

§ 15A-1334. The sentencing hearing.

(a) Time of Hearing. – Unless the defendant waives the hearing, the court must hold a hearing on the sentence. Either the defendant or the State may, upon a showing which the judge determines to be good cause, obtain a continuance of the sentencing hearing.

(b) Proceeding at Hearing. – The defendant at the hearing may make a statement in his own behalf. The defendant and prosecutor may present witnesses and arguments on facts relevant to the sentencing decision and may cross-examine the other party's witnesses. No person other than the defendant, his counsel, the prosecutor, and one making a presentence report may comment to the court on sentencing unless called as a witness by the defendant, the prosecutor, or the court. Formal rules of evidence do not apply at the hearing.

(c) Sentence Hearing in Other District. – The judge who orders a presentence report may, in his discretion, direct that the sentencing hearing be held before him in another county or another district court district as defined in G.S. 7A-133 or superior court district or set of districts as defined in G.S. 7A-41.1, as the case may be, during or after the session in which the defendant was convicted. If sentence is imposed in a county other than the one where the defendant was convicted, the clerk of the county where sentence is imposed must forward the records of the sentencing proceeding to the clerk of the county of conviction.

(d) Sentencing in Capital Cases. – Sentencing in capital cases is governed by Article 100 of this Chapter.

(e) Procedure Applicable when Certain Prior Convictions May Be Used. – The procedure in G.S. 15A-980 governs if the State seeks to use a prior conviction in a sentencing hearing. (1977, c. 711, s. 1; 1983, c. 513, s. 3; 1987 (Reg. Sess., 1988), c. 1037, s. 66.)