

GENERAL COURT OF JUSTICE

JUDICIAL DISTRICT 1 – CAMDEN, CHOWAN, CURRITUCK,
DARE, GATES, PASQUOTANK, AND PERQUIMANS
COUNTIES

PRETRIAL RELEASE POLICIES

IN THE

FIRST JUDICIAL DISTRICT

Effective December 1, 2025

THE HONORABLE R. ANDREW WOMBLE

SENIOR RESIDENT SUPERIOR COURT JUDGE

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STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE
JUDICIAL DISTRICT 1

To The Clerks of Superior Court,
Judicial District 1

ORDER

IT IS ORDERED that the policies contained in the papers attached hereto and made a part hereof constitute the official recommended policies and standards concerning release on bail bond and pretrial release of a defendant in a criminal case before trial in all the courts of the counties of Camden, Chowan, Currituck, Dare, Gates, Pasquotank, and Perquimans in and for Judicial District 1 to become effective December 1, 2025.

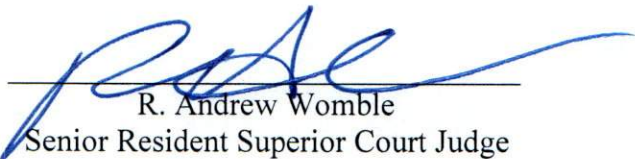
IT IS ORDERED that a copy of these policies, along with a copy of this Order, shall be permanently maintained in the office of each Clerk of Superior Court in Judicial District 1 for public inspection in a loose-leaf notebook to be entitled, "Pretrial Release Policies in Judicial District 1."

The Clerk shall cause to be reproduced sufficient copies of these policies, so as to deliver a true copy to the following persons:

Chief District Court Judge
Each District Court Judge
Each Magistrate in each county
The Sheriff of each county
The Chief of Police of each Police Department within each county
The Sergeant of the State Highway Patrol whose duties cover each county

All Clerks and Magistrates shall familiarize themselves with the section of G.S. 15A relating to Pretrial Release and are to implement the provisions thereof.

Entered on 11-19-2025, pursuant to authority of G.S. 15A-535.



R. Andrew Womble
Senior Resident Superior Court Judge
Judicial District 1



Robert Trivette
Chief District Court Judge
Judicial District 1

POLICIES RELATING TO BAIL AND PRETRIAL RELEASE

JUDICIAL DISTRICT 1

STATEMENT OF GENERAL POLICY

Bail is to be used to ensure a defendant's presence in court, to reduce the risk of danger of injury to any person, including the defendant, and prevent the destruction of evidence, subornation of perjury, or intimidation of potential witnesses. It is not to be used to punish a defendant, either by making a defendant wait in jail because a defendant cannot make an excessive bail, or by making a defendant pay a professional bondsman a large fee to put up an excessive secured appearance bond. The purpose of the North Carolina General Statutes (hereinafter G.S.) Chapter 15A, Article 26, and of this bail policy, is to ensure the imposition of the least restrictive form of pretrial release that will reasonably assure the defendant's appearance in court, to end or to minimize the abuses of stereotyped 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.

In setting the amount of bail and in determining the form of bail, the judicial official is acting as an independent judicial officer who has the duty to the Court and the public to ensure the defendant's presence in court and a duty to the public and to the defendant to see that bail is not excessive.

PERSONS AUTHORIZED TO DETERMINE CONDITIONS FOR RELEASE

Pursuant to G.S. 15A-532, the persons authorized by law to determine conditions for release are judicial officials. A judicial official, as defined under G.S. 15A-101(5), is a magistrate, clerk, judge, or justice of the General Court of Justice.

DUTIES OF LAW-ENFORCEMENT OFFICERS

The arresting law-enforcement officer must provide a criminal history report of the defendant to the judicial official who is determining conditions of pretrial release. The criminal history record check provided through the Division of Criminal Investigation (DCI) will suffice as the criminal history report required by G.S. 15A-534(c). As established in G.S. 15A-501(2a), the law-enforcement officer must also inform the judicial official of 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 official to believe the defendant is a danger to themselves and others.

OVERCROWDING OF JAIL FACILITIES

The judicial official should be mindful of the jail capacity and the number of persons being detained therein and shall make such reductions in bond requirements as the judicial official shall deem necessary, including use of unsecured bonds, to avoid overcrowding while at the same time weighing the danger an accused presents to the public and the likelihood of appearance in court.

RELEASE IN CAPITAL AND NON-CAPITAL CASES

G.S. 15A-533 governs the right to pretrial release in capital and noncapital cases. All judicial officials shall familiarize themselves with the provisions of this statute and its modifications.

A judge is the only judicial official authorized to set conditions of release for the eighteen (18) offenses set forth in G.S. 15A-533(b). 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, a judge shall be the judicial official that determines the conditions of pretrial release for the new offense. As stated in G.S. 15A-533(c), a judge is the only judicial official that may determine whether a defendant charged with a capital offense may be released pretrial. Conditions of this release must be determined in accordance with G.S. 15A-534.

