



## HOUSE BILL 215: Procedure for Waiver of Jury Trial

2015-2016 General Assembly

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<b>Committee:</b>	Senate Judiciary I	<b>Date:</b>	May 21, 2015
<b>Introduced by:</b>	Reps. Stevens, Bryan, Floyd, D. Hall	<b>Prepared by:</b>	Susan Sitze
<b>Analysis of:</b>	PCS to Fourth Edition H215-CSSA-65		Committee Counsel

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**SUMMARY:** *The Proposed Committee Substitute (PCS) for House Bill 215 establishes the procedure for waiver of the right to a jury trial in criminal cases in superior court. The primary change in the PCS is the addition of criteria for consideration when granting consent to waive or consent to revoke a waiver.*

**BACKGROUND:** In the fall of 2014, North Carolina voters approved an amendment to Section 24 of Article I of the North Carolina Constitution to allow bench trials for felonies in superior court. Except when the State is seeking a sentence of death, a criminal defendant whose case was arraigned in superior court on or after December 1, 2014, has the right to request a waiver of trial by jury and instead be tried by a judge.

**BILL ANALYSIS:** The PCS would add provisions to current G.S. 15A-1201, "Right to trial by jury trial; procedure for waiver of jury trial," to establish specific procedures for waiver of the right to a jury trial in criminal cases in Superior Court.

**Section 1** would provide that a defendant who seeks to waive a jury trial in cases in which the State is not seeking the death penalty must give notice of intent to waive a jury trial by any of the following methods:

- Serving a stipulation signed by the State and the defendant on the counsel for any co-defendants.
- Filing a notice of intent to waive a jury trial with the court and serving it on the State and counsel for any co-defendants within the earliest of any of the specified times.
- Giving notice of intent to waive a jury trial on the record in open court within one of the specified times.

The waiver would extend to all matters of law and fact, including all factors listed in the specified provisions under the chapter on motor vehicles and under the Criminal Procedure Act. The waiver would be prohibited if joinder of co-defendants is allowed unless all co-defendants waive their right to trial by jury. The State would be required to schedule a hearing in open court to determine whether the judge agrees to hear the case without a jury. If the trial judge consents to the waiver of a jury trial the defendant may revoke one time as of right within 10 business days of the defendant's initial decision. The court may otherwise only grant a waiver of the revocation upon making certain findings.

When a trial is held without a jury, if any party so requests before the finding of guilty or not guilty, prior to announcing the verdict in open court, the court must make written findings of fact to support the verdict. Additionally, the court must make written findings of fact and conclusions of law on any ruling on a motion to suppress evidence.

**Sections 2 and 3** would require a trial judge to make all findings that would be required of a jury when a defendant waives the right to a jury trial.



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**EFFECTIVE DATE:** This act becomes effective October 1, 2015, and applies to defendants waiving their right to trial by jury on or after that date.

*\*Janice Paul, Staff Attorney, contributed substantially to this summary.*