

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 123
Committee Substitute Favorable 3/17/21

Short Title: Misdemeanors/Mandate First Appearances.

(Public)

Sponsors:

Referred to:

February 23, 2021

A BILL TO BE ENTITLED
AN ACT TO REQUIRE A FIRST APPEARANCE BEFORE A DISTRICT COURT JUDGE
FOR A DEFENDANT CHARGED WITH A MISDEMEANOR OFFENSE AND HELD IN
CUSTODY AND TO REQUIRE THAT A FIRST APPEARANCE FOR ANY CRIMINAL
CHARGE BE HELD WITHIN SEVENTY-TWO HOURS OF WHEN A DEFENDANT IS
TAKEN INTO CUSTODY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-601 reads as rewritten:

**"§ 15A-601. First appearance before a district court judge; ~~right in felony and other cases~~
~~in original jurisdiction of superior court; consolidation of first appearance~~
~~before magistrate and before district court judge; first appearance before clerk~~
~~of superior court; use of two-way audio and video transmission.~~**

(a) Any defendant charged in a magistrate's order under G.S. 15A-511 or criminal
process under Article 17 of this Chapter, Criminal Process, with a crime in the original
jurisdiction of the superior court must be brought before a district court judge in the district court
district as defined in G.S. 7A-133 in which the crime is charged to have been committed. This
first appearance before a district court judge is not a critical stage of the proceedings against the
defendant.

...

(a3) Any defendant charged in a magistrate's order under G.S. 15A-511 or criminal
process under Article 17 of this Chapter, Criminal Process, with a misdemeanor offense and held
in custody must be brought before a district court judge in the district court district as defined in
G.S. 7A-133 in which the crime is charged to have been committed. This first appearance before
a district court judge is not a critical stage of the proceedings against the defendant.

(b) When a district court judge conducts an initial appearance as provided in
G.S. 15A-511, ~~he~~ the judge may consolidate those proceedings and the proceedings under this
Article.

(c) Unless the defendant is released pursuant to Article 26 of this Chapter, Bail, first
appearance before a district court judge must be held within ~~96-72~~ hours after the defendant is
taken into custody or at the first regular session of the district court in the county, whichever
occurs first. If the defendant is not taken into custody, or is released pursuant to Article 26 of this
Chapter, Bail, within ~~96-72~~ hours after being taken into custody, first appearance must be held at
the next session of district court held in the county. This subsection does not apply to a defendant
whose first appearance before a district court judge has been set in a criminal summons pursuant
to G.S. 15A-303(d).

...



1 (e) ~~The~~ During regular business hours, the clerk of the superior court in the county in
2 which the defendant is taken into custody may conduct a first appearance as provided in this
3 Article if a district court judge is not available in the county within ~~96-72~~ hours after the defendant
4 is taken into custody. The clerk, in conducting a first appearance, shall proceed under this Article
5 as would a district court judge."

6 **SECTION 2.** This act becomes effective December 1, 2021, and applies to criminal
7 processes served on or after that date.