

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE DRS15140-LU-7 (01/05)

Short Title: Amend House Arrest Laws/Adult/Juvenile.

(Public)

Sponsors: Senator Berger of Rockingham.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE THAT HOUSE ARREST MAY BE IMPOSED AS A CONDITION  
3 OF PRETRIAL RELEASE; TO PROVIDE THAT ONLY THE COURT MAY  
4 AUTHORIZE AN OFFENDER UNDER ELECTRONIC HOUSE ARREST TO LEAVE  
5 THE OFFENDER'S RESIDENCE FOR SPECIFIC PURPOSES; AND TO AMEND THE  
6 DEFINITION OF HOUSE ARREST UNDER JUVENILE LAW TO STATE THE  
7 SPECIFIC PURPOSES FOR WHICH A JUVENILE MAY BE AUTHORIZED TO  
8 LEAVE THE JUVENILE'S RESIDENCE.

9 The General Assembly of North Carolina enacts:

10 SECTION 1. G.S. 7B-1501(12) reads as rewritten:

11 "In this Subchapter, unless the context clearly requires otherwise, the following words have  
12 the listed meanings. The singular includes the plural, unless otherwise specified.

13 ...

14 (12) House arrest. – A requirement that the juvenile remain at the juvenile's  
15 residence unless the court or the juvenile court counselor authorizes the  
16 juvenile to leave for ~~specific purposes~~ school, counseling, work, or other  
17 similar specific purposes, provided the juvenile is accompanied in transit by  
18 a parent or legal guardian.

19 ...."

20 SECTION 2. G.S. 15A-531 is amended by adding a new subdivision to read:

21 "(5a) House arrest with electronic monitoring. – Pretrial release in which the  
22 offender is required to remain at his or her residence unless the court  
23 authorizes the offender to leave for the purpose of employment, counseling,  
24 a course of study, or vocational training. The offender shall be required to  
25 wear a device which permits the supervising agency to monitor the  
26 offender's compliance with the condition electronically."

27 SECTION 3. G.S. 15A-534(a) reads as rewritten:

28 "§ 15A-534. Procedure for determining conditions of pretrial release.

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

31 (1) Release the defendant on his written promise to appear.

32 (2) Release the defendant upon his execution of an unsecured appearance bond  
33 in an amount specified by the judicial official.



- 1 (3) Place the defendant in the custody of a designated person or organization  
2 agreeing to supervise him.  
3 (4) Require the execution of an appearance bond in a specified amount secured  
4 by a cash deposit of the full amount of the bond, by a mortgage pursuant to  
5 G.S. 58-74-5, or by at least one solvent surety.

6 (5) House arrest with electronic monitoring.

7 If condition (3) is imposed, however, the defendant may elect to execute an appearance bond  
8 under subdivision (4). The judicial official may also place restrictions on the travel,  
9 associations, conduct, or place of abode of the defendant as conditions of pretrial release."

10 **SECTION 4.** G.S. 15A-534(b) reads as rewritten:

11 "(b) The judicial official in granting pretrial release must impose condition (1), (2), or  
12 (3) in subsection (a) above unless he determines that such release will not reasonably assure the  
13 appearance of the defendant as required; will pose a danger of injury to any person; or is likely  
14 to result in destruction of evidence, subornation of perjury, or intimidation of potential  
15 witnesses. Upon making the determination, the judicial official must then impose condition (4)  
16 or (5) in subsection (a) above instead of condition (1), (2), or (3), and must record the reasons  
17 for so doing in writing to the extent provided in the policies or requirements issued by the  
18 senior resident superior court judge pursuant to G.S. 15A-535(a)."

19 **SECTION 5.** G.S. 15A-535(a) reads as rewritten:

20 "(a) Subject to the provisions of this Article, the senior resident superior court judge for  
21 each district or set of districts as defined in G.S. 7A-41.1(a) in consultation with the chief  
22 district court judge or judges of all the district court districts in which are located any of the  
23 counties in the senior resident superior court judge's district or set of districts, must devise and  
24 issue recommended policies to be followed within each of those counties in determining  
25 whether, and upon what conditions, a defendant may be released before trial, and may include  
26 in such policies, or issue separately, a requirement that each judicial official who imposes  
27 condition (4) or (5) in G.S. 15A-534(a) must record the reasons for doing so in writing."

28 **SECTION 6.** G.S. 15A-1340.11(4a) reads as rewritten:

29 "The following definitions apply in this Article:

30 ...

- 31 (4a) House arrest with electronic monitoring. – Probation in which the offender is  
32 required to remain at his or her residence unless the court ~~or the probation~~  
33 ~~officer~~ authorizes the offender to leave for the purpose of employment,  
34 counseling, a course of study, or vocational training. The offender shall be  
35 required to wear a device which permits the supervising agency to monitor  
36 the offender's compliance with the condition electronically.

37 ...."

38 **SECTION 7.** G.S. 15A-1343(b1)(3c) reads as rewritten:

39 "(b1) Special Conditions. – In addition to the regular conditions of probation specified in  
40 subsection (b), the court may, as a condition of probation, require that during the probation the  
41 defendant comply with one or more of the following special conditions:

42 ...

- 43 (3c) Remain at his or her residence unless the court ~~or the probation officer~~  
44 authorizes the offender to leave for the purpose of employment, counseling,  
45 a course of study, or vocational training. The offender shall be required to  
46 wear a device which permits the supervising agency to monitor the  
47 offender's compliance with the condition electronically and to pay a fee for  
48 the device as specified in subsection (c2) of this section.

49 ...."

50 **SECTION 8.** This act becomes effective December 1, 2009, and applies to  
51 offenses committed on or after that date.