

STATE OF NORTH CAROLINA
JUDICIAL DISTRICT 15B

OFFICIAL POLICIES ON PRETRIAL RELEASE
EFFECTIVE DECEMBER 1, 2025

I. **AUTHORITY**

NCGS 15A-535 provides: "Subject to the provisions of this Article (Article 26, Bail), the Senior Resident Superior Court Judge of each Judicial District, in consultation with the Chief District Court Judge, must devise and issue recommended policies to be followed within the district in determining whether and upon what conditions a defendant may be released before trial." This policy replaces any existing policy previously entered.

II. **DEFINITIONS**

Certain terms used in bail practice have now acquired statutory definitions. NCGS 15A-531 states that the following definitions apply unless the context clearly requires otherwise:

- A. **Bail Bond.** An undertaking by the principal to appear in court as required upon penalty of forfeiting bail to the State of North Carolina in a stated amount. Bail bonds include an unsecured appearance bond, an appearance bond secured by a cash deposit of the full amount of the bond, an appearance bond secured by a mortgage under NCGS 58-74-5, and an appearance bond secured by at least one solvent surety.
- B. **Obligor.** A principal or surety on a bail bond.
- C. **Principal.** A defendant or material witness obligated to appear in court as required upon penalty of forfeiting bail under a bail bond.
- D. **Surety.** One who, with the principal, is liable for the amount of the bail bond upon forfeiture of bail.
- E. **"Violent offense"** means any of the following:
 - i. Any Class A through G felony that includes assault, the use of physical force against a person, or the threat of physical force against a person, as an essential element of the offense.
 - ii. Any felony offense requiring registration pursuant to Article 27A of Chapter 14 of the General Statutes, whether or not the person is currently required to register.
 - iii. An offense under G.S. 14-17 (1st and 2nd degree murder), and any other offense listed in G.S. 15A-533(b).
 - iv. An offense under G.S. 14-18.4 (death by distribution of certain cont. substances), 14-34.1 (discharge weapon into occupied property), 14-51 (1st and 2nd deg. burglary), 15-54(a1) (break/enter to terrorize or injure), 14-202.1 (indecent liberties with a child), 14-277.3A (stalking), 14-415.1 (possession of firearm by felon), or an offense under 90-95(h)(4c) that involves fentanyl.
 - v. Any offense that is an attempt to commit an offense described in this subdivision.

III. PURPOSE OF BAIL and RIGHT TO PRETRIAL RELEASE

The traditional purpose of bail is to assure the defendant's appearance in court.

The purpose of the law on bail, NCGS Chapter 15A, Article 26, is to impose the least restrictive non-monetary form of pretrial release that will reasonably assure the defendant's appearance in court, to end or to minimize the abuses of *ex parte* bail fixing policies calling for secured bonds in predetermined amounts in all cases charging certain offenses, and to vest the decision making process as to form of release and amount of bond in the judicial official who may know the most or can most readily learn the most about the defendant.

NCGS 15A-533 sets forth defendant's right (or lack thereof) to pretrial release in capital and noncapital cases as follows:

- (a) A defendant charged with any crime, whether capital or noncapital, who is alleged to have committed this crime while still residing in or subsequent to his escape or during an unauthorized absence from involuntary commitment in a mental health facility designated or licensed by the Dept. of Health and Human Services, and whose commitment is determined to still be valid by the judge or judicial officer authorized to determine pretrial release to be valid, has **NO RIGHT** to pretrial release. In lieu of pretrial release, however, the individual shall be returned to the treatment facility in which he was residing at the time of the alleged crime or from which he escaped or absented himself for continuation of his treatment pending the additional proceedings on the criminal offense.
- (b) A judge shall determine in the judge's discretion whether a defendant charged with **ANY** of the following crimes may be released before trial:
 - (1) G.S. 14-17 (First or second degree murder) or an attempt to commit first or second degree murder.
 - (2) G.S. 14-27.21 (First degree forcible rape).
 - (3) G.S. 14-27.22 (Second degree forcible rape).
 - (4) G.S. 14-27.23 (Statutory rape of a child by an adult).
 - (5) G.S. 14-27.24 (First degree statutory rape).
 - (6) G.S. 14-27.25 (Statutory rape of person who is 15 years of age or younger).
 - (7) G.S. 14-27.26 (First degree forcible sexual offense).
 - (8) G.S. 14-27.27 (Second degree forcible sexual offense).
 - (9) G.S. 14-27.28 (Statutory sexual offense with a child by an adult).
 - (10) G.S. 14-27.29 (First degree statutory sexual offense with a person who is 15 years of age or younger).
 - (11) G.S. 14-27.30 (Statutory sexual offense with a person who is 15 years of age or younger).
 - (12) G.S. 14-32(a) (Assault with a deadly weapon with intent to kill inflicting serious injury).
 - (13) G.S. 14-34.1 (Discharging certain barreled weapons or a firearm into occupied property).
 - (14) G.S. 14-39 (First or second degree kidnapping).
 - (15) G.S. 14-43.11 (Human trafficking).
 - (16) First degree burglary pursuant to G.S. 14-51.
 - (17) First degree arson pursuant to G.S. 14-58.
 - (18) G.S. 14-87 (Robbery with firearms or other dangerous weapons).

