



# SENATE BILL 91: Amend Rule 4/Acceptance of Service.

This Bill Analysis reflects the contents of the bill as it was presented in committee.

2023-2024 General Assembly

<b>Committee:</b>	House Judiciary 2. If favorable, re-refer to Rules, Calendar, and Operations of the House	<b>Date:</b>	June 28, 2023
<b>Introduced by:</b>	Sens. Galey, Sawrey, B. Newton	<b>Prepared by:</b>	Alex Ramirez
<b>Analysis of:</b>	PCS to Second Edition S91-CSCL-31		Susan Sitze* Staff Attorneys

**OVERVIEW:** *The Proposed Committee Substitute (PCS) to Senate Bill 91 would permit a party to a civil action to accept service of process using a form provided by the Administrative Office of the Courts, make the participation in or furtherance of unlawful street takeovers a crime, and modify procedures for Class H or I felony pleas and probation revocation hearings.*

## CURRENT LAW AND BILL ANALYSIS:

### SERVICE OF PROCESS

Rule 4(j5) of the North Carolina Rules of Civil Procedure permits a party to accept service of process by signing a notation of acceptance of service on an original or copy of the summons accompanying a complaint. Accepting service in this manner has the same effect as if the process had been served by personal delivery of the summons and complaint to the person signing the acceptance.

**Section 1** of the PCS would amend Rule 4(j5) of the Rules of Civil Procedure to permit a party also to accept service of process by completing an acceptance of service form provided by the Administrative Office of the Courts, which would have the same effect as personal delivery of the summons and complaint to the person signing the form. This section would become effective October 1, 2023, and applies to actions commenced on or after that date.

### UNAUTHORIZED STREET TAKEOVERS

**Section 2** would create crimes for unauthorized street takeover. Street takeovers are defined as the unauthorized taking over of a portion of a public vehicular area by blocking traffic to perform vehicle stunts or contests.

- Driving in an unauthorized street takeover would be an A1 misdemeanor with a mandatory \$1,000 fine. A subsequent offense in a 24-month period would be a Class H felony with a fine of twice the value of the vehicle in question or \$1,000, whichever is greater.
  - If a driver in an unauthorized street takeover also assaults a law enforcement officer, that person would be guilty of a Class H felony.
- Promoting or facilitating an unauthorized street takeover would be a Class A1 misdemeanor.
- Spectating at an unauthorized street takeover would be a Class 3 misdemeanor. For a 2nd violation in 24 months, it would be a Class 2 misdemeanor. For a 3rd violation in 24 months, it would be a Class 1 misdemeanor.

Officers would have the option of seizing vehicles involved in an unauthorized street takeover.

Jeffrey Hudson  
Director



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## FELONY PLEAS IN DISTRICT COURT

G.S. 7A-272(c) currently gives the district court jurisdiction to accept a defendant's plea of guilty or no contest to a Class H or I felony with the consent of the district court judge, the prosecutor, and the defendant if either of the following apply:

- The defendant is charged with a felony in an information, the felony is pending in district court, and the defendant has not been indicted for the offense.
- The defendant has been indicted for a criminal offense, but the case has been transferred from superior court to district court.

**Section 3** would remove the requirement that the district court judge consent for the district court to have jurisdiction to accept the plea of not guilty or no contest. Additionally, Section 3 would allow the chief district court judge to schedule sessions of court to accept these agreed upon pleas and direct the district attorney to calendar these pleas for the scheduled sessions.

Section 3 would become effective October 1, 2023, and apply to pleas accepted on or after that date.

## CONTINUANCE FACTORS

G.S. 15A-952(g) sets out the list of factors that a superior or district court judge must consider when determining whether to grant a continuance in a case.

**Section 4** would add to the list of factors a judge must consider when granting a continuance that good cause for granting a continuance includes instances where the State asserts the case involves the analysis of evidence, the evidence has been submitted for testing, and the results would not be available in time. Section 4 also requires that, each time a continuance is granted, the judge announce in open court which party made the motion for the continuance and the grounds for granting it, except when a continuance is granted with the consent of both parties.

Section 4 would become effective October 1, 2023, and apply to continuances granted on or after that date.

## FELONY PROBATION REVOCATION HEARINGS

G.S. 7A-271(e) currently gives the superior court exclusive jurisdiction over all probation revocation hearings where the district court accepted a defendant's plea of guilty or no contest to a Class H or I felony pursuant to G.S. 7A-272(c), except the district court has jurisdiction to hear probation revocation matters with the consent of the State and the defendant.

**Section 5** would clarify that once the superior court has concluded probation revocation hearings, the superior court should proceed without remanding the matter back to district court unless the chief district court judge and senior resident superior judge agree it is in the interest of justice for the proceedings to be conducted by the district court.

Section 5 would become effective October 1, 2023, and apply to revocation hearings held on or after that date.

**EFFECTIVE DATE:** Except as otherwise provided, this act would be effective when it becomes law.