

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 460
HOUSE BILL 700

AN ACT TO ALLOW THE STATE TO TAKE A VOLUNTARY DISMISSAL WITH
LEAVE WHEN A DEFENDANT IS FOUND INCAPABLE OF PROCEEDING.

The General Assembly of North Carolina enacts:

Section 1. Chapter 15A of the General Statutes is amended by adding the following new section:

"§ 15A-1009. Dismissal with leave when defendant is found incapable of proceeding. – (a) If a defendant is found by the court to be incapable of proceeding and the charges have not been dismissed pursuant to G.S. 15A-1008, a prosecutor may enter a dismissal with leave under this section.

(b) Dismissal with leave results in removal of the case from the docket of the court, but all process outstanding, with the exception of any appearance bond, retains its validity, and all necessary actions in the case may be taken.

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

(d) Upon the defendant becoming capable of proceeding, or in the discretion of the prosecutor when he believes the defendant may soon become capable of proceeding, the prosecutor may reinstitute the proceedings by filing written notice with the clerk, with the defendant and with the defendant's attorney of record.

(e) A dismissal with leave entered under this section is no longer in effect if the court later dismisses the charges pursuant to G.S. 15A-1008.

(f) Nothing in this section shall limit or prohibit the court from dismissing criminal charges pursuant to G.S. 15A-1008 upon motion by the defendant or upon the court's own motion."

Sec. 2. G.S. 15A-1004(e) is amended by adding after the word "dismissed" and before the comma the words "pursuant to G.S. 15A-1008".

Sec. 3. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 8th day of June, 1983.