

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

H

1

HOUSE BILL 115

Short Title: Prosecutor Consent To Waive Jury Trial. (Public)

Sponsors: Representatives Speciale, Cleveland, Millis, and Ford (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Judiciary II.

February 27, 2015

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CONSTITUTION TO PROVIDE THAT A PERSON MUST
HAVE THE CONSENT OF THE PROSECUTOR IN ADDITION TO THE CONSENT
OF THE TRIAL JUDGE TO WAIVE THE PERSON'S RIGHT TO A JURY TRIAL IN
SUPERIOR COURT FOR A NONCAPITAL OFFENSE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 24 of Article I of the North Carolina Constitution reads as
rewritten:

"Sec. 24. Right of jury trial in criminal cases.

No person shall be convicted of any crime but by the unanimous verdict of a jury in open
court, except that a person accused of any criminal offense for which the State is not seeking a
sentence of death in superior court may, in writing or on the record in the court and with the
consent of the ~~trial judge, trial judge and the consent of the prosecutor,~~ waive jury trial, subject
to procedures prescribed by the General Assembly. The General Assembly may, however,
provide for other means of trial for misdemeanors, with the right of appeal for trial de novo."

SECTION 2. The amendment set out in Section 1 of this act shall be submitted to
the qualified voters of the State at a statewide general election to be held in November 2016,
which election shall be conducted under the laws then governing elections in the State. Ballots,
voting systems, or both may be used in accordance with Chapter 163 of the General Statutes.
The question to be used in the voting systems and ballots shall be:

" [] FOR [] AGAINST

Constitutional amendment providing that a person accused of any criminal offense
for which the State is not seeking a sentence of death in superior court must have the consent of
the prosecutor in addition to the consent of the trial judge to waive the person's right to a trial
by jury."

SECTION 3. If a majority of the votes cast on the question are in favor of the
amendment set out in Section 1 of this act, the State Board of Elections shall certify the
amendment to the Secretary of State, who shall enroll the amendment so certified among the
permanent records of that office. The amendment becomes effective December 1, 2016, and
applies to criminal offenses arraigned in superior court on or after that date.

SECTION 4. G.S. 15A-1201(b) reads as rewritten:

"(b) A defendant accused of any criminal offense for which the State is not seeking a
sentence of death in superior court may, knowingly and voluntarily, in writing or on the record
in the court and with the consent of the ~~trial judge, judge and the consent of the prosecutor,~~
waive the right to trial by jury. When a defendant waives the right to trial by jury under this



1 section, the jury is dispensed with as provided by law, and the whole matter of law and fact
2 shall be heard and judgment given by the court."

3 **SECTION 5.** Section 4 of this act is effective only upon approval by the voters of
4 the constitutional amendment proposed in Section 1 of this act. If the constitutional amendment
5 proposed in Section 1 of this act is approved by the voters, Section 4 of this act becomes
6 effective December 1, 2016, and applies to criminal cases arraigned in superior court on or
7 after that date. The remainder of this act is effective when it becomes law.