Article 26.

Bail.

Part 1. General Provisions.

**§ 15A-531. Definitions.**

As used in this Article the following definitions apply unless the context clearly requires otherwise:

(1) "Accommodation bondsman" means a natural person who has reached the age of 18 years and is a bona fide resident of this State and who, aside from love and affection and release of the person concerned, receives no consideration for action as surety and who endorses the bail bond after providing satisfactory evidences of ownership, value, and marketability of real or personal property to the extent necessary to reasonably satisfy the official taking bond that such real or personal property will in all respects be sufficient to assure that the full principal sum of the bond will be realized in the event of breach of the conditions thereof. "Consideration" as used in this subdivision does not include the legal rights of a surety against a defendant by reason of breach of the conditions of a bail bond nor does it include collateral furnished to and securing the surety so long as the value of the surety's rights in the collateral do not exceed the defendant's liability to the surety by reason of a breach in the conditions of said bail bond.

(2) "Address of record" means:

a. For a defendant or an accommodation bondsman, the address entered on the bail bond under G.S. 15A-544.2, or any later address filed by that person with the clerk of superior court.

b. For an insurance company, the address registered with the Administrative Office of the Courts under G.S. 58-71-140.

c. For a bail agent, the address shown on the bail agent's license from the Department of Insurance, as registered with the Administrative Office of the Courts under G.S. 58-71-140.

d. For a professional bondsman, the address shown on that bondsman's license from the Department of Insurance, as registered with the Administrative Office of the Courts under G.S. 58-71-140.

(3) "Bail agent" means any person who is licensed by the Commissioner as a surety bondsman under Article 71 of Chapter 58 of the General Statutes, is appointed by an insurance company by power of attorney to execute or countersign bail bonds for the insurance company in connection with judicial proceedings, and receives or is promised consideration for doing so.

(4) "Bail bond" means an undertaking by the defendant to appear in court as required upon penalty of forfeiting bail to the State in a stated amount. Bail bonds include an unsecured appearance bond, an appearance bond secured by a cash deposit of the full amount of the bond, an appearance bond secured by a mortgage under G.S. 58-74-5, and an appearance bond secured by at least one solvent surety. A bail bond signed by any surety, as defined in G.S. 15A-531(8)a. and b., is considered the same as a cash deposit for all purposes in this Article. Cash bonds set in child support contempt proceedings shall not be satisfied in any manner other than the deposit of cash.

(5) "Defendant" means a person obligated to appear in court as required upon penalty of forfeiting bail under a bail bond.

(5a) House arrest with electronic monitoring. – Pretrial release in which the offender is required to remain at his or her residence unless the court authorizes the offender to leave for the purpose of employment, counseling, a course of study, or vocational training. The offender shall be required to wear a device which permits the supervising agency to electronically monitor the offender's compliance with the condition.

(6) "Insurance company" means any domestic, foreign, or alien surety company which has qualified under Chapter 58 of the General Statutes generally to transact surety business and specifically to transact bail bond business in this State.

(7) "Professional bondsman" means any person who is approved and licensed by the Commissioner of Insurance under Article 71 of Chapter 58 of the General Statutes and who pledges cash or approved securities with the Commissioner as security for bail bonds written in connection with a judicial proceeding and receives or is promised money or other things of value therefor.

(8) "Surety" means:

a. The insurance company, when a bail bond is executed by a bail agent on behalf of an insurance company.

b. The professional bondsman, when a bail bond is executed by a professional bondsman or by a runner on behalf of a professional bondsman.

c. The accommodation bondsman, when a bail bond is executed by an accommodation bondsman.

(9) "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).

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. (1973, c. 1286, s. 1; 1975, c. 166, s. 12; 1995, c. 290, s. 1; c. 503, s. 1; 2000-133, s. 1; 2009-547, s. 2; 2013-139, s. 1; 2022-47, s. 16(i); 2025-93, s. 1(b).)

**§ 15A-532. Persons authorized to determine conditions for release.**

Judicial officials may determine conditions for release of persons in proceedings over which they are presiding, in accordance with this Article. (1973, c. 1286, s. 1; 1993, c. 30, s. 1; 2021-47, s. 10(f).)

**§ 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 judge shall determine in the judge's discretion whether a defendant charged with any of the following crimes may be released before trial:

(1) G.S. 14-17 (First or second degree murder) or an attempt to commit first or second degree murder.
(2) G.S. 14-27.21 (First degree forcible rape).
(3) G.S. 14-27.22 (Second degree forcible rape).
(4) G.S. 14-27.23 (Statutory rape of a child by an adult).
(5) G.S. 14-27.24 (First degree statutory rape).
(6) G.S. 14-27.25 (Statutory rape of person who is 15 years of age or younger).
(7) G.S. 14-27.26 (First degree forcible sexual offense).
(8) G.S. 14-27.27 (Second degree forcible sexual offense).
(9) G.S. 14-27.28 (Statutory sexual offense with a child by an adult).
(10) G.S. 14-27.29 (First degree statutory sexual offense).
(11) G.S. 14-27.30 (Statutory sexual offense with a person who is 15 years of age or younger).
(12) G.S. 14-32(a) (Assault with a deadly weapon with intent to kill inflicting serious injury).
(13) G.S. 14-34.1 (Discharging certain barreled weapons or a firearm into occupied property).
(14) G.S. 14-39 (First or second degree kidnapping).
(15) G.S. 14-43.11 (Human trafficking).
(16) First degree burglary pursuant to G.S. 14-51.
(17) First degree arson pursuant to G.S. 14-58.
(18) G.S. 14-87 (Robbery with firearms or other dangerous weapons).

