

2011-2012

**HOUSE
JUDICIARY**

MINUTES

HOUSE COMMITTEE ON JUDICIARY

[illegible]

[illegible]

HOUSE COMMITTEE ON JUDICIARY
2011-1012

<u>MEMBER</u>		<u>ASSISTANT</u>	<u>PHONE</u>	<u>OFFICE</u>	<u>SEAT</u>
DAUGHTRY, Leo	Chair	Margaret Dockery	733-5605	2207	4
BURR, Justin	Vice-Chair	Dina Long	733-5908	538	40
GUICE, David	Vice-Chair	Kerry Guice	715-4466	528	42
MILLS, Grey	Vice-Chair	Wanda Benson	733-5741	2221	50
MOORE, Tim	Vice-Chair	Nancy Garriss	733-4838	1326	8
RANDLEMAN, Shirley	Vice-Chair	James White	733-5935	531	43
RHYNE, Johnathan	Vice-Chair	Susan Beaupied	733-5782	2208	19
ALEXANDER, Martha		Ann Faust	733-5807	1213	34
BLACKWELL, Hugh		Dixie Rhiem	733-5805	541	90
BLUST, John		Betty Childress	733-5781	1229	25
BORDSEN, Alice		Sylvia Nygard	733-5820	602	81
BROWN, Rayne		Lynn Taylor	715-0873	638	73
BRYANT, Angela		Karon Hardy	733-5878	542	101
CLEVELAND, George		Pamela Ahlin	715-6707	417	30
CRAWFORD, Jim		Linda Winstead	733-5824	1321	24
DIXON, Jimmy		Dan McPhail	715-3021	1002	67
FAIRCLOTH, John		Becky Bauerband	733-5877	306A3	75
FAISON, Bill		Lavada Vitalis	715-3019	405	84
GLAZIER, Rick		Carin Savel	733-5601	1021	92
HACKNEY, Joe		Emily Reynolds	733-0057	612	69
HAIRE, Phil		Teresa Lopez	715-3005	609	58

HALL, Larry	Lisa Ray	733-5872	1015	107
HARRISON, Pricey	Sue Osborne	733-5771	1218	118
HILTON, Mark	Carol Wilson	733-5988	1227	17
HOWARD, Julia	Renee Weaver	733-5904	1106	2
INGLE, Dan	Deborah Holder	733-5905	530	62
INSKO, Verla	Gina Insko	733-7208	603	70
JACKSON, Darren	Angela McMillan	733-5974	1019	106
JONES, Bert	Brenda Olls	733-5779	306A1	100
JORDAN, Jonathan	Carlton Huffman	733-7727	418C	79
KILLIAN, Ric	Jan Copeland	733-5886	2219	39
MARTIN, Grier	Sylvia Hammons	733-5758	1219	104
McGRADY, Chuck	Ed Stiles	733-5956	418A	76
MICHAUX, Mickey	Anita Wilder	715-2528	1220	11
MOBLEY, Annie	Veronica Green	733-5780	501	108
PRIDGEN, Gaston	Beverly Slagle	733-5821	2223	89
ROSS, Deborah	Margie Penven	733-5773	1023	96
STAM, Paul	Christin Danchi	733-2962	2301	54
STEVENS, Sarah	Julie Garrison	715-1883	416A	56
WEISS, Jennifer	Cindy Douglas	715-3010	1109	103

NORTH CAROLINA GENERAL ASSEMBLY

JUDICIARY COMMITTEE 2011-2012 SESSION



Rep. Daughtry
Chair



Rep. Burr
Vice-Chair



Rep. Guice
Vice-Chair



Rep. Mills
Vice-Chair



Rep. Moore
Vice-Chair



Rep. Randleman
Vice chair



Rep. Rhyne
Vice chair



Rep. Alexander



Rep. Blackwell



Rep. Blust



Rep. Bordsen



Rep. Brown



Rep. Bryant



Rep. Cleveland



Rep. Crawford



Rep. Dixon



Rep. Faircloth



Rep. Faison



Rep. Glazier



Rep. Hackney



Rep. Haire



Rep. Hall



Rep. Harrison



Rep. Hilton



Rep. Howard

NORTH CAROLINA GENERAL ASSEMBLY

**JUDICIARY COMMITTEE
2011-2012 SESSION**



Rep. Ingle



Rep. Insko



Rep. Jackson



Rep. Jones



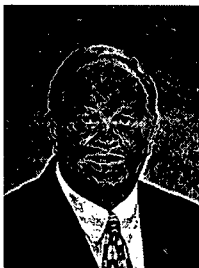
Rep. Jordan



Rep. Killian



Rep. Martin



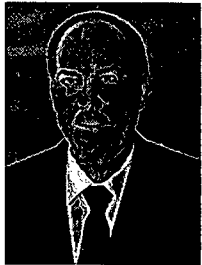
Rep. McGrady



Rep. Michaux



Rep. Mobley



Rep. Pridgen



Rep. Ross



Rep. Stam



Rep. Stevens



Rep. Weiss

HOUSE JUDICIARY COMMITTEE

MINUTES

Thursday, January 27, 2011

10:00 am

The House Judiciary Committee met on Thursday, January 27, 2011 at 10:00 am in Room 544 of the Legislative Office Building. The Chair, Representative Leo Daughtry, called the meeting to order and the following members were present: Representatives M. Alexander, Blackwell, Blust, Bordsen, Bradley, R. Brown, Bryant, Burr, Crawford, Dixon, Faircloth, Faison, Glazier, Graham, Guice, Hackney, Haire, Hall, Harrison, Hilton, Howard, Ingle, Jackson, Jones, Jordan, Killian, Martin, McGrady, Michaux, Mills, Mobley, T. Moore, Pridgen, Randleman, Rhyne, Ross, Stam, Stevens and Weiss.

HB 2

Representatives Paul Stam, Jeff Barnhart, Mark Hollo and Tom Murry were recognized to present House Bill 2, AN ACT TO PROTECT THE FREEDOM TO CHOOSE HEALTH CARE AND HEALTH INSURANCE.

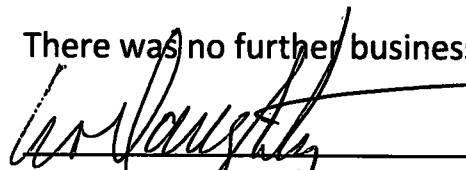
Representative Stam offered an amendment (attached) and moved that it be adopted. The motion passed.

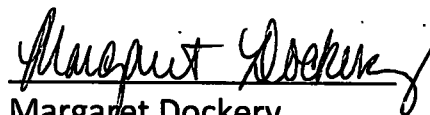
Representative Sarah Stevens offered a perfecting amendment (attached) and moved that it be adopted. The motion passed.

Representative Jennifer Weiss offered an amendment (attached) and moved that it be adopted. The motion passed.

Representative Paul Stam moved the bill as amended be given a favorable report, unfavorable as to original bill. A roll call vote (attached) was taken and the vote was 23 Yes, 16 No. The motion passed.

There was no further business and the meeting adjourned.


Representative Leo Daughtry
Chair


Margaret Dockery
Committee Clerk

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2011-2012 SESSION**

You are hereby notified that the Committee on **Judiciary** will meet as follows:

DAY & DATE: Thursday, January 27, 2011

TIME: 15 minutes after session adjourns

LOCATION: 544 LOB

COMMENTS:

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 2	Protect Health Care Freedom	Representative Stam Representative Barnhart Representative Hollo Representative Murry

Respectfully,
Representative Daughtry, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 17 o'clock on **January 26, 2011**.

- ☐ Principal Clerk
☐ Reading Clerk – House Chamber

Margaret Dockery (Committee Assistant)

The following bills will be considered:

2011 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Daughtry (Chair) for the Committee on JUDICIARY.

☐ Committee Substitute for

HB 2 A BILL TO BE ENTITLED AN ACT TO PROTECT THE FREEDOM TO CHOOSE HEALTH CARE AND HEALTH INSURANCE.

☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No. _____) is placed on the Calendar of _____. (The original bill resolution No. _____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. _____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. _____) is placed on the Unfavorable Calendar.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Bill _____

House Bill 2
_____ ASQ-8 [v.6]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 1 of 1

Comm. Sub. [NO]
Amends Title [NO]

Date _____ January 27, 2011

Representative Stam

1 moves to amend the bill on page 1, lines 19-20, by inserting between the lines the following:
2 "As used in this subsection, health care services or medical treatments do not include drug
3 testing, drug screening, or communicable disease controls. This subsection does not apply to
4 persons in custody of the Department of Corrections or a local confinement facility or who
5 have not completed all requirements imposed as the result of a sentence in a criminal
6 conviction, including, but not limited to, any type of probation or post-release supervision.";
7

8 And on page 1, line 35, by inserting the following after line 35:

9 "(5) Any law regarding the screening of newborns for metabolic or other
10 hereditary and congenital disorders.

11 (6) Any law regarding health care services or medical treatments ordered under
12 the Workers' Compensation Act.

13 (7) Any law regarding health care services or medical treatment regarding
14 involuntary commitments for mental illness or substance abuse."
15
16

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



* U N K N O W N - A S Q - 8 - V - 6 *

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 2

DATE 1/

S. B. No. _____

Amendment No. _____

COMMITTEE SUBSTITUTE _____

(to be filled in by
Principal Clerk)

Rep.)

Sen.)

Stevens

amendment 1

1 moves to amend the bill on page 1, line 15

2 () WHICH CHANGES THE TITLE

3 by adding the following:

4 _____

5 "(8) Any law relating to the taking

6 of DNA or any bodily fluid

7 upon arrest."

9 and on page 1, line 6,

10 by deleting the word "probation" and

11 substituting the words "probation, parole,"

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

SIGNED

Carol Ste

ADOPTED _____ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 2

DATE 1-27-11

S. B. No. _____

Amendment No. _____

COMMITTEE SUBSTITUTE _____

(to be filled in by
Principal Clerk)

Rep.)

Sen.)

Weiss

1 moves to amend the bill on page 1, line 35

2 () WHICH CHANGES THE TITLE

3 by inserting the following after line 35:

4 " () Any law requiring the provision of
5 health insurance for employees as a
6 condition of receiving State economic
7 incentives. "

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

SIGNED

Jennifer Weiss

ADOPTED _____ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA H.B. FILED
SESSION 2011

H

0002 JAN 26 = D

HOUSE DRH30001-MG-8 (11/30) HOUSE PRINCIPAL CLERK

Short Title: Protect Health Care Freedom. (Public)

Sponsors: Representatives Stam, Barnhart, Hollo, and Murry (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROTECT THE FREEDOM TO CHOOSE HEALTH CARE AND HEALTH
3 INSURANCE.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Chapter 58 of the General Statutes is amended by adding a new
6 Article to read:

7 "Article 49A.

8 "North Carolina Health Care Protection Act.

9 "§ 58-49A-1. Constraints on health care freedom prohibited.

10 (a) A law or rule shall not do any of the following:

- 11 (1) Compel a person to (i) provide for health care services or medical treatment
12 for that person or (ii) contract with, or enroll in, a public or private health
13 care system or health insurance plan.
14 (2) Interfere with a person's right to pay directly for lawful health care services
15 or medical treatment to preserve or enhance that person's life or health.
16 (3) Impose a penalty, tax, fee, or fine on a person for (i) providing for, or failing
17 to provide for, health care services or medical treatment for that person or
18 (ii) contracting with, or enrolling in, or failing to contract with or enroll in, a
19 public or private health care system or health insurance plan.

20 (b) This section shall not be construed to expand, limit, or otherwise modify any of the
21 following:

- 22 (1) The common-law doctrine of necessities that a spouse is liable for the
23 necessary expenses incurred by the other spouse, including expenses
24 incurred by medical necessity, or any other duty a person owes to a spouse
25 or dependent with respect to the provision of health care services or medical
26 treatment.
27 (2) Any law regarding which health care services or medical treatments are
28 lawful within this State or who is authorized to provide health care services
29 or medical treatments within this State.
30 (3) Any right or duty of a health care agent with respect to the principal pursuant
31 to a health care power of attorney executed in accordance with Article 3 of
32 Chapter 32A of the General Statutes.
33 (4) Any law regarding the right or duty of a parent or guardian in the
34 determination or provision of health care services or medical treatment for a
35 minor.



1 (c) An individual aggrieved by a violation of this section has standing to bring a private
2 right of action for the violation. In addition, the Attorney General shall have the duty and
3 standing to bring or defend a State or federal action or proceeding on behalf of the residents of
4 this State to enforce the provisions of this section."

5 **SECTION 2.** This act is effective when it becomes law.



HOUSE BILL 2: Protect Health Care Freedom

2011-2012 General Assembly

Committee:	House Judiciary	Date:	January 26, 2011
Introduced by:	Representatives Stam, Barnhart, Hollow and Murry (Primary Sponsors).	Prepared by:	Amy Jo Johnson Staff Attorney
Analysis of:	First Edition		

SUMMARY: *House Bill 2 would: (i) prohibit any law or rule from requiring a person to provide for health care services or medical treatment for themselves or requiring participation in a public or private health care system or health insurance plan; (ii) create a private right of action for an individual aggrieved by a violation of this law; and (iii) require the Attorney General to bring or defend an action to enforce the provisions of the bill.*

BILL ANALYSIS: House Bill 2 prohibits any law or rule from requiring a person to provide for health care services or medical treatment for that person. House Bill 2 also prohibits any law or rule from requiring a person to participate, contract with, or enroll in a public or private insurance plan or health care system. House Bill 2 does not expand, limit, or otherwise modify the following:

- The common-law doctrine of necessities, which creates a liability in a spouse for necessary expenses incurred by the other spouse or duties a person owes to their spouse or minor dependent with respect to providing health care services or medical treatment.
- Any laws currently in place regarding what health care services or medical treatments are lawful in North Carolina or who is authorized within this State to provide such health care services or medical treatment.
- Any right or duty of a healthcare agent in accordance with Article 3 of Chapter 32A of the General Statutes.
- Any law regarding the right or duty of a parent or guardian in the determination of health care services or medical treatment for a minor.

This bill also creates a duty on the part of the Attorney General to bring or defend a suit in State or federal court to enforce these provisions. Lastly, the bill grants standing to an individual aggrieved by a violation to bring a private right of action for that violation.

EFFECTIVE DATE: This bill would be effective when it becomes law.

SMTK-J(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA



FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE:

TO: Rep. Paul Stam

FROM: Lee Dixon
Fiscal Research Division

RE: Protect Health Care Freedom

FISCAL IMPACT					
	Yes (.)	No ()	No Estimate Available (x)		
	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>	<u>FY 2014-15</u>	<u>FY 2015-16</u>
REVENUES:					
General Fund					
Insurance Regulatory Fund		Indeterminate			
EXPENDITURES:					
Health & Human Services					
Attorney General					
Insurance					
POSITIONS (cumulative):					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Health and Human Services; Department of Insurance; Attorney General's Office					
EFFECTIVE DATE:					

BILL SUMMARY:

The draft legislation proposes to prohibit the requirement that an individual must obtain and maintain health insurance coverage as set forth in Public Law (P.L.) 111-148; and requires North Carolina's Attorney General to defend any person that chooses to not purchase health insurance from any resulting litigation that may result.

