

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S

3

SENATE BILL 33
Second Edition Engrossed 5/10/95
House Committee Substitute Favorable 6/3/96

Short Title: Felony Pleas in Dist. Ct.

(Public)

Sponsors:

Referred to:

January 26, 1995

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES IN THE CRIMINAL JURISDICTION OF
3 DISTRICT AND SUPERIOR COURT AND TO MAKE VARIOUS CRIMINAL
4 LAW PROCEDURAL CHANGES.

5 The General Assembly of North Carolina enacts:

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

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

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

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

17 (d) Provisions in Chapter 15A of the General Statutes shall apply to a plea
18 authorized under subsection (c) of this section as if the plea had been entered in superior

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

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

6 "**§ 7A-272. Jurisdiction of district court; concurrent jurisdiction in guilty or**
7 **no contest pleas for certain felony offenses; appellate and appropriate**
8 **relief procedures applicable.**"

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

11 "**§ 15A-644.1. Filing of information when plea of guilty or no contest in district**
12 **court to Class H or I felony.**

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

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

18 "**§ 7A-191.1. Recording of proceeding in which defendant pleads guilty or no**
19 **contest to felony in district court.**

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

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

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

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

39 **"ARTICLE 58A.**

40 **"PROCEDURES RELATING TO FELONY GUILTY PLEAS**
41 **IN DISTRICT COURT.**

42 "**§ 15A-1029.1. Transfer of case from superior court to district court to accept**
43 **guilty and no contest pleas for certain felony offenses.**

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

5 (b) The provisions of Article 58 of this Chapter apply to a case transferred under
6 this section from superior court to district court in the same manner as if the plea were
7 entered in superior court. Appeals that are authorized in these matters are to the appellate
8 division."

9 Sec. 7. G.S. 7A-290 reads as rewritten:

10 **"§ 7A-290. Appeals from district court in criminal cases; notice; appeal bond.**

11 Any defendant convicted in district court before the magistrate may appeal to the
12 district court for trial de novo before the district court judge. Any defendant convicted in
13 district court before the judge may appeal to the ~~superior~~-district court for a ~~trial de novo.~~
14 novo by jury. Notice of appeal may be given orally in open court, or to the clerk in
15 writing within 10 days of entry of judgment. Upon expiration of the 10-day period in
16 which an appeal may be entered, if an appeal has been entered and not withdrawn, the
17 clerk shall transfer the case to the district ~~or superior~~-court docket. ~~docket for trial de novo~~
18 by jury. The original bail shall stand pending appeal, unless the judge orders bail denied,
19 increased, or reduced."

20 Sec. 8. G.S. 15A-1201 reads as rewritten:

21 **"§ 15A-1201. Right to trial by jury.**

22 In all criminal cases the defendant has the right to be tried by a jury of 12 whose
23 verdict must be unanimous. In the district court the judge is the finder of fact in criminal
24 cases, but the defendant has the right to appeal for trial de novo in ~~superior~~-district court
25 as provided in G.S. 15A-1431. In superior court all criminal trials in which the defendant
26 enters a plea of not guilty must be tried before a jury."

27 Sec. 9. G.S. 15A-1431 reads as rewritten:

28 **"§ 15A-1431. Appeals by defendants from magistrate and district court judge; trial**
29 **de novo.**

30 (a) A defendant convicted before a magistrate may appeal for trial de novo before
31 a district court judge without a jury.

32 (b) A defendant convicted in the district court before the judge may appeal to the
33 ~~superior~~-district court for trial de novo with a jury as provided by law. Upon the docketing
34 in the ~~superior~~-district court of an appeal from a judgment imposed pursuant to a plea
35 arrangement between the State and the defendant, the jurisdiction of the ~~superior~~-district
36 court over any misdemeanor dismissed, reduced, or modified pursuant to that plea
37 arrangement shall be the same as was had by the district court prior to the plea
38 arrangement.

39 (c) Within 10 days of entry of judgment, notice of appeal may be given orally in
40 open court or in writing to the clerk. Within 10 days of entry of judgment, the defendant
41 may withdraw his appeal and comply with the judgment. Upon expiration of the 10-day
42 period, if an appeal has been entered and not withdrawn, the clerk must transfer the case
43 to the appropriate ~~court~~-court docket.

