

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 492
Judiciary Committee Substitute Adopted 4/26/23
PROPOSED HOUSE COMMITTEE SUBSTITUTE S492-PCS15376-TC-56

Short Title: Adult Correction/Law Enf. Changes.

(Public)

Sponsors:

Referred to:

April 4, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY LAWS CONCERNING ADULT CORRECTION AND LAW
3 ENFORCEMENT AGENCIES.

4 The General Assembly of North Carolina enacts:

5
6 **EXPAND AVAILABLE METHODS OF DRUG AND ALCOHOL SCREENING OF**
7 **PROBATIONERS**

8 **SECTION 1.(a)** G.S. 15A-1343(b) reads as rewritten:

9 "(b) Regular Conditions. – As regular conditions of probation, a defendant must:

10 ...

11 (16) ~~Supply a breath, urine, or blood specimen~~ Submit to drug and alcohol
12 screening for analysis of the possible presence of prohibited drugs or alcohol
13 when instructed by the defendant's probation officer for purposes directly
14 related to the probation supervision. If the results of the analysis are positive,
15 the probationer may be required to reimburse the Division of Community
16 Supervision and Reentry of the Department of Adult Correction for the actual
17 costs of drug or alcohol screening and testing.

18 ...

19 In addition to these regular conditions of probation, a defendant required to serve an active
20 term of imprisonment as a condition of special probation pursuant to G.S. 15A-1344(e) or
21 G.S. 15A-1351(a) shall, as additional regular conditions of probation, obey the rules and
22 regulations of the Division of Prisons of the Department of Adult Correction and, if applicable,
23 the Division of Juvenile Justice of the Department of Public Safety, governing the conduct of
24 inmates while imprisoned and report to a probation officer in the State of North Carolina within
25 72 hours of his discharge from the active term of imprisonment.

26 Regular conditions of probation apply to each defendant placed on supervised probation
27 unless the presiding judge specifically exempts the defendant from one or more of the conditions
28 in open court and in the judgment of the court. It is not necessary for the presiding judge to state
29 each regular condition of probation in open court, but the conditions must be set forth in the
30 judgment of the court.

31 Defendants placed on unsupervised probation are subject to the provisions of this subsection,
32 except that defendants placed on unsupervised probation are not subject to the regular conditions
33 contained in subdivisions (2), (3), (6), (8), (13), (14), (15), (16) and (17) of this subsection."

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



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1
2 **INCLUDE PROHIBITION OF FIREARM AMMUNITION IN REGULAR**
3 **CONDITIONS OF PROBATION, POST-RELEASE SUPERVISION, AND PAROLE**

4 **SECTION 2.(a)** G.S. 15A-1343(b), as amended by Section 1 of this act, reads as
5 rewritten:

6 "(b) Regular Conditions. – As regular conditions of probation, a defendant must:

7 ...

8 (5) Possess no firearm, firearm ammunition, explosive device or other deadly
9 weapon listed in G.S. 14-269 without the written permission of the court.

10"

11 **SECTION 2.(b)** G.S. 15A-1368.4(e) reads as rewritten:

12 "(e) Controlling Conditions. – Appropriate controlling conditions, violation of which may
13 result in revocation of post-release supervision, are:

14 ...

15 (4) ~~Not possess a~~ Possess no firearm, ~~destructive~~ firearm ammunition, explosive
16 device, or other ~~dangerous~~ deadly weapon listed in G.S. 14-269 unless granted
17 written permission by the ~~Commission or a post-release supervision~~
18 officer. Commission.

19"

20 **SECTION 2.(c)** G.S. 15A-1374(b) reads as rewritten:

21 "(b) Appropriate Conditions. – As conditions of parole, the Commission may require that
22 the parolee comply with one or more of the following conditions:

23 ...

24 (5) ~~Refrain from possessing a~~ Possess no firearm, ~~destructive~~ firearm
25 ammunition, explosive device, or other ~~dangerous~~ deadly weapon listed in
26 G.S. 14-269 unless granted written permission by the ~~Commission or the~~
27 parole officer. Commission.

28"

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

31
32 **EARLY TRANSFERS TO FEDERAL AUTHORITIES, JAILS, AND LOCAL**
33 **DETENTION FACILITIES**

34 **SECTION 3.(a)** G.S. 15A-1352 is amended by adding a new subsection to read:

35 "(g) To facilitate an efficient and orderly transfer of custody, a person serving a sentence
36 in the Department of Adult Correction who is subject to an outstanding sentence, detainer, or
37 other lawful process authorizing detention may be transferred up to five days before the
38 expiration of the person's current sentence, and the remainder of the person's current sentence
39 may be served in the custody of the requesting local confinement facility or the requesting federal
40 agency. Early transfers conducted pursuant to this subsection shall only be conducted at the
41 request and expense of the receiving local confinement facility or the receiving federal agency.

42 Nothing in this subsection shall be construed to authorize the holding of a person beyond the
43 release date of the current sentence absent an outstanding sentence to be served, detainer, or
44 service of other lawful process authorizing detention.

45 For purposes of this subsection, "local confinement facility" is as defined in G.S. 153A-217
46 and "federal agency" is as defined in G.S. 130A-313."

47 **SECTION 3.(b)** This section becomes effective October 1, 2023, and applies to
48 transfers occurring on or after that date.

