

PRETRIAL RELEASE RULES FOR NEW HANOVER COUNTY SUPERIOR COURT

The following rules are adopted for pretrial release of criminal defendants in the superior courts of New Hanover County, NC.

RULE 1: PRETRIAL RELEASE MOTION

- A. To obtain a pretrial release hearing, the defendant's attorney must file a Motion for Modification Pretrial Release and Notice of Hearing (attached Exhibit One, hereafter "Motion") with the Clerk of Superior Court. The motion must contain:
1. A time and date for the hearing agreed to by the assigned assistant district attorney and the defendant's attorney.
 - a. If no agreement can be reached, the defendant's attorney must select a date for the hearing at least three (3) business days from the date of the filing of the motion to allow the district attorney sufficient time to respond and prepare for the hearing.
 - b. If the selected date is not acceptable, the district attorney shall note his or her objection on the motion and appear on the selected date to seek a continuance to a more acceptable date. If the district attorney's request for a continuance is denied, the motion shall be heard.
 2. The date notice of the hearing was served upon each of the following:
 - a. The State of North Carolina (the district attorney), by delivering a copy to the District Attorney's Office, New Hanover County Judicial Building, Suite 543 (at the front desk), 316 Princess Street, Wilmington, NC 28401;
 - b. New Hanover County Pretrial Release Services, by delivering a copy to its offices at 316 Princess Street, Room 321, Wilmington, NC 28401;
 - c. The New Hanover County Sheriff's Office, by delivering a copy to the Security Operations Center, Room 221 (entrance of the New Hanover County Judicial Building), 316 Princess Street, Wilmington, NC 28401.

RULE 2: PRETRIAL RELEASE HEARING

- B. Pretrial Release Services shall provide the district attorney, the defendant's attorney, and the presiding judge with a current and properly completed risk assessment of the defendant, which shall include:
1. Verification of the suitability of any residence of the defendant (whether current or proposed), including names of everyone who resides at the same residence.
 2. The defendant's risk score or risk level. If the score or level is "high," pretrial release of the defendant shall be approved only in extraordinary circumstances, which should be noted on the record by the judge.

- C. Pretrial Release Services shall provide the district attorney, the defendant's attorney, and the judge with a current and properly completed criminal history of the defendant, which shall include:
 - 1. The nature of any prior charges and convictions;
 - 2. Whether the defendant was on probation, parole, or post release supervision at the time of the current offense; and
 - 3. Any past failures to appear or past failures to comply, including any while on pretrial release.
- D. The Clerk of Superior Court shall bring the defendant's file to the hearing.
- E. The Sheriff shall bring the defendant's AOC-CR-200AS (Conditions of Release and Release Order "Blue Sheet") to the hearing.
- F. The hearing may be conducted by video if other video hearings are being conducted in the superior court on the same date.

RULE 3: PRETRIAL RELEASE AGREEMENT

- A. If pretrial release is approved, Pretrial Release Services shall prepare a Pretrial Release Agreement (attached Exhibit Two, hereafter "PRA"). The PRA shall become effective upon the signature of the presiding judge. The PRA shall contain:
 - 1. The amount and type of bond (secured, unsecured, or cash).
 - 2. Any condition(s) and requirement(s) of pretrial release, including, but not limited to:
 - a. Office visits;
 - b. Court appearances;
 - c. No criminal activity;
 - d. Residency requirements;
 - e. Curfew;
 - f. No possession of alcohol or illegal substances;
 - g. Obtain a substance abuse or mental health assessment;
 - h. No contact with victim (or victim's family);
 - i. Obtain anger management counseling;
 - j. No firearm possession;
 - k. House arrest;
 - l. Alcohol monitoring.
 - 3. The consequences of failure to comply with the conditions and requirements of the PRA, including, but not limited to:
 - a. Arrest for willful failure to appear for any court date; or
 - b. Arrest for willful violation of any condition or requirement of the PRA.
 - 4. The signature of the district attorney, indicating whether (s)he consents or does not consent;
 - 5. The signature of Pretrial Release Services;

6. The signature of the Clerk of Superior Court (who shall also place the original PRA and the Blue Sheet in the defendant's file).
 7. The signature of the defendant's attorney;
 8. The signature of the defendant.
- B. Pretrial Release Services shall provide the district attorney, the defendant's attorney, the Clerk of Superior Court, and the judge with a filed, true and executed copy of the PRA.
- C. Pretrial Release Services shall keep the district attorney and the defendant's attorney informed of any changes in the condition(s) and/or requirement(s) of the PRA, or of any alleged violation(s) thereof within 24 hours of becoming aware of such change(s) or violation(s).

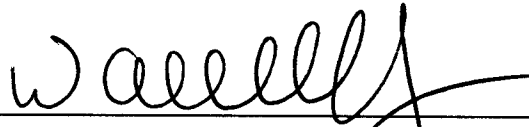
RULE 4: VIOLATIONS OF PRETRIAL RELEASE AGREEMENT

- A. In the event of an alleged violation of the PRA, Pretrial Release Services shall notify the district attorney, the defendant's attorney, and the Clerk of Superior Court. A hearing shall be scheduled as soon thereafter as practicable before a judge.
- B. If the defendant's PRA provides for immediate arrest and revocation of the agreement upon an alleged violation, an order shall immediately issue upon a proper showing (to the appropriate judicial official) that probable cause exists that the defendant violated the condition(s) and/or requirement(s) of the PRA.
- C. If an order for arrest is issued, the defendant shall be held in custody until the hearing. If the hearing is not held within five (5) working days of the defendant's arrest, (s)he may apply to the court for emergency relief.
- D. At the violation hearing, the judge shall determine whether:
1. The bond set under the PRA should be revoked;
 2. The bond should be continued in full force and effect;
 3. The bond should be modified, or if any other condition(s) and/or requirement(s) should be added;
 4. To take any other action deemed just and proper.

These rules supersede any other local rules previously in effect governing pretrial release policies inconsistent with these rules. If these rules conflict with the North Carolina General Statutes, the North Carolina Constitution, or the United States Constitution, the conflicts are deemed inadvertent and these rules shall be superseded.

These rules and fillable exhibits can be found online at www.nccourts.org. Go to New Hanover County and click on "Local Rules" on the left column.

ADOPTED AS LOCAL RULES FOR PRETRIAL RELEASE IN THE CRIMINAL SUPERIOR COURT OF NEW HANOVER COUNTY, NC, THIS THE 1ST DAY OF JUNE 2014.



W. Allen Cobb, Jr.
Senior Resident Superior Court Judge
Fifth Superior Court District

I consent to the terms of this order.



Benjamin R. David
District Attorney
Fifth Prosecutorial District