There shall be a rebuttable presumption that no condition of release will reasonably assure the appearance of the person as required and the safety of the community for a defendant charged with a crime listed above. However, if the judge determines that release is warranted for a defendant charged with a crime listed above, the judge shall set conditions of pretrial release in accordance with G.S. 15A-534.

A defendant charged with a noncapital offense that is not listed above, must otherwise have conditions of pretrial release determined, in accordance with G.S. 15A-534.

EFFECTIVE DECEMBER 1, 2026, if a defendant is (i) charged with a violent offense and, after a search of the court records for the defendant, the judicial official determines that the defendant has previously been subject to an order of involuntary commitment, pursuant to Article 5 of Chapter 122C of the General Statutes, within the prior three (3) years, or (ii) charged with ANY offense AND the judicial official has reasonable grounds to believe the defendant is a danger to themselves or others, the judicial official shall set conditions of pretrial release in accordance with G.S. 15A-534 and shall issue an order that complies with G.S. 15A-533(b1).

IV. FORMS OF PRETRIAL RELEASE

In determining the conditions of pretrial release, a judicial official must impose at least one of the following conditions:

- A. Release the defendant upon the execution of unsecured appearance bond in an amount specified by the judicial official.
- B. Place the defendant in the custody of a designated person or organization agreeing to supervise him.
- C. Require the execution of an appearance bond in a specified amount secured by a cash deposit of the full amount of the bond, by mortgage pursuant to G.S. 58-74-5, or by at least one solvent surety.
- D. House arrest with electronic monitoring. Pursuant to G.S. 15A-534(a)(5), if electronic monitoring is ordered as a condition of bond then a defendant **MUST** execute a secured appearance bond under subdivision “C” above. |
- E. Use of Conditions: Restrictions may be imposed on travel, associations, conduct, or place of abode, no matter what type of pretrial release is set.

Any restrictions imposed should be *reasonable* and *related to the purposes* of the pretrial provisions. Conditions should not be used as punishment.

1. The conditions should relate to those reasons listed under NCGS 15A-534(b):
 - a. to assure defendant’s appearance (travel);
 - b. the danger of injury to any person (conduct/association);
 - c. the destruction of evidence (conduct/travel/association);
 - d. the subornation of perjury or intimidation of potential witnesses.

V. **CHOOSING THE FORM OF PRETRIAL RELEASE – NCGS 15A-534**

EXCEPT FOR A DEFENDANT CHARGED WITH A VIOLENT OFFENSE, a judicial official in granting pretrial release **MUST** impose either an unsecured appearance bond or place the defendant in the custody of a designated person or organization agreeing to supervise the defendant **UNLESS** the judicial official determines that such release will not reasonably assure the appearance of the defendant as required; will pose a danger of injury to any person; or is likely to result in destruction of evidence, subornation of perjury, or intimidation of potential witnesses. G.S. 15A-534(b). If release on an unsecured bond or custody release will not reasonably assure appearance, will pose a danger of injury to any person, or is likely to result in destruction of evidence, subornation of perjury or intimidation of potential witnesses, the judicial official **SHALL** impose a secured bond or house arrest with electronic monitoring **AND** provide written reasons for doing so. Notwithstanding the above, if defendant has been convicted of three (3) or more offenses, each of which is a Class 1 misdemeanor or higher offense, within the previous 10 years, the judicial official must then impose either a secured bond or house arrest with electronic monitoring (NCGS 15A-534(b)).