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 for a defendant charged with a crime listed under any of the subdivisions of this subsection. However, if the judge determines that release is warranted for a defendant charged with a crime listed under any of the subdivisions of this subsection, the judge shall set conditions of pretrial release in accordance with G.S. 15A-534.

A defendant charged with a noncapital offense that is not listed under any of the subdivisions of this subsection, must otherwise have conditions of pretrial release determined, in accordance with G.S. 15A-534.

(b1) **(Effective December 1, 2026 – see editor's note.)** 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.

(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 all of 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 gang, as defined in G.S. 14-50.16A(1).

(2) The offense described in subdivision (1) of this subsection was committed while the person was on pretrial release for another offense.

(3) The person (i) has been previously convicted of an offense described in G.S. 14-50.16 through G.S. 14-50.20 or (ii) has been convicted of a criminal offense and received an enhanced sentence for that offense pursuant to G.S. 15A-1340.16E, 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.

(h) If a defendant is arrested for a new offense 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 judge shall direct a law

enforcement officer, pretrial services program, or a district attorney to provide a criminal history report and risk assessment, if available, for the defendant and shall consider the criminal history when setting conditions of pretrial release. After setting conditions of pretrial release, the judge shall return the report to the providing agency or department. No judge shall unreasonably delay the determination of conditions of pretrial release for the purpose of reviewing the defendant's criminal history report. Notwithstanding the provisions of this subsection, a magistrate or the clerk of superior court may set the conditions of pretrial release at any time if the new offense is a violation of Chapter 20 of the General Statutes, other than a violation of G.S. 20-138.1, 20-138.2, 20-138.2A, 20-138.2B, 20-138.5, or 20-141.4.

A defendant may be retained in custody pursuant to this subsection not more than 48 hours from the time of arrest without a judge making a determination of conditions of pretrial release. If a judge has not acted pursuant to this subsection within 48 hours from the time of arrest of the defendant, the magistrate shall set conditions of pretrial release in accordance with G.S. 15A-534. (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; 2017-194, s. 19; 2023-75, s. 2(a); 2024-33, s. 12(a); 2025-93, s. 1(c); 2025-97, s. 5.3(b).)

**§ 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).)

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

(a) In all cases in which the defendant is charged with assault on, stalking, communicating a threat to, or committing a felony provided in Articles 7B, 8, 10, or 15 of Chapter 14 of the General Statutes upon a spouse or former spouse, a person with whom the defendant lives or has lived as if married, or a person with whom the defendant is or has been in a dating relationship as defined in G.S. 50B-1(b)(6), with domestic criminal trespass, with violation of G.S. 14-32.5, 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. The judge shall direct a law enforcement officer or a district attorney to provide a criminal history report for the defendant and shall consider the criminal history when setting conditions of release. After setting conditions of release, the judge shall return the report to the providing agency or department. No judge shall unreasonably delay the determination of conditions of pretrial release for the purpose of reviewing the defendant's criminal history report. 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.

e. 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.

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; 2007-14, s. 1; 2010-135, s. 1; 2012-146, s. 2; 2015-62, s. 4(c); 2015-181, s. 47; 2017-186, s. 2(xx); 2021-180, s. 19C.9(t); 2025-70, s. 17(d).)

**§ 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 a determination about whether a defendant detained under this section remains impaired, the judicial official may request that the defendant submit to periodic tests to

determine the defendant's 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 is required to 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 into evidence in either of the following circumstances:

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

(2) For any purpose in any proceeding if the test was not performed by a method approved by the Department of Health and Human 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); 2007-182, s. 2; 2025-27, s. 4.2(a).)

**§ 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 had a nonsexual exposure 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, s. 1; 2009-501, s. 1.)

**§ 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 7B, 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 shall 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 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. (1993 (Reg. Sess., 1994), c. 723, s. 5; 2007-172, s. 1; 2015-181, s. 47.)

**§ 15A-534.5. Detention to protect public health.**

If a judicial official conducting an initial appearance finds by clear and convincing evidence that a person arrested for violation of an order limiting freedom of movement or access issued pursuant to G.S. 130A-475 or G.S. 130A-145 poses a threat to the health and safety of others, the judicial official shall deny pretrial release and shall order the person to be confined in an area or facility designated by the judicial official. Such pretrial confinement shall terminate when a judicial official determines that the confined person does not pose a threat to the health and safety of others. These determinations shall be made only after the State Health Director or local health director has made recommendations to the court. (2002-179, s. 15.)

