

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

H

D

HOUSE BILL 820  
PROPOSED COMMITTEE SUBSTITUTE H820-PCS10377-TH-13

Short Title: Judicial Reform Act.

(Public)

Sponsors:

Referred to:

April 11, 2013

1 A BILL TO BE ENTITLED  
2 AN ACT TO ABOLISH THE COURTS COMMISSION AND PROVIDE THAT THE JOINT  
3 LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY  
4 SHALL PROVIDE OVERSIGHT OF THE COURTS, TO PROVIDE THAT  
5 VACANCIES IN THE OFFICE OF DISTRICT COURT JUDGE SHALL BE FILLED BY  
6 APPOINTMENT OF THE GOVERNOR, AND TO PROVIDE FOR THE BEST AND  
7 MOST EFFICIENT USE OF DISTRICT COURT RESOURCES BY ENSURING THAT  
8 MAGISTRATES ARE USED FULLY FOR TRAFFIC COURT AND OTHER MATTERS  
9 TO WHICH THEY MAY BE ASSIGNED SO THAT DISTRICT COURT JUDGES ARE  
10 AVAILABLE FOR SPECIALIZED CASES AND OTHER MATTERS MORE SUITED  
11 TO THE EXPERTISE OF A DISTRICT COURT JUDGE.

12 The General Assembly of North Carolina enacts:

13 **SECTION 1.(a)** Article 40A of Chapter 7A of the General Statutes is repealed.

14 **SECTION 1.(b)** G.S. 120-70.94 reads as rewritten:

15 "**§ 120-70.94. Purpose and powers of Committee.**

16 (a) The Joint Legislative Oversight Committee on Justice and Public Safety shall  
17 examine, on a continuing basis, the correctional, law enforcement, and juvenile justice systems  
18 in North Carolina, in order to make ongoing recommendations to the General Assembly on  
19 ways to improve those systems and to assist those systems in realizing their objectives of  
20 protecting the public and of punishing and rehabilitating offenders. In this examination, the  
21 Committee shall:

22 (1) Study the budget, programs, and policies of the Department of Public Safety  
23 and the Judicial Department to determine ways in which the General  
24 Assembly may improve the effectiveness of ~~the Department~~those  
25 departments.

26 ...

27 (11a) Study the needs of the Judicial Department as well as the structure,  
28 organization, jurisdiction, procedures, and personnel of the courts to  
29 determine ways in which the General Assembly can make legislative  
30 changes designed to assist the courts in improving the administration of  
31 justice.

32 ...."

33 **SECTION 2.** G.S. 7A-142 reads as rewritten:

34 "**§ 7A-142. Vacancies in office.**

35 A vacancy in the office of district judge shall be filled for the unexpired term by  
36 appointment of the ~~Governor~~Governor. The Governor may select from nominations submitted



\* H 8 2 0 - P C S 1 0 3 7 7 - T H - 1 3 \*

1 by the bar of the judicial district as defined in G.S. 84-19, except that in judicial District 9,  
2 when vacancies occur in District Court District 9 or 9B, only those members who reside in the  
3 district court district shall participate in the selection of the nominees. When vacancies occur in  
4 District Court District 18, all members who reside in the district court district shall participate  
5 in the selection of the nominees. If the district court district is comprised of counties in more  
6 than one judicial district, the nominees shall be submitted jointly by the bars of those judicial  
7 districts, but only those members who reside in the district court district shall participate in the  
8 selection of the nominees. If the district court judge was elected as the nominee of a political  
9 party, then the district bar shall submit to the Governor the names of three persons who are  
10 residents of the district court district who are duly authorized to practice law in the district and  
11 who are members of the same political party as the vacating judge; provided that if there are  
12 not three persons who are available, the bar shall submit the names of two persons who meet  
13 the qualifications of this sentence. If the district court judge was not elected as the nominee of a  
14 political party, then the district bar shall submit to the Governor the names of three persons  
15 who are residents of the district court district and who are duly authorized to practice law in the  
16 district; provided that if there are not three persons who are available, the bar shall submit the  
17 names of two persons who meet the qualifications of this sentence. The bar of the judicial  
18 district shall have 30 days to submit nominations to the Governor. ~~Within 60 days after the~~  
19 ~~district bar submits nominations for a vacancy, the Governor shall appoint to fill the vacancy. If~~  
20 ~~the Governor fails to appoint a district bar nominee within 60 days, then the district bar~~  
21 ~~nominee who received the highest number of votes from the district bar shall fill the vacancy. If~~  
22 ~~the district bar fails to submit nominations within 30 days from the date the vacancy occurs, the~~  
23 ~~Governor may appoint to fill the vacancy without waiting for nominations."~~