ASSUMPTIONS AND METHODOLOGY:

Attorney General's Office

Immediately after the Patient Protection and Affordable Care Act was signed into law on March 23, 2010, 13 Attorneys General filed a lawsuit against the U.S. Department of Health and Human Services, U.S. Department of Treasury and the U.S. Department of Labor alleging the Health Care Reform law signed by the President was unconstitutional.

The amended complaint currently features 26 state plaintiffs; additionally, the National Federation of Independent Business (NFIB) joined the lawsuit as a co-plaintiff on behalf of its members nationwide.

The lawsuit, filed in the federal court's Northern District of Florida on March 23, alleges the new law infringes upon the constitutional rights of Floridians and residents of the other states by mandating all citizens and legal residents have qualifying health care coverage or pay a tax penalty. By imposing such a mandate, the law exceeds the powers of the United States under Article I of the Constitution. Additionally, the tax penalty required under the law constitutes an unlawful direct tax in violation of Article I, sections 2 and 9 of the Constitution.

There are two mechanisms by which North Carolina can participate in this suit: the first would be to request the FL Attorney General to file a motion requesting the addition of North Carolina to the suit, and the second would be for North Carolina to file an independent motion to intervene in the lawsuit. Florida is not requiring any cost-sharing from other states involved in this suit, but does allow for optional contributions. To date, Florida has capped their outside counsel expenses at \$50,000, and has capped any other state's optional contribution at \$5,000. Should the counsel expenses require an increased cap, the other states may contribute more, but there is no mandatory contribution. The petitioners have set up a website: <http://www.healthcarelawsuit.us/> for more information on their pursuit.

As noted above the proposed legislation states that the Attorney General shall have the duty to bring or defend a state or federal action or proceeding on behalf of the individuals of this state to enforce the provisions of this section which opts the state out of federally mandated insurance.

Fiscal impact of representation in litigation or administrative proceeding depends on factors such as the number of named parties, the legal complexity of the claim, the location of the action or proceeding, the number of expert reports required, and the duration of the proceeding. The provision as explained contemplates representation of either individual uninsured residents of

North Carolina (approximately 1.6 million people) or the state of North Carolina, or its agents, in an unspecified legal forum, as defense counsel or plaintiffs' counsel.

The North Carolina Attorney General's office offers that individual representation would require significant attorney resources. For example, in a hypothetical situation where half of the uninsured residents requested representation in the event of an IRS tax claim effective 2014, with an estimate of 10 hours of attorney time per case, the total of 800,000 clients could result in 8 million hours of attorney staff time. DOJ attorneys work an average of 2,000 hours per year. However, the Fiscal Research Division (FRD) believes this to be an excessive estimate of the number of individuals requesting representation. FRD believes that the litigation would quickly become a class action suit.

State representation of an agency or class of state residents could result in less attorney hours, and thus less fiscal impact, but could increase in complexity, scope and duration, especially when both parties are units of government. For example, litigation between the state of North Carolina and other southeastern states regarding the Low-Level Radioactive Waste Compact recently concluded after almost 10 years of litigation. The result favored North Carolina in that it assessed no penalties for withdrawing from the compact, but required thousands of hours of in-house DOJ attorney time and \$344,730 in expert witness and legal fees before the US Supreme Court.

North Carolina Department of Insurance

Under current law, G.S. 58-2-40, the North Carolina Department of insurance (DOI) has a duty to "Administer and enforce the provisions of the federal Patient Protection and Affordable Care Act (Public Law 111-148) and the provisions of the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152) to the extent that the provisions apply to persons subject to the Commissioner's jurisdiction and to the extent that the provisions are not under the exclusive jurisdiction of any federal agency." It is assumed for the purposes of this fiscal analysis that (DOI) shall operate the Health Benefit Exchanges established under P.L.111-148, as the proposed legislation does not appear to negate this statutory duty.

Impact on NC DOI Operating Cost

The draft legislation proposes to prohibit the requirement that an individual must obtain and maintain health insurance coverage as set forth in Public Law (P.L.) 111-148. Section 1501 of P.L. 111-148, amends Sec. 5000A, Subtitle D of the Internal Revenue Code to require individuals maintain "minimum essential coverage". If a taxpayer fails to meet this requirement, a penalty shall be imposed. Exceptions to this requirement include religious exemptions; individuals not lawfully present, incarcerated persons, individuals who cannot afford coverage, individuals with incomes below the filing thresholds, and members of federally-recognized Indian tribes.

Beginning in January 2014, Section 1411 of the Act requires that the Health Benefit Exchanges grant a certification to individuals attesting that they are exempt from the individual responsibility requirements or from the penalty as set forth in the Internal Revenue Code, Subtitle D Sec. 5000A. The Exchange must transfer to the U.S. Secretary of the Treasury on a monthly basis

1. a list, including the names and taxpayer identification numbers, of individuals issued a certification and
2. the names and taxpayer identification numbers of each individual who ceases coverage under a qualified health plan and the effective date of the cessation

In addition, the Exchange must provide to each employer in the State the names of employees who ceased coverage and the effective date of that cessation. FRD does not have data on the potential cost to NC DOI to meet the requirements set forth in Sec. 1411.

However, it is assumed for the purposes of this fiscal analysis that the under the proposed bill NC DOI would remain subject to Sec. 1411 of the Act and, therefore, would have to submit the required information to the U.S. Secretary of the Treasury. Fiscal Research does not yet have an estimate of the cost DOI would incur beginning in FY 2013-14 to comply with the federal requirement. However, it should be noted that, in accordance with G.S. 58-6-25, net appropriations from the General Fund for costs incurred for DOI operations are reimbursed by the Insurance Regulatory Fund. Any required increase in net General Fund appropriations for DOI to comply with Sec. 1411 would be offset by an increase in the reimbursement from the Insurance Regulatory Fund. As such the increased cost would have no net effect on the General Fund.

Impact on NC Insurance Regulatory Fund

As set forth in G.S. 58-6-25, an annual insurance regulatory charge is levied on each insurance company collecting premiums in the State. The amount of the levy is a percentage, established by the General Assembly, of the company's premium tax liability. All proceeds from the levy are deposited into the Insurance Regulatory Fund.

Projection of Impact of Individual Mandate on North Carolina 2014 Premium Taxes		
		Source
NC Population Projection—2014	9,878,000	1
Pct. of NC Population 65 or under—2014	13.5%	2
NC Non-Elderly Population—2014	8,546,000	
Pct. Uninsured—without PPACA	18.6%	3
Pct. Uninsured—with PPACA and Mandate for insurance	8.3%	3
Pct. Uninsured—with PPACA, but without Mandate for insurance	14.9%	3
Number of Uninsured—without PPACA	1,590,000	
Remaining Uninsured with PPACA and Mandate for insurance	709,000	

Remaining Uninsured with PPACA, without Mandate	1,273,000	
Number of newly insured as a result of Mandate for insurance	564,000	4
Average Annual Premium—Individual Market Single Coverage	\$6,000	5
NC Insurance Premium Tax Rate	1.9%	
Estimated 2014 Premium Taxes Resulting from Mandate for Insurance	\$64,296,000	
<ol style="list-style-type: none"> 1. US Census Bureau. Table 6: Total Population for regions, divisions, and states: 2000 to 2030 2. US Census Bureau. Table 5: Population under age 18 and 65 and older: 2000, 2010, and 2030 3. National Estimates: Urban Institute 4. Estimate may be high as this may include some individuals who enroll in Medicaid or have coverage through self-insured employer 5. Based on 2007 average annual health insurance premium of \$3,080 for single coverage in the individual market, trended at 10% annually. $1,273,000 - 709,000 = 564,000 \times \$6,000 \times 0.019 = \$64,296,000$		

An estimated 1.6 million North Carolina residents ages 0-64 did not have health care coverage in 2009.¹ Of this 1.6 million, it's anticipated that approximately 880,000 of these residents would be purchase health insurance or be eligible for Medicaid under the P.L. 111-148. It's anticipated that 564,000 would purchase insurance as a result of the Mandate for insurance in PPACA. The additional premiums collected by insurers for this group would be subject to the insurance regulatory charge, potentially increasing annual revenue to the Insurance Regulatory Fund. Based on data from the Department of Insurance the projected impact on revenue to the Insurance Regulatory Fund through premium taxes remitted to the General Fund is approximately \$64,296,000.

SOURCES OF DATA: North Carolina Department of Insurance, North Carolina Attorney General, and the North Carolina Institute of Medicine

TECHNICAL CONSIDERATIONS: None

¹ Estimates provided by the North Carolina Institute of Medicine and the University of North Carolina at Chapel Hill

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H

D

HOUSE BILL 2
PROPOSED COMMITTEE SUBSTITUTE H2-PCS30047-RG-1

Short Title: Protect Health Care Freedom.

(Public)

Sponsors:

Referred to:

January 27, 2011

A BILL TO BE ENTITLED
AN ACT TO PROTECT THE FREEDOM TO CHOOSE HEALTH CARE AND HEALTH
INSURANCE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 58 of the General Statutes is amended by adding a new
Article to read:

"Article 49A.

"North Carolina Health Care Protection Act.

"§ 58-49A-1. Constraints on health care freedom prohibited.

(a) A law or rule shall not do any of the following:

- (1) Compel a person to (i) provide for health care services or medical treatment for that person or (ii) contract with, or enroll in, a public or private health care system or health insurance plan.
- (2) Interfere with a person's right to pay directly for lawful health care services or medical treatment to preserve or enhance that person's life or health.
- (3) Impose a penalty, tax, fee, or fine on a person for (i) providing for, or failing to provide for, health care services or medical treatment for that person or (ii) contracting with, or enrolling in, or failing to contract with or enroll in, a public or private health care system or health insurance plan.

As used in this subsection, health care services or medical treatments do not include drug testing, drug screening, or communicable disease controls. This subsection does not apply to persons in custody of the Department of Correction or a local confinement facility or who have not completed all requirements imposed as the result of a sentence in a criminal conviction, including, but not limited to, any type of probation, parole, or post-release supervision.

(b) This section shall not be construed to expand, limit, or otherwise modify any of the following:

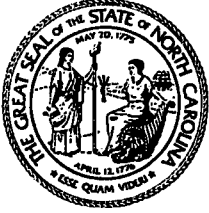
- (1) The common-law doctrine of necessities that a spouse is liable for the necessary expenses incurred by the other spouse, including expenses incurred by medical necessity, or any other duty a person owes to a spouse or dependent with respect to the provision of health care services or medical treatment.
- (2) Any law regarding which health care services or medical treatments are lawful within this State or who is authorized to provide health care services or medical treatments within this State.



* H 2 - P C S 3 0 0 4 7 - R G - 1 *

- 1 (3) Any right or duty of a health care agent with respect to the principal pursuant
2 to a health care power of attorney executed in accordance with Article 3 of
3 Chapter 32A of the General Statutes.
4 (4) Any law regarding the right or duty of a parent or guardian in the
5 determination or provision of health care services or medical treatment for a
6 minor.
7 (5) Any law regarding the screening of newborns for metabolic or other
8 hereditary and congenital disorders.
9 (6) Any law regarding health care services or medical treatments ordered under
10 the Workers' Compensation Act.
11 (7) Any law regarding health care services or medical treatment regarding
12 involuntary commitments for mental illness or substance abuse.
13 (8) Any law relating to the taking of DNA or any bodily fluid upon arrest.
14 (9) Any law requiring the provision of health insurance for employees as a
15 condition of receiving State economic incentives.
16 (c) An individual aggrieved by a violation of this section has standing to bring a private
17 right of action for the violation. In addition, the Attorney General shall have the duty and
18 standing to bring or defend a State or federal action or proceeding on behalf of the residents of
19 this State to enforce the provisions of this section."

20 **SECTION 2.** This act is effective when it becomes law.



2011-2012 General Assembly

Committee: House Judiciary
Introduced by: Representative Stam
Analysis of: H2-ASQ-8

Date: January 27, 2011
Prepared by:
Shawn Parker, Staff Attorney

SUMMARY: *Amendment ASQ-8 excludes drug testing/screening and communicable disease controls from being deemed health care services or medical treatments. The amendment provides the bill does not apply to persons incarcerated in prison, a local jail, or to persons under probation or post-release supervision. The amendment adds to the list of laws not expanded, limited, or modified by the act to include laws regarding newborn screening, workers' compensation, or services and treatments provided in mental health facilities.*

AMENDMENT ANALYSIS:

House Bill 2 prohibits any law or rule from requiring a person to receive undesired health care services or medical treatments.

The amendment provides that solely for the purposes of this Article, current quarantine/isolation authority used to prevent the spread of infectious disease, procedures related to the immunizations of minors or certain direct care workers and other communicable disease controls are not health care services or medical treatments.

The amendment further provides that drug screening or testing currently required as a condition of employment, or to obtain certain social benefits and privileges would not be considered health care services or medical treatments.

The amendment excludes from the Article persons in the custody of the Department of Corrections or local confinement facilities or who have not completed all requirements imposed as result of a criminal conviction.

Finally the amendment expands the list of laws not affected by the Act to include laws regarding newborn screenings, workers' compensation, and involuntary commitments.

1.27.11

ROLL CALL VOTE

23 16 = 39 (TOTAL)
YES NO

HB# 2
SB#

HOUSE STANDING COMMITTEE ON Judiciary

House Subcommittee on

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Daughtry, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Jones
<input type="checkbox"/>	<input checked="" type="checkbox"/>	M. Alexander	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Jordan
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Blackwell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Killian
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Blust	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Martin
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Bordsen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	McGrady
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Bradley	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Michaux
<input checked="" type="checkbox"/>	<input type="checkbox"/>	R. Brown	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Mills
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Bryant	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Mobley
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Burr	<input checked="" type="checkbox"/>	<input type="checkbox"/>	T. Moore
<input type="checkbox"/>	<input type="checkbox"/>	Crawford	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Prigden
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Dixon	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Randleman
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Faircloth	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Rhyne
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Faison	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Ross
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Glazier	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Stam
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Graham	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Stevens
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Guice	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Weiss
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Hackney	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Haire	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Hall	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Harrison	<input type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Hilton	<input type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Howard			
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Ingle			
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Jackson			

16 No
23 Yes

VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Mary Beth	AARP
Bill Wilson	AARP
Chris Fitzsimon	NC Policy Watch
Philip R. Isley	NC A J
Marge Freeman	NC AF
W. Graham Perry	
Joanne Stevens	Stevens lobby
Baige Johnson	Planned Parenthood of Central NC
Melissa Reed	Planned Parenthood Health Systems
Paula A. Wolf	March of Dimes NC NOW
Dan Conrad	NCCN

VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Elizabeth Biser	Brooks Pierce
Jefferson Moore	NC Legislature - Int'l
Heather Densmore	Mercer
Derek Gullm	Ward
Dana Fentor	City of Charlotte
Alex Miller	KLG
Kristin Parks	DRNC
Annaliese Delp	DRNC
Erica Nelson	NC CCP
Allison Fowler	NC Grange
Chuck Stone	SEANC

VISITOR REGISTRATION SHEET

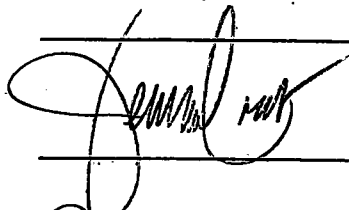
Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

	JD, AL, PA
Jerry Dentry	NC Orange
Car Bender	NC Sierra Club
Will Morgan	NC Sierra Club
DAN CRAWFORD	NCLCV
John P. [Signature]	NCRAN
Hubert Tison	NCTA
Lyndee [Signature]	NMRS

