

February 11, 2009

S 144. LIMIT LIABILITY/DOMESTIC VIOLENCE SHELTERS. Filed 2/11/09. *TO LIMIT THE CIVIL LIABILITY OF DOMESTIC VIOLENCE SHELTERS AND PERSONS ASSOCIATED WITH THOSE SHELTERS.*

Enacts new Article 51 in GS Chapter 1 establishing immunity for domestic violence shelters and persons associated with the shelter in lawsuits seeking damages for tort actions committed on the shelter's premises by a perpetrator who is not a person associated with the shelter. Provides criteria that must be met for immunity to the shelter and associated persons to apply. Provides that the immunity does not apply in actions for gross negligence, wanton conduct, or intentional wrongdoing. Provides definitions for terms as used in the proposed article.

Effective December 1, 2009, and applies to offenses committed and causes of action arising on or after that date.

Intro. by Snow.

GS 1

March 30, 2009

S 144. LIMIT LIABILITY/DOMESTIC VIOLENCE SHELTERS. Filed 2/11/09. Senate committee substitute makes the following changes to 1st edition. Amends proposed GS 1-611 to remove the specified situation that must apply in order for the shelter to not be liable for damages. Changes the effective date to when the act becomes law (was December 1, 2009).

May 26, 2010

S 144. AMEND INNOCENCE INQUIRY COMMISSION (NEW). Filed 2/11/09. House committee substitute deletes all provisions of the 2nd edition and replaces it with *AN ACT TO MAKE VARIOUS AMENDMENTS TO THE LAW REGARDING THE INNOCENCE INQUIRY COMMISSION.*

Amends GS 15A-1469, directing the chief justice to appoint the three-judge panel to provide judicial review within 20 days of the Innocence Inquiry Commission's (Commission) filed opinion finding sufficient evidence of factual innocence to merit judicial review. Enacts new section (a1), directing the attorney general to appoint a special prosecutor to represent the state at the hearing before the three-judge panel within 20 days of the Commission's filed opinion finding sufficient evidence of innocence. Authorizes the attorney general to appoint a district attorney, assistant district attorney, or other attorney, including one from the prosecutorial district where the convicted person was tried, and allows the appointment of an attorney from the Department of Justice (previously, the district attorney or designee of the district of conviction represented the state). Prohibits the attorney general from appointing any attorney who prosecuted or assisted with the prosecution in the trial of the convicted person. Requires the senior resident superior court judge to require that the special prosecutor (was, the state) file a response to the Commission's opinion within 90 days (was, 60) of the judge's order. Allows the special prosecutor to include, at the original filing or through amendment, joining the defense in a motion to dismiss the charges with prejudice on the basis of innocence in the response. Indicates that the court, and the defense and prosecution through the court, may compel testimony of any witness during the hearing, and that all relevant evidence may be presented during the hearing, even if the evidence was considered by a jury or judge in a prior proceeding. Makes conforming change to GS 114-11.6 (pertaining to the Special Prosecution Division). Effective October 1, 2010, and applies to all claims of factual innocence filed on or after that date.

Amends SL 2006-184, removing the sunset date on the Commission's authorization to consider claims of factual innocence (was, December 31, 2010), and makes this amendment effective when the act becomes law.

July 9, 2010

S 144. AMEND INNOCENCE INQUIRY COMMISSION. Filed 2/11/09. Conference report recommends the following changes to 3rd edition to reconcile matters in controversy.

Amends GS 15A-1469 to delete proposed (a1) concerning appointment of a special prosecutor and instead provides as follows. Provides that in the instance of judicial review

resulting from a conclusion by the Innocence Inquiry Commission (IIC) that there is sufficient evidence of factual innocence to merit judicial review and where there is an allegation of or evidence of prosecutorial misconduct in the case meriting judicial review, either the IIC Chair or the district attorney (DA) of the district of conviction may request the Director of the Administrative Office of the Courts (Director) to appoint a special prosecutor to represent the state in the place of the DA of the district of conviction or the DA's designee (was, required the Attorney General to appoint a special prosecutor to represent the state). Requires the request for appointment of a special prosecutor to be made within 20 days of the filing of the IIC's opinion finding sufficient evidence of innocence to merit judicial review. Provides that the Director may temporarily assign a DA, assistant DA, or other qualified attorney from the prosecutorial district where the convicted person was tried to represent the state. However, the Director may not appoint as special prosecutor any attorney who prosecuted or assisted with the prosecution of the convicted person. Requires the appointment of the special prosecutor to be made in accordance with GS 7A-64 and no later than 20 days after the request is received. Requires the senior resident superior court judge to set the case for hearing and require the State (was, the special prosecutor) to file a response to the IIC's opinion within 90 days of the order setting the hearing. Provides that in its response, the State may choose to join the defense in a motion to dismiss the charges with prejudice on the basis of innocence at the time of the original filing or through amendment at any time before *or during the proceedings*. Provides that the DA or the DA's designee is to represent the State at the hearing before the three-judge panel except as provided in this statute. Provides that a person who is determined by the three-judge panel to be innocent of all charges and against whom the charges are dismissed under this statute, the person is eligible for compensation under GS Chapter 148, Article 8 without obtaining a pardon of innocence from the Governor. Amends GS 7A-64 to add provisions authorizing the Director of the Administrative Office of the Courts to appoint a special prosecutor in a hearing of a claim of factual innocence under GS 15A-1469 upon application to do so by the Chair of the IIC or the district attorney, where there is an allegation of or evidence of prosecutorial misconduct in a case scheduled for a hearing of a claim of factual innocence.

Amends GS 148-82 to provide that a person who has been convicted of a felony and imprisoned in this state and subsequently determine to have been innocent of all charges, with the charges dismissed under GS 15A-1469, may present by petition a claim against the state for the monetary loss due to the erroneous conviction and imprisonment. Requires that the petition be presented within five years of the date that the dismissal of the charges is entered by the three-judge panel under GS 15A-1469.

Makes clarifying changes to GS 148-84(a) to provide that a claimant is eligible for compensation awarded by the Industrial Commission if the claimant in addition to existing statutory requirements,(1) revived a pardon of innocence for the reason that the crime was not committed by the claimant; (2) the claimant was determined to be innocent of all charges by a three-judge panel under GS 15A-1469;(3) or received a pardon of innocence because there was no crime committed.

Deletes amendments to GS 114-11.6 that provided that attorneys assigned to the Special Prosecution Division of the Attorney General of North Carolina's office were to be available to serve as special prosecutors under GS 15A-1469.

Renumbers the sections accordingly.

August 12, 2010

SL 2010-171 (S 144). AMEND INNOCENCE INQUIRY COMMISSION. AN ACT TO MAKE VARIOUS AMENDMENTS TO THE LAW REGARDING THE INNOCENCE INQUIRY COMMISSION. Summarized in *Daily Bulletin* 5/26/10 and 7/9/10. Enacted August 2, 2010. Sections 1 and 2 are effective October 1, 2010. The remainder is effective August 2, 2010.