**§ 15A-534.6. Bail in cases of manufacture of methamphetamine.**

In all cases in which the defendant is charged with any violation of G.S. 90-95(b)(1a) or G.S. 90-95(d1)(2)b., in determining bond and other conditions of release, the magistrate, judge, or court shall consider any evidence that the person is in any manner dependent upon methamphetamine or has a pattern of regular illegal use of methamphetamine. A rebuttable presumption that no conditions of release on bond would assure the safety of the community or any person therein shall arise if the State shows by clear and convincing evidence both:

(1) The person was arrested for a violation of G.S. 90-95(b)(1a) or G.S. 90-95(d1)(2)b., relating to the manufacture of methamphetamine or possession of an immediate precursor chemical with knowledge or reasonable cause to know that the chemical will be used to manufacture methamphetamine.

(2) The person is in any manner dependent upon methamphetamine or has a pattern of regular illegal use of methamphetamine, and the violation referred to in subdivision (1) of this section was committed or attempted in order to maintain or facilitate the dependence or pattern of illegal use in any manner. (2005-434, s. 6; 2007-484, s. 4.)

**§ 15A-534.7. Communicating a threat of mass violence; bail and pretrial release.**

(a) In all cases in which the defendant is charged with communicating a threat of mass violence on educational property in violation of G.S. 14-277.6 or communicating a threat of mass violence at a place of religious worship in violation of G.S. 14-277.7, except as provided in subsection (b) of this section, the judicial official who determines the conditions of pretrial release shall be a judge. The judge shall direct a law enforcement officer or a district attorney to provide a criminal history report for the defendant and shall consider the criminal history when setting conditions of release. After setting conditions of release, the judge shall return the report to the providing agency or department. No judge shall unreasonably delay the determination of conditions of pretrial release for the purpose of reviewing the defendant's criminal history report. 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 persons 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 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 educational property or place of religious worship against which the threat was communicated.

b. That the defendant stay away from any other educational property or place of religious worship unless permission to be present is granted by the person in control of the property.

The conditions set forth in this subdivision 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 herself or others or a substance abuser and dangerous to himself or herself 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. (2018-72, s. 6.)

**§ 15A-534.8. Rioting or looting; bail and pretrial release.**

(a) In all cases in which the defendant is charged with a violation of G.S. 14-288.2 or G.S. 14-288.6, the judicial official who determines the conditions of pretrial release shall be a judge. The judge shall direct a law enforcement officer or a district attorney to provide a criminal history report for the defendant and shall consider the criminal history when setting conditions of release. After setting conditions of release, the judge shall return the report to the providing agency or department. No judge shall unreasonably delay the determination of conditions of pretrial release for the purpose of reviewing the defendant's criminal history report. 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 persons 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 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 order the defendant to stay away from specific locations or property where the offense occurred. This condition 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 herself or others, or a substance abuser and dangerous to himself or herself 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 24 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 24 hours of arrest, the magistrate shall act under the provisions of this section. (2023-6, s. 4.)

**§ 15A-534.9. Threats against public officers; bail and pretrial release.**

(a) In all cases in which the defendant is charged with a violation of G.S. 14-16.6, 14-16.7, or 163-275(11), except as provided in subsection (b) of this section, the judicial official who determines the conditions of pretrial release shall be a judge. The judge shall direct a law enforcement officer or a district attorney to provide a criminal history report for the defendant and shall consider the criminal history when setting conditions of release. After setting conditions of release, the judge shall return the report to the providing agency or department. No judge shall unreasonably delay the determination of conditions of pretrial release for the purpose of reviewing the defendant's criminal history report. 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 persons 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 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 or threatening the alleged victim.

c. That the defendant stay away from specific locations or property where the offense occurred.

d. That the defendant stay away from other specified locations or property.

The conditions set forth in this subdivision 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 herself or others or a substance abuser and dangerous to himself or herself 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. (2025-81, s. 6.)

**§ 15A-535. Issuance of policies on pretrial release.**

(a) Subject to the provisions of this Article, the senior resident superior court judge for each district or set of districts as defined in G.S. 7A-41.1(a) in consultation with the chief district court judge or judges of all the district court districts in which are located any of the counties in the senior resident superior court judge's district or set of districts, must devise and issue recommended policies to be followed within each of those counties in determining whether, and upon what conditions, a defendant may be released before trial and may include in such policies, or issue separately, a requirement that each judicial official who imposes condition (4) or (5) in G.S. 15A-534(a) must record the reasons for doing so in writing.

(b) In any county in which there is a pretrial release program, the senior resident superior court judge may, after consultation with the chief district court judge, order that defendants accepted by such program for supervision shall, with their consent, be released by judicial officials to supervision of such programs, and subject to its rules and regulations, in lieu of releasing the defendants on conditions (2) or (3) of G.S. 15A-534(a). (1973, c. 1286, s. 1; 1975, c. 791, s. 1; 1987, c. 481, s. 2; 1987 (Reg. Sess., 1988), c. 1037, s. 55; 2009-547, s. 5; 2025-93, s. 1(e).)

**§ 15A-536. Release after conviction in the superior court.**

(a) A defendant whose guilt has been established in the superior court and is either awaiting sentence or has filed an appeal from the judgment entered may be ordered released upon conditions in accordance with the provisions of this Article.

