

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 33

Short Title: Felony Pleas in Dist. Ct.

(Public)

Sponsors: Senators Ballance; Soles, Speed, Parnell, Dannelly, Hoyle, Kerr, Winner, Martin of Guilford, Odom, Rand, Gulley, and Plyler.

Referred to: Judiciary I/Constitution.

January 26, 1995

A BILL TO BE ENTITLED

1 AN ACT TO GIVE THE DISTRICT COURT CONCURRENT JURISDICTION WITH
2 THE SUPERIOR COURT TO ACCEPT A PLEA OF GUILTY OR NO CONTEST
3 TO A CLASS F, G, H, OR I FELONY WITH THE CONSENT OF THE STATE
4 AND THE DEFENDANT.
5

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 7A-272 is amended by adding the following new subsections
8 to read:

9 "(c) With the consent of both the prosecutor and the defendant, the district court has
10 jurisdiction to accept a defendant's plea of guilty or no contest to a Class F, G, H, or I
11 felony if:

12 (1) The defendant is charged with a felony in an information filed pursuant
13 to G.S. 15A-644.1, the felony is pending in district court, and the
14 defendant has not been indicted for the offense; or

15 (2) The defendant has been indicted for a criminal offense but the
16 defendant's case is transferred from superior court to district court
17 pursuant to G.S. 15A-1029.1.

18 (d) Provisions in Chapter 15A of the General Statutes relating to appeal, release
19 after conviction, motion for appropriate relief, and the like shall apply to a plea

1 authorized under subsection (c) of this section as if the plea had been entered in superior
2 court, so that a district court judge is authorized to act in these matters in the same
3 manner as a superior court judge would be authorized to act if the plea had been entered
4 in superior court, and appeals that are authorized in these matters are to the appellate
5 division."

6 Sec. 2. The catch line for G.S. 7A-272 reads as rewritten:

7 **"§ 7A-272. Jurisdiction of district court; concurrent jurisdiction in guilty or**
8 **no contest pleas for certain felony offenses; appellate and appropriate**
9 **relief procedures applicable."**

10 Sec. 3. Article 32 of Chapter 15A of the General Statutes is amended by
11 adding a new section to read:

12 **"§ 15A-644.1. Filing of information when plea of guilty or no contest in district**
13 **court to Class F, G, H, or I felony.**

14 A defendant who pleads guilty or no contest in district court pursuant to G.S. 7A-
15 272(c)(1) shall enter that plea to an information complying with G.S. 15A-644(b), except
16 it shall contain the name of the district court in which it is filed."

17 Sec. 4. Article 18 of Chapter 7A of the General Statutes is amended by adding
18 a new section to read:

19 **"§ 7A-191. Recording of proceeding in which defendant pleads guilty or no contest**
20 **to felony in district court.**

21 The trial judge shall require that a true, complete, and accurate record be made of the
22 proceeding in which a defendant pleads guilty or no contest to a Class F, G, H, or I felony
23 pursuant to G.S. 7A-272."

24 Sec. 5. G.S. 15A-1011(c) reads as rewritten:

25 "(c) Upon entry of a plea of guilty or no contest or after conviction on a plea of not
26 guilty, the defendant may request permission to enter a plea of guilty or no contest as to
27 other crimes with which he is charged in the same or another prosecutorial district as
28 defined in G.S. 7A-60. A defendant may not enter any plea to crimes charged in another
29 prosecutorial district as defined in G.S. 7A-60 unless the district attorney of that district
30 consents in writing to the entry of such plea. The prosecutor or his representative may
31 appear in person or by filing an affidavit as to the nature of the evidence gathered as to
32 these other crimes. Entry of a plea under this subsection constitutes a waiver of venue. A
33 superior court is granted jurisdiction to accept the plea, upon an appropriate indictment or
34 information, even though the case may otherwise be within the exclusive original
35 jurisdiction of the district court. A district court may accept pleas under this section only
36 in cases within the original jurisdiction of the district ~~court~~-court and in cases within the
37 concurrent jurisdiction of the district and superior courts pursuant to G.S. 7A-272(c)."

38 Sec. 6. Chapter 15A of the General Statutes is amended by adding a new
39 Article to read:

40 **"ARTICLE 58A.**
41 **"PROCEDURES RELATING TO FELONY GUILTY PLEAS**
42 **IN DISTRICT COURT.**

1 "§ 15A-1029.1. Transfer of case from superior court to district court to accept
2 guilty and no contest pleas for certain felony offenses.

3 (a) With the consent of both the prosecutor and the defendant, the presiding
4 superior court judge may order a transfer of the defendant's case to the district court for
5 the purpose of allowing the defendant to enter a plea of guilty or no contest to a Class F,
6 G, H, or I felony.

7 (b) The transfer is effected when an order of transfer is entered. All orders made
8 prior to the transfer remain effective after transfer, as if no transfer had been made, until
9 modified or set aside in the district court.

10 (c) The provisions of Article 58 apply to a case transferred under this section from
11 superior court to district court in the same manner as if the plea were entered in superior
12 court. Appeals that are authorized in these matters are to the appellate division."

13 Sec. 7. This act becomes effective December 1, 1995.