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Short Title: Ignition Interlock/Various Changes.

(Public)

Sponsors:

Referred to:

March 8, 2021

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE THE MANDATORY WAITING PERIODS FOR DRIVERS LICENSE RESTORATION OR LIMITED DRIVING PRIVILEGES IF THE PERSON IS OPERATING A MOTOR VEHICLE THAT HAS A FUNCTIONING IGNITION INTERLOCK SYSTEM INSTALLED ON IT; TO REQUIRE FOR THE RESTORATION OF LICENSES AFTER CERTAIN DRIVING WHILE IMPAIRED CONVICTIONS, OR THE ISSUANCE OF LIMITED DRIVING PRIVILEGES, AN IGNITION INTERLOCK SYSTEM BE INSTALLED ON ONLY THE MOTOR VEHICLES THE PERSON WILL DRIVE; TO ELIMINATE THE RESTRICTIONS ON THE PURPOSES FOR DRIVING AND THE HOURS DURING WHICH A PERSON MAY OPERATE A MOTOR VEHICLE IF THE PERSON IS OPERATING A MOTOR VEHICLE WITH A FUNCTIONING IGNITION INTERLOCK SYSTEM INSTALLED ON IT; TO ALLOW THE WAIVER OR REDUCTION OF COSTS FOR CERTAIN PERSONS REQUIRED TO INSTALL AN IGNITION INTERLOCK SYSTEM; TO REVISE THE MAXIMUM BLOOD ALCOHOL CONCENTRATION LEVEL FOR THE OPERATION OF A MOTOR VEHICLE IN CERTAIN CIRCUMSTANCES TO THE IGNITION INTERLOCK SYSTEM PRE-SET FAIL LEVEL; TO REQUIRE THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY TO STUDY WHETHER TO EXPAND THE USE OF IGNITION INTERLOCK SYSTEMS; TO MAKE TECHNICAL AND CONFORMING CHANGES RELATED TO S.L. 2021-138; AND TO CHANGE "SHERIFF'S DEPARTMENT" TO "SHERIFF'S OFFICE" IN VARIOUS SECTIONS OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

PART I. MODIFICATIONS TO IGNITION INTERLOCK LAWS

SECTION 1.(a) G.S. 20-179.3(c1) is repealed.

SECTION 1.(b) G.S. 20-179.3, as amended by this act, reads as rewritten:

"§ 20-179.3. Limited driving privilege.

...

(b) Eligibility. –

(1) A person convicted of the offense of impaired driving under G.S. 20-138.1 is eligible for a limited driving privilege ~~if~~ if all of the following requirements are met:



* S 1 8 3 - P C C S 3 5 3 3 7 - B E - 4 *

- 1 a. At the time of the offense the person held either a valid driver's license
- 2 or a license that had been expired for less than one ~~year;~~year.
- 3 b. At the time of the offense the person had not within the preceding
- 4 seven years been convicted of an offense involving impaired
- 5 ~~driving;~~driving.
- 6 c. Punishment Level Three, Four, or Five was imposed for the offense of
- 7 impaired ~~driving;~~driving.
- 8 d. Subsequent to the offense the person has not been convicted of, or had
- 9 an unresolved charge lodged against the person for, an offense
- 10 involving impaired ~~driving; and~~driving.
- 11 e. The person has obtained and filed with the court a substance abuse
- 12 assessment of the type required by G.S. 20-17.6 for the restoration of
- 13 a drivers license.

14 A person whose North Carolina driver's license is revoked because of a
 15 conviction in another jurisdiction substantially similar to impaired driving
 16 under G.S. 20-138.1 is eligible for a limited driving privilege if the person
 17 would be eligible for it had the conviction occurred in North Carolina.
 18 Eligibility for a limited driving privilege following a revocation under
 19 G.S. 20-16.2(d) is governed by G.S. 20-16.2(e1).

20 (2) Any person whose licensing privileges are forfeited pursuant to
 21 G.S. 15A-1331.1 is eligible for a limited driving privilege if the court finds
 22 that at the time of the forfeiture, the person held either a valid drivers license
 23 or a drivers license that had been expired for less than one year and either of
 24 the following requirements is met:

- 25 a. The person is supporting existing dependents or must have a drivers
- 26 license to be gainfully ~~employed;~~ or employed.
- 27 b. The person has an existing dependent who requires serious medical
- 28 treatment and the defendant is the only person able to provide
- 29 transportation to the dependent to the health care facility where the
- 30 dependent can receive the needed medical treatment.

31 The limited driving privilege granted under this subdivision must restrict the
 32 person to essential driving related to the purposes listed above, and any driving
 33 that is not related to those purposes is unlawful even though done at times and
 34 upon routes that may be authorized by the privilege.

35 ...
 36 (g3) Ignition Interlock Allowed. – A judge may include all of the following in a limited
 37 driving privilege order:

- 38 (1) A restriction that the applicant may operate only a designated motor vehicle.
- 39 (2) A requirement that the designated motor vehicle be equipped with a
- 40 functioning ignition interlock system of a type approved by the
- 41 Commissioner. The Commissioner shall not unreasonably withhold approval
- 42 of an ignition interlock system and shall consult with the Division of Purchase
- 43 and Contract in the Department of Administration to ensure that potential
- 44 vendors are not discriminated against.
- 45 (3) A requirement that the applicant personally activate the ignition interlock
- 46 system before driving the motor vehicle.

47 If the limited driving privilege order includes the restrictions set forth in this subsection, then
 48 the limitations set forth in subsections (a), (f), (g), (g1), and (g2) of this section do not apply
 49 when the person is operating the designated motor vehicle with a functioning ignition interlock
 50 system.

1 (g5) Ignition Interlock Required. – If a person's drivers license is revoked for a conviction
2 of G.S. 20-138.1, and the person had an alcohol concentration of 0.15 or more, a judge shall
3 include all of the following in a limited driving privilege order:

- 4 (1) A restriction that the applicant may operate only a designated motor vehicle.
5 (2) A requirement that the designated motor vehicle be equipped with a
6 functioning ignition interlock system of a type approved by the
7 Commissioner, which is set to prohibit driving with an alcohol concentration
8 of greater than ~~0.00-0.02~~. The Commissioner shall not unreasonably withhold
9 approval of an ignition interlock system and shall consult with the Division of
10 Purchase and Contract in the Department of Administration to ensure that
11 potential vendors are not discriminated against.
12 (3) A requirement that the applicant personally activate the ignition interlock
13 system before driving the motor vehicle.

14 If the limited driving privilege order includes the restrictions set forth in this subsection, then
15 the limitations set forth in subsections (a), (f), (g), (g1), and (g2) of this section do not apply
16 when the person is operating the designated motor vehicle with a functioning ignition interlock
17 system. For purposes of this subsection, the results of a chemical analysis presented at trial or
18 sentencing shall be sufficient to prove a person's alcohol concentration, shall be conclusive, and
19 shall not be subject to modification by any party, with or without approval by the court.

20 ...

21 (l) Any judge granting limited driving privileges under this section shall, prior to
22 granting such privileges, be furnished proof and be satisfied that the person being granted such
23 privileges is financially responsible. Proof of financial responsibility shall be in one of the
24 following forms:

- 25 (1) A written certificate or electronically-transmitted facsimile thereof from any
26 insurance carrier duly authorized to do business in this State certifying that
27 there is in effect a nonfleet private passenger motor vehicle liability policy for
28 the benefit of the person required to furnish proof of financial responsibility.
29 The certificate or facsimile shall state the effective date and expiration date of
30 the nonfleet private passenger motor vehicle liability policy and shall state the
31 date that the certificate or facsimile is issued. The certificate or facsimile shall
32 remain effective proof of financial responsibility for a period of 30
33 consecutive days following the date the certificate or facsimile is issued but
34 shall not in and of itself constitute a binder or policy of ~~insurance or~~ insurance.
35 (2) A binder for or policy of nonfleet private passenger motor vehicle liability
36 insurance under which the applicant is insured, provided that the binder or
37 policy states the effective date and expiration date of the nonfleet private
38 passenger motor vehicle liability policy.

