# Chapter 15.

# Criminal Procedure.

## Article 1.

## General Provisions.

### § 15-1. Statute of limitations for misdemeanors.

(a) The crimes of deceit and malicious mischief, and the crime of petit larceny where the value of the property does not exceed five dollars ($5.00), and all misdemeanors except malicious misdemeanors, shall be charged within two years after the commission of the same, and not afterwards: Provided, that if any pleading shall be defective, so that no judgment can be given thereon, another prosecution may be instituted for the same offense, within one year after the first shall have been abandoned by the State.

(b) Notwithstanding subsection (a) of this section, the following misdemeanors shall be charged within 10 years of the commission of the crime:

(1) G.S. 7B-301(b).
(2) G.S. 14-27.33.
(3) G.S. 14-202.2.
(4) G.S. 14-318.2.
(5) G.S. 14-318.6. (1826, c. 11; R.C., c. 35, s. 8; Code, s. 1177; Rev., s. 3147; 1907, c. 408; C.S., s. 4512; 1943, c. 543; 2017-57, s. 17.8.(a); 2017-212, s. 5.3; 2019-245, s. 2(a).)

### §§ 15-2 through 15-3. Repealed by Session Laws 1973, c. 1286, s. 26.

### § 15-4. Accused entitled to counsel.

Every person, accused of any crime whatsoever, shall be entitled to counsel in all matters which may be necessary for his defense. (1777, c. 115, s. 85, P.R.; R.C., c. 35, s. 13; Code, s. 1182; Rev., s. 3150; C.S., s. 4515.)

### §§ 15-4.1 through 15-5.1. Repealed by Session Laws 1969, c. 1013, s. 12.

### § 15-5.2. Repealed by Session Laws 1969, c. 1013, s. 6.

### §§ 15-5.3 through 15-5.4. Repealed by Session Laws 1969, c. 1013, s. 12.

### § 15-6. Imprisonment to be in county jail.

No person over the age of 18 shall be imprisoned except in the common jail of the county, unless otherwise provided by law: Provided, that whenever the sheriff of any county shall be imprisoned, he may be imprisoned in the jail of any adjoining county. If the person being imprisoned is under the age of 18, that person shall be imprisoned in a detention facility approved by the Division of Juvenile Justice to provide secure confinement and care for juveniles, or to a holdover facility as defined in G.S. 7B-1501(11). (1797, c. 474, s. 3, P.R; R.C., c. 35, s. 6; 1879, c. 12; Code, s. 1174; Rev., s. 3151; C.S., s. 4517; 1973, c. 1141, s. 1; 2020-83, s. 8(b); 2021-180, s. 19C.9(z).)

### § 15-6.1. Changing place of confinement of prisoner committing offense.

In all cases where a defendant has been convicted in a court inferior to the superior court and sentenced to a term in the county jail or to serve in some county institution other than under the supervision of the Department of Adult Correction, and such defendant is subsequently brought before such court for an offense committed prior to the expiration of the term to be served in such county institution, upon conviction, plea of guilty or nolo contendere, the judge shall have the power and authority to change the place of confinement of the prisoner and commit such defendant to work under the supervision of the Department of Adult Correction. This provision shall apply whether or not the terms of the new sentence are to run concurrently with or consecutive to the remaining portion of the old sentence. (1953, c. 778; 1957, c. 65, s. 11; 1967, c. 996, s. 16; 2011-145, s. 19.1(h); 2012-83, s. 20; 2017-186, s. 2(kk); 2021-180, s. 19C.9(nn).)

**§ 15-6.2. Concurrent sentences for offenses of different grades or to be served in different places.**

When by a judgment of a court or by operation of law a prison sentence runs concurrently with any other sentence a prisoner shall not be required to serve any additional time in prison solely because the concurrent sentences are for different grades of offenses or that it is required that they be served in different places of confinement. (1955, c. 57.)

**§ 15-6.3. Credit for service of sentence while in another jurisdiction.**

When a person in actual confinement under sentence of another jurisdiction is brought for trial before a court of this State, the court may, upon sentencing, specifically impose a sentence to be concurrently served and direct that such person receive credit against the sentence imposed for all time subsequently served in the jurisdiction possessing physical custody of such person. (1971, c. 828.)

**§ 15-7. Postmortem examinations directed.**

In all cases of homicide, any officer prosecuting for the State may, at any time, direct a postmortem examination of the deceased to be made by one or more physicians to be summoned for the purpose; and the physicians shall be paid a reasonable compensation for such examination, the amount to be determined by the court and taxed in the costs, and if not collected out of the defendant the same shall be paid by the State. (R.C., c. 35, s. 49; Code, s. 1214; Rev., s. 3152; C.S., s. 4518; 1973, c. 1141, s. 2.)

