

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 1078
House Committee Substitute Favorable 6/25/09

Short Title: Delay Bond/Probationer Arrested for Felony.

(Public)

Sponsors:

Referred to:

March 31, 2009

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT WHEN A PROBATIONER IS ARRESTED AND CHARGED
2 WITH THE COMMISSION OF A FELONY A JUDICIAL OFFICIAL MUST
3 DETERMINE WHETHER THE PROBATIONER POSES A DANGER TO THE PUBLIC
4 BEFORE DETERMINING CONDITIONS OF PRETRIAL RELEASE, AND TO
5 PROVIDE THAT WHEN A PROBATIONER IS CHARGED WITH A VIOLATION OF
6 PROBATION, AND HAS A PENDING FELONY CHARGE, A JUDICIAL OFFICIAL
7 MUST DETERMINE WHETHER THE PROBATIONER POSES A DANGER TO THE
8 PUBLIC AND IF THE PROBATIONER IS A DANGER TO THE PUBLIC THE
9 JUDICIAL OFFICIAL MUST DENY RELEASE ON THE PROBATION VIOLATION
10 CHARGE.
11

12 The General Assembly of North Carolina enacts:

13 **SECTION 1.** G.S. 15A-534 is amended by adding a new subsection to read:

14 "(d2) When conditions of pretrial release are being imposed on a defendant who is
15 charged with a felony offense and the defendant is currently on probation for a prior offense,
16 the judicial official shall determine whether the defendant poses a danger to the public prior to
17 imposing conditions of pretrial release and must record that determination in writing. If the
18 judicial official determines that the defendant poses a danger to the public, the judicial official
19 must impose condition (4) in subsection (a) of this section instead of condition (1), (2), or (3).
20 If the judicial official finds that there is insufficient information to determine whether the
21 defendant poses a danger to the public, then the defendant shall be retained in custody not more
22 than seven days from the date of the arrest in order for the judicial official to obtain sufficient
23 information to determine whether the defendant poses a danger to the public. If the judicial
24 official is unable to obtain sufficient information to determine whether the defendant poses a
25 danger to the public, the judicial official must record that fact in writing and, no later than
26 seven days from the date of arrest, shall impose conditions of pretrial release as otherwise
27 provided in this section."

28 **SECTION 2.** G.S. 15A-1345(b) reads as rewritten:

29 "(b) Bail Following Arrest for Probation Violation. – If at any time during the period of
30 probation the probationer is arrested for a violation of any of the conditions of probation, he
31 must be taken without unnecessary delay before a judicial official to have conditions of release
32 pending a revocation hearing set in the same manner as provided in G.S. 15A-534. ~~If~~
33 Notwithstanding the provisions of G.S. 15A-534, if the probationer is arrested for a violation of
34 any of the conditions of probation and (i) has a pending charge for a felony offense or (ii) has
35 been convicted of an offense at any time that requires registration under Article 27A of Chapter
36 14 of the General Statutes or an offense that would have required registration but for the
37 effective date of the law establishing the Sex Offender and Public Protection Registration



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1 ~~Program, the court must make a finding that the probationer is not a danger to the public prior~~
2 ~~to release with or without bail.~~ the judicial official shall determine whether the probationer
3 poses a danger to the public prior to imposing conditions of release and must record that
4 determination in writing. If the judicial official determines that the probationer poses a danger
5 to the public, the probationer shall be denied release pending a revocation hearing. If the
6 judicial official finds that there is insufficient information to determine whether the probationer
7 poses a danger to the public, then the probationer shall be retained in custody not more than
8 seven days from the date of the arrest for the probation violation in order for the judicial
9 official to obtain sufficient information to determine whether the probationer poses a danger to
10 the public. If the judicial official is unable to obtain sufficient information to determine whether
11 the probationer poses a danger to the public, the judicial official must record that fact in writing
12 and, no later than seven days from the date of arrest, shall impose conditions of release as
13 otherwise provided in this subsection."

14 **SECTION 3.** This act becomes effective December 1, 2009, and applies to
15 offenses committed on or after that date.