

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH30288-ND-158A

Short Title: Innocence Inquiry Commission Provisions. (Public)

Sponsors: Representative Pyrtle.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY LAWS RELATING TO THE NORTH CAROLINA INNOCENCE
3 INQUIRY COMMISSION.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Article 92 of Chapter 15A of the General Statutes reads as rewritten:

6 "Article 92.

7 "North Carolina Innocence Inquiry Commission.

8 ...

9 "§ 15A-1465. Director and other staff.

10 (a) The Commission shall employ a Director. The Director shall report to the Director of
11 the Administrative Office of the Courts, who shall consult with the Commission chair. The
12 Director shall be an attorney licensed to practice in North Carolina at the time of appointment
13 and at all times during service as Director. The Director shall assist the Commission in
14 developing rules and standards for cases accepted for review, coordinate investigation of cases
15 accepted for review, maintain records for all case investigations, prepare reports outlining
16 Commission investigations and recommendations to the trial court, and apply for and accept on
17 behalf of the Commission any funds that may become available from government grants, private
18 gifts, donations, or devises from any source. grants.

19 ...

20 "§ 15A-1466. Duties.

21 The Commission shall have the following duties and powers:

22 ...

23 (2) To conduct inquiries into claims of factual innocence, with priority to be given
24 to those cases innocence in which the convicted person is currently
25 incarcerated solely for the crime for which he or she claims factual innocence.

26 ...

27 (6) To apply for and accept any funds that may become available for the
28 Commission's work from government grants, private gifts, donations, or
29 devises from any source. grants.

30 "§ 15A-1467. Claims of innocence; waiver of convicted person's procedural safeguards and
31 privileges; formal inquiry; notification of the crime victim.

32 (a) A claim of factual innocence for any conviction may be referred to the Commission
33 by any court, a State or local agency, or a claimant's counsel. A claim of factual innocence for
34 convictions of homicide pursuant to Article 6 of Chapter 14 of the General Statutes, robbery
35 pursuant to Article 17 of Chapter 14 of the General Statutes, any offense requiring registration
36 pursuant to Article 27A of Chapter 14 of the General Statutes, and any Class A through E felony



1 may be made directly by the claimant. The Commission shall not consider a claim of factual
2 innocence if the convicted person is ~~deceased~~. deceased or no longer incarcerated for the crime
3 for which he or she claims factual innocence. A claimant who received notice pursuant to
4 subsection (c1) of this section and did not make a claim of factual innocence shall be barred from
5 investigation of a claim of factual innocence by the Commission absent a showing of good cause
6 and approval of the Commission Chair. The determination of whether to grant a formal inquiry
7 regarding any other claim of factual innocence is in the discretion of the Commission. The
8 Commission may informally screen and dismiss a case summarily at its discretion.

9 ...
10 **"§ 15A-1468. Commission proceedings.**

11 ...
12 (a2) The Innocence Inquiry Commission shall include, as part of its rules of operation, the
13 holding of a prehearing conference to be held at least ~~10-90~~ days prior to any proceedings of the
14 full ~~Commission~~. Commission, or at any time during the formal inquiry when the Commission
15 has developed credible evidence to support a claim. Only the following persons shall be notified
16 and authorized to attend the prehearing conference: the District Attorney, or the District
17 Attorney's designee, of the district where the claimant was convicted of the felony upon which
18 the claim of factual innocence is based; the claimant's counsel, if any; the Chair of the
19 Commission; the Executive Director of the Commission; and any Commission staff designated
20 by the Director. The District Attorney, or designee, shall be provided ~~(i) an opportunity to inspect~~
21 ~~any evidence~~ a complete copy of the investigation, including but not limited to any evidence or
22 testimony that may be presented to the Commission that has not previously been presented to
23 any judicial officer or body and (ii) any information that the District Attorney, or the District
24 Attorney's designee, deems relevant to the proceedings. Commission. At least ~~72 hours~~ 10 days
25 prior to any Commission proceedings, the District Attorney or designee is authorized to provide
26 the Commission with a written statement, which shall be part of the record. The Commission
27 shall have an ongoing duty to provide any newly discovered evidence or testimony. This duty
28 shall remain throughout the entire Commission proceeding and throughout any postcommission
29 three-judge panel proceeding ordered pursuant to G.S. 15A-1469. Evidence or testimony not
30 provided to the district attorney at least 10 days prior to the Commission hearing shall not be
31 admissible at the hearing, absent good cause shown as determined by the Commission Chair.

