

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

**H.B. 115**  
**Feb 24, 2015**  
**HOUSE PRINCIPAL CLERK**

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HOUSE DRH10060-LH-73 (02/04)

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

Sponsors: Representative Speciale.

Referred to:

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.