

GENERAL ASSEMBLY OF NORTH CAROLINA
EXTRA SESSION 1994

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SENATE BILL 84

Short Title: Deferred Prosecution/Dismissal.

(Public)

Sponsors: Senator Winner of Buncombe.

Referred to: Courts.

February 11, 1994

A BILL TO BE ENTITLED

1
2 AN ACT TO PROVIDE FOR DISMISSAL WITH LEAVE PURSUANT TO A
3 DEFERRED PROSECUTION AGREEMENT AND THE REINSTITUTION OF
4 PROCEEDINGS AGAINST A DEFENDANT THAT FAILS TO COMPLY WITH
5 THE TERMS OF THE AGREEMENT.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 15A-932 reads as rewritten:

8 "**§ 15A-932. Dismissal with leave when defendant fails to appear and cannot be**
9 **readily found.** **found or pursuant to a deferred prosecution agreement.**

10 (a) The prosecutor may enter a dismissal with leave for nonappearance when a
11 defendant:

- 12 (1) Cannot be readily found to be served with an order for arrest after the
13 grand jury had indicted him; or
14 (2) Fails to appear at a criminal proceeding at which his attendance is
15 required, and the prosecutor believes the defendant cannot be readily
16 found.

17 (a1) The prosecutor may enter a dismissal with leave pursuant to a deferred
18 prosecution agreement entered into in accordance with the provisions of Article 82 of
19 this Chapter.

20 (b) Dismissal with leave for nonappearance or pursuant to a deferred prosecution
21 agreement results in removal of the case from the docket of the court, but all process
22 outstanding retains its validity, and all necessary actions to apprehend the defendant,
23 investigate the case, or otherwise further its prosecution may be taken, including the

1 issuance of nontestimonial identification orders, search warrants, new process, initiation
2 of extradition proceedings, and the like.

3 (c) The prosecutor may enter the dismissal with leave for nonappearance or
4 pursuant to a deferred prosecution agreement orally in open court or by filing the
5 dismissal in writing with the clerk. If the dismissal for nonappearance or pursuant to a
6 deferred prosecution agreement is entered orally, the clerk must note the nature of the
7 dismissal in the case records.

8 (d) Upon apprehension of the defendant, or in the discretion of the prosecutor
9 when he believes apprehension is imminent, the prosecutor may reinstitute the
10 proceedings by filing written notice with the clerk.

11 (e) If the defendant fails to comply with the terms of a deferred prosecution
12 agreement, the prosecutor may reinstitute the proceedings by filing written notice with
13 the clerk."

14 Sec. 2. This act becomes effective March 1, 1994, and applies to deferred
15 prosecution agreements entered into on or after that date.