

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 116
PROPOSED COMMITTEE SUBSTITUTE H116-PCS40134-CLa-10

Short Title: Modify Laws Affecting District Attorneys. (Public)

Sponsors:

Referred to:

February 15, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY VARIOUS STATUTORY PROVISIONS AFFECTING DISTRICT
3 ATTORNEYS AND DISTRICT ATTORNEYS' OFFICES.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 7A-64 reads as rewritten:

6 "**§ 7A-64. Temporary assistance for district attorneys.**

7 ...

8 (b) The Director of the Administrative Office of the Courts may provide this assistance
9 only upon a showing by the requesting district attorney supported by facts that at least one of the
10 following circumstances apply:

11 ...

12 (3) ~~There is a conflict of interest.~~

13 ...

14 (d) Notwithstanding any other provision of this section to the contrary, when a district
15 attorney excludes themselves from an investigation or prosecution due to a conflict of interest or
16 for other good cause, the district attorney may apply to the Administrative Office of the Courts
17 to have another district attorney, a resource prosecutor from the Conference of District Attorneys,
18 or a qualified attorney assume responsibility as a special prosecutor for the investigation and
19 prosecution of the matter.

20 After consulting with the Conference of District Attorneys and securing the consent of the
21 district attorney or resource prosecutor, the Administrative Office of the Courts may assign a
22 district attorney or resource prosecutor to an investigation or prosecution pursuant to this
23 subsection.

24 In the event a qualified attorney is appointed to an investigation or prosecution pursuant to
25 this subsection, payment for services must be approved by the Conference of District Attorneys
26 and the Director of the Administrative Office of the Courts.

27 Upon appointment as a special prosecutor pursuant to this subsection, the special prosecutor
28 shall have all the authority that the requesting district attorney would otherwise have had in that
29 investigation or prosecution."

30 **SECTION 2.** G.S. 7A-65 reads as rewritten:

31 "**§ 7A-65. Compensation and allowances of district attorneys and attorneys, assistant**
32 **district attorneys, attorneys, and other district attorney staff.**

33 (a) The annual salary of:

34 ...

35 (3) Full-time district attorney administrative assistants shall be as provided in the
36 Current Operations Appropriations Act.



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- 1 (4) Full-time district attorney legal assistants shall be as provided in the Current
 2 Operations Appropriations Act.
 3 (5) Full-time district attorney investigators shall be as provided in the Current
 4 Operations Appropriations Act.

5 When traveling on official business, each district ~~attorney and attorney~~, assistant district
 6 ~~attorney attorney~~, district attorney administrative assistant, district attorney legal assistant, and
 7 district attorney investigator is entitled to reimbursement for ~~his or her~~ subsistence expenses to
 8 the same extent as State employees generally. When traveling on official business outside ~~his or~~
 9 ~~her~~ the individual's county of residence, each district ~~attorney and attorney~~, assistant district
 10 ~~attorney attorney~~, district attorney administrative assistant, district attorney legal assistant, and
 11 district attorney investigator is entitled to reimbursement for travel expenses to the same extent
 12 as State employees generally. For purposes of this subsection, the term "official business" does
 13 not include regular, daily commuting between a person's home and the district attorney's office.
 14 Travel distances, for purposes of reimbursement for mileage, shall be determined according to
 15 the travel policy of the Administrative Office of the Courts.

16 ...

17 (e) District attorney administrative assistants, district attorney legal assistants, and
 18 district attorney investigators shall receive longevity pay to the same extent as State employees
 19 generally."

20 **SECTION 3.** G.S. 7A-69 reads as rewritten:

21 **"§ 7A-69. Investigatorial assistants. District attorney investigators.**

22 The Each district attorney in prosecutorial districts 1, 3B, 4, 5, 7, 8, 11, 12, 13, 14, 15A, 15B,
 23 ~~16A, 18, 19B, 20A, 20B, 21, 22A, 22B, 24, 25, 26, 27A, 27B, 28, 29A, 29B, and 30~~ is entitled
 24 to at least one investigatorial assistant, and the district attorney in prosecutorial district 10 is
 25 entitled to two investigatorial assistants, district attorney investigator to be appointed by the
 26 district attorney and to serve at ~~his~~ the district attorney's pleasure.