PURSUANT TO NCGS 15A-534(b1), FOR A DEFENDANT CHARGED WITH ANY VIOLENT OFFENSE as defined in Section II.E. (Definitions) above, THERE SHALL BE A REBUTTABLE PRESUMPTION THAT NO CONDITION OF RELEASE WILL REASONABLY ASSURE THE APPEARANCE OF THE PERSON AS REQUIRED AND THE SAFETY OF THE COMMUNITY. HOWEVER, IF THE JUDICIAL OFFICIAL DETERMINES THAT PRETRIAL RELEASE IS APPROPRIATE FOR A DEFENDANT, THE JUDICIAL OFFICIAL MUST DO ONE OF THE FOLLOWING:

1. For a Defendant charged with a first violent offense, impose a secured bond or place them on house arrest with electronic monitoring.
2. For a Defendant charged with a second or subsequent violent offense, after (i) being convicted of a prior violent offense, or (ii) being released on pretrial release conditions for a prior violent offense, impose house arrest with electronic monitoring, if available.

When considering pretrial release **OF ANY TYPE**, the judicial official shall direct the arresting law enforcement officer, a pretrial services program, or a district attorney to provide a criminal history report for the defendant and shall consider the criminal history when setting conditions of pretrial release. Additionally, the judicial official shall consider the following factors when making a determination as set forth in NCGS 15A-534(c):

1. the nature and circumstances of the offense charged;
2. the weight of the evidence against the defendant;
3. the defendant's family ties;
4. the defendant's employment;
5. the defendant's financial resources;
6. the defendant's character;

7. the defendant's mental condition;
8. the defendant's degree of intoxication, if any;
9. the defendant's length of residence in the community;
10. the defendant's housing situation;
11. the defendant's history of flight to avoid prosecution or failure to appear at court proceedings;
12. any relevant behavior of the defendant **observed by the officer** prior to, during, or after the arrest that may provide reasonable grounds for the judicial officer to believe defendant is a danger to themselves or others; and
13. any other evidence relevant to the issue of pretrial release.

A. Unsecured Bond in a Specific Amount.

The unsecured bond in a specific amount is the recommended form of pretrial release in cases arising under NCGS Chapter 20 (Motor Vehicles), and upon the magistrate's finding that this form of release will reasonably assure the defendant's court appearance on the basis of the release criteria set out above.

B. Release to the Custody of a Designated Person or Organization Agreeing to Supervise the Defendant.

This form of release may be selected in cases if the magistrate finds: (1) that by reason of defendant's age or mental condition a custodial release is most likely to assure the defendant's court appearance, and (2) such custodian and the defendant are both before the magistrate, and both agree in writing to the terms of release.

Additionally, a district court judge or superior court judge may release a defendant to be supervised and monitored by the Brunswick County Sheriff's Pretrial Release Division, as a form of Supervised Custodial Release pursuant to G.S. §15A-534(a)(3), subject to the following:

1. The BCSO Pretrial Release (PTR) division must screen and accept the defendant prior to this type of pretrial release. Additionally, a defendant must reside in Brunswick County (unless otherwise allowed by the Brunswick County Sheriff's Office) AND execute a contract with the BCSO PTR division wherein the defendant agrees to be monitored and shall be subject to the rules of pretrial release as set forth in the contract and otherwise imposed by the BCSO PTR division. For non-indigent defendants, there is a \$120.00/month monitoring fee for the BCSO PTR as of 2/1/2022.
2. Given that a defendant must be screened and accepted by the sheriff's office prior to being placed on pretrial electronic monitoring, a judicial official shall also set an alternate bond in the event the defendant does not qualify for BCSO pretrial electronic monitoring through the screening process (i.e. If the defendant does not qualify for electronic monitoring through the BCSO PTR division, then defendant shall alternatively post a \$5,000 secured bond).

3. **If a defendant breaches the terms and conditions of the BCSO PTR division as set forth in the PTR contract and/or guidelines,** the Brunswick County Sheriff may take defendant into custody for such breach. Under G.S. 15A-401(b)(2)(f), a law enforcement officer may arrest a defendant without a warrant for violation of pretrial release conditions and bring the defendant before a judicial official. When a defendant appears before a judicial official after such an arrest, the judicial official shall first determine whether or not a valid condition of release was violated. If there is no probable cause to believe that a valid condition of release was violated, the judicial official shall order the defendant released on the existing release order. If there is probable cause to believe that a valid condition of release was violated, the judicial official shall determine the defendant's eligibility for and conditions of release as set out in this policy and, if new conditions are warranted, shall enter a new release order. When setting new conditions of release after a warrantless arrest for a violation of conditions of pretrial release, the judicial official shall not issue new criminal process (such as a Magistrate's Order) unless the conduct also constitutes an independent, new substantive criminal offense (such as communicating threats or trespass). "Violation of court order" is not a substantive crime in North Carolina. If the judicial official decides to pursue contempt for violation of the prior release order, the judicial official should proceed accordingly.

