

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 690

Short Title: Assigned Attys. Change.

(Public)

Sponsors: Representative Dawkins.

Referred to: Judiciary II.

April 11, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAW RELATING TO THE ASSIGNMENT OF
3 COUNSEL FOR INDIGENT PERSONS.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 7A-459 reads as rewritten:

6 "**§ 7A-459. Implementing regulations by State Bar Council.**

7 ~~In counties which do not have a public defender, the~~ The North Carolina State Bar
8 Council shall make rules and regulations consistent with this Article relating to the
9 manner and method of assigning counsel, the procedure for the determination of
10 indigency, the waiver of counsel, the adoption and approval of plans by any district bar
11 as defined in G.S. 84-19 regarding the method of assignment of counsel among the
12 licensed attorneys of the district bar district, and such other matters as shall provide for
13 the protection of the constitutional rights of all indigent persons and the reasonable
14 allocation of responsibility for the representation of indigent persons among the licensed
15 attorneys of this State. ~~Such~~ These rules and regulations shall apply in every county and
16 shall not become effective until certified to and approved by the Supreme Court of
17 North Carolina."

18 Sec. 2. G.S. 7A-467 reads as rewritten:

19 "**§ 7A-467. Assistant defenders; assigned counsel.**

20 (a) Each public defender is entitled to such assistant public defenders and
21 investigators, full-time or part-time, as may be authorized by the Administrative Office
22 of the Courts. Assistants and investigators are appointed by the public defender and
23 serve at his pleasure. Compensation of assistants shall be as provided in the biennial
24 Current Operations Appropriations Act. The Administrative Officer of the Courts shall

1 fix the compensation of each investigator. Assistants and investigators shall perform
2 such duties as may be assigned by the public defender.

3 (b) A member of the district bar of any judicial district as defined in G.S. 84-19,
4 all or part of which includes or is included in a defender district, who resides or
5 regularly practices in that district and who consents to such service may be assigned by
6 the public defender to represent an indigent person. In addition, if a conflict of interests
7 prohibits the public defender from representing an indigent person, or in unusual
8 circumstances when, in the opinion of the court the proper administration of justice
9 requires it, the court may assign ~~any~~a member of the district bar to represent an indigent
10 person. All assignments made under this subsection shall be governed by the rules and
11 regulations made by the North Carolina State Bar Council pursuant to G.S. 7A-459.
12 Any attorney assigned under this subsection is entitled to the services of the defender's
13 office to the same extent as counsel assigned by the public defender.

14 (c) In assigning assistant defenders and members of the bar generally the
15 defender shall consider the nature of the case and the skill of counsel, to the end that all
16 indigent persons are adequately represented. Any attorney assigned shall have the
17 minimum experience and qualifications required by the rules and regulations made by
18 the North Carolina State Bar Council pursuant to G.S. 7A-459. Members of the bar
19 assigned by the defender or by the court are compensated in the same manner as
20 assigned counsel are compensated in districts which do not have a public defender.

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

27 Sec. 3. This act becomes effective October 1, 1991.