

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

FILED SENATE  
May 26, 2020  
S.B. 855  
PRINCIPAL CLERK

S

D

SENATE BILL DRS35407-MMa-128\*

Short Title: Recodification of Criminal Laws. (Public)

Sponsors: Senators Wells, Daniel, and Britt (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO ESTABLISH THE BIPARTISAN LEGISLATIVE WORKING GROUP TO  
3 MAKE RECOMMENDATIONS FOR THE RECODIFICATION OF NORTH  
4 CAROLINA'S CRIMINAL LAWS AND TO APPROPRIATE FUNDS TO THE  
5 CRIMINAL LAW INNOVATION LABORATORY TO ASSIST THE WORKING  
6 GROUP.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.(a)** There is created the Bipartisan Legislative Working Group on  
9 Criminal Law Recodification (Working Group). The purpose of the Working Group is to make  
10 recommendations to the 2021 General Assembly regarding a streamlined, comprehensive,  
11 orderly, and principled criminal code which includes all common law, statutory, regulatory, and  
12 ordinance crimes, and to oversee the work of the Criminal Justice Innovation Lab of the School  
13 of Government as provided in Section 2 of this act.

14 **SECTION 1.(b)** The Working Group shall be comprised of nine members selected  
15 as follows:

- 16 (1) Two senators who are members of the majority party appointed by the  
17 President Pro Tempore of the Senate.
- 18 (2) Two senators who are members of the minority party appointed by the  
19 Minority Leader of the Senate.
- 20 (3) Two representatives who are members of the majority party appointed by the  
21 Speaker of the House of Representatives.
- 22 (4) Two representatives who are members of the minority party appointed by the  
23 Minority Leader of the House of Representatives.
- 24 (5) One individual appointed jointly by the President Pro Tempore of the Senate  
25 and the Speaker of the House of Representatives. This individual shall have  
26 served at least six years as a member of the General Assembly and shall serve  
27 as the chair of the Working Group.

28 **SECTION 1.(c)** The Working Group shall solicit comments and feedback from the  
29 public, as well as from all of the following:

- 30 (1) The Chief Justice of the Supreme Court.
- 31 (2) The Attorney General.
- 32 (3) The Conference of District Attorneys.
- 33 (4) Indigent Defense Services.
- 34 (5) The North Carolina Sheriffs' Association.
- 35 (6) The North Carolina Association of Chiefs of Police.



\* D R S 3 5 4 0 7 - M M A - 1 2 8 \*

1           **SECTION 1.(d)** All appointments to the Working Group shall be made no later than  
2 30 days after this act becomes law. When making appointments, the appointing authorities shall  
3 notify the Director of the Criminal Justice Innovation Lab as well as those entities required to be  
4 notified under G.S. 143-47.7. Vacancies on the Working Group shall be filled by the appointing  
5 authority. The Working Group, while in the discharge of its official duties, may exercise all the  
6 powers provided under the provisions of G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4,  
7 including the power to request all officers, agents, agencies, and departments of the State to  
8 provide any information, data, or documents within their possession, ascertainable from their  
9 records, or otherwise available to them and the power to subpoena witnesses.

10           **SECTION 1.(e)** The Working Group shall meet upon the call of the chair, but at  
11 least monthly beginning no later than August 15, 2020. A majority of the voting members shall  
12 constitute a quorum. Members shall receive per diem, subsistence, and travel allowances in  
13 accordance with G.S. 120-3.1 or G.S. 138-5, as appropriate. The Legislative Services  
14 Commission, through the Legislative Services Officer, shall assign professional staff to monitor  
15 and provide technical assistance to the Working Group; provided, however, legislative staff shall  
16 not be made available at times when the 2021 General Assembly is in session. Upon the direction  
17 of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House  
18 of Representatives shall assign clerical staff to the Working Group. The Working Group shall  
19 terminate on August 15, 2021.

