

STATE OF NORTH CAROLINA

JUDICIAL DISTRICT 11

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
DISTRICT COURT DIVISION  
FILE NO.: 25-R-

25R000147-340

IN THE MATTER OF: )  
PROMULGATING LOCAL RULES )  
RELATING TO BAIL AND PRETRIAL )  
RELEASE FOR JUDICIAL DISTRICT 11 )  
(FRANKLIN, GRANVILLE, PERSON )  
VANCE AND WARREN COUNTIES) )


FILED  
DATE: June 30, 2025  
TIME: 3:24:26 PM  
ORDER FRANKLIN COUNTY  
CLERK OF SUPERIOR COURT  
BY: A. Neal


Pursuant to the authority granted by Article 26 of Chapter 15A of the North Carolina General Statutes, and specifically the requirement in said Article that the Senior Resident Superior Court Judge, in consultation with the Chief District Court Judge, issue recommended policies on bail, and the specified, implied and inherent powers of our respective offices, the undersigned, acting separately and collectively, do hereby approve and enter this Order.

NOW, THEREFORE, it is hereby ORDERED:

1. The "Bail and Pretrial Release Policy for District 11" attached hereto, and incorporated herein by reference, is hereby adopted in compliance with G.S. 15A-535; and
2. These policies supersede all prior policies and shall be effective July 1, 2025.
3. The Clerk of Court in each county of Judicial District 11 shall provide copies of this Order and Policy to each judge, magistrate, sheriff and each chief of police in each Clerk's respective county.

This the 30 day of June, 2025.

  
John M. Dunlow  
Senior Resident Superior Court Judge

  
John W. Davis  
Chief District Court Judge

## **BAIL AND PRETRIAL RELEASE POLICY FOR JUDICIAL DISTRICT 11**

1. **NAME.** This policy shall be known as the “Bail and Pretrial Release Policy for Judicial District 11.”
2. **AUTHORITY.** G.S. 15A-535 provides, “Subject to the provisions of this Article [26], the Senior Resident Superior Court Judge of each judicial district in consultation with the Chief District Court Judge must advise and issue recommended policies to be followed within the district in determining whether, and upon what conditions, a defendant may be released before trial.”
3. **PURPOSE.** The purpose of this policy is to provide recommendations and guidance for the implementation of Article 26, which is not amended abrogated, or repealed by this policy. Certain sections of Article 26 are explained in this policy, and they may be set forth herein almost verbatim, with re-arrangement to facilitate better understanding. But in all cases the pertinent statute controls over any content of this policy. This policy also supports the increased use of citation in lieu of arrest by law enforcement officers when in their discretion a citation protects the public safety and promotes the interests of justice.
4. **SCOPE.** This policy shall apply in all criminal actions or proceedings in Judicial District 11, and is recommended to be followed by all judicial officials and all other persons dealing with bail bonds and pretrial release of criminal defendants in this Judicial District (referred to sometimes herein as “District”).
5. **DEFINITIONS.** The definitions set forth in G.S. 15A-531 shall apply in this policy. Additional terms are defined as follows:
  - a. Capital Offense. A criminal offense for which the death penalty is an authorized form of punishment. Such offense is “capital” regardless of whether the District Attorney is seeking the death penalty in the particular case.
  - b. Cash. Cash money, cashier’s check, certified check, or money order.
  - c. Clerk. The Clerk of Superior Court, acting Clerk, or Assistant or Deputy Clerk in the county where the defendant is detained. G.A. 15A-101(2).
  - d. Court. The judicial official setting conditions of pretrial release which shall include Clerks, Magistrates, District Court Judges and Superior Court Judges.
  - e. Judicial Official. A Magistrate, Clerk, District Court Judge and Superior Court Judge.
  - f. NC IDS. North Carolina Office of Indigent Defense Services.
  - g. Obligor. A principal or a surety on a bail bond.
  - h. Post-trial Release. Release after guilt is established in Superior Court.
  - i. Pretrial Release. Release prior to a determination of guilt or innocence being established in Court. This may be referred to interchangeably as “bail” or “bond”.