VISITOR REGISTRATION SHEET

Name of Committee

Date

1-28-11

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Laura DeVivo	WCSR
John Ardulla	MF&S
Susan Valauri	Nationwide
Kristen Laster	Fetzer Strategic
Anna Lockhart	NCBWWA
Tim KENT	NC Beer & Wine Wholesalers
Rebecca Fackey	NCASTA
Mike M. Joffe	LT. Governor's Office
Rose Williams	NC DOI
Sarah Sands	WM
Steve McAuliffe	Missin Hospital

VISITOR REGISTRATION SHEET

Name of Committee

Date

1-28-11

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Rev. MARK CREECH	CAL
Keith Gayha	CCC
LAY BAKSOY	NASW-NC
John	BBBSNC
Wright	BBBSNC
Amy Whited	NCHS
Chp Binger	NCHS
Allison Waller	Charlotte Chamber
McLanell	NCHS
Phil Vink	Duke Univ
Mark Fleming	BBBSNC
Sara Riggins	NCFPC

VISITOR REGISTRATION SHEET

Name of Committee

Date

1-28-11

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Bernard Harrell	Citizen.
[Signature]	Misc
JZ Hobbs	HANC
[Signature]	[Signature]
Kris Morton	HHS
Paul Pully	NOA
Peyton [Signature]	S
Joel Maguid	GPH - [Signature]
Julia Adams	The Arc of KC
Sarah Preston	ACLU-NC
Gregg Thorne	NRFB

VISITOR REGISTRATION SHEET

Name of Committee

Date _____

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME _____

FIRM OR AGENCY AND ADDRESS

Michelle Frazier

MF + S

Breeder's Blackwell

NCHA

HOUSE JUDICIARY COMMITTEE
MINUTES
Wednesday, April 6, 2011
10:00 am

The House Judiciary Committee met on Wednesday, April 6, 2011 at 10:00 am in Room 643 of the Legislative Office Building. The Chair, Representative Leo Daughtry, called the meeting to order and the following members were present: Representatives Guice, Mills, T. Moore, Randleman, Rhyne, Alexander, Blackwell, Blust, Bordsen, R. Brown, Bryant, Cleveland, Crawford, Dixon, Faircloth, Faison, Glazier, Hackney, Haire, Hall, Harrison, Hilton, Howard, Ingle, Insko, Jackson, Jones, Jordan, Killian, Martin, McGrady, Michaux, Mobley, Pridgen, Ross, Stam, Stevens and Weiss.

The Chair welcomed members and guests and introduced the House Pages.

SORNA Compliance

NCGA Research Division staff member Susan Sitze was recognized to present House Draft SORNA Compliance, AN ACT TO COMPLY WITH THE FEDERAL SEX OFFENDER REGISTRATION AND NOTIFICATION ACT. Chair Daughtry moved to approve the draft as a Committee Bill. The motion passed.

HB 8


Representative Paul Stam was recognized to present a Proposed Committee Substitute for House Bill 8, AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROHIBIT CONDEMNATION OF PRIVATE PROPERTY EXCEPT FOR A PUBLIC USE, AND TO PROVIDE FOR THE PAYMENT OF JUST COMPENSATION WITH RIGHT OF TRIAL BY JURY IN ALL CONDEMNATION CASES, AND TO MAKE SIMILAR STATUTORY CHANGES. Rep. Stam moved the Proposed Committee Substitute be adopted. The motion passed.

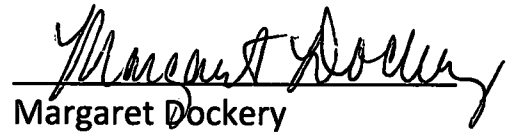
Representative Joe Hackney offered an amendment (attached) and moved that it be adopted. The motion passed.

Representative Bill Faison moved that the amendment be rolled into a committee substitute and be given a favorable report, with an unfavorable report as to the original bill. The motion passed.

There was no further business and the meeting adjourned.

Respectfully submitted,


Representative Leo Daughtry
Chair


Margaret Dockery
Committee Clerk

Corrected Notice

NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2011-2012 SESSION

You are hereby notified that the Committee on **Judiciary** will meet as follows:

DAY & DATE: Wednesday, April 6, 2011

TIME: 10:00 am

LOCATION: 643 LOB

COMMENTS: Consideration of SORNA Compliance Draft as a Committee Bill

The following bills will be considered:

BILL NO.	SHORT TITLE
HB 8	Eminent Domain.

SPONSOR
Representative Stam
Representative Lewis
Representative McGrady

Respectfully,
Representative Daughtry, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at
11 AM o'clock on **April 05, 2011**.

- ☐ Principal Clerk
- ☐ Reading Clerk – House Chamber

Margaret Dockery (Committee Assistant)

NORTH CAROLINA GENERAL ASSEMBLY

HOUSE COMMITTEE ON JUDICIARY

AGENDA

Wednesday, April 6, 2011

10:00 AM

Room 643

OPENING REMARKS

Representative Leo Daughtry, Chair

AGENDA ITEMS

SORNA Compliance Draft

HB 8 EMINENT DOMAIN

Representative Paul Stam, Sponsor

Representative David Lewis, Sponsor

Representative Chuck McGrady, Sponsor

ADJOURNMENT

**2011 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative Daughtry (Chair) for the Committee on JUDICIARY.

☐ Committee Substitute for

HB 8 A BILL TO BE ENTITLED AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO PROHIBIT CONDEMNATION OF PRIVATE PROPERTY TO CONVEY AN INTEREST IN THAT PROPERTY FOR ECONOMIC DEVELOPMENT AND TO PROVIDE FOR THE PAYMENT OF JUST COMPENSATION WITH RIGHT OF TRIAL BY JURY IN ALL CONDEMNATION CASES.

☒ With a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No. _____) is placed on the Calendar of _____. (The original bill resolution No. _____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. _____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. _____) is placed on the Unfavorable Calendar.

**2011 HOUSE OF REPRESENTATIVES
COMMITTEE REPORT - BILL INTRODUCTION**

The following report(s) from standing committee(s) is/are presented:

Representative (s) Leo Daughtry, for the Committee on Judiciary
(Chair's Name) (Committee Name)

submits the following bill with a favorable report for introduction.

AN ACT TO COMPLY WITH THE FEDERAL SEX OFFENDER REGISTRATION AND NOTIFICATION ACT.

(FOR JOURNAL USE ONLY)

____ Pursuant to Rule 31(a), the bill is filed, assigned the number H. B. ____ and placed on the Calendar for its ____ reading.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H

D

HOUSE DRH90074-SA-8 (02/15)

Short Title: SORNA Compliance.

(Public)

Sponsors: Committee on Judiciary.

Referred to:

A BILL TO BE ENTITLED
AN ACT TO COMPLY WITH THE FEDERAL SEX OFFENDER REGISTRATION AND
NOTIFICATION ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-208.6 reads as rewritten:

"§ 14-208.6. Definitions.

The following definitions apply in this Article:

- (1a) ~~"Aggravated offense" means any criminal offense that includes either of the following: (i) engaging in a sexual act involving vaginal, anal, or oral penetration with a victim of any age through the use of force or the threat of serious violence; or (ii) engaging in a sexual act involving vaginal, anal, or oral penetration with a victim who is less than 12 years old.~~
- (1b) "County registry" means the information compiled by the sheriff of a county in compliance with this Article.
- (1c) "Division" means the Division of Criminal Information of the Department of Justice.
- (1d) "Electronic mail" means the transmission of information or communication by the use of the Internet, a computer, a facsimile machine, a pager, a cellular telephone, a video recorder, or other electronic means sent to a person identified by a unique address or address number and received by that person.
- (1e) "Employed" includes employment that is full-time or part-time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit.
- (1f) "Entity" means a business or organization that provides Internet service, electronic communications service, remote computing service, online service, electronic mail service, or electronic instant message or chat services whether the business or organization is within or outside the State.
- (1g) "Final conviction" means either of the following by any federal (including a court martial), State, territorial, tribal, or foreign court:
 - a. Any conviction, adjudication, or other judicial determination that has subjected the offender to possible penal consequences. This does not include juveniles adjudicated delinquent in this State, or judicial determinations involving juveniles from other jurisdictions.



* D R H 9 0 0 7 4 - S A - 8 *

- 1 b. Any judicial determination involving a juvenile in another
2 jurisdiction if that jurisdiction would require the juvenile to register
3 on a public registry if the juvenile resided in that jurisdiction.
4 c. Any juvenile adjudication of delinquency in this State, or any judicial
5 determination involving a juvenile in another jurisdiction, if the
6 juvenile was at least 14 years of age at the time of the offense and the
7 adjudication was for a violation of G.S. 14-27.2 (first-degree rape),
8 G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first-degree sex
9 offense), G.S. 14-27.5 (second degree sexual offense), or
10 G.S. 14-27.6 (attempted rape or sexual offense), for an attempt or
11 conspiracy to commit any of those offenses, or for a violation of, or
12 attempt or conspiracy to commit, any offense in another jurisdiction
13 which is substantially similar to any of those offenses.

14 Convictions from foreign countries are included unless the U.S. State
15 Department has concluded an independent judiciary did not generally
16 enforce the right to a fair trial in that country during the year in which the
17 conviction occurred.

18 ~~(1g)~~(1h) "Instant Message" means a form of real-time text communication
19 between two or more people. The communication is conveyed via computers
20 connected over a network such as the Internet.

21 ~~(1h)~~(1i) "Institution of higher education" means any postsecondary public or
22 private educational institution, including any trade or professional
23 institution, college, or university.

24 ~~(1i)~~(1j) "Internet" means the global information system that is logically linked
25 together by a globally unique address space based on the Internet Protocol or
26 its subsequent extensions; that is able to support communications using the
27 Transmission Control Protocol/Internet Protocol suite, its subsequent
28 extensions, or other Internet Protocol compatible protocols; and that
29 provides, uses, or makes accessible, either publicly or privately, high-level
30 services layered on the communications and related infrastructure described
31 in this subdivision.

32 ~~(1j)~~(1k) "Mental abnormality" means a congenital or acquired condition of a
33 person that affects the emotional or volitional capacity of the person in a
34 manner that predisposes that person to the commission of criminal sexual
35 acts to a degree that makes the person a menace to the health and safety of
36 others.

37 ~~(1k)~~(1l) "Nonresident student" means a person who is not a resident of North
38 Carolina but who is enrolled in any type of school in the State on a part-time
39 or full-time basis.

40 ~~(1l)~~(1m) "Nonresident worker" means a person who is not a resident of North
41 Carolina but who has employment or carries on a vocation in the State, on a
42 part-time or full-time basis, with or without compensation or government or
43 educational benefit, for more than 14 days, or for an aggregate period
44 exceeding 30 days in a calendar year.

45 ~~(1m)~~(1n) "Offense against a minor" means any of the following offenses if the
46 offense is committed against a minor, and the person committing the offense
47 is not the minor's parent: G.S. 14-39 (kidnapping), G.S. 14-41 (abduction of
48 children), and G.S. 14-43.3 (felonious restraint). The term also includes the
49 following if the person convicted of the following is not the minor's parent: a
50 solicitation or conspiracy to commit any of these offenses; aiding and
51 abetting any of these offenses.

- 1 ~~(1n)~~(1o) "Online identifier" means electronic mail address, instant message screen
2 name, user ID, chat or other Internet communication name, but it does not
3 mean social security number, date of birth, or pin number.
- 4 (2) "Penal institution" means:
5 a. A detention facility operated under the jurisdiction of the Division of
6 Prisons of the Department of Correction;
7 b. A detention facility operated under the jurisdiction of another state or
8 the federal government; or
9 c. A detention facility operated by a local government in this State or
10 another state.
- 11 (2a) "Personality disorder" means an enduring pattern of inner experience and
12 behavior that deviates markedly from the expectations of the individual's
13 culture, is pervasive and inflexible, has an onset in adolescence or early
14 adulthood, is stable over time, and leads to distress or impairment.
- 15 (2b) "Recidivist" means a person who has a prior conviction for an offense that is
16 described in G.S. 14-208.6(4).
- 17 (3) "Release" means discharged or paroled.
- 18 (3a) "Residence address" means the location of the person's home or other place
19 where the person habitually lives, or a general description of the location of
20 the place the person habitually lives, if that location has no fixed address.
- 21 (4) "Reportable conviction" means:
22 a. ~~A final conviction for an offense against a minor, a sexually violent~~
23 ~~offense, or a tier I offense, a tier II offense, or a tier III offense. an~~
24 ~~attempt to commit any of those offenses unless the conviction is for~~
25 ~~aiding and abetting. A final conviction for aiding and abetting is a~~
26 ~~reportable conviction only if the court sentencing the individual finds~~
27 ~~that the registration of that individual under this Article furthers the~~
28 ~~purposes of this Article as stated in G.S. 14-208.5.~~
29 b. A final conviction in another state jurisdiction of an offense, which if
30 committed in this State, is substantially similar to ~~an offense against~~
31 ~~a minor or a sexually violent offense~~ a tier I offense, a tier II offense,
32 or a tier III offense as defined by this section, or a final conviction in
33 another state jurisdiction of an offense that requires registration
34 under the sex offender registration statutes of that state jurisdiction.
35 e. ~~A final conviction in a federal jurisdiction (including a court martial)~~
36 ~~of an offense, which is substantially similar to an offense against a~~
37 ~~minor or a sexually violent offense as defined by this section.~~
38 d. ~~A final conviction for a violation of G.S. 14-202(d), (e), (f), (g), or~~
39 ~~(h), or a second or subsequent conviction for a violation of~~
40 ~~G.S. 14-202(a), (a1), or (e), only if the court sentencing the~~
41 ~~individual issues an order pursuant to G.S. 14-202(l) requiring the~~
42 ~~individual to register.~~
- 43 (5) ~~"Sexually violent offense" means a violation of G.S. 14-27.2 (first degree~~
44 ~~rape), G.S. 14-27.2A (rape of a child; adult offender), G.S. 14-27.3 (second~~
45 ~~degree rape), G.S. 14-27.4 (first degree sexual offense), G.S. 14-27.4A (sex~~
46 ~~offense with a child; adult offender), G.S. 14-27.5 (second degree sexual~~
47 ~~offense), G.S. 14-27.5A (sexual battery), G.S. 14-27.6 (attempted rape or~~
48 ~~sexual offense), G.S. 14-27.7 (intercourse and sexual offense with certain~~
49 ~~victims), G.S. 14-27.7A(a) (statutory rape or sexual offense of person who is~~
50 ~~13, 14, or 15 years old where the defendant is at least six years older),~~
51 ~~G.S. 14-43.13 (subjecting or maintaining a person for sexual servitude);~~

~~G.S. 14-178 (incest between near relatives), G.S. 14-190.6 (employing or permitting minor to assist in offenses against public morality and decency), G.S. 14-190.9(a1) (felonious indecent exposure), G.S. 14-190.16 (first degree sexual exploitation of a minor), G.S. 14-190.17 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third degree sexual exploitation of a minor), G.S. 14-190.18 (promoting prostitution of a minor), G.S. 14-190.19 (participating in the prostitution of a minor), G.S. 14-202.1 (taking indecent liberties with children), G.S. 14-202.3 (Solicitation of child by computer or certain other electronic devices to commit an unlawful sex act), G.S. 14-202.4(a) (taking indecent liberties with a student), G.S. 14-318.4(a1) (parent or caretaker commit or permit act of prostitution with or by a juvenile), or G.S. 14-318.4(a2) (commission or allowing of sexual act upon a juvenile by parent or guardian). The term also includes the following: a solicitation or conspiracy to commit any of these offenses; aiding and abetting any of these offenses.~~

(6) "Sexually violent predator" means a person who has been convicted of a sexually violent offense tier I offense, a tier II offense, or a tier III offense that is not an offense against a minor and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in sexually violent offenses directed at strangers or at a person with whom a relationship has been established or promoted for the primary purpose of victimization.

