

Montgomery-Blinn, Kendra A.

From: Christine Mumma
Sent: Thursday, April 29, 2010 8:50 AM
To: Montgomery-Blinn, Kendra A.
Cc:
Subject: Legislative Summary and Attachment
Attachments: Letter to IIC members from drafters 2.docx

Dear Kendra,

Justice Lake asked that I forward the below and attached to you and the Commission members. I don't have email addresses for all the members. Would you please forward this on to the members not included here?

Justice Lake and I look forward to seeing you tomorrow.

Thank you,

Chris Mumma

To: Innocence Inquiry Commission members
From: Justice I. Beverly Lake

The below summarizes the changes to the Innocence Inquiry Commission legislation I intend to propose to North Carolina General Assembly representatives for their consideration and support. I'm happy to discuss these when I see you at your meeting tomorrow. Due to the limited time I have on your schedule, and the fact that my time is at the end of your day of discussions, I thought it best that you have this in advance.

- In order to decrease the number of cases requiring screening by NCIIC staff, as an alternative to screening by Innocence Projects®, and to ensure the extraordinary powers of the NCIIC are being focused on the expeditious investigation of claims that require those powers, each application shall include a referral from a judge, prosecutor, or other attorney with experience in criminal law recommending the claim be investigated utilizing the extraordinary powers of the Commission. (15A-1467 (a))
- In order to decrease the number of cases requiring review by the full Commission, require that the Director, in conjunction with the Commission Chair, find that there is new evidence of innocence that merits full Commission review before a case is presented to the full Commission. (15A-1468 (a))
- In order to decrease the media attention prior to a hearing before a three-judge panel, close all eight-member Commission hearings to the public. (15A-1468 (a))

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- In order to ensure the complete investigation of cases prior to and after referral to a three-judge panel and increase transparency in the process, provide for release of all investigative files not otherwise under necessary protective order if the eight-member panel finds sufficient evidence to merit judicial review. (15A-1468 (e))
- In order to increase public confidence in the judicial process, require that the Attorney General appoint a special prosecutor to represent the State in proceedings before the three-judge panel. (15A-1469(b))
- In order to expedite cases where there is clear and convincing evidence of innocence, clarify that the prosecution may join the defense in a motion to dismiss on the basis of innocence at any time during the review and hearing process. (15A-1469(c))
- In order to maximize the truth-seeking objective of the hearing before the three-judge panel, clarify that all evidence relevant to the case, even if previously considered by a jury or judge in a prior proceeding, may be presented during the hearing. (15A-1469(d))
- In order to require a more reasonable burden of proof for a finding of innocence, require that two of three judges rather than three of three judges find clear and convincing evidence of innocence. (15A-1469(h))
- In order to avoid delay in the truth-seeking process, establish time frames for appointment of the three-judges and special prosecutor. (15A-1469 (a) and (b))
- Removal of the sunset of legislation on December 31, 2010.