

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

S

3

SENATE BILL 91
Second Edition Engrossed 3/7/23
House Committee Substitute Favorable 6/28/23

Short Title: Amend Rule 4/Acceptance of Service.

(Public)

Sponsors:

Referred to:

February 13, 2023

1 A BILL TO BE ENTITLED
2 AN ACT AMENDING RULE 4 OF THE NORTH CAROLINA RULES OF CIVIL
3 PROCEDURE TO ALLOW ACCEPTANCE OF SERVICE USING AN OFFICIAL FORM,
4 TO MAKE STREET TAKEOVERS UNLAWFUL, AND TO MAKE VARIOUS
5 CHANGES TO COURTROOM PROCEDURES.

6 The General Assembly of North Carolina enacts:

7
8 **PART I. NEW ACKNOWLEDGMENT OF RECEIPT OF SERVICE OF PROCESS**

9 **SECTION 1.(a)** G.S. 1A-1, Rule 4(j5) of the North Carolina Rules of Civil
10 Procedure reads as rewritten:

11 "(j5) Personal jurisdiction by acceptance of service. – Any party personally, or through the
12 persons provided in Rule 4(j), may accept service of process either (i) by completing an
13 acceptance of service, such as a form for that purpose to be prescribed by the Administrative
14 Office of the Courts, or (ii) by notation of acceptance of service together with the signature of
15 the party accepting service and the date thereof on an original or copy of a summons, and such
16 acceptance-summons. Acceptance of service by either method shall have the same force and
17 effect as would exist had the process been served by delivery of copy and summons and
18 complaint to the person signing said the acceptance."

19 **SECTION 1.(b)** This section becomes effective December 1, 2023, and applies to
20 actions commenced on or after that date.

21
22 **PART II. MAKE UNAUTHORIZED STREET TAKEOVERS UNLAWFUL**

23 **SECTION 2.(a)** Article 3 of Chapter 20 of the General Statutes is amended by adding
24 a new section to read:

25 "**§ 20-141.10. Street takeover.**

26 (a) The following definitions apply to this section:

27 (1) Reserved for future codification purposes.

28 (2) Burnout. – Operation of a motor vehicle where the motor vehicle is kept
29 stationary, or is in motion, while the wheels are spun, resulting in friction
30 which causes the motor vehicle's tires to heat up and emit smoke.

31 (3) Doughnut. – Operation of a motor vehicle where the front or rear of the motor
32 vehicle is rotated around the opposite set of wheels in a continuous motion
33 which may cause a circular skid-mark pattern of rubber on the driving surface
34 or the tires to heat up and emit smoke from friction, or both.



- 1 (4) Drifting. – Operation of a motor vehicle where the motor vehicle is steered so
2 that it makes a controlled skid sideways through a turn with the front wheels
3 pointed in a direction opposite to that of the turn.
- 4 (5) Reserved for future codification purposes.
- 5 (6) Present. – A person who is within 150 feet of the location of a street takeover.
- 6 (7) Spectator. – A person who is viewing, observing, watching, or witnessing a
7 street takeover as it progresses and includes any person at the location of the
8 event without regard to the means by which the person arrived.
- 9 (8) Street takeover. – The unauthorized taking over of a portion of highway,
10 street, or public vehicular area by blocking or impeding the regular flow of
11 traffic with a motor vehicle to perform a motor vehicle stunt, contest, or
12 exhibition.
- 13 (9) Stunt. – A burnout, doughnut, wheelie, drifting, or other dangerous motor
14 vehicle activity.
- 15 (10) Wheelie. – Operation of a motor vehicle where the motor vehicle is ridden for
16 a distance with the front wheel or wheels raised off the ground.

17 (b) It shall be unlawful for any person to operate a motor vehicle in a street takeover. Any
18 person who knowingly violates this subsection is guilty of a Class A1 misdemeanor and shall
19 pay a fine of no less than one thousand dollars (\$1,000). A subsequent violation of this subsection
20 within a 24-month period is a Class H felony, including a minimum fine equal to twice the value
21 of the vehicle involved in the offense but no less than one thousand dollars (\$1,000).

22 (c) It shall be unlawful to knowingly participate in, coordinate through social media or
23 otherwise, or facilitate a street takeover. Any person who violates this subsection is guilty of a
24 Class A1 misdemeanor.

25 (d) It shall be unlawful to be knowingly present as a spectator of a street takeover. Any
26 person who violates this subsection is guilty of a Class 3 misdemeanor. A second violation of
27 this subsection within a period of 24 months is a Class 2 misdemeanor. A third or subsequent
28 violation of this subsection within a period of 24 months from the first violation is a Class 1
29 misdemeanor.

