NORTH CAROLINA
ADMINISTRATIVE OFFICE
of the COURTS

Legal and Legislative Services Division
Peter E. Powell
Legal and Legislative Administrator
PO Box 2448, Raleigh, NC 27602
T 919 890-1300 F 919 890-1914

MEMORANDUM

TO: Superior Court Judges
District Court Judges
Magistrates
Clerks of Superior Court
District Attorneys
Public Defenders

FROM: Troy D. Page
Assistant Legal Counsel

DATE: November 20, 2013

RE: Pretrial Release Legislation - December 2013[1]

The 2013 General Assembly enacted several bills affecting pretrial release. With one exception noted below (which is of no procedural significance to the bail bond process), all of the changes discussed below take effect on December 1, 2013. The specific context in which that effective date applies (*e.g.*, bail hearings occurring, bonds posted) is addressed with each individual change below. This memo discusses the changes in terms of the two stages of the bail process: setting conditions of release and posting bond.

I. Setting Conditions of Release

A. New Rebuttable Presumption Against Release - Firearm Offenses

S.L. 2013-298 (SB 316, Pretrial Release/Rebuttable Presumption)[2] enacts a new subsection (f) of G.S. 15A-533, creating a new presumption against setting conditions of release for defendants charged with certain firearm offenses and restricting the authority to set conditions of release for those offenders to district court and superior court judges. Procedurally, this presumption against release functions in the same manner as the existing presumptions against release for certain defendants charged with drug trafficking and gang offenses under G.S. 15A-533(d) and (e), respectively.

The new presumption applies to "proceedings to determine pretrial release conditions on or after" December 1, 2013, so it applies to subsequent hearings to set or modify conditions of release in pending cases as well as to new charges initiated or new offenses committed on or after December 1.

The new presumption against release applies when the judicial official determining conditions of release "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 either of the following things is true:

- 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; or

[1] For future reference, this memo will be posted on the NCAOC's intranet site for Judicial Branch personnel at https://cis1.nccourts.org/intranet/aoc/legalservices/legalmemos/criminal.jsp.
[2] Full text of the enacted bill is available at http://www.ncleg.net/Sessions/2013/Bills/Senate/PDF/S316v4.pdf.

- 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.

If the defendant fits the above criteria, then the limitations of G.S. 15A-533(g)[3] apply:

- a magistrate or clerk may not set conditions of release;[4] and
- a district court judge or superior court judge may set conditions of release for the defendant only upon determining that "there is a reasonable assurance that the person will appear and release does not pose an unreasonable risk of harm to the community."

B. Criminal Contempt - Bail Hearing Required If Incarceration Imposed

S.L. 2013-303 (HB 450, Criminal Contempt/Bail Procedure)[5] amends G.S. 5A-17 to require a bail hearing for any person punished with confinement (*i.e.*, jail time) for criminal contempt.

Currently, G.S. 5A-17 provides only that

> A person found in criminal contempt may appeal in the manner provided for appeals in criminal actions, except appeal from a finding of contempt by a judicial official inferior to a superior court judge is by hearing de novo before a superior court judge.

S.L. 2013-303 codifies the text above as subsection (a) of the statute but does not change it. Therefore appeals from criminal contempt (regardless of the sanction imposed) will continue to proceed as before: appeals from magistrates, clerks, and district court judges are to Superior Court for a *de novo* proceeding, and appeals from the Superior Court are to the appellate division. However, if a contempt judgment entered on or after December 1, 2013, imposes confinement as a sanction, then the amended G.S. 5A-17 provides the appealing contemnor with a right to a prompt bail hearing and specifies the judicial officials who can conduct that hearing.[6]

For "confinement imposed on or after" December 1, 2013,[7] when the contemnor appeals from the judgment of contempt, new G.S. 5A-17(b) provides that "a bail hearing shall be held within a reasonable time period after imposition of the confinement" and that the official conducting the bail hearing must be:

- a district court judge if the confinement is imposed by a clerk or magistrate;
- a superior court judge if the confinement is imposed by a district court judge; or
- a superior court judge other than the superior court judge that imposed the confinement.

The "reasonable time period" in subsection (b) appears to mean no more than 24 hours, because new G.S. 5A-17(c) further provides that

> A person found in contempt and who has given notice of appeal may be retained in custody not more than 24 hours from the time of imposition of confinement without a bail determination being made by a judicial official as designated under … subsection (b) of this section. If a designated judicial official has not acted within 24 hours of the imposition of confinement, any judicial official shall act under the provisions of subsection (b) of this section and hold the bail hearing.

