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(Public)

Sponsors:

Referred to:

February 27, 2023

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE TRANSFER PROCESS FOR JUVENILES WHO ALLEGEDLY COMMITTED CERTAIN FELONIES, TO MODIFY THE CONFIDENTIALITY OF CERTAIN INFORMATION CONCERNING JUVENILES UNDER INVESTIGATION, TO MODIFY THE INTERROGATION PROCEDURES FOR CERTAIN JUVENILES, TO MODIFY THE SERVICE OF SUMMONS FOR JUVENILE PETITIONS, TO CLARIFY THE PROCESS FOR COURT-ORDERED EVALUATIONS FOR JUVENILES, TO CLARIFY MINORITY SENSITIVITY TRAINING FOR LAW ENFORCEMENT PERSONNEL, TO CLARIFY JUVENILE DETENTION TRANSFER, TO MAKE VARIOUS TECHNICAL AND CONFORMING CHANGES, AS RECOMMENDED BY THE DEPARTMENT OF PUBLIC SAFETY, DIVISION OF JUVENILE JUSTICE, TO CREATE LAWS TO EVALUATE WHETHER A JUVENILE HAS THE CAPACITY TO PROCEED, TO MODIFY CERTAIN LAWS RELATED TO SECURE CUSTODY ORDERS, TO AUTHORIZE CERTAIN DEPARTMENT OF INSURANCE LEASE EXPENSES, AND TO MAKE TECHNICAL CHANGES TO S.L. 2023-97.

The General Assembly of North Carolina enacts:

PART I. TRANSFER PROCESS

SECTION 1.(a) G.S. 7B-2200.5 reads as rewritten:

"§ 7B-2200.5. Transfer of jurisdiction of a juvenile at least 16 years of age to superior court.

(a) If a juvenile was 16 years of age or older at the time the juvenile allegedly committed an offense that would be a Class A, B1, B2, C, D, E, F, or G felony if committed by an adult, the court shall transfer jurisdiction over the juvenile to superior court for trial as in the case of adults unless the prosecutor declines to prosecute in superior court as provided in subsection (a1) of this section after either of the following:

- (1) Notice to the juvenile ~~and a finding by the court that a bill of indictment has been returned against the juvenile charging the commission of an offense that constitutes a Class A, B1, B2, C, D, E, F, or G felony if committed by an adult.~~ of the return of a true bill of indictment as provided in G.S. 15A-630.



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1 (2) Notice, hearing, and a finding of probable cause that the juvenile committed
2 an offense that constitutes a Class A, B1, B2, C, D, E, F, or G felony if
3 committed by an adult.

4 (a1) The prosecutor may decline to prosecute in superior court a matter that would
5 otherwise be subject to mandatory transfer pursuant to subsection (a) of this section if the juvenile
6 has allegedly committed an offense that would be a Class D, E, F, or G felony if committed by
7 an adult. If the prosecutor declines to prosecute the matter in superior court, jurisdiction over the
8 juvenile shall remain in juvenile court following a finding of probable cause pursuant to
9 G.S. 7B-2202. Prior to adjudication, the prosecutor may choose to transfer the matter pursuant
10 to subsection (a) of this section if the juvenile has allegedly committed an offense that would be
11 a Class D, E, F, or G felony if committed by an adult.

12 (b) If the juvenile was 16 years of age or older at the time the juvenile allegedly
13 committed an offense that would be a Class H or I felony if committed by an adult, after notice,
14 hearing, and a finding of probable cause, the court may, upon motion of the prosecutor or the
15 juvenile's attorney or upon its own motion, transfer jurisdiction over a juvenile to superior court
16 pursuant to G.S. 7B-2203.

17 (c) A probable cause hearing conducted pursuant to subdivision (2) of subsection (a) of
18 this section shall be conducted within 90 days of the date of the juvenile's first appearance. The
19 court may continue the hearing for good cause.

20 (d) In any case where jurisdiction over a juvenile has been transferred to superior court,
21 upon joint motion of the prosecutor and the juvenile's attorney, the superior court shall remand
22 the case to district court. The prosecutor shall provide the chief court counselor or his or her
23 designee with a copy of the joint motion prior to submitting the motion to the court. The superior
24 court shall expunge the superior court record in accordance with G.S. 15A-145.8 at the time of
25 remand, and, if the juvenile meets the criteria established in G.S. 7B-1903, may issue an order
26 for secure custody upon the request of a prosecutor. The prosecutor shall provide a copy of any
27 secure custody order issued to the chief court counselor or his or her designee, as soon as possible
28 and no more than 24 hours after the order is issued."

29 **SECTION 1.(b)** G.S. 7B-2200 reads as rewritten:

30 "**§ 7B-2200. Transfer of jurisdiction of a juvenile under the age of 16 to superior court.**

31 Except as otherwise provided in G.S. 7B-2200.5, after notice, hearing, and a finding of
32 probable cause the court may, upon motion of the prosecutor or the juvenile's attorney or upon
33 its own motion, transfer jurisdiction over a juvenile to superior court if the juvenile was at least
34 13 years of age but less than 16 years of age at the time the juvenile allegedly committed an
35 offense that would be a felony if committed by an adult. ~~If the alleged felony constitutes a Class~~
36 ~~A felony and the court finds probable cause, the court shall transfer the case to the superior court~~
37 ~~for trial as in the case of adults.~~The court shall transfer the case to superior court for trial as in
38 the case of adults if the felony the juvenile allegedly committed constitutes a Class A felony and
39 (i) the court finds probable cause or (ii) upon notice of the return of a true bill of indictment as
40 provided in G.S. 15A-630."

41 **SECTION 1.(c)** G.S. 7B-2202(a) reads as rewritten:

42 "(a) Except as otherwise provided in G.S. 7B-2200 and G.S. 7B-2200.5(a)(1), the court
43 shall conduct a hearing to determine probable cause in all felony cases in which a juvenile was
44 13 years of age or older when the offense was allegedly committed. Except as otherwise provided
45 in G.S. 7B-2200.5(c), the hearing shall be conducted within 15 days of the date of the juvenile's
46 first appearance. The court may continue the hearing for good cause."

47 **SECTION 1.(d)** This section becomes effective December 1, 2023, and applies to
48 offenses committed on or after that date.

49
50 **PART II. CONFIDENTIALITY, "LYRIC AND DEVIN'S LAW"**

1 **SECTION 2.(a)** Article 31 of Subchapter II of Chapter 7B of the General Statutes is
2 amended by adding a new section to read:

3 **"§ 7B-3103. Disclosure of information about juveniles for public safety reasons.**

4 (a) Notwithstanding G.S. 7B-2102(d) or any other provision of law to the contrary, a
5 court may order the Division or any law enforcement agency within the State to release to the
6 public the information contained in subsection (b) of this section if a court makes all of the
7 following findings in a written order:

8 (1) A petition has been filed alleging that the juvenile has committed at least one
9 offense that would subject the juvenile to transfer to superior court pursuant
10 to G.S. 7B-2200 or G.S. 7B-2200.5.