49
50 **OFFENDER POPULATION MAY PURCHASE CORRECTION ENTERPRISES**
51 **PRODUCTS**

1 **SECTION 4.(a)** G.S. 148-132 reads as rewritten:

2 "**§ 148-132. Distribution of products and services.**

3 The Division of Correction Enterprises of the Department of Adult Correction is empowered
4 and authorized to market and sell products and services produced by Correction Enterprises to
5 any of the following entities:

6 ...

7 (5a) Any individual currently incarcerated within a Department of Adult
8 Correction facility.

9 "

10 **SECTION 4.(b)** This section is effective when it becomes law.

11 **RETENTION AND REINVESTMENT OF UTILITY SAVINGS**

12 **SECTION 5.(a)** Part 1 of Article 16 of Chapter 143B of the General Statutes is
13 amended by adding a new section to read:

14 "**§ 143B-1445. Energy conservation savings.**

15 (a) The General Fund current operations appropriations credit balance remaining at the
16 end of each fiscal year for utilities from the Department of Adult Correction that is energy savings
17 realized from implementing an energy conservation measure shall be carried forward to the next
18 fiscal year. Sixty percent (60%) of the energy savings realized shall be utilized for energy
19 conservation measures by the Department of Adult Correction. The use of funds under this
20 section shall be limited to one-time capital and operating expenditures that will not impose
21 additional financial obligations on the State and are nonreverting. The Director of the Budget,
22 under the authority set forth in G.S. 143C-6-2, shall establish the General Fund current operations
23 credit balance remaining in each budget code of the Department of Adult Correction.

24 (b) The Director of the Budget shall not decrease the recommended continuation budget
25 requirements for utilities from the previous fiscal year for the Department of Adult Correction
26 by the amount of energy savings realized from implementing energy conservation measures,
27 including savings achieved through a guaranteed energy savings contract.

28 (c) The Department of Adult Correction shall submit a biennial report on the use of funds
29 authorized pursuant to this section as required under G.S. 143-64.12.

30 (d) As used in this section, "energy savings," "guaranteed energy savings contract," and
31 "energy conservation measure" have the same meaning as in G.S. 143-64.17."

32 **SECTION 5.(b)** G.S. 116-30.3B(c) reads as rewritten:

33 "(c) Constituent institutions shall submit ~~annual~~-biennial reports on the use of funds
34 authorized pursuant to this section as required under G.S. 143-64.12."

35 **SECTION 5.(c)** This section is effective when it becomes law.

36 **RETAIN PROCEEDS FROM SALE OF DEPARTMENT OF ADULT CORRECTION** 37 **PROPERTY**

38 **SECTION 6.(a)** G.S. 146-30(d) reads as rewritten:

39 "(d) Notwithstanding any other provision of this Subchapter, the following exceptions
40 apply:

41 ...

42 (16) The net proceeds derived from the sale or lease of land or facilities owned by
43 the Department of Adult Correction or owned by the State and solely
44 maintained by the Department of Adult Correction shall be deposited in a
45 capital improvement fund to the credit of the Department of Adult Correction
46 to make capital improvements on or to property owned by the Department of
47 Adult Correction or owned by the State and solely maintained by the
48 Department of Adult Correction. Expenditures from this capital fund shall be
49 subject to approval by the Office of State Budget and Management."
50
51

1 **SECTION 6.(b)** This section is effective when it becomes law and applies to
2 proceeds from sales occurring on or after that date.

3
4 **AUTHORIZATION TO DESIGNATE DAC EMPLOYEES TO CARRY CONCEALED**
5 **WEAPONS**

6 **SECTION 7.(a)** G.S. 14-269(b) reads as rewritten:

7 "(b) This prohibition shall not apply to any of the following persons:

8 (1) Officers and enlisted personnel of the Armed Forces of the United States when
9 in discharge of their official duties as such and acting under orders requiring
10 them to carry arms and ~~weapons;~~weapons.

11 (2) Civil and law enforcement officers of the United ~~States;~~States.

12 (3) Officers and soldiers of the militia and the National Guard when called into
13 actual ~~service;~~service.

14 ...

15 (4) Officers of the State, or of any county, city, town, or company police agency
16 charged with the execution of the laws of the State, when acting in the
17 discharge of their official ~~duties;~~duties.

18 (4a) Any person who is a district attorney, an assistant district attorney, or an
19 investigator employed by the office of a district attorney and who has a
20 concealed handgun permit issued in accordance with Article 54B of this
21 Chapter or considered valid under G.S. 14-415.24; provided that the person
22 shall not carry a concealed weapon at any time while in a courtroom or while
23 consuming alcohol or an unlawful controlled substance or while alcohol or an
24 unlawful controlled substance remains in the person's body. The district
25 attorney, assistant district attorney, or investigator shall secure the weapon in
26 a locked compartment when the weapon is not on the person of the district
27 attorney, assistant district attorney, or investigator. Notwithstanding the
28 provisions of this subsection, a district attorney may carry a concealed weapon
29 while in a ~~courtroom;~~courtroom.

30 (4b) Any person who is a qualified retired law enforcement officer as defined in
31 G.S. 14-415.10 and meets any one of the following conditions:

32 a. Is the holder of a concealed handgun permit in accordance with Article
33 54B of this Chapter.

