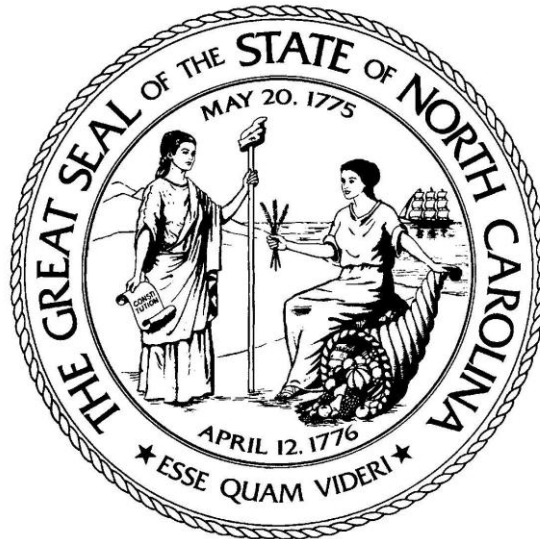


Senate Appropriations Subcommittee on Justice and Public Safety

Special Provisions for S.B. 744, Appropriations Act of 2014

Senate and House Differences



**June 17, 2014
8:30 a.m.**

Senate and House Differ

Senate Version

GOVERNOR'S CRIME COMMISSION

SECTION 16A.2. G.S. 143B-1101(b) reads as rewritten:

"(b) The Governor's Crime Commission shall review the level of gang activity throughout the State and assess the progress and accomplishments of the State, and of local governments, in preventing the proliferation of gangs and addressing the needs of juveniles who have been identified as being associated with gang activity.

The Governor's Crime Commission shall develop recommendations concerning the establishment of priorities and needed improvements with respect to gang prevention ~~to the General Assembly~~ and shall report those recommendations to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on or before March 1 of each year."

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15

2
3
4
5
6
7
8
9
10
11
12
13
14

3

4
5
6
7

8
9
10
11
12
13

1

2 **House Only**

3 **LIMITED AUTHORITY TO RECLASSIFY AND ELIMINATE CERTAIN POSITIONS**

4 **SECTION 16A.3.** Notwithstanding any other provision of law, subject to the approval
5 of the Director of the Budget, the Secretary of the Department of Public Safety may reclassify or
6 eliminate existing administrative positions that are not specifically addressed in this act as needed
7 for the efficient operation of the Department. The Secretary of the Department of Public Safety
8 shall report any position reclassification undertaken pursuant to this section to the Chairs of the
9 House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Chairs of
10 the Senate Appropriations Committee on Justice and Public Safety, and the Fiscal Research
11 Division within 30 days of the reclassification. The report shall include the position number,
12 original title, original fund code, original budgeted salary, new title, new fund code, and new
13 budgeted salary for each reclassified position.
14

Senate and House Differ

Senate Version

ESTABLISH HAZARDOUS MATERIALS FACILITY FEE

SECTION 16B.3.(a) G.S. 166A-21 reads as rewritten:

"§ 166A-21. Definitions.

~~As used in this Article:~~ The following definitions apply in this Article:

(1) Department. – The Department of Public Safety.

(2) Division. – The Division of Emergency Management.

~~(1)(3) "Hazardous materials emergency response team" or "hazmat team" means an~~
Hazardous materials emergency response team or hazmat team. – An organized
group of persons specially trained and equipped to respond to and control actual
or potential leaks or spills of hazardous materials.

~~(2)(4) "Hazardous material" means any~~ Hazardous material. – Any material defined as a
hazardous substance under 29 Code of Federal Regulations § 1910.120(a)(3).

~~(3)(5) "Hazardous materials incident" or "hazardous materials emergency" means~~
an Hazardous materials incident or hazardous materials emergency. – An
uncontrolled release or threatened release of a hazardous substance requiring
outside assistance by a local fire department or hazmat team to contain and
control.

~~(4)(6) "Regional response team" means a~~ Regional response team. – A hazmat team
under contract with the State to provide response to hazardous materials
emergencies occurring outside the hazmat team's local jurisdiction at the
direction of the Department of Public Safety, Division of Emergency
Management.

~~(5)(7) "Secretary" means the~~ Secretary. – The Secretary of the Department of Public
Safety.

~~(6)(8) "Technician-level entry capability" means the~~ Technician-level entry capability.
– The capacity of a hazmat team, in terms of training and equipment as specified
in 29 Code of Federal Regulations § 1910.120, to respond to a hazardous
materials incident requiring affirmative measures, such as patching, plugging, or
other action necessary to stop and contain the release of a hazardous substance at
its source.

~~(7)(9) "Terrorist incident" means activities~~ Terrorist incident. – Activities that occur
within the territorial jurisdiction of the United States, involve acts dangerous to
human life that are a violation of the criminal laws of the United States or of any
state, and are intended to do one of the following:

a. Intimidate or coerce a civilian population.

b. Influence the policy of a government by intimidation or coercion.

c. Affect the conduct of a government by mass destruction, assassination, or
kidnapping."

SECTION 16B.3.(b) Article 2 of Chapter 166A of the General Statutes is amended by
adding a new section to read:

"§ 166A-29.1. Hazardous materials facility fee.

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

(1) EPCRA. – The federal Emergency Planning and Community Right-to-Know Act, P.L. No. 99-499 et. seq.

(2) Hazardous chemical. – As defined in 29 C.F.R. 1910.1200(c), except that the term does not include any of the following:

a. Any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration.

b. Any substance present as a solid in any manufactured item to the extent exposure to the substance does not occur under normal conditions of use.

c. Any substance to the extent that it is used for personal, family, or household purposes or is present in the same form and concentration as a product packaged for distribution and use by the public.

d. Any substance to the extent that it is used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual.

e. Any substance to the extent that it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate consumer.

(3) Extremely hazardous substance. – Any substance, regardless of its state, set forth in 40 C.F.R. Part 355, Appendix A or B.

(b) Annual Fee Shall Be Charged. – A person required under Section 302 or 312 of EPCRA to submit a notification or an annual inventory form to the Division shall be required to pay to the Department an annual fee in the amount set forth in subsection (c) of this section.

(c) Amount of Fee. – The amount of the annual fee charged pursuant to subsection (b) of this section shall be calculated in accordance with the following:

(1) A fee of fifty dollars (\$50.00) shall be assessed for each substance reported by a facility that is classified as a hazardous chemical.

(2) A fee of ninety dollars (\$90.00) shall be assessed for each substance reported by a facility that is classified as an extremely hazardous substance.

(d) Late Fees. – The Division may impose a late fee for failure to submit a report or filing that substantially complies with the requirements of EPCRA by the federal filing deadline or for failure to pay any fee, including a late fee. This fee shall be in addition to the fee imposed pursuant to subsection (c) of this section. Prior to imposing a late fee, the Division shall provide the person who will be assessed the late fee with written notice that identifies the specific requirements that have not been met and informs the person of its intent to assess a late fee. The assessment of a late fee shall be subject to the following limitations:

(1) If the report filing or fee is submitted within 30 days after receipt of the Division's notice that it intends to assess a late fee, no late fee shall be assessed.

(2) If the report filing or fee has not been submitted by the end of the period set forth in subdivision (1) of this subsection, the Division may impose a late fee in an amount equal to the amount of the fee charged pursuant to subsection (c) of this section.

(e) Exemptions. – No fee shall be charged under this section to any of the following:

(1) An owner or operator of a family farm enterprise, a facility owned by a State or local government, or a nonprofit corporation.

(2) An owner or operator of a facility where motor vehicle fuels are stored and from which such fuels are offered for retail sale. However, hazardous chemicals or extremely hazardous substances at such a facility, other than motor vehicle fuels for retail sale, shall not be subject to this exemption.

(f) Use of Fee Proceeds. – The proceeds of fees assessed pursuant to this section shall be used for costs associated with the maintenance of a hazardous materials database and to support the operations of the Regional Response Teams."

1
2
3

SECTION 16B.3.(c) This section applies to fees assessed on or after July 1, 2014.

House Version

ESTABLISH HAZARDOUS MATERIALS FACILITY FEE/NEW HAZMAT RESPONSE TEAM

SECTION 16B.3.(a) G.S. 166A-21 reads as rewritten:
"§ 166A-21. Definitions.

~~As used in this Article:~~The following definitions apply in this Article:

- ~~(1)~~ Department. – The Department of Public Safety.
- ~~(2)~~ Division. – The Division of Emergency Management.
- ~~(1)(3)~~ "Hazardous materials emergency response team" or "hazmat team" means an Hazardous materials emergency response team or hazmat team. – An organized group of persons specially trained and equipped to respond to and control actual or potential leaks or spills of hazardous materials.
- ~~(2)(4)~~ "Hazardous material" means any Hazardous material. – Any material defined as a hazardous substance under 29 Code of Federal Regulations § 1910.120(a)(3).
- ~~(3)(5)~~ "Hazardous materials incident" or "hazardous materials emergency" means an Hazardous materials incident or hazardous materials emergency. – An uncontrolled release or threatened release of a hazardous substance requiring outside assistance by a local fire department or hazmat team to contain and control.
- ~~(4)(6)~~ "Regional response team" means a Regional response team. – A hazmat team under contract with the State to provide response to hazardous materials emergencies occurring outside the hazmat team's local jurisdiction at the direction of the Department of Public Safety, Division of Emergency Management.
- ~~(5)(7)~~ "Secretary" means the Secretary. – The Secretary of the Department of Public Safety.
- ~~(6)(8)~~ "Technician-level entry capability" means the Technician-level entry capability. – The capacity of a hazmat team, in terms of training and equipment as specified in 29 Code of Federal Regulations § 1910.120, to respond to a hazardous materials incident requiring affirmative measures, such as patching, plugging, or other action necessary to stop and contain the release of a hazardous substance at its source.
- ~~(7)(9)~~ "Terrorist incident" means activities Terrorist incident. – Activities that occur within the territorial jurisdiction of the United States, involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any state, and are intended to do one of the following:
 - a. Intimidate or coerce a civilian population.
 - b. Influence the policy of a government by intimidation or coercion.
 - c. Affect the conduct of a government by mass destruction, assassination, or kidnapping."

SECTION 16B.3.(b) Article 2 of Chapter 166A of the General Statutes is amended by adding a new section to read:

"§ 166A-29.1. Hazardous materials facility fee.

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

- ~~(1)~~ EPCRA. – The federal Emergency Planning and Community Right-to-Know Act, P.L. No. 99-499 et. seq.
- ~~(2)~~ Hazardous chemical. – As defined in 29 C.F.R. 1910.1200(c), except that the term does not include any of the following:
 - a. Any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration.

- b. Any substance present as a solid in any manufactured item to the extent exposure to the substance does not occur under normal conditions of use.
- c. Any substance to the extent that it is used for personal, family, or household purposes or is present in the same form and concentration as a product packaged for distribution and use by the public.
- d. Any substance to the extent that it is used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual.
- e. Any substance to the extent that it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate consumer.
- (3) Extremely hazardous substance. – Any substance, regardless of its state, set forth in 40 C.F.R. Part 355, Appendix A or B.
- (b) Annual Fee Shall Be Charged. – A person required under Section 302 or 312 of EPCRA to submit a notification or an annual inventory form to the Division shall be required to pay to the Department an annual fee in the amount set forth in subsection (c) of this section.
- (c) Amount of Fee. – The amount of the annual fee charged pursuant to subsection (b) of this section shall be calculated in accordance with the following, up to a maximum annual amount of five thousand dollars (\$5,000):
- (1) A fee of fifty dollars (\$50.00) shall be assessed for each substance reported by a facility that is classified as a hazardous chemical.
- (2) A fee of ninety dollars (\$90.00) shall be assessed for each substance reported by a facility that is classified as an extremely hazardous substance.
- (d) Late Fees. – The Division may impose a late fee for failure to submit a report or filing that substantially complies with the requirements of EPCRA by the federal filing deadline or for failure to pay any fee, including a late fee. This fee shall be in addition to the fee imposed pursuant to subsection (c) of this section. Prior to imposing a late fee, the Division shall provide the person who will be assessed the late fee with written notice that identifies the specific requirements that have not been met and informs the person of its intent to assess a late fee. The assessment of a late fee shall be subject to the following limitations:
- (1) If the report filing or fee is submitted within 30 days after receipt of the Division's notice that it intends to assess a late fee, no late fee shall be assessed.
- (2) If the report filing or fee has not been submitted by the end of the period set forth in subdivision (1) of this subsection, the Division may impose a late fee in an amount equal to the amount of the fee charged pursuant to subsection (c) of this section.
- (e) Exemptions. – No fee shall be charged under this section to any of the following:
- (1) An owner or operator of a family farm enterprise, a facility owned by a State or local government, or a nonprofit corporation.
- (2) An owner or operator of a facility where motor vehicle fuels are stored and from which such fuels are offered for retail sale. However, hazardous chemicals or extremely hazardous substances at such a facility, other than motor vehicle fuels for retail sale, shall not be subject to this exemption.
- (f) Use of Fee Proceeds. – The proceeds of fees assessed pursuant to this section shall be used for the following:
- (1) To pay costs associated with the maintenance of a hazardous materials database.
- (2) To support the operations of the regional response program for hazardous materials emergencies and terrorist incidents.
- (3) To provide grants to counties for hazardous materials emergency response planning, training, and related exercises."

SECTION 16B.3.(c) The Department of Public Safety may establish and operate an additional hazmat team to serve Lee and Moore Counties and shall use proceeds from fees assessed and collected pursuant to G.S. 166A-29.1 to ensure that the hazardous materials emergency response capabilities in Moore and Lee Counties are sufficient to respond to any hazardous materials emergencies occurring in those counties as a result of natural gas exploration and extraction.

SECTION 16B.3.(d) G.S. 166A-22 reads as rewritten:

"§ 166A-22. Hazardous materials emergency response program.

(a) The Secretary shall adopt rules establishing a regional response program for hazardous materials emergencies and terrorist incidents, to be administered by the Division of Emergency Management. To the extent possible, the regional response program shall be coordinated with other emergency planning activities of the State. The regional response program shall include at least ~~six~~ seven hazmat teams located strategically across the State that are available to provide regional response to hazardous materials or terrorist incidents requiring technician-level entry capability and 24-hour dispatch and communications capability at the Division of Emergency Management Operations Center. The rules for the program shall include:

..

SECTION 16B.3.(e) This section applies to fees assessed on or after July 1, 2014.

1

2 **House Only**

3 **MOBILE VIPER RADIOS FOR THE STATE HIGHWAY PATROL**

4 **SECTION 16B.5.** The Department of Public Safety shall use the sum of two million
5 eight hundred ninety-four thousand one hundred eighty-eight dollars (\$2,894,188) of funds
6 available to the Division of Law Enforcement to purchase mobile VIPER radios for the State
7 Highway Patrol. The Department is encouraged to use funds transferred to the State from federal
8 asset forfeiture programs for this purpose.
9

1
2
3
4
5
6
7
8
9
10
11

House Only

STATE CAPITOL POLICE/RECEIPT-SUPPORTED POSITIONS

SECTION 16B.6.(a) The State Capitol Police may contract with State agencies for the creation of receipt-supported positions to provide security services to the buildings occupied by those agencies.

SECTION 16B.6.(b) The State Capitol Police shall report the creation of any position pursuant to this section to the Chairs of the House Appropriations Subcommittee on Justice and Public Safety and to the Chairs of the Senate Appropriations Committee on Justice and Public Safety within 30 days of the position's creation.

1

2 **House Only**

3 **AUTHORIZE ADDITIONAL ASSISTANT ADJUTANT GENERAL POSITION**

4 **SECTION 16B.7.** G.S. 127A-19 reads as rewritten:

5 **"§ 127A-19. Adjutant General.**

6 The military head of the militia shall be the Adjutant General who shall hold the rank of major
7 general. The Adjutant General shall be appointed by the Governor in the Governor's capacity as
8 commander in chief of the militia, in consultation with the Secretary of Public Safety, and shall
9 serve at the pleasure of the Governor. No person shall be appointed as Adjutant General who has
10 less than five years' commissioned service in an active status in any component of the Armed
11 Forces of the United States. The Adjutant General, while holding this office, may be a member of
12 the active North Carolina National Guard or naval militia.

13 Subject to the approval of the Governor and in consultation with the Secretary of Public Safety,
14 the Adjutant General may appoint (i) a deputy adjutant general who may hold the rank of major
15 general, and (ii) ~~an~~ two assistant ~~adjutant~~ adjutants general for Army National Guard, and an
16 assistant adjutant general for Air National Guard, each of whom may hold the rank of brigadier
17 general and who shall serve at the pleasure of the Governor. The Adjutant General may also employ
18 staff members and other personnel as authorized by the Secretary and funded."

19

Senate and House Differ

Senate Version

ALL MISDEMEANANTS TO SERVE SENTENCES IN LOCAL CONFINEMENT FACILITIES

SECTION 16C.1.(a) G.S. 15A-1351(a) reads as rewritten:

"(a) The judge may sentence to special probation a defendant convicted of a criminal offense other than impaired driving under G.S. 20-138.1, if based on the defendant's prior record or conviction level as found pursuant to Article 81B of this Chapter, an intermediate punishment is authorized for the class of offense of which the defendant has been convicted. A defendant convicted of impaired driving under G.S. 20-138.1 may also be sentenced to special probation. Under a sentence of special probation, the court may suspend the term of imprisonment and place the defendant on probation as provided in Article 82, Probation, and in addition require that the defendant submit to a period or periods of imprisonment in the custody of the Division of Adult Correction of the Department of Public Safety or a designated local confinement or treatment facility at whatever time or intervals within the period of probation, consecutive or nonconsecutive, the court ~~determines~~ determines, as provided in this subsection. For probationary sentences for misdemeanors, including impaired driving under G.S. 20-138.1, all imprisonment under this subsection shall be in a designated local confinement or treatment facility. In addition to any other conditions of probation which the court may impose, the court shall impose, when imposing a period or periods of imprisonment as a condition of special probation, the condition that the defendant obey the Rules and Regulations of the Division of Adult Correction of the Department of Public Safety governing conduct of inmates, and this condition shall apply to the defendant whether or not the court imposes it as a part of the written order. ~~Except for probationary sentences for misdemeanors, including impaired driving under G.S. 20-138.1, if imprisonment is for continuous periods, the confinement may be in the custody of either the Division of Adult Correction of the Department of Public Safety or a local confinement facility.~~ Noncontinuous periods of imprisonment under special probation may only be served in a designated local confinement or treatment facility. Except for probationary sentences of impaired driving under G.S. 20-138.1, the total of all periods of confinement imposed as an incident of special probation, but not including an activated suspended sentence, may not exceed one-fourth the maximum sentence of imprisonment imposed for the offense, and no confinement other than an activated suspended sentence may be required beyond two years of conviction. For probationary sentences for impaired driving under G.S. 20-138.1, the total of all periods of confinement imposed as an incident of special probation, but not including an activated suspended sentence, shall not exceed one-fourth the maximum penalty allowed by law. In imposing a sentence of special probation, the judge may credit any time spent committed or confined, as a result of the charge, to either the suspended sentence or to the imprisonment required for special probation. The original period of probation, including the period of imprisonment required for special probation, shall be as specified in G.S. 15A-1343.2(d), but may not exceed a maximum of five years, except as provided by G.S. 15A-1342(a). The court may revoke, modify, or terminate special probation as otherwise provided for probationary sentences."

