

## PRETRIAL RELEASE POLICY FOR JUDICIAL DISTRICT 42 HENDERSON, POLK, TRANSYLVANIA COUNTIES

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**THIS PRETRIAL RELEASE POLICY FOR JUDICIAL DISTRICT 42 is established under the authority of G.S. 15A-535**, which provides: "Subject to the provisions of this Article [26], the Senior Resident Superior Court Judge of each judicial district in consultation with the Chief District Court Judge must advise and issue recommended policies to be followed within the district in determining whether, and upon what conditions, a defendant may be released before trial."

This Policy shall be effective February 13, 2026.

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PETER KNIGHT  
Senior Resident Superior Court Judge

KIMBERLY JUSTICE  
Chief District Court Judge

### I. General Policy

Pursuant to Amendment VIII of the Constitution of the United States and Article I, Section 27 of the Constitution of the State of North Carolina, "excessive bail shall not be required." The following policies balance these constitutional protections with the need to impose conditions that assure the defendant's appearance in court, that protect against injury to any person, and that prevent interference with criminal proceedings, as required by N.C.G.S. Chapter 15A, Article 26. To this end, and pursuant to G.S. § 15A-535(a), the following policies are adopted as a guide in determining the conditions of pretrial release in Judicial District 42, comprising Henderson, Polk and Transylvania counties, State of North Carolina.

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*Excessive bail shall not be required*

Eighth Amendment to the U.S. Constitution, and  
Article 1, Section 27 of the N.C. Constitution

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## II. The Conditions of Pretrial Release

In determining the conditions of pretrial release, G.S. § 15A-534(a) provides that judicial officials **MUST** impose at least one of the following conditions:

(1) Repealed G.S. §15A-534(a)(1)

(2) Unsecured Bond G.S. § 15A-534(a)(2)

Release the defendant upon execution of an unsecured appearance bond.

An unsecured bond is a recommended condition of pretrial release for defendants of sound mind if such release will reasonably assure appearance, even if not all statutory criteria are favorable, neutral, or unknown. Judicial officials are encouraged to emphasize to defendants released on an unsecured bond that a judgment can be entered against them in the amount of the unsecured bond upon any failure to appear.

(3) Supervised Custodial Release G.S. § 15A-534(a)(3)

Place the defendant in the custody of a designated person or organization agreeing to supervise him/her.

A supervised custodial release is a recommended condition of pretrial release for defendants when the defendant is a minor, in the legal custody of another person, is not mentally sound, is under the influence of an impairing substance, is ill, or is otherwise in need of care and supervision.

The designated custodian must be a sober and responsible person or organization and must agree in writing to all terms and conditions of the custodial release. The lack of identification on behalf of the defendant is not grounds to deny this form of pretrial release if the custodian can be positively identified.

A defendant subject to supervised custodial release may later elect to execute a secured appearance bond before an appropriate judicial official pursuant to G.S. § 15A-534(a).

*Should court services become available within District 42, a judge may place a defendant with court services as a form of supervised custodial release. Monitoring by court services may be imposed in addition to other conditions of release or may be the only condition of release. Defendants may be placed with court services only after court services has interviewed the defendant and approved a contract to monitor the defendant. Magistrates and clerks are not authorized to impose court services monitoring as a condition of release.*

(4) Secured Bond G.S. § 15A-534(a)(4)

Require the execution of an appearance bond secured by a cash deposit of the full amount of the bond, by a mortgage pursuant to G.S. § 58-74-5, or by a solvent surety.

A secured bond is a presumptive condition of pretrial release for defendants who have failed to appear, absconded supervision, are charged with their first violent offense, or are probationers

charged with a felony who pose a danger to the public. A defendant charged only with an offense which cannot result in incarceration should not be placed under a secured bond unless he/she has failed to appear or absconded supervision.

A cash deposit bond *must* be required in child support contempt cases, and the requirement may be satisfied *only* by actual deposit of the amount set. N.C.G.S § 15A-531(4).

