



## **Representative McLawhorn's News from Raleigh**

**November 1, 2007**

Our judicial and legal systems wield tremendous authority in our state and I believe that as legislators we have a duty to ensure that our citizens are served by an efficient and reliable justice system. This session we passed laws to decrease the number of medical malpractice suits, protect defendant's rights, and improve regulations for juveniles in the system.

Thank you for allowing me to share this information with you and for all of your support. As always, feel free to contact me if I can be of assistance.

### **Mediation**

> This session the General Assembly passed a bill (HB 1671) expected to decrease the number of medical negligence claims that come through the courts. The bill encourages parties involved in these cases to use an arbitrator and describes the arbitration process. The person filing for personal injury or wrongful death due to negligence by a healthcare provider and that healthcare provider involved can file a joint stipulation to use arbitration before the trial.

An arbitrator must be selected within 45 days after the stipulation is filed. The arbitrator must issue a written award within 14 days after the last hearing and is required to find if the claimant suffered injury due to the defendant's negligence. The award cannot exceed \$1 million and the fees and expenses of the arbitrator will be divided equally among the parties. If the parties decide not to use arbitration, they would each have to file a declaration saying that they are aware of the arbitration option and choose not to use it. This bill is expected to cut the costs and time involved in resolving these disputes while ensuring that the decision made is fair and honest.

> Legislators passed a bill (SB 728) to encourage mediation in district criminal courts. The law establishes a standard certification program for mediators. Judicial districts chosen by the Dispute Resolution Commission and the Director of the Administrative Office of the Courts will participate only if the chief district court judge, the district attorney and the community mediation center agree to participate.

### **Juries and Civil Cases**

> The General Assembly passed a bill to provide more equity in civil cases. When there are two or more plaintiffs in a civil case, the judge now has the authority to apportion juror challenges among the plaintiffs or increase the number of challenges for each plaintiff. Challenges are used by lawyers to remove potential jurors from consideration for the final jury. The bill limits each plaintiff to no more than six challenges.

> Another bill (SB 1117) gives judges in civil cases the authority to determine if jurors may take evidence into the jury room.

> My colleagues and I passed a bill law that requires the state registrar to send a list of recently deceased prospective jurors to county jury commissions to refine the jury selection process. The bill (HB 943) also requires the Commissioner of Motor Vehicles to omit the names of people who have been inactive voters for at least eight years or whose driver's licenses have been expired for at least eight years.

## **Evidence and Investigations**

> To help improve prosecution of the guilty and protect those who have been wrongfully accused, we cleared legislation to improve criminal investigations. We passed a bill (HB 1626) that requires an electronic copy of interrogations conducted while a defendant is in custody.

> Another bill (HB 1625) standardizes the process for eyewitness identification of suspects. Lineups must be conducted by an independent administrator and the individuals or photos must be presented sequentially rather than at the same time.

> The General Assembly ratified a bill (HB 1500) that gives defendants access to DNA testing of evidence if the technology and testing procedures have improved since the evidence was collected. Evidence must be stored so that it will not be contaminated or degraded.

## **Juveniles**

> We passed a new law that makes it unlawful to execute an inmate who was convicted of a homicide that occurred before he or she reached the age of 18. The bill (HB 784) follows a U.S. Supreme Court ruling in *Roper v. Simmons* that says execution of an offender under 18 at the time of a crime is cruel and unusual punishment.

> We passed several laws changing the ways we treat juveniles in the justice system. One bill (HB 1243) allows judges to physically restrain juveniles in the courtroom only if they find the restraint necessary to maintain order and safety or to prevent the juvenile from escaping. Another bill (HB 1479) allows a judge to place a juvenile in contempt if that juvenile tries to disrupt court proceedings, refuses to follow instructions at court, or does anything else that shows that he or she does not respect the authority of the court.

> Another law requires the state to release identifying information for juvenile escapees. The bill (HB 1148) stems from the repeated escapes of juveniles at the Swannanoa Valley Youth Development Center. The state can now release the first names and photos of escaped juvenile prisoners.

Please remember that you can visit the General Assembly's website at [www.ncleg.net](http://www.ncleg.net) to look up bills, view lawmaker biographies and access other information.