

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

H

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HOUSE BILL 157

Short Title: Dist. Ct. Juris./Jury of Six.

(Public)

Sponsors: Representative Joye.

Referred to: Courts and Justice.

February 14, 1994

A BILL TO BE ENTITLED

1 AN ACT TO EXPAND THE JURISDICTION OF THE DISTRICT COURT TO
2 INCLUDE CLASS H AND I FELONIES AND TO PROVIDE FOR SIX-PERSON
3 JURIES IN DISTRICT COURT TRIALS OF CLASS H AND I FELONIES.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 7A-272 reads as rewritten:

6 "(a) Except as provided in this Article, the district court has exclusive, original
7 jurisdiction for the trial of criminal actions, including municipal ordinance violations,
8 ~~below the grade of felony, and the same are hereby declared to be petty misdemeanors.~~ for all
9 Class H and I felonies and all misdemeanors."

10 Sec. 2. G.S. 7A-271 reads as rewritten:

11 "**§ 7A-271. Jurisdiction of superior court.**

12 (a) The superior court has exclusive, original jurisdiction over all criminal
13 actions not assigned to the district court division by this Article, except that the superior
14 court has jurisdiction to try a Class H or I felony which is a lesser included offense of,
15 or may be properly consolidated for trial with, a felony within the jurisdiction of the
16 superior court, or a misdemeanor:

17 (1) Which is a lesser included offense of a felony on which an indictment
18 has been returned, or a felony information as to which an indictment
19 has been properly waived; or

20 (2) When the charge is initiated by presentment; or

21 (3) Which may be properly consolidated for trial with a felony under G.S.
22 15A-926;
23

1 (4) To which a plea of guilty or **nolo contendere** is tendered in lieu of a
2 felony charge; or

3 (5) When a misdemeanor conviction is appealed to the superior court for
4 trial **de novo**, to accept a guilty plea to a lesser included or related
5 charge.

6 (b) Appeals by the State or the defendant from the district court are to the
7 superior ~~court~~-court, except appeals from Class H or I felonies, which are to the
8 appellate division. The jurisdiction of the superior court over misdemeanors appealed
9 from the district court to the superior court for trial **de novo** is the same as the district
10 court had in the first instance, and when that conviction resulted from a plea
11 arrangement between the defendant and the State pursuant to which misdemeanor
12 charges were dismissed, reduced, or modified, to try those charges in the form and to
13 the extent that they subsisted in the district court immediately prior to entry of the
14 defendant and the State of the plea arrangement.

15 (c) When a district court is established in a district, any superior court judge
16 presiding over a criminal session of court shall order transferred to the district court any
17 pending misdemeanor which does not fall within the provisions of subsection (a), and
18 which is not pending in the superior court on appeal from a lower ~~court~~-court, and any
19 Class H or I felony.

20 (d) The criminal jurisdiction of the superior court includes the jurisdiction to
21 dispose of infractions only in the following circumstances:

22 (1) If the infraction is a lesser-included violation of a criminal action
23 properly before the court, the court must submit the infraction for the
24 jury's consideration in factually appropriate cases.

25 (2) If the infraction is a lesser-included violation of a criminal action
26 properly before the court, or if it is a related charge, the court may
27 accept admissions of responsibility for the infraction. A proper
28 pleading for the criminal action is sufficient to support a finding of
29 responsibility for the lesser-included infraction."

30 Sec. 3. G.S. 7A-196(b) reads as rewritten:

31 "(b) In criminal cases there shall be ~~no~~-jury trials in the district court-court only for
32 trials of Class H and I felonies. Upon appeal to superior court trial shall be **de novo**,
33 with jury trial as provided by law."

34 Sec. 4. G.S. 15A-1101 reads as rewritten:

35 "**§ 15A-1101. Applicability of superior court procedure.**

36 Trial procedure in the district court is in accordance with the provisions of
37 Subchapter XII, Trial in Superior Court, except for provisions:

38 (1) Relating to jury ~~trial~~-trial, except for trials of Class H and I felonies.

39 (2) Requiring recordation of ~~proceedings~~-proceedings, except for trials of
40 Class H and I felonies, or unless they specify their applicability to the
41 district court.

42 (3) That specify their applicability to superior court."

43 Sec. 5. G.S. 15A-1201 reads as rewritten:

44 "**§ 15A-1201. Right to trial by jury.**

1 In ~~all~~ criminal cases in superior court involving Class A through G felonies, the
2 defendant has the right to be tried by a jury of 12 whose verdict must be unanimous. In
3 criminal cases in the district court involving Class H and I felonies, the defendant has
4 the right to be tried by a jury of six whose verdict must be unanimous. ~~In the~~
5 misdemeanor cases in district court the judge is the finder of fact in criminal cases, fact,
6 but the defendant has the right to appeal for trial **de novo** in superior court as provided
7 in G.S. 15A-1431. In superior court all criminal trials in which the defendant enters a
8 plea of not guilty must be tried before a jury."

9 Sec. 6. This act becomes effective on the same date that Section 56 of
10 Chapter 538 of the 1993 Session Laws provides that that act becomes effective, except
11 if that act provides a different date that that act becomes effective for Class H and I
12 felonies, this act becomes effective on the date that act applies to Class H and I felonies.