(5) House Arrest with Electronic Monitoring G.S. § 15A-534(a)(5)

A. House arrest with electronic monitoring as a condition of pretrial release is not available in Judicial District 42 at the present time, therefore Electronic House Arrest (EHA) shall not be imposed as a condition of release for cases pending in this Judicial District 42, except in extraordinary cases.

The following (5) B. Shall be available only at such time as Electronic Monitoring is available in this judicial district.

B. If House Arrest with Electronic Monitoring becomes available in Judicial District 42 as a condition of pretrial release, EHA may be granted for such purpose. When a defendant is charged with a 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, and has rebutted the presumption against pre-trial release such that it is determined that pre-trial release is appropriate, house arrest must be imposed as a condition of that release. If this condition is imposed, the defendant **MUST** execute a secured appearance bond pursuant to pretrial release condition (4) (secured bond).

A defendant placed on house arrest with electronic monitoring SHALL pay for the services provided by the qualified provider. (Should the subject county determine to provide the cost of the personnel, equipment, and other costs of service are provided by a county, an offender may be subject to reimbursement requirements as established by G.S. 7A-313.1)

House arrest should be given careful consideration as a condition of pretrial release for repeat offenders, domestic violence cases, gang violence cases, and defendants with very few ties to the community.

Depending on the crime charged and current number of defendants already on house arrest with electronic monitoring, a particular defendant may not be eligible for house arrest. Therefore, before imposing house arrest as a condition of pretrial release, please check with the appropriate officials to determine if a defendant can be placed on house arrest.

### **III. Determining the Conditions of Pretrial Release**

Pursuant to G.S. § 15A-534(c), in determining which condition of pretrial release to impose, the judicial official **MUST** consider the following factors:

- (1) the defendant's criminal history;
- (2) the nature and circumstances of the offense charged;
- (3) the weight of the evidence against the defendant;
- (4) the defendant's family ties, employment, financial resources, character, housing situation, and mental condition;

- (5) the defendant's degree of intoxication and whether or not this would endanger the defendant if released without supervision;
- (6) the defendant's length of residence in the community;
- (7) the defendant's history of flight to avoid prosecution or failure to appear at court proceedings;
- (8) any other evidence relevant to the issue of pretrial release.

*A. Collection of DNA or Fingerprints* G.S. § 15A-534(a)

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:

- (1) the fingerprints or DNA sample have not yet been taken; or
- (2) the defendant has refused to provide the fingerprints or DNA sample,

the judicial official **SHALL** make the collection of the fingerprints or DNA a condition of pretrial release.

*B. Findings of Fact Required* G.S. §§ 15A-511, 534(d)

In each and every order authorizing pretrial release for (i) a defendant who is charged with a violent offense (see § III, D below) or (ii) a defendant convicted within the previous 10 years in separate sessions of court of three or more Class 1 misdemeanor or higher offenses, the judicial official **MUST** make written findings of fact explaining the reasons why the judicial official determined the conditions of release to be appropriate in light of the above listed G.S. § 15A-534(c) factors.

If a magistrate imposes pretrial release condition (2) (unsecured bond) or (3) (supervised custodial release), then **NO** written findings need to be made pursuant to G.S. § 15A-511. If a magistrate imposes pretrial release condition (4) (secured bond), the magistrate **MUST** record the reasons for doing so in writing on the "Conditions of Release and Release Order" form provided by the Administrative Office of the Courts (AOC), as modified from time to time; this form presently appears as AOC form AOC-CR-200.

**Magistrates should use the existing forms for implied consent offenses** (currently AOC-CR-271) and detention of impaired drivers (currently AOC-CR-270). **However, if a secured bond is set** in these cases, **magistrates should also use the "Conditions of Release and Release Order" form AOC-CR-200.**

Magistrates should exercise extra care in checking defendants' criminal history and probation status. N.C.G.S. § 15A-534(d2) and § 15A-1345(b1) require specific action for probationers arrested for a felony, and for those arrested for a probation violation who have a pending felony or prior sex offense conviction. Magistrates should use the "Conditions of Release and Release Order" (currently AOC-CR-200) and the new "Detention of Probationer Arrested for Felony/Detention of Defendant Arrested for Probation Violation with Pending Felony or Prior Sex Offense" (currently AOC-CR-272).