The new subsections (b) and (c) do not distinguish between summary proceedings for direct criminal contempt and plenary proceedings for criminal contempt (whether direct or indirect), so a contemnor is entitled to a bail hearing upon appeal from any judgment of criminal contempt that imposes confinement as a sanction. Further, the new right to a bail hearing is not limited to appeals to the Superior Court for a *de novo*

[3] S.L. 2013-298 codifies the current, concluding paragraph of G.S. 15A-533 as its own subsection (g).
[4] A magistrate or clerk conducting a pretrial appearance or bail hearing for a defendant who meets the criteria should enter the release order (AOC-CR-200) with the finding that "Your release is not authorized," document the official's finding that the presumption applies under "Additional Information," and set the case for its next appearance before the court.
[5] Full text of the enacted bill is available at http://www.ncleg.net/Sessions/2013/Bills/House/PDF/H450v4.pdf.
[6] The NCAOC forms that include a judgment for criminal contempt will be amended effective December 1 to include a reminder note to the court about the need for a bail hearing when confinement is imposed.
[7] The new right to a bail hearing depends on the date of entry of the contempt judgment. Other dates - like the date of the underlying contemptuous act or the date when a show-cause order was issued - are irrelevant.

hearing; it applies equally to appeals from the Superior Court to the appellate division.[8]

In summary, the amended G.S. 5A-17 provides that when a person is sanctioned with confinement for criminal contempt and gives notice of appeal:

- The court "shall" provide the contemnor with a bail hearing.
- The official who imposed the judgment may not conduct the hearing (except as noted below).
- The hearing must be held "within a reasonable time," but no later than 24 hours after the imposition of confinement.
- If none of the officials authorized by G.S. 5A-17(b) to conduct the hearing has done so within 24 hours after the imposition of confinement, then at the 24-hour mark, the hearing must occur before any available judicial official (including the official who imposed the confinement).

C. New and Amended Minimum Bond Amounts

In addition to creating the new rebuttable presumption against release for certain firearm offenses discussed above, S.L. 2013-298 (SB 316, Pretrial Release/Rebuttable Presumption)[9] amends G.S. 15A-534 to increase and enact certain minimum monetary bonds.

1. Minimum Bond after Failure to Appear

G.S. 15A-534(d1) currently mandates certain conditions of release for a defendant who previously has failed to appear for one or more of the charges for which the conditions are being set. Subsection (d1) provides that the official setting conditions must impose (in order of priority):

- at a minimum, the conditions recommended in any order for arrest (OFA) issued for the most recent failure to appear;
- if there were no conditions recommended in an OFA, a secured bond for at least double the most recent monetary bond required for the charges (whether it was secured or unsecured); or
- if there are no conditions recommended in an OFA and there was no prior monetary bond, a secured bond of at least $500.00.

S.L. 2013-298 increases the minimum bond in the last option from $500.00 to $1,000.00, effective for "proceedings to determine pretrial release conditions" that occur on or after December 1, 2013.

2. Bond for New Charges Controlled by Bond for Pending Prior Offenses

Effective for any proceeding to determine conditions of release on or after December 1, 2013, S.L. 2013-298 also enacts a new subsection (d3) in G.S. 15A-534, which provides:

> (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 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).

a. *Ambiguous Criteria of G.S. 15A-534(d3)*

The new subsection (d3) is somewhat ambiguous about whether it applies only once or applies over the entire life cycle of the present charge for which conditions of release are being determined. *I.e.*, it is unclear whether "charged with an offense" means:

- "[initially] charged with," so that its requirements would apply only when a judicial official first determines the conditions of release for a defendant who was charged while on pretrial release for a prior offense; or

[8] Superior Court judges who set conditions of release for an appeal from a criminal contempt judgment imposed in Superior Court should proceed under G.S. 15A-536, which governs conditions of release after conviction in Superior Court.
[9] Full text of the enacted bill is available at http://www.ncleg.net/Sessions/2013/Bills/Senate/PDF/S316v4.pdf.

- "has pending charges for" that offense, in which case the new subsection would apply whenever the court reviews or considers the defendant's conditions of release in the present case, including reviews subsequent to the initial appearance.

