

18 R180

STATE OF NORTH CAROLINA
25B JUDICIAL DISTRICT
CATAWBA COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
DISTRICT COURT DIVISION

**ADMINISTRATIVE ORDER ADOPTING
RECOMMENDED PRETRIAL RELEASE & BOND POLICY**

FILED
2018 APR 27 P 1:12
CLERK OF SUPERIOR COURT
CATAWBA COUNTY, NC
BY [Signature]

I. Authority

Pursuant to North Carolina General Statute 15A-535, the undersigned Senior Resident Superior Court Judge of Judicial District 25B, which is comprised of Catawba County, in consultation with the Chief District Court Judge of Judicial District 25, orders the following recommended policies be followed within the District in determining whether, and upon what conditions, a defendant may be released before trial.

II. General Policy

The Constitution of the United States (Amendment VIII) and North Carolina (Article I, Section 27) each state that "excessive bail shall not be required." To this end, and pursuant to G.S. 15A-535, the following policies are adopted as a guide in determining conditions of pretrial release in Judicial District 25B.

III. Conditions of Pretrial Release

N.C. Gen. Stat. 15A, Article 26 defines and sets forth the statutory framework within which every judicial official setting conditions of pretrial release must follow. A careful reading and knowledge of these statutes is necessary to administer the law equitably and effectively. The primary statutes affecting conditions of pretrial release are therefore made part of this order as "Exhibit A" and are incorporated herein by reference. Nothing in this order is intended to supersede or conflict with the North Carolina General Statutes.

It is acknowledged that pursuant to G.S. 15A-534(b), a judicial official setting conditions of pretrial release *must* either (1) release the defendant on a written promise to appear, or (2) release the defendant upon his execution of an unsecured appearance bond, or (3) place the defendant in the custody of a designated person or organization agreeing to supervise him *unless* the judicial official 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 the destruction of evidence, subornation of perjury, or intimidation of potential witnesses.

IV. Pretrial Release Factors to Consider

Pursuant to G.S. 15A-534(c), in determining which conditions of pretrial release should be imposed pursuant to G.S. 15A-534(a), the judicial officer must, on the basis of available information, take

into account each of the following factors:

1. The nature and the circumstances of the offense charged;
2. The weight of the evidence against the defendant;
3. The defendant's family ties, employment, financial resources, character and mental condition;
4. Whether the defendant is intoxicated to such a degree that he/she would be endangered by being released without supervision;
5. The length of defendant's residency in the community;
6. The defendant's record of convictions;
7. The defendant's history of flight to avoid prosecution or failure to appear at court proceedings; and
8. Any other evidence relevant to the issue of pretrial release, including, without limitation, whether the defendant was on pretrial release for any other pending case, and whether defendant possessed a firearm at the time of the offense charged.

For purposes of complying with this requirement, a form has been developed entitled "Pretrial Risk Assessment Point Scale" and is attached to this Order as "Exhibit B." Judicial Officials are encouraged to use this form when setting conditions of pretrial release. There is no requirement in this District that a judicial official record in writing the reasons for imposing a secured bond or electronic monitoring with house arrest. However, judicial officials are encouraged to do so and for this purpose, a form has been developed and is attached to this order as "Exhibit C."

V. Recommended Bail

It is recognized that setting conditions of pretrial release is case specific and that judicial officials must consider each case separately considering the totality of the circumstances and each of the factors herein delineated. This notwithstanding, public policy and general notions of fairness dictate that the law be applied uniformly to all persons charged with the same or similar crimes. Further, at the core of our system of justice is the understanding and acknowledgment of the basic principle that a defendant charged with a crime is entitled to the presumption of innocence. Conditions of pretrial release therefore should never be used as a tool for encouraging pleas or to punish one who is charged with a crime.

When a judicial official has determined that a secured bond is appropriate, the attached chart included in "Exhibit B" constitutes a general guide within which the amount of the secured bond should be set. Judicial officials are further encouraged to use the form attached as "Exhibit D" when setting additional conditions of pretrial release.