SECTION 16C.1.(b) G.S. 15A-1352 reads as rewritten:

"§ 15A-1352. Commitment to ~~Division of Adult Correction of the Department of Public Safety or a~~ local confinement facility.

1 (a) ~~A~~Except as provided in subsection (f) of this section, a person sentenced to
2 imprisonment for a misdemeanor under this Article or for nonpayment of a fine under Article 84 of
3 this Chapter shall be committed for the term designated by the court to the custody of ~~the Division~~
4 ~~of Adult Correction of the Department of Public Safety or to a local confinement facility. If the~~A
5 sentence imposed for a misdemeanor ~~is for a period of 90 days or less, the commitment must be to a~~
6 facility other than one maintained by the Division of Adult Correction of the Department of Public
7 Safety, except as provided in G.S. 148-32.1(b). ~~If the sentence or sentences imposed require~~
8 ~~confinement for more than 180 days, the commitment must be to the custody of the Division of~~
9 ~~Adult Correction of the Department of Public Safety.~~

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

17 (b) A person sentenced to imprisonment for a felony under this Article shall be committed
18 for the term designated by the court to the custody of the Division of Adult Correction of the
19 Department of Public Safety.

20 (c) A person sentenced to imprisonment for nonpayment of a fine under Article 84, Fines,
21 shall be committed for the term designated by the court:

22 (1) To the custody of the Division of Adult Correction of the Department of Public
23 Safety if the person was fined for conviction of a felony;

24 (2) To the custody of ~~the Division of Adult Correction of the Department of Public~~
25 ~~Safety or to a local confinement facility if the person was fined for conviction of~~
26 a misdemeanor, ~~provided that (i) if the sentence imposed is for a period of 90~~
27 ~~days or less, the commitment shall be to a facility other than one maintained by~~
28 ~~the Division of Adult Correction of the Department of Public Safety, except as~~
29 ~~provided in G.S. 148-32.1(b) and (ii) if the sentence or sentences imposed~~
30 ~~require confinement for more than 180 days, the commitment must be to the~~
31 ~~custody of the Division of Adult Correction of the Department of Public~~
32 ~~Safety except as provided in G.S. 148-32.1(b).~~

33 (d) Notwithstanding any other provision of law, when the sentencing court, with the consent
34 of the person sentenced, orders that a person convicted of a misdemeanor be granted work release,
35 the court may commit the person to a specific ~~prison facility or local confinement facility or satellite~~
36 jail/work release unit within the county of the sentencing court in order to facilitate the work release
37 arrangement. When appropriate to facilitate the work release arrangement, the sentencing court
38 may, with the consent of the sheriff or board of commissioners, commit the person to a specific
39 local confinement facility or satellite jail/work release unit in another ~~county, or, with the consent~~
40 ~~of the Division of Adult Correction of the Department of Public Safety, commit the person to a~~
41 ~~specific prison facility in another county. The Division of Adult Correction of the Department of~~
42 ~~Public Safety may transfer a prisoner committed to a specific prison facility to a different facility~~
43 ~~when necessary to alleviate overcrowding or for other administrative purposes.~~county.

44 (e) A person sentenced for a misdemeanor who has a sentence imposed that requires
45 confinement for a period of more than 90 ~~days and up to 180 days~~, except for those serving
46 sentences for an impaired driving offense under G.S. 20-138.1 under this Article or for nonpayment
47 of a fine under Article 84 of this Chapter, shall be committed for the term designated by the court to
48 confinement pursuant to the Statewide Misdemeanant Confinement Program established by
49 G.S. 148-32.1.

50 (f) A person sentenced to imprisonment of any duration for impaired driving under
51 G.S. 20-138.1, other than imprisonment required as a condition of special probation under

1 G.S. 15A-1351(a) or G.S. 15A-1344(e), shall be committed to the Statewide Misdemeanant
2 Confinement Program established under G.S. 148-32.1."

3 **SECTION 16C.1.(c)** G.S. 20-176(c1) is repealed.

4 **SECTION 16C.1.(d)** G.S. 20-179(f3) reads as rewritten:

5 "(f3) Aggravated Level One Punishment. – A defendant subject to Aggravated Level One
6 punishment may be fined up to ten thousand dollars (\$10,000) and shall be sentenced to a term of
7 imprisonment that includes a minimum term of not less than 12 months and a maximum term of not
8 more than 36 months. Notwithstanding G.S. 15A-1371, a defendant sentenced to a term of
9 imprisonment pursuant to this subsection shall not be eligible for parole. However, the defendant
10 shall be released from the ~~Division of Adult Correction of the Department of Public~~
11 ~~Safety~~Statewide Misdemeanant Confinement Program on the date equivalent to the defendant's
12 maximum imposed term of imprisonment less four months and shall be supervised by the Section of
13 ~~Prisons~~Community Supervision of the Division of Adult Correction under and subject to the
14 provisions of Article 84A of Chapter 15A of the General Statutes and shall also be required to
15 abstain from alcohol consumption for the four-month period of supervision as verified by a
16 continuous alcohol monitoring system. For purposes of revocation, violation of the requirement to
17 abstain from alcohol or comply with the use of a continuous alcohol monitoring system shall be
18 deemed a controlling condition under G.S. 15A-1368.4.

19 The term of imprisonment may be suspended only if a condition of special probation is imposed
20 to require the defendant to serve a term of imprisonment of at least 120 days. If the defendant is
21 placed on probation, the judge shall impose as requirements that the defendant (i) abstain from
22 alcohol consumption for a minimum of 120 days to a maximum of the term of probation, as verified
23 by a continuous alcohol monitoring system pursuant to subsections (h1) and (h3) of this section, and
24 (ii) obtain a substance abuse assessment and the education or treatment required by G.S. 20-17.6 for
25 the restoration of a drivers license and as a condition of probation. The judge may impose any other
26 lawful condition of probation."

27 **SECTION 16C.1.(e)** G.S. 148-13 reads as rewritten:

28 **"§ 148-13. Regulations as to custody grades, privileges, gain time credit, etc.**

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

34 (a1) The Secretary of Public Safety shall adopt rules to specify the rates at, and circumstances
35 under, which earned time authorized by G.S. 15A-1340.13(d) and G.S. 15A-1340.20(d) may be
36 earned or forfeited by persons serving activated sentences of imprisonment for felony or
37 misdemeanor convictions.

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

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

43 (e) The Secretary's regulations concerning earned time and good time credits authorized by
44 this section shall be distributed to and followed by local jail administrators with regard to sentenced
45 jail prisoners.

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

48 **SECTION 16C.1.(f)** G.S. 148-32.1 reads as rewritten:

49 **"§ 148-32.1. Local confinement, costs, alternate facilities, parole, work release.**

50 (a) Repealed by Session Laws 2009-451, s. 19.22A, effective July 1, 2009.

(b) In the event that the custodian of the local confinement facility certifies in writing to the clerk of the superior court in the county in which the local confinement facility is located that the local confinement facility is filled to capacity, or that the facility cannot reasonably accommodate any more prisoners due to segregation requirements for particular prisoners, or that the custodian anticipates, in light of local experiences, an influx of temporary prisoners at that time, or if the local confinement facility does not meet the minimum standards published pursuant to G.S. 153A-221, any judge of the district court in the district court district as defined in G.S. 7A-133 where the facility is located, or any superior court judge who has jurisdiction pursuant to G.S. 7A-47.1 or G.S. 7A-48 in a district or set of districts as defined in G.S. 7A-41.1 where the facility is located may order that a prisoner not housed pursuant to the Statewide Misdemeanant Confinement Program established in subsection (b2) of this section be transferred to any other qualified local confinement facility within that district or within another such district where space is available, including a satellite jail unit operated pursuant to G.S. 153A-230.3 if the prisoner is a non-violent misdemeanor, which local facility shall accept the transferred prisoner.

If no other local confinement facility is available and the reason for the requested transfer is that the local confinement facility that would be required to house the prisoner cannot reasonably accommodate any more prisoners due to segregation requirements for particular prisoners or the local facility does not meet the minimum standards published pursuant to G.S. 153A-221, then the judge may order that a prisoner not housed pursuant to the Statewide Misdemeanant Confinement Program established in subsection (b2) of this section be transferred to a facility operated by the Division of Adult Correction of the Department of Public Safety as designated by the Division of Adult Correction. In no event, however, shall a prisoner whose term of imprisonment is less than 30 days be assigned or ordered transferred to a facility operated by the Division of Adult Correction.

(b1) It is the intent of the General Assembly to authorize the Division of Adult Correction to enter into voluntary agreements with counties to provide housing for misdemeanants serving periods of confinement of more than 90 days and up to 180 days, except for those serving a sentence for an impaired driving offense. It is further the intent of the General Assembly that the Division of Adult Correction, in conjunction with the North Carolina Sheriffs' Association, Inc., establish a program for housing misdemeanants serving periods of confinement of more than 90 days ~~and up to 180 days, except for those serving sentences for an impaired driving offense, and for all sentences imposed for impaired driving under G.S. 20-138.1, regardless of length.~~ It is also the intent of the General Assembly that the Division of Adult Correction contract with the North Carolina Sheriffs' Association, Inc., to provide a service that identifies space in local confinement facilities that is available for housing these misdemeanants.

The General Assembly intends that the cost of housing and caring for these misdemeanants, including, but not limited to, care, supervision, transportation, medical, and any other related costs, be covered by State funds and not be imposed as a local cost. Therefore, the General Assembly intends that the funds in the Statewide Misdemeanant Confinement Fund established in G.S. 148-10.4 be used to provide funding to cover the costs of managing a system for providing that housing of misdemeanants in local confinement facilities as well as reimbursing the counties for housing and related expenses for those misdemeanants.

(b2) The Statewide Misdemeanant Confinement Program is established. The Program shall provide for the housing of misdemeanants from all counties serving sentences imposed for a period of more than 90 days ~~and up to 180 days, except for those serving sentences for an impaired driving offense under G.S. 20-138.1 and for all sentences imposed for impaired driving under G.S. 20-138.1, regardless of length.~~ Those misdemeanants shall be confined in local confinement facilities except as provided in subsections (b3) and (b4) of this section. The Program shall address methods for the placement and transportation of inmates and reimbursement to counties for the housing of those inmates. Any county that voluntarily agrees to house misdemeanants from that county or from other counties pursuant to the Program may enter into a written agreement with the Division of Adult Correction to do so.

1 This Program shall only operate as long as sufficient State funds are available through the
2 Statewide Misdemeanant Confinement Fund established in G.S. 148-10.4(c).

3 "

4 **SECTION 16C.1.(g)** This section becomes effective October 1, 2014, and applies to (i)
5 persons placed on probation or sentenced to imprisonment for impaired driving under G.S. 20-138.1
6 on or after January 1, 2015, and (ii) persons placed on probation or sentenced to imprisonment for
7 all other misdemeanors other than impaired driving under G.S. 20-138.1 on or after October 1,
8 2014.

1 **House Version**

2 **ALL MISDEMEANANTS TO SERVE SENTENCES IN LOCAL CONFINEMENT**
3 **FACILITIES**

4 **SECTION 16C.1.(a)** G.S. 15A-1351(a) reads as rewritten:

5 "(a) The judge may sentence to special probation a defendant convicted of a criminal offense
6 other than impaired driving under G.S. 20-138.1, if based on the defendant's prior record or
7 conviction level as found pursuant to Article 81B of this Chapter, an intermediate punishment is
8 authorized for the class of offense of which the defendant has been convicted. A defendant
9 convicted of impaired driving under G.S. 20-138.1 may also be sentenced to special probation.
10 Under a sentence of special probation, the court may suspend the term of imprisonment and place
11 the defendant on probation as provided in Article 82, Probation, and in addition require that the
12 defendant submit to a period or periods of imprisonment in the custody of the Division of Adult
13 Correction of the Department of Public Safety or a designated local confinement or treatment
14 facility at whatever time or intervals within the period of probation, consecutive or nonconsecutive,
15 the court ~~determines-determines~~, as provided in this subsection. For probationary sentences for
16 misdemeanors, including impaired driving under G.S. 20-138.1, all imprisonment under this
17 subsection shall be in a designated local confinement or treatment facility. In addition to any other
18 conditions of probation which the court may impose, the court shall impose, when imposing a
19 period or periods of imprisonment as a condition of special probation, the condition that the
20 defendant obey the Rules and Regulations of the Division of Adult Correction of the Department of
21 Public Safety governing conduct of inmates, and this condition shall apply to the defendant whether
22 or not the court imposes it as a part of the written order. ~~If~~Except for probationary sentences for
23 misdemeanors, including impaired driving under G.S. 20-138.1, if imprisonment is for continuous
24 periods, the confinement may be in the custody of either the Division of Adult Correction of the
25 Department of Public Safety or a local confinement facility. Noncontinuous periods of
26 imprisonment under special probation may only be served in a designated local confinement or
27 treatment facility. Except for probationary sentences of impaired driving under G.S. 20-138.1, the
28 total of all periods of confinement imposed as an incident of special probation, but not including an
29 activated suspended sentence, may not exceed one-fourth the maximum sentence of imprisonment
30 imposed for the offense, and no confinement other than an activated suspended sentence may be
31 required beyond two years of conviction. For probationary sentences for impaired driving under
32 G.S. 20-138.1, the total of all periods of confinement imposed as an incident of special probation,
33 but not including an activated suspended sentence, shall not exceed one-fourth the maximum
34 penalty allowed by law. In imposing a sentence of special probation, the judge may credit any time
35 spent committed or confined, as a result of the charge, to either the suspended sentence or to the
36 imprisonment required for special probation. The original period of probation, including the period
37 of imprisonment required for special probation, shall be as specified in G.S. 15A-1343.2(d), but
38 may not exceed a maximum of five years, except as provided by G.S. 15A-1342(a). The court may
39 revoke, modify, or terminate special probation as otherwise provided for probationary sentences."

40 **SECTION 16C.1.(b)** G.S. 15A-1352 reads as rewritten:

41 **"§ 15A-1352. Commitment to Division of Adult Correction of the Department of Public**
42 **Safety or local confinement facility.**

43 (a) ~~A~~Except as provided in subsection (f) of this section, a person sentenced to
44 imprisonment for a misdemeanor under this Article or for nonpayment of a fine for conviction of a
45 misdemeanor under Article 84 of this Chapter shall be committed for the term designated by the
46 court to the custody of the Division of Adult Correction of the Department of Public Safety or to a
47 local confinement facility. If the sentence imposed for a misdemeanor is for a period of 90 days or
48 less, the commitment must be to a facility other than one maintained by the Division of Adult
49 Correction of the Department of Public Safety, except as provided in G.S. 148-32.1(b). If the
50 sentence or sentences imposed require confinement for more than 180 days, the commitment must

1 ~~be to the custody of the Division of Adult Correction of the Department of Public Safety. Statewide~~
2 ~~Misdemeanant Confinement Program as provided in G.S. 148-32.1 or, if the period is for 90 days or~~
3 ~~less, to a local confinement facility, except as provided for in G.S. 148-32.1(b).~~

4 If a person is sentenced to imprisonment for a misdemeanor under this Article or for
5 nonpayment of a fine under Article 84 of this Chapter, the sentencing judge ~~shall~~ may make a
6 finding of fact as to whether the person would be suitable for placement in a county satellite
7 jail/work release unit operated pursuant to G.S. 153A-230.3. If the sentencing judge makes a
8 finding of fact that the person would be suitable for placement in a county satellite jail/work release
9 unit and the person meets the requirements listed in G.S. 153A-230.3(a)(1), then the custodian of
10 the local confinement facility may transfer the misdemeanor to a county satellite jail/work release
11 unit.

12 (b) A person sentenced to imprisonment for a felony under this Article ~~or for nonpayment of~~
13 ~~a fine for conviction of a felony under Article 84 of this Chapter~~ shall be committed for the term
14 designated by the court to the custody of the Division of Adult Correction of the Department of
15 Public Safety.

16 (e) ~~A person sentenced to imprisonment for nonpayment of a fine under Article 84, Fines,~~
17 ~~shall be committed for the term designated by the court:~~

18 (1) ~~To the custody of the Division of Adult Correction of the Department of Public~~
19 ~~Safety if the person was fined for conviction of a felony;~~

20 (2) ~~To the custody of the Division of Adult Correction of the Department of Public~~
21 ~~Safety or to a local confinement facility if the person was fined for conviction of~~
22 ~~a misdemeanor, provided that (i) if the sentence imposed is for a period of 90~~
23 ~~days or less, the commitment shall be to a facility other than one maintained by~~
24 ~~the Division of Adult Correction of the Department of Public Safety, except as~~
25 ~~provided in G.S. 148-32.1(b) and (ii) if the sentence or sentences imposed~~
26 ~~require confinement for more than 180 days, the commitment must be to the~~
27 ~~custody of the Division of Adult Correction of the Department of Public Safety.~~

28 (d) Notwithstanding any other provision of law, when the sentencing court, with the consent
29 of the person sentenced, orders that a person convicted of a misdemeanor be granted work release,
30 the court may commit the person to a specific prison facility or local confinement facility or satellite
31 jail/work release unit within the county of the sentencing court in order to facilitate the work release
32 arrangement. When appropriate to facilitate the work release arrangement, the sentencing court
33 may, with the consent of the sheriff or board of commissioners, commit the person to a specific
34 local confinement facility or satellite jail/work release unit in another county, ~~or, with the consent of~~
35 ~~the Division of Adult Correction of the Department of Public Safety, commit the person to a~~
36 ~~specific prison facility in another county. The Division of Adult Correction of the Department of~~
37 ~~Public Safety may transfer a prisoner committed to a specific prison facility to a different facility~~
38 ~~when necessary to alleviate overcrowding or for other administrative purposes. county.~~

39 (e) ~~A person sentenced for a misdemeanor who has a sentence imposed that requires~~
40 ~~confinement for a period of more than 90 days and up to 180 days, except for those serving~~
41 ~~sentences for an impaired driving offense under G.S. 20-138.1 under this Article or for nonpayment~~
42 ~~of a fine under Article 84 of this Chapter, shall be committed for the term designated by the court to~~
43 ~~confinement pursuant to the Statewide Misdemeanant Confinement Program established by~~
44 ~~G.S. 148-32.1.~~

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

49 **SECTION 16C.1(c)** G.S. 20-176(c1) is repealed.

50 **SECTION 16C.1(d)** G.S. 20-179(f3) reads as rewritten:

1 "(f3) Aggravated Level One Punishment. – A defendant subject to Aggravated Level One
2 punishment may be fined up to ten thousand dollars (\$10,000) and shall be sentenced to a term of
3 imprisonment that includes a minimum term of not less than 12 months and a maximum term of not
4 more than 36 months. Notwithstanding G.S. 15A-1371, a defendant sentenced to a term of
5 imprisonment pursuant to this subsection shall not be eligible for parole. However, the defendant
6 shall be released from the ~~Division of Adult Correction of the Department of Public~~
7 ~~Safety~~Statewide Misdemeanant Confinement Program on the date equivalent to the defendant's
8 maximum imposed term of imprisonment less four months and shall be supervised by the Section of
9 ~~Prisons~~Community Supervision of the Division of Adult Correction under and subject to the
10 provisions of Article 84A of Chapter 15A of the General Statutes and shall also be required to
11 abstain from alcohol consumption for the four-month period of supervision as verified by a
12 continuous alcohol monitoring system. For purposes of revocation, violation of the requirement to
13 abstain from alcohol or comply with the use of a continuous alcohol monitoring system shall be
14 deemed a controlling condition under G.S. 15A-1368.4.

