



1 GROUP TO MAKE RECOMMENDATIONS FOR THE RECODIFICATION OF NORTH  
2 CAROLINA'S CRIMINAL LAWS.

3 The General Assembly of North Carolina enacts:  
4

5 **PART I. DECERTIFICATION STATEWIDE DATABASE AND PUBLIC LAW**  
6 **ENFORCEMENT DATABASE REGULATIONS**

7 **SECTION 1.(a)** Article 1 of Chapter 17C of the General Statutes is amended by  
8 adding a new section to read:

9 **"§ 17C-14. Database of law enforcement officer certification suspensions and revocations.**

10 The Commission shall develop and maintain a statewide database accessible to the public on  
11 its website that contains all revocations and suspensions of law enforcement officer certifications  
12 by the Commission."

13 **SECTION 1.(b)** Chapter 17E of the General Statutes is amended by adding a new  
14 section to read:

15 **"§ 17E-14. Database of justice officer certification suspensions and revocations.**

16 The Commission shall develop and maintain a statewide database accessible to the public on  
17 its website that contains all revocations and suspensions of justice officer certifications by the  
18 Commission."

19 **SECTION 1.(c)** This section becomes effective October 1, 2021.  
20

21 **PART II. REQUIRE USE OF THE FEDERAL BUREAU OF INVESTIGATION'S NEXT**  
22 **GENERATION IDENTIFICATION (NGI) SYSTEM AND RAP BACK SERVICE**

23 **SECTION 2.(a)** Article 13 of Chapter 143B of the General Statutes is amended by  
24 adding a new section to read:

25 **"§ 143B-972.1. Criminal record checks for North Carolina Criminal Justice Education and**  
26 **Training Standards Commission and North Carolina Sheriffs' Education and**  
27 **Training Standards Commission; fingerprints sent to Federal Bureau of**  
28 **Investigation.**

29 (a) The State Bureau of Investigation (SBI) shall provide to the North Carolina Criminal  
30 Justice Education and Training Standards Commission and the North Carolina Sheriffs'  
31 Education and Training Standards Commission the criminal history of any person who applies  
32 for certification or is certified, as a criminal justice officer or justice officer, from the State and  
33 National Repositories of Criminal Histories. Each agency employing certified criminal justice  
34 officers or justice officers shall provide to the SBI, the fingerprints of any person who applies for  
35 certification and certified officers, other identifying information required by the State and  
36 National Repositories, and any additional information required by the SBI.

37 (b) The SBI shall conduct a criminal history records check using the fingerprints of the  
38 applicants and certified officers, in accordance with 12 NCAC 09B. 0103 and 12 NCAC 10B.  
39 0302, and enroll the fingerprints in the Statewide Automated Fingerprint Identification System  
40 (SAFIS).

41 (c) In addition to searching the State's criminal history record file, the SBI shall forward  
42 a set of fingerprints to the Federal Bureau of Investigation (FBI) for a national criminal history  
43 record check. The SBI shall enroll each individual whose fingerprints are received under this  
44 section in the Federal Bureau of Investigation's Next Generation Identification (NGI) System and  
45 Criminal Justice Record of Arrest and Prosecution Background (Rap Back) Service. The SBI  
46 will also notify the certifying Commission of any subsequent arrest of an individual identified  
47 through the Rap Back Service.

48 (d) Within 15 business days of receiving notification by either Commission that the  
49 individual whose fingerprints have been stored in the State Automated Fingerprint Identification  
50 System (SAFIS) pursuant to subsection (b) of this section has withdrawn the application or  
51 separated from employment and an Affidavit of Separation has been filed with either

1 Commission, the SBI shall remove the individual's fingerprints from SAFIS and forward a  
2 request to the FBI to remove the fingerprints from the NGI System and the Criminal Justice Rap  
3 Back Service.

4 (e) The Commissions shall keep all information obtained pursuant to this section  
5 confidential."

6 **SECTION 2.(b)** No later than June 30, 2023, all personnel certified by either  
7 Commission shall have their fingerprints electronically submitted to the SBI for a state and  
8 national criminal history check.

9 **SECTION 2.(c)** This section becomes effective January 1, 2023.

### 10 11 **PART III. CRITICAL INCIDENT STATEWIDE DATABASE**

12 **SECTION 3.(a)** G.S. 17C-2 reads as rewritten:

#### 13 **"§ 17C-2. Definitions.**

14 Unless the context clearly otherwise requires, the following definitions apply in this Article:

15 ...

16 (3a) Critical incident. – An incident involving any use of force by a law  
17 enforcement officer that results in death or serious bodily injury to a person.

18 ...."

19 **SECTION 3.(b)** Article 1 of Chapter 17C of the General Statutes is amended by  
20 adding a new section to read:

#### 21 **"§ 17C-15. Database for law enforcement officer critical incident information.**

22 (a) The Division shall develop and maintain a statewide database for use by law  
23 enforcement agencies that tracks all critical incident data of law enforcement officers in North  
24 Carolina.

25 (b) All law enforcement agencies in the State that employ personnel certified by the  
26 Commission shall provide any information requested by the Division to maintain the database  
27 required by subsection (a) of this section.

28 (c) Information collected under this section that is confidential under State or federal law  
29 shall remain confidential.

30 (d) A law enforcement officer who is reported to the Division as having been involved in  
31 a critical incident who disputes being involved in a critical incident has a right, prior to being  
32 placed in the database, to request a hearing in superior court for a determination of whether the  
33 officer's involvement was properly placed in the database."

34 **SECTION 3.(c)** G.S. 17E-2 reads as rewritten:

#### 35 **"§ 17E-2. Definitions.**

36 Unless the context clearly requires otherwise, the following definitions apply to this Chapter:

37 ...

38 (4) "Critical incident" means an incident involving any use of force by a law  
39 enforcement officer that results in death or serious bodily injury to a person."

40 **SECTION 3.(d)** Chapter 17E of the General Statutes is amended by adding a new  
41 section to read:

#### 42 **"§ 17E-15. Database for justice officer critical incident information.**

43 (a) The Division shall develop and maintain a statewide database for use by law  
44 enforcement agencies that tracks all critical incident data of justice officers in North Carolina.

45 (b) All law enforcement agencies in the State that employ personnel certified by the  
46 Commission shall provide any information requested by the Commission to maintain the  
47 database required by subsection (a) of this section.

48 (c) Information collected under this section that is confidential under State or federal law  
49 shall remain confidential.

50 (d) A justice officer who is reported to the Division as having been involved in a critical  
51 incident who disputes being involved in a critical incident has a right, prior to being placed in the

1 database, to request a hearing in superior court for a determination of whether the officer's  
2 involvement was properly placed in the database."

3 **SECTION 3.(e)** This section becomes effective October 1, 2021, and applies to  
4 critical incidents on or after that date.

5  
6 **PART IV. REPORT REQUIREMENT RELATED TO GIGLIO MATERIAL**

7 **SECTION 4.(a)** Article 1 of Chapter 17C of the General Statutes is amended by  
8 adding a new section to read:

9 **"§ 17C-16. Requirement to report material relevant to testimony.**

10 (a) Any person who is certified by the Commission or has received a conditional offer of  
11 employment and who has been notified that the person may not be called to testify at trial based  
12 on bias, interest, or lack of credibility shall report and provide a copy of that notification to the  
13 Criminal Justice Standards Division within 30 days of receiving the notification, except as  
14 provided in subsection (h) of this section. This requirement shall only apply if the person is  
15 notified by one of the following methods:

16 (1) In writing by a superior court judge, district court judge, federal judge, district  
17 attorney, assistant district attorney, United States attorney, assistant United  
18 States attorney, or the person's agency head.

19 (2) In open court by a superior court judge, district court judge, or federal judge,  
20 and documented in a written order.

21 (b) The report to the Division shall be in writing and shall state who notified the person  
22 that the person may not be called to testify at trial. A person required to report to the Division  
23 under subsection (a) of this section shall make the same report to the person's agency head within  
24 30 days of being notified that the person may not be called to testify at trial. An agency head who  
25 receives a report that a person in the agency has been notified that they may not be called to  
26 testify at trial shall also report the notification to the Division in writing within 30 days of the  
27 agency head's receipt of that report.

28 (c) A superior court judge, district court judge, federal judge, district attorney, assistant  
29 district attorney, United States attorney, or assistant United States attorney who notifies a person  
30 that they may not be called to testify at trial as provided in subsection (a) of this section shall  
31 report that notification to the Division and provide a copy of the written document or order within  
32 30 days of notifying the person that they may not be called to testify at trial.

33 (d) If the Division transfers to another agency the certification of any person required to  
34 report to the Division pursuant to subsection (a) of this section, the Division shall provide written  
35 notification to both the head of the new agency and the elected district attorney in the  
36 prosecutorial district where the agency is located that the person has been previously notified that  
37 the person may not be called to testify at trial. If the new agency receiving notification pursuant  
38 to this subsection is a State agency, the Division shall notify the elected district attorney in every  
39 prosecutorial district of the State.

40 (e) If any person required to report to the Division pursuant to subsection (a) of this  
41 section is subsequently informed in writing that that notification has been rescinded, the person  
42 shall provide the Division a copy of that document. The provisions of subsection (d) of this  
43 section do not apply if the person required to report pursuant to subsection (a) of this section is  
44 subsequently informed in writing that the notification has been rescinded.

45 (f) No later than March 1 each year, the Commission shall report to the Joint Legislative  
46 Oversight Committee on Justice and Public Safety regarding the number of individuals for whom  
47 the Division received a report required by subsection (a) of this section during the previous  
48 calendar year. The report shall include information for each case on whether a final agency  
49 decision has been entered pursuant to Chapter 150B of the General Statutes and what action, if  
50 any, has been taken against each certification. The report shall not include the name or any other  
51 identifying information of any person required to report pursuant to subsection (a) of this section.

1        (g) The reports and notifications received by the Division pursuant to this section shall  
2 not be public record.

3        (h) Any person who has received a notification that may meet the reporting requirement  
4 provided in subsection (a) of this section may apply for a hearing in superior court for a judicial  
5 determination of whether or not the person received a notification that the person may not be  
6 called to testify at trial based on bias, interest, or lack of credibility. This hearing is limited to  
7 reviewing whether (i) a person who is certified by the Commission or has received a conditional  
8 offer of employment, (ii) has been notified in writing by a superior court judge, district court  
9 judge, federal judge, district attorney, assistant district attorney, United States attorney, or  
10 assistant United States attorney; or notified in open court by a superior court judge, district court  
11 judge, or federal judge, and documented in a written order, and (iii) that notification states that  
12 the person may not be called to testify at trial based on bias, interest, or lack of credibility, not  
13 matters of law or admissibility. The person must provide notice of the hearing to the Division.  
14 One extension of 15 days will be added to the 30-day reporting requirement provided in  
15 subsection (a) of this section if notice of a hearing is received."

16        **SECTION 4.(b)** Chapter 17E of the General Statutes is amended by adding a new  
17 section to read:

18 **"§ 17E-16. Requirement to report material relevant to testimony.**

19        (a) Any person who is certified by the Commission or has received a conditional offer of  
20 employment and who has been notified that the person may not be called to testify at trial based  
21 on bias, interest, or lack of credibility shall report and provide a copy of that notification to the  
22 Justice Officers' Standards Division within 30 days of receiving the notification, except as  
23 provided in subsection (h) of this section. This requirement shall only apply if the person is  
24 notified by one of the following methods:

25            (1) In writing by a superior court judge, district court judge, federal judge, district  
26 attorney, assistant district attorney, United States attorney, assistant United  
27 States attorney, or the person's agency head.