1 (d) A defendant convicted by a magistrate or district court judge is not barred from
2 appeal because of compliance with the judgment, but notice of appeal after compliance
3 must be given by the defendant in person to the magistrate or judge who heard the case
4 or, if he is not available, notice must be given:

5 (1) Before a magistrate in the county, in the case of appeals from the
6 magistrate; or

7 (2) During an open session of district court in the district court district as
8 defined in G.S. 7A-133, in the case of appeals from district court.

9 The magistrate or district court judge must review the case and fix conditions of pretrial
10 release as appropriate. If a defendant has paid a fine or costs and then appeals, the amount
11 paid must be remitted to the defendant, but the judge, clerk or magistrate to whom notice
12 of appeal is given may order the remission delayed pending the determination of the
13 appeal.

14 (e) Any order of pretrial release remains in effect pending appeal by the defendant
15 unless the judge modifies the order.

16 (f) Appeal pursuant to this section stays the execution of portions of the judgment
17 relating to fine and costs. Appeal stays portions of the judgment relating to confinement
18 when the defendant has complied with conditions of pretrial release. If the defendant
19 cannot comply with conditions of pretrial release, the judge may order confinement in a
20 local confinement facility pending the trial de novo in ~~superior~~-district court.

21 (g) The defendant may withdraw his appeal at any time prior to calendaring of the
22 case for trial de novo. The case is then automatically remanded to the court docket from
23 which the appeal was taken, for execution of the judgment.

24 (h) The defendant may withdraw his appeal after the calendaring of the case for
25 trial de novo only by consent of the court, and with the attachment of costs of that court,
26 unless the costs or any part of the costs are remitted by the court. The case may then be
27 remanded by order of the court to the court from which the appeal was taken for
28 execution of the judgment with any additional court costs that attached and that have not
29 been remitted."

30 Sec. 10. Chapter 15A of the General Statutes is amended by adding a new
31 Article to read:

32 **"ARTICLE 67.**

33 **"TRIAL DE NOVO BY JURY.**

34 **"§ 15A-1119. Selecting and impaneling the jury; procedure to determine trial judge.**

35 (a) The provision of Chapter 9 of the General Statutes, Jurors, pertinent to
36 criminal cases and the provisions of Article 72 of Chapter 15A of the General Statutes
37 apply in the selection and impaneling of jurors for a trial de novo in district court.

38 (b) Notwithstanding any other provision of law, the judge who presided in district
39 court at the time the defendant was convicted of the misdemeanor from which the
40 defendant is appealing shall not preside over the trial de novo by jury."

41 Sec. 11. G.S. 7A-271 reads as rewritten:

42 **"§ 7A-271. Jurisdiction of superior court.**

1 (a) The superior court has exclusive, original jurisdiction over all criminal actions
2 not assigned to the district court division by this Article, except that the superior court has
3 jurisdiction to try a misdemeanor:

- 4 (1) Which is a lesser included offense of a felony on which an indictment
5 has been returned, or a felony information as to which an indictment has
6 been properly waived; or
7 (2) When the charge is initiated by presentment; or
8 (3) Which may be properly consolidated for trial with a felony under G.S.
9 15A-926;
10 (4) To which a plea of guilty or nolo contendere is tendered in lieu of a
11 felony charge; or
12 (5) ~~When a misdemeanor conviction is appealed to the superior court for~~
13 ~~trial de novo, to~~ To accept a guilty plea to a lesser included or related
14 charge.

15 (b) ~~Appeals by the State or the defendant from the district court are to the superior~~
16 ~~court. The jurisdiction of the superior court over misdemeanors appealed from the district~~
17 ~~court to the superior court for trial de novo is the same as the district court had in the first~~
18 ~~instance, and when that conviction resulted from a plea arrangement between the~~
19 ~~defendant and the State pursuant to which misdemeanor charges were dismissed,~~
20 ~~reduced, or modified, to try those charges in the form and to the extent that they subsisted~~
21 ~~in the district court immediately prior to entry of the defendant and the State of the plea~~
22 ~~arrangement.~~

