

# PRETRIAL INTEGRITY ACT CHECK-IN

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## The Pretrial Integrity Act

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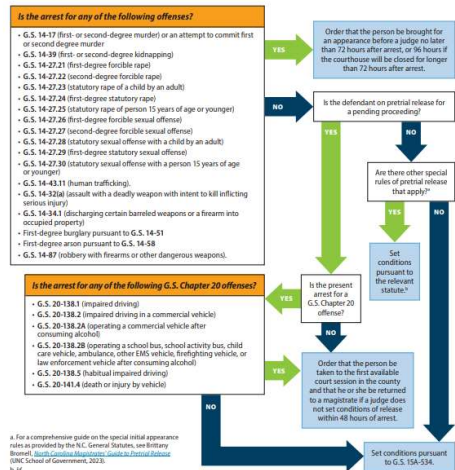
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## Applying the Pretrial Integrity Act

Brittany Bromell

The Pretrial Integrity Act of 2023 made significant changes to the state's pretrial release laws. The following flowchart sets out the new procedure for determining when and by whom conditions of pretrial release are to be set for newly arrested defendants.



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## G.S. 15A-533(B):

### CERTAIN HIGH-LEVEL FELONIES

- First- and second-degree murder (G.S. 14-17) and attempts to commit those offenses
- First- and second-degree kidnapping (G.S. 14-39)
- First-degree forcible rape and sexual offense (G.S. 14-27.21; G.S. 14-27.26)
- Second-degree forcible rape and sexual offense (G.S. 14-27.22; 14-27.27)
- Statutory rape of and sexual offense with a child by an adult (G.S. 14-27.23; 14-27.28)
- First-degree statutory rape and sexual offense (G.S. 14-27.24; 14-27.29)
- Statutory rape of and sexual offense with a person 15 years old or younger (G.S. 14-27.25; 14-27.30)
- Human trafficking (G.S. 14-43.11)
- Assault with a deadly weapon with intent to kill inflicting serious injury (G.S. 14-32(a))
- Discharging barreled weapons or firearms into occupied property (G.S. 14-34.1)
- First-degree burglary (G.S. 14-51)
- First-degree arson (G.S. 14-58)
- Armed robbery (G.S. 14-87)

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## G.S. 15A-533(B):

### CERTAIN HIGH-LEVEL FELONIES

- Explicitly includes
  - Attempt to commit first-degree murder
  - Attempt to commit second-degree murder
- Implicitly includes
  - Attempt to discharge barreled weapons or a firearm into occupied property (G.S. 14-34.1)
  - Attempt to commit armed robbery (G.S. 14-87)
  - Charges as a principal under an alternate theory of liability

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- If a defendant is arrested for a new offense allegedly committed while the defendant was on pretrial release, a judge must set PTR conditions within 48 hours of arrest.
- Subject to exceptions for Chapter 20 offenses

G.S. 15-533(H):

48-HOUR  
PROVISION

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NEW CHARGES WHILE  
IN CUSTODY



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## NEW CHARGES WHILE IN CUSTODY

What does it mean to be on PTR?

- John is charged with felony larceny. He is arrested and brought before you. You fill out the CR-200 and impose a \$1,000 unsecured bond. He leaves to go home.
- John is charged with felony larceny. He is arrested and brought before you. You fill out the CR-200 and impose a \$2,000 secured bond, which he is not able to post. He is taken to the jail.

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## NEW CHARGES WHILE IN CUSTODY

- There is a release order in effect (AOC-CR-200)  
AND
- D has satisfied conditions of release and is no longer in custody

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## NEW CHARGES WHILE IN CUSTODY

- John is in jail on felony larceny charges. A release order is in effect, but he has not been able to post bond. While in jail, he assaults a correctional officer and is charged with such.
- John is in jail on felony larceny charges. A release order is in effect, but he has not been able to post bond. While in jail, he is served with charges for a second-degree burglary that was alleged to have occurred 3 weeks ago.

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## NEW CHARGES WHILE IN CUSTODY

- **Basic rule:** If the defendant is in custody, G.S. 15A-533(h) does not apply
- “If a defendant is arrested for a new offense allegedly committed **while the defendant was on pretrial release** for another pending proceeding...”

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## NEW CHARGES WHILE NOT IN CUSTODY

- John is arrested on felony larceny charges. He posts the bond and goes home the same day. On the way home, he punches a person and is arrested for misdemeanor assault.
  - “If a defendant is arrested for a **new offense** allegedly committed **while the defendant was on pretrial release** for another pending proceeding...”
- John is arrested on felony larceny charges. He posts the bond and goes home the same day. On the way home, an officer arrests him for a second-degree burglary that was alleged to have occurred 3 weeks before the larceny.
  - “If a defendant is arrested for a new offense **allegedly committed while** the defendant was on pretrial release for another pending proceeding...”

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## TYPES OF PROCESS

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## TYPES OF PROCESS

- Citation
- Summons
- Order for arrest
- Indictment

➤ **Basic rule:** If the defendant is not being arrested or taken into custody, G.S. 15A-533(h) does not apply.

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## TYPES OF PROCESS – CITATIONS & SUMMONSES

- Barbara is arrested for misdemeanor assault. She is released on a written promise. The next day, she is cited for speeding and receives a court date.
  - “If a defendant is **arrested** for a new offense allegedly committed while the defendant was on pretrial release for another pending proceeding...”
- Barbara is cited for speeding and receives a court date. The next day, she is arrested for misdemeanor assault.
  - “If a defendant is arrested for a new offense allegedly committed **while the defendant was on pretrial release** for another pending proceeding...”

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## TYPES OF PROCESS – OFA FOR FTA

- Mark is arrested for shoplifting and released on an unsecured bond. He misses his next court date, and the judge issues an order for arrest for failing to appear.
- Mark is arrested for shoplifting and released on an unsecured bond. He misses his next court date. He is later arrested on a warrant, which charges G.S. 15A-543 (failure to appear).
- “If a defendant is arrested for a **new offense** allegedly committed while the defendant was on pretrial release for another pending proceeding...”
- Failing to appear is not a new offense unless it is specifically charged as such.

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## TYPES OF PROCESS – INDICTMENTS

- If charge is initiated by indictment, court may issue an order for arrest
- Triggers G.S. 15A-533(h) only if the defendant was already out on PTR for another pending proceeding
- OFA may be issued if an indictment is later returned for charges that were dismissed in district court.
  - If D is on PTR as a result of another pending proceeding, then G.S. 15A-533(h) will apply
  - Even if the defendant was already held for 48-hours the first time

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## WHEN MULTIPLE STATUTES APPLY



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## WHEN MULTIPLE STATUTES APPLY

- Ashley pulls out a gun and shoots at her boyfriend, Tony. The bullet strikes his arm, and he is taken to the hospital. Ashley is arrested and charged with AWDWIKISI.

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## WHEN MULTIPLE STATUTES APPLY

- When both G.S. 15A-534.1 and G.S. 15A-533(b) apply, G.S. 15A-533(b) controls.
- Only a judge may set conditions, even when charged as DV offenses.

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## WHEN MULTIPLE STATUTES APPLY

- First- and second-degree murder (G.S. 14-17) and attempts to commit those offenses
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- Armed robbery (G.S. 14-87)

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## WHEN MULTIPLE STATUTES APPLY

- Robert recently returned home after his wife, Sarah, posted his bond for a larceny he committed last week. One night, during a heated argument, Robert pulls out a gun and shoots at Sarah. The bullet misses, but Robert is nonetheless arrested and charged with AWDW.

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## WHEN MULTIPLE STATUTES APPLY

- When both G.S. 15A-534.1 and G.S. 15A-533(h) apply, the statutes work simultaneously.
- Defendant is subject to only one 48-hour window.
- Regardless of which statute is “applied,” the magistrate is authorized to set conditions of release 48 hours after the arrest if a judge has not done so.

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# INCHOATE OFFENSES



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## INCHOATE OFFENSES

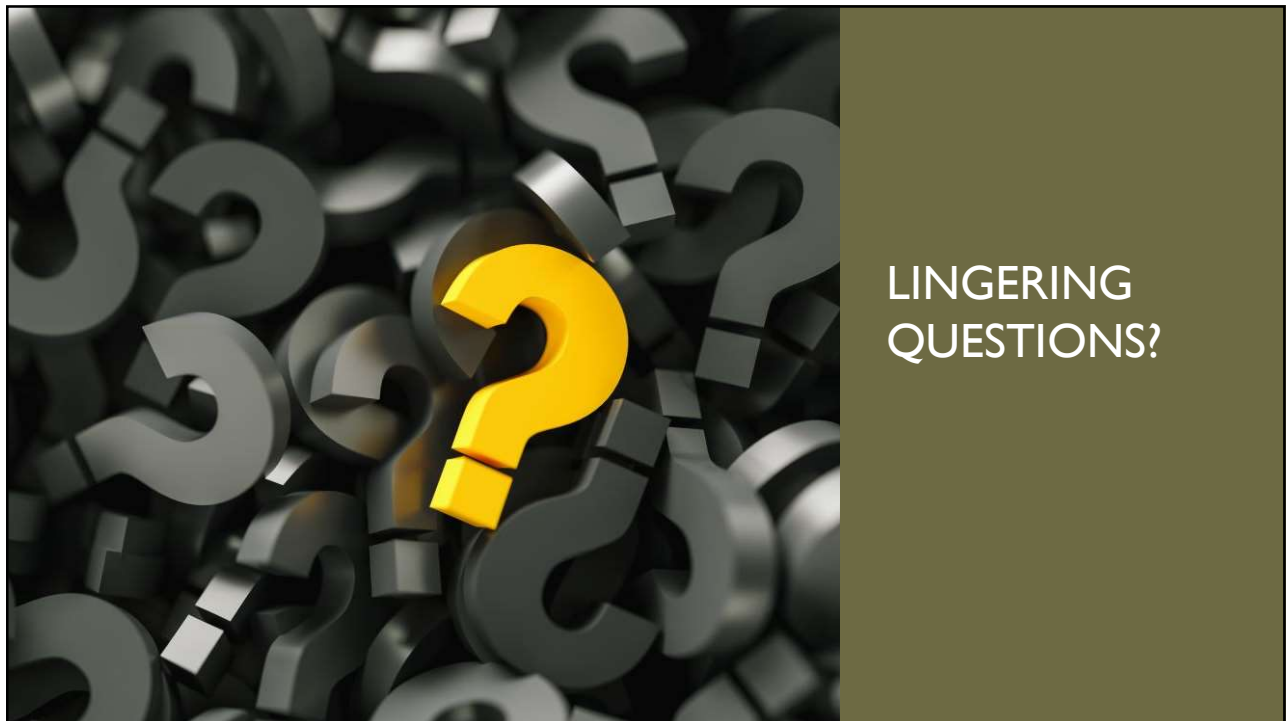
- Rafael is arrested for attempted second-degree murder.
  - G.S. 15A-533(b) explicitly includes
    - Attempt to commit first-degree murder
    - Attempt to commit second-degree murder
  
- Donatello is arrested for attempted armed robbery.
  - G.S. 14-87:
    - “Any person or persons who, having in possession or with the use or threatened use of any firearms or other dangerous weapon ... unlawfully takes or **attempts to take** personal property from another ... shall be guilty of a Class D felony.”
  - Offense encompasses both completed act and attempts as variants of the crime

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## INCHOATE OFFENSES

- Leonardo is arrested for conspiracy to commit human trafficking.
  - Conspiracy is its own substantive offense; separate from the completed offenses.
  
- Michelangelo is arrested for statutory rape as an accessory before the fact.
  - Under each of the theories of principal liability (acting in concert, aiding and abetting, or accessory before the fact), a person arrested and charged for an offense is punished as provided for the underlying offense.

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