



HOUSE BILL 215: Procedure for Waiver of Jury Trial

2015-2016 General Assembly

Committee:

Introduced by:

Analysis of: S.L. 2015-289

Date:

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SUMMARY: *S.L. 2015-289 establishes the procedure for waiver of the right to a jury trial in criminal cases in superior court. See the full summary for details of those procedures.*

This act became effective October 1, 2015, and applies to defendants waiving their right to trial by jury on or after that date.

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: This act adds 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 provides 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, which may be conditioned on each party's consent to the trial judge, 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 extends 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. If joinder of co-defendants is allowed, there shall be a jury trial unless all co-defendants waive their right to trial by jury or the court severs the cases. The State is 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 the trial judge finding the revocation would not cause unreasonable hardship or delay to the State.

Sections 2 and 3 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.

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.

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