It appears that the first interpretation is the most consistent with related statutes, meaning that the new subsection (d3) applies only at the initial determination of conditions of release for a defendant who obtains a new charge while on pretrial release for a prior offense.[10] The court then is free to modify those initial conditions as it deems appropriate at a later date, pursuant to G.S. 15A-534(e) (including a reduction from the initial bond mandated by subsection (d3)). This interpretation is consistent with the General Assembly's phrasing of the new (d3)'s criteria in almost identical language to that of G.S. 15A-534(d2), which governs conditions of release for a defendant charged with a new felony while on probation and for which the context appears to contemplate only the initial determination of conditions of release for that new felony.[11] The alternate interpretation (that (d3) applies each time the bond is reviewed in the present case) would be inconsistent with the court's general authority under G.S. 15A-534(e) to modify conditions of release over the life cycle of a case, and it could lead to some absurd outcomes (discussed in the concluding paragraph under "Determining the 'most recent' bond for a prior offense," below) that cannot be explained in terms of a coherent underlying policy.

Notwithstanding the NCAOC's interpretation above, questions of statutory construction ultimately must be answered by the judicial officials presiding over individual cases, so the NCAOC defers to the individual judgments of the officials who must apply the new G.S. 15A-534(d3). In order to ensure consistent application within a single district, senior resident superior court judges, in consultation with their chief district court judges, may find it advisable to guide local judicial officials' application of the new G.S. 15A-534(d3) via the local bond policy promulgated pursuant to G.S. 15A-535.

b. *Determining the "most recent" bond for a prior offense*

Regardless of how a judicial official interprets the ambiguous text of G.S. 15A-534(d3) discussed above, once the official determines that a present case meets the criteria of subsection (d3), then the official must determine the "most recent previous secured or unsecured bond for the charges" (if any) in order to determine conditions of release for the present case.[12]

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[10] "Prior offense," itself, may contain some ambiguity. One possible interpretation of "prior offense" is that it refers only to an offense committed prior to the present offense for which conditions of release are being determined. However, the plain text of subsection (d3) does not contain that limitation. Subsection (d3) applies when the defendant is "charged" with an offense while "currently on pretrial release for a prior offense." The plain text suggests that subsection (d3) applies based on the charging date for the present offense, regardless of the relative offense dates. Further, when the General Assembly has intended to specify that the commission of a new offense while on pretrial release is relevant, it has done so explicitly. *See, e.g.*, G.S. 15A-1340.16(d)(12), the aggravating factor applied in felony sentencing when the defendant "committed the offense while on pretrial release on another charge," and perhaps more significantly, the new rebuttable presumption against pretrial release for certain firearm offenses under G.S. 15A-533(f) - enacted in the same bill as G.S. 15A-534(d3) - for which one of the criteria for denying release says explicitly that it applies when the present firearm offense is "committed while the person was on pretrial release" (emphasis added) for a prior firearm offense. Because G.S. 15A-534(d3) does not state explicitly that it applies only when the present offense is committed while on pretrial release for a prior offense, the NCAOC interprets "prior offense" to mean one for which the defendant is on pretrial release at the time the present offense is charged.

[11] For a discussion of the application of G.S. 15A-534(d2) and its companion provision in G.S. 15A-1345(b1), see the memo of November 19, 2009, "Pretrial Release and Bond Forfeitures – 2009 Legislation and New/Amended Forms," available to Judicial Branch personnel at https://cis1.nccourts.org/intranet/aoc/legalservices/legalmemos/criminal.jsp.

[12] The NCAOC interprets the two references to "the charges" to refer to the "prior offense," not the present case for which conditions of release are being set under (d3). In addition to the ambiguity in the phrase "charged with an offense" discussed above, the two references to "the charges" in subsection (d3) are somewhat ambiguous in that they could be construed to refer to the present case for which an official is setting conditions of release, or they might refer to the "prior offense" earlier in subsection (d3). At first blush, reading "the charges" to refer to the present case might make sense in the last phrase of the subsection, which would mean that "if no bond has yet been required for the [present] charges, [the official must set bond] in the amount of at least one thousand dollars ($1,000)." However, that interpretation merely would turn the new subsection (d3) into a requirement of an initial secured bond of at least $1,000 for all cases, because at the initial appearance, it always will be true that "no bond has yet been required for the [present] charges." This interpretation effectively would annul G.S. 15A-534(a) and related provisions that authorize types of pretrial release other than a secured bond whenever a defendant is charged with an additional offense while on pretrial release. Further, reading the first instance of "the charges" to refer to the present case renders an absurd result. It would mean that whenever the court considers the conditions of release for a defendant with a prior pending offense, the court must require a secured bond in double the amount of the most recent bond for "the [present] charges" (*i.e.*, the same case), meaning that any consideration of the defendant's monetary condition of release for the present case could result only in an increase from the previous bond in the same case. In effect, to read both instances of "the charges" to refer to the present case (rather than the prior offense) means that the court could never reduce the bond for a defendant charged while on pretrial release for another offense; that interpretation would require a minimum $1,000 secured bond at the initial determination of conditions of release, and any subsequent consideration of that bond would require that it double. "In construing statutes courts normally