39 The preceding provisions of this subsection do not apply to applicants who do not own
40 currently registered motor vehicles and who do not operate nonfleet private passenger motor
41 vehicles that are owned by other persons and that are not insured under commercial motor vehicle
42 liability insurance policies. In such cases, the applicant shall sign a written certificate to that
43 effect. Such certificate shall be furnished by the Division. Any material misrepresentation made
44 by such person on such certificate shall be grounds for suspension of that person's license for a
45 period of 90 days.

46 For the purpose of this subsection "nonfleet private passenger motor vehicle" has the
47 definition ascribed to it in Article 40 of General Statute Chapter 58.

48 The Commissioner may require that certificates required by this subsection be on a form
49 approved by the Commissioner. Such granting of limited driving privileges shall be conditioned
50 upon the maintenance of such financial responsibility during the period of the limited driving

1 privilege. Nothing in this subsection precludes any person from showing proof of financial
2 responsibility in any other manner authorized by Articles 9A and 13 of this Chapter."

3 **SECTION 1.(c)** G.S. 20-17.8 reads as rewritten:

4 "**§ 20-17.8. Restoration of a license after certain driving while impaired convictions;
5 ignition interlock.**

6 (a) Scope. – This section applies to a person whose license was revoked as a result of a
7 conviction of driving while impaired, G.S. 20-138.1, ~~and~~and any of the following conditions is
8 met:

- 9 (1) The person had an alcohol concentration of 0.15 or ~~more~~more.
10 (2) The person has been convicted of another offense involving impaired driving,
11 which offense occurred within seven years immediately preceding the date of
12 the offense for which the person's license has been ~~revoked~~or revoked.
13 (3) The person was sentenced pursuant to G.S. 20-179(f3).

14 For purposes of subdivision (1) of this subsection, the results of a chemical analysis, as shown
15 by an affidavit or affidavits executed pursuant to G.S. 20-16.2(c1), shall be used by the Division
16 to determine that person's alcohol concentration.

17 ...

18 (b) Ignition Interlock Required. – Except as provided in subsection (l) of this section,
19 when the Division restores the license of a person who is subject to this section, in addition to
20 any other restriction or condition, it shall require the person to agree to and shall indicate on the
21 person's drivers license the following restrictions for the period designated in subsection (c):

- 22 (1) A restriction that the person may operate only a vehicle that is equipped with
23 a functioning ignition interlock system of a type approved by the
24 Commissioner. The Commissioner shall not unreasonably withhold approval
25 of an ignition interlock system and shall consult with the Division of Purchase
26 and Contract in the Department of Administration to ensure that potential
27 vendors are not discriminated against.
28 (2) A requirement that the person personally activate the ignition interlock system
29 before driving the motor vehicle.
30 (3) ~~An alcohol concentration restriction as follows:~~A requirement that the person
31 not drive with an alcohol concentration of 0.02 or greater.

- 32 a. ~~If the ignition interlock system is required pursuant only to subdivision~~
33 ~~(a)(1) of this section, a requirement that the person not drive with an~~
34 ~~alcohol concentration of 0.04 or greater;~~
35 b. ~~If the ignition interlock system is required pursuant to subdivision~~
36 ~~(a)(2) or (a)(3) of this section, or subsection (a1) of this section, a~~
37 ~~requirement that the person not drive with an alcohol concentration of~~
38 ~~greater than 0.00; or~~
39 e. ~~If the ignition interlock system is required pursuant to subdivision~~
40 ~~(a)(1) of this section, and the person has also been convicted, based on~~
41 ~~the same set of circumstances, of: (i) driving while impaired in a~~
42 ~~commercial vehicle, G.S. 20-138.2, (ii) driving while less than 21~~
43 ~~years old after consuming alcohol or drugs, G.S. 20-138.3, (iii) a~~
44 ~~violation of G.S. 20-141.4, or (iv) manslaughter or negligent homicide~~
45 ~~resulting from the operation of a motor vehicle when the offense~~
46 ~~involved impaired driving, a requirement that the person not drive with~~
47 ~~an alcohol concentration of greater than 0.00.~~

48 (c) Length of Requirement. – The requirements of subsection (b) shall remain in effect
49 ~~for~~for one of the following:

- 50 (1) One year from the date of restoration if the original revocation period was one
51 ~~year~~year.

- 1 (2) Three years from the date of restoration if the original revocation period was
2 four ~~years; or~~ years.
- 3 (3) Seven years from the date of restoration if the original revocation was a
4 permanent revocation.

5 (c1) Vehicles Subject to Requirement. – A person subject to this section shall ~~have all~~
6 designate in accordance with the policies of the Division any registered vehicles owned by that
7 person that the person operates or intends to operate and have the designated vehicles equipped
8 with a functioning ignition interlock system of a type approved by the Commissioner. The
9 Commissioner shall not issue a license to a person subject to this section until presented with
10 proof of the installation of an ignition interlock system in ~~all registered vehicles owned by the~~
11 ~~person. In order to avoid an undue financial hardship, a person subject to this section may seek a~~
12 ~~waiver from the Division for any vehicle registered to that person that is relied upon by another~~
13 ~~member of that person's family for transportation and that the vehicle is not in the possession of~~
14 ~~the person subject to this section. The Division shall determine such waiver on a case by case~~
15 ~~basis following an assessment of financial hardship to the person subject to this restriction. at~~
16 least one of the person's designated vehicles. The Commissioner shall cancel the drivers license
17 of any person subject to this section for ~~registration of a motor vehicle owned by the person~~
18 without an installed ignition interlock system operating a vehicle that has not been designated
19 and equipped with a functioning ignition interlock system in accordance with this subsection, or
20 removal of the ignition interlock system from ~~a any designated~~ motor vehicle owned by the
21 person, other than when changing ignition interlock providers or upon sale of the designated
22 vehicle.

23 ...

24 (j) Right to Hearing Before Division; Issues. – If the person's license is revoked pursuant
25 to subsection (g) of this section, before the effective date of the order issued under subsection (i)
26 of this section, the person may request in writing a hearing before the Division. Except for the
27 time referred to in G.S. 20-16.5, if the person shows to the satisfaction of the Division that the
28 person's license was surrendered to the court and remained in the court's possession, then the
29 Division shall credit the amount of time for which the license was in the possession of the court
30 against the revocation period required by subsection (g) of this section. If the person properly
31 requests a hearing, the person retains the person's license, unless it is revoked under some other
32 provision of law, until the hearing is held, the person withdraws the request, or the person fails
33 to appear at a scheduled hearing. The hearing officer may subpoena any witnesses or documents
34 that the hearing officer deems necessary. The person may request the hearing officer to subpoena
35 the charging officer, the chemical analyst, or both to appear at the hearing if the person makes
36 the request in writing at least three days before the hearing. The person may subpoena any other
37 witness whom the person deems necessary, and the provisions of G.S. 1A-1, Rule 45, apply to
38 the issuance and service of all subpoenas issued under the authority of this section. The hearing
39 officer is authorized to administer oaths to witnesses appearing at the hearing. The hearing must
40 be conducted in the county where the charge was brought, except when the evidence of the
41 violation is an alcohol concentration report from an ignition interlock system, the hearing may
42 be conducted in the county where the person resides. The hearing must be limited to consideration
43 of ~~whether; whether both of the following conditions were met:~~

- 44 (1) The drivers license of the person had an ignition interlock ~~requirement;~~
45 ~~and requirement.~~
- 46 (2) ~~The person;~~ Any of the following conditions occurred:
- 47 a. ~~Was The person was~~ driving a vehicle that was not equipped with a
48 functioning ignition interlock ~~system; or~~ system.
- 49 b. ~~Did The person did~~ not personally activate the ignition interlock
50 system before driving the ~~vehicle; or~~ vehicle.

- c. ~~Drove the~~ The person was driving a vehicle in violation of an applicable alcohol concentration restriction prescribed by subdivision (b)(3) of this section.
- d. The person was driving a vehicle that was not designated in accordance with subsection (c1) of this section.

