

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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SENATE BILL 718

Short Title: Supreme Court Rule Making.

(Public)

Sponsors: Senator Clodfelter.

Referred to: Judiciary I.

March 28, 2001

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THE SUPREME COURT WITH AUTHORITY TO REVISE
2 THE RULES OF CIVIL PROCEDURE AND THE RULES OF EVIDENCE,
3 SUBJECT TO AMENDMENT OR VETO BY THE GENERAL ASSEMBLY.
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5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 7A-34 reads as rewritten:

7 "**§ 7A-34. Rules of practice and procedure in trial courts.**

8 (a) The Supreme Court is hereby authorized to prescribe rules of practice and
9 procedure for the superior and district courts supplementary to, and not inconsistent
10 with, acts of the General Assembly. Pursuant to the authority granted it under Article
11 IV, Section 13 of the North Carolina Constitution, the General Assembly delegates
12 authority to the Supreme Court to adopt and amend the rules of civil and criminal
13 procedure and rules of evidence for the trial divisions.

14 Except as provided in subsection (b) of this section, each new rule or amended rule
15 shall be published in the North Carolina Register and shall become effective on the
16 thirty-first legislative day of the next regular session of the General Assembly that
17 begins at least 25 days after the date of that publication, unless the Supreme Court
18 specifies a later effective date. For purposes of this section, "legislative day" means a
19 day on which either house of the General Assembly is in session.

20 (b) The General Assembly may amend or veto any proposed new rule or
21 amended rule. If a bill to amend or veto a new rule or amended rule is introduced in
22 either house of the General Assembly before the thirty-first legislative day of the next
23 regular session of the General Assembly that begins at least 25 days after the date of
24 publication of the rule, the rule becomes effective on the earlier of either the day an
25 unfavorable final action is taken on the bill or the day that session of the General
26 Assembly adjourns without ratifying a bill that amends or vetoes the new rule or
27 amended rule. If the Supreme Court specifies a later effective date than the date that
28 would otherwise apply under this subsection, the later date applies. For purposes of this

1 section, the day that a session of the General Assembly "adjourns" means (i) in a regular
2 session held in an odd-numbered year, adjournment by joint resolution for more than 10
3 days; and (ii) in a regular session held in an even-numbered year, adjournment sine die.

4 (c) The Chief Justice may appoint advisory committees of up to eight members
5 each to advise the Supreme Court on the adoption and amendment of the rules of civil
6 procedure, the rules of criminal procedure, and the rules of evidence. Members of each
7 advisory committee who are not officers or employees of the State shall receive
8 compensation and reimbursement for travel and subsistence expenses at the rates
9 specified in G.S. 138-5. Members of each advisory committee who are officers or
10 employees of the State shall receive reimbursement for travel and subsistence expenses
11 at the rate set out in G.S. 138-6. Members of each advisory committee who are
12 legislators shall be reimbursed for subsistence and travel expenses at the rates set out in
13 G.S. 120-3.1.

14 (d) The Rules of Civil Procedure, as set forth in Chapter 1A and elsewhere in the
15 General Statutes, the Rules of Evidence, as set forth in Chapter 8C and elsewhere in the
16 General Statutes, and the rules of criminal procedure, as set forth in Chapter 15A and
17 elsewhere in the General Statutes, are deemed adopted by the Supreme Court until
18 modified by the Supreme Court pursuant to this section. Upon adoption of a new rule or
19 amended rule, the Supreme Court shall notify the General Assembly of the need to
20 repeal or amend the General Statutes to reflect the change."

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

26 **SECTION 3.** This act becomes effective January 1, 2002.