11 (2) There is a judicial determination, based on the juvenile's record or the nature
12 of the alleged offense or offenses, that the juvenile presents a danger to self or
13 others.

14 (3) There is a judicial determination that good cause exists for the disclosure.

15 (b) The following information about a juvenile subject to a public disclosure under
16 subsection (a) of this section may be released to the public:

17 (1) The juvenile's first name, last name, and photograph.

18 (2) Any offense in a juvenile petition alleged to have been committed by the
19 juvenile.

20 (3) Whether a secure custody order has been issued for the juvenile.

21 (4) A statement, based on the juvenile's record or the nature of the alleged offense
22 and the level of concern of the Division or law enforcement agency, as to the
23 juvenile's threat to self or others.

24 (c) If a juvenile who is the subject of an order entered under subsection (a) of this section
25 is taken into custody before the required disclosure is made to the public, the Division or law
26 enforcement agency shall not make the disclosure. If the juvenile who is the subject of an order
27 entered under subsection (a) of this section or a disclosure pursuant to subsection (e) of this
28 section is taken into custody, then all released information must be removed from any publicly
29 available law enforcement agency or Division website or social media account controlled by the
30 law enforcement agency or Division.

31 (d) Before the information contained in subsection (b) of this section is released to the
32 public, the Division or law enforcement agency shall make a reasonable effort to notify a parent,
33 legal guardian, or custodian of the juvenile.

34 (e) Notwithstanding subsections (a) and (d) of this section, when exigent circumstances
35 exist, the Division or any law enforcement agency within the State may release the information
36 contained in subsection (b) of this section. If information is released pursuant to this subsection,
37 the releasing party must seek an order as provided by subsection (a) of this section as soon as
38 reasonably practicable, but no later than the first available session of a court in the county after
39 the release of information. If a court does not issue an order as provided by subsection (a) of this
40 section at the next available session of court, all released information must be removed from any
41 publicly available law enforcement agency or Division website or social media account
42 controlled by the law enforcement agency or Division."

43 **SECTION 2.(b)** This section becomes effective December 1, 2023, and applies to
44 offenses committed on or after that date.

45
46 **PART III. INTERROGATION PROCEDURES**

47 **SECTION 3.(a)** G.S. 7B-2101 reads as rewritten:

48 **"§ 7B-2101. Interrogation procedures.**

49 (a) Any ~~juvenile~~ juvenile, who is less than 16 years of age, in custody must be advised of
50 all of the following prior to questioning:

51 (1) That the juvenile has a right to remain ~~silent~~; silent.

- 1 (2) That any statement the juvenile does make can be and may be used against the
2 ~~juvenile;~~juvenile.
3 (3) That the juvenile has a right to have a parent, guardian, or custodian present
4 during ~~questioning;~~ and questioning.
5 (4) That the juvenile has a right to consult with an attorney and that one will be
6 appointed for the juvenile if the juvenile is not represented and wants
7 representation.

8 (a1) Any juvenile, who is 16 years of age or older, in custody must be advised of all of the
9 following prior to questioning:

- 10 (1) That the juvenile has a right to remain silent.
11 (2) That any statement the juvenile does make can be and may be used against the
12 juvenile.
13 (3) That the juvenile has a right to have a parent, guardian, custodian, or caretaker
14 present during questioning.
15 (4) That the juvenile has a right to consult with an attorney and that one will be
16 appointed for the juvenile if the juvenile is not represented and wants
17 representation.

18 (a2) If a juvenile, who is 16 years of age or older, requests that a parent, guardian, or
19 custodian be present during questioning, law enforcement shall make a reasonable effort to
20 contact the parent, guardian, or custodian. If the parent, guardian, or custodian is not available, a
21 caretaker can be present during questioning.

22 (b) When the juvenile is less than 16 years of age, no in-custody admission or confession
23 resulting from interrogation may be admitted into evidence unless the confession or admission
24 was made in the presence of the juvenile's parent, guardian, custodian, or attorney. If an attorney
25 is not present, the parent, guardian, or custodian as well as the juvenile must be advised of the
26 juvenile's rights as set out in subsection (a) of this section; however, a parent, guardian, or
27 custodian may not waive any right on behalf of the juvenile.

28 (c) If the juvenile indicates in any manner and at any stage of questioning pursuant to this
29 section that the juvenile does not wish to be questioned further, the officer shall cease
30 questioning.

31 (d) Before admitting into evidence any statement resulting from custodial interrogation,
32 the court shall find that the juvenile knowingly, willingly, and understandingly waived the
33 juvenile's rights.

34 (e) For the purposes of this section, "caretaker" means any person other than a parent,
35 guardian, or custodian who has responsibility for the health and welfare of a juvenile in a
36 residential setting. A person responsible for a juvenile's health and welfare means a stepparent, a
37 foster parent, an adult member of the juvenile's household, an adult entrusted with the juvenile's
38 care, a potential adoptive parent during a visit or trial placement with a juvenile in the custody of
39 a department, any person such as a house parent or cottage parent who has primary responsibility
40 for supervising a juvenile's health and welfare in a residential child care facility or residential
41 educational facility, or any employee or volunteer of a division, institution, or school operated
42 by the Department of Health and Human Services."

43 **SECTION 3.(b)** This section becomes effective December 1, 2023, and applies to
44 offenses committed on or after that date.

45 **PART IV. OTHER JUVENILE JUSTICE MODIFICATIONS**

46 **SECTION 4.(a)** G.S. 7B-1806 reads as rewritten:

47 **"§ 7B-1806. Service of summons.**

48 The summons and petition shall be personally served upon the parent, the guardian, or
49 custodian and the juvenile not less than five days prior to the date of the scheduled hearing. The
50 time for service may be waived in the discretion of the court. A law enforcement officer or
51

1 juvenile court counselor may serve and complete juvenile process under this section and as
2 provided in G.S. 143B-831. A defense of lack of personal jurisdiction or insufficiency of service
3 of process is waived if a parent, guardian, or custodian and juvenile avail themselves to the court
4 and an objection is not raised at the initial court appearance.

5 If the parent, guardian, or custodian entitled to receive a summons cannot be found by a
6 diligent effort, the court may authorize service of the summons and petition by mail or by
7 publication. The cost of the service by publication shall be advanced by the petitioner and may
8 be charged as court costs as the court may direct.

9 The court may issue a show cause order for contempt against a parent, guardian, or custodian
10 who is personally served and fails without reasonable cause to appear and to bring the juvenile
11 before the court.

12 The provisions of G.S. 15A-301(a), (c), (d), and (e) relating to criminal process apply to
13 juvenile process; provided the period of time for return of an unserved summons is 30 days."

