

GENERAL ASSEMBLY OF NORTH CAROLINA  
1987 SESSION

CHAPTER 1056  
HOUSE BILL 2215

AN ACT TO DIVIDE DISTRICT COURT DISTRICTS 12 AND 16 AND PROSECUTORIAL DISTRICTS 12 AND 16 INTO DISTRICTS 12, 16A, AND 16B ON SAME WHOLE-COUNTY BASIS AS SUPERIOR COURT DISTRICTS 12 AND 16 WERE DIVIDED IN 1987, DIVIDE DEFENDER DISTRICT 3 INTO DISTRICT 3A AND 3B SIMILARLY, EXTEND THE PUBLIC DEFENDER SYSTEM TO DISTRICTS 16A AND 16B, ADD A DISTRICT COURT JUDGE IN DISTRICT 16A, MAKE NECESSARY CONFORMING CHANGES AND PROVIDE SOURCES OF FUNDS FOR SUCH PURPOSES, ADD A SUPERIOR COURT JUDGE IN SUPERIOR COURT DISTRICT 16B, AND RESTATE THE RULE CONCERNING SENIORITY IF TWO JUDGES QUALIFY ON THE SAME DAY.

The General Assembly of North Carolina enacts:

**Section 1.** Effective upon ratification for election purposes, and effective January 1, 1989, for all other purposes, G.S. 7A-60 reads as rewritten:

"§ 7A-60. **District attorneys and prosecutorial districts.**—(a) ~~Except as provided in subsection (b), effective January 1, 1971, the~~ The State shall be divided into prosecutorial districts, as shown in subsection (a1) of this section. In the general election of November 1970, a district attorney shall be elected for a four year term ~~There shall be a district attorney for each prosecutorial district, as provided in subsections (b) and (c) of this section who~~ each prosecutorial district. The district attorney shall be a resident of the prosecutorial district for which elected, and shall take office on January 1 following the election. A vacancy in the office of district attorney shall be filled as provided in Article IV, Sec. 19 of the Constitution.

(a1) The counties of the State are organized into prosecutorial districts, and each district has the counties and the number of full-time assistant district attorneys set forth in the following table:

| Judicial District | Counties   | No. of Full-Time Asst. District Attorneys |
|-------------------|--|---|
| 1                 | Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans | 5   |
| 2                 | Beaufort, Hyde, Martin, Tyrrell, Washington                    | 4   |
| 3A                | Pitt   | 4   |

|               |  |               |
|---------------|--|---------------|
| 3B            | Carteret, Craven, Pamlico                              | 4             |
| 4             | Duplin, Jones, Onslow,<br>Sampson                      | 8             |
| 5             | New Hanover, Pender                                    | 7             |
| 6             | Bertie, Halifax, Hertford,<br>Northampton              | 4             |
| 7             | Edgecombe, Nash, Wilson                                | 7             |
| 8             | Greene, Lenoir, Wayne                                  | 8             |
| 9             | Franklin, Granville,<br>Person, Vance, Warren          | 6             |
| 10            | Wake   | 15            |
| 11            | Harnett, Johnston, Lee                                 | 6             |
| <del>12</del> | <del>Cumberland, Hoke</del>                            | <del>12</del> |
| <u>12</u>     | <u>Cumberland</u>                                      | <u>11</u>     |
| 13            | Bladen, Brunswick, Columbus                            | 5             |
| 14            | Durham   | 8             |
| 15A           | Alamance   | 3             |
| 15B           | Orange, Chatham  | 3             |
| <del>16</del> | <del>Robeson, Scotland</del>                           | <del>7</del>  |
| <u>16A</u>    | <u>Scotland, Hoke</u>                                  | <u>none</u>   |
| <u>16B</u>    | <u>Robeson</u>   | <u>7</u>      |
| 17A           | Caswell,<br>Rockingham                                 | 3             |
| 17B           | Stokes, Surry  | 3             |
| 18            | Guilford   | 14            |
| 19A           | Cabarrus, Rowan  | 5             |
| 19B           | Montgomery, Randolph                                   | 3             |
| 20            | Anson, Moore, Richmond,<br>Stanly, Union               | 8             |
| 21            | Forsyth  | 9             |
| 22            | Alexander, Davidson, Davie,<br>Iredell                 | 7             |
| 23            | Alleghany, Ashe, Wilkes,<br>Yadkin                     | 3             |
| 24            | Avery, Madison, Mitchell,<br>Watauga, Yancey           | 3             |
| 25            | Burke, Caldwell, Catawba                               | 8             |
| 26            | Mecklenburg  | 19            |
| 27A           | Gaston   | 6             |
| 27B           | Cleveland,<br>Lincoln                                  | 4             |
| 28            | Buncombe   | 5             |
| 29            | Henderson, McDowell, Polk,<br>Rutherford, Transylvania | 6             |

