

GENERAL ASSEMBLY OF NORTH CAROLINA  
1989 SESSION

CHAPTER 121  
HOUSE BILL 720

AN ACT TO AMEND THE LAW REGARDING THE GOVERNOR'S ADVOCACY  
COUNCIL FOR PERSONS WITH DISABILITIES.

The General Assembly of North Carolina enacts:

Section 1. Part 14A of Article 9 of Chapter 143B of the General Statutes reads as rewritten:

"Part 14A.

"Governor's Advocacy Council for Persons with Disabilities.

**"§ 143B-403.1. Governor's Advocacy Council for Persons with Disabilities –  
creation; powers and duties.**

There is hereby created the Governor's Advocacy Council for Persons with Disabilities of the Department of Administration. The Council shall have the following functions and duties:

- (1) To provide for a statewide protection and advocacy program in accordance with the Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. § 6000, ~~et seq.~~ et seq., and Public Law 99-319, as amended, the Protection and Advocacy for the Mentally Ill Act of 1988. In accordance with this Act, the Council shall, among other things, investigate complaints made by or on behalf of incompetent developmentally or mentally disabled persons who reside in facilities for the developmentally or mentally disabled who have no legal guardian or whose guardian is the State or a State designee. Where such a complaint is made to the Council, the Council shall have access to the individual who is the subject of the complaint, and to the records of such individual; provided that an allegedly incompetent client who has no guardian who, in the opinion of the facility director, is competent shall have the opportunity prior to disclosure to deny access to his individual records by making a specific objection to disclosure to the Council. The Council shall keep client information confidential in accordance with 42 U.S.C. § 6000 and implementing rules and regulations, including 45 C.F.R. Part 1386. The Council's authority under this ~~subsection~~ subdivision shall override any contrary provisions of State law and shall apply as long as the Council is designated by the Governor as the Protection and Advocacy Agency under 42 U.S.C. § 6000.

- (2) To pursue legal, administrative, or other appropriate remedies to insure the protection of the rights of all developmentally, mentally, physically, emotionally and otherwise disabled persons who are receiving treatment, services, or habilitation from any State, local, or area program;
- (3) To review and recommend changes in all laws, rules, regulations, programs and policies of this State or any agency or subdivision thereof to insure the rights of the developmentally, mentally, physically, emotionally and otherwise disabled persons are safeguarded;
- (4) To investigate complaints concerning the violation of the rights of the developmentally, mentally, physically, emotionally and otherwise disabled persons and to take appropriate action;
- (5) To contract with public agencies or private nonprofit corporations to fulfill any of the functions and duties provided for in subdivisions (2) and (6) and government funded programs;
- (6) To aid and assist local advocacy program and the advocacy programs in mental retardation centers, psychiatric hospitals, ~~and training schools;~~ training schools, and alcoholic rehabilitation centers;
- (7) To perform such other functions as are necessary to protect the rights of the developmentally, mentally, physically, emotionally and otherwise disabled or as may be assigned by the Secretary of Administration;
- (8) To advise and assist the Department of Administration on the continuing program to promote the employment of the physically, mentally, emotionally, and otherwise handicapped citizens of North Carolina by creating statewide interest in the rehabilitation and employment of the handicapped, and by obtaining and maintaining cooperation with all public and private groups and individuals in this field;
- (9) To work in close cooperation with the President's Committee on the Employment of ~~the Handicapped People~~ People with Disabilities to carry out more effectively the purpose of Article 29A of Chapter 143 of the General Statutes, and with State and federal agencies having responsibilities for employment and rehabilitation of the handicapped;
- (10) To promote and encourage the holding of appropriate ceremonies throughout the State during the 'National ~~Employ the Handicapped Week,~~ Disability Employment Awareness Month,' the purpose of which ceremony shall be to enlist public support for interest in the employment of the developmentally, mentally, physically, emotionally and otherwise disabled; and
- (10a) To initiate public awareness projects and to make recommendations to the Governor concerning broad policies pertaining to rehabilitation for disabled persons;

(11) The Council shall advise the Secretary of Administration upon any matter the Secretary may refer to it.

**"§ 143B-403.2. Governor's Advocacy Council for Persons with Disabilities – members; selection; quorum; compensation.**

The Governor's Advocacy Council for Persons with Disabilities of the Department of Administration shall consist of ~~22-24~~ members. The composition of the Council shall be as follows: ~~four~~ six 'ex officio' members from State government agencies as follows: the Commissioner of Labor, the Commissioner of Insurance, the Secretary of the Department of Human ~~Resources and Resources~~, the Chairman of the Employment Security Commission, or their designees, the Exceptional Children's Director of the Department of Public Education, and the Chairman of the Protection and Advocacy for the Mentally Ill Advisory Committee of the Governor's Advocacy Council for Persons with Disabilities. The Governor shall appoint 16 members, at least eight shall be disabled persons or ~~parents~~ family members of disabled ~~persons~~ persons, with representation as follows: two representatives of persons with mental illness, two representatives of persons with developmental disabilities, two representatives of persons with mental retardation, and one representative of persons with sensory impairment. Members appointed to fit the representative categories shall be initially appointed as terms expire and as vacancies occur, until all categories are filled. The General Assembly shall appoint two members in accordance with G.S. 120-121, one upon the recommendation of the Speaker of the House of Representatives, and one upon the recommendation of the President of the Senate. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122. The Governor shall appoint at least one person from each congressional district in accordance with G.S. 147-12(3)b. An administrator in any branch of State government that delivers services to persons with disabilities is not eligible for membership on the Council except as 'ex officio' members.

The initial term for one half of the members appointed by the Governor shall be two years. The initial term for the remaining members appointed by the Governor shall be four years. At the end of the respective terms of office of the initial members of the Council, the appointment of all members with the exception of those from State agencies, shall be for terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term. The initial members appointed by the General Assembly shall serve for terms to expire June 30, 1983. Subsequently, members appointed by the General Assembly shall serve two-year terms beginning July 1, 1983, and biennially thereafter.

The Governor may remove any member of the Council appointed by the Governor.

The Governor shall designate one member of the Council to serve as chairman and one member to serve as vice-chairman at his pleasure.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of Administration."

Sec. 2. This act shall become effective July 1, 1989.

In the General Assembly read three times and ratified this the 22nd day of May, 1989.