(7) "Sheriff" means the sheriff of a county in this State.

(8) "Statewide registry" means the central registry compiled by the Division in accordance with G.S. 14-208.14.

(9) "Student" means a person who is enrolled on a full-time or part-time basis, in (i) any public or nonpublic school, or (ii) any postsecondary public or private educational institution, including any trade or professional institution, or other institution of higher education.

(10) "Temporary lodging" means a place where a person abides or lodges for seven or more days that is a location other than the person's reported residence address.

(11) "Tier I offense" means a violation of any of the following:

a. G.S. 14-27.5A (sexual battery).

b. G.S. 14-43.13 (subjection or maintaining a person for sexual servitude) where the facts of the case show the victim was not a minor at the time of the offense.

c. G.S. 14-178 (incest between near relatives) where the facts of the case show the victim was not a minor at the time of the offense.

d. G.S. 14-190.9(a1) (felonious indecent exposure).

e. G.S. 14-190.17A (third degree sexual exploitation of a minor).

f. G.S. 14-202(d), (e), (f), (g), or (h), or a second or subsequent violation of G.S. 14-202(a), (a1), or (c) (secretly peeping into room occupied by another person), only if the court sentencing the individual issues an order pursuant to G.S. 14-202(l) requiring the individual to register.

g. G.S. 14-202.1 (taking indecent liberties with children) when there is no sexual contact.

h. G.S. 14-202.1 (taking indecent liberties with children) when there is sexual contact, but only if the court sentencing the individual finds that the victim was at least 13 years old, the offender was no more

1 than eight years older than the victim, no force was used in the
2 commission of the offense, and it is appropriate for the offense to be
3 classified as a tier I offense.

4 The term also includes the following: an attempt, solicitation, or conspiracy
5 to commit any of these offenses; aiding and abetting any of these offenses.

6 (12) "Tier II offense" means a violation of any of the following:

- 7 a. G.S. 14-27.7 (intercourse and sexual offense with certain victims)
8 where the facts of the case show the victim was at least 13 years old
9 at the time of the offense.
- 10 b. G.S. 14-27.7A (statutory rape or sexual offense of person who is 13,
11 14, or 15 years old).
- 12 c. G.S. 14-43.13 (subjecting or maintaining a person for sexual
13 servitude) where the facts of the case show the victim was at least 13
14 but less than 18 years old at the time of the offense.
- 15 d. G.S. 14-178 (incest between near relatives) where the facts of the
16 case show the victim was at least 13 but less than 18 years old at the
17 time of the offense.
- 18 e. G.S. 14-190.6 (employing or permitting minor to assist in offenses
19 against public morality and decency).
- 20 f. G.S. 14-190.16 (first-degree sexual exploitation of a minor).
- 21 g. G.S. 14-190.17 (second degree sexual exploitation of a minor).
- 22 h. G.S. 14-190.18 (promoting prostitution of a minor).
- 23 i. G.S. 14-190.19 (participating in the prostitution of a minor).
- 24 j. G.S. 14-202.1 (taking indecent liberties with children) where the
25 facts of the case show the victim was at least 13 but less than 16
26 years old at the time of the offense and there was sexual contact with
27 the victim.
- 28 k. G.S. 14-202.3 (solicitation of child by computer to commit an
29 unlawful sex act).
- 30 l. G.S. 14-318.4(a1) (parent or caretaker commit or permit act of
31 prostitution with or by a juvenile).
- 32 m. G.S. 14-318.4(a2) (commission or allowing of sexual act upon a
33 juvenile by parent or guardian) where the facts of the case show the
34 victim was at least 13 but less than 18 years old at the time of the
35 offense.

36 The term also includes the following: an attempt, solicitation, or conspiracy
37 to commit any of these offenses; aiding and abetting any of these offenses.

38 (13) "Tier III offense" means a violation of any of the following:

- 39 a. An offense against a minor.
- 40 b. G.S. 14-27.2 (first-degree rape).
- 41 c. G.S. 14-27.2A (rape of a child; adult offender).
- 42 d. G.S. 14-27.3 (second degree rape).
- 43 e. G.S. 14-27.4 (first-degree sexual offense).
- 44 f. G.S. 14-27.4A (sex offense with a child; adult offender).
- 45 g. G.S. 14-27.5 (second degree sexual offense).
- 46 h. G.S. 14-27.6 (attempted rape or sexual offense).
- 47 i. G.S. 14-27.7 (intercourse and sexual offense with certain victims)
48 where the facts of the case show the victim was under the age of 13
49 at the time of the offense.

- j. G.S. 14-43.13 (subjecting or maintaining a person for sexual servitude) where the facts of the case show the victim was under the age of 13 at the time of the offense.
- k. G.S. 14-178 (incest between near relatives) where the facts of the case show the victim was under the age of 13 at the time of the offense.
- l. G.S. 14-202.1 (taking indecent liberties with children) where the facts of the case show the victim was under the age of 13 at the time of the offense and there was sexual contact with the victim.
- m. G.S. 14-318.4(a2) (commission or allowing of sexual act upon a juvenile by parent or guardian) where the facts of the case show the victim was under the age of 13 at the time of the offense.

The term also includes the following: an attempt, solicitation, or conspiracy to commit any of these offenses; aiding and abetting any of these offenses.

(14) "Tier I registrant" means any person with a reportable conviction for a Tier I offense.

(15) "Tier II registrant" means any person who:

- a. Has a reportable conviction for a tier II offense; or
- b. Has a reportable conviction for a tier I offense and has a previous reportable conviction for a tier I offense.

(16) "Tier III registrant" means any person who:

- a. Has a reportable conviction for a tier III offense;
- b. Has a reportable conviction for a tier I or tier II offense and has a previous reportable conviction for a tier II offense; or
- c. Has a reportable conviction for a tier I or tier II offense and has previously been required to register in accordance with Part 2A of this Article."

SECTION 2. G.S. 14-208.6A reads as rewritten:

"§ 14-208.6A. Lifetime registration requirements for criminal offenders.

It is the objective of the General Assembly to establish a 30-year registration requirement for persons convicted of ~~certain offenses against minors or sexually violent offenses~~ tier I offenses with an opportunity for those persons to petition in superior court to shorten their registration time period after 10 years of registration. It is also the objective of the General Assembly to establish a mandatory 30-year registration requirement for persons convicted of tier II offenses and certain recidivists. It is the further objective of the General Assembly to establish a ~~more stringent set of registration requirements for recidivists, persons who commit aggravated offenses,~~ lifetime registration requirement for a person convicted of tier III offenses, certain recidivists, and for a subclass of highly dangerous sex offenders who are determined by a sentencing court with the assistance of a board of experts to be sexually violent predators.

To accomplish this objective, there are established ~~two~~ three registration programs: the Tier I Sex Offender and Public Protection Registration Program, ~~Program~~, the Tier II Sex Offender and Public Protection Registration Program, and the Tier III Sex Offender and Sexually Violent Predator Registration Program. Any ~~person convicted of an offense against a minor or of a sexually violent offense~~ tier I registrant as defined by this Article shall register in person as an offender in accordance with Part 2 of this Article. Any tier II registrant as defined by this Article shall register in person as an offender in accordance with Part 2A of this Article. Any ~~person who is a recidivist, who commits an aggravated offense, or~~ tier III registrant as defined by this Article or any person who is determined to be a sexually violent predator shall register in person as ~~such an offender~~ an offender in accordance with Part 3 of this Article.

The information obtained under these programs shall be immediately shared with the appropriate local, State, federal, and out-of-state law enforcement officials and penal

institutions. In addition, the information designated under G.S. 14-208.10(a) as public record shall be readily available to and accessible by the public. However, the identity of the victim is not public record and shall not be released as a public record."

SECTION 3. G.S. 14-208.6B reads as rewritten:

"§ 14-208.6B. Registration requirements for juveniles transferred to and convicted in superior court.

A juvenile transferred to superior court pursuant to G.S. 7B-2200 who is convicted of a ~~sexually violent offense or an offense against a minor~~ tier I offense, a tier II offense, or a tier III offense as defined in G.S. 14-208.6 shall register in person in accordance with this Article just as an adult convicted of the same offense must register."

SECTION 4. The title of Part 2 of Article 27A of Chapter 14 of the General Statutes reads as rewritten:

"Part 2. Tier I Sex Offender and Public Protection Registration Program."

SECTION 5. G.S. 14-208.7 reads as rewritten:

"§ 14-208.7. Registration.

(a) A person who is a State resident and who has a reportable conviction shall be required to maintain registration with the sheriff of the county where the person resides. If the person moves to North Carolina from outside this State, the person shall register within three business days of establishing residence in this State, or whenever the person has been present in the State for 15 days, whichever comes first. If the person is a current resident of North Carolina, the person shall register:

(1) ~~Within three business days of~~ Prior to release from a penal institution or arrival in a county to live outside a penal institution; or

(2) Immediately upon conviction for a reportable offense where an active term of imprisonment was not imposed.

Registration shall be maintained for a period of at least 30 years following the date of initial county registration unless the person, after 10 years of registration, successfully petitions the superior court to shorten his or her registration time period under G.S. 14-208.12A.

(a1) A person who is a nonresident student or a nonresident worker and who has a reportable conviction, or is required to register in the person's state of residency, is required to maintain registration with the sheriff of the county where the person works or attends school. In addition to the information required under ~~subsection (b)~~ subsections (b) and (b1) of this section, the person shall also provide information regarding the person's school or place of employment as appropriate and the person's address in his or her state of residence.

(a2) Any person who has been convicted of a reportable conviction prior to July 1, 2011, shall be required to register for that conviction pursuant to this Article if any of the following apply:

(1) On July 1, 2011, the person is required to register for another offense pursuant to this Article.

(2) On July 1, 2011, the person is serving an active term of imprisonment for any criminal offense.

(3) On July 1, 2011, the person is on probation, parole, or post-release supervision for any criminal offense.

(4) On or after July 1, 2011, the person is convicted of any felony offense.

A person required to register pursuant to subdivision (1) or (3) of this subsection shall register for the prior reportable conviction on or before July 6, 2011. A person required to register pursuant to subdivision (2) or (4) of this subsection shall register as provided in subsection (a) of this section.

Notwithstanding the provisions of this subsection, if (i) the conviction of a reportable conviction prior to July 1, 2011, was for a tier I or tier II offense, (ii) the conviction occurred 30 years or more prior to the date the person is required to register pursuant to this subsection, and

(iii) the person has no other reportable convictions requiring registration under this Article, the person shall not be required to register pursuant to this subsection.

(b) The Division shall provide each sheriff with forms for registering persons as required by this Article. The registration form shall require all of the following:

- (1) The person's full name, each alias, date of birth, sex, race, height, weight, eye color, hair color, tattoos, birthmarks, scars, or other identifying marks, drivers license ~~number,~~ number and a photocopy of the drivers license, social security number, any telephone numbers, including mobile phone numbers, and ~~home-~~residence address.
- (2) The type of offense for which the person was convicted, the date of conviction, and the sentence imposed.
- (3) A current photograph taken by the sheriff, without charge, at the time of registration.
- (4) The person's fingerprints and palm prints taken by the sheriff, without charge, at the time of registration.
- (5) A statement indicating whether the person is a student or expects to enroll as a student within a year of registering. If the person is a student or expects to enroll as a student within a year of registration, then the registration form shall also require the name and address of the school or educational institution at which the person is a student or expects to enroll as a student.
- (6) ~~A statement indicating whether~~ The name and address of any place the person is employed or expects to be employed at an institution of higher education within a year of registering. If the person is employed or expects to be employed at an institution of higher education within a year of registration, then the registration form shall also require the name and address of the educational institution at which the person is or expects to be employed.
- (7) Any online identifier that the person uses or intends to use.
- (8) Copies of or information on the person's passport or immigration documents, if any.
- (9) Any professional licenses the person may hold authorizing the person to engage in an occupation or carry out a trade or business.
- (10) A description of any motor vehicle, moped, aircraft, or watercraft the person owns or regularly operates for personal or employment use, including any license plate, registration, or other identification number and information on where the motor vehicle, moped, aircraft, or watercraft is regularly parked, docked, or otherwise located.

(b1) In addition to the information required by subsection (b) of this section, the sheriff with whom the person registers shall obtain a sample of the person's DNA, if a sample has not already been obtained and stored in the State DNA Database.

(c) When a person registers, the sheriff with whom the person registered shall immediately send the registration information to the Division in a manner determined by the Division. The sheriff shall retain the original registration form and other information collected and shall compile the information that is a public record under this Part into a county registry.

(d) Any person required to register under this section shall report in person at the appropriate sheriff's office to comply with the registration requirements set out in this section. The sheriff shall provide the registrant with a written explanation of the duty to register under this Article, and shall require the registrant to sign a written acknowledgment that the explanation has been provided and that the registrant understands the registration requirement. The sheriff shall provide the registrant with written proof of registration at the time of registration."

1 SECTION 6. G.S. 14-208.8 reads as rewritten:

2 **"§ 14-208.8. Prerelease notification.**

3 (a) At least 10 days, but not earlier than 30 days, before a person who will be subject to
4 registration under this Article is due to be released from a penal institution, an official of the
5 penal institution shall do all of the following:

6 (1) Inform the person of the person's duty to register under this Article and
7 require the person to sign a written statement that the person was so
8 informed or, if the person refuses to sign the statement, certify that the
9 person was so informed.

10 (2) Obtain the registration information required under ~~G.S. 14-208.7(b)(1), (2),~~
11 ~~(5), (6), and (7),~~ G.S. 14-208.7 as well as the address where the person
12 expects to reside upon the person's release.

13 (3) Send the Division and the sheriff of the county in which the person expects
14 to reside the information collected in accordance with subdivision (2) of this
15 subsection.

16 (b) If a person who is subject to registration under this Article does not receive an
17 active term of imprisonment, the court pronouncing sentence shall conduct, at the time of
18 sentencing, the notification procedures specified in subsection (a) of this section."

19 SECTION 7. Part 2 of Article 27A of Chapter 14 of the General Statutes is
20 amended by adding a new section to read:

21 **"§ 14-208.8B. Notification requirement for temporary lodging or international travel.**

22 (a) A person required to register under this Article shall notify the sheriff of the county
23 with whom the person is registered of any temporary lodging, including hotel, motel, or other
24 transient lodging. The notice shall be provided within 72 hours after the person knows or
25 should know that he or she will be maintaining temporary lodging and shall include
26 information on the period of time the person will be residing in the temporary lodging.

27 (b) A person required to register under this Article shall notify the sheriff of the county
28 with whom the person is registered of any intent to leave the United States 21 days or more
29 prior to leaving the United States.

