

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 116
Committee Substitute Favorable 3/1/23
Committee Substitute #2 Favorable 4/25/23
PROPOSED COMMITTEE SUBSTITUTE H116-PCS40476-SA-22

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-69 reads as rewritten:

31 "§ 7A-69. ~~Investigatorial assistants.~~District attorney investigators.

32 ~~The Each district attorney in prosecutorial districts 1, 3B, 4, 5, 7, 8, 11, 12, 13, 14, 15A, 15B,~~
33 ~~16A, 18, 19B, 20A, 20B, 21, 22A, 22B, 24, 25, 26, 27A, 27B, 28, 29A, 29B, and 30 is entitled~~
34 ~~to at least one investigatorial assistant, and the district attorney in prosecutorial district 10 is~~



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1 ~~entitled to two investigatorial assistants, district attorney investigator~~ to be appointed by the
2 district attorney and to serve at ~~his~~ the district attorney's pleasure.

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

8 **SECTION 3.** G.S. 7A-413 reads as rewritten:

9 "**§ 7A-413. Powers of Conference.**

10 (a) The Conference may:

- 11 (1) Cooperate with citizens and other public and private agencies to promote the
12 effective administration of criminal justice.
- 13 (2) Assist prosecutors in the effective prosecution and trial of criminal offenses,
14 and develop an advisory trial manual.
- 15 (3) Develop advisory manuals to assist prosecutors in the organization and
16 administration of their offices, case management, calendaring, case tracking,
17 filing, and office procedures.
- 18 (4) Cooperate with the Administrative Office of the Courts and the School of
19 Government at the University of North Carolina at Chapel Hill concerning
20 education and training programs for prosecutors and staff.
- 21 (5) Provide legal counsel and advice to the district attorneys and their staff related
22 to the performance of their duties through attorneys employed by the
23 Conference.

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

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

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

35 **SECTION 4.** G.S. 132-1.4(g) reads as rewritten:

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

40 **SECTION 5.** G.S. 7A-414 reads as rewritten:

41 "**§ 7A-414. Executive Secretary; ~~Executive Director~~; clerical support.**

42 The Conference ~~may~~ shall employ an ~~executive secretary~~ Executive Director and any
43 necessary supporting staff to assist it in carrying out its duties. The Executive Director shall be
44 an attorney licensed and eligible to practice in the courts of this State at the time of appointment
45 and at all times during service as the Executive Director."

46 **SECTION 6.** G.S. 7A-38.3D(m) reads as rewritten:

47 "(m) Dispute Resolution Fee. – A dispute resolution fee shall be assessed and paid to the
48 clerk in advance of mediation as set forth in G.S. 7A-38.7. By agreement, all or any portion of
49 the fee may be paid by a person other than the defendant. If the dispute resolution fee is paid by
50 an outside source other than the parties to the action, the fees may be paid directly to a community
51 mediation center. The fee may also be waived in part or in its entirety pursuant to G.S. 7A-38.7."

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

2 "(a) In each criminal case filed in the General Court of Justice that is referred to a
3 community mediation center, a dispute resolution fee shall be assessed in the sum of sixty dollars
4 (\$60.00) per mediation of that criminal case, in accordance with subsection (c) of this section, to
5 support the services provided by the community mediation centers and the Mediation Network
6 of North Carolina. Prior to mediation, the court shall cause the mediation participants to be
7 informed that the dispute resolution fee shall be paid as part of any mediation of a criminal case.
8 The fee shall be paid to the clerk in advance of the mediation. Fees assessed under this section
9 shall be paid to the clerk of superior court in the county where the case was filed and remitted by
10 the clerk to the Mediation Network of North Carolina. The Mediation Network may retain up to
11 three dollars (\$3.00) of this amount as an allowance for its administrative expenses. The
12 Mediation Network must remit the remainder of this amount to the community mediation center
13 that mediated the case. If the dispute resolution fee is paid from an outside source other than the
14 parties to the action, the fee may be paid directly to the community mediation center providing
15 services. The court may waive or reduce a fee assessed under this section only upon entry of a
16 written order, supported by findings of fact and conclusions of law, order determining there is
17 just cause to grant the waiver or reduction. The court may, upon motion of the district attorney
18 and affirmative consent of a community mediation center providing mediation services, waive
19 or reduce a fee assessed under this section as applied to an entire class of criminal cases by
20 administrative order or otherwise when the court finds that a program exists in the judicial district
21 that operates in compliance with G.S. 7A-38.3D and such fee prevents access to a community
22 mediation center. A community mediation center may withdraw their consent to waive the fees
23 assessed for an entire class of criminal cases by providing written notice to the district attorney,
24 who shall file a motion to withdraw with the court."

25 **SECTION 8.** Section 1 of this act is effective when it becomes law and applies to
26 investigations and prosecutions occurring on or after that date. Section 2 of this act becomes
27 effective July 1, 2023. Section 4 of this act is effective when it becomes law and applies to records
28 transmitted on or after that date. Sections 6 and 7 of this act are effective October 1, 2023, and
29 apply to proceedings on or after that date. The remainder of this act is effective when it becomes
30 law.