



HOUSE BILL 1021: Amend Innocence Commission Statutes.

2016-2017 General Assembly

Committee: House Judiciary I
Introduced by: Rep. Daughtry
Analysis of: First Edition

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SUMMARY: *House Bill 1021 makes various amendments to the laws regarding the Innocence Inquiry Commission, as recommended by the Joint Legislative Oversight Committee on Justice and Public Safety.*

CURRENT LAW: Article 92 of Chapter 15A creates the North Carolina Innocence Inquiry Commission (the "Commission") and establishes the laws governing the work of the Commission. The Commission investigates and determines "claims of factual innocence"¹ on behalf of persons convicted of a felony. A claim of factual innocence may be referred to the Commission by any court, State or local agency, claimant or claimant's counsel. Once the Commission grants a claim of factual innocence it begins the formal inquiry or investigation process for that case. Upon completion of the investigation, all relevant evidence is presented to the full eight member Commission and the members vote on whether there is sufficient evidence of factual innocence to merit judicial review of the case. If there is sufficient evidence, the Chief Justice will appoint a three judge panel to convene a special session of superior court of the district with original jurisdiction to conduct a hearing on the evidence from the Commission's investigation and recommendations. If the three judge panel rules that the convicted person has proven by clear and convincing evidence they are innocent of the charges, the panel will enter a dismissal of all or any of the charges. If the panel does not rule that the convicted person is innocent, no relief is granted.

BILL ANALYSIS: This bill amends the laws governing the Commission as follows:

- Clarifies the Commission Director reports to the Director of the Administrative Office of the Courts.
- Clarifies which claims of factual innocence may be filed directly by the claimant and which claims must be filed by claimant's counsel.
- Specifies that a claimant's waiver will not be construed as a waiver of a convicted person's right to be heard by the court before the court issues a protective order.
- Adds a provision that if a claim of factual innocence is granted, the Commission will notify each codefendant of the claim and if the codefendant wishes to also file a claim, they must do so within 60 days of receipt of the notice.

¹ A claim of factual innocence is a claim on behalf of a living person convicted of a felony in the State of North Carolina that asserts the person convicted is completely innocent of any criminal responsibility for the felony or any lesser included offenses, and that there is credible, verifiable evidence of their innocence that has not previously been presented at trial or considered at a hearing granted through postconviction relief.

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- Adds a provision that if a claim of factual innocence is granted, the Director must provide a confidential case status update at least every six months that includes a summary of the actions taken since the last update to the District Attorney, the convicted person, or counsel, if any, and the referring counsel, if any.
- Adds a provision that at any time the District Attorney and convicted person may agree there is sufficient evidence of factual innocence to merit judicial review by the three judge panel and bypass the proceedings and determination by the full Commission. Also, makes conforming change to allow consideration by the three judge panel upon agreement.
- Clarifies counsel for indigent persons will be appointed by Indigent Defense Services.
- Adds provision that Commission will notify the parties involved before requesting any protective order regarding any portion of the investigative file

EFFECTIVE DATE: This act would become effective on December 1, 2016 and applies to claims of factual innocence made on or after that date.