15 The term of imprisonment may be suspended only if a condition of special probation is imposed
16 to require the defendant to serve a term of imprisonment of at least 120 days. If the defendant is
17 placed on probation, the judge shall impose as requirements that the defendant (i) abstain from
18 alcohol consumption for a minimum of 120 days to a maximum of the term of probation, as verified
19 by a continuous alcohol monitoring system pursuant to subsections (h1) and (h3) of this section, and
20 (ii) obtain a substance abuse assessment and the education or treatment required by G.S. 20-17.6 for
21 the restoration of a drivers license and as a condition of probation. The judge may impose any other
22 lawful condition of probation."

23 **SECTION 16C.1.(e)** G.S. 148-13 reads as rewritten:
24 **"§ 148-13. Regulations as to custody grades, privileges, gain time credit, etc.**

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

30 (a1) The Secretary of Public Safety shall adopt rules to specify the rates at, and circumstances
31 under, which earned time authorized by G.S. 15A-1340.13(d) and G.S. 15A-1340.20(d) may be
32 earned or forfeited by persons serving activated sentences of imprisonment for felony or
33 misdemeanor convictions.

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

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

39 (e) The Secretary's regulations concerning earned time and good time credits authorized by
40 this section shall be distributed to and followed by local jail administrators with regard to sentenced
41 jail prisoners.

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

44 **SECTION 16C.1.(f)** G.S. 148-32.1 reads as rewritten:
45 **"§ 148-32.1. Local confinement, costs, alternate facilities, parole, work release.**

46 (a) Repealed by Session Laws 2009-451, s. 19.22A, effective July 1, 2009.

47 (b) In the event that the custodian of the local confinement facility certifies in writing to the
48 clerk of the superior court in the county in which the local confinement facility is located that the
49 local confinement facility is filled to capacity, or that the facility cannot reasonably accommodate
50 any more prisoners due to segregation requirements for particular prisoners, or that the custodian
51 anticipates, in light of local experiences, an influx of temporary prisoners at that time, or if the local

1 confinement facility does not meet the minimum standards published pursuant to G.S. 153A-221,
2 any judge of the district court in the district court district as defined in G.S. 7A-133 where the
3 facility is located, or any superior court judge who has jurisdiction pursuant to G.S. 7A-47.1 or
4 G.S. 7A-48 in a district or set of districts as defined in G.S. 7A-41.1 where the facility is located
5 may order that a prisoner not housed pursuant to the Statewide Misdemeanant Confinement
6 Program established in subsection (b2) of this section be transferred to any other qualified local
7 confinement facility within that district or within another such district where space is available,
8 including a satellite jail unit operated pursuant to G.S. 153A-230.3 if the prisoner is a non-violent
9 misdemeanor, which local facility shall accept the transferred prisoner.

10 If no other local confinement facility is available and the reason for the requested transfer is that
11 the local confinement facility that would be required to house the prisoner cannot reasonably
12 accommodate any more prisoners due to segregation requirements for particular prisoners or the
13 local facility does not meet the minimum standards published pursuant to G.S. 153A-221, then the
14 judge may order that a prisoner not housed pursuant to the Statewide Misdemeanant Confinement
15 Program established in subsection (b2) of this section be transferred to a facility operated by the
16 Division of Adult Correction of the Department of Public Safety as designated by the Division of
17 Adult Correction. In no event, however, shall a prisoner whose term of imprisonment is less than 30
18 days be assigned or ordered transferred to a facility operated by the Division of Adult Correction.

19 (b1) It is the intent of the General Assembly to authorize the Division of Adult Correction to
20 enter into voluntary agreements with counties to provide housing for misdemeanants serving
21 periods of confinement of more than 90 days ~~and up to 180 days, except for those serving a~~
22 ~~sentence for an impaired driving offense and for all sentences imposed for impaired driving under~~
23 G.S. 20-138.1, regardless of length. It is further the intent of the General Assembly that the Division
24 of Adult Correction, in conjunction with the North Carolina Sheriffs' Association, Inc., establish a
25 program for housing misdemeanants serving periods of confinement of more than 90 days ~~and up to~~
26 ~~180 days, except for those serving sentences for an impaired driving offense and for all sentences~~
27 imposed for impaired driving under G.S. 20-138.1, regardless of length. It is also the intent of the
28 General Assembly that the Division of Adult Correction contract with the North Carolina Sheriffs'
29 Association, Inc., to provide a service that identifies space in local confinement facilities that is
30 available for housing these misdemeanants.

31 The General Assembly intends that the cost of housing and caring for these misdemeanants,
32 including, but not limited to, care, supervision, transportation, medical, and any other related costs,
33 be covered by State funds and not be imposed as a local cost. Therefore, the General Assembly
34 intends that the funds in the Statewide Misdemeanant Confinement Fund established in
35 G.S. 148-10.4 be used to provide funding to cover the costs of managing a system for providing that
36 housing of misdemeanants in local confinement facilities as well as reimbursing the counties for
37 housing and related expenses for those misdemeanants.

38 (b2) The Statewide Misdemeanant Confinement Program is established. The Program shall
39 provide for the housing of misdemeanants from all counties serving sentences imposed for a period
40 of more than 90 days ~~and up to 180 days, except for those serving sentences for an impaired driving~~
41 ~~offense under G.S. 20-138.1 and for all sentences imposed for impaired driving under G.S. 20-138.1,~~
42 regardless of length. Those misdemeanants shall be confined in local confinement facilities except
43 as provided in subsections (b3) and (b4) of this section. The Program shall address methods for the
44 placement and transportation of inmates and reimbursement to counties for the housing of those
45 inmates. Any county that voluntarily agrees to house misdemeanants from that county or from other
46 counties pursuant to the Program may enter into a written agreement with the Division of Adult
47 Correction to do so.

48 This Program shall only operate as long as sufficient State funds are available through the
49 Statewide Misdemeanant Confinement Fund established in G.S. 148-10.4(c).

50"

1 **SECTION 16C.1.(g)** This section becomes effective October 1, 2014, and applies to (i)
2 persons placed on probation or sentenced to imprisonment for impaired driving under G.S. 20-138.1
3 on or after January 1, 2015, and (ii) persons placed on probation or sentenced to imprisonment for
4 all other misdemeanors other than impaired driving under G.S. 20-138.1 on or after October 1,
5 2014.
6
7

1
2
3
4
5
6
7
8
9
10
11
12
13
14

Senate and House Differ

Senate Version

**EVALUATION OF ELECTRICAL DEVICES, APPLIANCES, AND EQUIPMENT USED
BY THE DIVISION OF ADULT CORRECTION**

SECTION 16C.4. G.S. 66-25(b) reads as rewritten:
"(b) Electrical devices, appliances, or equipment used by the Division of Adult Correction of the Department of Public Safety ~~shall~~ may be evaluated for safety and suitability by the Central Engineering Section of the Department of Public Safety. The evaluation shall be conducted in accordance with nationally recognized standards."

1 **House Version**

2 **EVALUATION OF ELECTRICAL DEVICES, APPLIANCES, AND EQUIPMENT USED**
3 **BY THE DIVISION OF ADULT CORRECTION**

4 **SECTION 16C.4.** G.S. 66-25(b) reads as rewritten:

5 "(b) Electrical devices, appliances, or equipment used by the Division of Adult Correction of
6 the Department of Public Safety ~~shall~~may be evaluated for safety and suitability by the Central
7 Engineering Section of the Department of Public Safety. The evaluation shall be conducted in
8 accordance with nationally recognized standards. Electrical devices, appliances, and equipment
9 used by the Division that are not evaluated by the Central Engineering Section as provided by this
10 subsection are subject to the evaluation requirement of subsection (a) of this section."

Senate and House Differ

Senate Version

CLARIFY THE IMPOSITION OF CONFINEMENT IN RESPONSE TO VIOLATIONS

SECTION 16C.8.(a) G.S. 15A-1344(d2) reads as rewritten:

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

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

If a defendant is arrested for violation of a condition of probation and is lawfully confined to await a hearing for the violation, then the judge shall first credit any confinement time spent awaiting the hearing to any confinement imposed under this subsection; any excess time shall be credited to the activated sentence. The period of confinement imposed under this subsection on a defendant who is on probation for multiple offenses shall run concurrently on all cases related to the violation. Confinement shall be immediate unless otherwise specified by the court.

A defendant shall serve any confinement imposed under this subsection in the correctional facility where the defendant would have served an active sentence."

SECTION 16C.8.(b) This section becomes effective October 1, 2014, and applies to probation violations occurring on or after that date.

1 **House Version**

2 **CLARIFY THE IMPOSITION OF CONFINEMENT IN RESPONSE TO VIOLATIONS**

3 **SECTION 16C.8.(a)** G.S. 15A-1344(d2) reads as rewritten:

4 "(d2) Confinement in Response to Violation. – When a defendant under supervision for a
5 felony conviction has violated a condition of probation other than G.S. 15A-1343(b)(1) or
6 G.S. 15A-1343(b)(3a), the court may impose a period of confinement of 90 consecutive ~~days.~~days
7 to be served in the custody of the Division of Adult Correction of the Department of Public Safety.
8 The court may not revoke probation unless the defendant has previously received a total of two
9 periods of confinement under this subsection. A defendant may receive only two periods of
10 confinement under this subsection. ~~If The 90-day term of confinement ordered under this subsection~~
11 ~~for a felony shall not be reduced by credit for time already served in the case. Any such credit shall~~
12 ~~instead be applied to the suspended sentence. However, if the time remaining on the maximum~~
13 ~~imposed sentence on a defendant under supervision for a felony conviction is 90 days or less, then~~
14 ~~the term of confinement is for the remaining period of the sentence. Confinement under this section~~
15 ~~shall be credited pursuant to G.S. 15-196.1.~~

16 When a defendant under supervision for a misdemeanor conviction has violated a condition of
17 probation other than G.S. 15A-1343(b)(1) or G.S. 15A-1343(b)(3a), the court may impose a period
18 of confinement of up to 90 consecutive ~~days.~~days to be served where the defendant would have
19 served an active sentence. The court may not revoke probation unless the defendant has previously
20 received a total of two periods of confinement under this subsection. A defendant may receive only
21 two periods of confinement under this subsection. Confinement under this section shall be credited
22 pursuant to G.S. 15-196.1.

23 ~~If a defendant is arrested for violation of a condition of probation and is lawfully confined to~~
24 ~~await a hearing for the violation, then the judge shall first credit any confinement time spent~~
25 ~~awaiting the hearing to any confinement imposed under this subsection; any excess time shall be~~
26 ~~credited to the activated sentence.~~ The period of confinement imposed under this subsection on a
27 defendant who is on probation for multiple offenses shall run concurrently on all cases related to the
28 violation. Confinement shall be immediate unless otherwise specified by the court.

29 ~~A defendant shall serve any confinement imposed under this subsection in the correctional~~
30 ~~facility where the defendant would have served an active sentence."~~

31 **SECTION 16C.8.(b)** This section becomes effective October 1, 2014, and applies to
32 probation violations occurring on or after that date.
33

1

2 **House Only**

3 **DETER INMATE ACCESS TO CELL PHONES**

4 **SECTION 16C.9.** In an effort to deter illegal access of cell phones by inmates in the
5 State's prison system, the Department of Public Safety is encouraged to identify non-General Fund
6 sources of funds, including federal and foundation grants and other receipts, to fund enhanced
7 prison security technology.
8

1

2 **House Only**

3 **USE OF CLOSED FACILITIES**

4 **SECTION 16C.10.** Section 16A.3 of S.L. 2013-360 reads as rewritten:

5 "SECTION 16A.3. In conjunction with the closing of prison facilities, youth detention centers,
6 and youth development centers, the Department of Public Safety shall consult with the county or
7 municipality in which the facility is located, with the elected State and local officials, and with State
8 and federal agencies about the possibility of converting that facility to other use. The Department
9 may also consult with any private for-profit or nonprofit firm about the possibility of converting the
10 facility to other use. In developing a proposal for future use of each facility, the Department shall
11 give priority to converting the facility to other criminal justice use. Consistent with existing law and
12 the future needs of the Department of Public Safety, the State may provide for the transfer or the
13 lease of any of these facilities to counties, municipalities, State agencies, federal agencies, or private
14 firms wishing to convert them to other use. The Department of Public Safety may also consider
15 converting some of the facilities recommended for closing from one security custody level to
16 another, where that conversion would be cost-effective. A prison unit under lease to a county
17 pursuant to the provisions of this section for use as a jail is exempt for the period of the lease from
18 any of the minimum standards adopted by the Secretary of Health and Human Services pursuant to
19 G.S. 153A-221 for the housing of adult prisoners that would subject the unit to greater standards
20 than those required of a unit of the State prison system.

21 In addition, the Department of Public Safety may use available funds to reopen and convert
22 closed facilities for use as treatment and behavior modification facilities for offenders serving a
23 period of confinement in response to violation pursuant to G.S. 15A-1344(d2)."
24

1

2 **House Only**

3 **JUSTICE REINVESTMENT ACT/LIMITED AUTHORITY TO RECLASSIFY VACANT**
4 **POSITIONS**

5 **SECTION 16C.11.** Section 16C.13 of S.L. 2013-360 reads as rewritten:

6 "SECTION 16C.13.(a) Notwithstanding any other provision of law, subject to the approval of
7 the Director of the Budget, the Secretary of Public Safety may reclassify vacant positions within the
8 Department to create up to 30 new field services specialist or chief probation/parole officer
9 positions in order to meet the increasing caseloads resulting from the implementation of the Justice
10 Reinvestment Act of 2011, S.L. 2011-192, as amended.

11 "SECTION 16C.13.(b) The Department of Public Safety shall report to the Chairs of the
12 Senate Appropriations Committee on Justice and Public Safety and the House Appropriations
13 Subcommittee on Justice and Public Safety by ~~March 1, 2014~~, March 1, 2015, on the following:

- 14 (1) The position number, position type, salary, and position location of each new
15 position created under the authority of this section.
16 (2) The position number, position type, fund code, and position location of each
17 vacant position used to create new positions under the authority of this section."
18

1
2
3
4
5
6
7
8
9
10
11

House Only

**TECHNICAL CORRECTION/STATE COMMUNITY CORRECTIONS ADVISORY
BOARD APPOINTMENT**

SECTION 16C.12. G.S. 143B-1157(b)(1) reads as rewritten:
"(b) The membership of the State Board shall be selected as follows:
(1) The Governor shall appoint the following members: the county sheriff, the chief
of a city police department, the member of the public who has been the victim of
a crime, ~~a rehabilitated ex-offender,~~ the two rehabilitated ex-offenders, and the
members selected from each of the service areas."

1

2 **House Only**

3 **STUDY 340B DRUG PRICING OPPORTUNITIES**

4 **SECTION 16C.13.** The Department of Public Safety, Division of Adult Correction,
5 shall study opportunities for the State to obtain savings under the federal 340B Drug Pricing
6 Program on drugs provided to prisoners in State correctional facilities. The Division shall conduct
7 this study in conjunction with the University of North Carolina Health Care System. The
8 Department shall report the results of this study by December 1, 2014, to the chairs of (i) the Joint
9 Legislative Oversight Committee on Justice and Public Safety, (ii) the House Appropriations
10 Subcommittee on Justice and Public Safety, and (iii) the Senate Appropriations Committee on
11 Justice and Public Safety.
12

Senate and House Differ

Senate Version

TRANSFER THE SBI AND THE ALCOHOL LAW ENFORCEMENT SECTION

SECTION 17.1.(a) The State Bureau of Investigation is hereby transferred to the Department of Public Safety as a new section within the Law Enforcement Division. This transfer shall have all of the elements of a Type I transfer, as described in G.S. 143A-6.

SBI TRANSFER – CREATION OF STATUTORY SUBPARTS

SECTION 17.1.(b) Part 4 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new Subpart to read:

"Subpart A. General Provisions."

SECTION 17.1.(c) Part 4 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new Subpart to read:

"Subpart B. State Capitol Police."

SECTION 17.1.(d) Part 4 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new Subpart to read:

"Subpart C. State Bureau of Investigation."

SBI TRANSFER – REPEAL OF CERTAIN STATUTES AND RECODIFICATION OF OTHER AFFECTED STATUTES

SECTION 17.1.(e) G.S. 114-13 is repealed.

SECTION 17.1.(f) G.S. 114-2.7 is recodified as G.S. 143B-901 under Subpart A of Part 4 of Article 13 of Chapter 143B of the General Statutes, as created by subsection (b) of this section.

SECTION 17.1.(g) G.S. 114-10 through G.S. 114-10.1 are recodified as G.S. 143B-902 through G.S. 143B-905 under Subpart A of Part 4 of Article 13 of Chapter 143B of the General Statutes, as created by subsection (b) of this section.

SECTION 17.1.(h) G.S. 143B-900 is recodified as G.S. 143B-911 under Subpart B of Part 4 of Article 13 of Chapter 143B of the General Statutes, as created by subsection (c) of this section.

SECTION 17.1.(i) The following statutes are recodified as G.S. 143B-915 through G.S. 143B-924 under Subpart C of Part 4 of Article 13 of Chapter 143B of the General Statutes, as created by subsection (d) of this section: G.S. 114-12, 114-12.1, 114-14 through 114-15.3, and 114-17 through 114-18.

SECTION 17.1.(j) G.S. 114-19 is recodified as G.S. 143B-906 under Subpart A of Part 4 of Article 13 of Chapter 143B of the General Statutes, as created by subsection (b) of this section.

SECTION 17.1.(k) G.S. 114-19.01 is recodified as G.S. 143B-925 under Subpart C of Part 4 of Article 13 of Chapter 143B of the General Statutes, as created by subsection (d) of this section.

SECTION 17.1.(l) All of Part 2 of Article 4 of Chapter 114 of the General Statutes, other than the section recodified by subsection (k) of this section, is recodified as Subpart D of Part 4 of Article 13 of Chapter 143B of the General Statutes, "Criminal History Record Checks", G.S. 143B-930 through G.S. 143B-981. Statutory sections of the former statutes that were reserved

for future codification shall have corresponding sections that are reserved for future codification in the recodified statutes.

SECTION 17.1.(m) Part 3 of Article 4 of Chapter 114 of the General Statutes is recodified as Subpart E of Part 4 of Article 13 of Chapter 143B of the General Statutes, "Protection of Public Officials", G.S. 143B-986 through G.S. 143B-987.

SBI TRANSFER – OTHER CHANGES

SECTION 17.1.(n) The following statutes, as recodified by subsections (f) through (m) of this section, as applicable, are amended by deleting the language "Department of Justice" wherever it appears and substituting "Department of Public Safety": G.S. 14-208.15A, 14-415.19, 15A-145, 15A-145.1, 15A-145.2, 15A-145.3, 15A-145.4(c) and (j), 15A-145.5(c), 15A-145.6(c), 15A-146, 18B-902, 19A-24, 48-3-309, 53-244.050, 58-71-51, 58-89A-60, 66-407, 70-13.1, 74C-8.1, 74D-2.1, 74F-18, 84-24, 85B-3.2, 90-11, 90-30, 90-85.15, 90-102.1, 90-113.5, 90-113.46A, 90-143.3, 90-171.48, 90-210.25, 90-224, 90-270.22, 90-270.26, 90-270.29A, 90-288.01, 90-622, 90-629, 90-629.1, 90-652, 90D-7, 93A-4, 95-47.2, 106-65.26, 110-90.2, 115C-238.73, 115C-332, 121-25.1, 143-166.13, 143-143.10A, 143B-916, 143B-930 through 143B-965, and 160A-304.