As governed in G.S. 15A-533(a), a defendant has no right to pretrial release, when charged with any crime, 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 Department of Health and Human Services, and whose commitment is determined to be still valid by the judge or judicial officer authorized to determine pretrial release to be valid. 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.

Judicial officials determining whether a criminal defendant may be released before trial pursuant to G.S. 15A-533 may have access to the defendant's records of proceedings made pursuant to Article 5 of Chapter 122C for the purposes of determining whether a criminal defendant has been involuntarily committed within the previous three (3) years.

CONDITIONAL PROVISIONS OF PRETRIAL RELEASE

DOMESTIC VIOLENCE

G.S. 15A-534.1 requires that the judicial official who determines the conditions of pretrial release shall be a judge, in the case of certain crimes of domestic violence between persons who are current or former spouses, persons who live or have lived together as if married, or persons who are or have been in a dating relationship as defined by G.S. 50B-1(b)(6), or with domestic criminal trespass, or in any violation of a domestic violence protective order. A defendant may not be held longer than 48 hours from the time of arrest without a determination being made by a judge. If a judge has not acted within 48 hours of arrest, a magistrate is specifically authorized to act under the provisions of 15A-534.1(b) and must set conditions of release for the defendant. The listing of crimes and persons eligible for this “48-hour hold” may be found in 15A-534.1(a) and may also be found in materials prepared by the UNC School of Government and distributed to court officials.

DRUG TRAFFICKING, GANG ACTIVITY, AND FIREARM OFFENSES

G.S. 15A-533 creates a rebuttable presumption that conditions of release will not assure the appearance of the person as required and the safety of the community in the following circumstances:

- (1) Drug Trafficking: There is reasonable cause to believe that the person committed an offense involving trafficking in a controlled substance, the drug trafficking offense was committed while the person was on pretrial release for another offense, and 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.
- (2) Gang Activity: There is reasonable cause to believe that the person committed an offense for the benefit of, at the direction of, or in association with, any criminal gang, as defined in G.S. 14-50.16A(1), the offense was committed while the person was on pretrial release for another offense, and the person has been previously convicted of an offense described in G.S. 14-50.16 through G.S. 14-50.20 or has been convicted of a criminal offense and received an enhanced sentence for that offense pursuant to G.S. 15A-1340.16(e), and not more than five years has elapsed since the date of conviction or the person's release for the offense, whichever is later.
- (3) Felony or Class A1 Misdemeanor Offense Involving the Illegal Use, Possession, or Discharge of a Firearm: 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 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, or 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.

Persons who are considered for bond under these three provisions of G.S. 15A-533 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. A magistrate may not set a bond for persons who meet the criteria for one or more of these conditions.

CERTAIN PROBATION VIOLATIONS

As per G.S. 15A-1345, if at any time during the period of probation a probationer is arrested for a violation of any of the conditions of probation, he must be taken without unnecessary delay before a judicial official to have conditions of release pending a hearing set in the same manner as provided in G.S. 15A-534. However, if the probationer is arrested for a violation of any of the conditions of probation, and (i) has a pending charge for a felony offense or (ii) has been convicted of an offense at any time that requires registration under Article 27A of Chapter 14 of the General Statutes or an offense that would have required registration but for the effective date of the law establishing the Sex Offender and Public Protection Registration Program, the judicial official shall determine whether the probationer poses a danger to the public prior to imposing conditions of release and must record that determination in writing.

- (1) If the judicial official determines that the probationer poses a danger to the public, the probationer shall be denied release pending a revocation hearing.
- (2) If the judicial official finds that the defendant does not pose a danger to the public, then conditions of release shall be imposed as otherwise provided.
- (3) If there is insufficient information to determine whether the defendant poses a danger to the public, then the defendant shall be retained in custody for not more than seven days from the date of the arrest in order for the judicial official, or a subsequent reviewing judicial official, to obtain sufficient information to determine whether the defendant poses a danger to the public.
- (4) If the defendant has been held seven days from the date of arrest pursuant to subdivision (3) of this subsection, and the court has been unable to obtain sufficient information to determine whether the defendant poses a danger to the public, then the defendant shall be brought before any judicial official, who shall record that fact in writing and shall impose conditions of pretrial release as otherwise provided in this section.

OFFENSES AGAINST MINORS

As per G.S. 15A-534.4, in all cases in which the defendant is charged with felonious or misdemeanor child abuse, with taking indecent liberties with a minor in violation of G.S. 14-202.1, with rape or any other sex offense in violation of Article 7B, Chapter 14 of

the General Statutes against a minor victim, with incest with a minor in violation of G.S. 14-178, with kidnapping, abduction, or felonious restraint involving a minor victim, with a violation of G.S. 14-320.1, with assault or any other crime of violence against a minor victim, or with communicating a threat against a minor victim, in addition to the provisions of G.S. 15A-534 a judicial official shall impose the following conditions on pretrial release:

- (1) That the defendant stay away from the home, temporary residence, school, business, or place of employment of the alleged victim.
- (2) That the defendant refrain from communicating or attempting to communicate, directly or indirectly, with the victim, except under circumstances specified in an order entered by a judge with knowledge of the pending charges.
- (3) That the defendant refrain from assaulting, beating, intimidating, stalking, threatening, or harming the alleged victim.

