

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 593
Senate Judiciary Committee Substitute Adopted 6/18/20
Senate Finance Committee Substitute Adopted 6/19/20
Senate Judiciary Committee Substitute Adopted 6/23/20
Fifth Edition Engrossed 6/24/20
Proposed Conference Committee Substitute H593-PCCS10874-TT-2

Short Title: JCPC/Detention/CAA and Other Fees.

(Public)

Sponsors:

Referred to:

April 8, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS MODIFICATIONS TO THE GENERAL STATUTES
3 RELATED TO JUVENILE CRIME PREVENTION COUNCILS, INDIVIDUALS UNDER
4 EIGHTEEN IN CUSTODY, THE STATEWIDE MISDEMEANANT CONFINEMENT
5 PROGRAM, CRIMINAL COURT FEES, AND RADIOLOGICAL EMERGENCY
6 PLANNING FEES; TO APPROPRIATE FUNDS; TO CREATE A REGISTRY
7 REQUIREMENT REVIEW FOR CERTAIN SEX OFFENDERS; AND TO CLARIFY
8 DECLARATION PUBLICATION.

9 The General Assembly of North Carolina enacts:

10
11 **PART I. JUVENILE CRIME PREVENTION COUNCILS**

12 **SECTION 1.** G.S. 143B-811 reads as rewritten:

13 "**§ 143B-811. Annual evaluation of ~~community programs and multiple purpose group~~**
14 **homes.intensive intervention services.**

15 The Department of Public Safety shall conduct an annual evaluation of ~~the community~~
16 ~~programs and of multipurpose group homes.~~ intensive intervention services. Intensive
17 intervention services are evidence-based or research-supported community-based or residential
18 services that are necessary for a juvenile in order to (i) prevent the juvenile's commitment to a
19 youth development center or detention facility or (ii) facilitate the juvenile's successful return to
20 the community following commitment. In conducting the evaluation of each of these, evaluation,
21 the Department shall consider whether participation in each program-intensive intervention
22 services results in a reduction of court involvement among juveniles. The Department shall also
23 determine whether the programs are achieving the goals and objectives of the Juvenile Justice
24 Reform Act, S.L. 1998-202.

25 The Department shall report the results of the evaluation to the Chairs of the Joint Legislative
26 Oversight Committee on Justice and Public Safety and the Chairs of the Senate and House of
27 Representatives Appropriations Subcommittees on Justice and Public Safety by March 1 of each
28 year."

29 **SECTION 2.** G.S. 143B-846 reads as rewritten:

30 "**§ 143B-846. Creation; method of appointment; membership; chair and vice-chair.**

31 (a) As a prerequisite for a county receiving funding for juvenile court services and
32 delinquency prevention programs, the board of commissioners of a county shall appoint a



* H 5 9 3 - P C C S 1 0 8 7 4 - T T - 2 *

1 Juvenile Crime Prevention Council. ~~Each County Council is a continuation of the corresponding~~
 2 ~~Council created under G.S. 147-33.61.~~ The County Council shall consist of not more than 26
 3 members and should include, if possible, the following:

- 4 (1) The local school superintendent, or that person's ~~designee;~~designee.
- 5 (2) A chief of police in the ~~county;~~county, or the appointed chief's designee.
- 6 (3) The local sheriff, or that person's ~~designee;~~designee.
- 7 (4) The district attorney, or that person's ~~designee;~~designee.
- 8 (5) The chief court counselor, or that person's ~~designee;~~designee.
- 9 (6) The director of the area ~~mental health, developmental disabilities, and~~
 10 ~~substance abuse authority,~~ local management entity/managed care
 11 organization (LME/MCO) or that person's ~~designee;~~designee.
- 12 (7) The director of the county department of social services, or consolidated
 13 human services agency, or that person's ~~designee;~~designee.
- 14 (8) The county manager, or that person's ~~designee;~~designee.
- 15 (9) A substance abuse ~~professional;~~professional.
- 16 (10) A member of the faith ~~community;~~community.
- 17 (11) A county ~~commissioner;~~commissioner.
- 18 (12) Two persons under the age of ~~18 years, one of whom is a member of the State~~
 19 ~~Youth Council;~~21 years, or one person under the age of 21 years and one
 20 member of the public representing the interests of families of at-risk juveniles.
- 21 (13) A juvenile defense ~~attorney;~~attorney.
- 22 (14) The chief district court judge, or a judge designated by the chief district court
 23 ~~judge;~~judge.
- 24 (15) A member of the business ~~community;~~community.
- 25 (16) The local health director, or that person's ~~designee;~~designee.
- 26 (17) A representative from the United Way or other nonprofit ~~agency;~~agency.
- 27 (18) A representative of a local parks and recreation ~~program;~~ and program.
- 28 (19) Up to seven members of the public to be appointed by the board of
 29 commissioners of a county.

30 The board of commissioners of a county shall modify the County Council's membership as
 31 necessary to ensure that the members reflect the racial and socioeconomic diversity of the
 32 community and to minimize potential conflicts of interest by members.

33 (b) Two or more counties may establish a multicounty Juvenile Crime Prevention
 34 Council under subsection (a) of this section. The membership shall be representative of each
 35 participating county.

36 (c) The members of the County Council shall elect annually the chair and vice-chair."

37 **SECTION 3.** G.S. 143B-849 reads as rewritten:

38 "**§ 143B-849. Meetings; quorum.**

39 County Councils shall meet at least ~~bimonthly,~~ six times per year, or more often if a meeting
 40 is called by the chair.

41 A majority of members constitutes a quorum."

42 **SECTION 4.** G.S. 143B-851 reads as rewritten:

43 "**§ 143B-851. Powers and duties.**

44 (a) Each County Council shall review ~~annually~~ biennially the needs of juveniles in the
 45 county who are at risk of delinquency or who have been adjudicated undisciplined or delinquent
 46 and the resources available to address those needs. In particular, each County Council shall assess
 47 the needs of juveniles in the county who are at risk or who have been associated with gangs or
 48 gang activity, and the local resources that are established to address those needs. The Council
 49 shall develop and advertise a request for proposal process and submit a written plan of action for
 50 the expenditure of juvenile sanction and prevention funds to the board of county commissioners

1 for its approval. Upon the county's authorization, the plan shall be submitted to the Section for
2 final approval and subsequent implementation.

3 ...
4 (d) The Councils may examine the benefits of joint program development between
5 counties ~~within the same and judicial district districts.~~"

6 **SECTION 5.** G.S. 143B-1104 is recodified as G.S. 143B-853 and reads as rewritten:
7 "**§ 143B-853. Funding for programs.**

8 (a) Annually, the Division of ~~Administration~~ Adult Correction and Juvenile Justice shall
9 develop and implement a funding mechanism for programs that meet the standards developed
10 under ~~Subpart F of Part 3 of Article 13 of Chapter 143B of the General Statutes.~~ this Subpart.
11 The Division shall ensure that the guidelines for the State and local partnership's funding process
12 include the following requirements:

- 13 (1) Fund effective programs. – The Division shall fund programs that it
14 determines to be effective in preventing delinquency and recidivism.
15 Programs that have proven to be ineffective shall not be funded.
- 16 (2) Use a formula for the distribution of funds. – A funding formula shall be
17 developed that ensures that even the smallest counties will be able to provide
18 the basic prevention and alternative services to juveniles in their communities.
- 19 (3) Allow and encourage local flexibility. – A vital component of the State and
20 local partnership established by this section is local flexibility to determine
21 how best to allocate prevention and alternative funds.
- 22 (4) Combine resources. – Counties shall be allowed and encouraged to combine
23 resources and services.
- 24 (5) Allow for a two-year funding cycle. – In the discretion of the Division, awards
25 may be provided in amounts that fund two years of services for programs that
26 meet the requirements of this section and have been awarded funds in a prior
27 funding cycle.

28 (b) The Division shall adopt rules to implement this section. The Division shall provide
29 technical assistance to County Councils and shall require them to evaluate all State-funded
30 programs and services on an ongoing and regular basis.