SECTION 17.1.(o) The following statutes, as recodified by subsections (f) through (m) of this section, as applicable, are amended by deleting the language "Attorney General" wherever it appears and substituting "Secretary of Public Safety": G.S. 15A-1475, 58-79-1 through 58-79-15, 58-79-25, 143B-921, and 163-278.

SECTION 17.1.(p) The following statutes, as recodified by subsections (f) through (m) of this section, as applicable, are amended by deleting the language "Division of Criminal Information" and "State Bureau of Investigation's Division of Criminal Information" wherever they appear and substituting "Department of Public Safety": G.S. 7B-2507, 15A-1340.14, 15A-1340.21, 20-26, 85B-3.2, 122C-80, 143B-935, 143B-943, 143B-954, and 143B-981.

SECTION 17.1.(q) The following statutes are amended by deleting the language "Division" wherever it appears and substituting "Department of Public Safety": G.S. 14-208.7, 14-208.8, 14-208.8A, 14-208.9, 14-208.9A, 14-208.12A, 14-208.15, 14-208.15A, 14-208.22, and 14-208.27. However, no substitution shall be made under this subsection to instances of the word "Division" that appear in the phrase "Division of Adult Correction."

SECTION 17.1.(r) G.S. 7A-349 reads as rewritten:

"§ 7A-349. Criminal history record check; denial of employment, contract, or volunteer opportunity.

The Judicial Department may deny employment, a contract, or a volunteer opportunity to any person who refuses to consent to a criminal history check authorized under ~~G.S. 114-19-19~~ G.S. 143B-950 and may dismiss a current employee, terminate a contractor, or terminate a volunteer relationship if that employee, contractor, or volunteer refuses to consent to a criminal history record check authorized under ~~G.S. 114-19-19~~ G.S. 143B-950."

SECTION 17.1.(s) G.S. 7B-1904 reads as rewritten:

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

The custody order shall be in writing and shall direct a law enforcement officer or other authorized person to assume custody of the juvenile and to make due return on the order. The official executing the order shall give a copy of the order to the juvenile's parent, guardian, or custodian. If the order is for nonsecure custody, the official executing the order shall also give a copy of the petition and order to the person or agency with whom the juvenile is being placed. If the order is for secure custody, copies of the petition and custody order shall accompany the juvenile to the detention facility or holdover facility of the jail. A message of ~~the Division of Criminal Information, State Bureau of Investigation,~~ the Department of Public Safety stating that a juvenile petition and secure custody order relating to a specified juvenile are on file in a particular county shall be authority to detain the juvenile in secure custody until a copy of the juvenile petition and

1 secure custody order can be forwarded to the juvenile detention facility. The copies of the juvenile
2 petition and secure custody order shall be transmitted to the detention facility no later than 72 hours
3 after the initial detention of the juvenile.

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

7 **SECTION 17.1.(t)** G.S. 8-58.20(c) reads as rewritten:

8 "(c) The analyst who analyzes the forensic sample and signs the report shall complete an
9 affidavit on a form developed by the ~~State Bureau of Investigation~~State Crime Laboratory. In the
10 affidavit, the analyst shall state (i) that the person is qualified by education, training, and experience
11 to perform the analysis, (ii) the name and location of the laboratory where the analysis was
12 performed, and (iii) that performing the analysis is part of that person's regular duties. The analyst
13 shall also aver in the affidavit that the tests were performed pursuant to the accrediting body's
14 standards for that discipline and that the evidence was handled in accordance with established and
15 accepted procedures while in the custody of the laboratory. The affidavit shall be sufficient to
16 constitute prima facie evidence regarding the person's qualifications. The analyst shall attach the
17 affidavit to the laboratory report and shall provide the affidavit to the investigating officer and the
18 district attorney in the prosecutorial district in which the criminal charges are pending. An affidavit
19 by a forensic analyst sworn to and properly executed before an official authorized to administer
20 oaths is admissible in evidence without further authentication in any criminal proceeding with
21 respect to the forensic analysis administered and the procedures followed."

22 **SECTION 17.1.(u)** G.S. 14-16.9 reads as rewritten:

23 **"§ 14-16.9. Officers-elect to be covered.**

24 Any person who has been elected to any office covered by this Article but has not yet taken the
25 oath of office shall be considered to hold the office for the purpose of this Article and
26 ~~G.S. 114-15~~G.S. 143B-919."

27 **SECTION 17.1.(v)** G.S. 14-132(c)(3) reads as rewritten:

28 "(3) Designated by the ~~Attorney General~~Secretary of Public Safety in accordance
29 with ~~G.S. 114-20.1~~G.S. 143B-987."

30 **SECTION 17.1.(w)** G.S. 14-208.6 reads as rewritten:

31 **"§ 14-208.6. Definitions.**

32 The following definitions apply in this Article:

33 ...
34 (1c) ~~"Division"~~"Department" means the ~~Division of Criminal Information of the~~
35 ~~Department of Justice~~Department of Public Safety.

36 ...
37 (8) "Statewide registry" means the central registry compiled by the ~~Division~~
38 Department in accordance with G.S. 14-208.14.

39"

40 **SECTION 17.1.(x)** G.S. 14-208.13 reads as rewritten:

41 **"§ 14-208.13. File with ~~Police~~Criminal Information Network.**

42 (a) The ~~Division~~Department of Public Safety shall include the registration information in
43 the ~~Police~~Criminal Information Network as set forth in ~~G.S. 114-10.1~~G.S. 143B-905.

44 (b) The ~~Division~~Department of Public Safety shall maintain the registration information
45 permanently even after the registrant's reporting requirement expires."

46 **SECTION 17.1.(y)** G.S. 14-208.14 reads as rewritten:

47 **"§ 14-208.14. Statewide registry; ~~Division of Criminal Statistics~~Department of Public Safety**
48 **designated custodian of statewide registry.**

49 (a) The ~~Division of Criminal Statistics~~Department of Public Safety shall compile and keep
50 current a central statewide sex offender registry. The ~~Division~~Department is the State agency

1 designated as the custodian of the statewide registry. As custodian the ~~Division~~Department has the
2 following responsibilities:

- 3 (1) To receive from the sheriff or any other law enforcement agency or penal
4 institution all sex offender registrations, changes of address, changes of academic
5 or educational employment status, and prerelease notifications required under
6 this Article or under federal law. The ~~Division~~Department shall also receive
7 notices of any violation of this Article, including a failure to register or a failure
8 to report a change of address.
- 9 (2) To provide all need-to-know law enforcement agencies (local, State, campus,
10 federal, and those located in other states) immediately upon receipt by the
11 ~~Division~~Department of any of the following: registration information, a
12 prerelease notification, a change of address, a change of academic or educational
13 employment status, or notice of a violation of this Article.
- 14 (2a) To notify the appropriate law enforcement unit at an institution of higher
15 education as soon as possible upon receipt by the ~~Division~~Department of relevant
16 information based on registration information or notice of a change of academic
17 or educational employment status. If an institution of higher education does not
18 have a law enforcement unit, then the ~~Division~~Department shall provide the
19 information to the local law enforcement agency that has jurisdiction for the
20 campus.
- 21 (3) To coordinate efforts among law enforcement agencies and penal institutions to
22 ensure that the registration information, changes of address, change of name,
23 prerelease notifications, and notices of failure to register or to report a change of
24 address are conveyed in an appropriate and timely manner.
- 25 (4) To provide public access to the statewide registry in accordance with this Article.
- 26 (4a) To maintain the system for public access so that a registrant's full name, any
27 aliases, and any legal name changes are cross-referenced and a member of the
28 public may conduct a search of the system for a registrant under any of those
29 names.
- 30 (5) To maintain a system allowing an entity to access a list of online identifiers of
31 persons in the central sex offender registry.
- 32 (b) The statewide registry shall include the following:
 - 33 (1) Registration information obtained by a sheriff or penal institution under this
34 Article or from any other local or State law enforcement agency.
 - 35 (2) Registration information received from a state or local law enforcement agency
36 or penal institution in another state.
 - 37 (3) Registration information received from a federal law enforcement agency or
38 penal institution."

39 **SECTION 17.1.(z)** G.S. 14-208.31 reads as rewritten:
40 **"§ 14-208.31. File with ~~Police~~Criminal Information Network.**

41 (a) The ~~Division~~Department of Public Safety shall include the registration information in
42 the ~~Police~~Criminal Information Network as set forth in ~~G.S. 114-10.1~~G.S. 143B-905.

43 (b) The ~~Division~~Department of Public Safety shall maintain the registration information
44 permanently even after the registrant's reporting requirement expires; however, the records shall
45 remain confidential in accordance with Article 32 of Chapter 7B of the General Statutes."

46 **SECTION 17.1.(aa)** G.S. 14-415.4(d)(5) reads as rewritten:

47 "(5) The petitioner submits his or her fingerprints to the sheriff of the county in which
48 the petitioner resides for a criminal background check pursuant to
49 ~~G.S. 114-19.28~~G.S. 143B-959."

50 **SECTION 17.1.(bb)** G.S. 15A-266.2(4) reads as rewritten:

"(4) 'DNA Sample' means blood, cheek swabs, or any biological sample containing cells provided by any person with respect to offenses covered by this Article or submitted to the ~~State Bureau of Investigation~~State Crime Laboratory pursuant to this Article for analysis pursuant to a criminal investigation or storage or both."

SECTION 17.1.(cc) G.S. 15A-1341(d) reads as rewritten:

"(d) Search of Sex Offender Registration Information Required When Placing a Defendant on Probation. – When the court places a defendant on probation, the probation officer assigned to the defendant shall conduct a search of the defendant's name or other identifying information against the registration information regarding sex offenders compiled by the ~~Division of Criminal Statistics of the Department of Justice~~Department of Public Safety in accordance with Article 27A of Chapter 14 of the General Statutes. The probation officer may conduct the search using the Internet site maintained by the ~~Division of Criminal Statistics~~Department of Public Safety."

SECTION 17.1.(dd) G.S. 15A-298 reads as rewritten:

"§ 15A-298. Subpoena authority.

Pursuant to rules issued by the ~~Attorney General~~Department of Public Safety, the Director of the State Bureau of Investigation or the Director's designee may issue an administrative subpoena to a communications common carrier or an electronic communications service to compel production of business records if the records:

- (1) Disclose information concerning local or long-distance toll records or subscriber information; and
- (2) Are material to an active criminal investigation being conducted by the State Bureau of Investigation."

SECTION 17.1.(ee) G.S. 18C-151(a)(3) reads as rewritten:

"(3) All proposals shall be accompanied by a bond or letter of credit in an amount equal to not less than five percent (5%) of the proposal and the fee to cover the cost of the criminal record check conducted under ~~G.S. 114-19-6~~G.S. 143B-935."

SECTION 17.1.(ff) G.S. 74F-6(16) reads as rewritten:

"(16) Request that the ~~Department of Justice~~Department of Public Safety conduct criminal history record checks of applicants for licensure and apprenticeships pursuant to ~~G.S. 114-19-15~~G.S. 143B-946."

SECTION 17.1.(gg) G.S. 90-113.33(10) reads as rewritten:

"(10) Request that the ~~Department of Justice~~Department of Public Safety conduct criminal history record checks of applicants for registration, certification, or licensure pursuant to ~~G.S. 114-19-11A~~G.S. 143B-941."

SECTION 17.1.(hh) G.S. 90-171.23(b)(19) reads as rewritten:

"(19) Request that the ~~Department of Justice~~Department of Public Safety conduct criminal history record checks of applicants for licensure pursuant to ~~G.S. 114-19-11~~G.S. 143B-940."

SECTION 17.1.(ii) G.S. 90-270.63(b) reads as rewritten:

"(b) The Board may request that an applicant for licensure, an applicant seeking reinstatement of a license, or a licensee under investigation by the Board for alleged criminal offenses in violation of this Article consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant, deny reinstatement of a license to an applicant, or revoke the license of a licensee. The Board shall ensure that the State and national criminal history of an applicant is checked. The Board shall be responsible for providing to the North Carolina ~~Department of Justice~~Department of Public Safety the fingerprints of the applicant or licensee to be checked, a form signed by the applicant or licensee consenting to the criminal history record check and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories, and any additional information required by the ~~Department of Justice~~Department of Public Safety in

1 accordance with ~~G.S. 114-19.27~~G.S. 143B-958. The Board shall keep all information obtained
2 pursuant to this section confidential. The Board shall collect any fees required by the ~~Department of~~
3 ~~Justice~~Department of Public Safety and shall remit the fees to the ~~Department of Justice~~Department
4 of Public Safety for expenses associated with conducting the criminal history record check."

5 **SECTION 17.1.(jj)** G.S. 90-345(b) reads as rewritten:

6 "(b) The Board may request that an applicant for licensure, an applicant seeking
7 reinstatement of a license, or a licensee under investigation by the Board for alleged criminal
8 offenses in violation of this Article consent to a criminal history record check. Refusal to consent to
9 a criminal history record check may constitute grounds for the Board to deny licensure to an
10 applicant, deny reinstatement of a license to an applicant, or revoke the license of a licensee. The
11 Board shall ensure that the State and national criminal history of an applicant is checked. The Board
12 shall be responsible for providing to the North Carolina ~~Department of Justice~~Department of Public
13 Safety the fingerprints of the applicant or licensee to be checked, a form signed by the applicant or
14 licensee consenting to the criminal record check and the use of fingerprints and other identifying
15 information required by the State or National Repositories of Criminal Histories, and any additional
16 information required by the ~~Department of Justice~~Department of Public Safety in accordance with
17 ~~G.S. 114-19.26~~G.S. 143B-957. The Board shall keep all information obtained pursuant to this
18 section confidential. The Board shall collect any fees required by the ~~Department of~~
19 ~~Justice~~Department of Public Safety and shall remit the fees to the ~~Department of Justice~~Department
20 of Public Safety for expenses associated with conducting the criminal history record check."

21 **SECTION 17.1.(kk)** G.S. 93E-1-6(c1) reads as rewritten:

22 "(c1) The Board shall also make an investigation as it deems necessary into the background of
23 the applicant to determine the applicant's qualifications with due regard to the paramount interest of
24 the public as to the applicant's competency, honesty, truthfulness, and integrity. All applicants shall
25 consent to a criminal history record check. Refusal to consent to a criminal history record check
26 may constitute grounds for the Board to deny an application. The Board shall ensure that the State
27 and national criminal history of an applicant is checked. The Board shall be responsible for
28 providing to the North Carolina ~~Department of Justice~~Department of Public Safety the fingerprints
29 of the applicant to be checked, a form signed by the applicant consenting to the criminal history
30 record check, and the use of fingerprints and other identifying information required by the State or
31 National Repositories of Criminal Histories and any additional information required by the
32 ~~Department of Justice~~Department of Public Safety in accordance with
33 ~~G.S. 114-19.30~~G.S. 143B-961. The Board shall keep all information obtained pursuant to this
34 section confidential. The Board shall collect any fees required by the ~~Department of~~
35 ~~Justice~~Department of Public Safety and shall remit the fees to the ~~Department of Justice~~Department
36 of Public Safety for expenses associated with conducting the criminal history record check."

37 **SECTION 17.1.(ll)** G.S. 93E-2-11(b) reads as rewritten:

38 "(b) The Board may require that an applicant for registration as an appraisal management
39 company or a registrant consent to a criminal history record check. Refusal to consent to a criminal
40 history record check may constitute grounds for the Board to deny registration to an applicant or
41 registrant. The Board shall ensure that the State and national criminal history of an applicant or
42 registrant is checked. The Board shall be responsible for providing to the North Carolina
43 ~~Department of Justice~~Department of Public Safety the fingerprints of the applicant or registrant to
44 be checked, a form signed by the applicant or registrant consenting to the criminal record check and
45 the use of fingerprints and other identifying information required by the State or National
46 Repositories of Criminal Histories, and any additional information required by the ~~Department of~~
47 ~~Justice~~Department of Public Safety in accordance with ~~G.S. 114-19.30~~G.S. 143B-961. The Board
48 shall keep all information obtained pursuant to this section confidential. The Board shall collect any
49 fees required by the ~~Department of Justice~~Department of Public Safety and shall remit the fees to
50 the ~~Department of Justice~~Department of Public Safety for expenses associated with conducting the
51 criminal history record check."

1 **SECTION 17.1.(mm)** G.S. 101-5 reads as rewritten:
2 **"§ 101-5. Name change application requirements; grounds for clerk to order or deny name**
3 **change; certificate and record.**

4 ...
5 (e) The clerk shall forward the order granting the name change to:

6 ...
7 (2) The ~~Division of Criminal Information at the State Bureau of~~
8 Investigation, Department of Public Safety, which shall update its records to show
9 the name change.

10 ...
11 (g) Upon information obtained by the clerk of fraud or material misrepresentation in the
12 application for a name change, the clerk on his or her own motion may set aside the order granting
13 the name change after notice to the applicant and opportunity to be heard. If the clerk sets aside the
14 name change order, the clerk shall notify the State Registrar of Vital Statistics and the ~~Division of~~
15 Criminal Information, Department of Public Safety."

16 **SECTION 17.1.(nn)** G.S. 110-90.2(g), as rewritten by subsection (n) of this section,
17 reads as rewritten:

18 "(g) The child care provider shall pay the cost of the fingerprinting and the federal criminal
19 history record check in accordance with ~~G.S. 114-19.5~~ G.S. 143B-934. The Department of Public
20 Safety shall perform the State criminal history record check. The Department of Health and Human
21 Services shall pay for and conduct the county criminal history record check. Child care providers
22 who reside outside the State bear the cost of the county criminal history record check and shall
23 provide the county criminal history record check to the Division of Child Development as required
24 by this section."

25 **SECTION 17.1.(oo)** G.S. 113-172(a) reads as rewritten:

26 "(a) The Secretary shall designate license agents for the Department. The Division and
27 license agents designated by the Secretary under this section shall issue licenses authorized under
28 this Article in accordance with this Article and the rules of the Commission. The Secretary may
29 require license agents to enter into a contract that provides for their duties and compensation, post a
30 bond, and submit to reasonable inspections and audits. If a license agent violates any provision of
31 this Article, the rules of the Commission, or the terms of the contract, the Secretary may initiate
32 proceedings for the forfeiture of the license agent's bond and may summarily suspend, revoke, or
33 refuse to renew a designation as a license agent and may impound or require the return of all
34 licenses, moneys, record books, reports, license forms and other documents, ledgers, and materials
35 pertinent or apparently pertinent to the license agency. The Secretary shall report evidence or
36 misuse of State property, including license fees, by a license agent to the State Bureau of
37 Investigation as provided by ~~G.S. 114-15.1~~ G.S. 143B-920."

