

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 1243

Short Title: Guardianship Commission.

(Public)

Sponsors: Senators Odom; and Sands.

Referred to: Rules and Operation of the Senate.

May 10, 1989

A BILL TO BE ENTITLED

AN ACT TO CREATE THE GUARDIANSHIP STUDY COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. The Guardianship Study Commission is created. The Commission shall:

- (1) Study ways and means to provide public guardians for incompetent adults through a system that assures quality of services, avoids conflicts of interest inherent in the present disinterested public agent system, is adequately staffed and funded, is coordinated statewide, and includes service standards and accountability;
- (2) Study the possibility of abolishing the jurisdiction of the clerk of superior court to appoint guardians of the person for orphaned minors;
- (3) Clarify the relationship between the clerk's guardianship jurisdiction and the district court's custody and juvenile jurisdiction;
- (4) Examine the meaning of and the distinction between "custody" and "guardianship of the person" of a minor; and
- (5) Study any other issue regarding guardianship that the Commission deems pertinent.

Sec. 2. The Commission shall consist of 15 members to be appointed as follows:

- (1) Five members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, one of whom shall be designated cochair;

1 (2) Five members appointed by the General Assembly upon the
2 recommendation of the Speaker of the House of Representatives, one
3 of whom shall be designated cochair; and

4 (3) Five members appointed by the Governor.

5 Those persons to be considered for membership for their interest in or their
6 ability to contribute to consideration of these issues include the following:

7 (1) Legislators;

8 (2) Personnel of the Department of Human Resources, including the
9 Division of Social Services and the Division of Mental Health, Mental
10 Retardation, and Substance Abuse Services;

11 (3) Personnel of the Administrative Office of the Courts;

12 (4) Personnel of the Attorney General's Office;

13 (5) County Social Services Directors;

14 (6) Area Mental Health Directors;

15 (7) County Commissioners;

16 (8) Clerks of Superior Court;

17 (9) District Court Judges;

18 (10) Officers of the North Carolina Bar Association; and

19 (11) Officers of the Association for Retarded Citizens.

20 Sec. 3. Members appointed to the Commission shall serve until the
21 Commission makes its final report. Vacancies on the Commission shall be filled in the
22 same manner as the original appointments were made.

23 Sec. 4. Upon request of the Commission or its staff, all State departments
24 and agencies and all local government agencies shall furnish to the Commission or its
25 staff any information in their possession or available to them.

26 Sec. 5. The Commission shall submit a final report of its findings and
27 recommendations to the 1989 General Assembly (1990 Regular Session) on or before
28 the first day of the session, by filing the report with the Speaker of the House of
29 Representatives and President Pro Tempore of the Senate. The Commission shall
30 terminate upon filing its final report.

31 Sec. 6. The Commission shall have its initial meeting on or before October
32 15, 1989. The Commission shall meet upon the call of the cochairs.

33 Sec. 7. Upon approval of the Legislative Services Commission, the
34 Legislative Services Officer shall assign professional and clerical staff to assist in the
35 work of the Commission. Clerical staff shall be furnished to the Commission through
36 the offices of House and Senate supervisors of clerks. The expenses of employment of
37 the clerical staff shall be borne by the Commission. The Commission may meet in the
38 Legislative Building or the Legislative Office Building upon the approval of the
39 Legislative Services Commission.

40 Sec. 8. Members of the Commission shall be paid per diem, subsistence, and
41 travel allowances as follows:

42 (1) Commission members who are also members of the General
43 Assembly, at the rate established in G.S. 120-3.1;

- 1 (2) Commission members who are officials or employees of the State or
2 local government agencies, at the rate established in G.S. 138-6;
3 (3) All other Commission members at the rate established in G.S. 138-5.
4 Sec. 9. There is appropriated from the General Fund to the General
5 Assembly the sum of \$25,000 for the 1989-90 fiscal year to fund the Commission
6 created by this act.
7 Sec. 10. This act shall become effective July 1, 1989.