VI. Other Statutes that Must be Considered

When determining the condition of pretrial release for certain types of crimes, judicial officials should be aware that additional statutes are applicable and must be followed. The following constitutes a general summary of these types of cases with statutory references. In setting conditions of pretrial release in these types of cases, there are attachments to this order which should be used:

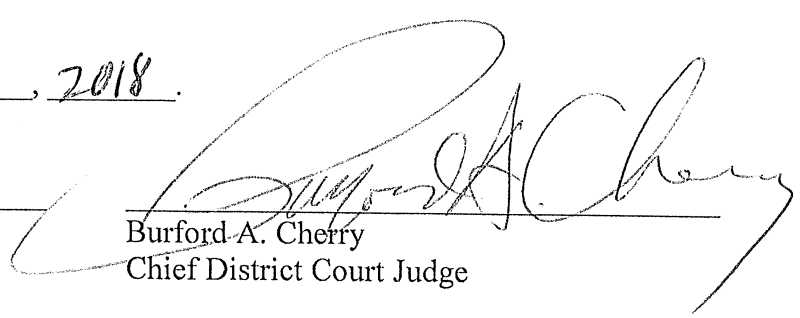
1. Crimes of Domestic Violence - 15A-534.1 (use "Exhibit E"),
2. Detention of Impaired Drivers - 15A-534.2 (use "Exhibit F" in addition to AOC-CR-270 & -271),
3. Detention of Communicable Diseases - 15A-534.3,
4. Sex Offenses and Crimes of Violence Against Child Victims - 15A-534.4 (use "Exhibit G"),
5. Detention to Protect Public Health - 15A-534.5,
6. Bail in Cases of Manufacture of Methamphetamine - 15A-534.6,
7. Drug Trafficking - 15A-533(d)
8. Gang Activity - 15A-533(e)

Magistrates may also encourage law enforcement officers to fill out the form attached at "Exhibit H" (Law Enforcement Officer Information). This form provides information that may assist the Court, Jail, and/or Pretrial Services in subsequent inquiries into the conditions of pretrial release. If used, the form should be securely attached to the completed Written Determination of a Judicial Official on the Imposition of a Secured Bond.

This the 27 day of April, 2018.



Nathaniel J. Poovey
Senior Resident Superior Court Judge



Burford A. Cherry

Chief District Court Judge

§ 15A-533. Right to pretrial release in capital and noncapital cases.

(a) A defendant charged with any crime, whether 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, has no right to pretrial release. 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.

(b) A defendant charged with a noncapital offense must have conditions of pretrial release determined, in accordance with G.S. 15A-534.

(c) A judge may determine in his discretion whether a defendant charged with a capital offense may be released before trial. If he determines release is warranted, the judge must authorize release of the defendant in accordance with G.S. 15A-534.

(d) 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 if a judicial official finds the following:

- (1) There is reasonable cause to believe that the person committed an offense involving trafficking in a controlled substance;
- (2) The drug trafficking offense was committed while the person was on pretrial release for another offense; and
- (3) 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.

(e) 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, if a judicial official finds the following:

- (1) 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 street gang, as defined in G.S. 14-50.16;
- (2) The offense described in subdivision (1) of this subsection was committed while the person was on pretrial release for another offense; and
- (3) The person has been previously convicted of an offense described in G.S. 14-50.16 through G.S. 14-50.20, and not more than five years has elapsed since the date of conviction or the person's release for the offense, whichever is later.

(f) 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, if a judicial official finds 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 judicial official also finds any of the following:

- (1) 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.
- (2) 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.

(g) Persons who are considered for bond under the provisions of subsections (d), (e), and (f) of this section 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. (1973, c. 1286, s. 1; 1981, c. 936, s. 2; 1997-443, s. 11A.118(a); 1998-208, s. 1; 2008-214, s. 4; 2013-298, s. 1.)

§ 15A-534. Procedure for determining conditions of pretrial release.

(a) In determining conditions of pretrial release a judicial official must impose at least one of the following conditions:

- (1) Release the defendant on his written promise to appear.
- (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), (a2), (a4), or (a6), 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 Adult Correction of the Department of Public Safety, and that any violation of this condition be reported by the monitoring provider to the district attorney.

