

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1913*
Committee Substitute Favorable 6/19/89

Short Title: Omnibus Courts Bill.

(Public)

Sponsors:

Referred to:

May 10, 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;

- 1 (2) To establish six resident superior court judgeships - \$690,272;
2 (3) To create six official court reporter positions - \$187,044.

3 NEW DISTRICT COURT PERSONNEL

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

- 6 (1) Seven new district court judgeships - \$611,373;
7 (2) Four official court reporters - \$124,636;
8 (3) Seven magistrates - \$150,101;
9 (4) Two administrative assistants to trial court administrators - \$53,998;
10 (5) Ten secretaries for district courts now without secretarial assistance -
11 \$220,290.

12 (b) There is appropriated from the General Fund to the Judicial Department
13 \$2,705,365 for fiscal year 1990-91 to be allocated for the following purposes:

- 14 (1) To continue the positions established in fiscal year 1989-90 -
15 \$1,110,857;
16 (2) To establish 16 new district court judgeships - \$1,399,056;
17 (3) To establish five new magistrate positions - \$107,280;
18 (4) To establish four secretaries to chief district court judges - \$88,172.

19 NEW JUVENILE SERVICES PERSONNEL

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

24 NEW DEPUTY CLERKS OF SUPERIOR COURT

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

28 NEW PUBLIC DEFENDER PERSONNEL

29 Sec. 8.(a) There is appropriated from the General Fund to the Judicial Department
30 \$415,216 for fiscal year 1989-90 for 11 new personnel in public defender offices.

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

34 NEW PERSONNEL FOR SPECIAL COUNSEL

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

38 NEW DISTRICT ATTORNEY PERSONNEL

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

- 42 (1) Twenty new assistant district attorneys - \$1,049,100;
43 (2) To establish 14 district attorney's secretaries - \$293,636;
44 (3) To establish 10 new victim/witness assistants - \$259,660;

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

2 (b) There is appropriated from the General Fund to the Judicial Department
3 \$2,562,823 for fiscal year 1990-91 to be allocated for the following purposes:

4 (1) To continue the positions established in fiscal year 1989-90 -
5 \$1,620,724;

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

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

8 NEW INDIGENCY SCREENING PERSONNEL

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

12 NEW OR UPGRADED GUARDIAN AD LITEM PROGRAM POSITIONS

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

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

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

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

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

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

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

37 COURT INFORMATION SYSTEM EXPANSION

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

43 (b) There is appropriated from the General Fund to the Judicial Department
44 \$1,933,127 for fiscal year 1990-91 to continue the 13 positions established in fiscal year

1 1989-90, to establish six additional positions in the information services division of the
2 Administrative Office of the Courts, and to continue the further expansion of the court
3 information system.

4 ESTABLISH STATEWIDE CUSTODY AND VISITATION MEDIATION
5 PROGRAMS

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

8 **"ARTICLE 39A.**

9 **"CUSTODY AND VISITATION MEDIATION PROGRAM.**

10 **"§ 7A-494. Custody and Visitation Mediation Program established.**

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

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

19 (b) Beginning on July 1, 1989, the Administrative Office of the Courts shall
20 establish in phases a statewide custody mediation program comprised of local district
21 programs to be established in all judicial districts of the State. Each local district
22 program shall consist of: a qualified mediator or mediators to provide mediation
23 services; and such clerical staff as the Administrative Office of the Courts in
24 consultation with the local district program deems necessary. Such personnel, to be
25 employed by the Chief District Court Judge of the district, may serve as full-time or
26 part-time State employees or, in the alternative, such activities may be provided on a
27 contractual basis when determined appropriate by the Administrative Office of the
28 Courts. The Administrative Office of the Courts may authorize all or part of a program
29 in one judicial district to be operated in conjunction with that of another district or
30 districts. The Director of the Administrative Office of the Courts is authorized to
31 approve contractual agreements for such services as executed by order of the Chief
32 District Court Judge of a district court district; such contracts to be exempt from
33 competitive bidding procedures under General Statutes Chapter 143. The
34 Administrative Office of the Courts shall promulgate rules and regulations necessary
35 and appropriate for the administration of the program. Funds appropriated by the
36 General Assembly for the establishment and maintenance of mediation programs under
37 this Article shall be administered by the Administrative 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 least 40 hours of training in mediation techniques by a qualified
41 instructor of mediation as determined by the Administrative Office of
42 the Courts; and
43 (2) Has had professional training and experience relating to child
44 development, family dynamics, or comparable areas; and

1 (3) Meets such other criteria as may be specified by the Administrative
2 Office of the Courts.

3 **"§ 7A-495. Implementation and administration.**

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

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

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

13 **"§ 50-13.1. Action or proceeding for custody of minor child.**

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

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

28 (1) To reduce any acrimony that exists between the parties to a dispute
29 involving custody or visitation of a minor child;

30 (2) The development of custody and visitation agreements that are in the
31 child's best interest;

32 (3) To provide the parties with informed choices and, where possible, to
33 give the parties the responsibility for making decisions about child
34 custody and visitation;

35 (4) To provide a structured, confidential, nonadversarial setting that will
36 facilitate the cooperative resolution of custody and visitation disputes
37 and minimize the stress and anxiety to which the parties, and
38 especially the child, are subjected; and

39 (5) To reduce the relitigation of custody and visitation disputes.

40 (c) For good cause, on the motion of either party or on the court's own motion,
41 the court may waive the setting of a contested custody or visitation matter for
42 mediation. Good cause may include, but is not limited to, the following: a showing of
43 undue hardship to a party; allegations of abuse or neglect of the minor child; allegations

1 of alcoholism, drug abuse, or spouse abuse; or allegations of severe psychological,
2 psychiatric, or emotional problems.

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

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

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

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

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

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

33 Sec. 19. Funds in the amount of \$140,000 for the 1989-90 fiscal year and
34 \$212,000 for the 1990-91 fiscal year are appropriated from the General Fund to the
35 Judicial Department to achieve the purposes of Sections 16 through 18 of this act.

36 NON-BINDING ARBITRATION PROGRAM

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

40 APPELLATE DIVISION LIBRARY FUNDS

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

1 INCREASED JUDICIAL DEPARTMENT OPERATING EXPENSE
2 REQUIREMENTS

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

7 EXPANSION OF DISPUTE SETTLEMENT CENTERS

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

12 INCREASED COMPENSATION FOR APPELLATE DIVISION LAW CLERKS

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

17 EIGHTH STEP TO MAGISTRATES SALARY SCHEDULE

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

22 Sec. 26. From funds appropriated to the Judicial Department for fiscal year
23 1989-90, the Director of the Administrative Office of the Courts is directed to reimburse
24 superior court judges for their commuting expenses incurred in fiscal year 1988-89
25 which were not reimbursed due to a lack of funds; provided, that no expenses shall be
26 reimbursed unless the expenses are reimbursable under the rules and regulations of the
27 Administrative Office of the Courts applicable to commuting costs.

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