

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 777
HOUSE BILL 1372

AN ACT TO PROVIDE A DISMISSAL-WITH-LEAVE PROCEDURE FOR FUGITIVES
WHO FLEE THE JURISDICTION OF THE COURT.

The General Assembly of North Carolina enacts:

Section 1. Article 50 of Chapter 15A of the General Statutes is amended to add a new section as follows:

"§ 15A-932. Dismissal with leave when defendant fails to appear and cannot be readily found. — (a) When a defendant fails to appear at any criminal proceeding at which his attendance is required and the prosecutor believes that the defendant cannot be readily found, the prosecutor may enter a dismissal with leave for nonappearance under this section.

(b) Dismissal with leave for nonappearance results in removal of the case from the docket of the court, but all process outstanding retains its validity, and all necessary actions to apprehend the defendant, investigate the case, or otherwise further its prosecution may be taken, including the issuance of nontestimonial identification orders, search warrants, new process, initiation of extradition proceedings, and the like.

(c) The prosecutor may enter the dismissal with leave for nonappearance orally in open court or by filing the dismissal in writing with the clerk. If the dismissal for nonappearance is entered orally, the clerk must note the nature of the dismissal in the case records.

(d) Upon apprehension of the defendant, or in the discretion of the prosecutor when he believes apprehension is imminent, the prosecutor may reinstitute the proceedings by filing written notice with the clerk."

Sec. 2. This act shall become effective October 1, 1977.

In the General Assembly read three times and ratified, this the 28th day of June, 1977.