

NORTH CAROLINA GENERAL ASSEMBLY
1971 SESSION

CHAPTER 1156
SENATE BILL 569

AN ACT TO MAKE CERTAIN AMENDMENTS TO THE RULES OF CIVIL
PROCEDURE, G.S. 1A-1.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 7(a) is hereby amended by inserting between the first and second sentences thereof a new sentence to read as follows: "If the answer alleges contributory negligence, a party may serve a reply alleging last clear chance." so that G.S. 1A-1, Rule 7(a) reads as follows:

"(a) Pleadings. — There shall be a complaint and an answer; a reply to a counterclaim denominated as such; an answer to a crossclaim, if the answer contains a crossclaim; a third-party complaint if a person who was not an original party is summoned under the provisions of Rule 14; and a third-party answer, if a third-party complaint is served. If the answer alleges contributory negligence, a party may serve a reply alleging last clear chance. No other pleading shall be allowed except that the court may order a reply to an answer or a third-party answer."

Sec. 2. G.S. 1A-1, Rule 4(j)(9) is hereby amended by deleting from the ninth line thereof the words "by appointment or by law" and by substituting therefor the words "by such corporation" so that G.S. 1A-1, Rule 4(j)(9) reads as follows:

"(9) Alternative Method of Service on Party That Cannot Otherwise Be Served or Is Not Inhabitant of or Found Within State. — Any party that cannot after due diligence be served within this State in the manner heretofore prescribed in this section (j), or that is not an inhabitant of or found within this State, or is concealing his person or whereabouts to avoid service of process, or is a transient person, or one whose residence is unknown, or is a corporation incorporated under the laws of any other state or foreign country and has no agent authorized by such corporation to be served or to accept service of process, service upon the defendant may be made in the following manner:"

Sec. 2.5. G.S. 1A-1, Rule 5(b) is hereby amended by deleting from the eighteenth line thereof the words "Post Office Department" and by inserting in lieu thereof the words "Postal Service".

Sec. 3. G.S. 1A-1, Rule 17(c)(2) is hereby amended by deleting therefrom the words "or Rule 4(j)(1)b" from the second and third lines thereof so that G.S. 1A-1, Rule 17(c)(2) reads as follows:

"(2) When an infant is defendant and service under Rule 4(j)(1)a. is made upon him the appointment may be made upon the written application of any relative or friend of said infant, or, if no such application is made within 10 days after service of summons, upon the written application of any other party to the action or, at any time by the court on its own motion."

Sec. 4. G.S. 1A-1, Rule 17(c)(3) is hereby amended by deleting from the fifth and sixth lines thereof the words ", at any time after the filing of the affidavit required by Rule 4(j)(1)c and" so that G.S. 1A-1, Rule 17(c)(3) reads as follows:

"(3) When an infant or insane or incompetent person is defendant and service can be made upon him only by publication, the appointment may be made upon

the written application of any relative or friend of said infant, or upon the written application of any other party to the action, or by the court on its own motion, before completion of publication, whereupon service of the summons with copy of the complaint shall be made forthwith upon said guardian so appointed requiring him to make defense at the same time that the defendant is required to make defense in the notice of publication."

Sec. 4.5. G.S. 1A-1, Rule 33, is hereby amended by inserting in lieu of the number "15" on line 11, the number "30".

Sec. 5. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 6. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 21st day of July, 1971.