30 (c) Upon receiving the notice required under subsection (a) or (b) of this section, the
31 sheriff shall immediately forward the information to the Division. If the notice is of temporary
32 lodging, pursuant to subsection (a) of this section, the Division shall notify the sheriff of the
33 county where the person is maintaining temporary lodging. If the notice is of the intent to leave
34 the United States, pursuant to subsection (b) of this section, the Division shall notify all other
35 jurisdictions in which the person is required to register as a sex offender, shall notify the United
36 States Marshals Service, and shall update the person's registration information in the national
37 sex offender database."

38 SECTION 8. G.S. 14-208.10 reads as rewritten:

39 **"§ 14-208.10. Registration information is public record; access to registration**
40 **information.**

41 (a) The following information regarding a person required to register under this Article
42 is public record and shall be available for public inspection: name, sex, temporary lodging
43 address, residence address, vehicle description and license plate, registration, or identification
44 number, physical description, picture, conviction date, offense dates, all offenses for which
45 registration was required, the sentence imposed as a result of the conviction, each conviction,
46 and registration status. The information obtained under G.S. 14-208.22 regarding a person's
47 medical records or documentation of treatment for the person's mental abnormality or
48 personality disorder shall not be a part of the public record.

49 The sheriff shall release any other relevant information that is necessary to protect the
50 public concerning a specific person, but shall not release the identity of the victim of the
51 offense that required registration under this Article.

(b) Any person may obtain a copy of an individual's registration form, a part of the county registry, or all of the county registry, by submitting a written request for the information to the sheriff. However, the identity of the victim of an offense that requires registration under this ~~Article~~ Article, the registrant's social security number, the registrant's passport or immigration document numbers, and any information on any arrests of the registrant not resulting in conviction, shall not be released. The sheriff may charge a reasonable fee for duplicating costs and for mailing costs when appropriate."

SECTION 9. Article 27A of Chapter 14 of the General Statutes is amended by adding a new Part to read:

"Part 2A. Tier II Sex Offender and Public Protection Registration Program.

"§ 14-208.19B. Mandatory 30-year registration procedure; application of Part 2 of this Article.

Unless provided otherwise by this Part, the provisions of Part 2 of this Article apply to a tier II registrant. The procedure for registering as a tier II registrant is the same as under Part 2 of this Article.

"§ 14-208.19C. Length of registration.

A tier II registrant shall maintain registration for a period of at least 30 years following the date of initial county registration. Except as provided under G.S. 14-208.6C, the requirement of registration shall not be terminated prior to the completion of the registration period."

SECTION 10. The title of Part 3 of Article 27A of Chapter 14 of the General Statutes reads as rewritten:

"Part 3. Tier III Sex Offender and Sexually Violent Predator Registration Program."

SECTION 11. G.S. 14-208.20(a) reads as rewritten:

"(a) When a person is charged by indictment or information with the commission of a ~~sexually violent offense, tier I offense, a tier II offense, or a tier III offense that is not an offense against a minor,~~ the district attorney shall decide whether to seek classification of the offender as a sexually violent predator if the person is convicted. If the district attorney intends to seek the classification of a sexually violent predator, the district attorney shall within the time provided for the filing of pretrial motions under G.S. 15A-952 file a notice of the district attorney's intent. The court may for good cause shown allow late filing of the notice, grant additional time to the parties to prepare for trial, or make other appropriate orders."

SECTION 12. G.S. 14-208.21 reads as rewritten:

"§ 14-208.21. Lifetime registration procedure; application of Part 2 of this Article.

Unless provided otherwise by this Part, the provisions of Part 2 of this Article apply to a tier III registrant or a person classified as a sexually violent predator, a person who is a recidivist, or a person who is convicted of an aggravated offense predator. The procedure for registering as a tier III registrant or a sexually violent predator, a recidivist, or a person convicted of an aggravated offense predator is the same as under Part 2 of this Article."

SECTION 13. G.S. 14-208.22(a) reads as rewritten:

"(a) In addition to the information required by G.S. 14-208.7, the following information shall also be obtained in the same manner as set out in Part 2 of this Article from a person who is a ~~recidivist, who is convicted of an aggravated offense,~~ tier III registrant or who is classified as a sexually violent predator:

(1) ~~Identifying factors.~~

(2) ~~Offense history.~~

(3) Documentation of any treatment received by the person for the person's mental abnormality or personality disorder."

SECTION 14. G.S. 14-208.23 reads as rewritten:

"§ 14-208.23. Length of registration.

A person who is a recidivist, who is convicted of an aggravated offense, tier III registrant or a person who is classified as a sexually violent predator shall maintain registration for the

1 person's life. Except as provided under ~~G.S. 14-208.6C~~, G.S. 14-208.6C or G.S. 14-208.23A,
2 the requirement of registration shall not be terminated."

3 **SECTION 15.** Part 3 of Article 27A of Chapter 14 of the General Statutes is
4 amended by adding a new section to read:

5 **"§ 14-208.23A. Request for termination of registration requirement for juveniles.**

6 (a) Thirty years from the date of initial county registration, a person required to register
7 under this Part based on a final conviction as defined in sub-subdivision b. or c. of
8 G.S. 14-208.6(1g) may petition the superior court in the district where the person resides to
9 terminate the lifetime registration requirement if the person has not been convicted of a
10 subsequent offense requiring registration under this Article.

11 (b) The court may grant the relief if:

12 (1) The petitioner demonstrates to the court that he or she has not been arrested
13 for any crime that would require registration under this Article since
14 completing the sentence.

15 (2) The requested relief complies with the provisions of the federal Jacob
16 Wetterling Act, as amended, and any other federal standards applicable to
17 the termination of a registration requirement or required to be met as a
18 condition for the receipt of federal funds by the State, and

19 (3) The court is otherwise satisfied that the petitioner is not a current or potential
20 threat to public safety.

21 (c) The district attorney in the district in which the petition is filed shall be given notice
22 of the petition at least three weeks before the hearing on the matter. The petitioner may present
23 evidence in support of the petition, and the district attorney may present evidence in opposition
24 to the requested relief or may otherwise demonstrate the reasons why the petition should be
25 denied.

26 (d) If the court denies the petition, the person may again petition the court for relief in
27 accordance with this section one year from the date of the denial of the original petition to
28 terminate the registration requirement. If the court grants the petition to terminate the
29 registration requirement, the clerk of court shall forward a certified copy of the order to the
30 Division to have the person's name removed from the registry."

31 **SECTION 16.** G.S. 14-208.26(a) reads as rewritten:

32 "(a) When a juvenile is adjudicated delinquent for a violation of G.S. 14-27.2 (first
33 degree rape), G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first degree sexual offense),
34 G.S. 14-27.5 (second degree sexual offense), or G.S. 14-27.6 (attempted rape or sexual
35 offense), and the juvenile was at least eleven years of age but less than fourteen years of age at
36 the time of the commission of the offense, the court shall consider whether the juvenile is a
37 danger to the community. If the court finds that the juvenile is a danger to the community, then
38 the court shall consider whether the juvenile should be required to register with the county
39 sheriff in accordance with this Part. The determination as to whether the juvenile is a danger to
40 the community and whether the juvenile shall be ordered to register shall be made by the
41 presiding judge at the dispositional hearing. If the judge rules that the juvenile is a danger to the
42 community and that the juvenile shall register, then an order shall be entered requiring the
43 juvenile to register. The court's findings regarding whether the juvenile is a danger to the
44 community and whether the juvenile shall register shall be entered into the court record. No
45 juvenile may be required to register under this Part unless the court first finds that the juvenile
46 is a danger to the community.

47 A juvenile ordered to register under this Part shall register and maintain that registration as
48 provided by this Part."

49 **SECTION 17.** G.S. 14-208.40(a) reads as rewritten:

50 "(a) The Department of Correction shall establish a sex offender monitoring program
51 that uses a continuous satellite-based monitoring system and shall create guidelines to govern

the program. The program shall be designed to monitor three categories of offenders as follows:

- (1) Any offender who is convicted of a reportable conviction as defined by G.S. 14-208.6(4) and who is required to register under Part 3 of Article 27A of Chapter 14 of the General Statutes because the defendant is classified as a sexually violent predator, is a recidivist, or was convicted of ~~an aggravated offense~~ a tier III offense other than an offense against a minor as those terms are defined in G.S. 14-208.6.
- (2) Any offender who satisfies all of the following criteria: (i) is convicted of a reportable conviction as defined by G.S. 14-208.6(4), (ii) is required to register under Part 2 of Article 27A of Chapter 14 of the General Statutes, (iii) has committed an offense involving the physical, mental, or sexual abuse of a minor, and (iv) based on the Department's risk assessment program requires the highest possible level of supervision and monitoring.
- (3) Any offender who is convicted of G.S. 14-27.2A or G.S. 14-27.4A, who shall be enrolled in the satellite-based monitoring program for the offender's natural life upon termination of the offender's active punishment."

SECTION 18. G.S. 14-208.40A reads as rewritten:

"§ 14-208.40A. Determination of satellite-based monitoring requirement by court.

(a) When an offender is convicted of a reportable conviction as defined by G.S. 14-208.6(4), during the sentencing phase, the district attorney shall present to the court any evidence that (i) the offender has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is a recidivist, (iii) the conviction offense was ~~an aggravated offense~~ a tier III offense other than an offense against a minor, (iv) the conviction offense was a violation of G.S. 14-27.2A or G.S. 14-27.4A, or (v) the offense involved the physical, mental, or sexual abuse of a minor. The district attorney shall have no discretion to withhold any evidence required to be submitted to the court pursuant to this subsection.

The offender shall be allowed to present to the court any evidence that the district attorney's evidence is not correct.

(b) After receipt of the evidence from the parties, the court shall determine whether the offender's conviction places the offender in one of the categories described in G.S. 14-208.40(a), and if so, shall make a finding of fact of that determination, specifying whether (i) the offender has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is a recidivist, (iii) the conviction offense was ~~an aggravated offense~~ a tier III offense other than an offense against a minor, (iv) the conviction offense was a violation of G.S. 14-27.2A or G.S. 14-27.4A, or (v) the offense involved the physical, mental, or sexual abuse of a minor.

(c) If the court finds that the offender has been classified as a sexually violent predator, is a recidivist, has committed ~~an aggravated offense~~ a tier III offense other than an offense against a minor, or was convicted of G.S. 14-27.2A or G.S. 14-27.4A, the court shall order the offender to enroll in a satellite-based monitoring program for life.

(d) If the court finds that the offender committed an offense that involved the physical, mental, or sexual abuse of a minor, that the offense is not ~~an aggravated offense~~ a tier III offense other than an offense against a minor or a violation of G.S. 14-27.2A or G.S. 14-27.4A and the offender is not a recidivist, the court shall order that the Department do a risk assessment of the offender. The Department shall have a minimum of 30 days, but not more than 60 days, to complete the risk assessment of the offender and report the results to the court.

(e) Upon receipt of a risk assessment from the Department pursuant to subsection (d) of this section, the court shall determine whether, based on the Department's risk assessment, the offender requires the highest possible level of supervision and monitoring. If the court determines that the offender does require the highest possible level of supervision and

1 monitoring, the court shall order the offender to enroll in a satellite-based monitoring program
2 for a period of time to be specified by the court."

3 **SECTION 19.** G.S. 14-208.40B(c) reads as rewritten:

4 "(c) At the hearing, the court shall determine if the offender falls into one of the
5 categories described in G.S. 14-208.40(a). The court shall hold the hearing and make findings
6 of fact pursuant to G.S. 14-208.40A.

7 If the court finds that (i) the offender has been classified as a sexually violent predator
8 pursuant to G.S. 14-208.20, (ii) the offender is a recidivist, (iii) the conviction offense was an
9 ~~aggravated offense, a tier III offense other than an offense against a minor, or~~ (iv) the
10 conviction offense was a violation of G.S. 14-27.2A or G.S. 14-27.4A, the court shall order the
11 offender to enroll in satellite-based monitoring for life.

12 If the court finds that the offender committed an offense that involved the physical, mental,
13 or sexual abuse of a minor, that the offense is not ~~an aggravated offense a tier III offense other~~
14 ~~than an offense against a minor~~ or a violation of G.S. 14-27.2A or G.S. 14-27.4A, and the
15 offender is not a recidivist, the court shall order that the Department do a risk assessment of the
16 offender. The Department shall have a minimum of 30 days, but not more than 60 days, to
17 complete the risk assessment of the offender and report the results to the court. The Department
18 may use a risk assessment of the offender done within six months of the date of the hearing.

19 Upon receipt of a risk assessment from the Department, the court shall determine whether,
20 based on the Department's risk assessment, the offender requires the highest possible level of
21 supervision and monitoring. If the court determines that the offender does require the highest
22 possible level of supervision and monitoring, the court shall order the offender to enroll in a
23 satellite-based monitoring program for a period of time to be specified by the court."

24 **SECTION 20.** G.S. 14-208.43(d1) reads as rewritten:

25 "(d1) Notwithstanding the provisions of this section, if the Commission is notified by the
26 Department of Correction that the offender has been released, pursuant to
27 ~~G.S. 14-208.12A, G.S. 14-208.12A or G.S. 14-208.23A,~~ from the requirement to register under
28 Part 2 or Part 3 of Article 27A of this Chapter, upon request of the offender, the Commission
29 shall order the termination of the monitoring requirement."

30 **SECTION 21.** G.S. 50-13.1(a1) reads as rewritten:

31 "(a1) Notwithstanding any other provision of law, any person instituting an action or
32 proceeding for custody ex parte who has been convicted of a ~~sexually violent offense as~~
33 ~~defined in G.S. 14-208.6(5)~~ reportable conviction as defined in G.S. 14-208.6(4) shall disclose
34 the conviction in the pleadings."

35 **SECTION 22.** Section 21 of this act becomes effective July 1, 2011. The
36 remainder of this act becomes effective July 1, 2011, and applies to persons who are required to
37 be registered pursuant to Article 27A of Chapter 14 of the General Statutes on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H

1

HOUSE BILL 8

Short Title: Eminent Domain.

(Public)

Sponsors: Representatives Stam, Lewis, and McGrady (Primary Sponsors).

For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Judiciary.

January 27, 2011

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO PROHIBIT
CONDEMNATION OF PRIVATE PROPERTY TO CONVEY AN INTEREST IN THAT
PROPERTY FOR ECONOMIC DEVELOPMENT AND TO PROVIDE FOR THE
PAYMENT OF JUST COMPENSATION WITH RIGHT OF TRIAL BY JURY IN ALL
CONDEMNATION CASES.

The General Assembly of North Carolina enacts:

SECTION 1. Article I of the North Carolina Constitution is amended by adding a
new section to read:

"Sec. 19.1. Eminent domain.

Private property shall not be taken by eminent domain except for a public use. Public use
does not include the taking of property in order to convey an interest in the property for
economic development. Just compensation shall be paid and, if demanded, shall be determined
by a jury."

SECTION 2. The amendment set out in Section 1 of this act shall be submitted to
the qualified voters of the State at a statewide election to be conducted on November 6, 2012,
which election shall be conducted under the laws then governing elections in the State. Ballots,
voting systems, or both may be used in accordance with Chapter 163 of the General Statutes.
The question to be used in the voting systems and ballots shall be:

"[] FOR [] AGAINST

Constitutional amendment to prohibit condemnation of private property to convey
an interest in that property for economic development and to provide for the payment of just
compensation with right of trial by jury in all condemnation cases."