14 **SECTION 4.(b)** G.S. 7B-2502 reads as rewritten:

15 "**§ 7B-2502. Evaluation and treatment of undisciplined and delinquent juveniles.**

16 (a) In any case, the court may order that the juvenile be examined by a physician,
17 psychiatrist, psychologist, or other qualified expert as may be needed for the court to determine
18 the needs of the juvenile. Upon the completion of the examination, the court may conduct a
19 hearing to determine whether the juvenile is in need of medical, surgical, psychiatric,
20 psychological, or other evaluation or treatment, and the court may order the juvenile to comply
21 with any evaluation or treatment recommended by the examination.

22 (a1) In the case of a juvenile adjudicated delinquent for committing an offense that
23 involves the possession, use, sale, or delivery of alcohol or a controlled substance, the court shall
24 require the juvenile to be tested for the use of controlled substances or alcohol within 30 days of
25 the adjudication. In the case of any juvenile adjudicated delinquent, the court may, if it deems it
26 necessary, require the juvenile to be tested for the use of controlled substances or alcohol. The
27 results of these initial tests conducted pursuant to this subsection shall be used for evaluation and
28 treatment purposes only. In placing a juvenile in out-of-home care under this section, the court
29 shall also consider whether it is in the juvenile's best interest to remain in the juvenile's
30 community of residence.

31 (a2) In the case of a juvenile who has been identified with a suspected mental illness,
32 illness through the use of a validated screening instrument or other evidence presented to the
33 court, or a suspected developmental disability, disability or intellectual disability-disability, that
34 has been adjudicated delinquent, the court shall order that the Division of Juvenile Justice of the
35 Department of Public Safety make a referral for a comprehensive clinical assessment or
36 equivalent mental health assessment, unless the court finds a comprehensive clinical assessment
37 or equivalent mental health assessment has been conducted within the last ~~45~~90 days before the
38 ~~adjudication-disposition~~ hearing. An assessment ordered by a court under this subsection shall
39 evaluate the developmental, emotional, behavioral, and mental health needs of the juvenile.

40 (a3) If an assessment is ordered by the court under subsection (a2) of this ~~section,~~section
41 or if an assessment has been conducted within the last 90 days before the disposition hearing, the
42 court shall review the comprehensive clinical assessment or equivalent mental health assessment
43 prior to the date of disposition in the case. If the court finds sufficient evidence that the juvenile
44 has severe emotional disturbance, as defined in G.S. 7B-1501(24a), or a developmental
45 disability, as defined in G.S. 122C-3(12a), or intellectual disability, as defined in
46 G.S. 122C-3(17a), that, in the court's discretion, substantially contributed to the juvenile's
47 delinquent behavior, and the juvenile is eligible for a Juvenile Justice Level 3 disposition and/or
48 is recommended for a Psychiatric Residential Treatment Facility (PRTF) placement, the court
49 shall order a care review team to be convened by the Division of Juvenile Justice of the
50 Department of Public Safety and assigned to the case.

51"

1 **SECTION 4.(c)** G.S. 153A-218 reads as rewritten:

2 "**§ 153A-218. County confinement facilities.**

3 A county may establish, acquire, erect, repair, maintain, and operate local confinement
4 facilities and may for these purposes appropriate funds not otherwise limited as to use by law.
5 Subject to the holdover provisions in G.S. 7B-2204, no person under the age of 18 may be held
6 in a county confinement facility unless there is an agreement between the county confinement
7 facility and the Division of Juvenile Justice allowing the housing of persons under the age of 18
8 at the facility or a portion of the facility that has been approved as a juvenile detention facility by
9 the Division of Juvenile Justice. A juvenile detention facility may be located in the same facility
10 as a county jail provided that the juvenile detention facility meets the requirements of this Article
11 and ~~G.S. 147-33.40~~G.S. 143B-819."

12 **SECTION 4.(d)** G.S. 114-12.1 reads as rewritten:

13 "**§ 114-12.1. Minority sensitivity training for law enforcement personnel.**

14 (a) The Department of Justice shall develop guidelines for minority sensitivity training
15 for all law enforcement personnel throughout the State. The Department shall ensure that all
16 persons who work with minority juveniles in the juvenile justice system are taught how to
17 communicate effectively with minority juveniles and how to recognize and address the needs of
18 those juveniles. The Department shall also advise all law enforcement and professionals who
19 work within the juvenile justice system of ways to improve the treatment of minority juveniles
20 so that all juveniles receive equal treatment. Except where local law enforcement or the Division
21 of Juvenile Justice of the Department of Public Safety has existing minority sensitivity training
22 that meets the Department guidelines, the Department shall conduct the minority sensitivity
23 training annually. Prior to the training each year, the Department shall assess whether minorities
24 are receiving fair and equal treatment in the juvenile justice system with regard to the
25 administration of predisposition procedures, of diversion methods, of dispositional alternatives,
26 and of treatment and post-release supervision plans.

27 (b) The Division of Juvenile Justice of the Department of Public Safety shall ensure that
28 all juvenile court counselors and other Division personnel receive the minority sensitivity
29 training specified in subsection (a) of this section. The Division of Juvenile Justice of the
30 Department of Public Safety is responsible for creating, implementing, and evaluating juvenile
31 minority sensitivity and racial and ethnic disparities training annually."

32 **SECTION 4.(e)** G.S. 7B-2204 reads as rewritten:

33 "**§ 7B-2204. Right to pretrial release; detention.**

34 ...

35 (d) Should the juvenile be found guilty, or enter a plea of guilty or no contest to a criminal
36 offense in superior court and receive an active sentence, then immediate transfer to the Division
37 of Prisons of the Department of Adult Correction shall be ordered. Until such time as the juvenile
38 is transferred to the Division of Prisons of the Department of Adult Correction, the juvenile may
39 be detained in a holdover facility. ~~The juvenile may not be detained in a detention facility pending~~
40 ~~transfer to the Division of Prisons of the Department of Adult Correction, unless the facility or~~
41 ~~detention facility is operated by the sheriff pursuant to G.S. 7B-1905(b).~~approved by the Division
42 of Juvenile Justice of the Department of Public Safety.

43 "

44 **SECTION 4.(f)** This section becomes effective December 1, 2023, and applies to
45 offenses committed on or after that date.

46 **PART V. JUVENILE CAPACITY TO PROCEED**

47 **SECTION 5.(a)** G.S. 7B-2401 reads as rewritten:

48 "**§ 7B-2401. ~~Determination of incapacity~~ No proceedings when juvenile is not capable to**
49 **~~proceed; evidence; temporary commitment; temporary orders.~~ proceed.**
50

1 ~~The provisions of G.S. 15A-1001, 15A-1002, and 15A-1003 apply to all cases in which a~~
2 ~~juvenile is alleged to be delinquent. No juvenile committed under this section may be placed in~~
3 ~~a situation where the juvenile will come in contact with adults committed for any purpose.~~

4 (a) No juvenile may be transferred to superior court for trial as an adult, adjudicated
5 delinquent or undisciplined, or subject to disposition for an offense in juvenile court, including a
6 violation of probation, when, by reason of mental disorder, intellectual disability, neurological
7 disorder, traumatic or acquired brain injury, or developmental immaturity, the juvenile is unable
8 to understand the nature and object of the proceedings against the juvenile, to comprehend the
9 juvenile's own situation in reference to the proceedings, or to assist in the juvenile's own defense
10 in a rational or reasonable manner.