In the case of defendants who refuse to identify themselves, or if there is a reasonable doubt regarding the truth of a defendant's stated identity, a magistrate should proceed with the initial

appearance and take into consideration that a refusal to identify oneself or reasonable doubt as to a defendant's identity indicates a potential flight risk. In this instance, a magistrate may set a bond amount above the recommended guidelines for the charged offense. The magistrate should note the reason for the higher bond on the "Conditions of Release and Release Order" form (AOC-CR-200).

Additionally, in the case of defendants who refuse to identify themselves or if there is a reasonable doubt as to a defendant's identity, include as a condition of pretrial release that either the defendant adequately identify him/herself or that there is an adequate identification of the defendant. Any reasonable form of identification may meet this condition, even if it is not a written form of identification. For example, a responsible member of the community may vouch for the defendant's identity. Since individuals may lawfully be in the country without a United States government-issued form of identification, a magistrate may not require a defendant to produce such identification as a condition of release. However, see § III, J below for additional requirements to determine legal residency.

Magistrates should encourage all Law Enforcement Officers to fill out the "Law Enforcement Officer Information" form (presently identified as 24JD-CR-M2). While not all information on this form is applicable to the setting of pretrial release conditions, it does provide information that may be helpful to the Court, Jail, Pretrial Services (if such are available), or Drug and Mental Health Courts. This form should also be securely attached to and accompany the original release order form setting forth conditions of pretrial release which is forwarded to the District Court.

C. *Specific Conditions of Pretrial Release* G.S. § 15A-534(a), (b)

If pretrial release condition (3) (supervised custodial release) is imposed, the defendant **MAY** elect to execute a secured appearance bond pursuant to pretrial release condition, (4) (secured bond) in which case the alternative pre-trial release provision shall be noted as having been included at the request of the defendant.

The judicial official **MUST** impose pretrial release condition (4) (secured bond) or (4) and (5) (house arrest with electronic monitoring) for a defendant convicted within the previous 10 years in separate sessions of court of three or more Class 1 misdemeanor or higher offenses.

D. *Violent Offenses* G.S. § 15A-534(b1)

Pursuant to G.S. § 15A-531(9), a "violent offense" means any of the following:

- (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)(which offenses are listed in § III, E below).
- (d) an offense under G.S. §§ 14-18.4, 14-34.1, 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.

For a defendant charged with a violent offense, there is a rebuttable presumption that there is no right to pretrial release. If a judicial official determines that pretrial release is appropriate (see § 15A-533(g) for guidance when pretrial release is “appropriate”), the judicial official **MUST** do one of the following:

- (1) impose pretrial release condition (4) (secured bond) or (5) (house arrest with electronic monitoring) if it is the defendant’s first violent offense; or
- (2) impose pretrial release condition (5) (house arrest with electronic monitoring), if available, for any defendant charged with a second or subsequent violent offense, after either (i) being convicted of a prior violent offense, or (ii) being released on pretrial release conditions for a prior violent offense.

*E. Specific Offenses Listed in Section 15A-533(b)* *G.S. § 15A-533(b)*

For a defendant charged with an offense listed in G.S. § 15A-533(b) and provided below, there is a rebuttable presumption that there is no right to pretrial release.

