

STATE OF NORTH CAROLINA
16-B JUDICIAL DISTRICT
ROBESON COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

2020 MAR 17 P 4:08

ORDER
RECOMMENDING SPECIAL BOND GUIDELINES
FOR THE DURATION OF A
PANDEMIC EMERGENCY

Pursuant to N.C.G.S. 15A-535, and the inherent authority of the undersigned, the undersigned Senior Resident Superior Court Judge of Judicial District Sixteen B(16B) and the Chief District Court Judge of Judicial District Sixteen B(16B), embracing the named above county have consulted and formulated the additional recommended policies for pretrial release in the event of a pandemic emergency in accordance with G.S. 15A-535.

IT IS HEREBY RECOMMENDED that the following policies be used in conjunction with the law as set forth in Article 26 of the Criminal Procedure Act to determine whether and upon what conditions a defendant may be released before trial in the Sixteen B (16-B) Judicial District.

These policies are recommended to magistrates and all other judicial officials holding office or presiding in the district. This policy is effective as of date of signing and remains in effect until modified or revoked.

IT IS FURTHER ORDERED that in the event of a pandemic emergency, copies of these policies be distributed by the Clerk of Superior Court to all judicial officials in this District, to the Sheriff of Robeson County, the troop Commander for the local State Highway Patrol, and each Chief of Police for each municipality within this District, to each superior court judge and district court judge assigned to preside

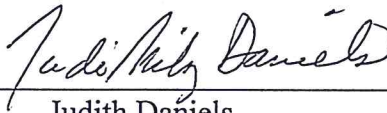
in the district, and published on websites established for the Courts; and that the Clerk of Superior Court shall file a copy in the Clerk's office.

These recommendations will apply until the Robeson County Pandemic Emergency Response Team declares the emergency has ended.

This the 17th day of March, 2020.



Robert F. Floyd, Jr.
Senior Resident Superior Court Judge



Judith Daniels
Chief District Court Judge

**RECOMMENDED BAIL POLICY
DURING A PANDEMIC EMERGENCY**

N.C.G.S. Chapter 15A, Article 26 defines and sets forth guidelines to reasonably assure a Defendant's appearance in court and vests the decision as to form of release and amount of bond in the judicial officer who may know the most or can most readily learn the most about a Defendant. A careful reading and knowledge of these statutes is necessary to administer the law equally and effectively.

It is recognized that the General Statutes require a release decision related explicitly to all factors found to be relevant to the accused's roots in the community, and the circumstances of each individual case will govern each decision in the event of a pandemic emergency. However, the following recommendations are to be considered by magistrates and other judicial officials for bonds for this District.

Generally, unsecured bonds have a history of being uncollectible bonds. Court and Sheriff's officials are required to exert much effort in attempting to collect them. To ease that burden, we recommend the use of a written promise to appear, a custody release to a designated person or organization, a secured bond or a cash bond.

Misdemeanors:

A. IMPAIRED DRIVING OFFENSES

See the specific requirements of G.S. 15A-534.2. (See attached "A".)

B. STRUCTURED SENTENCING MISDEMEANORS for which G.S.

15A-534(a)(b)(c) and (g) provide guidance, and for which the

judicial official determines a secured bond is require:

1. Class A1 written promise to \$700

2. Class 1 written promise to \$500
3. Class 2 written promise to appear
4. Class 3 written promise to appear

C. ADDITIONAL CONDITIONS FOR SPECIFIC MISDEMEANORS:

1. See 15A-534.1 for other conditions in Domestic Violence cases. (See attached "B".)
2. See 15A-534.3 regarding investigation by public health officials for Communicable Diseases. (See attached "C".)
3. See 15A-534.4 for certain conditions in sex offenses and crimes of violence against child victims. (See attached "D".)

(a) **Felonies**

Structures Sentencing Classes:

- A: **NO BOND**
 - B-1: \$100,000
 - B-2: \$25,000-\$100,000
 - C: \$20,000-\$100,000
 - D: \$ 15,000-\$75,000
 - E: \$ 5,000-\$75,000
 - F: \$ 5,000
 - G: written promise to appear and other conditions to \$5,000
 - H: written promise to appear and other conditions
 - I: written promise to appear and other conditions
-

Other factors to be considered are other untried pending cases against a Defendant and whether a defendant possessed a firearm at the time of alleged offense.

It is recommended that the attached Additional Conditions of Pretrial Release (Attachment "E") and Additional Conditions for Pretrial Release Domestic Violence (Attachment "F") be used when applicable.

This the 17th day of March, 2020.



Robert F. Floyd, Jr.
Senior Resident Superior Court Judge



Judith Daniels
Chief District Court Judge

§ 15A-534.2. Detention of impaired drivers.

(a) 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 except as modified by this section. This section may not be interpreted to impede a defendant's right to communicate with counsel and friends.

(b) 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.

(c) 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.

