

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

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HOUSE BILL 790

Short Title: Innocence Inquiry Commission Provisions. (Public)

Sponsors: Representative Pyrtle.

*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Judiciary 1, if favorable, Rules, Calendar, and Operations of the House

April 19, 2023

1 A BILL TO BE ENTITLED  
2 AN ACT TO MODIFY LAWS RELATING TO THE NORTH CAROLINA INNOCENCE  
3 INQUIRY COMMISSION.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Article 92 of Chapter 15A of the General Statutes reads as rewritten:

6 "Article 92.

7 "North Carolina Innocence Inquiry Commission.

8 ...

9 **"§ 15A-1465. Director and other staff.**

10 (a) The Commission shall employ a Director. The Director shall report to the Director of  
11 the Administrative Office of the Courts, who shall consult with the Commission chair. The  
12 Director shall be an attorney licensed to practice in North Carolina at the time of appointment  
13 and at all times during service as Director. The Director shall assist the Commission in  
14 developing rules and standards for cases accepted for review, coordinate investigation of cases  
15 accepted for review, maintain records for all case investigations, prepare reports outlining  
16 Commission investigations and recommendations to the trial court, and apply for and accept on  
17 behalf of the Commission any funds that may become available from government ~~grants, private~~  
18 ~~gifts, donations, or devises from any source.~~grants.

19 ...

20 **"§ 15A-1466. Duties.**

21 The Commission shall have the following duties and powers:

22 ...

23 (2) To conduct inquiries into claims of factual ~~innocence, with priority to be given~~  
24 ~~to those cases~~ innocence in which the convicted person is currently  
25 incarcerated solely for the crime for which he or she claims factual innocence.

26 ...

27 (6) To apply for and accept any funds that may become available for the  
28 Commission's work from government ~~grants, private gifts, donations, or~~  
29 ~~devises from any source.~~grants.

30 **"§ 15A-1467. Claims of innocence; waiver of convicted person's procedural safeguards and**  
31 **privileges; formal inquiry; notification of the crime victim.**

32 (a) A claim of factual innocence for any conviction may be referred to the Commission  
33 by any court, a State or local agency, or a claimant's counsel. A claim of factual innocence for  
34 convictions of homicide pursuant to Article 6 of Chapter 14 of the General Statutes, robbery  
35 pursuant to Article 17 of Chapter 14 of the General Statutes, any offense requiring registration



1 pursuant to Article 27A of Chapter 14 of the General Statutes, and any Class A through E felony  
2 may be made directly by the claimant. The Commission shall not consider a claim of factual  
3 innocence if the convicted person is ~~deceased~~ deceased or no longer incarcerated for the crime  
4 for which he or she claims factual innocence. A claimant who received notice pursuant to  
5 subsection (c1) of this section and did not make a claim of factual innocence shall be barred from  
6 investigation of a claim of factual innocence by the Commission absent a showing of good cause  
7 and approval of the Commission Chair. The determination of whether to grant a formal inquiry  
8 regarding any other claim of factual innocence is in the discretion of the Commission. The  
9 Commission may informally screen and dismiss a case summarily at its discretion.

10 ...

11 **"§ 15A-1468. Commission proceedings.**

12 ...

13 (a2) The Innocence Inquiry Commission shall include, as part of its rules of operation, the  
14 holding of a prehearing conference to be held at least ~~10-90~~ days prior to any proceedings of the  
15 ~~full Commission.~~ Commission, or at any time during the formal inquiry when the Commission  
16 has developed credible evidence to support a claim. Only the following persons shall be notified  
17 and authorized to attend the prehearing conference: the District Attorney, or the District  
18 Attorney's designee, of the district where the claimant was convicted of the felony upon which  
19 the claim of factual innocence is based; the claimant's counsel, if any; the Chair of the  
20 Commission; the Executive Director of the Commission; and any Commission staff designated  
21 by the Director. The District Attorney, or designee, shall be provided ~~(i) an opportunity to inspect~~  
22 ~~any evidence~~ a complete copy of the investigation, including but not limited to any evidence or  
23 testimony that may be presented to the Commission that has not previously been presented to  
24 any judicial officer or body and (ii) any information that the District Attorney, or the District  
25 Attorney's designee, deems relevant to the proceedings. ~~Commission.~~ At least ~~72 hours~~ 10 days  
26 prior to any Commission proceedings, the District Attorney or designee is authorized to provide  
27 the Commission with a written statement, which shall be part of the record. The Commission  
28 shall have an ongoing duty to provide any newly discovered evidence or testimony. This duty  
29 shall remain throughout the entire Commission proceeding and throughout any postcommission  
30 three-judge panel proceeding ordered pursuant to G.S. 15A-1469. Evidence or testimony not  
31 provided to the district attorney at least 10 days prior to the Commission hearing shall not be  
32 admissible at the hearing, absent good cause shown as determined by the Commission Chair.

