

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 940

Short Title: Criminal/Civil Procedure Changes.

(Public)

Sponsors: Representative G. Miller.

Referred to: Judiciary I.

April 12, 1995

A BILL TO BE ENTITLED

AN ACT TO MAKE VARIOUS CHANGES RELATING TO CRIMINAL AND CIVIL
PROCEDURE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 4, is amended by adding a new subsection to read:

"(1) Notice of manner of service. – When service of process is by means other than personal delivery, notice of the manner of service shall be filed with the court within 10 days after the date of service."

Sec. 2. G.S. 15A-1115 reads as rewritten:

"§ 15A-1115. Review of disposition by superior court.

(a) Appeal of District Court Decision. – A person who denies responsibility and is found responsible for an infraction in the district court, within 10 days of the hearing, may appeal the decision to the criminal division of the superior court for a hearing de novo. ~~Upon appeal, the defendant is entitled to a jury trial unless he consents to have the hearing conducted by the judge.~~ The State must prove beyond a reasonable doubt that the person charged is responsible for the infraction unless the person admits responsibility. Unless otherwise provided by law, the procedures applicable to misdemeanors disposed of in the superior court apply to those infraction hearings. In the superior court, a prosecutor must represent the State. Appeal from the judgment in the superior court is as provided for

1 other criminal actions in superior court, and the Attorney General must represent the
2 State in an appeal of such actions.

3 (b) Review of Infractions Originally Disposed of in Superior Court. – If the
4 superior court disposes of an infraction pursuant to its jurisdiction in G.S. 7A-271(d),
5 appeal from that judgment is as provided for criminal actions in the superior court.

6 (c) Hearing to Be Before Judge and not Jury. – The hearing in the superior court,
7 whether de novo or original, shall be before the judge and not before a jury."

8 Sec. 3. G.S. 15A-615(c) reads as rewritten:

9 "(c) If the defendant is in the custody of the Department of Correction, the
10 defendant shall be tested by the Department of Correction. If the defendant is not in the
11 custody of the Department of Correction, the defendant shall be tested by the local health
12 department. The Department of Correction shall inform the local health director of all
13 test results. The local health director shall ensure that the victim is informed of the
14 results of the tests and counseled appropriately. The agency conducting the tests shall
15 inform the defendant of the results of the tests and ensure that the defendant is counseled
16 appropriately. The results of the tests shall not be admissible as evidence in any criminal
17 proceeding. The court may, in its discretion, permit the disclosure of the results of the
18 test to court personnel under appropriate protective conditions."

19 Sec. 4. Section 1 of this act is effective upon ratification and applies to actions
20 filed on or after that date. Section 2 of this act becomes effective December 1, 1995, and
21 applies to all infractions occurring on or after that date. The remainder of this act is
22 effective upon ratification.