- j. Principal. A defendant obligated to appear in court as required upon penalty of forfeiting bail under a bail bond.
  - k. Victim. A person against whom there is probable cause to believe an offense against the person or a felony property crime has been committed. The term "offense against the person" shall be as defined by N.C.G.S. § 15A-830(6a). The term "felony property crime" shall be as defined by N.C.G.S. § 15A-830(3b).
  - l. "He" "His", etc. For ease of reading, natural persons will be referred to herein in the male gender, but such reference shall be construed in all instances to apply equally to females.
6. **BACKGROUND.** The purpose of this bond policy is to ensure no defendant is held in custody prior to trial solely because the defendant cannot afford to post bail, to ensure fairness and the elimination of unjustifiable delay in the administration of justice, to facilitate the just determination of every criminal proceeding, and to preserve the public welfare and secure the rights of individuals with interests in criminal court cases. In general, the purpose of pretrial release is to impose the least restrictive conditions that will reasonably assure a defendant's appearance in court and community safety. The right to pretrial release recognizes the presumption of innocence and promotes a defendant's right to a fair trial, by allowing access to counsel, freedom of movement to secure witnesses, and the general ability to prepare a defense. Bail in an amount higher than an amount reasonably calculated to minimize the risks that the accused will flee, commit another crime while out on bail, destroy evidence, or intimidate witnesses adverse to him is "excessive" and unlawful under the Eighth Amendment to the Constitution of the United States and under Article I, Section 27 of the Constitution of the North Carolina. Bail may not be used as punishment.
7. **AUDIO-VIDEO APPEARANCES.**
- a. The determination of bail and conditions of pretrial release should be made by a judicial official with a clear opportunity to witness the defendant in person and gather information about the defendant.
  - b. Conditions of pretrial release may be made, modified, or revoked in a noncapital case by means of an audio-video transmission between the judicial official and the defendant in which the parties can see and hear each other. The following rules apply to such video communications:
    - i. If the defendant has counsel, the defendant shall be allowed to communicate fully and confidentially with his attorney before and during the proceeding, and defense counsel shall be afforded the opportunity to be heard; and
    - ii. The judicial official shall safeguard the constitutional rights of those persons involved in the proceeding and preserve the integrity of the judicial process.
8. **FORMS OF PRETRIAL RELEASE.** G.S. 15A-534(a) authorizes the following forms of pretrial release:
- a. Written Promise to Appear. The defendant is released upon execution of a written promise to appear in court as necessary.

- b. Unsecured Appearance Bond. The Appearance Bond is executed solely by the defendant. No surety or security is required to secure the Appearance Bond.
- c. Supervised Release. The defendant is placed into the custody of a designated person or organization agreeing to supervise the defendant. Note that the defendant has the right to choose a secured Appearance Bond in lieu of supervised release.
- d. Secured Appearance Bond. The Appearance Bond is secured by a cash deposit of the full amount of the Appearance Bond, a mortgage pursuant to G.S. 58-74.5, or at least one solvent surety.
- e. House Arrest with Electronic Monitoring. This requires a Secured Appearance Bond.

**9. CHOOSING THE FORM OF PRETRIAL RELEASE. (G.S. 15A-534(b)).**

- a. Unless the North Carolina General Statutes require otherwise, the judicial official in granting pretrial release must impose either (a) a written promise to appear; (b) an unsecured appearance bond; or (c) a supervised release unless the judicial official finds one or more of the following:
  - i. Such release will not reasonably assure the appearance of the defendant as required; or
  - ii. Such release will pose a danger of injury to any person; or
  - iii. Such release is likely to result in destruction of evidence, subornation of perjury, or intimidation of potential witnesses.

Upon making the determination, the judicial official must then impose condition (4) secured appearance bond or (5) house arrest with electronic monitoring and must record the reasons for so doing in writing.

- b. In determining which conditions of release to impose, the judicial official must, on the basis of available information, take into account:
  - i. The nature and circumstances of the offense charged;
  - ii. The weight of the evidence against the defendant;
  - iii. The defendant's family ties in the county;
  - iv. The defendant's employment status and history;
  - v. The defendant's financial resources, including ownership of real property;
  - vi. The defendant's character and reputation;
  - vii. The defendant's mental condition;
  - viii. Whether the defendant is intoxicated to such a degree that he would be endangered by being released without supervision;

- ix. The length of defendant's residence in the community;
  - x. The defendant's record of prior convictions, and whether the defendant's prior record level would allow for (or require) a substantial active sentence;
  - xi. The defendant's history of flight to avoid prosecution or failure to appear at court proceedings;
  - xii. Whether the defendant is on probation or postrelease supervision for a prior offense;
  - xiii. Whether the defendant is on pretrial release for another charge;
  - xiv. Any other evidence relevant to the issue of pretrial release.
- c. If it is determined, in a proceeding under Article 5 of Chapter 122C of the General Statutes, that the defendant is mentally ill and dangerous to himself or others or a substance abuser and dangerous to himself or others, a judge should be the judicial official who issues an unsecured bond, or modifies a secured bond to be unsecured, on the belief that involuntary commitment of the defendant will reasonably assure defendant's presence and protect the public from the defendant, as it is possible that the defendant could be committed, and then be released by the mental health system, in which event the defendant would be at large under an unsecured appearance bond.
  - d. If a judicial official determines the existence of one or more of the dangers set forth in section 9(a), then the judicial official may impose an appearance bond, in a specified amount, which shall be secured by a cash deposit of the full amount of the appearance bond, by a mortgage pursuant to N.C.G.S. § 58-74-5, or by at least one solvent surety and may include an additional condition of electronic house arrest or electronic monitoring. In imposing a secured bond, the judicial official shall consider the bond table provided in Appendix A.

