

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 1124*

Short Title: Omnibus Courts Bill.

(Public)

Sponsors: Senators Marvin, Swain; Sands, Daniel, and Plyler.

Referred to: Appropriations.

May 2, 1989

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE FUNDS TO THE ADMINISTRATIVE OFFICE OF THE COURTS.

The General Assembly of North Carolina enacts:

JUROR AND WITNESS FEES

Section 1. There is appropriated from the General Fund to the Judicial Department \$400,000 for fiscal year 1989-90 and \$400,000 for fiscal year 1990-91 to be used to pay jurors and witnesses called before either the superior or district courts.

SUPREME COURT PERSONNEL

Sec. 2. There is appropriated from the General Fund to the Judicial Department \$132,732 for fiscal year 1989-90 and \$127,400 for fiscal year 1990-91 for new support personnel in the supreme court reporter's office and library.

COURT OF APPEALS PERSONNEL

Sec. 3. There is appropriated from the General Fund to the Judicial Department \$42,030 for fiscal year 1989-90 and \$39,501 for fiscal year 1990-91 for one court of appeals staff attorney.

NEW SUPERIOR COURT PERSONNEL

Sec. 4. There is appropriated from the General Fund to the Judicial Department \$156,426 for fiscal year 1989-90 to be used for two official court reporters and four administrative secretaries to superior court judges. Further, there is appropriated from the General Fund to the Judicial Department \$1,024,672 for fiscal year 1990-91 to be allocated for the following purposes:

- (1) To continue the six positions funded in fiscal year 1989-90 - \$147,356;
(2) To establish six resident superior court judgeships - \$690,272;

1 (3) To create six official court reporter positions - \$187,044.

2 **NEW DISTRICT COURT PERSONNEL**

3 Sec. 5.(a) There is appropriated from the General Fund to the Judicial Department
4 \$1,160,398 for fiscal year 1989-90 to be allocated for the following purposes:

5 (1) Seven new district court judgeships - \$611,373;

6 (2) Four official court reporters - \$124,636;

7 (3) Seven magistrates - \$150,101;

8 (4) Two administrative assistants to trial court administrators - \$53,998;

9 (5) Ten secretaries for district courts now without secretarial assistance -
10 \$220,290.

11 (b) There is appropriated from the General Fund to the Judicial Department
12 \$2,705,365 for fiscal year 1990-91 to be allocated for the following purposes:

13 (1) To continue the positions established in fiscal year 1989-90 -
14 \$1,110,857;

15 (2) To establish 16 new district court judgeships - \$1,399,056;

16 (3) To establish five new magistrate positions - \$107,280;

17 (4) To establish four secretaries to chief district court judges - \$88,172.

18 **NEW JUVENILE SERVICES PERSONNEL**

19 Sec. 6. There is appropriated from the General Fund to the Judicial
20 Department \$1,123,297 for fiscal year 1989-90 and \$1,092,568 for fiscal year 1990-91
21 for new personnel in the Juvenile Services Division of the Administrative Office of the
22 Courts.

23 **NEW DEPUTY CLERKS OF SUPERIOR COURT**

24 Sec. 7. There is appropriated from the General Fund to the Judicial
25 Department \$1,729,626 for fiscal year 1989-90 and \$1,686,639 for fiscal year 1990-91
26 for 89 new deputy clerks of superior courts.

27 **NEW PUBLIC DEFENDER PERSONNEL**

28 Sec. 8.(a) There is appropriated from the General Fund to the Judicial Department
29 \$415,216 for fiscal year 1989-90 for 11 new personnel in public defender offices.

30 (b) There is appropriated from the General Fund to the Judicial Department
31 \$668,628 for fiscal year 1990-91 for continuation of the 11 positions established for
32 fiscal year 1989-90 and for five additional assistant public defenders.

33 **NEW PERSONNEL FOR SPECIAL COUNSEL**

34 Sec. 9. There is appropriated from the General Fund to the Judicial
35 Department \$28,596 for fiscal year 1989-90 and \$27,854 for fiscal year 1990-91 for one
36 assistant to the special counsel in the 10th judicial district.

37 **NEW DISTRICT ATTORNEY PERSONNEL**

38 Sec. 10.(a) There is appropriated from the General Fund to the Judicial
39 Department \$1,650,306 for fiscal year 1989-90 to be allocated for the following
40 purposes:

41 (1) Twenty new assistant district attorneys - \$1,049,100;

42 (2) To establish 14 district attorney's secretaries - \$293,636;

43 (3) To establish 10 new victim/witness assistants - \$259,660;

44 (4) To establish two misdemeanor screener positions - \$47,910.

