

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

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HOUSE BILL 868

Short Title: Appointment of Counsel Funds. (Public)

Sponsors: Representatives M. Alexander, Bordsen, Glazier, and Harrison (Primary Sponsors).

For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Appropriations.

April 21, 2011

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE FUNDS TO INCREASE ACCESS TO COUNSEL IN CIVIL CASES.

Whereas, the North Carolina Constitution provision for open and fair civil courts and Tribunals of Justice is one of the fundamental guarantees of our constitutional democracy and a historic legacy of this State; and

Whereas, the greater availability of competent legal assistance is essential to making our courts and tribunals open and fair, especially when there are complex factual and legal issues, the nature of the interests affect shelter, sustenance, safety, health, or family integrity, and the potential consequences of the outcome on the unrepresented party may be severe; and

Whereas, civil legal representation is often necessary for individuals to protect such basic human needs as shelter, sustenance, safety, health, or family integrity; and

Whereas, many of our State's citizens cannot afford legal representation for cases involving vital decisions about their lives and families, and over one-third of North Carolinians, nearly 3.2 million persons, are now eligible for federally subsidized legal assistance which is not adequate to meet the great need; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) The North Carolina State Bar shall develop protocols and make awards of fifty thousand dollars (\$50,000) each to three geographically dispersed judicial districts to establish a Provision of Counsel Committee in each district to develop a plan to determine to what extent counsel is needed in civil cases affecting basic human needs and the most efficient and effective method for doing so, considering all existing and local resources.

SECTION 1.(b) The Provision of Counsel Committees chosen for each of the three pilot projects shall evaluate the existing justice system in that judicial district to identify areas of the law in which basic human needs are at stake, such as those involving shelter, sustenance, safety, health, or family integrity, and shall determine where the provision of counsel is needed to ensure that individuals in that district secure fair results. Such evaluation shall determine the following:

- (1) The categories of cases requiring counsel.
- (2) The subcategories of cases in which counsel is necessary as a result of being contested, complex, or urgent matters.
- (3) The levels of financial need that should trigger the provision of counsel.
- (4) The categories of individuals with limitations of literacy, disability, age, and of other natures that are in need of counsel.



1 (5) The costs of establishing a provision of counsel system in the particular
2 judicial district.

3 **SECTION 1.(c)** Each Provision of Counsel Committee shall consist of at least
4 seven members, including the senior resident superior court judge and the chief district court
5 judge. The senior resident superior court judge, in consultation with the chief district court
6 judge, shall appoint the remaining members, including at least the following:

7 (1) A clerk of court from the district.

8 (2) A representative from the judicial district bar association.

9 (3) A representative from the local established legal services provider as defined
10 in G.S. 7A-474.2(1a).

11 (4) A representative of State or local government.

12 (5) A representative of the North Carolina Equal Access to Justice Commission.

13 **SECTION 1.(d)** Each Provision of Counsel Committee shall prepare a written
14 report of its deliberations and findings and provide the report to the General Assembly no later
15 than April 1, 2012.

16 **SECTION 2.** There is appropriated from the General Fund to the North Carolina
17 State Bar the sum of one hundred fifty thousand dollars (\$150,000) for the 2010-2011 fiscal
18 year to provide fifty thousand dollars (\$50,000) grants to three judicial districts to establish a
19 Provision of Counsel Committee to study and develop a plan for provision of counsel in certain
20 civil cases as provided in Section 1 of this act.

21 **SECTION 3.** This act becomes effective July 1, 2011.