

ADOPTED



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 482

AMENDMENT NO. A2
(to be filled in by
Principal Clerk)

H482-ASA-94 [v.2]

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Amends Title [YES]
First Edition

Date _____, 2017

Senator Randleman

1 moves to amend the bill on page 1, line 3
2 by inserting between the word "ACQUISITION" and the period, the following:

3
4 "AND TO ALLOW PRO SE REPRESENTATION ON APPEAL; TO CREATE THE
5 CRIMINAL CODE RECODIFICATION COMMISSION; AND TO PROVIDE THAT
6 THE CHIEF DISTRICT COURT JUDGE MAY DELEGATE AUTHORITY TO THE
7 CLERK OF SUPERIOR COURT IN MATTERS RELATING TO JURY SERVICE
8 EXCUSALS";

9
10 And on page 1, lines 18-19
11 By inserting the following between those lines:

12 "SECTION 1.6.(a) G.S. 7A-222 reads as rewritten:
13 "§ 7A-222. General trial practice and procedure.

14 ...
15 (c) Notwithstanding G.S. 84-4, a party in a small claim action shall not be required to
16 obtain legal representation."

17 SECTION 1.6.(b) G.S. 7A-228 reads as rewritten:
18 "§ 7A-228. New trial before magistrate; appeal for trial de novo; how appeal perfected;
19 oral notice; dismissal.

20 ...
21 (e) Notwithstanding G.S. 84-4, any party in an action appealed for a trial de novo, as
22 provided for in this section, shall not be required to obtain legal representation."

23 SECTION 1.6.(c) This section becomes effective October 1, 2017.
24 SECTION 1.7.(a) There is established the Criminal Code Recodification
25 Commission (Commission) within the North Carolina Administrative Office of the Courts.

26 SECTION 1.7.(b) The Commission shall be composed of the following members:
27 (1) Four members of the Senate appointed by the President Pro Tempore of the
28 Senate, one of which shall be a member of the minority party.
29 (2) Four members of the House of Representatives appointed by the Speaker of
30 the House of Representatives, one of which shall be a member of the
31 minority party.
32 (3) Two members appointed by the Governor.



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- 1 (4) The Lieutenant Governor, or the Lieutenant Governor's designee, and one
- 2 additional member appointed by the Lieutenant Governor.
- 3 (5) A sitting sheriff appointed by the Speaker of the House.
- 4 (6) A sitting police chief appointed by the President Pro Tempore of the Senate.
- 5 (7) A member appointed by the North Carolina Chamber Legal Institute.
- 6 (8) Eleven members appointed by the Chief Justice of the Supreme Court as
- 7 follows:
- 8 a. A sitting district court judge.
- 9 b. A sitting superior court judge.
- 10 c. A sitting judge in the appellate division.
- 11 d. A sitting district attorney.
- 12 e. A public defender or representative from Indigent Defense Services.
- 13 f. A sitting magistrate.
- 14 g. A member of the private criminal defense bar.
- 15 h. A victims' rights advocate.
- 16 i. A sitting clerk of superior court.
- 17 j. Two additional members the Chief Justice deems appropriate.

18 **SECTION 1.7.(c)** The Chief Justice shall appoint a chair of the Commission. The

19 Commission may meet at any time upon the call of the chair and at a location specified by the

20 chair.

- 21 **SECTION 1.7.(d)** The Commission shall produce the following:
- 22 (1) A fully drafted, new, streamlined, comprehensive, orderly, and principled
 - 23 criminal code.
 - 24 (2) Official commentary to the new code explaining how each new section
 - 25 operates. Where the proposed code suggests a change in current law, special
 - 26 commentary shall note this and identify the suggested change and the
 - 27 reasoning for it. Special commentary shall include impact analysis provided
 - 28 by the Sentencing Commission.
 - 29 (3) Conversion tables to facilitate the comparison between current law and the
 - 30 draft code.
 - 31 (4) An offense grading table, grouping all offenses covered by the new code by
 - 32 offense grade. Offenses shall be graded within existing sentencing classes
 - 33 and with the recommendations of the Sentencing Commission.

34 **SECTION 1.7.(e)** In conducting its work and producing the items required by

35 subsection (d) of this section, the Commission shall do all of the following:

- 36 (1) Include necessary provisions not contained in the current code, such as
- 37 mental states, defenses, and definitions of offenses and key terminology.
- 38 (2) Eliminate unnecessary, inconsistent, or unlawful provisions in the current
- 39 code.
- 40 (3) Revise existing language and structure to make the law easier to understand
- 41 and apply.
- 42 (4) Ensure that criminal offenses and legal rules are cohesive and relate to one
- 43 another in a consistent and rational manner.

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- 1 (5) Incorporate within the proposed new code all major criminal offenses
- 2 contained in existing law.
- 3 (6) Make recommendations regarding whether any existing offenses should be
- 4 reclassified as infractions punishable only by a fine.
- 5 (7) Make recommendations regarding whether any limitations should be placed
- 6 on the ability of administrative boards, agencies, local governments, or other
- 7 entities to create crimes.
- 8 (8) Seek to preserve the North Carolina General Assembly's substantive policy
- 9 judgments as reflected in the existing code and legal principles established in
- 10 the case law.
- 11 (9) Address any other matter deemed necessary to carry out the work of the
- 12 Commission.

