

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

**SESSION LAW 2011-245
SENATE BILL 311**

**AN ACT TO ALLOW WARRANTLESS ARREST FOR VIOLATION OF PRETRIAL
RELEASE CONDITIONS, AND RELATING TO ELECTRONIC TECHNOLOGY IN
CRIMINAL PROCESS AND PROCEDURE.**

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-401(b) reads as rewritten:

- "(b) Arrest by Officer Without a Warrant. –
- (1) Offense in Presence of Officer. – An officer may arrest without a warrant any person who the officer has probable cause to believe has committed a criminal offense ~~offense~~, or has violated a pretrial release order entered under G.S. 15A-534 or G.S. 15A-534.1(a)(2), in the officer's presence.
 - (2) Offense Out of Presence of Officer. – An officer may arrest without a warrant any person who the officer has probable cause to believe:
 - a. Has committed a felony; or
 - b. Has committed a misdemeanor, and:
 1. Will not be apprehended unless immediately arrested, or
 2. May cause physical injury to himself or others, or damage to property unless immediately arrested; or
 - c. Has committed a misdemeanor under G.S. 14-72.1, 14-134.3, 20-138.1, or 20-138.2; or
 - d. Has committed a misdemeanor under G.S. 14-33(a), 14-33(c)(1), 14-33(c)(2), or 14-34 when the offense was committed by a person with whom the alleged victim has a personal relationship as defined in G.S. 50B-1; or
 - e. Has committed a misdemeanor under G.S. 50B-4.1(a); or
 - f. Has violated a pretrial release order entered under G.S. 15A-534.1(a)(2) ~~G.S. 15A-534~~ or G.S. 15A-534.1(a)(2).
 - (3) Repealed by Session Laws 1991, c. 150.
 - (4) A law enforcement officer may detain an individual arrested for violation of an order limiting freedom of movement or access issued pursuant to G.S. 130A-475 or G.S. 130A-145 in the area designated by the State Health Director or local health director pursuant to such order. The person may be detained in such area until the initial appearance before a judicial official pursuant to G.S. 15A-511 and G.S. 15A-534.5."

SECTION 2.(a) G.S. 15A-101.1 is amended by adding a new subdivision to read:

"§ 15A-101.1. Electronic technology in criminal process and procedure.

As used in this Chapter, in Chapter 7A of the General Statutes, in Chapter 15 of the General Statutes, and in all other provisions of the General Statutes that deal with criminal process or procedure:

- ...
- (3a) "Electronic monitoring" or "electronically monitor" or "satellite-based monitoring" means monitoring with an electronic monitoring device that is not removed from a person's body, that is utilized by the supervising agency in conjunction with a Web-based computer system that actively monitors, identifies, tracks, and records a person's location at least once every minute 24 hours a day, that has a battery life of at least 48 hours without being recharged, that timely records and reports or records the person's presence near or within a crime scene or prohibited area or the person's departure



from a specified geographic location, and that has incorporated into the software the ability to automatically compare crime scene data with locations of all person's being electronically monitored so as to provide any correlation daily or in real time. In areas of the State where lack of cellular coverage requires the use of an alternative device, the supervising agency shall use an alternative device that works in concert with the software and records location and tracking data for later download and crime scene comparison."

SECTION 2.(b) G.S. 14-208.18 is amended by adding a new subsection to read:

"(g1) Notwithstanding any provision of this section, a person subject to subsection (a) of this section who is required to wear an electronic monitoring device shall wear an electronic monitoring device that provides exclusion zones around the premises of all elementary and secondary schools in North Carolina."

SECTION 2.(c) By October 1, 2011, the Department of Correction shall replace the electronic monitoring service and equipment currently being used with a provider that offers electronic monitoring equipment and service that provides exclusion zones around the premises of every elementary and secondary school in the State for the protection of children from sex offenders for whom it is unlawful to knowingly be on the premises of elementary and secondary schools pursuant to G.S. 14-208.18.

SECTION 2.(d) The Department of Correction shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by June 1, 2012, regarding the implementation of the new electronic monitoring service and equipment and provide the Committee with its evaluation of how the new system is functioning and how it compares with other systems used by the Department for this same purpose.

SECTION 3. Section 1 of this act becomes effective December 1, 2011, and applies to violations of pretrial release conditions occurring on or after that date. Section 2 of this act becomes effective October 1, 2011. This section is effective when it becomes law.

In the General Assembly read three times and ratified this the 16th day of June, 2011.

s/ Walter H. Dalton
President of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 1:12 p.m. this 23rd day of June, 2011