31 (c) The Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice
32 of the Department of Public Safety shall report to the Senate and House of Representatives
33 Appropriations Subcommittees on Justice and Public Safety no later than March 1, 2006, and
34 annually thereafter, on the results of ~~the alternatives to commitment demonstration programs~~
35 ~~funded by Section 16.7 of S.L. 2004-124. The 2007 report and all annual reports thereafter shall~~
36 ~~also include projects funded by Section 16.11 of S.L. 2005-276 for the 2005-2006 fiscal year.~~
37 intensive intervention services. Intensive intervention services are evidence-based or
38 research-supported community-based or residential services that are necessary for a juvenile in
39 order to (i) prevent the juvenile's commitment to a youth development center or detention facility
40 or (ii) facilitate the juvenile's successful return to the community following commitment.
41 Specifically, the report shall provide a detailed description of each ~~of the demonstration~~
42 ~~programs,~~ intensive intervention service, including the numbers of juveniles served, their
43 adjudication status at the time of service, the ~~services/treatments~~ services and treatments
44 provided, the length of service, the total cost per juvenile, and the six- and 12-month recidivism
45 rates for the juveniles after the termination of program services."

46 **SECTION 6.(a)** Of the funds appropriated to the Department of Public Safety,
47 Division of Adult Correction and Juvenile Justice (Division), for the 2019-2021 fiscal biennium
48 that are provided to Juvenile Crime Prevention Councils (JCPC) to be used for alternatives to
49 commitment and Level 2 dispositional alternatives, the requirements of this section shall apply
50 for the 2019-2021 fiscal biennium.

1 **SECTION 6.(b)** The funds described in subsection (a) of this section shall be known
2 as funds for intensive intervention services and shall be used for the purpose of providing
3 intensive intervention services for juveniles of any disposition level, based on the needs of the
4 juvenile, as ordered pursuant to G.S. 7B-2506. Intensive intervention services are evidence-based
5 or research-supported community-based or residential services that are necessary for a juvenile
6 in order to (i) prevent the juvenile's commitment to a youth development center or detention
7 facility or (ii) facilitate the juvenile's successful return to the community following commitment.
8 The Division of Adult Correction and Juvenile Justice shall conduct an open-bid, competitive
9 award process to determine the allocation of JCPC funds among counties. The Division shall
10 identify and select the most effective evidence-based or research-supported methods of meeting
11 the needs of juveniles served. The Division shall, in its discretion, determine the number and
12 amount of awards provided, but in exercising its discretion, shall give consideration to the
13 following:

- 14 (1) The commitment rates or frequency with which the court orders commitment
15 as a disposition for the juveniles served.
- 16 (2) The disposition levels and criminogenic needs of the juveniles served.
- 17 (3) Programs that target juveniles in rural areas.
- 18 (4) Diverse geographical representation across the State.
- 19 (5) Programs that utilize collaboration among counties.

20 **SECTION 7.** Sections 1, 2, 3, and 4 of this act become effective December 1, 2020.
21 Sections 5, 6, and 7 of this act become effective July 1, 2020.
22

23 **PART II. JUVENILE DETENTION**

24 **SECTION 8.(a)** G.S. 7A-109.3 reads as rewritten:

25 **"§ 7A-109.3. Delivery of commitment order.**

26 (a) Whenever the district court sentences a person to imprisonment and commitment to
27 the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public
28 Safety pursuant to G.S. 15A-1352, the clerk of superior court shall furnish the sheriff with the
29 signed order of commitment within 48 hours of the issuance of the sentence.

30 (a1) If the district court sentences a person under the age of 18 to imprisonment and
31 commitment, the clerk of superior court shall furnish the detention facility approved by the
32 Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice with the signed
33 order of commitment within 48 hours of the issuance of the sentence.

34 (b) Whenever the superior court sentences a person to imprisonment and commitment to
35 the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public
36 Safety pursuant to G.S. 15A-1352, the clerk of superior court shall furnish the sheriff with the
37 signed order of commitment within 72 hours of the issuance of the sentence.

38 (b1) If the superior court sentences a person under the age of 18 to imprisonment and
39 commitment, the clerk of superior court shall furnish the detention facility approved by the
40 Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice with the signed
41 order of commitment within 48 hours of the issuance of the sentence."

42 **SECTION 8.(b)** G.S. 15-6 reads as rewritten:

43 **"§ 15-6. Imprisonment to be in county jail.**

44 No person over the age of 18 shall be imprisoned except in the common jail of the county,
45 unless otherwise provided by law: Provided, that whenever the sheriff of any county shall be
46 imprisoned, he may be imprisoned in the jail of any adjoining county. If the person being
47 imprisoned is under the age of 18, that person shall be imprisoned in a detention facility approved
48 by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice to provide
49 secure confinement and care for juveniles, or to a holdover facility as defined in
50 G.S. 7B-1501(11)."

51 **SECTION 8.(c)** G.S. 15A-521 reads as rewritten:

1 **"§ 15A-521. Commitment to detention facility pending trial.**

2 (a) Commitment. – Every person charged with a crime and held in custody who has not
3 been released pursuant to Article 26 of this Chapter, Bail, must be committed by a written order
4 of the judicial official who conducted the initial appearance as provided in Article 24 to an
5 appropriate detention facility as provided in this section. If the person being committed by written
6 order is under the age of 18, that person must be committed to a detention facility approved by
7 the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice to provide
8 secure confinement and care for juveniles, or to a holdover facility as defined in
9 G.S. 7B-1501(11). If the person being committed reaches the age of 18 years while held in
10 custody, the person shall be transported by personnel of the Juvenile Justice Section of the
11 Division, or personnel approved by the Juvenile Justice Section, to the custody of the sheriff of
12 the county where the charges arose.

13 (b) Order of Commitment; Modification. – The order of commitment must:

- 14 (1) State the name of the person charged or identify him if his name cannot be
15 ascertained.
16 (2) Specify the offense charged.
17 (3) Designate the place of confinement.
18 (4) If release is authorized pursuant to Article 26 of this Chapter, Bail, state the
19 conditions of release. If a separate order stating the conditions has been
20 entered, the commitment may make reference to that order, a copy of which
21 must be attached to the commitment.
22 (5) Subject to the provisions of subdivision (4), direct, as appropriate, that the
23 defendant be:
24 a. Produced before a district court judge pursuant to Article 29 of this
25 Chapter, First Appearance before District Court Judge,
26 b. Produced before a district court judge for a probable cause hearing as
27 provided in Article 30 of this Chapter, Probable-Cause Hearing,
28 c. Produced for trial in the district or superior court, or
29 d. Held for other specified purposes.
30 (6) State the name and office of the judicial official making the order and be
31 signed by ~~him~~that judicial official.

32 The order of commitment may be modified or continued by the same or another judicial official
33 by supplemental order.

34 (c) Copies and Use of Order, Receipt of Prisoner. –

- 35 (1) The order of commitment must be delivered to a law-enforcement officer, who
36 must deliver the order and the prisoner to the detention facility named therein.
37 (2) The jailer or personnel of the Juvenile Justice Section must receive the
38 prisoner and the order of commitment, and note on the order of commitment
39 the time and date of receipt. As used in this subdivision, "jailer" includes any
40 person having control of a detention ~~facility~~facility and "personnel of the
41 Juvenile Justice Section" includes personnel approved by the Juvenile Justice
42 Section.
43 (3) Upon releasing the prisoner pursuant to the terms of the order, or upon
44 delivering the prisoner to the court, the jailer or personnel of the Juvenile
45 Justice Section must note the time and date on the order and return it to the
46 clerk. Personnel of the Juvenile Justice Section, or personnel approved by the
47 Juvenile Justice Section, shall transport the person under the age of 18 from
48 the juvenile detention facility or holdover facility to court and shall transfer
49 the person back to the juvenile detention facility or holdover facility.
50 (4) Repealed by Session Laws 1975, 2nd Sess., c. 983, s. 142.

1 (d) Commitment of Witnesses. – If a court directs detention of a material witness
2 pursuant to G.S. 15A-803, the court must enter an order in the manner provided in this section,
3 except that the order must:

- 4 (1) State the reason for the detention in lieu of the description of the offense
5 charged, and
- 6 (2) Direct that the witness be brought before the appropriate court when his
7 testimony is required."

