

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

SENATE BILL 726
RATIFIED BILL

AN ACT TO PROVIDE THAT HOUSE ARREST MAY BE IMPOSED AS A CONDITION OF PRETRIAL RELEASE; TO PROVIDE THAT THE COURT MAY AUTHORIZE AN OFFENDER UNDER ELECTRONIC HOUSE ARREST TO LEAVE THE OFFENDER'S RESIDENCE FOR SPECIFIC PURPOSES AND THE COURT OR PROBATION OFFICER MAY MODIFY THOSE CONDITIONS; AND TO AMEND THE DEFINITION OF HOUSE ARREST UNDER JUVENILE LAW TO STATE THE SPECIFIC PURPOSES FOR WHICH A JUVENILE MAY BE AUTHORIZED TO LEAVE THE JUVENILE'S RESIDENCE.

The General Assembly of North Carolina enacts:

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

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

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

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

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

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

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

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

- (1) Release the defendant on his written promise to appear.
- (2) Release the defendant upon his execution of an unsecured appearance bond in an amount specified by the judicial official.
- (3) Place the defendant in the custody of a designated person or organization agreeing to supervise him.
- (4) Require the execution of an appearance bond in a specified amount secured by a cash deposit of the full amount of the bond, by a mortgage pursuant to G.S. 58-74-5, or by at least one solvent surety.
- (5) House arrest with electronic monitoring.

If condition (5) is imposed, the defendant must execute a secured appearance bond under subdivision (4) of this subsection. If condition (3) is imposed, however, the defendant may elect to execute an appearance bond under subdivision (4). The judicial official may also place restrictions on the travel, associations, conduct, or place of abode of the defendant as conditions of pretrial release."

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

"(b) The judicial official in granting pretrial release must impose condition (1), (2), or (3) in subsection (a) above unless he determines that such release will not reasonably assure the



appearance of the defendant as required; will pose a danger of injury to any person; or is likely to result in destruction of evidence, subornation of perjury, or intimidation of potential witnesses. Upon making the determination, the judicial official must then impose condition (4) or (5) in subsection (a) above instead of condition (1), (2), or (3), and must record the reasons for so doing in writing to the extent provided in the policies or requirements issued by the senior resident superior court judge pursuant to G.S. 15A-535(a)."

SECTION 4.1. If Senate Bill 1078, 2009 Regular Session, becomes law, G.S. 15A-534(d2)(1) as enacted by that act, reads as rewritten:

"(1) If the judicial official determines that the defendant poses a danger to the public, the judicial official must impose condition (4) or (5) in subsection (a) of this section instead of condition (1), (2), or (3)."

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

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

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

"The following definitions apply in this Article:

...
(4a) House arrest with electronic monitoring. – Probation in which the offender is required to remain at his or her ~~residence unless the court or the probation officer authorizes the offender to leave for the purpose of employment, counseling, a course of study, or vocational training.~~residence. The court, in the sentencing order, may authorize the offender to leave the offender's residence for employment, counseling, a course of study, vocational training, or other specific purposes and may modify that authorization. The probation officer may authorize the offender to leave the offender's residence for specific purposes not authorized in the court order upon approval of the probation officer's supervisor. The offender shall be required to wear a device which permits the supervising agency to monitor the offender's compliance with the condition electronically."

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

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

...
(3c) Remain at his or her ~~residence unless the court or the probation officer authorizes the offender to leave for the purpose of employment, counseling, a course of study, or vocational training.~~residence. The court, in the sentencing order, may authorize the offender to leave the offender's residence for employment, counseling, a course of study, vocational training, or other specific purposes and may modify that authorization. The probation officer may authorize the offender to leave the offender's residence for specific purposes not authorized in the court order upon approval of the probation officer's supervisor. The offender shall be required to wear a device which permits the supervising agency to monitor the offender's compliance with the condition electronically and to pay a fee for the device as specified in subsection (c2) of this section."

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

In the General Assembly read three times and ratified this the 6th day of August, 2009.

Marc Basnight
President Pro Tempore of the Senate

Joe Hackney
Speaker of the House of Representatives

Beverly E. Perdue
Governor

Approved _____ .m. this _____ day of _____, 2009