The new subsection's reference to a "prior offense" is not limited to cases in the same county, nor does it consider the nature of the prior offense charged or require any relationship between the prior offense and the present case. In short, if the defendant is on pretrial release for a prior offense still pending anywhere in the State that triggers the application of subsection (d3), then the most recent release order that sets or modifies the conditions of release in that prior case will control the conditions of release in the present case. If the defendant has multiple prior offenses pending (each of which might have its own conditions of release), only the "most recent" release order that sets a monetary condition of release (secured or unsecured) among all of those prior cases is relevant under subsection (d3). The relative amounts of different bonds for the multiple prior offenses, the dates on which those offenses occurred or were charged, and any other factors all appear to be irrelevant. Nor does it appear that the court should aggregate the bonds across those multiple cases under subsection (d3) when determining conditions of release for the present case. According to the plain text of subsection (d3), the only release order that matters among all of the defendant's other pending, prior offenses is the one, chronologically most recent order containing a monetary bond.

There is no single, statewide source of information about conditions of release in pending cases. Two of the NCAOC's automated systems - the Automated Warrant Repository (NC AWARE) and the Automated Criminal/Infraction System (ACIS) - allow court officials to record bond information for pending cases, but local practices for recording and updating that information vary from county to county (generally depending on available staff resources). Therefore when determining whether or not to apply subsection (d3), a judicial official should follow the steps under "Procedures for Applying G.S. 15A-534(d3)," below. If the official reaches Step 3 (reviewing conditions of release in other cases), the official should consult NC AWARE and ACIS to determine whether or not the defendant's conditions of release for other cases are recorded in those systems and are current. If there is no bond information in those systems (or there is any doubt about whether or not it is current), and the determination of conditions of release occurs during business hours, the official should contact the clerk's office(s) where the other charges are pending to obtain the most recent conditions of release in the prior cases. If there is no way to obtain information about the conditions of release in other cases (whether from an automated system or from the clerk) within a reasonable amount of time for the defendant's initial appearance, the official should not delay setting the conditions of release for an unreasonable amount of time in an attempt to obtain that information.[13]

c. *Procedures for Applying G.S. 15A-534(d3)*

In light of the analysis above, the following appear to be the steps for applying G.S. 15A-534(d3).

1) First, determine whether or not the defendant for whom conditions of release are being determined has any other pending case anywhere in the State that would constitute a "prior offense" under subsection (d3).

    a) If not, then stop here, ignore subsection (d3), and set conditions as otherwise provided in Chapter 15A, Article 26.

    b) If there are other charges pending, go to the step 2.

2) For any such prior offense(s), determine whether or not the defendant was on pretrial release at the time of the present charge.

    a) If the defendant was not on pretrial release for a prior offense at the time of the present charge, stop here, ignore subsection (d3), and set conditions as otherwise provided in Chapter 15A, Article 26.

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adopt an interpretation which will avoid absurd or bizarre consequences, the presumption being that the legislature acted in accordance with reason and common sense and did not intend untoward results." *State ex rel. Commissioner of Insurance v. North Carolina Automobile Rate Administrative Office*, 294 N.C. 60, 68, 241 S.E.2d 324, 329 (1978) (citations omitted). Therefore to avoid the absurd outcomes that would result from reading "the charges" to refer to the present case, it appears that both references to "the charges" mean only the prior charges that triggered the application of subsection (d3) in the first place.

[13] When the General Assembly has wished to create exceptions to G.S. 15A-533(b) and thereby deny or delay conditions of release for certain defendants or cases, it has done so expressly. *See, e.g.*, G.S. 15A-534(d2) (setting conditions for a probationer arrested for a new felony may be delayed for as long as 96 hours if judicial official cannot obtain the information needed to determine whether or not a defendant "poses a danger to the public"). Because the General Assembly did not provide for delaying the determination of conditions of release under subsection (d3) in order to obtain bond information from other cases, it appears that the defendant still is entitled to a prompt determination of conditions based on whatever information the official can obtain within a reasonable amount of time.

b) If the defendant was on pretrial release for a prior offense, go to the step 3.