(d) 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. The results of any periodic test to determine alcohol concentration may not be introduced in evidence:

- (1) Against the defendant by the State in any criminal, civil, or administrative proceeding arising out of an offense involving impaired driving; or

- (2) For any purpose in any proceeding if the test was not performed by a method approved by the Commission for Health Services under G.S. 20-139.1 and by a person licensed to administer the test by the Department of Health and Human Services.

The fact that a defendant refused to comply with a judicial official's request that he submit to a chemical analysis may not be admitted into evidence in any criminal action, administrative proceeding, or a civil action to review a decision reached by an administrative agency in which the defendant is a party. (1983, c. 435, s. 4; 1997-443, s. 11A.118(a).)

“B”

§ 15A-534.1. Crimes of domestic violence; bail and pretrial release.

(a) In all cases in which the defendant is charged with assault on, communicating a threat to, or committing a felony provided in Articles 7A, 8, 10, or 15 of Chapter 14 of the General Statutes upon a spouse or former spouse or a person with whom the defendant lives or has lived as if married, with domestic criminal trespass, or with violation of an order entered pursuant to Chapter 50B, Domestic Violence, of the General Statutes, the judicial official who determines the conditions of pretrial release shall be a judge, and 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 the alleged victim or to any other person or is likely to result in intimidation of the alleged victim and upon a determination that the execution of an appearance bond as required by G.S. 15A-534 will not reasonably assure that such injury or intimidation 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 stay away from the home, school, business or place of employment of the alleged victim;
- b. That the defendant refrain from assaulting, beating, molesting, or wounding the alleged victim;
- c. That the defendant refrain from removing, damaging or injuring specifically identified property;
- d. That the defendant may visit his or her child or children at times and places provided by the terms of any existing order entered by a judge.

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

(3) Should the defendant be mentally ill and dangerous to himself or others or a substance abuser and dangerous to himself or others, the provisions of Article 5 of Chapter 122C of the General Statutes shall apply.

(b) 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. (1979, c. 561, s. 4; 1989, c. 290, s. 2; 1995, c. 527, s. 3; 2001-518, s. 2.)

“C”

§ 15A-534.3. Detention for communicable diseases.

If a judicial official conducting an initial appearance or first appearance hearing finds probable cause that an individual was exposed to the defendant in a manner that poses a significant risk of transmission of the AIDS virus or Hepatitis B by such defendant, the judicial official shall order the defendant to be detained for a reasonable period of time, not to exceed 24 hours, for investigation by public health officials and for testing for AIDS virus infection and Hepatitis B infection if required by public health officials pursuant to G.S. 130A-144 and G.S. 130A-148. (1989, c. 499.)

§ 15A-534.4. Sex offenses and crimes of violence against child victims: bail and pretrial release.

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 7A, 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 may 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.

The conditions set forth above may be imposed in addition to any other conditions that the judicial official may impose on pretrial release. (1993 (Reg. Sess., 1994), c. 723, s. 5.)

"D addendum"

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

SESSION LAW 2007-172
SENATE BILL 17

AN ACT TO AMEND THE PRETRIAL RELEASE REQUIREMENTS FOR SEX OFFENDERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-534.4 reads as rewritten:

"§ 15A-534.4. Sex offenses and crimes of violence against child victims: bail and pretrial release.

(a) 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 7A, 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 ~~may~~shall impose the following conditions on pretrial ~~release~~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.

The conditions set forth above ~~may~~shall be imposed in addition to any other conditions that the judicial official may impose on pretrial release.

(b) Notwithstanding the provisions of subsection (a) of this section, upon request of the defendant, the judicial official may waive one or more of the conditions required by subdivisions (1) and (2) of subsection (a) 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."

SECTION 2. This act becomes effective December 1, 2007, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 26th day of June, 2007.

s/ Beverly E. Perdue
President of the Senate

Representatives

s/ Joe Hackney
Speaker of the House of

s/ Michael F. Easley
Governor

Approved 11:30 a.m. this 4th day of July, 2007

“E”

NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

ROBESON COUNTY

SUPERIOR COURT DIVISION

FILE NO: _____

STATE OF NORTH CAROLINA

VS

DEFENDANT

PANDEMIC EMERGENCY
ADDITIONAL CONDITIONS OF PRE-TRIAL RELEASE

In addition to any bond set in this matter, **THE COURT ORDERS** that the Defendant comply with the following indicated conditions of pre-trial release:

() 1. Not leave Robeson County;

() 2. Not leave the following geographical area:

() 3. Not possess firearms or any other deadly weapons;

() 4. Not possess or use controlled substance or illegal drugs, unless prescribed for
Defendant and in the original container with the prescription number affixed to it;

() 5. Abide by the following curfew: _____

() 6. Have no contact with the prosecuting witness or the family of the prosecuting witness;

() 7. Commit no criminal offense;

() 8. Comply with all regulations and conditions of Electronic House Arrest;

() 9. Report to Probation Officer within 24 hours of release and comply with all

conditions of probation until final disposition of this matter in court.