STATUTE	DESCRIPTION OF OFFENSE
G.S. § 14-17	First or second degree murder and attempted first or second-degree murder
G.S. § 14-27.21	First degree forcible rape
G.S. § 14-27.22	Second degree forcible rape
G.S. § 14-27.23	Statutory rape of a child by an adult
G.S. § 14-27.24	First degree statutory rape
G.S. § 14-27.25	Statutory rape of person who is 15 years of age or younger
G.S. § 14-27.26	First degree forcible sexual offense
G.S. § 14-27.27	Second degree forcible sexual offense
G.S. § 14-27.28	Statutory sexual offense with a child by an adult
G.S. § 14-27.29	first degree statutory sexual offense
G.S. § 14-27.30	Statutory sexual offense with a person who is 15 years of age or younger
G.S. § 14-32(a)	Assault with a deadly weapon with intent to kill inflicting serious injury
G.S. § 14-34.1	Discharging certain barreled weapons or a firearm into occupied property
G.S. § 14-39	First or second degree kidnapping
G.S. § 14-43.11	Human trafficking
G.S. § 14-51	First degree burglary
G.S. § 14-58	First degree arson
G.S. § 14-87	Robbery with firearms or other dangerous weapons

If a judge determines that pretrial release is appropriate, the judge **MUST** set pretrial release conditions in accordance with G.S. § 15A-534.

The offenses in G.S. § 15A-533(b) are “violent offenses” as defined in G.S. § 15A-531(9)(c). Accordingly, see § III, D above.

*F. Other Offenses* *G.S. § 15A-534(b)*

Where a defendant is not charged with a violent offense, a judicial officer granting pretrial release **MUST** impose pretrial release condition (2) (unsecured bond) or (3) (supervised custodial release) unless he/she determines that release under such conditions:

- (i) will not reasonably assure the appearance of the defendant as required;

- (ii) will pose a danger of injury to any person; or
- (iii) is likely to result in destruction of evidence, subornation of perjury, or intimidation of potential witnesses.

If the judicial official makes such a determination, then pretrial release condition (4) (secured bond) or (5) if available in this district (house arrest with electronic monitoring) **MUST** be imposed and the reasons for so doing **MUST** be recorded in writing.

*G. Failure to Appear* G.S. § 15A-534(d1)

Where a defendant is not charged with a violent offense, when placing pretrial release conditions on a defendant who has failed to appear on charges, the judicial official **SHALL** at a minimum impose the conditions recommended on the order for arrest issued for that failure to appear. If no conditions are recommended in that order for arrest, the judicial official **SHALL** set a secured bond in the amount of at least double the amount of the most recent secured or unsecured bond on the charges. If no bond has yet been required on the charges, bond should be at least \$1,000.

*H. Probationer Charged with a Felony* G.S. § 15A-534(d2)

Where a defendant is not charged with a violent offense, when considering pretrial release conditions for a defendant charged with a felony and the defendant is currently on probation, the judicial official **SHALL** determine whether the defendant poses a danger to the public prior to imposing conditions of pretrial release and record the determination in writing.

If the determination is that the defendant poses a danger to the public, then pretrial release condition (4) (secured bond) or (5) (house arrest with electronic monitoring) **MUST** be imposed.

If insufficient information is presented to make the determination as to whether the defendant poses a danger to the public, then the defendant is to be held in custody until a determination is made, and the judicial official **MUST** set out in writing that the defendant is being held pursuant to G.S. § 15A-534(d2), the basis for the determination that additional information is needed to make the determination as to whether the defendant is a danger to the public, and the date, within 96 hours of arrest, when the defendant will be brought before a judge for first appearance. If the necessary information is provided before that date, a judicial official **MUST** proceed to set conditions for pretrial release. Otherwise, the judge presiding at the first appearance is to set the conditions.

*I. Defendant with Pending Charges* G.S. § 15A-534(d3)

When conditions of pretrial release are being determined for a defendant who is currently on pretrial release for a prior offense, the judicial official **MAY** require 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 \$1,000. However, pursuant to G.S. § 15A-533(h), if a defendant is arrested for a new offense that was 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 statute provides that a “judge” must set this bond, as distinguished from a “judicial official;” “judge” is not separately defined in this Act.)

