

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 891

Short Title: N.C. Sentencing Commn.

(Public)

Sponsors: Representatives Barnes; and Fitch.

Referred to: Judiciary III.

April 12, 1993

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE NORTH CAROLINA SENTENCING OVERSIGHT
AND POLICY ADVISORY COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 7A of the General Statutes is amended by adding a new
Article to read:

"ARTICLE 29B.

"SENTENCING OVERSIGHT AND POLICY ADVISORY COMMISSION.

"§ 7A-350. Commission established.

The North Carolina Sentencing Oversight and Policy Advisory Commission is
established. As used in this Article, the term 'Commission' means the North Carolina
Sentencing Oversight and Policy Advisory Commission.

"§ 7A-350.1. Legislative policy.

The Commission shall monitor and evaluate sentencing and correctional laws and
policies in relationship to both the stated purposes of the criminal justice and corrections
systems and the availability of sentencing options. The Commission shall make
recommendations to the General Assembly for the modification of sentencing and
correctional laws and policies, and for the addition, deletion, or expansion of sentencing
options as necessary to improve the criminal justice system.

"§ 7A-350.2. Powers and duties.

(a) The Commission shall:

(1) Oversee the implementation of the sentencing structure and other
sentencing laws adopted by the General Assembly, monitor and review
the criminal justice and corrections systems, and make

- 1 recommendations to ensure that sentencing remains uniform and
2 consistent, and that the goals and policies established by the State are
3 being implemented by sentencing practices;
- 4 (2) Based upon the criteria for the classification of offenses adopted by the
5 North Carolina Sentencing and Policy Advisory Commission, review
6 all proposed legislation which creates a new criminal offense or
7 changes the classification of an offense. The Commission shall meet
8 within 10 days after the last day for filing public bills in the General
9 Assembly for the purpose of reviewing bills as described below:
- 10 a. In the case of a new criminal offense, the Commission shall
11 determine whether the proposal places the offense in the correct
12 classification. If the proposal does not assign the offense to a
13 classification, it shall be the duty of the Commission to
14 recommend the proper classification to the General Assembly.
- 15 b. In the case of proposed changes in the classification of an
16 offense, the Commission shall determine whether such a
17 proposed change is consistent with the criteria for the
18 classification of offenses, and shall report its findings to the
19 General Assembly.
- 20 (3) Prepare impact estimates to accompany any Commission
21 recommendations to modify sentencing laws or to reclassify offenses.
22 Such estimates shall include a statement of the estimated effect of the
23 legislation on the Department of Correction and local facilities, both in
24 terms of fiscal impact and on inmate population, and shall be based on
25 the application of the correction population simulation model;
- 26 (4) Assist the Fiscal Research Division of the General Assembly in
27 preparing fiscal notes for any bill or resolution introduced in the
28 General Assembly which proposes any change in the law which could
29 cause a net increase in the length of time for which persons are
30 incarcerated or the number of persons incarcerated. All estimates shall
31 be based on the application of the correction population simulation
32 model;
- 33 (5) Develop training materials and conduct initial and periodic training
34 programs for criminal justice personnel concerning the administration
35 of sentencing laws;
- 36 (6) Make recommendations regarding the comprehensive community
37 correction strategy and organizational structure for the State based
38 upon the following:
- 39 a. Monitoring the implementation of the comprehensive
40 community corrections strategy and organizational structure;
- 41 b. Monitoring and evaluating the effectiveness of community-
42 based corrections programs in the State;

- 1 c. Identification of additional types of community corrections
2 programs necessary to create an effective continuum of
3 corrections sanctions in North Carolina; and
4 d. Identification of categories of offenders who would be eligible
5 for sentencing to community corrections programs.
6 (7) Project future State prison, jail, and other correctional populations
7 using the correction population simulation model;
8 (8) Make or cause to be made any studies as may be specifically given to
9 it by the General Assembly. The Commission shall report the results
10 of the studies, accompanied by the recommendations of the
11 Commission and bills suggested to effectuate the recommendations, to
12 the General Assembly.
13 (b) In addition to the duties assigned by law, the Commission may:
14 (1) Evaluate the long-range needs of the criminal justice and corrections
15 systems and recommend policy priorities for those systems;
16 (2) Evaluate the long-range information needs of the criminal justice and
17 corrections systems and acquire that information as it becomes
18 available;
19 (3) Identify critical problems in the criminal justice and corrections
20 systems and recommend strategies to solve those problems;
21 (4) Recommend the goals, priorities, and standards for the allocation of
22 criminal justice and correction funds;
23 (5) Recommend means to improve the deterrent and rehabilitative
24 capabilities of the criminal justice and corrections systems; and
25 (6) Propose plans, programs, and legislation for improving the
26 effectiveness of the criminal justice and corrections systems.
27 (c) The Commission shall report annually to the General Assembly, the Chief
28 Justice of the Supreme Court, and the Governor. The report shall include projections of
29 future correctional populations, information on current sentencing practices, and any
30 recommendations for modification of sentencing and correctional laws.