Magistrates are not authorized to impose pretrial monitoring through the BCSO as a condition of release.

If the defendant objects to the custodial form of release as set forth in subsection B above, the defendant may elect to execute a secured appearance bond.

- C. Release on a Secured Appearance Bond in a Specified Amount Secured by a Cash Deposit, Mortgage, or at Least One Solvent Surety; and/or
- D. House Arrest with Electronic Monitoring.

This condition of bond is separate from the BCSO pre-trial supervision program and is monitored by a private third-party company/provider. The court may impose pretrial house arrest release in which the defendant is required to remain at his or her residence unless the court authorizes the defendant to leave for purposes of employment, counseling, a course of study, or vocational training. The defendant shall be required to wear a device which permits the supervising agency to electronically monitor the defendant's compliance with the terms and conditions set forth by the court. If house arrest with electronic monitoring is imposed, the defendant **MUST** also execute a secured appearance bond under subsection C above.

VI. SUGGESTED BAIL BONDS

The bond amounts set out below are applicable to both secured and unsecured bonds. They are merely suggested bonds. The actual bond may be more or less than the amounts suggested below and is in the sole discretion of the judicial official setting bond.

The circumstances of each individual case will govern each decision. A rigid bail schedule is incompatible with such an individualized decision. The magistrate will select a bond amount that is appropriate and indicated by using the same release criteria set out above and using those criteria here for determination of the amount of bond.

MISDEMEANORS AND NON-DRUG TRAFFICKING FELONIES

1. For Class B1 felonies* - \$250,000.00 - \$1,000,000.00
2. For Class B2 felonies* - \$200,000.00 - \$500,000.00
3. For Class C felonies* - \$150,000 - \$400,000.00
4. For Class D felonies* - \$125,000 - \$350,000.00
5. For Class E felonies - \$75,000.00 - \$200,000.00
6. For Class F felonies - \$25,000.00 - \$75,000.00
7. For Class G felonies - \$15,000.00 - \$50,000.00
8. For Class H felonies - \$2,500.00 - \$25,000.00
9. For Class I felonies - \$2,000.00 - \$10,000.00
10. For Habitual DWI* - \$30,000.00 - \$45,000.00
11. For DWI - \$500.00 - \$50,000.00
12. For Class A1 misdemeanors - \$500.00 - \$2,000.00
13. For Class 1 misdemeanors - \$250.00 - \$1,000.00
14. For Class 2 misdemeanors - \$200.00 - \$500.00
15. For Class 3 misdemeanors - \$100.00 - \$250.00
16. For NC Probation Violation:
 - a. absconding or subsequent conviction - \$25,000.00 - \$100,000.00
 - b. all other violations - \$5,000.00 - \$20,000.00
17. For Fugitive Warrant – Set amount appropriate for underlying offense
with consideration for the nature of any violations and any new charges.
18. For Governor’s Warrant – No bond

19. For Interstate Compact – No bond

20. For Parole Warrant – No bond

*Each of these offenses carries a mandatory minimum active sentence.

B. DRUG TRAFFICKING OFFENSES

1.	For Class C	-	\$250,000.00 - \$500,000.00
2.	For Class D	-	\$200,000.00 - \$300,000.00
3.	For Class E	-	\$75,000.00 - \$200,000.00
4.	For Class F	-	\$50,000.00 - \$75,000.00
5.	For Class G	-	\$30,000.00 - \$50,000.00
6.	For Class H	-	\$25,000.00 - \$35,000.00

VII. CAPITAL OFFENSES (CLASS A FELONIES)

- A. A magistrate does not have authority to grant pretrial release to any defendant charged with a capital offense.
- B. A district court judge or a superior court judge, in the exercise of the judge's discretion and, after consideration of those factors set forth in NCGS 15A-533 and 534, may set bail in capital cases.

