

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1991

CHAPTER 816  
SENATE BILL 1129

AN ACT TO EXTEND THE NORTH CAROLINA SENTENCING AND POLICY  
ADVISORY COMMISSION AND TO ADJUST ITS REPORTING DATES AND  
MEMBERSHIP ACCORDINGLY.

The General Assembly of North Carolina enacts:

Section 1. Section 8 of Chapter 1076 of the 1989 Session Laws reads as rewritten:

"Sec. 8. This act is effective upon ratification, and shall expire July 1, ~~1992~~-1993."

Sec. 2. G.S. 164-37 reads as rewritten:

**"§ 164-37. Membership; chairman; meetings; quorum.**

The Commission shall consist of ~~23~~-27 members as follows:

- (1) The Chief Justice of the North Carolina Supreme Court shall appoint a sitting or former Justice or judge of the General Court of Justice, who shall serve as Chairman of the Commission;
- (2) The Chief Judge of the North Carolina Court of Appeals, or another judge on the Court of Appeals, serving as his designee;
- (3) The Secretary of Correction or his designee;
- (4) The Secretary of Crime Control and Public Safety or his designee;
- (5) The Chairman of the Parole Commission, or ~~another parole commissioner serving as his~~ designee;
- (6) The President of the Conference of Superior Court Judges or his designee;
- (7) The President of the District Court Judges Association or his designee;
- (8) The President of the North Carolina Sheriff's Association or his designee;
- (9) The President of the North Carolina Association of Chiefs of Police or his designee;
- (10) One member of the public at large, who is not currently licensed to practice law in North Carolina, to be appointed by the Governor;
- (11) One member to be appointed by the Lieutenant Governor;
- (12) ~~One member~~-Three members of the House of Representatives, to be appointed by the Speaker of the House;
- (13) ~~One member~~-Three members of the Senate, to be appointed by the President Pro Tempore of the Senate;
- (14) The President Pro Tempore of the Senate shall appoint the representative of the North Carolina Community Sentencing

- ~~Alternatives~~ Association that is recommended by the President of that organization;
- (15) The Speaker of the House of Representatives shall appoint the member of the business community that is recommended by the President of the North Carolina Retail Merchants Association;
  - (16) The Chief Justice of the North Carolina Supreme Court shall appoint the criminal defense attorney that is recommended by the President of the North Carolina Academy of Trial Lawyers;
  - (17) The President of the Conference of District Attorneys or his designee;
  - (18) The Lieutenant Governor shall appoint the member of the North Carolina Victim Assistance Network that is recommended by the President of that organization;
  - (19) A rehabilitated former prison inmate, to be appointed by the Chairman of the Commission;
  - (20) The President of the North Carolina Association of County Commissioners or his designee;
  - (21) The Governor shall appoint the member of the academic community, with a background in criminal justice or corrections policy, that is recommended by the President of The University of North Carolina;
  - (22) The Attorney General, or a member of his staff, to be appointed by the Attorney General;
  - (23) The Governor shall appoint the member of the North Carolina Bar Association that is recommended by the President of that organization.

The Commission shall have its initial meeting no later than September 1, 1990, at the call of the Chairman. The Commission shall meet a minimum of four regular meetings each year. The Commission may also hold special meetings at the call of the Chairman, or by any four members of the Commission, upon such notice and in such manner as may be fixed by the rules of the Commission. A majority of the members of the Commission shall constitute a quorum."

Sec. 3. G.S. 164-38 reads as rewritten:

**"§ 164-38. Terms of members; compensation; expenses.**

~~The Commission members shall serve for a period of two years. The terms of existing members shall expire on June 30, 1992. New members shall be appointed or the existing members reappointed by the appointing authorities to serve until July 1, 1993, unless they resign or are removed. Members serving by virtue of elective or appointive office or as designees of such officeholders may serve only so long as the officeholders hold those respective offices. Members appointed by the Speaker of the House and the President Pro Tempore of the Senate may be removed by the appointing authority without cause. Vacancies occurring before the expiration of a term shall be filled in the manner provided for the members first appointed. A member of the Commission may be removed only for disability, neglect of duty, incompetence, or malfeasance in office. Before removal, the member is entitled to a hearing. Effective with respect to members designated on or after July 1, 1992, a person making a~~

designation pursuant to G.S. 164-37 may not make another designation, except that the person's successor in elective or appointive office may make a new designation.

The Commission members shall receive no salary for serving. All Commission members shall receive necessary subsistence and travel expenses in accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6 as applicable."

Sec. 4. G.S. 164-43(c) reads as rewritten:

"(c) The Commission shall report on its progress in formulating recommendations for the classification and ranges of punishment for felonies and misdemeanors, required by G.S. 164-41, and sentencing structures, established pursuant to G.S. 164-42, shall be submitted prior to the 1991 General Assembly, 1992 Regular Session. Session, and shall make a final report on these recommendations no later than 30 days after the convening of the 1993 Session of the General Assembly."

Sec. 5. G.S. 164-42(d) reads as rewritten:

"(d) The Commission shall include with each set of sentencing structures a statement of its estimate of the effect of the sentencing structures on the Department of Correction and local facilities, both in terms of fiscal impact and on inmate population. If the Commission finds that the proposed sentencing structures will result in inmate populations in the Department of Correction and local confinement facilities that exceed the standard operating capacity, then the Commission shall present an additional set of structures that are consistent with that capacity. For purposes of this subsection, 'standard operating capacity' means the total capacity expected to be available in both local confinement facilities and in the Department of Correction once all the proceeds of bonds authorized by Chapter 933 of the 1989 Session Laws and Chapter 935 of the 1989 Session Laws have been expended for the construction of prison facilities."

Sec. 6. Nothing in this act shall be construed to obligate the General Assembly to appropriate funds to implement the provisions of this act.

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 1st day of July, 1992.

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James C. Gardner  
President of the Senate

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Daniel Blue, Jr.  
Speaker of the House of Representatives