20           **SECTION 2.(a)** There is appropriated from the General Fund to the University of  
21 North Carolina-Chapel Hill, School of Government, the sum of three hundred thirty-eight  
22 thousand seven hundred seventy-one dollars (\$338,771) in nonrecurring funds for the 2020-2021  
23 fiscal year to be allocated to the Criminal Justice Innovation Lab (CJIL) for the purposes  
24 specified in this section. The Director of the CJIL may use the funds appropriated in this act to  
25 hire temporary employees and to cover the costs associated with work done by the Director and  
26 a part-time project manager. To the extent other funds are made available to the CJIL to conduct  
27 the work required by this section, those funds shall be expended first, and upon termination of  
28 the Bipartisan Legislative Working Group on Criminal Law Recodification (Working Group),  
29 any unencumbered and unexpended State funds shall revert to the General Fund.

30           **SECTION 2.(b)** The CJIL shall report to and take direction from the Working Group.  
31 The work of the CJIL will be led by the Director supported by a part-time project manager and  
32 three temporary full-time employees who are attorneys licensed to practice law in North Carolina  
33 who have experience in criminal law. The Director shall report at least every two weeks to the  
34 Chair of the Working Group regarding the CJIL's progress on the work described in this section.  
35 The School of Government shall provide meeting space to the Working Group.

36           **SECTION 2.(c)** The Working Group shall establish general principles for the CJIL  
37 to follow to create a streamlined, comprehensive, orderly, and principled criminal code. The  
38 principles shall, at a minimum, provide for all of the following:

- 39           (1) Incorporate existing statutory and common law offenses into Chapter 14 of  
40 the General Statutes, harmonizing additions with current Chapter content.
- 41           (2) Apply consistent terminology across statutes and define all terminology.
- 42           (3) Specify the required mental state or that an offense is a strict liability crime.
- 43           (4) Eliminate redundant crimes and multiple punishment for the same conduct.
- 44           (5) Simplify offense numbering.
- 45           (6) Eliminate or modify unconstitutional provisions to ensure lawfulness.
- 46           (7) Eliminate outdated laws.
- 47           (8) Apply consistent, logical offense grading, with advice from the North  
48 Carolina Sentencing Policy and Advisory Commission.

49           **SECTION 2.(d)** Using the principles established by the Working Group, the CJIL  
50 shall provide the following deliverables:

- 1 (1) For common law crimes and crimes included in the North Carolina General  
2 Statutes:  
3 a. Create a database of all statutory and common law crimes, including  
4 statute number or common law designation; offense short title;  
5 elements; link to the statute; punishment; special and key features;  
6 frequency of charging, if available; and any proposed changes and the  
7 status of those changes in order to track decisions by the Working  
8 Group.  
9 b. Draft legislation amending, recodifying, or proposing changes to  
10 North Carolina criminal statutes using a format that is consistent with  
11 drafting conventions used by the North Carolina General Assembly as  
12 directed by the Working Group.
- 13 (2) For crimes created by local ordinances:  
14 a. Create a database of ordinance offenses, including ordinance title;  
15 general description; elements; punishment; and key feature coding.  
16 The CJIL will sample ordinances from diverse jurisdictions or review  
17 all, as time allows and as directed by the Working Group.  
18 b. Report to the Working Group on common ordinance crimes, including  
19 charging data, if available, including presentation of a range of policy  
20 options for addressing ordinance crimes consistent with the Working  
21 Group's goals.  
22 c. Draft legislation using a format that is consistent with drafting  
23 conventions used by the North Carolina General Assembly as directed  
24 by the Working Group.
- 25 (3) For crimes created by administrative boards and bodies:  
26 a. Create a database of all crimes created by administrative boards and  
27 bodies that make it a crime to violate any regulation created by an  
28 administrative board or body, with exemplary regulations and  
29 punishment levels.  
30 b. Report to the Working Group on policy options for addressing  
31 regulatory crimes consistent with the Working Group's goals.  
32 c. Draft legislation using a format that is consistent with drafting  
33 conventions used by the North Carolina General Assembly as directed  
34 by the Working Group.

35 **SECTION 3.** This act becomes effective July 1, 2020.