28            (2) In open court by a superior court judge, district court judge, or federal judge  
29 and documented in a written order.

30        (b) The report to the Division shall be in writing and shall state who notified the person  
31 that the person may not be called to testify at trial. A person required to report to the Division  
32 under subsection (a) of this section shall make the same report to the person's agency head within  
33 30 days of being notified that the person may not be called to testify at trial. An agency head who  
34 receives a report that a person in the agency has been notified that they may not be called to  
35 testify at trial shall also report the notification to the Division in writing within 30 days of the  
36 agency head's receipt of that report.

37        (c) A superior court judge, district court judge, federal judge, district attorney, assistant  
38 district attorney, United States attorney, or assistant United States attorney who notifies a person  
39 that they may not be called to testify at trial as provided in subsection (a) of this section shall  
40 report that notification to the Division and provide a copy of the written document or order within  
41 30 days of notifying the person that they may not be called to testify at trial.

42        (d) If the Division transfers to another agency the certification of any person required to  
43 report to the Division pursuant to subsection (a) of this section, the Division shall provide written  
44 notification to both the head of the new agency and the elected district attorney in the  
45 prosecutorial district where the agency is located that the person has been previously notified that  
46 the person may not be called to testify at trial. If the new agency receiving notification pursuant  
47 to this subsection is a State agency, the Division shall notify the elected district attorney in every  
48 prosecutorial district of the State.

49        (e) If any person required to report to the Division pursuant to subsection (a) of this  
50 section is subsequently informed in writing that that notification has been rescinded, the person  
51 shall provide the Division a copy of that document. The provisions of subsection (d) of this

1 section do not apply if the person required to report pursuant to subsection (a) of this section is  
2 subsequently informed in writing that the notification has been rescinded.

3 (f) No later than March 1 each year, the Commission shall report to the Joint Legislative  
4 Oversight Committee on Justice and Public Safety regarding the number of individuals for whom  
5 the Division received a report required by subsection (a) of this section during the previous  
6 calendar year. The report shall include information for each case on whether a final agency  
7 decision has been entered pursuant to Chapter 150B of the General Statutes and what action, if  
8 any, has been taken against each certification. The report shall not include the name or any other  
9 identifying information of any person required to report pursuant to subsection (a) of this section.

10 (g) The reports and notifications received by the Division pursuant to this section shall  
11 not be public record.

12 (h) Any person who has received a notification that may meet the reporting requirement  
13 provided in subsection (a) of this section may apply for a hearing in superior court for a judicial  
14 determination of whether or not the person received a notification that the person may not be  
15 called to testify at trial based on bias, interest, or lack of credibility. This hearing is limited to  
16 reviewing whether (i) a person who is certified by the Commission or has received a conditional  
17 offer of employment, (ii) has been notified in writing by a superior court judge, district court  
18 judge, federal judge, district attorney, assistant district attorney, United States attorney, or  
19 assistant United States attorney; or notified in open court by a superior court judge, district court  
20 judge, or federal judge, and documented in a written order, and (iii) that notification states that  
21 the person may not be called to testify at trial based on bias, interest, or lack of credibility, not  
22 matters of law or admissibility. The person must provide notice of the hearing to the Division.  
23 One extension of 15 days will be added to the 30-day reporting requirement provided in  
24 subsection (a) of this section if notice of a hearing is received."

25 **SECTION 4.(c)** This section becomes effective October 1, 2021, and applies to  
26 notifications received prior to, on, or after that date by persons required to report pursuant to this  
27 act.

## 29 **PART V. REQUIRE CERTAIN MINIMUM LAW ENFORCEMENT OFFICER** 30 **STANDARDS**

31 **SECTION 5.(a)** The Criminal Justice Education and Training Standards  
32 Commission and the Sheriffs' Education and Training Standards Commission shall jointly  
33 develop uniform, statewide minimum standards for law enforcement officers and justice officers  
34 and adopt these standards as rules.

35 **SECTION 5.(b)** Each Commission shall report the standards developed pursuant to  
36 subsection (a) of this section to the Joint Legislative Oversight Committee on Justice and Public  
37 Safety no later than December 31, 2021.

38 **SECTION 5.(c)** Each Commission may adopt temporary rules under G.S. 150B-21.1  
39 to comply with this section and shall adopt permanent rules to comply with this section by  
40 December 31, 2022.

## 42 **PART VI. TRANSPORTATION OF INVOLUNTARY COMMITMENT** 43 **RESPONDENTS**

44 **SECTION 6.(a)** G.S. 122C-251(f) reads as rewritten:

45 "(f) Notwithstanding the provisions of subsections (a), (b), and (c) of this section, a clerk,  
46 a magistrate, or a district court judge, where applicable, may authorize either a health care  
47 provider of the respondent or the family or immediate friends of the respondent, if they so request,  
48 to transport the respondent in accordance with the procedures of this Article. This authorization  
49 shall only be granted in cases where the danger to the public, the health care provider of the  
50 respondent, the family or friends of the respondent, or the respondent himself or herself is not

1 substantial. The health care provider of the respondent or the family or immediate friends of the  
 2 respondent shall bear the costs of providing this transportation."

3 **SECTION 6.(b)** This section becomes effective October 1, 2021, and applies to  
 4 custody orders issued on or after that date.

5  
 6 **PART VII. LAW ENFORCEMENT OFFICER ENTRY REQUIREMENTS, ONGOING**  
 7 **REQUIREMENTS, AND CREATE A PHYSICAL FITNESS STUDY**

8 **SECTION 7.(a)** G.S. 17C-6(a) reads as rewritten:

9 "(a) In addition to powers conferred upon the Commission elsewhere in this Article, the  
 10 Commission shall have the following powers, which shall be enforceable through its rules and  
 11 regulations, certification procedures, or the provisions of G.S. 17C-10:

12 ...  
 13 (2) Establish minimum educational and training standards that must be met in  
 14 order to qualify for entry level employment and retention as a criminal justice  
 15 officer in temporary or probationary status or in a permanent position. The  
 16 standards for entry level employment shall include all of the following:

17 ...  
 18 c. Education and training to develop knowledge and increase awareness  
 19 of effective mental health and wellness strategies for criminal justice  
 20 officers.

21 ...  
 22 (14) Establish minimum standards for in-service training for criminal justice  
 23 officers. In-service training standards shall include all of the following:

24 ...  
 25 c. Training to develop knowledge and increase awareness of effective  
 26 mental health and wellness strategies for criminal justice officers. The  
 27 standards established shall include two hours of training on this issue  
 28 every three years.

29 ...."  
 30 **SECTION 7.(b)** G.S. 17E-4(a) reads as rewritten:

31 "(a) The Commission shall have the following powers, duties, and responsibilities, which  
 32 are enforceable through its rules and regulations, certification procedures, or the provisions of  
 33 G.S. 17E-8 and G.S. 17E-9:

34 ...  
 35 (2) Establish minimum educational and training standards that may be met in  
 36 order to qualify for entry level employment as an officer in temporary or  
 37 probationary status or in a permanent position. The standards for entry level  
 38 employment of officers shall include all of the following:

39 ...  
 40 c. Education and training to develop knowledge and increase awareness  
 41 of effective mental health and wellness strategies for justice officers.

42 ...  
 43 (11) Establish minimum standards for in-service training for justice officers.  
 44 In-service training standards shall include all of the following:

45 ...  
 46 c. Training to develop knowledge and increase awareness of effective  
 47 mental health and wellness strategies for justice officers. The  
 48 standards established shall include two hours of training on this issue  
 49 every three years.

50 ...."  
 51 **SECTION 7.(c)** G.S. 17C-10(c) reads as rewritten:

1       "(c) In addition to the requirements of subsection (b) of this section, the Commission, by  
2 rules and regulations, shall fix other qualifications for the employment, training, and retention of  
3 criminal justice officers including minimum age, education, physical and mental standards,  
4 citizenship, good moral character, experience, and such other matters as relate to the competence  
5 and reliability of persons to assume and discharge the responsibilities of criminal justice officers,  
6 ~~and the officers.~~ The Commission shall prescribe the means for presenting evidence of fulfillment  
7 of these requirements. The Commission shall require the administration of a psychological  
8 screening examination, including a face-to-face, in-person interview conducted by a licensed  
9 psychologist, to determine the criminal justice officer's psychological suitability to properly  
10 fulfill the responsibilities of the criminal justice officer. If face-to-face, in-person is not  
11 practicable, the face-to-face evaluation can be virtual as long as both the audio and video allow  
12 for a professional clinical evaluation in a clinical environment. The psychological screening  
13 examination shall be given (i) prior to the initial certification or (ii) prior to the criminal justice  
14 officer performing any action requiring certification by the Commission.

15       Where minimum educational standards are not met, yet the individual shows potential and a  
16 willingness to achieve the standards by extra study, they may be waived by the Commission for  
17 the reasonable amount of time it will take to achieve the standards required. Such an educational  
18 waiver shall not exceed 12 months."

19       **SECTION 7.(d)** G.S. 17E-7(c) reads as rewritten:

20       "(c) In addition to the requirements of subsection (b) of this section, the Commission, by  
21 rules and regulations, may fix other qualifications for the employment and retention of justice  
22 officers including minimum age, education, physical and mental standards, citizenship, good  
23 moral character, experience, and such other matters as relate to the competence and reliability of  
24 persons to assume and discharge the responsibilities of the ~~office,~~ and the office. The  
25 Commission shall prescribe the means for presenting evidence of fulfillment of these  
26 requirements. The Commission shall require the administration of a psychological screening  
27 examination, including a face-to-face, in-person interview conducted by a licensed psychologist,  
28 to determine the justice officer's psychological suitability to properly fulfill the responsibilities  
29 of the justice officer. If face-to-face, in-person is not practicable, the face-to-face evaluation can  
30 be virtual as long as both the audio and video allow for a professional clinical evaluation in a  
31 clinical environment. The psychological screening examination shall be given (i) prior to the  
32 initial certification or (ii) prior to the criminal justice officer performing any action requiring  
33 certification by the Commission.

34       Where minimum educational standards are not met, yet the individual shows potential and a  
35 willingness to achieve the standards by extra study, they may be waived by the Commission for  
36 the reasonable amount of time it will take to achieve the standards required. Upon petition from  
37 a sheriff, the Commission may grant a waiver of any provisions of this section (17E-7) for any  
38 justice officer serving that sheriff."

39       **SECTION 7.(e)** In developing the standards and training required by subsections (a)  
40 and (b) of this section, the North Carolina Criminal Justice Education and Training Standards  
41 Commission and the North Carolina Sheriffs' Education and Training Standards Commission are  
42 encouraged to adopt standards that provide training conducted by mental health professionals  
43 and through face-to-face instruction.

44       **SECTION 7.(f)** The North Carolina Criminal Justice Education and Training  
45 Standards Commission and the North Carolina Sheriffs' Education and Training Standards  
46 Commission shall regularly provide information on any statewide mental health resources  
47 specifically available to criminal justice officers or justice officers to all criminal justice agencies  
48 or departments in the State that employ officers certified by either Commission.

49       **SECTION 7.(g)** All criminal justice agencies or departments in the State that employ  
50 criminal justice officers certified by the North Carolina Criminal Justice Education and Training  
51 Standards Commission or justice officers certified by the North Carolina Sheriffs' Education and



1 Training Standards Commission shall coordinate with the appropriate local management  
2 entity/managed care organization (LME/MCO) or prepaid health plan, as defined under  
3 G.S. 108D-1, to make information on State and local mental health resources and programs easily  
4 available to all employees and develop policies to encourage employees to utilize the resources  
5 available.