8 **SECTION 8.(d)** G.S. 15A-1301 reads as rewritten:

9 **"§ 15A-1301. Order of commitment to imprisonment when not otherwise specified.**

10 When a judicial official orders that a defendant be imprisoned he must issue an appropriate
11 written commitment order. When the commitment is to a sentence of imprisonment, the
12 commitment must include the identification and class of the offense or offenses for which the
13 defendant was convicted and, if the sentences are consecutive, the maximum sentence allowed
14 by law upon conviction of each offense for the punishment range used to impose the sentence for
15 the class of offense and prior record or conviction level, and, if the sentences are concurrent or
16 consolidated, the longest of the maximum sentences allowed by law for the classes of offense
17 and prior record or conviction levels upon conviction of any of the offenses. If the person
18 sentenced to imprisonment is under the age of 18, the person must be committed to a detention
19 facility approved by the Juvenile Justice Section of the Division of Adult Correction and Juvenile
20 Justice to provide secure confinement and care for juveniles. If the person is under the age of 18,
21 the person may be temporarily confined in a holdover facility as defined in G.S. 7B-1501(11)
22 until the person can be transferred to a juvenile detention facility. Personnel of the Juvenile
23 Justice Section or personnel approved by the Juvenile Justice Section shall transport the person
24 to the juvenile detention facility or the holdover facility."

25 **SECTION 8.(e)** G.S. 15A-1343(a1) reads as rewritten:

26 **"§ 15A-1343. Conditions of probation.**

27 ...

28 (a1) Community and Intermediate Probation Conditions. – In addition to any conditions a
29 court may be authorized to impose pursuant to G.S. 15A-1343(b1), the court may include any
30 one or more of the following conditions as part of a community or intermediate punishment:

- 31 (1) House arrest with electronic monitoring.
- 32 (2) Perform community service and pay the fee prescribed by law for this
33 supervision.
- 34 (3) Submission to a period or periods of confinement in a local confinement
35 facility for a total of no more than six days per month during any three separate
36 months during the period of probation. The six days per month confinement
37 provided for in this subdivision may only be imposed as two-day or three-day
38 consecutive periods. When a defendant is on probation for multiple
39 judgments, confinement periods imposed under this subdivision shall run
40 concurrently and may total no more than six days per month. If the person
41 being ordered to a period or periods of confinement is under the age of 18,
42 that person must be confined in a detention facility approved by the Juvenile
43 Justice Section of the Division of Adult Correction and Juvenile Justice to
44 provide secure confinement and care for juveniles or to a holdover facility as
45 defined in G.S. 7B-1501(11). If the person being ordered to a period or periods
46 of confinement reaches the age of 18 years while in confinement, the person
47 may be transported by personnel of the Juvenile Justice Section of the
48 Division, or personnel approved by the Juvenile Justice Section, to the custody
49 of the sheriff of the applicable local confinement facility.
- 50 (4) Substance abuse assessment, monitoring, or treatment.

- 1 (4a) Abstain from alcohol consumption and submit to continuous alcohol
2 monitoring when alcohol dependency or chronic abuse has been identified by
3 a substance abuse assessment.
- 4 (5) Participation in an educational or vocational skills development program,
5 including an evidence-based program.
- 6 (6) Submission to satellite-based monitoring, pursuant to Part 5 of Article 27A of
7 Chapter 14 of the General Statutes, if the defendant is described by
8 G.S. 14-208.40(a)(2)."

9 **SECTION 8.(f)** G.S. 15A-1343.2(e) reads as rewritten:

10 "(e) Delegation to Probation Officer in Community Punishment. – Unless the presiding
11 judge specifically finds in the judgment of the court that delegation is not appropriate, the Section
12 of Community Corrections of the Division of Adult Correction and Juvenile Justice of the
13 Department of Public Safety may require an offender sentenced to community punishment to do
14 any of the following:

- 15 (1) Perform up to 20 hours of community service, and pay the fee prescribed by
16 law for this supervision.
- 17 (2) Report to the offender's probation officer on a frequency to be determined by
18 the officer.
- 19 (3) Submit to substance abuse assessment, monitoring or treatment.
- 20 (4) Submit to house arrest with electronic monitoring.
- 21 (5) Submit to a period or periods of confinement in a local confinement facility
22 for a total of no more than six days per month during any three separate
23 months during the period of probation. The six days per month confinement
24 provided for in this subdivision may only be imposed as two-day or three-day
25 consecutive periods. When a defendant is on probation for multiple
26 judgments, confinement periods imposed under this subdivision shall run
27 concurrently and may total no more than six days per month. If the person
28 being ordered to a period or periods of confinement is under the age of 18,
29 that person must be confined in a detention facility approved by the Juvenile
30 Justice Section of the Division of Adult Correction and Juvenile Justice to
31 provide secure confinement and care for juveniles or to a holdover facility as
32 defined in G.S. 7B-1501(11). If the person being ordered to a period or periods
33 of confinement reaches the age of 18 years while in confinement, the person
34 may be transported by personnel of the Juvenile Justice Section of the
35 Division, or personnel approved by the Juvenile Justice Section, to the custody
36 of the sheriff of the applicable local confinement facility.
- 37 (6) Submit to a curfew which requires the offender to remain in a specified place
38 for a specified period each day and wear a device that permits the offender's
39 compliance with the condition to be monitored electronically.
- 40 (7) Participate in an educational or vocational skills development program,
41 including an evidence-based program.

42 If the Section imposes any of the above requirements, then it may subsequently reduce or remove
43 those same requirements.

44 The probation officer may exercise authority delegated to him or her by the court pursuant to
45 subsection (e) of this section after administrative review and approval by a Chief Probation
46 Officer. The offender may file a motion with the court to review the action taken by the probation
47 officer. The offender shall be given notice of the right to seek such a court review. However, the
48 offender shall have no right of review if he or she has signed a written waiver of rights as required
49 by this subsection. The Section may exercise any authority delegated to it under this subsection
50 only if it first determines that the offender has failed to comply with one or more of the conditions
51 of probation imposed by the court or the offender is determined to be high risk based on the

1 results of the risk assessment in G.S. 15A-1343.2, except that the condition at subdivision (5) of
2 this subsection may not be imposed unless the Section determines that the offender failed to
3 comply with one or more of the conditions imposed by the court. Nothing in this section shall be
4 construed to limit the availability of the procedures authorized under G.S. 15A-1345.

5 The Division shall adopt guidelines and procedures to implement the requirements of this
6 section, which shall include a supervisor's approval prior to exercise of the delegation of authority
7 authorized by this section. Prior to imposing confinement pursuant to subdivision (5) of this
8 subsection, the probationer must first be presented with a violation report, with the alleged
9 violations noted and advised of the right (i) to a hearing before the court on the alleged violation,
10 with the right to present relevant oral and written evidence; (ii) to have counsel at the hearing,
11 and that one will be appointed if the probationer is indigent; (iii) to request witnesses who have
12 relevant information concerning the alleged violations; and (iv) to examine any witnesses or
13 evidence. The probationer may be confined for the period designated on the violation report upon
14 the execution of a waiver of rights signed by the probationer and by two officers acting as
15 witnesses. Those two witnesses shall be the probation officer and another officer to be designated
16 by the Chief of the Community Corrections Section in written Division policy."

17 **SECTION 8.(g)** G.S. 15A-1343.2(f) reads as rewritten:

18 "(f) Delegation to Probation Officer in Intermediate Punishments. – Unless the presiding
19 judge specifically finds in the judgment of the court that delegation is not appropriate, the Section
20 of Community Corrections of the Division of Adult Correction and Juvenile Justice of the
21 Department of Public Safety may require an offender sentenced to intermediate punishment to
22 do any of the following:

- 23 (1) Perform up to 50 hours of community service, and pay the fee prescribed by
24 law for this supervision.
- 25 (2) Submit to a curfew which requires the offender to remain in a specified place
26 for a specified period each day and wear a device that permits the offender's
27 compliance with the condition to be monitored electronically.
- 28 (3) Submit to substance abuse assessment, monitoring or treatment, including
29 continuous alcohol monitoring when abstinence from alcohol consumption
30 has been specified as a term of probation.
- 31 (4) Participate in an educational or vocational skills development program,
32 including an evidence-based program.
- 33 (5) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of
34 Chapter 14 of the General Statutes, if the defendant is described by
35 G.S. 14-208.40(a)(2).
- 36 (6) Submit to a period or periods of confinement in a local confinement facility
37 for a total of no more than six days per month during any three separate
38 months during the period of probation. The six days per month confinement
39 provided for in this subdivision may only be imposed as two-day or three-day
40 consecutive periods. When a defendant is on probation for multiple
41 judgments, confinement periods imposed under this subdivision shall run
42 concurrently and may total no more than six days per month. If the person
43 being ordered to a period or periods of confinement is under the age of 18,
44 that person must be confined in a detention facility approved by the Juvenile
45 Justice Section of the Division of Adult Correction and Juvenile Justice to
46 provide secure confinement and care for juveniles or to a holdover facility as
47 defined in G.S. 7B-1501(11). If the person being ordered to a period or periods
48 of confinement reaches the age of 18 years while in confinement, the person
49 may be transported by personnel of the Juvenile Justice Section of the
50 Division, or personnel approved by the Juvenile Justice Section, to the custody
51 of the sheriff of the applicable local confinement facility.

