

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

S

3

SENATE BILL 577  
Judiciary I Committee Substitute Adopted 4/28/03  
Third Edition Engrossed 4/29/03

Short Title: Adjust Court Jurisdiction.

(Public)

Sponsors:

Referred to:

March 31, 2003

A BILL TO BE ENTITLED

AN ACT TO PERMIT THE MORE EFFICIENT USE OF ALL COURT PERSONNEL RESOURCES THROUGH CONCURRENT AND REVISED JURISDICTION AND PROCEDURES BY AUTHORIZING DISTRICT COURT JUDGES TO ACCEPT GUILTY PLEAS FOR CERTAIN CLASSES OF FELONY, BY PROVIDING FOR CONCURRENT JURISDICTION FOR DISTRICT AND SUPERIOR COURT JUDGES IN INFRACTIONS AND MISDEMEANOR CASES, BY RAISING THE JURISDICTIONAL AMOUNT FOR SMALL CLAIMS, BY AUTHORIZING THE USE OF EXPEDITED CHILD SUPPORT PROCESS UPON THE AGREEMENT OF THE CHIEF DISTRICT COURT JUDGE AND CLERK OF SUPERIOR COURT, AND BY CONFORMING CERTAIN PROCEDURAL REQUIREMENTS IN ACTIONS FOR ABSOLUTE DIVORCE TO THE REQUIREMENTS IN OTHER CIVIL CASES, AS RECOMMENDED BY THE STATE JUDICIAL COUNCIL.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 7A-272(c) reads as rewritten:

"(c) With the consent of the presiding district court judge, the prosecutor, and the defendant, the district court has jurisdiction to accept a defendant's plea of guilty or no contest to a Class ~~H or I~~ D, E, F, G, H, or I felony, regardless of the seriousness of the original charge, if:

- (1) The defendant is charged with a felony in an information filed pursuant to G.S. 15A-644.1, the felony is pending in district court, and the defendant has not been indicted for the offense; or
- (2) The defendant has been indicted for a criminal offense but the defendant's case is transferred from superior court to district court pursuant to G.S. 15A-1029.1."

**SECTION 2.** G.S. 15A-1029.1(a) reads as rewritten:

1       "(a) With the consent of both the prosecutor and the defendant, the presiding  
2 superior court judge may order a transfer of the defendant's case to the district court for  
3 the purpose of allowing the defendant to enter a plea of guilty or no contest to a Class H  
4 ~~or I felony.~~ D, E, F, G, H, or I felony, regardless of the seriousness of the original  
5 charge."

6               **SECTION 3.** G.S. 7A-271 reads as rewritten:

7       "**§ 7A-271. Jurisdiction of superior court.**

8       (a) The superior court has exclusive, original jurisdiction over all criminal  
9 actions not assigned to the district court division by this Article, except that the superior  
10 court has jurisdiction to try a misdemeanor:

- 11           (1) Which is a lesser included offense of a felony on which an indictment  
12           has been returned, or a felony information as to which an indictment  
13           has been properly waived; or
- 14           (2) When the charge is initiated by presentment; or
- 15           (3) Which may be properly consolidated for trial with a felony under G.S.  
16           15A-926;
- 17           (4) To which a plea of guilty or nolo contendere is tendered in lieu of a  
18           felony charge; or
- 19           (5) When a misdemeanor conviction is appealed to the superior court for  
20           trial de novo, to accept a guilty plea to a lesser included or related  
21           charge.

22       (a1) With the consent of the presiding district court judge and the presiding  
23 superior court judge, a superior court judge may exercise the jurisdiction of the district  
24 court to hear and enter judgment in misdemeanors pending in the district court. Appeals  
25 from misdemeanor convictions before a superior court judge exercising the jurisdiction  
26 of the district court shall be to superior court for a trial de novo before a different  
27 superior court judge.

28       (b) ~~Appeals~~ Except as otherwise provided by law, appeals by the State or the  
29 defendant from the district court are to the superior court. The jurisdiction of the  
30 superior court over misdemeanors appealed from the district court to the superior court  
31 for trial de novo is the same as the district court had in the first instance, and when that  
32 conviction resulted from a plea arrangement between the defendant and the State  
33 pursuant to which misdemeanor charges were dismissed, reduced, or modified, to try  
34 those charges in the form and to the extent that they subsisted in the district court  
35 immediately prior to entry of the defendant and the State of the plea arrangement.

36       (c) When a district court is established in a district, any superior court judge  
37 presiding over a criminal session of court shall order transferred to the district court any  
38 pending misdemeanor which does not fall within the provisions of subsection (a), and  
39 which is not pending in the superior court on appeal from a lower court.

40       (d) The criminal jurisdiction of the superior court includes the jurisdiction to  
41 dispose of infractions only in the following circumstances:

- 42           (1) If the infraction is a lesser-included violation of a criminal action  
43           properly before the court, the court must submit the infraction for the  
44           jury's consideration in factually appropriate cases.

