

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 399
Judiciary II Committee Substitute Adopted 4/23/13
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PROPOSED HOUSE COMMITTEE SUBSTITUTE S399-PCS35367-RN-42

Short Title: Criminal Defendant May Waive Jury Trial.

(Public)

Sponsors:

Referred to:

March 25, 2013

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CONSTITUTION TO PROVIDE THAT A PERSON ACCUSED OF ANY CRIMINAL OFFENSE IN SUPERIOR COURT FOR WHICH THE STATE IS NOT SEEKING A SENTENCE OF DEATH MAY WAIVE THE RIGHT TO TRIAL BY JURY AND INSTEAD BE TRIED BY A JUDGE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 24 of Article I of the North Carolina Constitution reads as rewritten:

"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."

SECTION 2. The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at a statewide general election to be held on November 4, 2014, which election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The question to be used in the voting systems and ballots shall be:

"[] FOR [] AGAINST

Constitutional amendment providing 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 court and with the consent of the trial judge, waive the person's right to a trial by jury."

SECTION 3. If a majority of the votes cast on the question are in favor of the amendment set out in Section 1 of this act, the State Board of Elections shall certify the amendment to the Secretary of State, who shall enroll the amendment so certified among the permanent records of that office. The amendment becomes effective December 1, 2014, and applies to criminal offenses arraigned in superior court on or after that date.

SECTION 4. G.S. 15A-1201 reads as rewritten:

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

(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,



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1 but the defendant has the right to appeal for trial de novo in superior court as provided in
2 G.S. 15A-1431. In superior court all criminal trials in which the defendant enters a plea of not
3 guilty must be tried before a ~~jury-jury~~, unless the defendant waives the right to a jury trial, as
4 provided in subsection (b) of this section.

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

11 **SECTION 5.** Section 4 of this act is effective only upon approval by the voters of
12 the constitutional amendment proposed in Section 1 of this act. If the constitutional amendment
13 proposed in Section 1 is approved by the voters, Section 4 of this act becomes effective
14 December 1, 2014, and applies to criminal cases arraigned in superior court on or after that
15 date. The remainder of this act is effective when it becomes law.