VIII. GUIDELINES

- A. Pursuant to G.S. 15A-534(d4), When conditions of pretrial release are being determined for a defendant charged with **ANY** felony, a Class A1 misdemeanor under Article 6A, Article 7B, or Article 8 of Chapter 14 of the General Statutes, ANY violation of G.S. 50B-4.1, or ANY offense involving impaired driving as defined in G.S. 20-4.01, the judicial official **SHALL ATTEMPT** to determine if the defendant is a legal resident or citizen of the United States by an inquiry of the defendant, or by examination of any relevant documents, or both. If the judicial official is unable to determine if the defendant is a legal resident or citizen of the United States, the judicial official shall set conditions of pretrial release pursuant to this bond policy and G.S. 15A-534, and SHALL commit the defendant to an appropriate detention facility pursuant to G.S. 15A-521 to be fingerprinted, for a query of Immigration and Customs Enforcement to the United States Department of Homeland Security, and to be held for a period of two hours from the query of Immigration and Customs Enforcement of the United States Department of Homeland Security.
- B. A magistrate may---but is not required---to accept the defendant's oral and unconfirmed answers to the release criteria (set out in Section V. part B. above) on misdemeanor charges.

- C. A magistrate should not grant pretrial release by unsecured bond, or custodial release to any person charged with a felony except upon the defendant's sworn and written questionnaire on the release criteria, answered favorably, and upon the magistrate's independent confirmation of a sufficient portion of those answers to prove their accuracy.
- D. Pursuant to G.S. 15A-533(h), if a defendant is arrested for a new offense allegedly committed while the defendant was on pretrial release for another pending proceeding, the judicial official who determines the conditions of pretrial release for the new offense **SHALL BE A JUDGE**. Notwithstanding this provision, a magistrate or the clerk of superior court may set conditions of pretrial release at any time if the new offense is a violation of Chapter 20 of the General Statutes, other than a violation of G.S. 20-138.1, 20-138.2, 20-138.2A, 20-138.2B, 20-138.5, or 20-141.4. A defendant may be retained in custody pursuant to this provision NOT MORE THAN 48 HOURS from the time of arrest without a judge making a determination of conditions of pretrial release. If a judge has not acted pursuant to this provision within 48 hours from the time of arrest of the defendant, the magistrate shall set conditions of pretrial release in accordance with G.S. 15A-534 and the policy guidelines set out herein.
- E. A magistrate should not grant pretrial release by unsecured bond, or custodial release when the defendant is under arrest for a violation of NCGS 15A-534(d1), failure to appear pursuant to pretrial release under Article 26.
- F. A magistrate should not grant pretrial release by unsecured bond to any defendant who is intoxicated or in a highly emotional or agitated condition.
- G. There shall be a rebuttable presumption that no condition of release will reasonably assure the appearance of the person as required and the safety of the community if a judicial official finds the following:
 - 1. There is a reasonable cause to believe that the person committed an offense involving trafficking in a controlled substance;
 - 2. The drug trafficking offense was committed while the person was on pretrial release for another offense; and
 - 3. The person has been previously convicted of a Class A through E felony or an offense involving trafficking in a controlled substance and not more than five years has elapsed since the date of conviction or the person's release from prison for the offense, whichever is later.
- H. There shall be a rebuttable presumption that no condition of release will reasonably assure the appearance of the person as required and the safety of the community, if a judicial official finds the following:
 - 1. There is a reasonable cause to believe that the person committed an offense for the benefit of, at the direction of, or in association with, any criminal street gang, as defined in NCGS 14-50.16;

2. The offense described in subdivision 1 of this section was committed while the person was on pretrial release for another offense; and
 3. The person has been previously convicted of an offense described in NCGS 14-50.16 through NCGS 14-50.20, and not more than five years has elapsed since the date of conviction or the person's release for the offense, whichever is later.
- I. There shall be a rebuttable presumption that no condition of release will reasonably assure the appearance of the person as required and the safety of the community, if a judicial official finds there is reasonable cause to believe that the person committed a felony or Class A1 misdemeanor offense involving the illegal use, possession, or discharge of a firearm; and the judicial official also finds any of the following:
1. The offense was committed while the person was on pretrial release for another felony or Class A1 misdemeanor offense involving the illegal use, possession, or discharge of a firearm.
 2. The person has previously been convicted of a felony or Class A1 misdemeanor offense involving the illegal use, possession, or discharge of a firearm and not more than five years have elapsed since the date of conviction or the person's release for the offense, whichever is later.
- J. Persons who are considered for bond under the provisions of paragraphs G, H, and I of this section may only be released by a district or superior court judge upon a finding that there is a reasonable assurance that the person will appear and release does not pose an unreasonable risk of harm to the community.