33 (b) The Director shall use all due diligence to notify the victim at least ~~30-90~~ days prior  
34 to any proceedings of the full Commission held in regard to the victim's case. The Commission  
35 shall notify the victim that the victim is permitted to attend proceedings otherwise closed to the  
36 public, subject to any limitations imposed by this Article. If the victim plans to attend proceedings  
37 otherwise closed to the public, the victim shall notify the Commission at least 10 days in advance  
38 of the proceedings of the victim's intent to attend.

39 ...

40 (d) Evidence of criminal acts, professional misconduct, or other wrongdoing disclosed  
41 through formal inquiry or Commission proceedings shall be referred to the appropriate authority.  
42 Evidence favorable to the convicted person disclosed through formal inquiry or Commission  
43 proceedings shall be disclosed to ~~the each of the following:~~

44 (1) The District Attorney of the district where the claimant was convicted of the  
45 felony upon which the claim of factual innocence is based, or the District  
46 Attorney's designee.

47 (2) The convicted person and the person.

48 (3) The convicted person's counsel, if the convicted person has counsel.

49 ...

50 **"§ 15A-1469. Postcommission three-judge panel.**

51 ...

1 (a1) If the Commission concludes that there is credible evidence of prosecutorial  
2 misconduct ~~in the case, by the current District Attorney of the district where the claimant was~~  
3 convicted of the felony upon which the claim of factual innocence is based, the Chair of the  
4 Commission may request pursuant to G.S. 7A-64 the Attorney General-Director of the  
5 Administrative Office of the Courts to appoint a special prosecutor to represent the State in lieu  
6 of the district attorney of the district of conviction or the district attorney's designee. The request  
7 for the special prosecutor shall be made within 20 days of the filing of the Commission's opinion  
8 finding sufficient evidence of innocence to merit judicial review.

9 ~~Upon receipt of a request under this subsection to appoint a special prosecutor, the Attorney~~  
10 ~~General may temporarily assign a district attorney, assistant district attorney, or other qualified~~  
11 ~~attorney, to represent the State at the hearing before the three-judge panel. However, the Attorney~~  
12 ~~General-Director of the Administrative Office of the Courts shall not appoint as special~~  
13 ~~prosecutor any attorney who prosecuted or assisted with the prosecution in the trial of the~~  
14 ~~convicted person, or is a prosecuting attorney in the district where the convicted person was tried.~~  
15 ~~person.~~ The appointment shall be made no later than 20 days after the receipt of the request.

16 ...

17 (d) The three-judge panel shall conduct an evidentiary ~~hearing.~~ hearing in accordance  
18 with the North Carolina Rules of Evidence. At the hearing, the court, and the defense and  
19 prosecution through the court, may compel the testimony of any witness, including the convicted  
20 person. All credible, verifiable evidence relevant to the case, even if considered by a jury or judge  
21 in a prior proceeding, may be presented during the hearing. The convicted person may not assert  
22 any privilege or prevent a witness from testifying. The convicted person has a right to be present  
23 at the evidentiary hearing and to be represented by counsel. A waiver of the right to be present  
24 shall be in writing. At least 10 days prior to the evidentiary hearing, the district attorney, defense  
25 counsel, and the Commission must provide to the other parties any evidence or testimony each  
26 intends to introduce at the evidentiary hearing. Any evidence or testimony not timely provided  
27 to the other parties shall not be admissible at the hearing, absent good cause shown as determined  
28 by the three-judge panel.

29 ...."

30 **SECTION 2.** This act is effective when it becomes law and applies to proceedings  
31 held on or after that date.