34 b. Is exempt from obtaining a permit pursuant to G.S. 14-415.25.

35 c. Is certified by the North Carolina Criminal Justice Education and
36 Training Standards Commission pursuant to
37 ~~G.S. 14-415.26;~~G.S. 14-415.26.

38 (4c) Detention personnel or correctional officers employed by the State or a unit
39 of local government who park a vehicle in a space that is authorized for their
40 use in the course of their duties may transport a firearm to the parking space
41 and store that firearm in the vehicle parked in the parking space, provided that:
42 (i) the firearm is in a closed compartment or container within the locked
43 vehicle, or (ii) the firearm is in a locked container securely affixed to the
44 ~~vehiele;~~vehicle.

45 (4d) Any person who is a North Carolina district court judge, North Carolina
46 superior court judge, or a North Carolina magistrate and who has a concealed
47 handgun permit issued in accordance with Article 54B of this Chapter or
48 considered valid under G.S. 14-415.24; provided that the person shall not
49 carry a concealed weapon at any time while consuming alcohol or an unlawful
50 controlled substance or while alcohol or an unlawful controlled substance
51 remains in the person's body. The judge or magistrate shall secure the weapon

in a locked compartment when the weapon is not on the person of the judge or ~~magistrate;~~magistrate.

(4e) Any person who is serving as a clerk of court or as a register of deeds and who has a concealed handgun permit issued in accordance with Article 54B of this Chapter or considered valid under G.S. 14-415.24; provided that the person shall not carry a concealed weapon at any time while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the person's body. The clerk of court or register of deeds shall secure the weapon in a locked compartment when the weapon is not on the person of the clerk of court or register of deeds. This subdivision does not apply to assistants, deputies, or other employees of the clerk of court or register of ~~deeds;~~deeds.

(5) Sworn law-enforcement officers, when off-duty, provided that an officer does not carry a concealed weapon while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the officer's ~~body;~~body.

...
(7a) A person employed by the Department of Adult Correction who (i) has been designated in writing by the Secretary of the Department, (ii) has a concealed handgun permit issued in accordance with Article 54B of this Chapter or considered valid under G.S. 14-415.24, and (iii) has in the person's possession written proof of the designation by the Secretary of the Department, provided that the person shall not carry a concealed weapon at any time while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the person's body.

...."
SECTION 7.(b) This section is effective when it becomes law and applies to designations made on or after that date.

EXEMPTIONS FROM CONTESTED CASE PROVISIONS

SECTION 8.(a) G.S. 150B-1(e) reads as rewritten:

"(e) Exemptions From Contested Case Provisions. – The contested case provisions of this Chapter apply to all agencies and all proceedings not expressly exempted from the Chapter. The contested case provisions of this Chapter do not apply to the following:

...
(7) ~~The Division of Prisons of the~~ Department of Adult Correction.

...."
SECTION 8.(b) This section is effective when it becomes law and applies to proceedings occurring on or after that date.

EXTEND SUNSET DATE FOR USE OF SECURITY GUARDS AT STATE PRISONS

SECTION 9.(a) Section 4.15(c) of S.L. 2020-3, as amended by Section 2 of S.L. 2020-15, Section 19D.2 of S.L. 2021-180, Section 12 of S.L. 2022-58, and Section 19D.1 of S.L. 2022-74, reads as rewritten:

"~~SECTION 4.15.(c) This section is effective when it becomes law and expires upon the earlier of January 1, 2024, or the date of completion of the Youth Development Center in Rockingham County on June 30, 2025.~~"

SECTION 9.(b) This section is effective when it becomes law.

EXPAND AUTHORITY TO INCREASE WAGES PAID TO WORKING NORTH CAROLINA INMATES

1 **SECTION 10.(a)** G.S. 148-18(a) reads as rewritten:

2 "(a) Prisoners employed by Correction Enterprises shall be compensated as set forth in
3 Article 14 of this Chapter. Prisoners participating in work assignments established by the
4 Division of Prisons shall be compensated at rates fixed by the Division of Prisons of the
5 Department of Adult Correction's rules and regulations; provided, that no prisoner so paid shall
6 receive more than one dollar (\$1.00) per day, unless the prisoner is performing work for the
7 Division's BRIDGE Program or the Secretary determines that the work assignment requires
8 special skills or training. Upon approval of the Secretary, inmates working for the BRIDGE
9 Program or in job assignments requiring special skills or training may be paid up to five dollars
10 (\$5.00) per day. The Correction Enterprises Fund shall be the source of wages and allowances
11 provided to inmates who are employed by the Division of Prisons of the Department of Adult
12 Correction in work assignments established by the Division of Prisons."

13 **SECTION 10.(b)** This section is effective when it becomes law and applies to work
14 performed on or after that date.

15
16 **PROVIDE THAT QUALIFIED CORRECTIONAL OFFICERS AND QUALIFIED**
17 **STATE PROBATION OR PAROLE CERTIFIED OFFICERS ARE DEEMED TO HAVE**
18 **SATISFIED THE APPROVED FIREARMS SAFETY AND TRAINING COURSE**
19 **REQUIREMENT FOR A CONCEALED HANDGUN PERMIT**

20 **SECTION 11.(a)** G.S. 14-415.10 reads as rewritten:

21 **"§ 14-415.10. Definitions.**

22 The following definitions apply to this Article:

23 ...