(b) The judicial official in granting pretrial release must impose condition (1), (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) or (5) in subsection (a) above instead of condition (1), (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).

(c) In determining which conditions of release to impose, 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, 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 record of convictions; 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. 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) 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) When 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.

- (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 (1), (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).

(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 if:

- (1) A judge authorized to do so releases the obligor from his bond; or
- (2) The principal is surrendered by a surety in accordance with G.S. 15A-540; or
- (3) The proceeding is terminated by voluntary dismissal by the State before forfeiture is ordered under G.S. 15A-544.3; or
- (4) Prayer for judgment has been continued indefinitely in the district court; or
- (5) The court has placed the defendant on probation pursuant to a deferred prosecution or conditional discharge.

(i) Repealed by Session Laws 2012-146, s. 1(b), effective December 1, 2012. (1973, c. 1286, s. 1; 1975, c. 166, s. 13; 1977, 2nd Sess., c. 1134, s. 5; 1987, c. 481, s. 1; 1989, c. 259; 2001-487, s. 46.5(b); 2009-412, s. 1; 2009-547, ss. 3, 4, 4.1; 2010-94, s. 12.1; 2010-96, s. 3; 2011-191, s. 5; 2012-146, s. 1(a), (b); 2013-298, s. 2; 2015-195, s. 11(n); 2015-247, s. 9(a); 2016-107, s. 1.)

EXHIBIT B

Pretrial Risk Assessment Point Scale

___ Most Serious Charge	-11=Class A Felony -10=Class B1 Felony -9= Class B2 Felony -8= Class C Felony	-7= Class D Felony -6= Class E Felony -5=Class A1 Misdemeanor -4=Class 1 Misdemeanor	-3= Class 2 Misdemeanor -2 =Class 3 Misdemeanor -1= Infraction/Traffic
___ Prior Criminal Record	-2 =Prior Felony	-1= Prior Misdemeanor conviction (excluding minor traffic infractions)	+2= No Prior Record
___ Number of Convictions	-2=Two or More Felony	-1=Two or More Misdemeanor	0= One misdemeanor or felony
___ Time Elapsed Since Last Conviction	-1=Less than 1 year ago	0= Between 1 and 5	+1= More than 5 years
___ On Probation	-1=On probation at time of arrest		
___ Out on Bond	-1=Out on bond at time of arrest		
___ Prior FTA (issued and served)	-3=Prior failure to appear for a felony charge	-2=Prior misdemeanor	+1=No prior
___ Time Lapsed Since Last FTA	-1=Less than 1 year ago	0=Between 1 and 5	+1=More than 5 years
___ Resistance to Arrest	+1=Turned Self In	0=Served w/o Incident	-1=Fled Law Enforcement/Obstructed arrest
___ Marital Status	0=Not married (includes separated, divorced, and widower)	+3=Married	
___ Housing Arrangement	-1=Neither rent nor own	0=Rent (contractual agreement)	+1=Own
___ Living Companion	0=Alone	+2=Nonimmediate family or roommate	+3=immediate family
___ Financial Self-Support	0=None	-2=Reliance on Others (includes govn't support)	+4=Self-reliant (part-time, seasonal, full)
___ Time at Current Job	-2=No job in the past year +1=One year but less than two years at current job	-1=No job currently	0=Less than one year at current job +2=Two or more years at current job
___ Education	0=High School or Less	+2=More than High School	
___ Substance Abuse	-1=Yes	0=Received drug treatment or participated in drug court	+1=No
___ Other	A maximum of 3 points (-3 to +3) can be subtracted or added (Explanation Required)		
___ Total Points	___ RECOMMENDED BOND AMOUNT (based on matrix) _____ BOND AMOUNT SET		