23 (c) When a district court is established in a district, any superior court judge
24 presiding over a criminal session of court shall order transferred to the district court any
25 pending misdemeanor which does not fall within the provisions of subsection (a), and
26 which is not pending in the superior court ~~on appeal from a lower court.~~

27 (d) The criminal jurisdiction of the superior court includes the jurisdiction to
28 dispose of infractions only in the following circumstances:

- 29 (1) If the infraction is a lesser-included violation of a criminal action
30 properly before the court, the court must submit the infraction for the
31 jury's consideration in factually appropriate cases.
32 (2) If the infraction is a lesser-included violation of a criminal action
33 properly before the court, or if it is a related charge, the court may
34 accept admissions of responsibility for the infraction. A proper pleading
35 for the criminal action is sufficient to support a finding of responsibility
36 for the lesser-included infraction."

37 Sec. 12. G.S. 7A-304 reads as rewritten:

38 **"§ 7A-304. Costs in criminal actions.**

39 (a) In every criminal case in the superior or district court, wherein the defendant is
40 convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed
41 against the prosecuting witness, the following costs shall be assessed and collected,
42 except that when the judgment imposes an active prison sentence, costs shall be assessed

1 and collected only when the judgment specifically so provides, and that no costs may be
2 assessed when a case is dismissed.

3 (1) For each arrest or personal service of criminal process, including
4 citations and subpoenas, the sum of five dollars (\$5.00), to be remitted
5 to the county wherein the arrest was made or process was served, except
6 that in those cases in which the arrest was made or process served by a
7 law-enforcement officer employed by a municipality, the fee shall be
8 paid to the municipality employing the officer.

9 (2) For the use of the courtroom and related judicial facilities, the sum of
10 six dollars (\$6.00) in the district court, including cases before a
11 magistrate, but excluding any misdemeanor case tried as a trial de novo
12 by jury, and the sum of twenty-four dollars (\$24.00) in superior court, to
13 be remitted to the county in which the judgment is rendered. In all cases
14 where the judgment is rendered in facilities provided by a municipality,
15 the facilities fee shall be paid to the municipality. Funds derived from
16 the facilities fees shall be used exclusively by the county or municipality
17 for providing, maintaining, and constructing adequate courtroom and
18 related judicial facilities, including: adequate space and furniture for
19 judges, district attorneys, public defenders, magistrates, juries, and other
20 court related personnel; office space, furniture and vaults for the clerk;
21 jail and juvenile detention facilities; free parking for jurors; and a law
22 library (including books) if one has heretofore been established or if the
23 governing body hereafter decides to establish one. In the event the
24 funds derived from the facilities fees exceed what is needed for these
25 purposes, the county or municipality may, with the approval of the
26 Administrative Officer of the Courts as to the amount, use any or all of
27 the excess to retire outstanding indebtedness incurred in the construction
28 of the facilities, or to reimburse the county or municipality for funds
29 expended in constructing or renovating the facilities (without incurring
30 any indebtedness) within a period of two years before or after the date a
31 district court is established in such county, or to supplement the
32 operations of the General Court of Justice in the county.

33 (3) For the retirement and insurance benefits of both State and local
34 government law-enforcement officers, the sum of seven dollars and
35 twenty-five cents (\$7.25), to be remitted to the State Treasurer. Fifty
36 cents (50¢) of this sum shall be administered as is provided in Article
37 12C of Chapter 143 of the General Statutes. Five dollars and seventy-
38 five cents (\$5.75) of this sum shall be administered as is provided in
39 Article 12E of Chapter 143 of the General Statutes, with one dollar and
40 twenty-five cents (\$1.25) being administered in accordance with the
41 provisions of G.S. 143-166.50(e). One dollar (\$1.00) of this sum shall
42 be administered as is provided in Article 12F of Chapter 143 of the
43 General Statutes.

