

Article 9.

District Attorneys and Prosecutorial Districts.

§ 7A-60. District attorneys and prosecutorial districts.

(a) The State shall be divided into prosecutorial districts, as shown in subsection (a1) of this section. There shall be a district attorney for each prosecutorial district, as provided in subsections (b) and (c) of this section who shall be a resident of the prosecutorial district for which elected. A vacancy in the office of district attorney shall be filled as provided in Article IV, Sec. 19 of the Constitution.

(a1) **(Effective January 1, 2021 through December 31, 2022)** The counties of the State are organized into prosecutorial districts, and each district has the counties and the number of full-time assistant district attorneys set forth in the following table:

<i>Prosecutorial District</i>	<i>Counties</i>	<i>No. of Full-Time Asst. District Attorneys</i>
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	12
2	Beaufort, Hyde, Martin, Tyrrell, Washington	8
3	Pitt	12
4	Carteret, Craven, Pamlico	13
5	Duplin, Jones, Onslow, Sampson	20
6	New Hanover, Pender	20
7	Bertie, Halifax, Hertford, Northampton	11
8	Edgecombe, Nash, Wilson	19
9	Greene, Lenoir, Wayne	15
10	Wake	42
11	Franklin, Granville, Person Vance, Warren	15
12	Harnett, Lee	12
13	Johnston	11
14	Cumberland	25
15	Bladen, Brunswick, Columbus	15
16	Durham	18
17	Alamance	12
18	Orange, Chatham	10
20	Robeson	13
21	Anson, Richmond, Scotland	9
22	Caswell, Rockingham	9
23	Stokes, Surry	8
24	Guilford	35
25	Cabarrus	10
26	Mecklenburg	58
27	Rowan	9

29	Hoke, Moore	9
28	Montgomery, Stanly	6
30	Union	11
31	Forsyth	27
32	Alexander, Iredell	13
33	Davidson, Davie	12
34	Alleghany, Ashe, Wilkes, Yadkin	9
35	Avery, Madison, Mitchell, Watauga, Yancey	8
36	Burke, Caldwell, Catawba	20
37	Randolph	10
38	Gaston	16
39	Cleveland, Lincoln	13
40	Buncombe	14
41	McDowell, Rutherford	8
42	Henderson, Polk, Transylvania	9
43	Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain.	13

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<i>Prosecutorial District</i>	<i>Counties</i>	<i>No. of Full-Time Asst. District Attorneys</i>
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	12
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14	Cumberland	25
15	Bladen, Brunswick, Columbus	15
16	Durham	18
17	Alamance	12
18	Orange, Chatham	10
20	Robeson	13
21	Anson, Richmond, Scotland	9
22	Caswell, Rockingham	9
23	Stokes, Surry	8
24	Guilford	35
25	Cabarrus	10
26	Mecklenburg	58
27	Rowan	9
29	Hoke, Moore	9
28	Montgomery, Stanly	6
30	Union	11
31	Forsyth	27
32	Alexander, Iredell	13
33	Davidson, Davie	12
34	Alleghany, Ashe, Wilkes, Yadkin	9
35	Avery, Madison, Mitchell, Watauga, Yancey	8
36	Burke, Caldwell	10
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40	Buncombe	14
41	McDowell, Rutherford	8
42	Henderson, Polk, Transylvania	9
43	Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain.	13
44	Catawba	10

(a2) Repealed by Session Laws 2017-57, s. 18B.9(f), effective June 28, 2017.

(b) Except as provided in subsection (c) of this section, each district attorney for a prosecutorial district as defined in subsection (a1) of this section, other than District 19B, who is in office on December 31, 1988, shall continue in office for that prosecutorial district, for a term expiring December 31, 1990. In the general election of 1990, and every four years thereafter, a district attorney shall be elected for a four-year term for each prosecutorial district other than Districts 16A and 19B, and shall take office on the January 1 following such election. The district attorney for Prosecutorial District 19B, who is elected in the general election of 1988 for a four-year term beginning January 1, 1989, shall serve that term for Prosecutorial District 19B. In the general election of 1992, and every four years thereafter, a district attorney shall be elected for

a four-year term for Prosecutorial Districts 16A and 19B and shall take office on the January 1 following such election.