Assessment Score

	6	5	4	3	2	1	0	-1	-2	-3	-4	-5	-6
A1	\$0	\$100	\$200	\$250	\$350	\$450	\$600	\$650	\$700	\$800	\$900	\$1000	\$2,000
1	\$0	\$100	\$200	\$250	\$300	\$400	\$500	\$600	\$700	\$800	\$900	\$1000	\$1500
2	\$0	\$100	\$100	\$150	\$200	\$250	\$250	\$300	\$350	\$400	\$450	\$500	\$600
3	\$0	\$25	\$50	\$75	\$100	\$125	\$150	\$175	\$200	\$225	\$250	\$275	\$300
A	\$50,000	\$80,000	\$85,000	\$90,000	\$100,000	\$150,000	\$225,000	\$275,000	\$325,000	\$375,000	\$425,000	\$450,000	\$500,000
B1	\$25,000	\$27,000	\$30,000	\$32,000	\$34,000	\$36,000	\$40,000	\$48,000	\$60,000	\$70,000	\$80,000	\$90,000	\$100,000
B2	\$25,000	\$27,000	\$30,000	\$32,000	\$34,000	\$36,000	\$40,000	\$48,000	\$60,000	\$70,000	\$80,000	\$90,000	\$100,000
C	\$15,000	\$17,500	\$20,000	\$22,500	\$25,000	\$27,500	\$30,000	\$37,500	\$45,000	\$52,500	\$60,000	\$67,500	\$75,000
D	\$15,000	\$17,500	\$20,000	\$22,500	\$25,000	\$27,500	\$30,000	\$37,500	\$45,000	\$52,500	\$60,000	\$67,500	\$75,000
E	\$10,000	\$12,000	\$14,000	\$15,000	\$16,000	\$18,000	\$20,000	\$25,000	\$30,000	\$35,000	\$40,000	\$45,000	\$50,000
F	\$10,000	\$12,000	\$14,000	\$15,000	\$16,000	\$18,000	\$20,000	\$25,000	\$30,000	\$35,000	\$40,000	\$45,000	\$50,000
G	\$5,000	\$6,000	\$7,000	\$8,000	\$9,000	\$10,000	\$12,000	\$14,000	\$15,000	\$17,500	\$20,000	\$25,000	\$25,000
H	\$500	\$1,000	\$1,500	\$2,000	\$2,500	\$4,000	\$5,000	\$6,000	\$7,000	\$8,000	\$8,500	\$9,000	\$10,000
I	\$500	\$500	\$1,000	\$1,250	\$1,500	\$2,000	\$2,500	\$3,000	\$3,500	\$4,000	\$4,500	\$4,750	\$5,000
DWI	\$1	\$50	\$100	\$125	\$200	\$250	\$300	\$350	\$400	\$500	\$700	\$800	\$1,000

EXHIBIT C
**WRITTEN DETERMINATION OF A JUDICIAL OFFICIAL
ON THE IMPOSITION OF A SECURED BOND**

State of NC v. _____, Defendant

A SECURED BOND IS SET IN THE AMOUNT OF \$_____.

THE REASONS FOR REQUIRING A SECURED BOND ARE AS FOLLOWS:

- (1) _____ Necessary to reasonably assure the appearance of the Defendant.
- (2) _____ Defendant poses a danger of injury to another person(s).
- (3) _____ Defendant is likely to destroy evidence, suborn perjury, or intimidate a witness.

EXPLANATION OF FACTORS CONSIDERED:

() Nature and circumstances of the offense(s) charged: _____

() Weight of the evidence against Defendant: _____

() Defendant's family ties, length of residency in the community, employment, financial resources, character and mental condition: _____

() Defendant's degree of intoxication and whether he/she would be endangered by being released without supervision: _____

() Defendant's record of convictions: _____

() Defendant's history of flight or failure to appear: _____

() Any other evidence relevant to the issue of pretrial release, including, without limitation, whether Defendant was on pretrial release for any other pending case, and whether Defendant possessed a firearm at the time of the offense charged: _____

A secured bond is set in an amount higher than the recommended amount for the following extraordinary reasons: _____

This the _____ day of _____, 20____.

