

DOMESTIC VIOLENCE CRIMES AND THE 48-HOUR RULE

Brittany Bromell, UNC School of Government • September 2025

As a special approach to setting conditions of pretrial release, the “48-hour rule,” as it is known in domestic violence cases, requires that a judge set a defendant’s pretrial release conditions during the first forty-eight hours after arrest for certain offenses. The rule is set out in Chapter 15A, Section 534.1 of the North Carolina General Statutes (hereinafter G.S.), which lists the offenses subject to the 48-hour rule. Some offenses are subject to the rule based on the offense alone. A greater number of offenses are subject to the rule only if the defendant is charged with an offense listed in the statute and the defendant and victim are or have been in a relationship described in the statute.

This guide is intended to assist magistrates and others in applying the 48-hour rule. It covers three categories of offenses: (1) those for which only a judge may determine conditions of release, even beyond the initial forty-eight hours;

(2) those that automatically trigger the 48-hour rule without an additional showing of a qualifying relationship; and (3) those that are subject to the 48-hour rule only if the defendant and alleged victim are or have been in a relationship described in the statute.

Note that each of the offenses listed in the chart is a covered offense under the terms of the 48-hour rule, though many of the offenses are unlikely to arise in a domestic violence context and normally will not involve a qualifying victim.

Also included in the guide are charts for (1) issuing a domestic violence protective order (DVPO) pursuant to G.S. 50B-1 and (2) issuing a charge for the misdemeanor crime of domestic violence pursuant to G.S. 14-32.5. These charts are included primarily to distinguish the lists of qualifying relationships between the three statutes (G.S. 15A-534.1, 50B-1, and 14-32.5).

Setting Conditions of Pretrial Release for Crimes of Domestic Violence

G.S. 15A-534.1 (also referred to as “the 48-hour rule” and “imposing a DV hold”)

Note: Each of the offenses listed below is a covered offense under the terms of the 48-hour rule, though many of the offenses are unlikely to arise in a domestic violence context and normally will not involve a qualifying victim.

STEP 1	STEP 2	STEP 3
ALLEGED OFFENSE(S)	RELATIONSHIP(S)	DENY, DELAY, OR SET CONDITIONS?
G.S. 14-27.21: First-degree forcible rape G.S. 14-27.22: Second-degree forcible rape G.S. 14-27.23: Statutory rape of a child by an adult G.S. 14-27.24: First-degree statutory rape G.S. 14-27.25: Statutory rape of person who is 15 years of age or younger G.S. 14-27.26: First-degree forcible sexual offense G.S. 14-27.27: Second-degree forcible sexual offense G.S. 14-27.28: Statutory sexual offense with a child by an adult G.S. 14-27.29: First-degree statutory sexual offense G.S. 14-27.30: Statutory sexual offense with a person who is 15 years of age or younger G.S. 14-32(a): Felonious assault with deadly weapon with intent to kill or inflicting serious injury (<i>applies only to subsection (a) of statute</i>) G.S. 14-34.1: Discharging certain barreled weapons or a firearm into occupied property G.S. 14-39: Kidnapping G.S. 14-58: Punishment for arson (<i>applies only to first-degree arson</i>)	- No further inquiry into a relationship is necessary. - Pursuant to G.S. 15A-533(b), only a judge may set conditions of release for these offenses, regardless of whether there is a qualifying victim.	Has the defendant been charged with any of the listed offenses? YES DENY conditions of release and order that the defendant be brought for a first appearance before a judge. NO SET CONDITIONS of release.
G.S. 14-32.5: Misdemeanor crime of domestic violence (<i>for offenses committed on or after December 1, 2025</i>) G.S. 14-134.3: Domestic criminal trespass G.S. 50B-4.1: Violation of valid protective order	- No further inquiry into a relationship is necessary. - These offenses automatically trigger the 48-hour rule, regardless of whether there is a qualifying victim.	Has the defendant been charged with any of the listed offenses? YES DELAY conditions of release and order that the defendant be taken to the first available court session to have conditions of release set by a judge within 48 hours after arrest. NO SET CONDITIONS of release.

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STEP 1	STEP 2	STEP 3
ALLEGED OFFENSE(S)	RELATIONSHIP(S)	DENY, DELAY, OR SET CONDITIONS?
G.S. 14-16.6:^a Assault on executive, legislative, or court officer G.S. 14-16.7:^a Threats against executive, legislative, or court officers G.S. 14-23.5: Assault inflicting serious bodily injury on an unborn child G.S. 14-23.6: Battery on an unborn child G.S. 14-27.31: Sexual activity by a substitute parent or custodian G.S. 14-27.32: Sexual activity with a student G.S. 14-27.33A: Sexual contact or penetration under pretext of medical treatment G.S. 14-28: Malicious castration G.S. 14-28.1: Female genital mutilation of a child G.S. 14-29: Castration or other maiming without malice aforethought G.S. 14-30: Malicious maiming G.S. 14-30.1: Malicious throwing of corrosive acid or alkali G.S. 14-31: Maliciously assaulting in a secret manner G.S. 14-32: Felonious assault with deadly weapon with intent to kill or inflicting serious injury <i>(applies to subsections (b) through (e) of statute)</i> G.S. 14-32.1: Assaults on individuals with a disability G.S. 14-32.2: Patient abuse and neglect G.S. 14-32.3: Domestic abuse, neglect, and exploitation of disabled or elder adults G.S. 14-32.4: Assault inflicting serious bodily injury; strangulation G.S. 14-32.5: Misdemeanor crime of domestic violence <i>(applies to offenses committed before December 1, 2025)</i> G.S. 14-32.6: Habitual domestic violence <i>(effective for offenses committed on or after December 1, 2025)</i> G.S. 14-33: Misdemeanor assaults, batteries, and affrays, simple and aggravated	One of the following relationships must exist between the defendant and the alleged victim for an offense to be charged: ■ Spouse or former spouse ■ Person with whom the defendant lives or has lived as if married ■ Person with whom the defendant is or has been in a dating relationship	Has the defendant been charged with any of the listed offenses <i>and</i> does one of the listed relationships exist? YES DELAY conditions of release and order that the defendant be taken to the first available court session to have conditions of release set by a judge within 48 hours after arrest. NO SET CONDITIONS of release.

a. When charging this offense—effective for offenses committed on or after December 1, 2025—the 48-hour rule set forth in G.S. 15A-534.9 will apply regardless of whether there is a qualifying victim.

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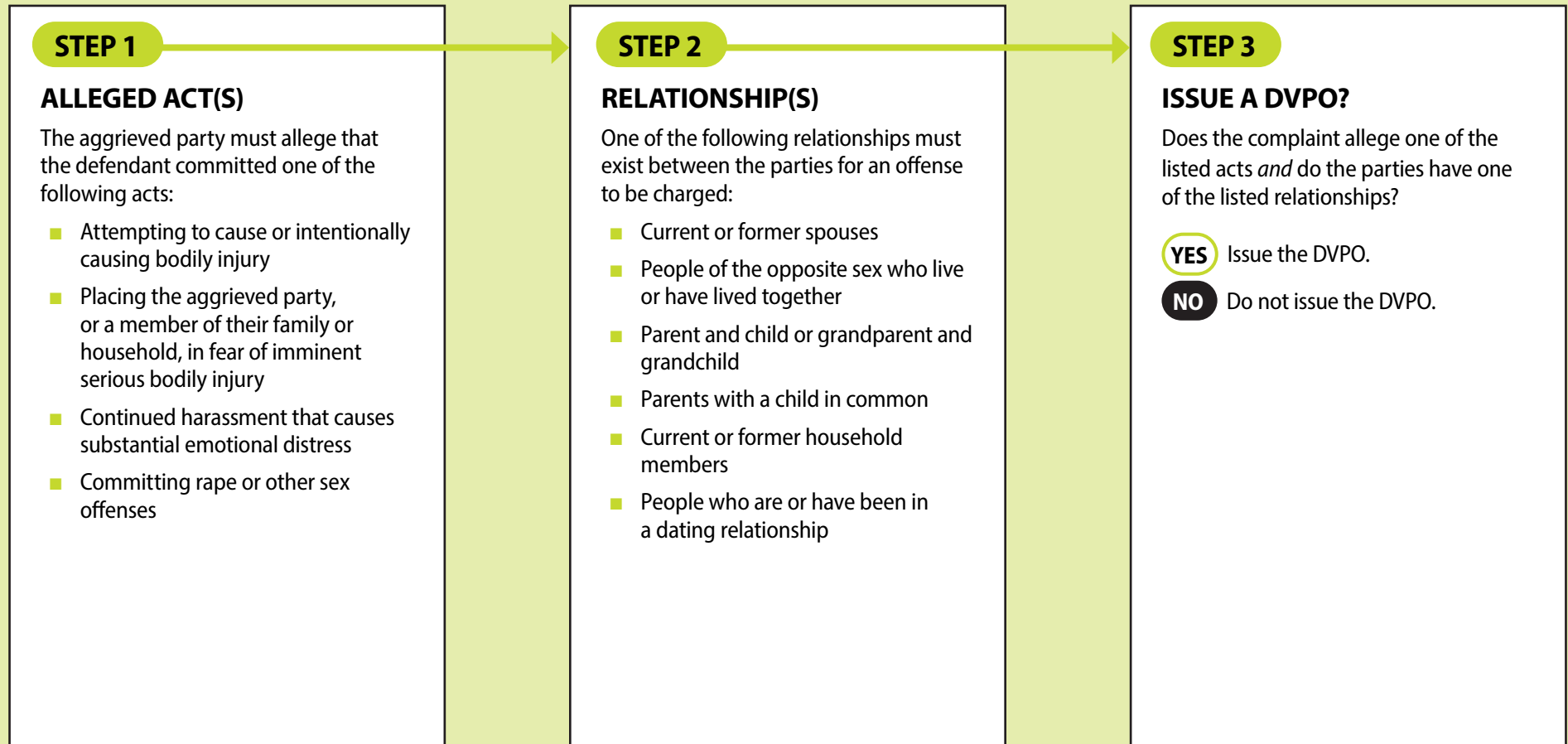
STEP 1	STEP 2	STEP 3
ALLEGED OFFENSE(S)	RELATIONSHIP(S)	DENY, DELAY, OR SET CONDITIONS?
G.S. 14-33.2: Habitual misdemeanor assault G.S. 14-34: Assaulting by pointing gun G.S. 14-34.1A: Discharging certain barreled weapons or a firearm at or into certain unoccupied emergency vehicles G.S. 14-34.2: Assault with a firearm or other deadly weapon upon governmental officers or employees, company police officers, or campus police officers G.S. 14-34.4: Adulterated or misbranded food, drugs, or cosmetics; intent to cause serious injury or death; intent to extort G.S. 14-34.5: Assault with a firearm on a law enforcement, probation, or parole officer; on a member of the North Carolina National Guard; or on a person employed at a state or local detention facility G.S. 14-34.6: Assault or affray on a firefighter, an emergency medical technician, medical responder, and hospital personnel G.S. 14-34.7: Certain assaults on a law enforcement, probation, or parole officer, on a member of the North Carolina National Guard; or on a person employed at a state or local detention facility G.S. 14-34.8: Criminal use of laser device (<i>applies only to subsection (b)(1) of statute</i>) G.S. 14-34.9: Discharging a firearm from within an enclosure G.S. 14-34.10: Discharge firearm within enclosure to incite fear G.S. 14-41: Abduction of children G.S. 14-43.3: Felonious restraint G.S. 14-58: Punishment for arson (<i>applies only to second-degree arson</i>) G.S. 14-58.2: Burning of mobile home, manufactured-type house or recreational trailer home G.S. 14-59: Burning of certain public buildings G.S. 14-59.1: Burning of jails or prisons	One of the following relationships must exist between the defendant and the alleged victim for an offense to be charged: ■ Spouse or former spouse ■ Person with whom the defendant lives or has lived as if married ■ Person with whom the defendant is or has been in a dating relationship	Has the defendant been charged with any of the listed offenses <i>and</i> does one of the listed relationships exist? YES DELAY conditions of release and order that the defendant be taken to the first available court session to have conditions of release set by a judge within 48 hours after arrest. NO SET CONDITIONS of release.

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STEP 1	STEP 2	STEP 3
ALLEGED OFFENSE(S)	RELATIONSHIP(S)	DENY, DELAY, OR SET CONDITIONS?
G.S. 14-60: Burning of schoolhouses or buildings of educational institutions G.S. 14-61: Burning of certain bridges and buildings G.S. 14-62: Burning of certain buildings G.S. 14-62.1: Burning of building or structure in process of construction G.S. 14-62.3: Burning of commercial structure G.S. 14-63: Burning of boats and barges G.S. 14-64: Burning of ginhouses and tobacco houses G.S. 14-65: Fraudulently setting fire to dwelling houses G.S. 14-66: Burning of personal property G.S. 14-67.1: Burning other buildings G.S. 14-67.2: Burning caused during commission of another felony G.S. 14-69.1: Making a false report concerning destructive device G.S. 14-69.2: Perpetrating hoax by use of false bomb or other device G.S. 14-69.3: Arson or other unlawful burning that results in serious bodily injury to a firefighter, law enforcement officer, fire investigator, or emergency medical technician G.S. 14-86.7: Assault during organized retail theft G.S. 14-277.1: Communicating threats G.S. 14-277.3A: Stalking G.S. 14-277.6^b: Communicating a threat of mass violence on educational property G.S. 14-277.7^b: Communicating a threat of mass violence at a place of religious worship G.S. 14-288.9: Assault on emergency personnel G.S. 14-394: Anonymous or threatening letters, mailing or transmitting	One of the following relationships must exist between the defendant and the alleged victim for an offense to be charged: ■ Spouse or former spouse ■ Person with whom the defendant lives or has lived as if married ■ Person with whom the defendant is or has been in a dating relationship	Has the defendant been charged with any of the listed offenses <i>and</i> does one of the listed relationships exist? YES DELAY conditions of release and order that the defendant be taken to the first available court session to have conditions of release set by a judge within 48 hours after arrest. NO SET CONDITIONS of release.

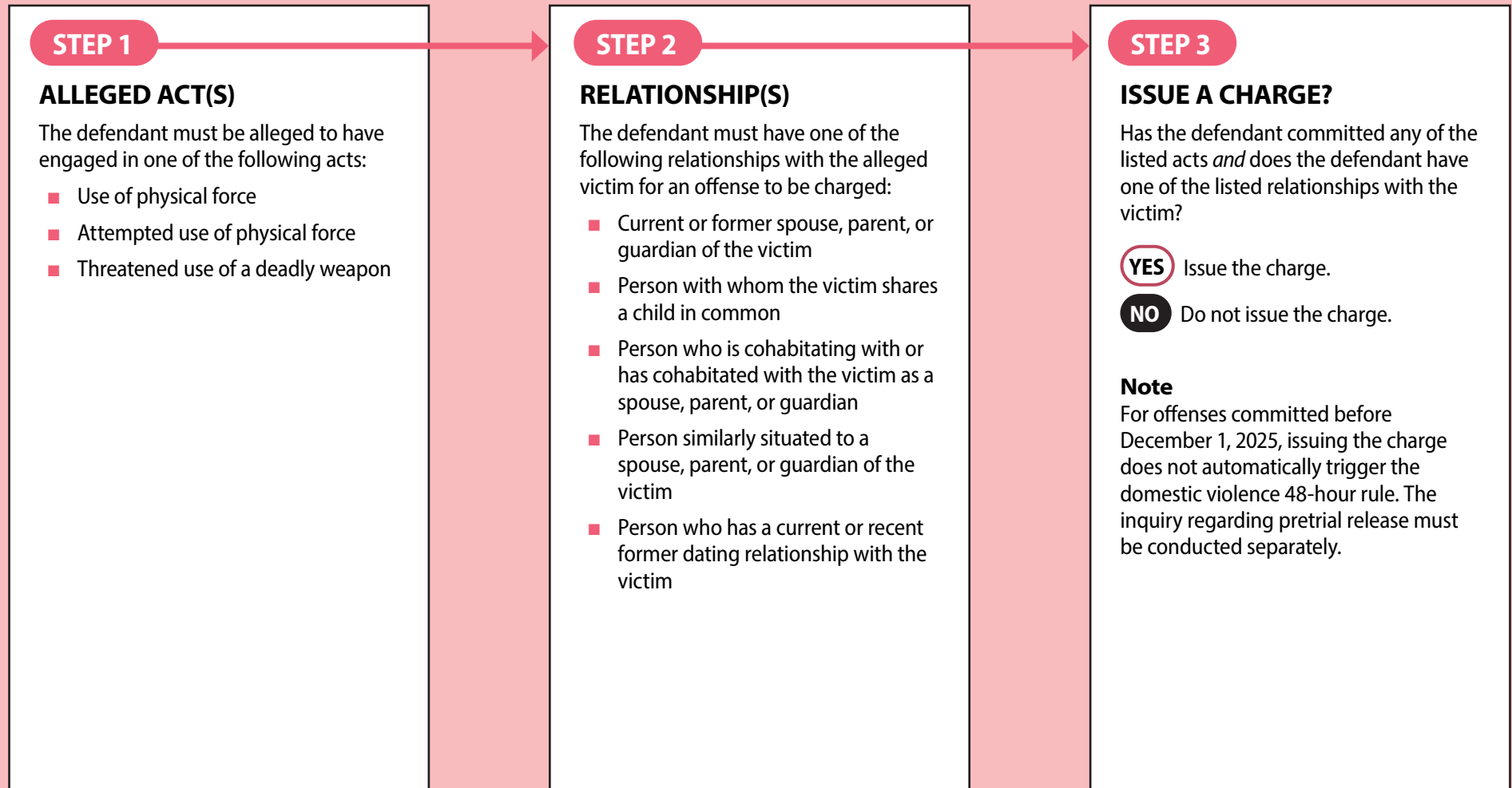
Issuing a Domestic Violence Protective Order (DVPO)

G.S. 50B-1



Issuing a Charge for Misdemeanor Crime of Domestic Violence

G.S. 14-32.5





ABOUT THE AUTHOR

Brittany Bromell is an assistant professor of public law and government at the School of Government whose areas of expertise include criminal law and procedure, with expertise in domestic violence and pretrial proceedings.

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