

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

S

2

SENATE BILL 221
House Committee Substitute Favorable 4/14/93

Short Title: Pretrial Hearings by Video.

(Public)

Sponsors:

Referred to:

February 18, 1993

A BILL TO BE ENTITLED

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 ~~releaser~~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."

1 Sec. 2. G.S. 15A-601 reads as rewritten:

2 "**§ 15A-601. First appearance before a district court judge; right in felony and**
3 **other cases in original jurisdiction of superior court; consolidation of**
4 **first appearance before magistrate and before district court judge; first**
5 **appearance before clerk of superior court; use of two-way audio**
6 **and video transmission.**

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

13 (a1) A first appearance in a noncapital case may be conducted by an audio and
14 video transmission between the judge and the defendant in which the parties can see and
15 hear each other. If the defendant has counsel, the defendant shall be allowed to
16 communicate fully and confidentially with his attorney during the proceeding.

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

22 (b) When a district court judge conducts an initial appearance as provided in G.S.
23 15A-511, he may consolidate those proceedings and the proceedings under this Article.

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

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

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

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

42 "**§ 15A-941. Arraignment before judge; use of two-way audio and video**
43 **transmission.**

1 (a) Arraignment consists of bringing a defendant in open court or as provided
2 in subsection (b) of this section before a judge having jurisdiction to try the offense,
3 advising him of the charges pending against him, and directing him to plead. The
4 prosecutor must read the charges or fairly summarize them to the defendant. If the
5 defendant fails to plead, the court must record that fact, and the defendant must be tried
6 as if he had pleaded not guilty.

7 (b) An arraignment in a noncapital case may be conducted by an audio and video
8 transmission between the judge and the defendant in which the parties can see and hear
9 each other. If the defendant has counsel, the defendant shall be allowed to communicate
10 fully and confidentially with his attorney during the proceeding.

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

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