(b) If release is ordered, the judge must impose the conditions set out in G.S. 15A-534(a) which will reasonably assure the presence of the defendant when required and provide adequate protection to persons and the community. If no single condition gives the assurance, the judge may impose the condition in G.S. 15A-534(a)(3) in addition to any other condition and may also, or in lieu of the condition in G.S. 15A-534(a)(3), place restrictions on the travel, associations, conduct, or place of abode of the defendant.

(c) In determining what conditions of release to impose, the judge must, on the basis of available information, consider the appropriate factors set out in G.S. 15A-534(c).

(d) A judge authorizing release of a defendant 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 such violation. The order of release must be filed with the clerk and a copy given the defendant.

(e) An order of release may be modified or revoked by any superior court judge who has ordered the release of a defendant under this section or, if that judge is absent from the superior court district or set of districts as defined in G.S. 7A-41.1, by any other superior court judge. If the defendant is placed in custody as the result of a revocation or modification of an order of release, the defendant is entitled to an immediate hearing on whether he is again entitled to release and, if so, upon what conditions.

(f) In imposing conditions of release and in modifying and revoking orders of release under this section, the judge 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. (1973, c. 1286, s. 1; 1987 (Reg. Sess., 1988), c. 1037, s. 56.)

**§ 15A-537. Persons authorized to effect release.**

(a) Following any authorization of release of any person in accordance with the provisions of this Article, any judicial official must effect the release of that person upon satisfying himself that the conditions of release have been met. In the absence of a judicial official, any law-enforcement officer or custodial official having the person in custody must effect the release upon satisfying himself that the conditions of release have been met, but law-enforcement and custodial agencies may administratively direct which officers or officials are authorized to effect release under this section. Satisfying oneself whether conditions of release are met includes determining if sureties are sufficiently solvent to meet the bond obligation, but no judicial official, officer, or custodial official may be held civilly liable for actions taken in good faith under this section.

(b) Upon release of the person in question, the person effecting release must file any bond, deposit, or mortgage and other documents pertaining to the release with the clerk of the court in which release was authorized.

(c) For the limited purposes of this section, any law-enforcement officer or custodial official may administer oaths to sureties and take other actions necessary in carrying out the duties imposed by this section. Any surety bond so taken is to be regarded in every respect as any other bail bond. (1973, c. 1286, s. 1; 1977, c. 711, s. 23; 2022-47, s. 16(j).)

**§ 15A-538. Modification of order on motion of person detained; substitution of surety.**

(a) A person who is detained or objects to the conditions required for his release which were imposed or allowed to stand by order of a district court judge may apply in writing to a superior court judge to modify the order.

(b) The power to modify an order includes the power to substitute sureties upon any bond. Substitution or addition of acceptable sureties may be made at the request of any obligor on a bond or, in the interests of justice, at the request of a prosecutor under the provisions of G.S. 15A-539. (1973, c. 1286, s. 1; 1975, c. 166, s. 27.)

**§ 15A-539. Modification upon motion of prosecutor.**

(a) A prosecutor may at any time apply to an appropriate district court judge or superior court judge for modification or revocation of an order of release under this Article.

(b) A district or superior court judge may, upon motion of the State or upon the judge's own motion, and for good cause shown, conduct a hearing into the source of money or property to be posted for any defendant who is about to be released on a secured appearance bond. The court may refuse to accept offered money or property as security for the appearance bond that, because of its source, will not reasonably assure the appearance of the person as required. The State shall have the burden of proving, by a preponderance of the evidence, the facts supporting the court's decision to refuse to accept the offered money or property as security for the bond.

(c) Nothing in this section shall affect the legal rights of any surety on a bail bond, bonding company, or a professional bondsman. (1973, c. 1286, s. 1; 1975, c. 166, s. 27; 2005-375, s. 1.)

**§ 15A-540. Surrender of a defendant by a surety; setting new conditions of release.**

(a) Going Off the Bond Before Breach. – Before there has been a breach of the conditions of a bail bond, the surety may surrender the defendant as provided in G.S. 58-71-20. Upon application by the surety after such surrender, the clerk must exonerate the surety from the bond.

(b) Surrender After Breach of Condition. – After there has been a breach of the conditions of a bail bond, a surety may surrender the defendant as provided in this subsection. A surety may arrest the defendant for the purpose of returning the defendant to the sheriff. After arresting a defendant, the surety may surrender the defendant to the sheriff of the county in which the defendant is bonded to appear or to the sheriff where the defendant was bonded. Alternatively, a surety may surrender a defendant who is already in the custody of any sheriff by appearing in person and informing the sheriff that the surety wishes to surrender the defendant. Before surrendering a defendant to a sheriff, the surety must provide the sheriff with a copy of the bail bond, forfeiture, or release order. Upon surrender of the defendant, the sheriff shall provide a receipt to the surety.

(c) New Conditions of Pretrial Release. – When a defendant is surrendered by a surety under subsection (b) of this section, the sheriff shall without unnecessary delay take the defendant

before a judicial official, along with a copy of the undertaking received from the surety and a copy of the receipt provided to the surety. The judicial official shall then determine whether the defendant is again entitled to release and, if so, upon what conditions.