- 1 (3a) For the supplemental pension benefits of sheriffs, the sum of seventy-
2 five cents (75¢), to be remitted to the Department of Justice and
3 administered under the provisions of Article 12G of Chapter 143 of the
4 General Statutes.
- 5 (4) For support of the General Court of Justice, the sum of forty-one dollars
6 (\$41.00) in the district court, including cases before a magistrate, but
7 excluding any misdemeanor case tried as a trial de novo by jury, and the
8 sum of forty-eight dollars (\$48.00) in the superior court, to be remitted
9 to the State Treasurer.
- 10 (5) For using pretrial release services, the district or superior court judge
11 shall, upon conviction, impose a fee of fifteen dollars (\$15.00) to be
12 remitted to the county providing the pretrial release services. This cost
13 shall be assessed and collected only if the defendant had been accepted
14 and released to the supervision of the agency providing the pretrial
15 release services.
- 16 (6) For support of the General Court of Justice, for the issuance by the clerk
17 of a report to the Division of Motor Vehicles pursuant to G.S. 20-24.2,
18 the sum of fifty dollars (\$50.00), to be remitted to the State Treasurer.
19 Upon a showing to the court that the defendant failed to appear because
20 of an error or omission of a judicial official, a prosecutor, or a law-
21 enforcement officer, the court shall waive this fee.

22 (a1) The costs assessed pursuant to subsection (a) may also be collected by clerks
23 of court for charges in which a party elects to pay the court's costs to satisfy the
24 requirements of G.S. 20-7.2. Costs collected pursuant to this subsection shall be
25 allocated in the same manner as other costs collected pursuant to this section. If a party
26 elects to pay the costs of court to satisfy the requirements of G.S. 20-7.2 and is
27 subsequently adjudged guilty of the same charge by the court, he shall not be required to
28 pay the costs of court again for that charge, but he is subject to any other orders of the
29 court, including an order to pay a fine.

30 (b) On appeal, costs are cumulative, and costs assessed before a magistrate shall be
31 added to costs assessed in the district ~~court, and court~~. Costs for criminal cases and
32 infractions appealed within the district court shall be assessed at the amount specified for
33 costs of criminal cases in superior court. ~~costs~~ Costs assessed in the district court shall be
34 added to costs assessed in the superior court, except that the fee for the Law-Enforcement
35 Officers' Benefit and Retirement Fund and the Sheriffs' Supplemental Pension Fund and
36 the fee for pretrial release services shall be assessed only once in each case. No ~~superior~~
37 additional district court costs shall be assessed against a defendant who gives notice of
38 appeal from the district court a misdemeanor conviction but withdraws it prior to the
39 expiration of the 10-day period for entering notice of appeal. When a case is reversed on
40 appeal, the defendant shall not be liable for costs, and the State shall be liable for the cost
41 of printing records and briefs in the Appellate Division.

42 (c) Witness fees, expenses for blood tests and comparisons incurred by G.S. 8-
43 50.1(a), jail fees and cost of necessary trial transcripts shall be assessed as provided by

1 law in addition to other costs set out in this section. Nothing in this section shall limit the
2 power or discretion of the judge in imposing fines or forfeitures or ordering restitution.

3 (d) In any criminal case in which the liability for costs, fines, restitution, or any
4 other lawful charge has been finally determined, the clerk of superior court shall, unless
5 otherwise ordered by the presiding judge, disburse such funds when paid in accordance
6 with the following priorities:

- 7 (1) Costs due the county;
- 8 (2) Costs due the city;
- 9 (3) Fines to the county school fund;
- 10 (4) Sums in restitution prorated among the persons entitled thereto;
- 11 (5) Costs due the State;
- 12 (6) Attorney's fees.

13 Sums in restitution received by the clerk of superior court shall be disbursed when:

- 14 (1) Complete restitution has been received; or
- 15 (2) When, in the opinion of the clerk, additional payments in restitution will
16 not be collected; or
- 17 (3) Upon the request of the person or persons entitled thereto; and
- 18 (4) In any event, at least once each calendar year.

19 (e) Unless otherwise provided by law, the costs assessed pursuant to this section
20 for criminal actions disposed of in the district court are also applicable to infractions
21 disposed of in the district court. The costs assessed in ~~superior-district~~ court for ~~criminal~~
22 ~~actions-misdemeanor convictions~~ appealed from ~~district court to superior court~~ are also
23 applicable to infractions appealed to ~~superior-district~~ court. If an infraction is disposed of
24 in the superior or district court pursuant to G.S. 7A-271(d), costs applicable to the
25 original charge are applicable to the infraction."