SECTION 3. If a majority of votes cast on the question are in favor of the
amendment set out in Section 1 of this act, the State Board of Elections shall certify the
amendment to the Secretary of State. The Secretary of State shall enroll the amendment so
certified among the permanent records of that office. The amendment set out in Section 1 of
this act becomes effective upon certification and applies to takings after that date.

SECTION 4. This act is effective when it becomes law.





HOUSE BILL 8: Eminent Domain

2011-2012 General Assembly

Committee: House Judiciary
Introduced by: Reps. Stam, Lewis, McGrady
Analysis of: PCS to First Edition
H8-CSLB-10

Date: April 4, 2011
Prepared by: Giles S. Perry
Committee Counsel

SUMMARY: *House Bill 8 (PCS) proposes an amendment to the North Carolina Constitution to prohibit condemnation of private property except for a public use, requires the payment of just compensation for the property taken, requires the compensation to be determined by jury trial, if demanded, and changes the statutory purpose for which private, local public, and other public condemnors may condemn property from "public use or benefit" to "public use".*

[As introduced, this bill was identical to S37, as introduced by Sen. Jackson, which is currently in Senate Judiciary I.]

CURRENT LAW:

The 5th Amendment to the United States Constitution states that private property shall not "be taken for public use without just compensation."

The North Carolina Constitution, Article 19, Section 1, states "No person shall be...in any manner deprived of his ... property, but by the law of the land." The North Carolina Supreme Court has ruled that the fundamental right to just compensation for property taken by eminent domain arises from this section. *Long v. City of Charlotte*, 306 NC 187 (1982). In addition, Section 1 of the 14th amendment to the United States Constitution provides that no state may "deprive any person of life, liberty, or property, without due process of law."

The North Carolina Supreme Court has recognized several tests to determine if a particular taking is permissible, including "public use", "public purpose" and "public benefit". See, for example, *Carolina Telephone and Telegraph Co. v McLeod* 321 N.C. 1988, and *Piedmont Triad Airport Authority V. Urbine* 354 N.C. 336)

North Carolina statutes authorize the use of eminent domain to acquire property by condemnation for "public use or benefit" under certain circumstances. The General Assembly "has the right to determine what portion of this power it will delegate to public or private corporations" *Carolina Telephone and Telegraph Co. v McLeod* 321 N.C. 426 (1988). Chapter 40A of the General Statutes provides condemnation procedures for local public condemnors and other public condemnors. In addition, Chapter 40A authorizes condemnation by private condemnors, for purposes including, by way of illustration: railroads, power generating facilities, telephones, electric power lines, and gas pipelines. G.S. 40A-3 provides the list of specific purposes for which the power may be used by those condemnors. State Agencies are granted the power of eminent domain for specified purposes, such as the Department of Transportation, under Chapter 136.

The North Carolina Supreme Court has ruled that there is no State Constitutional right to a jury trial on the issue of compensation for property taken by eminent domain. *Kaperonis v. NC State Highway Commission*, 260 N.C. 587 (1963). State statutes do authorize a jury trial on the issue of compensation. G.S 40A-29, 136-109.

In 2006, the General Assembly amended State law to restrict the purposes for which eminent domain may be used in this State by repealing local acts that broaden the power beyond what is set out by statute, and by limiting the use of eminent domain for certain revenue bond projects. The act was in part, a response to the U.S. Supreme Court decision in the case of *Kelo v. City of New London* (2005).

BILL ANALYSIS:

House PCS 8

Page 2

Section 1 of House Bill 8 (PCS) proposes to amend the North Carolina Constitution by adding a new Section 19.1 to Article 1. The new section would prohibit the taking of private property by eminent domain except for a public use. The proposed amendment also requires that just compensation be paid and, if demanded, that the amount be determined by a jury.

Section 2 of the bill provides that the amendment shall be submitted to the voters of the State at the next statewide election on November 6, 2012.

Section 3 of the bill provides that if a majority of the voters favor the amendment, the State Board of Elections would certify the amendment to the Secretary of State, who would then enroll the amendment. The amendment would become effective upon certification and apply to takings occurring after that date.

Section 4 of the bill amends G.S. 40-3 to change the purpose for which private, local public, and other public condemnors may condemn property from "public use or benefit" to "public use". By including this statutory change with the proposed constitutional amendment, this Section makes clear that, *in pari materia*, the General Assembly finds that condemnation by the authorized private, local public, and other public condemnors for a statutorily authorized reason remain valid as a public use.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: In 2005, the U.S. Supreme Court decided the case of *Kelo v. City of New London*, 545 U.S. 469 (2005). The case held that the State of Connecticut could constitutionally condemn private property for the purpose of transferring some of the property to a third party for economic development purposes. The court found that the redevelopment plan pursuant to which the condemnation and transfer occurred was a public use. Attached is a summary of the case prepared by Steve Rose, Principal Legislative Analyst in the Research Division.

H1659-SMTC-147(e1) v4

Kelo v. City of New London-Overview

545 U.S. 469 (2005)

BACKGROUND: The City of New London was in economic distress and sought to establish and carry out a comprehensive economic development plan as authorized by state statute. The target area was not considered blighted. Certain residents refused to sell and the city proceeded to condemn those properties through the use of eminent domain powers granted by the state statute.

COURT CASE: The case eventually reached the United States Supreme Court where the key question was whether or not the use of the properties in question was for a "public use" as required by the Fifth Amendment to the U.S. Constitution based upon the substantial positive effect that was sought to be achieved for the local economy by the redevelopment plan's positive effect on the local economy. In a 5-4 decision the Court held that the intended use was a "public use," which the Court has long interpreted to mean a "public purpose." The fact that a public purpose would be achieved by transferring some of the property in question to a private party to carry out the development does not matter as long as it is part of a comprehensive plan of redevelopment aimed at producing the public purpose of economic recovery, and as long as the main purpose of the condemnation is not merely to place one person's property in the hands of another.

The dissent maintained that the use of eminent domain in question crossed the line of "public use" and presented a situation where eminent domain could be used to take property from one person in order to give it to another simply because the recipient proposed a use that was in some way better for the public.

The majority opinion emphasized that whether or not the power of eminent domain was authorized in a particular situation was a matter of state law and not the Constitution. The majority opinion stated that the Constitution merely sets the limits that the purpose is for a "public use" and that the owner is paid just compensation.

Important points made in the opinion of the Court:

- A public purpose meets the requirement of "public use," and the Court has interpreted it this way since 1896.
- "Public purpose" will be interpreted broadly.
- The Court would give great deference to legislative judgment as to the need involved and the method of achieving it.
- The comprehensive character of the plan and the substantial deliberation involved in its adoption is significant in determining that its purpose was to benefit the public.
- Promoting economic development is a traditional and long accepted function of government.
- It is permissible to achieve a public purpose by transferring property into the hands of a private party (citing the Court's 1954 decision in *Berman v. Parker* and its 1984 decision in *Hawaii Housing Authority v. Midkiff*).
- Nothing in the decision precludes any state from placing further restrictions on its eminent domain powers.

Prepared by Steve Rose, Committee Counsel

H8-SMRW-39(CSLB-10) v12

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 8

DATE 4.6.11

S. B. No. _____

Amendment No. _____

COMMITTEE SUBSTITUTE H8-CSLB-10 [v.1]

(to be filled in by
Principal Clerk)

(Rep.) Hackney
(Sen.)

1 moves to amend the bill on page 1, line 12

2 () WHICH CHANGES THE TITLE

3 by rewriting that line to read:

4 "Compensation shall be paid, and shall be determined
5 by a jury at the request of any party."

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19

SIGNED Hackney

ADOPTED _____ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

Final

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H

D

HOUSE BILL 8
PROPOSED COMMITTEE SUBSTITUTE H8-PCS30268-RW-15

Short Title: Eminent Domain.

(Public)

Sponsors:

Referred to:

January 27, 2011

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROHIBIT
CONDEMNATION OF PRIVATE PROPERTY EXCEPT FOR A PUBLIC USE, AND
TO PROVIDE FOR THE PAYMENT OF JUST COMPENSATION WITH RIGHT OF
TRIAL BY JURY IN ALL CONDEMNATION CASES, AND TO MAKE SIMILAR
STATUTORY CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. Article I of the North Carolina Constitution is amended by adding a
new section to read:

"Sec. 19.1. Eminent domain.

Private property shall not be taken by eminent domain except for a public use. Just
compensation shall be paid, and shall be determined by a jury at the request of any party."

SECTION 2. The amendment set out in Section 1 of this act shall be submitted to
the qualified voters of the State at a statewide election to be conducted on November 6, 2012,
which election shall be conducted under the laws then governing elections in the State. Ballots,
voting systems, or both may be used in accordance with Chapter 163 of the General Statutes.
The question to be used in the voting systems and ballots shall be:

"[] FOR [] AGAINST

Constitutional amendment to prohibit condemnation of private property except for a
public use and to provide for the payment of just compensation with right of trial by jury in all
condemnation cases."

SECTION 3. If a majority of votes cast on the question are in favor of the
amendment set out in Section 1 of this act, the State Board of Elections shall certify the
amendment to the Secretary of State. The Secretary of State shall enroll the amendment so
certified among the permanent records of that office. The amendment set out in Section 1 of
this act becomes effective upon certification and applies to takings after that date.

SECTION 4.(a) The prefatory language of G.S. 40A-3(a) reads as rewritten:

"(a) Private Condemnors. – For the public ~~use or benefit~~, use, the persons or
organizations listed below shall have the power of eminent domain and may acquire by
purchase or condemnation property for the stated purposes and other works which are
authorized by ~~law~~, law."

SECTION 4.(b) The prefatory language of G.S. 40A-3(b) reads as rewritten:

"(b) Local Public Condemnors – Standard Provision. – For the public ~~use or benefit~~, use,
the governing body of each municipality or county shall possess the power of eminent domain



* H 8 - P C S 3 0 2 6 8 - R W - 1 5 *

1 and may acquire by purchase, gift or condemnation any property, either inside or outside its
2 boundaries, for the following ~~purposes-~~purposes:".

3 **SECTION 4.(c)** The prefatory language of G.S. 40A-3(b1) reads as rewritten:

4 "(b1) Local Public Condemnors – Modified Provision for Certain Localities. – For the
5 public ~~use or benefit,~~use, the governing body of each municipality or county shall possess the
6 power of eminent domain and may acquire by purchase, gift or condemnation any property or
7 interest therein, either inside or outside its boundaries, for the following ~~purposes-~~purposes:".

8 **SECTION 4.(d)** The prefatory language of G.S. 40A-3(c) reads as rewritten:

9 "(c) Other Public Condemnors. – For the public ~~use or benefit,~~use, the following
10 political entities shall possess the power of eminent domain and may acquire property by
11 purchase, gift, or condemnation for the stated ~~purposes-~~purposes:".

12 **SECTION 5.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H

D

HOUSE BILL 8
PROPOSED COMMITTEE SUBSTITUTE H8-CSLB-10 [v.1]

Short Title: Eminent Domain.

(Public)

Sponsors:

Referred to:

January 27, 2011

A BILL TO BE ENTITLED
AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROHIBIT
CONDEMNATION OF PRIVATE PROPERTY EXCEPT FOR A PUBLIC USE, AND
TO PROVIDE FOR THE PAYMENT OF JUST COMPENSATION WITH RIGHT OF
TRIAL BY JURY IN ALL CONDEMNATION CASES, AND TO MAKE SIMILAR
STATUTORY CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. Article I of the North Carolina Constitution is amended by adding a new section to read:

"Sec. 19.1. Eminent domain.

Private property shall not be taken by eminent domain except for a public use. Just compensation shall be paid and, if demanded, shall be determined by a jury."

SECTION 2. The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at a statewide election to be conducted on November 6, 2012, which election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The question to be used in the voting systems and ballots shall be:

☐ FOR ☐ AGAINST

Constitutional amendment to prohibit condemnation of private property except for a public use and to provide for the payment of just compensation with right of trial by jury in all condemnation cases."

SECTION 3. If a majority of votes cast on the question are in favor of the amendment set out in Section 1 of this act, the State Board of Elections shall certify the amendment to the Secretary of State. The Secretary of State shall enroll the amendment so certified among the permanent records of that office. The amendment set out in Section 1 of this act becomes effective upon certification and applies to takings after that date.

SECTION 4.(a) The prefatory language of G.S. 40A-3(a) reads as rewritten:
"(a) Private Condemnors. – For the public use ~~or benefit~~, the persons or organizations listed below shall have the power of eminent domain and may acquire by purchase or condemnation property for the stated purposes and other works which are authorized by ~~law~~ law."

SECTION 4.(b) The prefatory language of G.S. 40A-3(b) reads as rewritten:
"(b) Local Public Condemnors – Standard Provision. – For the public use ~~or benefit~~, the governing body of each municipality or county shall possess the power of eminent domain and



1 may acquire by purchase, gift or condemnation any property, either inside or outside its
2 boundaries, for the following ~~purposes-~~purposes:"

3 **SECTION 4.(c)** The prefatory language of G.S. 40A-3(b1) reads as rewritten:

4 "(b1) Local Public Condemnors – Modified Provision for Certain Localities. – For the
5 public use ~~or benefit~~, the governing body of each municipality or county shall possess the
6 power of eminent domain and may acquire by purchase, gift or condemnation any property or
7 interest therein, either inside or outside its boundaries, for the following ~~purposes-~~purposes:"

8 **SECTION 4.(d)** The prefatory language of G.S. 40A-3(c) reads as rewritten:

9 "(c) Other Public Condemnors. – For the public use ~~or benefit~~, the following political
10 entities shall possess the power of eminent domain and may acquire property by purchase, gift,
11 or condemnation for the stated ~~purposes-~~purposes:"

12 **SECTION 5.** This act is effective when it becomes law.