If the Division finds that the conditions specified in this subsection are met, it must order the revocation sustained. If the Division finds that the condition of subdivision (1) is not met, or that none of the conditions of subdivision (2) are met, it must rescind the revocation. If the revocation is sustained, the person must surrender the person's license immediately upon notification by the Division. If the revocation is sustained, the person may appeal the decision of the Division pursuant to G.S. 20-25.

...."

SECTION 1.(d) G.S. 20-19 reads as rewritten:

"§ 20-19. Period of suspension or revocation; conditions of restoration.

...

(c3) Restriction; Revocations. – When the Division restores a person's drivers license which was revoked pursuant to G.S. 20-13.2(a), G.S. 20-23 when the offense involved impaired driving, G.S. 20-23.2, subdivision (2) of G.S. 20-17(a), subdivision (1) or (9) of G.S. 20-17(a) when the offense involved impaired driving, G.S. 20-138.5(d), or this subsection, in addition to any other restriction or condition, it shall place the applicable restriction on the person's drivers license as follows:

- (1) For the first restoration of a drivers license for a person convicted of driving while impaired, G.S. 20-138.1, or a drivers license revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which the person's license was revoked prohibits substantially similar conduct which if committed in this State would result in a conviction of driving while impaired under G.S. 20-138.1, that the person not operate a vehicle with an alcohol concentration of 0.04 or more at any relevant time after the ~~driving;~~driving.
- (2) For the second or subsequent restoration of a drivers license for a person convicted of driving while impaired, G.S. 20-138.1, or a drivers license revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which the person's license was revoked prohibits substantially similar conduct which if committed in this State would result in a conviction of driving while impaired under G.S. 20-138.1, that the person not operate a vehicle with an alcohol concentration greater than 0.00 at any relevant time after the ~~driving;~~driving.
- (3) For any restoration of a drivers license for a person convicted of driving while impaired in a commercial motor vehicle, G.S. 20-138.2, habitual impaired driving, G.S. 20-138.5, ~~driving while less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3,~~ felony death by vehicle, G.S. 20-141.4(a1), manslaughter or negligent homicide resulting from the operation of a motor vehicle when the offense involved impaired driving, or a revocation under this subsection, that the person not operate a vehicle with an alcohol concentration of greater than ~~0.00~~0.02 at any relevant time after the ~~driving;~~driving.
- (3a) For any restoration of a drivers license (i) for a person convicted of driving while less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3, or (ii) revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which the person's license was revoked prohibits substantially similar conduct which if committed in this State would result in a conviction of driving while less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3, that

1 the person not operate a vehicle with an alcohol concentration of greater than
2 0.00 at any relevant time after the driving.

3 (4) For any restoration of a drivers license revoked pursuant to G.S. 20-23 or
4 G.S. 20-23.2 when the offense for which the person's license was revoked
5 prohibits substantially similar conduct which if committed in this State would
6 result in a conviction of driving while impaired in a commercial motor vehicle,
7 G.S. 20-138.2, driving while less than 21 years old after consuming alcohol
8 or drugs, G.S. 20-138.3, a violation of G.S. 20-141.4, or manslaughter or
9 negligent homicide resulting from the operation of a motor vehicle when the
10 offense involved impaired driving, that the person not operate a vehicle with
11 an alcohol concentration of greater than 0.00 at any relevant time after the
12 driving.

13 (5) For any restoration of a drivers license pursuant to G.S. 20-17.8 requiring an
14 ignition interlock system, that the person not operate a vehicle with an alcohol
15 concentration of 0.02 or more at any relevant time after the driving during the
16 period that the ignition interlock is required.

17 In addition, the person seeking restoration of a license must agree to submit to a chemical
18 analysis in accordance with G.S. 20-16.2 at the request of a law enforcement officer who has
19 reasonable grounds to believe the person is operating a motor vehicle on a highway or public
20 vehicular area ~~in violation of the restriction specified in this subsection, while consuming alcohol~~
21 ~~or at any time while the person has remaining in the person's body any alcohol or controlled~~
22 ~~substance previously consumed.~~ The person must also agree that, when requested by a law
23 enforcement officer, the person will agree to be transported by the law enforcement officer to the
24 place where chemical analysis is to be administered.

25 The restrictions placed on a license under this subsection shall be in effect (i) seven years
26 from the date of restoration if the person's license was permanently revoked, (ii) until the person's
27 twenty-first birthday if the revocation was for a conviction under G.S. 20-138.3, and (iii) three
28 years in all other cases.

29 A law enforcement officer who has reasonable grounds to believe that a person has violated
30 a restriction placed on the person's drivers license shall complete an affidavit pursuant to
31 G.S. 20-16.2(c1). On the basis of information reported pursuant to G.S. 20-16.2, the Division
32 shall revoke the drivers license of any person who violates a condition of reinstatement imposed
33 under this subsection. An alcohol concentration report from an ignition interlock system shall not
34 be used as the basis for revocation under this subsection. A violation of a restriction imposed
35 under this subsection or the willful refusal to submit to a chemical analysis shall result in a
36 one-year revocation. If the period of revocation was imposed pursuant to subsection (d) or (e),
37 or G.S. 20-138.5(d), any remaining period of the original revocation, prior to its reduction, shall
38 be reinstated and the one-year revocation begins after all other periods of revocation have
39 terminated.

40 ...

41 (c5) Right to Hearing Before Division; Issues. – Upon receipt of a properly executed
42 affidavit required by G.S. 20-16.2(c1), the Division must expeditiously notify the person charged
43 that the person's license to drive is revoked for the period of time specified in this section,
44 effective on the thirtieth calendar day after the mailing of the revocation order unless, before the
45 effective date of the order, the person requests in writing a hearing before the Division. Except
46 for the time referred to in G.S. 20-16.5, if the person shows to the satisfaction of the Division
47 that the person's license was surrendered to the court and remained in the court's possession, then
48 the Division shall credit the amount of time for which the license was in the possession of the
49 court against the revocation period required by this section. If the person properly requests a
50 hearing, the person retains the person's license, unless it is revoked under some other provision
51 of law, until the hearing is held, the person withdraws the request, or the person fails to appear

1 at a scheduled hearing. The hearing officer may subpoena any witnesses or documents that the
2 hearing officer deems necessary. The person may request the hearing officer to subpoena the
3 charging officer, the chemical analyst, or both to appear at the hearing if the person makes the
4 request in writing at least three days before the hearing. The person may subpoena any other
5 witness whom the person deems necessary, and the provisions of G.S. 1A-1, Rule 45, apply to
6 the issuance and service of all subpoenas issued under the authority of this section. The hearing
7 officer is authorized to administer oaths to witnesses appearing at the hearing. The hearing must
8 be conducted in the county where the charge was brought, and must be limited to consideration
9 of ~~whether~~whether all of the following conditions exist:

- 10 (1) The charging officer had reasonable grounds to believe that the person had
11 violated the alcohol concentration ~~restriction~~restriction.
- 12 (2) The person was notified of the person's rights as required by
13 ~~G.S. 20-16.2(a)~~G.S. 20-16.2(a).
- 14 (3) The drivers license of the person had an alcohol concentration ~~restriction~~and restriction.
- 15 (4) The person submitted to a chemical analysis upon the request of the charging
16 officer, and the analysis revealed an alcohol concentration in excess of the
17 restriction on the person's drivers license.
18

19 If the Division finds that the conditions specified in this subsection are met, it must order the
20 revocation sustained. If the Division finds that any of the conditions (1), (2), (3), or (4) is not
21 met, it must rescind the revocation. If the revocation is sustained, the person must surrender the
22 person's license immediately upon notification by the Division.

23 ...

