

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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1

HOUSE BILL 720

Short Title: Handicapped Advocacy Council Changes.

(Public)

Sponsors: Representatives Wiser, Jones, Justus, Esposito; Locks, Fussell, Gardner, and Buchanan.

Referred to: Human Resources.

March 20, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAW REGARDING THE GOVERNOR'S ADVOCACY
3 COUNCIL FOR PERSONS WITH DISABILITIES.

4 The General Assembly of North Carolina enacts:

5 Section 1. Part 14A of Article 9 of Chapter 143B of the General Statutes
6 reads as rewritten:

7 "PART 14A.
8 "GOVERNOR'S ADVOCACY COUNCIL FOR PERSONS WITH
9 DISABILITIES.

10
11 "§ 143B-403.1. Governor's Advocacy Council for Persons with Disabilities –
12 creation; powers and duties.

13 There is hereby created the Governor's Advocacy Council for Persons with
14 Disabilities of the Department of Administration. The Council shall have the following
15 functions and duties:

- 16 (1) To provide for a statewide protection and advocacy program in
17 accordance with the Developmental Disabilities Assistance and Bill of
18 Rights Act, 42 U.S.C. § 6000, ~~et seq.~~ et seq., and Public Law 99-319,
19 as amended, the Protection and Advocacy for the Mentally Ill Act of
20 1988. In accordance with this Act, the Council shall, among other
21 things, investigate complaints made by or on behalf of incompetent
22 developmentally or mentally disabled persons who reside in facilities
23 for the developmentally or mentally disabled who have no legal

1 guardian or whose guardian is the State or a State designee. Where
2 such a complaint is made to the Council, the Council shall have access
3 to the individual who is the subject of the complaint, and to the records
4 of such individual; provided that an allegedly incompetent client who
5 has no guardian who, in the opinion of the facility director, is
6 competent shall have the opportunity prior to disclosure to deny access
7 to his individual records by making a specific objection to disclosure
8 to the Council. The Council shall keep client information confidential
9 in accordance with 42 U.S.C. § 6000 and implementing rules and
10 regulations, including 45 C.F.R. Part 1386. The Council's authority
11 under this ~~subsection~~ subdivision shall override any contrary provisions
12 of State law and shall apply as long as the Council is designated by the
13 Governor as the Protection and Advocacy Agency under 42 U.S.C. §
14 6000.

- 15 (2) To pursue legal, administrative, or other appropriate remedies to insure
16 the protection of the rights of all developmentally, mentally,
17 physically, emotionally and otherwise disabled persons who are
18 receiving treatment, services, or habilitation from any State, local, or
19 area program;
- 20 (3) To review and recommend changes in all laws, rules, regulations,
21 programs and policies of this State or any agency or subdivision
22 thereof to insure the rights of the developmentally, mentally,
23 physically, emotionally and otherwise disabled persons are
24 safeguarded;
- 25 (4) To investigate complaints concerning the violation of the rights of the
26 developmentally, mentally, physically, emotionally and otherwise
27 disabled persons and to take appropriate action;
- 28 (5) To contract with public agencies or private nonprofit corporations to
29 fulfill any of the functions and duties provided for in subdivisions (2)
30 and (6) and government funded programs;
- 31 (6) To aid and assist local advocacy program and the advocacy programs
32 in mental retardation centers, psychiatric hospitals, ~~and training schools;~~
33 training schools, and alcoholic rehabilitation centers;
- 34 (7) To perform such other functions as are necessary to protect the rights
35 of the developmentally, mentally, physically, emotionally and
36 otherwise disabled or as may be assigned by the Secretary of
37 Administration;
- 38 (8) To advise and assist the Department of Administration on the
39 continuing program to promote the employment of the physically,
40 mentally, emotionally, and otherwise handicapped citizens of North
41 Carolina by creating statewide interest in the rehabilitation and
42 employment of the handicapped, and by obtaining and maintaining
43 cooperation with all public and private groups and individuals in this
44 field;