J. Determination Of Legal Residency G.S. § 15A-534(d4)

For a defendant charged with any felony, class A1 misdemeanor, any violation of G.S. § 50B-4.1 or any impaired driving offense, the judicial official **SHALL** attempt to determine if the defendant is a legal resident or citizen of the United States by inquiry of the defendant, or by examination of any relevant documents, or both. If the judicial official is unable to make this determination, then the judicial official **SHALL** set conditions of pretrial release as set forth herein and **SHALL** commit the defendant to an appropriate detention facility and otherwise comply with and follow G.S. § 15A-534(d4). The judicial official should also see form AOC-CR-663 for proposed findings and a proposed order.

K. Imposing Other Restrictive Conditions G.S. § 15A-534(a)

A judicial official imposing one of the four statutory forms of pretrial release **MAY** also place restrictions on the travel, associations, conduct, or place of abode of the defendant.

A defendant **MAY** be required to maintain periodic contact with Court designated persons as a condition of release, if any such service is available.

A defendant in a domestic violence case **MAY** be required to participate in electronic monitoring by the Court. Requiring the defendant to produce identification as a condition of release **MAY** be appropriate in circumstances where there is a real question about the identity of the person arrested.

Requiring the defendant to produce identification as a condition of release should not be used if the defendant has been arrested on an outstanding process, as the identity of the person arrested should have been established by the arresting officer. If identity is refused or doubtful, magistrates **MAY** increase bond and must record justification on Form **AOC-CR-200**. Release may be conditioned on proper identification—by any reasonable means, including community vouching—without requiring U.S. government-issued ID.

L. Other Statutes that MUST be Considered G.S. §§ 15A-533, 534, 721, et seq., 1345

When selecting the form of pretrial release, the General Statutes provide specific instructions and restrictions for certain types of crimes. Judicial officials **MUST** be aware of these statutes and **MUST** follow them when applicable. These statutes include:

STATUTE	DESCRIPTION OF OFFENSE
G.S. § 15A-534.1	Crimes of domestic violence
G.S. § 15A-534.2	Detention of impaired drivers
G.S. § 15A-534.3	Detention for communicable diseases
G.S. § 15A-534.4	Sex offenses and crimes of violence against child victims
G.S. § 15A-534.5	Detention to protect public health
G.S. § 15A-534.6	Bail in cases of manufacture of methamphetamine
G.S. § 15A-534.7	Threat of mass violence on educational property or at a place of religious worship
G.S. § 15A-534.8	Rioting or looting
G.S. § 15A-534.9	Threats against public officers
G.S. § 15A-533(a)	New offense while involuntary committed <span style="float: right;">(see § III, M below)</span>
G.S. § 15A-533(b)	Holds for certain high-level felonies <span style="float: right;">(see § III, E above)</span>
G.S. § 15A-533(b1)	Order requiring examination by commitment examiner <span style="float: right;">(see § III, N below)</span>
G.S. § 15A-533(d)	Drug trafficking <span style="float: right;">(see § III, O below)</span>

G.S. § 15A-533(e)	Street gang activity	(see § III, P below)
G.S. § 15A-533(f)	Illegal use, possession, or discharge of a firearm	(see § III, Q below)
G.S. § 15A-533(h)	New offenses while on pretrial release	
G.S. 15A, Art. 37	Uniform criminal extradition act	
G.S. § 15A-1345(b1)	Detention of defendant arrested for probation violation with pending felony or prior sex offense	

*M. Committed New Offense While Required to be Involuntarily Committed G.S. § 15A-533(a)*

A defendant has no right to pretrial release where the defendant committed a crime while the defendant was involuntarily committed or required to be involuntarily committed, and where the involuntary commitment is still valid. However, the defendant **SHALL** be returned to the treatment facility for continuation of treatment, not jail.

*N. Order Requiring Examination by Commitment Examiner G.S. § 15A-533(b1)*

**THIS SECTION “N.” BECOMES EFFECTIVE DECEMBER 1, 2026 (Session Law 2025-97)**  
In the event that G.S. 15A-533(b1) is modified, then this Policy shall adopt the language of G.S. 15A- 533(b1) as modified such that this Policy is entirely consistent with the provisions of G.S. 15A-533(b1) as it then exists.