- 1 (7) Submit to house arrest with electronic monitoring.
2 (8) Report to the offender's probation officer on a frequency to be determined by
3 the officer.

4 If the Section imposes any of the above requirements, then it may subsequently reduce or remove
5 those same requirements.

6 The probation officer may exercise authority delegated to him or her by the court pursuant to
7 subsection (f) of this section after administrative review and approval by a Chief Probation
8 Officer. The offender may file a motion with the court to review the action taken by the probation
9 officer. The offender shall be given notice of the right to seek such a court review. However, the
10 offender shall have no right of review if he or she has signed a written waiver of rights as required
11 by this subsection. The Section may exercise any authority delegated to it under this subsection
12 only if it first determines that the offender has failed to comply with one or more of the conditions
13 of probation imposed by the court or the offender is determined to be high risk based on the
14 results of the risk assessment in G.S. 15A-1343.2, except that the condition at subdivision (6) of
15 this subsection may not be imposed unless the Section determines that the offender failed to
16 comply with one or more of the conditions imposed by the court. Nothing in this section shall be
17 construed to limit the availability of the procedures authorized under G.S. 15A-1345.

18 The Division shall adopt guidelines and procedures to implement the requirements of this
19 section, which shall include a supervisor's approval prior to exercise of the delegation of authority
20 authorized by this section. Prior to imposing confinement pursuant to subdivision (6) of this
21 subsection, the probationer must first be presented with a violation report, with the alleged
22 violations noted and advised of the right (i) to a hearing before the court on the alleged violation,
23 with the right to present relevant oral and written evidence; (ii) to have counsel at the hearing,
24 and that one will be appointed if the probationer is indigent; (iii) to request witnesses who have
25 relevant information concerning the alleged violations; and (iv) to examine any witnesses or
26 evidence. The probationer may be confined for the period designated on the violation report upon
27 the execution of a waiver of rights signed by the probationer and by two officers acting as
28 witnesses. Those two witnesses shall be the probation officer and another officer to be designated
29 by the Chief of the Community Corrections Section in written Division policy."

30 **SECTION 8.(h)** G.S. 15A-1344(d2) reads as rewritten:

31 "(d2) Confinement in Response to Violation. – When a defendant under supervision for a
32 felony conviction has violated a condition of probation other than G.S. 15A-1343(b)(1) or
33 G.S. 15A-1343(b)(3a), the court may impose a period of confinement of 90 consecutive days to
34 be served in the custody of the Division of Adult Correction and Juvenile Justice of the
35 Department of Public Safety. The court may not revoke probation unless the defendant has
36 previously received a total of two periods of confinement under this subsection. A defendant may
37 receive only two periods of confinement under this subsection. The 90-day term of confinement
38 ordered under this subsection for a felony shall not be reduced by credit for time already served
39 in the case. Any such credit shall instead be applied to the suspended sentence. However, if the
40 time remaining on the maximum imposed sentence on a defendant under supervision for a felony
41 conviction is 90 days or less, then the term of confinement is for the remaining period of the
42 sentence. Confinement under this section shall be credited pursuant to G.S. 15-196.1.

43 When a defendant under supervision for a misdemeanor conviction sentenced pursuant to
44 Article 81B of Chapter 15A of the General Statutes has violated a condition of probation other
45 than G.S. 15A-1343(b)(1) or G.S. 15A-1343(b)(3a), the court may impose a period of
46 confinement pursuant to G.S. 15A-1343(a1)(3). If the person being ordered to a period of
47 confinement is under the age of 18, that person must be confined in a detention facility approved
48 by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice to provide
49 secure confinement and care for juveniles or to a holdover facility as defined in
50 G.S. 7B-1501(11). If the person being ordered to a period of confinement reaches the age of 18
51 years while in confinement, the person may be transported by personnel of the Juvenile Justice

1 Section of the Division, or personnel approved by the Juvenile Justice Section, to the custody of
2 the sheriff of the applicable local confinement facility. The court may not revoke probation unless
3 the defendant has previously received at least two periods of confinement for violating a
4 condition of probation other than G.S. 15A-1343(b)(1) or G.S. 15A-1343(b)(3a). Those periods
5 of confinement may have been imposed pursuant to G.S. 15A-1343(a1)(3), 15A-1343.2(e)(5), or
6 15A-1343.2(f)(6). The second period of confinement must have been imposed for a violation that
7 occurred after the defendant served the first period of confinement. Confinement under this
8 section shall be credited pursuant to G.S. 15-196.1.

9 When a defendant under supervision for a misdemeanor conviction not sentenced pursuant
10 to Article 81B of Chapter 15A of the General Statutes has violated a condition of probation other
11 than G.S. 15A-1343(b)(1) or G.S. 15A-1343(b)(3a), the court may impose a period of
12 confinement of up to 90 consecutive days to be served where the defendant would have served
13 an active sentence. The court may not revoke probation unless the defendant has previously
14 received a total of two periods of confinement under this subsection. A defendant may receive
15 only two periods of confinement under this subsection. Confinement under this section shall be
16 credited pursuant to G.S. 15-196.1.

17 The period of confinement imposed under this subsection on a defendant who is on probation
18 for multiple offenses shall run concurrently on all cases related to the violation. Confinement
19 shall be immediate unless otherwise specified by the court."

20 **SECTION 8.(i)** G.S. 15A-1344(e) reads as rewritten:

21 "(e) Special Probation in Response to Violation. – When a defendant has violated a
22 condition of probation, the court may modify the probation to place the defendant on special
23 probation as provided in this subsection. In placing the defendant on special probation, the court
24 may continue or modify the conditions of probation and in addition require that the defendant
25 submit to a period or periods of imprisonment, either continuous or noncontinuous, at whatever
26 time or intervals within the period of probation the court determines. In addition to any other
27 conditions of probation which the court may impose, the court shall impose, when imposing a
28 period or periods of imprisonment as a condition of special probation, the condition that the
29 defendant obey the rules and regulations of the Division of Adult Correction and Juvenile Justice
30 of the Department of Public Safety governing conduct of inmates, and this condition shall apply
31 to the defendant whether or not the court imposes it as a part of the written order. If imprisonment
32 is for continuous periods, the confinement may be in either the custody of the Division of Adult
33 Correction and Juvenile Justice of the Department of Public Safety or a local confinement
34 facility. Noncontinuous periods of imprisonment under special probation may only be served in
35 a designated local confinement or treatment facility. If the person being ordered to a period or
36 periods of imprisonment, either continuous or noncontinuous, is under the age of 18, that person
37 must be imprisoned in a detention facility approved by the Juvenile Justice Section of the
38 Division of Adult Correction and Juvenile Justice to provide secure confinement and care for
39 juveniles or to a holdover facility as defined in G.S. 7B-1501(11). If the person being ordered to
40 a period or periods of imprisonment reaches the age of 18 years while imprisoned, the person
41 may be transported by personnel of the Juvenile Justice Section of the Division, or personnel
42 approved by the Juvenile Justice Section, to the custody of the sheriff of the applicable local
43 confinement facility.

44 Except for probationary sentences for impaired driving under G.S. 20-138.1, the total of all
45 periods of confinement imposed as an incident of special probation, but not including an activated
46 suspended sentence, may not exceed one-fourth the maximum sentence of imprisonment
47 imposed for the offense. For probationary sentences for impaired driving under G.S. 20-138.1,
48 the total of all periods of confinement imposed as an incident of special probation, but not
49 including an activated suspended sentence, shall not exceed one-fourth the maximum penalty
50 allowed by law. No confinement other than an activated suspended sentence may be required

1 beyond the period of probation or beyond two years of the time the special probation is imposed,
2 whichever comes first."

