

STATE OF NORTH CAROLINA  
SURRY AND STOKES COUNTIES  
JUDICIAL DISTRICT 17B

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR AND DISTRICT COURT DIVISIONS

IT IS ORDERED that pursuant to the provisions of Article 26 of Chapter 15A of the North Carolina General Statutes the following policies and recommended guidelines set forth below shall be utilized in the 17B Judicial District. These policies shall be in full force and effect on or after January 15, 2019, and do replace existing policies.

I. GENERAL REQUIREMENTS

North Carolina General Statutes require that one of five conditions of pretrial release be imposed in any NON-CAPITAL charge. These five conditions are:

- A. Release on a written promise to appear.
- B. Release on unsecured bond.
- C. Release to the custody of a designated person or organization agreeing to supervise the defendant.
- D. Release on a secured appearance bond secured by a cash deposit, mortgage or at least one solvent surety.
- 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.
  1. Any restrictions imposed should be *reasonable and related to the purposes* of the pretrial provisions. Conditions should not be used as punishment. [Note: NCGS 15A-534.4 sets out specific conditions that may be imposed on a defendant who is charged with certain sex offenses and crimes of violence against child victims.]
  2. 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.

If condition (C) is imposed, however, the defendant may elect to execute a secured appearance bond under condition (D). If the defendant is required to provide fingerprints pursuant to NCGS 15A-502(a1) or (a2), or a DNA sample pursuant to NCGS 15A-266.3A or NCGS 15A-266.4 and (i) the fingerprints or DNA samples 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 on the defendant as conditions of pretrial release under NCGS 15A-543(a).

NOTE: The magistrate will observe that a citation is a criminal process. See NCGS 15A-302. It is not a form of release.

## II. CHOOSING THE FORM OF PRETRIAL RELEASE—NCGS 15A-534

### A. Written Promise to Appear

The written promise to appear may be selected by the magistrate as the form of pretrial release upon the magistrate's finding that such form will reasonably assure the defendant's court appearance after the magistrate has taken into account the release criteria set out in NCGS 15A-524(c), namely;

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 record of convictions;
11. The defendant's history of flight to avoid prosecution or failure to appear at court proceedings; and
12. Any other evidence relevant to the issue of pretrial release.

The written promise to appear is the recommended form of pretrial release **IF** the magistrate finds that this form of release will reasonably assure the defendant's court appearance on the basis of the criteria set out above **EXCEPT** in cases in which the defendant is charged with violation of a misdemeanor offense under NCGS Chapter 20 (Motor Vehicles) or for other situations discussed in Section IV.

### B. Unsecured Bond in a Specific Amount

The unsecured bond in a specific amount is the recommended form of pretrial release in misdemeanor cases arising out of NCGS Chapter 20 (motor vehicles) **IF** the magistrate's finds that this form of release will reasonably assure the defendant's court appearance on the basis of the release criteria set out above.