If a defendant is (i) charged with a violent offense and, after a search of the court records for the defendant, the judicial official determines 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 all of the following:

(1) Require the defendant to receive an initial examination by a commitment examiner, as defined in [G.S. 122C-3](#), to determine if there are grounds to petition for involuntary commitment of the defendant pursuant to Article 5 of Chapter 122C of the General Statutes. This examination shall comply with and satisfy the requirements of the initial examination as provided in [G.S. 122C-263\(c\)](#).

(2) Require the arresting officer to immediately transport, or cause to be transported by an officer of the arresting officer’s agency, the defendant to a hospital emergency department or other crisis facility with certified commitment examiners for the initial examination. If the defendant has met all other conditions of pretrial release, the transporting officer may release the defendant after the initial examination is conducted if one of the following criteria is met:

a. No petition for involuntary commitment is filed pursuant to Article 5 of Chapter 122C of the General Statutes.

b. A petition for involuntary commitment is filed pursuant to Article 5 of Chapter 122C of the General Statutes, but no custody order is issued pursuant to [G.S. 122C-261](#).

(3) Require the commitment examiner, after conducting the initial examination, to do one of the following:

a. Petition for involuntary commitment of the defendant pursuant to Article 5 of Chapter 122C of the General Statutes, if there are grounds for that petition.

b. Provide written notice to the judicial official that entered the order for initial examination that there are no grounds to petition for involuntary commitment of the defendant.

(4) Provide that, except as provided in subdivision (5) of this subsection, whether or not the defendant has met all other conditions of pretrial release, if a petition for involuntary commitment is filed pursuant to Article 5 of Chapter 122C of the General Statutes, the custody of the defendant shall be determined pursuant to the provisions of that Article during the pendency of that petition and any hearings and orders issued pursuant to that Article.

(5) Provide that if a defendant has not met all other conditions of pretrial release, if one of the following criteria is met, the defendant shall be transported to and held in the local confinement facility of the county where the conditions of pretrial release were set until all conditions of pretrial release have been met:

a. A petition for involuntary commitment is not filed pursuant to Article 5 of Chapter 122C of the General Statutes.

b. A custody order is not issued pursuant to [G.S. 122C-261](#).

c. At any other time, the provisions of Article 5 of Chapter 122C of the General Statutes would result in the release of the defendant.

O. *Drug Trafficking* G.S. § 15A-533(d)

If a judicial official finds the following:

- (1) there is reasonable cause to believe that a person has committed a drug trafficking offense; and
- (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 any drug trafficking offense, and not more than 5 years has passed since the conviction (or release from prison for the offense, whichever is later);

then the defendant can be released **ONLY** 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.

P. *Gang Activity* G.S. § 15A-533(e)

When determining the form of pretrial release, verified gang activity is an appropriate factor to consider. However, in making this determination, judicial officials **MAY** consider **ONLY** 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 a judicial official finds the following:

- (1) there is reasonable cause to believe that the defendant has committed an offense for the benefit of, at the direction of, or in association with any criminal street gang; and
- (2) the street gang activity offense was committed while the defendant was on pretrial release for another offense; and

- (3) the defendant has been previously convicted of an offense described in G.S. § 14-50.16 through G.S. § 14-50.20, and not more than 5 years has passed since the conviction or release from prison for the offense, whichever is later;

then the defendant can be released by a district or superior court judge **ONLY** 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.

Q. *Illegal Use, Possession, Or Discharge Of A Firearm* G.S. § 15A-533(f)

If a judicial official finds reasonable cause to believe that the defendant 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 defendant was on pretrial release for another felony or Class A1 misdemeanor offense involving the illegal use, possession, or discharge of a firearm; **OR**
- (2) the defendant 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 defendant's release for the offense, whichever is later;

then the defendant can be released by a district or superior court judge **ONLY** 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.

