

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 353
Judiciary I Committee Substitute Adopted 5/31/05

Short Title: Supreme Court Rule Making.

(Public)

Sponsors:

Referred to:

March 3, 2005

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THE SUPREME COURT WITH THE AUTHORITY TO
REVISE THE RULES OF CIVIL AND CRIMINAL PROCEDURE AND THE
RULES OF EVIDENCE, SUBJECT TO AMENDMENT OR VETO BY THE
GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

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

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

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

Except as provided in subsection (b) of this section, each new rule or amended rule shall be published in the North Carolina Register and shall become effective on January 1 next following a regular session of the General Assembly when the rule could be amended or vetoed as set forth in subsection (b) of this section.

(b) The General Assembly may amend or veto any proposed new rule or amended rule. A rule prescribed pursuant to this section shall not become effective unless the rule is published at least 25 days prior to the convening of a regular session of the General Assembly and no bill to amend or veto a new rule or amended rule is enacted before that regular session of the General Assembly adjourns. For purposes of this section, "session of the General Assembly adjourns" means (i) in a regular session held in an odd-numbered year, adjournment by joint resolution for more than 10 days; and (ii) in a regular session held in an even-numbered year, adjournment sine die.

(c) The Chief Justice may appoint advisory committees of up to eight members each to advise the Supreme Court on the adoption and amendment of the Rules of Civil Procedure, the Rules of Criminal Procedure, and the Rules of Evidence. Each advisory

1 committee shall consist of trial and appellate judges and members of the North Carolina
2 State Bar. In making recommendations under this subsection, an advisory committee
3 making a recommendation shall provide a proposed rule, an explanatory note on the
4 rule, and a written report explaining the advisory committee's action, including any
5 minority or other separate views. Members of each advisory committee who are not
6 officers or employees of the State shall receive compensation and reimbursement for
7 travel and subsistence expenses at the rates specified in G.S. 138-5. Members of each
8 advisory committee who are officers or employees of the State shall receive
9 reimbursement for travel and subsistence expenses at the rate set out in G.S. 138-6.
10 Members of each advisory committee who are legislators shall be reimbursed for
11 subsistence and travel expenses at the rates set out in G.S. 120-3.1.

12 (d) All meetings of an advisory committee appointed pursuant to subsection (b)
13 of this section shall be subject to the provisions of Article 33C of Chapter 143 of the
14 General Statutes, and all records of an advisory committee shall be considered public
15 records under Chapter 132 of the General Statutes.

16 (e) Rules of civil procedure, including the Rules of Civil Procedure as set forth in
17 Chapter 1A of the General Statutes, rules of evidence, including the Rules of Evidence
18 as set forth in Chapter 8C of the General Statutes, and rules of criminal procedure,
19 including the Rules of Criminal Procedure as set forth in Chapter 15A of the General
20 Statutes, in effect on January 1, 2006, are deemed adopted by the Supreme Court until
21 modified by the Supreme Court pursuant to this section. Upon adoption of a new rule or
22 amended rule, the Supreme Court shall notify the General Assembly and the Revisor of
23 Statutes of the need to repeal or amend the General Statutes to reflect the change. Upon
24 the effective date of any rule adopted or amended, the Revisor of Statutes shall codify in
25 the General Statutes all rules of civil and criminal procedure and rules of evidence for
26 the trial divisions adopted or amended in accordance with this section."

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

32 **SECTION 3.** This act becomes effective January 1, 2006.