- 1 (2) If the infraction is a lesser-included violation of a criminal action  
2 properly before the court, or if it is a related charge, the court may  
3 accept admissions of responsibility for the infraction. A proper  
4 pleading for the criminal action is sufficient to support a finding of  
5 responsibility for the lesser-included infraction.

6 (e) With the consent of the presiding district court judge and the presiding  
7 superior court judge, a superior court judge may exercise the jurisdiction of the district  
8 court to hear and enter judgment in infractions pending in the district court. Appeals  
9 from infraction convictions before a superior court judge exercising the jurisdiction of  
10 the district court shall be to superior court for a trial de novo before a different superior  
11 court judge."

12 **SECTION 4.** G.S. 7A-210 reads as rewritten:

13 **"§ 7A-210. Small claim action defined.**

14 For purposes of this Article a small claim action is a civil action wherein:

- 15 (1) The amount in controversy, computed in accordance with G.S.  
16 7A-243, does not exceed ~~four thousand dollars (\$4,000);~~ five thousand  
17 dollars (\$5,000); and  
18 (2) The only principal relief prayed is monetary, or the recovery of  
19 specific personal property, or summary ejectment, or any combination  
20 of the foregoing in properly joined claims; and  
21 (3) The plaintiff has requested assignment to a magistrate in the manner  
22 provided in this Article.

23 The seeking of the ancillary remedy of claim and delivery or an order from the clerk  
24 of superior court for the relinquishment of property subject to a lien pursuant to G.S.  
25 44A-4(a) does not prevent an action otherwise qualifying as a small claim under this  
26 Article from so qualifying."

27 **SECTION 5.** G.S. 50-34 is amended by adding a new subsection to read:

28 "(a1) Districts May Elect Expedited Process. – A chief district court judge in a  
29 district court district that is not required by G.S. 50-33(b) to implement the expedited  
30 process may elect to implement the expedited child support process provided for in this  
31 Article in any or all counties within a district court district. A chief district court judge  
32 may implement the expedited child support process only with the consent of the clerk of  
33 superior court of any county in which the process is implemented. Notwithstanding  
34 subsection (b) of this section, when a district court district elects to implement the  
35 expedited child support process, the chief district court judge and the clerk of superior  
36 court in an affected county shall determine by agreement whether the child support  
37 hearing officer or officers for that county shall be one or more clerks or assistant clerks  
38 or one or more magistrates. If it is decided that the hearing officer or officers for a  
39 county shall be magistrates, the chief district court judge shall designate the person or  
40 persons to serve as a hearing officer. If it is decided that the hearing officer or officers  
41 for a county shall be the clerk or assistant clerks, the clerk of superior court in the  
42 county shall designate the person or persons to serve as hearing officer. The chief  
43 district court judge, the clerk of superior court, and the Administrative Officer of the

1 Courts shall ensure the qualification of the persons designated as child support hearing  
2 officers."

3 **SECTION 6.** G.S. 50-10 is repealed.

4 **SECTION 7.** G.S. 1A-1, Rule 55(b)(1), reads as rewritten:

5 "(b) Judgment. – Judgment by default may be entered as follows:

6 (1) By the Clerk. –

7 a. When the plaintiff's claim against a defendant is for a sum  
8 certain or for a sum which can by computation be made certain,  
9 the clerk upon request of the plaintiff and upon affidavit of the  
10 amount due shall enter judgment for that amount and costs  
11 against the defendant, if the defendant has been defaulted for  
12 failure to appear and if the defendant is not an infant or  
13 incompetent person. A verified pleading may be used in lieu of  
14 an affidavit when the pleading contains information sufficient  
15 to determine or compute the sum certain.

16 In all cases wherein, pursuant to this rule, the clerk enters  
17 judgment by default upon a claim for debt which is secured by  
18 any pledge, mortgage, deed of trust or other contractual security  
19 in respect of which foreclosure may be had, or upon a claim to  
20 enforce a lien for unpaid taxes or assessments under G.S.  
21 105-414, the clerk may likewise make all further orders  
22 required to consummate foreclosure in accordance with the  
23 procedure provided in Article 29A of Chapter 1 of the General  
24 Statutes, entitled "Judicial Sales".

25 b. The clerk of superior court, upon request of the plaintiff, may  
26 enter judgment in cases in which the plaintiff's only claim  
27 against the defendant is for absolute divorce, or absolute  
28 divorce and the resumption of a former name, and the defendant  
29 has been defaulted for failure to appear, or the defendant has  
30 answered admitting the allegations of the complaint and joining  
31 in the request for an absolute divorce, or the defendant has filed  
32 a waiver of the right to answer and joined in the request for an  
33 absolute divorce, and the defendant is not an infant or  
34 incompetent person."

35 **SECTION 8.** This act becomes effective October 1, 2003, and applies to  
36 cases pending or filed on or after that date.