Upon request of the defendant, the judicial official may waive one or more of the required conditions of this section if the judicial official makes written findings of fact that it is not in the best interest of the alleged victim that the condition be imposed on the defendant.

COMMUNICATING A THREAT OF MASS VIOLENCE

As set forth in G.S. 15A-534.7, in all cases in which the defendant is charged with communicating a threat of mass violence on educational property in violation of G.S. 14-277.6 or communicating a threat of mass violence at a place of religious worship in violation of G.S. 14-277.7, the judicial official who determines the conditions of pretrial release shall be a judge. The judge shall direct a law enforcement officer or a district attorney to provide a criminal history report for the defendant and shall consider the criminal history when setting conditions of release. After setting conditions of release, the judge shall return the report to the providing agency or department. No judge shall unreasonably delay the determination of conditions of pretrial release for the purpose of reviewing the defendant's criminal history report. The following provisions shall apply in addition to the provisions of G.S. 15A-534:

- (1) Upon a determination by the judge that the immediate release of the defendant will pose a danger of injury to persons and upon a determination that the execution of an appearance bond as required by G.S. 15A-534 will not reasonably assure that such injury will not occur, a judge may retain the defendant in custody for a reasonable period of time while determining the conditions of pretrial release.
- (2) A judge may impose the following conditions on pretrial release:
 - a. That the defendant stays away from the educational property or place of religious worship against which the threat was communicated.
 - b. That the defendant stays away from any other educational property or place of religious worship unless permission to be present is granted by the person in control of the property.

The conditions set forth in this subdivision may be imposed in addition to requiring that the defendant execute a secured appearance bond. A defendant may be retained in custody not more than 48 hours from the time of arrest without a determination being made under this section by a judge. If a judge has not acted pursuant to this section within 48 hours of arrest, the magistrate shall act under the provisions of this section.

VIOLENT OFFENSES

There is 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:

- (1) A defendant charged with any of the (1) through (18) offenses listed under G.S. 15A-533(b) (for which only a judge may determine pretrial release).
- (2) Defendants charged with any violent offense.

As defined under G.S. 15A-531(9), a violent offense includes:

- a. 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.
- b. 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.
- c. An offense under G.S. 14-17, and any other offense listed in G.S. 15A-533(b).
- d. An offense under G.S. 14-18.414-34.1, 14-51, 14-54(a1), 14-202.1, 14-277.3A, or 14-415.1, or an offense under G.S. 90-95(h)(4c) that involves fentanyl.
- e. Any offense that is an attempt to commit an offense described in this subdivision.

Effective December 1, 2026, as governed in G.S. 15A-533(b1)¹, if a defendant is (i) charged with a violent offense and, after a search of the court records for the defendant, the judicial official determined 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 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 this Article and shall issue an order that includes the provisions set forth in G.S. 15A-533(b1).

THREATS AGAINST PUBLIC OFFICERS

In all cases in which the defendant is charged with a violation of G.S. 14-16.6, 14-16.7, or 163-275(11), the judicial official who determines the conditions of pretrial release shall be a judge, in accordance with G.S. 15A-534.9. Upon determination by the judge that the immediate release of the defendant will pose a danger of injury to persons and upon a determination that the execution of an appearance bond as required by G.S. 15A-534 will not reasonably assure that such injury will not occur, a judge may retain the defendant in

¹ S.L. 2025-97 §5.3.(b)

custody for a reasonable period of time while determining the conditions of pretrial release. The judicial official shall impose the following conditions on pretrial release:

- (1) That the defendant stay away from the home, school, business, or place of employment of the alleged victim.
- (2) That the defendant refrain from assaulting or threatening the alleged victim.
- (3) That the defendant stay away from specific locations or property where the offense occurred.
- (4) That the defendant stay away from other specified locations or property.

A defendant may be retained in custody not more than 48 hours from the time of arrest without a determination being made under this section by a judge. If a judge has not acted within 48 hours, the magistrate shall act under the provisions in this section.

POST ARREST FOR VIOLATION OF PRETRIAL RELEASE ORDER

Pursuant to §15A-401(b)(1), an officer may arrest without a warrant any person who the officer has probable cause to believe has committed a criminal offense or has violated a pretrial release order entered under G.S. 15A-534 or G.S. 15A-534.1(a)(2), in the officer's presence. Pursuant to §15A-401(b)(2)(f), an officer may arrest without a warrant any person who the officer has probable cause to believe has, outside the presence of the officer, violated a pretrial release order entered under G.S. 15A-534 or G.S. 15A-534.1(a)(2).

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. The judge shall direct a law enforcement officer, pretrial services program, or a district attorney to provide a criminal history report and risk assessment, if available, for the defendant and shall consider the criminal history when setting conditions of pretrial release. After setting conditions of pretrial release, the judge shall return the report to the providing agency or department. No judge shall unreasonably delay the determination of conditions of pretrial release for the purpose of reviewing the defendant's criminal history report. Notwithstanding the provisions of this subsection, a magistrate or the clerk of superior court may set the 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.

