§ 15A-304. Warrant for arrest.

(a) Definition. – A warrant for arrest consists of a statement of the crime of which the person to be arrested is accused, and an order directing that the person so accused be arrested and held to answer to the charges made against him. It is based upon a showing of probable cause supported by oath or affirmation.

(b) When Issued. –

(1) Generally. – A warrant for arrest may be issued, instead of or subsequent to a criminal summons, when it appears to the judicial official that the person named should be taken into custody. Circumstances to be considered in determining whether the person should be taken into custody may include, but are not limited to, failure to appear when previously summoned, facts making it apparent that a person summoned will fail to appear, danger that the person accused will escape, danger that there may be injury to person or property, or the seriousness of the offense.

(2) Repealed by Session Laws 2018-40, s. 7.1. See editor's note for effective date and applicability.

(3) When Citizen-initiated. – If the finding of probable cause pursuant to subsection (d) of this section is based solely upon an affidavit or oral testimony under oath or affirmation of a person who is not a sworn law enforcement officer, the issuing official shall not issue a warrant for arrest and instead shall issue a criminal summons, unless one of the following circumstances exists:

a. There is corroborating testimony of the facts establishing probable cause from a sworn law enforcement officer or at least one disinterested witness.

b. The official finds that obtaining investigation of the alleged offense by a law enforcement agency would constitute a substantial burden for the complainant.

c. The official finds substantial evidence of one or more of the circumstances listed in subdivision (1) of this subsection.

(c) Statement of the Crime. – The warrant must contain a statement of the crime of which the person to be arrested is accused. No warrant for arrest, nor any arrest made pursuant thereto, is invalid because of any technicality of pleading if the statement is sufficient to identify the crime.

(d) Showing of Probable Cause. – A judicial official may issue a warrant for arrest only when he is supplied with sufficient information, supported by oath or affirmation, to make an independent judgment that there is probable cause to believe that a crime has been committed and that the person to be arrested committed it. The information must be shown by one or both of the following:

(1) Affidavit.

(2) Oral testimony under oath or affirmation before the issuing official.

(3) Repealed by Session Laws 2021-47, s. 10(d), effective June 18, 2021, and applicable to proceedings occurring on or after that date.

If the information is insufficient to show probable cause, the warrant may not be issued. A judicial official shall not refuse to issue a warrant for the arrest of a person solely because a prior warrant has been issued for the arrest of another person involved in the same matter.

(e) Order for Arrest. – The order for arrest must direct that a law-enforcement officer take the defendant into custody and bring him without unnecessary delay before a judicial official to answer to the charges made against him.

(f) Who May Issue. – A warrant for arrest, valid throughout the State, may be issued by:

(1) A Justice of the Supreme Court.

(2) A judge of the Court of Appeals.
(3) A judge of the superior court.
(4) A judge of the district court, as provided in G.S. 7A-291.
(5) A clerk, as provided in G.S. 7A-180 and 7A-181.
(6) A magistrate, as provided in G.S. 7A-273. (1868-9, c. 178, subch. 3, ss. 1-3; Code, ss. 1132-1134; 1901, c. 668; Rev., ss. 3156-3158; C.S., ss. 4522-4524; 1955, c. 332; 1969, c. 44, s. 27; c. 1062, s. 1; 1973, c. 1286, s. 1; 1997-268, s. 2; 2004-186, s. 15.1; 2017-176, s. 5(a); 2018-40, s. 7.1; 2021-47, s. 10(d).)