6 **SECTION 7.(h)** The North Carolina Criminal Justice Education and Training  
7 Standards Commission and the North Carolina Sheriffs' Education and Training Standards  
8 Commission shall jointly study the benefits, if any, of requiring physical fitness testing  
9 throughout the career of a law enforcement officer, and shall also study whether that testing, if  
10 required, should be incrementally adjusted based upon the age of the law enforcement officer,  
11 and report to the Joint Legislative Oversight Committee on Justice and Public Safety no later  
12 than March 31, 2022.

13 **SECTION 7.(i)** The North Carolina Criminal Justice Education and Training  
14 Standards Commission and the North Carolina Sheriffs' Education and Training Standards  
15 Commission shall implement the requirements of subsections (a) through (d) of this section no  
16 later than January 1, 2022. The requirements of subsections (c) and (d) of this section shall apply  
17 to certifications issued and employees entering employment on or after the implementation date  
18 of those requirements.

19 **SECTION 7.(j)** Subsections (a) through (d) of this section become effective January  
20 1, 2022, and apply to applications for law enforcement certification filed on or after that date.  
21 The remainder of this section is effective when it becomes law.  
22

## 23 **PART VIII. DEVELOPMENT OF EARLY WARNING SYSTEMS**

24 **SECTION 8.(a)** Chapter 17A of the General Statutes is amended by adding a new  
25 section to read:

### 26 **"§ 17A-10. Development of law enforcement early warning system.**

27 (a) Every agency in the State that employs personnel certified by the North Carolina  
28 Criminal Justice Education and Training Standards Commission or the North Carolina Sheriffs'  
29 Education and Training Standards Commission shall develop and implement an early warning  
30 system to document and track the actions and behaviors of law enforcement officers for the  
31 purpose of intervening and improving performance. The early warning system required by this  
32 section shall include information, at a minimum, regarding the following:

33 (1) Instances of the discharge of a firearm.

34 (2) Instances of use of force.

35 (3) Vehicle collisions.

36 (4) Citizen complaints.

37 (b) Information collected under this section that is confidential under State or federal law  
38 shall remain confidential.

39 (c) For purposes of this section, "law enforcement officer" means any sworn law  
40 enforcement officers with the power of arrest, both State and local."

41 **SECTION 8.(b)** This section becomes effective December 1, 2021, and applies to  
42 actions and behaviors on or after that date.  
43

## 44 **PART IX. LAW ENFORCEMENT AGENCY BEST PRACTICES RECRUITING GUIDE**

45 **SECTION 9.(a)** The North Carolina Criminal Justice Education and Training  
46 Standards Commission and the North Carolina Sheriffs' Education and Training Standards  
47 Commission shall jointly develop a best practices guide to help law enforcement agencies recruit  
48 and retain a diverse workforce.

49 **SECTION 9.(b)** The North Carolina Criminal Justice Education and Training  
50 Standards Commission and the North Carolina Sheriffs' Education and Training Standards  
51 Commission shall report to the Joint Legislative Oversight Committee on Justice and Public

1 Safety no later than April 1, 2022, regarding the best practices guide required by subsection (a)  
2 of this section.

3  
4 **PART X. INVESTIGATIONS OF OFFICER-INVOLVED DEATHS**

5 **SECTION 10.(a)** G.S. 143B-919 is amended by adding a new subsection to read:

6 "**(b1)** The Bureau shall, upon request of the Governor or a sheriff, chief of police, head of  
7 a State law enforcement agency, district attorney, or the Commissioner of Prisons, investigate  
8 and prepare evidence in the event of any of the following:

9 (1) A sworn law enforcement officer with the power to arrest uses force against  
10 an individual in the performance of the officer's duties that results in the death  
11 of the individual.

12 (2) An individual in the custody of the Department of Public Safety, a State  
13 prison, a county jail, or a local confinement facility, regardless of the physical  
14 location of the individual, dies."

15 **SECTION 10.(b)** This section becomes effective October 1, 2021.

16  
17 **PART XI. MANDATORY IN-SERVICE TRAINING FOR LAW ENFORCEMENT**  
18 **OFFICERS**

19 **SECTION 11.(a)** G.S. 17C-6(a), as amended by Section 7 of this act, reads as  
20 rewritten:

21 "(a) In addition to powers conferred upon the Commission elsewhere in this Article, the  
22 Commission shall have the following powers, which shall be enforceable through its rules and  
23 regulations, certification procedures, or the provisions of G.S. 17C-10:

24 ...

25 (14) Establish minimum standards for in-service training for criminal justice  
26 officers. In-service training standards for sworn law enforcement officers shall  
27 include all of the ~~following~~ following training topics:

28 a. ~~Training in response~~ Response to, and investigation of, domestic  
29 violence cases, as well as training investigation for evidence-based  
30 prosecutions.

31 b. ~~Training on juvenile~~ Juvenile justice issues, including (i) the handling  
32 and processing of juvenile matters for referrals, diversion, arrests, and  
33 detention; (ii) best practices for handling incidents involving juveniles;  
34 (iii) adolescent development and psychology; and (iv) promoting  
35 relationship building with youth as a key to delinquency prevention.

36 c. Ethics.

37 d. Mental health for criminal justice officers.

38 e. Community policing.

39 f. Minority sensitivity.

40 g. Use of force.

41 h. The duty to intervene and report.

42 ...."

43 **SECTION 11.(b)** G.S. 17E-4(a), as amended by Section 7 of this act, reads as  
44 rewritten:

45 "(a) The Commission shall have the following powers, duties, and responsibilities, which  
46 are enforceable through its rules and regulations, certification procedures, or the provisions of  
47 G.S. 17E-8 and G.S. 17E-9:

48 ...

49 (11) Establish minimum standards for in-service training for justice officers.  
50 In-service training standards for sworn law enforcement officers shall include  
51 all of the ~~following~~ following training topics:

- a. ~~Training in response~~ Response to, and investigation of, domestic violence cases, as well as training in investigation for evidence-based prosecutions. For purposes of the domestic violence training requirement, the term "justice officer" shall include those defined in G.S. 17E-2(3)a., except that the term shall not include "special deputy sheriffs" as defined in G.S. 17E-2(3)a.
- b. ~~Training on juvenile~~ Juvenile justice issues, including (i) the handling and processing of juvenile matters for referrals, diversion, arrests, and detention; (ii) best practices for handling incidents involving juveniles; (iii) adolescent development and psychology; and (iv) promoting relationship building with youth as a key to delinquency prevention.
- c. Ethics.
- d. Mental health for justice officers.
- e. Community policing.
- f. Minority sensitivity.
- g. Use of force.
- h. The duty to intervene and report.

...."

**SECTION 11.(c)** This section becomes effective January 1, 2022.

**PART XII. EXEMPT CHANGES TO LAW ENFORCEMENT IN-SERVICE TRAINING STANDARDS FROM RULEMAKING**

**SECTION 12.(a)** G.S. 150B-1(d) reads as rewritten:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

...

- (6a) The Criminal Justice Education and Training Standards Commission with respect to establishing minimum standards for in-service training for criminal justice officers under G.S. 17C-6(a)(14).
- (6b) The Sheriffs' Education and Training Standards Commission with respect to establishing minimum standards for in-service training for justice officers under G.S. 17E-4(a)(11).

...."

**SECTION 12.(b)** This section is effective when it becomes law.

**PART XIII. DECRIMINALIZATION OF CERTAIN ORDINANCES**

**SECTION 13.(a)** G.S. 153A-123 reads as rewritten:

**"§ 153A-123. Enforcement of ordinances.**

...

(b) ~~Unless the board of commissioners has provided otherwise,~~ Except for the types of ordinances listed in subsection (b1) of this section, violation of a county ordinance is may be a misdemeanor or infraction as provided by G.S. 14-4. G.S. 14-4 only if the county specifies such in the ordinance. An ordinance may provide by express statement that the maximum fine, term of imprisonment, or infraction penalty to be imposed for a violation is some amount of money or number of days less than the maximum imposed by G.S. 14-4. Notwithstanding G.S. 153A-45, no ordinance specifying a criminal penalty may be enacted at the meeting in which it is first introduced.

(b1) No ordinance of the following types may impose a criminal penalty:

- (1) Any ordinance adopted under Article 18 of this Chapter, Planning and Regulation of Development or, its successor, Chapter 160D of the General Statutes, except for those ordinances related to unsafe buildings.

- (2) Any ordinance adopted pursuant to G.S. 153A-134, Regulating and licensing businesses, trades, etc.
- (3) Any ordinance adopted pursuant to G.S. 153A-138, Registration of mobile homes, house trailers, etc.
- (4) Any ordinance adopted pursuant to G.S. 153A-140.1, Stream-clearing programs.
- (5) Any ordinance adopted pursuant to G.S. 153A-143, Regulation of outdoor advertising or, its successor, G.S. 160D-912, Outdoor advertising.
- (6) Any ordinance adopted pursuant to G.S. 153A-144, Limitations on regulating solar collectors or, its successor, G.S. 160D-914, Solar collectors.
- (7) Any ordinance adopted pursuant to G.S. 153A-145, Limitations on regulating cisterns and rain barrels.
- (8) Any ordinance regulating trees.

...."

**SECTION 13.(b)** G.S. 160A-175 reads as rewritten:

**"§ 160A-175. Enforcement of ordinances.**

...

(b) ~~Unless the Council shall otherwise provide, Except for the types of ordinances listed in subsection (b1) of this section, violation of a city ordinance is~~ may be a misdemeanor or infraction as provided by G.S. 14-4. G.S. 14-4 only if the city specifies such in the ordinance. An ordinance may provide by express statement that the maximum fine, term of imprisonment, or infraction penalty to be imposed for a violation is some amount of money or number of days less than the maximum imposed by G.S. 14-4. Notwithstanding G.S. 160A-75, no ordinance specifying a criminal penalty may be enacted at the meeting in which it is first introduced.

(b1) No ordinance of the following types may impose a criminal penalty:

- (1) Any ordinance adopted under Article 19 of this Chapter, Planning and Regulation of Development, or its successor, Chapter 160D of the General Statutes, except for those ordinances related to unsafe buildings.
- (2) Any ordinance adopted pursuant to G.S. 160A-193.1, Stream-clearing programs.
- (3) Any ordinance adopted pursuant to G.S. 160A-194, Regulating and licensing businesses, trades, etc.
- (4) Any ordinance adopted pursuant to G.S. 160A-199, Regulation of outdoor advertising or, its successor, G.S. 160D-912, Outdoor advertising.
- (5) Any ordinance adopted pursuant to G.S. 160A-201, Limitations on regulating solar collectors or, its successor, G.S. 160D-914, Solar collectors.
- (6) Any ordinance adopted pursuant to G.S. 160A-202, Limitations on regulating cisterns and rain barrels.
- (7) Any ordinance adopted pursuant to G.S. 160A-304, Regulation of taxis.
- (8) Any ordinance adopted pursuant to G.S. 160A-306, Building setback lines.
- (9) Any ordinance adopted pursuant to G.S. 160A-307, Curb cut regulations.
- (10) Any ordinance regulating trees.

...."

