

GENERAL ASSEMBLY OF NORTH CAROLINA
EXTRA SESSION 1994

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SENATE BILL 119

Short Title: Concurrent Jurisdiction.

(Public)

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

Referred to: Courts.

February 15, 1994

A BILL TO BE ENTITLED

1
2 AN ACT TO PROVIDE CONCURRENT JURISDICTION BETWEEN THE
3 DISTRICT AND SUPERIOR COURTS FOR DISPOSITION OF CERTAIN
4 FELONIES.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 7A-272 is amended by adding a new subsection to read:

7 "(c) The district court has concurrent jurisdiction with the superior court for the
8 purpose of accepting pleas of guilty or no contest, and of entering judgment
9 accordingly, with respect to Class H and I felonies. Entry of the plea and disposition
10 may be accomplished with a bill of information or a bill of indictment. Before
11 accepting the plea, the court shall determine that both the State and the defendant
12 consent to entry of the plea and disposition in the district court. Neither party may
13 withdraw consent once the court accepts the plea.

14 The chief district court judge of each district court district and the senior resident
15 superior court judge for the district shall jointly establish by local rules the procedure
16 for disposing of felonies under this subsection. The rules shall provide for verbatim
17 recording, in a manner approved by the Administrative Officer of the Courts, of
18 proceedings related to the felonies, including those proceedings usually recorded in the
19 superior court.

20 The judgment entered in the district court division shall be final as with judgments in
21 the superior court division, and any appeal authorized shall be in the appellate division.
22 Any proceedings that arise from the disposition of the case, including probation
23 revocation hearings, shall be handled under the jurisdiction of the district court similarly

1 to the practice and procedure in superior court, and the action of the district court shall
2 be final, including for purposes of any appeal to the appellate division.

3 The costs of court for district court shall apply in a case disposed of under this
4 subsection unless the defendant has entered a plea in the superior court. Once the
5 defendant enters a plea in the superior court, the costs of superior court shall attach for
6 the case even in the event of a disposition of the case in the district court and even
7 though the defendant has withdrawn his plea in the superior court."

8 Sec. 2. G.S. 15A-641(b) reads as rewritten:

9 "(b) An information is a written accusation by a prosecutor, filed with a superior
10 court, or filed with a district court as to a defendant entering a plea of guilty or no
11 contest in the district court under G.S. 7A-272(c), charging a person represented by
12 counsel with the commission of one or more criminal offenses."

13 Sec. 3. G.S. 15A-644(b) reads as rewritten:

14 "(b) An information must contain everything required of an indictment in
15 subsection (a) except that the accusation is that of the prosecutor and the provisions of
16 subdivision (a)(5) do not ~~apply~~-apply, and except that the name of the district court shall
17 be used in the place of the superior court as to a case disposed of in the district court
18 under G.S. 7A-272(c). The information must also contain or have attached the waiver of
19 indictment pursuant to G.S. 15A-642(c)."

20 Sec. 4. G.S. 15A-923(a) reads as rewritten:

21 "(a) Prosecution on Information or Indictment. – The pleading in felony cases and
22 misdemeanor cases initiated in the superior court division must be a bill of indictment,
23 unless there is a waiver of the bill of indictment as provided in G.S. 15A-642. If there is
24 a waiver, the pleading must be an information. Either an indictment or an information
25 may serve as the pleading for a felony disposed of in the district court under G.S. 7A-
26 272(c). A presentment by the grand jury may not serve as the pleading in a criminal
27 case."

28 Sec. 5. This act becomes effective January 1, 1995, and applies without
29 regard to the date of commission of the offense.