

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H

D

HOUSE BILL 1077*
Committee Substitute Favorable 5/12/09
PROPOSED SENATE COMMITTEE SUBSTITUTE H1077-PCS80488-RI-39

Short Title: Venue/Municipalities in Multiple Districts. (Public)

Sponsors:

Referred to:

April 6, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE VENUE RULES AND THE AUTHORITY OF MAGISTRATES
3 FOR MUNICIPALITIES LYING IN FOUR OR MORE COUNTIES, EACH OF WHICH
4 IS IN A DIFFERENT JUDICIAL DISTRICT.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 7A-199(c) reads as rewritten:

7 "(c) A district court judge sitting at a seat of court described in this section may, in
8 criminal cases, conduct preliminary hearings and try misdemeanors arising within the corporate
9 limits of the municipality plus the territory embraced within a distance of one mile in all
10 directions therefrom.

11 If the corporate limits of the municipality extend into two or more counties, each of which
12 is in a separate district court district, a district court judge assigned to sit at the seat of court has
13 the same authority over criminal cases arising in the municipality and the territory embraced
14 within a distance of one mile in all directions that he would have if the corporate limits of the
15 municipality were solely located in a single district court district. Judges assigned to sit in such
16 a municipality shall be assigned by the chief district court judge serving the district in which a
17 majority of the voters of the municipality reside, but offenses arising in ~~the~~ a portion of the
18 municipality in which ~~the~~ a minority of the voters reside shall not be disposed of in the
19 municipality unless the chief district court judge for that district consents in writing to the
20 disposition of criminal cases in the municipality. However, for charges brought by municipal
21 law enforcement officers only, if the corporate limits of the municipality extend into four or
22 more counties, each of which is in a separate district court district, offenses arising in a portion
23 of the municipality in which a minority of the voters reside shall be disposed of in the portion
24 of the municipality in which a majority of the voters reside without obtaining the consent of the
25 chief district court judge for the district in which the offense occurred."

26 SECTION 2. G.S. 7A-293 reads as rewritten:

27 "§ 7A-293. **Special authority of a magistrate assigned to a municipality located in more**
28 **than one county of a district court district.**

29 A magistrate assigned to an incorporated municipality, the boundaries of which lie in more
30 than one county of a district court district, may, in criminal matters, exercise the powers
31 granted by G.S. 7A-273 as if the corporate limits plus the territory embraced within a distance
32 of one mile in all directions therefrom were located wholly within the magistrate's county of
33 residence. Appeals from a magistrate exercising the authority granted by this section shall be



* H 1 0 7 7 - P C S 8 0 4 8 8 - R I - 3 9 *

1 taken in the district court in the county in which the offense was committed. A magistrate
2 exercising the special authority granted by this section shall transmit all records, reports, and
3 monies collected to the clerk of the superior court of the county in which the offense was
4 committed. In addition, if a magistrate is assigned to an incorporated municipality, the
5 boundaries of which lie in two or more district court districts, the magistrate may exercise the
6 powers described in this section as if ~~both~~ the counties were in the same district court district, if
7 the clerks of superior court and the chief district court judges serving ~~both~~ the districts in which
8 the municipality is located agree in writing that the exercise of this special authority would
9 promote the administration of justice in the municipality and in ~~both~~ the districts. However, if a
10 magistrate is assigned to an incorporated municipality, the boundaries of which lie in four or
11 more counties, each of which is in a separate district court district, the magistrate may exercise
12 the powers described in this section as if all the counties were in the same district court district,
13 without the necessity of such an agreement between the clerks and judges of the affected
14 counties, and the records, reports, and monies collected in connection with the exercise of that
15 authority shall be transmitted to the clerk of the superior court district for the county in which
16 the offense was committed."

17 **SECTION 3.** G.S. 15A-131(c) reads as rewritten:

18 "(c) Except as otherwise provided in this subsection, venue for probable cause hearings
19 and trial proceedings in cases within the original jurisdiction of the superior court lies in the
20 county where the charged offense occurred. ~~If~~ Except as otherwise provided in this subsection,
21 if the alleged offense is committed within the corporate limits of a municipality which is the
22 seat of superior court and is located in more than one county, venue lies in the superior court
23 which sits within that municipality, but upon timely objection of the defendant or the district
24 attorney in the county in which the alleged offense occurred the case must be transferred to the
25 county in which the alleged offense occurred. However, for charges brought by municipal law
26 enforcement officers only, if the alleged offense is committed within the corporate limits of a
27 municipality that extends into four or more counties, each of which is in a separate superior
28 court district, offenses committed within the corporate limits of the municipality but in a
29 superior court district other than the one for which the municipality is the seat of superior court
30 shall be disposed of in the municipality with no allowance for objections by the defendant or
31 the district attorney."

32 **SECTION 4.** This act becomes effective December 1, 2009, and applies to
33 offenses committed on or after that date.