24 (d) When a person's license is revoked under (i) G.S. 20-17(a)(2) and the person has
25 another offense involving impaired driving for which ~~he the person~~ has been convicted, which
26 offense occurred within three years immediately preceding the date of the offense for which ~~his~~
27 the person's license is being revoked, or (ii) G.S. 20-17(a)(9) due to a violation of
28 G.S. 20-141.4(a3), the period of revocation is four years, and this period may be reduced only as
29 provided in this section. The Division may conditionally restore the person's license after it has
30 been revoked for at least two years under this subsection if ~~he the person~~ provides the Division
31 with satisfactory proof ~~that~~that both of the following requirements are met:

- 32 (1) ~~He~~The person has not in the period of revocation been convicted in North
33 Carolina or any other state or federal jurisdiction of a motor vehicle offense,
34 an alcoholic beverage control law offense, a drug law offense, or any other
35 criminal offense involving the possession or consumption of alcohol or ~~drugs~~
36 and drugs.
- 37 (2) ~~He~~The person is not currently an excessive user of alcohol, drugs, or
38 prescription drugs, or unlawfully using any controlled substance. The person
39 may voluntarily submit themselves to continuous alcohol monitoring for the
40 purpose of proving abstinence from alcohol consumption during a period of
41 revocation immediately prior to the restoration consideration. All of the
42 following requirements apply when providing proof that the requirement set
43 forth in this subdivision has been met:
 - 44 a. Monitoring periods of 120 days or longer shall be accepted by the
45 Division as evidence of abstinence if the Division receives sufficient
46 documentation that reflects that the person abstained from alcohol use
47 during the monitoring period.
 - 48 b. The continuous alcohol monitoring system shall be a system approved
49 under G.S. 15A-1343.3.
 - 50 c. The Division may establish guidelines for the acceptance of evidence
51 of abstinence under this subdivision.

1 If the Division restores the person's license, it may place reasonable conditions or restrictions on
2 the person for the duration of the original revocation period.

3 ...

4 (e1) Notwithstanding subsection (e) of this section, the Division may conditionally restore
5 the license of a person to whom subsection (e) applies after it has been revoked for at least three
6 years under subsection (e) if the person provides the Division with satisfactory proof of all of the
7 following:

- 8 (1) In the three years immediately preceding the person's application for a restored
9 license, the person has not been convicted in North Carolina or in any other
10 state or federal court of a motor vehicle offense, an alcohol beverage control
11 law offense, a drug law offense, or any criminal offense involving the
12 consumption of alcohol or drugs.
- 13 (2) The person is not currently an excessive user of alcohol, drugs, or prescription
14 drugs, or unlawfully using any controlled substance. The person may
15 voluntarily submit themselves to continuous alcohol monitoring for the
16 purpose of proving abstinence from alcohol consumption during a period of
17 revocation immediately prior to the restoration consideration. All of the
18 following requirements apply when providing proof that the requirement set
19 forth in this subdivision has been met:
 - 20 a. Monitoring periods of 120 days or longer shall be accepted by the
21 Division as evidence of abstinence if the Division receives sufficient
22 documentation that reflects that the person abstained from alcohol use
23 during the monitoring period.
 - 24 b. The continuous alcohol monitoring system shall be a system approved
25 under G.S. 15A-1343.3.
 - 26 c. The Division may establish guidelines for the acceptance of evidence
27 of abstinence under this subdivision.

28 ...

29 (i) When a person's license is revoked under G.S. 20-17(a)(1) or G.S. 20-17(a)(9), and
30 the offense is one involving impaired driving and a fatality, the revocation is permanent. The
31 Division may, however, conditionally restore the person's license after it has been revoked for at
32 least five years under this subsection if ~~he~~ the person provides the Division with satisfactory
33 proof ~~that~~ that both of the following requirements are met:

- 34 (1) In the five years immediately preceding the person's application for a restored
35 license, ~~he~~ the person has not been convicted in North Carolina or in any other
36 state or federal court of a motor vehicle offense, an alcohol beverage control
37 law offense, a drug law offense, or any criminal offense involving the
38 consumption of alcohol or ~~drugs; and~~ drugs.
- 39 (2) ~~He~~ The person is not currently an excessive user of alcohol or drugs.

40 If the Division restores the person's license, it may place reasonable conditions or restrictions on
41 the person for any period up to seven years from the date of restoration.

42 ...

43 (k) Before the Division restores a driver's license that has been suspended or revoked
44 under G.S. 20-138.5(d), or under any provision of this Article, other than G.S. 20-24.1, the
45 person seeking to have ~~his~~ the person's driver's license restored shall submit to the Division proof
46 that ~~he~~ the person has notified ~~his~~ the person's insurance agent or company ~~of his~~ that the person
47 is seeking the restoration and that ~~he~~ the person is financially responsible. Proof of financial
48 responsibility shall be in one of the following forms:

- 49 (1) A written certificate or electronically-transmitted facsimile thereof from any
50 insurance carrier duly authorized to do business in this State certifying that
51 there is in effect a nonfleet private passenger motor vehicle liability policy for

1 the benefit of the person required to furnish proof of financial responsibility.
2 The certificate or facsimile shall state the effective date and expiration date of
3 the nonfleet private passenger motor vehicle liability policy and shall state the
4 date that the certificate or facsimile is issued. The certificate or facsimile shall
5 remain effective proof of financial responsibility for a period of 30
6 consecutive days following the date the certificate or facsimile is issued but
7 shall not in and of itself constitute a binder or policy of ~~insurance or~~ insurance.

- 8 (2) A binder for or policy of nonfleet private passenger motor vehicle liability
9 insurance under which the applicant is insured, provided that the binder or
10 policy states the effective date and expiration date of the nonfleet private
11 passenger motor vehicle liability policy.

12 ~~The preceding provisions~~ Subdivisions (1) and (2) of this subsection do not apply to
13 applicants who do not own currently registered motor vehicles and who do not operate nonfleet
14 private passenger motor vehicles that are owned by other persons and that are not insured under
15 commercial motor vehicle liability insurance policies. In such cases, the applicant shall sign a
16 written certificate to that effect. Such certificate shall be furnished by the Division and may be
17 incorporated into the restoration application form. Any material misrepresentation made by such
18 person on such certificate shall be grounds for suspension of that person's license for a period of
19 90 days.

20 For the purposes of this subsection, the term "nonfleet private passenger motor vehicle" has
21 the definition ascribed to it in Article 40 of General Statute Chapter 58.

22 The Commissioner may require that certificates required by this subsection be on a form
23 approved by the Commissioner. The financial responsibility required by this subsection shall be
24 kept in effect for not less than three years after the date that the license is restored. Failure to
25 maintain financial responsibility as required by this subsection shall be grounds for suspending
26 the restored driver's license for a period of ~~thirty (30)~~ 30 days. Nothing in this subsection
27 precludes any person from showing proof of financial responsibility in any other manner
28 authorized by Articles 9A and 13 of this Chapter."

29 **SECTION 1.(e)** Article 3 of Chapter 20 of the General Statutes is amended by adding
30 a new section to read:

31 **"§ 20-179.5. Affordability of ignition interlock system.**

32 (a) Payment of Costs. – The costs incurred in order to comply with the ignition interlock
33 requirements imposed by the court or the Division pursuant to this Chapter, including costs for
34 installation and monitoring of the ignition interlock system, shall be paid by the person ordered
35 to install the system. Costs for installation and monitoring of the ignition interlock system shall
36 be collected under terms agreed upon by the ignition interlock system vendor and the person
37 required to install the ignition interlock system.

38 (b) Waiver. – A person who is ordered by a court, or required by statute, to install an
39 ignition interlock system in order to lawfully operate a motor vehicle, but who is unable to afford
40 the cost of an ignition interlock system, may apply to an authorized vendor for a waiver of a
41 portion of the costs of an ignition interlock system.

42 (c) Affidavit. – A person who applies for a waiver of a portion of the costs of an ignition
43 interlock system under subsection (b) of this section shall provide to the vendor on a form
44 affidavit created by the Division a statement (i) that the person's income is at or below one
45 hundred fifty percent (150%) of the federal poverty line or (ii) that the person is enrolled in any
46 of the following public assistance programs:

- 47 (1) Temporary Assistance for Needy Families (TANF).
48 (2) Supplemental Security Income (SSI).
49 (3) Supplemental Nutrition Assistance Program (SNAP).
50 (4) Low Income Home Energy Assistance Program (LIHEAP).
51 (5) Medicaid.

