

## Article 66.

### Procedure for Hearing and Disposition of Infractions.

#### **§ 15A-1111. General procedure for disposition of infractions.**

The procedure for the disposition of an infraction, as defined in G.S. 14-3.1, is as provided in this Article. If a question of procedure is not governed by this Article, the procedures applicable to the conduct of pretrial and trial proceedings for misdemeanors in district court are applicable unless the procedure is clearly inapplicable to the hearing of an infraction. (1985, c. 764, s. 3.)

#### **§ 15A-1112. Venue.**

Venue for the conduct of infraction hearings lies in any county where any act or omission constituting part of the alleged infraction occurred. (1985, c. 764, s. 3.)

#### **§ 15A-1113. Prehearing procedure.**

(a) Process. – A law enforcement officer may issue a citation for an infraction in accordance with the provisions of G.S. 15A-302. A judicial official may issue a summons for an infraction in accordance with the provisions of G.S. 15A-303.

(b) Detention of Person Charged. – A law enforcement officer who has probable cause to believe a person has committed an infraction may detain the person for a reasonable period in order to issue and serve him a citation.

(c) Appearance Bond May Be Required. – A person charged with an infraction may not be required to post an appearance bond if:

- (1) He is licensed to drive by a state that subscribes to the nonresident violator compact as defined in Article 1B of Chapter 20 of the General Statutes, the infraction charged is subject to the provisions of that compact, and he executes a personal recognizance as defined by that compact.
- (2) He is a resident of North Carolina.

Any other person charged with an infraction may be required to post a bond to secure his appearance and a charging officer may require such a person charged to accompany him to a judicial official's office to allow the official to determine if a bond is necessary to secure the person's court appearance, and if so, what kind of bond is to be used. If the judicial official finds that the person is unable to post a secured bond, he must allow the person to be released on execution of an unsecured bond. The provisions of Article 26 of this Chapter relating to issuance and forfeiture of bail bonds are applicable to bonds required pursuant to this subsection.

(d) Territorial Jurisdiction. – A law enforcement officer's territorial jurisdiction to charge a person with an infraction is the same as his jurisdiction to arrest specified in G.S. 15A-402.

(e) Use of Same Process for Two Offenses. – A person may be charged with a criminal offense and an infraction in the same pleading. (1985, c. 764, s. 3; 1985 (Reg. Sess., 1986), c. 852, s. 12.)

#### **§ 15A-1114. Hearing procedure for infractions.**

(a) Jurisdiction. – Jurisdiction for the adjudication and disposition of infractions is as specified in G.S. 7A-253 and G.S. 7A-271(d).

(b) No Trial by Jury. – In adjudicatory hearings for infractions, no party has a right to a trial by jury in district court.

(c) Infractions Heard in Civil or Criminal Session. – A district court judge may conduct proceedings relating to traffic infractions in a civil or criminal session of court, unless the infraction

is joined with a criminal offense arising out of the same transaction or occurrence. In such a case, the criminal offense and the infraction must be heard at a session in which criminal matters may be heard.

(d) Pleas. – A person charged with an infraction may admit or deny responsibility for the infraction. The plea must be made by the person charged in open court, unless he submits a written waiver of appearance which is approved by the presiding judge, or, if authorized by G.S. 7A-146, he waives his right to a hearing and admits responsibility for the infraction in writing and pays the specified penalty and costs.

(e) Duty of District Attorney. – The district attorney is responsible for ensuring that infractions are calendared and prosecuted efficiently.

(f) Burden of Proof. – The State must prove beyond a reasonable doubt that the person charged is responsible for the infraction unless the person admits responsibility.

(g) Recording Not Necessary. – The State does not have to record the proceedings at infraction hearings. With the approval of the court, a party may, at his expense, record any proceeding. (1985, c. 764, s. 3.)

#### **§ 15A-1115. Review of infractions originally disposed of in superior court.**

(a) Repealed by Session Laws 2013-385, s. 1, effective December 1, 2013.

(b) Review of Infractions Originally Disposed of in Superior Court. – If the superior court disposes of an infraction pursuant to its jurisdiction in G.S. 7A-271(d), appeal from that judgment is as provided for criminal actions in the superior court. (1985, c. 764, s. 3; 1985 (Reg. Sess., 1986), c. 852, s. 10; 2013-385, s. 1.)

#### **§ 15A-1116. Enforcement of sanctions.**

(a) Use of Contempt or Fine Collection Procedures: Notification of DMV. – If the person does not comply with a sanction ordered by the court, the court may proceed in accordance with Chapter 5A of the General Statutes. If the person fails to pay a penalty or costs, the court may proceed in accordance with Article 84 of this Chapter. If the infraction is a motor vehicle infraction, the court must report a failure to pay the applicable penalty and costs to the Division of Motor Vehicles as specified in G.S. 20-24.2.

(b) No Order for Arrest. – If a person served with a citation for an infraction fails to appear to answer the charge, the court may issue a criminal summons to secure the person's appearance, but an order for arrest may not be used in such cases. (1985, c. 764, s. 3; 1985 (Reg. Sess., 1986), c. 852, ss. 1, 2, 15.)

#### **§ 15A-1117: Recodified as § 20-24.2 by Session Laws 1985 (Reg. Sess., 1986), c. 852, s. 3.**

#### **§ 15A-1118. Costs.**

Costs assessed for an infraction are as specified in G.S. 7A-304. (1985, c. 764, s. 3.)