

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 626
HOUSE BILL 920

AN ACT TO AMEND THE SPEEDY TRIAL LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-701(a)(2) and G.S. 15A-701(a1)(2) are rewritten to read as follows:

"(2) Within 120 days from the first regularly scheduled criminal session of superior court, for which a calendar has not been published at the time of notice of appeal, held after the defendant has given notice of appeal in a misdemeanor case for trial de novo in the superior court;".

Sec. 2. G.S. 15A-701(a)(3) is amended by adding "or is dismissed pursuant to a finding of no probable cause pursuant to G.S. 15A-612" between "G.S. 15A-703" and the comma on line 1 of the subdivision.

Sec. 3. G.S. 15A-701(a)(4) is amended by substituting "90" for "60" in line 2 of the subdivision.

Sec. 4. G.S. 15A-701(a)(5) is amended by substituting "120" for "60" in line 1 of the subdivision.

Sec. 5. G.S. 15A-701(b)(1) is rewritten as follows:

"(1) Any period of delay resulting from other proceedings concerning the defendant including, but not limited to, delays resulting from:

- a. A mental or physical examination of the defendant, including all time when he is awaiting or undergoing treatment or examination, or a hearing on his mental or physical capacity; or
- b. Trials with respect to other charges against the defendant;
- c. Interlocutory appeals; or
- d. Hearings on any pretrial motions or the granting or denial of such motions.

The period of delay under this subdivision must include all delay from the time a motion or other event occurs that begins the delay until the time a judge makes a final ruling on the motion or the event causing the delay is finally resolved;".

Sec. 6. G.S. 15A-701(b)(7) is amended by adding the following sentence to the first paragraph:

"A superior court judge must not grant a motion for continuance unless the motion is in writing and he has made written findings as provided in this subdivision."

Sec. 7. G.S. 15A-701(b)(7) is amended by adding a new paragraph at the end of the subsection to read as follows:

"When a judge grants a continuance pursuant to this subsection, he may specify in his order the period of time which shall be excluded from the time within which the trial of the criminal case must begin."

Sec. 8. G.S. 15A-701(b)(10) is amended by deleting the word "and" at the end of the subdivision and G.S. 15A-701(b)(11) is amended by substituting a semicolon for a period at the end of the subdivision.

Sec. 9. G.S. 15A-701(b) is amended by adding the following new subdivisions:

- "(12) When a charge is dismissed by a judge other than under G.S. 15A-703 or is dismissed pursuant to a finding of no probable cause pursuant to G.S. 15A-612, and afterwards a new indictment or information is filed against the same defendant or the same defendant is arrested or served with criminal process for the same offense, or an offense based on the same act or transaction or on the same series of transactions connected together or constituting parts of a single scheme or plan, any period of delay from the date the initial charge was dismissed to the date the time limits for trial under this section would have commenced to run as to the subsequent charge;
- (13) Any period of delay from the time criminal process is served on a defendant who has previously been called and failed until the time that the district attorney receives notice that the criminal process has been served;
- (14) Any period of delay from the time the defendant has been called and failed in open court until the time that the district attorney receives notice that the criminal process was stricken or was never issued; and
- (15) Any period of delay from the time that a defendant has been returned from court-ordered or -approved hospitalization, treatment, or examination until the time that the district attorney receives notice that the defendant has returned."

Sec. 10. G.S. 15A-701(a1) is amended by substituting "October 1, 1983" for "October 1, 1981" in line 4 of the subsection.

Sec. 11. G.S. 15A-703 is amended by designating the present section as subsection (a) and adding a new subsection (b) to read as follows:

"(b) The 120-day limitation as provided in G.S. 15A-701 is the State policy in the district court division of the General Court of Justice, but none of the sanctions provided in this section shall apply to the proceedings in the district court division."

Sec. 12. This act is effective upon ratification; however, Section 11 shall expire October 1, 1983.

In the General Assembly read three times and ratified, this the 19th day of June, 1981.