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SENATE BILL 292
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Short Title: Sup. Ct. Crim. Case Docketing.

(Public)

Sponsors:

Referred to:

March 8, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE THAT CRIMINAL CASES IN SUPERIOR COURT SHALL
3 BE CALENDARED PURSUANT TO ADMINISTRATIVE SETTINGS.

4 The General Assembly of North Carolina enacts:

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

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

8 (a) Criminal Docketing. – Criminal cases in superior court shall be calendared by
9 the district attorney at administrative settings as provided in this section. These settings
10 shall be held by a Resident Superior Court Judge or any Superior Court Judge designated
11 by a Resident Superior Court Judge.

12 (b) Administrative Settings. – An administrative setting shall be calendared for
13 each felony within 30 days of indictment or service thereof if required by law. At an
14 administrative setting:

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

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

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

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

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

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

18 (c) Venue for Administrative Settings. – Venue for administrative settings may be
19 in any county within the district when necessary to comply with the terms of the criminal
20 case docketing plan. The presence of the defendant is only required for administrative
21 settings held in the county where the case originated.

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

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

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

1 (f) No provision in this statute is intended to deprive any victim of the rights
2 granted under Article I, Section 37 of the State Constitution and Article 46 of Chapter
3 15A of the General Statutes."

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

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

6 **"§ 7A-61. Duties of district attorney.**

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

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