

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 292 4th edition Sup. Ct. Crim. Case Docketing

SHORT TITLE: Sup. Ct. Crim. Case Docketing

SPONSOR(S): Sen. Ballance

FISCAL IMPACT					
	Yes ()	No (X)	No Estimate Available ()		
	<u>FY 1999-00</u>	<u>FY 2000-01</u>	<u>FY 2001-02</u>	<u>FY 2002-03</u>	<u>FY 2003-04</u>
REVENUES					
EXPENDITURES					
POSITIONS:	none				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:	Judicial Branch				
EFFECTIVE DATE:	January 1, 2000				

BILL SUMMARY:

SUP. CT. CRIM. CASE DOCKETING PLAN. TO PROVIDE THAT CRIMINAL CASES IN SUPERIOR COURT SHALL BE CALENDARED PURSUANT TO CRIMINAL CASE DOCKETING PLANS DEVELOPED FOR EACH DISTRICT. Adds new GS 7A-49.4, establishing a procedure for criminal docketing in each district. Requires that calendaring plan be developed in each district by a committee composed of the senior resident superior court judge, the district attorney, and one member of the defense bar practicing in the district, chosen by the membership of the district bar.

Provides for initial administrative setting for each felony within 30 days of indictment. At that setting, the court shall determine the status of the defendant's representation by counsel as well as set deadlines for delivery of discovery, filing of pretrial motions, and the setting of a second administrative setting. Requires that scheduling order require discovery be provided no later than 21 days before the second administrative setting, and that each party shall have at least 10 days from receipt of discovery to file pretrial motions.

Requires that prosecutor notify defendant as to whether a plea arrangement will be offered and its terms no less than five days prior to the second administrative setting. At the second setting, the court is required to hear all pending pretrial motions. The court may reschedule hearing on pending motions upon a showing of good cause. Requires court to set a trial date after hearing pretrial motions and any plea conference, and trial date cannot be sooner than 30 days after the second administrative setting.

Establishes venue for administrative settings as any county within the district. Requires that district attorney set and publish the trial calendar no less than 10 days before cases are calendar for trial. Requires that calendar be set in order that cases will be called. Cases are to be called in that order, and may be continued from the calendar only by consent of the State and the defendant, or upon order of the court for good cause shown. If continued, the judge, is required to set a new trial date. Permits modification or waiver of deadlines and other docketing rules by consent of the State and defendant, with approval of the court.

Requires each superior court district to develop a docketing plan by Jan. 1, 2000. Requires that Chief Justice or designee examine each proposed criminal case docketing plan to determine whether it complies with the statute. Upon certification by the Chief Justice or designee, the docketing plan will become the exclusive and binding plan for criminal case docketing in the district beginning 60 days from the acceptance. Permits Chief Justice to designate another district's plan in districts that have not had a plan accepted by Jan. 1, 2000. Describes process for amending plan.

Amends GS 7A-61 (duties of district attorney) and GS 15A-943 (arraignment in superior court) to conform with this new statute. Effective Jan. 1, 2000.

Source: Institute of Government, Daily Bulletin, March 8, 1999.

SUP. CT. CRIM. CASE DOCKETING. Intro. 3/8/1999. Senate committee substitute and amendments make the following changes to 1st edition. Change title to "TO PROVIDE THAT CRIMINAL CASES IN SUPERIOR COURT SHALL BE CALENDARED PURSUANT TO ADMINISTRATIVE SETTINGS." **Completely rewrite bill as follows.**

Add GS 7A-49.4 as new title indicates. Requires administrative setting to be held for each felony within 30 days of indictment or service of indictment if required by law. Setting to be conducted by a resident superior court judge or any superior court judge designated by a resident superior court judge. At setting, judge must determine defendant's counsel status and set guidelines for discovery and motions; district attorney must inform defendant whether plea bargain will be offered (and judge may conduct plea conference); judge may hear pending pretrial motions or defer them; and judge may schedule further administrative settings if necessary. At conclusion of final setting, district att'y must announce proposed trial date unless parties have already agreed on one; judge must set that date unless determines that interest of justice require different date.

Provides that if no trial held within one year after final setting, then on motion of defendant, senior resident superior court judge may set trial for date certain.

Requires district attorney to publish trial calendar at least 10 days before cases are scheduled for trial. Where multiple court sessions are being held, district att'y may publish no more than one trial calendar per session. District att'y must make reasonable effort to notify each defendant of any change in the order in which cases will be called, by the Thursday before the session for which the defendant's case is scheduled.

Requires district att'y, after calling the calendar, to announce to court order in which district att'y intends to call cases remaining on calendar. Deviations from announced order require approval by presiding judge if defendant whose case is called objects. A case may be continued

only if both state and defendant consent, or judge orders continuance for good cause shown. District att’y, after consultation with the parties, must schedule new trial date for cases not reached during court session.

Amends GS 7A-71 to specify that district att’y must prosecute all criminal actions in a timely manner.

Effective Jan. 1, 2000.

Source: Institute of Government, Daily Bulletin, April 28, 1999.

SUP. CT. CRIM. CASE DOCKETING. Intro. 3/8/99. House committee substitute makes the following changes to 3rd edition. Revises proposed GS 7A-49.4 to require the district attorney for each superior court district to develop a “criminal case docketing plan” in consultation with the superior court judges residing in that district and after opportunity for comment by members of the local bar. Each plan must comply with the provisions of the Article 7 but may contain additional provisions. Changes time for administrative setting from 30 to 60 days of indictment, or at the next regularly scheduled session of superior court, if later than 60 days. Includes delivery of discovery, and arraignment if necessary, in the procedures for which deadlines must be set. Provides that administrative settings may be held by any superior court judge if it is not practical for them to be held by resident superior court judge. Adds new subsection to provide for hearing to establish a trial date if one has not been set within 120 days of indictment or of service of notice of indictment if required by law. Deletes provision in subsection (d) requiring district attorney to make reasonable efforts to notify defendants of changes in the order in which cases will be called. Specifies that trial calendar must be published at least 10 *working* days before cases are calendared.

Source: Institute of Government, Daily Bulletin, April 29, 1999.

ASSUMPTIONS AND METHODOLOGY:

Judicial Branch

The bill would require new administrative settings for each felony charge brought in the district and would require each superior court district to develop a criminal case docketing plan. The plan would be developed by the district attorney in consultation with the resident superior court judge and with the comments of the local bar. Although the bill provides for the minimum requirements of the docketing plan, districts are allowed to develop more elaborate plans. To the extent that the district attorneys develop plans that are less elaborate, the Administrative Office of the Courts (AOC) would not anticipate a significant impact. The additional work required by the administrative settings may be offset by more efficient case processing.

If districts adopt more elaborate docketing plans that would require a case management facilitator position, the AOC believes the cost could be quite substantial. They estimate that if the districts with 1,200 or more filings per year or districts with three or more counties developed elaborate plans, up to 21 districts would need a facilitator position. Each position would cost \$46,005 in the first year and \$41,230 in the second year totaling approximately \$966,105 the first year and \$865,830 the second year. However, the Fiscal Research Division believes that such elaborate plans go beyond the requirements of the bill and that any additional workload to meet the requirements of the bill could be absorbed using current court resources.

TECHNICAL CONSIDERATIONS: None

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Official

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Publication



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