

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H

1

HOUSE BILL 104

Short Title: Judicial Discretion of FTA Release Conditions. (Public)

Sponsors: Representatives John, Rogers, Zachary, and Morey (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary 2, if favorable, Rules, Calendar, and Operations of the House

February 19, 2021

A BILL TO BE ENTITLED
AN ACT TO REINSTATE THE DISCRETION OF A JUDICIAL OFFICIAL IN SETTING
APPROPRIATE CONDITIONS OF PRETRIAL RELEASE FOR A DEFENDANT THAT
HAS PREVIOUSLY FAILED TO APPEAR IN COURT FOR THE CHARGES TO WHICH
THE CONDITIONS APPLY, AS RECOMMENDED BY THE COURTS COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-534 reads as rewritten:

"§ 15A-534. Procedure for determining conditions of pretrial release.

(a) In determining conditions of pretrial release a judicial official must impose at least one of the following conditions:

- (1) Release the defendant on his written promise to appear.
- (2) Release the defendant upon his execution of an unsecured appearance bond in an amount specified by the judicial official.
- (3) Place the defendant in the custody of a designated person or organization agreeing to supervise him.
- (4) Require the execution of an appearance bond in a specified amount secured by a cash deposit of the full amount of the bond, by a mortgage pursuant to G.S. 58-74-5, or by at least one solvent surety.
- (5) House arrest with electronic monitoring.

~~If condition (5) is imposed, the defendant must execute a secured appearance bond under subdivision (4) of this subsection.~~ If condition (3) is imposed, however, the defendant may elect to execute an appearance bond under subdivision (4). If the defendant is required to provide fingerprints pursuant to G.S. 15A-502(a1), (a2), (a4), or (a6), or a DNA sample pursuant to G.S. 15A-266.3A or G.S. 15A-266.4, and (i) the fingerprints or DNA sample have not yet been taken or (ii) the defendant has refused to provide the fingerprints or DNA sample, the judicial official shall make the collection of the fingerprints or DNA sample a condition of pretrial release. The judicial official may also place restrictions on the travel, associations, conduct, or place of abode of the defendant as conditions of pretrial release. The judicial official may include as a condition of pretrial release that the defendant abstain from alcohol consumption, as verified by the use of a continuous alcohol monitoring system, of a type approved by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, and that any violation of this condition be reported by the monitoring provider to the district attorney.

...

(d1) 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



* H 1 0 4 - V - 1 *

1 conditions apply, the judicial official shall at a minimum impose the conditions of pretrial release
2 that are recommended in any order for the arrest of the defendant that was issued for the
3 defendant's most recent failure to appear. If no conditions are recommended in that order for
4 arrest, ~~the judicial official shall require the execution of a secured appearance bond in an amount~~
5 ~~at least double the amount of the most recent previous secured or unsecured bond for the charges~~
6 ~~or, if no bond has yet been required for the charges, in the amount of at least one thousand dollars~~
7 ~~(\$1,000).~~ the judicial official shall impose conditions of pretrial release in accordance with this
8 section. The judicial official shall also impose such restrictions on the travel, associations,
9 conduct, or place of abode of the defendant as will assure that the defendant will not again fail to
10 appear. The judicial official shall indicate on the release order that the defendant was arrested or
11 surrendered after failing to appear as required under a prior release order. If the information
12 available to the judicial official indicates that the defendant has failed on two or more prior
13 occasions to appear to answer the charges, the judicial official shall indicate that fact on the
14 release order.

15"

16 **SECTION 2.** This act becomes effective December 1, 2021, and applies to
17 conditions of pretrial release imposed on or after that date.