The new release order revokes and supersedes the prior release order. The new release order shall include at least the same restrictions as contained in the violated order, as well as any others that may be appropriate.

DETENTION OF IMPAIRED DRIVERS

As required by § 15A-534.2, a judicial official conducting an initial appearance for an offense involving impaired driving, as defined in G.S. 20-4.01(24a), must follow the

procedure in G.S. 15A-511 for initial appearance except as modified by 15A-534.2. If at the time of the initial appearance the judicial official finds by clear and convincing evidence that the impairment of the defendant's physical or mental faculties presents a danger, if he is released, of physical injury to himself or others or damage to property, the judicial official must order that the defendant be held in custody and inform the defendant that he will be held in custody until one of the requirements of subsection (c) is met; provided, however, that the judicial official must at this time determine the appropriate conditions of pretrial release in accordance with G.S. 15A-534.

A defendant subject to detention under this section has the right to pretrial release under G.S. 15A-534 when the judicial official 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 G.S. 15A-534, including a requirement that the defendant execute a secured appearance bond.

The defendant may be denied pretrial release under this section for a period no longer than 24 hours, and after such detention may be released only upon meeting the conditions of pretrial release set in accordance with G.S. 15A-534. If the defendant is detained for 24 hours, a judicial official must immediately determine the appropriate conditions of pretrial release in accordance with G.S. 15A-534.

In making his determination whether a defendant detained under this section remains impaired, the judicial official may request that the defendant submit to periodic tests to determine his alcohol concentration. Instruments acceptable for making preliminary breath tests under G.S. 20-16.3 may be used for this purpose as well as instruments for making evidentiary chemical analyses. Unless there is evidence that the defendant is still impaired from a combination of alcohol and some other impairing substance or condition, a judicial official must determine that a defendant with an alcohol concentration less than 0.05 is no longer impaired.

RESPONSIBILITY FOR SETTING BAIL

The primary responsibility for setting bail rests with a magistrate, although a clerk may sometimes be asked to set bail and has the power to do so. The magistrate should set bail in all misdemeanor cases and in non-capital felony cases, with the exception of certain offenses described in this policy. A judge must set bail in a capital case if the judge, in the judge's discretion, has determined that bond is warranted. Neither magistrates nor clerks

are permitted to set bail in capital cases. A district court judge may set bail in all cases. A superior court judge may set bail in all cases.

STATUTORY BAIL POLICY OF NORTH CAROLINA

DETERMINING CONDITIONS OF PRETRIAL RELEASE

From G.S. 15A-534:

- (a) In determining conditions of pretrial release, a judicial official must impose at least one of the following conditions:
 - (1) Repealed by Session Laws 2025-93, § 1(d).
 - (2) Release the defendant upon his execution of an unsecured appearance bond in an amount specified by the judicial official.
 - (3) Place the defendant in the custody of a designated person or organization agreeing to supervise him.
 - (4) Require the execution of an appearance bond in a specified amount secured by a cash deposit of the full amount of the bond, by a mortgage pursuant to G.S. 58-74-5, or by at least one solvent surety.
 - (5) House arrest with electronic monitoring.

If condition (5) is imposed, the defendant must execute a secured appearance bond under subdivision (4) of this subsection. If condition (3) is imposed, however, the defendant may elect to execute an appearance bond under subdivision (4).

If the defendant is required to provide fingerprints pursuant to G.S. 15A-502(a1) or (a2), or a DNA sample pursuant to G.S. 15A-266.3A or G.S. 15A-266.4, and (i) the fingerprints or DNA sample have not yet been taken or (ii) the defendant has refused to provide the fingerprints or DNA sample, the judicial official shall make the collection of the fingerprints or DNA sample a condition of pretrial release.

The judicial official may also place restrictions on the travel, associations, conduct, or place of abode of the defendant as conditions of pretrial release. The judicial official may include as a condition of pretrial release that the defendant abstain from alcohol consumption, as verified by the use of a continuous alcohol monitoring system, of a type approved by the Division of Community Supervision and Reentry of the Department of Adult Correction, and that any violation of this condition be reported by the monitoring provider to the district attorney.

- (b) Except for a defendant charged with a violent offense, a judicial official in granting pretrial release must impose condition (2) or (3) in subsection (a) above unless he 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. Upon making the determination the judicial official must then impose condition (4) in subsection (a) above instead of condition (2) or (3), and must record the reasons for so doing in writing to the extent provided in the policies or requirements issued by the senior resident superior court judge pursuant to G.S. 15A-535(a). However, if a defendant 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 then impose condition (4) or (5) in subsection (a) of this section.

