

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL 855
PROPOSED COMMITTEE SUBSTITUTE S855-PCS15543-BQ-45

Short Title: Recodification of Criminal Laws.

(Public)

Sponsors:

Referred to:

May 27, 2020

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE BIPARTISAN LEGISLATIVE WORKING GROUP TO
3 MAKE RECOMMENDATIONS FOR THE RECODIFICATION OF NORTH
4 CAROLINA'S CRIMINAL LAWS AND TO APPROPRIATE FUNDS TO THE
5 CRIMINAL LAW INNOVATION LABORATORY TO ASSIST THE WORKING
6 GROUP.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.(a)** There is created the Bipartisan Legislative Working Group on
9 Criminal Law Recodification (Working Group). The purpose of the Working Group is to make
10 recommendations to the 2021 General Assembly regarding a streamlined, comprehensive,
11 orderly, and principled criminal code which includes all common law, statutory, regulatory, and
12 ordinance crimes, and to oversee the work of the Criminal Justice Innovation Lab of the School
13 of Government as provided in Section 2 of this act.

14 **SECTION 1.(b)** The Working Group shall be comprised of nine members selected
15 as follows:

- 16 (1) Two senators who are members of the majority party appointed by the
17 President Pro Tempore of the Senate.
- 18 (2) Two senators who are members of the minority party appointed by the
19 Minority Leader of the Senate.
- 20 (3) Two representatives who are members of the majority party appointed by the
21 Speaker of the House of Representatives.
- 22 (4) Two representatives who are members of the minority party appointed by the
23 Minority Leader of the House of Representatives.
- 24 (5) One individual appointed jointly by the President Pro Tempore of the Senate
25 and the Speaker of the House of Representatives. This individual shall have
26 served at least six years as a member of the General Assembly and shall serve
27 as the chair of the Working Group.

28 **SECTION 1.(c)** The Working Group shall solicit comments and feedback from the
29 public, as well as from all of the following:

- 30 (1) The Chief Justice of the Supreme Court.
- 31 (2) The Attorney General.
- 32 (3) The Conference of District Attorneys.
- 33 (4) Indigent Defense Services.
- 34 (5) The North Carolina Sheriffs' Association.
- 35 (6) The North Carolina Association of Chiefs of Police.



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1 **SECTION 1.(d)** All appointments to the Working Group shall be made no later than
2 30 days after this act becomes law. When making appointments, the appointing authorities shall
3 notify the Director of the Criminal Justice Innovation Lab as well as those entities required to be
4 notified under G.S. 143-47.7. Vacancies on the Working Group shall be filled by the appointing
5 authority. The Working Group, while in the discharge of its official duties, may exercise all the
6 powers provided under the provisions of G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4,
7 including the power to request all officers, agents, agencies, and departments of the State to
8 provide any information, data, or documents within their possession, ascertainable from their
9 records, or otherwise available to them and the power to subpoena witnesses.

10 **SECTION 1.(e)** The Working Group shall meet upon the call of the chair, but at
11 least monthly beginning no later than November 16, 2020. A majority of the voting members
12 shall constitute a quorum. Members shall receive per diem, subsistence, and travel allowances in
13 accordance with G.S. 120-3.1 or G.S. 138-5, as appropriate. The Legislative Services
14 Commission, through the Legislative Services Officer, shall assign professional staff to monitor
15 and provide technical assistance to the Working Group; provided, however, legislative staff shall
16 not be made available at times when the 2021 General Assembly is in session. Upon the direction
17 of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House
18 of Representatives shall assign clerical staff to the Working Group. The Working Group shall
19 terminate on August 15, 2021.

20 **SECTION 2.(a)** There is appropriated from the General Fund to the University of
21 North Carolina—Chapel Hill, School of Government, the sum of three hundred thirty-eight
22 thousand seven hundred seventy-one dollars (\$338,771) in nonrecurring funds for the 2020-2021
23 fiscal year to be allocated to the Criminal Justice Innovation Lab (CJIL) for the purposes
24 specified in this section. The Director of the CJIL may use the funds appropriated in this act to
25 hire temporary employees and to cover the costs associated with work done by the Director and
26 a part-time project manager. To the extent other funds are made available to the CJIL to conduct
27 the work required by this section, those funds shall be expended first, and upon termination of
28 the Bipartisan Legislative Working Group on Criminal Law Recodification (Working Group),
29 any unencumbered and unexpended State funds shall revert to the General Fund.

30 **SECTION 2.(b)** The CJIL shall report to and take direction from the Working Group.
31 The work of the CJIL will be led by the Director supported by a part-time project manager and
32 three temporary full-time employees who are attorneys licensed to practice law in North Carolina
33 who have experience in criminal law. The Director shall report at least every two weeks to the
34 Chair of the Working Group regarding the CJIL's progress on the work described in this section.
35 The School of Government shall provide meeting space to the Working Group.

36 **SECTION 2.(c)** The Working Group shall establish general principles for the CJIL
37 to follow to create a streamlined, comprehensive, orderly, and principled criminal code. The
38 principles shall, at a minimum, provide for all of the following:

- 39 (1) Incorporate existing statutory and common law offenses into Chapter 14 of
40 the General Statutes, harmonizing additions with current Chapter content.
- 41 (2) Apply consistent terminology across statutes and define all terminology.
- 42 (3) Specify the required mental state or that an offense is a strict liability crime.
- 43 (4) Eliminate redundant crimes and multiple punishment for the same conduct.
- 44 (5) Simplify offense numbering.
- 45 (6) Eliminate or modify unconstitutional provisions to ensure lawfulness.
- 46 (7) Eliminate outdated laws.
- 47 (8) Apply consistent, logical offense grading, with advice from the North
48 Carolina Sentencing Policy and Advisory Commission.

49 **SECTION 2.(d)** Using the principles established by the Working Group, the CJIL
50 shall provide the following deliverables:

- 1 (1) For common law crimes and crimes included in the North Carolina General
2 Statutes:
3 a. Create a database of all statutory and common law crimes, including
4 statute number or common law designation; offense short title;
5 elements; link to the statute; punishment; special and key features;
6 frequency of charging, if available; and any proposed changes and the
7 status of those changes in order to track decisions by the Working
8 Group.
9 b. Draft legislation amending, recodifying, or proposing changes to
10 North Carolina criminal statutes using a format that is consistent with
11 drafting conventions used by the North Carolina General Assembly as
12 directed by the Working Group.
- 13 (2) For crimes created by local ordinances:
14 a. Create a database of ordinance offenses, including ordinance title;
15 general description; elements; punishment; and key feature coding.
16 The CJIL will sample ordinances from diverse jurisdictions or review
17 all, as time allows and as directed by the Working Group.
18 b. Report to the Working Group on common ordinance crimes, including
19 charging data, if available, including presentation of a range of policy
20 options for addressing ordinance crimes consistent with the Working
21 Group's goals.
22 c. Draft legislation using a format that is consistent with drafting
23 conventions used by the North Carolina General Assembly as directed
24 by the Working Group.
- 25 (3) For crimes created by administrative boards and bodies:
26 a. Create a database of all crimes created by administrative boards and
27 bodies that make it a crime to violate any regulation created by an
28 administrative board or body, with exemplary regulations and
29 punishment levels.
30 b. Report to the Working Group on policy options for addressing
31 regulatory crimes consistent with the Working Group's goals.
32 c. Draft legislation using a format that is consistent with drafting
33 conventions used by the North Carolina General Assembly as directed
34 by the Working Group.

35 **SECTION 3.** This act becomes effective July 1, 2020.