

Chapter 15A.

Criminal Procedure Act.

SUBCHAPTER I. GENERAL.

Article 1.

Definitions and General Provisions.

§§ 15A-1 through 15A-100. Reserved for future codification purposes.

§ 15A-101. Definitions.

Unless the context clearly requires otherwise, the following words have the listed meanings:

- (1) Appeal. – When used in a general context, the term "appeal" also includes appellate review upon writ of certiorari.
- (1a) Attorney of Record. – An attorney who, under Article 4 of this Chapter, Entry and Withdrawal of Attorney in Criminal Case, has entered a criminal proceeding and has not withdrawn.
- (2) Clerk. – Any clerk of superior court, acting clerk, or assistant or deputy clerk.
- (3) District Court. – The District Court Division of the General Court of Justice.
- (4) District Attorney. – The person elected and currently serving as district attorney in his prosecutorial district.
- (4a) Entry of Judgment. – Judgment is entered when sentence is pronounced. Prayer for judgment continued upon payment of costs, without more, does not constitute the entry of judgment.
- (5) Judicial Official. – A magistrate, clerk, judge, or justice of the General Court of Justice.
- (6) Officer. – Law-enforcement officer.
- (7) Prosecutor. – The district attorney, any assistant district attorney or any other attorney designated by the district attorney to act for the State or on behalf of the district attorney.
- (8) State. – The State of North Carolina, all land or water in respect to which the State of North Carolina has either exclusive or concurrent jurisdiction, and the airspace above that land or water. "Other state" means any state or territory of the United States, the District of Columbia or the Commonwealth of Puerto Rico.
- (9) Superior Court. – The Superior Court Division of the General Court of Justice.
- (10) Superior Court Judge. – A superior court judge who has jurisdiction pursuant to G.S. 7A-47.1 or G.S. 7A-48 in the district or set of districts as defined in G.S. 7A-41.1.
- (11) Vehicle. – Aircraft, watercraft, or landcraft or other conveyance. (1973, c. 1286, s. 1; 1975, c. 166, s. 2; 1977, c. 711, s. 19; 1987 (Reg. Sess., 1988), c. 1037, s. 52; 1997-456, s. 27.)

§ 15A-101.1. Electronic technology in criminal process and procedure.

As used in this Chapter, in Chapter 7A of the General Statutes, in Chapter 15 of the General Statutes, and in all other provisions of the General Statutes that deal with criminal process or procedure:

- (1) "Attach" or "attached" means, when referring to documents existing in paper form, physical attachment by staples, clips, or other mechanical means, or managed such that neither document is stored or delivered without the other. When referring to documents stored in electronic form, the term means either storage as a single digital file or storage in a manner that a user interface for access to the documents displays clearly the logical association between them, to the exclusion of other, unassociated documents displayed with them. When referring to documents delivered in electronic form, the term means documents delivered simultaneously and via the same mechanism or medium, including, but not limited to, any of the following: (i) delivery via a single email message, (ii) delivery on a single unit of removable electronic media, or (iii) delivery in immediate, contemporaneous sequence with one another from the same source to the same recipient. It is not necessary that the relationship between documents appear on the face of the documents in order to be deemed attached.
- (1a) "Copy" means all identical versions of a document created or existing in paper or electronic form, including the original and all other identical versions of the document. Except where otherwise expressly provided by law or when authority is vested only in a certified copy, a copy of a document is equally authoritative as the original.
- (2) "Document" means any pleading, criminal process, subpoena, complaint, motion, application, notice, affidavit, commission, waiver, consent, dismissal, order, judgment, or other writing intended in a criminal or contempt proceeding to authorize or require an action, to record a decision or to communicate or record information. A document may be created and exist in paper form or in electronic form or in both forms. Each document shall contain the legible, printed name of the person who signed the document.
- (3) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, Internet, or similar capabilities.
- (3a) "Electronic monitoring" or "electronically monitor" or "satellite-based monitoring" means monitoring with an electronic monitoring device that is not removed from a person's body, that is utilized by the supervising agency in conjunction with a Web-based computer system that actively monitors, identifies, tracks, and records a person's location at least once every minute 24 hours a day, that has a battery life of at least 48 hours without being recharged, that timely records and reports or records the person's presence near or within a crime scene or prohibited area or the person's departure from a specified geographic location, and that has incorporated into the software the ability to automatically compare crime scene data with locations of all persons being electronically monitored so as to provide any correlation daily or in real time. In areas of the State where lack of cellular coverage requires the use of an alternative device, the supervising agency shall use an alternative device that works in concert with the software and records location and tracking data for later download and crime scene comparison.
- (4) "Electronic Repository" means an automated electronic repository for criminal process created and maintained pursuant to G.S. 15A-301.1.
- (5) Repealed by Session Laws 2022-47, s. 16(d), effective July 7, 2022.

- (6) "Entered" means signed and filed in the office of the clerk of superior court of the county in which the document is to be entered. A document may be entered in either paper form or electronic form.
- (7) "Filing" or "filed" means:
- a. When the document is in paper form, delivering the original document to the office where the document is to be filed. Filing is complete when the original document is received in the office where the document is to be filed.
 - b. When the document is in electronic form, creating and saving the document, or transmitting it, in such a way that it is unalterably retained in the electronic records of the office where the document is to be filed. A document is "unalterably retained" in an electronic record when it may not be edited or otherwise altered except by a person with authorization to do so.
- (8) "Issued" applies to documents in either paper form or electronic form. A document that is first created in paper form is issued when it is signed. A document that is first created in electronic form is issued when it is signed and filed in the office of the clerk of superior court of the county for which it is to be issued.
- (9) "Original" means:
- a. A document first created and existing only in paper form, bearing the original signature of the person who signed it. The term also includes each copy in paper form that is printed through the facsimile transmission of the copy bearing the original signature of the person who signed it.
 - b. A document existing in electronic form, including the electronic form of the document and any copy that is printed from the electronic form.
- (10) "Signature" means any symbol, including, but not limited to, the name of an individual, which is executed by that individual, personally or through an authorized agent, with the intent to authenticate or to effect the issuance or entry of a document. A document may be signed by the use of any manual, mechanical or electronic means that causes the individual's signature to appear in or on the document. Any party challenging the validity of a signature shall have the burden of pleading, producing evidence, and proving that the signature was not the act of the person whose signature it appears to be. (2002-64, s. 1; 2011-245, s. 2(a); 2012-194, s. 6; 2021-47, s. 10(b); 2022-47, s. 16(d).)