27 It shall be the duty of the ~~investigatorial assistant~~ district attorney investigator to investigate
 28 cases preparatory to trial and to perform such other Duties as may be assigned by the district
 29 attorney. The ~~investigatorial assistant is~~ district attorney investigators are entitled to
 30 reimbursement for ~~his~~ subsistence and travel expenses to the same extent as State employees
 31 generally."

32 **SECTION 4.** G.S. 7A-413 reads as rewritten:

33 **"§ 7A-413. Powers of Conference.**

34 (a) The Conference may:

- 35 (1) Cooperate with citizens and other public and private agencies to promote the
 36 effective administration of criminal justice.
 37 (2) Assist prosecutors in the effective prosecution and trial of criminal offenses,
 38 and develop an advisory trial manual.
 39 (3) Develop advisory manuals to assist prosecutors in the organization and
 40 administration of their offices, case management, calendaring, case tracking,
 41 filing, and office procedures.
 42 (4) Cooperate with the Administrative Office of the Courts and the School of
 43 Government at the University of North Carolina at Chapel Hill concerning
 44 education and training programs for prosecutors and staff.
 45 (5) Provide legal counsel and advice to the district attorneys and their staff related
 46 to the performance of their duties through attorneys employed by the
 47 Conference.

48 (b) The Conference may not adopt rules pursuant to Chapter 150B of the General
 49 Statutes.

1 (c) The Conference shall approve all transfers of funds appropriated by the General
2 Assembly for the offices of district attorneys prior to the Administrative Office of the Courts
3 completing the transfer.

4 (d) Any legal counsel or advice provided by attorneys employed by the conference
5 provided pursuant to subdivision (2) or (5) of subsection (a) of this section is confidential and
6 privileged, including any documents or other communications made or used in connection with
7 that legal counsel or advice. All communications or documents made confidential by this
8 subsection are not "public records" as defined by G.S. 132-1 and shall not be open to public
9 inspection, examination, or copying except as provided by G.S. 132-1.4(g)."

10 **SECTION 5.** G.S. 132-1.4(g) reads as rewritten:

11 "(g) Disclosure of records of criminal investigations and criminal intelligence information
12 that have been transmitted to a district ~~attorney~~-attorney, a staff member of the Conference of
13 District Attorneys, or other attorney authorized to prosecute a violation of law shall be governed
14 by this section and Chapter 15A of the General Statutes."

15 **SECTION 6.** G.S. 7A-414 reads as rewritten:

16 "**§ 7A-414. ~~Executive Secretary; Executive Director; clerical support.~~**

17 (a) The Conference ~~may shall~~ employ an ~~executive secretary~~-Executive Director and any
18 necessary supporting staff to assist it in carrying out its duties. The Executive Director shall be
19 an attorney licensed and eligible to practice in the courts of this State at the time of appointment
20 and at all times during service as the Executive Director.

21 (b) In lieu of merit and other increment raises paid to regular State employees, the
22 Executive Director shall receive as longevity pay an amount equal to four and eight-tenths
23 percent (4.8%) of the annual salary for District Attorney as set forth in the Current Operations
24 Appropriations Act payable monthly after five years of service, nine and six-tenths percent
25 (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of
26 service, nineteen and two-tenths percent (19.2%) after 20 years of service, and twenty-four
27 percent (24%) after 25 years of service. "Service" means service as Executive Director, a public
28 defender, appellate defender, assistant public or appellate defender, district attorney, assistant
29 district attorney, resource prosecutor, justice or judge of the General Court of Justice, or clerk of
30 superior court."

31 **SECTION 7.** G.S. 7A-314 reads as rewritten:

32 "**§ 7A-314. Uniform fees for witnesses; experts; limit on number.**

33 ...

34 (b) A witness entitled to a fee set forth in subsections (a) or (a1) of this section, and a
35 law-enforcement officer who qualifies as a witness, shall be entitled to receive an allowance or
36 reimbursement for travel expenses as follows:

37 (1) A witness whose residence is outside the county of appearance but within 75
38 miles of the place of appearance shall be entitled to receive mileage
39 reimbursement at the rate currently authorized for State employees, for each
40 mile necessarily traveled from his place of resident to the place of appearance
41 and return, each day. Reimbursements to witnesses acting on behalf of the
42 court or prosecutorial offices shall be paid in accordance with the rules
43 established by the Administrative Office of the Courts. Reimbursements to
44 witnesses provided under G.S. 7A-454 shall be in accordance with rules
45 established by the Office of Indigent Defense Services.