**10. FURTHER CONDITIONS OF RELEASE.** In addition to an appearance bond, a judicial official should consider imposition of the following conditions in appropriate cases, and based upon the individualized circumstances of the defendant and the crime for which he is charged:

- a. The provision by the defendant of fingerprints or DNA sample under N.C.G.S. §15A-534(a);
- b. Restriction on the defendant's travel;
- c. Restriction on the persons or types of persons with whom the defendant may associate;
- d. Restriction on the defendant's conduct, such as committing other crimes or possession of non-prescribed controlled substances or weapons;
- e. Restriction on where the defendant may live;
- f. Restriction on contact with victims and potential witnesses;

- g. Requirement that the defendant refrain from the use of alcohol and submit to a continuous alcohol monitoring system (with violation to be reported by the provider directly to the district attorney);
  - h. Requiring a source of funds hearing to be held prior to the release of the Defendant;
  - i. Imposition of Electronic Monitoring.
- 11. **RELEASE FORMS.** The judicial official should issue an order using AOC-CR-200 or AOC-CR-242. The defendant should be given a copy of the release order and should be advised that his arrest will be ordered immediately upon any violation of the order. The release order is to be filed with the Clerk.
- 12. **SUMMONS IN LIEU OF ARREST.** When determining whether to issue a summons or warrant for arrest, the magistrate shall be guided by N.C.G.S. § 15A-304 and other provisions contained in this policy.
- 13. **UNAUTHORIZED ABSENCE FROM INVOLUNTARY COMMITMENT IN MENTAL HEALTH FACILITY (N.C.G.S. § 15A-533(a)).** A defendant charged with any crime, whether capital or noncapital, who is alleged to have committed the 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 Department of Human Resources, and whose commitment is determined to be still valid by the judicial official authorized to determine pretrial release, has no right to pretrial release. In lieu of pretrial release, the defendant 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 treatment pending additional proceedings on the criminal offense. No other conditions of pretrial release are to be imposed at that time.
- 14. **AUTHORITY TO DETERMINE AND MODIFY CONDITIONS OF PRETRIAL RELEASE.**
  - a. Magistrate. For non-capital felonies and misdemeanors, the initial responsibility for determining the conditions of pretrial release rests with a magistrate. A magistrate cannot authorize the release of a defendant charged with a capital offense. N.C.G.S. § 15A-533(c).
  - b. Clerk of Superior Court. A clerk may determine conditions of pretrial release for misdemeanors and non-capital felonies.
  - c. Modification by Magistrate or Clerk. N.C.G.S. § 15A-534(e) specifically provides that a magistrate or clerk may modify his pretrial release order at any time prior to the first appearance before a District Court Judge. However, given the enactment of Article 46 of Chapter 15A (the Crime Victims' Rights Act), and the right of a victim to reasonable, accurate and timely notice of court proceedings of the accused and the right to be reasonably heard at court proceedings involving release of the accused, it is recommended that magistrates and clerks not make modifications of bonds after making the initial bond determination. Rather, it is recommended that any modification of bond be done by a District Court judge or Superior Court judge in accordance with

applicable statutes and the provisions of this Bail and Pretrial Release Policy for the Eleventh Judicial District.