IX. REQUIRED WRITTEN FINDINGS FOR ALL FORMS OF PRETRIAL RELEASE

- A. The judicial official authorizing pretrial release **IN ANY FORM** must make written findings of fact explaining the reasons why the judicial official determined the conditions of release to be appropriate utilizing the factors provided in NCGS 15A-534(c). A model form is attached to this bond policy that may be used in determining conditions of bond. Further, pursuant to G.S. 15A-533 or 15A-534, a judicial official **MUST** issue an appropriate order containing a statement of the conditions imposed, if any; inform the defendant in writing of the penalties applicable to violations of the conditions of his release; and advise him that his arrest will be ordered immediately upon any violation. In EACH and EVERY order authorizing pretrial release for (i) a defendant who is charged with a violent offense or (ii) a defendant who has been convicted of three or more offenses in separate sessions of court, each of which is a Class 1 misdemeanor or higher offense, within the previous 10 years, the judicial official must make written findings of fact explaining the reasons why the judicial official determined the conditions of release to be appropriate by applying the factors provided in 15A-534(c).

X. RECOMMENDATIONS AND ORDERS

Magistrates in this district will observe the following procedure:

- A. Transmittal forms from all judges containing the word “recommendation” will be treated as orders unless the judge clearly indicates a different purpose.
- B. Transmittal forms from other magistrates and from superior court clerks will be viewed as recommendations only, to be given due weight, but subject to a different form of release or a different amount of bond if the receiving magistrate’s information about the defendant with regard to the release criteria set out in Section V. A. above clearly indicates a form of a release or amount of bond that differs from the transmittal form.
- C. Any magistrate in transmitting warrants out-of-county for service will avoid making any recommendation as to conditions of release unless:
 - 1. The magistrate expects the defendant to be arrested in a county where he is not known, or
 - 2. The magistrate’s prior knowledge of the defendant’s record and standing as to the release criteria is sufficient to justify a recommendation, or
 - 3. Experience with the release practices of a particular county has been found to be unsatisfactory if recommendations or orders are not made.

XI. COMMITMENTS FOR THE INTOXICATED

- A. A defendant being held for public intoxication must be released as soon as the defendant is able to meet the magistrate’s conditions of pretrial release.
- B. An officer, without order of a judicial official, may direct or transport a person found intoxicated in a public place to a jail, if he is apparently in need of food, clothing, or shelter and there is no other readily available facility. He may be detained there until he becomes sober, or a maximum of twenty-four (24) hours. A magistrate or other judicial official is not required to participate in this process. NCGS 122C-303.

XII. DETENTION OF IMPAIRED DRIVERS

- A. A defendant subject to detention under the provisions of NCGS 15A-534.2 has the right to pretrial release when the judicial official (magistrate) determines either that:
 - 1. The defendant’s physical and mental faculties are no longer impaired to the extent that he presents a danger of physical injury to himself or others or of damage to property if he is released; or
 - 2. A sober, responsible adult is willing and able to assume responsibility for the defendant until his physical and mental faculties are no longer impaired. If the defendant is released to the custody of another, the judicial official may impose

any other condition of pretrial release authorized by NCGS 15A-534, including a requirement that the defendant execute a secured appearance bond.

- B. If a defendant is found to be impaired and is not released into the custody of a responsible adult, the defendant may be denied pretrial release under this section until defendant is no longer impaired or for a period of no longer than 24 hours, whichever occurs first. If the defendant is detained for 24 hours, a judicial official must immediately determine the appropriate conditions of pretrial release under NCGS 15A-534. However, in making the determination as to whether a defendant remains impaired, the judicial official may request that the defendant submit to periodic chemical analyses or tests to determine the defendant's alcohol concentration. Unless there is evidence that the defendant is still impaired from a combination of alcohol and/or some other impairing substance, a judicial official must determine that a defendant with an alcohol concentration less than 0.04 is no longer impaired and a judicial official must immediately determine the appropriate conditions of bond at that time.