3) For all of the prior offenses for which defendant was on pretrial release at the time of the present charge, review the most recent conditions of release in each case.

a) If any release order for a prior offense for which the defendant was on pretrial release imposes a monetary bond (whether secured or unsecured), then the most recent release order entered or modified with such a bond will be the controlling order. If the defendant was on pretrial release under multiple release orders that imposed monetary bonds at the time of the present offense, then only the chronologically last order to be entered or modified is relevant; the relative amounts, the specific county, the underlying charges, etc., all are irrelevant when determining which order is the controlling one. Set a secured bond in the present case for at least double the amount of the controlling release order.

b) If no release order for a prior offense imposed a monetary bond (*e.g.*, if all release orders for prior offenses imposed only written promises to appear or custody releases), set conditions of release for the present case according to the local bond policy, but at a minimum, impose a secure bond of at least $1,000.

c) If unable to obtain information about any of the release orders for the prior offenses in a reasonable amount of time, then stop here, ignore subsection (d3), and set conditions as otherwise provided in Chapter 15A, Article 26, in order to avoid an unreasonable delay in determining the defendant's conditions of release.[14]

As a final note, the steps described above illustrate why a broad interpretation of subsection (d3) (to apply beyond the initial appearance) is likely to result in some absurd outcomes, as mentioned above under "Ambiguous Criteria of G.S. 15A-534(d3)." Because the "most recent" conditions of release for a prior offense control the minimum bond under subsection (d3), if subsection (d3) applies beyond the initial appearance, then each modification of the conditions of release in any prior offense would suggest that the court should revisit the conditions of release in the present case and adjust them accordingly. Nothing in the plain text of subsection (d3) or in S.L. 2013-298 suggests that General Assembly intended that courts make repeated (and possibly erratic) changes in the conditions of release over the life cycle of the present case as the result of changes to the conditions of release in other, unrelated cases, so the most reasonable application of the new G.S. 15A-534(d3) is that it applies only at the initial determination of conditions of release in the present case.

II. Posting Bonds

A. Professional Bondsman Can Post Cash Bonds in the Same Manner as Insurance Companies

Effective December 1, 2013, S.L. 2013-139 (HB 762, Amend Certain Bail Bond Procedures)[15] amends the definition of "bail bond" in G.S. 15A-531(4), which currently provides in part that an insurance company can post bond for a release order that demands cash: "A bail bond for which the surety is a bail agent acting on behalf of an insurance company is considered the same as a cash deposit for all purposes in this Article." Therefore under the existing definition of "bail bond," an insurance company acting through its bail agent may post a "cash" bond without depositing actual currency with the courts.[16]

The amended G.S. 15A-531(4) amends that sentence to provide that a bond signed by "any surety, as defined in G.S. 15A-531(8)a. and b." is considered the same as cash. The two sureties defined in G.S.

[14] It may be advisable to document on the release order that information about the conditions of release in other cases was unavailable, so that it is clear on the face of the record why the release order does not set a bond that is double the bond for a prior offense.
[15] Full text of the enacted bill is available at http://www.ncleg.net/Sessions/2013/Bills/House/PDF/H762v3.pdf. HB 762 also amended the statutes governing service of certain motions in bond forfeiture proceedings; those changes are addressed in a separate memo, "Bond Forfeiture Legislation 2013," posted along with this memo on the NCAOC intranet for Judicial Branch personnel at https://cis1.nccourts.org/intranet/aoc/legalservices/legalmemos/criminal.jsp. Further, HB 762 amended G.S. 15A-540(b) to allow a surety to provide an expanded list of documentation (other than just a certified copy of the bail bond) as proof of his/her authority to surrender a defendant to a Sheriff after a breach of the bond. However, because surrender is to the Sheriff, only (not to court officials), that change is not directly relevant to the courts' role in the pretrial release process. The only change that court officials should see from this amendment is that clerks should receive fewer requests for certified copies of bail bonds from sureties who wish to carry out surrenders.
[16] This does not apply to cash bonds in child support contempt proceedings, for which G.S. 15A-531(4) provides that such bonds "shall not be satisfied in any manner other than the deposit of cash."