(d) A surety may utilize the services and assistance of any surety bondsman, professional bondsman, or runner licensed under G.S. 58-71-40 to effect the arrest or surrender of a defendant under subsection (a) or (b) of this section. (1973, c. 1286, s. 1; 1995, c. 290, s. 2; 2000-133, s. 2; 2001-487, s. 46.5(a); 2013-139, s. 2; 2014-120, s. 12(b).)

**§ 15A-541. Persons prohibited from becoming surety.**

(a) No sheriff, deputy sheriff, other law-enforcement officer, judicial official, attorney, parole officer, probation officer, jailer, assistant jailer, employee of the General Court of Justice, other public employee assigned to duties relating to the administration of criminal justice, or spouse of any such person may in any case become surety on a bail bond for any person other than a member of his immediate family. In addition no person covered by this section may act as agent for any bonding company or professional bondsman. No such person may have an interest, directly or indirectly, in the financial affairs of any firm or corporation whose principal business is acting as bondsman.

(b) A violation of this section is a Class 2 misdemeanor. (1973, c. 1286, s. 1; 1993, c. 539, s. 299; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 15A-542. False qualification by surety.**

(a) No person may sign an appearance bond as surety knowing or having reason to know that he does not own sufficient property over and above his exemption allowed by law to enable him to pay the bond should it be ordered forfeited.

(b) A violation of this section is a Class 2 misdemeanor. (1973, c. 1286, s. 1; 1993, c. 539, s. 300; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 15A-543. Penalties for failure to appear.**

(a) In addition to forfeiture imposed under Part 2 of this Article, any person released pursuant to this Article who willfully fails to appear before any court or judicial official as required is subject to the criminal penalties set out in this section.

(b) A violation of this section is a Class I felony if:

(1) The violator was released in connection with a felony charge against him; or

(2) The violator was released under the provisions of G.S. 15A-536.

(c) If, except as provided in subsection (b) above, a violator was released in connection with a misdemeanor charge against him, a violation of this section is a Class 2 misdemeanor. (1973, c. 1286, s. 1; 1983, c. 294, s. 4; 1993, c. 539, s. 301; 1994, Ex. Sess., c. 14, s. 16; c. 24, s. 14(c); 2000-133, s. 3.)

**§ 15A-544: Repealed by Session Laws 2000-133, s. 4.**

Part 2. Bail Bond Forfeiture.

**§ 15A-544.1. Forfeiture jurisdiction.**

By executing a bail bond the defendant and each surety submit to the jurisdiction of the court and irrevocably consent to be bound by any notice given in compliance with this Part. The liability

of the defendant and each surety may be enforced as provided in this Part, without the necessity of an independent action. (2000-133, s. 6.)

**§ 15A-544.2. Identifying information on bond.**

(a) The following information shall be entered on each bail bond executed under Part 1 of this Article:

(1) The name and mailing address of the defendant.

(2) The name and mailing address of any accommodation bondsman executing the bond as surety.

(3) The name and license number of any professional bondsman executing the bond as surety and the name and license number of the runner executing the bail bond on behalf of the professional bondsman.

(4) The name of any insurance company executing the bond as surety, and the name, license number, and power of appointment number of the bail agent executing the bail bond on behalf of the insurance company.

(b) If a defendant is released upon execution of a bail bond that does not contain all the information required by subsection (a) of this section, the defendant's order of pretrial release may be revoked as provided in G.S. 15A-534(f). (2000-133, s. 6.)

**§ 15A-544.3. Entry of forfeiture.**

(a) If a defendant who was released under Part 1 of this Article upon execution of a bail bond fails on any occasion to appear before the court as required, the court shall enter a forfeiture for the amount of that bail bond in favor of the State against the defendant and against each surety on the bail bond.

(b) The forfeiture shall contain the following information:

(1) The name and address of record of the defendant.

(2) The file number of each case in which the defendant's appearance is secured by the bail bond.

(3) The amount of the bail bond.

(4) The date on which the bail bond was executed.

(5) The name and address of record of each surety on the bail bond.

(6) The name, address of record, license number, and power of appointment number of any bail agent who executed the bail bond on behalf of an insurance company.

(7) The date on which the forfeiture is entered.

(8) The date on which the forfeiture will become a final judgment under G.S. 15A-544.6 if not set aside before that date.

(9) The following notice: "TO THE DEFENDANT AND EACH SURETY NAMED ABOVE: The defendant named above has failed to appear as required before the court in the case identified above. A forfeiture for the amount of the bail bond shown above was entered in favor of the State against the defendant and each surety named above on the date of forfeiture shown above. This forfeiture will be set aside if, on or before the final judgment date shown above, satisfactory evidence is presented to the court that one of the following events has occurred: (i) the defendant's failure to appear has been stricken by the court in which the defendant was required to appear and any order for arrest that was