38 **SECTION 17.1.(pp)** G.S. 114-2.7, as recodified as G.S. 143B-901 by subsection (f) of
39 this section, reads as rewritten:

40 **"§ 143B-901. Reporting system and database on certain domestic-violence-related homicides;**
41 **reports by law enforcement agencies required; annual report to the General**
42 **Assembly.**

43 The ~~Attorney General's Office~~, Department of Public Safety, in consultation with the North
44 Carolina Council for Women/Domestic Violence Commission, the North Carolina Sheriffs'
45 Association, and the North Carolina Association of Chiefs of Police, shall develop a reporting
46 system and database that reflects the number of homicides in the State where the offender and the
47 victim had a personal relationship, as defined by G.S. 50B-1(b). The information in the database
48 shall also include the type of personal relationship that existed between the offender and the victim,
49 whether the victim had obtained an order pursuant to G.S. 50B-3, and whether there was a pending
50 charge for which the offender was on pretrial release pursuant to G.S. 15A-534.1. All State and
51 local law enforcement agencies shall report information to the ~~Attorney General's Office~~ Department

of Public Safety upon making a determination that a homicide meets the reporting system's criteria. The report shall be made in the format adopted by the ~~Attorney General's Office~~ Department of Public Safety. The ~~Attorney General's Office~~ Department of Public Safety shall report to the ~~Joint Legislative Committee on Domestic Violence~~ Joint Legislative Oversight Committee on Justice and Public Safety, no later than February 1 of each year, with the data collected for the previous calendar year."

SECTION 17.1.(qq) G.S. 114-10, as recodified as G.S. 143B-902 by subsection (g) of this section, reads as rewritten:

"§ 143B-902. ~~Division of Criminal Information~~ Powers and duties of the Department of Public Safety with respect to criminal information.

~~The Attorney General shall set up in the Department of Justice a division to be designated as the Division of Criminal Information. There shall be assigned to this Division by the Attorney General duties as follows:~~ In addition to its other duties, it shall be the duty of the Department of Public Safety to do all of the following:

- ...
- (2) To collect, correlate, and maintain access to information that will assist in the performance of duties required in the administration of criminal justice throughout the State. This information may include, but is not limited to, motor vehicle registration, drivers' licenses, wanted and missing persons, stolen property, warrants, stolen vehicles, firearms registration, sexual offender registration as provided under Article 27A of Chapter 14 of the General Statutes, drugs, drug users and parole and probation histories. In performing this function, the ~~Division~~ Department may arrange to use information available in other agencies and units of State, local and federal government, but shall provide security measures to insure that such information shall be made available only to those whose duties, relating to the administration of justice, require such information.

- ...
- ~~(5) To perform such other duties as may be from time to time prescribed by the Attorney General.~~

- (6) To promulgate rules and regulations for the administration of this Article."

SECTION 17.1.(rr) G.S. 114-10.01, as recodified as G.S. 143B-903 by subsection (g) of this section, reads as rewritten:

"§ 143B-903. Collection of traffic law enforcement statistics.

(a) ~~In addition to the duties set forth in G.S. 114-10, the Division of Criminal Information~~ In addition to its other duties, the Department of Public Safety shall collect, correlate, and maintain the following information regarding traffic law enforcement by law enforcement officers:

- ...
- (b) For purposes of this section, "law enforcement officer" means any of the following:

- (1) All State law enforcement officers.
- (2) Law enforcement officers employed by county sheriffs or county police departments.
- (3) Law enforcement officers employed by police departments in municipalities with a population of 10,000 or more persons.
- (4) Law enforcement officers employed by police departments in municipalities employing five or more full-time sworn officers for every 1,000 in population, as calculated by the ~~Division~~ Department for the calendar year in which the stop was made.

...

(d) Each law enforcement officer making a stop covered by subdivision (1) of subsection (a) of this section shall be assigned an anonymous identification number by the officer's employing

1 agency. The anonymous identifying number shall be public record and shall be reported to the
2 ~~Division~~Department to be correlated along with the data collected under subsection (a) of this
3 section. The correlation between the identification numbers and the names of the officers shall not
4 be a public record, and shall not be disclosed by the agency except when required by order of a
5 court of competent jurisdiction to resolve a claim or defense properly before the court.

6 (d1) Any agency subject to the requirements of this section shall submit information collected
7 under subsection (a) of this section to the ~~Division~~Department within 60 days of the close of each
8 month. Any agency that does not submit the information as required by this subsection shall be
9 ineligible to receive any law enforcement grants available by or through the State until the
10 information which is reasonably available is submitted.

11 (e) The ~~Division~~Department shall publish and distribute by December 1 of each year a list
12 indicating the law enforcement officers that will be subject to the provisions of this section during
13 the calendar year commencing on the following January 1."

14 **SECTION 17.1.(ss)** G.S. 114-10.02, as recodified as G.S. 143B-904 by subsection (g)
15 of this section, reads as rewritten:

16 **"§ 143B-904. Collection of statistics on the use of deadly force by law enforcement officers.**

17 (a) In addition to ~~the duties set forth in G.S. 114-10, the Division of Criminal Information~~its
18 other duties, the Department of Public Safety shall collect, maintain, and annually publish the
19 number of deaths, by law enforcement agency, resulting from the use of deadly force by law
20 enforcement officers in the course and scope of their official duties.

21 (b) For purposes of this section, "law enforcement officer" means sworn law enforcement
22 officers with the power of arrest, both State and local."

23 **SECTION 17.1.(tt)** G.S. 114-10.1, as recodified as G.S. 143B-905 by subsection (g) of
24 this section, reads as rewritten:

25 **"§ 143B-905. Police-Criminal Information Network.**

26 (a) The ~~Division of Criminal Information~~Department of Public Safety is authorized to
27 establish, devise, maintain and operate a system for receiving and disseminating to participating
28 agencies information collected, maintained and correlated under authority of ~~G.S. 114-10 of this~~
29 ~~Article.~~G.S. 143B-902. The system shall be known as the ~~Division of Criminal Information~~
30 Network.

31 (b) The ~~Division of Criminal Information~~Department of Public Safety is authorized to
32 cooperate with the Division of Motor Vehicles, Department of Administration, ~~the Department of~~
33 ~~Public Safety,~~ and other State, local and federal agencies and organizations in carrying out the
34 purpose and intent of this section, and to utilize, in cooperation with other State agencies and to the
35 extent as may be practical, computers and related equipment as may be operated by other State
36 agencies.

37 (c) The ~~Division of Criminal Information,~~Department of Public Safety, after consultation
38 with participating agencies, shall adopt rules and regulations governing the organization and
39 administration of the ~~Division of Criminal Information Network,~~ including rules and regulations
40 governing the types of information relating to the administration of criminal justice to be entered
41 into the system, and who shall have access to such information. The rules and regulations governing
42 access to the ~~Division of Criminal Information Network~~ shall not prohibit an attorney who has
43 entered a criminal proceeding in accordance with G.S. 15A-141 from obtaining information
44 relevant to that criminal proceeding. The rules and regulations governing access to the ~~Division of~~
45 ~~Criminal Information Network~~ shall not prohibit an attorney who represents a person in
46 adjudicatory or dispositional proceedings for an infraction from obtaining the person's driving
47 record or criminal history.

48 (d) ~~The Division of Criminal Information may impose an initial set up fee of two thousand~~
49 ~~six hundred fifty dollars (\$2,650) for agencies to participate in the Division of Criminal Information~~
50 ~~Network. This one time fee shall be used to offset the cost of the router and data circuit needed to~~
51 ~~access the Network.~~

1 The ~~Division of Criminal Information Department~~ may also impose monthly fees on
2 participating agencies. The monthly fees collected under this subsection shall be used to offset the
3 cost of operating and maintaining the ~~Police-Criminal Information Network~~ Network.

4 (1) The ~~Division of Criminal Information~~ Department may impose a monthly circuit
5 fee on agencies that access the ~~Division of Criminal Information~~ Network
6 through a circuit maintained and operated by the ~~Department of~~
7 ~~Justice~~ Department of Public Safety. The amount of the monthly fee is three
8 hundred dollars (\$300.00) plus an additional fee amount for each device linked to
9 the Network. The additional fee amount varies depending upon the type of
10 device. For a desktop device after the first seven desktop devices, the additional
11 monthly fee is twenty-five dollars (\$25.00) per device. For a mobile device, the
12 additional monthly fee is twelve dollars (\$12.00) per device.

13 (2) The ~~Division of Criminal Information~~ Department may impose a monthly device
14 fee on agencies that access the ~~Police-Criminal~~ Information Network through
15 some other approved means. The amount of the monthly device fee varies
16 depending upon the type of device. For a desktop device, the monthly fee is
17 twenty-five dollars (\$25.00) per device. For a mobile device, the fee is twelve
18 dollars (\$12.00) per device."

19 **SECTION 17.1.(uu)** G.S. 114-12, as recodified as G.S. 143B-915 by subsection (i) of
20 this section, reads as rewritten:

21 **"§ 143B-915. Bureau of Investigation created; powers and duties.**

22 In order to secure a more effective administration of the criminal laws of the State, to prevent
23 crime, and to procure the speedy apprehension of criminals, the ~~Attorney General~~ Secretary of
24 Public Safety shall set up in the Division of Law Enforcement of the ~~Department of Justice~~ Public
25 Safety a ~~division~~ section to be designated as the State Bureau of Investigation. The ~~Division~~ Section
26 shall have charge of and administer the agencies and activities herein set up for the identification of
27 criminals, for their apprehension, and investigation and preparation of evidence to be used in
28 criminal courts; and the said Bureau shall have charge of investigation of criminal matters herein
29 especially mentioned, and of such other crimes and criminal procedure as the Governor may direct.

30 In the personnel of the Bureau shall be included a sufficient number of persons of training and
31 skill in the investigation of crime and in the preparation of evidence as to be of service to local
32 enforcement officers, under the direction of the Governor, in criminal matters of major importance.

33 ~~The State radio system shall be made available to the Bureau Laboratory for use in its work."~~

34 **SECTION 17.1.(vv)** G.S. 114-14, as recodified as G.S. 143B-917 by subsection (i) of
35 this section, reads as rewritten:

36 **"§ 143B-917. General powers and duties of ~~Director and assistants~~ law enforcement officers**
37 **of the State Bureau of Investigation.**

38 ~~The Director of the Bureau and his assistants~~ Sworn law enforcement officers of the State
39 Bureau of Investigation are given the same power of arrest as is now vested in the sheriffs of the
40 several counties, and their jurisdiction shall be statewide. ~~The Director of the Bureau and his~~
41 ~~assistants~~ Sworn law enforcement officers of the Bureau shall, at the request of the Governor, give
42 assistance to sheriffs, police officers, district attorneys, and judges when called upon by them and so
43 directed. ~~They shall also give assistance, when requested, to the Department of Public Safety in the~~
44 ~~investigation of cases pending before the parole office and of complaints lodged against parolees,~~
45 ~~when so directed by the Governor."~~

46 **SECTION 17.1.(ww)** G.S. 114-15, as recodified as G.S. 143B-919 by subsection (i) of
47 this section, reads as rewritten:

48 **"§ 143B-919. Investigations of lynchings, election frauds, etc.; services subject to call of**
49 **Governor; witness fees and mileage for ~~Director and assistants~~ employees.**

50 (a) The Bureau shall, ~~through its Director and~~ upon request of the Governor, investigate and
51 prepare evidence in the event of any lynching or mob violence in the State; shall investigate all

1 cases arising from frauds in connection with elections when requested to do so by the Board of
2 Elections, and when so directed by the Governor. Such investigation, however, shall in no wise
3 interfere with the power of the Attorney General to make such investigation as the Attorney General
4 is authorized to make under the laws of the State. The Bureau is authorized further, at the request of
5 the Governor, to investigate cases of frauds arising under the Social Security Laws of the State, of
6 violations of the gaming laws, and lottery laws, and matters of similar kind when called upon by the
7 Governor so to do. In all such cases it shall be the duty of the Department to keep such records as
8 may be necessary and to prepare evidence in the cases investigated, for the use of enforcement
9 officers and for the trial of causes. The services of ~~the Director of the Bureau, and of the Director's~~
10 ~~assistants, employees of the Bureau~~ may be required by the Governor in connection with the
11 investigation of any crime committed anywhere in the State when called upon by the enforcement
12 officers of the State, and when, in the judgment of the Governor, such services may be rendered
13 with advantage to the enforcement of the criminal law. The State Bureau of Investigation is hereby
14 authorized to investigate without request the attempted arson of, or arson of, damage of, theft from,
15 or theft of, or misuse of, any State-owned personal property, buildings, or other real property or any
16 assault upon or threats against any legislative officer named in G.S. 147-2(1), (2), or (3), any
17 executive officer named in G.S. 147-3(c), or any court officer as defined in G.S. 14-16.10(1).

18 (a1) The Bureau also is authorized at the request of the Governor to conduct a background
19 investigation on a person that the Governor plans to nominate for a position that must be confirmed
20 by the General Assembly, the Senate, or the House of Representatives. The background
21 investigation of the proposed nominee shall be limited to an investigation of the person's criminal
22 record, educational background, employment record, records concerning the listing and payment of
23 taxes, and credit record, and to a requirement that the person provide the information contained in
24 the statements of economic interest required to be filed by persons subject to Chapter 138A of the
25 General Statutes. The Governor must give the person being investigated written notice that the
26 Governor intends to request a background investigation at least 10 days prior to the date that the
27 Governor requests the State Bureau of Investigation to conduct the background investigation. The
28 written notice shall be sent by regular mail, and there is created a rebuttable presumption that the
29 person received the notice if the Governor has a copy of the notice.

30 ...
31 (c) All records and evidence collected and compiled by ~~the Director of the Bureau and his~~
32 ~~assistants, employees of the Bureau~~ shall, upon request, be made available to the district attorney of
33 any district if the same concerns persons or investigations in his district.

34 (d) In all cases where the cost is assessed against the defendant and paid by him, there shall
35 be assessed in the bill of cost, mileage and witness fees to ~~the Director and any of his assistants, any~~
36 ~~employees of the Bureau~~ who are witnesses in cases arising in courts of this State. The fees so
37 assessed, charged and collected shall be forwarded by the clerks of the court to the Treasurer of the
38 State of North Carolina, and there credited to the Bureau of Identification and Investigation Fund."

39 **SECTION 17.1.(xx)** G.S. 114-19.1(d), as recodified by subsection (l) of this section,
40 reads as rewritten:

41 "(d) Nothing in this section shall be construed as enlarging any right to receive any record of
42 the State Bureau of Investigation. Such rights are and shall be controlled by ~~G.S. 114-15,~~
43 ~~G.S. 114-19, G.S. 143B-919, 143B-906,~~ 120-19.4A, and other applicable statutes."

44 **SECTION 17.1.(yy)** G.S. 114-19.6(b), as recodified by subsection (l) of this section
45 and rewritten by subsection (o) of this section, reads as rewritten:

46 "(b) When requested by the Department of Health and Human Services or the Division of
47 Juvenile Justice of the Department of Public Safety, the North Carolina Department of Public Safety
48 may provide to the requesting department or division a covered person's criminal history from the
49 State Repository of Criminal Histories. Such requests shall not be due to a person's age, sex, race,
50 color, national origin, religion, creed, political affiliation, or handicapping condition as defined by
51 G.S. 168A-3. For requests for a State criminal history record check only, the requesting department

1 or division shall provide to the Department of Public Safety a form consenting to the check signed
2 by the covered person to be checked and any additional information required by the Department of
3 Public Safety. National criminal record checks are authorized for covered applicants who have not
4 resided in the State of North Carolina during the past five years. For national checks the Department
5 of Health and Human Services or the Division of Juvenile Justice of the Department of Public
6 Safety shall provide to the North Carolina Department of Public Safety the fingerprints of the
7 covered person to be checked, any additional information required by the Department of Public
8 Safety, and a form signed by the covered person to be checked consenting to the check of the
9 criminal record and to the use of fingerprints and other identifying information required by the State
10 or National Repositories. The fingerprints of the individual shall be forwarded to the State Bureau
11 of Investigation for a search of the State criminal history record file and the State Bureau of
12 Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national
13 criminal history record check. The Department of Health and Human Services and the Division of
14 Juvenile Justice of the Department of Public Safety shall keep all information pursuant to this
15 section confidential. The Department of Public Safety shall charge a reasonable fee for conducting
16 the checks of the criminal history records authorized by this section."

17 **SECTION 17.1.(zz)** G.S. 114-20, as recodified as G.S. 143B-986 by subsection (m) of
18 this section, reads as rewritten:

19 **"§ 143B-986. Authority to provide protection to certain public officials.**

20 The North Carolina State Bureau of Investigation is authorized to provide protection to public
21 officials who request it, and who, in the discretion of the Director of the Bureau with the approval
22 of the Attorney General, demonstrate a need for such protection. The bureau shall not provide
23 protection for any individual other than the Governor for a period greater than 30 days without
24 review and reapproval by the ~~Attorney General~~ Secretary of Public Safety. This review and
25 reapproval shall be required at the end of each 30-day period."

26 **SECTION 17.1.(aaa)** G.S. 114-20.1, as recodified as G.S. 143B-987 by subsection (m)
27 of this section, reads as rewritten:

28 **"§ 143B-987. Authority to designate areas for protection of public officials.**

29 (a) The ~~Attorney General~~ Secretary of Public Safety is authorized to designate buildings and
30 grounds which constitute temporary residences or temporary offices of any public official being
31 protected under authority of ~~G.S. 114-20, G.S. 143B-986~~, or any area that will be visited by any
32 such official, a public building or facility during the time of such use.

33 (b) The ~~Attorney General or the Director of the State Bureau of Investigation~~ Secretary of
34 Public Safety may, with the consent of the official to be protected, make rules governing ingress to
35 or egress from such buildings, grounds or areas designated under this section."

36 **SECTION 17.1.(bbb)** G.S. 122C-80 reads as rewritten:

37 **"§ 122C-80. Criminal history record check required for certain applicants for employment.**

38 ...
39 (b) Requirement. – An offer of employment by a provider licensed under this Chapter to an
40 applicant to fill a position that does not require the applicant to have an occupational license is
41 conditioned on consent to a State and national criminal history record check of the applicant. If the
42 applicant has been a resident of this State for less than five years, then the offer of employment is
43 conditioned on consent to a State and national criminal history record check of the applicant. The
44 national criminal history record check shall include a check of the applicant's fingerprints. If the
45 applicant has been a resident of this State for five years or more, then the offer is conditioned on
46 consent to a State criminal history record check of the applicant. A provider shall not employ an
47 applicant who refuses to consent to a criminal history record check required by this section. Except
48 as otherwise provided in this subsection, within five business days of making the conditional offer
49 of employment, a provider shall submit a request to the ~~Department of Justice~~ Department of Public
50 Safety under ~~G.S. 114-19.10~~ G.S. 143B-939 to conduct a criminal history record check required by
51 this section or shall submit a request to a private entity to conduct a State criminal history record

1 check required by this section. Notwithstanding ~~G.S. 114-19.10, G.S. 143B-939~~, the ~~Department of~~
2 ~~Justice~~ Department of Public Safety shall return the results of national criminal history record checks
3 for employment positions not covered by Public Law 105-277 to the Department of Health and
4 Human Services, Criminal Records Check Unit. Within five business days of receipt of the national
5 criminal history of the person, the Department of Health and Human Services, Criminal Records
6 Check Unit, shall notify the provider as to whether the information received may affect the
7 employability of the applicant. In no case shall the results of the national criminal history record
8 check be shared with the provider. Providers shall make available upon request verification that a
9 criminal history check has been completed on any staff covered by this section. A county that has
10 adopted an appropriate local ordinance and has access to the Division of Criminal Information data
11 bank may conduct on behalf of a provider a State criminal history record check required by this
12 section without the provider having to submit a request to the Department of Justice. In such a case,
13 the county shall commence with the State criminal history record check required by this section
14 within five business days of the conditional offer of employment by the provider. All criminal
15 history information received by the provider is confidential and may not be disclosed, except to the
16 applicant as provided in subsection (c) of this section. For purposes of this subsection, the term
17 "private entity" means a business regularly engaged in conducting criminal history record checks
18 utilizing public records obtained from a State agency.

