

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 292
Judiciary I Committee Substitute Adopted 4/28/99

Short Title: Sup. Ct. Crim. Case Docketing.

(Public)

Sponsors:

Referred to:

March 8, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT CRIMINAL CASES IN SUPERIOR COURT SHALL
BE CALENDARIED PURSUANT TO ADMINISTRATIVE SETTINGS.

The General Assembly of North Carolina enacts:

Section 1. Article 7 of Chapter 7A of the General Statutes is amended by
adding a new section to read:

"§ 7A-49.4. Superior court criminal case docketing.

(a) Criminal Docketing. – Criminal cases in superior court shall be calendared at
administrative settings as provided in this section.

(b) Administrative Settings. – An administrative setting shall be calendared for
each felony within 30 days of indictment. At an administrative setting:

(1) The court shall determine the status of the defendant's representation by
counsel;

(2) After hearing from the parties, the court shall set guidelines for the
delivery of discovery and filing of motions;

(3) The district attorney shall inform the defendant as to whether a plea
arrangement will be offered and the terms of any proposed plea
arrangement, and the court may conduct a plea conference if supported
by the interest of justice;

1 (4) The court may hear pending pretrial motions, set such motions for
2 hearing on a date certain, or defer ruling on motions until the trial of the
3 case; and

4 (5) The court may schedule more than one administrative setting if
5 requested by the parties or if it is found to be otherwise necessary.

6 If the parties have not otherwise agreed upon a trial date, then upon the conclusion of the
7 final administrative setting, the district attorney shall announce a proposed trial date. The
8 court shall set that date as the tentative trial date, unless after providing the parties an
9 opportunity to be heard, the court determines that the interests of justice require the
10 setting of a different date. In that event, the district attorney shall set another tentative
11 trial date during the final administrative setting. The trial shall occur no sooner than 30
12 days after the final administrative setting, except by agreement of the State and the
13 defendant.

14 (d) Venue for Administrative Settings. – Venue for administrative settings may be
15 in any county within the district when necessary to comply with the terms of the criminal
16 case docketing plan. The presence of the defendant is only required for administrative
17 settings held in the county where the case originated.

18 (e) Definite Trial Dates. – If no trial is held within one year after the date of the
19 final administrative setting, then upon motion of the defendant, for good cause shown, the
20 senior resident superior court judge may set a trial for a date certain.

21 (f) Setting and Publishing of Trial Calendar. – No less than 10 days before cases
22 are calendared for trial, the district attorney shall publish the trial calendar. The trial
23 calendar shall schedule the cases in the order in which the district attorney anticipates
24 they will be called for trial, and should not contain cases that the district attorney does not
25 reasonably expect to be called for trial. In counties in which multiple sessions of court
26 are being held, the district attorney may publish no more than one trial calendar per
27 session of court.

28 The district attorney shall make a reasonable effort to notify each defendant of the
29 anticipated order in which cases will be called by the Thursday prior to the session of
30 court for which the defendant's case is calendared. These efforts shall include posting at
31 the courthouse the anticipated order in which cases are to be called for trial.

32 (g) Order of Trial. – The district attorney, after calling the calendar, shall
33 announce to the court the order in which the district attorney intends to call for trial or
34 other disposition the cases remaining on the calendar. Deviations from the announced
35 order require approval by the presiding judge if the defendant whose case is called for
36 trial objects; but the defendant may not object if all the cases scheduled to be heard
37 before his case have been disposed of or delayed with the approval of the presiding judge
38 or by consent of the State and the defendant. A case may be continued from the trial
39 calendar only by consent of the State and the defendant or upon order of the presiding
40 judge or resident superior court judge for good cause shown. The district attorney, after
41 consultation with the parties and subject to the approval of the court, shall schedule a new
42 trial date for cases not reached during that session of court."

43 Section 2. G.S. 7A-49.3 is repealed.

1 Section 3. G.S. 7A-61 reads as rewritten:

2 **"§ 7A-61. Duties of district attorney.**

3 The district attorney shall prepare the trial dockets, prosecute in a timely manner in
4 the name of the State all criminal actions and infractions requiring prosecution in the
5 superior and district courts of his prosecutorial district, advise the officers of justice in his
6 district, and perform such duties related to appeals to the Appellate Division from his
7 district as the Attorney General may require. Effective January 1, 1971, the district
8 attorney shall also represent the State in juvenile cases in which the juvenile is
9 represented by an attorney. Each district attorney shall devote his full time to the duties of
10 his office and shall not engage in the private practice of law."

11 Section 4. This act becomes effective January 1, 2000.