(b) ~~Effective July 1, 1975, the twenty-seventh prosecutorial district is divided into two prosecutorial districts, to be known as Prosecutorial Districts 27-A and 27-B. District 27-A shall consist of Gaston County, and District 27-B shall consist of Cleveland and Lincoln Counties. The current district attorney of the twenty-seventh prosecutorial district shall become the district attorney of Prosecutorial District 27-B, and the senior regular resident superior court judge shall appoint a district attorney for Prosecutorial District 27-A. The appointee shall serve until January 1, 1977, and his successor shall be chosen in the general election of November, 1976. The successor shall serve for the remainder of the term expiring December 31, 1978.~~

~~Effective July 15, 1977, the fifteenth prosecutorial district is divided into two prosecutorial districts, to be known as Prosecutorial Districts 15A and 15B. District 15A shall consist of Alamance County, and District 15B shall consist of Orange and Chatham Counties. The current district attorney of the fifteenth prosecutorial district shall become the district attorney for Prosecutorial District 15A, and the Governor shall appoint a district attorney for Prosecutorial District 15B. The appointee shall serve until January 1, 1979, and his successor shall be chosen in the general election of November 1978, to serve a four-year term beginning January 1, 1979.~~

~~Effective January 1, 1979, the nineteenth prosecutorial district is divided into two prosecutorial districts, to be known as Prosecutorial Districts 19A and 19B. District 19A shall consist of Cabarrus and Rowan Counties, and District 19B shall consist of Montgomery and Randolph Counties. The current district attorney of the nineteenth prosecutorial district shall become the district attorney for Prosecutorial District 19A, and the Governor shall appoint a district attorney for Prosecutorial District 19B. The appointee shall serve until January 1, 1981, and his successor shall be chosen in the general election of November 1980, to serve a four-year term beginning January 1, 1981.~~

~~Effective October 1, 1981, the third prosecutorial district is divided into two prosecutorial districts, to be known as Prosecutorial Districts 3A and 3B. District 3A shall consist of Pitt County, and District 3B shall consist of Craven, Carteret and Pamlico Counties. The current district attorney of the third prosecutorial district shall become the district attorney for Prosecutorial District 3A. The Governor shall appoint a district attorney for Prosecutorial District 3B. The appointee shall serve until January 1, 1983, and his successor shall be chosen in the general election of November 1982, to serve a four-year term beginning January 1, 1983.~~

~~Effective September 1, 1981, the seventeenth prosecutorial district is divided into two prosecutorial districts, to be known as Prosecutorial Districts 17A and 17B. District 17A shall consist of Caswell and Rockingham Counties, and District 17B shall consist of Stokes and Surry Counties. The current district attorney of the seventeenth prosecutorial district shall become the district attorney for Prosecutorial District 17B. A new district attorney position is created by this act for Prosecutorial District 17A and shall be filled by appointment by the Governor. The appointee shall serve until January~~

1, 1983, and his successor shall be chosen in the general election of November, 1982, to serve a four-year term beginning January 1, 1983.

Except as provided in subsection (c) of this section, each district attorney for a prosecutorial district as defined in subsection (a1) of this section, other than District 19B, who is in office on December 31, 1988, shall continue in office for that prosecutorial district, for a term expiring December 31, 1990. In the general election of 1990, and every four years thereafter, a district attorney shall be elected for a four-year term for each prosecutorial district other than Districts 16A and 19B, and shall take office on the January 1 following such election. The district attorney for Prosecutorial District 19B, who is elected in the general election of 1988 for a four-year term beginning January 1, 1989, shall serve that term for Prosecutorial District 19B. In the general election of 1992, and every four years thereafter, a district attorney shall be elected for a four-year term for Prosecutorial Districts 16A and 19B and shall take office on the January 1 following such election.

(c) The office and term of the district attorney for Prosecutorial District 12 formerly consisting of Cumberland and Hoke Counties are allocated to Prosecutorial District 12 as defined by subsection (a1) of this section. The office and the term of the district attorney for former Prosecutorial District 16 consisting of Robeson and Scotland Counties are allocated to Prosecutorial District 16B as defined by subsection (a1) of this section. The initial district attorney for Prosecutorial District 16A as defined in subsection (a1) of this section shall be elected in the general election of November 1988, from nominations made in accordance with G.S. 163-114 as if a vacancy had occurred in nomination, and shall serve an initial term expiring December 31, 1992. In all other respects, subsection (b) of this section shall apply to the district attorneys for Prosecutorial Districts 12, 16A, and 16B to the same extent as all other district attorneys."

