

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 1130

Short Title: Speedier Trials.

(Public)

Sponsors: Senator Jordan.

Referred to: Judiciary II.

April 15, 1999

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE FOR SPEEDIER DISPOSITION OF FELONIES AND
2 MISDEMEANORS IN SUPERIOR COURT BY ELIMINATING SUPERIOR
3 COURT REVIEW OF INFRACTIONS TRIED IN DISTRICT COURT AND TO
4 PROVIDE FOR DIRECT REVIEW BY THE COURT OF APPEALS OF
5 PROBATION HEARINGS CONDUCTED IN DISTRICT COURT.
6

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 15A-1115(a) reads as rewritten:

9 "(a) No Appeal of District Court Decision. — ~~A person who denies responsibility~~
10 ~~and is found responsible for an infraction in the district court, within 10 days of the~~
11 ~~hearing, may appeal the decision to the criminal division of the superior court for a~~
12 ~~hearing de novo. Upon appeal, the defendant is entitled to a jury trial unless he consents~~
13 ~~to have the hearing conducted by the judge. The State must prove beyond a reasonable~~
14 ~~doubt that the person charged is responsible for the infraction unless the person admits~~
15 ~~responsibility. Unless otherwise provided by law, the procedures applicable to~~
16 ~~misdemeanors disposed of in the superior court apply to those infraction hearings. In the~~
17 ~~superior court, a prosecutor must represent the State. Appeal from the judgment in the~~
18 ~~superior court is as provided for other criminal actions in superior court, and the Attorney~~
19 ~~General must represent the State in an appeal of such actions. A judgment entered in~~
20 ~~district court upon a finding of responsibility for an infraction is final, whether the~~

1 finding of responsibility is based upon a plea of responsibility or after hearing when the
2 defendant denies responsibility. No further review by the superior court or the appellate
3 division is authorized."

4 Section 2. G.S. 15A-1347 reads as rewritten:

5 "**§ 15A-1347. Appeal from revocation of probation or imposition of special**
6 **probation upon violation.**

7 When a district court judge, as a result of a finding of a violation of probation,
8 activates a sentence or imposes special probation, the defendant may appeal to the superior
9 court for a de novo revocation hearing. At the hearing the probationer has all rights and the court
10 has all authority they have in a revocation hearing held before the superior court in the first
11 instance. Appeals from lower courts to the superior courts from judgments revoking probation
12 may be heard in term or out of term, in the county or out of the county by the resident superior
13 court judge of the district or the superior court judge assigned to hold the courts of the district, or
14 a judge of the superior court commissioned to hold court in the district, or a special superior
15 court judge residing in the district. When the defendant appeals to the superior court because a
16 district court has found he violated probation and has activated his sentence or imposed special
17 probation, and the superior court, after a de novo revocation hearing, orders that the defendant
18 continue on probation under the same or modified conditions, the superior court is considered the
19 court that originally imposed probation with regard to future revocation proceedings and other
20 purposes of this Article. under G.S. 7A-27(b1). When a superior court judge, as a result of
21 a finding of a violation of probation, activates a sentence or imposes special probation,
22 either in the first instance or upon a de novo hearing after appeal from a district court, the
23 defendant may appeal under G.S. 7A-27."

24 Section 3. G.S. 7A-27 is amended by adding a new subsection to read:

25 "(b1) From any final judgment of a district court activating a sentence or imposing
26 special probation as a result of a finding of a violation of probation, appeal lies of right to
27 the Court of Appeals."

28 Section 4. G.S. 7A-191.1 reads as rewritten:

29 "**§ 7A-191.1. Recording of ~~proceeding~~ certain proceedings in which defendant pleads**
30 **guilty or no contest to felony in district court.**

31 The trial judge shall require that a true, complete, and accurate record be made ~~of the~~
32 of:

- 33 (1) A proceeding in which a defendant pleads guilty or no contest to a Class
34 H or I felony pursuant to G.S. 7A-272. G.S. 7A-272; and
35 (2) A hearing in which a judge is authorized to activate a sentence or to
36 impose special probation as a result of a finding of a violation of
37 probation."

38 Section 5. Section 1 of this act becomes effective December 1, 1999, and
39 applies to infractions committed on or after that date. Sections 2, 3, and 4 of this act
40 become effective December 1, 1999, and apply to offenses committed on or after that
41 date for which a probation revocation hearing is conducted. The remainder of this act is
42 effective when it becomes law.