

SUBCHAPTER XIII. SENTENCING SERVICES PROGRAM.

Article 61.

Sentencing Services Program.

§ 7A-770. Purpose.

This Article shall be known and may be cited as the "Sentencing Services Act." The purpose of this Article is to establish a statewide sentencing services program that will provide the judicial system with information that will assist that system in imposing sentences that make the most effective use of available resources. In furtherance of this purpose, this Article provides for the following:

- (1) Establishment of local programs that can provide judges and other court officials with information about local correctional programs that are appropriate for offenders who require a comprehensive sentencing plan that combines punishment, control, and rehabilitation services.
- (2) Increased opportunities for certain felons to make restitution to victims of crime through financial reimbursement or community service.
- (3) Local involvement in the development of sentencing services to assure that they are specifically designed to meet local needs.
- (4) Effective use of available community corrections programs by advising judges and other court officials of the offenders most suited for a particular program. (1983, c. 909, s. 1; 1991, c. 566, ss. 2, 3; 1999-306, s. 1.)

§ 7A-771. Definitions.

As used in this Article:

- (1) Recodified as subdivision (3b) by Session Laws 1999-306, s. 1, effective January 1, 2000.
- (2) Recodified as subdivision (3a) by Session Laws 1999-306, s. 1, effective January 1, 2000.
- (2a) "Director" means the Director of Indigent Defense Services.
- (3) Repealed by Session Laws 1999-306, s. 1, effective January 1, 2000.
- (3a) "Sentencing plan" means a plan presented in writing to the sentencing judge which provides a detailed assessment and description of the offender's background, including available information about past criminal activity, a matching of the specific offender's needs with available resources, and, if appropriate, the program's recommendations regarding an intermediate sentence.
- (3b) "Sentencing services program" means an agency or State-run office within the superior court district which shall (i) prepare sentencing plans; (ii) arrange or contract with public and private agencies for necessary services for offenders; and (iii) assist offenders in initially obtaining services ordered as part of a sentence entered pursuant to a sentencing plan, if the assistance is not available otherwise.
- (4) Repealed by Session Laws 1991, c. 566, s. 4.
- (4a) "Superior court district" means a superior court district established by G.S. 7A-41 for those districts consisting of one or more entire counties, and otherwise means the applicable set of districts as that term is defined in G.S. 7A-41.1.

- (5) Repealed by Session Laws 1999-306, s. 1, effective January 1, 2000. (1983, c. 909, s. 1; 1989, c. 770, s. 58; 1991, c. 566, ss. 2, 4; 1993 (Reg. Sess., 1994), c. 767, s. 14; 1995, c. 324, s. 21.9(c); 1997-57, s. 5; 1999-306, s. 1; 2002-126, s. 14.7(d).)

§ 7A-772. Allocation of funds.

(a) The Director may award grants in accordance with the policies established by this Article and in accordance with any laws made for that purpose, including appropriations acts and provisions in appropriations acts, and adopt regulations for the implementation, operation, and monitoring of sentencing services programs. Sentencing services programs that are grantees shall use the funds exclusively to develop a sentencing services program that provides sentencing information to judges and other court officials. Grants shall be awarded by the Director to agencies whose comprehensive program plans promise best to meet the goals set forth herein. The Director shall consider the plan required by G.S. 7A-774 in making funding decisions. If a senior resident superior court judge has not formally endorsed the plan, the Director shall consider that fact in making grant decisions, but the Director may, if appropriate, award grants to a program in which the judge has not endorsed the plan as submitted.

(b) The Director may establish local sentencing services programs and appoint those staff as the Director deems necessary. These personnel may serve as full-time or part-time State employees or may be hired on a contractual basis when determined appropriate by the director. Contracts entered under the authority of this subsection shall be exempt from the competitive bidding procedures under Chapter 143 of the General Statutes. The Office of Indigent Defense Services shall adopt rules necessary and appropriate for the administration of the program. Funds appropriated by the General Assembly for the establishment and maintenance of sentencing services programs under this Article shall be administered by the Office of Indigent Defense Services. (1983, c. 909, s. 1; 1991, c. 566, ss. 2, 5; 1995, c. 324, s. 21.9(d); 1999-306, s. 1; 2002-126, s. 14.7(e).)

§ 7A-773. Responsibilities of a sentencing services program.

A sentencing services program shall be responsible for:

- (1) Identifying offenders who:
 - a. Are charged with or have been offered a plea by the State for a felony offense for which the class of offense and prior record level authorize the court to impose an active punishment, but do not require that it do so;
 - b. Have a high risk of committing future crimes without appropriate sanctions and interventions; and
 - c. Would benefit from the preparation of an intensive and comprehensive sentencing plan of the type prepared by sentencing services programs.
- (2) Preparing detailed sentencing services plans requested pursuant to G.S. 7A-773.1 for presentation to the sentencing judge.
- (3) Contracting or arranging with public or private agencies for services described in the sentencing plan.
- (4) Repealed by Session Laws 1999-306, s. 1. (1983, c. 909, s. 1; 1991, c. 566, s. 2; 1993 (Reg. Sess., 1994), c. 767, s. 15; 1995, c. 324, s. 21.9(e); 1999-306, s. 1.)

§ 7A-773.1. Who may request plans; disposition of plans; contents of plans.

