

Article 51.

Arrestment.

§ 15A-941. Arrestment before judge only upon written request; entry of not guilty plea if not arrested.

(a) Arrestment consists of bringing a defendant before a judge having jurisdiction to try the offense, advising him of the charges pending against him, and directing him to plead. The prosecutor must read the charges or fairly summarize them to the defendant. If the defendant fails to plead, the court must record that fact, and the defendant must be tried as if he had pleaded not guilty.

(b), (c) Repealed by Session Laws 2021-47, s. 10(h), effective June 18, 2021, and applicable to proceedings occurring on or after that date.

(d) A defendant will be arrested in accordance with this section only if the defendant files a written request with the clerk of superior court for an arrestment not later than 21 days after service of the bill of indictment. If a bill of indictment is not required to be served pursuant to G.S. 15A-630, then the written request for arrestment must be filed not later than 21 days from the date of the return of the indictment as a true bill. Upon the return of the indictment as a true bill, the court must immediately cause notice of the 21-day time limit within which the defendant may request an arrestment to be mailed or otherwise given to the defendant and to the defendant's counsel of record, if any. If the defendant does not file a written request for arrestment, then the court shall enter a not guilty plea on behalf of the defendant.

(e) Nothing in this section shall prevent the district attorney from calendaring cases for administrative purposes. (1973, c. 1286, s. 1; 1975, c. 166, s. 27; 1993, c. 30, s. 3; 1995 (Reg. Sess., 1996), c. 725, s. 7; 2021-47, s. 10(h).)

§ 15A-942. Right to counsel.

If the defendant appears at the arrestment without counsel, the court must inform the defendant of his right to counsel, must accord the defendant opportunity to exercise that right, and must take any action necessary to effectuate the right. If the defendant does not file a written request for arrestment, the court, in addition to entering a plea of not guilty on behalf of the defendant, shall also verify that the defendant is aware of the right to counsel, that the defendant has been given the opportunity to exercise that right, and must take any action necessary to effectuate that right on behalf of the defendant. (1777, c. 115, s. 85, P.R.; R.C., c. 35, s. 13; Code, s. 1182; Rev., s. 3150; C.S., s. 4515; 1973, c. 1286, s. 1; 1995 (Reg. Sess., 1996), c. 725, s. 8.)

§ 15A-943. Arrestment in superior court –Required calendaring.

(a) In counties in which there are regularly scheduled 20 or more weeks of trial sessions of superior court at which criminal cases are heard, and in other counties the Chief Justice designates, the prosecutor must calendar arrestments in the superior court on at least the first day of every other week in which criminal cases are heard. No cases in which the presence of a jury is required may be calendared for the day or portion of a day during which arrestments are calendared.

(b) When a defendant pleads not guilty at an arrestment required by subsection (a), he may not be tried without his consent in the week in which he is arrested.

(c) Notwithstanding the provisions of subsection (a) of this section, in any county where as many as three simultaneous sessions of superior court, whether criminal, civil, or mixed, are regularly scheduled, the prosecutor may calendar arrestments in any of the criminal or mixed sessions, at least every other week, upon any day or days of a session, and jury cases may be

calendared for trial in any other court at which criminal cases may be heard, upon such days. (1973, c. 1286, s. 1; 1975, c. 166, s. 27; c. 471.)

§ 15A-944. Arraignment in superior court – Optional calendaring.

In counties other than those described in G.S. 15A-943 the prosecutor may, but is not required to, calendar arraignments in the manner described in that section. (1973, c. 1286, s. 1; 1975, c. 166, s. 27.)

§ 15A-945. Waiver of arraignment.

A defendant who is represented by counsel and who wishes to plead not guilty may waive arraignment prior to the day for which arraignment is calendared by filing a written plea, signed by the defendant and his counsel. (1973, c. 1286, s. 1.)

§§ 15A-946 through 15A-950. Reserved for future codification purposes.