24 **(3b)** Qualified correctional officer. – An individual employed as a State
25 correctional officer who meets all of the following criteria:

- 26 a. The individual is authorized by the Division of Prisons of the
27 Department of Adult Correction to carry a handgun in the course of
28 duty.
29 b. The individual is not the subject of a disciplinary action by the
30 Division of Prisons of the Department of Adult Correction that
31 prevents the carrying of a handgun.
32 c. The individual meets any requirements established by the Division of
33 Prisons of the Department of Adult Correction regarding handguns.

34 ...

35 **(4d)** Qualified State probation or parole certified officer. – An individual employed
36 as a State probation or parole certified officer who meets all of the following
37 criteria:

- 38 a. The individual is authorized by the Division of Community
39 Supervision and Reentry of the Department of Adult Correction to
40 carry a handgun in the course of duty.
41 b. The individual is not the subject of a disciplinary action by the
42 Division of Community Supervision and Reentry of the Department
43 of Adult Correction that prevents the carrying of a handgun.
44 c. The individual meets any requirements established by the Division of
45 Community Supervision and Reentry of the Department of Adult
46 Correction regarding handguns.

47 "

48 **SECTION 11.(b)** G.S. 14-415.12A(a) reads as rewritten:

49 "(a) A person who is a qualified sworn law enforcement officer, a qualified former sworn
50 law enforcement officer, a qualified correctional officer, a qualified retired correctional officer,
51 a qualified State probation or parole certified officer, or a qualified retired probation or parole

1 certified officer is deemed to have satisfied the requirement under G.S. 14-415.12(a)(4) that an
2 applicant successfully complete an approved firearms safety and training course."

3 **SECTION 11.(c)** This section is effective when it becomes law and applies to permit
4 applications submitted on or after that date.

5
6 **EXPAND THE SCOPE OF VARIOUS PEER SUPPORT GROUP COUNSELOR**
7 **PROVISIONS**

8 **SECTION 12.(a)** G.S. 8-53.10 reads as rewritten:

9 **"§ 8-53.10. Peer support group counselors.**

10 (a) Definitions. – The following definitions apply in this section:

11 (1) Client law enforcement employee. – Any law enforcement employee or a
12 member of his or her immediate family who is in need of and receives peer
13 counseling services offered by the officer's employing law enforcement
14 agency.

15 (1a) Emergency personnel officer. – Firefighting, search and rescue, or emergency
16 medical service personnel, or any employee of any duly accredited State or
17 local government agency possessing authority to enforce the criminal laws of
18 the State who (i) is actively serving in a position with assigned primary duties
19 and responsibilities for the prevention and detection of crime or the general
20 enforcement of the criminal laws of the State and (ii) possesses the power of
21 arrest by virtue of an oath administered under the authority of the State.

22 (1b) Corrections employee. – Any corrections employee or a member of his or her
23 immediate family who is in need of and receives peer counseling services
24 offered by the employee's corrections agency.

25 (2) Immediate family. – A spouse, child, stepchild, parent, or stepparent.

26 (3) Peer counselor. – Any active or retired law enforcement officer, corrections
27 officer, emergency personnel officer, or civilian employee of a law
28 enforcement agency who: agency, corrections agency, or emergency agency
29 who meets both of the following criteria:

30 a. Has received training to provide emotional and moral support and
31 counseling to client law enforcement employees, corrections
32 employees, emergency personnel officers, and their immediate
33 families.

34 b. ~~Was~~ Has been designated by ~~the a~~ a sheriff, police chief, or other head
35 of a law ~~enforcement or enforcement, corrections, or emergency~~
36 ~~agency to counsel a~~ provide counseling to client law enforcement
37 ~~employee-employees, corrections employees, and emergency~~
38 ~~personnel officers.~~

39 (4) Privileged communication. – Any communication made by a client law
40 enforcement employee, corrections employee, emergency personnel officer,
41 or a member of the client law enforcement employee's-employee's, corrections
42 employee's, or emergency personnel officer's immediate family to a peer
43 counselor while receiving counseling.

44 (a1) Nothing in this section shall be construed to require the designation as a peer
45 counselor required by sub-subdivision b. of subdivision (3) of subsection (a) of this section be
46 made by the head of the same agency that employs the client law enforcement employee,
47 corrections employee, or emergency personnel officer.

48 (b) A peer counselor shall not disclose any privileged communication that was necessary
49 to enable the counselor to render counseling services unless one of the following apply:

- 1 (1) The disclosure is authorized by the client or, if the client is deceased, the
2 disclosure is authorized by the client's executor, administrator, or in the case
3 of unadministrated estates, the client's next of kin.
- 4 (2) The disclosure is necessary to the proper administration of justice and, subject
5 to G.S. 8-53.6, is compelled by a resident or presiding judge. If the case is in
6 district court the judge shall be a district court judge, and if the case is in
7 superior court the judge shall be a superior court judge.
- 8 (c) The privilege established by this section shall not apply:
- 9 (1) If the peer counselor was an initial responding officer, a witness, or a party to
10 the incident that prompted the delivery of peer counseling services.
- 11 (2) To communications made while the peer counselor was not acting in his or
12 her official capacity as a peer counselor.
- 13 (3) To communications related to a violation of criminal law. This subdivision
14 does not require the disclosure of otherwise privileged communications
15 related to an officer's use of force.
- 16 (d) Notwithstanding the provisions of this section, the peer counselor privilege shall not
17 be grounds for failure to report suspected child abuse or neglect to the appropriate county
18 department of social services, or for failure to report a disabled adult suspected to be in need of
19 protective services to the appropriate county department of social services. Notwithstanding the
20 provisions of this section, the peer counselor privilege shall not be grounds for excluding
21 evidence regarding the abuse or neglect of a child, or an illness of or injuries to a child, or the
22 cause thereof, or for excluding evidence regarding the abuse, neglect, or exploitation of a disabled
23 adult, or an illness of or injuries to a disabled adult, or the cause thereof, in any judicial
24 proceeding related to a report pursuant to the Child Abuse Reporting Law, Article 3 of Chapter
25 7B, or to the Protection of the Abused, Neglected, or Exploited Disabled Adult Act, Article 6 of
26 Chapter 108A of the General Statutes."

27 **SECTION 12.(b)** This section is effective when it becomes law and applies
28 retroactively to communications made on or after July 8, 2022.

30 **EXPAND PROBATION OFFICERS' DELEGATED AUTHORITY TO DWI CASES**

31 **SECTION 13.(a)** G.S. 20-179 is amended by adding a new subsection to read:

32 "(k5) Delegation to Probation Officer. – Unless the presiding judge specifically finds in the
33 judgment of the court that delegation is not appropriate, the Division of Community Supervision
34 and Reentry of the Department of Adult Correction may require an offender sentenced pursuant
35 to subsection (f3), (g), (h), (i), (j), or (k) of this section and placed on supervised probation to do
36 any of the following:

- 37 (1) Perform up to 20 hours of community service and pay the applicable
38 supervision fee prescribed by law.
- 39 (2) Report to the offender's probation officer on a frequency to be determined by
40 the officer.
- 41 (3) Submit to substance abuse assessment, monitoring, or treatment.
- 42 (4) Submit to house arrest with electronic monitoring.
- 43 (5) Submit to a period or periods of confinement in a local confinement facility
44 for a total of no more than six days per month during any three separate
45 months during the period of probation. The six days per month confinement
46 provided for in this subdivision may only be imposed as two-day or three-day
47 consecutive periods. When a defendant is on probation for multiple
48 judgments, confinement periods imposed under this subdivision shall run
49 concurrently and may total no more than six days per month. If the person
50 being ordered to a period or periods of confinement is under the age of 18,
51 that person must be confined in a detention facility approved by the Division

1 of Juvenile Justice of the Department of Public Safety to provide secure
2 confinement and care for juveniles or to a holdover facility as defined in
3 G.S. 7B-1501(11). If the person being ordered to a period or periods of
4 confinement reaches the age of 18 years while in confinement, the person may
5 be transported by personnel of the Division of Juvenile Justice, or personnel
6 approved by the Division of Juvenile Justice, to the custody of the sheriff of
7 the applicable local confinement facility.

8 (6) Submit to a curfew which requires the offender to remain in a specified place
9 for a specified period each day and wear a device that permits the offender's
10 compliance with the condition to be monitored electronically.

11 (7) Participate in an educational or vocational skills development program,
12 including an evidence-based program.

13 If the Division of Community Supervision and Reentry imposes any of the above
14 requirements, then it may subsequently reduce or remove those same requirements. The
15 probation officer may exercise authority delegated to the probation officer by the court pursuant
16 to this subsection after administrative review and approval by a chief probation officer. The
17 offender may file a motion with the court to review the action taken by the probation officer.

18 The offender shall be given notice of the right to seek such a court review. However, the
19 offender shall have no right of review if the offender has signed a written waiver of rights as
20 required by this subsection. The Division may exercise any authority delegated to it under this
21 subsection only if it first determines that the offender has failed to comply with one or more of
22 the conditions of probation or the offender is determined to be high risk based on the results of a
23 validated instrument to assess each probationer for risk of reoffending, except that the condition
24 in subdivision (5) of this subsection may not be imposed unless the Division determines that the
25 offender failed to comply with one or more of the conditions of probation. Nothing in this
26 subsection shall be construed to limit the availability of the procedures authorized under
27 G.S. 15A-1345. The Division of Community Supervision and Reentry shall adopt guidelines and
28 procedures to implement the requirements of this subsection, which shall include a supervisor's
29 approval prior to exercise of the delegation of authority authorized by this subsection. Prior to
30 imposing confinement pursuant to subdivision (5) of this subsection, the probationer must first
31 be presented with a violation report, with the alleged violations noted and advised of the right to
32 (i) a hearing before the court on the alleged violation, with the right to present relevant oral and
33 written evidence, (ii) have counsel at the hearing, and that one will be appointed if the probationer
34 is indigent, (iii) request witnesses who have relevant information concerning the alleged
35 violations, and (iv) examine any witnesses or evidence. The probationer may be confined for the
36 period designated on the violation report upon the execution of a waiver of rights signed by the
37 probationer and by two officers acting as witnesses. Those two witnesses shall be the probation
38 officer and another officer to be designated by the Deputy Secretary of the Division of
39 Community Supervision and Reentry in written Division policy."

40 **SECTION 13.(b)** This section becomes effective December 1, 2023, and applies to
41 offenses committed on or after that date.