Signature of Judicial Official

Printed name of Judicial Official

CATAWBA COUNTY
NORTH CAROLINA

EXHIBIT D

IN THE GENERAL COURT OF JUSTICE

COURT DIVISION
FILE NO. _____

STATE OF NORTH CAROLINA

v. _____, Defendant

)
)
)
)
)

ADDITIONAL CONDITIONS
OF PRETRIAL RELEASE

In addition to any monetary bond set in this matter, THE COURT ORDERS that Defendant comply with the following indicated additional conditions of pretrial release:

- () 1. Not leave _____ County.
- () 2. Not leave the following geographical area: _____
- () 3. Not possess firearms or any other deadly weapon;
- () 4. Not possess or use controlled substance or illegal drugs, unless prescribed for Defendant and in the original container with 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 Defendant's 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 any of these conditions shall authorize law enforcement officers to take Defendant into custody, and the judicial officer before whom Defendant is brought is authorized to revoke all conditions of pretrial release, and order Defendant held without bond pursuant to NCGS 15A-534(f)

This the _____ day of _____, 20_____.

Signature of Judicial Official

EXHIBIT E
IN THE GENERAL COURT OF JUSTICE

COURT DIVISION
FILE NO. _____

)
) CONDITIONS OF RELEASE
) FOR DOMESTIC VIOLENCE CASES
) (NCGS 15A-534.1)
)

() 1. Defendant shall stay away from the home, school, business or place of employment of the alleged victim.

() 2. Defendant shall refrain from assaulting, beating, molesting, or wounding the alleged victim.

() 3. Defendant shall refrain from removing, damaging or injuring the following identified property: _____

() 4. 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.

() 5. Defendant shall abstain from alcohol consumption, as verified by the use of a continuous alcohol monitoring system, of a type approved by the Division of Adult Correction of the Department of Public Safety. Any violation of this condition shall be reported by the monitoring provider to the district attorney.

() 6. Defendant shall not possess firearms or any other deadly weapon;

() 7. Defendant shall not possess or use controlled substance or illegal drugs, unless prescribed for Defendant and in the original container with prescription number affixed to it:

() 8. Commit no criminal offense;

() 9. Defendant shall have no contact no contact with the prosecuting witness or any member of his/her immediate family (this prohibition includes any and all defendant-initiated contact, direct or indirect, either in person, by telephone, fax, pager, email, text, tweet, computer, cell phone, social media, gift giving or through other family members and/or friends)

() 10. Defendant may have contact with the prosecuting witness and/or his/her family members only as follows: _____

() 11. _____

Signature of Judicial Official

IN THE MATTER OF:

FINDINGS SUPPORTING THE DETENTION
OF AN IMPAIRED DRIVER [G.S. 15A-534.2]

Defendant

☐ DEFENDANT DETAINED FOR REASONS OTHER THAN IMPAIRMENT

☐ The undersigned finds that the defendant named above was arrested for an offense involving impaired driving as defined in N.C.G.S. §20-4.01(24a) on the date below. At the time of the defendant's initial appearance before me, and from my observations as indicated below, there is clear and convincing evidence that the defendant's physical and/or mental faculties were so impaired that defendant's release would present a danger to himself/herself, to others or to property. Therefore, pursuant to N.C.G.S. §15A-534.2, I have ordered the detention of the defendant as an impaired driver until the conditions of N.C.G.S. §15A-534.2(c) have been met.

MENTAL FACULTIES

STATE OF MIND

Defendant's state of mind could be described as:

- ☐ Hostile and Argumentative
- ☐ Belligerent
- ☐ Aggressive
- ☐ Combative
- ☐ Anxious
- ☐ Worried
- ☐ Concerned
- ☐ Ashamed
- ☐ Frivolously Unconcerned
- ☐ Unaware of Surroundings
- ☐ Other: _____

BEHAVIOR

Defendant's behavior could be described as:

- ☐ Unruly
- ☐ Disruptive
- ☐ Shouting
- ☐ Cursing
- ☐ Screaming
- ☐ Crying
- ☐ Noisily Defiant
- ☐ Threatening
- ☐ Lethargic
- ☐ Sluggish
- ☐ Unconscious
- ☐ Other: _____

COMPREHENSION & JUDGEMENT

Defendant is impaired to the extent that he/she
☐ is able ☐ may not be able ☐ is unable
to understand the procedural rights afforded by
this initial appearance and

☐ is able ☐ may not be able ☐ is unable
to have the capacity to make sound and
reasonable decisions.

