§ 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(1) Repealed by Session Laws 2025-93, s. 1(d), as amended by Session Laws 2025-97, s. 5.3(b), effective December 1, 2025, and applicable to persons appearing before a judicial official for the determination of pretrial release conditions on or after that date.

(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 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) or (5) 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, 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. 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 72 hours or 96 hours if the courthouse is closed for transactions for a period longer than 72 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.

(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; 2017-186, s. 2(ww); 2021-180, s. 19C.9(t); 2021-182, s. 2.5(b); 2025-54, s. 10(d); 2025-85, s. 2; 2025-93, s. 1(d); 2025-97, s. 5.3(a).)