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SESSION 2015

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HOUSE BILL 215
Committee Substitute Favorable 4/1/15
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PROPOSED SENATE COMMITTEE SUBSTITUTE H215-CSTJ-12 [v.2]
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Short Title: Procedure for Waiver of Jury Trial.

(Public)

Sponsors:

Referred to:

March 12, 2015

A BILL TO BE ENTITLED
AN ACT TO ESTABLISH PROCEDURE FOR WAIVER OF THE RIGHT TO A JURY
TRIAL IN CRIMINAL CASES IN SUPERIOR COURT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-1201 reads as rewritten:

"§ 15A-1201. Right to trial by jury; waiver of jury trial; procedure for waiver.

(a) In all criminal cases the defendant has the right to be tried by a jury of 12 whose verdict must be unanimous. In the district court the judge is the finder of fact in criminal cases, but the defendant has the right to appeal for trial de novo in superior court as provided in G.S. 15A-1431. In superior court all criminal trials in which the defendant enters a plea of not guilty must be tried before a jury, unless the defendant waives the right to a jury trial, as provided in subsection (b) of this section.

(b) A defendant accused of any criminal offense for which the State is not seeking a sentence of death in superior court may, knowingly and voluntarily, in writing or on the record in the court and with the consent of the trial judge, waive the right to trial by jury. When a defendant waives the right to trial by jury under this section, the jury is dispensed with as provided by law, and the whole matter of law and fact shall be heard and judgment given by the court.

(c) A defendant seeking to waive the right to trial by jury under subsection (b) of this section shall give notice of intent to waive a jury trial by any of the following methods:

- (1) Stipulation signed by both the State and the defendant and served on the counsel for any co-defendants.
- (2) Filing a written notice of intent to waive a jury trial with the court and serving on the State and counsel for any co-defendants within the earliest of (i) 10 working days after arraignment; (ii) 10 working days after service of a calendar setting under G.S. 7A-49.4(b); or (iii) 10 working days after the setting of a definite trial date under G.S. 7A-49.4(c).
- (3) Giving notice of intent to waive a jury trial on the record in open court by the earlier of (i) the time of arraignment or (ii) the calling of the calendar under G.S. 7A-49.4(b) or G.S. 7A-49.4(c).

Such a waiver shall extend to the whole matter of law and fact, to include all factors referred to in G.S. 20-179 and G.S. 15A-1340.16(a1). Upon notice of waiver by the defense, the State may contact the judge scheduled to preside, and the defendant, in writing, to



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determine whether the judge agrees to hear that case without a jury. Once waiver of a jury trial has been made and consented to by the trial judge, it may not be revoked if the judge determines that the revocation would cause unreasonable hardship or delay to the State; except the defendant may revoke one time as of right within 10 business days of the defendant's initial decision under G.S. 15A-1201(c) if the defendant does so in open court with the State present, or in writing to both the State and the judge. This decision to revoke is final and binding.

In the event that the defendant makes a motion to suppress evidence under Article 53 of this Chapter, the court shall make written findings of fact and conclusions of law."

SECTION 2. G.S. 20-179 is amended by adding a new subsection to read:

"(a3) Procedure When Jury Trial Waived. – If a defendant waives the right to a jury trial under G.S. 15A-1201, the trial judge shall make all findings that are conferred upon the jury under the provisions of this section."

SECTION 3. G.S. 15A-1340.16 is amended by adding a new subsection to read:

"(a6) Procedure When Jury Trial Waived. – If a defendant waives the right to a jury trial under G.S. 15A-1201, the trial judge shall make all findings that are conferred upon the jury under the provisions of this section."

SECTION 4. This act becomes effective July 1, 2015, and applies to defendants waiving their right to trial by jury on or after that date.