

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 2074

Short Title: Revise Authentication Rules/Evidence. (Public)

Sponsors: Representative Moore.

Referred to: Judiciary II.

May 18, 2006

1 A BILL TO BE ENTITLED
2 AN ACT TO CONFORM THE AUTHENTICATION RULES OF THE NORTH
3 CAROLINA RULES OF EVIDENCE TO THE FEDERAL RULES OF
4 EVIDENCE.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 8C-1, Rule 803 reads as rewritten:

7 "**Rule 803. Hearsay exceptions; availability of declarant immaterial.**

8 ...

9 (6) Records of Regularly Conducted Activity. – A memorandum, report,
10 record, or data compilation, in any form, of acts, events, conditions,
11 opinions, or diagnoses, made at or near the time by, or from
12 information transmitted by, a person with knowledge, if kept in the
13 course of a regularly conducted business activity, and if it was the
14 regular practice of that business activity to make the memorandum,
15 report, record, or data compilation, all as shown by the testimony of
16 the custodian or other qualified witness, or by certification that
17 complies with Rule 902(11), Rule 902(12), or a statute permitting
18 certification, unless the source of information or the method or
19 circumstances of preparation indicate lack of trustworthiness. The term
20 "business" as used in this paragraph includes business, institution,
21 association, profession, occupation, and calling of every kind, whether
22 or not conducted for profit.

23 "

24 **SECTION 2.** G.S. 8C-1, Rule 902 reads as rewritten:

25 "**Rule 902. Self-authentication.**

26 Extrinsic evidence of authenticity as a condition precedent to admissibility is not
27 required with respect to the following:

28 ...

1 (11) Certified domestic records of regularly conducted activity. – The
2 original or a duplicate of a domestic record of regularly conducted
3 activity that would be admissible under Rule 803(6), if accompanied
4 by a written declaration of its custodian or other qualified person,
5 certifying that the record:

6 a. Was made at or near the time of the occurrence of the matters
7 set forth by, or from information transmitted by, a person with
8 knowledge of those matters;

9 b. Was kept in the course of the regularly conducted activity; and

10 c. Was made by the regularly conducted activity as a regular
11 practice.

12 The declaration must be signed in a manner that, if falsely made,
13 would subject the maker to criminal penalty under the laws of the state
14 where the declaration is signed. A party intending to offer a record into
15 evidence under this provision must provide written notice of that
16 intention to all adverse parties and must make the record and
17 declaration available for inspection sufficiently in advance of the offer
18 into evidence to provide an adverse party with a fair opportunity to
19 challenge it.

20 (12) Certified foreign records of regularly conducted activity. – In a civil
21 case, the original or a duplicate of a foreign record of regularly
22 conducted activity that would be admissible under Rule 803(6), if
23 accompanied by a written declaration by its custodian or other
24 qualified person certifying that the record:

25 a. Was made at or near the time of the occurrence of the matters
26 set forth by, or from information transmitted by, a person with
27 knowledge of those matters;

28 b. Was kept in the course of the regularly conducted activity; and

29 c. Was made by the regularly conducted activity as a regular
30 practice.

31 The declaration must be signed in a manner that, if falsely made,
32 would subject the maker to criminal penalty under the laws of the
33 country where the declaration is signed. A party intending to offer a
34 record into evidence under this provision must provide written notice
35 of that intention to all adverse parties and must make the record and
36 declaration available for inspection sufficiently in advance of the offer
37 into evidence to provide an adverse party with a fair opportunity to
38 challenge it."

39 **SECTION 3.** There is appropriated from the General Fund to the
40 Administrative Office of the Courts the sum of twenty thousand dollars (\$20,000) for
41 the 2006-2007 fiscal year to implement the provisions of this act.

42 **SECTION 4.** This act becomes effective October 1, 2006, and applies to
43 trials or hearings commencing on or after that date.