**Sec. 2.** Of the funds available to the Judicial Department for fiscal year 1988-89, the sum of forty-six thousand eight hundred eleven dollars (\$46,811) shall be used for the salary and benefits of the chief district court judge for district court district 16A, for the salary and benefits of the district attorney and the administrative assistant for the district attorney for Prosecutorial District 16A, and for other start-up costs of that district attorney's office.

**Sec. 3.** To the extent that the district attorney for Prosecutorial District 16A may, between January 1, 1989, and June 30, 1989, need the assistance of other attorneys to keep the dockets of the superior and district courts of that district reasonably current, that assistance shall be supplied by the Administrative Officer of the Courts pursuant to G.S. 7A-64.

**Sec. 4.** Effective January 1, 1989, but subject to Sections 5 and 6 of this act, G.S. 7A-133 reads as rewritten:

**"§ 7A-133. Numbers of judges by districts; numbers of magistrates and additional seats of court, by counties.**—Each district court district shall have the numbers of judges and each county within the district shall have the numbers of magistrates and additional seats of court, as set forth in the following table:

Additional

| District | Judges | County      | Magistrates<br>Min.-Max. |    | Seats of<br>Court                   |
|----------|--------|-------------|--------------------------|----|-------------------------------------|
| 1        | 3      | Camden      | 1                        | 2  | Farmville,<br>Ayden                 |
|          |        | Chowan      | 2                        | 3  |                                     |
|          |        | Currituck   | 1                        | 2  |                                     |
|          |        | Dare        | 3                        | 5  |                                     |
|          |        | Gates       | 2                        | 3  |                                     |
|          |        | Pasquotank  | 3                        | 4  |                                     |
|          |        | Perquimans  | 2                        | 3  |                                     |
| 2        | 3      | Martin      | 5                        | 8  |                                     |
|          |        | Beaufort    | 4                        | 5  |                                     |
|          |        | Tyrrell     | 1                        | 2  |                                     |
|          |        | Hyde        | 2                        | 4  |                                     |
| 3        | 7      | Washington  | 3                        | 4  |                                     |
|          |        | Craven      | 7                        | 10 |                                     |
| 4        | 5      | Pitt        | 10                       | 12 |                                     |
|          |        | Pamlico     | 2                        | 3  |                                     |
|          |        | Carteret    | 5                        | 8  |                                     |
|          |        | Sampson     | 6                        | 8  |                                     |
|          |        | Duplin      | 9                        | 11 |                                     |
|          |        | Jones       | 2                        | 3  |                                     |
| 5        | 5      | Onslow      | 8                        | 11 |                                     |
|          |        | New Hanover | 6                        | 10 |                                     |
| 6        | 3      | Pender      | 4                        | 6  |                                     |
|          |        | Northampton | 5                        | 6  |                                     |
| 7        | 5      | Halifax     | 9                        | 14 | Roanoke<br>Rapids,<br>Scotland Neck |
|          |        | Bertie      | 4                        | 5  |                                     |
|          |        | Hertford    | 5                        | 6  |                                     |
|          |        | Nash        | 7                        | 10 | Rocky Mount                         |
|          |        | Edgecombe   | 4                        | 6  | Rocky Mount                         |
| 8        | 5      | Wilson      | 4                        | 6  |                                     |
|          |        | Wayne       | 5                        | 8  | Mount Olive                         |
|          |        | Greene      | 2                        | 4  |                                     |
| 9        | 4      | Lenoir      | 4                        | 7  | La Grange                           |
|          |        | Person      | 3                        | 4  |                                     |
|          |        | Granville   | 3                        | 7  |                                     |
|          |        | Vance       | 3                        | 5  |                                     |
|          |        | Warren      | 3                        | 4  |                                     |
|          |        | Franklin    | 3                        | 6  |                                     |