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*When considering "suggested bond amounts" the judicial official should recall that there is no fixed formula for a bond. Judicial officials are called upon to exercise their knowledge of the law, their experience, and their common sense.*

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#### **IV. Suggested Bond Amounts for Offenses other than Drug Trafficking**

The following are guidelines for the setting of secured bonds when a secured bond is determined to be an appropriate condition of pretrial release. These bond amounts are suggested ranges and are **NOT MANDATORY**. Judicial officials are vested with discretion in the setting of conditions of pretrial release and are expected to exercise their discretion in the setting such conditions. The suggested bond amounts are NOT limitations on judicial discretion.

*The setting of bond based solely on the punishment level of the offense is inconsistent with the law.*

TYPE OF OFFENSE	MAXIMUM PUNISHMENT	SUGGESTED SECURED BONDS
Local Ordinance	\$50 fine or 30 days	Unsecured
Class 3 Misdemeanor	20 days	Unsecured
Class 2 Misdemeanor	60 days	Unsecured or up to \$2,000 secured
Class 1 Misdemeanor	120 days	Unsecured, Custody Release, or up to \$3,000 secured
Class A1 Misdemeanor	150 days	\$1,000 to \$5,000
Driving While Impaired	36 months	Unsecured to \$25,000
Class I Felony	24 months	\$1,000 to \$10,000
Class H Felony	39 months	\$5,000 to \$20,000
Class G Felony	47 months	\$5,000 to \$30,000
Class F Felony	59 months	\$10,000 to \$50,000
Class E Felony	88 (136)** months	\$15,000 to \$75,000
Class D Felony*	204 (252)** months	\$25,000 to \$250,000
Class C Felony*	231 (279)** months	\$30,000 to \$350,000
Class B2 Felony*	484 (532)** months	\$100,000 to \$500,000
Class B1 Felony*	Life without Parole	\$200,000 to \$1,000,000
Class A Felony*	Death, Life without Parole	No Bond (unless set by Judge)
Habitual DWI*	59 months	\$5,000 to \$75,000
NC Probation Violation		Set amount appropriate for the underlying offense considering the nature of any violations and any new charges [subject to N.C.G.S. § 15A-1345(b1)]
Fugitive Warrant		
Governor's Warrant		No Bond
Interstate Compact		
Parole Warrant		

\* Each of these offenses carries a mandatory minimum active sentence

\*\* The maximum sentence for offenses subject to the sex offender registration in parentheses

## V. Suggested Bond Amounts for Drug Trafficking Offenses

Before setting a bond for a drug trafficking offense, see § III, O above.

The following are guidelines for the setting of secured bonds when a secured bond is determined to be an appropriate condition of pretrial release. These bond amounts are suggested ranges and are **NOT MANDATORY**. Judicial officials are vested with discretion in the setting of conditions of pretrial release and are expected to exercise their discretion in the setting of such conditions. The suggested bond amounts are NOT limitations on judicial discretion.

Each of the trafficking offenses listed below carries a mandatory minimum active sentence. The “Class of Offense” referred to in the table below indicates the “suggested secured bond” for that class of trafficking offense.

<b>CLASS OF OFFENSE / MAX SENTENCE</b>	<b>SUGGESTED SECURED BONDS</b>
Class H / 39 months	\$5,000 - \$25,000
Class G / 51 months	\$25,000 - \$150,000
Class F / 93 months	\$50,000 - \$200,000
Class E / 120 months	\$100,000 - \$400,000
Class D / 222 months	\$200,000 - \$500,000
Class C / 282 months	\$250,000 - \$1,000,000

