

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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SENATE DRS35109-LH-132 (03/13)

Short Title: Domestic Violence/Bail & Aggravating Factor. (Public)

Sponsors: Senators Daniel and Stein (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE THAT A JUDGE SHALL DETERMINE THE CONDITIONS OF  
3 PRETRIAL RELEASE FOR A DEFENDANT CHARGED WITH A DOMESTIC  
4 VIOLENCE OFFENSE WHEN THE DEFENDANT IS OR HAS BEEN IN A DATING  
5 RELATIONSHIP WITH THE VICTIM, AND TO INCLUDE IN THE LIST OF  
6 AGGRAVATING FACTORS THAT THE DEFENDANT KNEW OR SHOULD HAVE  
7 KNOWN THAT A MINOR WAS WITNESSING THE CRIME BY SIGHT OR  
8 HEARING.

9 The General Assembly of North Carolina enacts:

10 SECTION 1. G.S. 15A-534.1 reads as rewritten:

11 "§ 15A-534.1. Crimes of domestic violence; bail and pretrial release.

12 (a) In all cases in which the defendant is charged with assault on, stalking,  
13 communicating a threat to, or committing a felony provided in Articles 7A, 8, 10, or 15 of  
14 Chapter 14 of the General Statutes upon a spouse or former ~~spouse or spouse~~, a person with  
15 whom the defendant lives or has lived as if married, or a person with whom the defendant is or  
16 has been in a dating relationship as defined in G.S. 50B-1(b)(6), with domestic criminal  
17 trespass, or with violation of an order entered pursuant to Chapter 50B, Domestic Violence, of  
18 the General Statutes, the judicial official who determines the conditions of pretrial release shall  
19 be a judge. The judge shall direct a law enforcement officer or a district attorney to provide a  
20 criminal history report for the defendant and shall consider the criminal history when setting  
21 conditions of release. After setting conditions of release, the judge shall return the report to the  
22 providing agency or department. No judge shall unreasonably delay the determination of  
23 conditions of pretrial release for the purpose of reviewing the defendant's criminal history  
24 report. The following provisions shall apply in addition to the provisions of G.S. 15A-534:

- 25 (1) Upon a determination by the judge that the immediate release of the  
26 defendant will pose a danger of injury to the alleged victim or to any other  
27 person or is likely to result in intimidation of the alleged victim and upon a  
28 determination that the execution of an appearance bond as required by  
29 G.S. 15A-534 will not reasonably assure that such injury or intimidation will  
30 not occur, a judge may retain the defendant in custody for a reasonable  
31 period of time while determining the conditions of pretrial release.
- 32 (2) A judge may impose the following conditions on pretrial release:
- 33 a. That the defendant stay away from the home, school, business or  
34 place of employment of the alleged victim.
- 35 b. That the defendant refrain from assaulting, beating, molesting, or  
36 wounding the alleged victim.



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- 1 c. That the defendant refrain from removing, damaging or injuring
- 2 specifically identified property.
- 3 d. That the defendant may visit his or her child or children at times and
- 4 places provided by the terms of any existing order entered by a
- 5 judge.
- 6 e. That the defendant abstain from alcohol consumption, as verified by
- 7 the use of a continuous alcohol monitoring system, of a type
- 8 approved by the Division of Adult Correction of the Department of
- 9 Public Safety, and that any violation of this condition be reported by
- 10 the monitoring provider to the district attorney.

The conditions set forth above may be imposed in addition to requiring that the defendant execute a secured appearance bond.

- 11 (3) Should the defendant be mentally ill and dangerous to himself or others or a
- 12 substance abuser and dangerous to himself or others, the provisions of
- 13 Article 5 of Chapter 122C of the General Statutes shall apply.

(b) A defendant may be retained in custody not more than 48 hours from the time of arrest without a determination being made under this section by a judge. If a judge has not acted pursuant to this section within 48 hours of arrest, the magistrate shall act under the provisions of this section."

**SECTION 2.** G.S. 15A-1340.16(d) is amended by adding a new subdivision to read:

"(13a) The defendant knew or reasonably should have known that the offense was being witnessed by sight or hearing, by a person under the age of 18 who was not involved in the commission of the offense."

**SECTION 3.** This act becomes effective December 1, 2015, and applies to offenses committed on or after that date.