32 (b) The Director shall use all due diligence to notify the victim at least ~~30-90~~ days prior
33 to any proceedings of the full Commission held in regard to the victim's case. The Commission
34 shall notify the victim that the victim is permitted to attend proceedings otherwise closed to the
35 public, subject to any limitations imposed by this Article. If the victim plans to attend proceedings
36 otherwise closed to the public, the victim shall notify the Commission at least 10 days in advance
37 of the proceedings of the victim's intent to attend.

38 ...
39 (d) Evidence of criminal acts, professional misconduct, or other wrongdoing disclosed
40 through formal inquiry or Commission proceedings shall be referred to the appropriate authority.
41 Evidence favorable to the convicted person disclosed through formal inquiry or Commission
42 proceedings shall be disclosed to ~~the~~ each of the following:

- 43 (1) The District Attorney of the district where the claimant was convicted of the
44 felony upon which the claim of factual innocence is based, or the District
45 Attorney's designee.
46 (2) The convicted person and the person.
47 (3) The convicted person's counsel, if the convicted person has counsel.

48 ...
49 **"§ 15A-1469. Postcommission three-judge panel.**

50 ...

1 (a1) If the Commission concludes that there is credible evidence of prosecutorial
2 misconduct ~~in the case, by the current District Attorney of the district where the claimant was~~
3 convicted of the felony upon which the claim of factual innocence is based, the Chair of the
4 Commission may request pursuant to G.S. 7A-64 the ~~Attorney General~~ Director of the
5 Administrative Office of the Courts to appoint a special prosecutor to represent the State in lieu
6 of the district attorney of the district of conviction or the district attorney's designee. The request
7 for the special prosecutor shall be made within 20 days of the filing of the Commission's opinion
8 finding sufficient evidence of innocence to merit judicial review.

9 ~~Upon receipt of a request under this subsection to appoint a special prosecutor, the Attorney~~
10 ~~General may temporarily assign a district attorney, assistant district attorney, or other qualified~~
11 ~~attorney, to represent the State at the hearing before the three-judge panel. However, the Attorney~~
12 ~~General~~ Director of the Administrative Office of the Courts shall not appoint as special
13 prosecutor any attorney who prosecuted or assisted with the prosecution in the trial of the
14 convicted person, or is a prosecuting attorney in the district where the convicted person was tried.
15 person. The appointment shall be made no later than 20 days after the receipt of the request.

16 ...

17 (d) The three-judge panel shall conduct an evidentiary ~~hearing.~~ hearing in accordance
18 with the North Carolina Rules of Evidence. At the hearing, the court, and the defense and
19 prosecution through the court, may compel the testimony of any witness, including the convicted
20 person. All credible, verifiable evidence relevant to the case, even if considered by a jury or judge
21 in a prior proceeding, may be presented during the hearing. The convicted person may not assert
22 any privilege or prevent a witness from testifying. The convicted person has a right to be present
23 at the evidentiary hearing and to be represented by counsel. A waiver of the right to be present
24 shall be in writing. At least 10 days prior to the evidentiary hearing, the district attorney, defense
25 counsel, and the Commission must provide to the other parties any evidence or testimony each
26 intends to introduce at the evidentiary hearing. Any evidence or testimony not timely provided
27 to the other parties shall not be admissible at the hearing, absent good cause shown as determined
28 by the three-judge panel.

29"

30 **SECTION 2.** This act is effective when it becomes law and applies to proceedings
31 held on or after that date.