1 (d) Supporting Documentation. – A person who submits an affidavit under subsection (c)
2 of this section shall provide to the vendor documentation confirming the statement set out in the
3 affidavit. A person may establish the person's income for purposes of this subsection by providing
4 any of the following:

5 (1) A copy of the person's federal tax return for the previous year.

6 (2) A copy of the person's IRS Form W-2 for the previous year.

7 (3) A copy of the person's pay stubs or monthly income statements for the three
8 months immediately preceding the date of application under subsection (b) of
9 this section.

10 (4) A verification of unemployment benefits paid to the person for the three
11 months immediately preceding the date of application under subsection (b) of
12 this section.

13 (e) Reduction of Costs. – A vendor who receives a waiver under subsection (b) of this
14 section that complies with the requirements of subsections (c) and (d) of this section shall install
15 the ignition interlock system in accordance with both of the following terms:

16 (1) The applicant shall not be required to pay for installation or removal of the
17 ignition interlock system or systems.

18 (2) The applicant shall receive a fifty percent (50%) discount on the monthly
19 service rate charged to persons who are not granted a waiver under this
20 section.

21 (f) Review of Denial. – An applicant denied a waiver of ignition interlock system costs
22 under this section may seek review by the Division of the vendor's determination. The Division
23 shall adopt rules to govern its review under this subsection."

24 **SECTION 1.(f)** The Division of Motor Vehicles shall adopt temporary rules to
25 implement the provisions of G.S. 20-179.5, as enacted by subsection (e) of this section.
26 Temporary rules adopted in accordance with this subsection shall remain in effect until
27 permanent rules that replace the temporary rules become effective.

28 **SECTION 1.(g)** By June 1, 2022, the Division of Motor Vehicles shall develop the
29 form required under G.S. 20-179.5(c), as enacted by subsection (e) of this section, and make it
30 available on the Division's website.

31 **SECTION 1.(h)** The Joint Legislative Oversight Committee on Justice and Public
32 Safety (Committee) shall study whether the use of an ignition interlock system as a condition of
33 a limited driving privilege should be expanded to include additional convictions and whether
34 ignition interlock requirements should apply to limited driving privileges granted pretrial and
35 granted to permit driving during the period of a revocation for refusal to submit to chemical
36 testing. The Committee shall also study whether the Division of Motor Vehicles, rather than the
37 courts, should be authorized to grant limited driving privileges and to supervise the use of ignition
38 interlocks pursuant to that authority. The Committee shall report its findings, including any
39 proposed legislation, prior to the convening of the 2022 Regular Session of the 2021 General
40 Assembly.

41 **SECTION 1.(i)** Prosecutions for offenses committed before the effective dates of
42 the subsections of this section are not abated or affected by this section, and the statutes that
43 would be applicable but for this section remain applicable to those prosecutions.

44 **SECTION 1.(j)** Subsection (a) of this section becomes effective December 1, 2021,
45 and applies to limited driving privileges issued on or after that date. Subsections (b) through (f)
46 of this section become effective June 1, 2022, and apply to limited driving privileges issued and
47 drivers licenses restored on or after that date.

49 **PART II. TECHNICAL AND CONFORMING CHANGES RELATED TO S.L. 2021-138**

50 **SECTION 2.(a)** G.S. 14-208.40(a), as amended by Section 18(c) of S.L. 2021-138,
51 reads as rewritten:

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

5 (1) Any offender who is convicted of a reportable conviction as defined by
6 G.S. 14-208.6(4) and who is required to register under Part 3 of Article 27A
7 of Chapter 14 of the General Statutes because the defendant is classified as a
8 sexually violent predator, is a reoffender, or was convicted of an aggravated
9 offense as those terms are defined in G.S. 14-208.6 and ~~based on the Division
10 of Adult Correction and Juvenile Justice's risk assessment program~~ requires
11 the highest possible level of supervision and ~~monitoring~~monitoring, as
12 determined by a court.

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

20 (3) Any offender who is convicted of G.S. 14-27.23 or G.S. 14-27.28 and ~~based
21 on the Division of Adult Correction and Juvenile Justice's risk assessment
22 program~~ requires the highest possible level of supervision and
23 ~~monitoring~~monitoring, as determined by a court."

24 **SECTION 2.(b)** G.S. 14-208.40A, as amended by Section 18(d) of S.L. 2021-138,
25 reads as rewritten:

26 "**§ 14-208.40A. Determination of satellite-based monitoring requirement by court.**

27 ...

28 (c) If the court finds that the offender has been classified as a sexually violent predator,
29 is a reoffender, has committed an aggravated offense, or was convicted of G.S. 14-27.23 or
30 G.S. 14-27.28, the court shall order that the Division of Adult Correction and Juvenile Justice do
31 a risk assessment of the offender. The Division of Adult Correction and Juvenile Justice shall
32 have up to 60 days to complete the risk assessment of the offender and report the results to the
33 court. The Division of Adult Correction and Juvenile Justice may use a risk assessment of the
34 offender done within six months of the date of the hearing.

35 (c1) Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile
36 Justice pursuant to subsection (c) of this section, the court shall determine whether, based on the
37 Division of Adult Correction and Juvenile Justice's risk ~~assessment~~assessment and all relevant
38 evidence, the offender requires the highest possible level of supervision and monitoring. If the
39 court determines that the offender does require the highest possible level of supervision and
40 monitoring, the court shall order the offender to enroll in a satellite-based monitoring program
41 for a period of 10 years.

42 (d) If the court finds that the offender committed an offense that involved the physical,
43 mental, or sexual abuse of a minor, that the offense is not an aggravated offense or a violation of
44 G.S. 14-27.23 or G.S. 14-27.28 and the offender is not a reoffender, the court shall order that the
45 Division of Adult Correction do a risk assessment of the offender. The Division of Adult
46 Correction and Juvenile Justice shall have up to 60 days to complete the risk assessment of the
47 offender and report the results to the court. The Division of Adult Correction and Juvenile Justice
48 may use a risk assessment of the offender done within six months of the date of the hearing.

49 (e) Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile
50 Justice pursuant to subsection (d) of this section, the court shall determine whether, based on the
51 Division of Adult Correction and Juvenile Justice's risk ~~assessment~~assessment and all relevant

1 evidence, the offender requires the highest possible level of supervision and monitoring. If the
2 court determines that the offender does require the highest possible level of supervision and
3 monitoring, the court shall order the offender to enroll in a satellite-based monitoring program
4 for a period of time to be specified by the court, not to exceed 10 years."

5 **SECTION 2.(c)** G.S. 14-208.40B, as amended by Section 18(e) of S.L. 2021-138,
6 reads as rewritten:

7 "**§ 14-208.40B. Determination of satellite-based monitoring requirement in certain**
8 **circumstances.**

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

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

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

28 ~~If the court finds that (i) the offender has been classified as a sexually violent predator~~
29 ~~pursuant to G.S. 14-208.20, (ii) the offender is a reoffender, (iii) the conviction offense was an~~
30 ~~aggravated offense, or (iv) the conviction offense was a violation of G.S. 14-27.23 or~~
31 ~~G.S. 14-27.28, the court shall order that the Division of Adult Correction and Juvenile Justice do~~
32 ~~a risk assessment of the offender. The Division of Adult Correction and Juvenile Justice shall~~
33 ~~have up to 60 days to complete the risk assessment of the offender and report the results to the~~
34 ~~court.~~

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

41 ~~If the court finds that the offender committed an offense that involved the physical, mental,~~
42 ~~or sexual abuse of a minor, that the offense is not an aggravated offense or a violation of~~
43 ~~G.S. 14-27.23 or G.S. 14-27.28, and the offender is not a reoffender, the court shall order that the~~
44 ~~Division of Adult Correction and Juvenile Justice do a risk assessment of the offender. The~~
45 ~~Division of Adult Correction and Juvenile Justice shall have up to 60 days to complete the risk~~
46 ~~assessment of the offender and report the results to the court. The Division of Adult Correction~~
47 ~~and Juvenile Justice may use a risk assessment of the offender done within six months of the date~~
48 ~~of the hearing.~~