19 ...
20 (g) Conditional Employment. – A provider may employ an applicant conditionally prior to
21 obtaining the results of a criminal history record check regarding the applicant if both of the
22 following requirements are met:

- 23 (1) The provider shall not employ an applicant prior to obtaining the applicant's
24 consent for criminal history record check as required in subsection (b) of this
25 section or the completed fingerprint cards as required in
26 ~~G.S. 114-19.10, G.S. 143B-939~~.
27 (2) The provider shall submit the request for a criminal history record check not later
28 than five business days after the individual begins conditional employment."

29 **SECTION 17.1.(ccc)** G.S. 122C-205(c) reads as rewritten:

30 "(c) Upon receipt of notice of an escape or breach of a condition of release as described in
31 subsections (a) and (b) of this section, an appropriate law enforcement officer shall take the client
32 into custody and have the client returned to the 24-hour facility from which the client has escaped or
33 has been conditionally released. Transportation of the client back to the 24-hour facility shall be
34 provided in the same manner as described in G.S. 122C-251 and G.S. 122C-408(b). Law
35 enforcement agencies who are notified of a client's escape or breach of conditional release shall be
36 notified of the client's return by the responsible 24-hour facility. Under the circumstances described
37 in this section, the initial notification by the 24-hour facility of the client's escape or breach of
38 conditional release shall be given by telephone communication to the appropriate law enforcement
39 agency or agencies and, if available and appropriate, by ~~Division of Criminal Information~~
40 ~~(DCI)~~ Department of Public Safety message to any law enforcement agency in or out of state and by
41 entry into the National Crime Information Center (NCIC) telecommunications system. As soon as
42 reasonably possible following notification, written authorization to take the client into custody shall
43 also be issued by the 24-hour facility. Under this section, law enforcement officers shall have the
44 authority to take a client into custody upon receipt of the telephone notification or ~~Division of~~
45 ~~Criminal Information~~ Department of Public Safety message prior to receiving written authorization.
46 The notification of a law enforcement agency does not, in and of itself, render this information
47 public information within the purview of Chapter 132 of the General Statutes. However, the
48 responsible law enforcement agency shall determine the extent of disclosure of personal identifying
49 and background information reasonably necessary, under the circumstances, in order to assure the
50 expeditious return of a client to the 24-hour facility involved and to protect the general public and is
51 authorized to make such disclosure. The responsible law enforcement agency may also place any

1 appropriate message or entry into either the ~~Division of Criminal Information System~~Department of
2 Public Safety's Criminal Information System or National Crime Information System, or both, as
3 appropriate."

4 **SECTION 17.1.(ddd)** G.S. 131D-10.3A reads as rewritten:
5 **"§ 131D-10.3A. Mandatory criminal checks.**

6 ...
7 (d) The ~~Department of Justice~~Department of Public Safety shall provide to the Department
8 the criminal history of the individuals specified in subsection (a) of this section obtained from the
9 State and National Repositories of Criminal Histories as requested by the Department. The
10 Department shall provide to the ~~Department of Justice~~Department of Public Safety, along with the
11 request, the fingerprints of the individual to be checked, any additional information required by the
12 ~~Department of Justice~~Department of Public Safety, and a form consenting to the check of the
13 criminal record and to the use of fingerprints and other identifying information required by the State
14 or National Repositories signed by the individual to be checked. The fingerprints of the individual
15 to be checked shall be forwarded to the State Bureau of Investigation for a search of the State's
16 criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints
17 to the Federal Bureau of Investigation for a national criminal history record check.

18 ...
19 (i) The ~~Department of Justice~~Department of Public Safety shall perform the State and
20 national criminal history checks on individuals required by this section and shall charge the
21 Department a reasonable fee only for conducting the checks of the national criminal history records
22 authorized by this section. The Division of Social Services, Department of Health and Human
23 Services, shall bear the costs of implementing this section."

24 **SECTION 17.1.(eee)** G.S. 131D-40 reads as rewritten:
25 **"§ 131D-40. Criminal history record checks required for certain applicants for employment.**

26 (a) Requirement; Adult Care Home. – An offer of employment by an adult care home
27 licensed under this Chapter to an applicant to fill a position that does not require the applicant to
28 have an occupational license is conditioned on consent to a criminal history record check of the
29 applicant. If the applicant has been a resident of this State for less than five years, then the offer of
30 employment is conditioned on consent to a State and national criminal history record check of the
31 applicant. The national criminal history record check shall include a check of the applicant's
32 fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is
33 conditioned on consent to a State criminal history record check of the applicant. An adult care home
34 shall not employ an applicant who refuses to consent to a criminal history record check required by
35 this section. Within five business days of making the conditional offer of employment, an adult care
36 home shall submit a request to the ~~Department of Justice~~Department of Public Safety under
37 ~~G.S. 114-19.10~~G.S. 143B-939 to conduct a State or national criminal history record check required
38 by this section, or shall submit a request to a private entity to conduct a State criminal history record
39 check required by this section. Notwithstanding ~~G.S. 114-19.10~~G.S. 143B-939, the ~~Department of~~
40 ~~Justice~~Department of Public Safety shall return the results of national criminal history record
41 checks for employment positions not covered by Public Law 105-277 to the Department of Health
42 and Human Services, Criminal Records Check Unit. Within five business days of receipt of the
43 national criminal history of the person, the Department of Health and Human Services, Criminal
44 Records Check Unit, shall notify the adult care home as to whether the information received may
45 affect the employability of the applicant. In no case shall the results of the national criminal history
46 record check be shared with the adult care home. Adult care homes shall make available upon
47 request verification that a criminal history check has been completed on any staff covered by this
48 section. All criminal history information received by the home is confidential and may not be
49 disclosed, except to the applicant as provided in subsection (b) of this section.

50 (a1) Requirement; Contract Agency of Adult Care Home. – An offer of employment by a
51 contract agency of an adult care home licensed under this Chapter to an applicant to fill a position

1 that does not require the applicant to have an occupational license is conditioned upon consent to a
2 criminal history record check of the applicant. If the applicant has been a resident of this State for
3 less than five years, then the offer of employment is conditioned on consent to a State and national
4 criminal history record check of the applicant. The national criminal history record check shall
5 include a check of the applicant's fingerprints. If the applicant has been a resident of this State for
6 five years or more, then the offer is conditioned on consent to a State criminal history record check
7 of the applicant. A contract agency of an adult care home shall not employ an applicant who refuses
8 to consent to a criminal history record check required by this section. Within five business days of
9 making the conditional offer of employment, a contract agency of an adult care home shall submit a
10 request to the ~~Department of Justice~~Department of Public Safety under
11 ~~G.S. 114-19.10~~G.S. 143B-939 to conduct a State or national criminal history record check required
12 by this section, or shall submit a request to a private entity to conduct a State criminal history record
13 check required by this section. Notwithstanding ~~G.S. 114-19.10~~G.S. 143B-939, the ~~Department of~~
14 ~~Justice~~Department of Public Safety shall return the results of national criminal history record
15 checks for employment positions not covered by Public Law 105-277 to the Department of Health
16 and Human Services, Criminal Records Check Unit. Within five business days of receipt of the
17 national criminal history of the person, the Department of Health and Human Services, Criminal
18 Records Check Unit, shall notify the contract agency of the adult care home as to whether the
19 information received may affect the employability of the applicant. In no case shall the results of the
20 national criminal history record check be shared with the contract agency of the adult care home.
21 Contract agencies of adult care homes shall make available upon request verification that a criminal
22 history check has been completed on any staff covered by this section. All criminal history
23 information received by the contract agency is confidential and may not be disclosed, except to the
24 applicant as provided by subsection (b) of this section.

25 ...

26 (f) Conditional Employment. – An adult care home may employ an applicant conditionally
27 prior to obtaining the results of a criminal history record check regarding the applicant if both of the
28 following requirements are met:

- 29 (1) The adult care home shall not employ an applicant prior to obtaining the
30 applicant's consent for a criminal history record check as required in subsection
31 (a) of this section or the completed fingerprint cards as required in
32 ~~G.S. 114-19.10~~G.S. 143B-939.
- 33 (2) The adult care home shall submit the request for a criminal history record check
34 not later than five business days after the individual begins conditional
35 employment.

36"

37 **SECTION 17.1.(fff)** G.S. 131E-159(g) reads as rewritten:

38 "(g) An individual who applies for EMS credentials, seeks to renew EMS credentials, or
39 holds EMS credentials is subject to a criminal background review by the Department. At the request
40 of the Department, the Emergency Medical Services Disciplinary Committee, established by
41 G.S. 143-519, shall review criminal background information and make a recommendation regarding
42 the eligibility of an individual to obtain initial EMS credentials, renew EMS credentials, or maintain
43 EMS credentials. The Department and the Emergency Medical Services Disciplinary Committee
44 shall keep all information obtained pursuant to this subsection confidential. The Medical Care
45 Commission shall adopt rules to implement the provisions of this subsection, including rules to
46 establish a reasonable fee to offset the actual costs of criminal history information obtained pursuant
47 to ~~G.S. 114-19.21~~G.S. 143B-952."

48 **SECTION 17.1.(ggg)** G.S. 131E-265 reads as rewritten:

49 **"§ 131E-265. Criminal history record checks required for certain applicants for employment.**

50 (a) Requirement; Nursing Home or Home Care Agency. – An offer of employment by a
51 nursing home licensed under this Chapter to an applicant to fill a position that does not require the

1 applicant to have an occupational license is conditioned on consent to a criminal history record
2 check of the applicant. If the applicant has been a resident of this State for less than five years, then
3 the offer of employment is conditioned on consent to a State and national criminal history record
4 check of the applicant. The national criminal history record check shall include a check of the
5 applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then
6 the offer is conditioned on consent to a State criminal history record check of the applicant. An
7 offer of employment by a home care agency licensed under this Chapter to an applicant to fill a
8 position that requires entering the patient's home is conditioned on consent to a criminal history
9 record check of the applicant. In addition, employment status change of a current employee of a
10 home care agency licensed under this Chapter from a position that does not require entering the
11 patient's home to a position that requires entering the patient's home shall be conditioned on consent
12 to a criminal history record check of that current employee. If the applicant for employment or if the
13 current employee who is changing employment status has been a resident of this State for less than
14 five years, then the offer of employment or change in employment status is conditioned on consent
15 to a State and national criminal history record check. The national criminal history record check
16 shall include a check of the applicant's or current employee's fingerprints. If the applicant or current
17 employee has been a resident of this State for five years or more, then the offer is conditioned on
18 consent to a State criminal history record check of the applicant or current employee applying for a
19 change in employment status. A nursing home or a home care agency shall not employ an applicant
20 who refuses to consent to a criminal history record check required by this section. In addition, a
21 home care agency shall not change a current employee's employment status from a position that
22 does not require entering the patient's home to a position that requires entering the patient's home
23 who refuses to consent to a criminal history record check required by this section. Within five
24 business days of making the conditional offer of employment, a nursing home or home care agency
25 shall submit a request to the ~~Department of Justice~~Department of Public Safety under
26 ~~G.S. 114-19.10~~G.S. 143B-939 to conduct a State or national criminal history record check required
27 by this section, or shall submit a request to a private entity to conduct a State criminal history record
28 check required by this section. Notwithstanding ~~G.S. 114-19.10~~G.S. 143B-939, the ~~Department of~~
29 ~~Justice~~Department of Public Safety shall return the results of national criminal history record
30 checks for employment positions not covered by Public Law 105-277 to the Department of Health
31 and Human Services, Criminal Records Check Unit. Within five business days of receipt of the
32 national criminal history of the person, the Department of Health and Human Services, Criminal
33 Records Check Unit, shall notify the nursing home or home care agency as to whether the
34 information received may affect the employability of the applicant. In no case shall the results of the
35 national criminal history record check be shared with the nursing home or home care agency.
36 Nursing homes and home care agencies shall make available upon request verification that a
37 criminal history check has been completed on any staff covered by this section. All criminal history
38 information received by the home or agency is confidential and may not be disclosed, except to the
39 applicant as provided in subsection (b) of this section.

40 (a1) Requirement; Contract Agency of Nursing Home or Home Care Agency. – An offer of
41 employment by a contract agency of a nursing home or home care agency licensed under this
42 Chapter to an applicant to fill a position that does not require the applicant to have an occupational
43 license is conditioned upon consent to a criminal history record check of the applicant. If the
44 applicant has been a resident of this State for less than five years, then the offer of employment is
45 conditioned on consent to a State and national criminal history record check of the applicant. The
46 national criminal history record check shall include a check of the applicant's fingerprints. If the
47 applicant has been a resident of this State for five years or more, then the offer is conditioned on
48 consent to a State criminal history record check of the applicant. A contract agency of a nursing
49 home or home care agency shall not employ an applicant who refuses to consent to a criminal
50 history record check required by this section. Within five business days of making the conditional
51 offer of employment, a contract agency of a nursing home or home care agency shall submit a

request to the ~~Department of Justice~~ Department of Public Safety under ~~G.S. 114-19.10~~ G.S. 143B-939 to conduct a State or national criminal history record check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. Notwithstanding ~~G.S. 114-19.10~~, G.S. 143B-939, the ~~Department of Justice~~ Department of Public Safety shall return the results of national criminal history record checks for employment positions not covered by Public Law 105-277 to the Department of Health and Human Services, Criminal Records Check Unit. Within five business days of receipt of the national criminal history of the person, the Department of Health and Human Services, Criminal Records Check Unit, shall notify the contract agency of the nursing home or home care agency as to whether the information received may affect the employability of the applicant. In no case shall the results of the national criminal history record check be shared with the contract agency of the nursing home or home care agency. Contract agencies of nursing homes and home care agencies shall make available upon request verification that a criminal history check has been completed on any staff covered by this section. All criminal history information received by the contract agency is confidential and may not be disclosed, except to the applicant as provided by subsection (b) of this section.

...

(f) Conditional Employment. – A nursing home or home care agency may employ an applicant conditionally prior to obtaining the results of a criminal history record check regarding the applicant if both of the following requirements are met:

- (1) The nursing home or home care agency shall not employ an applicant prior to obtaining the applicant's consent for a criminal history record check as required in subsection (a) of this section or the completed fingerprint cards as required in ~~G.S. 114-19.10~~ G.S. 143B-939.
- (2) The nursing home or home care agency shall submit the request for a criminal history record check not later than five business days after the individual begins conditional employment.

...."

SECTION 17.1.(hhh) G.S. 143-143.10(b)(6) reads as rewritten:

"(6) To request that the Department of Justice conduct criminal history checks of applicants for licensure pursuant to ~~G.S. 114-19.13~~ G.S. 143B-944."

SECTION 17.1.(iii) G.S. 148-37.3(c) reads as rewritten:

"(c) Any private corporation described in subsection (a) of this section shall reimburse the State and any county or other law enforcement agency for the full cost of any additional expenses incurred by the State or the county or other law enforcement agency in connection with the pursuit and apprehension of an escaped inmate from the facility.

In the event of an escape from the facility, any private corporation described in subsection (a) of this section shall immediately notify the sheriff in the county in which the facility is located, who shall cause an immediate entry into the ~~State Bureau of Investigation Division of Criminal Information network~~ Department of Public Safety's Criminal Information Network. The sheriff of the county in which the facility is located shall be the lead law enforcement officer in connection with the pursuit and apprehension of an escaped inmate from the facility."

SECTION 17.1.(jjj) G.S. 153A-94.2 reads as rewritten:

"§ 153A-94.2. Criminal history record checks of employees permitted.

The board of commissioners may adopt or provide for rules and regulations or ordinances concerning a requirement that any applicant for employment be subject to a criminal history record check of State and National Repositories of Criminal Histories conducted by the ~~Department of Justice~~ Department of Public Safety in accordance with ~~G.S. 114-19.14~~ G.S. 143B-945. The local or regional public employer may consider the results of these criminal history record checks in its hiring decisions."

SECTION 17.1.(kkk) G.S. 160A-164.2 reads as rewritten:

1 **"§ 160A-164.2. Criminal history record check of employees permitted.**

2 The council may adopt or provide for rules and regulations or ordinances concerning a
3 requirement that any applicant for employment be subject to a criminal history record check of State
4 and National Repositories of Criminal Histories conducted by the ~~Department of Justice~~Department
5 of Public Safety in accordance with ~~G.S. 114-19.14~~G.S. 143B-945. The city may consider the
6 results of these criminal history record checks in its hiring decisions."

7 **SECTION 17.1.(iii)** G.S. 164-44(a) reads as rewritten:

8 "(a) The Commission shall have the secondary duty of collecting, developing, and
9 maintaining statistical data relating to sentencing, corrections, and juvenile justice so that the
10 primary duties of the Commission will be formulated using data that is valid, accurate, and relevant
11 to this State. All State agencies shall provide data as it is requested by the Commission. For the
12 purposes of ~~G.S. 114-19.1~~G.S. 143B-930, the Commission shall be considered to be engaged in the
13 administration of criminal justice. All meetings of the Commission shall be open to the public and
14 the information presented to the Commission shall be available to any State agency or member of
15 the General Assembly."

16 **SECTION 17.1.(mmm)** Subpart C of Part 2 of Article 4 of Chapter 114 of the General
17 Statutes is amended by adding a new section to read:

18 **"§ 143B-926. Appointment and term of the Director of the State Bureau of Investigation.**

19 (a) The Director of the State Bureau of Investigation shall be appointed by the Governor for
20 a term of eight years subject to confirmation by the General Assembly by joint resolution. The name
21 of the person to be appointed by the Governor shall be submitted by the Governor to the General
22 Assembly for confirmation by the General Assembly on or before May 1 of the year in which the
23 term for which the appointment is to be made expires. Upon failure of the Governor to submit a
24 name as herein provided, the President Pro Tempore of the Senate and the Speaker of the House of
25 Representatives jointly shall submit a name of an appointee to the General Assembly on or before
26 May 15 of the same year. The appointment shall then be made by enactment of a bill. The bill shall
27 state the name of the person being appointed, the office to which the appointment is being made, the
28 effective date of the appointment, the date of expiration of the term, the county of residence of the
29 appointee, and that the appointment is made upon the joint recommendation of the Speaker of the
30 House of Representatives and the President Pro Tempore of the Senate. Nothing precludes any
31 member of the General Assembly from proposing an amendment to any bill making such an
32 appointment."

33 (b) The Director may be removed from office by the Governor for any of the grounds set
34 forth in G.S. 143B-13(b) or (c)."