(c) The office and term of the district attorney for Prosecutorial District 12 formerly consisting of Cumberland and Hoke Counties are allocated to Prosecutorial District 12 as defined by subsection (a1) of this section. The office and the term of the district attorney for former Prosecutorial District 16 consisting of Robeson and Scotland Counties are allocated to Prosecutorial District 16B as defined by subsection (a1) of this section. The initial district attorney for Prosecutorial District 16A as defined in subsection (a1) of this section shall be elected in the general election of November 1988, from nominations made in accordance with G.S. 163-114 as if a vacancy had occurred in nomination, and shall serve an initial term expiring December 31, 1992. In all other respects, subsection (b) of this section shall apply to the district attorneys for Prosecutorial Districts 12, 16A, and 16B to the same extent as all other district attorneys. (1967, c. 1049, s. 1; 1975, c. 956, s. 4; 1977, c. 1130, s. 3; 1977, 2nd Sess., c. 1238, s. 2; 1981, c. 964, ss. 2, 3; 1987, c. 509, ss. 4, 5; c. 738, s. 127(a); 1987 (Reg. Sess., 1988), c. 1056, s. 1; c. 1086, s. 111; 1989, c. 770, ss. 1, 56; c. 795, s. 24(a), (e); 1991, c. 742, s. 13; 1991 (Reg. Sess., 1992), c. 900, s. 120(a), (b); 1993, c. 321, ss. 200.4(l), 200.7(a), (b); 1995, c. 507, s. 21.7; 1995 (Reg. Sess., 1996), c. 589, s. 3(a); 1996, 2nd Ex. Sess., c. 18, s. 22(a); 1997-443, s. 18.11(a); 1998-212, s. 16.20(a); 1999-237, s. 17.8(a); 2004-124, s. 14.6(h); 2005-276, s. 14.2(l); 2006-66, ss. 14.3(a), 14.19(a); 2007-323, ss. 14.14(a), (b), 14.25(j); 2008-107, s. 14.6; 2009-451, s. 15.17E(a); 2012-194, s. 1(b); 2013-360, s. 18B.22(k); 2014-100, s. 18B.7(a); 2017-6, s. 3; 2017-57, s. 18B.9(e), (f), (h), (i); 2017-197, s. 5.6(a)-(c); 2018-5, s. 18B.6; 2018-114, s. 24(a), (b); 2018-121, ss. 3(a), 7; 2018-146, ss. 3.1(a), (b), 6.1; 2019-229, s. 1(a)-(c).)

§ 7A-61. Duties of district attorney.

The district attorney shall prepare the trial dockets, prosecute in a timely manner in the name of the State all criminal actions and infractions requiring prosecution in the superior and district courts of the district attorney's prosecutorial district and advise the officers of justice in the district attorney's district. The district attorney shall also represent the State in juvenile cases in the superior and district courts in which the juvenile is represented by an attorney. The district attorney shall provide to the Attorney General any case files, records and additional information necessary for the Attorney General to conduct appeals to the Appellate Division for cases from the district attorney's prosecutorial district. The Attorney General shall not delegate to the district attorney, or any other entity, the duty to represent the State in criminal and juvenile appeals. Each district attorney shall devote his full time to the duties of his office and shall not engage in the private practice of law. (1967, c. 1049, s. 1; 1969, c. 1190, s. 5; 1971, c. 377, s. 5.1; 1973, c. 47, s. 2; 1985, c. 764, s. 7; 1985 (Reg. Sess., 1986), c. 852, s. 17; 1987 (Reg. Sess., 1988), c. 1037, s. 12; 1999-428, s. 3; 2017-212, s. 5.2(b).)

§ 7A-62. Acting district attorney.

When a district attorney becomes for any reason unable to perform his duties, the Governor shall appoint an acting district attorney to serve during the period of disability. An acting district attorney has all the power, authority and duties of the regular district attorney. He shall take the oath of office prescribed for the regular district attorney, and shall receive the same compensation as the regular district attorney. (1967, c. 1049, s. 1; 1973, c. 47, s. 2.)

§ 7A-63. Assistant district attorneys.

Each district attorney shall be entitled to the number of full-time assistant district attorneys set out in this Subchapter to be appointed by the district attorney, to serve at the district attorney's pleasure. A vacancy in the office of assistant district attorney shall be filled in the same manner as the initial appointment. An assistant district attorney shall take the same oath of office as the district attorney, and shall perform such duties as may be assigned by the district attorney. The district attorney shall devote full time to the duties of the office and shall not engage in the private practice of law during his or her term. (1967, c. 1049, s. 1; 1969, c. 1190, s. 6; 1971, c. 377, s. 6; 1973, c. 47, s. 2; 2014-100, s. 18B.7(b); 2017-57, s. 18B.9(g).)

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

(a) A district attorney may apply to the Director of the Administrative Office of the Courts to:

- (1) Temporarily assign an assistant district attorney from another district, after consultation with the district attorney thereof, to assist in the prosecution of cases in the requesting district;
- (2) Authorize the temporary appointment, by the requesting district attorney, of a qualified attorney to assist the requesting district attorney; or
- (3) Enter into contracts with local governments for the provision of services by the State pursuant to G.S. 153A-212.1 or G.S. 160A-289.1.

(a1) Repealed by Session Laws 2012-7, s. 9, effective June 7, 2012.