|               |          |  |                               |                               |  |
|---------------|----------|--|-------------------------------|-------------------------------|--|
| 10            | 10       | Wake                                     | 12                            | 17                            | Apex,<br>Wendell,<br>Fuquay-Varina,<br>Wake Forest   |
| 11            | 5        | Harnett<br>Johnston                      | 7<br>10                       | 11<br>12                      | Dunn<br>Benson and<br>Selma  |
|               |          | Lee                                      | 4                             | 6                             |  |
| <del>12</del> | 6        | <del>Cumberland</del><br><del>Hoke</del> | <del>10</del><br><del>4</del> | <del>17</del><br><del>5</del> |  |
| <u>12</u>     | <u>5</u> | <u>Cumberland</u>                        | <u>10</u>                     | <u>17</u>                     |  |
| 13            | 4        | Bladen<br>Brunswick<br>Columbus          | 4<br>4<br>6                   | 6<br>7<br>8                   | Tabor City   |
| 14            | 5        | Durham                                   | 8                             | 12                            |  |
| 15A           | 3        | Alamance                                 | 7                             | 9                             | Burlington   |
| 15B           | 3        | Orange<br>Chatham                        | 4<br>3                        | 8<br>6                        | Chapel Hill<br>Siler City  |
| <del>16</del> | 5        | <del>Robeson</del>                       | <del>8</del>                  | <del>16</del>                 | <del>Fairmont,<br/>Maxton,<br/>Pembroke,<br/>Red Springs,<br/>Rowland,<br/>St. Pauls</del> |
|               |          | <del>Scotland</del>                      | <del>3</del>                  | <del>5</del>                  |  |
| <u>16A</u>    | <u>2</u> | <u>Scotland</u><br><u>Hoke</u>           | <u>3</u><br><u>4</u>          | <u>5</u><br><u>5</u>          |  |
| <u>16B</u>    | <u>5</u> | <u>Robeson</u>                           | <u>8</u>                      | <u>16</u>                     | <u>Fairmont,<br/>Maxton,<br/>Pembroke,<br/>Red Springs,<br/>Rowland,<br/>St. Pauls</u>     |
| 17A           | 3        | Caswell<br>Rockingham                    | 2<br>4                        | 5<br>9                        | Reidsville,<br>Eden,<br>Madison  |
| 17B           | 2        | Stokes<br>Surry                          | 2<br>5                        | 4<br>8                        | Mt. Airy   |
| 18            | 9        | Guilford                                 | 20                            | 26                            | High Point   |
| 19A           | 4        | Cabarrus<br>Rowan                        | 5<br>5                        | 9<br>10                       | Kannapolis   |
| 19B           | 3        | Montgomery<br>Randolph                   | 2<br>5                        | 4<br>8                        | Liberty  |

|     |    |              |    |     |                   |
|-----|----|--------------|----|-----|-------------------|
| 20  | 5  | Stanly       | 5  | 6   |                   |
|     |    | Union        | 4  | 6   |                   |
|     |    | Anson        | 4  | 5   |                   |
|     |    | Richmond     | 5  | 6   | Hamlet            |
|     |    | Moore        | 5  | 8   | Southern<br>Pines |
| 21  | 7  | Forsyth      | 3  | 15  | Kernersville      |
| 22  | 5  | Alexander    | 2  | 3   |                   |
|     |    | Davidson     | 7  | 10  | Thomasville       |
|     |    | Davie        | 2  | 3   |                   |
|     |    | Iredell      | 4  | 8   | Mooresville       |
| 23  | 3  | Alleghany    | 1  | 2   |                   |
|     |    | Ashe         | 3  | 4   |                   |
|     |    | Wilkes       | 4  | 6   |                   |
|     |    | Yadkin       | 3  | 5   |                   |
| 24  | 3  | Avery        | 3  | 4   |                   |
|     |    | Madison      | 4  | 5   |                   |
|     |    | Mitchell     | 3  | 4   |                   |
|     |    | Watauga      | 4  | 6   |                   |
|     |    | Yancey       | 2  | 4   |                   |
| 25  | 6  | Burke        | 4  | 7   |                   |
|     |    | Caldwell     | 4  | 7   |                   |
|     |    | Catawba      | 6  | 9   | Hickory           |
| 26  | 12 | Mecklenburg  | 15 | 26  |                   |
| 27A | 5  | Gaston       | 11 | 20  |                   |
| 27B | 3  | Cleveland    | 5  | 8   |                   |
|     |    | Lincoln      | 4  | 6   |                   |
| 28  | 4  | Buncombe     | 6  | 15  |                   |
| 29  | 4  | Henderson    | 4  | 6   |                   |
|     |    | McDowell     | 3  | 4   |                   |
|     |    | Polk         | 3  | 4   |                   |
|     |    | Rutherford   | 6  | 8   |                   |
|     |    | Transylvania | 2  | 4   |                   |
| 30  | 3  | Cherokee     | 3  | 4   |                   |
|     |    | Clay         | 1  | 2   |                   |
|     |    | Graham       | 2  | 3   |                   |
|     |    | Haywood      | 5  | 7   | Canton            |
|     |    | Jackson      | 3  | 4   |                   |
|     |    | Macon        | 3  | 4   |                   |
|     |    | Swain        | 2  | 3". |                   |