XIII. PRETRIAL RELEASE FOR CRIMES OF DOMESTIC VIOLENCE

- A. NCGS 15A-534.1 provides that only a judge may set the defendant's release conditions of pretrial release for the first 48 hours in cases of crimes of domestic violence. Crimes of domestic violence are defined as:
1. Assault on, stalking, communicating a threat to, or committing a felony, provided in Articles 7B, 8, 10, or 15 of Chapter 14 of the General Statutes, upon a spouse or former spouse, a person with whom the defendant lives or has lived as if married, or a person with whom the defendant is or has been in a dating relationship as defined in NCGS 50B-1(b)(6).
 2. Domestic criminal trespass.
 3. Violation of an order entered pursuant to Chapter 50B, Domestic Violence, of the General Statutes of North Carolina.
- B. In domestic cases in which no judge has set release conditions in 48 hours, the magistrate shall determine conditions of release and utilize form AOC-CR-630 (Conditions of Release for Person Charged with a Crime of Domestic Violence), as set out in the following sections.
- C. In all cases of domestic violence as defined in Paragraph A of this Section XIII, the following provisions shall apply in addition to the provisions of NCGS 15A-534:
1. Upon a determination by the judicial official that the immediate release of the defendant will pose a danger of injury to the alleged victim or to any other person or is likely to result in intimidation of the alleged victim and upon a determination that the execution of an appearance bond is required by NCGS 15A-534 will not reasonably assure that such injury or intimidation will not occur, a judicial official may retain the defendant in custody for a reasonable period of time while determining the conditions of pretrial release.
 2. A judicial official may impose the following conditions on pretrial release:

- (a) That the defendant stay away from the home, school, business, or place of employment of the alleged victim;
- (b) That the defendant refrain from assaulting, beating, molesting, or wounding the alleged victim;
- (c) That the defendant not communicate with the alleged victim by any means, directly or indirectly;
- (d) That the defendant refrain from removing, damaging or injuring specifically identified property;
- (e) That the defendant may not visit his or her child or children except at times and places provided by the terms of any existing order entered by a judge;
- (f) That the defendant may not purchase or possess a firearm or other dangerous weapon pending the final disposition of the case.

The conditions set forth above may be imposed in addition to requiring that the defendant execute a secured appearance bond.

- D. Should the defendant be an inebriate, mentally ill or imminently dangerous to himself or others, the provisions of Article 5A of Chapter 122, "Involuntary Commitment," shall apply.

XIV. TERMINATION

A bail bond posted pursuant to this section is effective and binding upon the obligor throughout all stages of the proceeding in the trial division of the General Court of Justice until the entry of judgment in the District Court from which no appeal is taken or the entry of judgment in the Superior Court. The obligation of an obligor, however, is terminated at any earlier time if:

- A. A judge authorized to do so releases the obligor from his bond; or
- B. The principal is surrendered by a surety in accordance with NCGS 15A-540; or
- C. The proceeding is terminated by voluntary dismissal by the State before forfeiture is ordered under NCGS 15A-544.3; or
- D. Prayer for judgment has been continued indefinitely in the district court; or
- E. The court has placed the defendant on probation pursuant to a deferred prosecution or conditional discharge; or
- F. The court's review of a juvenile's secure or nonsecure custody status pursuant to remand under G.S. 7B-2603 or the removal under G.S. 15A-960 for disposition as a juvenile case.

XV. FURTHER STATEMENT OF GENERAL POLICIES

- A. Law enforcement officers are encouraged to use citations in those misdemeanor cases in which they feel confident that the defendant will appear in court on the day he is due to appear and does not pose a threat of injury or intimidation to a victim or witness in the matter.
- B. Clerks and magistrates are encouraged to use the criminal summons instead of warrants in non-support and other appropriate misdemeanor cases. NCGS 15A-303.
- C. An arresting officer has no authority to set the amount of the bond, but he should furnish any information he has available to him to assist the judicial official in determining the amount of the bond. In setting the amount of the bond, the clerk or magistrate acts as an independent judicial official who has the duty to the defendant to see that the bond is not excessive.
- D. When there are several charges against one defendant, one bond may be set for all charges.

This the 26th day of November 2025.


Jason C. Disbrow
Senior Resident Superior Court Judge

11/26/2025 3:41:54 PM


Scott L. Ussery
Chief District Court Judge

12/1/2025 10:14:28 AM

**STATE OF NORTH CAROLINA
BRUNSWICK COUNTY**

File No(s).

IN THE GENERAL COURT OF JUSTICE
☐ DISTRICT ☐ SUPERIOR COURT DIVISION

STATE VERSUS

Defendant

Bail Explanation Form

Note: Do not impose conditions of release on this form. Use form CR-200 and related forms to impose conditions of release. Use this form only to record the Court's findings supporting imposition of the bond set and the defendant's ability to satisfy that condition. Incorporate this form by reference on the related CR-200.

FINDINGS

Step 1: What is the offense class of the most serious charge?