46 (2) A witness whose residence is outside the county of appearance and more than
47 75 miles from the place of appearance shall be entitled to receive mileage
48 reimbursement at the rate currently authorized State employees for one
49 round-trip from his place of residence to the place of appearance. A witness
50 required to appear more than one day shall be entitled to receive an allowance
51 or reimbursement for actual expenses incurred for lodging and meals not to

1 exceed the maximum currently authorized for State employees, in lieu of daily
2 mileage. ~~Reimbursements- Allowances or reimbursements~~ to witnesses acting
3 on behalf of the court or prosecutorial offices shall be paid in accordance with
4 the rules established by the Administrative Office of the Courts.
5 Reimbursements and travel allowances to witnesses provided under
6 G.S. 7A-454 shall be in accordance with rules established by the Office of
7 Indigent Defense Services.

8 (c) A witness who resides in a state other than North Carolina and who appears for the
9 purpose of testifying in a criminal action and proves his attendance may be compensated at the
10 rate allowed to State officers and employees by subdivisions (1) and (2) of G.S. 138-6(a) for one
11 round-trip from the witness's place of residence to the place of appearance, and five dollars
12 (\$5.00) for each day that the witness is required to travel and attend as a witness, upon order of
13 the court based upon a finding that the person was a necessary witness. If such a witness is
14 required to appear more than one day, the witness is also entitled to an allowance or
15 reimbursement for actual expenses incurred for lodging and meals, not to exceed the maximum
16 currently authorized for State employees. Reimbursements and travel allowances to witnesses
17 acting on behalf of the court or prosecutorial offices shall be paid in accordance with the rules
18 established by the Administrative Office of the Courts. Reimbursements to witnesses provided
19 under G.S. 7A-454 shall be in accordance with rules established by the Office of Indigent
20 Defense Services.

21"

22 **SECTION 8.** G.S. 7A-38.3D(m) reads as rewritten:

23 "(m) Dispute Resolution Fee. – A dispute resolution fee shall be assessed and paid to the
24 clerk in advance of mediation as set forth in G.S. 7A-38.7. By agreement, all or any portion of
25 the fee may be paid by a person other than the defendant. The fee may also be waived in part or
26 in its entirety pursuant to G.S. 7A-38.7."

27 **SECTION 9.** G.S. 7A-38.7(a) reads as rewritten:

28 "(a) In each criminal case filed in the General Court of Justice that is referred to a
29 community mediation center, a dispute resolution fee shall be assessed in the sum of sixty dollars
30 (\$60.00) per mediation of that criminal case, in accordance with subsection (c) of this section, to
31 support the services provided by the community mediation centers and the Mediation Network
32 of North Carolina. Prior to mediation, the court shall cause the mediation participants to be
33 informed that the dispute resolution fee shall be paid as part of any mediation of a criminal case.
34 The fee shall be paid to the clerk in advance of the mediation. Fees assessed under this section
35 shall be paid to the clerk of superior court in the county where the case was filed and remitted by
36 the clerk to the Mediation Network of North Carolina. The Mediation Network may retain up to
37 three dollars (\$3.00) of this amount as an allowance for its administrative expenses. The
38 Mediation Network must remit the remainder of this amount to the community mediation center
39 that mediated the case. The court may waive or reduce a fee assessed under this section only
40 upon entry of a written ~~order, supported by findings of fact and conclusions of law, order~~
41 ~~determining there is just cause to grant the waiver or reduction.~~ The court may, upon motion of
42 the district attorney, waive or reduce a fee assessed under this section as applied to an entire class
43 of criminal cases by administrative order or otherwise when the court finds that a program exists
44 in the judicial district that operates in compliance with G.S. 7A-38.3D and such fee prevents
45 access to a community mediation center."

46 **SECTION 10.** Section 1 of this act is effective when it becomes law and applies to
47 investigations and prosecutions occurring on or after that date. Section 2 of this act becomes
48 effective July 1, 2023, and applies to salary, reimbursement, and longevity payments incurred
49 and paid on or after that date. Section 3 of this act becomes effective July 1, 2023. Section 5 of
50 this act is effective when it becomes law and applies to records transmitted on or after that date.
51 Section 8 of this act is effective October 1, 2023, and applies to proceedings on or after that date.

- 1 Section 9 of this act is effective October 1, 2023, and applies to proceedings on or after that date.
- 2 Except as otherwise provided, this act is effective when it becomes law.