

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 1026
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Short Title: Supreme Court Rule Making/Funds.

(Public)

Sponsors: Senators Clodfelter and Odom.

Referred to: Judiciary I.

April 15, 1999

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THE SUPREME COURT WITH AUTHORITY TO REVISE
2 THE RULES OF CIVIL AND CRIMINAL PROCEDURE AND THE RULES OF
3 EVIDENCE, SUBJECT TO AMENDMENT OR VETO BY THE GENERAL
4 ASSEMBLY AND TO APPROPRIATE FUNDS FOR ADVISORY COMMITTEES
5 ON THE ADOPTION AND AMENDMENT OF THOSE RULES.
6

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 7A-34 reads as rewritten:

9 **"§ 7A-34. Rules of practice and procedure in trial courts.**

10 (a) ~~The Supreme Court is hereby authorized to prescribe rules of practice and~~
11 ~~procedure for the superior and district courts supplementary to, and not inconsistent with,~~
12 ~~acts of the General Assembly. Pursuant to the authority granted it under Article IV,~~
13 Section 13 of the Constitution of North Carolina, the General Assembly delegates
14 authority to the Supreme Court to adopt and amend the rules of civil and criminal
15 procedure and rules of evidence for the trial divisions.

16 Except as provided in subsection (b) of this section, each new rule or amended rule
17 shall be published in the North Carolina Register and shall become effective on the thirty-
18 first legislative day of the next regular session of the General Assembly that begins at
19 least 25 days after the date of that publication, unless the Supreme Court specifies a later

1 effective date. For purposes of this section, "legislative day" means a day on which either
2 house of the General Assembly is in session.

3 (b) The General Assembly may amend or veto any proposed new rule or amended
4 rule. If a bill to amend or veto a new rule or amended rule is introduced in either house
5 of the General Assembly before the thirty-first legislative day of the next regular session
6 of the General Assembly that begins at least 25 days after the date of publication of the
7 rule, the rule becomes effective on the earlier of either the day an unfavorable final action
8 is taken on the bill or the day that session of the General Assembly adjourns without
9 ratifying a bill that amends or vetoes the new rule or amended rule. If the Supreme Court
10 specifies a later effective date than the date that would otherwise apply under this
11 subsection, the later date applies. For purposes of this section, the day that a session of
12 the General Assembly "adjourns" means (i) in a regular session held in an odd-numbered
13 year, adjournment by joint resolution for more than 10 days; and (ii) in a regular session
14 held in an even-numbered year, adjournment sine die.

15 (c) The Chief Justice may appoint advisory committees of up to eight members
16 each to advise the Supreme Court on the adoption and amendment of the rules of civil
17 procedure, the rules of criminal procedure, and the rules of evidence. Members of each
18 advisory committee who are not officers or employees of the State shall receive
19 compensation and reimbursement for travel and subsistence expenses at the rates
20 specified in G.S. 138-5. Members of each advisory committee who are officers or
21 employees of the State shall receive reimbursement for travel and subsistence expenses at
22 the rate set out in G.S. 138-6. Members of each advisory committee who are legislators
23 shall be reimbursed for subsistence and travel expenses at the rates set out in G.S. 120-
24 3.1.

25 (d) The Rules of Civil Procedure, as set forth in Chapter 1A and elsewhere in the
26 General Statutes, the Rules of Evidence, as set forth in Chapter 8C and elsewhere in the
27 General Statutes, and the rules of criminal procedure, as set forth in Chapter 15A and
28 elsewhere in the General Statutes, are deemed adopted by the Supreme Court until
29 modified by the Supreme Court pursuant to this section. Upon adoption of a new rule or
30 amended rule, the Supreme Court shall notify the General Assembly of the need to repeal
31 or amend the General Statutes to reflect the change."

32 Section 2. The Judicial Department shall implement this act using funds
33 appropriated to the Department for travel and subsistence to reimburse members of the
34 advisory committees on the rules of civil procedure, criminal procedure, and evidence
35 authorized by G.S. 7A-34(c). This act shall not be construed to obligate the General
36 Assembly to make any additional appropriation to implement the provisions of this act.

37 Section 3. This act becomes effective January 1, 2000.