- (b1) For a defendant charged with any violent offense, 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 condition (4) or (5) in subsection (a) of this section.
 - (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 condition (5) in subsection (a) of this section, if available.
- (c) In determining which conditions of release to impose, 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 must, on the basis of available information, take into account the nature and circumstances of the offense charged; the weight of the evidence against the defendant; the defendant's family ties, employment, financial resources, character, housing situation, and mental condition; whether the defendant is intoxicated to such a degree that he would be endangered by being released without supervision; the length of his residence in the community; his history of flight to avoid prosecution or failure to appear at court proceedings; and any other evidence relevant to the issue of pretrial release.
- (d) The judicial official authorizing pretrial release under this section 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 subsection (c) of this section. The order of release must be filed with the clerk and a copy given the defendant and any surety, or the agent thereof who is executing the bond for the defendant's release pursuant to that order.

- (d1) Except for a defendant charged with a violent offense, when conditions of pretrial release are being imposed on a defendant who has failed on one or more prior occasions to appear to answer one or more of the charges to which the conditions apply, the judicial official shall at a minimum impose the conditions of pretrial release that are recommended in any order for the arrest of the defendant that was issued for the defendant's most recent failure to appear. If no conditions are recommended in that order for arrest, the judicial official shall require the execution of a secured appearance bond in an amount at least double the amount of the most recent previous secured or unsecured bond for the charges or, if no bond has yet been required for the charges, in the amount of at least one thousand dollars (\$1,000). The judicial official shall also impose such restrictions on the travel, associations, conduct, or place of abode of the defendant as will assure that the defendant will not again fail to appear. The judicial official shall indicate on the release order that the defendant was arrested or surrendered after failing to appear as required under a prior release order. If the information available to the judicial official indicates that the defendant has failed on two or more prior occasions to appear to answer the charges, the judicial official shall indicate that fact on the release order.
- (d2) Except for a defendant charged with a violent offense, conditions of pretrial release are being determined for a defendant who is charged with a felony offense and the defendant is currently on probation for a prior offense, a judicial official shall determine whether the defendant poses a danger to the public prior to imposing conditions of pretrial release and must record that determination in writing. This subsection shall apply to any judicial official authorized to determine or review the defendant's eligibility for release under any proceeding authorized by this Chapter. After making a determination pursuant to this subsection, the judicial official shall impose the following conditions:
 - (1) If the judicial official determines that the defendant poses a danger to the public, the judicial official must impose condition (4) or (5) in subsection (a) of this section instead of condition (2) or (3).
 - (2) If the judicial official finds that the defendant does not pose a danger to the public, then conditions of pretrial release shall be imposed as otherwise provided in this Article.
 - (3) If there is insufficient information to determine whether the defendant poses a danger to the public, then the defendant shall be retained in custody until a determination of pretrial release conditions is made pursuant to this subdivision. The judicial official that orders that the defendant be retained in custody shall set forth, in writing, the following at the time that the order is entered:

- a. The defendant is being held pursuant to this subdivision.
 - b. The basis for the judicial official's decision that additional information is needed to determine whether the defendant poses a danger to the public and the nature of the necessary information.
 - c. A date, within 96 hours of the time of arrest, when the defendant shall be brought before a judge for a first appearance pursuant to Article 29 of this Chapter. If the necessary information is provided to the court at any time prior to the first appearance, the first available judicial official shall set the conditions of pretrial release. The judge who reviews the defendant's eligibility for release at the first appearance shall determine the conditions of pretrial release as provided in this Article.
- (d3) When conditions of pretrial release are being determined for a defendant who is charged with an offense and the defendant is currently on pretrial release for a prior offense, the judicial official may require the execution of a secured appearance bond in an amount at least double the amount of the most recent previous secured or unsecured bond for the charges or, if no bond has yet been required for the charges, in the amount of at least one thousand dollars (\$1,000).
- (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 Article 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 of 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.
- If by the end of this two-hour period no detainer and administrative warrant have been issued by Immigration and Customs Enforcement of the United States Department of Homeland Security, the defendant shall be released pursuant to the terms and conditions of the release order. If before the end of this two-hour period a detainer and administrative warrant issued by Immigration and Customs Enforcement of the United States Department of Homeland Security have been received by the facility, the defendant shall be processed pursuant to G.S. 162-62(b1).
- (e) A magistrate or a clerk may modify his pretrial release order at any time prior to the first appearance before the district court judge. At or after such first appearance,

except when the conditions of pretrial release have been reviewed by the superior court pursuant to G.S. 15A-539, a district court judge may modify a pretrial release order of the magistrate or clerk or any pretrial release order entered by him at any time prior to:

- (1) In a misdemeanor case tried in the 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.

After a case is before the superior court, a superior court judge may modify the pretrial release order of a magistrate, clerk, or district court judge, or any such order entered by him, at any time prior to the time set out in G.S. 15A-536(a).

- (f) For good cause shown any judge may at any time revoke an order of pretrial release. Upon application of any defendant whose order of pretrial release has been revoked, the judge must set new conditions of pretrial release in accordance with this Article.
- (g) In imposing conditions of pretrial release and in modifying and revoking orders of release under this section, the judicial official must take into account all evidence available to him which he considers reliable and is not strictly bound by the rules of evidence applicable to criminal trials.
- (h) 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 an earlier time upon the occurrence of any of the following:
 - (1) A judge authorized to do so releases the obligor from the bond.
 - (2) The principal is surrendered by a surety in accordance with G.S. 15A-540.
 - (3) The proceeding is terminated by voluntary dismissal by the State before forfeiture is ordered under G.S. 15A-544.3.
 - (4) Prayer for judgment has been continued indefinitely in the district court.
 - (5) The court has placed the defendant on probation pursuant to a deferred prosecution or conditional discharge.
 - (6) 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.