11 (b) This section does not prevent the court from going forward with any motions which
12 can be handled by counsel without the assistance of the juvenile.

13 (c) This section does not apply to individuals over whom the juvenile court has
14 jurisdiction pursuant to G.S. 7B-1601(d) through (d1) nor to any juvenile who is subject to
15 transfer by indictment pursuant to G.S. 7B-2200 and G.S. 7B-2200.5(a)(1). Capacity to proceed
16 under these circumstances shall not be addressed by the juvenile court. Capacity to proceed may
17 be raised pursuant to Article 56 of Chapter 15A of the General Statutes if the superior court
18 obtains jurisdiction of the proceeding."

19 **SECTION 5.(b)** Article 24 of Chapter 7B of the General Statutes is amended by
20 adding the following new sections to read:

21 **"§ 7B-2401.1. Definitions.**

22 The following definitions apply in this Article:

- 23 (1) Developmental immaturity. – Incomplete development or delay associated
24 with chronological age, which manifests as a functional limitation in one or
25 more domains, including cognitive, emotional, and social development.
- 26 (2) Division. – The Division of Juvenile Justice and Delinquency Prevention of
27 the Department of Public Safety.
- 28 (3) Forensic evaluation. – A forensic evaluation is a full examination by a forensic
29 evaluator using evidence-based psychological tools to determine if a juvenile
30 has the capacity to proceed. This evaluation shall consist of a review of all
31 available prior mental health and educational records of the juvenile and IQ
32 testing and may include other developmentally appropriate testing for
33 juveniles deemed relevant by the forensic evaluator.
- 34 (4) Forensic evaluation report. – The written report, by a forensic evaluator, that
35 contains the information required by G.S. 7B-2401.3.
- 36 (5) Incapacity to proceed. – By reason of mental disorder, intellectual disability,
37 neurological disorder, traumatic or acquired brain injury, or developmental
38 immaturity, the juvenile is unable to understand the nature and object of the
39 proceedings against the juvenile, to comprehend the juvenile's own situation
40 in reference to the proceedings, or to assist in the juvenile's own defense in a
41 rational or reasonable manner.
- 42 (6) Remediation. – Services directed only at facilitating the attainment of capacity
43 to proceed for a juvenile who the court finds is incapable to proceed. Such
44 term may include mental health treatment to reduce interfering symptoms,
45 specialized psychoeducational programming, or a combination of these
46 interventions.

47 **"§ 7B-2401.2. Procedures to determine capacity; hearing procedures; evidence.**

48 (a) The question of capacity of the juvenile to proceed may be raised at any time on
49 motion by the prosecutor, the juvenile, the juvenile's attorney, or the court. The motion shall
50 detail the specific conduct that leads the moving party to question the juvenile's capacity to
51 proceed.

1 **(b)** When the capacity of the juvenile to proceed is questioned, the court may appoint one
2 or more forensic evaluators qualified by the Department of Health and Human Services to
3 conduct forensic evaluations for juveniles to examine the juvenile and return a forensic
4 evaluation report. Reports so prepared are admissible at the hearing. The court may call any
5 expert so appointed to testify at the hearing with or without the request of either party. This
6 subsection shall not be construed to limit the juvenile's right to retain his or her own expert or the
7 State's right to obtain its own expert.

8 **(c)** At any time in the case of a juvenile that allegedly committed an offense that would
9 be a felony if committed by an adult, the court may order the juvenile to a State facility for the
10 mentally ill for observation and treatment for the period, not to exceed 60 days, necessary to
11 determine the juvenile's capacity to proceed. If a juvenile is ordered to a State facility without
12 first having an examination pursuant to subsection (b) of this section, the judge shall make a
13 finding that an examination pursuant to this subsection would be more appropriate to determine
14 the juvenile's capacity. The Division shall return the juvenile to the county when notified that the
15 evaluation has been completed. The director of the facility shall direct his or her report on the
16 juvenile's condition to the juvenile's attorney and to the clerk of superior court, who shall bring
17 it to the attention of the court. The report is admissible at the hearing.

18 **(d)** The forensic evaluation report shall be completed within 30 days of the date the
19 forensic evaluation was ordered, consistent with this section. The court may extend the time for
20 completion of the forensic evaluation for good cause shown. The forensic evaluation report shall
21 be provided to the court as follows:

22 **(1)** The report in a case of a juvenile who is alleged to have committed an offense
23 that would be a misdemeanor if committed by an adult shall be completed and
24 provided to the court no later than 10 days following the completion of the
25 evaluation for a juvenile.

26 **(2)** The report in the case of a juvenile who is alleged to have committed an
27 offense that would be a felony if committed by an adult shall be completed
28 and provided to the court no later than 30 days following the completion of
29 the evaluation.

30 **(3)** In cases where the juvenile challenges the determination made by the
31 court-ordered evaluator and the court orders an independent evaluation, that
32 evaluation and report to the court must be completed within 60 days of the
33 entry of the order by the court.

34 The court may, for good cause shown, extend the time for the provision of the forensic
35 evaluation report to the court for up to 30 additional days. The court may renew an extension of
36 time for an additional 30 days upon request of the State or the juvenile prior to the expiration of
37 the previous extension. In no case shall the court grant extensions totaling more than 120 days
38 beyond the time periods otherwise provided in this subsection.

39 **(e)** Any report made to the court pursuant to this section shall be forwarded to the clerk
40 of superior court in a sealed envelope addressed to the attention of a presiding judge, with a
41 covering statement to the clerk of the fact of the examination of the juvenile and any conclusion
42 as to whether the juvenile has or lacks capacity to proceed. If the juvenile is being held in the
43 custody of the Division, the clerk shall send a copy of the covering statement to the Division.
44 The Division and any persons employed by the Division shall maintain the copy of the covering
45 statement as a confidential record. A copy of the full report shall be forwarded to the juvenile's
46 counsel. If the question of the juvenile's capacity to proceed is raised at any time, a copy of the
47 full report must be forwarded to the prosecutor. Until the question of the juvenile's capacity is
48 raised, the full report to the court shall be kept under such conditions as are directed by the court,
49 and its contents shall not be revealed except the report and the relevant confidential information
50 previously ordered released under G.S. 7B-2401.3(c) shall be released to the program where the

1 juvenile is receiving remediation services and as directed by the court. Any report made to the
2 court pursuant to this section shall be maintained as a confidential record.

3 (f) For any juvenile who is alleged to be delinquent and is less than 12 years of age, the
4 court shall inquire of the prosecutor and the juvenile's attorney regarding the juvenile's capacity
5 to proceed the first time the juvenile appears in court. If the prosecutor or the juvenile's attorney
6 requests additional time to determine whether it is necessary to raise the question of the juvenile's
7 capacity to proceed, the court shall allow the question of capacity to be raised at any time pursuant
8 to subsection (a) of this section.