VISITOR REGISTRATION SHEET

JUDICIARY

Wednesday, April 6, 2011

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Judith Wegner	UNC School of Law
J. Graham Corriher	UNC School of Law
Matt Dudek	UNC School of Law
Mark Bibbs	Bibbs Law Office
Casey Weissman-Vermehren	UNC Law
Jeff Harris	UNC Law
David Lanier	UNC Law
Andrew Gatt	UNC Law
Marcus Carpenter	UNC Law
Jason McIntire	UNC Law
Beeth Thompson	UNC Law

VISITOR REGISTRATION SHEET

JUDICIARY

Wednesday, April 6, 2011

Name of Committee

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Brian Payne	UNC Law
Erin Riggs	UNC Law
STEVEN SAUNDERS	UNC Law
CHARLIE BOONE	
Therianet Arches	Guilford Education Alliance Greensboro Food Partnership
Mike Tarrott	UNC + Greensboro Partnership
Alan Pike	GTCC
Nick Miller	UNC Law
Maggie Davis	UNC Law
Meghan Deutsch	UNC Law
Nicole Sullivan	NC DOC

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Wednesday, April 6, 2011

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Mig Bailey	Electri Cities
David Crawford	AIA NC
Andrew Cagle	NC Sheriffs' Assn.
Eddie Caldwell	NC Sheriffs' Assn.
Jeff Hunt	DA-2913
Peey Dorer	Conf. of DAs
Dana Simpson	Smith Amers
John McAlister	NC Chamber
Andy Ellis	NRM
Gary Salinas	RSK
Peter Renke	American Rivers

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Wednesday, April 6, 2011

Name of Committee

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FIRM OR AGENCY AND ADDRESS

Becki Gray	JJ
Kellie [unclear]	JLF
Sarah Preston	ACLU-NC
T. Anthony Spearman	NCNACCP / AME Zion Church
Edgar Miller	CTNC
Will With	State Farm
Meredith Hacker	State Farm
Aaron Berry	STATE FARM
Diane Albany	State Farm
Bob Roycroft	State Farm
David Jackson Melanie Jackson	" " 608 Fearnington Post. Pittsboro NC 8/13/12

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Wednesday, April 6, 2011

Name of Committee

Date

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FIRM OR AGENCY AND ADDRESS

Fred P Baggett	NC Chiefs of Police Assn
Allison Fowler	NC Grange
Daniel Gruber	Triangle Transit
Jennifer Epperson	NC DOJ
Melissa Lovell	NC DOJ
Haley Finn	Saint Mary's (NC DOJ)
Awa Sowe	Saint Mary's (NC DOJ)
Floyd Lewis	General Statutes Commission
John Monaghan	Piedmont Natural Gas
Daniel Baum	Thurman Sanders
Allison Waller	Charlotte Chamber
Paul Stock	NC Bankers

VISITOR REGISTRATION SHEET

JUDICIARY

Wednesday, April 6, 2011

Name of Committee

Date

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FIRM OR AGENCY AND ADDRESS

Emily Grimm	mwc
Lynette Johnson	NCALHO
Kerry Hinkley	Duke Energy
Dana Fenton	City of Charlotte
Jonathan Saunders	Dominion
Michael Thompson	Cominco
BM Scobbin	TSS
Dave Hearn	WM
Lisa Martin	7 NC HB24
Jessi Hayes	
Cady Thomas	NCAR
Angie Harris	WM

VISITOR REGISTRATION SHEET

JUDICIARY

Wednesday, April 6, 2011

Name of Committee

Date

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FIRM OR AGENCY AND ADDRESS

Kelli Kuhn	NCLM
J GOODMAN	NE CHAMBERS
Danwood	NS
WL BUZZ CAYTON	TEB PARTY
Delux Blinson	Tex Party
Dick Taylor	NOAA
SARA DONALDSON	State Farm
Lachel Ostad	RW of CH
Nancy Clark	also, Conservative Women's Forum Republican Women's Club of Chapel Hill
Dana A. Postiglione	Conservative Women's Forum & Triangle Republican Women
Salann Mao	Farrington GOP
Danica Lee Long	Chapel Hill

VISITOR REGISTRATION SHEET

JUDICIARY

Name of Committee

Wednesday, April 6, 2011

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Windy

None

Anthony Pae

910 West 6th St
Corpus Christi TX 78401

John Meritt

MWC LLC, Corp

House Committee Pages / Sergeants at Arms

NAME OF COMMITTEE

JUDICIARY

DATE:

4.6.2011

Room:

643

*Name:

Jessica Williams

County:

Robeson

Sponsor:

Graham

*Name:

Amanda Keyser

County:

Wake

Sponsor:

Ingle

Name:

Caroline Ricciarelli

County:

Pitt

Sponsor:

McLawhorn

*Name:

County:

Sponsor:

*Name:

County:

Sponsor:

House Sgt-At Arms:

1. Name:

4. Name:

Name:

5. Name:

3. Name:

6. Name:

Committee Sergeants at Arms

NAME OF COMMITTEE JUDICIARY

DATE: 4.6.2011 Room: 643

House Sgt-At Arms:

1. Name: Carlton Adams
2. Name: Young Bae
3. Name: Doug Harris
4. Name: Bill Bass
5. Name: Billy Jones

Senate Sgt-At Arms:

1. Name: _____
2. Name: _____
3. Name: _____
4. Name: _____
5. Name: _____

HOUSE JUDICIARY COMMITTEE

MINUTES

Tuesday, May 22, 2012

3:00 pm

The House Judiciary Committee met on Tuesday, May 22, 2012 at 3:00 pm in Room 544 of the Legislative Office Building. The Chair, Representative Leo Daughtry, called the meeting to order and the following members were present: Representatives Burr, T. Moore, Randleman, Alexander, Blackwell, Blust, Bordsen, Brown, Bryant, Cleveland, Dixon, Faircloth, Faison, Glazier, Hackney, Haire, Hall, Harrison, Hilton, Ingle, Insko, Jackson, Jones, Jordan, Killian, Martin, McGrady, Michaux, Mobley, Pridgen, Ross, Saine, Stam, Stevens, Walend and Weiss. Staff present were Walker Reagan (Research), Susan Sitze (Research), Denise Adams (Research) and Jan Paul ((Research).

The Chair welcomed members and guests.

The Chair called on Representative Earline Parmon (bill sponsor) and Reagan to provide an overview and explanation of HOUSE BILL 957 AN ACT TO PROVIDE MONETARY COMPENSATION TO PERSONS ASEXUALIZED OR STERILIZED UNDER THE AUTHORITY OF THE EUGENICS BOARD OF NORTH CAROLINA (Attachment A).

The Chair invited members of the public to offer their comments on the bill (Attachment B).

The Chair invited committee members to offer their questions and comments on the bill.

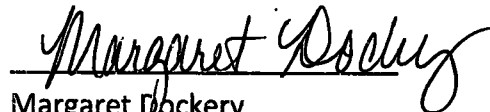
Rep. Paul Stam moved that the bill receive a favorable report. The motion passed.

There being no further business, the meeting adjourned at 3:50 pm.

Respectfully submitted,



Representative Leo Daughtry
Chair



Margaret Dockery
Committee Clerk

HOUSE COMMITTEE ON JUDICIARY

AGENDA

**Tuesday, May 22, 2012
2:00 pm or 30 minutes after Session
Room 544 LOB**

OPENING REMARKS

Representative Leo Daughtry, Chair

AGENDA ITEM

HOUSE BILL 947 Eugenics Compensation Program

**Representative Larry Womble, Sponsor
Speaker Thom Tillis, Sponsor
Representative Earline Parmon, Sponsor
Representative Paul Stam, Sponsor**

REMARKS FROM THE PUBLIC

DISCUSSION BY JUDICIARY COMMITTEE MEMBERS

ADJOURNMENT

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H

1

HOUSE BILL 947*

Short Title: Eugenics Compensation Program.

(Public)

Sponsors: Representatives Womble, Tillis, Parmon, and Stam (Primary Sponsors).

For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Judiciary, if favorable, Finance, if favorable, Appropriations.

May 17, 2012

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE MONETARY COMPENSATION TO PERSONS ASEXUALIZED
3 OR STERILIZED UNDER THE AUTHORITY OF THE EUGENICS BOARD OF
4 NORTH CAROLINA.

5 Whereas, it is the policy and intent of this State to provide compensation for certain
6 individuals who were lawfully asexualized or sterilized under the authority of the Eugenics
7 Board of North Carolina in accordance with Chapter 224 of the Public Laws of 1933 or Chapter
8 221 of the Public Laws of 1937; and

9 Whereas, the General Assembly recognizes that the State has no legal liability for these
10 asexualization or sterilization procedures and that any applicable statutes of limitations have
11 long since expired for the filing of any claims against the State for injuries caused; and

12 Whereas, the General Assembly wishes to make restitution for injustices suffered and
13 unreasonable hardships endured by the asexualization or sterilization of individuals at the
14 direction of the State between 1933 and 1974; and

15 Whereas, the General Assembly intends that compensation paid under this act shall not be
16 subject to State or federal income taxation nor considered for eligibility purposes for State or
17 federal public assistance; Now, therefore,
18 The General Assembly of North Carolina enacts:

19 SECTION 1. Article 9 of Chapter 143B of the General Statutes is amended by
20 adding a new Part to read:

21 "Part 30. Eugenics Asexualization and Sterilization Compensation Program.

22 "§ 143B-426.50. Definitions.

23 As used in this Part, the following definitions apply:

24 (1) Claimant. – An individual on whose behalf a claim is made for
25 compensation as a qualified recipient under this Part.

26 (2) Commission. – The North Carolina Industrial Commission.

27 (3) Office. – The Office of Justice for Sterilization Victims.

28 (4) Qualified recipient. – An individual who was asexualized or sterilized under
29 the authority of the Eugenics Board of North Carolina in accordance with
30 Chapter 224 of the Public Laws of 1933 or Chapter 221 of the Public Laws
31 of 1937, and who was living on March 1, 2010.

32 "§ 143B-426.51. Compensation payments.

33 (a) A claimant determined to be a qualified recipient under this Part shall receive
34 compensation in the amount of fifty thousand dollars (\$50,000) from funds appropriated to the
35 Department of State Treasurer for these purposes.



(b) A qualified recipient may assign compensation received pursuant to subsection (a) of this section to a trust established for the benefit of the qualified recipient.

"§ 143B-426.52. Claims for compensation for asexualization or sterilization.

(a) An individual shall be entitled to compensation as provided for in this Part if a claim is submitted on behalf of that individual in accordance with this Part on or before December 31, 2015, and that individual is subsequently determined by a preponderance of the evidence to be a qualified recipient.

(b) A claim under this section shall be submitted to the Office. The claim shall be in a form, and supported by appropriate documentation and information, as required by the Commission. A claim may be submitted on behalf of a claimant by a person lawfully authorized to act on the individual's behalf. A claim may be submitted by the personal representative of an individual who dies on or after March 1, 2010. The Office shall file the submitted claim to the Commission.

(c) The Commission shall determine the eligibility of a claimant to receive the compensation authorized by this Part in accordance with G.S. 143B-426.53. The Commission shall notify the claimant in writing of the Commission's determination regarding the claimant's eligibility.

(d) The Commission shall adopt rules for the determination of eligibility and the processing of claims.

"§ 143B-426.53. Industrial Commission determination.

(a) The Commission shall determine whether a claimant is eligible for compensation as a qualified recipient under this Part. The Commission shall have all powers and authority granted under Article 31 of Chapter 143 of the General Statutes with regard to claims filed pursuant to this Part.

(b) A deputy commissioner shall be assigned by the Commission to make initial determinations of eligibility for compensation under this Part. The deputy commissioner shall review the claim and supporting documentation submitted on behalf of a claimant and shall make a determination of eligibility. If the claim is not approved, the deputy commissioner shall set forth in writing the reasons for the disapproval and notify the claimant.

(c) A claimant whose claim is not approved under subsection (b) of this section may submit to the Commission additional documentation in support of the individual's claim and request a redetermination by the deputy commissioner.

(d) A claimant whose claim is not approved under subsection (b) or (c) of this section shall have the right to request a hearing before the deputy commissioner. The hearing shall be conducted in accordance with rules of the Commission. For claimants who are residents of this State, at the request of the claimant, the hearing shall be held in the county of residence of the claimant. For claimants who are not residents of this State, the hearing shall be held at a location determined by the deputy commissioner. The claimant shall have the right to be represented, including the right to be represented by counsel, present evidence, and call witnesses. The deputy commissioner who hears the claim shall issue a written decision of eligibility which shall be sent to the claimant.

(e) Upon the issuance of a decision by the deputy commissioner under subsection (d) of this section, the claimant may file notice of appeal with the Commission within 30 days of the date notice of the deputy commissioner's decision is given. Such appeal shall be heard by the Commission, sitting as the full Commission, on the basis of the record in the matter and upon oral argument. The full Commission may amend, set aside, or strike out the decision of the deputy commissioner and may issue its own findings of fact, conclusions of law, and decision. The Commission shall notify all parties concerned in writing of its decision.

(f) A claimant may appeal the decision of the full Commission to the Court of Appeals within 30 days of the date notice of the decision of the full Commission is given. Appeals under

1 this section shall be in accordance with the procedures set forth in G.S. 143-293 and
2 G.S. 143-294.

3 (g) If at any stage of the proceedings the claimant is determined to be a qualified
4 recipient, the Commission shall give notice to the claimant and to the Office of the State
5 Treasurer, and the State Treasurer shall make payment of compensation to the qualified
6 recipient.

7 (h) Costs under this section shall be taxed to the State.

8 **"§ 143B-426.54. Office of Justice for Sterilization Victims.**

9 (a) There is created in the Department of Administration the Office of Justice for
10 Sterilization Victims.

11 (b) At the request of a claimant or a claimant's legal representative, the Office shall
12 assist an individual who may be a qualified recipient to determine whether the individual
13 qualifies for compensation under this Part. The Office may assist an individual filing a claim
14 under this Part and collect documentation in support of the claim. With the claimant's consent,
15 the Office may represent and advocate for the claimant before the Commission, and may assist
16 the claimant with any good faith further appeal of an adverse decision on a claim.

17 (c) The Office shall plan and implement an outreach program to attempt to notify
18 individuals who may be possible qualified recipients.

19 **"§ 143B-426.55. Confidentiality.**

20 Records of all inquiries of eligibility, claims, and payments under this Part shall be
21 confidential and not public records under Chapter 132 of the General Statutes.

22 **"§ 143B-426.56. Compensation excluded as income, resources, or assets.**

23 (a) Any payment made under this section is not subject to income tax as provided in
24 G.S. 105-134.6(b)(23), nor to be considered income or assets for purposes of determining the
25 eligibility for, or the amount of, any benefits or assistance under any State or local program
26 financed in whole or in part with State funds.

27 (b) Pursuant to G.S. 108A-26.1, the Department of Health and Human Services shall do
28 the following:

29 (1) Provide income, resource, and asset disregard to an applicant for or recipient
30 of public assistance who receives compensation under this Part. The amount
31 of the income, resource, and asset disregard shall be equal to the total
32 compensation paid to the individual from the Eugenics Sterilization
33 Compensation Fund.

34 (2) Provide resource protection by reducing any subsequent recovery by the
35 State under G.S. 108A-70.5 from a deceased recipient's estate for payment of
36 Medicaid-paid services by the amount of resource disregard given under
37 subdivision (1) of this subsection.

38 (3) Adopt rules to implement the provisions of subdivisions (1) and (2) of this
39 subsection.

40 **"§ 143B-426.57. Limitation of liability.**

41 Nothing in this Part shall revive or extend any statute of limitations that may otherwise
42 have expired prior to July 1, 2012. The State's liability arising from any cause of action related
43 to any asexualization or sterilization performed pursuant to an order of the Eugenics Board of
44 North Carolina shall be limited to the compensation authorized by this Part."

45 **SECTION 2.** G.S. 105-134.6(b) is amended by adding a new subdivision to read:

46 **"(23)** The amount paid to the taxpayer during the taxable year from the Eugenics
47 Sterilization Compensation Fund in the Office of the State Treasurer as
48 compensation to a qualified recipient under the Eugenics Asexualization and
49 Sterilization Compensation Program under Part 30 of Article 9 of Chapter
50 143B of the General Statutes."

SECTION 3. Part 1 of Article 2 of Chapter 108A of the General Statutes is amended by adding a new section to read:

"§ 108A-26.1. Exclude compensation from the Eugenics Sterilization Compensation Fund from income, resources, and assets for public assistance programs.

With regard to compensation received pursuant to Part 30 of Article 9 of Chapter 143B of the General Statutes, the provisions of G.S. 143B-426.56(b) shall apply to the Department."

SECTION 4. G.S. 132-1.23 reads as rewritten:

"§ 132-1.23. Eugenics program records.