**SECTION 13.(c)** G.S. 14-4 reads as rewritten:

**"§ 14-4. Violation of local ordinances misdemeanor.**

(a) ~~Except as provided in subsection (b), (b) or (c) of this section,~~ if any person shall violate an ordinance of a county, city, town, or metropolitan sewerage district created under Article 5 of Chapter 162A, he shall be guilty of a Class 3 misdemeanor and shall be fined not more than five hundred dollars (\$500.00). No fine shall exceed fifty dollars (\$50.00) unless the ordinance expressly states that the maximum fine is greater than fifty dollars (\$50.00).

1 (b) If any person shall violate an ordinance of a county, city, or town regulating the  
2 operation or parking of vehicles, he shall be responsible for an infraction and shall be required to  
3 pay a penalty of not more than fifty dollars (\$50.00).

4 (c) A person may not be found responsible or guilty of a local ordinance violation  
5 punishable pursuant to subsection (a) of this section if, when tried for that violation, the person  
6 produces proof of compliance with the local ordinance through any of the following:

7 (1) No new alleged violations of the local ordinance within 30 days from the date  
8 of the initial alleged violation.

9 (2) The person provides proof of a good-faith effort to seek assistance to address  
10 any underlying factors related to unemployment, homelessness, mental health,  
11 or substance abuse that might relate to the person's ability to comply with the  
12 local ordinance."

13 **SECTION 13.(d)** This section becomes effective December 1, 2021, and applies to  
14 offenses and violations committed on or after that date.

15  
16 **PART XIV. REQUIRE MANDATORY FIRST APPEARANCE FOR MISDEMEANORS**  
17 **WHEN DEFENDANT IS IN CUSTODY AND REQUIRE FIRST APPEARANCE FOR**  
18 **ALL CHARGES WHEN DEFENDANT IS IN CUSTODY TO BE HELD WITHIN**  
19 **SEVENTY-TWO HOURS**

20 **SECTION 14.(a)** G.S. 15A-601 reads as rewritten:

21 "**~~§ 15A-601. First appearance before a district court judge; right in felony and other cases~~**  
22 **~~in original jurisdiction of superior court; consolidation of first appearance~~**  
23 **~~before magistrate and before district court judge; first appearance before clerk~~**  
24 **~~of superior court; use of two-way audio and video transmission.~~**

25 (a) Any defendant charged in a magistrate's order under G.S. 15A-511 or criminal  
26 process under Article 17 of this Chapter, Criminal Process, with a crime in the original  
27 jurisdiction of the superior court must be brought before a district court judge in the district court  
28 district as defined in G.S. 7A-133 in which the crime is charged to have been committed. This  
29 first appearance before a district court judge is not a critical stage of the proceedings against the  
30 defendant.

31 Any defendant charged in a magistrate's order under G.S. 15A-511 or criminal process under  
32 Article 17 of this Chapter, Criminal Process, with a misdemeanor offense and held in custody  
33 must be brought before a district court judge in the district court district as defined in G.S. 7A-133  
34 in which the crime is charged to have been committed. This first appearance before a district  
35 court judge is not a critical stage of the proceedings against the defendant.

36 ...

37 (b) When a district court judge conducts an initial appearance as provided in  
38 G.S. 15A-511, ~~he~~ the judge may consolidate those proceedings and the proceedings under this  
39 Article.

40 (c) Unless the defendant is released pursuant to Article 26 of this Chapter, Bail, first  
41 appearance before a district court judge must be held within ~~96-72~~ hours after the defendant is  
42 taken into custody or at the first regular session of the district court in the county, whichever  
43 occurs first. If the defendant is not taken into custody, or is released pursuant to Article 26 of this  
44 Chapter, Bail, within ~~96-72~~ hours after being taken into custody, first appearance must be held at  
45 the next session of district court held in the county. This subsection does not apply to a defendant  
46 whose first appearance before a district court judge has been set in a criminal summons pursuant  
47 to G.S. 15A-303(d).

48 ...

49 (e) The clerk of the superior court in the county in which the defendant is taken into  
50 custody may conduct a first appearance as provided in this Article if a district court judge is not  
51 available in the county within ~~96-72~~ hours after the defendant is taken into custody. A magistrate

1 may conduct the first appearance if the clerk is not available. The ~~clerk~~, clerk or magistrate, in  
2 conducting a first appearance, shall proceed under this Article as would a district court judge."

3 **SECTION 14.(b)** This section becomes effective December 1, 2021, and applies to  
4 criminal processes served on or after that date.

5  
6 **PART XV. REQUIRE USE OF THE NATIONAL DECERTIFICATION INDEX**  
7 **MAINTAINED BY THE INTERNATIONAL ASSOCIATION OF DIRECTORS OF LAW**  
8 **ENFORCEMENT STANDARDS AND TRAINING IN THE CERTIFICATION**  
9 **PROCESS FOR CERTIFIED PERSONNEL**

10 **SECTION 15.(a)** G.S. 17C-6(a) reads as rewritten:

11 "(a) In addition to powers conferred upon the Commission elsewhere in this Article, the  
12 Commission shall have the following powers, which shall be enforceable through its rules and  
13 regulations, certification procedures, or the provisions of G.S. 17C-10:

14 ...

15 (21) Search the National Decertification Index (NDI) maintained by the  
16 International Association of Directors of Law Enforcement Standards and  
17 Training (IADLEST) using the name of every applicant for certification or  
18 applicant for lateral transfer, and any other personal identifying information  
19 necessary to complete the search, and shall utilize any record of conviction of  
20 a criminal offense received as a result of the search during the application and  
21 lateral transfer process to determine if the applicant has any record that would  
22 disqualify the applicant for certification."

23 **SECTION 15.(b)** G.S. 17E-4(a) reads as rewritten:

24 "(a) The Commission shall have the following powers, duties, and responsibilities, which  
25 are enforceable through its rules and regulations, certification procedures, or the provisions of  
26 G.S. 17E-8 and G.S. 17E-9:

27 ...

28 (17) Search the National Decertification Index (NDI) maintained by the  
29 International Association of Directors of Law Enforcement Standards and  
30 Training (IADLEST) using the name of every applicant for certification or  
31 applicant for lateral transfer, and any other personal identifying information  
32 necessary to complete the search, and shall utilize any record of conviction of  
33 a criminal offense received as a result of the search during the application and  
34 lateral transfer process to determine if the applicant has any record that would  
35 disqualify the applicant for certification.

36 ...."

37 **SECTION 15.(c)** This section becomes effective October 1, 2021, and applies to  
38 applications for certification submitted on or after that date.

39  
40 **PART XVI. ESTABLISH A DUTY FOR LAW ENFORCEMENT OFFICERS TO**  
41 **INTERVENE IN AND REPORT EXCESSIVE USE OF FORCE**

42 **SECTION 16.(a)** G.S. 15A-401 is amended by adding a new subsection to read:

43 "(d1) Duty to Intervene and Report Excessive Use of Force. – A law enforcement officer,  
44 while in the line of duty, who observes another law enforcement officer use force against another  
45 person that the observing officer reasonably believes exceeds the amount of force authorized by  
46 subsection (d) of this section and who possesses a reasonable opportunity to intervene, shall, if  
47 it is safe to do so, attempt to intervene to prevent the use of excessive force. Additionally, the  
48 observing officer shall, within a reasonable period of time not to exceed 72 hours thereafter,  
49 report what the officer reasonably believes to be an unauthorized use of force to a superior law  
50 enforcement officer within the agency of the observing officer, even if the observing officer did  
51 not have a reasonable opportunity to intervene. If the head of the law enforcement agency of the

1 observing officer was involved or present during what the observing officer reasonably believes  
2 to be unauthorized use of force, the observing officer shall make the report to the highest ranking  
3 law enforcement officer of that officer's agency who was not involved in or present during the  
4 use of force."

5 **SECTION 16.(b)** This section becomes effective December 1, 2021, and applies to  
6 uses of force that occur on or after that date.

7  
8 **PART XVII. REMOVE THE STANDARDS COMMISSIONS FROM A**  
9 **NONEXCLUSIVE LIST OF STATE AGENCY LICENSING BOARDS**

10 **SECTION 17.(a)** G.S. 93B-1(3)e. is repealed.

11 **SECTION 17.(b)** This section becomes effective December 1, 2021.

12  
13 **PART XVIII. ADDRESS CONSTITUTIONAL ISSUES WITH SATELLITE-BASED**  
14 **MONITORING RAISED IN STATE V. GRADY AND CREATE A PROCESS TO**  
15 **REVIEW WHETHER OFFENDERS SUBJECT TO THAT CASE WHICH WERE**  
16 **REMOVED FROM SATELLITE-BASED MONITORING ARE OTHERWISE**  
17 **ELIGIBLE**

18 **SECTION 18.(a)** Part V of Article 27A of Chapter 14 of the General Statutes is  
19 amended by adding a new section to read:

20 **"§ 14-208.39. Legislative finding of efficacy.**

21 The General Assembly finds that empirical and statistical reports such as the 2015 California  
22 Study, "Does GPS Improve Recidivism among High Risk Sex Offenders? Outcomes for  
23 California's GPS Pilot for High Risk Sex Offender Parolees," show that sex offenders monitored  
24 with the global positioning system (GPS) are less likely than other sex offenders to receive a  
25 violation for committing a new crime, and that offenders monitored by GPS demonstrated  
26 significantly better outcomes for both increasing compliance and reducing recidivism. It is the  
27 intent of the General Assembly to protect the public from victimization. Therefore, the General  
28 Assembly recognizes that the GPS monitoring program is an effective tool to deter criminal  
29 behavior among sex offenders."

30 **SECTION 18.(b)** G.S. 14-208.6 reads as rewritten:

31 **"§ 14-208.6. Definitions.**

32 The following definitions apply in this Article:

33 ...

34 (3e) Reoffender. – A person who has two or more convictions for a felony that is  
35 described in G.S. 14-208.6(4). For purposes of this definition, if an offender  
36 is convicted of more than one offense in a single session of court, only one  
37 conviction is counted.

38 ...."

39 **SECTION 18.(c)** G.S. 14-208.40 reads as rewritten:

40 **"§ 14-208.40. Establishment of program; creation of guidelines; duties.**

41 (a) The Division of Adult Correction and Juvenile Justice of the Department of Public  
42 Safety shall establish a sex offender monitoring program that uses a continuous satellite-based  
43 monitoring system and shall create guidelines to govern the program. The program shall be  
44 designed to monitor three categories of offenders as follows:

45 (1) Any offender who is convicted of a reportable conviction as defined by  
46 G.S. 14-208.6(4) and who is required to register under Part 3 of Article 27A  
47 of Chapter 14 of the General Statutes because the defendant is classified as a  
48 sexually violent predator, is a ~~recidivist, reoffender,~~ or was convicted of an  
49 aggravated offense as those terms are defined in ~~G.S. 14-208.6.~~ G.S. 14-208.6  
50 and based on the Division of Adult Correction and Juvenile Justice's risk

1 assessment program requires the highest possible level of supervision and  
2 monitoring.

3 (2) Any offender who satisfies all of the following criteria: (i) is convicted of a  
4 reportable conviction as defined by G.S. 14-208.6(4), (ii) is required to  
5 register under Part 2 of Article 27A of Chapter 14 of the General Statutes, (iii)  
6 has committed an offense involving the physical, mental, or sexual abuse of a  
7 minor, and (iv) based on the Division of Adult Correction and Juvenile  
8 Justice's risk assessment program requires the highest possible level of  
9 supervision and monitoring.

10 (3) Any offender who is convicted of G.S. 14-27.23 or ~~G.S. 14-27.28, who shall~~  
11 ~~be enrolled in the satellite-based monitoring program for the offender's natural~~  
12 ~~life upon termination of the offender's active punishment.~~ G.S. 14-27.28 and  
13 based on the Division of Adult Correction and Juvenile Justice's risk  
14 assessment program requires the highest possible level of supervision and  
15 monitoring.