35
36 **SECTION 17.1.(nnn)** Notwithstanding anything in G.S. 143B-926, as enacted by
37 subsection (mmm) of this section, to the contrary, the Governor shall appoint an acting Director of
38 the State Bureau of Investigation who shall serve until a new Director is appointed pursuant to
39 G.S. 143B-926. A Director shall be appointed pursuant to G.S. 143B-926 no later than June 1, 2015,
40 for a term that shall end on June 30, 2023.

41 **SECTION 17.1.(ooo)** Notwithstanding any other provision of law, there shall be no
42 transfer of positions to or from the State Bureau of Investigation and no changes to the authorized
43 budget of the State Bureau of Investigation, as it existed on March 1, 2014, prior to the transfer of
44 the State Bureau of Investigation to the Department of Public Safety.

45
46 **ALCOHOL LAW ENFORCEMENT SECTION TRANSFER**

47 **SECTION 17.1.(ppp)** The Alcohol Law Enforcement Section shall be relocated as a
48 branch under the State Bureau of Investigation.

49 **SECTION 17.1.(qqq)** G.S. 18B-500 reads as rewritten:
50 **"§ 18B-500. Alcohol law-enforcement agents.**

1 (a) ~~Appointment. – The Secretary of Public Safety~~Director of the State Bureau of
2 Investigation shall appoint alcohol law-enforcement agents and other enforcement personnel. The
3 ~~Secretary of Public Safety~~Director may also appoint regular employees of the Commission as
4 alcohol law-enforcement agents. Alcohol law-enforcement agents shall be designated as "alcohol
5 law-enforcement agents". Persons serving as reserve alcohol law-enforcement agents are considered
6 employees of the Alcohol Law Enforcement Section for workers' compensation purposes while
7 performing duties assigned or approved by the ~~Director~~Head of the Alcohol Law Enforcement
8 ~~Section~~Branch or the ~~Director's Head's~~ designee.

9 (b) Subject Matter Jurisdiction. – After taking the oath prescribed for a peace officer, an
10 alcohol law-enforcement agent shall have authority to arrest and take other investigatory and
11 enforcement actions for any criminal offense. The primary responsibility of an agent shall be
12 enforcement of the ~~ABC laws, lottery laws, and Article 5 of Chapter 90 (The Controlled Substances~~
13 ~~Act); however, an agent may perform any law enforcement duty assigned by the Secretary of Public~~
14 ~~Safety or the Governor.~~ABC and lottery laws.

15 ...
16 (g) Shifting of Personnel From One District to Another. – The ~~Director~~Head of the Alcohol
17 Law Enforcement ~~Section~~Branch, under rules adopted by the Department of Public Safety may,
18 from time to time, shift the forces from one district to another or consolidate more than one district
19 force at any point for special purposes. Whenever an agent of the Alcohol Law Enforcement
20 Section is transferred from one district to another for the convenience of the State or for reasons
21 other than the request of the agent, the Department shall be responsible for transporting the
22 household goods, furniture, and personal apparel of the agent and members of the agent's
23 household."

24 **SECTION 17.1.(rrr)** The following statutes are amended by deleting the word
25 "Section" wherever it appears in uppercase and substituting "Branch": G.S. 18B-101(5), 18B-201,
26 18B-202, 18B-203, 18B-504, 18B-805, 18B-902, 18B-903, 18B-904, 19-2.1, 105-259(b)(15), and
27 143-652.1 through 143-658.

28 **SECTION 17.1.(sss)** G.S. 143-651 reads as rewritten:
29 **"§ 143-651. Definitions.**

30 The following definitions apply in this Article:

31 ...
32 (4a) Branch. – The Alcohol Law Enforcement Branch of the State Bureau of
33 Investigation.
34 ...
35 (23b) Sanctioned amateur match. – Any match regulated by an amateur sports
36 organization that has been recognized and approved by the ~~Section~~Branch.
37 ...
38 (24a) ~~Section. – The Alcohol Law Enforcement Section of the Department of Public~~
39 ~~Safety.~~
40"

42 MISCELLANEOUS PROVISIONS

43 **SECTION 17.1.(ttt)** The Department of Public Safety shall consolidate ALE and SBI
44 Regions and Regional Offices. These regional offices shall be operational by October 1, 2014.

45 **SECTION 17.1.(uuu)** The Department of Public Safety shall make the following
46 reports on progress implementing this section to the Joint Legislative Oversight Committee on
47 Justice and Public Safety:

- 48 (1) An interim report on or before January 1, 2015.
- 49 (2) A second interim report on or before April 1, 2015.
- 50 (3) A final report on or before October 1, 2015. This report may include any
- 51 recommendations for changes to applicable statutes.

1 **SECTION 17.1.(vvv)** Subsection (ooo) of this section is effective when it becomes law.
2 The remainder of this section becomes effective July 1, 2014.
3
4

House Version

TRANSFER THE SBI AND THE ALCOHOL LAW ENFORCEMENT SECTION

SECTION 17.1.(a) The State Bureau of Investigation is hereby transferred to the Department of Public Safety as a new section within the Law Enforcement Division. This transfer shall have all of the elements of a Type I transfer, as described in G.S. 143A-6.

SBI TRANSFER – CREATION OF STATUTORY SUBPARTS

SECTION 17.1.(b) Part 4 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new Subpart to read:

"Subpart A. General Provisions."

SECTION 17.1.(c) Part 4 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new Subpart to read:

"Subpart B. State Capitol Police."

SECTION 17.1.(d) Part 4 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new Subpart to read:

"Subpart C. State Bureau of Investigation."

SBI TRANSFER – REPEAL OF CERTAIN STATUTES AND RECODIFICATION OF OTHER AFFECTED STATUTES

SECTION 17.1.(e) G.S. 114-13 is repealed.

SECTION 17.1.(f) G.S. 114-2.7 is recodified as G.S. 143B-901 under Subpart A of Part 4 of Article 13 of Chapter 143B of the General Statutes, as created by subsection (b) of this section.

SECTION 17.1.(g) G.S. 114-10 through G.S. 114-10.1 are recodified as G.S. 143B-902 through G.S. 143B-905 under Subpart A of Part 4 of Article 13 of Chapter 143B of the General Statutes, as created by subsection (b) of this section.

SECTION 17.1.(h) G.S. 143B-900 is recodified as G.S. 143B-911 under Subpart B of Part 4 of Article 13 of Chapter 143B of the General Statutes, as created by subsection (c) of this section.

SECTION 17.1.(i) G.S. 114-12 is recodified as G.S. 143B-915 under Subpart C of Part 4 of Article 13 of Chapter 143B of the General Statutes, as created by subsection (d) of this section. The following statutes are recodified as G.S. 143B-917 through G.S. 143B-924 under Subpart C of Part 4 of Article 13 of Chapter 143B of the General Statutes, as created by subsection (d) of this section: G.S. 114-14 through G.S. 114-15.3 and G.S. 114-17 through G.S. 114-18.

SECTION 17.1.(j) G.S. 114-19 is recodified as G.S. 143B-906 under Subpart A of Part 4 of Article 13 of Chapter 143B of the General Statutes, as created by subsection (b) of this section.

SECTION 17.1.(k) G.S. 114-19.01 is recodified as G.S. 143B-925 under Subpart C of Part 4 of Article 13 of Chapter 143B of the General Statutes, as created by subsection (d) of this section.

SECTION 17.1.(l) All of Part 2 of Article 4 of Chapter 114 of the General Statutes, other than the section recodified by subsection (k) of this section, is recodified as Subpart D of Part 4 of Article 13 of Chapter 143B of the General Statutes, "Criminal History Record Checks", G.S. 143B-930 through G.S. 143B-981. Statutory sections of the former statutes that were reserved for future codification shall have corresponding sections that are reserved for future codification in the recodified statutes.

SECTION 17.1.(m) Part 3 of Article 4 of Chapter 114 of the General Statutes is recodified as Subpart E of Part 4 of Article 13 of Chapter 143B of the General Statutes, "Protection of Public Officials", G.S. 143B-986 through G.S. 143B-987.

SBI TRANSFER – OTHER CHANGES

1 **SECTION 17.1.(n)** The following statutes, as recodified by subsections (f) through (m)
2 of this section, as applicable, are amended by deleting the language "Department of Justice"
3 wherever it appears and substituting "Department of Public Safety": G.S. 14-208.15A, 14-415.19,
4 15A-145, 15A-145.1, 15A-145.2, 15A-145.3, 15A-145.4(c) and (j), 15A-145.5(c), 15A-145.6(c),
5 15A-146, 18B-902, 19A-24, 48-3-309, 53-244.050, 58-71-51, 58-89A-60, 66-407, 70-13.1,
6 74C-8.1, 74D-2.1, 74F-18, 84-24, 85B-3.2, 90-11, 90-30, 90-85.15, 90-102.1, 90-113.5,
7 90-113.46A, 90-143.3, 90-171.48, 90-210.25, 90-224, 90-270.22, 90-270.26, 90-270.29A,
8 90-288.01, 90-622, 90-629, 90-629.1, 90-652, 90D-7, 93A-4, 95-47.2, 106-65.26, 110-90.2,
9 115C-238.73, 115C-332, 121-25.1, 143-166.13, 143-143.10A, 143B-930 through 143B-965, and
10 160A-304.

11 **SECTION 17.1.(o)** The following statutes, as recodified by subsections (f) through (m)
12 of this section, as applicable, are amended by deleting the language "Attorney General" wherever it
13 appears and substituting "Secretary of Public Safety": G.S. 15A-1475, 58-79-1 through 58-79-15,
14 58-79-25, 143B-921, and 163-278.

15 **SECTION 17.1.(p)** The following statutes, as recodified by subsections (f) through (m)
16 of this section, as applicable, are amended by deleting the language "Division of Criminal
17 Information" and "State Bureau of Investigation's Division of Criminal Information" wherever they
18 appear and substituting "Department of Public Safety": G.S. 7B-2507, 15A-1340.14, 15A-1340.21,
19 20-26, 85B-3.2, 122C-80, 143B-935, 143B-943, 143B-954, and 143B-981.

20 **SECTION 17.1.(q)** The following statutes are amended by deleting the language
21 "Division" wherever it appears and substituting "Department of Public Safety": G.S. 14-208.7,
22 14-208.8, 14-208.8A, 14-208.9, 14-208.9A, 14-208.12A, 14-208.15, 14-208.15A, 14-208.22, and
23 14-208.27. However, no substitution shall be made under this subsection to instances of the word
24 "Division" that appear in the phrase "Division of Adult Correction."

25 **SECTION 17.1.(r)** G.S. 7A-349 reads as rewritten:
26 **"§ 7A-349. Criminal history record check; denial of employment, contract, or volunteer**
27 **opportunity.**

28 The Judicial Department may deny employment, a contract, or a volunteer opportunity to any
29 person who refuses to consent to a criminal history check authorized under
30 ~~G.S. 114-19.19~~ G.S. 143B-950 and may dismiss a current employee, terminate a contractor, or
31 terminate a volunteer relationship if that employee, contractor, or volunteer refuses to consent to a
32 criminal history record check authorized under ~~G.S. 114-19.19~~ G.S. 143B-950."

33 **SECTION 17.1.(s)** G.S. 7B-1904 reads as rewritten:
34 **"§ 7B-1904. Order for secure or nonsecure custody.**

35 The custody order shall be in writing and shall direct a law enforcement officer or other
36 authorized person to assume custody of the juvenile and to make due return on the order. The
37 official executing the order shall give a copy of the order to the juvenile's parent, guardian, or
38 custodian. If the order is for nonsecure custody, the official executing the order shall also give a
39 copy of the petition and order to the person or agency with whom the juvenile is being placed. If the
40 order is for secure custody, copies of the petition and custody order shall accompany the juvenile to
41 the detention facility or holdover facility of the jail. A message of ~~the Division of Criminal~~
42 ~~Information, State Bureau of Investigation,~~ the Department of Public Safety stating that a juvenile
43 petition and secure custody order relating to a specified juvenile are on file in a particular county
44 shall be authority to detain the juvenile in secure custody until a copy of the juvenile petition and
45 secure custody order can be forwarded to the juvenile detention facility. The copies of the juvenile
46 petition and secure custody order shall be transmitted to the detention facility no later than 72 hours
47 after the initial detention of the juvenile.

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

51 **SECTION 17.1.(t)** G.S. 8-58.20(c) reads as rewritten:

1 "(c) The analyst who analyzes the forensic sample and signs the report shall complete an
2 affidavit on a form developed by the ~~State Bureau of Investigation~~State Crime Laboratory. In the
3 affidavit, the analyst shall state (i) that the person is qualified by education, training, and experience
4 to perform the analysis, (ii) the name and location of the laboratory where the analysis was
5 performed, and (iii) that performing the analysis is part of that person's regular duties. The analyst
6 shall also aver in the affidavit that the tests were performed pursuant to the accrediting body's
7 standards for that discipline and that the evidence was handled in accordance with established and
8 accepted procedures while in the custody of the laboratory. The affidavit shall be sufficient to
9 constitute prima facie evidence regarding the person's qualifications. The analyst shall attach the
10 affidavit to the laboratory report and shall provide the affidavit to the investigating officer and the
11 district attorney in the prosecutorial district in which the criminal charges are pending. An affidavit
12 by a forensic analyst sworn to and properly executed before an official authorized to administer
13 oaths is admissible in evidence without further authentication in any criminal proceeding with
14 respect to the forensic analysis administered and the procedures followed."

15 **SECTION 17.1.(u)** G.S. 14-16.9 reads as rewritten:

16 **"§ 14-16.9. Officers-elect to be covered.**

17 Any person who has been elected to any office covered by this Article but has not yet taken the
18 oath of office shall be considered to hold the office for the purpose of this Article and
19 ~~G.S. 114-15~~G.S. 143B-919."

20 **SECTION 17.1.(v)** G.S. 14-132(c)(3) reads as rewritten:

21 "(3) Designated by the ~~Attorney General~~Secretary of Public Safety in accordance
22 with ~~G.S. 114-20.1~~G.S. 143B-987."

23 **SECTION 17.1.(w)** G.S. 14-208.6 reads as rewritten:

24 **"§ 14-208.6. Definitions.**

25 The following definitions apply in this Article:

26 ...
27 (1c) ~~"Division"~~"Department" means the ~~Division of Criminal Information of the~~
28 ~~Department of Justice~~Department of Public Safety.

29 ...
30 (8) "Statewide registry" means the central registry compiled by the ~~Division~~
31 Department in accordance with G.S. 14-208.14.

32 "

33 **SECTION 17.1.(x)** G.S. 14-208.13 reads as rewritten:

34 **"§ 14-208.13. File with ~~Police~~Criminal Information Network.**

35 (a) The ~~Division~~Department of Public Safety shall include the registration information in
36 the ~~Police~~Criminal Information Network as set forth in ~~G.S. 114-10.1~~G.S. 143B-905.

37 (b) The ~~Division~~Department of Public Safety shall maintain the registration information
38 permanently even after the registrant's reporting requirement expires."

39 **SECTION 17.1.(y)** G.S. 14-208.14 reads as rewritten:

40 **"§ 14-208.14. Statewide registry; ~~Division of Criminal Statistics~~Department of Public Safety**
41 **designated custodian of statewide registry.**

42 (a) The ~~Division of Criminal Statistics~~Department of Public Safety shall compile and keep
43 current a central statewide sex offender registry. The ~~Division~~Department is the State agency
44 designated as the custodian of the statewide registry. As custodian the ~~Division~~Department has the
45 following responsibilities:

46 (1) To receive from the sheriff or any other law enforcement agency or penal
47 institution all sex offender registrations, changes of address, changes of academic
48 or educational employment status, and prerelease notifications required under
49 this Article or under federal law. The ~~Division~~Department shall also receive
50 notices of any violation of this Article, including a failure to register or a failure
51 to report a change of address.

- (2) To provide all need-to-know law enforcement agencies (local, State, campus, federal, and those located in other states) immediately upon receipt by the ~~Division~~Department of any of the following: registration information, a prerelease notification, a change of address, a change of academic or educational employment status, or notice of a violation of this Article.
- (2a) To notify the appropriate law enforcement unit at an institution of higher education as soon as possible upon receipt by the ~~Division~~Department of relevant information based on registration information or notice of a change of academic or educational employment status. If an institution of higher education does not have a law enforcement unit, then the ~~Division~~Department shall provide the information to the local law enforcement agency that has jurisdiction for the campus.
- (3) To coordinate efforts among law enforcement agencies and penal institutions to ensure that the registration information, changes of address, change of name, prerelease notifications, and notices of failure to register or to report a change of address are conveyed in an appropriate and timely manner.
- (4) To provide public access to the statewide registry in accordance with this Article.
- (4a) To maintain the system for public access so that a registrant's full name, any aliases, and any legal name changes are cross-referenced and a member of the public may conduct a search of the system for a registrant under any of those names.
- (5) To maintain a system allowing an entity to access a list of online identifiers of persons in the central sex offender registry.
- (b) The statewide registry shall include the following:
- (1) Registration information obtained by a sheriff or penal institution under this Article or from any other local or State law enforcement agency.
- (2) Registration information received from a state or local law enforcement agency or penal institution in another state.
- (3) Registration information received from a federal law enforcement agency or penal institution."

SECTION 17.1.(z) G.S. 14-208.31 reads as rewritten:
"§ 14-208.31. File with ~~Police~~-Criminal Information Network.

(a) The ~~Division~~Department of Public Safety shall include the registration information in the ~~Police~~Criminal Information Network as set forth in ~~G.S. 114-10.1~~G.S. 143B-905.

(b) The ~~Division~~Department of Public Safety shall maintain the registration information permanently even after the registrant's reporting requirement expires; however, the records shall remain confidential in accordance with Article 32 of Chapter 7B of the General Statutes."

SECTION 17.1.(aa) G.S. 14-415.4(d)(5) reads as rewritten:

"(5) The petitioner submits his or her fingerprints to the sheriff of the county in which the petitioner resides for a criminal background check pursuant to ~~G.S. 114-19.28~~G.S. 143B-959."

SECTION 17.1.(bb) G.S. 15A-266.2(4) reads as rewritten:

"(4) 'DNA Sample' means blood, cheek swabs, or any biological sample containing cells provided by any person with respect to offenses covered by this Article or submitted to the ~~State Bureau of Investigation~~State Crime Laboratory pursuant to this Article for analysis pursuant to a criminal investigation or storage or both."

SECTION 17.1.(cc) G.S. 15A-1341(d) reads as rewritten:

"(d) Search of Sex Offender Registration Information Required When Placing a Defendant on Probation. – When the court places a defendant on probation, the probation officer assigned to the defendant shall conduct a search of the defendant's name or other identifying information against the registration information regarding sex offenders compiled by the ~~Division of Criminal~~

1 ~~Statistics of the Department of Justice~~Department of Public Safety in accordance with Article 27A
2 of Chapter 14 of the General Statutes. The probation officer may conduct the search using the
3 Internet site maintained by the ~~Division of Criminal Statistics~~Department of Public Safety."

4 **SECTION 17.1.(dd)** G.S. 15A-298 reads as rewritten:
5 "**§ 15A-298. Subpoena authority.**

6 Pursuant to rules issued by the ~~Attorney General~~Department of Public Safety, the Director of
7 the State Bureau of Investigation or the Director's designee may issue an administrative subpoena to
8 a communications common carrier or an electronic communications service to compel production
9 of business records if the records:

- 10 (1) Disclose information concerning local or long-distance toll records or subscriber
11 information; and
12 (2) Are material to an active criminal investigation being conducted by the State
13 Bureau of Investigation."