- d. District Court Judge. A District Court Judge may determine conditions of pretrial release for misdemeanors and felonies, including capital felonies. Except when the conditions of pretrial release have been reviewed by a Superior Court Judge, a District Court Judge may modify a pretrial release order of a magistrate or the Clerk or that Judge. A District Court Judge may modify a pretrial release order entered by a judicial official other than a Superior Court Judge at any time prior to: (1) In a misdemeanor case tried in District Court, the noting of an appeal; and (2) In a case in the original trial jurisdiction of the Superior Court, the binding of the defendant over to Superior Court after the holding, or waiver, of a probable cause hearing. N.C.G.S. 15A-534(e).
- e. Superior Court Judge. A Superior Court Judge may determine conditions of pretrial release for misdemeanors and felonies, including capital felonies. After a case is before the Superior Court, and at any time prior to the guilt of the defendant being established in Superior Court, a Superior Court Judge may modify the pretrial release order of a Magistrate, Clerk, District Court Judge, or any such order entered by that Judge. A Superior Court Judge may modify the pretrial release order of another Superior Court Judge as allowed by law.
- f. Motions to Modify Conditions of Pretrial Release. Motions to modify conditions of release in matters pending in the Superior Court Division must be in writing and may be made by a defendant or the District Attorney. Any motion to modify conditions of pretrial release shall be filed and served in accordance with N.C.G.S. § 15A-951(b) & (c).

#### **15. PRETRIAL RELEASE IN CAPITAL CASES.**

- a. Only a Judge may determine whether a defendant charged with a capital offense may be released before trial.
- b. If a Judge determines release is warranted, the Judge must authorize release of the defendant in accordance with N.C.G.S. 15A-534.

**16. SUGGESTED SECURED APPEARANCE BONDS.** The circumstances of each individual case shall govern the decision of a judicial official in setting bond amounts. Rigid adherence to a bail schedule is incompatible with such an individualized decision. The judicial official in determining the conditions of pretrial release shall consider all individualized factors and considerations presented in each case, and shall, in addition to those individualized factors, consider the suggested bond amounts set out in Appendix A to this Policy.

**17. PROBATION VIOLATIONS.** Except where the General Statutes require otherwise (see e.g. N.C.G.S. § 15A-1345(b1)), when determining conditions of bond for a defendant who has been arrested for a probation violation, the judicial official shall, in addition to all other factors, consider any relevant information provided by the probation officer.

**18. OTHER STATUTES THAT MUST BE CONSIDERED.** The North Carolina General Statutes provide specific instructions and restrictions for certain types of offenses. When

determining the conditions of pretrial release, judicial officials should be aware of, and follow, these statutes when applicable:

- a. N.C.G.S. § 15A-534.1 Crimes of Domestic Violence
- b. N.C.G.S. § 15A-534.2 Detention of Impaired Drivers
- c. N.C.G.S. § 15A-534.3 Detention of Communicable Diseases
- d. N.C.G.S. § 15A-534.4 Sex Offenses and Crimes of Violence Against Child Victims
- e. N.C.G.S. § 15A-534.5 Detention to Protect Public Health
- f. N.C.G.S. § 15A-534.6 Bail in Cases of Manufacture of Methamphetamine
- g. N.C.G.S. § 15A-534.7 Communicating a Threat of Mass Violence
- h. N.C.G.S. § 15A-533(b) Certain High Level Felony Offenses
- i. N.C.G.S. § 15A-533(d) Drug Trafficking
- j. N.C.G.S. § 15A-533(e) Street Gang Activity
- k. N.C.G.S. § 15A-533(f) Firearm Offense.
- l. N.C.G.S. § 15A-533(h) Offense committed while on pretrial release
- m. Chapter 15A, Article 37 Uniform Criminal Extradition Act
- n. N.C.G.S. § 15A-539(b) Source of Funds Hearing Prior to Release on Secure Bond.  
(This condition may only be imposed by a District Court Judge or Superior Court Judge upon a showing of good cause.)

**19. HABITUAL FELONS.** Being a habitual felon is not, in and of itself, a crime, but is a status that allows for increased punishment of some other felony offense. As such, release conditions should not be set in a habitual felon indictment, but should be set, or modified, as the case may be, in the predicate felony charge.

- a. For purposes of applying Appendix A (suggested bond amounts), the judicial official should consider the charge level to be the “habitualized” charge level of the underlying predicate felony charge.
- b. The secured bond shall not be set in the indictment or warrant for arrest alleging the status of habitual felon has been attained. The State shall arrange for the bond to be modified in the underlying, predicate felony charge upon which the habitual felon offense is based.

**20. PRISON INMATES.** The setting of conditions of pretrial release for a defendant while serving an active sentence upon a commitment issued by the District or Superior Court Division is not authorized. A release order should be entered by the judicial official specifying that the defendant is presently in lawful custody and denying conditions of pretrial release for



such reason. The release order shall require the defendant to be brought before a judicial official upon the completion of their present active sentence for the purpose of setting pretrial release conditions.