42
43 **ALLOW THE DEPARTMENT OF ADULT CORRECTION TO CONDUCT A**
44 **TWO-YEAR PILOT PROGRAM TO CONTRACT WITH NONGOVERNMENTAL**
45 **STAFFING AGENCIES FOR NURSING SERVICES**

46 **SECTION 14.(a)** Definitions. – The following definitions apply to this section:

47 (1) Department. – Department of Adult Correction.

48 (2) Nurse. – An individual licensed to practice nursing under Article 9A of
49 Chapter 90 of the General Statutes.

50 (3) Nursing services. – Health care services provided by a nurse to prisoners
51 committed to the Division of Prisons of the Department of Adult Correction.

1 **SECTION 14.(b)** Pilot Program. – Beginning October 1, 2023, the Department may
2 conduct a two-year pilot program to contract with nongovernmental staffing agencies for nursing
3 services. The purpose of the pilot program is to promote the health, safety, and well-being of the
4 State's offender patient population as well as encourage the recruitment of qualified and
5 competent nurses. Notwithstanding G.S. 126-6.3 and the policies and rules adopted pursuant to
6 it, contracts with nongovernmental staffing agencies for nursing services shall be exempt from
7 any break in service requirement.

8 **SECTION 14.(c)** Report. – The Department shall submit an interim report no later
9 than September 30, 2024, and a final report no later than November 30, 2025, to the Joint
10 Legislative Oversight Committee on General Government, to the Joint Legislative Oversight
11 Committee on Justice and Public Safety, and to the Fiscal Research Division on the results of the
12 pilot program and the policies and rules adopted pursuant to it, including:

- 13 (1) The number of nurses contracted for through the pilot and, of that number, the
14 number of nurses who exceeded 11 months of contract employment and the
15 number of days each nurse exceeded 11 months of employment.
- 16 (2) For each nurse contracted for through the pilot, the Department shall record
17 the time worked in the agency, including the number of hours worked per
18 week, the number of months worked, and the amount of time the nurse was
19 not employed after 11 consecutive months of service with the agency.
- 20 (3) The overall cost of each nurse contracted for through the pilot and a
21 comparison of that cost with the State salary ranges for medical professionals
22 in equivalent positions employed by the Department.

23 **SECTION 14.(d)** Expiration. – The pilot program authorized by this section shall
24 expire on September 30, 2025.

25 **SECTION 14.(e)** This section becomes effective October 1, 2023.

26
27 **REQUIRE ARRESTING LAW ENFORCEMENT AGENCIES TO FINGERPRINT**
28 **INDIVIDUALS CHARGED WITH A MISDEMEANOR CRIME OF DOMESTIC**
29 **VIOLENCE AND FORWARD THOSE FINGERPRINTS TO THE STATE BUREAU OF**
30 **INVESTIGATION**

31 **SECTION 15.(a)** G.S. 15A-502(a2) reads as rewritten:

32 "(a2) It shall be the duty of the arresting law enforcement agency to cause a person charged
33 with the commission of any of the following misdemeanors to be fingerprinted and to forward
34 those fingerprints to the State Bureau of Investigation:

- 35 (1) G.S. 14-32.5 (Misdemeanor crime of domestic violence), G.S. 14-134.3
36 (Domestic criminal trespass), G.S. 15A-1382.1 (Offense that involved
37 domestic violence), or G.S. 50B-4.1 (Violation of a valid protective order).
- 38 (2) G.S. 20-138.1 (Impaired driving), G.S. 20-138.2 (Impaired driving in
39 commercial vehicle), G.S. 20-138.2A (Operating a commercial vehicle after
40 consuming alcohol), and G.S. 20-138.2B (Operating various school, child
41 care, EMS, firefighting, or law enforcement vehicles after consuming
42 alcohol).
- 43 (3) G.S. 90-95(a)(3) (Possession of a controlled substance)."

44 **SECTION 15.(b)** This section becomes effective December 1, 2023, and applies to
45 offenses committed on or after that date.

46
47 **CORRECT REFERENCES TO THE DEPARTMENT OF ADULT CORRECTION AND**
48 **THE DEPARTMENT OF PUBLIC SAFETY**

49 **SECTION 16.(a)** G.S. 14-258.1 reads as rewritten:

50 "**§ 14-258.1. Furnishing poison, controlled substances, deadly weapons, cartridges,**
51 **ammunition or alcoholic beverages to inmates of charitable, mental or penal**

1 **institutions or local confinement facilities; furnishing tobacco products including**
2 **vapor products; or furnishing mobile phones to inmates or delinquent juveniles.**

3 ...
4 (d) Any person who knowingly gives or sells a mobile telephone or other wireless
5 communications device, or a component of one of those devices, to an inmate in the custody of
6 the Division of Prisons of the Department of Adult Correction, to a delinquent juvenile in the
7 custody of the Division of Juvenile Justice ~~Section of the Division of Prisons of the Department~~
8 ~~of Adult Correction, Public Safety,~~ or to an inmate in the custody of a local confinement facility,
9 or any person who knowingly gives or sells any such device or component to a person who is not
10 an inmate or delinquent juvenile for delivery to an inmate or delinquent juvenile, is guilty of a
11 Class H felony. For purposes of this subsection, a delinquent juvenile in the custody of the
12 Division of Juvenile Justice ~~Section of the Division of Prisons of the Department of Adult~~
13 ~~Correction, Public Safety~~ shall mean a juvenile confined in a youth development center or a
14 detention facility as defined in G.S. 7B-1501, and shall include transportation of a juvenile to or
15 from confinement.