(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:

- (1) Criminal cases have accumulated on the dockets of the superior or district courts of the district beyond the capacity of the district attorney and the district attorney's full-time assistants to keep the dockets reasonably current.
- (2) The overwhelming public interest warrants the use of additional resources for the speedy disposition of cases involving drug offenses, domestic violence, or other offenses involving a threat to public safety.
- (3) There is a conflict of interest.
- (4) A county within the jurisdiction of the requesting district attorney is subject to a disaster declaration by the Governor pursuant to G.S. 166A-19.3(3).

(c) The length of service and compensation of any temporary appointee or the terms of any contract entered into with local governments shall be fixed by Director of the Administrative Office of the Courts in each case. Nothing in this section shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this section or to obligate the Administrative Office of the Courts to provide the administrative costs of establishing or maintaining the positions or services provided for under this section. Further, nothing in this section shall be construed to obligate the Administrative Office of the Courts to maintain positions or services initially provided for under this section. (1967, c. 1049, s. 1; 1973, c. 47, s. 2; 1999-237, s. 17.17(a); 2000-67, s. 15.4(g); 2010-171, s. 2; 2012-7, s. 9; 2017-158, s. 14; 2018-138, s. 2.12(a).)

§ 7A-65. Compensation and allowances of district attorneys and assistant district attorneys.

(a) The annual salary of:

- (1) District attorneys shall be as provided in the Current Operations Appropriations Act.

- (2) Full-time assistant district attorneys shall be as provided in the Current Operations Appropriations Act.

When traveling on official business, each district attorney and assistant district attorney is entitled to reimbursement for his or her subsistence expenses to the same extent as State employees generally. When traveling on official business outside his or her county of residence, each district attorney and assistant district attorney is entitled to reimbursement for travel expenses to the same extent as State employees generally. For purposes of this subsection, the term "official business" does not include regular, daily commuting between a person's home and the district attorney's office. Travel distances, for purposes of reimbursement for mileage, shall be determined according to the travel policy of the Administrative Office of the Courts.

(b) Repealed by Session Laws 1985, c. 689, s. 2.

(c) In lieu of merit and other increment raises paid to regular State employees, a district attorney shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, and nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, nineteen and two-tenths percent (19.2%) after 20 years of service, and twenty-four percent (24%) after 25 years of service. Service shall mean service in the elective position of a district attorney and shall not include service as a deputy or acting district attorney. Service shall also mean service as a justice or judge of the General Court of Justice, clerk of superior court, assistant district attorney, public defender, appellate defender, or assistant public or appellate defender.

(d) In lieu of merit and other increment raises paid to regular State employees, an assistant district attorney shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, nineteen and two-tenths percent (19.2%) after 20 years of service, and twenty-four percent (24%) after 25 years of service. "Service" means service as an assistant district attorney, district attorney, resource prosecutor, public defender, appellate defender, assistant public or appellate defender, justice or judge of the General Court of Justice, or clerk of superior court. For purposes of this subsection, "resource prosecutor" means a former assistant district attorney who has left the employment of the district attorney's office to serve in a specific, time-limited position with the Conference of District Attorneys. (1967, c. 1049, s. 1; 1973, c. 47, s. 2; 1983, c. 761, ss. 246, 248; 1983 (Reg. Sess., 1984), c. 1034, ss. 92, 165; c. 1109, s. 13.1; 1985, c. 689, s. 2; c. 698, s. 10(b); 1985 (Reg. Sess., 1986), c. 1014, s. 224; 1987, c. 738, s. 33(a); 1995, c. 507, s. 7.4A; 1999-237, s. 28.19(a); 2000-67, s. 26.3A(a); 2003-284, ss. 30.19A(a), 30.19A(b); 2005-276, s. 29.23A; 2007-323, ss. 28.15A, 28.18A(d); 2009-451, s. 15.17B(b).)

§ 7A-66. Removal of district attorneys.

The following are grounds for suspension of a district attorney or for his removal from office:

- (1) Mental or physical incapacity interfering with the performance of his duties which is, or is likely to become, permanent;
- (2) Willful misconduct in office;
- (3) Willful and persistent failure to perform his duties;
- (4) Habitual intemperance;
- (5) Conviction of a crime involving moral turpitude;

- (6) Conduct prejudicial to the administration of justice which brings the office into disrepute; or
- (7) Knowingly authorizing or permitting an assistant district attorney to commit any act constituting grounds for removal, as defined in subdivisions (1) through (6) hereof.