26 Sec. 13. G.S. 15A-941 reads as rewritten:

27 "**§ 15A-941. Arraignment before judge; judge only upon written request; use of two-**
28 **way audio and video transmission; transmission; entry of not guilty plea if**
29 **not arraigned.**

30 (a) Arraignment consists of bringing a defendant in open court or as provided
31 in subsection (b) of this section before a judge having jurisdiction to try the offense,
32 advising him of the charges pending against him, and directing him to plead. The
33 prosecutor must read the charges or fairly summarize them to the defendant. If the
34 defendant fails to plead, the court must record that fact, and the defendant must be tried
35 as if he had pleaded not guilty.

36 (b) An arraignment in a noncapital case may be conducted by an audio and
37 video transmission between the judge and the defendant in which the parties can see and
38 hear each other. If the defendant has counsel, the defendant shall be allowed to
39 communicate fully and confidentially with his attorney during the proceeding.

40 (c) Prior to the use of audio and video transmission pursuant to subsection (b) of
41 this section, the procedures and type of equipment for audio and video transmission shall
42 be submitted to the Administrative Office of the Courts by the senior regular resident

1 superior court judge for the judicial district or set of districts and approved by the
2 Administrative Office of the Courts.

3 (d) A defendant will be arraigned in accordance with this section, only if the
4 defendant files a written request with the clerk of superior court for an arraignment not
5 later than 21 days after service of the bill of indictment. If a bill of indictment is not
6 required to be served pursuant to G.S. 15A-630, then the written request for arraignment
7 must be filed not later than 21 days from the date of the return of the indictment as a true
8 bill. Upon the return of the indictment as a true bill, the court must immediately cause
9 notice of the 21-day time limit within which the defendant may request an arraignment to
10 be mailed or otherwise given to the defendant and to the defendant's counsel of record, if
11 any. If the defendant does not file a written request for arraignment, then the court shall
12 enter a not guilty plea on behalf of the defendant.

13 (e) Nothing in this section shall prevent the district attorney from calendaring
14 cases for administrative purposes."

15 Sec. 14. G.S. 15A-942 reads as rewritten:

16 "**§ 15A-942. Right to counsel.**

17 If the defendant appears at the arraignment without counsel, the court must inform the
18 defendant of his right to counsel, must accord the defendant opportunity to exercise that
19 right, and must take any action necessary to effectuate the right. If the defendant does not
20 file a written request for arraignment, the court, in addition to entering a plea of not guilty
21 on behalf of the defendant, shall also verify that the defendant is aware of the right to
22 counsel, that the defendant has been given the opportunity to exercise that right, and must
23 take any action necessary to effectuate that right on behalf of the defendant."

24 Sec. 15. G.S. 15A-952(c) reads as rewritten:

25 "(c) Unless otherwise provided, the motions listed in subsection (b) must be made
26 at or before the time of arraignment if a written request is filed for arraignment and if
27 arraignment is held prior to the session of court for which the trial is calendared. If
28 arraignment is to be held at the session for which trial is calendared, the motions must be
29 filed on or before five o'clock P.M. on the Wednesday prior to the session when trial of
30 the case begins.

31 If a written request for arraignment is not filed, then any motion listed in subsection
32 (b) of this section must be filed not later than 20 days from the date of the return of
33 the bill of indictment as a true bill."

34 Sec. 16. G.S. 15A-1221(a) reads as rewritten:

35 "(a) The order of a jury ~~trial~~, trial in superior court, in general, is as follows:

36 ~~(1) The defendant must be arraigned and must have his plea recorded, out~~
37 ~~of the presence of the prospective jurors, unless he has waived~~
38 ~~arraignment under G.S. 15A-945.~~

39 (1a) Unless the defendant has filed a written request for an arraignment, the
40 court must enter a not guilty plea on behalf of the defendant in
41 accordance with G.S. 15A-941. If a defendant does file a written
42 request for an arraignment, then the defendant must be arraigned and

1 must have his plea recorded out of the presence of the prospective jurors
2 in accordance with G.S. 15A-941.

