

Remarks made by Shelby Benton, Former President, NC Bar Association before the NC House Judicial Redistricting Committee on Sept. 19, 2017

(Starts at 1:34:37)

Before I get started, if I could just clarify, the NC Bar Association has been in existence since 1899. We're the organization that in the 1930's said to the legislature, you should create the State Bar to regulate the profession. But we are the organization that works and comes and lobbies with you guys about various issues and substantive law. And we try to help with all kinds of other things that assist lawyers in their practices across this state. So we have a different outlook in this situation than the State Bar does. We don't keep addresses. We're not the people that you're going to come to to ask for that information. But we have been in existence for a very long time.

And we're the organization that was asked by the governor back in the 1950's to develop the new system, the Unified Court System, that we've all been talking about here. And that was developed in the late 1950's from the Bell Commission, as y'all know. And then the implementing statutes and the constitutional amendment took almost eight (8) years to come into effect. And that process is what you're talking about making some changes to as it relates to these district and division lines. Yes, there have been tweaks over that period of time since 1967, when the District Court actually came into existence fifty (50) years ago, to where you are today. So saying that looking at this since the end of June to October [2017] is enough time for everyone to have the input of all the stakeholders that ought to be involved in this process, we would submit to you is not the right process to make these types of decisions. So, if you're going to take it up once in sixty (60) years, we would submit to you that you should spend deliberate and transparent time in making those decisions.

So I'm coming to you talking as a District Court practitioner. I practice in family court in Wayne, Lenoir, and Greene counties. That's the Eighth (8th) Judicial District. And I can tell you, in my district, it's a huge effect. What is being proposed is that you would move from the Fourth (4th) District Court Division, this very small county of Jones that has about ten thousand (10,000) people in it, and put it into our Judicial District Eight (8), which is Wayne, Lenoir, and Greene counties. And we have six (6) District Court judges to service those counties. This bill proposes we keep the same six.

A District Court judge, as you heard earlier from Judge Brooks...um, they hold criminal court. They hold domestic court. They hold juvenile abuse and neglect court. They hold juvenile delinquent court. They hold child support enforcement court. They hold civil jury and non-jury court. Additionally, they also manage magistrates. They handle the small claim mediation cases that have to come

through, as well as custody mediation. There's a lot of work that goes on. And in the District Court Division, the districts that have been set up, many of them have built partnerships with other outside agencies: law enforcement, probation officers, mental health situations and providers and other -- even in my district we have a Memorandum of Understanding with another mental health provider to come and provide some services for us in our district. And so when you add an additional county to our district, what really happens for us -- and I know Representative Burr has heard this because we've talked about it in other ways -- is that we would lose court, at least six days of court per month, we would submit, because we've got to go hold those other courts. Sure, we can combine some of them together, but it's a serious effect on our county.

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For me, I don't have enough time to try my domestic cases anyway, 'cause we've still got to hold all the other cases across our three counties that we already have. So it's a very serious effect. Additionally, it's how do you staff all of that? How do we build these partnerships? We're not saying it can't be done. It absolutely is something that needs to be studied, but as you move through this process, the opportunity to talk to all of those other stakeholders... When you talk about the Sheriff's Department, you've heard that talked about...in Mt. Olive, NC, that's in Wayne County, we hold court every other Friday and in that court we have District Criminal Court. We do some domestic cases down there on that day -- if we get Jones County, we don't hold that court any more. So that means Mt. Olive law

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enforcement officers have to come to Goldsboro whenever they want to come here or have their cases set. It has been some judicial economy and some services that were submitted to this particular community. And Mt. Olive is about twenty miles from our county seat. It's a nice thing we've been able to do for almost fifty...well, at least fifty (50) years now. It's been going on a long time, but our Chief District Court judges said to me: "[That's] not gonna happen." So while it might be that you would say, "OK, well fine. We're just gonna move Jones County back over here and leave it in the Fourth Judicial District. That'll be fine. That solves my personal problem, and I thank you very much.

But what I would say to you is those same type of similar things that happen in these little divisions and districts, because particularly in district court divisions, or districts -- excuse me, I'm interchanging the names -- District Court Districts. And those districts, many of them, have built various partnerships and you need to look at how will those partnerships be affected by the changes of splitting things up, or putting other things together -- particularly when you look at Orange and Chatham County. Our survey had specific information from that. I think some of that information has been shared with members of this committee and other members of the legislature. We just submit to you that you need to take the time necessary -- and in a few short months -- we would say that you need to spend time looking at these other partnerships and how all these things will be affected because it affects the administration of justice.

It's gonna take us longer to hear cases in various places 'cause you simply won't have as much court time. You won't have enough of the other people to service it -- unless you spend the time looking at it, and then you make the changes in those other resources. And as we "raise the age" -- which I applaud you for doing. It is absolutely what needed to happen in NC. But as we do that, the District Court is tremendously affected by that. That's juvenile court, folks. That's what you're talking about. And as you move these things, it's just a process -- we would submit to you that if you took the time between now and May, the Bar Association is willing to be involved. As you see, we have put into process a survey, just that quick, we sent it out and we got forty-three (43) judges to respond. For the District Court judges, please know that it was only submitted to the Chief District Court Judges. There's only forty-one (41) of those. So it's not like all two hundred and seventy (270) of them actually had it to make responses, although some may have. I am submitting to you that this is a process. We are not saying as lawyers, or me, myself personally, or as the Bar Association, that this should not be studied, but that perhaps the administration of justice can be impacted in a very positive way by the legislature moving districts or moving divisions...but from a District Court perspective, clearly it needs to be done in a transparent and deliberate fashion. You need to invite other stakeholders, not in this way where we're just preaching to you and you might ask us some questions, but let's sit down at a table and say, "Hey look, this makes a difference in my area. And this makes a difference in my area."

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And I know that Representative Burr has gone and done some of that in some places. However, the opportunity to really sit down and hone in on what that difference makes, and how it affects that Sheriff's Department, or that Probation Office, or the Guardian Ad Litem program that is again critical to our juvenile justice system. It's just so important.

When you look at Superior Court judges and moving these divisions, the tradition of [Superior Court judge] rotation has been in our [NC] Constitution for a very long time. And it has been premised that everyone...the judge will hold court in every county in their division. So they're gonna move around, and if there's nine (9) [Divisions], which was created in 1999... I've practiced since 1985. I practiced in Superior Court. I handled capital murder cases. I've seen how they [Superior Court judges] move around. And that was back when we only had four (4) [divisions], and we were traveling all over the place. Well it costs too much money! You looked at it as a legislature back then and said, "we need to have some judicial economy here, and let's make it eight (8) [divisions] because that's less travel for people." That was one of the things that was considered back in '99. I'd ask you to go back and look, and maybe get some history. But that's clearly what happened. So now you're talking about moving to five (5) [Divisions] for Superior Court judges. Again, a serious situation because...well our premise has been as you travel all around...now I know you can say, "Oh well, we're not going to send you to Dare County if you're way over here on the other side, midway in the state." But you COULD. And that's been the way that it's always been done, that you could keep doin' it that way...

But this is the reason why you spend time really looking at what's the implications. And what we don't want is unintended consequences that are going to seriously affect the administration of justice -- which is the public folks. I'm worried about my person who can't get into court to hear their case. I think you guys worry about that too. And it's important. And I would just implore you to take the time and invite the people really to the table, and not in the preachy kind of situation that we're in right now. I'm open to any questions. Thank you.