

S.L. 2025-93 (H 307): Iryna's Law, p.22

- Pretrial release
- Mental health
- New sentencing factor
- Death penalty proceedings

*Effective 12/1/2025

SHEA:

Iryna Zarutka, a 23-year-old Ukrainian refugee, was stabbed to death on August 22 on a light rail train in Charlotte. The man charged in the killings, DeCarlos Brown, Jr., had appeared seven months earlier before a Mecklenburg County magistrate. He had been arrested for misusing 911 – a misdemeanor offense -- by phoning from a hospital asking for help getting man made material out of him. He had previously asked officer to investigate; when they refused, telling him this was a medical issue, he called 911. They then arrested him.

Brown was homeless, had three felony convictions, and had served more than five years in prison for armed robbery. The magistrate released Brown on a written promise.

While that charge was still pending, Brown is alleged to have stabbed Zarutka to death in a brutal attack that was recorded on camera. That event attracted a lot of national and local attention and with it, criticism of the magistrate who set Brown's conditions. And it led to SL 2025-93, named Iryna's Law.

So what does this legislation provide?

It affects four areas of law relevant to your work.

Everything I am going to talk about (unless I specifically say otherwise) is effective 12/1/25.

S.L. 2025-93 (H 307): Pretrial Release

- Eliminates written promises to appear
- New G.S. 15A-534(b1) creates a rebuttable presumption for detention for a defendant charged with a “violent offense”

Default for other cases is unsecured bond or custody release unless judicial official determines that such release will not reasonably assure the appearance of the defendant; 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.

What is a violent offense? New G.S. 15A-531(9)

- A - G felonies that include assault, use/threat of physical force against person as an element
- Felony requiring sex offender registration
- Murder
- Statutory rape/sex offense with a person 15 years or younger
- Kidnapping ✓
- Human Trafficking
- First Degree Arson
- Robbery with Firearms/Dangerous Weapon
- Death by Distribution
- Discharge Firearm into Occupied Property ✓
- Burglary ✓
- Breaking & Entering w/ Intent to Terrorize or Injure Occupant ✓
- Indecent Liberties ✓
- Stalking ✓
- Possession of Firearm by a Felon
- Trafficking in Fentanyl
- Attempt to commit any of these offenses

Note that this includes all of the offenses listed in G.S. 15A-533(b) for which only a judge may set conditions of release.

New G.S. 15A-534(b1)

1st Violent Offense

- Must Impose Secured Bond
- May Require House Arrest with EM

2nd + Violent Offense

- Must Impose Secured Bond
- Must Require House Arrest with EM (if available)

Must make written findings explaining why release is appropriate.

Again, if the person is charged with a violent offense, there is a rebuttable presumption that no condition of release will reasonably assure the appearance of the person as required and the safety of the community.

However, if the judicial official determines that pretrial release is appropriate for a defendant, the judicial official must do one of the following: (1) For a defendant charged with a first violent offense, impose condition (4) or (5) in subsection (a) of this section. (2) For a defendant charged with a second or subsequent violent offense, after (i) being convicted of a prior violent offense, or (ii) being released on pretrial release conditions for a prior violent offense, impose condition (5) in subsection (a) of this section, if available.

Must make written findings of fact explaining reasons why release is appropriate based on statutory factors

Failure to make statutorily required

written findings is a basis for suspension of a magistrate; subsequent charges of or suspension for failure to make written findings is grounds for removal

Chief Justice has the authority to suspend a magistrate: G.S. 7A-173(b1) If the Chief Justice orders suspension, the order shall include the charges alleged that constitute grounds for removal and shall be filed with the office of the clerk of superior court for the county in which the magistrate was appointed. Upon receipt of the order, the clerk shall notify the chief district judge who shall implement the suspension of the magistrate until a final determination of the charges on the merits under subsection (c) of this section. During suspension the salary of the magistrate continues.

Notwithstanding the provisions of this subsection, if the judge finds that the only grounds for removal are the failure of the magistrate to make statutorily required written findings, and the magistrate has no prior charges of or suspensions for failure to make statutorily required written findings, the judge shall not permanently remove the magistrate from office.

Amended G.S. 15A-534(d)

3 Convictions (Separate Sessions & Class 1 Misd. or Higher) Within 10 Years

- Must Impose Secured Bond
- May Require House Arrest with EM

Must make written findings explaining why release is appropriate.