31 **"§ 7A-350.3. Correction population simulation model.**

32 The Commission shall maintain a correctional population simulation model, and
33 shall have first priority to apply the model to a given fact situation, or theoretical change
34 in the sentencing laws, when requested to do so by the Chair, the Executive Director, or
35 the Commission as a whole.

36 The Chair or the Executive Director shall make the model available to respond to
37 inquiries by any State legislator, or by the Secretary of the Department of Correction, in
38 second priority to the work of the Commission.

39 The Commission shall update all statistical data relating to the model annually based
40 upon current sentencing and corrections data maintained by State and local agencies.
41 All State agencies shall provide data as requested by the Commission.

42 **"§ 7A-350.4. Clearinghouse and information center.**

43 The Commission shall serve as a clearinghouse and information center for the
44 collection, preparation, analysis, and dissemination of information on State and local

1 sentencing practices. It shall assist and serve in a consulting capacity to State courts,
2 departments, and agencies in the development, maintenance, and coordination of sound
3 sentencing practices.

4 **"§ 7A-350.5. Meetings; quorum.**

5 The Commission shall have a minimum of four regular meetings each year. A
6 majority of the members of the Commission shall constitute a quorum. All meetings of
7 the Commission shall be open to the public.

8 The Commission may, with the approval of the Legislative Services Commission,
9 meet in the State Legislative Building or the Legislative Office Building, or may meet
10 in an area provided by the Director of the Administrative Office of the Courts.
11 Commission staff shall use office space provided by the Director of the Administrative
12 Office of the Courts.

13 **"§ 7A-350.6. Executive director and other staff.**

14 The Commission shall employ an Executive Director. The Executive Director shall
15 be responsible for compiling the work of the Commission and drafting suggested
16 legislation incorporating the Commission's findings and recommendations for
17 submission to the General Assembly.

18 Subject to the approval of the Chair, the Executive Director shall employ any other
19 staff and shall contract for services as is necessary to assist the Commission in the
20 performance of its duties, and as funds permit.

21 **"§ 7A-350.7. Administrative direction and supervision.**

22 The Commission shall be administered under the direction and supervision of the
23 Director of the Administrative Office of the Courts. The Commission shall exercise all
24 of its prescribed statutory powers independently of the head of that Office, except that
25 all management functions shall be performed under the direction and supervision of the
26 Director of the Administrative Office of the Courts. 'Management functions', as used in
27 this section, means planning, organizing, staffing, directing, coordinating, and
28 budgeting.

29 **"§ 7A-350.8. Financial or other aid.**

30 The Commission may apply for, accept, and use any gifts, grants, or financial or
31 other aid, in any form, from the federal government or any agency or instrumentality of
32 the federal government, or from the State or from any other source including private
33 associations, foundations, or corporations to accomplish any of the duties set out in this
34 Chapter."

35 Sec. 2. The records, personnel, unexpended balances of appropriations,
36 allocations or other funds of the North Carolina Sentencing and Policy Advisory
37 Commission, as provided by Article 4 of Chapter 164 of the General Statutes, are
38 transferred to the North Carolina Sentencing Oversight and Policy Advisory
39 Commission.

40 Sec. 3. Any pending responsibilities of the North Carolina Sentencing and
41 Policy Advisory Commission, which expires July 1, 1993, are transferred to the North
42 Carolina Sentencing Oversight and Policy Advisory Commission.

43 Sec. 4. Notwithstanding any other provision of law, no State agencies,
44 committees, or commissions may duplicate the statutorily prescribed responsibilities of

1 the North Carolina Sentencing Oversight and Policy Advisory Commission unless the
2 agency, committee, or commission is acting within functions specifically assigned to it
3 by another act of the General Assembly.

4 Sec. 5. This act is effective upon ratification.