() 10. Comply with all public health orders for isolation or quarantine.

() 11. _____

Violation of these conditions shall authorize law enforcement officers to take the Defendant into custody, and the judicial officer before whom Defendant is brought is authorized to revoke all conditions of pre-trial release, and order the Defendant held without bond under G.S.15A-534(f).

This the _____ day of _____, 20__.

Superior Court Judge

NORTH CAROLINA
ROBESON COUNTY

“F”
IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO: _____

STATE OF NORTH CAROLINA
VS

DEFENDANT

PANDEMIC EMERGENCY
ADDITIONAL CONDITIONS OF PRE-TRIAL RELEASE
DOMESTIC VIOLENCE

In addition to any bond set in this matter, **THE COURT ORDERS** that the Defendant comply with the following indicated conditions of pre-trial release:

- () 1. Not possess or use controlled substance or illegal drugs, unless prescribed for
Defendant and in the original container with the prescription number affixed to it;
- () 2. Not go on or about the premises of the prosecuting witness.
- () 3. Have no contact (no defendant-initiated contact, direct or indirect, either in person, by
telephone, fax, pager, email, gift giving, or through family and/or friends) with the
prosecuting witness or the family of the prosecuting witness.
- () 4. Not assault, threaten, molest, or intimidate the prosecuting witness; nor cause, solicit,
encourage, or associate with anyone who does so.
- () 5. Commit no criminal offense;
- () 6. Comply with all public health orders for isolation or quarantine.
- () 7.

Violation of these conditions shall authorize law enforcement officers to take the Defendant into custody, and the judicial officer before whom Defendant is brought is authorized to revoke all conditions of pre-trial release, and order the Defendant held without bond under G.S.15A-534(f).

This the _____ day of _____, 20__.

Judicial Official

"G"

NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE
COURT DIVISION

ROBESON COUNTY

FILE NO: _____

STATE OF NORTH CAROLINA
VS

ORDER SUSPENDING
"SPLIT" SENTENCE

DEFENDANT

Due to a public health communicable disease emergency situation in Robeson County, the Court has considered the need to modify conditions of probation in this case.

IT IS, THEREFORE, ORDERED that the condition that the defendant serve an active sentence in the custody of the Sheriff of Robeson County as a special condition of probation, is hereby SUSPENDED. If the defendant is currently serving that sentence, he shall be released immediately. If the defendant is obligated to report to the jail or detention facility to serve that sentence, or any portion of that sentence after the date of this order, the defendant shall not report, but shall report by telephone or in person to his probation officer at the time required for reporting to the jail or detention facility.

Defendant shall comply with all other conditions of probation. The active portion of the sentence is suspended until a further order is entered dissolving the suspension.

This the _____ day of _____, 20____.

Judge of the _____ Court

COPY TO DISTRICT ATTORNEY:

(NAME)

COPY TO DEFENSE ATTORNEY:

(NAME)

“H”

NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE
COURT DIVISION

ROBESON COUNTY

FILE NO: _____

STATE OF NORTH CAROLINA

VS

BOND MODIFICATION ORDER

(N.C.G.S 15A-534)

DEFENDANT

Due to a public health communicable disease emergency situation, the Court has considered Bond Modification, without a formal motion to modify.

IT IS THEREFORE ORDERED that bond is set in the amount of \$_____. The type of bond shall be: () cash () secured () unsecured () written promise to appear.

IN ADDITION, THE COURT ORDERS that the defendant comply with the following indicated conditions of pre-trial release:

- ____ 1. NOT LEAVE ROBESON COUNTY;
 - ____ 2. NOT POSSESS FIREARMS OR ANY OTHER DEADLY WEAPONS;
 - ____ 3. NOT POSSESS OR USE CONTROLLED SUBSTANCES OR ILLEGAL DRUGS,
UNLESS PRESCRIBED FOR DEFENDANT AND IN THE ORIGINAL CONTAINER;
 - ____ 4. HAVE NO CONTACT WITH PROSECUTING WITNESS OR THE FAMILY OF THE PROSECUTING WITNESS;
 - ____ 5. COMMIT NO CRIMINAL OFFENSE, INCLUDING QUARANTINE OR ISOLATION ORDERS;
 - ____ 6. COMPLY WITH ALL REGULATIONS AND CONDITIONS OF ELECTRONIC HOUSE ARREST;
 - ____ 7. COMPLY WITH ALL CONDITIONS OF PROBATION AND REPORT TO PROBATION OFFICER WITHIN 24 HOURS.
 - ____ 8. OTHER
- _____

Violation of these conditions shall authorize law enforcement officers to take the defendant into custody, and the judicial officer before whom defendant is brought is authorized to revoke all conditions of pre-trial release, and order the defendant held without bond under G.S.15A-534(f).

This the _____ day of _____, 20_____.

Judge of the _____ Court

COPY TO DISTRICT ATTORNEY:

(NAME)

COPY TO DEFENSE ATTORNEY:

(NAME)