1 (b) There is appropriated from the General Fund to the Judicial Department
2 \$2,562,823 for fiscal year 1990-91 to be allocated for the following purposes:

3 (1) To continue the positions established in fiscal year 1989-90 -
4 \$1,620,724;

5 (2) To establish 13 new assistant district attorney positions - \$682,279;

6 (3) To establish 10 new victim/witness assistants - \$259,820.

7 NEW INDIGENCY SCREENING PERSONNEL

8 Sec. 11. There is appropriated from the General Fund to the Judicial
9 Department \$163,254 for fiscal year 1989-90 and \$157,325 for fiscal year 1990-91 for
10 the purpose of establishing seven new indigency screener positions.

11 NEW OR UPGRADED GUARDIAN AD LITEM PROGRAM POSITIONS

12 Sec. 12.(a) There is appropriated from the General Fund to the Judicial
13 Department for transfer to the Indigent Persons' Attorney Fee Fund, Guardian **Ad Litem**
14 Program, \$347,767 for fiscal year 1989-90 for the establishment or upgrade of 32
15 Guardian **Ad Litem** Program staff positions.

16 (b) There is appropriated from the General Fund to the Judicial Department for
17 transfer to the Indigent Persons' Attorney Fee Fund, Guardian **Ad Litem** Program,
18 \$494,758 for fiscal year 1990-91 to continue the 32 positions that were established or
19 upgraded in fiscal year 1989-90 and to create four new Guardian **Ad Litem** Program
20 staff positions.

21 NEW ADMINISTRATIVE OFFICE OF THE COURTS GENERAL
22 ADMINISTRATION POSITIONS PERSONNEL

23 Sec. 13.(a) There is appropriated from the General Fund to the Judicial
24 Department \$312,781 for fiscal year 1989-90 to establish a total of nine staff positions
25 within the general administration section of the Administrative Office of the Courts.

26 (b) There is appropriated from the General Fund to the Judicial Department
27 \$379,775 for fiscal year 1990-91 to provide for the continuation of the nine position
28 established in the Administrative Office of the Courts in fiscal year 1989-90 and to
29 provide for the establishment of three new staff positions effective July 1, 1990.

30 NEW ADMINISTRATIVE OFFICE OF THE COURTS WAREHOUSE AND
31 PRINTING SERVICE PERSONNEL

32 Sec. 14. There is appropriated from the General Fund to the Judicial
33 Department \$57,719 for fiscal year 1989-90 and \$55,749 for fiscal year 1990-91 to
34 establish three new positions within the warehouse and print shop of the Administrative
35 Office of the Courts.

36 COURT INFORMATION SYSTEM EXPANSION

37 Sec. 15.(a) There is appropriated from the General Fund to the Judicial
38 Department \$5,375,693 for the creation of 13 new staff positions within the information
39 services division of the Administrative Office of the Courts, the upgrade of the central
40 mainframe computer maintained by the information services section, and the expansion
41 for the court information system.

42 (b) There is appropriated from the General Fund to the Judicial Department
43 \$1,933,127 for fiscal year 1990-91 to continue the 13 positions established in fiscal year
44 1989-90, to establish six additional positions in the information services division of the

1 Administrative Office of the Courts, and to continue the further expansion of the court
2 information system.

3 ESTABLISH STATEWIDE CUSTODY AND VISITATION MEDIATION
4 PROGRAMS

5 Sec. 16. Chapter 7A of the General Statutes is amended by adding the
6 following new Article:

7 **“ARTICLE 39A.**

8 **“CUSTODY AND VISITATION MEDIATION PROGRAM.**

9 **“§ 7A-494. Custody and Visitation Mediation Program established.**

10 (a) The Administrative Office of the Courts shall establish a Custody and
11 Visitation Mediation Program to provide statewide and uniform services in accordance
12 with G.S. 50-13.1 in cases involving unresolved issues about the custody or visitation of
13 minor children. The Director of the Administrative Office of the Courts shall appoint
14 such AOC staff support required for planning, organizing, and administering such
15 program on a statewide basis.