16 (b) In developing the guidelines for the program, the Division of Adult Correction and  
17 Juvenile Justice shall require that any offender who is enrolled in the satellite-based program  
18 submit to an active continuous satellite-based monitoring program, unless an active program will  
19 not work as provided by this section. If the Division of Adult Correction and Juvenile Justice  
20 determines that an active program will not work as provided by this section, then the Division of  
21 Adult Correction and Juvenile Justice shall require that the defendant submit to a passive  
22 continuous satellite-based program that works within the technological or geographical  
23 limitations.

24 (c) The satellite-based monitoring program shall use a system that provides all of the  
25 following:

- 26 (1) Time-correlated and continuous tracking of the geographic location of the  
27 subject using a global positioning system based on satellite and other location  
28 tracking technology.
- 29 (2) Reporting of subject's violations of prescriptive and proscriptive schedule or  
30 location requirements. Frequency of reporting may range from once a day  
31 (passive) to near real-time (active).

32 (d) The Division of Adult Correction and Juvenile Justice may contract with a single  
33 vendor for the hardware services needed to monitor subject offenders and correlate their  
34 movements to reported crime incidents. The contract may provide for services necessary to  
35 implement or facilitate any of the provisions of this Part."

36 **SECTION 18.(d)** G.S. 14-208.40A reads as rewritten:

37 "**§ 14-208.40A. Determination of satellite-based monitoring requirement by court.**

38 (a) When an offender is convicted of a reportable conviction as defined by  
39 G.S. 14-208.6(4), during the sentencing phase, the district attorney shall present to the court any  
40 evidence that (i) the offender has been classified as a sexually violent predator pursuant to  
41 G.S. 14-208.20, (ii) the offender is a ~~recidivist, reoffender,~~ (iii) the conviction offense was an  
42 aggravated offense, (iv) the conviction offense was a violation of G.S. 14-27.23 or G.S. 14-27.28,  
43 or (v) the offense involved the physical, mental, or sexual abuse of a minor. The district attorney  
44 shall have no discretion to withhold any evidence required to be submitted to the court pursuant  
45 to this subsection.

46 The offender shall be allowed to present to the court any evidence that the district attorney's  
47 evidence is not correct.

48 (b) After receipt of the evidence from the parties, the court shall determine whether the  
49 offender's conviction places the offender in one of the categories described in G.S. 14-208.40(a),  
50 and if so, shall make a finding of fact of that determination, specifying whether (i) the offender  
51 has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is



1 a ~~recidivist, reoffender~~, (iii) the conviction offense was an aggravated offense, (iv) the conviction  
2 offense was a violation of G.S. 14-27.23 or G.S. 14-27.28, or (v) the offense involved the  
3 physical, mental, or sexual abuse of a minor.

4 (c) If the court finds that the offender has been classified as a sexually violent predator,  
5 is a ~~recidivist, reoffender~~, has committed an aggravated offense, or was convicted of  
6 G.S. 14-27.23 or G.S. 14-27.28, the court shall order ~~that the offender to enroll in a satellite-based~~  
7 ~~monitoring program for life.~~ Division of Adult Correction and Juvenile Justice do a risk  
8 assessment of the offender. The Division of Adult Correction and Juvenile Justice shall have up  
9 to 60 days to complete the risk assessment of the offender and report the results to the court.

10 (c1) Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile  
11 Justice pursuant to subsection (c) of this section, the court shall determine whether, based on the  
12 Division of Adult Correction and Juvenile Justice's risk assessment, the offender requires the  
13 highest possible level of supervision and monitoring. If the court determines that the offender  
14 does require the highest possible level of supervision and monitoring, the court shall order the  
15 offender to enroll in a satellite-based monitoring program for a period of 10 years.

16 (d) If the court finds that the offender committed an offense that involved the physical,  
17 mental, or sexual abuse of a minor, that the offense is not an aggravated offense or a violation of  
18 G.S. 14-27.23 or G.S. 14-27.28 and the offender is not a ~~recidivist, reoffender~~, the court shall  
19 order that the Division of Adult Correction do a risk assessment of the offender. The Division of  
20 Adult Correction and Juvenile Justice shall have ~~a minimum of 30 days, but not more than 60~~  
21 ~~days, up to 60 days~~ to complete the risk assessment of the offender and report the results to the  
22 court.

23 (e) Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile  
24 Justice pursuant to subsection (d) of this section, the court shall determine whether, based on the  
25 Division of Adult Correction and Juvenile Justice's risk assessment, the offender requires the  
26 highest possible level of supervision and monitoring. If the court determines that the offender  
27 does require the highest possible level of supervision and monitoring, the court shall order the  
28 offender to enroll in a satellite-based monitoring program for a period of time to be specified by  
29 the ~~court~~ court, not to exceed 10 years."

30 **SECTION 18.(e)** G.S. 14-208.40B reads as rewritten:

31 "**§ 14-208.40B. Determination of satellite-based monitoring requirement in certain**  
32 **circumstances.**

33 (a) When an offender is convicted of a reportable conviction as defined by  
34 G.S. 14-208.6(4), and there has been no determination by a court on whether the offender shall  
35 be required to enroll in satellite-based monitoring, the Division of Adult Correction and Juvenile  
36 Justice shall make an initial determination on whether the offender falls into one of the categories  
37 described in G.S. 14-208.40(a).

38 (b) If the Division of Adult Correction and Juvenile Justice determines that the offender  
39 falls into one of the categories described in G.S. 14-208.40(a), the district attorney, representing  
40 the Division of Adult Correction and Juvenile Justice, shall schedule a hearing in superior court  
41 for the county in which the offender resides. The Division of Adult Correction and Juvenile  
42 Justice shall notify the offender of the Division of Adult Correction and Juvenile Justice's  
43 determination and the date of the scheduled hearing by certified mail sent to the address provided  
44 by the offender pursuant to G.S. 14-208.7. The hearing shall be scheduled no sooner than 15 days  
45 from the date the notification is mailed. Receipt of notification shall be presumed to be the date  
46 indicated by the certified mail receipt. Upon the court's determination that the offender is indigent  
47 and entitled to counsel, the court shall assign counsel to represent the offender at the hearing  
48 pursuant to rules adopted by the Office of Indigent Defense Services.

49 (c) At the hearing, the court shall determine if the offender falls into one of the categories  
50 described in G.S. 14-208.40(a). The court shall hold the hearing and make findings of fact  
51 pursuant to G.S. 14-208.40A.

1 If the court finds that (i) the offender has been classified as a sexually violent predator  
2 pursuant to G.S. 14-208.20, (ii) the offender is a ~~recidivist, reoffender,~~ (iii) the conviction offense  
3 was an aggravated offense, or (iv) the conviction offense was a violation of G.S. 14-27.23 or  
4 G.S. 14-27.28, the court shall order that the offender to enroll in satellite-based monitoring for  
5 life. Division of Adult Correction and Juvenile Justice do a risk assessment of the offender. The  
6 Division of Adult Correction and Juvenile Justice shall have up to 60 days to complete the risk  
7 assessment of the offender and report the results to the court.

8 (c1) Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile  
9 Justice pursuant to subsection (c) of this section, the court shall determine whether, based on the  
10 Division of Adult Correction and Juvenile Justice's risk assessment, the offender requires the  
11 highest possible level of supervision and monitoring. If the court determines that the offender  
12 does require the highest possible level of supervision and monitoring, the court shall order the  
13 offender to enroll in a satellite-based monitoring program for a period of 10 years.

14 If the court finds that the offender committed an offense that involved the physical, mental,  
15 or sexual abuse of a minor, that the offense is not an aggravated offense or a violation of  
16 G.S. 14-27.23 or G.S. 14-27.28, and the offender is not a ~~recidivist, reoffender,~~ the court shall  
17 order that the Division of Adult Correction and Juvenile Justice do a risk assessment of the  
18 offender. The Division of Adult Correction and Juvenile Justice shall have ~~a minimum of 30~~  
19 ~~days, but not more than 60 days,~~ up to 60 days to complete the risk assessment of the offender  
20 and report the results to the court. The Division of Adult Correction and Juvenile Justice may use  
21 a risk assessment of the offender done within six months of the date of the hearing.

22 Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile Justice,  
23 the court shall determine whether, based on the Division of Adult Correction and Juvenile  
24 Justice's risk assessment, the offender requires the highest possible level of supervision and  
25 monitoring. If the court determines that the offender does require the highest possible level of  
26 supervision and monitoring, the court shall order the offender to enroll in a satellite-based  
27 monitoring program for a period of time to be specified by the ~~court,~~ court, not to exceed 10  
28 years."

29 **SECTION 18.(f)** G.S. 14-208.41 reads as rewritten:

30 "**§ 14-208.41. Enrollment in satellite-based monitoring programs mandatory; length of**  
31 **enrollment.**enrollment; tolling.

32 (a) Any person described by G.S. 14-208.40(a)(1) shall enroll in a satellite-based  
33 monitoring program with the Section of Community Corrections of the Division of Adult  
34 Correction and Juvenile Justice office in the county where the person resides. The person shall  
35 remain enrolled in the satellite-based monitoring program for the registration period imposed  
36 ~~under G.S. 14-208.23 which is the person's life, for a period required by G.S. 14-208.40A or~~  
37 ~~G.S. 14-208.40B unless the requirement to enroll in the satellite-based monitoring program is~~  
38 ~~terminated or modified pursuant to G.S. 14-208.43.~~

39 (b) Any person described by G.S. 14-208.40(a)(2) who is ordered by the court pursuant  
40 to G.S. 14-208.40A or G.S. 14-208.40B to enroll in a satellite-based monitoring program shall  
41 do so with the Section of Community Corrections of the Division of Adult Correction and  
42 Juvenile Justice office in the county where the person resides. The person shall remain enrolled  
43 in the satellite-based monitoring program for the period of time ordered by the court.

44 (c) Any person described by G.S. 14-208.40(a)(3), upon completion of active  
45 punishment, shall enroll in a satellite-based monitoring program with the Section of Community  
46 Corrections of the Division of Adult Correction and Juvenile Justice office in the county where  
47 the person resides. The person shall enroll in the satellite-based monitoring program for the entire  
48 period of post-release supervision and shall remain enrolled in the satellite-based monitoring  
49 program for ~~the person's life, the period required by G.S. 14-208.40A or G.S. 14-208.40B unless~~  
50 ~~the requirement to enroll in the satellite-based monitoring program is terminated or modified~~  
51 ~~pursuant to G.S. 14-208.43.~~ Any term of imprisonment based on revocation of probation or

1 post-release supervision for the conviction which resulted in satellite-based monitoring tolls the  
2 period of enrollment."

3 **SECTION 18.(g)** G.S. 14-208.42 reads as rewritten:

4 **"§ 14-208.42. Offenders required to submit to satellite-based monitoring required to**  
5 **cooperate with Division of Adult Correction and Juvenile Justice upon**  
6 **completion of sentence.**

7 Notwithstanding any other provision of law, when an offender is required to enroll in  
8 satellite-based monitoring pursuant to G.S. 14-208.40A or G.S. 14-208.40B, upon completion of  
9 the offender's sentence and any term of parole, post-release supervision, intermediate  
10 punishment, or supervised probation that follows the sentence, the offender shall continue to be  
11 enrolled in the satellite-based monitoring program for the period required by G.S. 14-208.40A or  
12 G.S. 14-208.40B unless the requirement that the person enroll in a satellite-based monitoring  
13 program is terminated or modified pursuant to G.S. 14-208.43.