(a) A judge presiding over a case in which the offender meets the criteria set forth in G.S. 7A-773(1) may request, at any time prior to the imposition of sentence, that the sentencing services program provide a sentencing plan. The court may also request, at any time prior to the imposition of sentence, that the program provide a sentencing plan in misdemeanor cases in which the class of offense is Class A1 or Class 1 and the prior conviction level is Level III, if the court determines that the preparation of such a plan is in the interest of justice. In addition, in cases in which the offender meets the criteria set forth in G.S. 7A-773, the defendant or a prosecutor, at any time before the court has accepted a guilty plea or received a guilty verdict, may request that the program provide a plan. However, prior to an adjudication of guilt, a defendant may decline to participate in the preparation of a plan within a reasonable time after the request is made. In that case, no plan shall be prepared or presented to the court by the sentencing services program prior to an adjudication of guilt. A defendant's decision not to participate shall be made in writing and filed with the court. The comprehensive sentencing services program plan prepared pursuant to G.S. 7A-774 shall define what constitutes a reasonable time within the meaning of this subsection.

(b) Any sentencing plan prepared by a sentencing services program shall be presented to the court, the defendant, and the State in an appropriate manner.

(c) Sentencing plans prepared by sentencing services programs may include recommendations for use of any treatment or correctional resources available, unless the sentencing court instructs otherwise. Sentencing plans that identify an offender's needs for education, treatment, control, or other services shall, to the extent feasible, also identify resources to meet those needs. Plans may report that no intermediate punishment is appropriate under the circumstances of the case.

(d) To the extent allowed by law, the sentencing services program shall develop procedures to ensure that the program staff may work with offenders before a plea is entered. To that end, information obtained in the course of preparing a sentencing plan may not be used by the State for any purpose at trial and is subject to the provisions of G.S. 15A-1333. (1999-306, s. 1; 2000-67, s. 15.9(b).)

§ 7A-774. Requirements for a comprehensive sentencing services program plan.

Agencies applying for grants shall prepare a comprehensive sentencing services program plan for the development, implementation, operation, and improvement of a sentencing services program for the superior court district, as prescribed by the Director. The plan shall be updated annually and shall be submitted to the senior resident superior court judge for the superior court district for the judge's advice and written endorsement. The plan shall then be forwarded to the Director for approval. The plan shall include:

- (1) Goals and objectives of the sentencing services program.
- (2) Specification of the kinds or categories of offenders for whom the programs will provide sentencing information to the courts.
- (3) Proposed procedures for the identification of appropriate offenders to comply with the plan and the criteria in G.S. 7A-773(1).
- (4) Procedures for preparing and presenting plans to the court.
- (4a) Strategies for ensuring that judges and court officials who are possible referral sources use the program's services in appropriate cases.
- (5) Procedures for obtaining services from existing public or private agencies, and a detailed budget for staff, contracted services, and all other costs.

- (6) to (8). Repealed by Session Laws 1999-306, s. 1. (1983, c. 909, s. 1; 1991, c. 566, ss. 2, 7; 1999-306, s. 1.)

§ 7A-775. Sentencing services board.

(a) Each sentencing services program shall establish a sentencing services board to provide direction and assistance to the sentencing services program in the implementation and evaluation of the plan. Sentencing services boards may be organized as nonprofit corporations under Chapter 55A of the General Statutes. The sentencing services board shall consist of not less than 12 members, and shall include, insofar as possible, judges, district attorneys, attorneys, social workers, law-enforcement officers, probation officers, and other interested persons. The sentencing services board shall meet on a regular basis, and its duties include, but are not limited to, the following:

- (1) Preparation and submission of the sentencing services program plan to the senior resident superior court judge and the Director annually, as provided in G.S. 7A-772(a);
- (1a) Development of an annual budget for the program;
- (2) Hiring, firing, and evaluation of program personnel;
- (3) Selection of board members;
- (4) Arranging for an annual financial audit.
- (5) Development of procedures for contracting for services.

(b) If the board serves as an advisory board to a sentencing services program located in a local or State agency, the board's duties do not include budgeting and personnel decisions. (1983, c. 909, s. 1; 1991, c. 566, ss. 2, 6; 1999-306, s. 1; 2006-203, s. 11; 2006-264, s. 1(a).)

§ 7A-776. Limitation on use of funds.

Funds provided for use under the provisions of this Article shall not be used for the operating costs, construction, or any other costs associated with local jail confinement, or for any purpose other than the operation of a sentencing services program that complies with this Article. (1983, c. 909, s. 1; 1991, c. 566, s. 2; 1999-306, s. 1.)

§ 7A-777. Evaluation.

The Director shall evaluate each sentencing services program on an annual basis to determine the degree to which the program effectively meets the needs of the courts in its judicial district by providing them with sentencing information. In conducting the evaluation, the Director shall consider the goals and objectives established in the program's plan, as well as the extent to which the program is able to ensure that the offenders served by the plan meet the criteria established in G.S. 7A-773(1). (1983, c. 909, s. 1; 1991, c. 566, ss. 2, 7; 1999-306, s. 1.)

§ 7A-778. Reserved for future codification purposes.

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§ 7A-787. Reserved for future codification purposes.

§ 7A-788. Reserved for future codification purposes.

§ 7A-789. Reserved for future codification purposes.