

Chapter 23

Guilty Pleas

23.1 In General	23-2
23.2 Basic Steps	23-4
23.3 Preparing the Plea Agreement	23-5
A. Client’s Right to Enter Plea	
B. Types of Pleas	
C. Plea Bargaining	
D. Informing Client of Consequences of Plea Bargain	
E. Judge’s Participation in Plea Discussions	
23.4 The Plea Procedure	23-18
A. Recordation Requirement	
B. Judge’s Duty to Ensure Informed Choice	
C. Factual Basis for Plea	
D. Judge’s Sentencing Discretion	
E. Defendant’s Right to Withdraw Plea	
F. State’s Right to Rescind Plea Agreement	
G. Defendant’s Right to Plead to Other Crimes	
H. Guilty Pleas to Class H or I Felonies in District Court	
I. Guilty Pleas through Counsel	
J. Breach of Plea Agreement	
K. Time Limit on Collateral Attack on Conviction	
23.5 Felony Sentencing	23-33
A. Aggravated Sentences	
B. Aggravating Factors Based on Elements of a Dismissed Offense	
C. Use of Testimony from Prior Trial	
D. Restitution Orders and Recommendations	
23.6 Appeal from Guilty Pleas	23-36
A. Appeal from District Court	
B. Appeal from Superior Court	
C. Alternative Remedies	
23.7 Other Issues	23-42
A. Inadmissibility of Plea Negotiations at Trial	
B. Challenging Former Guilty Pleas	
C. Concessions of Guilt during Trial	

Appendix 23-1: Checklist for Guilty Pleas

23-45

This chapter deals with issues involving guilty pleas and the procedures that must be followed when a defendant pleads guilty. Specifically, it addresses duties that counsel owe to their clients with regard to guilty pleas, the plea bargaining process, the plea colloquy, sentencing, and appeals. The chapter also includes a checklist for entering guilty pleas.

Statutes addressing plea procedures in superior court are primarily in Chapter 15A, Articles 57 (Pleas) and 58 (Procedures Relating to Guilty Pleas in Superior Court) of the North Carolina General Statutes. Although the procedures discussed in Article 58 do not apply explicitly to plea negotiations in district court, the expectation of the General Assembly in enacting the procedures was that the same general procedures would be used in district court, albeit in a “less formal” manner. *See* G.S. Ch. 15A, Art. 58 Official Commentary (located immediately before G.S. 15A-1021).

For an additional resource on guilty pleas, see Jessica Smith, [*Pleas and Plea Negotiations in North Carolina Superior Court*](#), NORTH CAROLINA SUPERIOR COURT JUDGES’ BENCHBOOK (UNC School of Government, June 2015).