16 The purposes of the Custody and Visitation Mediation Program shall be to provide
17 the services of skilled mediators to further the goals expressed in G.S. 50-13.1(b);

18 (b) Beginning on July 1, 1989, the Administrative Office of the Courts shall
19 establish in phases a statewide custody mediation program comprised of local district
20 programs to be established in all judicial districts of the State. Each local district
21 program shall consist of: a qualified mediator or mediators to provide mediation
22 services; and such clerical staff as the Administrative Office of the Courts in
23 consultation with the local district program deems necessary. Such personnel, to be
24 employed by the Chief District Court Judge of the district, may serve as full-time or
25 part-time State employees or, in the alternative, such activities may be provided on a
26 contractual basis when determined appropriate by the Administrative Office of the
27 Courts. The Administrative Office of the Courts may authorize all or part of a program
28 in one judicial district to be operated in conjunction with that of another district or
29 districts. The Director of the Administrative Office of the Courts is authorized to
30 approve contractual agreements for such services as executed by order of the Chief
31 District Court Judge of a municipal district; such contracts to be exempt from
32 competitive bidding procedures under Section 5D.0302 of the North Carolina
33 Administrative Code. The Administrative Office of the Courts shall promulgate rules
34 and regulations necessary and appropriate for the administration of the program. Funds
35 appropriated by the General Assembly for the establishment and maintenance of
36 mediation programs under this Article shall be administered by the Administrative
37 Office of the Courts.

38 (c) For a person to qualify to provide mediation services under this Article, that
39 person shall show that he or she:

40 (1) Has at minimum a law degree or a master's degree in psychology,
41 social work, family counselling, or a comparable human relations
42 discipline; and

- 1 (2) Has at least 40 hours of training in mediation techniques by a qualified
2 instructor of mediation as determined by the Administrative Office of
3 the Courts; and
- 4 (3) Has had professional training and experience relating to child
5 development, family dynamics, or comparable areas; and
- 6 (4) Meets such other criteria as may be specified by the Administrative
7 Office of the Courts.

8 **"§ 7A-495. Implementation and administration.**

9 (a) Local District Program.—the Administrative Office of the Courts shall, in
10 cooperation with each Chief District Court Judge and other district personnel,
11 implement and administer the program mandated by this Article.

12 (b) Advisory Committee Established.—The Director of the Administrative Office
13 of the Courts shall appoint a Custody Mediation Advisory Committee consisting of at
14 least five members to advise the Custody Mediation Program. The members of the
15 Advisory Committee shall receive the same per diem and reimbursement for travel
16 expenses as members of State boards and commissions generally."

17 Sec. 17. G.S. 50-13.1 reads as rewritten:

18 **"§ 50-13.1. Action or proceeding for custody of minor child.**

19 (a) Any parent, relative, or other person, agency, organization, or institution
20 claiming the right to custody of or visitation with a minor child may institute an action
21 or proceeding for custody of or visitation with such child, as hereinafter provided.
22 Unless a contrary intent is clear, the word 'custody' shall be deemed to include custody
23 or visitation or both.

24 (b) Whenever it appears to the court, from the pleadings or otherwise, that an
25 action involves a contested issue as to the custody or visitation of a minor child, the
26 matter shall be set for mediation of the unresolved issues as to custody and visitation
27 before or concurrent with the setting of the matter for hearing unless the court waives
28 mediation pursuant to subsection (c). Issues that arise in motions for contempt or for
29 modifications as well as in other pleadings shall be set for mediation unless mediation is
30 waived by the court. Alimony, child support, and other economic issues may not be
31 referred for mediation pursuant to this section. The purposes of mediation under this
32 section include the pursuit of the following goals:

- 33 (1) To reduce any acrimony that exists between the parties to a dispute
34 involving custody or visitation of a minor child;
- 35 (2) The development of custody and visitation agreements that are in the
36 child's best interest;
- 37 (3) To provide the parties with informed choices and, where possible, to
38 give the parties the responsibility for making decisions about child
39 custody and visitation;
- 40 (4) To provide a structured, confidential, nonadversarial setting that will
41 facilitate the cooperative resolution of custody and visitation disputes
42 and minimize the stress and anxiety to which the parties, and
43 especially the child, are subjected; and
- 44 (5) To reduce the relitigation of custody and visitation disputes.

1 (c) For good cause, on the motion of either party or on the court's own motion,
2 the court may waive the setting of a contested custody or visitation matter for
3 mediation. Good cause may include, but is not limited to, the following: a showing of
4 undue hardship to a party; allegations of abuse or neglect of the minor child; allegations
5 of alcoholism, drug abuse, or spouse abuse; or allegations of severe psychological,
6 psychiatric, or emotional problems.