30 (e) A person who violates subsection (b) of this section and assaults a law enforcement
31 officer or knowingly and willfully threatens a law enforcement officer shall be guilty of a Class
32 H felony.

33 (f) A motor vehicle involved in a violation of subsection (b) of this section may be seized
34 in accordance with the provisions of G.S. 20-141.3(g)."

35 **SECTION 2.(b)** G.S. 20-141.3(g) reads as rewritten:

36 (g) The following provisions apply to this section:

- 37 (1) When any officer of the law discovers that any person has operated or is
38 operating a motor vehicle willfully in ~~prearranged speed competition with~~
39 ~~another motor vehicle on a street or highway, he violation of this section, the~~
40 ~~officer shall seize the motor vehicle and deliver the same vehicle. When any~~
41 officer of the law discovers that any person has operated or is operating a
42 motor vehicle in violation of G.S. 20-141.10, the officer may seize the vehicle.
43 Any vehicle seized pursuant to this subsection shall be delivered to the sheriff
44 of the county in which such offense is committed, or the same shall be placed
45 under said sheriff's constructive possession if delivery of actual possession is
46 impractical, and the vehicle shall be held by the sheriff pending the trial of the
47 person or persons arrested for operating such motor vehicle in violation of
48 subsection (a) of this section. The sheriff shall restore the seized motor vehicle
49 to the owner upon execution by the owner of a good and valid bond, with
50 sufficient sureties, in an amount double the value of the property, which bond
51 shall be approved by said sheriff and shall be conditioned on the return of the

1 motor vehicle to the custody of the sheriff on the day of trial of the person or
2 persons accused. Upon the acquittal of the person charged ~~with operating said~~
3 ~~motor vehicle willfully in prearranged speed competition with another motor~~
4 ~~vehicle,~~ under this section or G.S. 20-141.10, the sheriff shall return the motor
5 vehicle to the owner thereof.

6 (2) Notwithstanding the provisions for sale set out above, on petition by a
7 lienholder, the court, in its discretion and upon such terms and conditions as
8 it may prescribe, may allow reclamation of the vehicle by the lienholder. The
9 lienholder shall file with the court an accounting of the proceeds of any
10 subsequent sale of the vehicle and pay into the court any proceeds received in
11 excess of the amount of the lien.

12 (3) Upon conviction of the operator of said motor vehicle of a violation of
13 subsection (a) of this section, the court shall order a sale at public auction of
14 said motor vehicle and the officer making the sale, after deducting the
15 expenses of keeping the motor vehicle, the fee for the seizure, and the costs of
16 the sale, shall pay all liens, according to their priorities, which are established,
17 by intervention or otherwise, at said hearing or in other proceeding brought
18 for said purpose, as being bona fide, and shall pay the balance of the proceeds
19 to the proper officer of the county who receives fines and forfeitures to be
20 used for the school fund of the county. All liens against a motor vehicle sold
21 under the provisions of this section shall be transferred from the motor vehicle
22 to the proceeds of its sale. If, at the time of hearing, or other proceeding in
23 which the matter is considered, the owner of the vehicle can establish to the
24 satisfaction of the court that said motor vehicle was used in prearranged speed
25 competition with another motor vehicle on a street or highway without the
26 knowledge or consent of the owner, and that the owner had no reasonable
27 grounds to believe that the motor vehicle would be used for such purpose, the
28 court shall not order a sale of the vehicle but shall restore it to the owner, and
29 the said owner shall, at his request, be entitled to a trial by jury upon such
30 issues.

31 (4) If the owner of said motor vehicle cannot be found, the taking of the same,
32 with a description thereof, shall be advertised in some newspaper published
33 in the city or county where taken, or, if there be no newspaper published in
34 such city or county, in a newspaper having circulation in the county, once a
35 week for two weeks and by handbills posted in three public places near the
36 place of seizure, and if said owner shall not appear within 10 days after the
37 last publication of the advertisement, the property shall be sold, or otherwise
38 disposed of in the manner set forth in this section.

39 (5) When any vehicle confiscated under the provisions of this section is found to
40 be specially equipped or modified from its original manufactured condition so
41 as to increase its speed, the court shall, prior to sale, order that the special
42 equipment or modification be removed and destroyed and the vehicle restored
43 to its original manufactured condition. However, if the court should find that
44 such equipment and modifications are so extensive that it would be
45 impractical to restore said vehicle to its original manufactured condition, then
46 the court may order that the vehicle be turned over to such governmental
47 agency or public official within the territorial jurisdiction of the court as the
48 court shall see fit, to be used in the performance of official duties only, and
49 not for resale, transfer, or disposition other than as junk: Provided, that nothing
50 herein contained shall affect the rights of lienholders and other claimants to
51 said vehicles as set out in this section."

