



# HOUSE BILL 115: Prosecutor Consent To Waive Jury Trial

2015-2016 General Assembly

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<b>Committee:</b>	House Judiciary III	<b>Date:</b>	April 14, 2015
<b>Introduced by:</b>	Reps. Speciale, Cleveland, Millis, Ford	<b>Prepared by:</b>	Janice Paul
<b>Analysis of:</b>	First Edition		Committee Counsel

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**SUMMARY:** *This act would place an amendment to the North Carolina State Constitution on the ballot that, if passed, would provide that a person charged with a noncapital offense must have the consent of the prosecutor in addition to the consent of the trial judge in order to waive the person's right to a jury trial and have a trial by a judge in superior court. If approved by the voters, the statute providing the procedure for the change would be effective for cases arraigned in superior court on or after December 1, 2016.*

**CURRENT LAW:** Article I, Section 24, of the N.C. Constitution provides:

**Sec. 24. Right of jury trial in criminal cases.**

No person shall be convicted of any crime but by the unanimous verdict of a jury in open court, except that a person accused of any criminal offense for which the State is not seeking a sentence of death in superior court may, in writing or on the record in the court and with the consent of the trial judge, waive jury trial, subject to procedures prescribed by the General Assembly. The General Assembly may, however, provide for other means of trial for misdemeanors, with the right of appeal for trial de novo. (2013-300, s. 1.)

**BILL ANALYSIS:** The act provides for a proposed constitutional amendment to be on the ballot for the statewide general election to be held in November 2016. The ballot question would be whether, in addition to having the consent of the superior court trial judge, a defendant charged with a noncapital offense must have the consent of the prosecutor in order to choose a trial by the judge without a jury. The act contains a proposed statutory provision implementing the change.

**EFFECTIVE DATE:** If the ballot measure passes, the amendment and a statute implementing the change would be effective for cases arraigned in superior court on or after December 1, 2016.

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Director



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