

Article 57.

Pleas.

§ 15A-1011. Pleas in district and superior courts; waiver of appearance.

(a) A defendant may plead not guilty, guilty, or no contest "(nolo contendere)." A plea may be received only from the defendant himself in open court except when:

- (1) The defendant is a corporation, in which case the plea may be entered by counsel or a corporate officer; or
- (2) There is a waiver of arraignment and a filing of a written plea of not guilty under G.S. 15A-945; or
- (3) In misdemeanor cases there is a written waiver of appearance submitted with the approval of the presiding judge; or
- (4) Written pleas in traffic cases, hunting and fishing offenses under Chapter 113, and boating offenses under Chapter 75A are authorized under G.S. 7A-146(8); or
- (5) The defendant executes a waiver and plea of not guilty as provided in G.S. 15A-1011(d).
- (6) The defendant, before a magistrate or clerk of court, enters a written appearance, waiver of trial and plea of guilty and at the same time makes restitution in a case wherein the sole allegation is a violation of G.S. 14-107, the check is in an amount provided in G.S. 7A-273(8), and the warrant does not charge a fourth or subsequent violation of this statute.

(b) A defendant may plead no contest only with the consent of the prosecutor and the presiding judge.

(c) Upon entry of a plea of guilty or no contest or after conviction on a plea of not guilty, the defendant may request permission to enter a plea of guilty or no contest as to other crimes with which he is charged in the same or another prosecutorial district as defined in G.S. 7A-60. A defendant may not enter any plea to crimes charged in another prosecutorial district as defined in G.S. 7A-60 unless the district attorney of that district consents in writing to the entry of such plea. The prosecutor or his representative may appear in person or by filing an affidavit as to the nature of the evidence gathered as to these other crimes. Entry of a plea under this subsection constitutes a waiver of venue. A superior court is granted jurisdiction to accept the plea, upon an appropriate indictment or information, even though the case may otherwise be within the exclusive original jurisdiction of the district court. A district court may accept pleas under this section only in cases within the original jurisdiction of the district court and in cases within the concurrent jurisdiction of the district and superior courts pursuant to G.S. 7A-272(c).

(d) A defendant may execute a written waiver of appearance and plead not guilty and designate legal counsel to appear in his behalf in the following circumstances:

- (1) The defendant agrees in writing to waive the right to testify in person and waives the right to face his accusers in person and agrees to be bound by the decision of the court as in any other case of adjudication of guilty and entry of judgment, subject to the right of appeal as in any other case; and
- (2) The defendant submits in writing circumstances to justify the request and submits in writing a request to proceed under this section; and
- (3) The judge allows the absence of the defendant because of distance, infirmity or other good cause.

(e) In the event the judge shall permit the procedure set forth in the foregoing subsection (d), the State may offer evidence and the defendant may offer evidence, with right of cross-examination of witnesses, and the other procedures, including the right of the prosecutor to dismiss the charges, shall be the same as in any other criminal case, except for the absence of defendant. (1973, c. 1286, s. 1; 1975, c. 166, s. 27; c. 626, s. 1; 1983, c. 586, s. 3; 1987, c. 355, s. 4; 1987 (Reg. Sess., 1988), c. 1037, s. 64; 1995 (Reg. Sess., 1996), c. 725, s. 5.)

§ 15A-1012. Aid of counsel; time for deliberation.

(a) A defendant may not be called upon to plead until he has had an opportunity to retain counsel or, if he is eligible for assignment of counsel, until counsel has been assigned or waived in accordance with Article 36 of Chapter 7A of the General Statutes.

(b) In cases in the original jurisdiction of the superior court a defendant who has waived counsel may not plead within less than seven days following the date he was arrested or was otherwise informed of the charge. (1973, c. 1286, s. 1.)

§§ 15A-1013 through 15A-1020. Reserved for future codification purposes.