issued for that failure to appear is recalled, (ii) all charges for which the defendant was bonded to appear have been finally disposed by the court other than by the State's taking a voluntary dismissal with leave, (iii) the defendant has been surrendered by a surety or bail agent to a sheriff of this State as provided by law, (iv) the defendant has been served with an Order for Arrest for the Failure to Appear on the criminal charge in the case in question as evidenced by a copy of an official court record, including an electronic record, (v) the defendant died before or within the period between the forfeiture and the final judgment as demonstrated by the presentation of a death certificate, (vi) the defendant was incarcerated in a unit of the Division of Prisons of the Department of Adult Correction and is serving a sentence or in a unit of the Federal Bureau of Prisons located within the borders of the State at the time of the failure to appear as evidenced by a copy of an official court record or a copy of a document from the Division of Prisons of the Department of Adult Correction or Federal Bureau of Prisons, (vii) the defendant was incarcerated in a local, state, or federal detention center, jail, or prison located anywhere within the borders of the United States at the time of the failure to appear, or between the failure to appear and the final judgment date, and the district attorney for the county in which the charges are pending was notified of the defendant's incarceration while the defendant was still incarcerated and the defendant remains incarcerated for a period of 10 days following the district attorney's receipt of notice, as evidenced by a copy of the written notice served on the district attorney via hand delivery or certified mail and written documentation of date upon which the defendant was released from incarceration, if the defendant was released prior to the time the motion to set aside was filed, (viii) notice of forfeiture was not provided pursuant to G.S. 15A-544.4(e), or (ix) the court refused to issue an order for arrest for the defendant's failure to appear, as evidenced by a copy of an official court record, including an electronic record. The forfeiture will not be set aside for any other reason. If this forfeiture is not set aside on or before the final judgment date shown above, and if no motion to set it aside is pending on that date, the forfeiture will become a final judgment on that date. The final judgment will be enforceable by execution against the defendant and any accommodation bondsman and professional bondsman on the bond. The final judgment will also be reported to the Department of Insurance. Further, no surety will be allowed to execute any bail bond in the above county until the final judgment is satisfied in full." (2000-133, s. 6; 2007-105, s. 2; 2011-145, s. 19.1(h); 2012-83, s. 25; 2017-186, s. 2(yy); 2021-180, s. 19C.9(p); 2022-73, s. 3(a).)

**§ 15A-544.4. Notice of forfeiture.**

(a) The court shall give notice of the entry of forfeiture by mailing a copy of the forfeiture to the defendant and to each surety whose name appears on the bail bond.

(b) The notice shall be sent by first-class mail to the defendant and to each surety named on the bond at the surety's address of record.

(c) If a bail agent on behalf of an insurance company executed the bond, the court shall also provide a copy of the forfeiture to the bail agent, but failure to provide notice to the bail agent shall not affect the validity of any notice given to the insurance company.

(d) Notice given under this section is effective when the notice is mailed.

(e) Notice under this section shall be mailed not later than the 30th day after the date on which the defendant fails to appear as required and a call and fail is ordered. (2000-133, s. 6; 2009-550, s. 1; 2022-73, s. 3(b).)

**§ 15A-544.5. Setting aside forfeiture.**

(a) Relief Exclusive. – There shall be no relief from a forfeiture except as provided in this section. The reasons for relief are those specified in subsection (b) of this section. The procedures for obtaining relief are those specified in subsections (c) and (d) of this section. Subsections (f), (g), and (h) of this section apply regardless of the reason for relief given or the procedure followed.

(b) Reasons for Set Aside. – Except as provided by subsection (f) of this section, a forfeiture shall be set aside for any one of the following reasons, and none other:

(1) The defendant's failure to appear has been set aside by the court and any order for arrest issued for that failure to appear has been recalled, as evidenced by a copy of an official court record, including an electronic record.

(2) All charges for which the defendant was bonded to appear have been finally disposed by the court other than by the State's taking dismissal with leave, as evidenced by a copy of an official court record, including an electronic record.

(3) The defendant has been surrendered by a surety on the bail bond as provided by G.S. 15A-540, as evidenced by the sheriff's receipt provided for in that section.

(4) The defendant has been served with an Order for Arrest for the Failure to Appear on the criminal charge in the case in question as evidenced by a copy of an official court record, including an electronic record.

(5) The defendant died before or within the period between the forfeiture and the final judgment as demonstrated by the presentation of a death certificate.

(6) The defendant was incarcerated in a unit of the Division of Prisons of the Department of Adult Correction and is serving a sentence or in a unit of the Federal Bureau of Prisons located within the borders of the State at the time of the failure to appear as evidenced by a copy of an official court record or a copy of a document from the Division of Prisons of the Department of Adult Correction or Federal Bureau of Prisons, including an electronic record.

(7) The defendant was incarcerated in a local, state, or federal detention center, jail, or prison located anywhere within the borders of the United States at the time of the failure to appear, or any time between the failure to appear and the final judgment date, and the district attorney for the county in which the charges are pending was notified of the defendant's incarceration while the defendant was still incarcerated and the defendant remains incarcerated for a period of 10 days following the district attorney's receipt of notice, as evidenced by a copy of the written notice served on the district attorney via hand delivery or certified mail and written documentation of date upon which the defendant was released from incarceration, if the defendant was released prior to the time the motion to set aside was filed.

(8) Notice of the forfeiture was not provided pursuant to G.S. 15A-544.4(e).

(9) The court refused to issue an order for arrest for the defendant's failure to appear, as evidenced by a copy of an official court record, including an electronic record.