49 ~~Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile Justice,~~
50 ~~the court shall determine whether, based on the Division of Adult Correction and Juvenile~~
51 ~~Justice's risk assessment, the offender requires the highest possible level of supervision and~~

1 ~~monitoring. If the court determines that the offender does require the highest possible level of~~
2 ~~supervision and monitoring, the court shall order the offender to enroll in a satellite-based~~
3 ~~monitoring program for a period of time to be specified by the court, not to exceed 10 years."~~

4 **SECTION 2.(d)** G.S. 14-208.43, as amended by Section 18(h) of S.L. 2021-138,
5 reads as rewritten:

6 "**§ 14-208.43. Petition for termination or modification of the satellite-based monitoring**
7 **requirement.**

8 (a) An offender ~~described by G.S. 14-208.40(a)(1) or G.S. 14-208.40(a)(3)~~ who is
9 ~~required to submit to~~ ordered on or after December 1, 2021, to enroll in satellite-based monitoring
10 monitoring may file a petition for termination or modification of the monitoring requirement with
11 the superior court in the county where the conviction occurred five years after the date of initial
12 enrollment.

13 ...

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

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

17 (2) The petitioner no longer requires the highest possible level of supervision and
18 ~~monitoring for 10 years.~~ monitoring for the period initially ordered.

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

20 (1) The petitioner to remain enrolled in the satellite-based monitoring program
21 for a period ~~of time less than the period initially ordered,~~ to be specified by
22 the ~~court,~~ not to exceed a total of 10 years. ~~court.~~

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

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

31 **SECTION 2.(e)** G.S. 14-208.46, as enacted by Section 18(i) of S.L. 2021-138, reads
32 as rewritten:

33 "**§ 14-208.46. Petition for ~~postenrollment~~ post enrollment determination for ~~lifetime~~**
34 **satellite-based monitoring enrollees.**

35 (a) An offender who ~~is enrolled~~ was ordered prior to December 1, 2021, to enroll in a
36 satellite-based monitoring for life ~~monitoring for life~~ monitoring for a period longer than 10 years may file a petition
37 for termination or modification of the monitoring requirement with the superior court in the
38 county where the conviction ~~occurred five years after the date of initial enrollment.~~ occurred.

39 ...

40 (f) The court has no authority to terminate the satellite-based monitoring requirement for
41 an offender ~~ordered to satellite-based monitoring for life~~ filing a petition pursuant to this section
42 prior to 10 years of enrollment."

43 **SECTION 2.(f)** G.S. 15A-1343, as amended by Section 18(j) of S.L. 2021-138,
44 reads as rewritten:

45 "**§ 15A-1343. Conditions of probation.**

46 ...

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

50 ...

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

6 ...
7 (b2) Special Conditions of Probation for Sex Offenders and Persons Convicted of Offenses
8 Involving Physical, Mental, or Sexual Abuse of a Minor. – As special conditions of probation, a
9 defendant who has been convicted of an offense which is a reportable conviction as defined in
10 G.S. 14-208.6(4), or which involves the physical, mental, or sexual abuse of a minor, must:

11 ...
12 (7) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of
13 Chapter 14 of the General Statutes, if the defendant is described by
14 G.S. 14-208.40(a)(1), and ~~the Division of Adult Correction and Juvenile~~
15 ~~Justice of the Department of Public Safety~~, based on ~~the Division's risk~~
16 ~~assessment program~~, recommends that the defendant a court's determination,
17 is required to submit to the highest possible level of supervision and
18 monitoring.

19"

20 **SECTION 2.(g)** G.S. 15A-1343.2, as amended by Section 18(k) of S.L. 2021-138,
21 reads as rewritten:

22 "**§ 15A-1343.2. Special probation rules for persons sentenced under Article 81B.**

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

25 ...
26 (f) Delegation to Probation Officer in Intermediate Punishments. – Unless the presiding
27 judge specifically finds in the judgment of the court that delegation is not appropriate, the Section
28 of Community Corrections of the Division of Adult Correction and Juvenile Justice of the
29 Department of Public Safety may require an offender sentenced to intermediate punishment to
30 do any of the following:

31 ...
32 (5) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of
33 Chapter 14 of the General Statutes, if the defendant is described by
34 G.S. 14-208.40(a)(2), and based on ~~the Division of Adult Correction and~~
35 ~~Juvenile Justice's risk assessment program~~ a court's determination, requires
36 the highest possible level of supervision and monitoring.

37 ...
38 If the Section imposes any of the above requirements, then it may subsequently reduce or remove
39 those same requirements.

40 ...
41 (f1) Mandatory Condition of Satellite-Based Monitoring for Some Sex Offenders. –
42 Notwithstanding any other provision of this section, the court shall impose satellite-based
43 monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes as a condition
44 of probation on any offender who is described by G.S. 14-208.40(a)(1), and based on ~~the Division~~
45 ~~of Adult Correction and Juvenile Justice's risk assessment program~~ a court's determination,
46 requires the highest possible level of supervision and monitoring.

47"

48 **SECTION 2.(h)** G.S. 15A-1368.4(b1), as amended by Section 18(m) of S.L.
49 2021-138, reads as rewritten:

50 "(b1) Additional Required Conditions for Sex Offenders and Persons Convicted of
51 Offenses Involving Physical, Mental, or Sexual Abuse of a Minor. – In addition to the required

1 condition set forth in subsection (b) of this section, for a supervisee who has been convicted of
2 an offense which is a reportable conviction as defined in G.S. 14-208.6(4), or which involves the
3 physical, mental, or sexual abuse of a minor, controlling conditions, violations of which may
4 result in revocation of post-release supervision, are:

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

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

18"

19 **SECTION 2.(i)** G.S. 15A-1374(b1), as amended by Section 18(n) of S.L. 2021-138,
20 reads as rewritten:

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

28 **SECTION 2.(j)** Section 18(p) of S.L. 2021-138 reads as rewritten:

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

40 **SECTION 2.(k)** G.S. 14-27.23(b) reads as rewritten:

41 "(b) A person convicted of violating this section is guilty of a Class B1 felony and shall
42 be sentenced pursuant to Article 81B of Chapter 15A of the General Statutes, except that in no
43 case shall the person receive an active punishment of less than 300 months, and except as
44 provided in subsection (c) of this section. Following the termination of active punishment, the
45 person shall be ~~enrolled~~ subject to enrollment in satellite-based monitoring ~~for life pursuant to as~~
46 provided in Part 5 of Article 27A of Chapter 14 of the General Statutes."

47 **SECTION 2.(l)** G.S. 14-27.28(b) reads as rewritten:

48 "(b) A person convicted of violating this section is guilty of a Class B1 felony and shall
49 be sentenced pursuant to Article 81B of Chapter 15A of the General Statutes, except that in no
50 case shall the person receive an active punishment of less than 300 months, and except as
51 provided in subsection (c) of this section. Following the termination of active punishment, the

1 person shall be ~~enrolled~~ subject to enrollment in satellite-based monitoring ~~for life pursuant to as~~
2 provided in Part 5 of Article 27A of Chapter 14 of the General Statutes."

3 **SECTION 2.(m)** Subsection (d) of this section becomes effective December 1, 2021,
4 and applies to any individual ordered to enroll in satellite-based monitoring on or after that date.
5 Subsection (e) of this section becomes effective December 1, 2021, and applies to any individual
6 ordered to enroll in satellite-based monitoring prior to that date. The remainder of this section
7 becomes effective December 1, 2021, and applies to satellite-based monitoring determinations
8 on or after that date.

9 **SECTION 2.5.(a)** G.S. 15A-601, as amended by Section 14(a) of S.L. 2021-138,
10 reads as rewritten:

11 "**§ 15A-601. First appearance before a district court judge; consolidation of first**
12 **appearance before magistrate and before district court judge; first appearance**
13 **before clerk of superior court; use of two-way audio and video transmission.**

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

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

25 ...

