

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

S

1

SENATE BILL 1363

Short Title: Governor May Suspend DA for Misconduct.

(Public)

Sponsors: Senators Clodfelter; Albertson and Rand.

Referred to: Select Committee on Government and Election Reform.

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE GOVERNOR MAY SUSPEND A DISTRICT ATTORNEY IN CERTAIN CIRCUMSTANCES WHEN A FORMAL COMPLAINT ALLEGING MISCONDUCT OF THE DISTRICT ATTORNEY IS FILED WITH THE NORTH CAROLINA STATE BAR.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 7A of the General Statutes is amended by adding a new section to read:

"§ 7A-66A. Suspension of district attorney by Governor.

(a) The Governor may suspend a district attorney as provided by this section. Upon application by the North Carolina State Bar, the Governor may suspend a district attorney from office if: (i) a complaint against the district attorney is filed with the North Carolina State Bar alleging a ground of misconduct under G.S. 7A-66; (ii) the Council as defined in G.S. 84-17, after providing reasonable notice and a hearing to the district attorney on the issue, determines that a disciplinary proceeding regarding the matter of conduct is warranted, that the district attorney is incapable of fulfilling the duties of office during that time and that the necessity for prompt action exists while the disciplinary proceeding is conducted, and makes public that a disciplinary proceeding is pending against the district attorney; and (iii) the Governor finds that the suspension of the district attorney is required for the protection of the public interest. If the Governor determines that the district attorney should be suspended, the Governor shall report that finding and the reasons for that finding to the district attorney, the North Carolina State Bar, and to the public.

(b) Upon suspension of a district attorney under this section, the Governor shall request the Attorney General to assign a special prosecutor to assume the responsibilities of the district attorney pursuant to G.S. 114-11.6.

(c) The district attorney may resume office if no disciplinary action is taken by the North Carolina State Bar against the district attorney pursuant to G.S. 84-28 within

1 90 days of the suspension and if no procedure for suspension or removal of the district
2 attorney pursuant to G.S. 7A-66 is begun."

3 **SECTION 2.** G.S. 114-11.6 reads as rewritten:

4 **"§ 114-11.6. Division established; duties.**

5 (a) There is hereby established in the office of the Attorney General of North
6 Carolina, a Special Prosecution Division. The attorneys assigned to this Division shall
7 be available to prosecute or assist in the prosecution of criminal cases when requested to
8 do so by a district attorney and the Attorney General approves. In addition, these
9 attorneys assigned to this Division shall serve as legal advisers to the State Bureau of
10 Investigation and the Police Information Network and perform any other duties assigned
11 to them by the Attorney General.

12 (b) Upon request by the Governor under G.S. 7A-66A, the Attorney General
13 shall assign an attorney from this Division to assume the responsibilities of a district
14 attorney."

15 **SECTION 3.** This act becomes effective July 1, 2007.