9 (g) An order for a forensic evaluation shall stay juvenile proceedings, with the exception
10 of hearings to review the need for continued nonsecure or secure custody and proceedings related
11 to the transfer of jurisdiction by indictment pursuant to G.S. 7B-2200.5(a), until capacity has
12 been determined pursuant to this Subchapter.

13 (h) When the capacity of the juvenile to proceed is questioned, the court shall hold a
14 hearing to determine the juvenile's capacity to proceed. If an evaluation is ordered pursuant to
15 subsection (b) of this section, the hearing shall be held upon receipt of the forensic evaluation
16 report. The clerk shall provide notice to the juvenile and the prosecutor in accordance with
17 G.S. 7B-1807. The order of the court shall contain findings of fact to support its determination
18 of the juvenile's capacity to proceed. The parties may stipulate that the juvenile is capable to
19 proceed but shall not be allowed to stipulate that the juvenile lacks capacity to proceed. If the
20 court finds the juvenile is capable to proceed, the juvenile proceedings shall no longer be stayed,
21 and the court shall set a date for such further proceedings. If the juvenile's capacity to proceed is
22 contested, the juvenile bears the burden of proving the juvenile is incapable to proceed by a
23 preponderance of the evidence. At a contested hearing, the State and the juvenile may call
24 witnesses and present evidence. Nothing in this subsection may be construed to prohibit the State
25 or the juvenile from calling other expert witnesses to testify at a capacity hearing. If appropriate,
26 the court may order remediation services in accordance with G.S. 7B-2401.4.

27 (i) A juvenile who has been found incapable to proceed by the court shall not be subject
28 to transfer, adjudication, disposition, or modification of disposition so long as the incapacity
29 exists pursuant to this Article.

30 (j) If the court orders a forensic evaluation, the court shall order that the evaluation be
31 conducted in the least restrictive environment, considering the best interests of the juvenile and
32 the safety of the public. The forensic evaluation may be conducted in any location in this State.
33 The forensic evaluation may be conducted outside of this State for juveniles in residential
34 facilities on an individual basis as indicated by the order of the court.

35 (k) The Division shall arrange for the transportation of juveniles who are confined in
36 secure custody to the ordered location of the forensic evaluation.

37 **"§ 7B-2401.3. Juvenile forensic evaluation credentialing; conducting forensic evaluations;**
38 **written reports; compensation of experts.**

39 (a) The Department of Health and Human Services shall designate and oversee a
40 credentialing body which will set and maintain the minimum standards to qualify professionals
41 who are court-appointed to conduct forensic evaluations as ordered pursuant to G.S. 7B-2401.2.
42 The credentialing body shall determine that a qualified professional has demonstrated knowledge
43 and experience with age-appropriate and developmentally appropriate methods for evaluating
44 juvenile functional capacities to proceed. This subsection shall not be construed to limit the
45 juvenile's right to retain his or her own expert.

46 (b) Qualified professionals who have been conducting forensic evaluations of juveniles
47 prior to enactment of this section shall be deemed to possess the minimum requirements to
48 become an evaluator. Such qualified professionals shall be required to satisfy the qualification
49 standards developed by the Department of Health and Human Services within 12 months of the
50 adoption of those standards pursuant to subsection (a) of this section.

1 (c) A presiding district court judge of this State who orders an examination pursuant to
2 G.S. 7B-2401.2 shall order the release of relevant confidential information to the forensic
3 evaluator, including the juvenile petition, orders for secure or nonsecure custody, the law
4 enforcement incident report, the juvenile's delinquency history, detention records, any prior
5 medical and mental health records of the juvenile, and any school records of the juvenile after
6 providing the juvenile with reasonable notice and an opportunity to be heard and then
7 determining that the information is relevant and necessary to the hearing of the matter before the
8 court and unavailable from any other source. This subsection shall not be construed to relieve
9 any court of its duty to conduct hearings and make findings required under relevant federal law
10 before ordering the release of any private medical or mental health information or records related
11 to substance abuse or HIV status or treatment. The records may be surrendered to the court for
12 in camera review if surrender is necessary to make the required determinations. The records shall
13 be withheld from public inspection and, except as provided in this subsection, may be examined
14 only by order of the court.

15 (d) No statement or disclosure made by the juvenile during the forensic evaluation
16 regarding the juvenile's responsibility for a criminal act that can result either in an adjudication
17 of delinquency or transfer of a matter to superior court for trial as an adult is admissible in any
18 juvenile or criminal proceeding against the juvenile or defendant. The forensic evaluation shall
19 not include any such statement.

20 (e) The forensic evaluator shall consider all of the following as part of the forensic
21 evaluation:

- 22 (1) Whether the juvenile is capable to proceed, incapable to proceed, or incapable
23 to proceed with an ability to attain capacity in the foreseeable future with
24 remediation services.
- 25 (2) The basis of the juvenile's incapacity, to include mental disorder, intellectual
26 disability, neurological disorder, traumatic or acquired brain injury, or
27 developmental immaturity.
- 28 (3) The capacity of the juvenile to do any of the following:
 - 29 a. Appreciate the allegations against the juvenile.
 - 30 b. Appreciate the range and nature of allowable dispositions that may be
31 imposed in the proceedings against the juvenile.
 - 32 c. Understand the roles of the participants and the adversary nature of the
33 legal process.
 - 34 d. Disclose to counsel facts pertinent to the proceedings at issue.
 - 35 e. Display appropriate courtroom behavior.
 - 36 f. Testify regarding the relevant issues.
 - 37 g. Make reasonable and rational decisions.
 - 38 h. Assist in the juvenile's defense in a rational manner.
 - 39 i. Any other factors that the forensic evaluator deems to be relevant.

40 (f) Written forensic reports submitted to the court shall consist of and contain all of the
41 following:

- 42 (1) Identify the specific matters referred to the forensic evaluator by the juvenile
43 court for evaluation.
- 44 (2) Include notification to the juvenile of the nature, purpose, and anticipated use
45 or uses of the examination and applicable limits of confidentiality.
- 46 (3) Describe the procedures, techniques, and tests used in the forensic evaluation
47 of the juvenile and the purposes of each.
- 48 (4) Describe the considerations considered by the forensic evaluator.
- 49 (5) State any clinical observations, findings, and opinions of the forensic
50 evaluator on each issue referred to the forensic evaluator for evaluation by the

