

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

S

1

SENATE BILL 353

Short Title: Supreme Court Rule Making. (Public)

Sponsors: Senators Clodfelter; and Snow.

Referred to: Judiciary I.

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, 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. Members of

1 each advisory committee who are not officers or employees of the State shall receive
2 compensation and reimbursement for travel and subsistence expenses at the rates
3 specified in G.S. 138-5. Members of each advisory committee who are officers or
4 employees of the State shall receive reimbursement for travel and subsistence expenses
5 at the rate set out in G.S. 138-6. Members of each advisory committee who are
6 legislators shall be reimbursed for subsistence and travel expenses at the rates set out in
7 G.S. 120-3.1.

8 (d) The Rules of Civil Procedure, as set forth in Chapter 1A and elsewhere in the
9 General Statutes, the Rules of Evidence, as set forth in Chapter 8C and elsewhere in the
10 General Statutes, and the Rules of Criminal Procedure, as set forth in Chapter 15A and
11 elsewhere in the General Statutes, are deemed adopted by the Supreme Court until
12 modified by the Supreme Court pursuant to this section. Upon adoption of a new rule or
13 amended rule, the Supreme Court shall notify the General Assembly and the Revisor of
14 Statutes of the need to repeal or amend the General Statutes to reflect the change. The
15 Revisor of Statutes shall codify in the General Statutes all rules of civil and criminal
16 procedure and rules of evidence for the trial divisions adopted or amended in
17 accordance with this section."

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

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