

The Right to Pretrial Release Conditions for Transferred Juveniles

John Rubin
UNC School of Government

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Basic Rule for Transferred Juveniles

- G.S. 7B-2204 states:
 - “Once the order of transfer has been entered, the juvenile has the right to pretrial release as provided in G.S. 15A-533 and G.S. 15A-534.”

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Basic Rule for Adult Proceedings

- G.S. 15A-533(b) states:
 - “A defendant charged with a noncapital offense must have conditions of pretrial release determined in accordance with G.S. 15A-534.”

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Types of Pretrial Release

1. Written promise
2. Unsecured bond
3. Custody release
4. Secured bond
5. Electronic house arrest (EHA) with secured bond

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AOC-CR-922

STATE VERSUS		RELEASE ORDER FOR JUVENILE TRANSFERRED TO SUPERIOR COURT FOR TRIAL	
Name And Address Of Juvenile/Defendant		G.S. 7B-2204, 15A-533, 15A-534	
Date Of Birth	Age	Amount Of Bond	\$
Offenses And Additional File Numbers			
Location Of Court		Court	Date
		Superior	Time
			<input type="checkbox"/> AM <input type="checkbox"/> PM

To The Juvenile/Defendant Named Above: You are ORDERED to appear before the Court as provided above and at all subsequent continued dates. If you fail to appear, you will be arrested and you may be charged with the crime of willful failure to appear. You also may be arrested without a warrant if you violate any condition of release in this Order or in any document incorporated by reference. The juvenile/defendant has been advised of the charge(s) against him/her and his/her right to communicate with counsel and friends.

Your release to _____ is authorized upon execution of your:

WRITTEN PROMISE to appear UNSECURED BOND in the amount shown above
 CUSTODY RELEASE SECURED BOND in the amount shown above
 HOUSE ARREST with ELECTRONIC MONITORING administered by (agency) _____ and the SECURED BOND above. You may leave your residence for the purpose(s) of employment counseling course of study vocational training

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Types of Pretrial Release

1. Written promise
 - Known elsewhere as release on own recognizance
2. Unsecured bond
 - May a juvenile sign an unsecured bond?
3. Custody release
 - "Place the defendant in the custody of a designated person or organization agreeing to supervise him"

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Types of Pretrial Release (cont'd)

4. Secured bond
 - What are the types of security?
 - Can you designate type?
5. Electronic house arrest (EHA) with secured bond
 - Beware availability of equipment and personnel

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Factors to Consider

- G.S. 15A-534(c) lists
 - Nature and circumstances of offense
 - Weight of evidence
 - Family ties, employment, financial resources, character, and mental condition
 - Whether defendant is intoxicated and would be endangered by release without supervision
 - Record of convictions
 - History of flight or failure to appear
 - Other relevant evidence

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Preferred Type of Pretrial Release

- G.S. 15A-534(b) states
 - “The judicial official in granting pretrial release must impose condition (1), (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.”

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Preferred Type of Pretrial Release (cont'd)

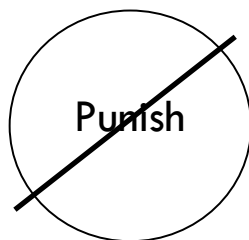
- G.S. 15A-534(b) states
 - “Upon making the determination [that conditions (1), (2), (3) will not reasonably assure appearance, will pose a danger of injury, etc.], the judicial official must then impose condition (4) or (5) . . . and record the reasons for so doing in writing” if required by local policies or requirements.

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Purpose of Pretrial Release Conditions

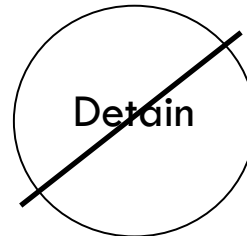


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Purpose of Pretrial Release Conditions



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Inapplicable Exceptions

- Time limited ones
 - Domestic violence (G.S. 15A-534.1)
 - Offenses involving impaired driving (G.S. 15A-534.2)
- Record-based ones
 - Drug trafficking (G.S. 15A-533(d))
 - Gangs (G.S. 15A-533(e))
 - Firearms (G.S. 15A-533(f))

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Potentially Applicable Exceptions

- Felony while on probation (G.S. 15A-534(d2))
 - If danger, secured bond only
 - If not danger, set conditions as usual
 - If insufficient information, delay setting conditions
- Methamphetamine manufacture (G.S. 15A-534.6)
 - If dependence and violation was committed to maintain dependence, deny release
- Threat of mass violence (G.S. 15A-534.7)
 - If immediate release will pose danger and bond will not prevent injury, delay setting conditions

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Conditions While Released

- Conditions of pretrial release
 - Can you impose conditions with any form of pretrial release?
 - 15A-534(a) allows "restrictions on the travel, associations, conduct, or place of abode of the defendant as conditions of release"

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More on Conditions

- Required conditions
 - Sexual offenses and crimes of violence against minor (15A-534.4)
 - Fingerprints and DNA samples if statutorily required (15A-534(a))
- Recommended considerations
 - Domestic violence offenses (15A-534.1(a)(2))
 - Threats of mass violence (15A-534.7)

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Effect of Violation

- Arrest
 - Judge may issue OFA
 - Officer may make warrantless arrest
- Following arrest
 - Appearance before magistrate
 - New conditions determined
 - Doubling or \$1,000 minimum if failure to appear or new offense

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New Charges for Violations

- Is violation new offense?
 - No, not unless the person has committed a new crime
 - If considered a violation of a court order under 5A-11(a)(3), follow rules for plenary contempt proceedings under 5A-15

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