- 1 court and specifically indicate any issues on which the forensic evaluator was
2 unable to give an opinion.
- 3 (6) Identify the sources of information used by the forensic evaluator and present
4 the factual basis for any clinical observations, findings, and opinions of the
5 forensic evaluator.
- 6 (7) Address any other issues ordered by the court.
- 7 (g) If a forensic evaluator is of the opinion that a juvenile is incapable to proceed, the
8 written forensic report shall contain all of the additional information:
- 9 (1) Any recommended treatment or education needed for the juvenile to attain
10 capacity, if any.
- 11 (2) The likelihood that the juvenile will attain capacity in the foreseeable future
12 because of the recommended treatment or education.
- 13 (3) An assessment of the probable duration of the treatment or education required
14 to attain capacity.
- 15 (4) If the forensic evaluator recommends treatment for the juvenile to attain
16 capacity, a recommendation as to the least restrictive environment in which
17 services can be provided to the juvenile.
- 18 (h) Any forensic evaluator appointed by the court to conduct a forensic evaluation,
19 ordered pursuant to G.S. 7B-2401.2, shall receive a reasonable fee for such service. The fee shall
20 be determined for each forensic evaluation by the appointing court, in accordance with
21 reimbursement guidelines maintained by the North Carolina Administrative Office of the Courts.
22 If any such forensic evaluator is required to appear as a witness in any hearing held pursuant to
23 this section, the forensic evaluator shall receive reimbursement for expenses according to
24 guidelines maintained by the North Carolina Administrative Office of the Courts.
- 25 **§ 7B-2401.4. Remediation.**
- 26 (a) The purpose of remediation ordered pursuant to this section shall be for the juvenile
27 to attain capacity to proceed.
- 28 (b) When the court finds the juvenile incapable to proceed, and substantially likely to
29 attain capacity in the foreseeable future, the court may order remediation services. The
30 remediation services shall be based on the recommendations from the forensic evaluation.
- 31 (c) Remediation services shall be provided in the least restrictive environment
32 considering the best interests of the juvenile and the safety of the public. In addition, the court
33 shall consider the following when determining where services may be rendered:
- 34 (1) Whether there is probable cause to believe the allegations in the petition are
35 true.
- 36 (2) The nature of the incapacity.
- 37 (3) The juvenile's age or developmental maturity.
- 38 (4) The nature of the act alleged to have been committed and the seriousness of
39 the offense.
- 40 (5) The availability and appropriateness of programming in the juvenile's
41 community.
- 42 (6) Supervision needs and level of available community supervision or
43 alternatives such as family members, custodians, guardians, and
44 community-based programs.
- 45 (7) Any prior treatment or interventions provided to the juvenile.
- 46 (8) Any other relevant factors not previously specified.
- 47 (d) When the juvenile is found incapable to proceed based on mental disorder, intellectual
48 disability, neurological disorder, or traumatic or acquired brain injury but substantially likely to
49 attain capacity, and the court finds that all available less restrictive alternatives are inappropriate,
50 the court may enter an order in accordance with G.S. 7B-2401.5 for the juvenile to be assessed
51 for an involuntary commitment pursuant to Chapter 122C of the General Statutes.

1 (e) An order for remediation services shall contain all of the following:

2 (1) Written findings of fact regarding the least restrictive environment for the
3 remediation services.

4 (2) If the court order allows for secure confinement pursuant to subsection (d) of
5 this section, the maximum time for placement in a secure facility shall be
6 pursuant to subsection (f) of this section.

7 (f) If the court finds that the juvenile is incapable of proceeding and substantially likely
8 to attain capacity in the foreseeable future, the court shall enforce the following time limitations
9 on remediation services. In the case of a probation violation, the underlying offense shall serve
10 as the most serious offense as used in this section:

11 (1) If the most serious offense alleged in the petition is first degree murder
12 (G.S. 14-17), first-degree forcible rape (G.S. 14-27.21), first-degree statutory
13 rape (G.S. 14-27.24), first-degree forcible sexual offense (G.S. 14-27.26), or
14 first-degree statutory sexual offense (G.S. 14-27.29) if committed by an adult,
15 remediation shall not exceed 36 months beyond the original finding of
16 incapacity to proceed or the maximum jurisdiction of the court as provided in
17 G.S. 7B-1601, whichever occurs sooner.

18 (2) If the most serious offense alleged in the petition is a Class B1, B2, C, D, or
19 E felony if committed by an adult, other than an offense set forth in
20 subdivision (1) of this subsection, remediation shall not exceed 12 months
21 beyond the original finding of incapacity to proceed, or the maximum
22 jurisdiction of the court as provided in G.S. 7B-1601, whichever occurs
23 sooner. The court for good cause may grant an extension of up to 12 months
24 for remediation. If an extension is granted, remediation shall not exceed 24
25 months beyond the original finding of incapacity to proceed, or the maximum
26 jurisdiction of the court as provided in G.S. 7B-1601, whichever occurs
27 sooner.

28 (3) If the most serious offense alleged in the petition is a Class F, G, H, or I felony
29 or any misdemeanor if committed by an adult, remediation shall not exceed
30 six months beyond the original finding of incapacity to proceed, or the
31 maximum jurisdiction of the court as provided in G.S. 7B-1601, whichever
32 occurs sooner. The court may grant an extension of up to six months for
33 remediation. If an extension is granted, remediation shall not exceed 12
34 months beyond the original finding of incapacity to proceed, or the maximum
35 jurisdiction of the court as provided in G.S. 7B-1601, whichever occurs
36 sooner.

37 (4) In no case shall the court grant extensions of time for the remediation services
38 beyond the maximum jurisdiction of the court as provided in G.S. 7B-1601.

39 (g) The Division shall be responsible for the provision of psychoeducation remediation
40 programming and working with community partners to secure any additional services
41 recommended in the forensic evaluation report. The Division is authorized to contract with the
42 University of North Carolina at Chapel Hill or any other qualified educational organization to
43 develop and conduct related trainings and curriculum.

44 The remediation service provider shall provide reports to the court at least every 90 days.
45 Any report made to the court pursuant to this subsection shall be forwarded to the clerk of
46 superior court addressed to the attention of the presiding judge. A report provided under this
47 subsection shall include all of the following:

48 (1) The dates of any services provided to the juvenile.

49 (2) A summary of the juvenile's attendance and participation.

50 (3) Information about the juvenile's progress in the areas that were found to be
51 relevant to the juvenile's incapacity, including education regarding court

1 procedures and stabilization or improvement of symptoms leading to
2 functional impairments.

3 No statement or disclosure made by the juvenile during the remediation services regarding
4 the juvenile's responsibility for a criminal act that can result either in an adjudication of
5 delinquency or transfer of a matter to superior court for trial as an adult is admissible in any
6 juvenile or criminal proceeding against the juvenile or defendant. All remediation progress
7 reports, summaries, and notes shall not include any such statement.

8 The court shall hold a hearing within 30 days of receipt of the remediation progress report to
9 review the remediation services. The remediation review hearing may be informal, and the court
10 may consider all remediation progress reports. The court may consider any evidence, including
11 hearsay evidence as defined in G.S. 8C-1, Rule 801, that the court finds to be relevant, reliable,
12 and necessary to determine if remediation services should continue or reassessment of capacity
13 is warranted. The juvenile and the juvenile's parent, guardian, or custodian shall have an
14 opportunity to present evidence, and they may advise the court concerning the remediation
15 services. The order of the court may be amended or supplemented only as provided in this
16 Subchapter and only after notice and a hearing.