14 The Division of Adult Correction and Juvenile Justice shall have the authority to have contact  
15 with the offender at the offender's residence or to require the offender to appear at a specific  
16 location as needed for the purpose of enrollment, to receive monitoring equipment, to have  
17 equipment examined or maintained, and for any other purpose necessary to complete the  
18 requirements of the satellite-based monitoring program. The offender shall cooperate with the  
19 Division of Adult Correction and Juvenile Justice and the requirements of the satellite-based  
20 monitoring program until the offender's requirement to enroll is terminated and the offender has  
21 returned all monitoring equipment to the Division of Adult Correction and Juvenile Justice."

22 **SECTION 18.(h)** G.S. 14-208.43 reads as rewritten:

23 **"§ 14-208.43. Request–Petition for termination or modification of the satellite-based**  
24 **monitoring requirement.**

25 (a) An offender described by G.S. 14-208.40(a)(1) or G.S. 14-208.40(a)(3) who is  
26 required to submit to satellite-based monitoring ~~for the offender's life~~ may file a request–petition  
27 for termination or modification of the monitoring requirement with the ~~Post-Release Supervision~~  
28 ~~and Parole Commission~~. ~~The request to terminate the satellite-based monitoring requirement and~~  
29 ~~to terminate the accompanying requirement of unsupervised probation may not be submitted until~~  
30 ~~at least one year after the offender: (i) has served his or her sentence for the offense for which~~  
31 ~~the satellite-based monitoring requirement was imposed, and (ii) has also completed any period~~  
32 ~~of probation, parole, or post-release supervision imposed as part of the sentence.~~ superior court  
33 in the county where the conviction occurred five years after the date of initial enrollment.

34 (b) ~~Upon receipt of the request for termination, the Commission shall review~~  
35 ~~documentation contained in the offender's file and the statewide registry to determine whether~~  
36 ~~the person has complied with the provisions of this Article. In addition, the Commission shall~~  
37 ~~conduct fingerprint-based state and federal criminal history record checks to determine whether~~  
38 ~~the person has been convicted of any additional reportable convictions.~~

39 (c) ~~If it is determined that the person has not received any additional reportable~~  
40 ~~convictions during the period of satellite-based monitoring and the person has substantially~~  
41 ~~complied with the provisions of this Article, the Commission may terminate the monitoring~~  
42 ~~requirement if the Commission finds that the person is not likely to pose a threat to the safety of~~  
43 ~~others.~~

44 (d) ~~If it is determined that the person has received any additional reportable convictions~~  
45 ~~during the period of satellite-based monitoring or has not substantially complied with the~~  
46 ~~provisions of this Article, the Commission shall not order the termination of the monitoring~~  
47 ~~requirement.~~

48 (d1) ~~Notwithstanding the provisions of this section, if the Commission is notified by the~~  
49 ~~Division of Adult Correction and Juvenile Justice of the Department of Public Safety that the~~  
50 ~~offender has been released, pursuant to G.S. 14-208.12A, from the requirement to register under~~

1 ~~Part 2 of Article 27A of this Chapter, upon request of the offender, the Commission shall order~~  
2 ~~the termination of the monitoring requirement.~~

3 ~~(e) The Commission shall not consider any request to terminate a monitoring requirement~~  
4 ~~except as provided by this section. The district attorney in the district in which the petition is~~  
5 ~~filed shall be given notice of the petition at least three weeks before the hearing on the matter.~~  
6 ~~The petitioner may present evidence in support of the petition, and the district attorney may~~  
7 ~~present evidence in opposition to the requested relief or may otherwise demonstrate the reasons~~  
8 ~~why the petition should be denied.~~

9 ~~(c) The victim of the underlying offense may appear and be heard by the court in a~~  
10 ~~proceeding regarding a petition for termination or modification of satellite-based monitoring~~  
11 ~~requirement. If the victim has elected to receive notices of such proceedings, the district~~  
12 ~~attorney's office shall notify the victim of the date, time, and place of the hearing. The district~~  
13 ~~attorney's office may provide the required notification electronically or by telephone, unless the~~  
14 ~~victim requests otherwise. The victim shall be responsible for notifying the district attorney's~~  
15 ~~office of any changes in the victim's address and telephone number or other contact information.~~  
16 ~~The judge in any court proceeding subject to this section shall inquire as to whether the victim is~~  
17 ~~present and wishes to be heard. If the victim is present and wishes to be heard, the court shall~~  
18 ~~grant the victim an opportunity to be reasonably heard. The right to be reasonably heard may be~~  
19 ~~exercised, at the victim's discretion, through an oral statement, submission of a written statement,~~  
20 ~~or submission of an audio or video statement.~~

21 ~~(d) The petition may be granted only if the court makes all of the following findings:~~

22 ~~(1) The petitioner has been enrolled in the satellite-based monitoring program for~~  
23 ~~at least five years.~~

24 ~~(2) The petitioner no longer requires the highest possible level of supervision and~~  
25 ~~monitoring for 10 years.~~

26 ~~(e) The court may order any of the following:~~

27 ~~(1) The petitioner to remain enrolled in the satellite-based monitoring program~~  
28 ~~for a period of time to be specified by the court, not to exceed a total of 10~~  
29 ~~years.~~

30 ~~(2) The petitioner's requirement to enroll in the satellite-based monitoring~~  
31 ~~program be terminated.~~

32 ~~(f) If the court denies the petition, the person may again petition the court for relief in~~  
33 ~~accordance with this section two years from the date of the denial of the original petition to~~  
34 ~~terminate the satellite-based monitoring requirement. If the court grants the petition, the clerk of~~  
35 ~~court shall forward a certified copy of the order to the Post Release Supervision and Parole~~  
36 ~~Commission. The Commission-court has no authority to consider or terminate a monitoring~~  
37 ~~requirement for an offender described in G.S. 14-208.40(a)(2)."~~

38 **SECTION 18.(i)** Article 27A of Chapter 14 of the General Statutes is amended by  
39 adding a new section to read:

40 **"§ 14-208.46. Petition for postenrollment determination for lifetime satellite-based**  
41 **monitoring enrollees.**

42 ~~(a) An offender who is enrolled in a satellite-based monitoring for life may file a petition~~  
43 ~~for termination or modification of the monitoring requirement with the superior court in the~~  
44 ~~county where the conviction occurred five years after the date of initial enrollment.~~

45 ~~(b) The district attorney in the district in which the petition is filed shall be given notice~~  
46 ~~of the petition at least three weeks before the hearing on the matter. The petitioner may present~~  
47 ~~evidence in support of the petition, and the district attorney may present evidence in opposition~~  
48 ~~to the requested relief or may otherwise demonstrate the reasons why the petition should be~~  
49 ~~denied.~~

50 ~~(c) The victim of the underlying offense may appear and be heard by the court in a~~  
51 ~~proceeding regarding a petition for termination or modification of satellite-based monitoring~~

1 requirement. If the victim has elected to receive notices of such proceedings, the district  
2 attorney's office shall notify the victim of the date, time, and place of the hearing. The district  
3 attorney's office may provide the required notification electronically or by telephone, unless the  
4 victim requests otherwise. The victim shall be responsible for notifying the district attorney's  
5 office of any changes in the victim's address and telephone number or other contact information.  
6 The judge in any court proceeding subject to this section shall inquire as to whether the victim is  
7 present and wishes to be heard. If the victim is present and wishes to be heard, the court shall  
8 grant the victim an opportunity to be reasonably heard. The right to be reasonably heard may be  
9 exercised, at the victim's discretion, through an oral statement, submission of a written statement,  
10 or submission of an audio or video statement.

11 (d) If the petitioner has not been enrolled in the satellite-based monitoring program for at  
12 least 10 years, the court shall order the petitioner to remain enrolled in the satellite-based  
13 monitoring program for a total of 10 years.

14 (e) If the petitioner has been enrolled in the satellite-based monitoring program for more  
15 than 10 years, the court shall order the petitioner's requirement to enroll in the satellite-based  
16 monitoring program be terminated.

17 (f) The court has no authority to terminate the satellite-based monitoring requirement for  
18 an offender ordered to satellite-based monitoring for life prior to 10 years of enrollment."

19 **SECTION 18.(j)** G.S. 15A-1343 reads as rewritten:

20 **"§ 15A-1343. Conditions of probation.**

21 ...

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

25 ...

26 (6) Submission to satellite-based monitoring, pursuant to Part 5 of Article 27A of  
27 Chapter 14 of the General Statutes, if the defendant is described by  
28 G.S. 14-208.40(a)(2)-G.S. 14-208.40(a)(2), and based on the Division of  
29 Adult Correction and Juvenile Justice's risk assessment program requires the  
30 highest possible level of supervision and monitoring.

31 ...

32 (b2) Special Conditions of Probation for Sex Offenders and Persons Convicted of Offenses  
33 Involving Physical, Mental, or Sexual Abuse of a Minor. – As special conditions of probation, a  
34 defendant who has been convicted of an offense which is a reportable conviction as defined in  
35 G.S. 14-208.6(4), or which involves the physical, mental, or sexual abuse of a minor, must:

36 ...

37 (7) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of  
38 Chapter 14 of the General Statutes, if the defendant is described by  
39 G.S. 14-208.40(a)(1)-G.S. 14-208.40(a)(1), and the Division of Adult  
40 Correction and Juvenile Justice of the Department of Public Safety, based on  
41 the Division's risk assessment program, recommends that the defendant  
42 submit to the highest possible level of supervision and monitoring.

43 ...."

44 **SECTION 18.(k)** G.S. 15A-1343.2 reads as rewritten:

45 **"§ 15A-1343.2. Special probation rules for persons sentenced under Article 81B.**

46 (a) Applicability. – This section applies only to persons sentenced under Article 81B of  
47 this Chapter.

48 ...

49 (f) Delegation to Probation Officer in Intermediate Punishments. – Unless the presiding  
50 judge specifically finds in the judgment of the court that delegation is not appropriate, the Section  
51 of Community Corrections of the Division of Adult Correction and Juvenile Justice of the

1 Department of Public Safety may require an offender sentenced to intermediate punishment to  
2 do any of the following:

3 ...

- 4 (5) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of  
5 Chapter 14 of the General Statutes, if the defendant is described by  
6 ~~G.S. 14-208.40(a)(2)~~G.S. 14-208.40(a)(2), and based on the Division of  
7 Adult Correction and Juvenile Justice's risk assessment program requires the  
8 highest possible level of supervision and monitoring.

9 ...

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

12 ...

13 (f1) Mandatory Condition of Satellite-Based Monitoring for Some Sex Offenders. –  
14 Notwithstanding any other provision of this section, the court shall impose satellite-based  
15 monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes as a condition  
16 of probation on any offender who is described by ~~G.S. 14-208.40(a)(1)~~G.S. 14-208.40(a)(1), and  
17 based on the Division of Adult Correction and Juvenile Justice's risk assessment program requires  
18 the highest possible level of supervision and monitoring.

19 ...."

20 **SECTION 18.(l)** G.S. 15A-1344(e2) is repealed.

21 **SECTION 18.(m)** G.S. 15A-1368.4 reads as rewritten:

22 "**§ 15A-1368.4. Conditions of post-release supervision.**

23 (a) In General. – Conditions of post-release supervision may be reintegrative in nature or  
24 designed to control the supervisee's behavior and to enforce compliance with law or judicial  
25 order. A supervisee may have his supervision period revoked for any violation of a controlling  
26 condition or for repeated violation of a reintegrative condition. Compliance with reintegrative  
27 conditions may entitle a supervisee to earned time credits as described in G.S. 15A-1368.2(d).

