



HOUSE BILL 38: Judicial Efficiency/Effect. Admin. of Justice

2015-2016 General Assembly

Committee:	Rules, Calendar, and Operations of the House	Date:	July 21, 2015
Introduced by:	Reps. Davis, Burr	Prepared by:	Bill Patterson
Analysis of:	PCS to First Edition H38-CSTGf-45		Committee Counsel

SUMMARY: *House Bill 38 makes changes to several statutes relating to courts and justice agencies.*

BILL ANALYSIS:

Section 1 Appellate Reports

Section 1 of the bill would amend G.S. 7A- 343.1 which requires the Administrative Officer of the Courts to distribute, at State expense, copies of the appellate division reports. The statute prescribes who receives the hard copies. It also stipulates how many copies each named entity receives, and as amended by S.L. 2015-40, it allows those agencies and organizations to opt for no hard copies, or fewer hard copies.

Section 1 would require the Administrative Officer of the Courts to develop a process through which all other persons or entities may purchase copies of the reports; the purchase price must represent the actual cost to the State for publication and shipping. The bill would also require that the appellate division reports be available in a downloadable format on a website at no cost to the recipient.

This section is effective when it becomes law.

Section 2 Preservation of Biological Evidence

Pursuant to G.S. 15A-268, which provides for the preservation of biological evidence in criminal investigations, the term "biological evidence" includes the contents of a sexual assault examination kit or any item that contains blood, semen, hair, saliva, skin tissue, fingerprints, or other identifiable human biological material that may reasonably be used to incriminate or exculpate any person in a criminal investigation. The statute provides all records documenting the possession, control, storage, and destruction of evidence related to a criminal investigation or prosecution of certain felony offenses must be retained.

Section 2 of the bill would establish a Joint Select Committee on the Preservation of Biological Evidence to review matters related to the preservation of DNA and biological evidence, including emerging technologies, procedures for interagency transfer of biological evidence, and costs associated with development of guidelines for the retention and preservation of biological evidence. Members of the committee would include appointees of the President Pro Tempore of the Senate and the Speaker of the House, representatives of State law enforcement and judicial entities, and representatives of specified law enforcement associations. The Committee would be required to submit its final report on or before March 1, 2016.

This section is effective when it becomes law.

Section 3 Civil Case Management

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Section 3 of the bill would direct AOC to study and develop a case management system for civil cases in superior court designed to make more efficient use of superior court time and resources, including a more flexible designation of mixed sessions. The study shall consider a system allowing exceptions cases to be assigned to a superior court judge to oversee the case. AOC shall report to the Joint Legislative Oversight committee on Justice and Public Safety by March 1, 2016.

This section is effective when it becomes law.

Section 4 AOC IT Policy

Section 4 of the bill would direct AOC to develop a written, comprehensive policy for the management of information technology resources that includes specific guidelines for the distribution and maintenance of information technology hardware. AOC shall report to the Joint Legislative Oversight Committees on Justice and Public Safety and Information Technology by March 1, 2016.

This section is effective when it becomes law.

Section 5 Magistrate Study

Section 5 of the bill would require AOC to study the appointment and supervision of magistrates. The study shall consider whether supervision of magistrates should be the responsibility of some person other than the chief district court judge and shall address whether any other changes should be made to the process for appointing and supervising magistrates. AOC shall report to the Joint Legislative Oversight committee on Justice and Public Safety by March 1, 2016.

This section is effective when it becomes law.

Section 6 Enforce Criminal Mediation Fee

For each criminal case that is resolved through referral to a community mediation center, a dispute resolution fee of \$60.00 per mediation is assessed. The fee supports the services provided by the community mediation centers and the Mediation Network of North Carolina. Fees must be paid to the clerk of superior court in the county where the case was filed and remitted by the clerk to the Mediation Network of North Carolina. The Mediation Network may retain up to \$3.00 of this amount for its administrative expenses. The Mediation Network must remit the remainder of this amount to the community mediation center that mediated the case. The court may waive or reduce a fee assessed if there is a written order determining there is just cause to grant the waiver or reduction. Before providing the district attorney with a dismissal form, the community mediation center must require proof that the defendant has paid the dispute resolution fee and must attach the receipt to the dismissal form.

Section 6 of the bill would provide that no criminal case shall be dismissed through referral to mediation unless the full amount of the dispute resolution fee is paid within 45 days of the completion of the mediation. If payment has not been made within that time, the case must be remanded back to the court for disposition.

This section becomes effective October 1, 2015, and applies to criminal cases referred to mediation on or after that date.

Section 7 District Court Mediated Settlement

G.S. 7A-38.4A currently provides for mediated settlement conferences to be ordered in district court civil cases involving family issues, such as equitable distribution, alimony or support.

Section 7 of the bill would provide for mediated settlement conferences in all district court civil actions.

Sections 7(a) and (b) would make conforming changes to G.S. 7A-38.4A to reflect its application only to family financial actions.

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Section 7(c) would create a new G.S. 7A-38.4B to authorize mediated settlement conferences in all other district court civil actions. The bill would allow the court to order the parties to participate in a mediated settlement conference or other settlement procedure authorized by the Supreme Court. The Supreme Court would be given the authority to adopt rules governing the proceedings and the standards for mediators and other neutrals used in settlement procedures.

The new statute is modeled on and similar to the existing statutes for mediated settlement conferences in family financial actions in district court (G.S. 7A-38.4A) and superior court civil actions (G.S. 7A-38.1).

This section becomes effective October 1, 2015, and applies to actions filed on or after that date.

EFFECTIVE DATE: The effective dates of each section are as noted above.

Susan Sitze, counsel to House Judiciary II, substantially contributed to this summary.