A proceeding to suspend or remove a district attorney is commenced by filing with the clerk of superior court of the county where the district attorney resides a sworn affidavit charging the district attorney with one or more grounds for removal. The clerk shall immediately bring the matter to the attention of the senior regular resident superior court judge for the district or set of districts as defined in G.S. 7A-41.1(a) in which the county is located who shall within 30 days either review and act on the charges or refer them for review and action within 30 days to another superior court judge residing in or regularly holding the courts of that district or set of districts. If the superior court judge upon review finds that the charges if true constitute grounds for suspension, and finds probable cause for believing that the charges are true, he may enter an order suspending the district attorney from performing the duties of his office until a final determination of the charges on the merits. During the suspension the salary of the district attorney continues. If the superior court judge finds that the charges if true do not constitute grounds for suspension or finds that no probable cause exists for believing that the charges are true, he shall dismiss the proceeding.

If a hearing, with or without suspension, is ordered, the district attorney should receive immediate written notice of the proceedings and a true copy of the charges, and the matter shall be set for hearing not less than 10 days nor more than 30 days thereafter. The matter shall be set for hearing before the judge who originally examined the charges or before another regular superior court judge resident in or regularly holding the courts of that district or set of districts. The hearing shall be open to the public. All testimony shall be recorded. At the hearing the superior court judge shall hear evidence and make findings of fact and conclusions of law and if he finds that grounds for removal exist, he shall enter an order permanently removing the district attorney from office, and terminating his salary. If he finds that no grounds exist, he shall terminate the suspension, if any.

The district attorney may appeal from an order of removal to the Court of Appeals on the basis of error of law by the superior court judge. Pending decision of the case on appeal, the district attorney shall not perform any of the duties of his office. If, upon final determination, he is ordered reinstated either by the appellate division or by the superior court upon remand his salary shall be restored from the date of the original order of removal. (1967, c. 1049, s. 1; 1973, c. 47, s. 2; c. 148, s. 1; 1977, c. 21, ss. 1, 2; 1987 (Reg. Sess., 1988), c. 1037, s. 13.)

§ 7A-66.1. Office of solicitor may be denominated as office of district attorney; "solicitor" and "district attorney" made interchangeable; interchangeable use authorized in proceedings, documents, and quotations.

(a) The constitutional office of solicitor may be denominated as the office of "district attorney" for all purposes, and the terms "solicitor" and "district attorney" shall be identical in meaning and interchangeable in use. All terms derived from or related to the term "solicitor" may embody this denomination.

(b) Repealed by Session Laws 1975, c. 956, s. 5.

(c) The interchangeable use authorized in this section includes use in all forms of oral, written, visual, and other communication including:

- (1) Oaths of office;
- (2) Other oaths or orations required or permitted in court or official proceedings;
- (3) Ballots;
- (4) Statutes;
- (5) Regulations;
- (6) Ordinances;
- (7) Judgments and other court orders and records;
- (8) Opinions in cases;
- (9) Contracts;
- (10) Bylaws;
- (11) Charters;
- (12) Official commissions, orders of appointment, proclamations, executive orders, and other official papers or pronouncements of the Governor or any executive, legislative, or judicial official of the State or any of its subdivisions;
- (13) Official and unofficial letterheads;
- (14) Campaign advertisements;
- (15) Official and unofficial public notices; and
- (16) In all other contexts not enumerated.

The interchangeability authorized in this section extends to the privilege of substituting terminology in matter quoted in oral, written, and other modes of communication without making indication of such change, except where such change may result in a substantive misunderstanding. Reprints or certifications of the text of the Constitution of North Carolina made by the Secretary of State, however, must retain the original terminology and indicate in brackets beside the original terminology the appropriate alternative words. (1973, c. 47, s. 1; 1975, c. 956, s. 5.)

§ 7A-67. Repealed by Session Laws 1971, c. 377, s. 32.

§ 7A-68. Administrative assistants.

(a) Each district attorney shall be entitled to one administrative assistant to be appointed by the district attorney and to serve at his pleasure. The assistant need not be an attorney licensed to practice law in the State of North Carolina.

(b) It shall be the duty of the administrative assistant to assist the district attorney in preparing cases for trial and in expediting the criminal court docket, and to assist in such other duties as may be assigned by the district attorney.

(c) When traveling on official business, each administrative assistant is entitled to reimbursement for his subsistence and travel expenses to the same extent as State employees generally. (1973, c. 807.)

§ 7A-69. Investigatorial assistants.

The 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 one investigatorial assistant, and the district attorney in prosecutorial district 10 is entitled to two investigatorial assistants, to be appointed by the district attorney and to serve at his pleasure.

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

State employees generally. (1975, c. 956, s. 6; 1977, c. 969, s. 1; 1981, c. 964, s. 2; 1993, c. 321, s. 200.7(e); 1997-443, s. 18.16; 1998-212, s. 16.21; 1999-237, s. 17.9; 2004-124, s. 14.7(a); 2005-276, s. 14.2(p); 2007-323, s. 14.25(n).)

§ 7A-69.1: Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 998, s. 3.