(c) Procedure When Failure to Appear Is Stricken. – If the court before which a defendant's appearance was secured by a bail bond enters an order striking the defendant's failure to appear and recalling any order for arrest issued for that failure to appear, that court shall simultaneously enter an order setting aside any forfeiture of that bail bond. When an order setting aside a forfeiture is entered, the defendant's further appearances shall continue to be secured by that bail bond unless the court orders otherwise.

(d) Motion Procedure. – If a forfeiture is not set aside under subsection (c) of this section, the only procedure for setting it aside is as follows:

(1) Any of the following parties on a bail bond may make a written motion that the forfeiture be set aside:
   a. The defendant.
   b. Any surety.
   c. A professional bondsman or a runner acting on behalf of a professional bondsman.
   d. A bail agent acting on behalf of an insurance company.

   The written motion shall state the reason for the motion and attach to the motion the evidence specified in subsection (b) of this section.

(1a) A motion to set aside a forfeiture for the reason described in subdivision (8) of subsection (b) of this section shall be filed within 30 days of the date notice was given pursuant to G.S. 15A-544.4(d). A motion to set aside a forfeiture for any other reason in subsection (b) of this section may be filed at any time before the expiration of 150 days after the date on which notice was given pursuant to G.S. 15A-544.4(d).

(2) The motion shall be filed in the office of the clerk of superior court of the county in which the forfeiture was entered. The moving party shall, under G.S. 1A-1, Rule 5, serve a copy of the motion on the district attorney for that county and on the attorney for the county board of education.

(3) Either the district attorney or the county board of education may object to the motion by filing a written objection in the office of the clerk and serving a copy on the moving party.

(4) If neither the district attorney nor the attorney for the board of education has filed a written objection to the motion by the twentieth day after a copy of the motion is served by the moving party pursuant to Rule 5 of the Rules of Civil Procedure, the clerk shall enter an order setting aside the forfeiture, regardless of the basis for relief asserted in the motion, the evidence attached, or the absence of either.

(5) If either the district attorney or the county board of education files a written objection to the motion, then not more than 30 days after the objection is filed a hearing on the motion and objection shall be held in the county, in the trial division in which the defendant was bonded to appear.

(6) If at the hearing the court allows the motion, the court shall enter an order setting aside the forfeiture.

(7) If at the hearing the court does not enter an order setting aside the forfeiture, the forfeiture shall become a final judgment of forfeiture on the later of:
a. The date of the hearing.
b. The date of final judgment specified in G.S. 15A-544.6.

(8) If at the hearing the court determines that the motion to set aside was not signed or that the documentation required to be attached pursuant to subdivision (1) of this subsection is fraudulent or was not attached to the motion at the time the motion was filed, the court may order monetary sanctions against the surety filing the motion, unless the court also finds that the failure to sign the motion or attach the required documentation was unintentional. A motion for sanctions and notice of the hearing thereof shall be served on the surety not later than 10 days before the time specified for the hearing. If the court concludes that a sanction should be ordered, in addition to ordering the denial of the motion to set aside, sanctions shall be imposed as follows: (i) twenty-five percent (25%) of the bond amount for failure to sign the motion; (ii) fifty percent (50%) of the bond amount for failure to attach the required documentation; and (iii) not less than one hundred percent (100%) of the bond amount for the filing of fraudulent documentation. Sanctions awarded under this subdivision shall be docketed by the clerk of superior court as a civil judgment as provided in G.S. 1-234. The clerk of superior court shall remit the clear proceeds of the sanction to the county finance officer as provided in G.S. 115C-452. This subdivision shall not limit the criminal prosecution of any individual involved in the creation or filing of any fraudulent documentation.

(e) Only One Motion Per Forfeiture. – No more than one motion to set aside a specific forfeiture may be considered by the court, except that the court may consider two separate motions if one is a motion to set aside for the reason described in subdivision (8) of subsection (b) of this section.

(f) Set Aside Prohibited in Certain Circumstances. – No forfeiture of a bond may be set aside for any reason in any case in which the surety or the bail agent had actual notice before executing a bail bond that the defendant had already failed to appear on two or more prior occasions in the case for which the bond was executed. Actual notice as required by this subsection shall only occur if two or more failures to appear are indicated on the defendant's release order by a judicial official. The judicial official shall indicate on the release order when it is the defendant's second or subsequent failure to appear in the case for which the bond was executed.

(g) No Final Judgment After Forfeiture Is Set Aside. – If a forfeiture is set aside under this section, the forfeiture shall not thereafter ever become a final judgment of forfeiture or be enforced or reported to the Department of Insurance.

(h) Appeal. – An order on a motion to set aside a forfeiture is a final order or judgment of the trial court for purposes of appeal. Appeal is the same as provided for appeals in civil actions. When notice of appeal is properly filed, the court may stay the effectiveness of the order on any conditions the court considers appropriate. (2000-133, s. 6; 2007-105, s. 1; 2009-437, ss. 1, 1.1, 2; 2011-145, s. 19.1(h); 2011-377, ss. 6-8; 2011-412, s. 4.2(a)-(c); 2012-83, s. 26; 2013-139, ss. 3, 4; 2017-186, s. 2(zz); 2018-120, s. 6.1(a); 2021-180, s. 19C.9(p); 2022-73, s. 3(c).)