- 1 (9) To work in close cooperation with the President's Committee on the
 2 Employment of the Handicapped to carry out more effectively the
 3 purpose of Article 29A of Chapter 143 of the General Statutes, and
 4 with State and federal agencies having responsibilities for employment
 5 and rehabilitation of the handicapped;
- 6 (10) To promote and encourage the holding of appropriate ceremonies
 7 throughout the State during the 'National Employ the Handicapped
 8 Week,' the purpose of which ceremony shall be to enlist public support
 9 for interest in the employment of the developmentally, mentally,
 10 physically, emotionally and otherwise disabled; and
- 11 (10a) To initiate public awareness projects and to make recommendations
 12 to the Governor concerning broad policies pertaining to
 13 rehabilitation for disabled persons;
- 14 (11) The Council shall advise the Secretary of Administration upon any
 15 matter the Secretary may refer to it.

16 **"§ 143B-403.2. Governor's Advocacy Council for Persons with Disabilities –**
 17 **members; selection; quorum; compensation.**

18 The Governor's Advocacy Council for Persons with Disabilities of the Department
 19 of Administration shall consist of ~~22-24~~ members. The composition of the Council shall
 20 be as follows: ~~four-six~~ 'ex officio' members from State government agencies as follows:
 21 the Commissioner of Labor, the Commissioner of Insurance, the Secretary of the
 22 Department of Human Resources ~~and Resources~~, the Chairman of the Employment
 23 Security ~~Commission~~ Commission, or their designees, the Exceptional Children's
 24 Director of the Department of Public Education, and the Chairman of the Protection and
 25 Advocacy for the Mentally Ill Advisory Committee of the Governor's Advocacy
 26 Council for Persons with Disabilities. The Governor shall appoint 16 members, at least
 27 eight shall be disabled persons or ~~parents-family members~~ of disabled ~~persons-persons~~,
 28 with representation as follows: two representatives of persons with mental illness, two
 29 representatives of persons with developmental disabilities, two representatives of
 30 persons with mental retardation, and one representative of persons with sensory
 31 impairment. Members appointed to fit the representative categories shall be initially
 32 appointed as terms expire and as vacancies occur, until all categories are filled. The
 33 General Assembly shall appoint two members in accordance with G.S. 120-121, one
 34 upon the recommendation of the Speaker of the House of Representatives, and one upon
 35 the recommendation of the President of the Senate. Vacancies in appointments made by
 36 the General Assembly shall be filled in accordance with G.S. 120-122. The Governor
 37 shall appoint at least one person from each congressional district in accordance with
 38 G.S. 147-12(3)b. An administrator in any branch of State government that delivers
 39 services to persons with disabilities is not eligible for membership on the Council
 40 except as 'ex officio' members.

41 The initial term for one half of the members appointed by the Governor shall be two
 42 years. The initial term for the remaining members appointed by the Governor shall be
 43 four years. At the end of the respective terms of office of the initial members of the
 44 Council, the appointment of all members with the exception of those from State

1 agencies, shall be for terms of four years and until their successors are appointed and
2 qualify. Any appointment to fill a vacancy on the Council created by the resignation,
3 dismissal, death, or disability of a member shall be for the balance of the unexpired
4 term. The initial members appointed by the General Assembly shall serve for terms to
5 expire June 30, 1983. Subsequently, members appointed by the General Assembly shall
6 serve two-year terms beginning July 1, 1983, and biennially thereafter.

7 The Governor may remove any member of the Council appointed by the Governor.

8 The Governor shall designate one member of the Council to serve as chairman and
9 one member to serve as vice-chairman at his pleasure.

10 Members of the Council shall receive per diem and necessary travel and subsistence
11 expenses in accordance with the provisions of G.S. 138-5.

12 A majority of the Council shall constitute a quorum for the transaction of business.

13 All clerical and other services required by the Council shall be supplied by the
14 Secretary of Administration."

15 Sec. 2. This act shall become effective July 1, 1989.