

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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SENATE BILL 118

Short Title: Magistrates/Infraction Disposal.

(Public)

Sponsors: Senators Soles; Seymour, Forrester, and Hoyle.

Referred to: Courts.

February 15, 1994

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE JURISDICTION OF MAGISTRATES TO DISPOSE OF
INFRACTIONS, TO FACILITATE THE PROCEDURE FOR DISPOSING OF
INFRACTIONS, AND TO ALLOW MAGISTRATES TO DISPOSE OF ALL
LEVEL I MISDEMEANORS ACCORDING TO PLEA AGREEMENTS
BETWEEN THE STATE AND DEFENDANTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-273 is amended by adding two new subdivisions to read:

"(10) Notwithstanding the provisions of subdivision (1) of this section, to adjudicate any infraction case as the chief district judge may authorize and as provided in G.S. 15A-1114(h).

(11) Notwithstanding the provisions of subdivision (1) of this section and as the chief district judge may authorize, to accept pleas of guilty or no contest and enter judgments according to plea agreements between the State and defendants in all Level I prior conviction level misdemeanors, but a prosecutor shall be present for entry of the plea and judgment."

Sec. 2. G.S. 15A-1114 reads as rewritten:

"§ 15A-1114. Hearing procedure for infractions.

(a) Jurisdiction. – Jurisdiction for the adjudication and disposition of infractions is as specified in ~~G.S. 7A-253~~ G.S. 7A-253, 7A-273, and ~~G.S. 7A-271(d)~~.

(b) No Trial by Jury. – In adjudicatory hearings for infractions, no party has a right to a trial by jury in ~~the district court~~ court division.

1 (c) Infractions Heard in Civil or Criminal Session. – A district court judge may
2 conduct proceedings relating to ~~traffic~~ infractions in a civil or criminal session of court,
3 unless the infraction is joined with a criminal offense arising out of the same transaction
4 or occurrence. In such a case, the criminal offense and the infraction must be heard at a
5 session in which criminal matters may be heard. Magistrates shall conduct proceedings
6 in infraction cases under subsection (h) of this section at times and places specified by
7 the chief district judge, including in any county within the district court district as
8 authorized by the chief district judge even though the magistrate does not normally
9 serve that county.

10 (d) Pleas. – A person charged with an infraction may admit or deny responsibility
11 for the infraction. The plea must be made by the person charged in open court, unless he
12 submits a written waiver of appearance which is approved by the presiding judge, or, if
13 authorized by ~~G.S. 7A-146, G.S. 7A-148,~~ he waives his right to a hearing and admits
14 responsibility for the infraction in writing and pays the specified penalty and ~~costs.~~
15 costs, or he enters a plea of guilty or admission of responsibility before a magistrate
16 pursuant to G.S. 7A-273(1) or (2).

17 (e) Duty of District Attorney. – The district attorney is responsible for ensuring
18 that infractions are calendared and prosecuted efficiently.

19 (f) Burden of Proof. – The State must prove beyond a reasonable doubt that the
20 person charged is responsible for the infraction unless the person admits responsibility.

21 (g) Recording Not Necessary. – The State does not have to record the
22 proceedings at infraction hearings. With the approval of the court, a party may, at his
23 expense, record any proceeding.

24 (h) Hearing by Magistrate. – With consent of the district attorney and approval of the
25 senior resident superior court judge for the district concerned, the chief district judge of
26 a district court district may authorize a magistrate or magistrates to adjudicate any
27 infraction case. The chief district court judge shall authorize these magistrates on the
28 basis of high standards in judgment, temperament, knowledge, and fairness. A
29 magistrate so authorized may adjudicate contested infraction cases as well as
30 uncontested cases. A prosecutor may represent the State when a magistrate presides
31 over infraction cases under this subsection.

32 The general procedure for hearing contested infraction cases before a district court
33 judge applies to the hearing of a contested infraction case before a magistrate. If
34 satisfied beyond a reasonable doubt, the hearing magistrate shall find the person
35 responsible for the infraction or a lesser included infraction and shall enter judgment
36 accordingly. A person who denies responsibility and is found responsible for an
37 infraction by a magistrate may appeal in accordance with G.S. 15A-1431 for a hearing
38 de novo before a district court judge.

39 This section does not diminish the authority of magistrates to accept pleas of
40 responsible for infractions under G.S. 7A-273(1) and (2).

41 (i) A prosecutor and a person charged with an infraction may enter into a written
42 consent judgment for disposition of the infraction. Both parties shall sign the judgment,
43 but an attorney representing the person may sign in place of the person. The signature
44 of a judge or magistrate is not required. The judgment becomes effective upon filing

1 with the clerk, but the clerk shall not accept the judgment for filing unless satisfied that
2 the signatures of the parties are genuine."

3 Sec. 3. G.S. 15A-1116(b) reads as rewritten:

4 "(b) No Order for Arrest. – If a person served with a citation for an infraction fails
5 to appear to answer the charge, the court may issue a criminal summons to secure the
6 person's appearance, but an order for arrest may not be used in such cases. The
7 summons may be served as provided by Rule 4(j)(1) or (j)(2) of the Rules of Civil
8 Procedure."

9 Sec. 4. This act becomes effective January 1, 1995, and applies without
10 regard to the date of the commission of an infraction but only applies to misdemeanors
11 committed on and after January 1, 1995.