7 (d) Either party may move to have the mediation proceedings dismissed and the
8 action heard in court due to the mediator's bias, undue familiarity with a party, or other
9 prejudicial ground.

10 (e) Mediation proceeding shall be held in private and shall be confidential. All
11 verbal or written communications from either or both parties to the mediator or between
12 the parties in the presence of the mediator made in a proceeding pursuant to this section
13 are absolutely privileged and inadmissible in court. The mediator may assess the needs
14 and interests of the child, and may interview the child or others who are not parties to
15 the proceedings when he or she thinks appropriate.

16 (f) Neither the mediator nor any party or other person involved in mediation
17 sessions under this section shall be competent to testify to communications made during
18 or in furtherance of such mediation sessions; provided, there is no privilege as to
19 communications made in furtherance of a crime or fraud. Nothing in this subsection
20 shall be construed as permitting an individual to obtain immunity from prosecution for
21 criminal conduct or as excusing an individual from the reporting requirements of G.S.
22 7A-543 or G.S. 108A-102.

23 (g) Any agreement reached by the parties as a result of the mediation shall be
24 reduced to writing, signed by each party, and submitted to the court as soon as
25 practicable. Unless the court finds good reason not to, it shall incorporate the agreement
26 in a court order and it shall become enforceable as a court order. If some or all of the
27 issues as to custody or visitation are not resolved by mediation, the mediator shall report
28 that fact to the court.

29 (h) If an agreement that results from mediation and is incorporated into a court
30 order is referred to as a 'parenting agreement' or called by some similar name, it shall
31 nevertheless be deemed to be a custody order or child custody determination for
32 purposes of Chapter 50A of the General Statutes, G.S. 14-320.1, G.S. 110-139.1, or
33 other places where those terms appear."

34 Sec. 18. Programs in judicial districts 26 and 27A shall be established as of
35 July 1, 1989, and programs in additional judicial districts shall be established by the
36 Administrative Office of the Courts as provided in G.S. 7A-494(b).

37 Sec. 19. Funds in the amount of \$140,000 for the 1989-90 fiscal year and
38 \$212,000 for the 1990-91 fiscal year are appropriated to the Judicial Department to
39 achieve the purposes of Sections 16 through 18 of this act.

40 NON-BINDING ARBITRATION PROGRAM

41 Sec. 20. There is appropriated from the General Fund to the Judicial
42 Department \$189,118 for fiscal year 1989-90 and \$448,902 for fiscal year 1990-91 to
43 provide for the development of a nonbinding statewide arbitration program.

44 APPELLATE DIVISION LIBRARY FUNDS

1 Sec. 21. There is appropriated from the General Fund to the Judicial
2 Department \$117,617 for fiscal year 1989-90 and \$158,542 for fiscal year 1990-91 to
3 provide for the adequate maintenance and upkeep of libraries within the Appellate
4 Division of the General Court of Justice.

5 INCREASED JUDICIAL DEPARTMENT OPERATING EXPENSE
6 REQUIREMENTS

7 Sec. 22. There is appropriated from the General Fund to the Judicial
8 Department \$248,828 for fiscal year 1989-90 and \$330,657 for fiscal year 1990-91 to
9 provide for the coverage of increased operating expenses in the areas of supplies, office
10 materials, postage, and legal reference supplementation and upkeep.

11 EXPANSION OF DISPUTE SETTLEMENT CENTERS

12 Sec. 23. There is appropriated from the General Fund to the Judicial
13 Department \$71,990 for fiscal year 1989-90 and \$81,490 for fiscal year 1990-91 to
14 provide for the expansion of dispute settlement centers in Orange, Buncombe, Durham,
15 Guilford, Henderson, Iredell, Forsyth, Alamance, and Wayne Counties.

16 INCREASED COMPENSATION FOR APPELLATE DIVISION LAW CLERKS

17 Sec. 24. There is appropriated from the General Fund to the Judicial
18 Department \$224,950 for fiscal year 1989-90 and \$225,083 for fiscal year 1990-91 for
19 the purpose of providing for increases in the current salary rates and related fringe
20 benefits of appellate division law clerks.

21 EIGHTH STEP TO MAGISTRATES SALARY SCHEDULE

22 Sec. 25. There is appropriated from the General Fund to the Judicial
23 Department \$503,339 for fiscal year 1989-90 and \$565,812 for fiscal year 1990-91 to
24 establish an additional eighth step for "12 years of service or over" within the current
25 magistrates salary plan.

26 Sec. 26. Except where otherwise provided, this act shall become effective
27 July 1, 1989.