CONDITIONS OF PRETRIAL RELEASE

WRITTEN PROMISE TO APPEAR

Repealed by S.L. 2025-93 §1(d) i.e. Iryna's Law, effective December 1, 2025.

UNSECURED BOND

An unsecured bond may be set with any appropriate restrictions to travel, associations, conduct, or place of abode when reliable information indicates that the defendant resides within the state and when there is some evidence that the defendant has sufficient assets to satisfy a judgment, if entered, and a significant portion of the subsection (c) criteria in Sec. 15A-534 are favorable to the defendant or neutral.

PLACEMENT WITH A DESIGNATED PERSON OR ORGANIZATION

Placement into the custody of a designated person or organization agreeing to supervise the defendant, with any appropriate restriction on travel, associations, conduct, or place of abode, is recommended when reliable information indicates that the defendant is an unemancipated minor, is mentally ill or mentally handicapped, is physically ill, is intoxicated, or is otherwise in need of care, and that the defendant is a resident of the state and the designated person or organization resides or operates within the state and proposes to keep the defendant within the state. If a custody release condition is imposed, however, the defendant may elect to execute an appearance bond instead as per 15A-534(a).

SECURED BOND

Secured bonds shall only be imposed in cases in which the judicial official makes a determination that less restrictive conditions of release are inappropriate because 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.

PRESUMPTIVE BAIL AMOUNTS

When a cash or secured bond is required, the judicial official shall be guided as to the amount of bail by the schedule attached hereto and incorporated by reference, unless, taking into consideration the factors specified in G.S. 15A-534(b) and (c), the judicial official determines that some greater or lesser amount is appropriate. Pursuant to G.S. 15A-534 (b) and G.S. 15A-535 (a), where in the event the magistrate should set a bond lower than or in excess of the recommended amount of bail, as set forth by the schedule attached hereto, the magistrate shall record the reasons for doing so in writing. The failure of the magistrate to make such written findings shall not render a bond invalid, but such failure may constitute evidence to support a claim that a bond is excessive.

APPROVING SURETIES FOR SECURED BOND

The clerk or magistrate shall verify and ensure the financial responsibility of the surety for a secured appearance bond.

PROPERTY BONDS

DEFENDANTS POSTING PROPERTY BONDS

A defendant may use his or her own real property to post a property bond. However, in accordance with G.S. 58-74-5, the defendant must execute a mortgage or deed of trust to his property, with the mortgage payable to the State of North Carolina and with power of sale conditioned upon the breach of any condition of the bond. The mortgage or deed of trust must be approved by the Clerk or the Clerk's designated assistant clerk and shall comply with the deed of trust and title opinion requirements previously described.

REQUIREMENTS FOR PROPERTY BONDS LESS THAN \$15,000 FOR SECURED BOND

Property may be put up for bonds LESS than \$15,000 without requiring a Deed of Trust. Magistrates can approve property bonds in an amount LESS than \$15,000 without seeking approval by the Clerk; however, should any questions arise, magistrates are free to consult with the Clerk or designated assistant clerk.

Bond-Property Ratio: In the case of property bonds LESS than \$15,000, the value of the property or aggregate of multiple properties to be put up by the proposed surety or sureties must be sufficient to satisfy the amount of the bond plus any costs of collection. The general rule is that the property, less any prior liens, be valued at twice the amount of the bond. However, each bond request will be looked at on a case by case basis to ensure that the property value is sufficient to satisfy the amount of the bond plus any cost of collection.

Proposed sureties (i.e. all property owners) must be identified individuals. No bonds will be allowed on property titled to "heirs," property titled to corporations, or titled to other non-human entities. Proposed sureties should complete a Criminal Appearance Bond Financial Statement for Determination of Solvency of Surety in which each Surety signs an Affidavit with regard to the property value and any liens. The magistrate shall verify the identity of the property owner and the ownership of the property through each county OPIS. The magistrate shall check the website of each county tax department to make sure there are no delinquent taxes owed on the property. No property bond may be completed if there are delinquent taxes owed on the property. All property owners must serve as sureties and must execute appropriate documents including AOC-CR-201. All property owners shall personally appear before the magistrate as part of the process of

obtaining a property bond. The parcel number of property or properties used to stand bond must be placed on the form AOC-CR-201.