24 **SECTION 3.** G.S. 7A-146 reads as rewritten:

25 "**§ 7A-146. Administrative authority and duties of chief district judge.** judge; efficient use  
26 of court resources.

27 (a) The chief district judge, subject to the general supervision of the Chief Justice of the  
28 Supreme Court, has administrative supervision and authority over the operation of the district  
29 courts and magistrates in his district. These powers and duties include, but are not limited to,  
30 the following:

- 31 (1) Arranging schedules and assigning district judges for sessions of district  
32 courts.
- 33 (2) Arranging or supervising the calendaring of noncriminal matters for trial or  
34 hearing.
- 35 (3) Supervising the clerk of superior court in the discharge of the clerical  
36 functions of the district court.
- 37 (4) Assigning matters to magistrates, and consistent with the salaries set by the  
38 Administrative Officer of the Courts, prescribing times and places at which  
39 magistrates shall be available for the performance of their duties; however,  
40 the chief district judge may in writing delegate his authority to prescribe  
41 times and places at which magistrates in a particular county shall be  
42 available for the performance of their duties to another district court judge or  
43 the clerk of the superior court, and the person to whom such authority is  
44 delegated shall make monthly reports to the chief district judge of the times  
45 and places actually served by each magistrate.
- 46 (5) Making arrangements with proper authorities for the drawing of civil court  
47 jury panels and determining which sessions of district court shall be jury  
48 sessions.
- 49 (6) Arranging for the reporting of civil cases by court reporters or other  
50 authorized means.

- 1 (7) Arranging sessions, to the extent practicable for the trial of specialized cases,  
2 including traffic, domestic relations, and other types of cases, and assigning  
3 district judges to preside over these sessions so as to permit maximum  
4 practicable specialization by individual judges.
- 5 (8) Repealed by Session Laws 1991 (Regular Session, 1992), c. 900, s. 118(b),  
6 effective July 15, 1992.
- 7 (9) Assigning magistrates during an emergency to temporary duty outside the  
8 county of their residence but within that district; and, upon the request of a  
9 chief district judge of an adjoining district and upon the approval of the  
10 Administrative Officer of the Courts, to temporary duty in the district of the  
11 requesting chief district judge.
- 12 (10) Designating another district judge of his district as acting chief district judge,  
13 to act during the absence or disability of the chief district judge.
- 14 (11) Designating certain magistrates to appoint counsel pursuant to Article 36 of  
15 this Chapter. This designation may only be given to magistrates who are  
16 duly licensed attorneys and does not give any magistrate the authority to: (i)  
17 appoint counsel for potentially capital offenses, as defined by rules adopted  
18 by the Office of Indigent Defense Services; or (ii) accept a waiver of  
19 counsel.

20 (b) In exercising the authority granted under subsection (a) of this section, the chief  
21 district court judge shall ensure the best and most efficient use of court resources by making the  
22 fullest use of magistrates for less complex cases and for administrative and other matters to  
23 which magistrates may be assigned under this Chapter, so that district court judges are  
24 available for specialized cases and other matters more suited to the expertise of a district court  
25 judge."

26 **SECTION 4.** Section 1 of this act becomes effective July 1, 2013. Section 3 of this  
27 act becomes effective July 1, 2013, and applies to cases assigned on or after that date. The  
28 remainder of this act is effective when it becomes law and applies to vacancies occurring on or  
29 after that date.