13 **SECTION 1.7.(f)** To the extent that funds are available, the Commission members
 14 shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1,
 15 138-5, or 138-6, as appropriate.

16 **SECTION 1.7.(g)** The North Carolina Administrative Office of the Courts is
 17 authorized to seek funding to support the Commission's work and may contract for
 18 professional, administrative, and consultant services.

19 **SECTION 1.7.(h)** The Commission shall make an interim report no later than
 20 December 1, 2018, to the Joint Legislative Oversight Committee on Justice and Public Safety.
 21 The Commission shall make a final report of its findings and recommendations, including the
 22 items required by subsection (d) of this section, no later than December 1, 2019, to the Joint
 23 Legislative Oversight Committee on Justice and Public Safety and the General Statutes
 24 Commission. The Commission shall expire upon submitting its final report.

25 **SECTION 1.7.(i)** All agencies, boards, and commissions that have the power to
 26 establish criminal penalties in the North Carolina Administrative Code shall provide to the
 27 Commission a list of all criminal penalties that are currently in effect or are pending
 28 implementation no later than December 1, 2017.

29 **SECTION 1.8.(a)** G.S. 9-6(b) reads as rewritten:
 30 "**§ 9-6. Jury service a public duty; excuses to be allowed in exceptional cases; procedure.**

31 ...
 32 (b) Pursuant to the foregoing policy, each chief district court judge shall promulgate
 33 procedures whereby he or any district court judge of his district court district designated by
 34 him, prior to the date that a jury session (or sessions) of superior or district court convenes,
 35 shall receive, hear, and pass on applications for excuses from jury duty. The procedures shall
 36 provide for the time and place, publicly announced, at which applications for excuses will be
 37 heard, and prospective jurors who have been summoned for service shall be so informed. The
 38 chief district court judge, after consultation with and the consent of the clerk, may also delegate
 39 this authority to the clerk of superior court. In counties located in a district or set of districts as
 40 defined in G.S. 7A-41.1(a) which have a trial court administrator, the chief district judge may
 41 assign the duty of passing on applications for excuses from jury service to the administrator. In
 42 all cases concerning excuses, the clerk of court or the trial court administrator shall notify
 43 prospective jurors of the disposition of their excuses."

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1 **SECTION 1.8.(b)** G.S. 9-6.1 reads as rewritten:
2 "**§ 9-6.1. Requests to be excused.**
3 (a) Any person summoned as a juror who is a full-time student and who wishes to be
4 excused pursuant to G.S. 9-6.1(b1) [G.S. 9-6(b1)] or who is 72 years or older and who wishes
5 to be excused, deferred, or exempted, may make the request without appearing in person by
6 filing a signed statement of the ground of the request with the chief district court judge of that
7 district, or the district court ~~judge-judge,~~ the clerk of superior court if so delegated by the chief
8 district court judge, or a trial court administrator designated by the chief district court judge
9 pursuant to G.S. 9-6(b), at any time five business days before the date upon which the person is
10 summoned to appear.
11 (b) Any person summoned as a juror who has a disability that could interfere with the
12 person's ability to serve as a juror and who wishes to be excused, deferred, or exempted may
13 make the request without appearing in person by filing a signed statement of the ground of the
14 request, including a brief explanation of the disability that interferes with the person's ability to
15 serve as a juror, with the chief district court judge of that district, or the district court ~~judge-or~~
16 judge, the clerk of superior court if so delegated by the chief district court judge, or a trial court
17 administrator designated by the chief district court judge pursuant to G.S. 9-6(b), at any time
18 five business days before the date upon which the person is summoned to appear. Upon request
19 of the court, medical documentation of any disability may be submitted. Any privileged
20 medical information or protected health information described in this section shall be
21 confidential and shall be exempt from the provisions of Chapter 132 of the General Statutes or
22 any other provision requiring information and records held by State agencies to be made public
23 or accessible to the public.
24 (c) A person may request either a temporary or permanent exemption under this
25 section, and the ~~judge-judge,~~ clerk of superior court if so delegated by the chief district court
26 judge, or trial court administrator may accept or reject either in the exercise of discretion
27 conferred by G.S. 9-6(b), including the substitution of a temporary exemption for a requested
28 permanent exemption. In the case of supplemental jurors summoned under G.S. 9-11, notice
29 may be given when summoned. In case the chief district court judge, or the ~~judge-judge,~~ clerk
30 of superior court if so delegated by the chief district court judge, or trial court administrator
31 designated by the chief district court judge pursuant to G.S. 9-6(b), rejects the request for
32 exemption, the prospective juror shall be immediately notified by the trial court administrator
33 or the clerk of court by telephone, letter, or personally.""

**The official copy of this document, with signatures
and vote information, is available in the
Senate Principal Clerk's Office**