



This Bill Analysis reflects the contents of the bill as it was presented in committee.

# HOUSE BILL 790: Innocence Inquiry Commission Provisions.

2023-2024 General Assembly

<b>Committee:</b>	House Judiciary 1. If favorable, re-refer to Rules, Calendar, and Operations of the House	<b>Date:</b>	May 1, 2023
<b>Introduced by:</b>	Rep. Pyrtle	<b>Prepared by:</b>	Debbie Griffiths
<b>Analysis of:</b>	PCS to First Edition H790-CSCI-16		Committee Co-Counsel

**OVERVIEW:** *The PCS for House Bill 790 would modify laws related to the North Carolina Innocence Inquiry Commission (Commission) and do the following:*

- *Allow the Commission to continue receiving private gifts and donations.*
- *Provide the Director of the Commission with the sole authority to direct the use of private grants and donations and clarify that the Commission's receipt of a private gift or donation creates no obligation for the Commission.*
- *Allow the Commission to continue reviews of any request for review of a case for actual innocence unless the person convicted is deceased with priority given to those where the convicted person is incarcerated solely for the crime for which the request is made.*
- *Require a prehearing conference to be held at least 30 days prior to an evidentiary hearing or at any time if the Commission develops evidence of factual innocence.*
- *Establish the procedure for the prehearing conference including the Commission providing its evidence and testimony to the claimant and the claimant's attorney, if any.*
- *Allow the district attorney to provide the Commission a written statement at least 10 days prior to a hearing.*
- *Require the Administrative Office of the Courts to appoint a special prosecutor for the Commission hearing when there is evidence of prosecutorial misconduct.*
- *Make technical and conforming changes.*

## CURRENT LAW AND BILL ANALYSIS:

### G.S. 15A-1465-DIRECTOR AND OTHER STAFF

Under current law, the Commission is allowed to accept private gifts and donations.

The PCS for House Bill 790 would provide the Director of the Commission with the authority to direct the use of private gifts and donations and clarify that the receipt of private gifts and donations does not create any obligation for the Commission.

### G.S. 15A-1468-COMMISSION PROCEEDINGS

Under current law, a prehearing conference is required to be held at least 10 days prior to any Commission proceeding. Only the district attorney or the district attorney's designee is provided an opportunity to inspect and review any Commission evidence which has not been previously provided to a judicial official

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and any other information the district attorney deems relevant. The district attorney may provide the Commission a written statement which becomes a part of the record at least 72 hours prior to a Commission hearing.

The PCS for House Bill 790 would require that the prehearing conference be held at least 30 days prior to a Commission hearing and when there is a continuance of the hearing that a subsequent prehearing conference be held at least 10 days prior to the new date to present any newly discovered evidence. The claimant and, if applicable, the claimant's attorney would be provided the same information as the district attorney, and the Commission would have an ongoing duty to provide any new evidence or testimony.

## **G.S. 15A-1469-POSTCOMMISSION THREE-JUDGE PANEL**

Under current law, if prosecutorial misconduct is discovered, the Commission may ask the Attorney General's office to appoint a special prosecutor to represent the State at the Commission hearing and proceedings.

The PCS for House Bill 790 would require that the Administrative Office of the Courts appoint the special prosecutor. The bill would also clarify that the North Carolina Rules of Evidence would apply at the evidentiary hearing and that district attorney and the claimant or the claimant's attorney shall provide all parties with their respective evidence and testimony at least 10 days prior to the hearing. The bill would prohibit the admission of any evidence or testimony that is not provided absent a showing of good cause.

**EFFECTIVE DATE:** This act would become effective when it becomes law and would apply to proceedings held on or after that date.