3 **SECTION 8.(j)** G.S. 15A-1351(a) reads as rewritten:

4 "(a) The judge may sentence to special probation a defendant convicted of a criminal
5 offense other than impaired driving under G.S. 20-138.1, if based on the defendant's prior record
6 or conviction level as found pursuant to Article 81B of this Chapter, an intermediate punishment
7 is authorized for the class of offense of which the defendant has been convicted. A defendant
8 convicted of impaired driving under G.S. 20-138.1 may also be sentenced to special probation.
9 Under a sentence of special probation, the court may suspend the term of imprisonment and place
10 the defendant on probation as provided in Article 82, Probation, and in addition require that the
11 defendant submit to a period or periods of imprisonment in the custody of the Division of Adult
12 Correction and Juvenile Justice of the Department of Public Safety or a designated local
13 confinement or treatment facility at whatever time or intervals within the period of probation,
14 consecutive or nonconsecutive, the court determines, as provided in this subsection. For
15 probationary sentences for misdemeanors, including impaired driving under G.S. 20-138.1, all
16 imprisonment under this subsection shall be in a designated local confinement or treatment
17 facility. If the person being ordered to a period or periods of imprisonment is under the age of
18 18, that person must be imprisoned in a detention facility approved by the Juvenile Justice Section
19 of the Division of Adult Correction and Juvenile Justice to provide secure confinement and care
20 for juveniles or to a holdover facility as defined in G.S. 7B-1501(11). If the person being ordered
21 to a period or periods of imprisonment reaches the age of 18 years while imprisoned, the person
22 may be transported by personnel of the Juvenile Justice Section of the Division, or personnel
23 approved by the Juvenile Justice Section, to the custody of the sheriff of the applicable local
24 confinement facility. In addition to any other conditions of probation which the court may
25 impose, the court shall impose, when imposing a period or periods of imprisonment as a condition
26 of special probation, the condition that the defendant obey the Rules and Regulations of the
27 Division of Adult Correction and Juvenile Justice of the Department of Public Safety governing
28 conduct of inmates, and this condition shall apply to the defendant whether or not the court
29 imposes it as a part of the written order. Except for probationary sentences for misdemeanors,
30 including impaired driving under G.S. 20-138.1, if imprisonment is for continuous periods, the
31 confinement may be in the custody of either the Division of Adult Correction and Juvenile Justice
32 of the Department of Public Safety or a local confinement facility. Noncontinuous periods of
33 imprisonment under special probation may only be served in a designated local confinement or
34 treatment facility. If the person being ordered continuous or noncontinuous periods of
35 imprisonment is under the age of 18, that person must be imprisoned in a detention facility
36 approved by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice
37 to provide secure confinement and care for juveniles or to a holdover facility as defined in
38 G.S. 7B-1501(11). If the person being ordered to a period or periods of imprisonment reaches
39 the age of 18 years while imprisoned, the person may be transported by personnel of the Juvenile
40 Justice Section of the Division, or personnel approved by the Juvenile Justice Section, to the
41 custody of the sheriff of the applicable local confinement facility. Except for probationary
42 sentences of impaired driving under G.S. 20-138.1, the total of all periods of confinement
43 imposed as an incident of special probation, but not including an activated suspended sentence,
44 may not exceed one-fourth the maximum sentence of imprisonment imposed for the offense, and
45 no confinement other than an activated suspended sentence may be required beyond two years
46 of conviction. For probationary sentences for impaired driving under G.S. 20-138.1, the total of
47 all periods of confinement imposed as an incident of special probation, but not including an
48 activated suspended sentence, shall not exceed one-fourth the maximum penalty allowed by law.
49 In imposing a sentence of special probation, the judge may credit any time spent committed or
50 confined, as a result of the charge, to either the suspended sentence or to the imprisonment
51 required for special probation. The original period of probation, including the period of

1 imprisonment required for special probation, shall be as specified in G.S. 15A-1343.2(d), but
2 may not exceed a maximum of five years, except as provided by G.S. 15A-1342(a). The court
3 may revoke, modify, or terminate special probation as otherwise provided for probationary
4 sentences."

5 **SECTION 8.(k)** G.S. 15A-1352 reads as rewritten:

6 "**§ 15A-1352. Commitment to Division of Adult Correction and Juvenile Justice of the**
7 **Department of Public Safety or local confinement facility.**

8 (a) Except as provided in subsection (f) of this section, a person sentenced to
9 imprisonment for a misdemeanor under this Article or for nonpayment of a fine for conviction
10 of a misdemeanor under Article 84 of this Chapter shall be committed for the term designated by
11 the court to the Statewide Misdemeanant Confinement Program as provided in G.S. 148-32.1 or,
12 if the period is for 90 days or less, to a local confinement facility, except as provided for in
13 G.S. 148-32.1(b).

14 If a person is sentenced to imprisonment for a misdemeanor under this Article or for
15 nonpayment of a fine under Article 84 of this Chapter, the sentencing judge may make a finding
16 of fact as to whether the person would be suitable for placement in a county satellite jail/work
17 release unit operated pursuant to G.S. 153A-230.3. If the sentencing judge makes a finding of
18 fact that the person would be suitable for placement in a county satellite jail/work release unit
19 and the person meets the requirements listed in G.S. 153A-230.3(a)(1), then the custodian of the
20 local confinement facility may transfer the misdemeanant to a county satellite jail/work release
21 unit.

22 If the person sentenced to imprisonment is under the age of 18, the person must be committed
23 to a detention facility approved by the Juvenile Justice Section of the Division of Adult
24 Correction and Juvenile Justice to provide secure confinement and care for juveniles. Personnel
25 of the Juvenile Justice Section of the Division or personnel approved by the Juvenile Justice
26 Section shall transport the person to the detention facility. If the person sentenced to
27 imprisonment reaches the age of 18 years while imprisoned, the person may be transported by
28 personnel of the Juvenile Justice Section of the Division, or personnel approved by the Juvenile
29 Justice Section, to the custody of the sheriff of the applicable local confinement facility.

30 (b) A person sentenced to imprisonment for a felony under this Article or for nonpayment
31 of a fine for conviction of a felony under Article 84 of this Chapter shall be committed for the
32 term designated by the court to the custody of the Division of Adult Correction and Juvenile
33 Justice of the Department of Public Safety.

34 (c) Repealed by Session Laws 2014-100, s. 16C.1(b), effective October 1, 2014. See
35 Editor's note for applicability.

36 (d) Notwithstanding any other provision of law, when the sentencing court, with the
37 consent of the person sentenced, orders that a person convicted of a misdemeanor be granted
38 work release, the court may commit the person to a specific prison facility or local confinement
39 facility or satellite jail/work release unit within the county of the sentencing court in order to
40 facilitate the work release arrangement. When appropriate to facilitate the work release
41 arrangement, the sentencing court may, with the consent of the sheriff or board of commissioners,
42 commit the person to a specific local confinement facility or satellite jail/work release unit in
43 another county.

44 (e) Repealed by Session Laws 2014-100, s. 16C.1(b), effective October 1, 2014. See
45 Editor's note for applicability.

46 (f) A person sentenced to imprisonment of any duration for impaired driving under
47 G.S. 20-138.1, other than imprisonment required as a condition of special probation under
48 G.S. 15A-1351(a) or G.S. 15A-1344(e), shall be committed to the Statewide Misdemeanant
49 Confinement Program established under G.S. 148-32.1.

50 If the person sentenced to imprisonment is under the age of 18, the person must be committed
51 to a detention facility approved by the Juvenile Justice Section of the Division of Adult

1 Correction and Juvenile Justice to provide secure confinement and care for juveniles. Personnel
2 of the Juvenile Justice Section or personnel approved by the Juvenile Justice Section shall
3 transport the person to the detention facility. If the person sentenced to imprisonment reaches the
4 age of 18 years while imprisoned, the person may be transported by personnel of the Juvenile
5 Justice Section of the Division, or personnel approved by the Juvenile Justice Section, to the
6 custody of the sheriff of the applicable local confinement facility."

7 **SECTION 8.(l)** G.S. 148-13 reads as rewritten:

8 "**§ 148-13. Regulations as to custody grades, privileges, gain time credit, etc.**

9 (a) The Secretary of Public Safety may issue regulations regarding the grades of custody
10 in which State prisoners are kept, the privileges and restrictions applicable to each custody grade,
11 and the amount of cash, clothing, etc., to be awarded to State prisoners after their discharge or
12 parole. The amount of cash awarded to a prisoner upon discharge or parole after being
13 incarcerated for two years or longer shall be at least forty-five dollars (\$45.00).

