

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

SESSION LAW 2009-179
HOUSE BILL 315

AN ACT TO PROVIDE THAT REJECTION OF A PLEA ARRANGEMENT BY A JUDGE IN SUPERIOR COURT SHALL BE NOTED ON THE PLEA TRANSCRIPT AND BE MADE PART OF THE COURT RECORD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-1023(b) reads as rewritten:

"(b) Before accepting a plea pursuant to a plea arrangement in which the prosecutor has agreed to recommend a particular sentence, the judge must advise the parties whether he approves the arrangement and will dispose of the case accordingly. If the judge rejects the arrangement, he must so inform the parties, refuse to accept the defendant's plea of guilty or no contest, and advise the defendant personally that neither the State nor the defendant is bound by the rejected arrangement. The judge must advise the parties of the reasons he rejected the arrangement and afford them an opportunity to modify the arrangement accordingly. Upon rejection of the plea arrangement by the judge the defendant is entitled to a continuance until the next session of court. A decision by the judge disapproving a plea arrangement is not subject to appeal. If a judge rejects a plea arrangement disclosed, in open court, pursuant to subsection (a) of this section, then the judge shall order that the rejection be noted on the plea transcript and shall order that the plea transcript with the notation of the rejection be made a part of the record."

SECTION 2. G.S. 15A-1026 reads as rewritten:

"§ 15A-1026. Record of proceedings.

A verbatim record of the proceedings at which the defendant enters a plea of guilty or no contest and of any preliminary consideration of a plea arrangement by the judge pursuant to G.S. 15A-1021(c) must be made and preserved. This record must include the judge's advice to the defendant, and his inquiries of the defendant, defense counsel, and the prosecutor, and any responses. If the plea arrangement has been reduced to writing, it must be made a part of the record; otherwise the judge must require that the terms of the arrangement be stated for the record and that the assent of the defendant, his counsel, and the prosecutor be recorded. If the judge rejects the plea arrangement under G.S. 15A-1023(b), then the rejection of the plea arrangement must also be made part of the record pursuant to G.S. 15A-1023(b)."



SECTION 3. This act becomes effective December 1, 2009, and applies to pleas accepted on or after that date.

In the General Assembly read three times and ratified this the 17th day of June, 2009.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 11:32 a.m. this 26th day of June, 2009