<b>STATUTE</b>	<b>DESCRIPTION OF OFFENSE</b>	<b>PUNISHMENT / MIN FINE</b>
Trafficking in Marijuana G.S. § 90-95(h)(1)	more than 10 pounds and less than 50 pounds	Class H / \$5,000
	50 – 1,999 pounds	Class G / \$25,000
	2,000 – 9,999 pounds	Class F / \$50,000
	10,000 pounds or more	Class D / \$200,000
Trafficking in Synthetic Cannabinoids G.S. § 90-95(h)(1a)	more than 50 - 249 dosage units	Class H / \$5,000
	250 - 1249 dosage units	Class G / \$25,000
	1250 - 3749 dosage units	Class F / \$50,000
	3750 or more dosage units	Class D / \$200,000
Trafficking in Methaqualone G.S. § 90-95(h)(2)	1,000 – 4,999 dosage units	Class G / \$25,000
	5,000 – 9,999 dosage units	Class F / \$50,000
	10,000 dosage units or more	Class D / \$200,000
Trafficking in Cocaine G.S. § 90-95(h)(3)	28 – 199 grams	Class G / \$50,000
	200 – 399 grams	Class F / \$100,000
	400 grams or more	Class D / \$250,000
Trafficking in Methamphetamine G.S. §§ 90-95(h)(3b) Trafficking in Substituted Cathinones G.S. §§ 90-95(h)(3d)	28 – 199 grams	Class F / \$50,000
	200 – 399 grams	Class E / \$100,000
	400 grams or more	Class C / \$250,000
Trafficking in Amphetamine G.S. § 90-95(h)(3c)	28 - 199 grams	Class H / \$5,000
	200 - 399 grams	Class G / \$25,000
	400 grams or more	Class E / \$100,000
Trafficking in Opium or Heroin G.S. § 90-95(h)(4)	4 – 13 grams	Class F / \$50,000
	14 – 27 grams	Class E / \$100,000
	28 grams or more	Class C / \$500,000

Trafficking in Fentanyl/Carfentanil G.S. § 90-95(h)(4c)	4-13 grams	Class E / \$500,000
	14-27 grams	Class D / \$750,000
	28 grams or more	Class C / \$1,000,000
Trafficking in LSD G.S. § 90-95(h)(4a)	100 – 499 dosage units	Class G / \$25,000
	500 – 999 dosage units	Class F / \$50,000
	1,000 dosage units or more	Class D / \$200,000
Trafficking in MDA / MDMA G.S. § 90-95(h)(4b)	100 – 499 dosage units or 28 – 199 grams	Class G / \$25,000
	500 – 999 dosage units or 200 – 399 grams	Class F / \$50,000
	1,000 dosage units, 400 grams, or more	Class D / \$250,000

**APPENDIX A – AOC-CR-200**

## 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"/> Threatening Towards Others |
| <input type="checkbox"/> Impaired (Alcohol or Drugs) | <input type="checkbox"/> Confused      | <input type="checkbox"/> Threatening Towards Victim |
| <input type="checkbox"/> Possible Mental Problems    |  |   |

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

- No identification Gave False Information to LEO
- Defendant Using Alias(es)Fake or Multiple IDs on Person
- 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):**

- Prior History of Failing to Appear
- Prior History of Absconding
- Has No Ties to the Community

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

- Has Prior History of Convictions for Similar Offenses
- Additional Charges may be Forthcoming
- Has Other Pending Charges

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

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24JD-CR-M2[Can be renumbered]

## Law Enforcement Officer Information (Alternative to 24JD-CR-M2)

### Information about Defendant Known to Law Enforcement

Defendant \_\_\_\_\_ Date/Time \_\_\_\_\_

Arresting Officer \_\_\_\_\_ Agency \_\_\_\_\_

#### Information about Defendant at Time of Arrest:

- Cooperative       Uncooperative       Verbally Abusive       Combative
- Confused       Not a US Citizen       Extremely Emotional or Distraught
- Impaired/Substance Abuse       Injured       Mentally Disturbed

#### Information about Defendant's Charge(s):

- Threats to Victim/Others       Threats to Officer
- Defendant on Pretrial Release for other charges       History of similar charges
- On probation       On post-release supervision
- Serious Injury to victim       Damage to property more than \$1000.00

#### Information about Defendant's Identification history of appearance in Court:

- Gave false information to LEO       False or multiple IDs on person
- History of failing to appear in Court       Use of aliases
- Multiple addresses

Other information the officer wants the judicial official to know. Please include detail about erratic behavior here.:

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\_\_\_\_\_ Officer's Signature