14 (a1) The Secretary of Public Safety shall adopt rules to specify the rates at, and
15 circumstances under, which earned time authorized by G.S. 15A-1340.13(d) and
16 G.S. 15A-1340.20(d) may be earned or forfeited by persons serving activated sentences of
17 imprisonment for felony or misdemeanor convictions. Such rules shall include any person
18 -serving an activated sentence of imprisonment who is confined in a detention facility approved
19 by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice.

20 (b) With respect to prisoners who are serving sentences for impaired driving offenses
21 under G.S. 20-138.1, the Secretary of Public Safety may, in his discretion, issue regulations
22 regarding deductions of time from the terms of such prisoners for good behavior, meritorious
23 conduct, work or study, participation in rehabilitation programs, and the like.

24 (c), (d) Repealed by Session Laws 1993, c. 538, s. 32, effective January 1, 1995.

25 (e) The Secretary's regulations concerning earned time and good time credits authorized
26 by this section shall be distributed to and followed by local jail administrators and by personnel
27 of the Juvenile Justice Section or personnel approved by the Juvenile Justice Section with regard
28 to sentenced jail prisoners-prisoners, including prisoners housed in a detention facility approved
29 by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice.

30 (f) The provisions of this section do not apply to persons sentenced to a term of special
31 probation under G.S. 15A-1344(e) or G.S. 15A-1351(a)."

32 **SECTION 8.(m)** G.S. 148-32.1(e) reads as rewritten:

33 "(e) Upon entry of a prisoner serving a sentence of imprisonment for impaired driving
34 under G.S. 20-138.1 into a local confinement facility or to a detention facility approved by the
35 Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice pursuant to this
36 section, the custodian of the local confinement facility or detention facility shall forward to the
37 Post-Release Supervision and Parole Commission information pertaining to the prisoner so as to
38 make him eligible for parole consideration pursuant to G.S. 15A-1371. Such information shall
39 include date of incarceration, jail credit, and such other information as may be required by the
40 Post-Release Supervision and Parole Commission. The Post-Release Supervision and Parole
41 Commission shall approve a form upon which the custodian shall furnish this information, which
42 form will be provided to the custodian by the Division of Adult Correction and Juvenile Justice."

43 **SECTION 8.(n)** G.S. 153A-218 reads as rewritten:

44 "**§ 153A-218. County confinement facilities.**

45 A county may establish, acquire, erect, repair, maintain, and operate local confinement
46 facilities and may for these purposes appropriate funds not otherwise limited as to use by law.
47 Subject to the holdover provisions in G.S. 7B-2204, no person under the age of 18 may be held
48 in a county confinement facility unless there is an agreement between the county confinement
49 facility and the Division of Adult Correction and Juvenile Justice allowing the housing of persons
50 under the age of 18 at the facility or a portion of the facility that has been approved as a juvenile
51 detention facility by the Juvenile Justice Section. A juvenile detention facility may be located in

1 the same facility as a county jail provided that the juvenile detention facility meets the
2 requirements of this Article and G.S. 147-33.40."

3 **SECTION 8.(o)** G.S. 162-60(b) reads as rewritten:

4 "(b) A prisoner who is convicted of a misdemeanor offense and housed in a local
5 confinement facility ~~and~~ or a person under the age of 18 convicted of a misdemeanor offense and
6 housed in a detention facility approved by the Juvenile Justice Section of the Division of Adult
7 Correction and Juvenile Justice who faithfully participates in an adult high school equivalency
8 diploma program or in any other education, rehabilitation, or training program is entitled to a
9 reduction in the prisoner's sentence of four days for each 30 days of classes attended, up to the
10 maximum credit allowed under G.S. 15A-1340.20(d)."

11 **SECTION 8.(p)** This section becomes effective August 1, 2020, and applies to
12 offenses committed, sentences imposed, and any other orders of imprisonment issued on or after
13 that date.

14 15 **PART III. STATEWIDE MISDEMEANANT CONFINEMENT PROGRAM** 16 **TRANSFERS FOR MEDICAL TREATMENT**

17 **SECTION 9.(a)** G.S. 148-19.3 reads as rewritten:

18 **"§ 148-19.3. Health care services to county prisoners.**

19 (a) All charges that are the responsibility of the transferring county for health care
20 services provided to prisoners held under a safekeeping order pursuant to ~~G.S. 162-39~~
21 G.S. 162-39, or the Statewide Misdemeanant Confinement Program pursuant to G.S. 148-32.1,
22 shall not be paid by the Department and shall be submitted by the health care provider to the
23 Inmate Medical Costs Management Plan through the North Carolina Sheriffs' Association for the
24 Plan to review and negotiate all charges for health care services to avoid overpayment and reduce
25 overall health care service costs. The Department shall notify the health care provider when
26 services are being provided to the prisoner that the invoice for health care services shall be
27 submitted by the provider directly to the Plan. In the event an invoice is sent to the Department
28 by a health care provider for health care services provided to a safekeeper under this ~~section,~~
29 section or G.S. 148-32.1, the Department shall forward the invoice to the Plan within three days
30 of receipt. All unreimbursed charges for health care services provided shall be documented and
31 presented to the county for payment in accordance with ~~G.S. 162-39.~~ G.S. 162-39 or the
32 Statewide Misdemeanant Confinement Program in accordance with G.S. 148-32.1. Upon
33 expiration of the terms of the order and a determination that the prisoner may be safely returned
34 to the custody of the county, the Department shall notify the sheriff, or the sheriff's designee, by
35 telephone and electronic mail and request the transfer of the prisoner to the custody of the county.

36 (b) The Department shall update the medical services schedule of charges assessed to
37 counties for the provision of health care services to county prisoners housed in the State prison
38 system pursuant to safekeeping orders under ~~G.S. 162-39.~~ G.S. 162-39 or the Statewide
39 Misdemeanant Confinement Program under G.S. 148-32.1. In updating the schedule of charges,
40 at a minimum, the Department shall consider the actual rate for services provided and current
41 established Medicaid rates for respective services. The schedule of charges shall be updated
42 annually and shall be included in the Department's policies and procedures. The Department shall
43 assess charges to counties for health care services provided to county prisoners at all State prison
44 facilities."

45 **SECTION 9.(b)** G.S. 148-32.1(b3) reads as rewritten:

46 "(b3) The custodian of a local confinement facility may request a judicial order to transfer
47 a misdemeanant housed pursuant to the Statewide Misdemeanant Confinement Program to a
48 facility operated by the Division of Adult Correction and Juvenile Justice by certifying in writing
49 to the clerk of the superior court in the county in which the local confinement facility is located
50 ~~that~~ that one of the following conditions is met:

51 (1) The misdemeanant poses a security risk because the misdemeanant:

- 1 a. Poses a serious escape ~~risk~~; risk.
- 2 b. Exhibits violently aggressive behavior that cannot be contained and
- 3 warrants a higher level of ~~supervision~~; supervision.
- 4 c. Needs to be protected from other inmates, and the county jail facility
- 5 cannot provide such ~~protection~~; protection.
- 6 d. Is a female or a person 18 years of age or younger, and the county jail
- 7 facility does not have adequate housing for such ~~prisoners~~; prisoners.
- 8 e. Is in custody at a time when a fire or other catastrophic event has
- 9 caused the county jail facility to cease or curtail ~~operations~~;
- 10 ~~operations~~.
- 11 f. Otherwise poses an imminent danger to the staff of the county jail
- 12 facility or to other prisoners in the facility.
- 13 (2) The misdemeanor requires medical or mental health treatment that the county
- 14 decides can best be provided by the Division of Adult Correction and Juvenile
- 15 Justice.
- 16 (3) The local confinement facility that would be required to house the prisoner (i)
- 17 cannot reasonably accommodate any more prisoners due to segregation
- 18 requirements for particular prisoners, or the local facility does not meet the
- 19 minimum standards published pursuant to G.S. 153A-221, and (ii) no other
- 20 local confinement facility is available.

