



CHAPTER 15A
ARTICLE 56 - INCAPACITY TO PROCEED

N.C.G.S. § 15A-1008.

Dismissal of charges.

SOURCE General Statutes of North Carolina, as published by the General Assembly	LAST AMENDMENT IN THIS TEXT S.L. 2025-93, s. 7(b) — third act in the lineage	RETRIEVED 21 September 2026, 03:11 UTC	SOURCE FINGERPRINT 0666b5f4e7780f3abded0cd0 - 78527a02daa0597c68ded5e3 - 85e2a215a228f47e
--	---	---	--

- § 15A-1008(a)

When a defendant lacks capacity to proceed, the court shall dismiss the charges upon the earliest of the following occurrences:

(1)

When it appears to the satisfaction of the court that the defendant will not gain capacity to proceed.

(2)

When as a result of incarceration, involuntary commitment to an inpatient facility, or other court-ordered confinement, the defendant has been substantially deprived of his liberty for a period of time equal to or in excess of the maximum term of imprisonment permissible for prior record Level VI for felonies or prior conviction Level III for misdemeanors for the most serious offense charged.

(3)

Upon the expiration of a period of five years from the date of determination of incapacity to proceed in the case of misdemeanor charges and a period of 10 years in the case of felony charges.
- § 15A-1008(b)

A dismissal entered pursuant to subdivision (2) of subsection (a) of this section shall be without leave.
- § 15A-1008(c)

A dismissal entered pursuant to subdivision (1) or (3) of subsection (a) of this section shall be issued without prejudice to the refiling of the charges.
- § 15A-1008(d)

Dismissal of criminal charges pursuant to this section shall be upon motion of the prosecutor or the defendant or upon the court's own motion and shall not be expunged pursuant to G.S. 15A-146.

END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS I
3 ACTS

Amendment lineage

The State prints this history as a single parenthetical at the foot of the section. It is reproduced verbatim in the colophon and unpacked below in order of enactment.

	1973		1999		2025
	TICK HEIGHT = ACTS IN THAT YEAR DASHED = RECODIFICATION, NOT AMENDMENT				
Nº	YEAR	ACT	CHARACTER		
01	1973	c. 1286, s. 1	ENACTED		
02	2013	S.L. 2013-18, s. 5	AMENDED		
03	2025	S.L. 2025-93, s. 7(b)	AMENDED		

APPARATUS II
1 AUTHORITY

Authorities referenced

Every G.S. cross-reference appearing in the text of this section, in order of first appearance. Nothing is characterized; the operative language is quoted from the section itself.

REFERENCE	APPEARS IN	OPERATIVE LANGUAGE IN THIS SECTION
G.S. 15A-146	(d)	"shall not be expunged pursuant to"

APPARATUS III

Citation

FULL SECTION

N.C. Gen. Stat. § 15A-1008 (2025).

PINPOINT

N.C. Gen. Stat. § 15A-1008(a) (2025).

Pinpoint keys are set in the left margin of the text rather than line numbers: subsection designators are stable across editions and paper sizes, line numbers are not.

COLOPHON

Provenance

This document reproduces the text of one section of the General Statutes of North Carolina from a source file whose SHA-256 digest is printed on every page. The digest fixes the bytes this export was made from; if the State's file changes, the digest will not match.

The text of the section is unaltered. Subsection designators have been moved from the run of text into the margin. The amendment history and the table of authorities are derived from the section by mechanical extraction — they add no characterization of the law.

This is not the official text. The official text is published by the General Assembly of North Carolina.

HISTORY PARENTHETICAL, AS PRINTED BY THE STATE
(1973, c. 1286, s. 1; 2013-18, s. 5; 2025-93, s. 7(b).)

SET IN SPECTRAL AND ARCHIVO
NORTH CAROLINA LAW — STATUTE EXPORT, FORMAT V1