17 (h) If the court determines that reassessment of capacity is warranted, the court shall order
18 a new forensic evaluation. This forensic evaluation shall be performed by the original forensic
19 evaluator when possible and comply with the requirements of G.S. 7B-2401.3. Any initial
20 forensic evaluation or reevaluation shall be conducted independently of the remediation services
21 and shall not be conducted by the remediation specialist for the juvenile.

22 (i) If, at any time during the remediation treatment, the remediation service provider
23 finds that the juvenile has likely completed the requirements of the remediation services, the
24 remediation service provider shall provide written notification to the court, the prosecutor, and
25 the juvenile's attorney within two business days regarding this finding. A copy of any remediation
26 report or reports shall be forwarded to the court and to the juvenile's attorney. The court may
27 order the release of a remediation report to the prosecutor after providing the juvenile with
28 reasonable notice and an opportunity to be heard and then determining that the information is
29 relevant and necessary to the hearing of the matter before the court and unavailable from any
30 other source. This subsection shall not be construed to relieve any court of its duty to conduct
31 hearings and make findings required under relevant federal law before ordering the release of
32 any private medical or mental health information or records related to substance abuse or HIV
33 status or treatment. The records shall be withheld from public inspection and, except as provided
34 in this subsection, may be examined only by order of the court. The juvenile's matter shall be
35 returned to court within a reasonable time, and not more than 30 days after the completion of
36 remediation services, for review or further proceedings.

37 **"§ 7B-2401.5. Involuntary commitment; dismissal; seal records.**

38 (a) When the court finds that a juvenile is incapable to proceed and not likely to attain
39 capacity in the foreseeable future, the court may conduct an additional hearing, as the court
40 determines to be necessary, to determine whether there are reasonable grounds to believe the
41 juvenile meets the criteria for involuntary commitment under Part 7 of Article 5 of Chapter 122C
42 of the General Statutes. If the presiding judge finds reasonable grounds to believe that the juvenile
43 meets the criteria, the judge shall make findings of fact and issue a custody order in the same
44 manner upon the same grounds and with the same effect as an order issued by a clerk or
45 magistrate pursuant to G.S. 122C-261. Proceedings thereafter are in accordance with Part 7 of
46 Article 5 of Chapter 122C of the General Statutes. If the juvenile allegedly committed a violent
47 crime, including a crime involving assault with a deadly weapon, the judge's custody order shall
48 require a law enforcement officer to take the juvenile directly to a 24-hour facility as described
49 in G.S. 122C-252. The order must also indicate that the juvenile allegedly committed a violent
50 crime and that the juvenile was found incapable of proceeding. Evidence used at the hearing
51 regarding capacity to proceed is admissible in the involuntary civil commitment proceedings.

1 (b) When the court finds that a juvenile is incapable to proceed and not likely to attain
2 capacity in the foreseeable future, the court shall dismiss the petition.

3 (c) The prosecutor may voluntarily dismiss with leave any allegations stated in the
4 petition, pursuant to G.S. 7B-2404, prior to the termination of the jurisdiction of the court as
5 provided in G.S. 7B-1601.

6 (d) After the completion of all capacity hearings or after a juvenile has been found not to
7 be substantially likely to be restored to or to attain capacity in the foreseeable future, the court
8 shall direct the clerk to seal all forensic evaluations, remediation reports, and any other records
9 pertaining to the capacity of the juvenile, pursuant to G.S. 7B-3000(c). Any records sealed
10 pursuant to this subsection may be opened or inspected only by order of the court or for appellate
11 review."

12 **SECTION 5.(c)** G.S. 7B-1906 reads as rewritten:

13 "**§ 7B-1906. Secure or nonsecure custody hearings.**

14 ...

15 (b3) When the capacity of the juvenile to proceed is questioned pursuant to
16 G.S. 7B-2401.2(a), further hearings to determine the need for secure custody shall be held at
17 intervals of no more than 30 calendar days from the date of the motion. Further hearings may be
18 waived only with the consent of the juvenile through counsel for the juvenile. Upon request of
19 the juvenile, through counsel for the juvenile, and for good cause as determined by the court,
20 further hearings to determine the need for secure custody may be held at intervals of 10 days.

21 "

22 **SECTION 5.(d)** Prosecutions for offenses committed before the effective date of
23 this section are not abated or affected by this section, and the statutes that would be applicable
24 but for this section remain applicable to those prosecutions.

25 **SECTION 5.(e)** This section becomes effective January 1, 2025, and applies to
26 offenses committed on or after that date.

27 **PART VI. MODIFY CERTAIN LAWS RELATED TO SECURE CUSTODY ORDERS**

28 **SECTION 6.(a)** G.S. 7B-1904 reads as rewritten:

29 "**§ 7B-1904. Order for secure or nonsecure custody.**

30 The custody order shall be in writing and shall direct a law enforcement officer or ~~other~~
31 ~~authorized person~~ juvenile court counselor to assume custody of the juvenile and to make due
32 return on the order. An initial order for secure custody may be issued following the filing of the
33 petition and before the juvenile has been served with the petition pursuant to G.S. 7B-1806. The
34 official executing the order shall give a copy of the order to the juvenile and the juvenile's parent,
35 guardian, or custodian. If the juvenile has not been served with the petition upon being detained,
36 the juvenile shall be served with the petition no more 72 hours after the juvenile has been
37 detained. If the order is for nonsecure custody, the official executing the order shall also give a
38 copy of the petition and order to the person or agency with whom the juvenile is being placed. If
39 the order is for secure custody, copies of the petition and custody order shall accompany the
40 juvenile to the detention facility or holdover facility of the jail. A message of the Department of
41 Public Safety stating that a juvenile petition and secure custody order relating to a specified
42 juvenile are on file in a particular county shall be authority to detain the juvenile in secure custody
43 until a copy of the juvenile petition and secure custody order can be forwarded to the juvenile
44 detention facility. The copies of the juvenile petition and secure custody order shall be
45 transmitted to the detention facility no later than 72 hours after the initial detention of the
46 juvenile.

47 ~~An officer receiving an order for custody which is complete and regular on its face may~~
48 ~~execute it in accordance with its terms and need not inquire into its regularity or continued~~
49 ~~validity, nor does the officer incur criminal or civil liability for its execution."~~
50

1 **SECTION 6.(b)** Article 19 of Chapter 7B of the General Statutes is amended by
2 adding a new section to read:

3 **"§ 7B-1904.5. Execution of secure custody order by law enforcement officer.**

4 (a) A law enforcement officer receiving an order for custody which is complete and
5 regular on its face may execute it in accordance with its terms and need not inquire into its
6 regularity or continued validity nor does the law enforcement officer incur criminal or civil
7 liability for its execution.