21 Upon receiving such request and certification in writing, any superior or district court judge

22 for the district in which the local confinement facility is located may, after ascertaining that the

23 request meets the criteria set forth in subdivision (1), (2), or (3) of this subsection, order the

24 misdemeanor transferred to a unit of the State prison system designated by the Secretary of

25 Public Safety or the Secretary's authorized representative. Individuals meeting the condition set

26 forth in subdivision (2) of this subsection may be ordered to be transferred for an initial period

27 not to exceed 30 days. The sheriff of the county from which the prisoner is removed shall be

28 responsible for conveying the prisoner to the prison unit where the prisoner is to be held and for

29 returning the prisoner to the jail of the county from which the prisoner was transferred. The

30 officer in charge of the prison unit designated by the Secretary of Public Safety shall receive

31 custody of the prisoner in accordance with the terms of the order. Prior to the conclusion of the

32 30-day period, the Division of Adult Correction and Juvenile Justice shall conduct an assessment

33 of treatment and venue needs. The assessment shall be conducted by the attending medical or

34 mental health professional and shall assess the medical and mental health needs of the prisoner

35 and make a recommendation on whether the prisoner should remain in the custody of the Division

36 of Adult Correction and Juvenile Justice of the Department of Public Safety or if the prisoner

37 should be returned to the custody of the county. To extend the order beyond the initial 30-day

38 period, the sheriff shall provide the Division of Adult Correction and Juvenile Justice assessment

39 and any other relevant information to the resident judge or the superior court or any judge holding

40 superior court in the district or any district court judge who shall determine whether to extend

41 the transfer of the prisoner to a unit of the State prison system beyond the initial 30-day period.

42 If the judge determines that the prisoner should remain in the custody of the Division of Adult

43 Correction and Juvenile Justice, the judge shall renew the order and include a date certain for

44 review by the court. Prior to the date of review, the Division shall conduct a reassessment of

45 treatment and venue needs and the sheriff shall provide the reassessment and any other relevant

46 information to the court, as described in this subsection. If the judge determines that the prisoner

47 should not remain in the custody of the Division of Adult Correction and Juvenile Justice, the

48 officer in charge of the prison unit designated by the Secretary of Public Safety shall release

49 custody of the prisoner in accordance with the court order and the instructions of the attending

50 medical or mental health professional. The Division of Adult Correction and Juvenile Justice

51 shall be reimbursed from the Statewide Misdemeanant Confinement Fund for the costs of

1 housing the misdemeanant, including the care, supervision, and transportation of the
2 misdemeanant."

3 **SECTION 9.(c)** This section becomes effective July 1, 2020, and applies to all
4 prisoners transferred on or after that date.

5
6 **PART IV. INCREASING CRIMINAL COURT APPOINTED COUNSEL FEE AND**
7 **COURT COSTS FOR SUPPORT OF INDIGENT DEFENSE SERVICES AND**
8 **CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION**

9
10 **INCREASING APPOINTED COUNSEL FEE AND COURT COSTS**

11 **SECTION 10.1.(a)** G.S. 7A-455.1 reads as rewritten:

12 "**§ 7A-455.1. Appointment fee in criminal cases.**

13 (a) In every criminal case in which counsel is appointed at the trial level, the judge shall
14 order the defendant to pay to the clerk of court an appointment fee of ~~sixty dollars (\$60.00)-~~
15 seventy-five dollars (\$75.00). No fee shall be due unless the person is convicted.

16 (b) The mandatory ~~sixty dollar (\$60.00)-~~seventy-five dollar (\$75.00) fee may not be
17 remitted or revoked by the court and shall be added to any amounts the court determines to be
18 owed for the value of legal services rendered to the defendant and shall be collected in the same
19 manner as attorneys' fees are collected for such representation.

20 (c) Repealed by Session Laws 2005-250 s. 3, effective August 4, 2005.

21 (d) Inability, failure, or refusal to pay the appointment fee shall not be grounds for
22 denying appointment of counsel, for withdrawal of counsel, or for contempt.

23 (e) The appointment fee required by this section shall be assessed only once for each
24 attorney appointment, regardless of the number of cases to which the attorney was assigned. An
25 additional appointment fee shall not be assessed if the charges for which an attorney was
26 appointed were reassigned to a different attorney.

27 (f) Of each appointment fee collected under this section, the sum of ~~fifty-five dollars~~
28 (\$55.00)-seventy dollars (\$70.00) shall be credited to the Indigent Persons' Attorney Fee Fund
29 and the sum of five dollars (\$5.00) shall be credited to the Court Information Technology Fund
30 under G.S. 7A-343.2. These fees shall not revert.

31 (g) The Office of Indigent Defense Services shall adopt rules and develop forms to
32 govern implementation of this section."

33 **SECTION 10.1.(b)** G.S. 7A-304(a) reads as rewritten:

34 "(a) In every criminal case in the superior or district court, wherein the defendant is
35 convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the
36 prosecuting witness, the following costs shall be assessed and collected. No costs may be
37 assessed when a case is dismissed. Only upon entry of a written order, supported by findings of
38 fact and conclusions of law, determining that there is just cause, the court may (i) waive costs
39 assessed under this section or (ii) waive or reduce costs assessed under subdivision (7), (8), (8a),
40 (11), (12), or (13) of this section. No court may waive or remit all or part of any court fines or
41 costs without providing notice and opportunity to be heard by all government entities directly
42 affected. The court shall provide notice to the government entities directly affected of (i) the date
43 and time of the hearing and (ii) the right to be heard and make an objection to the remission or
44 waiver of all or part of the order of court costs at least 15 days prior to hearing. Notice shall be
45 made to the government entities affected by first-class mail to the address provided for receipt of
46 court costs paid pursuant to the order. The costs referenced in this subsection are listed below:

47 ...

48 (3b) For the services, staffing, and operations of the Criminal Justice Education
49 and Training Standards Commission, the sum of ~~two-three dollars (\$2.00)~~
50 (\$3.00) to be remitted to the Department of Justice.

1 (3c) For legal representation to indigent defendants and others entitled to counsel
2 under North Carolina law, the sum of two dollars (\$2.00) to be remitted to the
3 Office of Indigent Defense Services.

4 "

5 **SECTION 10.1.(c)** The Office of Indigent Defense Services and the Administrative
6 Office of the Courts shall update all appointed counsel fee application forms in order to provide
7 space for the itemization of time spent on appointed cases.

8 **SECTION 10.1.(d)** The Office of Indigent Defense Services shall report to the chairs
9 of the Joint Legislative Oversight Committee on Justice and Public Safety by March 1, 2021,
10 regarding the implementation of rate increases to the Private Assigned Counsel Fund and
11 modifications to appointed counsel fee application forms.

12 **SECTION 10.1.(e)** Receipts collected as a result of the court cost increase in
13 subsection (a) of this section related to the Criminal Justice Education and Training Standards
14 Commission are appropriated to the Criminal Justice Education and Training Standards
15 Commission in the 2020-2021 fiscal year and requirements are increased accordingly.

16 **SECTION 10.1.(f)** Receipts collected as a result of the court cost increase in
17 subsection (a) of this section related to Indigent Defense Services are appropriated to Indigent
18 Defense Services in the 2020-2021 fiscal year and requirements are increased accordingly.

19 **SECTION 10.1.(g)** Subsections (a) and (b) of this section become effective
20 December 1, 2020, and apply to costs assessed on or after that date. Subsection (c) of this section
21 becomes effective December 1, 2020, and applies to all appointed counsel fee application forms
22 submitted on or after that date. The remainder of this section is effective when it becomes law.

23

24 **PART V. RADIOLOGICAL EMERGENCY PLANNING**

25

26 **FEE DEADLINE AND FEE MINIMUM MODIFICATIONS**

27 **SECTION 11.1.(a)** G.S. 166A-29 reads as rewritten:

28 "**§ 166A-29. Emergency planning; charge.**

29 (a) Every person, firm, corporation or municipality who is licensed to construct or who
30 is operating a fixed nuclear facility for the production of electricity shall pay to the Department
31 of Public Safety an annual fee of at least thirty thousand dollars (\$30,000) for each fixed nuclear
32 facility which is located within this State or has a Plume Exposure Pathway Emergency Planning
33 Zone of which any part is located within this State. This fee is to be applied to the costs of
34 planning and implementing emergency response activities as are required by the Federal
35 Emergency Management Agency for the operation of nuclear facilities. Said fee is to be paid ~~no~~
36 ~~later than July 31 of each year.~~ on a schedule set by the Department of Public Safety. This
37 minimum fee may be increased from time to time as the costs of such planning and
38 implementation increase. Such increases shall be by agreement between the State and the
39 licensees or operators of the fixed nuclear facilities.