28 ...

29 (b1) Additional Required Conditions for Sex Offenders and Persons Convicted of  
30 Offenses Involving Physical, Mental, or Sexual Abuse of a Minor. – In addition to the required  
31 condition set forth in subsection (b) of this section, for a supervisee who has been convicted of  
32 an offense which is a reportable conviction as defined in G.S. 14-208.6(4), or which involves the  
33 physical, mental, or sexual abuse of a minor, controlling conditions, violations of which may  
34 result in revocation of post-release supervision, are:

35 ...

- 36 (6) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of  
37 Chapter 14 of the General Statutes, if the offense is a reportable conviction as  
38 defined by ~~G.S. 14-208.6(4)~~ and ~~G.S. 14-208.6(4)~~, the supervisee is in the  
39 category described by ~~G.S. 14-208.40(a)(1)~~G.S. 14-208.40(a)(1), and based  
40 on the Division of Adult Correction and Juvenile Justice's risk assessment  
41 program requires the highest possible level of supervision and monitoring.

- 42 (7) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of  
43 Chapter 14 of the General Statutes, if the offense is a reportable conviction as  
44 defined by ~~G.S. 14-208.6(4)~~ and ~~G.S. 14-208.6(4)~~, the supervisee is in the  
45 category described by ~~G.S. 14-208.40(a)(2)~~G.S. 14-208.40(a)(2), and based  
46 on the Division of Adult Correction and Juvenile Justice's risk assessment  
47 program requires the highest possible level of supervision and monitoring.

48 ...."

49 **SECTION 18.(n)** G.S. 15A-1374 reads as rewritten:

50 "**§ 15A-1374. Conditions of parole.**

1 (a) In General. – The Post-Release Supervision and Parole Commission may in its  
2 discretion impose conditions of parole it believes reasonably necessary to insure that the parolee  
3 will lead a law-abiding life or to assist him to do so. The Commission must provide as an express  
4 condition of every parole that the parolee not commit another crime during the period for which  
5 the parole remains subject to revocation. When the Commission releases a person on parole, it  
6 must give him a written statement of the conditions on which he is being released.

7 ...

8 (b1) Mandatory Satellite-Based Monitoring Required as Condition of Parole for Certain  
9 Offenders. – If a parolee is in a category described by G.S. 14-208.40(a)(1) or  
10 ~~G.S. 14-208.40(a)(2)~~, G.S. 14-208.40(a)(2) and based on the Division of Adult Correction and  
11 Juvenile Justice's risk assessment program requires the highest possible level of supervision and  
12 monitoring, the Commission must require as a condition of parole that the parolee submit to  
13 satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes.

14 ...."

15 **SECTION 18.(o)** The Division of Adult Correction and Juvenile Justice shall  
16 provide each elected District Attorney a list of the individuals that reside in a county in that  
17 District Attorney's district that is subject to State v. Grady, 831 S.E. 2d 542 (NC 2019), decided  
18 August 16, 2019, namely all individuals in the same category as the defendant, Mr. Grady:  
19 individuals subject to mandatory lifetime satellite-based monitoring based solely on their status  
20 as a statutorily defined "recidivist" who have completed their prison sentences and are no longer  
21 supervised by the State through probation, parole, or post-release supervision. An elected District  
22 Attorney must decide to handle each case or have the Attorney General handle the case. If  
23 requested by an elected District Attorney, the Attorney General shall make a preliminary  
24 determination whether the recidivist subject to State v. Grady, may meet any requirement to  
25 enroll in a satellite-based monitoring program other than being a recidivist, and represent the  
26 State in any proceedings created by this section. Each District Attorney or Attorney General shall  
27 review the determination for every one of the class members. If the District Attorney or Attorney  
28 General makes a preliminary determination that the individual may meet any requirement to  
29 enroll in a satellite-based monitoring program other than being a recidivist, they shall notify the  
30 person and the sheriff in the county where the individual resides. The District Attorney or  
31 Attorney General may petition the court in that county for a hearing to have a judge determine if  
32 an individual subject to State v. Grady, 831 S.E. 2d 542 (NC 2019), meets the criteria for  
33 satellite-based monitoring consistent with G.S. 14-208.40A, as amended by this act.

34 **SECTION 18.(p)** Subsection (b) of this section applies to satellite-based monitoring  
35 determinations on or after December 1, 2021, and includes felony convictions obtained before,  
36 on, or after that date. Subsection (i) of this section becomes effective December 1, 2021, and  
37 applies to any individual required to enroll in satellite-based monitoring for life on or after that  
38 date. Subsection (o) of this section becomes effective December 1, 2021, and applies to any  
39 individual required to enroll in the satellite-based monitoring program based solely on being a  
40 "recidivist" on or after that date. The remainder of this section becomes effective December 1,  
41 2021, and applies to satellite-based monitoring determinations on or after that date.

## 42 43 **PART XIX. PROTECTIONS FOR LAW ENFORCEMENT OFFICERS**

44 **SECTION 19.(a)** G.S. 14-223 reads as rewritten:

45 **"§ 14-223. Resisting officers.**

46 (a) If any person shall willfully and unlawfully resist, delay or obstruct a public officer  
47 in discharging or attempting to discharge ~~a duty of his office, he shall be an official duty, the~~  
48 person is guilty of a Class 2 misdemeanor.

49 (b) If any person shall willfully and unlawfully resist, delay, or obstruct a public officer  
50 in discharging or attempting to discharge an official duty, and the resistance, delay, or obstruction  
51 is the proximate cause of a public officer's serious injury, the person is guilty of a Class I felony.

1       (c) If any person shall willfully and unlawfully resist, delay, or obstruct a public officer  
2 in discharging or attempting to discharge an official duty, and the resistance, delay, or obstruction  
3 is the proximate cause of a public officer's serious bodily injury, the person is guilty of a Class F  
4 felony.

5       (d) "Serious bodily injury" is defined as bodily injury that creates a substantial risk of  
6 death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition  
7 that causes extreme pain, or permanent or protracted loss or impairment of the function of any  
8 bodily member or organ, or that results in prolonged hospitalization."

9       **SECTION 19.(b)** In order to raise public awareness about resisting, delaying, and  
10 obstructing law enforcement officers and encourage North Carolina residents to interact with law  
11 enforcement officers safely, the Department of Public Safety shall create a targeted social media  
12 campaign and television commercials that address the concerns of not resisting arrest and raising  
13 public awareness about resisting, delaying, and obstructing law enforcement officers. DPS shall  
14 also make available on its internet website a public service announcement containing legally  
15 accurate information regarding the public's responsibilities during traffic stops and other  
16 interactions with law enforcement.

17       **SECTION 19.(c)** The Department of Public Safety shall provide to the Division of  
18 Motor Vehicles an internet link to the public service announcement authorized by subsection (b)  
19 of this section, which the Division of Motor Vehicles shall make available on its internet website.  
20 In addition, the Division of Motor Vehicles shall broadcast the public service announcement  
21 authorized by subsection (b) of this section on monitors at drivers license office locations across  
22 the State.

23       **SECTION 19.(d)** Subsection (a) of this section becomes effective December 1,  
24 2021, and applies to offenses committed on or after that date. The remainder of this section is  
25 effective when it becomes law.

## 26 **PART XX. ESTABLISH CRIMINAL RECODIFICATION WORKING GROUP**

27       **SECTION 20.(a)** There is created the Bipartisan North Carolina Legislative  
28 Working Group on Criminal Law Recodification (Working Group). The purpose of the Working  
29 Group is to make recommendations to the General Assembly regarding a streamlined,  
30 comprehensive, orderly, and principled criminal code which includes all common law, statutory,  
31 regulatory, and ordinance crimes.

32       **SECTION 20.(b)** The Working Group shall be comprised of nine members selected  
33 as follows:

- 34       (1) Two senators who are members of the majority party appointed by the  
35 President Pro Tempore of the Senate.
- 36       (2) Two senators who are members of the minority party appointed by the  
37 Minority Leader of the Senate.
- 38       (3) Two representatives who are members of the majority party appointed by the  
39 Speaker of the House of Representatives.
- 40       (4) Two representatives who are members of the minority party appointed by the  
41 Minority Leader of the House of Representatives.
- 42       (5) One individual appointed jointly by the President Pro Tempore of the Senate  
43 and the Speaker of the House of Representatives. This individual shall have  
44 served at least six years as a member of the General Assembly and shall serve  
45 as the chair of the Working Group.

46       **SECTION 20.(c)** The Working Group shall solicit comments and feedback from the  
47 public, as well as from all of the following:

- 48       (1) The Administrative Office of the Courts.
- 49       (2) The Attorney General.
- 50       (3) The Conference of District Attorneys.
- 51



- 1 (4) Indigent Defense Services.
- 2 (5) The North Carolina Sheriffs' Association.
- 3 (6) The North Carolina Association of Chiefs of Police.
- 4 (7) The North Carolina Police Benevolent Association.
- 5 (8) The North Carolina League of Municipalities.
- 6 (9) The North Carolina Association of County Commissioners.

7 **SECTION 20.(d)** All appointments to the Working Group shall be made no later  
8 than 30 days after this act becomes law. Vacancies on the Working Group shall be filled by the  
9 appointing authority. The Working Group, while in the discharge of its official duties, may  
10 exercise all the powers provided under the provisions of G.S. 120-19 and G.S. 120-19.1 through  
11 G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of  
12 the State to provide any information, data, or documents within their possession, ascertainable  
13 from their records, or otherwise available to them and the power to subpoena witnesses.

14 **SECTION 20.(e)** The Working Group shall meet upon the call of the chair but at  
15 least monthly beginning no later than September 15, 2021. A majority of the voting members  
16 shall constitute a quorum. Members shall receive per diem, subsistence, and travel allowances in  
17 accordance with G.S. 120-3.1 or G.S. 138-5, as appropriate. The Legislative Services  
18 Commission, through the Legislative Services Officer, shall assign professional staff to monitor  
19 and provide technical assistance to the Working Group; provided, however, legislative staff shall  
20 not be made available at times when the 2021 General Assembly is in session. Upon the direction  
21 of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House  
22 of Representatives shall assign clerical staff to the Working Group. The Working Group shall  
23 terminate on December 31, 2022.

24 **SECTION 20.(f)** The Working Group shall establish general principles which shall,  
25 at a minimum, provide for all of the following:

- 26 (1) Incorporate existing statutory and common law offenses into Chapter 14 of  
27 the General Statutes, harmonizing additions with current Chapter content.
- 28 (2) Apply consistent terminology across statutes and define all terminology.
- 29 (3) Specify the required mental state or that an offense is a strict liability crime.
- 30 (4) Eliminate redundant crimes and multiple punishment for the same conduct.
- 31 (5) Simplify offense numbering.
- 32 (6) Eliminate or modify unconstitutional provisions to ensure lawfulness.
- 33 (7) Eliminate outdated laws.
- 34 (8) Apply consistent, logical offense grading, with advice from the North  
35 Carolina Sentencing Policy and Advisory Commission.

