

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

S.L. 1997-268
HOUSE BILL 221

AN ACT TO AUTHORIZE A MAGISTRATE OR OTHER AUTHORIZED JUDICIAL OFFICIAL IN A NONCAPITAL CASE TO CONDUCT AN INITIAL APPEARANCE BY A TWO-WAY AUDIO AND VIDEO PROCEEDING AND TO ALLOW SWORN LAW ENFORCEMENT OFFICERS TO APPEAR BEFORE JUDICIAL OFFICIALS BY A TWO-WAY AUDIO AND VIDEO TO OBTAIN ARREST WARRANTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-511 is amended by adding a new subsection to read:

"(a1) A proceeding for initial appearance in a noncapital case under this section may be conducted by an audio and video transmission between the magistrate or other authorized 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. Prior to the use of audio and video transmission pursuant to this subsection, 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 and the chief district court judge for a judicial district or set of districts and approved by the Administrative Office of the Courts."

Section 2. G.S. 15A-304(d) reads as rewritten:

"(d) Showing of Probable Cause. – A judicial official may issue a warrant for arrest only when he is supplied with sufficient information, supported by oath or affirmation, to make an independent judgment that there is probable cause to believe that a crime has been committed and that the person to be arrested committed it. The information must be shown by ~~either or both~~ one or more of the following:

- (1) ~~Affidavit, Affidavit;~~
- (2) Oral testimony under oath or affirmation before the issuing ~~official.~~ official; or
- (3) Oral testimony under oath or affirmation presented by a sworn law enforcement officer to the issuing official by means of an audio and video transmission in which both parties can see and hear each other. Prior to the use of audio and video transmission pursuant to this subdivision, 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 and the chief

district court judge for a judicial district or set of districts and approved by the Administrative Office of the Courts.

If the information is insufficient to show probable cause, the warrant may not be issued."

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23rd day of June, 1997.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 4:20 p.m. this 3rd day of July, 1997