1 **SECTION 2.(c)** This section becomes effective December 1, 2023, and applies to
2 offenses committed on or after that date.

3
4 **PART III. MODIFY COURTROOM PROCEDURES**

5 **SECTION 3.(a)** G.S. 7A-272(c) reads as rewritten:

6 "(c) ~~With the consent of the presiding district court judge, When the prosecutor,~~
7 prosecutor and the defendant, defendant consent, the district court has jurisdiction to accept a
8 defendant's plea of guilty or no contest to a Class H or I felony ~~if~~if one of the following criteria
9 is met:

- 10 (1) The defendant is charged with a felony in an information filed pursuant to
11 G.S. 15A-644.1, the felony is pending in district court, and the defendant has
12 not been indicted for the ~~offense; or~~offense.
13 (2) The defendant has been indicted for a criminal offense but the defendant's case
14 is transferred from superior court to district court pursuant to
15 G.S. 15A-1029.1.

16 The chief district court judge may schedule and assign sessions of court to accept pleas of
17 guilty or no contest pursuant to this subsection, and the district attorney shall cause agreed-upon
18 pleas to be calendared for these sessions."

19 **SECTION 3.(b)** This section becomes effective December 1, 2023, and applies to
20 pleas accepted on or after that date.

21 **SECTION 4.(a)** G.S. 15A-952(g) reads as rewritten:

22 "(g) In superior or district court, the judge shall consider at least the following factors in
23 determining whether to grant a continuance:

- 24 (1) Whether the failure to grant a continuance would be likely to result in a
25 miscarriage of ~~justice;~~justice.
26 (2) Whether the case taken as a whole is so unusual and so complex, due to the
27 number of defendants or the nature of the prosecution or otherwise, that more
28 time is needed for adequate ~~preparation; and~~preparation.
29 (3) Whether the case involves physical or sexual child abuse when a victim or
30 witness is under 16 years of age, and whether further delay would have an
31 adverse impact on the well-being of the child.
32 (4) Good cause for granting a continuance shall include those instances when the
33 defendant, a witness, or counsel of record has an obligation of service to the
34 State of North Carolina. A continuance requested to fulfill an obligation of
35 service by carrying out any duties as a member of the General Assembly, or
36 service on the Rules Review Commission or any other board, commission, or
37 authority as an appointee of the Governor, Lieutenant Governor, or the
38 General Assembly, must be granted.
39 (5) Good cause for granting a continuance shall include those instances when the
40 State asserts that the case involves the analysis of evidence by the State Crime
41 Lab or other entity for testing, that the evidence has been submitted for testing,
42 and that the result of the testing is not available or expected to be available on
43 the date proposed. A continuance requested for these reasons must be granted.

44 In each instance that a continuance is granted in superior or district court for any case that
45 involves one or more misdemeanors or felonies, except when granted with the consent of both
46 parties, the judge shall announce in open court which party made the motion for a continuance
47 and the grounds for granting the continuance."

48 **SECTION 4.(b)** This section becomes effective December 1, 2023, and applies to
49 continuances granted on or after that date.

50 **SECTION 5.(a)** G.S. 7A-271(e) reads as rewritten:

1 "(e) The superior court has exclusive jurisdiction over all hearings held pursuant to
2 G.S. 15A-1345(e) where the district court had accepted a defendant's plea of guilty or no contest
3 to a felony under the provisions of G.S. 7A-272(c), except that the district court shall have
4 jurisdiction to hear these matters with the consent of the State and the defendant. Once the
5 superior court has concluded a probation revocation hearing, the superior court shall proceed
6 without remanding or sending the matter back to district court unless covered under subsection
7 (f) of this section."

8 **SECTION 5.(b)** G.S. 15A-1341(a6) reads as rewritten:

9 "(a6) Compliance With Terms of Conditional Discharge. – Upon violation of a term or
10 condition of a conditional discharge granted pursuant to this section, the court may enter an
11 adjudication of guilt and proceed as otherwise provided. If the revocation hearing is heard in
12 superior court, the superior court shall enter an adjudication of guilt and shall not remand the
13 matter to district court, unless covered by G.S. 7A-271(f). Upon fulfillment of the terms and
14 conditions of a conditional discharge granted pursuant to this section, any plea or finding of guilty
15 previously entered shall be withdrawn and the court shall discharge the person and dismiss the
16 proceedings against the person."

17 **SECTION 5.(c)** This section becomes effective December 1, 2023, and applies to
18 revocation hearings held on or after that date.

19
20 **PART IV. EFFECTIVE DATE**

21 **SECTION 6.** Except as otherwise provided, this act is effective when it becomes
22 law.