**Sec. 5.** Effective January 1, 1989, the district court judgeships in District Court Districts 12 and 16, as constituted on the effective date of this act, are allocated as follows:

(1) The district court judgeships held on May 11, 1988, in District Court District 12 by judges who are residents of Cumberland County (Sol G. Cherry, Lacy S. Hair, Anna Elizabeth Keever, Patricia Ann Timmons-Goodson, and John Hair) are allocated to District Court District 12. Any vacancy in any of these judgeships which occurs before January 1, 1989, shall be filled by a resident of Cumberland County.

(2) The district court judgeship held on May 11, 1988, in District Court District 12 by a resident of Hoke County (Warren L. Pate) is allocated to District Court District 16A. Any vacancy in this judgeship which occurs before January 1, 1989, shall be filled by a resident of Hoke County.

(3) The district court judgeships which, on May 11, 1988, were held in District Court District 16 by residents of Robeson County, or for which all candidates for a term beginning in December who had qualified for ballot access as of May 11, 1988, are residents of Robeson County, and the new judgeships for District Court District 16 created by Section 126(a) of Chapter 738 of the Session Laws of 1987, are allocated to District Court District 16B. Any vacancy in any of these judgeships, or among the candidates for any of these, which occurs before January 1, 1989, shall be filled by a resident of Robeson County.

**Sec. 6.** The other district court judgeship for District Court District 16A, as provided for in Section 4 of this act, shall become effective July 1, 1989. The judgeship shall be filled, to the extent applicable, in the manner provided for in G.S. 7A-142, as amended by subsection (g) of this section. The relevant date under the last sentence of G.S. 7A-142 shall be May 1, 1989. The initial term of office shall expire on the first day of December 1990, and a successor shall be elected in 1990 for a four-year term.

**Sec. 7.** If House Bill 2216, 1987 Session is enacted, Section 16 of that act, which amends G.S. 7A-142, is repealed. In any case, effective January 1, 1989, G.S. 7A-142 reads as rewritten:

**"§ 7A-142. Vacancies in office.**—A vacancy in the office of district judge shall be filled for the unexpired term by appointment of the Governor from nominations submitted by the bar of the judicial district as defined in G.S. 84-19. If the district court district is comprised of counties in more than one judicial district, the nominees shall be submitted jointly by the bars of those judicial districts, but only those members who reside in the district court district shall participate in the selection of the nominees. If the district court judge was elected as the nominee of a political party, then the district bar shall submit to the Governor the names of three persons who are residents of the district court district who are duly authorized to practice law in the district and who are members of the same political party as the vacating judge; provided that if there are not three persons who are available, the bar shall submit the names of two persons who meet the qualifications of this sentence. Within 60 days after the district bar submits nominations for a vacancy, the Governor shall appoint to fill the vacancy. If the district bar fails to submit nominations within 30 days from the date the vacancy occurs, the Governor may appoint to fill the vacancy without waiting for nominations."

**Sec. 8.** Effective January 1, 1989, G.S. 7A-465 reads as rewritten:



~~"§ 7A-465. Public defender; defender districts; qualifications; compensation.—The office of public defender is established, effective January 1, 1970, in the following judicial districts: the twelfth and the eighteenth.~~

~~The office of public defender is established, effective July 1, 1973, in the twenty-eighth judicial district.~~

~~The office of public defender is established, effective July 1, 1975, in the twenty-sixth and twenty-seventh judicial districts. Effective July 1, 1978, the twenty-seventh judicial district is divided into judicial districts 27A and 27B. On that date the current public defender of the twenty-seventh district shall become the public defender for district 27A.~~

~~Effective January 1, 1981, the office of public defender is established in the third judicial district.~~

~~Effective June 1, 1983, the office of public defender is established in judicial district 15B.~~

