

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997

SESSION LAW 1998-208
HOUSE BILL 1023

AN ACT TO PROVIDE THAT A PERSON CHARGED WITH A DRUG TRAFFICKING OFFENSE MAY BE DENIED PRETRIAL RELEASE IN CERTAIN CIRCUMSTANCES AND TO REQUIRE EACH CLERK OF COURT TO ENSURE THAT ALL RECORDS OF DISPOSITIONS IN CRIMINAL CASES CONTAIN CERTAIN INFORMATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-533 reads as rewritten:

"§ 15A-533. Right to pretrial release in capital and noncapital cases.

(a) A defendant charged with any crime, whether capital or noncapital, who is alleged to have committed this crime while still residing in or subsequent to his escape or during an unauthorized absence from involuntary commitment in a mental health facility designated or licensed by the Department of Health and Human Services, and whose commitment is determined to be still valid by the judge or judicial officer authorized to determine pretrial release to be valid, has no right to pretrial release. In lieu of pretrial release, however, the individual shall be returned to the treatment facility in which he was residing at the time of the alleged crime or from which he escaped or absented himself for continuation of his treatment pending the additional proceedings on the criminal offense.

(b) A defendant charged with a noncapital offense must have conditions of pretrial release determined, in accordance with G.S. 15A-534.

(c) A judge may determine in his discretion whether a defendant charged with a capital offense may be released before trial. If he determines release is warranted, the judge must authorize release of the defendant in accordance with G.S. 15A-534.

(d) Subject to rebuttal by the person, it shall be presumed that no condition of release will reasonably assure the appearance of the person as required and the safety of the community if a judicial official finds the following:

- (1) There is reasonable cause to believe that the person committed an offense involving trafficking in a controlled substance;
- (2) The drug trafficking offense was committed while the person was on pretrial release for another offense; and
- (3) The person has been previously convicted of a Class A through E felony or an offense involving trafficking in a controlled substance and not more than five years has elapsed since the date of conviction or the person's release from prison for the offense, whichever is later.

Such person may only be released by a district or superior court judge upon a finding that there is a reasonable assurance that the person will appear and release does not pose an unreasonable risk of harm to the community."

Section 2. Article 12 of Chapter 7A of the General Statutes is amended by adding a new section to read:

"§ 7A-109.2. Records of dispositions in criminal cases.

Each clerk of superior court shall ensure that all records of dispositions in criminal cases, including those records filed electronically, contain all the essential information about the case, including the identity of the presiding judge and the attorneys representing the State and the defendant."

Section 3. This act becomes effective January 1, 1999. Section 1 of this act applies to offenses committed on or after that date. Section 2 of this act applies to records compiled on or after that date.

In the General Assembly read three times and ratified this the 29th day of October, 1998.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 8:45 a.m. this 30th day of October, 1998