- ☐ Class A-E Felony
- ☐ DWI, Class 1 or A1 Misdemeanor or Class F-I Felony
- ☐ Class 2 or 3 Misdemeanor
- ☐ Violent Offense (A-G Felony or Felony that requires registration and other enumerated offenses under 15A-531(9)). Second or subsequent? _____

Step 2: Check any that apply:

- ☐ Charged offense was allegedly committed when the defendant was out on pretrial release for any offense excluding chapter 20 offense other than DWI
- ☐ Charged offense was allegedly committed while the defendant was on supervised probation for any offense
- ☐ Defendant has insufficient ties to the community to assure appearance or resides out of state
- ☐ Defendant has a history of failing to appear in court
- ☐ Defendant has a prior record of a felony conviction **OR** misdemeanor convictions within the last five (5) years demonstrating a pattern of conduct.
- ☐ Defendant has 3 prior convictions class 1 misdemeanor or higher in the past 10 years.
- ☐ Charged offense involves Domestic Violence **OR** is a violation of a DVPO offense
- ☐ Charged offense involves violence **OR** injury to a person
- ☐ Charged offense requires sex offender registration **OR** is a failure to register as a sex offender offense
- ☐ Charged offense is a drug trafficking offense
- ☐ Charged offense involves the distribution of drugs
- ☐ Charged offense includes the defendant's possession of a firearm in connection to a drug offense
- ☐ Charged offense is stalking
- ☐ Charged offense is a DWI and the defendant has at least one (1) prior DWI conviction within the last seven (7) years
- ☐ Defendant's physical and/or mental faculties are impaired such that immediate release is likely to cause harm to self/others/ or property
- ☐ Charged offense involves the use of a firearm/a deadly weapon **OR** is possession of a firearm by felon offense
- ☐ Charged offense is related to gang activity

Step 3: Make the statutory determination.

Statute *requires* the judicial official to impose a custody release or unsecured bond *unless* he/she determines that such release

[check any that apply]

- ☐ will not reasonably assure the appearance of the defendant in court as required; **AND/OR**
- ☐ will pose a danger of injury to any person; **AND/OR**
- ☐ is likely to result in the destruction of evidence, subornation of perjury, or the intimidation of a potential witness.

Statute *requires* a secured bond and/or house arrest with electronic monitoring:

[check any that apply]

- ☐ Violent offense, and rebuttable presumption of no bond has been satisfied.
- ☐ Defendant has been convicted of 3 or more Class 1 misdemeanor or higher in separate sessions of court in the past 10 years.

Step 4:

Pursuant to **15A-501, 15A-533, and 15A-534**, the undersigned judicial official makes the following foregoing findings:

A. **Circumstances of the arrest.** Check any that apply:

- ☐ Was arrested
☐ Was arrested at the scene
☐ Voluntarily surrendered
☐ Attempted to avoid arrest

B. **Nature and Circumstances of the Offense Charged & Strength of Evidence.**

C. The **defendant** (check one):

- ☐ Was cooperative
☐ Was NOT cooperate

D. **Family ties. Defendant resides** (check one):

- ☐ Alone
☐ With parents
☐ With relatives/friends
☐ Homeless

E. **Residence. Defendant Lives** (check one):

- ☐ In-State – Name City: _____, How long? _____
☐ Out-of-State – Name State: _____

F. **Employment.** Defendant is employed:

- ☐ Full-time
☐ Part-time
☐ Unemployed
☐ Seasonal – Place: _____, How long? _____

G. **Physical/Mental Condition. Diagnosed Mental Illness.** Check any that apply:

- ☐ Mental Health Diagnosis _____
☐ Belligerent
☐ Intoxicated or under the influence of alcohol/substances

H. I have considered the defendant's ability to pay.

- ☐ Defendant is able to satisfy the secured bond imposed.
☐ The Defendant is unable to satisfy, but no other conditions of release will satisfy compelling state interests of the defendant's appearance, prevent injury persons, or prevent the destruction of evidence, subornation of perjury, or intimidation of a potential witness.
☐ Secured bond mandated by statute.

I. **Prior Criminal History** (circle any that apply): Class A-E Class F-I Class A1-Class 3

J. **LEO: Name and Comments or Recommendations pursuant to 15A-501(2a)**

K. **WRITTEN JUDICIAL FINDINGS:**

Step 5:

- ☐ Follow policy recommendation & impose a custody release or unsecured.
☐ Deviate from policy recommendation & impose a secured bond.
☐ Follow policy recommendation & impose a secured bond.
☐ Deviate from policy recommendation & impose a condition other than a secured bond.

Date

Name of Judicial Official

Signature of Judicial Official

☐ Magistrate ☐ District Court Judge ☐ Superior Court Judge ☐ Clerk of Superior Court ☐ Deputy CSC ☐ Assistant CSC