

## Article 3.

### Venue.

#### **§ 15A-131. Venue generally.**

(a) Venue for pretrial and trial proceedings in district court of cases within the original jurisdiction of the district court lies in the county where the charged offense occurred.

(b) Except for the probable cause hearing, venue for pretrial proceedings in cases within the original jurisdiction of the superior court lies in the superior court district or set of districts as defined in G.S. 7A-41.1 embracing the county where the venue for trial proceedings lies.

(c) Except as otherwise provided in this subsection, venue for probable cause hearings and trial proceedings in cases within the original jurisdiction of the superior court lies in the county where the charged offense occurred. Except as otherwise provided in this subsection, if the alleged offense is committed within the corporate limits of a municipality which is the seat of superior court and is located in more than one county, venue lies in the superior court which sits within that municipality, but upon timely objection of the defendant or the district attorney in the county in which the alleged offense occurred the case must be transferred to the county in which the alleged offense occurred. However, for charges brought by municipal law enforcement officers only, if the alleged offense is committed within the corporate limits of a municipality that extends into four or more counties, each of which is in a separate superior court district, offenses committed within the corporate limits of the municipality but in a superior court district other than the one for which the municipality is the seat of superior court shall be disposed of in the municipality with no allowance for objections by the defendant or the district attorney.

(d) Venue for misdemeanors appealed for trial de novo in superior court lies in the county where the misdemeanor was first tried.

(e) An offense occurs in a county if any act or omission constituting part of the offense occurs within the territorial limits of the county.

(f) For the purposes of this Article, pretrial proceedings are proceedings occurring after the initial appearance before the magistrate and prior to arraignment. (1973, c. 1286, s. 1; 1975, 2nd Sess., c. 983, s. 134; 1983, c. 727; 1987 (Reg. Sess., 1988), c. 1037, s. 53; 2009-398, s. 3.)

#### **§ 15A-132. Concurrent venue.**

(a) If acts or omissions constituting part of the commission of the charged offense occurred in more than one county, each county has concurrent venue.

(b) If charged offenses which may be joined in a single criminal pleading under G.S. 15A-926 occurred in more than one county, each county has concurrent venue as to all charged offenses.

(c) When counties have concurrent venue, the first county in which a criminal process is issued in the case becomes the county with exclusive venue. (1973, c. 1286, s. 1.)

#### **§ 15A-133. Waiver of venue; motion for change of venue; indictment may be returned in other county.**

(a) A waiver of venue must be in writing and signed by the defendant and the prosecutor indicating the consent of all parties to the waiver. The waiver must specify what stages of the proceedings are affected by the waiver, and the county to which venue is changed. If the venue is

to be laid in a county in another prosecutorial district, the consent in writing of the prosecutor in that district must be filed with the clerks of both counties.

(b) Repealed by Session Laws 1989, c. 688, s. 2.

(c) Motions for change of venue by the defendant are made under G.S. 15A-957. If venue is laid in a county in another prosecutorial district by order of the judge ruling on the motion, no consent of any prosecutor is required.

(d) If venue is changed to a county in another prosecutorial district, whether upon waiver of venue or by order of a judge, the prosecutor of the prosecutorial district where the case originated must prosecute the case unless the prosecutor of the district to which venue has been changed consents to conduct the prosecution.

(e) If venue is changed, whether upon waiver of venue or by order of a judge, the grand jury in the county to which venue has been transferred has the power to return an indictment in the case. If an indictment has already been returned before the change of venue, no new indictment is necessary and prosecution may be had in the new county under the original indictment. (1921, c. 12, ss. 1, 2; C.S., ss. 4606(a), 4606(b); 1973, c. 1286, s. 1; 1975, c. 166, s. 27; 1987 (Reg. Sess., 1988), c. 1037, s. 54; 1989, c. 688, s. 2.)

#### **§ 15A-134. Offense occurring in part outside North Carolina.**

If a charged offense occurred in part in North Carolina and in part outside North Carolina, a person charged with that offense may be tried in this State if he has not been placed in jeopardy for the identical offense in another state. (1973, c. 1286, s. 1.)

#### **§ 15A-135. Allegation of venue conclusive in absence of timely motion.**

Allegations of venue in any criminal pleading become conclusive in the absence of a timely motion to dismiss for improper venue under G.S. 15A-952. A defendant may move to dismiss for improper venue upon trial de novo in superior court, provided he did not in the district court with benefit of counsel stipulate venue or expressly waive his right to contest venue. (1973, c. 1286, s. 1.)

#### **§ 15A-136. Venue for sexual offenses.**

If a person is transported by any means, with the intent to violate any of the provisions of Article 7B of Chapter 14 (§ 14-27.20 et seq.) of the General Statutes and the intent is followed by actual violation thereof, the defendant may be tried in the county where transportation was offered, solicited, begun, continued or ended. (1979, c. 682, s. 2; 2015-181, ss. 19, 47.)

#### **§§ 15A-137 through 15A-140. Reserved for future codification purposes.**