REQUIREMENTS FOR PROPERTY BONDS OF \$15,000 OR GREATER FOR SECURED BOND

All proposed Property Bonds of \$15,000 or greater requiring a Deed of Trust to the State of North Carolina must first be approved by the Clerk of Court of each county. Property bond approval is within the discretion of the Clerk or the Clerk's designated assistant clerk. It is suggested, but not required, that individuals or their attorneys seek preliminary pre-approval from the Clerk or designated assistant clerk before investing time and money in a title search; however, the Clerk reserves the right and discretion to deny any property bond request after a title opinion and required documents have been prepared, even if pre-approval was sought, should the proposed bond and documents not meet requirements. The following documents are required for a property bond of \$15,000 or greater: a deed of trust, title certificate, affidavit of value or tax certificate, an affidavit indicating individually all payoffs for any liens of record against property submitted to secure the bond in question, and completed AOC-CR-201 which serves as the promissory note. All documentation shall be delivered to the Clerk of Superior Court. Requirements of said documentation are discussed below.

Bond-Value Ratio: The proposed property or aggregate of multiple properties owned by the proposed surety (i.e. the property owner(s)) must be sufficiently in excess of the bond amount to cover any forfeiture judgment after foreclosure sale costs and the constitutional exemption of \$1,000. The general rule is that the property, less any prior liens, be valued at twice the amount of the bond. (Example: If the bond is \$20,000, then the value of the property less any liens must be at least \$40,000.) However, each bond request will be looked at on a case by case basis to ensure that the property value is sufficient to satisfy the amount of the bond plus any cost of collection. An affidavit of value or documentation from the tax office as to tax value can be used to show the proper bond ratio as well as affidavits as to the payoff amount of any liens.

Proposed sureties (i.e. property owners) must be identified individuals. No bonds will be allowed on property titled to "heirs," property titled to corporations, or property titled to other entities. Proposed sureties must own property in fee simple, except that property held in a life estate can be used for a property bond provided that all life tenants and all remaindermen act as sureties and execute all the required documents.

A licensed attorney must perform a title search and give a title opinion/certificate stating that the proposed sureties are the legal owners of the property in fee simple (except in the case of life estates in which all life tenants and remaindermen will stand as sureties), that there are either no liens on the property or identifying any existing liens and stating that said liens do not affect the bond-value ratio requirement. Attorneys should submit documentation (i.e. an Affidavit from the property owner or preferably a statement from the lien holder) as to the payoff of any liens on the property submitted to secure a bond.

A Promissory Note in favor of the State of North Carolina in the amount of the bond is NOT required. However, all sureties (i.e. property owners) must execute AOC-CR-201, Appearance Bond for Pre-Trial Release, which acts as the promissory note. The parcel number of the property or properties used to stand bond needs to be included on form AOC-CR-201.

All proposed sureties/property owners must execute a legal Deed of Trust with proper property description in the amount of the bond and list the following parties:

1. Grantor: Sureties (all property owners and spouses)
2. Beneficiary: State of North Carolina f/b/o _____ County Board of Education
3. Trustee: [Name of County's Clerk of Superior Court], Clerk of Superior Court of _____ County, or successor in office.

Prior to final approval, an executed Deed of Trust with recording slip showing recordation in the office of the proper Registrar of Deeds and a title opinion must be presented to the Clerk. If the property bond is not approved following recording of the Deed of Trust, the Clerk will cause the unaccepted Deed of Trust to be cancelled. Following approval by the Clerk, the same documents must be presented to the magistrate. Magistrates will confirm approval by the Clerk, if the Clerk's office is open, before authorizing release pursuant to a property bond. All sureties must sign the AOC-CR-201 before the magistrate.

MULTIPLE SURETIES

When bonds of \$15,000 or more are required, more than one surety may choose to be bound to secure said bond. No surety may be bound to secure less than twenty (20%) percent of any bond, unless the bond ends in an amount ranging between \$1 and \$50 and was set by a District Court or Superior Court Judge. A magistrate may accept from \$1 to \$50 in cash or certified funds for split bonds over \$15,000 and up to \$15,050.

The above referenced documentation requirements, meaning the executed Deed of Trust with recording slip showing recordation in the office of the Registrar of Deeds and the title opinion requirement, are applicable in those instances when an individual surety binds oneself to secure a portion of a bond or an entire bond. Multiple sureties may "split" bonds that equal or exceed \$15,000, but each surety must individually comply with the title search and Deed of Trust requirements described above.

OUT-OF-COUNTY SURETIES

Out-of-County Sureties follow the same policies as described herein. The Deed of Trust is to be filed in the county where the property is located.

CONDITIONAL PROVISIONS FOR SETTING BAIL

GANG ACTIVITY BY DEFENDANT

In addition to the factors set forth in 15A-534(c), the judicial official setting bail and other pretrial conditions of release for a defendant shall consider evidence of gang activity on the part of the defendant, if evidence of said activity is presented by the arresting officer or other law enforcement officials. In making this decision, judicial officials may only consider specific and verified incidents of gang activity. Conclusory statements that the defendant is a known gang member or associates with known gang members are not sufficient for including this factor in a determination of pretrial release. If the judicial official is satisfied that the defendant is engaged in gang activity, the judicial official shall set the defendant's bond at two (2) times the amount of the maximum suggested bond for the offense. The judicial official may choose to deviate from this standard, but he or she must make written findings of good cause for doing so on the Conditions of Release.

