

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 123
PROPOSED COMMITTEE SUBSTITUTE H123-PCS30170-BB-4

Short Title: Misdemeanors/Mandate First Appearances.

(Public)

Sponsors:

Referred to:

February 23, 2021

A BILL TO BE ENTITLED

AN ACT TO REQUIRE A FIRST APPEARANCE BEFORE A DISTRICT COURT JUDGE FOR A DEFENDANT CHARGED WITH A MISDEMEANOR OFFENSE AND HELD IN CUSTODY AND TO REQUIRE THAT A FIRST APPEARANCE FOR ANY CRIMINAL CHARGE BE HELD WITHIN SEVENTY-TWO HOURS OF WHEN A DEFENDANT IS TAKEN INTO CUSTODY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-601 reads as rewritten:

"§ 15A-601. First appearance before a district court judge; ~~right in felony and other cases in original jurisdiction of superior court; consolidation of first appearance before magistrate and before district court judge; first appearance before clerk of superior court; use of two-way audio and video transmission.~~

(a) Any defendant charged in a magistrate's order under G.S. 15A-511 or criminal process under Article 17 of this Chapter, Criminal Process, with a crime in the original jurisdiction of the superior court must be brought before a district court judge in the district court district as defined in G.S. 7A-133 in which the crime is charged to have been committed. This first appearance before a district court judge is not a critical stage of the proceedings against the defendant.

...

(a3) Any defendant charged in a magistrate's order under G.S. 15A-511 or criminal process under Article 17 of this Chapter, Criminal Process, with a misdemeanor offense and held in custody must be brought before a district court judge in the district court district as defined in G.S. 7A-133 in which the crime is charged to have been committed. This first appearance before a district court judge is not a critical stage of the proceedings against the defendant.

(b) When a district court judge conducts an initial appearance as provided in G.S. 15A-511, ~~he~~ the judge may consolidate those proceedings and the proceedings under this Article.

(c) Unless the defendant is released pursuant to Article 26 of this Chapter, Bail, first appearance before a district court judge must be held within ~~96-72~~ 72 hours after the defendant is taken into custody or at the first regular session of the district court in the county, whichever occurs first. If the defendant is not taken into custody, or is released pursuant to Article 26 of this Chapter, Bail, within ~~96-72~~ 72 hours after being taken into custody, first appearance must be held at the next session of district court held in the county. This subsection does not apply to a defendant whose first appearance before a district court judge has been set in a criminal summons pursuant to G.S. 15A-303(d).

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1 (e) ~~The~~ During regular business hours, the clerk of the superior court in the county in
2 which the defendant is taken into custody may conduct a first appearance as provided in this
3 Article if a district court judge is not available in the county within ~~96-72~~ hours after the defendant
4 is taken into custody. The clerk, in conducting a first appearance, shall proceed under this Article
5 as would a district court judge."

6 **SECTION 2.** This act becomes effective December 1, 2021, and applies to criminal
7 processes served on or after that date.