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

29 (c) Unless the courthouse is closed for transactions for a period longer than 72 hours or
30 the defendant is released pursuant to Article 26 of this Chapter, Bail, first appearance before a
31 district court judge must be held within 72 hours after the defendant is taken into custody or at
32 the first regular session of the district court in the county, whichever occurs first. ~~If the courthouse~~
33 is closed for transactions for a period longer than 72 hours, the first appearance before a district
34 court judge must be held within 96 hours after the defendant is taken into custody or at the first
35 regular session of the district court in the county, whichever occurs first. If the defendant is not
36 taken into custody, or is released pursuant to Article 26 of this Chapter, Bail, ~~within 72 hours~~
37 after being taken into custody, prior to a first appearance, the first appearance must be held at the
38 next session of district court held in the county. This subsection does not apply to a defendant
39 whose first appearance before a district court judge has been set in a criminal summons pursuant
40 to G.S. 15A-303(d).

41 ...

42 (e) The clerk of the superior court in the county in which the defendant is taken into
43 custody may conduct a first appearance as provided in this Article if a district court judge is not
44 available in the county within 72 hours after the defendant is taken into ~~eustody~~. ~~A magistrate~~
45 ~~may conduct the first appearance if the clerk is not available.~~ custody, or 96 hours after the
46 defendant is taken into custody if the courthouse is closed for transactions for a period longer
47 than 72 hours. The ~~clerk or magistrate, clerk,~~ in conducting a first appearance, shall proceed
48 under this Article as would a district court judge."

49 **SECTION 2.5.(b)** G.S. 15A-534(d2) reads as rewritten:

50 "(d2) When conditions of pretrial release are being determined for a defendant who is
51 charged with a felony offense and the defendant is currently on probation for a prior offense, a

1 judicial official shall determine whether the defendant poses a danger to the public prior to
2 imposing conditions of pretrial release and must record that determination in writing. This
3 subsection shall apply to any judicial official authorized to determine or review the defendant's
4 eligibility for release under any proceeding authorized by this Chapter.

- 5 (1) If the judicial official determines that the defendant poses a danger to the
6 public, the judicial official must impose condition (4) or (5) in subsection (a)
7 of this section instead of condition (1), (2), or (3).
8 (2) If the judicial official finds that the defendant does not pose a danger to the
9 public, then conditions of pretrial release shall be imposed as otherwise
10 provided in this Article.
11 (3) If there is insufficient information to determine whether the defendant poses
12 a danger to the public, then the defendant shall be retained in custody until a
13 determination of pretrial release conditions is made pursuant to this
14 subdivision. The judicial official that orders that the defendant be retained in
15 custody shall set forth, in writing, the following at the time that the order is
16 entered:
17 a. The defendant is being held pursuant to this subdivision.
18 b. The basis for the judicial official's decision that additional information
19 is needed to determine whether the defendant poses a danger to the
20 public and the nature of the necessary information.
21 c. A date, within ~~96 hours~~ 72 hours or 96 hours if the courthouse is closed
22 for transactions for a period longer than 72 hours, of the time of arrest,
23 when the defendant shall be brought before a judge for a first
24 appearance pursuant to Article 29 of this Chapter. If the necessary
25 information is provided to the court at any time prior to the first
26 appearance, the first available judicial official shall set the conditions
27 of pretrial release. The judge who reviews the defendant's eligibility
28 for release at the first appearance shall determine the conditions of
29 pretrial release as provided in this Article."

30 **SECTION 2.5.(c)** This section becomes effective December 1, 2021, and applies to
31 criminal processes served on or after that date.
32

33 **PART III. CHANGE "SHERIFF'S DEPARTMENT" TO "SHERIFF'S OFFICE" IN** 34 **VARIOUS SECTIONS OF THE GENERAL STATUTES**

35 **SECTION 3.(a)** G.S. 7B-500(b) reads as rewritten:

36 "(b) The following individuals shall, without a court order, take into temporary custody
37 an infant under seven days of age that is voluntarily delivered to the individual by the infant's
38 parent who does not express an intent to return for the infant:

- 39 (1) A health care provider, as defined under G.S. 90-21.11, who is on duty or at a
40 hospital or at a local or district health department or at a nonprofit community
41 health center.
42 (2) A law enforcement officer who is on duty or at a police station or sheriff's
43 ~~department office.~~
44 (3) A social services worker who is on duty or at a local department of social
45 services.
46 (4) A certified emergency medical service worker who is on duty or at a fire or
47 emergency medical services station."

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

49 **"§ 17C-2. Definitions.**

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

51 ...

1 (2) Criminal justice agencies. – The State and local law-enforcement agencies,
 2 the State correctional agencies, other correctional agencies maintained by
 3 local governments, and the juvenile justice agencies, but shall not include
 4 deputy sheriffs, special deputy sheriffs, sheriffs' jailers, or other sheriffs'
 5 ~~department-office~~ personnel governed by the provisions of Chapter 17E of
 6 these General Statutes.

7 (3) Criminal justice officers. – The administrative and subordinate personnel of
 8 all the departments, offices, agencies, units or entities comprising the criminal
 9 justice agencies who are sworn law-enforcement officers, both State and local,
 10 with the power of arrest; State correctional officers; State probation/parole
 11 officers; State probation/parole officers-surveillance; officers, supervisory
 12 and administrative personnel of local confinement facilities; State juvenile
 13 justice officers; chief court counselors; and juvenile court counselors.

14"

15 **SECTION 3.(c)** G.S. 17E-4.1 reads as rewritten:

16 **"§ 17E-4.1. Advisory powers of the Commission.**

17 The Commission shall have the following powers, which shall be advisory in nature and for
 18 which the Commission is not authorized to undertake any enforcement actions:

19 (1) Certify, pursuant to the standards that it has established for the purpose, justice
 20 officers for those law-enforcement agencies that elect to comply with the
 21 minimum education, training, and experience standards established by the
 22 Commission for positions for which advanced or specialized training,
 23 education, and experience are ~~appropriate~~; appropriate.

24 (2) Consult and cooperate with counties, agencies of this State, other
 25 governmental agencies, and with universities, colleges, junior colleges, and
 26 other institutions, public or private, concerning the development of training
 27 schools and programs or courses of ~~instruction~~; instruction.

28 (3) Study and make reports and recommendations concerning justice education
 29 and training in North ~~Carolina~~; Carolina.

30 (4) Conduct and stimulate research by public and private agencies which shall be
 31 designed to improve education and training in the administration of
 32 ~~justice~~; justice.

33 (5) Study, obtain data, statistics, and information and make reports concerning the
 34 recruitment, selection, education and training of persons serving justice
 35 agencies in this State; to make recommendations for improvement in methods
 36 of recruitment, selection, education and training of persons serving sheriffs'
 37 ~~departments~~; offices.

38 (6) Study and make reports and recommendations to the Governor, Attorney
 39 General, Chief Justice, President of the Senate and Speaker of the House,
 40 concerning the manpower, salary and equipment needs of the sheriffs of the
 41 ~~State~~; State.

42 (7) Make recommendations concerning any matters within its purview pursuant
 43 to this ~~Chapter~~; Chapter.

44 (8) Appoint such advisory committees as it may deem ~~necessary~~; necessary.

45 (9) Do such things as may be necessary and incidental to the administration of its
 46 authority pursuant to this ~~Chapter~~; Chapter.

47 (10) Formulate basic plans for and promote the development and improvement of
 48 a comprehensive system of education and training for the officers and
 49 employees of agencies consistent with its rules and ~~regulations~~; regulations.

50 (11) Maintain liaison among municipal, State and federal agencies with respect to
 51 education and ~~training~~; training.

1 (12) Promote the planning and development of a systematic career development
2 program for sheriffs' ~~department-office~~ personnel."