36 **SECTION 20.(g)** The Working Group shall provide the following deliverables:

- 37 (1) For common law crimes and crimes included in the North Carolina General  
38 Statutes:
  - 39 a. Create a database of all statutory and common law crimes, including  
40 statute number or common law designation; offense short title;  
41 elements; link to the statute; punishment; special and key features;  
42 frequency of charging, if available; and any proposed changes and the  
43 status of those changes in order to track decisions by the Working  
44 Group.
  - 45 b. Draft legislation amending, recodifying, or proposing changes to  
46 North Carolina criminal statutes using a format that is consistent with  
47 drafting conventions used by the North Carolina General Assembly,  
48 as directed by the Working Group.
- 49 (2) For crimes created by local ordinances:
  - 50 a. Create a database of ordinance offenses, including ordinance title,  
51 general description, elements, punishment, and key feature coding.

- 1 The Working Group will sample ordinances from diverse jurisdictions  
 2 or review all, as time allows.
- 3 b. Report on common ordinance crimes, including charging data, if  
 4 available, and including presentation of a range of policy options for  
 5 addressing ordinance crimes consistent with the Working Group's  
 6 goals.
- 7 c. Draft legislation using a format that is consistent with drafting  
 8 conventions used by the North Carolina General Assembly, as directed  
 9 by the Working Group.
- 10 (3) For crimes created by administrative boards and bodies:
- 11 a. Create a database of all crimes created by administrative boards and  
 12 bodies that make it a crime to violate any regulation created by an  
 13 administrative board or body, with exemplary regulations and  
 14 punishment levels.
- 15 b. Report on policy options for addressing regulatory crimes consistent  
 16 with the Working Group's goals.
- 17 c. Draft legislation using a format that is consistent with drafting  
 18 conventions used by the North Carolina General Assembly, as directed  
 19 by the Working Group.  
 20

21 **PART XXI. AMEND THE LAW TO PROVIDE IMMEDIATE DISCLOSURE OF**  
 22 **BODY-WORN CAMERA RECORDINGS RELATED TO DEATH OR SERIOUS**  
 23 **BODILY INJURY**

24 **SECTION 21.(a)** G.S. 132-1.4A reads as rewritten:

25 **"§ 132-1.4A. Law enforcement agency recordings.**

- 26 (a) Definitions. – The following definitions apply in this section:
- 27 (1) Body-worn camera. – An operational video or digital camera or other  
 28 electronic device, including a microphone or other mechanism for allowing  
 29 audio capture, affixed to the uniform or person of law enforcement agency  
 30 personnel and positioned in a way that allows the camera or device to capture  
 31 interactions the law enforcement agency personnel has with others.
- 32 (2) Custodial law enforcement agency. – The law enforcement agency that owns  
 33 or leases or whose personnel operates the equipment that created the recording  
 34 at the time the recording was made.
- 35 (3) Dashboard camera. – A device or system installed or used in a law  
 36 enforcement agency vehicle that electronically records images or audio  
 37 depicting interaction with others by law enforcement agency personnel. This  
 38 term does not include body-worn cameras.
- 39 (4) Disclose or disclosure. – To make a recording available for viewing or  
 40 listening to by the person requesting disclosure, at a time and location chosen  
 41 by the custodial law enforcement agency. This term does not include the  
 42 release of a recording.
- 43 (5) Personal representative. – A parent, court-appointed guardian, spouse, or  
 44 ~~attorney~~ attorney licensed in North Carolina of a person whose image or voice  
 45 is in the recording. If a person whose image or voice is in the recording is  
 46 deceased, the term also means the personal representative of the estate of the  
 47 deceased person; the deceased person's surviving spouse, parent, or adult  
 48 child; the deceased person's ~~attorney~~ attorney licensed in North Carolina; or  
 49 the parent or guardian of a surviving minor child of the deceased.
- 50 (6) Recording. – A visual, audio, or visual and audio recording captured by a  
 51 body-worn camera, a dashboard camera, or any other video or audio recording

1 device operated by or on behalf of a law enforcement agency or law  
2 enforcement agency personnel when carrying out law enforcement  
3 responsibilities. This term does not include any video or audio recordings of  
4 interviews regarding agency internal investigations or interviews or  
5 interrogations of suspects or witnesses.

6 (7) Release. – To provide a copy of a recording.

7 (8) Serious bodily injury. – A bodily injury that creates a substantial risk of death,  
8 or that causes serious permanent disfigurement, coma, a permanent or  
9 protracted condition that causes extreme pain, or permanent or protracted loss  
10 or impairment of the function of any bodily member or organ, or that results  
11 in prolonged hospitalization.

12 (b) Public Record and Personnel Record Classification. – Recordings are not public  
13 records as defined by G.S. 132-1. Recordings are not personnel records as defined in Part 7 of  
14 Chapter 126 of the General Statutes, G.S. 160A-168, or G.S. 153A-98.

15 (b1) Immediate Disclosure. – When requested by submission of the notarized form  
16 described in subsection (b2) of this section to the head of a law enforcement agency, any portion  
17 of a recording in the custody of a law enforcement agency which depicts a death or serious bodily  
18 injury shall, upon order of the court pursuant to subsection (b3) of this section, be disclosed to a  
19 personal representative of the deceased, the injured individual, or a personal representative on  
20 behalf of the injured individual. Any disclosure ordered by the court pursuant to subsection (b3)  
21 of this section shall be done by the agency in a private setting. A person who receives disclosure  
22 as ordered by the court pursuant to subsection (b3) of this section shall not record or copy the  
23 recording. Except as provided in subsection (b3) of this section, the portion of the recording  
24 relevant to the death or serious bodily injury shall not be edited or redacted.

25 (b2) Notarized Form. – A person requesting disclosure pursuant to subsection (b1) of this  
26 section must submit a signed and notarized form provided by the law enforcement agency. The  
27 form shall be developed by the Administrative Office of the Courts and shall include notice that,  
28 if disclosed, the recording may not be recorded or copied, or if unlawfully recorded or copied  
29 may not be knowingly disseminated, and notice of the criminal penalties provided in subsection  
30 (b4) of this section.

31 (b3) Immediate Disclosure Review. – No later than three business days from receipt of the  
32 notarized form requesting immediate disclosure pursuant to subsection (b1) of this section, a law  
33 enforcement agency shall file a petition in the superior court in any county where any portion of  
34 the recording was made for issuance of a court order regarding disclosure of the recording  
35 requested pursuant to subsection (b1) of this section and shall also deliver a copy of the petition  
36 and a copy of the recording, which shall remain confidential unless the court issues an order of  
37 disclosure pursuant to this section, to the senior resident superior court judge for that superior  
38 court district or their designee. There shall be no fee for filing the petition. The court shall conduct  
39 an in-camera review of the recording and shall enter an order within seven business days of the  
40 filing of the petition instructing that the recording be (i) immediately disclosed without editing  
41 or redaction; (ii) immediately disclosed with editing or redaction; (iii) disclosed at a later date,  
42 with or without editing or redaction; or (iv) not disclosed to the person or persons seeking  
43 disclosure. In determining whether the recording may be disclosed pursuant to this section, the  
44 court shall consider the following factors:

45 (1) If the person requesting disclosure of the recording is a person authorized to  
46 receive disclosure pursuant to subsection (c) of this section.

47 (2) If the recording contains information that is otherwise confidential or exempt  
48 from disclosure or release under State or federal law.

49 (3) If disclosure would reveal information regarding a person that is of a highly  
50 sensitive and personal nature.

51 (4) If disclosure may harm the reputation or jeopardize the safety of a person.

1           (5)    If disclosure would create a serious threat to the fair, impartial, and orderly  
2                    administration of justice.

3           (6)    If confidentiality is necessary to protect either an active or inactive internal or  
4                    criminal investigation or potential internal or criminal investigation.

5           In any proceeding pursuant to this subsection, the following persons shall be notified and  
6           those persons, or their designated representative, shall be given an opportunity to be heard at any  
7           proceeding: (i) the head of the custodial law enforcement agency, (ii) any law enforcement  
8           agency personnel whose image or voice is in the portion of the recording requested to be  
9           disclosed and the head of that person's employing law enforcement agency, (iii) the District  
10           Attorney, (iv) the investigating law enforcement agency, and (v) the party requesting the  
11           disclosure. The court may order any conditions or restrictions on the disclosure that the court  
12           deems appropriate.

13           Petitions filed pursuant to this subsection shall be scheduled for hearing as soon as  
14           practicable, and the court shall issue an order pursuant to the provisions of this subsection no  
15           later than seven business days after the filing of the petition. Any subsequent proceedings in such  
16           actions shall be accorded priority by the trial and appellate courts.

17           If disclosure of a recording is denied based on subdivision (6) of this subsection, the court  
18           shall schedule a subsequent hearing, to be held no more than 20 business days after the issuance  
19           of the order, to reconsider whether the recording should be disclosed.

20           (b4)   Any person who willfully records, copies, or attempts to record or copy a recording  
21           disclosed pursuant to subsection (b1) of this section shall be guilty of a Class 1 misdemeanor.  
22           Any person who knowingly disseminates a recording or a copy of a recording disclosed pursuant  
23           to subsection (b1) of this section is guilty of a Class I felony.

24           (c)    Disclosure; General. – Recordings in the custody of a law enforcement agency shall  
25           be disclosed only as provided by this section. Recordings depicting a death or serious bodily  
26           injury shall only be disclosed as provided in subsections (b1) through (b3) of this section.

27           A person requesting disclosure of a recording must make a written request to the head of the  
28           custodial law enforcement agency that states the date and approximate time of the activity  
29           captured in the recording or otherwise identifies the activity with reasonable particularity  
30           sufficient to identify the recording to which the request refers.

31           The head of the custodial law enforcement agency may only disclose a recording to the  
32           following:

- 33           (1)    A person whose image or voice is in the recording.  
34           (2)    A personal representative of an adult person whose image or voice is in the  
35                    recording, if the adult person has consented to the disclosure.  
36           (3)    A personal representative of a minor or of an adult person under lawful  
37                    guardianship whose image or voice is in the recording.  
38           (4)    A personal representative of a deceased person whose image or voice is in the  
39                    recording.  
40           (5)    A personal representative of an adult person who is incapacitated and unable  
41                    to provide consent to disclosure.

42           When disclosing the recording, the law enforcement agency shall disclose only those portions of  
43           the recording that are relevant to the person's request. A person who receives disclosure pursuant  
44           to this subsection shall not record or copy the recording.

45           ...."

46           **SECTION 21.(b)** No later than the effective date of this section, the Administrative  
47           Office of the Courts shall develop and make available to all law enforcement agencies the  
48           following forms:

- 49           (1)    A signed and notarized request for immediate disclosure as required by  
50                    G.S. 132-1.4A(b1) and (b2) as enacted by subsection (a) of this section.

1           (2)     A petition for use by law enforcement agencies pursuant to G.S. 132-1.4A(b3)  
2                     as enacted by subsection (a) of this section.

3           **SECTION 21.(c)** This section becomes effective December 1, 2021, and applies to  
4 all requests made on or after that date for disclosure of a recording.

5

6 **PART XXII. SAVINGS CLAUSE, SEVERABILITY CLAUSE, AND EFFECTIVE DATE**

7           **SECTION 22.(a)** If any provision of this act or its application is held invalid, the  
8 invalidity does not affect other provisions or applications of this act that can be given effect  
9 without the invalid provisions or application, and to this end the provisions of this act are  
10 severable.

11           **SECTION 22.(b)** Prosecutions for offenses committed before the effective date of  
12 this act are not abated or affected by this act, and the statutes that would be applicable but for  
13 this act remain applicable to those prosecutions.

14           **SECTION 22.(c)** Except as otherwise provided, this act is effective when it becomes  
15 law.