- 3 (2) The judge must inform the prospective jurors of the case in accordance
4 with G.S. 15A-1213.
- 5 (3) The jury must be sworn, selected and impaneled in accordance with
6 Article 72, Selecting and Impaneling the Jury.
- 7 (4) Each party must be given the opportunity to make a brief opening
8 statement, but the defendant may reserve his opening statement.
- 9 (5) The State must offer evidence.
- 10 (6) The defendant may offer evidence and, if he has reserved his opening
11 statement, may precede his evidence with that statement.
- 12 (7) The State and the defendant may then offer successive rebuttals as
13 provided in G.S. 15A-1226.
- 14 (8) At the conclusion of the evidence, the parties may make arguments to
15 the jury in accordance with the provisions of G.S. 15A-1230.
- 16 (9) The judge must deliver a charge to the jury in accordance with the
17 provisions of G.S. 15A-1231 and 15A-1232.
- 18 (10) The jury must retire to deliberate, and alternate jurors who have not
19 been seated must be excused as provided in G.S. 15A-1215."

20 Sec. 17. G.S. 15A-135 reads as rewritten:

21 **"§ 15A-135. Allegation of venue conclusive in absence of timely motion.**

22 Allegations of venue in any criminal pleading become conclusive in the absence of a
23 timely motion to dismiss for improper venue under G.S. 15A-952. A defendant may
24 move to dismiss for improper venue upon trial de novo in ~~superior~~ district court, provided
25 he did not in the district court nonjury trial with benefit of counsel stipulate venue or
26 expressly waive his right to contest venue."

27 Sec. 18. G.S. 15A-952(b) reads as rewritten:

28 "(b) Except as provided in subsection (d), when the following motions are made in
29 superior court or upon trial de novo by jury in district court, they must be made within the
30 time limitations later time:

- 31 (1) Motions to continue.
- 32 (2) Motions for a change of venue under G.S. 15A-957.
- 33 (3) Motions for a special venire under G.S. 9-12 or G.S. 15A-958.
- 34 (4) Motions to dismiss under G.S. 15A-955.
- 35 (5) Motions to dismiss for improper venue.
- 36 (6) Motions addressed to the pleadings, including:
- 37 a. Motions to dismiss for failure to plead under G.S. 15A-924(e).
- 38 b. Motions to strike under G.S. 15A-924(f).
- 39 c. Motions for bills of particulars under G.S. 15A-924(b) or G.S.
40 15A-925.
- 41 d. Motions for severance of offenses, to the extent required by G.S.
42 15A-927.
- 43 e. Motions for joinder of related offenses under G.S. 15A-926(c)."

1 Sec. 19. G.S. 15A-953 reads as rewritten:

2 **"§ 15A-953. Motions practice in district court.**

3 In misdemeanor prosecutions in the district court motions should ordinarily be made
4 upon arraignment or during the course of trial, as appropriate. A written motion may be
5 made prior to trial in district court. With the consent of other parties and the district court
6 judge, a motion may be heard before trial. Upon trial de novo in ~~superior-district~~ court,
7 motions are subject to the provisions of G.S. 15A-952, and except as provided in G.S.
8 15A-135, no motion in ~~superior-district~~ court upon trial de novo is prejudiced by any
9 ruling upon, or a failure to make timely motion on, the subject in ~~district court.~~ court in
10 the nonjury trial."

11 Sec. 20. G.S. 15A-975(c) reads as rewritten:

12 "(c) If, after a pretrial determination and denial of the motion, the judge is satisfied,
13 upon a showing by the defendant, that additional pertinent facts have been discovered by
14 the defendant which he could not have discovered with reasonable diligence before the
15 determination of the motion, he may permit the defendant to renew the motion before the
16 trial or, if not possible because of the time of discovery of alleged new facts, during trial.

17 When a misdemeanor is appealed by the defendant for trial de novo in ~~superior-district~~
18 court, the State need not give the notice required by this section."

19 Sec. 21. G.S. 15A-1101 reads as rewritten:

20 **"§ 15A-1101. Applicability of superior court procedure.**

21 Trial procedure in the district court is in accordance with the provisions of Subchapter
22 XII, Trial in Superior Court, except for provisions:

23 (1) ~~Relating to jury trial.~~

24 (2) Requiring recordation of proceedings unless they specify their
25 applicability to the district court.

26 (3) That specify their applicability to superior court."

27 Sec. 22. This act becomes effective December 1, 1996, and applies to offenses
28 committed on or after that date.