

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 1999-428
SENATE BILL 292

AN ACT TO PROVIDE THAT CRIMINAL CASES IN SUPERIOR COURT SHALL
BE CALENDARED PURSUANT TO ADMINISTRATIVE SETTINGS.

The General Assembly of North Carolina enacts:

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

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

(a) Criminal Docketing. – Criminal cases in superior court shall be calendared by the district attorney at administrative settings according to a criminal case docketing plan developed by the district attorney for each superior court district in consultation with the superior court judges residing in that district and after opportunity for comment by members of the local bar. Each criminal case docketing plan shall, at a minimum, comply with the provisions of this section, but may contain additional provisions not inconsistent with this section.

(b) Administrative Settings. – An administrative setting shall be calendared for each felony within 60 days of indictment or service of notice of indictment if required by law, or at the next regularly scheduled session of superior court if later than 60 days from indictment or service if required. At an administrative setting:

- (1) The court shall determine the status of the defendant's representation by counsel;
- (2) After hearing from the parties, the court shall set deadlines for the delivery of discovery, arraignment if necessary, and filing of motions;
- (3) If the district attorney has made a determination regarding a plea arrangement, the district attorney shall inform the defendant as to whether a plea arrangement will be offered and the terms of any proposed plea arrangement, and the court may conduct a plea conference if supported by the interest of justice;
- (4) The court may hear pending pretrial motions, set such motions for hearing on a date certain, or defer ruling on motions until the trial of the case; and
- (5) The court may schedule more than one administrative setting if requested by the parties or if it is found to be necessary to promote the fair administration of justice in a timely manner.

Whenever practical, administrative settings shall be held by a superior court judge residing within the district, but may otherwise be held by any superior court judge.

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

Nothing in this section precludes the disposition of a criminal case by plea, deferred prosecution, or dismissal prior to an administrative setting.

(c) Definite Trial Date. – When a case has not otherwise been scheduled for trial within 120 days of indictment or of service of notice of indictment if required by law, then upon motion by the defendant at any time thereafter, the senior resident superior court judge, or a superior court judge designated by the senior resident superior court judge, may hold a hearing for the purpose of establishing a trial date for the defendant.

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

(e) Setting and Publishing of Trial Calendar. – No less than 10 working days before cases are calendared for trial, the district attorney shall publish the trial calendar. The trial calendar shall schedule the cases in the order in which the district attorney anticipates they will be called for trial and should not contain cases that the district attorney does not reasonably expect to be called for trial. In counties in which multiple sessions of court are being held, the district attorney may publish a trial calendar for each session of court.

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

(g) Nothing in this section shall be construed to deprive any victim of the rights granted under Article I, Section 37 of the North Carolina Constitution and Article 46 of Chapter 15A of the General Statutes.

(h) Nothing in this section shall be construed to affect the authority of the court in the call of cases calendared for trial."

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

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

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

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

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

In the General Assembly read three times and ratified this the 15th day of July, 1999.

s/ Dennis A. Wicker
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 10:46 p.m. this 5th day of August, 1999