

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

SESSION LAW 2023-34
HOUSE BILL 116

AN ACT TO MODIFY VARIOUS STATUTORY PROVISIONS AFFECTING DISTRICT ATTORNEYS AND DISTRICT ATTORNEYS' OFFICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-64 reads as rewritten:

"§ 7A-64. Temporary assistance for district attorneys.

...
(b) The Director of the Administrative Office of the Courts may provide this assistance only upon a showing by the requesting district attorney supported by facts that at least one of the following circumstances apply:

...
(3) ~~There is a conflict of interest.~~

...
(d) Notwithstanding any other provision of this section to the contrary, when a district attorney excludes themselves from an investigation or prosecution due to a conflict of interest or for other good cause, the district attorney may apply to the Administrative Office of the Courts to have another district attorney, a resource prosecutor from the Conference of District Attorneys, or a qualified attorney assume responsibility as a special prosecutor for the investigation and prosecution of the matter.

After consulting with the Conference of District Attorneys and securing the consent of the district attorney or resource prosecutor, the Administrative Office of the Courts may assign a district attorney or resource prosecutor to an investigation or prosecution pursuant to this subsection.

In the event a qualified attorney is appointed to an investigation or prosecution pursuant to this subsection, payment for services must be approved by the Conference of District Attorneys and the Director of the Administrative Office of the Courts.

Upon appointment as a special prosecutor pursuant to this subsection, the special prosecutor shall have all the authority that the requesting district attorney would otherwise have had in that investigation or prosecution."

SECTION 2. G.S. 7A-69 reads as rewritten:

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

~~The Each~~ district attorney in prosecutorial districts 1, 3B, 4, 5, 7, 8, 11, 12, 13, 14, 15A, 15B, 16A, 18, 19B, 20A, 20B, 21, 22A, 22B, 24, 25, 26, 27A, 27B, 28, 29A, 29B, and 30 is entitled to at least one investigatorial assistant, and the district attorney in prosecutorial district 10 is entitled to two investigatorial assistants, district attorney investigator to be appointed by the district attorney and to serve at ~~his~~ the district attorney's pleasure.

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



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

"§ 7A-413. Powers of Conference.

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

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

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

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

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

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

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

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

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

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

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

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

"(a) In each criminal case filed in the General Court of Justice that is referred to a community mediation center, a dispute resolution fee shall be assessed in the sum of sixty dollars (\$60.00) per mediation of that criminal case, in accordance with subsection (c) of this section, to support the services provided by the community mediation centers and the Mediation Network of North Carolina. Prior to mediation, the court shall cause the mediation participants to be informed that the dispute resolution fee shall be paid as part of any mediation of a criminal case.

The fee shall be paid to the clerk in advance of the mediation. Fees assessed under this section shall be paid to the clerk of superior court in the county where the case was filed and remitted by the clerk to the Mediation Network of North Carolina. The Mediation Network may retain up to three dollars (\$3.00) of this amount as an allowance for its administrative expenses. The Mediation Network must remit the remainder of this amount to the community mediation center that mediated the case. If the dispute resolution fee is paid from an outside source other than the parties to the action, the fee may be paid directly to the community mediation center providing services. The court may waive or reduce a fee assessed under this section only upon entry of a ~~written order, supported by findings of fact and conclusions of law,~~ order determining there is just cause to grant the waiver or reduction. The court may, upon motion of the district attorney and affirmative consent of a community mediation center providing mediation services, waive or reduce a fee assessed under this section as applied to an entire class of criminal cases by administrative order or otherwise when the court finds that a program exists in the judicial district that operates in compliance with G.S. 7A-38.3D and such fee prevents access to a community mediation center. A community mediation center may withdraw their consent to waive the fees assessed for an entire class of criminal cases by providing written notice to the district attorney, who shall file a motion to withdraw with the court."

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

In the General Assembly read three times and ratified this the 31st day of May, 2023.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 5:41 p.m. this 9th day of June, 2023