3 **SECTION 3.(d)** G.S. 17E-7(b) reads as rewritten:

4 "(b) The Commission shall provide, by regulation, that no person may be appointed as a
5 justice officer at entry level, except on a temporary or probationary basis, unless such person has
6 satisfactorily completed an initial preparatory program of training at a school certified by the
7 Commission or has been exempted from that requirement by the Commission pursuant to this
8 Chapter. Upon separation of a justice officer from a sheriff's ~~department-office~~ within the
9 temporary or probationary period of appointment, the probationary certification shall be
10 terminated by the Commission. Upon the reappointment to the same ~~department-office~~ or
11 appointment to another ~~department-office~~ of an officer who has separated from a ~~department-an~~
12 ~~office~~ within the probationary period, the officer shall be charged with the amount of time served
13 during his initial appointment and allowed the remainder of the probationary period to complete
14 the basic training requirement. Upon the reappointment to the same ~~department-office~~ or
15 appointment to another ~~department-office~~ of an officer who has separated from a ~~department-an~~
16 ~~office~~ within the probationary period and who has remained out of service for more than one year
17 from the date of separation, the officer shall be allowed another probationary period to complete
18 such training as the Commission shall require by rule for an officer returning to service."

19 **SECTION 3.(e)** G.S. 18B-501(f) reads as rewritten:

20 "(f) Contracts with Other Agencies. – Instead of hiring local ABC officers, a local board
21 may contract to pay its enforcement funds to a sheriff's ~~department-office~~, city police department,
22 or other local law-enforcement agency for enforcement of the ABC laws within the
23 law-enforcement agency's territorial jurisdiction. Enforcement agreements may be made with
24 more than one agency at the same time. When such a contract for enforcement exists, the
25 designated officers of the contracting law-enforcement agency shall have the same authority to
26 inspect under G.S. 18B-502 that an ABC officer employed by that local board would have. An
27 agency contracted to provide ABC law enforcement shall designate no more than five officers to
28 conduct inspections pursuant to this section and G.S. 18B-502. If a city located in two or more
29 counties approves the sale of some type of alcoholic beverage pursuant to the provisions of
30 G.S. 18B-600(e4), and there are no local ABC boards established in the city and one of the
31 counties in which the city is located, the local ABC board of any county in which the city is
32 located may enter into an enforcement agreement with the city's police department for
33 enforcement of the ABC laws within the entire city, including that portion of the city located in
34 the county of the ABC board entering into the enforcement agreement."

35 **SECTION 3.(f)** G.S. 58-32-1 reads as rewritten:

36 **"§ 58-32-1. Commission created; membership.**

37 There is hereby created within the Department a Public Officers and Employees Liability
38 Insurance Commission. The Commission shall consist of 11 members who shall be appointed as
39 follows: the Commissioner shall appoint six members as follows: two members who are members
40 of the insurance industry who may be chosen from a list of six nominees submitted to the
41 Commissioner by the Independent Insurance Agents of North Carolina, Inc.; one member who
42 is employed by a police department who may be chosen from a list of three nominees submitted
43 to the Commissioner jointly by the North Carolina Police Chiefs Association and North Carolina
44 Police Executives Association, and one member who is employed by a sheriff's ~~department-office~~
45 who may be chosen from a list of three nominees submitted to the Commissioner by the North
46 Carolina Sheriff's Association; one member representing city government who may be chosen
47 from a list of three nominees submitted to the Commissioner by the North Carolina League of
48 Municipalities; and one member representing county government who may be chosen from a list
49 of three nominees submitted to the Commissioner by the North Carolina Association of County
50 Commissioners; and the General Assembly shall appoint two persons, one upon the
51 recommendation of the Speaker of the House of Representatives, and one upon the

1 recommendation of the President Pro Tempore of the Senate. The Commissioner or the
2 Commissioner's designate shall be an ex officio member. Appointments by the General Assembly
3 shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be
4 filled in accordance with G.S. 120-122. The terms of the initial appointees by the General
5 Assembly shall expire on June 30, 1983. The Secretary of the Department of Public Safety or the
6 Secretary's designate shall be an ex officio member. The Attorney General or the Attorney
7 General's designate shall be an ex officio member. One insurance industry member appointed by
8 the Commissioner shall be appointed to a term of two years and one insurance industry member
9 shall be appointed to a term of four years. The police department member shall be appointed to
10 a term of two years and the sheriff's ~~department-office~~ member shall be appointed to a term of
11 four years. The representative of county government shall be appointed to a term of two years
12 and the representative of city government to a term of four years. Beginning July 1, 1983, the
13 appointment made by the General Assembly upon the recommendation of the Speaker shall be
14 for two years, and the appointment made by the General Assembly upon the recommendation of
15 the President Pro Tempore of the Senate shall be for four years. Except as provided in this section,
16 if any vacancy occurs in the membership of the Commission, the appointing authority shall
17 appoint another person to fill the unexpired term of the vacating member. After the initial terms
18 established herein have expired, all appointees to the Commission shall be appointed to terms of
19 four years.

20 The Commission members shall elect the chair and vice-chair of the Commission. The
21 Commission may, by majority vote, remove any member of the Commission for chronic
22 absenteeism, misfeasance, malfeasance or other good cause."

23 **SECTION 3.(g)** G.S. 68-20 reads as rewritten:

24 "**§ 68-20. Notice of sale and sale where owner fails to redeem or is unknown; application of**
25 **proceeds.**

26 If the owner fails to redeem his livestock within three days after the notice and demand as
27 provided in G.S. 68-18 is received or within three days after the determination of the costs and
28 damages as provided in G.S. 68-19, the impounder shall notify the local Sheriff's office and the
29 Sheriff shall post a notice fully describing the livestock and stating the place, date, and hour of
30 sale on the Web site of the Sheriff's ~~department-office~~. After 10 days from such posting, the
31 impounder shall sell the livestock at public auction. If the owner of the livestock remains
32 unknown to the impounder, then, three days after publication of the notice required by
33 G.S. 68-18.1, the impounder shall notify the local Sheriff's office and the Sheriff shall post a
34 notice fully describing the livestock and stating the place, date, and hour of sale on the Web site
35 of the Sheriff's ~~department-office~~. After 10 days from such posting, the impounder shall sell the
36 livestock at public auction. The proceeds of any such public sale shall be applied to pay the
37 reasonable costs of impounding and maintaining the livestock and the damages to the impounder
38 caused by the livestock. Reasonable costs of impounding shall include any fees paid pursuant to
39 G.S. 68-18.1 in an attempt to locate the owner of the livestock. The balance, if any, shall be paid
40 to the owner of the livestock, if known, or, if the owner is not known, then to the school fund of
41 the county where the livestock was impounded."

42 **SECTION 3.(h)** G.S. 90-95.2(b)(2) reads as rewritten:

43 "(2) "Law-enforcement agency" means any State or local agency, force,
44 department, or unit responsible for enforcing criminal laws in this State,
45 including any local police department or sheriff's ~~department-office~~."

46 **SECTION 3.(i)** G.S. 132-1.4(b)(3) reads as rewritten:

47 "(3) "Public law enforcement agency" means a municipal police department, a
48 county police department, a sheriff's ~~department-office~~, a company police
49 agency commissioned by the Attorney General pursuant to G.S. 74E-1, et
50 seq., and any State or local agency, force, department, or unit responsible for
51 investigating, preventing, or solving violations of the law."

1 **SECTION 3.(j)** G.S. 143B-216.34(c) reads as rewritten:

2 "(c) The central communications office of each county sheriff's ~~department~~office shall
3 purchase and continually operate at least one telecommunications device that is functionally
4 equivalent in providing equal access to services for individuals who are deaf, hard of hearing,
5 deaf-blind, and speech impaired.

6 The central communications office of each police department and firefighting agency in
7 municipalities with a population of 25,000 to 250,000 shall purchase and continually operate at
8 least one such device.

9 The central communications office of each police department and firefighting agency in
10 municipalities with a population exceeding 250,000 persons shall purchase and continually
11 operate at least two such devices."

12

13 **PART IV. EFFECTIVE DATE**

14 **SECTION 4.** Except as otherwise provided, this act is effective when it becomes
15 law.