

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 517

Short Title: Calendaring Criminal Cases.

(Public)

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Sponsors: Senators Ballance; Albertson, Gulley, Jordan, and Kinnaird.

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Referred to: Judiciary.

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March 26, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR CRIMINAL CASES IN SUPERIOR COURT TO BE  
CALENDARIED BY THE COURT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-49.3 reads as rewritten:

**"§ 7A-49.3. Calendar for criminal trial sessions.**

(a) ~~At least one week before the beginning of any session of the superior court for the trial of criminal cases, the district attorney shall file with the clerk of superior court a calendar of the cases he intends to call for trial at that session. The calendar shall fix a day for the trial of each case listed thereon. The district attorney may place on the calendar for the first day of the session all cases which will require consideration by the grand jury without obligation to call such cases for trial on that day. No case on the calendar may be called for trial before the day fixed by the calendar except by consent or by order of the court. Any case docketed after the calendar has been filed with the clerk may be placed on the calendar at the discretion of the district attorney.~~

(a1) ~~If he has not done so before the beginning of each session of superior court at which criminal cases are to be heard, the District Attorney, after calling the calendar and disposing of nonjury matters, including guilty pleas, if any such nonjury matters are to be disposed of prior to the calling of cases for trial, shall announce to the court the order in which he intends to call for trial the cases remaining on the calendar. Deviations from the~~

1 ~~announced order require approval by the presiding judge, if the defendant whose case is~~  
2 ~~called for trial objects; but the defendant may not object if all the cases scheduled to be~~  
3 ~~heard before his case have been disposed of or delayed with the approval of the presiding~~  
4 ~~judge or by consent.~~

5 (a) For purposes of this section, 'to calendar or calendaring' means to select the  
6 criminal cases to be tried or otherwise brought before the court for a particular session of  
7 court and to publish those cases in a particular order on a trial calendar for that session.

8 The authority to calendar criminal cases in superior court is vested in the senior  
9 resident superior court judge as defined in G.S. 7A-41.1. The senior resident superior  
10 court judge is responsible for the calendaring of all superior court criminal cases,  
11 motions, or other proceedings for trial or hearing.

12 The responsibilities for the calendaring of criminal cases in superior court may be  
13 delegated by the senior resident superior court judge to a trial court administrator or other  
14 person designated by the judge as deemed appropriate by the judge. However, the  
15 responsibilities for the calendaring of criminal cases in superior court may not be  
16 delegated to the district attorney, to an assistant district attorney, or to any member of the  
17 district attorney's staff. Calendars shall be published in sufficient time for all parties to a  
18 case to have adequate notice.

19 (b) All witnesses shall be subpoenaed to appear on the date listed for the trial of  
20 the case in which they are witnesses. Witnesses shall not be entitled to prove their  
21 attendance for any day or days prior to the day on which the case in which they are  
22 witnesses is set for trial, unless otherwise ordered by the presiding judge.

23 (c) ~~Nothing in this section shall be construed to affect the authority of the court in~~  
24 ~~the call of cases for trial."~~

25 Section 2. G.S. 7A-61 reads as rewritten:

26 **"§ 7A-61. Duties of district attorney.**

27 ~~The~~ Subject to the provisions of G.S. 7A-49.3, the district attorney or the district  
28 attorney's designee shall prepare the trial dockets, dockets in district court. The district  
29 attorney shall prosecute in the name of the State all criminal actions and infractions  
30 requiring prosecution in the superior and district courts of his prosecutorial district,  
31 advise the officers of justice in his district, and perform such duties related to appeals to  
32 the Appellate Division from his district as the Attorney General may require. Effective  
33 January 1, 1971, the district attorney shall also represent the State in juvenile cases in  
34 which the juvenile is represented by an attorney. Each district attorney shall devote his  
35 full time to the duties of his office and shall not engage in the private practice of law."

36 Section 3. G.S. 15A-943 reads as rewritten:

37 **"§ 15A-943. Arraignment in superior court – required calendaring.**

38 (a) In counties in which there are regularly scheduled 20 or more weeks of trial  
39 sessions of superior court at which criminal cases are heard, and in other counties the  
40 Chief Justice designates, ~~the prosecutor must calendar~~ arraignments must be calendared in  
41 the superior court on at least the first day of every other week in which criminal cases are  
42 heard. No cases in which the presence of a jury is required may be calendared for the day  
43 or portion of a day during which arraignments are calendared.

1 (b) When a defendant pleads not guilty at an arraignment required by subsection  
2 (a), he may not be tried without his consent in the week in which he is arraigned.

3 (c) Notwithstanding the provisions of subsection (a) of this section, in any county  
4 where as many as three simultaneous sessions of superior court, whether criminal, civil,  
5 or mixed, are regularly scheduled, ~~the prosecutor may calendar arraignments~~ may be  
6 calendared in any of the criminal or mixed sessions, at least every other week, upon any  
7 day or days of a session, and jury cases may be calendared for trial in any other court at  
8 which criminal cases may be heard, upon such days."

9 Section 4. This act becomes effective December 1, 1997.