BREAKING OR ENTERING

If a defendant has a pending charge for breaking or entering, and the defendant is brought before a judicial official on new charge(s) involving breaking or entering upon a date of offense after the date of offense in the pending breaking or entering charge, the judicial official setting the bond in the new breaking or entering case shall set the bond in the new breaking or entering case at four (4) times the amount of the bond in the prior pending breaking or entering case. The judicial official may choose to deviate from this standard, but he or she must make written findings of good cause for doing so on the Conditions of Release.

If a defendant is brought before a judicial official on a new charge involving breaking or entering, and the defendant has previously been convicted of a felony or misdemeanor breaking or entering, and not more than five years have elapsed since the date of conviction or the person's release for the offense, whichever is later, then the judicial official shall set the bond for the new charge at the top of the presumptive range of suggested secured bonds for the offense. The judicial official may choose to deviate from this standard, but he or she must make written findings of good cause for doing so on the Conditions of Release.

If a defendant is brought before a judicial official on three or more new charges involving breaking or entering, and the defendant has previously been convicted of a felony or misdemeanor breaking or entering, and not more than five years have elapsed since the date of conviction or the person's release for the offense, whichever is later, then the judicial official shall set the bond for the new charge at a minimum of \$50,000. The judicial official may choose to deviate from this standard, but he or she must make written findings of good cause for doing so on the Conditions of Release.

PROFESSIONAL BONDSMEN

No bail bondsman or runner shall solicit business in any of the Courts or on the premises of any of the Courts of this State, in the office of any magistrate, or in or about any place where prisoners are confined. Loitering in or about a magistrate's office or any place where prisoners are confined shall be prima facie evidence of soliciting. No bail bondsman or runner shall advertise by blazers, logos on briefcases, or in any other manner whatsoever, in violation of G.S. 85C-20, and such marking or special dress and use of logos shall constitute soliciting business.

No Magistrate shall in any way or manner recommend the services of a particular bondsman to a defendant, or permit any bondsman or any agent or employee of a bondsman to loiter in and about the magistrate's office. If a defendant indicates that he or she wishes to secure the services of a professional bondsman, the magistrate shall inform the defendant that there is a listing of bail bondsmen posted on the wall of the local county detention center, and the defendant shall be permitted to call such of them as defendant may desire.

SUGGESTED SECURED BOND AMOUNTS

TYPE OF OFFENSE	MAXIMUM PUNISHMENT	SUGGESTED BONDS
Local Ordinance	\$50 fine or 30 days	Unsecure
Misdemeanor Class 3	20 Days	Unsecure
Misdemeanor Class 2	60 Days	\$100 - \$2,500
Misdemeanor Class 1	120 Days	\$100 - \$5,000
Misdemeanor Class A1	150 Days	\$1,000 - \$20,000
Driving While Impaired	See N.C.G.S. Sec. 20-179	\$1,000 - \$3,000 If the defendant is out on bond for a pending DWI, then \$5,000 minimum. For habitual DWI bonds, minimum of \$25,000.
Felony Class H and I	24 months for Class I 39 months for Class H	\$1,000 - \$25,000
Felony Class E, F, and G	47 months for Class G 59 months for Class F 88 months for Class E	\$10,000 - \$50,000 \$20,000 - \$100,000
Felony Class D	204 months for Class D	\$50,000 - \$250,000
Felony Class C	231 months for Class C	\$50,000 - \$500,000
Felony Class B1 and B2	484 months for Class B2	\$200,000 - \$1,000,000
	Life without Parole for Class B1	\$500,000 - \$5,000,000
Felony Class A	Life without Parole, or death	No Bond (unless set by a judge)
Fugitive Warrant (§15A-736)		No Bond (unless set by a judge)
Governor's Warrant		No Bond
Parole Warrant		No Bond
Probation Violation		Amount appropriate for the underlying offense with consideration for the nature of the violations, but minimum should be at least \$3,000 for misdemeanors (\$10,000 if absconder) and \$25,000 for felonies unless probation officer recommends lesser amount. For felony absconders, \$50,000 minimum.

SUGGESTED SECURED BOND AMOUNTS TRAFFICKING OFFENSES

TYPE OF OFFENSE	MAXIMUM PUNISHMENT	SUGGESTED SECURED BONDS
Drug Trafficking Class H	Mandatory 25 months minimum/ 39 months maximum	\$50,000 - \$150,000
Drug Trafficking Classes:		
G:	Mandatory 35 months minimum/ 51 months maximum	} \$50,000 - \$250,000 }
F:	Mandatory 70 months minimum/ 93 months maximum	} \$100,000 - \$300,000 }
E:	Mandatory 90 months minimum/ 120 months maximum	} \$150,000 - \$400,000 }
Drug Trafficking Class D	Mandatory 175 months minimum/ 222 months maximum	\$250,000 - \$500,000
Drug Trafficking Class C	Mandatory 225 months minimum/ 282 months maximum	\$500,000 - \$2,000,000

Note: These are suggested amounts for secured bonds. For trafficking offenses, suggested amount is per incident and not per trafficking offense/charge. Actual amounts should be determined by the consideration of factors specified in statute and policy.