**§ 15A-544.6. Final judgment of forfeiture.**

A forfeiture entered under G.S. 15A-544.3 becomes a final judgment of forfeiture without further action by the court and may be enforced under G.S. 15A-544.7, on the one hundred fiftieth day after notice is given under G.S. 15A-544.4, if:

(1) No order setting aside the forfeiture under G.S. 15A-544.5 is entered on or before that date; and

(2) No motion to set aside the forfeiture is pending on that date. (2000-133, s. 6.)

**§ 15A-544.7. Docketing and enforcement of final judgment of forfeiture.**

(a) Final Judgment Docketed As Civil Judgment. – When a forfeiture has become a final judgment under this Part, the clerk of superior court, under G.S. 1-234, shall docket the judgment as a civil judgment against the defendant and against each surety named in the judgment.

(b) Judgment Lien. – When a final judgment of forfeiture is docketed, the judgment shall become a lien on the real property of the defendant and of each surety named in the judgment, as provided in G.S. 1-234.

(c) Execution; Copy to Commissioner of Insurance. – After docketing a final judgment under this section, the clerk shall:

(1) Issue execution on the judgment against the defendant and against each accommodation bondsman and professional bondsman named in the judgment and shall remit the clear proceeds to the county finance officer as provided in G.S. 115C-452.

(2) If an insurance company or professional bondsman is named in the judgment, send the Commissioner of Insurance a notice of the judgment, showing the date on which the judgment was docketed.

(d) Sureties, Professional Bail Bondsmen, Bail Agents, and Runners May Not Execute Bonds in County. – After a final judgment is docketed as provided in this section, no surety named in the judgment shall become a surety on any bail bond in the county in which the judgment is docketed until the judgment is satisfied in full. In addition, no professional bail bondsman, bail agent, or runner whose name appears on a bond posted in that person's licensed capacity for which a final judgment of forfeiture has been entered shall sign any bond in any licensed capacity statewide until the judgment is satisfied in full. (2000-133, s. 6; 2006-188, s. 2; 2016-107, s. 2.)

**§ 15A-544.8. Relief from final judgment of forfeiture.**

(a) Relief Exclusive. – There is no relief from a final judgment of forfeiture except as provided in this section.

(b) Reasons. – The court may grant the defendant or any surety named in the judgment relief from the judgment, for the following reasons, and none other:

(1) The person seeking relief was not given notice as provided in G.S. 15A-544.4. However, the court shall not grant relief under this subdivision solely due to the court's failure to provide notice within 30 days as required by G.S. 15A-544.4(e).

(2) Other extraordinary circumstances exist that the court, in its discretion, determines should entitle that person to relief.

(c) Procedure. – The procedure for obtaining relief from a final judgment under this section is as follows:

(1) At any time before the expiration of three years after the date on which a judgment of forfeiture became final, any of the following parties named in the judgment may make a written motion for relief under this section:
a. The defendant.
b. Any surety.
c. A professional bondsman or a runner acting on behalf of a professional bondsman.
d. A bail agent acting on behalf of an insurance company.
The written motion shall state the reasons for the motion and set forth the evidence in support of each reason.
(2) The motion shall be filed in the office of the clerk of superior court of the county in which the final judgment was, entered. The moving party shall, under G.S. 1A-1, Rule 5, serve a copy of the motion on the district attorney for that county and on the attorney for the county board of education.
(3) A hearing on the motion shall be scheduled within a reasonable time in the trial division in which the defendant was bonded to appear.
(4) At the hearing the court may grant the party any relief from the judgment that the court considers appropriate, including the refund of all or a part of any money paid to satisfy the judgment.

(d) Only One Motion. – No more than one motion by any party for relief under this section may be considered by the court.

(e) Finality of Judgment as to Other Parties Not Affected. – The finality of a final judgment of forfeiture shall not be affected, as to any party to the judgment, by the filing of a motion by, or the granting of relief to, any other party.

(f) Appeal. – An order on a motion for relief from a final judgment of forfeiture is a final order or judgment of the trial court for purposes of appeal. Appeal is the same as provided for appeals in civil actions. When notice of appeal is properly filed, the court may stay the effectiveness of the order on any conditions it considers appropriate. (2000-133, s. 6; 2011-377, ss. 9, 10; 2013-139, s. 5; 2022-73, s. 3(d).)

**§ 15A-545. Reserved for future codification purposes.**

Part 3. Other Provisions.

**§ 15A-546. Contempt.**

Nothing in this Article is intended to interfere with or prevent the exercise by the court of its contempt powers. (1973, c. 1286, s. 1.)

**§ 15A-547. Right to habeas corpus.**

Nothing in this Article is intended to abridge the right of habeas corpus. (1973, c. 1286, s. 1.)

**§ 15A-547.1. Remit bail bond if defendant sentenced to community or intermediate punishment.**

If a defendant is convicted and sentenced to community punishment or intermediate punishment and no appeal is pending, then the court shall remit the bail bond to the obligor in accordance with the provisions of this Article and shall not require that the bail bond continue to be posted while the defendant serves his or her sentence. (1995, c. 290, s. 4.)

**§§ 15A-547.2 through 15A-547.6. Reserved for future codification purposes.**