(a) The following counties of the State are organized into the defender districts listed below and in each of those defender districts an office of public defender is established effective January 1, 1989:

| <u>Defender District</u> | <u>Counties</u>        |
|--------------------------|------------------------|
| <u>3A</u>                | <u>Pitt</u>            |
| <u>3B</u>                | <u>Carteret</u>        |
| <u>12</u>                | <u>Cumberland</u>      |
| <u>15B</u>               | <u>Orange, Chatham</u> |
| <u>16A</u>               | <u>Scotland, Hoke</u>  |
| <u>16B</u>               | <u>Robeson</u>         |
| <u>18</u>                | <u>Guilford</u>        |
| <u>26</u>                | <u>Mecklenburg</u>     |
| <u>27A</u>               | <u>Gaston</u>          |
| <u>28</u>                | <u>Buncombe</u>        |

Provided that the effective date of the establishment of the office of public defender in Defender District 16B shall be the date that a superior court judge for Superior Court District 16B, other than the judge holding the judgeship for that district established by Chapter 509, Session Laws of 1987, takes office.

(b) The public defender shall be an attorney licensed to practice law in North Carolina, and shall devote his full time to the duties of his office.

In lieu of merit and other increment raises paid to regular State employees, a public defender shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, and nineteen and two-tenths percent (19.2%) after 20 years of service. 'Service' means service as a public defender."

**Sec. 9.** Effective January 1, 1989, G.S. 7A-465 is amended by adding a new subsection to read:

"(a1) The public defender for each of the above defender districts shall represent indigents and otherwise perform all other duties of a public defender in the district and superior courts of the counties included in his defender district."

**Sec. 10.** Effective January 1, 1989, G.S. 7A-466 reads as rewritten:

**"§ 7A-466. ~~Selection of defender; term; Term of defender; selection; removal.~~**—(a) Except as provided in subsection (b) of this section, the term of office of each public defender is for four years, beginning on the date specified in subsection (b) or (c) of this section, and quadrennially thereafter.

(b) The public defender for each of the judicial districts listed below, as constituted on December 31, 1988, who is in office on that date, shall become the public defender for the defender district listed opposite that judicial district. The term of each such defender shall end on the date indicated and a new term shall begin on the following day.

| <u>Judicial District</u><br><u>as of 12/31/88</u> | <u>Defender District</u> | <u>Term Ends</u>         |
|---|--------------------------|--------------------------|
| <u>12</u>   | <u>12</u>                | <u>December 31, 1989</u> |
| <u>15B</u>  | <u>15B</u>               | <u>May 31, 1991</u>      |
| <u>18</u>   | <u>18</u>                | <u>June 30, 1991</u>     |
| <u>26</u>   | <u>26</u>                | <u>June 30, 1991</u>     |
| <u>27A</u>  | <u>27A</u>               | <u>June 30, 1991</u>     |
| <u>28</u>   | <u>28</u>                | <u>June 30, 1989.</u>    |

(c) The terms of the public defenders for Defender Districts 3A, 3B, and 16A shall begin on January 1, 1989. The term of the public defender for defender district 16B shall begin upon the appointment of the initial public defender for that district.

(d) Except in Defender District 16B, for each new term beginning on or after January 1, 1989, and to fill any vacancy, the ~~Appointment.~~ The public defender of each ~~for a defender~~ district shall be appointed by the ~~senior resident superior court judge of that district~~ from a list of not less than two and not more than three names nominated by written ballot of the attorneys resident in the defender district who are licensed to practice law in North Carolina. The balloting shall be conducted pursuant to regulations promulgated by the Administrative Office of the Courts. The appointment shall be made by the senior resident superior court judge of the superior court district or set of districts as defined in G.S. 7A-44.1 which includes the county or counties of the defender district for which the public defender is being appointed.

(e) In Defender District 16B, for each new term beginning on or after January 1, 1989, and to fill any vacancy, the public defender for a defender district shall be appointed from a list of not less than three names nominated by written ballot of the attorneys resident in the defender district who are licensed to practice law in North Carolina. The balloting shall be conducted pursuant to regulations promulgated by the Administrative Office of the Courts. The appointment shall be made by the resident superior court judge of superior court district 16B other than the senior resident superior court judge.

~~(b) Term; Vacancy; Removal.—The terms of office of the public defenders authorized in G.S. 7A-465 are for four years, beginning on the dates specified in that section for each district, and each fourth year thereafter. A vacancy in the office of public defender is filled for the unexpired term as set forth in subsection (a).~~

(f) A public defender or assistant public defender may be suspended or removed from office, and reinstated, for the same causes and under the same procedures as are applicable to removal of a district attorney."

