

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 311
Judiciary II Committee Substitute Adopted 4/28/11
PROPOSED HOUSE COMMITTEE SUBSTITUTE S311-PCS15191-LB-74

Short Title: Pretrial Release Violation/Arrest.

(Public)

Sponsors:

Referred to:

March 10, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW WARRANTLESS ARREST FOR VIOLATION OF PRETRIAL
3 RELEASE CONDITIONS, AND RELATING TO ELECTRONIC TECHNOLOGY IN
4 CRIMINAL PROCESS AND PROCEDURE.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 15A-401(b) reads as rewritten:

7 "(b) Arrest by Officer Without a Warrant. –

8 (1) Offense in Presence of Officer. – An officer may arrest without a warrant
9 any person who the officer has probable cause to believe has committed a
10 criminal ~~offense~~ offense, or has violated a pretrial release order entered
11 under G.S. 15A-534 or G.S. 15A-534.1(a)(2), in the officer's presence.

12 (2) Offense Out of Presence of Officer. – An officer may arrest without a
13 warrant any person who the officer has probable cause to believe:

14 a. Has committed a felony; or

15 b. Has committed a misdemeanor, and:

16 1. Will not be apprehended unless immediately arrested, or

17 2. May cause physical injury to himself or others, or damage to
18 property unless immediately arrested; or

19 c. Has committed a misdemeanor under G.S. 14-72.1, 14-134.3,
20 20-138.1, or 20-138.2; or

21 d. Has committed a misdemeanor under G.S. 14-33(a), 14-33(c)(1),
22 14-33(c)(2), or 14-34 when the offense was committed by a person
23 with whom the alleged victim has a personal relationship as defined
24 in G.S. 50B-1; or

25 e. Has committed a misdemeanor under G.S. 50B-4.1(a); or

26 f. Has violated a pretrial release order entered under
27 ~~G.S. 15A-534.1(a)(2).~~ G.S. 15A-534 or G.S. 15A-534.1(a)(2).

28 (3) Repealed by Session Laws 1991, c. 150.

29 (4) A law enforcement officer may detain an individual arrested for violation of
30 an order limiting freedom of movement or access issued pursuant to
31 G.S. 130A-475 or G.S. 130A-145 in the area designated by the State Health
32 Director or local health director pursuant to such order. The person may be



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1 detained in such area until the initial appearance before a judicial official
2 pursuant to G.S. 15A-511 and G.S. 15A-534.5."

3 **SECTION 2.(a)** G.S. 15A-101.1 is amended by adding a new subdivision to read:

4 **"§ 15A-101.1. Electronic technology in criminal process and procedure.**

5 As used in this Chapter, in Chapter 7A of the General Statutes, in Chapter 15 of the General
6 Statutes, and in all other provisions of the General Statutes that deal with criminal process or
7 procedure:

8 ...
9 (3a) "Electronic monitoring" or "electronically monitor" or "satellite-based
10 monitoring" means monitoring with an electronic monitoring device that is
11 not removed from a person's body, that is utilized by the supervising agency
12 in conjunction with a Web-based computer system that actively monitors,
13 identifies, tracks, and records a person's location at least once every minute
14 24 hours a day, that has a battery life of at least 48 hours without being
15 recharged, that timely records and reports or records the person's presence
16 near or within a crime scene or prohibited area or the person's departure
17 from a specified geographic location, and that has incorporated into the
18 software the ability to automatically compare crime scene data with
19 locations of all person's being electronically monitored so as to provide any
20 correlation daily or in real time. In areas of the State where lack of cellular
21 coverage requires the use of an alternative device, the supervising agency
22 shall use an alternative device that works in concert with the software and
23 records location and tracking data for later download and crime scene
24 comparison."

25 **SECTION 2.(b)** G.S. 14-208.18 is amended by adding a new subsection to read:

26 "(g1) Notwithstanding any provision of this section, a person subject to subsection (a) of
27 this section who is required to wear an electronic monitoring device shall wear an electronic
28 monitoring device that provides exclusion zones around the premises of all elementary and
29 secondary schools in North Carolina."

30 **SECTION 2.(c)** By October 1, 2011, the Department of Correction shall replace
31 the electronic monitoring service and equipment currently being used with a provider that
32 offers electronic monitoring equipment and service that provides exclusion zones around the
33 premises of every elementary and secondary school in the State for the protection of children
34 from sex offenders for whom it is unlawful to knowingly be on the premises of elementary and
35 secondary schools pursuant to G.S. 14-208.18.

36 **SECTION 2.(d)** The Department of Correction shall report to the Joint Legislative
37 Corrections, Crime Control, and Juvenile Justice Oversight Committee by June 1, 2012,
38 regarding the implementation of the new electronic monitoring service and equipment and
39 provide the Committee with its evaluation of how the new system is functioning and how it
40 compares with other systems used by the Department for this same purpose.

41 **SECTION 3.** Section 1 of this act becomes effective December 1, 2011, and
42 applies to violations of pretrial release conditions occurring on or after that date. Section 2 of
43 this act becomes effective October 1, 2011. This section is effective when it becomes law.