

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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Short Title: Procedure for Waiver of Jury Trial.

(Public)

Sponsors:

Referred to:

March 12, 2015

1 A BILL TO BE ENTITLED  
2 AN ACT TO ESTABLISH PROCEDURE FOR WAIVER OF THE RIGHT TO A JURY  
3 TRIAL IN CRIMINAL CASES IN SUPERIOR COURT.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 15A-1201 reads as rewritten:

6 "**§ 15A-1201. Right to trial by jury; waiver of jury ~~trial~~; procedure for waiver.**

7 (a) Right to Jury Trial. – In all criminal cases the defendant has the right to be tried by a  
8 jury of 12 whose verdict must be unanimous. In the district court the judge is the finder of fact  
9 in criminal cases, but the defendant has the right to appeal for trial de novo in superior court as  
10 provided in G.S. 15A-1431. In superior court all criminal trials in which the defendant enters a  
11 plea of not guilty must be tried before a jury, unless the defendant waives the right to a jury  
12 trial, as provided in subsection (b) of this section.

13 (b) Waiver of Right to Jury Trial. – A defendant accused of any criminal offense for  
14 which the State is not seeking a sentence of death in superior court may, knowingly and  
15 voluntarily, in writing or on the record in the court and with the consent of the trial judge,  
16 waive the right to trial by jury. When a defendant waives the right to trial by jury under this  
17 section, the jury is dispensed with as provided by law, and the whole matter of law and ~~fact~~  
18 fact, to include all factors referred to in G.S. 20-179 and subsections (a1) and (a3) of  
19 G.S. 15A-1340.16, shall be heard and judgment given by the court. If a motion for joinder of  
20 co-defendants is allowed, there shall be a jury trial unless all defendants waive the right to trial  
21 by jury, or the court, in its discretion, severs the case.

22 (c) A defendant seeking to waive the right to trial by jury under subsection (b) of this  
23 section shall give notice of intent to waive a jury trial by any of the following methods:

24 (1) Stipulation, which may be conditioned on each party's consent to the trial  
25 judge, signed by both the State and the defendant and served on the counsel  
26 for any co-defendants.

27 (2) Filing a written notice of intent to waive a jury trial with the court and  
28 -serving on the State and counsel for any co-defendants within the earliest of  
29 (i) 10 working days after arraignment, (ii) 10 working days after service of a



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1 calendar setting under G.S. 7A-49.4(b), or (iii) 10 working days after the  
2 setting of a definite trial date under G.S. 7A-49.4(c).

3 (3) Giving notice of intent to waive a jury trial on the record in open court by  
4 the earlier of (i) the time of arraignment or (ii) the calling of the calendar  
5 under G.S. 7A-49.4(b) or G.S. 7A-49.4(c).

6 (d) Judicial Consent to Jury Waiver. – Upon notice of waiver by the defense pursuant to  
7 subsection (c) of this section, the State shall schedule the matter to be heard in open court to  
8 determine whether the judge agrees to hear the case without a jury. The decision to grant or  
9 deny the defendant's request for a bench trial shall be made by the judge who will actually  
10 preside over the trial. Before consenting to a defendant's waiver of the right to a trial by jury,  
11 the trial judge shall do all of the following:

12 (1) Address the defendant personally and determine whether the defendant fully  
13 understands and appreciates the consequences of the defendant's decision to  
14 waive the right to trial by jury.

15 (2) Determine whether the State objects to the waiver and, if so, why. Consider  
16 the arguments presented by both the State and the defendant regarding the  
17 defendant's waiver of a jury trial.

18 (e) Revocation of Waiver. – Once waiver of a jury trial has been made and consented to  
19 by the trial judge pursuant to subsection (d) of this section, the defendant may revoke the  
20 waiver one time as of right within 10 business days of the defendant's initial notice pursuant to  
21 subsection (c) of this section if the defendant does so in open court with the State present or in  
22 writing to both the State and the judge. In all other circumstances, the defendant may only  
23 revoke the waiver of trial by jury upon the trial judge finding the revocation would not cause  
24 unreasonable hardship or delay to the State. Once a revocation has been granted pursuant to this  
25 subsection, the decision is final and binding.

26 (f) Suppression of Evidence. – In the event that a defendant who has waived the right to  
27 trial by jury pursuant to this section makes a motion to suppress evidence under Article 53 of  
28 this Chapter, the court shall make written findings of fact and conclusions of law."

29 **SECTION 2.** G.S. 20-179 is amended by adding a new subsection to read:

30 "(a3) Procedure When Jury Trial Waived. – If a defendant waives the right to a jury trial  
31 under G.S. 15A-1201, the trial judge shall make all findings that are conferred upon the jury  
32 under the provisions of this section."

33 **SECTION 3.** G.S. 15A-1340.16 is amended by adding a new subsection to read:

34 "(a6) Procedure When Jury Trial Waived. – If a defendant waives the right to a jury trial  
35 under G.S. 15A-1201, the trial judge shall make all findings that are conferred upon the jury  
36 under the provisions of this section."

37 **SECTION 4.** This act becomes effective October 1, 2015, and applies to  
38 defendants waiving their right to trial by jury on or after that date.