**§ 15-8. Stolen property returned to owner.**

Upon the conviction of any person for robbing or stealing any money, goods, chattels, or other estate of any description whatever, the person from whom such goods, money, chattels or other estate were robbed or stolen shall be entitled to restitution thereof; and the court may award restitution of the articles so robbed or stolen, and make all such orders and issue such writs of restitution or otherwise as may be necessary for that purpose. (21 Hen. VIII, c. 11; R.C., c. 35, s. 34; Code, s. 1201; Rev., s. 3153; C.S., s. 4519; 1943, c. 543.)

**§ 15-9. Repealed by Session Laws 1973, c. 1286, s. 26.**

**§ 15-10. Speedy trial or discharge on commitment for felony.**

When any person who has been committed for treason or felony, plainly and specially expressed in the warrant of commitment, upon his prayer in open court to be brought to his trial,

shall not be indicted some time in the next term of the superior or criminal court ensuing such commitment, the judge of the court, upon notice in open court on the last day of the term, shall set at liberty such prisoner upon bail, unless it appear upon oath that the witnesses for the State could not be produced at the same term; and if such prisoner, upon his prayer as aforesaid, shall not be indicted and tried at the second term of the court, he shall be discharged from his imprisonment: Provided, the judge presiding may, in his discretion, refuse to discharge such person if the time between the first and second terms of the court be less than four months. (1868-9, c. 116, s. 33; Code, s. 1658; Rev., s. 3155; 1913, c. 2; C.S., s. 4521.)

**§ 15-10.1. Detainer; purpose; manner of use.**

Any person confined in the State prison system of North Carolina, subject to the authority and control of the Division of Prisons of the Department of Adult Correction, or any person confined in any other prison of North Carolina, may be held to account for any other charge pending against him only upon a written order from the clerk or judge of the court in which the charge originated upon a case regularly docketed, directing that such person be held to answer the charge pending in such court; and in no event shall the prison authorities hold any person to answer any charge upon a warrant or notice when the charge has not been regularly docketed in the court in which the warrant or charge has been issued: Provided, that this section shall not apply to any State agency exercising supervision over such person or prisoner by virtue of a judgment, order of court or statutory authority. (1949, c. 303; 1953, c. 603; 1957, c. 349, s. 10; 1967, c. 996, s. 13; 2011-145, s. 19.1(h); 2012-83, s. 21; 2017-186, s. 2(*ll*); 2021-180, s. 19C.9(p).)

**§ 15-10.2. Mandatory disposition of detainers - request for final disposition of charges; continuance; information to be furnished prisoner.**

(a) Any prisoner serving a sentence or sentences within the State prison system who, during his term of imprisonment, shall have lodged against him a detainer to answer to any criminal charge pending against him in any court within the State, shall be brought to trial within eight months after he shall have caused to be sent to the district attorney of the court in which said criminal charge is pending, by registered mail, written notice of his place of confinement and request for a final disposition of the criminal charge against him; said request shall be accompanied by a certificate from the Secretary of the Department of Adult Correction stating the term of the sentence or sentences under which the prisoner is being held, the date he was received, and the time remaining to be served; provided that, for good cause shown in open court, the prisoner or his counsel being present, the court may grant any necessary and reasonable continuance.

(b) The Secretary of the Department of Adult Correction shall, upon request by the prisoner, inform the prisoner in writing of the source and contents of any charge for which a detainer shall have been lodged against such prisoner as shown by said detainer, and furnished the prisoner with the certificate referred to in subsection (a). (1957, c. 1067, s. 1; 1967, c. 996, s. 15; 1973, c. 47, s. 2; c. 1262, s. 10; 2011-145, s. 19.1(i); 2021-180, s. 19C.9(o).)

**§ 15-10.3. Mandatory disposition of detainers - procedure; return of prisoner after trial.**

The district attorney, upon receipt of the written notice and request for a final disposition as hereinbefore specified, shall make application to the court in which said charge is pending for a writ of habeas corpus ad prosequendum and the court upon such application shall issue such writ to the Secretary of the Department of Adult Correction requiring the prisoner to be delivered to said court to answer the pending charge and to stand trial on said charge within the time hereinbefore

provided; upon completion of said trial, the prisoner shall be returned to the State prison system to complete service of the sentence or sentences under which he was held at the time said writ was issued. (1957, c. 1067, s. 2; 1967, c. 996, s. 15; 1973, c. 47, s. 2; c. 1262, s. 10; 2011-145, s. 19.1(i); 2021-180, s. 19C.9(o).)

**§ 15-10.4. Mandatory disposition of detainers – exception as to prisoners who are mentally ill.**

The provisions of G.S. 15-10.2 and 15-10.3 shall not apply to any prisoner who has been transferred and assigned for observation or treatment to any unit of the prison system which is maintained for those prisoners who are mentally ill or are suffering from mental disorders. (1957, c. 1067, s. 3.)