



# SENATE BILL 327: General Statutes Commission Assignments of Error.

2023-2024 General Assembly

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<b>Committee:</b>		<b>Date:</b>	November 15, 2023
<b>Introduced by:</b>		<b>Prepared by:</b>	Kristen L. Harris Staff Attorney
<b>Analysis of:</b>	S.L. 2023-54		

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**OVERVIEW:** *S.L. 2023-54 conforms the North Carolina General Statutes to the North Carolina Rules of Appellate Procedure by updating obsolete references to "assignments of error" and "exceptions" and makes other technical corrections, as recommended by the General Statutes Commission and the Appellate Rules Committee of the North Carolina Bar Association.*

*This act became effective June 23, 2023.*

## BILL ANALYSIS:

**Section 1** repeals G.S. 1-186 (Exceptions to decision of court.) as obsolete. That provision discusses a party excepting to a court decision and is unnecessary in light of the North Carolina Rules of Appellate Procedure.

**Section 2** amends G.S. 1-271 (Who can appeal.) to delete the phrase "cross assigns error" and to reword language for greater clarity.

**Section 3** amends G.S. 1-277 (Appeal from superior or district court judge.) to replace "exception" with "objection[.]" to fix relative pronouns, to fix punctuation, to replace legalese with plain English, and to make language gender-neutral.

**Section 4** amends G.S. 1-286 (Justification of sureties.) to replace "except" with "object[.]" to make stylistic changes for greater clarity, to add a cross-reference for greater clarity, to make language gender-neutral, to replace legalese with plain English, and to change the format of numbers to conform to this State's drafting conventions.

**Section 5** amends G.S. 1A-1, Rule 46 (Objections and exceptions.), as follows:

- Throughout the section, updates or deletes references to "exception" or variants of that word.
- In subsection (a), adds that formal exceptions are unnecessary, adds language to introduce a list, replaces legalese with plain English, and deletes unnecessary language.
- In subsection (b), makes words singular and replaces legalese with plain English. The act does not change the phrase "formal objections and exceptions are unnecessary" because this phrase is consistent with the North Carolina Rules of Appellate Procedure.

**Section 6** amends G.S. 15-173 (Demurrer to the evidence.) to replace "taken exception to" with "objected to[.]" to reword language for greater consistency, to delete unnecessary language, to replace legalese with plain English, to fix punctuation, and to make language gender-neutral.

**Section 7** amends G.S. 15A-1446 (Requisites for preserving the right to appellate review.) as follows:

- In subsection (d), deletes "exception[.]" deletes unnecessary language, fixes punctuation, fixes a relative pronoun, and makes language gender-neutral.

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- In subsection (a), fixes the format of an internal citation and replaces "may not" with "shall not" in accordance with this State's drafting conventions. The act makes a stylistic change to, but does not remove, the phrase "[f]ormal exceptions are not required" because this phrase is consistent with the North Carolina Rules of Appellate Procedure.
- In subsection (b), replaces legalese with plain English.

**Section 8** amends G.S. 15A-2000 (Sentence of death or life imprisonment for capital felonies; further proceedings to determine sentence.) as follows:

- In subsection (d), replaces "errors assigned" with "arguments raised[.]" replaces legalese with plain English, and deletes unnecessary language.
- In subsection (a), fixes relative pronouns, replaces legalese with plain English, fixes punctuation, and makes language gender-neutral.
- In subsection (b), fixes relative pronouns, replaces legalese with plain English, fixes punctuation, and makes verbs singular.
- In subsection (c), fixes a relative pronoun.
- In subsection (e), fixes relative pronouns and makes language gender-neutral.
- In subsection (f), fixes relative pronouns.

**Section 9** amends G.S. 62-90 (Right of appeal; filing of exceptions.) as follows:

- Throughout the section, updates or deletes the phrase "exceptions[.]"
- In subsection (a), replaces legalese with plain English, makes stylistic changes for greater clarity, fixes a relative pronoun, and fixes punctuation.
- In subsection (b), adds greater specificity to an internal citation, fixes punctuation, and replaces legalese with plain English.
- In subsections (c) and (d), replaces legalese with plain English.

**Section 10** amends G.S. 62-94 (Record on appeal; extent of review.) as follows:

- In subsection (a), replaces "exceptions and assignments of error" with "issues raised[.]"
- In subsection (b), replaces legalese with plain English, fixes punctuation, and modernizes the format of a list.
- In subsection (c), replaces legalese with plain English, fixes punctuation, fixes a relative pronoun, and makes language gender-neutral.
- In subsection (e), deletes unnecessary language and replaces legalese with plain English.

**Section 11** amends G.S. 105-345 (Right of appeal; filing of exceptions.) as follows:

- Throughout the section, updates or deletes the phrase "exceptions[.]"
- In subsection (a), replaces legalese with plain English, makes stylistic changes for greater clarity, fixes a relative pronoun, and fixes punctuation.
- In subsection (b), adds greater specificity to an internal citation, fixes punctuation, and replaces legalese with plain English.
- In subsections (c), (d), and (e), replaces legalese with plain English.

**Section 12** amends G.S. 105-345.2 (Record on appeal; extent of review.) as follows:

- In subsection (a), replaces "exceptions and assignments of error" with "issues raised[.]"

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- In subsection (b), replaces legalese with plain English, fixes punctuation, and modernizes the format of a list.
- In subsection (c), replaces legalese with plain English, fixes punctuation, fixes a relative pronoun, and makes language gender-neutral.

**EFFECTIVE DATE:** This act became effective June 23, 2023

**BACKGROUND:** The North Carolina Supreme Court amended the North Carolina Rules of Appellate Procedure to abolish the use of "exceptions" and "assignments of error" in 1989 and 2009, respectively. This bill makes conforming changes by updating or deleting these references in statutes that discuss appeals before the North Carolina appellate courts.

In addition to publishing all its drafts online, the General Statutes Commission circulated a draft to the North Carolina Bar Association, Administrative Office of the Courts, Conference of Clerks of Superior Court, Office of Administrative Hearings, Utilities Commission, Property Tax Commission, UNC School of Government, North Carolina Advocates for Justice, North Carolina Justice Center, and other groups. The Appellate Rules Committee of the North Carolina Bar Association participated in the drafting of this bill.

\* *David Unwin, Legislative Drafting Division, substantially contributed to this summary.*