PHYSICAL FACULTIES

SPEECH

Defendant's speech is:

- ☐ Slow
- ☐ Confused
- ☐ Thick-tongued
- ☐ Slurred
- ☐ Mumbled
- ☐ Incomprehensible
- ☐ Other: _____

COORDINATION

Defendant's coordination could be
described as:

- ☐ Slow Body Movement
- ☐ Unsteady on feet
- ☐ Swaying
- ☐ Stumbling
- ☐ Falling
- ☐ Cannot walk without
support or assistance
- ☐ Other: _____

PHYSICAL APPEARANCE

Defendant's physical appearance is
characterized by having:

- ☐ Glassy-eyes
- ☐ Red-eyes
- ☐ Bloodshot eyes
- ☐ Dilated pupils
- ☐ Red/flushed face
- ☐ A moderate odor of
alcohol
- ☐ A strong odor of alcohol
- ☐ A very strong odor of
alcohol
- ☐ Other: _____

OTHER FACTORS

NATURE AND CIRCUMSTANCES OF
OFFENSE CHARGED:

AVAILABILITY OF A SOBER ADULT, 18
YEARS OR OLDER, WHO IS WILLING
TO TAKE CUSTODY OF DEFENDANT:

COMMENTS OF DEFENDANT:

DATE:

TIME:

☐ A.M.

☐ P.M.

MAGISTRATE:

PLEASE ATTACH ADDITIONAL SHEETS TO THIS FORM IF NEEDED

COUNTY OF _____

IN THE GENERAL COURT OF JUSTICE

STATE OF NORTH CAROLINA

SUPERIOR COURT DIVISION

VS

_____, Defendant

FILE NO: _____

**CONDITIONS OF PRE-TRIAL RELEASE FOR SEX OFFENSES AND CRIMES OF
VIOLENCE AGAINST CHILD VICTIMS
(N.C. GENERAL STATUTE 15A-534.4)**

In addition to any other conditions of release, the Court orders that the defendant comply with the following conditions of pre-trial release:

1. The defendant shall stay away from the home, temporary residence, school, business, or place of employment of the alleged victim.
2. The defendant shall 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. The defendant shall refrain from assaulting, beating, intimidating, stalking, threatening, or harming the alleged victim.

The Court waives the conditions itemized above because it is not in the best interest of the alleged victim since: _____

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

This _____ day of _____, 20____

Judicial Official

EXHIBIT H
LAW ENFORCEMENT OFFICER INFORMATION

Defendant's Name: _____ Date: _____

Arresting Officer: _____ Agency: _____

Offense(s) Charged: _____

Condition of defendant at time of arrest (check all that apply):

- | | | |
|--|---|---|
| <input type="checkbox"/> Cooperative | <input type="checkbox"/> Uncooperative | <input type="checkbox"/> Emotional/Distraught |
| <input type="checkbox"/> Verbally Abusive | <input type="checkbox"/> Combative | <input type="checkbox"/> Confused |
| <input type="checkbox"/> Impaired (Alcohol or Drugs) | <input type="checkbox"/> Possible Mental Problems | |
| <input type="checkbox"/> Threatening Towards Victim | <input type="checkbox"/> Threatening Towards Others | |

Defendant's identity in question due to (check all that apply):

- | | |
|---|---|
| <input type="checkbox"/> No Identification | <input type="checkbox"/> Gave False Information to LEO |
| <input type="checkbox"/> Defendant Using Alias(es) | <input type="checkbox"/> Fake or Multiple IDs on Person |
| <input type="checkbox"/> Unable to Gain Confirmation of Identification by Family, Friend, Employer, or Criminal History | |

Defendant may be a flight risk due to (check all that apply):

- | | |
|---|--|
| <input type="checkbox"/> Prior History of Failing to Appear | <input type="checkbox"/> Prior History of Absconding |
| <input type="checkbox"/> Has no Ties to the Community | |

Defendant's criminal status (check all that apply):

- | |
|--|
| <input type="checkbox"/> Has Prior History of Convictions for Similar Offenses |
| <input type="checkbox"/> Has Other Pending Charges |
| <input type="checkbox"/> Additional Charges may be Forthcoming |

Please list below any other information the presiding judicial official should know:

