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MEMORANDUM

TO: Trial Court Officials

FROM: William P. Hart, Jr.
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DATE: October 28, 2025

SUBJECT: 2025 Legislation – Changes to Pretrial Release Provisions (HB 307/HB 193)¹

This memo covers various changes to pretrial release provisions which will become effective *December 1, 2025*, stemming from Sec. 1 of S.L. 2025-93 (Iryna's Law/House Bill 307)² and Sec. 6 of S.L. 2025-81 (House Bill 193).³

****Note that the effective date for pretrial release procedures relating to involuntary commitment examinations in Iryna's Law was subsequently changed to *December 1, 2026*, through Sec. 5.3.(b) of S.L. 2025-97 (Senate Bill 449).⁴ Therefore, those procedures will not be discussed in this memo and are not reflected in any AOC form revisions for December 1, 2025.****

1. House Bill 307, Section 1: Changes to Pretrial Release Procedure

Section 1 of HB 307 includes several significant changes to pretrial release procedures. All of the changes discussed here are effective December 1, 2025.

New category of "violent offense." A new **"violent offense"** category is defined under G.S. 15A-531(9) (applicable to all of Article 26 of Chapter 15A), with multiple implications for defendants who are charged with such an offense, as will be discussed. The term is defined to include any of the following (with some overlap in the categories):

- 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 [*First or Second Degree Murder*], and **any other offense listed in G.S. 15A-533(b) [enumerated offenses (1) through (18) where a judge must determine pretrial release]**.

¹ This memo will be available on the NCAOC's Juno website for Judicial Branch users at <https://juno.nccourts.org/legal-memos>, under the Criminal category.

² Available at <https://www.ncleg.gov/EnactedLegislation/SessionLaws/PDF/2025-2026/SL2025-93.pdf>.

³ Available at <https://www.ncleg.gov/EnactedLegislation/SessionLaws/PDF/2025-2026/SL2025-81.pdf>.

⁴ Available at <https://www.ncleg.gov/EnactedLegislation/SessionLaws/PDF/2025-2026/SL2025-97.pdf>.

- d. An offense under G.S. 14-18.4 [*Death by Distribution of Controlled Substance*], 14-34.1 [*Discharge of Firearm into Occupied Property*], 14-51 [*First or Second Degree Burglary*], 14-54(a1) [*Breaking or Entering with Intent to Terrorize or Injure Occupant*], 14-202.1 [*Indecent Liberties with Children*], 14-277.3A [*Stalking*], or 14-415.1 [*Possession of Firearm by Felon*], or an offense under G.S. 90-95(h)(4c) that involves fentanyl [*Trafficking Controlled Substance (Fentanyl)*].
- e. Any offense that is an **attempt** to commit an offense described in this subdivision.

New rebuttable presumptions against release. Section 1 of HB 307 also establishes **two new rebuttable presumptions** against release—*i.e.*, a presumption “that no condition of release will reasonably assure the appearance of the person as required and the safety of the community”:

- Defendants charged with **any of the (1) through (18) offenses** listed under **G.S. 15A-533(b)** (for which only a judge may determine pretrial release).
- Defendants charged with **any “violent offense”** as defined under G.S. 15A-531(9). See G.S. 15A-534(b1).⁵

There is no specific statutory language instructing judicial officials how such presumption may be rebutted. However, even though G.S. 15A-533(g) does not *expressly* apply to these new rebuttable presumption provisions, that subsection is instructive insofar as it refers to a requisite 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” prior to releasing the defendant.⁶

Changes impacting conditions of release options under G.S. 15A-534(a). **Written promise to appear has been repealed** as one of the five options for conditions of release under G.S. 15A-534(a). Thus, the only remaining options are unsecured bond, placement in the custody of a designated person or organization, secured bond, or house arrest with electronic monitoring. These carry forward with numbering as conditions (2) through (5), since the written promise to appear was previously number (1). Other references to “condition (1)” in Article 26 have been repealed to reflect the removal of the written promise to appear from G.S. 15A-534(a).

Additionally, **certain conditions of release are now mandatory** based on offense type and/or criminal history as follows (see G.S. 15A-534(b) and (b1)):

- Secured bond or house arrest with electronic monitoring must be imposed for **any defendant convicted within the previous 10 years of three or more offenses which are Class 1 misdemeanors or higher** (convictions must be counted from separate sessions of court).⁷
- Where the presumption against pretrial release has been rebutted for a defendant charged with a “violent offense”:
 - Secured bond or house arrest with electronic monitoring must be imposed for any defendant charged with a **first “violent offense.”**
 - House arrest with electronic monitoring must be imposed, *if available*, for any defendant charged with a **second or subsequent “violent offense”** after either (1)

⁵ Note that the “violent offense” rebuttable presumption encompasses all of the enumerated (1) through (18) offenses under G.S. 15A-533(b), so for *practical* purposes there is only one new rebuttable presumption.

⁶ G.S. 15A-533(g) *does* expressly apply to three other presumption-against-release scenarios that are codified in 15A-533(d), (e), and (f)—*i.e.*, certain defendants charged with drug trafficking, criminal gang activity, or firearm offenses. There is one other rebuttable presumption against release in G.S. 15A-534.6 (manufacture of methamphetamine) which also does not set out an express criteria to rebut the presumption.

⁷ Subsection 15A-534(b) was further amended by S.L. 2025-95, Sec. 5.3(a) to clarify that the convictions must be counted from separate sessions of court.

having been convicted of a prior violent offense or (2) being released on pretrial release conditions for a prior violent offense.

There are two important things to note related to these mandatory conditions of release:

- Sec. 1.(g) states that any judicial district which does not already have the capability of imposing house arrest with electronic monitoring under G.S. 15A-534(a)(5) shall enter into a Memorandum of Agreement with a qualified vendor to provide such services no later than December 1, 2025. ***However, NCAOC and court officials are not involved in this process. Therefore, judges should not be signatories on any memorandum of agreement for electronic monitoring.***
- Recall that secured bond (condition 4) is a required condition whenever house arrest with electronic monitoring (condition 5) is imposed. See G.S. 15A-534(a).

Finally, **“violent offense”** defendants are **expressly excluded** from the special bond provisions in G.S. 15A-534(d1) (defendant who has failed to appear on the charges on one or more prior occasions) and G.S. 15A-534(d2) (defendant charged with felony offense while on probation for prior offense). However, the bond doubling provision in **G.S. 15A-534(d3)** (defendant charged with offense while on pretrial release for prior offense) **still applies** to “violent offense” defendants, so long as pretrial release is authorized.

Matters considered for conditions of release under G.S. 15A-534(c). G.S. 15A-534(c) now states that, as to **any defendant**, a 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 that **“the judicial official shall consider the criminal history** when setting conditions of pretrial release.”⁸ *The “criminal history report” has thus supplanted “record of convictions” and is now a mandatory factor.*

Also, a defendant’s **“housing situation”** is now a factor under G.S. 15A-534(c) when determining conditions of release.

Mandatory written findings. For any defendant charged with a **“violent offense”** or any defendant convicted within the previous 10 years of three or more offenses which are Class 1 misdemeanors or higher (convictions counted from separate sessions of court), the judicial official is required to make written findings, based on the 15A-534(c) factors, explaining why the conditions of release were determined to be appropriate. See G.S. 15A-534(d). ***The failure to make statutorily required written findings may subject a magistrate to suspension and/or removal under G.S. 7A-173, as amended.***⁹

Note that additional written findings may be required by local bond policies issued pursuant to G.S. 15A-535.

AOC forms for Section 1 of HB 307. To implement the changes discussed above, as well as to account for other recent changes to pretrial release procedures, revisions to forms **AOC-CR-200** and **AOC-CR-922** will be available as of December 1, 2025. Note that both forms will be reformatted with a separate

⁸ A number of provisions in Article 26 of Chapter 15A expressly preclude “unreasonably delay[ing] the determination of pretrial release conditions for the purpose of reviewing the defendant’s criminal history report.” See, e.g., G.S. 15A-534.1 (bail and pretrial release for crimes of domestic violence). Those provisions were not repealed by HB 307.

⁹ For further discussion of Section 3 changes to magistrate removal procedures, as well as updates to magistrate rules of conduct, see the separate October 7, 2025 legal memo available at the following url: https://juno.nccourts.org/sites/default/files/files/Legislation%20Changes%20to%20Magistrate%20Removal%20and%20Rules%20Provisions_7A-171_3%20and%20173.pdf.

“findings” section to facilitate documentation of written findings as needed or when required by statute or local bond policy.

2. House Bill 193, Section 6: Threats Against Public Officers and G.S. 15A-534.9

Through Sec. 6 of HB 193, the General Assembly has enacted new **G.S. 15A-534.9**, which will govern bail and pretrial release for defendants charged with certain offenses against public officers for *offenses committed on or after December 1, 2025*. These include the following offenses (as amended by Sections 4 and 5 of the same session law):

- **G.S. 14-16.6** (assault on executive, legislative, court, or local elected officer)
- **G.S. 14-16.7** (threats against executive, legislative, court, or local elected officer)
- **G.S. 163-275(11)** (intimidating or attempting to intimidate any chief judge, judge of election or other election officer in the discharge of duties in registration of voters or in conducting a primary or election)

New G.S. 15A-534.9 is **similar in operation to other “judge-only” special bail provisions** that have a maximum **48-hour window** before magistrate action would be required. Cf. G.S. 15A-534.1 (domestic violence); G.S. 15A-534.7 (communicating a threat of mass violence). The judge is required to request a criminal history report for the defendant for consideration in setting conditions of release but cannot unreasonably delay a determination for the purpose of reviewing the report. However, the defendant may be detained “for a reasonable period of time” while determining the conditions of release if the judge determines that the “immediate release of the defendant will pose a danger of injury to persons” and that the execution of an appearance bond will not reasonably assure such injury would not occur.

A number of additional conditions of release are permissible, over and above what may be imposed pursuant to G.S. 15A-534:

- That the defendant stay away from the home, school, business, or place of employment of the alleged victim
- That the defendant refrain from assaulting or threatening the alleged victim
- That the defendant stay away from specific locations or property where the offense occurred
- That the defendant stay away from other specified locations or property

If the defendant is mentally ill or a substance abuser and is a danger to himself/herself or others, then the provisions for involuntary commitment proceedings “shall apply.”¹⁰ Finally, if a judge has not acted within 48 hours of the time of arrest, a magistrate will be required to act under the provisions of the statute.

New form **AOC-CR-664** will be available as of December 1, 2025, for purposes of effectuating the special pretrial release provisions of G.S. 15A-534.9.

Court officials with questions or matters requiring discussion are welcome to contact William Hart (william.p.hart@nccourts.org). Counsel for the NCAOC cannot provide legal advice to individuals or entities outside the Judicial Branch.

¹⁰ This is similar in operation to other pretrial release provisions in G.S. 15A-534.7 (communicating threat of mass violence) and G.S. 15A-534.8 (rioting or looting) which reference Chapter 122C and which predate Iryna’s Law. *It is not the same as the commitment exam procedure under Iryna’s Law (G.S. 15A-533(b1)) that will not go into effect until December 1, 2026.*