8 (b) Entry on Private Premises or Vehicle and Use of Force. – A law enforcement officer
9 may enter a private premises or a vehicle to take a juvenile into custody when all of the following
10 requirements are met:

11 (1) The law enforcement officer has in the law enforcement officer's possession a
12 secure custody order or a copy of the order, provided that a law enforcement
13 officer may utilize a copy of a secure custody order only if the original order
14 is in the possession of a member of a law enforcement agency located in the
15 county where the law enforcement officer is employed and the law
16 enforcement officer verifies with the agency that the order is current and valid.

17 (2) The law enforcement officer has reasonable cause to believe the juvenile to be
18 taken into custody is present in the premises or vehicle.

19 (3) The law enforcement officer has given, or made a reasonable effort to give,
20 notice of the law enforcement officer's authority and purpose to an occupant
21 of the premises or vehicle, unless there is reasonable cause to believe that the
22 giving of such notice would present a danger to the life or safety of any person.

23 A law enforcement officer may use force to enter the premises or vehicle if the law
24 enforcement officer believes that admittance is being denied or unreasonably delayed or if the
25 law enforcement officer is authorized under subdivision (3) of this subsection to enter without
26 giving notice of the law enforcement officer's authority and purpose."

27 **SECTION 6.(c)** This section becomes effective December 1, 2023, and applies to
28 offenses committed on or after that date.

29
30 **PART VII. DEPARTMENT OF INSURANCE LEASE EXPENSES**

31 **SECTION 7.(a)** The General Assembly authorizes the Department of Insurance to
32 fund, with receipts or from other non-General Fund and non-State Capital and Infrastructure
33 Fund sources available to the Department, a sum not to exceed eighteen million dollars
34 (\$18,000,000) to enter into a lease agreement for the temporary relocation of the Department's
35 offices and a sum not to exceed one million dollars (\$1,000,000) for costs associated with the
36 temporary relocation. The lease agreement funded by the sum authorized in this subsection shall
37 be for a term not to exceed five years and shall not be renewed without prior approval from the
38 General Assembly. The Department shall complete the relocation process no later than October
39 15, 2023.

40 **SECTION 7.(b)** The Office of State Fire Marshal shall not relocate and shall
41 maintain its offices on Rock Quarry Road in Raleigh for the duration of the lease agreement at
42 that location.

43 **SECTION 7.(c)** This section is effective when it becomes law.

44
45 **PART VIII. MAKE TECHNICAL CHANGES TO S.L. 2023-97**

46 **SECTION 8.(a)** G.S. 20-141.3(g), as amended by S.L. 2023-97, reads as rewritten:

47 "(g) The following provisions apply to this section:

48 (1) When any officer of the law discovers that any person has operated or is
49 operating a motor vehicle willfully in violation of subsection (a) of this
50 section, the officer shall seize the motor vehicle. When any officer of the law
51 discovers that any person has operated or is operating a motor vehicle in

1 violation of G.S. 20-141.10, the officer may seize the vehicle. Any vehicle
2 seized pursuant to this subsection shall be delivered to the sheriff of the county
3 in which such offense is committed, or the same shall be placed under said
4 sheriff's constructive possession if delivery of actual possession is impractical,
5 and the vehicle shall be held by the sheriff pending the trial of the person or
6 persons arrested for operating such motor vehicle in violation of subsection
7 (a) of this ~~section~~, section or in violation of G.S. 20-141.10. The sheriff shall
8 restore the seized motor vehicle to the owner upon execution by the owner of
9 a good and valid bond, with sufficient sureties, in an amount double the value
10 of the property, which bond shall be approved by said sheriff and shall be
11 conditioned on the return of the motor vehicle to the custody of the sheriff on
12 the day of trial of the person or persons accused. Upon the acquittal of the
13 person charged under subsection (a) of this section or G.S. 20-141.10, the
14 sheriff shall return the motor vehicle to the owner thereof.

15 (2) Notwithstanding the provisions for sale set out above, on petition by a
16 lienholder, the court, in its discretion and upon such terms and conditions as
17 it may prescribe, may allow reclamation of the vehicle by the lienholder. The
18 lienholder shall file with the court an accounting of the proceeds of any
19 subsequent sale of the vehicle and pay into the court any proceeds received in
20 excess of the amount of the lien.

21 (3) Upon conviction of the operator of said motor vehicle of a violation of
22 subsection (a) of this ~~section~~, section or in violation of G.S. 20-141.10, the
23 court shall order a sale at public auction of said motor vehicle and the officer
24 making the sale, after deducting the expenses of keeping the motor vehicle,
25 the fee for the seizure, and the costs of the sale, shall pay all liens, according
26 to their priorities, which are established, by intervention or otherwise, at said
27 hearing or in other proceeding brought for said purpose, as being bona fide,
28 and shall pay the balance of the proceeds to the proper officer of the county
29 who receives fines and forfeitures to be used for the school fund of the county.
30 All liens against a motor vehicle sold under the provisions of this section shall
31 be transferred from the motor vehicle to the proceeds of its sale. If, at the time
32 of hearing, or other proceeding in which the matter is considered, the owner
33 of the vehicle can establish to the satisfaction of the court that said motor
34 vehicle was used in a prearranged speed competition with another motor
35 vehicle on a street or highway or in a street takeover without the knowledge
36 or consent of the owner, and that the owner had no reasonable grounds to
37 believe that the motor vehicle would be used for such purpose, the court shall
38 not order a sale of the vehicle but shall restore it to the owner, and the said
39 owner shall, at his request, be entitled to a trial by jury upon such issues.

40 (4) If the owner of said motor vehicle cannot be found, the taking of the same,
41 with a description thereof, shall be advertised in some newspaper published
42 in the city or county where taken, or, if there be no newspaper published in
43 such city or county, in a newspaper having circulation in the county, once a
44 week for two weeks and by handbills posted in three public places near the
45 place of seizure, and if said owner shall not appear within 10 days after the
46 last publication of the advertisement, the property shall be sold, or otherwise
47 disposed of in the manner set forth in this section.

48 (5) When any vehicle confiscated ~~under the provisions of this section for a~~
49 violation of subsection (a) of this section is found to be specially equipped or
50 modified from its original manufactured condition so as to increase its speed,
51 the court shall, prior to sale, order that the special equipment or modification

1 be removed and destroyed and the vehicle restored to its original
2 manufactured condition. However, if the court should find that such
3 equipment and modifications are so extensive that it would be impractical to
4 restore said vehicle to its original manufactured condition, then the court may
5 order that the vehicle be turned over to such governmental agency or public
6 official within the territorial jurisdiction of the court as the court shall see fit,
7 to be used in the performance of official duties only, and not for resale,
8 transfer, or disposition other than as junk: Provided, that nothing herein
9 contained shall affect the rights of lienholders and other claimants to said
10 vehicles as set out in this section."

11 **SECTION 8.(b)** This section becomes effective December 1, 2023, and applies to
12 offenses committed on or after that date.

13
14 **PART IX. EFFECTIVE DATE**

15 **SECTION 9.** Except as otherwise provided, this act is effective when it becomes
16 law.