If defendant has been convicted of three or more offenses in separate sessions of court, each of which is a Class 1 misdemeanor or higher offense, within the previous 10 years, the judicial

official must make written findings of fact explaining the reasons why the judicial official determined the conditions of release to be appropriate by applying the statutory factors

I have now mentioned two statutory requirements for written findings. The legislation amended G.S. 7A-173 to provide that a magistrate's failure to make

statutorily required written findings is now a basis for suspension of a magistrate; subsequent charges of or suspension for failure to make written findings is grounds for removal.

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Notwithstanding the provisions of this subsection, if the judge finds that the only grounds for removal are the failure of the magistrate to make statutorily required written findings, and the magistrate has no prior charges of or suspensions for failure to make statutorily required written findings, the judge shall not permanently remove the magistrate from office.

Amended G.S. 15A-534(c)

In every case, judicial official must direct arresting LEO, pretrial services, or DA to provide criminal history report

- Judicial official must consider criminal history and other circumstances, including defendant's housing situation

G.S. 15A-534(c).

S.L. 2025-93 (H 307): Mental Health

- New G.S. 15A-501(2a) requires LEO to inform judicial official of any relevant behavior observed by the officer that may provide reasonable grounds to believe the defendant is a danger to themselves or others

New G.S. 15A-533(b1)

After setting conditions of pretrial release, judicial official must order examination by commitment examiner if:

- Defendant
 - Is charged with a violent offense and
 - Has been subject to order of involuntary commitment within past 3 years;
- OR
- Judicial official has reasonable grounds to believe defendant is a danger to self or others

Order must require LEO to transport defendant to emergency department or other crisis facility with certified commitment examiners. Examiner must file petition for IVC or must provide written notice to the judicial official that there are no grounds to petition for IVC.

New G.S. 15A-1003(a1)

Before dismissing charges for lack of capacity pursuant to G.S. 15A-1008

- if the defendant is not subject to an IVC order
- the court on motion of the DA must determine whether there are reasonable grounds to believe the defendant meets the grounds for involuntary commitment.

Mentally ill and dangerous to self/others

Mentally ill and in need of treatment to prevent further disability/deterioration that would predictably result in dangerousness

G.S. 15A-1008 also is amended to remove language that used to provide that the prosecutor could reinstitute proceedings that were dismissed based on the defendant's lack of capacity.

Also provides that dismissals under GS 15A-1008 may not be expunged.

S.L. 2025-93 (H 307): Sentencing

- New G.S. 15A-1340.16(d)(19c)
 - The offense was committed while the victim was using a public transportation system
- New G.S. 15A-2000(e)(12)
 - The capital felony was committed by the defendant while the victim was using a public transportation system

S.L. 2025-93 (H 307): Death Penalty

- Must hold hearing on MAR under G.S. 15A-1415(a) within 24 months of filing
 - If continued, court must make a written finding of extraordinary circumstances.
- NC Supreme Court must review conviction and sentence of death within 24 months of entry of judgment
 - Unless Chief Justice makes written finding of extraordinary circumstances
- Effective 12/1/2025 for all motions/judgments to be filed or pending
 - Any motion/judgment entered more than 24 months before 12/1/2025 must be scheduled for hearing or review no later than 12/1/2026

New G.S. 15A-2007

"[V]enue for any filing, claim, or proceeding related to the conviction, sentencing, treatment, housing, or execution of a defendant that has been convicted of a capital offense and sentenced to death shall be in the county of conviction. This section does not apply to matters that are authorized by law to be filed directly with the Supreme Court of North Carolina."

Amended G.S. 15A-187, -188

- Language abolishing death by electrocution and death by administration of lethal gas is eliminated.
- Default method of execution remains lethal injection.
 - But if lethal injection is ruled unconstitutional or not available, DAC must select another method that has been adopted by another state

This is effective October 3, 2025. The North Carolina Collaboratory is directed to study mental health in the justice system, the availability of house arrest as a condition of pretrial release in every county or judicial district and methods of execution currently authorized by state law.

S.L. 2025-70 (S 429):

Exposing Child to Controlled Substance, p. 6

- New G.S. 14-318.7
 - Knowingly, intentionally, or with reckless disregard for human life
 - Causes or allows
 - A child [defined as under 16]
 - To be exposed [undefined]
 - To a controlled substance [any controlled substance]
- Class H felony
- Offenses committed on or after December 1, 2025

JAMIE