**Sec. 11.** Effective January 1, 1989, G.S. 7A-467 reads as rewritten:

**"§ 7A-467. Assistant defenders; assigned counsel.**—Each public defender is entitled to ~~at least one full-time assistant public defender, and to such additional assistants such~~ assistant public defenders and investigators, full-time or part-time, as may be authorized by the Administrative Office of the Courts. Assistants and investigators are appointed by the public defender and serve at his pleasure. Compensation of assistants shall be as provided in the biennial Current Operations Appropriations Act. The Administrative Officer of the Courts shall fix the compensation of each investigator. Assistants and investigators shall perform such duties as may be assigned by the public defender.

A member of the district bar of any judicial district as defined in G.S. 84-19, all or part of which includes or is included in a defender district, who resides or regularly practices in that district and who consents to such service may be assigned by the public defender to represent an indigent person. ~~person, and when so assigned is entitled to the services of the defender's office to the same extent as a full-time public defender. In assigning assistant defenders and members of the bar generally the defender shall consider the nature of the case and the skill of counsel, to the end that all indigent persons are adequately represented. If~~ In addition, if a conflict of interests prohibits the public defender from representing an indigent person, or in unusual circumstances when, in the opinion of the court the proper administration of justice requires it, the court may assign any member of the district bar to represent an indigent person. ~~person, and when so assigned, counsel~~ Any attorney assigned under this subsection is entitled to the services of the defender's office to the same extent as counsel assigned by the public defender.

(c) In assigning assistant defenders and members of the bar generally the defender shall consider the nature of the case and the skill of counsel, to the end that all indigent persons are adequately represented. Members of the bar assigned by the defender or by the court are compensated in the same manner as assigned counsel are compensated in districts which do not have a public defender.

(d) In lieu of merit and other increment raises paid to regular State employees, an assistant public defender shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, and fourteen and four-tenths percent (14.4%) after 15 years of service. 'Service' means service as an assistant public defender."

**Sec. 12.** Of the funds appropriated to the Indigent Persons Attorney Fee Fund in the Judicial Department, the Administrative Office of the Courts may use in fiscal year 1988-89 the sum of:

- (1) Two hundred twelve thousand seven hundred twenty-one dollars (\$212,721) for salaries, benefits, and related expenses for the office of public defender which is established for Defender District 16B on January 1, 1989, or as soon thereafter as the additional superior court judge authorized for Superior Court District 16B by this act takes office; and
- (2) One hundred twenty-one thousand eight hundred forty dollars (\$121,840) for salaries, benefits, and related expenses for the office of public defender which is established for Defender District 16A effective January 1, 1989.

**Sec. 13.** Effective January 1, 1989, G.S. 7A-468 is repealed.

**Sec. 14.** Effective January 1, 1989, G.S. 7A-41(a), as rewritten by Section 1 of Chapter 509, Session Laws of 1987, reads as rewritten:

"(a) The counties of the State are organized into judicial divisions and judicial districts, and each district has the counties, and the number of regular resident superior court judges set forth in the following table, and for districts of less than a whole county, as set out in subsection (b) of this section:

| Judicial Division | Judicial District | Counties   | No. of Resident Judges |
|-------------------|-------------------|--|------------------------|
| First             | 1                 | Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans | 2                      |
|                   | 2                 | Beaufort, Hyde, Martin, Tyrrell, Washington                    | 1                      |
|                   | 3A                | Pitt   | 1                      |
|                   | 3B                | Carteret, Craven, Pamlico                                      | 1                      |
|                   | 4A                | Duplin, Jones, Sampson   | 1                      |
|                   | 4B                | Onslow   | 1                      |
|                   | 5                 | New Hanover, Pender  | 2                      |
|                   | 6A                | Halifax  | 1                      |
|                   | 6B                | Bertie, Hertford, Northampton                                  | 1                      |
|                   | 7A                | Nash   | 1                      |
|                   | 7B                | (part of Wilson, part of Edgecombe, see subsection (b))        | 1                      |
|                   | 7C                | (part of Wilson, part of Edgecombe,                            | 1                      |

