

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

H

D

HOUSE BILL 869  
Second Edition Engrossed 5/12/21  
PROPOSED SENATE COMMITTEE SUBSTITUTE H869-PCS10649-TU-27

Short Title: State Bar Grievance Process/Ethics Records.

(Public)

Sponsors:

Referred to:

May 5, 2021

A BILL TO BE ENTITLED

AN ACT TO CREATE A GRIEVANCE REVIEW PANEL OF THE GRIEVANCE COMMITTEE OF THE NORTH CAROLINA STATE BAR, TO ALLOW THE AWARDING OF REASONABLE ATTORNEYS' FEES FOR LICENSEES OF THE NORTH CAROLINA STATE BAR IF NOT DISCIPLINED AFTER A HEARING, AND TO PRESERVE THE CONFIDENTIALITY OF THE ETHICS PROCESS.

The General Assembly of North Carolina enacts:

**SECTION 1.(a)** G.S. 84-28 reads as rewritten:

**"§ 84-28. Discipline and disbarment.**

...

(c1) There is created a grievance review panel of the Grievance Committee of the North Carolina State Bar. For each review, the chair of the Grievance Committee will appoint a panel consisting of the chair, two vice-chairs, and two other members of the Grievance Committee, including one member of the public. The grievance review panel shall operate pursuant to rules and procedures adopted by the Council and approved by the Supreme Court. Upon a request timely filed by a grievance respondent, the panel shall review a decision by the Grievance Committee that imposes public discipline upon the respondent. The respondent is entitled to be represented by counsel and to appear before and present oral argument to the grievance review panel. The respondent shall not have the right to compel the attendance of witnesses or the production of books, papers, and other writing and documents. The grievance review panel may concur in the decision of the Grievance Committee or may remand the grievance file to the Grievance Committee with its recommendation for a different disposition. Upon remand, the Grievance Committee may affirm its decision or may impose a different disposition of the grievance file. All proceedings of the grievance review panel are confidential. Documents, papers, recordings, electronic records, or other documentary materials in the possession of the grievance review panel are confidential and are not public records within the meaning of Chapter 132 of the General Statutes.

...

(d2) An attorney who is the respondent in an action before the Disciplinary Hearing Commission and found to have not committed any violations of the Rules of Professional Conduct shall be awarded reasonable attorneys' fees incurred in that action before the North Carolina State Bar not to exceed the disciplinary costs and fees allowed to be assessed against respondents pursuant to G.S. 84-28.1(b) and G.S. 84-34.2(5) of this Article. The attorneys' fees awarded in this section shall be paid by the North Carolina State Bar. This subsection shall not



\* H 8 6 9 - P C S 1 0 6 4 9 - T U - 2 7 \*

1 apply to settlements entered into between the North Carolina State Bar and the attorney to  
2 conclude an action.

3 ...."

4 **SECTION 1.(b)** This section is effective when it becomes law and applies to  
5 grievances and actions existing on or commenced on or after that date.

6 **SECTION 2.** G.S. 84-32.1 reads as rewritten:

7 "**§ 84-32.1. Confidentiality of records.**

8 (a) All documents, papers, letters, recordings, electronic records, or other documentary  
9 materials, regardless of physical form or characteristic, in the possession of the State Bar or its  
10 staff, employees, legal counsel, councilors, and Grievance Committee advisory members  
11 concerning any investigation, inquiry, complaint, disability, or disciplinary matter in connection  
12 with the State Bar Grievance Committee, the grievance review panel, the State Bar's Trust  
13 Accounting Supervisory Program, or any audit of an attorney trust account shall not be  
14 considered public records within the meaning of Chapter 132 of the General Statutes.

15 ...

16 (e) All documents, papers, letters, recordings, electronic records, or other documentary  
17 materials, regardless of physical form or characteristic, in possession of the State Bar or its staff,  
18 employees, legal counsel, councilors, or Ethics Committee advisory members concerning any  
19 request for ethics advice shall not be considered public records within the meaning of Chapter  
20 132 of the General Statutes unless the material, with the consent of the inquiring party, appears  
21 in a public agenda of the Ethics Committee of the North Carolina State Bar."

22 **SECTION 3.** The North Carolina State Bar shall adopt temporary rules to implement  
23 this act.

24 **SECTION 4.** Except as otherwise provided, this act is effective when it becomes  
25 law.