(a) Records in the custody of the State, including those in the custody of the North Carolina Office of Justice for Sterilization Foundation Victims, concerning the North Carolina Eugenics Board of North Carolina's program are confidential and are not public records to the extent they concern records, including the records identifying (i) persons-individuals impacted by the program, (ii) persons-individuals, or their guardians or authorized agents-agents, inquiring about the impact of the program on them, the individuals, or (iii) persons-persons, or their guardians or authorized agents-agents, inquiring about the potential impact of the program on others.

(b) Notwithstanding subsection (a) of this section, a person-an individual impacted by the program may obtain that person's individual records under the program, and a guardian or authorized agent of that person may also obtain them-program, or a guardian or authorized agent of that individual, may obtain that individual's records under the program upon execution of a proper release authorization.

(c) Notwithstanding subsections (a) and (b) of this section, minutes or reports of the Eugenics Board of North Carolina, for which identifying information of the individuals impacted by the program have been redacted, may be released to any person. As used in this subsection, "identifying information" shall include the name, street address, birth day and month, and any other information the State believes may lead to the identity of any individual impacted by the program, or of any relative of an individual impacted by the program.

SECTION 5. There is established the Eugenics Sterilization Compensation Fund in the Office of the State Treasurer. Compensation authorized under Part 30 of Article 9 of Chapter 143B of the General Statutes shall be paid from this Fund. Funds appropriated to this Fund shall not revert until all claims timely filed with the Industrial Commission under Part 30 of Article 9 of Chapter 143B of the General Statutes have been finally adjudicated and all qualified recipients who timely submit claims are paid. The Fund is subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes.

SECTION 6. The Department of Health and Human Services shall submit to the Centers for Medicare and Medicaid Services by July 1, 2012, a State Plan Amendment for the Medical Assistance Program and a State Plan Amendment for the Children's Health Insurance Program to allow for income, resource, and asset disregard for compensation payments under Part 30 of Article 9 of Chapter 143B of the General Statutes, the Eugenics Asexualization and Sterilization Compensation Program, as enacted by Section 1 of this act.

SECTION 7. Of the funds appropriated for the 2012-2013 fiscal year to the Department of the State Treasurer, the sum of ten million dollars (\$10,000,000) shall be used to fund the Eugenics Sterilization Compensation Fund established under Section 5 of this act.

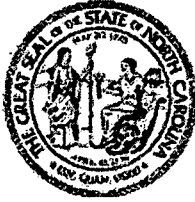
SECTION 8. Of the funds appropriated for the 2012-2013 fiscal year to the Industrial Commission, the sum of one hundred eighty-four thousand dollars (\$184,000) shall be used for the administration of Section 1 of this act.

SECTION 9. Of the funds appropriated for the 2012-2013 fiscal year to the Department of Administration, the sum of six hundred fifty-four thousand dollars (\$654,000) shall be used for the expenses of the Office of Justice for Sterilization Victims as set forth in Section 1 of this act.

1 **SECTION 10.** The Department of Cultural Resources shall electronically scan and
2 index records of index cards and minutes of the Eugenics Board of North Carolina. The
3 Department of Administration, with the assistance of the Department of Cultural Resources,
4 shall establish an electronic searchable database of records of the Eugenics Board of North
5 Carolina, which shall be made available for the purpose of assisting in the identification of
6 claimants who may be qualified recipients under this act. Of the funds appropriated for the
7 2012-2013 fiscal year to the Department of Cultural Resources, the sum of fifty-seven thousand
8 dollars (\$57,000) shall be used for the electronic scanning and indexing of documents. Of the
9 funds appropriated for the 2012-2013 fiscal year to the Department of Administration, the sum
10 of one hundred fifty-five thousand dollars (\$155,000) shall be used for the creation and
11 maintenance of the database established under this section.

12 **SECTION 11.** It is the intent of this General Assembly that, to the extent the funds
13 appropriated by this act are insufficient to pay compensation to all qualified recipients under
14 this act, any future General Assembly will appropriate sufficient funds to compensate all
15 qualified recipients.

16 **SECTION 12.** Sections 6 and 12 of this act are effective when this act becomes
17 law. The remainder of this act becomes effective July 1, 2012.



HOUSE BILL 947: Eugenics Compensation Program

2011-2012 General Assembly

Committee:	House Judiciary, if favorable, Finance, if favorable, Appropriations	Date:	May 22, 2012
Introduced by:	Reps. Womble, Tillis, Parmon, Stam	Prepared by:	O. Walker Reagan, Staff Attorney
Analysis of:	First Edition		Janice Paul, Staff Attorney

SUMMARY: *House Bill 947 would provide \$50,000 in compensation to individuals who were asexualized or sterilized under the authority of the Eugenics Board of North Carolina.*

[As introduced, this bill was identical to S800, as introduced by Sens. McKissick, Hartsell, Kinnaird, which is currently in Senate Appropriations/Base Budget.]

BACKGROUND: Beginning in 1919, the General Assembly authorized the asexualization and sterilization of certain inmates or patients of State institutions. Involuntary sterilization was ruled permissible under the U.S. Constitution in 1929.¹ In 1933, the General Assembly created and authorized the Eugenics Board of North Carolina ("Board") to order sterilization of a "mentally diseased, feeble-minded, or epileptic" individual when such procedure was considered to be in the best interest of the mental, moral, or physical improvement of the individual or for the public good, or if the individual would be likely to procreate a child who would have a tendency to serious physical, mental, or nervous disease or deficiency. The Board ordered the asexualization or sterilization of an estimated 7,600 individuals between 1933 and 1974. In 1974, the General Assembly transferred the authority to order such sterilization proceedings to the courts. North Carolina's involuntary sterilization laws were repealed in 2003.

BILL ANALYSIS: House Bill 947 would establish a program to provide compensation in the amount of \$50,000 to individuals asexualized or sterilized by order of the Board between 1933 and 1974, and to provide a process for determining who is entitled to that compensation.

SECTION 1 of the bill defines eligibility for compensation, sets the amount of compensation, establishes the process and procedure for the filing and determining of claims of eligibility for compensation, provides appeal rights, creates an advocacy office for sterilization victims, addresses records privacy, and prescribes the effects of compensation awards for purposes of eligibility for public assistance and taxation.

G.S. 143B-426.50 sets out the definitions applicable in this Part. "Qualified recipient" is defined as an individual entitled to compensation who proves he or she (1) was asexualized or sterilized (2) pursuant to an order of the Board between 1933 and 1974, and (3) was alive as of March 1, 2010.

G.S. 143B-426.51 sets a lump sum compensation award of \$50,000 per qualified recipient. It allows compensation to be assigned to a trust for the recipient's benefit.

G.S. 143B-426.52 sets the deadline for filing a claim as December 31, 2015. Claims are submitted to the Office of Justice for Sterilization Victims ("Office"), which in turn files the claims with the Industrial Commission ("Commission"). The Commission is required to make rules for processing claims, make eligibility determinations, and notify claimants.

¹ *Buck v. Bell*, 274 U.S. 200 (1927).
Research Division

House Bill 947

Page 2

G.S. 143B-426.53 sets out the authority and process for the Commission to make eligibility determinations. This process provides for a determination on the application by a deputy commissioner, gives an unsuccessful claimant the right to a redetermination, a hearing, and a review on the record by the full Commission. Appeals by the claimant from the Commission are to the Court of Appeals.

G.S. 143B-426.54 creates an Office of Justice for Sterilization Victims in the Department of Administration. (DOA) to assist in the filing of claims, serve as victim advocate, provide legal assistance to victims when necessary, and implement a public outreach program to potential qualified recipients.

G.S. 143B-426.55 provides that records relating to eligibility, claims, and payments under the Program are confidential and are not public records.

G.S. 143B-426.56 excludes compensation payments from the State income tax and from being considered income or assets for purposes of eligibility for public assistance programs. DHHS is specifically directed to provide income, resource and asset disregard and protection to individuals who apply for or receive public assistance under State-controlled programs.

G.S. 143B-426.57 makes clear that no applicable statute of limitations is revived or extended by this law, and that the State's liability is limited to the \$50,000 compensation award.

SECTIONS 2 AND 3 of the bill make conforming changes exempting compensation payments from the State income tax laws and the public assistance laws.

SECTION 4 makes conforming changes to the current public record law that exempts certain records of the Eugenics Board from public records by permitting the release of minutes or reports of the Eugenics Board if identifying information is redacted.

SECTION 5 establishes the Eugenics Sterilization Compensation Fund in the Office of the State Treasurer to pay compensation awards.

SECTION 6 directs the Department of Health and Human Services to submit State Plan Amendments by July 1, 2012, to the federal Centers for Medicare and Medicaid Services for income, resource and asset disregard for compensation payments.

SECTION 7 directs the Office of the State Treasurer to use \$10 million in 2012-13 appropriated funds for the payment of compensation.

SECTION 8 directs the Industrial Commission to use \$184,000 in 2012-13 appropriated funds to administer the Program.

SECTION 9 directs DOA to use \$654,000 of 2012-13 appropriated funds for expenses of the Office.

SECTION 10 directs the Department of Cultural Resources to use \$57,000 of 2012-13 appropriated funds to scan and index Eugenics Board records, and to work with DOA to create an electronic searchable database of the records. DOA is directed to use \$155,000 of 2012-13 appropriated funds for the database creation and maintenance.

SECTION 11 states the intent of the General Assembly that, if appropriations are insufficient to pay all qualified claims, future General Assemblies will appropriate adequate funds to compensate all qualified recipients.

EFFECTIVE DATE: Sections 6 and 12 are effective when the act becomes law. The remainder H947-SMTJ-61(e1) v4

H947-SMTJ-61(e1) v3

Attachment B

2/12

Speaker List (2 1/2 min. each)

1. Nimit Desai

2. Raj Pyada

3. Justin Mott

4. Viraj Raplu

✓ ELAINE RIDGICK

✓ Australia Clay

✓ Dahlresma Marks Evans

✓ 8. DEBORAH CHESSON

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**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2011-2012 SESSION**

You are hereby notified that the Committee on **Judiciary** will meet as follows:

DAY & DATE: Tuesday, May 22, 2012

TIME: 2:00 pm or 30 minutes after Session

LOCATION: 544 LOB

COMMENTS:

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 947	Eugenics Compensation Program.	Representative Womble Representative Tillis Representative Parmon Representative Stam

Respectfully,
Representative Daughtry, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at
3 PM o'clock on May 16, 2011.

- ☐ Principal Clerk
☐ Reading Clerk – House Chamber

Margaret Dockery (Committee Assistant)

HOUSE COMMITTEE ON JUDICIARY

AGENDA

**Tuesday, May 22, 2012
2:00 pm or 30 minutes after Session
Room 544 LOB**

OPENING REMARKS

Representative Leo Daughtry, Chair

AGENDA ITEM

HOUSE BILL 947 Eugenics Compensation Program

**Representative Larry Womble, Sponsor
Speaker Thom Tillis, Sponsor
Representative Earline Parmon, Sponsor
Representative Paul Stam, Sponsor**

REMARKS FROM THE PUBLIC

DISCUSSION BY JUDICIARY COMMITTEE MEMBERS

ADJOURNMENT

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON JUDICIARY

May 22, 2012

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

DEBORAH CHESON FOR NIAL RAMIREZ	102 INVERNESS TRACE RIVERDALE, GA 30274
Elaine Liddick	Self, "Victim"
Dahlerma Thauls Evans	granddaughter of "Victim"
Austriana Day	Daughter of a Victim
PAULINE WATSON (DAUGHTER) CASTELLA JEFFERSON (VICTIM)	201 SOUTH WASHINGTON ST. MONROE NC 28112
Beth + Charles Wyant	family member
Julie Rose	WFAE
Tony Liddick	Self
Porsha Robinson	Rep Bryant (intern)
John Reily	WS Journal
Willis Lynch	Littleton NC

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON JUDICIARY

May 22, 2012

Name of Committee

Date

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NAME

FIRM OR AGENCY AND ADDRESS

Jessie Mae Powell Carroll - Joyce Cypress	3333 Friar Tuck Rd. Raleigh, NC 27610
Bruce Chari's	101 Chest Hill Dr. Apt. 101 Raleigh, NC 27606
Mable Johnson	41171 Kivett Drive James town, NC 27282
SCOTT SCHERR	STONY RD WAKE CO.
Jandra J. Polin	514 Daniels St. PMB 330 Raleigh, NC 27605
Kayla Polin	514 Daniels St. PMB 330 Raleigh, NC 27605
Stephanie Sauchera	Carolina Public Press
Corey Pope	NARAL NC
Wayne Overton	2448 Milburnie Rd Raleigh, N.C.
Joyce Murphy	1154 Wards Rd Wallace NC 28466
A. Burt	PO Box 40922 Raleigh, NC 27629

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HOUSE COMMITTEE ON JUDICIARY

Name of Committee.

May 22, 2012

Date

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NAME**FIRM OR AGENCY AND ADDRESS**

Teresa Mitchell

3039 B Lake Woodard Drive
Raleigh, NC 27604

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HOUSE COMMITTEE ON JUDICIARY

May 22, 2012

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FIRM OR AGENCY AND ADDRESS

Julia Adams	The Arc of NC
AnnaLiese Dolph	DRNC
Corye Dunn	DRNC
Stephonne Melini	UNC Center for Civil Rights
Rachel Nicholas	UNC Center for Civil Rights
Ndidi Menkiti	UNC Center for Civil Rights
Taiyyaba Qureshi	UNC Center for Civil Rights
ALFRED BROPHY	UNC - LAW SCHOOL
Barbara Bowers	OSBM
Clayton Barnett	personal interest

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HOUSE COMMITTEE ON JUDICIARY

Name of Committee

May 22, 2012

Date

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NAME**FIRM OR AGENCY AND ADDRESS**

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VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON JUDICIARY

May 22, 2012

Name of Committee

Date

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NAME	FIRM OR AGENCY AND ADDRESS
SARA WOOD	WHR Public Radio Wilmington, NC
Sarah Koonts	State Archives - DCR
Cynthia Church	Teacher, Carnage Magnet Middle School
Nimit Desai	Student of Carnage Middle School
Raaj Pyada	Student of Carnage Middle School
Justin Mott	Student of Carnage Middle School
Viraj Rapoli	Student of Carnage Middle School
Nanda Taylor	NC Industrial Commission
MARY MATTHEWS	Student at Appalachian State
Karen Bestman	TSS member of the concerned public
Theresa Matthews	Cary, NC
Melissa Reed	PPHS

Womble

PARMON

House Committee Pages / Sergeants at Arms

NAME OF COMMITTEE Judiciary

DATE: 5-22-2012 Room: 544

*Name: Nicholas Britt

County: Johnston

Sponsor: Daughtry

*Name: Elliott Grant

County: Durham

Sponsor: Micheaux

Name: Elizabeth Maness

County: Stanly

Sponsor: Burr

*Name: Maria Kunath

County: Wake

Sponsor: Paul Stam

*Name: Matt Gilgo

County: Pender

Sponsor: Justice

House Sgt-At Arms:

1. Name: FRED HINES

4. Name: JOE G. CROOK

2. Name: CARLTON ADAMS

5. Name: CARL MORELLO

3. Name: WAYNE DAVIS

6. Name: _____

HOUSE COMMITTEE ON JUDICIARY

[illegible]

[illegible]

ATTENDANCE
HOUSE COMMITTEE ON JUDICIARY

[illegible]

[illegible]