

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 395

Short Title: Concurrent Jurisdiction/AB.

(Public)

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Sponsors: Senators Rand, Soles, Kerr, Perdue, Hoyle, Albertson, Dannelly, Gulley, Martin of Guilford, Odom, Winner, Horton, Hobbs, Jordan, Carrington, Ballance, Plyler, and Parnell.

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Referred to: Judiciary II/Election Laws

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March 20, 1995

A BILL TO BE ENTITLED

1 AN ACT TO ALLOW FOR CONCURRENT JURISDICTION BETWEEN THE  
2 DISTRICT AND SUPERIOR COURTS FOR DISPOSITION OF CERTAIN  
3 FELONIES.  
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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) Each senior resident superior court judge, with the approval of the chief district  
8 court judge for the district concerned, may authorize the district court in that district to  
9 exercise concurrent jurisdiction with the superior court for the purpose of accepting pleas  
10 of guilty or no contest, and of entering judgment accordingly, with respect to Class H and  
11 I felonies. Entry of the plea and disposition may be accomplished with a bill of  
12 information or a bill of indictment. Before accepting the plea, the court shall determine  
13 that both the State and the defendant consent to entry of the plea and disposition in the  
14 district court. Neither party may withdraw consent once the court accepts the plea.

15 The chief district court judge of each district court district authorized to exercise  
16 concurrent jurisdiction and the senior resident superior court judge for the district shall  
17 jointly establish by local rules the procedure for disposing of felonies under this  
18 subsection. The rules shall provide for verbatim recordation, in a manner approved by

1 the Administrative Officer of the Courts, of proceedings related to the felonies, including  
2 those proceedings usually recorded in the superior court.

3 The judgment entered in the district court division exercising concurrent jurisdiction  
4 under this subsection shall be final as with judgments in the superior court division, and  
5 any appeal authorized shall be in the appellate division. Any proceedings that arise from  
6 the disposition of the case, including probation revocation hearings, shall be handled  
7 under the jurisdiction of the district court similarly to the practice and procedure in  
8 superior court, and the action of the district court shall be final, including for purposes of  
9 any appeal to the appellate division.

10 The costs of court for district court shall apply in a case disposed of under this  
11 subsection unless the defendant has entered a plea in the superior court. Once the  
12 defendant enters a plea in the superior court, the costs of superior court shall attach for  
13 the case even in the event of a disposition of the case in the district court and even though  
14 the defendant has withdrawn his plea in the superior court."

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

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

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

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

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

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

34 Sec. 5. This act becomes effective January 1, 1996, and applies without regard  
35 to the date of commission of the offense.