16 ...
17 (g) Any inmate in the custody of the ~~Division~~ Department of Adult Correction of the
18 ~~Department of Public Safety~~ or an inmate of a local confinement facility who possesses a mobile
19 telephone or other wireless communication device or a component of one of those devices is
20 guilty of a Class H felony.

21 (h) The prohibitions in subsections (d) and (g) of this section shall not apply to any mobile
22 telephone or other wireless communications device provided to or possessed by an inmate of a
23 facility operated by the Department of Adult Correction or an inmate of a local confinement
24 facility if the mobile telephone or other wireless communications device has been approved by
25 the Department of Adult Correction or the sheriff or other person in charge of a local confinement
26 facility for use by inmates and is provided to the inmate in a manner consistent with the approved
27 use of that device."

28 **SECTION 16.(b)** G.S. 15-203 reads as rewritten:

29 **"§ 15-203. Duties of the Secretary of ~~Public Safety; Adult Correction;~~ appointment of**
30 **probation officers; reports; requests for extradition.**

31 The Secretary of ~~Public Safety, Adult Correction,~~ or the Secretary's designee, shall direct the
32 work of the probation officers appointed under this Article. Notwithstanding any other provision
33 of law, the Secretary of ~~Public Safety, Adult Correction~~ shall have sole discretion to establish the
34 minimum experience requirements to receive an appointment as a probation officer. The Office
35 of State Human Resources shall work with the Secretary to establish position classifications for
36 probation officers based on the experience requirements established by the Secretary. The
37 Secretary, or the Secretary's designee, shall consult and cooperate with the courts and institutions
38 in the development of methods and procedure in the administration of probation, and shall
39 arrange conferences of probation officers and judges. The Secretary shall make an annual written
40 report with statistical and other information to the Governor. The Secretary is authorized to
41 present to the Governor written applications for requisitions for the return of probationers who
42 have broken the terms of their probation, and are believed to be in another state, and the Secretary
43 shall follow the procedure outlined for requests for extradition as set forth in G.S. 15A-743."

44 **SECTION 16.(c)** G.S. 15-204 reads as rewritten:

45 **"§ 15-204. Assignment, compensation and oath of probation officers.**

46 Probation officers appointed under this Article shall be assigned to serve in such courts or
47 districts or otherwise as the Secretary of ~~Public Safety, Adult Correction~~ may determine. They
48 shall be paid annual salaries to be fixed by the Department of ~~Public Safety, Adult Correction,~~
49 and shall also be paid traveling and other necessary expenses incurred in the performance of their
50 official duties as probation officers when such expense accounts have been authorized and
51 approved by the Secretary of ~~Public Safety, Adult Correction.~~

1 Each person appointed as a probation officer shall take an oath of office before the judge of
2 the court or courts in which he is to serve, which oath shall be as follows:

3 "I, _____, do solemnly and sincerely swear that I will be faithful and bear true
4 allegiance to the State of North Carolina, and to the constitutional powers and authorities which
5 are or may be established for the government thereof; and that I will endeavor to support,
6 maintain, and defend the Constitution of said State, not inconsistent with the Constitution of the
7 United States, to the best of my knowledge and ability; so help me God,"
8 and shall be noted of record by the clerk of the court."

9 **SECTION 16.(d)** G.S. 15-207 reads as rewritten:

10 **"§ 15-207. Records treated as privileged information.**

11 All information and data obtained in the discharge of official duty by any probation officer
12 shall be privileged information, shall not be receivable as evidence in any court, and shall not be
13 disclosed directly or indirectly to any other than the judge or to others entitled under this Article
14 to receive reports, unless and until otherwise ordered by a judge of the court or the Secretary of
15 Public Safety-Adult Correction."

16 **SECTION 16.(e)** G.S. 15A-1332(c) reads as rewritten:

17 "(c) Presentence Commitment for Study. – When the court desires more detailed
18 information as a basis for determining the sentence to be imposed than can be provided by a
19 presentence investigation, the court may commit a defendant to the ~~Division of Community~~
20 ~~Supervision and Reentry of the~~ Department of Adult Correction for study for the shortest period
21 necessary to complete the study, not to exceed 90 days, if that defendant has been charged with
22 or convicted of any felony or a Class A1 or Class 1 misdemeanor crime or crimes for which he
23 may be imprisoned for more than six months and if he consents. The period of commitment must
24 end when the study is completed, and may not exceed 90 days. The ~~Division~~ Department must
25 conduct a complete study of a defendant committed to it under this subsection, inquiring into
26 such matters as the defendant's previous delinquency or criminal experience, his social
27 background, his capabilities, his mental, emotional and physical health, and the availability of
28 resources or programs appropriate to the defendant. Upon completion of the study or the end of
29 the 90-day period, whichever occurs first, ~~the Division of Community Supervision and Reentry~~
30 ~~of the~~ Department of Adult Correction must release the defendant to the sheriff of the county in
31 which his case is docketed. The ~~Division~~ Department must forward the study to the clerk in that
32 county, including whatever recommendations the ~~Division~~ Department believes will be helpful
33 to a proper resolution of the case. When a defendant is returned from a presentence commitment
34 for study, the conditions of pretrial release which obtained for the defendant before the
35 commitment continue until judgment is entered, unless the conditions are modified under the
36 provisions of G.S. 15A-534(e)."