21. **CASH APPEARANCE BOND.** When a defendant fails to appear and fails to comply with a judgment (show cause), a cash Appearance Bond should be set in the amount the defendant owes to satisfy the judgment. Do not set a secured Appearance Bond on these types of OFA's. Only cash will satisfy this condition, not a bondsman with insurance power-of-attorney, or another individual using real property. This applies to any orders for arrest where the cash Appearance Bond amount is pre-set.
22. **PROPERTY BONDS OF MORE THAN \$20,000.00.** The following documents are required for a property bond of more than \$20,000.00:
  - a. A recorded deed of trust as follows:
    - i. Prepared by a North Carolina licensed attorney using a standard bar form deed of trust; and
    - ii. Grantors must be all record owners of an interest in the property or properties, and the spouses of the record owners. (a "record owner" includes life tenants, remaindermen, etc.) Sureties must be individuals (not "heirs" or corporate or other entities); and
    - iii. The trustee of the deed of trust will be the Clerk of the county where the bond is being posted; and
    - iv. The beneficiary will be the State of North Carolina f/b/o the county school board; and
    - v. A legal description that is adequate to describe the property conveyed.
  - b. A title certificate or title opinion prepared by a licensed attorney, which will state the following:
    - i. That the proposed sureties are the record owners of all interests in the property. Sureties must be individuals (not "heirs" or corporate or other entities); and
    - ii. That there are no recorded liens encumbering the property; and
    - iii. The record owners have good and marketable title to the property.
  - c. A printout from the tax office showing the tax value of the property.
  - d. A paid receipt or other suitable documentation showing there are no delinquent taxes due and owing on the property.
  - e. A promissory note, executed by all record owners, in favor of the State of North Carolina, in the amount of the required bond.

It is recommended that any person seeking to post a property bond of more than \$20,000.00 seek non-binding preliminary approval of the required documents from the Clerk prior to recording with the Register of Deeds.

Following recordation with the Register of Deeds, the Clerk must review and approve all required documents prior to the defendant's release. Following approval by the Clerk, the Clerk shall notify the Magistrate as to the approval of the property bond, and upon receiving confirmation of the Clerk's approval, the Magistrate may authorize the defendant's release.

The Clerk has no liability for expenses incurred for a property bond even if the Clerk has given preliminary approval of the required documents.

## APPENDIX A

### **SUGGESTED MINIMUM BOND AMOUNTS -JUDICIAL DISTRICT 11 (To Be Read In Conjunction With Pretrial Release Policies of Judicial District 11)**

**PLEASE NOTE:** Judicial Officials are vested with discretion in the settings of conditions of pretrial release and are expected to use their discretion. The suggested minimum is neither mandatory nor limitations on judicial discretion. The following are guidelines for the setting of secured bonds when that condition of pretrial release is imposed:

| TYPE OF OFFENSE        | SUGGESTED MINIMUM BONDS  |
|------------------------|--|
| Local Ordinance        | Written Promise  |
| Class 3 Misdemeanor    | Written Promise / Unsecured  |
| Class 2 Misdemeanor    | \$300  |
| Class 1 Misdemeanor    | \$500  |
| Class A1 Misdemeanor   | \$1,000  |
| Driving While Impaired | \$1,000  |
| Class I Felony         | \$7,000  |
| Class H Felony         | \$20,000   |
| Class G Felony         | \$30,000   |
| Class F Felony         | \$35,000   |
| Class E Felony         | \$40,000   |
| Class D Felony*        | \$60,000   |
| Class C Felony*        | \$90,000   |
| Class B2 Felony*       | \$200,000  |
| Class B1 Felony*       | \$300,000  |
| Class A Felony*        | No Bond (unless set by Judge)  |
| Habitual DWI*          | \$50,000   |
| NC Probation Violation | Set amount appropriate for underlying offense with consideration for the nature of any violations [subject to N.C.G.S. 15A-1345(b1)]. See bond policy for specific provisions regarding certain types of violations. |
| Fugitive Warrant       | No Bond  |
| Governor's Warrant     |  |
| Interstate Compact     |  |
| Parole Warrant         |  |

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

### **DRUG TRAFFICKING**

| TYPE OF OFFENSE                 | SUGGESTED SECURED BONDS |
|---------------------------------|-------------------------|
| Class C Drug-Trafficking Felony | \$750,000 - \$2,000,000 |
| Class D Drug-Trafficking Felony | \$250,000 - \$750,000   |
| Class E Drug-Trafficking Felony | \$100,000 - \$500,000   |
| Class F Drug-Trafficking Felony | \$100,000 - \$300,000   |
| Class G Drug-Trafficking Felony | \$80,000 - \$280,000    |
| Class H Drug-Trafficking Felony | \$60,000 - \$160,000    |