

March 27, 2009

S 1078. DELAY BOND/PROBATIONER ARRESTED FOR FELONY. Filed 3/26/09. *TO PROVIDE THAT A PROBATIONER WHO IS ARRESTED AND CHARGED WITH THE COMMISSION OF A FELONY SHALL BE TEMPORARILY DETAINED WITHOUT BOND UNTIL THE COURT HAS SUFFICIENT INFORMATION TO DETERMINE WHETHER THE PROBATIONER'S RELEASE POSES A DANGER TO THE PUBLIC.*

Amends GS 15A-1345(b) as title indicates. Detention without bond may not exceed seven working days from the date of arrest for the purpose of determining if release poses danger to public. Effective December 1, 2009, for offenses committed on and after that date.

Intro. by Snow.

GS 15A

June 25, 2009

S 1078. DELAY BOND/PROBATIONER ARRESTED FOR FELONY. Filed 3/26/09. House committee substitute makes the following changes to 1st edition.

Conditions of pretrial release. Adds new subsection (d2) to GS 15A-534 to require a judicial official to make a written determination as to whether a defendant poses a danger to the public before imposing conditions of pretrial release when conditions of pretrial release are being imposed on a defendant who is (1) charged with a felony offense and (2) is currently on probation for a prior offense. Requires the judicial official, upon a determination that the defendant poses a danger to the public, to require the execution of an appearance bond in a specified amount secured by (1) a cash deposit of the full amount of the bond, (2) a mortgage pursuant to GS 58-74-5, or (3) at least one solvent surety as specified in GS 15A-534(a)(4). Provides that the defendant may be kept in custody for no more than seven days from the date of the defendant's arrest in order for the judicial official to obtain sufficient information to determine whether the defendant poses a danger to the public if there is insufficient information to determine whether the defendant poses a danger to the public. Provides that if the judicial official cannot obtain sufficient information to determine whether the defendant is a danger to the public, the judicial official is to record that fact in writing and impose conditions of pretrial release as otherwise provided in GS 15A-534 no later than seven days from the date of arrest.

Bail following arrest for probation violation. Amends GS 15A-1345(b) to require a judicial official to make a written determination as to whether a probationer poses a danger to the public prior to imposing conditions of release if the probationer has been arrested for any violation of probation and (1) has been convicted of an offense that requires registration or would have required registration under the Sex Offender and Public Protection Registration Program or (2) *has a pending charge for a felony offense.* Directs the judicial official, upon a determination that the probationer poses a danger to the public, to deny the probationer release pending a revocation hearing. Provides that if the judicial official cannot obtain sufficient information to determine whether the probationer is a danger to the public, the judicial official is to record that fact in writing no later than seven days from the date of arrest and impose conditions of release as otherwise provided in GS 15A-1345(b).

July 20, 2009

S 1078. DELAY BOND/PROBATIONER ARRESTED FOR FELONY. Filed 3/26/09. House committee substitute makes the following changes to 2nd edition. Amends proposed subsection (d2) of GS 15A-534 to clarify that the determination by a judicial official as to whether a defendant poses a danger to the public is to be addressed when the conditions of pretrial release are being determined (was, when conditions of pretrial release are being imposed). Provides that this subsection applies to any judicial official authorized to determine or review the defendant's eligibility for release under any proceeding authorized by GS Chapter 15A. Directs that the conditions of pretrial release be imposed as otherwise provided in GS Chapter 15A, Article 26, upon a finding by the judicial official that the defendant does not pose a danger to the public. Requires that the defendant be kept in custody if there is insufficient evidence to determine whether the defendant poses a danger to the public until a determination of pretrial release conditions is made under GS 15A-534(d2)(3) (was, required the defendant to be kept in custody not more than seven days from the date of the arrest in order for the judicial official to obtain

information to make a determination as to whether the defendant poses a danger to the public). Directs the judicial official that orders the defendant to be retained to provide a written statement at the time the order is entered stating (1) that the defendant is being held pursuant to this subdivision; (2) the basis for the judicial official's decision to retain the defendant in custody, and (3) a date, within 96 hours of arrest, when the defendant must have a first appearance before a judge pursuant to Article 29 of GS Chapter 15A. Authorizes the judge who reviews the defendant's eligibility for release at the first appearance to determine the conditions of pretrial release; however, also provides that if the necessary information to determine whether the defendant poses a danger to the public is supplied to the court at any time prior to a first appearance, the first available official is authorized to set the conditions for pretrial release.

Amends GS 15A-1345 to provide that if the defendant has been held for seven days from the date of arrest, and the court has not obtained sufficient information to determine whether the defendant is a danger to the public, then the defendant must be brought before *any* judicial official, who must record the fact in writing and impose conditions of pretrial release as otherwise provided in this statute. Clarifies that a probationer who has been taken into custody for a probation violation and denied release under GS 15A-534(b1)(1) is to be held in custody until the revocation hearing date.

Makes organizational changes and conforming changes to the title.

August 5, 2009

SL 2009-412 (S 1078). DELAY BOND/PROBATIONER ARRESTED FOR FELONY. AN ACT TO PROVIDE THE PROCEDURE FOR DETERMINING PRETRIAL RELEASE CONDITIONS WHEN A PROBATIONER IS ARRESTED AND CHARGED WITH THE COMMISSION OF A FELONY, AND TO PROVIDE THAT WHEN A PROBATIONER IS CHARGED WITH A VIOLATION OF PROBATION AND HAS A PENDING FELONY CHARGE, A JUDICIAL OFFICIAL MUST DETERMINE WHETHER THE PROBATIONER POSES A DANGER TO THE PUBLIC AND, IF THE PROBATIONER IS A DANGER TO THE PUBLIC, THE JUDICIAL OFFICIAL MUST DENY RELEASE ON THE PROBATION VIOLATION CHARGE. Summarized in *Daily Bulletin* 3/26/09, 6/25/09, and 7/20/09. Enacted August 5, 2009. Effective December 1, 2009.