

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL 395
Judiciary Committee Substitute Adopted 4/17/19

Short Title: Good-Cause Continuances.

(Public)

Sponsors:

Referred to:

March 28, 2019

A BILL TO BE ENTITLED

AN ACT AMENDING THE RULES OF CIVIL PROCEDURE AND THE CRIMINAL PROCEDURE ACT CONCERNING THE GRANTING OF CONTINUANCES FOR GOOD CAUSE ON ACCOUNT OF SERVICE ON A STATE BOARD, COMMISSION, OR AUTHORITY AS AN APPOINTEE OF THE GOVERNOR, LIEUTENANT GOVERNOR, OR GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 1A-1, Rule 40 of the Rules of Civil Procedure reads as rewritten:

"Rule 40. Assignment of cases for trial; continuances.

(a) The senior resident superior court judge of any superior court district or set of districts as defined in G.S. 7A-41.1 may provide by rule for the calendaring of actions for trial in the superior court division of the various counties within ~~his~~that senior resident's district or set of districts. Calendaring of actions for trial in the district court shall be in accordance with G.S. 7A-146. Precedence shall be given to actions entitled thereto by any statute of this State.

(b) No continuance shall be granted except upon application to the court. A continuance may be granted only for good cause shown and upon such terms and conditions as justice may require. Good cause for granting a continuance shall include those instances when a party to the proceeding, a witness, or counsel of record has an obligation of service to the State of North Carolina, including ~~service~~any service in carrying out any duties as a member of the General Assembly or Assembly, or service on the Rules Review Commission, Commission or any other board, commission, or authority as an appointee of the Governor, the Lieutenant Governor, or the General Assembly."

SECTION 2. G.S. 15A-952 reads as rewritten:

"§ 15A-952. Pretrial motions; time for filing; sanction for failure to file; motion hearing date.

...

(g) In superior or district court, the judge shall consider at least the following factors in determining whether to grant a continuance:

- (1) Whether the failure to grant a continuance would be likely to result in a miscarriage of justice;
- (2) Whether the case taken as a whole is so unusual and so complex, due to the number of defendants or the nature of the prosecution or otherwise, that more time is needed for adequate preparation; and
- (3) Whether the case involves physical or sexual child abuse when a victim or witness is under 16 years of age, and whether further delay would have an adverse impact on the well-being of the child.



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1 (4) Good cause for granting a continuance shall include those instances when the
2 defendant, a witness, or counsel of record has an obligation of service to the
3 State of North Carolina, including ~~service~~any service in carrying out any
4 duties as a member of the General Assembly ~~or Assembly~~, or service on the
5 Rules Review ~~Commission~~Commission or any other board, commission, or
6 authority as an appointee of the Governor, the Lieutenant Governor, or the
7 General Assembly."

8 **SECTION 3.** This act becomes effective December 1, 2019.