15A-531(8)a. and b. are insurance companies and professional bondsmen, respectively. Therefore for any bond posted on or after December 1, 2013,[17] an insurance company (through a bail agent) or a professional bondsman (personally or through a runner) may execute a "cash" bond without providing actual cash.[18]

Note that any "cash" bond posted by an insurance company or professional bondsman should not be marked as a "cash" bond on the appearance bond (form AOC-CR-201) or entered as a "cash" bond at forfeiture. A "cash" bond posted by either of those two sureties with a power of attorney statement or professional bondsman's seal still is just a "secured" bond for the court's purposes. Court officials should mark an appearance bond or forfeiture as "cash" only when actual U.S. currency has been deposited to secure the bond.

B. New Bondsman Badges

Although of no relevance to the courts' role in the pretrial release process, a final bill merits a brief mention, because court officials may be presented with new badges when bondsmen appear to post bonds.

Effective on June 26, 2013, S.L. 2013-209 (HB 597, Bail Bondsman/Official Shield)[19] enacted a new subsection (d1) in G.S. 58-71-40, authorizing bail bondsmen to carry a "shield" (badge) as described in that subsection. The new badge's physical appearance is similar to the private investigator shield authorized under G.S. 74C-5(12) and 12 NCAC 07D .0405.[20] The bail bondsman's badge varies from the private investigator badge only in that it must say "North Carolina Bail Agent"[21] instead of "Private Investigator," and the bondsman's badge must bear both the bondsman's last name and his or her license number.

The badge is completely irrelevant to the act of posting bail, so court officials should give it no consideration in deciding whether or not a person proposing to serve as surety should be allowed to do so.[22] If a bondsman appears on the current copy of the Surety Report for the county in which a case is pending, he or she can execute bonds for that county in the capacity for which he or she is listed on the report. If the bondsman (and his/her principal, if acting as a bail agent or runner) does not appear on the Surety Report for a county, he or she may not execute bonds for that county.[23]

III. Conclusion

Court officials with questions or concerns about the pretrial release changes described herein should feel free to contact me at Troy.D.Page@nccourts.org or at 919-890-1323. Questions about the use of NCAOC's automated systems such as ACIS or NC AWARE should be directed to the NCAOC's field support personnel for the official's county.[24] Law enforcement officers and officials of other agencies external to the Judicial Branch with questions about the impact of the legislation described herein should consult their agencies' counsel; counsel for the NCAOC cannot provide legal advice to entities outside the Judicial Branch.

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[17] S.L. 2013-139 is effective December 1, 2013, without qualification. Therefore the amended statute applies immediately for any bond executed on or after that date. The date of the underlying offense(s) and the date of entry of the release order are irrelevant.

[18] The exception for bonds in child support contempt proceedings will continue to apply, so it will remain the case that a cash bond for a child support contempt proceeding can be satisfied only by the deposit of actual cash with the court.

[19] Enacted bill available at http://www.ncleg.net/Sessions/2013/Bills/House/PDF/H597v5.pdf.

[20] An image of the badge for private investigators is available at http://reports.oah.state.nc.us/ncac/title%2012%20-%20justice/chapter%2007%20-%20private%20protective%20services/subchapter%20d/12%20ncac%2007d%20.0405.pdf.

[21] Note that the badge is authorized under G.S. 58-71-40, which applies to all licensed bondsmen – professional bondsmen, bail agents (formerly "surety bondsmen") and runners – but the new badges must say "bail agent," regardless of a bondsman's actual license type(s).

[22] Note that although the new badge is irrelevant to the bonding process, HB 597 created a new misdemeanor related to the badge. A bondsman's possession of a badge that "deviates from the design requirements" of G.S. 58-71-40(d1) constitutes a "violation of the statute by the licensee," G.S. 58-71-40(d1), which is a misdemeanor under G.S. 58-71-185 ("any person who violates any of the provisions of this Article is guilty of a Class 1 misdemeanor"). Therefore any court official presented with a badge by a licensed bondsman that does not conform to the requirements of the new subsection (d1) should proceed as he or she would for any other Class 1 misdemeanor committed in the official's presence.

[23] The current Surety Report of valid sureties for each county is available in NC AWARE, VCAP, and on the NCAOC website at http://www1.aoc.state.nc.us/cpfpublic/cpfSurety.do.

[24] A directory of field support staff by county and district is available to Judicial Branch personnel at https://cis1.nccourts.org/intranet/directory/fieldservices.jsp.