37 **SECTION 16.(f)** G.S. 20-39.1(e) reads as rewritten:

38 "(e) Upon approval and request of the Director of the State Bureau of Investigation, the
39 Commissioner shall issue confidential license plates to local, State, or federal law enforcement
40 agencies, the Department of Public Safety, the Department of Adult Correction, agents of the
41 Internal Revenue Service, and agents of the Department of Defense in accordance with the
42 provisions of this subsection. Applicants in these categories shall provide satisfactory evidence
43 to the Director of the State Bureau of Investigation of the following:

- 44 (1) The confidential license plate requested is to be used on a publicly owned or
45 leased vehicle that is primarily used for transporting, apprehending, or
46 arresting persons charged with violations of the laws of the United States or
47 the State of North Carolina;
- 48 (2) The use of a confidential license plate is necessary to protect the personal
49 safety of an officer or for placement on a vehicle used primarily for
50 surveillance or undercover operations; and

- 1 (3) The application contains an original signature of the head of the requesting
2 agency or department or, in the case of a federal agency, the signature of the
3 senior ranking officer for that agency in this State.

4 Confidential license plates issued under this subsection shall be issued on an annual basis and
5 the Division shall maintain a separate registration file for vehicles bearing confidential license
6 plates. That file shall be confidential for the use of the Division and is not a public record within
7 the meaning of Chapter 132 of the General Statutes. Upon the annual renewal of the registration
8 of a vehicle for which a confidential status has been established under this section, the registration
9 shall lose its confidential status unless the agency or department supplies the Director of the State
10 Bureau of Investigation with information demonstrating that an officer's personal safety remains
11 at risk or that the vehicle is still primarily used for surveillance or undercover operations at the
12 time of renewal."

13 **SECTION 16.(g)** G.S. 148-32.1 reads as rewritten:

14 "**§ 148-32.1. Local confinement, costs, alternate facilities, parole, work release.**

15 ...

16 (b2) The Statewide Misdemeanant Confinement Program is established. The Program
17 shall provide for the housing of misdemeanants from all counties serving sentences imposed for
18 a period of more than 90 days and for all sentences imposed for impaired driving under
19 G.S. 20-138.1, regardless of length. Those misdemeanants shall be confined in local confinement
20 facilities except as provided in subsections (b3) and (b4) of this section. The Program shall
21 address methods for the placement and transportation of inmates and reimbursement to counties
22 for the housing of those inmates. Any county that voluntarily agrees to house misdemeanants
23 from that county or from other counties pursuant to the Program may enter into a written
24 agreement with the ~~Division~~ Department of Adult Correction and ~~Juvenile Justice~~ to do so.

25 The North Carolina Sheriffs' Association shall:

- 26 (1) Report no later than the fifteenth day of each month to the Office of State
27 Budget and Management and the Fiscal Research Division on the Statewide
28 Misdemeanant Confinement Program. Each monthly report shall include all
29 of the following:
30 a. The daily population delineated by misdemeanant or DWI monthly
31 housing.
32 b. The cost of housing prisoners under the Program.
33 c. The cost of transporting prisoners under the Program.
34 d. Personnel costs.
35 e. Inmate medical care costs.
36 f. The number of counties that volunteer to house inmates under the
37 Program.
38 g. The administrative costs paid to the Sheriffs' Association and to the
39 Department of ~~Public Safety~~ Adult Correction.
- 40 (2) Report no later than October 1 of each year to the chairs of the House of
41 Representatives Appropriations Committee on Justice and Public Safety and
42 the Senate Appropriations Committee on Justice and Public Safety and the
43 Joint Legislative Oversight Committee on Justice and Public Safety on the
44 Statewide Misdemeanant Confinement Program. The report shall include the
45 following with respect to the prior fiscal year:
46 a. The cost of housing prisoners by county under the Program.
47 b. The cost of transporting prisoners by county under the Program.
48 c. Personnel costs by county.
49 d. Inmate medical care costs by county.
50 e. The number of counties that volunteer to house inmates under the
51 Program.

1 f. The administrative costs paid to the Sheriffs' Association and to the
2 Department of ~~Public Safety~~. Adult Correction.

3 ...

4 (e) Upon entry of a prisoner serving a sentence of imprisonment for impaired driving
5 under G.S. 20-138.1 into a local confinement facility or to a detention facility approved by the
6 Division of Juvenile Justice ~~Section of the Division of Prisons of the Department of Public Safety~~
7 pursuant to this section, the custodian of the local confinement facility or detention facility shall
8 forward to the Post-Release Supervision and Parole Commission information pertaining to the
9 prisoner so as to make him eligible for parole consideration pursuant to G.S. 15A-1371. Such
10 information shall include date of incarceration, jail credit, and such other information as may be
11 required by the Post-Release Supervision and Parole Commission. The Post-Release Supervision
12 and Parole Commission shall approve a form upon which the custodian shall furnish this
13 information, which form will be provided to the custodian by the Division of Prisons."

14
15 **EFFECTIVE DATE**

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