|        |     |  |                       |
|--------|-----|--|-----------------------|
|        |     | see subsection (b))                              |                       |
|        | 8A  | Lenoir and Greene                                | 1                     |
|        | 8B  | Wayne  | 1                     |
| Second | 9   | Franklin, Granville,<br>Person,<br>Vance, Warren | 2                     |
|        | 10A | (part of Wake<br>see subsection (b))             | 1                     |
|        | 10B | (part of Wake<br>see subsection (b))             | 2                     |
|        | 10C | (part of Wake<br>see subsection (b))             | 1                     |
|        | 10D | (part of Wake<br>see subsection (b))             | 1                     |
|        | 11  | Harnett, Johnston,<br>Lee                        | 1                     |
|        | 12A | (part of Cumberland<br>see subsection (b))       | 1                     |
|        | 12B | (part of Cumberland<br>see subsection (b))       | 1                     |
|        | 12C | (part of Cumberland<br>see subsection (b))       | 2                     |
|        | 13  | Bladen, Brunswick,<br>Columbus                   | 1                     |
|        | 14A | (part of Durham<br>see subsection (b))           | 1                     |
|        | 14B | (part of Durham<br>see subsection (b))           | 3                     |
|        | 15A | Alamance   | 1                     |
|        | 15B | Orange, Chatham                                  | 1                     |
|        | 16A | Scotland, Hoke                                   | 1                     |
|        | 16B | Robeson  | <del>1</del> <u>2</u> |
| Third  | 17A | Caswell, Rockingham                              | 1                     |
|        | 17B | Stokes, Surry                                    | 1                     |
|        | 18A | (part of Guilford<br>see subsection (b))         | 1                     |
|        | 18B | (part of Guilford<br>see subsection (b))         | 1                     |
|        | 18C | (part of Guilford<br>see subsection (b))         | 1                     |
|        | 18D | (part of Guilford<br>see subsection (b))         | 1                     |
|        | 18E | (part of Guilford<br>see subsection (b))         | 1                     |

|        |     |  |     |
|--------|-----|--|-----|
|        | 19A | Cabarrus   | 1   |
|        | 19B | Montgomery,<br>Randolph                                      | 1   |
|        | 19C | Rowan  | 1   |
|        | 20A | Anson, Moore,<br>Richmond                                    | 1   |
|        | 20B | Stanly, Union  | 1   |
|        | 21A | (part of Forsyth<br>see subsection (b))                      | 1   |
|        | 21B | (part of Forsyth<br>see subsection (b))                      | 1   |
|        | 21C | (part of Forsyth<br>see subsection (b))                      | 1   |
|        | 21D | (part of Forsyth<br>see subsection (b))                      | 1   |
|        | 22  | Alexander, Davidson,<br>Davie, Iredell                       | 2   |
|        | 23  | Alleghany, Ashe,<br>Wilkes, Yadkin                           | 1   |
| Fourth | 24  | Avery, Madison,<br>Mitchell,<br>Watauga, Yancey              | 1   |
|        | 25A | Burke, Caldwell  | 1   |
|        | 25B | Catawba  | 1   |
|        | 26A | (part of Mecklenburg<br>see subsection (b))                  | 2   |
|        | 26B | (part of Mecklenburg<br>see subsection (b))                  | 2   |
|        | 26C | (part of Mecklenburg<br>see subsection (b))                  | 2   |
|        | 27A | Gaston   | 2   |
|        | 27B | Cleveland, Lincoln   | 1   |
|        | 28  | Buncombe   | 2   |
|        | 29  | Henderson,<br>McDowell, Polk,<br>Rutherford,<br>Transylvania | 1   |
|        | 30A | Cherokee, Clay,<br>Graham, Macon,<br>Swain                   | 1   |
|        | 30B | Haywood, Jackson   | 1". |

**Sec. 15.** Effective January 1, 1989, G.S. 7A-41(d)(30) as amended by Section 1 of Chapter 509, Session Laws of 1987, reads as rewritten:

"(30) In the sixteenth-B judicial district, a judge shall be elected in 1988 to serve an eight-year term beginning January 1, 1989. In the sixteenth-B judicial district, a judge shall be appointed by the Governor to serve until the results of the 1990 general election are certified. A person shall be elected in the 1990 general election to serve the remainder of the term expiring December 31, 1996."

**Sec. 16.** Notwithstanding any other provision of law, if both the judge for superior court district 16B as authorized by this act and the judge for superior court district 16B as created by Chapter 509, Session Laws of 1987, take the initial oath of office on the same calendar day, they shall both be considered to have the same amount of continuous service on the superior court for the purpose of any statute determining which is the senior judge.

**Sec. 17.** Except as provided herein, this section is effective upon ratification. The authority of the Administrative Office of the Courts, under G.S. 7A-466(d) as rewritten by Section 10 of this act effective January 1, 1989, to promulgate regulations for the conduct of balloting under that section may be exercised with respect to Defender Districts 3A, 3B, 16A, and 16B at any time after the ratification of this act.

In the General Assembly read three times and ratified this the 6th day of July, 1988.