads as rewritten:

43 "**§ 164-37. Membership; chairman; meetings; quorum.**

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

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

- 1 (22) The Attorney General, or a member of his staff, to be appointed by the  
2 Attorney General;
- 3 (23) The Governor shall appoint the member of the North Carolina Bar  
4 Association that is recommended by the President of that organization.
- 5 (24) A member of the Justice Fellowship Task Force, who is a resident of  
6 North Carolina, to be appointed by the Chairman of the Commission.
- 7 (25) The President of the Association of Clerks of Superior Court of North  
8 Carolina, or his designee.

9 The Commission shall have its initial meeting no later than September 1, 1990, at the  
10 call of the Chairman. The Commission shall meet a minimum of four regular meetings  
11 each year. The Commission may also hold special meetings at the call of the Chairman,  
12 or by any four members of the Commission, upon such notice and in such manner as may  
13 be fixed by the rules of the Commission. A majority of the members of the Commission  
14 shall constitute a quorum."

15 Sec. 3. G.S. 143B-273.6 reads as rewritten:

16 **"§ 143B-273.6. State Criminal Justice Partnership Advisory Board; members;**  
17 **terms; chairperson.**

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

- 21 (1) A member of the Senate.
- 22 (2) A member of the House of Representatives.
- 23 (3) A judge of the Superior Court.
- 24 (4) A judge of the district court.
- 25 (5) A district attorney.
- 26 (6) A criminal defense attorney.
- 27 (7) A county sheriff.
- 28 (8) A chief of a city police department.
- 29 (9) Two county commissioners, one from a predominantly urban county  
30 and one from a predominantly rural county.
- 31 (10) A representative of an existing community-based corrections program.
- 32 (11) A member of the public who has been the victim of a crime.
- 33 (12) A rehabilitated ex-offender.
- 34 (13) A member of the business community.
- 35 (14) Three members of the general public, one of whom is a person  
36 recovering from chemical dependency or who is a previous consumer of  
37 substance abuse treatment services.
- 38 (15) A victim service provider.
- 39 (16) A member selected from each of the following service areas: mental  
40 health, substance abuse, and employment and training.
- 41 (17) A clerk of superior court.

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

- 1           (1) The Governor shall appoint the following members: the county sheriff,  
2           the chief of a city police department, the member of the public who has  
3           been the victim of a crime, a rehabilitated ex-offender, the members  
4           selected from each of the service areas.
- 5           (2) The Lieutenant Governor shall appoint the following members: the  
6           member of the business community, one member of the general public  
7           who is a person recovering from chemical dependency or who is a  
8           previous consumer of substance abuse treatment services, the victim  
9           service provider.
- 10          (3) The Chief Justice of the North Carolina Supreme Court shall appoint the  
11          following members: the superior court judge, the district court judge,  
12          the district attorney, the clerk of superior court, the criminal defense  
13          attorney, the representative of an existing community-based corrections  
14          program.
- 15          (4) The President Pro Tempore of the Senate shall appoint the following  
16          members: the member of the Senate, the county commissioner from a  
17          predominantly urban county, one member of the general public.
- 18          (5) The Speaker of the House shall appoint the following members: the  
19          member of the House of Representatives, the county commissioner from  
20          a predominantly rural county, one member of the general public.

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

24          (c) The initial members shall serve staggered terms, one-third shall be appointed  
25          for a term of one year, one-third shall be appointed for a term of two years, and one-third  
26          shall be appointed for a term of three years. The members identified in subdivisions (1)  
27          through (7) of subsection (a) of this section shall be appointed initially for a term of one  
28          year. The members identified in subdivisions (8) through (13) in subsection (a) of this  
29          section shall be appointed initially for a term of two years. The members identified in  
30          subdivisions (14) through (16) of subsection (a) of this section shall each be appointed for  
31          a term of three years. The additional member identified in subdivision (17) in subsection  
32          (a) of this section shall be appointed initially for a term of three years.

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

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

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

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

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

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

16 Sec. 4. This act is effective upon ratification.