40 (b) Every person, firm, corporation or municipality who is licensed to construct or who
41 is operating a fixed nuclear facility for the production of electricity shall pay to the Department
42 of Public Safety, for the use of the Radiation Protection Section of the Division of ~~Public Health~~
43 Health Service Regulation of the Department of Health and Human Services, an annual fee of at
44 least thirty-six thousand dollars (\$36,000)–(\$36,000), not to exceed the cost of the service
45 provided, for each fixed nuclear facility that is located within this State or that has a Plume
46 Exposure Pathway Emergency Planning Zone any part of which is located within this State. This
47 fee shall be applied only to the costs of planning and implementing emergency response activities
48 as required by the Federal Emergency Management Agency for the operation of nuclear facilities.
49 This fee is to be paid ~~no later than July 31 of each year.~~ on a schedule set by the Department of
50 Public Safety.

51 "

1 **SECTION 11.1.(b)** This section becomes effective July 1, 2020, and applies to fees
2 assessed on or after that date.

3
4 **PART VI. SEX OFFENDER REGISTRY REQUIREMENT REVIEW**

5 **SECTION 11.5.(a)** Article 27A of Chapter 14 of the General Statutes is amended by
6 adding a new section to read:

7 **"§ 14-208.12B. Registration requirement review.**

8 (a) When a person is notified by a sheriff that the person may be required to register based
9 on an out-of-state conviction as provided in G.S. 14-208.6(4)(b), or a federal conviction as
10 provided in G.S. 14-208.6(4)(c), that is substantially similar to a North Carolina sexually violent
11 offense, or an offense against a minor, the sheriff shall notify the person of the right to petition
12 the court for a judicial determination of the requirement to register. Notification shall be served
13 on the person and the district attorney, as provided in G.S. 1A-1, Rule 4(j), or delivery by any
14 other means that the person consented to in writing. The person may petition the court to contest
15 the requirement to register by filing a petition to obtain a judicial determination as to whether the
16 person is required to register under this Article. The judicial review shall be by a superior court
17 judge presiding in the district where the petition is filed. The review under this section is limited
18 to determine whether or not the person's out-of-state or federal conviction is substantially similar
19 to a reportable conviction, as defined in G.S. 14-208.6(4)(a).

20 (b) The petition shall be filed in the county in which the person resides using a form
21 created by the Administrative Office of the Courts. The petition must be filed with the clerk of
22 court within 30 days of the person's receipt of the notification of the requirement to register from
23 the sheriff. The person filing the petition must serve a copy of the petition on the office of the
24 district attorney and the sheriff in the county where the person resides within three days of filing
25 the petition with the clerk of court. The petition shall be calendared at the next regularly
26 scheduled term of superior court. At the first setting, the petitioner must be advised of the right
27 to have counsel present at the hearing and to the appointment of counsel if the petitioner cannot
28 afford to retain counsel. Appointment of counsel shall be in accordance with rules adopted by
29 the Office of Indigent Defense Services.

30 (c) At the hearing, the district attorney has the burden to prove by a preponderance of the
31 evidence, that the person's out-of-state or federal conviction is for an offense, which if committed
32 in North Carolina, was substantially similar to a sexually violent offense, or an offense against a
33 minor. The person may present evidence in support of the lack of substantial similarity between
34 the out-of-state or federal conviction, but may not contest the validity of the conviction. The court
35 may review copies of the relevant out-of-state or federal criminal law and compare the elements
36 of the out-of-state or federal offense to those purportedly similar to a North Carolina offense.

37 (d) After reviewing the petition, receiving any and all evidence presented by the parties
38 at the hearing, considering any arguments of the parties, the presiding superior court judge shall
39 determine whether the out-of-state or federal conviction is substantially similar to a reportable
40 conviction. If the presiding superior court judge determines the out-of-state or federal conviction
41 is substantially similar to a reportable conviction, the judge shall order the person to register as a
42 sex offender pursuant to this Article. If the presiding superior court judge determines the
43 out-of-state or federal conviction is not substantially similar to a reportable conviction, the judge
44 shall indicate in an order that the person is not required to register as a sex offender pursuant to
45 this Article, based on the out-of-state or federal conviction presented in the hearing. The judge
46 shall prepare a written order and shall direct such order be filed with the clerk of court and copied
47 to the district attorney and the sheriff.

48 (e) A person who properly files a petition in accordance with this provision shall not be
49 required to register with the sheriff until such petition is decided by the court. No person who
50 properly files a petition in accordance with this provision may be charged with failing to register

1 or any other violation applicable to registrants under this Article, while such petition is pending
2 judicial review as provided in this section.

3 (f) Any person who is notified by the sheriff of the person's requirement to register as a
4 result of an out-of-state or federal conviction and fails to file a petition under this provision within
5 30 days of receipt of the notification shall be deemed to have waived judicial review of the
6 person's requirement to register.

7 (g) A person notified of a requirement to register as a result of a conviction for an offense
8 under G.S. 14-208.6(4)(b) or G.S. 14-208.6(4)(c), who willfully (i) does not file a petition under
9 this section and (ii) does not register in accordance with this Article, shall be in violation of
10 G.S. 14-208.11(a)(1) and shall be guilty of a Class F Felony as provided in that section.

11 (h) This section shall not be used in lieu of the process to terminate the period of
12 registration pursuant to G.S. 14-208.12A.

13 (i) No sheriff, or employee of a sheriffs' office, district attorney's office, or the North
14 Carolina State Bureau of Investigation shall incur any civil or criminal liability under North
15 Carolina law as the result of the performance of official duties under this Article."

16 **SECTION 11.5.(b)** G.S. 7A-451 reads as rewritten:

17 "**§ 7A-451. Scope of entitlement.**

18 (a) An indigent person is entitled to services of counsel in the following actions and
19 proceedings:

20 ...

21 (19) A proceeding involving a review of the sex offender registration requirement
22 as provided in G.S. 14-208.12B.

23"

24 **SECTION 11.5.(c)** The State Bureau of Investigation, in consultation with the Office
25 of the Attorney General, shall provide each elected District Attorney with a list of the class
26 members subject to the Honorable Judge Terrence W. Boyle's order in Grabarczyk v. Stein, that
27 resides in a county in that District Attorney's district. An elected District Attorney must decide
28 to handle each case, or have the Attorney General handle the case. If requested by an elected
29 District Attorney, the Attorney General shall make preliminary determinations, and represent the
30 State in any proceedings created by this section. Each District Attorney or Attorney General shall
31 review the prior substantially similar determination for every one of the class members. If the
32 District Attorney or Attorney General make a preliminary determination that the individual's
33 out-of-state or federal conviction is substantially similar to a North Carolina offense that would
34 have required registration at the time of offense, they shall notify the person and the sheriff in
35 the county where the individual resides. The District Attorney or Attorney General may petition
36 the court in that county for judicial review of the registration.

37 **SECTION 11.5.(d)** The Department of Public Safety shall notify any individual
38 registered on August 1, 2020, whose registration is solely based on a substantially similar
39 determination for an out-of-state or federal conviction, of the right to contest the registration
40 requirement and the process provided in G.S. 14-208.12B, as enacted by subsection (a) of this
41 section.

42 **SECTION 11.5.(e)** This section becomes effective August 1, 2020, and applies to
43 any individual notified of the right to contest required registration as a sex offender on or after
44 that date.

45 **PART VII. DECLARATION PUBLICATION**

46 **SECTION 11.7.** G.S. 166A-19.31(d) reads as rewritten:

47 "(d) When Prohibitions and Restrictions Take Effect. – All prohibitions and restrictions
48 imposed by declaration pursuant to ordinances adopted under this section shall take effect in the
49 emergency area immediately upon publication of the declaration unless the declaration sets a
50 later time. ~~For the purpose of requiring compliance, publication~~ Publication shall include at least
51

1 (i) posting of a signed copy of the declaration conspicuously posted on the Web site of the
2 municipality or county, if the municipality or county has a Web site, and (ii) submittal of notice
3 and a signed copy of the declaration to the Department of Public Safety WebEOC critical incident
4 management system. Publication may also consist of reports of the substance of the prohibitions
5 and restrictions in the mass communications media serving the emergency area or other effective
6 methods of disseminating the necessary information quickly. As soon as practicable, however,
7 appropriate distribution of the full text of any declaration shall be made. This subsection shall
8 not be governed by the provisions of G.S. 1-597."
9

10 **PART VIII. MISCELLANEOUS**

11 **SECTION 11.8.** If House Bill 635, 2020 Regular Session, becomes law, then Part V
12 of that act is repealed.
13

14 **PART IX. GENERAL EFFECTIVE DATE**

15
16 **EFFECTIVE DATE**

17 **SECTION 12.1.** Except as otherwise provided, this act is effective when it becomes
18 law.