

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 30
SENATE BILL 221

AN ACT TO AUTHORIZE A JUDICIAL OFFICIAL IN A NONCAPITAL CASE TO CONDUCT A PRETRIAL RELEASE PROCEEDING, FIRST APPEARANCE, OR AN ARRAIGNMENT BY A TWO-WAY AUDIO AND VIDEO PROCEEDING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-532 reads as rewritten:

"§ 15A-532. **Persons authorized to determine conditions for ~~release~~release; use of two-way audio and video transmission.**

(a) Judicial officials may determine conditions for release of persons brought before them or as provided in subsection (b) of this section, in accordance with this Article.

(b) Any proceeding under this Article to determine, modify, or revoke conditions of pretrial release in a noncapital case may be conducted by an audio and video transmission between the judicial official and the defendant in which the parties can see and hear each other. If the defendant has counsel, the defendant shall be allowed to communicate fully and confidentially with his attorney during the proceeding. Upon motion of the defendant, the court may not use an audio and video transmission.

(c) Prior to the use of audio and video transmission pursuant to subsection (b) of this section, the procedures and type of equipment for audio and video transmission shall be submitted to the Administrative Office of the Courts by the senior regular resident superior court judge for a judicial district or set of districts and approved by the Administrative Office of the Courts."

Sec. 2. 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~~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.

(a1) A first appearance in a noncapital case may be conducted by an audio and video transmission between the judge and the defendant in which the parties can see and

hear each other. If the defendant has counsel, the defendant shall be allowed to communicate fully and confidentially with his attorney during the proceeding.

(a2) Prior to the use of audio and video transmission pursuant to subsection (a1) of this section, the procedures and type of equipment for audio and video transmission shall be submitted to the Administrative Office of the Courts by the senior regular resident superior court judge for a judicial district or set of districts and approved by the Administrative Office of the Courts.

(b) When a district court judge conducts an initial appearance as provided in G.S. 15A-511, he 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 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 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).

(d) Upon motion of the defendant, the first appearance before a district court judge may be continued to a time certain. The defendant may not waive the holding of the first appearance before a district court judge but he need not appear personally if he is represented by counsel at the proceeding.

(e) The clerk of the superior court in the county in which the defendant is taken into custody may conduct a first appearance as provided in this Article if a district court judge is not available in the county within 96 hours after the defendant is taken into custody. The clerk, in conducting a first appearance, shall proceed under this Article as would a district court judge."

Sec. 3. G.S. 15A-941 reads as rewritten:

"§ 15A-941. Arraignment before judge; use of two-way audio and video transmission.

(a) Arraignment consists of bringing a defendant in open court or as provided in subsection (b) of this section 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) An arraignment in a noncapital case may be conducted by an audio and video transmission between the judge and the defendant in which the parties can see and hear each other. If the defendant has counsel, the defendant shall be allowed to communicate fully and confidentially with his attorney during the proceeding.

(c) Prior to the use of audio and video transmission pursuant to subsection (b) of this section, the procedures and type of equipment for audio and video transmission shall be submitted to the Administrative Office of the Courts by the senior regular resident superior court judge for the judicial district or set of districts and approved by the Administrative Office of the Courts."

Sec. 4. This act is effective upon ratification and applies to proceedings occurring on or after that date.

In the General Assembly read three times and ratified this the 22nd day of April, 1993.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives