



# Iryna’s Law and Pretrial Release

Brittany Bromell

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[Brittany Bromell](#) is an assistant professor of public law and government at the School of Government. Her areas of expertise include criminal law and procedure, with a focus on domestic violence and pretrial release.

In 2025, the North Carolina General Assembly passed Session Law 2025-93 (H.B. 307), also known as Iryna's Law. The legislation made a number of changes to proceedings involving pretrial release, added a new aggravating sentencing factor, altered the way magistrates may be disciplined, and expanded the permissible methods of execution, among other things. This bulletin focuses on the changes affecting pretrial release that took effect on December 1, 2025.<sup>1</sup>

## I. Applicability

Iryna's Law is effective for "persons appearing before a judicial official for the determination of pretrial release conditions on or after" December 1, 2025.<sup>2</sup> Thus, when a defendant is arrested, the alleged date of offense is immaterial to the applicability of the provisions discussed throughout this bulletin. Rather, the provisions apply any time conditions of release are being considered by a judicial official.

## II. Types of Release

Prior to December 1, 2025, North Carolina recognized five types of pretrial release: written promise to appear, unsecured bond, custody release, secured bond, and electronic house arrest with a secured bond. The legislation eliminated written promises to appear as a permissible type of release.<sup>3</sup> A defendant who is currently on pretrial release via written promise to appear will remain on such release until either (1) the defendant's release is revoked or modified or (2) the defendant's case has concluded.

For many offenses, there is a statutory preference for imposition of unsecured bonds or custody releases as the least restrictive types of release. However, those options are not permitted for a defendant charged with a violent offense (described in [section V](#), below). Unsecured bonds and custody releases are also not permitted for a defendant who has been convicted of three or more offenses (each of which is at least a Class 1 misdemeanor) in separate sessions of court within the previous ten years (described in [section VI](#), below).<sup>4</sup>

A defendant who is charged with a violent offense or who has a qualifying criminal history must be subject to a secured bond or electronic house arrest with a secured bond for the duration of their case. The statutes do not address this issue explicitly, but an interpretation that those conditions could be "modified down" at a later proceeding likely goes against the intent of the legislature.

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1. Iryna's Law also created a new pretrial release procedure that requires judicial officials to initiate involuntary commitment proceedings for defendants upon making certain determinations. This provision was originally slated to take effect on December 1, 2025, but has since been delayed to December 1, 2026 (see section 5.3 of S.L. 2025-97 (S.B. 449)).

2. S.L. 2025-93, § 1.(j).

3. S.L. 2025-93, sec. 1.(d), § 15A-534(a).

4. *Id.*, sec. 1.(d), § 15A-534(b).

### III. Factors to Consider

#### A. Criminal History

The amended law requires a judicial official, when determining pretrial release conditions, to direct the arresting law enforcement officer, a pretrial services program, or a district attorney to provide a criminal history report for the defendant.<sup>5</sup> The judicial official must then consider the criminal history when setting conditions of pretrial release. This is a modification of previous law, which required the judicial official to consider a defendant's record of convictions rather than the defendant's entire criminal history.

The law does not require the report to come from a particular source, nor does it require a specific jurisdictional scope. Judicial officials may thus rely on any official criminal history report provided by the arresting officer, a pretrial services program, or a district attorney. Though the statute requires the criminal history report to be provided to the judicial official, it does not appear to preclude the judicial official from also considering other sources of criminal history beyond what is provided. Since it is possible for the source of the criminal history report to vary among agencies, the judicial official may want to note on the [AOC-CR-200 form](#) (Conditions of Release and Release Order) what type of report was reviewed.

#### B. Other Factors

The law now also requires the judicial official to consider, based on available information, the defendant's housing situation.<sup>6</sup>

The previous version of Chapter 15A, Section 534(c) of the North Carolina General Statutes [hereinafter G.S.] included other factors that were unchanged by the new law. In addition to the defendant's criminal history and housing situation, the judicial official must also consider the following factors in setting pretrial release conditions:

- the nature and circumstances of the offense charged;
- the weight of the evidence against the defendant;
- the defendant's family ties, employment, financial resources, character, and mental condition;
- whether the defendant is so intoxicated that they would be endangered if released without supervision;
- the length of the defendant's residence in the community;
- the defendant's history of flight to avoid prosecution or failure to appear at court proceedings; and
- any other evidence relevant to pretrial release.<sup>7</sup>

"Any other evidence relevant to pretrial release" may include information from the arresting officer regarding any relevant behavior of the defendant observed by the officer prior to, during, or after the arrest that may provide reasonable grounds for the judicial official to believe the defendant is a danger to themselves or others. Under the new law, an officer is now required to provide this information to any judicial official determining conditions of pretrial release after arrest of a person.<sup>8</sup>

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5. *Id.*

6. *Id.*

7. G.S. 15A-534(c).

8. S.L. 2025-93, sec. 1(a), § 15A-501(2a).

## IV. Written Findings

In any order authorizing pretrial release for a defendant who

- is charged with a violent offense or
- has been convicted of three or more offenses (each of which is at least a Class 1 misdemeanor) in separate sessions of court within the previous ten years,

the judicial official must make written findings of fact explaining the reasons why the judicial official determined the conditions of release to be appropriate.<sup>9</sup> The findings of fact must show that the judicial official considered the defendant's criminal history and other factors described in G.S. 15A-534(c). The [AOC-CR-200 form](#) (Conditions of Release and Release Order) was amended in December 2025 to incorporate a separate "findings" section for these written findings. The written findings are required in addition to any relevant checkbox findings on the AOC form.

It is unclear whether a lack of written findings is a defect that entitles either the defendant or the State to a remedy. Regardless of any potential procedural ramifications, magistrates should keep in mind that failure to make statutorily required written findings may subject a magistrate to suspension or removal under G.S. 7A-173, which was also amended by Iryna's Law.<sup>10</sup>

## V. Violent Offenses

The legislation created a new category of "violent offenses." Violent offenses are defined in G.S. 15A-531(9) as including

- 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 [as a sex offender], whether or not the person is currently required to register.
- c. An offense under G.S. 14-17, and any other offense listed in G.S. 15A-533(b).
- d. An offense under G.S. 14-18.4, 14-34.1, 14-51, 14-54(a1), 14-202.1, 14-277.3A, or 14-415.1, or an offense under G.S. 90-95(h)(4c) that involves fentanyl.
- e. [Attempts to commit] an offense described in this subdivision.<sup>11</sup>

[Appendix A](#) includes a chart of violent offenses. Under the amended law, defendants charged with violent offenses are subject to specific conditions of release and may be subject to other proceedings, discussed in the following sections.

### A. Offenses that Include Assault or the Use or Threat of Force

There may be some question about which offenses properly fall within the subdivision of offenses that include assault or the use or threat of force against a person as an essential element of the offense. Particularly, it is unclear whether the legislature intended that subcategory to include

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9. *Id.*, sec. 1.(d), § 15A-534(d).

10. *Id.*, sec. 3.(b).

11. *Id.*, sec. 1.(b), § 15A-531(9).

only offenses that are committed intentionally, or whether offenses that can be committed recklessly or negligently may qualify. One case worth considering in connection with this issue is *Borden v. United States*, in which the U.S. Supreme Court reasoned that the phrase *against another*, when modifying a volitional action like *the use of force*, necessarily requires that the perpetrator direct the force at another individual, thus suggesting a higher degree of intent than recklessness and negligence.<sup>12</sup> Applying this reasoning, *violent offenses* would appear to exclude offenses where the defendant “unintentionally causes” the harm, like the crimes in G.S. 20-141.4 involving death or serious injury by vehicle.

Offenses with assault or the use of force as alternative elements are excluded. For example, although G.S. 14-50.19(a) (intimidation to deter from gang withdrawal) can be committed by the threat of injury to a person, it can also be committed by damage to property of another, and thus the threat of force against a person is not an essential element.

## B. Inchoate Offenses

### 1. Attempts Generally

Violent offenses expressly include attempts to commit any of the listed offenses.<sup>13</sup> If a defendant is arrested for an attempt to commit any violent offense, the provisions applicable to violent offenses apply. A magistrate generally has authority to set conditions of release for an attempt to commit a violent offense if the magistrate finds the rebuttable presumption overcome.

### 2. Attempts to Commit an Offense Listed in G.S. 15A-533(b)

Violent offenses include all crimes listed in G.S. 15A-533(b). The offenses listed in that statute are subject to a limiting rule that only a judge is authorized to set conditions of pretrial release for a defendant charged with any of those offenses. With a few exceptions, the limiting rule applies only to completed crimes and not attempts to commit these offenses. The list explicitly includes attempts to commit first- and second-degree murder but does not explicitly include attempts to commit any of the other offenses. This scheme indicates that the General Assembly did not intend to allow attempts for other offenses to fall within the scope of the statute. The statute would, however, apply to attempts under G.S. 14-34.1 (discharging barreled weapons or a firearm into occupied property) and G.S. 14-87 (armed robbery) because those offenses encompass both completed acts and attempts as variants of the crime.

With the exception of the offenses described in the preceding paragraph, if a person is arrested for attempt under G.S. 14-2.5 to commit an offense listed in G.S. 15A-533(b), a magistrate may set conditions of release if the magistrate finds the rebuttable presumption overcome. [Table 1](#) provides an “at-a-glance” listing of judicial authority to set conditions of release for an attempted offense described in this section.

### 3. Solicitation and Conspiracy

Violent offenses do not clearly include solicitation and conspiracy to commit any of the covered offenses. Even so, the inclusion of felonies requiring sex offender registration encompasses, by their own terms, solicitation and conspiracy to commit those offenses.<sup>14</sup> Thus, violent offenses

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12. 593 U.S. 420 (2021).

13. S.L. 2025-93, sec. 1.(b), § 15A-531(9)(e).

14. See G.S. 14-208.6(1m), -208.6(5).

**Table 1. Authority to Set Conditions of Release for Attempts to Commit Offenses Listed in G.S. 15A-533(b)**

Statute	Judge only	Judge or magistrate
G.S. 14-17: First- or second-degree murder	●	
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): Assault with a deadly weapon with intent to kill inflicting serious injury		●
G.S. 14-34.1: Discharging barreled weapons or a firearm into occupied property	●	
G.S. 14-39: First- or second-degree kidnapping		●
G.S. 14-43.11: Human trafficking		●
G.S. 14-51: First-degree burglary		●
G.S. 14-58: First-degree arson		●
G.S. 14-87: Armed robbery	●	

include solicitation or conspiracy to commit a felony offense that requires sex offender registration, so long as the solicitation or conspiracy is punishable as a felony.<sup>15</sup> Aside from this, if a defendant is arrested for conspiracy under G.S. 14-2.4 or solicitation under G.S. 14-2.6 for any of the other listed offenses, the provisions applicable to violent offenses do not apply. An arrest for accessory after the fact under G.S. 14-7 for any of the listed offenses does not trigger the provisions applicable to violent offenses.

#### 4. *Alternative Theories of Principal Liability*

The pretrial procedures for a defendant charged under an alternative theory of principal liability—such as acting in concert, aiding and abetting, or accessory before the fact—should be conducted as if the defendant were charged with the offense itself. Under each of the theories of

<sup>15</sup> Those that are punishable as a misdemeanor fall out of the scope of violent offenses, since the offense must be a *felony* requiring sex offender registration.

principal liability, a person arrested and charged for an offense is punished as provided for the underlying offense.<sup>16</sup> So if a defendant is arrested as an alternate principal for any of the violent offenses, then the provisions applicable to violent offenses will apply.<sup>17</sup>

### C. Rebuttable Presumptions

G.S. 15A-534(b1) establishes a rebuttable presumption against release for a defendant charged with a violent offense as defined by G.S. 15A-531(9). Rebuttable presumptions against pretrial release provide that no condition of release will reasonably assure (1) the appearance of the person as required and (2) the safety of the community. Generally, what this means is that conditions of release should be denied unless the presumption is overcome.

Unlike other offenses subject to rebuttable presumptions,<sup>18</sup> the rebuttable presumption for violent offenses applies based solely on the charging of the offense; a judicial official does not need to make any additional findings to trigger the presumption. Thus, the default for a magistrate at the initial appearance is to deny conditions of release for a violent offense.

G.S. 15A-533(g) requires that for defendants charged with certain offenses subject to rebuttable presumptions—namely drug trafficking offenses, gang offenses, and firearm offenses—only a judge may authorize release. Before releasing the defendant, the judge must find that there is a reasonable assurance that the person will appear and that release does not pose an unreasonable risk of harm to the community.<sup>19</sup> The provision governing violent offenses does not include language that limits the setting of release conditions to judges. In other words, it is reasonable to interpret the provision as allowing magistrates to set conditions if the presumption is overcome, though there is no specific statutory language instructing judicial officials how the presumption may be rebutted. The standard set forth in G.S. 15A-533(g)—that the judge must find that there is a reasonable assurance that the person will appear and release does not pose an unreasonable risk of harm to the community—does not expressly apply to the rebuttable presumption for violent offenses. However, judicial officials might consider using the provision as a guidepost in finding a presumption overcome in those cases.

Under the amended law, G.S. 15A-533(b) also establishes a rebuttable presumption against release for the offenses listed in that subsection.<sup>20</sup> The list of offenses is a subset of the violent offense category as described above, so the same rules apply. The only exception is that a magistrate is not authorized to set conditions of release for these offenses because they are

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16. See G.S. 14-5.2 (accessory before fact punishable as principal felon); *State v. Small*, 301 N.C. 407 (1980) (noting that principals in the first degree and those in the second degree are equally guilty of the offense committed and punished the same).

17. For a person charged with aiding and abetting a felony offense requiring sex offender registration, there is an argument that the rules applicable to violent offenses do not apply because registration requires a judicial determination at sentencing. See G.S. 14-206(4)(a).

18. See G.S. 15A, Sections 533(d) (drug trafficking offenses), 533(e) (gang offenses), 533(f) (firearm offenses), and 534.6 (manufacture of methamphetamine).

19. See G.S. 15A-533(g).

20. S.L. 2025-93, § 1.(c).

## Figure 1. Magistrates' Authority to Set Conditions of Release for Violent Offenses

- ✓ Any Class A–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.
- ✓ Any felony offense requiring registration as a sex offender.
- ✗ An offense under G.S. 14-17 and any other offense listed in G.S. 15A-533(b). JUDGE ONLY
- ✓ An offense under G.S. 14-18.4, 14-34.1, 14-51, 14-54(a1), 14-202.1, 14-277.3A, or 14-415.1, or an offense under G.S. 90-95(h)(4c) that involves fentanyl.
- ✓ Attempts to commit any of the listed offenses.

subject to the preexisting limiting rule that only a judge may do so.<sup>21</sup> See [Figure 1](#). The general guide in [Appendix B](#) is intended to assist judicial officials in determining who has authority to set conditions of release for a given offense and what conditions may be imposed.

### 1. Intersection with Other Pretrial Release Rules

Regardless of whether the rebuttable presumption for a violent offense is overcome at the initial appearance, if any of the violent offenses are subject to other special rules that limit magistrates' authority, then those special rules control. For example, as mentioned in the section above, offenses listed under G.S. 15A-533(b) are violent offenses subject to a rebuttable presumption, and those offenses remain subject to the rule that only a judge may authorize the defendant's release.

Some violent offenses may also be subject to existing rules that delay a magistrate's authority to set conditions of release. A common example is stalking under G.S. 14-277.3A. Stalking is a violent offense and is therefore subject to a rebuttable presumption. If stalking is committed in the domestic violence context, then it would also be subject to the 48-hour rule under G.S. 15A-534.1, meaning that within the first forty-eight hours after arrest, only a judge may find that the presumption is overcome and set conditions of release. After that window has expired, a magistrate is authorized to do so.

### 2. Intersection with Other Rebuttable Presumptions

It is possible for more than one rebuttable presumption to apply. Consider possession of a firearm by a felon under G.S. 14-415.1, which is a violent offense and is therefore subject to the rebuttable presumption applicable to violent offenses. It is also possible for the offense to be subject to the rebuttable presumption for firearm offenses under G.S. 15A-533(f) if the relevant factors are met. If both presumptions apply, then a magistrate's authority will be limited by the most restrictive of the two, meaning that the magistrate cannot find the presumption overcome at the initial appearance, and only a judge may act pursuant to G.S. 15A-533(g).

<sup>21</sup> G.S. 15A-533(b).

### 3. *Relying on the Magistrate's Determination*

It is unclear whether a judge is required to engage in the rebuttable presumption analysis at the first appearance if a magistrate has already authorized conditions of release at the initial appearance. Iryna's Law is effective for "persons appearing before a judicial official for the determination of pretrial release conditions" on or after December 1, 2025.<sup>22</sup> A literal interpretation of the provision would mean that the judge is required to find the presumption overcome at the first appearance, regardless of whether a magistrate has done so at the initial appearance.

First appearance procedures are governed by Article 29 of Chapter 15A of the General Statutes. Part of that procedure requires a judge to "[d]etermine or *review* the defendant's eligibility for release."<sup>23</sup> There is an argument that if a judge is simply reviewing the conditions of release imposed by the magistrate, rather than modifying the conditions or imposing conditions for the first time, then the judge need not engage in the rebuttable presumption analysis for the violent offense. Therefore, it is possible that a judge who wishes to leave a magistrate's decision intact may properly rely on the magistrate's decision and written findings.

### 4. *Relying on the Judge's Recommendation*

A different issue is whether a magistrate may consider a judge's recommendation in an order for arrest a sufficient reason to find a presumption overcome. To the extent that the judge has noted supporting factors (discussed in [section IV](#), above) in that recommendation, then the magistrate may be able to rely on that determination. However, absent any evidence that the judge considered the G.S. 15A-534(c) factors as they relate to the defendant, a magistrate who wishes to impose conditions of release for a violent offense will be required to engage in the magistrate's own rebuttable presumption analysis. If the magistrate finds the presumption overcome, then the magistrate remains obligated to make written findings explaining why the conditions of release were appropriate, applying the factors in G.S. 15A-534(c), even if the magistrate chooses to impose the conditions recommended by the judge. (See [section V.E.](#), below).

## D. Conditions of Release

If a judicial official finds the rebuttable presumption overcome and authorizes conditions of release for a defendant charged with a violent offense, the release is subject to the following limitations.

If the defendant is charged with a first violent offense, then the judicial official must impose either a secured bond or house arrest (with a secured bond).<sup>24</sup> "Charged with a first violent offense" could likely be interpreted to mean that the defendant does not have a prior conviction of a violent offense and was not on pretrial release for a violent offense. So a defendant who has a prior charge for a violent offense that did not result in a conviction would probably fall into this category.

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22. *Id.*, § 1.(j).

23. G.S. 15A-605(3) (emphasis added).

24. S.L. 2025-93, sec. 1.(d), § 15A-534(b1)(1).

If the defendant is charged with a second or subsequent violent offense and the defendant has either been convicted of a prior violent offense or is on pretrial release for one, then the official must impose house arrest (with a secured bond), if house arrest is available.<sup>25</sup> If house arrest is not available, then the official likely has authority to impose a secured bond.

## E. Orders for Arrest for Failing to Appear

A defendant charged with a violent offense is not subject to the special pretrial release rules in G.S. 15A-534(d1), regarding a defendant who has failed to appear on the charges on one or more prior occasions.

### 1. Previous Law

Before December 1, 2025, G.S. 15A-534(d1) stated, in relevant part:

When conditions of pretrial release are being imposed on a defendant who has failed on one or more prior occasions to appear to answer one or more of the charges to which the conditions apply, the judicial official shall at a minimum impose the conditions of pretrial release that are recommended in any order for the arrest of the defendant that was issued for the defendant's most recent failure to appear. If no conditions are recommended in that order for arrest, 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).

When a defendant was arrested on an order for arrest (OFA) for failing to appear, a magistrate typically imposed the conditions that were recommended in the OFA by a judge. Many magistrates routinely chose not to disturb the type of release or the amount of the bond noted by the judge and might have only occasionally imposed additional restrictions.

While this practice was supported by law, magistrates did have statutory authority to amend those conditions if they deemed it necessary for a particular defendant. G.S. 15A-534(d1) requires that the judicial official "at a minimum" impose the conditions of pretrial release that are recommended in the OFA. The magistrate could not reduce the bond (secured or unsecured) or impose less restrictive conditions, but the magistrate could increase the bond or impose more restrictive conditions if the magistrate deemed it necessary to ensure the defendant's appearance in court and the safety of the community.

### 2. Amended Law

Today, that rule remains unchanged for offenses that are not violent offenses. H.B. 307 amended the statute, however, to render it inapplicable to a defendant charged with a violent offense.<sup>26</sup>

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25. The bounds of electronic house arrest "availability" are not clearly defined by statute. Availability may depend on a variety of factors, including whether a jurisdiction has contracted with a vendor to provide the service or whether there are monitors ready for use (i.e., not being used for other defendants) at the time conditions of release are being imposed.

26. See S.L. 2025-93, sec. 1.(d), § 15A-534(d1) ("Except for a defendant charged with a violent offense . . ."). This is perhaps because the statute permits imposition of an unsecured bond if recommended by a judge in the OFA. The language of the statute suggests that the magistrate is required to impose a secured bond only if no conditions of release were recommended in the OFA. ("*If no conditions are recommended in that order for arrest*, the judicial official shall require the execution of a secured appearance

A magistrate who wishes to deviate entirely from the conditions recommended in an OFA for a violent offense has the statutory authority to do so. Because G.S. 15A-534(d1) does not apply to violent offenses, a magistrate may impose a secured bond in any amount, regardless of the amount recommended in the OFA. The magistrate may also choose to impose electronic house arrest (and in certain circumstances may be required to). For various reasons, magistrates may wish to continue the practice of imposing the conditions of release recommended by the judge. Provided that the recommendation aligns with the law, that option remains available for the magistrate.

A magistrate determining conditions of release for a defendant charged with a violent offense and arrested on an OFA should keep in mind that the rebuttable presumption for violent offenses still applies. The presumption is not limited to initial arrests for violent offenses. Rather, it applies anytime conditions of release are being considered for a violent offense. Regardless of whether the magistrate chooses to follow the recommendation in the OFA or impose something different, the magistrate must first overcome the rebuttable presumption that no condition of release will reasonably assure the appearance of the person as required and the safety of the community. Otherwise, the magistrate must deny conditions of release.

## F. New Charges While on Pretrial Release for Another Offense

A defendant charged with a violent offense may be subject to the bond doubling provision in G.S. 15A-534(d3), regarding a defendant charged with an offense while on pretrial release for a prior offense. In those circumstances, only a judge may set conditions of release within the first forty-eight hours after arrest.<sup>27</sup> After forty-eight hours, a magistrate is authorized to set conditions of release. In either case, the judicial official must find the rebuttable presumption overcome before setting conditions of release. If the official authorizes conditions, only a secured bond or electronic house arrest with a secured bond may be imposed. Additionally, the official may 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. If the defendant was on pretrial release for a prior violent offense at the time of arrest, the judicial official must impose electronic house arrest (with a secured bond), if available.

## G. Habitual Offender Charges

Sometimes, a magistrate may find that a defendant has been charged as a habitual offender in connection with a violent offense. Habitual offender charges are not subject to the violent offense provisions discussed in this bulletin. The habitual felon, violent habitual felon<sup>28</sup>, habitual breaking and entering, and armed habitual felon statutes do not define crimes.<sup>29</sup> Rather, they are

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bond . . .”) G.S. 15A-534(d1) (emphasis added). Excepting violent offenses from this provision would have thus been necessary to avoid any inconsistencies between the existing version of the statute and the new requirement that subjects a person charged with a violent offense to a secured bond.

27. G.S. 15A-533(h).

28. Note that the classification of violent offenses does not affect the offenses that qualify for the status of violent habitual felon under G.S. 14-7.7. The status offense sets forth its own definition of “violent felony,” and that statute has not been amended to reflect or otherwise reference “violent offenses” as created by H.B. 307. The category created by H.B. 307 applies only to conditions of pretrial release.

29. See generally Jeff Welty, *North Carolina's Habitual Felon, Violent Habitual Felon, and Habitual Breaking and Entering Laws*, ADMIN. OF JUST. BULL. No. 2013/07 (UNC School of Government, 2013), <https://www.sog.unc.edu/sites/default/files/reports/aojb1307.pdf>.

penalty enhancement provisions that apply to defendants who have achieved a specific status. The habitual charge must accompany a current criminal offense. Only the criminal offense—if it is a violent offense—would be subject to the violent offense provisions enacted by Iryna's Law.

## VI. Qualifying Criminal History

### A. Conditions of Release

Aside from violent offenses, available conditions of release are now limited for defendants who have been convicted of three or more offenses (each of which is at least a Class 1 misdemeanor) in separate sessions of court within the previous ten years. For a defendant with such a criminal history, only a secured bond or electronic house arrest with a secured bond may be imposed.<sup>30</sup>

### B. Driving While Impaired

Impaired driving under G.S. 20-138.1 or G.S. 20-138.2 is a misdemeanor offense.<sup>31</sup> Punishment for these offenses is prescribed by G.S. 20-179. A defendant is assigned to one of six different levels of punishment based on the presence of and weight assigned to certain grossly aggravating, aggravating, and mitigating factors found by a court.

The United States Supreme Court held in *Apprendi v. New Jersey* that any fact, other than a prior conviction, that increases the penalty for a crime beyond the statutory maximum has to be submitted to a jury and proved beyond a reasonable doubt.<sup>32</sup> In *Blakely v. Washington*, the Court explained that the relevant statutory maximum is the maximum sentence a judge may impose solely on the basis of the facts reflected in the jury verdict or admitted by the defendant.<sup>33</sup> After *Blakely*, the General Assembly amended G.S. 20-179 to require that aggravating factors in impaired driving cases, which increase the maximum sentence a defendant may receive, be proved beyond a reasonable doubt. In effect, aggravating factors are now treated as elements of the offense of impaired driving, which suggests that each level is to be treated as a separate offense.

G.S. 14-3 states that any misdemeanor that has a specific punishment but is not assigned a classification by the General Assembly pursuant to law is classified based on the maximum punishment allowed by law for the offense. If that maximum punishment is more than six months' imprisonment, the offense classification is a Class 1 misdemeanor.<sup>34</sup> If that maximum punishment is more than thirty days' but not more than six months' imprisonment, it is a Class 2

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30. S.L. 2025-93, sec. 1.(d), § 15A-534(b).

31. G.S. 20-138.1(d), -138.2(e).

32. 530 U.S. 466 (2000).

33. 542 U.S. 296 (2004).

34. G.S. 14-3(a)(1).

**Table 2. Classifications of Prior Convictions for Impaired Driving Offenses, by Level**

Level	Maximum punishment	Misdemeanor class
A1	36 months	1
1	24 months	1
2	12 months	1
3	6 months	2
4	120 days	2
5	60 days	2

misdemeanor.<sup>35</sup> If that maximum punishment is imprisonment of thirty days or less or is only a fine, it is a Class 3 misdemeanor.<sup>36</sup> Following this structure, prior convictions for impaired driving offenses may be classified as described in [Table 2](#).<sup>37</sup>

Because the maximum possible punishment for impaired driving at levels A1, 1, and 2 under G.S. 20-138.1 exceeds six months' imprisonment, convictions for those levels are likely to be considered Class 1 misdemeanors for purposes of determining classification for a prior conviction. Consequently, a prior conviction for impaired driving at levels A1, 1, or 2 is likely to count toward the number of offenses in the criminal history that would require imposition of a secured bond or electronic house arrest.

## VII. Defendants on Probation

### A. Arrests for Probation Violations

Under G.S. 15A-1345(b), defendants arrested for alleged violations of probation are generally subject to the pretrial release rules of G.S. 15A-534. However, because probation violations are not themselves criminal charges, the provisions applicable to violent offenses discussed in this bulletin do not apply to release conditions for an alleged probation violation—even when the defendant is on probation for a crime that is a violent offense. Alleged probation violators are, however, subject to the rules described in [section VI](#) regarding defendants with qualifying criminal histories. Thus, if a defendant on probation is

- arrested on an OFA for a probation violation and
- has a criminal history that includes convictions for three or more Class 1 misdemeanor or higher offenses, in separate sessions of court within the previous ten years,

then the judicial official must impose either a secured bond or electronic house arrest with a secured bond.

<sup>35</sup> *Id.* § (a)(2).

<sup>36</sup> *Id.* § (a)(3).

<sup>37</sup> *See* G.S. 20-179.

## B. Arrests for Criminal Offenses

Generally, if a defendant on probation for a prior offense is charged with a new felony offense, the judicial official setting release conditions must, before imposing conditions of release, determine and record in writing whether the defendant poses a danger to the public.<sup>38</sup> Under the amended law, a defendant on probation for a prior offense who is charged with a violent offense is not subject to that rule.<sup>39</sup> Thus, when a defendant on probation is charged with any violent offense, it is not necessary for a judicial official to engage in a dangerousness assessment. Rather, the judicial official must find the rebuttable presumption overcome before setting conditions of pretrial release. If the judicial official authorizes release, only a secured bond or electronic house arrest with a secured bond may be imposed.

## VIII. Out-of-State Offenses

### A. Present Charges

Out-of-state offenses are not subject to the provisions applicable to violent offenses as the definition of *violent offense* is specific to North Carolina offenses. The definition does not include a substantial similarity clause that would suggest inclusion of out-of-state offenses that are substantially similar to those listed in the statute. Even so, under the extradition statutes, a defendant charged with an out-of-state offense is subject to bail bond with sufficient sureties (i.e., a secured bond), unless the charged offense is punishable by death or life imprisonment.<sup>40</sup> Consequently, the result would be the same as one that would be reached under a violent offense analysis. The defendant would be denied release or given a secured bond for the out-of-state offense.

### B. Prior Convictions

Out-of-state offenses are likely to count toward prior convictions for purposes of determining whether the defendant has been convicted of three or more Class 1 misdemeanor or higher offenses in separate sessions of court in the last ten years. It is probably reasonable to count a felony conviction from another state toward this number because a felony is clearly higher than a Class 1 misdemeanor. What is more difficult is attempting to assess the severity of misdemeanor convictions from other states and determining whether a given misdemeanor would constitute an offense greater than a Class 1 misdemeanor in North Carolina. Because of that, judicial officials may justifiably omit out-of-state misdemeanor convictions from the count for a qualifying criminal history. However, judicial officials should make every effort to include felony convictions from separate sessions of court toward a qualifying criminal history, even when the class of felony is unknown. Judicial officials should keep in mind that secured bonds and electronic house arrest remain options for release even when there is uncertainty over whether a defendant has a criminal record that would require such types of release.

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38. G.S. 15A-534(d2).

39. S.L. 2025-93, sec. 1.(d), § 15A-534(d2).

40. G.S. 15A-736.

## Appendix A. Violent Offenses Under G.S. 15A-531(9)

Offense	Class A–G felony involving assault or use of physical force as an essential element	Felony requiring sex offender registration	Offense listed in G.S. 15A-533(b)	Otherwise specifically enumerated
G.S. 14-16.6(b)–(c): Assault on executive, legislative, court, or local elected officers	●			
G.S. 14-17: Murder in the first and second degree			●	●
G.S. 14-18: Voluntary manslaughter	●			
G.S. 14-18.4: Death by distribution				●
G.S. 14-23.2(a)(1)–(a)(2): Murder of an unborn child	●			
G.S. 14-23.3: Voluntary manslaughter of an unborn child	●			
G.S. 14-23.5: Assault inflicting serious bodily injury on an unborn child	●			
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(a): Statutory rape of person who is 15 years of age or younger		●	●	
G.S. 14-27.25(b): 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(a): Statutory sexual offense with a person who is 15 years of age or younger		●	●	
G.S. 14-27.30(b): Statutory sexual offense with a person who is 15 years of age or younger			●	
G.S. 14-27.31: Sexual activity by a substitute parent or custodian		●		
G.S. 14-27.32: Sexual activity with a student		●		

## Violent Offenses Under G.S. 15A-531(9) (continued)

Offense	Class A–G felony involving assault or use of physical force as an essential element	Felony requiring sex offender registration	Offense listed in G.S. 15A-533(b)	Otherwise specifically enumerated
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(a): Felonious assault with deadly weapon with intent to kill and inflicting serious injury	●		●	
G.S. 14-32(b)–(e): Felonious assault with deadly weapon with intent to kill or inflicting serious injury	●			
G.S. 14-32.1(e): Assaults on individuals with a disability	●			
G.S. 14-32.4: Assault inflicting serious bodily injury	●			
G.S. 14-34.1: Discharging certain barreled weapons or a firearm into occupied property			●	●
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. 14-34.5: 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(b)–(c): Assault or affray on a firefighter, an emergency medical technician, medical responder, and hospital personnel	●			
G.S. 14-34.7(a), (a1), (b): 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. 14-34.9: Discharging a firearm from within an enclosure	●			
G.S. 14-34.10: Discharge firearm within enclosure to incite fear	●			

## Violent Offenses Under G.S. 15A-531(9) (continued)

Offense	Class A–G felony involving assault or use of physical force as an essential element	Felony requiring sex offender registration	Offense listed in G.S. 15A-533(b)	Otherwise specifically enumerated
G.S. 14-39: Kidnapping		*	●	
G.S. 14-41: Abduction of children		*		
G.S. 14-43.3: Felonious restraint		*		
G.S. 14-43.11: Human trafficking		*	●	
G.S. 14-43.13: Sexual servitude		●		
G.S. 14-49(a): Malicious use of explosive or incendiary	●			
G.S. 14-50.19(a1): Intimidation to deter from gang withdrawal	●			
G.S. 14-50.20(a1): Punishment or retaliation for gang withdrawal	●			
G.S. 14-51(a): First degree burglary			●	●
G.S. 14-51(b): Second degree burglary				●
G.S. 14-54(a1): Breaking or entering with intent to terrorize or injure an occupant				●
G.S. 14-58: First-degree arson			●	
G.S. 14-87: Robbery with firearms or other dangerous weapons			●	
G.S. 14-87.1: Common-law robbery	●			
G.S. 14-88: Train robbery	●			
G.S. 14-178: Incest between near relatives		●		
G.S. 14-190.6: Employing or permitting minor to assist in offenses against public morality and decency		●		
G.S. 14-190.9(a1): Felonious indecent exposure		●		
G.S. 14-190.16: First-degree sexual exploitation of a minor		●		
G.S. 14-190.17: Second-degree sexual exploitation of a minor		●		
G.S. 14-190.17A: Third-degree sexual exploitation of a minor		●		
G.S. 14-190.17C: Obscene visual representation of sexual exploitation of a minor		●		
G.S. 14-202.1: Taking indecent liberties with children		●		●
G.S. 14-202.3: Solicitation of child by computer or certain other electronic devices to commit an unlawful sex act		●		

\* only when committed against a minor (less than 18 years old) and the defendant is not the minor's parent

## Violent Offenses Under G.S. 15A-531(9) (continued)

Offense	Class A–G felony involving assault or use of physical force as an essential element	Felony requiring sex offender registration	Offense listed in G.S. 15A-533(b)	Otherwise specifically enumerated
G.S. 14-202.4(a): Taking indecent liberties with a student		●		
G.S. 14-205.2(c) or (d): Patronizing a prostitute who is a minor or has a mental disability		●		
G.S. 14-205.3(b): Promoting prostitution of a minor or a person who has a mental disability		●		
G.S. 14-258.4(a): Malicious conduct by prisoner	●			
G.S. 14-277.3A: Stalking				●
G.S. 14-288.22(a): Unlawful use of a nuclear, biological, or chemical weapon of mass destruction	●			
G.S. 14-288.22(b): Unlawful use of a nuclear, biological, or chemical weapon of mass destruction (attempt only)	●			
G.S. 14-288.9(d)-(f): Assault on emergency personnel	●			
G.S. 14-318.4(a): Felony child abuse	●			
G.S. 14-318.4(a1): Felony child abuse—prostitution		●		
G.S. 14-318.4(a2): Felony child abuse—sexual act		●		
G.S. 14-318.4(a3): Felony child abuse	●			
G.S. 14-415.1: Possession of firearms by a felon				●
G.S. 90-95(h)(4c): Trafficking in fentanyl				●

Violent offenses also include the following:

- Attempts to commit any of the listed offenses
- Solicitation or conspiracy to commit a **felony offense that requires sex offender registration**, so long as the solicitation or conspiracy is punishable as a felony

The following felony offenses require sex offender registration only when a sentencing court rules that the person is a danger to the community and that the person should register. The offenses are likely not violent offenses at the time they are charged but may be considered “prior violent offenses” for purposes of G.S. 15A-534(b1)(2) following the judicial determination at sentencing.

- G.S. 14-43.14: Unlawful sale, surrender, or purchase of a minor
- G.S. 14-202(c): Second/subsequent conviction for misdemeanor peeping
- G.S. 14-202(d), (e1), (f), (g), or (h): Felony peeping

## Appendix B. Setting Conditions of Release

This guide is intended to assist judicial officials in determining WHO has authority to set conditions of release for a given offense and WHAT conditions may be imposed.

### JUDGE ONLY

#### TYPE OF OFFENSE

##### Offenses Listed in G.S. 15A-533(b) ["Pretrial Integrity Act" Felonies]

- G.S. 14-17 First- or second-degree murder or attempted first- or second-degree murder
- 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) Assault with a deadly weapon with intent to kill inflicting serious injury
- G.S. 14-34.1 Discharging certain barreled weapons or a firearm into occupied property
- G.S. 14-39 First- or second-degree kidnapping
- G.S. 14-43.11 Human trafficking
- First-degree burglary pursuant to G.S. 14-51
- First-degree arson pursuant to G.S. 14-58
- G.S. 14-87 Robbery with firearms or other dangerous weapons

Deny conditions of release unless the rebuttable presumption (pursuant to G.S. 15A-533(b) and -534(b1)) is overcome. The presumption may be overcome with a 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.

If the presumption is overcome and release of the defendant is authorized, findings of fact must be made and conditions must be imposed as follows:

- Impose **Secured Bond** or **Electronic House Arrest** (if available) if the defendant is charged with a first violent offense.
- Impose **Electronic House Arrest** (if available) **with a Secured Bond** if the defendant is charged with a second or subsequent violent offense and
  - has been convicted of a prior violent offense or
  - was on pretrial release for a prior violent offense.

This guide to setting conditions of release is also available as a [separate PDF](https://www.sog.unc.edu/publications/books/setting-conditions-release) on the School of Government website at <https://www.sog.unc.edu/publications/books/setting-conditions-release>.

## JUDGE ONLY

Certain offenses are subject to rebuttable presumptions if all the relevant statutory findings are made. If all the relevant statutory findings are not made, then any judicial official may act, subject to other applicable rules.

### TYPE OF OFFENSE

#### Drug Trafficking Offenses G.S. 15A-533(d)

- The defendant committed a drug trafficking offense.
- The drug trafficking offense was committed while the defendant was on pretrial release for another offense.
- The defendant has previously been convicted of a Class A–E felony or an offense involving drug trafficking and not more than 5 years have elapsed since conviction or release from prison, whichever is later.

#### Gang Offenses G.S. 15A-533(e)

- The defendant committed a gang offense.
- The gang offense was committed while the defendant was on pretrial release for another offense.
- The defendant has previously been convicted of a gang offense or has been convicted of a criminal offense and received an enhanced sentence pursuant to G.S. 15A-1340.16E and not more than five years have elapsed since conviction or release from prison, whichever is later.

#### Firearms Offenses G.S. 15A-533(f)

- The defendant committed a felony or Class A1 misdemeanor offense involving a firearm **AND**
- The firearm offense was committed while the defendant was on pretrial release for another felony or Class A1 misdemeanor offense involving a firearm **OR**
- The defendant has previously been convicted of a felony or Class A1 misdemeanor offense involving a firearm and not more than 5 years have elapsed since conviction or release from prison, whichever is later.

Deny conditions of release unless the applicable rebuttable presumption is overcome. The judge must find that there is a reasonable assurance that the person will appear and release does not pose an unreasonable risk of harm to the community. If the rebuttable presumption is overcome, then proceed in accordance with the section below.

### Is the Offense Committed by the Defendant a Violent Offense?

#### YES

If the presumption is overcome and release of the defendant is authorized, findings of fact must be made and conditions must be imposed as follows:

- Impose **Secured Bond** or **Electronic House Arrest** (if available) if the defendant is charged with a first violent offense.
- Impose **Electronic House Arrest** (if available) **with a Secured Bond** if the defendant is charged with a second or subsequent violent offense and
  - has been convicted of a prior violent offense or
  - was on pretrial release for a prior violent offense.

#### NO

Has the defendant been convicted of three or more offenses (each at least a Class 1 misdemeanor) in separate sessions of court within the previous ten years?

#### YES

Impose **Secured Bond** and/or **Electronic House Arrest**, (if available) [make findings of fact].

#### NO

Set conditions as appropriate, which may include **Unsecured Bond** and/or **Custody Release**.

Violent offenses include the following:

- 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.
- Any felony offense requiring sex offender registration, whether or not the person is currently required to register.
- An offense under **G.S. 14-17**, and any other offense listed in **G.S. 15A-533(b)** [see JUDGE ONLY].
- An offense under the following statutes:
  - **G.S. 14-18.4** Death by distribution
  - **G.S. 14-34.1** Discharging firearms into occupied property
  - **G.S. 14-51** Burglary
  - **G.S. 14-54(a1)** Breaking or entering w/ intent to injure/terrorize
  - **G.S. 14-202.1** Taking indecent liberties with children
  - **G.S. 14-277.3A** Stalking
  - **G.S. 14-415.1** Possession of firearm by felon
  - **G.S. 90-95(h)(4c)** Trafficking in fentanyl
- An attempt to commit any offense described in this section

**JUDGE INITIALLY**

**TYPE OF OFFENSE**

- New offenses allegedly committed while the defendant was on pretrial release for a pending proceeding [G.S. 15A-533(h)]
  - Any judicial official may set conditions immediately for offenses under **G.S. Chapter 20, except the following offenses:**
    - **G.S. 20-138.1** Impaired driving bus, child care vehicle, ambulance, other EMS vehicle, firefighting vehicle, or law enforcement vehicle after consuming alcohol
    - **G.S. 20-138.2** Impaired driving in a commercial vehicle
    - **G.S. 20-138.2A** Operating a commercial vehicle after consuming alcohol
    - **G.S. 20-138.2B** Operating a school bus, school activity
    - **G.S. 20-138.5** Habitual impaired driving
    - **G.S. 20-141.4** Death or injury by vehicle
- **G.S. 15A-534.1** Crimes of domestic violence
- **G.S. 15A-534.7** Communicating a threat of mass violence
- **G.S. 15A-534.9** Threats against public officers
- **G.S. 15A-534.8** Rioting or looting

**THEN ANY JUDICIAL OFFICIAL**

- After forty-eight hours, any judicial official may set conditions of release (24 hours for rioting and looting offenses)

**Is the Offense Committed by the Defendant a Violent Offense?**

<p style="text-align: center;"><b>YES</b></p> <p>Deny conditions of release unless the rebuttable presumption for violent offenses is overcome. The presumption may be overcome with a finding that there is a reasonable assurance that the defendant will appear and release does not pose an unreasonable risk of harm to the community.</p> <p>If the presumption is overcome and release of the defendant is authorized, findings of fact must be made and conditions must be imposed as follows:</p> <ul style="list-style-type: none"> <li>• Impose <b>Secured Bond</b> or <b>Electronic House Arrest</b> (if available) if the defendant is charged with a first violent offense.</li> <li>• Impose <b>Electronic House Arrest</b> (if available) <b>with a Secured Bond</b> if the defendant is charged with a second or subsequent violent offense and                             <ul style="list-style-type: none"> <li>- has been convicted of a prior violent offense or</li> <li>- was on pretrial release for a prior violent offense.</li> </ul> </li> </ul> <p>If the defendant is arrested on an order for arrest for failing to appear and the underlying offense is a violent offense, then the magistrate must deny conditions of release unless the rebuttable presumption for violent offenses is overcome. The magistrate may, but is not required to, impose the conditions of release recommended by the judge in the order for arrest. Make written findings.</p>	<p style="text-align: center;"><b>NO</b></p> <p>Has the defendant been convicted of three or more offenses (each at least a Class 1 misdemeanor) in separate sessions of court within the previous ten years?</p>		
	<table border="1" style="width: 100%;"> <tr> <td style="background-color: #00bcd4; color: white; padding: 5px; text-align: center;"> <p style="text-align: center;"><b>YES</b></p> <p style="text-align: center;">Impose <b>Secured Bond</b> and/or <b>Electronic House Arrest</b>, (if available) [make findings of fact].</p> </td> <td style="background-color: #00bcd4; color: white; padding: 5px; text-align: center;"> <p style="text-align: center;"><b>NO</b></p> <p style="text-align: center;">Set conditions as appropriate, which may include <b>Unsecured Bond</b> and/or <b>Custody Release</b>.</p> </td> </tr> </table> <p>If the defendant is arrested on an order for arrest for failing to appear and the underlying offense is NOT a violent offense, then the magistrate must at a minimum impose the conditions of release that are recommended in any order for arrest for the most recent failure to appear. If no conditions are recommended in that order for arrest, then a secured bond in an amount at least double the amount of the most recent previous bond (secured or unsecured) for the charges should be imposed. If no bond has yet been required for the charges, a secured bond in the amount of at least \$1,000 should be imposed.</p>	<p style="text-align: center;"><b>YES</b></p> <p style="text-align: center;">Impose <b>Secured Bond</b> and/or <b>Electronic House Arrest</b>, (if available) [make findings of fact].</p>	<p style="text-align: center;"><b>NO</b></p> <p style="text-align: center;">Set conditions as appropriate, which may include <b>Unsecured Bond</b> and/or <b>Custody Release</b>.</p>
<p style="text-align: center;"><b>YES</b></p> <p style="text-align: center;">Impose <b>Secured Bond</b> and/or <b>Electronic House Arrest</b>, (if available) [make findings of fact].</p>	<p style="text-align: center;"><b>NO</b></p> <p style="text-align: center;">Set conditions as appropriate, which may include <b>Unsecured Bond</b> and/or <b>Custody Release</b>.</p>		

Violent offenses include the following:

- 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.
- Any felony offense requiring sex offender registration, whether or not the person is currently required to register.
- An offense under **G.S. 14-17**, and any other offense listed in **G.S. 15A-533(b)** [see JUDGE ONLY].
- An offense under the following statutes:
  - **G.S. 14-18.4** Death by distribution
  - **G.S. 14-34.1** Discharging firearms into occupied property
  - **G.S. 14-51** Burglary
  - **G.S. 14-54(a1)** Breaking or entering with intent to injure/terrorize
  - **G.S. 14-202.1** Taking indecent liberties with children
  - **G.S. 14-277.3A** Stalking
  - **G.S. 14-415.1** Possession of firearm by felon
  - **G.S. 90-95(h)(4c)** Trafficking in fentanyl
- An attempt to commit any offense described in this section

**ANY JUDICIAL OFFICIAL****TYPE OF OFFENSE**

- Any offense not subject to a rule that limits or delays authority (see JUDGE ONLY and JUDGE INITIALLY).

**Is the Offense Committed by the Defendant a Violent Offense?****YES**

Deny conditions of release unless the rebuttable presumption for violent offenses is overcome. The presumption may be overcome with a finding that there is a reasonable assurance that the defendant will appear and release does not pose an unreasonable risk of harm to the community.

If the presumption is overcome and release of the defendant is authorized, findings of fact must be made and conditions must be imposed as follows:

- Impose **Secured Bond** or **Electronic House Arrest** (if available) if the defendant is charged with a first violent offense.
- Impose **Electronic House Arrest** (if available) **with a Secured Bond** if the defendant is charged with a second or subsequent violent offense and
  - has been convicted of a prior violent offense or
  - was on pretrial release for a prior violent offense.

If the defendant is arrested on an order for arrest for failing to appear and the underlying offense is a violent offense, then the magistrate must deny conditions of release unless the rebuttable presumption for violent offenses is overcome. The magistrate may, but is not required to, impose the conditions of release recommended by the judge in the order for arrest. Make written findings.

**NO**

Has the defendant been convicted of three or more offenses (each at least a Class 1 misdemeanor) in separate sessions of court within the previous ten years?

**YES**

Impose **Secured Bond** and/or **Electronic House Arrest**, (if available) [make findings of fact].

**NO**

Set conditions as appropriate, which may include **Unsecured Bond** and/or **Custody Release**.

If the defendant is arrested on an order for arrest for failing to appear and the underlying offense is NOT a violent offense, then the magistrate must at a minimum impose the conditions of release that are recommended in any order for arrest for the most recent failure to appear. If no conditions are recommended in that order for arrest, then a secured bond in an amount at least double the amount of the most recent previous bond (secured or unsecured) for the charges should be imposed. If no bond has yet been required for the charges, a secured bond in the amount of at least \$1,000 should be imposed.

Violent offenses include the following:

- 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.
- Any felony offense requiring sex offender registration, whether or not the person is currently required to register.
- An offense under **G.S. 14-17**, and any other offense listed in **G.S. 15A-533(b)** [see JUDGE ONLY].
- An offense under the following statutes:
  - **G.S. 14-18.4** Death by distribution
  - **G.S. 14-34.1** Discharging firearms into occupied property
  - **G.S. 14-51** Burglary
  - **G.S. 14-54(a1)** Breaking or entering with intent to injure/terrorize
  - **G.S. 14-202.1** Taking indecent liberties with children
  - **G.S. 14-277.3A** Stalking
  - **G.S. 14-415.1** Possession of firearm by felon
  - **G.S. 90-95(h)(4c)** Trafficking in fentanyl
- An attempt to commit any offense described in this section