14 **SECTION 17.1.(ee)** G.S. 18C-151(a)(3) reads as rewritten:

- 15 "(3) All proposals shall be accompanied by a bond or letter of credit in an amount
16 equal to not less than five percent (5%) of the proposal and the fee to cover the
17 cost of the criminal record check conducted under
18 ~~G.S. 114-19.6~~G.S. 143B-935."

19 **SECTION 17.1.(ff)** G.S. 74F-6(16) reads as rewritten:

- 20 "(16) Request that the ~~Department of Justice~~Department of Public Safety conduct
21 criminal history record checks of applicants for licensure and apprenticeships
22 pursuant to ~~G.S. 114-19.15~~G.S. 143B-946."

23 **SECTION 17.1.(gg)** G.S. 90-113.33(10) reads as rewritten:

- 24 "(10) Request that the ~~Department of Justice~~Department of Public Safety conduct
25 criminal history record checks of applicants for registration, certification, or
26 licensure pursuant to ~~G.S. 114-19.11A~~G.S. 143B-941."

27 **SECTION 17.1.(hh)** G.S. 90-171.23(b)(19) reads as rewritten:

- 28 "(19) Request that the ~~Department of Justice~~Department of Public Safety conduct
29 criminal history record checks of applicants for licensure pursuant to
30 ~~G.S. 114-19.11~~G.S. 143B-940."

31 **SECTION 17.1.(ii)** G.S. 90-270.63(b) reads as rewritten:

32 "(b) The Board may request that an applicant for licensure, an applicant seeking
33 reinstatement of a license, or a licensee under investigation by the Board for alleged criminal
34 offenses in violation of this Article consent to a criminal history record check. Refusal to consent to
35 a criminal history record check may constitute grounds for the Board to deny licensure to an
36 applicant, deny reinstatement of a license to an applicant, or revoke the license of a licensee. The
37 Board shall ensure that the State and national criminal history of an applicant is checked. The Board
38 shall be responsible for providing to the North Carolina ~~Department of Justice~~Department of Public
39 Safety the fingerprints of the applicant or licensee to be checked, a form signed by the applicant or
40 licensee consenting to the criminal history record check and the use of fingerprints and other
41 identifying information required by the State or National Repositories of Criminal Histories, and
42 any additional information required by the ~~Department of Justice~~Department of Public Safety in
43 accordance with ~~G.S. 114-19.27~~G.S. 143B-958. The Board shall keep all information obtained
44 pursuant to this section confidential. The Board shall collect any fees required by the ~~Department of~~
45 ~~Justice~~Department of Public Safety and shall remit the fees to the ~~Department of Justice~~Department
46 of Public Safety for expenses associated with conducting the criminal history record check."

47 **SECTION 17.1.(jj)** G.S. 90-345(b) reads as rewritten:

48 "(b) The Board may request that an applicant for licensure, an applicant seeking
49 reinstatement of a license, or a licensee under investigation by the Board for alleged criminal
50 offenses in violation of this Article consent to a criminal history record check. Refusal to consent to
51 a criminal history record check may constitute grounds for the Board to deny licensure to an

1 applicant, deny reinstatement of a license to an applicant, or revoke the license of a licensee. The
2 Board shall ensure that the State and national criminal history of an applicant is checked. The Board
3 shall be responsible for providing to the North Carolina ~~Department of Justice~~Department of Public
4 Safety the fingerprints of the applicant or licensee to be checked, a form signed by the applicant or
5 licensee consenting to the criminal record check and the use of fingerprints and other identifying
6 information required by the State or National Repositories of Criminal Histories, and any additional
7 information required by the ~~Department of Justice~~Department of Public Safety in accordance with
8 ~~G.S. 114-19.26~~G.S. 143B-957. The Board shall keep all information obtained pursuant to this
9 section confidential. The Board shall collect any fees required by the ~~Department of~~
10 ~~Justice~~Department of Public Safety and shall remit the fees to the ~~Department of Justice~~Department
11 of Public Safety for expenses associated with conducting the criminal history record check."

12 **SECTION 17.1.(kk)** G.S. 93E-1-6(c1) reads as rewritten:

13 "(c1) The Board shall also make an investigation as it deems necessary into the background of
14 the applicant to determine the applicant's qualifications with due regard to the paramount interest of
15 the public as to the applicant's competency, honesty, truthfulness, and integrity. All applicants shall
16 consent to a criminal history record check. Refusal to consent to a criminal history record check
17 may constitute grounds for the Board to deny an application. The Board shall ensure that the State
18 and national criminal history of an applicant is checked. The Board shall be responsible for
19 providing to the North Carolina ~~Department of Justice~~Department of Public Safety the fingerprints
20 of the applicant to be checked, a form signed by the applicant consenting to the criminal history
21 record check, and the use of fingerprints and other identifying information required by the State or
22 National Repositories of Criminal Histories and any additional information required by the
23 ~~Department of Justice~~Department of Public Safety in accordance with
24 ~~G.S. 114-19.30~~G.S. 143B-961. The Board shall keep all information obtained pursuant to this
25 section confidential. The Board shall collect any fees required by the ~~Department of~~
26 ~~Justice~~Department of Public Safety and shall remit the fees to the ~~Department of Justice~~Department
27 of Public Safety for expenses associated with conducting the criminal history record check."

28 **SECTION 17.1.(ll)** G.S. 93E-2-11(b) reads as rewritten:

29 "(b) The Board may require that an applicant for registration as an appraisal management
30 company or a registrant consent to a criminal history record check. Refusal to consent to a criminal
31 history record check may constitute grounds for the Board to deny registration to an applicant or
32 registrant. The Board shall ensure that the State and national criminal history of an applicant or
33 registrant is checked. The Board shall be responsible for providing to the North Carolina
34 ~~Department of Justice~~Department of Public Safety the fingerprints of the applicant or registrant to
35 be checked, a form signed by the applicant or registrant consenting to the criminal record check and
36 the use of fingerprints and other identifying information required by the State or National
37 Repositories of Criminal Histories, and any additional information required by the ~~Department of~~
38 ~~Justice~~Department of Public Safety in accordance with ~~G.S. 114-19.30~~G.S. 143B-961. The Board
39 shall keep all information obtained pursuant to this section confidential. The Board shall collect any
40 fees required by the ~~Department of Justice~~Department of Public Safety and shall remit the fees to
41 the ~~Department of Justice~~Department of Public Safety for expenses associated with conducting the
42 criminal history record check."

43 **SECTION 17.1.(mm)** G.S. 101-5 reads as rewritten:

44 "**§ 101-5. Name change application requirements; grounds for clerk to order or deny name**
45 **change; certificate and record.**

46 ...

47 (e) The clerk shall forward the order granting the name change to:

48 ...

49 (2) The ~~Division of Criminal Information at the State Bureau of~~
50 ~~Investigation~~Department of Public Safety, which shall update its records to show
51 the name change.

1 ...
2 (g) Upon information obtained by the clerk of fraud or material misrepresentation in the
3 application for a name change, the clerk on his or her own motion may set aside the order granting
4 the name change after notice to the applicant and opportunity to be heard. If the clerk sets aside the
5 name change order, the clerk shall notify the State Registrar of Vital Statistics and the ~~Division of~~
6 ~~Criminal Information~~ Department of Public Safety."

7 **SECTION 17.1.(nn)** G.S. 110-90.2(g), as rewritten by subsection (n) of this section,
8 reads as rewritten:

9 "(g) The child care provider shall pay the cost of the fingerprinting and the federal criminal
10 history record check in accordance with ~~G.S. 114-19.5~~ G.S. 143B-934. The Department of Public
11 Safety shall perform the State criminal history record check. The Department of Health and Human
12 Services shall pay for and conduct the county criminal history record check. Child care providers
13 who reside outside the State bear the cost of the county criminal history record check and shall
14 provide the county criminal history record check to the Division of Child Development as required
15 by this section."

16 **SECTION 17.1.(oo)** G.S. 113-172(a) reads as rewritten:

17 "(a) The Secretary shall designate license agents for the Department. The Division and
18 license agents designated by the Secretary under this section shall issue licenses authorized under
19 this Article in accordance with this Article and the rules of the Commission. The Secretary may
20 require license agents to enter into a contract that provides for their duties and compensation, post a
21 bond, and submit to reasonable inspections and audits. If a license agent violates any provision of
22 this Article, the rules of the Commission, or the terms of the contract, the Secretary may initiate
23 proceedings for the forfeiture of the license agent's bond and may summarily suspend, revoke, or
24 refuse to renew a designation as a license agent and may impound or require the return of all
25 licenses, moneys, record books, reports, license forms and other documents, ledgers, and materials
26 pertinent or apparently pertinent to the license agency. The Secretary shall report evidence or
27 misuse of State property, including license fees, by a license agent to the State Bureau of
28 Investigation as provided by ~~G.S. 114-15.1~~ G.S. 143B-920."

29 **SECTION 17.1.(pp)** G.S. 114-2.7, as recodified as G.S. 143B-901 by subsection (f) of
30 this section, reads as rewritten:

31 **"§ 143B-901. Reporting system and database on certain domestic-violence-related homicides;
32 reports by law enforcement agencies required; annual report to the General
33 Assembly.**

34 The ~~Attorney General's Office~~ Department of Public Safety, in consultation with the North
35 Carolina Council for Women/Domestic Violence Commission, the North Carolina Sheriffs'
36 Association, and the North Carolina Association of Chiefs of Police, shall develop a reporting
37 system and database that reflects the number of homicides in the State where the offender and the
38 victim had a personal relationship, as defined by G.S. 50B-1(b). The information in the database
39 shall also include the type of personal relationship that existed between the offender and the victim,
40 whether the victim had obtained an order pursuant to G.S. 50B-3, and whether there was a pending
41 charge for which the offender was on pretrial release pursuant to G.S. 15A-534.1. All State and
42 local law enforcement agencies shall report information to the ~~Attorney General's Office~~ Department
43 of Public Safety upon making a determination that a homicide meets the reporting system's criteria.
44 The report shall be made in the format adopted by the ~~Attorney General's Office~~ Department of
45 Public Safety. The ~~Attorney General's Office~~ Department of Public Safety shall report to the ~~Joint~~
46 ~~Legislative Committee on Domestic Violence~~ Joint Legislative Oversight Committee on Justice and
47 Public Safety, no later than February 1 of each year, with the data collected for the previous
48 calendar year."

49 **SECTION 17.1.(qq)** G.S. 114-10, as recodified as G.S. 143B-902 by subsection (g) of
50 this section, reads as rewritten:

1 **"§ 143B-902. ~~Division of Criminal Information.~~Powers and duties of the Department of**
2 **Public Safety with respect to criminal information.**

3 ~~The Attorney General shall set up in the Department of Justice a division to be designated as the~~
4 ~~Division of Criminal Information. There shall be assigned to this Division by the Attorney General~~
5 ~~duties as follows:~~In addition to its other duties, it shall be the duty of the Department of Public
6 Safety to do all of the following:

7 ...
8 (2) To collect, correlate, and maintain access to information that will assist in the
9 performance of duties required in the administration of criminal justice
10 throughout the State. This information may include, but is not limited to, motor
11 vehicle registration, drivers' licenses, wanted and missing persons, stolen
12 property, warrants, stolen vehicles, firearms registration, sexual offender
13 registration as provided under Article 27A of Chapter 14 of the General Statutes,
14 drugs, drug users and parole and probation histories. In performing this function,
15 the ~~Division~~Department may arrange to use information available in other
16 agencies and units of State, local and federal government, but shall provide
17 security measures to insure that such information shall be made available only to
18 those whose duties, relating to the administration of justice, require such
19 information.

20 ...
21 ~~(5) To perform such other duties as may be from time to time prescribed by the~~
22 ~~Attorney General.~~

23 (6) To promulgate rules and regulations for the administration of this Article."

24 **SECTION 17.1.(rr)** G.S. 114-10.01, as recodified as G.S. 143B-903 by subsection (g)
25 of this section, reads as rewritten:

26 **"§ 143B-903. Collection of traffic law enforcement statistics.**

27 (a) ~~In addition to the duties set forth in G.S. 114-10, the Division of Criminal Information~~In
28 addition to its other duties, the Department of Public Safety shall collect, correlate, and maintain the
29 following information regarding traffic law enforcement by law enforcement officers:

30 ...
31 (b) For purposes of this section, "law enforcement officer" means any of the following:

- 32 (1) All State law enforcement officers.
33 (2) Law enforcement officers employed by county sheriffs or county police
34 departments.
35 (3) Law enforcement officers employed by police departments in municipalities with
36 a population of 10,000 or more persons.
37 (4) Law enforcement officers employed by police departments in municipalities
38 employing five or more full-time sworn officers for every 1,000 in population, as
39 calculated by the ~~Division~~Department for the calendar year in which the stop was
40 made.

41 ...
42 (d) Each law enforcement officer making a stop covered by subdivision (1) of subsection (a)
43 of this section shall be assigned an anonymous identification number by the officer's employing
44 agency. The anonymous identifying number shall be public record and shall be reported to the
45 ~~Division~~Department to be correlated along with the data collected under subsection (a) of this
46 section. The correlation between the identification numbers and the names of the officers shall not
47 be a public record, and shall not be disclosed by the agency except when required by order of a
48 court of competent jurisdiction to resolve a claim or defense properly before the court.

49 (d1) Any agency subject to the requirements of this section shall submit information collected
50 under subsection (a) of this section to the ~~Division~~Department within 60 days of the close of each
51 month. Any agency that does not submit the information as required by this subsection shall be

ineligible to receive any law enforcement grants available by or through the State until the information which is reasonably available is submitted.

(e) The ~~Division~~Department shall publish and distribute by December 1 of each year a list indicating the law enforcement officers that will be subject to the provisions of this section during the calendar year commencing on the following January 1."

SECTION 17.1.(ss) G.S. 114-10.02, as recodified as G.S. 143B-904 by subsection (g) of this section, reads as rewritten:

"§ 143B-904. Collection of statistics on the use of deadly force by law enforcement officers.

(a) In addition to ~~the duties set forth in G.S. 114-10, the Division of Criminal Information~~its other duties, the Department of Public Safety shall collect, maintain, and annually publish the number of deaths, by law enforcement agency, resulting from the use of deadly force by law enforcement officers in the course and scope of their official duties.

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

SECTION 17.1.(tt) G.S. 114-10.1, as recodified as G.S. 143B-905 by subsection (g) of this section, reads as rewritten:

"§ 143B-905. ~~Police-Criminal~~ Information Network.

(a) The ~~Division of Criminal Information~~Department of Public Safety is authorized to establish, devise, maintain and operate a system for receiving and disseminating to participating agencies information collected, maintained and correlated under authority of ~~G.S. 114-10 of this Article.~~G.S. 143B-902. The system shall be known as the ~~Division of Criminal Information~~ Network.

(b) The ~~Division of Criminal Information~~Department of Public Safety is authorized to cooperate with the Division of Motor Vehicles, Department of Administration, ~~the Department of Public Safety,~~ and other State, local and federal agencies and organizations in carrying out the purpose and intent of this section, and to utilize, in cooperation with other State agencies and to the extent as may be practical, computers and related equipment as may be operated by other State agencies.

(c) The ~~Division of Criminal Information,~~Department of Public Safety, after consultation with participating agencies, shall adopt rules and regulations governing the organization and administration of the ~~Division of Criminal Information~~ Network, including rules and regulations governing the types of information relating to the administration of criminal justice to be entered into the system, and who shall have access to such information. The rules and regulations governing access to the ~~Division of Criminal Information~~ Network shall not prohibit an attorney who has entered a criminal proceeding in accordance with G.S. 15A-141 from obtaining information relevant to that criminal proceeding. The rules and regulations governing access to the ~~Division of Criminal Information~~ Network shall not prohibit an attorney who represents a person in adjudicatory or dispositional proceedings for an infraction from obtaining the person's driving record or criminal history.

(d) ~~The Division of Criminal Information may impose an initial set up fee of two thousand six hundred fifty dollars (\$2,650) for agencies to participate in the Division of Criminal Information Network. This one-time fee shall be used to offset the cost of the router and data circuit needed to access the Network.~~

The ~~Division of Criminal Information~~Department may also impose monthly fees on participating agencies. The monthly fees collected under this subsection shall be used to offset the cost of operating and maintaining the ~~Police-Criminal Information Network~~Network.

(1) The ~~Division of Criminal Information~~Department may impose a monthly circuit fee on agencies that access the ~~Division of Criminal Information~~ Network through a circuit maintained and operated by the ~~Department of Justice.~~Department of Public Safety. The amount of the monthly fee is three hundred dollars (\$300.00) plus an additional fee amount for each device linked to

the Network. The additional fee amount varies depending upon the type of device. For a desktop device after the first seven desktop devices, the additional monthly fee is twenty-five dollars (\$25.00) per device. For a mobile device, the additional monthly fee is twelve dollars (\$12.00) per device.

- (2) ~~The Division of Criminal Information~~Department may impose a monthly device fee on agencies that access the ~~Police-Criminal~~ Information Network through some other approved means. The amount of the monthly device fee varies depending upon the type of device. For a desktop device, the monthly fee is twenty-five dollars (\$25.00) per device. For a mobile device, the fee is twelve dollars (\$12.00) per device."

SECTION 17.1.(uu) G.S. 114-12, as recodified as G.S. 143B-915 by subsection (i) of this section, reads as rewritten:

"§ 143B-915. Bureau of Investigation created; powers and duties.

In order to secure a more effective administration of the criminal laws of the State, to prevent crime, and to procure the speedy apprehension of criminals, the ~~Attorney General~~Secretary of Public Safety shall set up in the Division of Law Enforcement of the Department of Justice-Public Safety a ~~division-section~~ to be designated as the State Bureau of Investigation. The ~~Division-Section~~ shall have charge of and administer the agencies and activities herein set up for the identification of criminals, for their apprehension, and investigation and preparation of evidence to be used in criminal courts; and the said Bureau shall have charge of investigation of criminal matters herein especially mentioned, and of such other crimes and criminal procedure as the Governor may direct.

In the personnel of the Bureau shall be included a sufficient number of persons of training and skill in the investigation of crime and in the preparation of evidence as to be of service to local enforcement officers, under the direction of the Governor, in criminal matters of major importance.

~~The State radio system shall be made available to the Bureau Laboratory for use in its work."~~

SECTION 17.1.(vv) G.S. 114-14, as recodified as G.S. 143B-917 by subsection (i) of this section, reads as rewritten:

"§ 143B-917. General powers and duties of ~~Director and assistants~~law enforcement officers of the State Bureau of Investigation.

~~The Director of the Bureau and his assistants~~Sworn law enforcement officers of the State Bureau of Investigation are given the same power of arrest as is now vested in the sheriffs of the several counties, and their jurisdiction shall be statewide. ~~The Director of the Bureau and his assistants~~Sworn law enforcement officers of the Bureau shall, at the request of the Governor, give assistance to sheriffs, police officers, district attorneys, and judges when called upon by them and so directed. ~~They shall also give assistance, when requested, to the Department of Public Safety in the investigation of cases pending before the parole office and of complaints lodged against parolees, when so directed by the Governor."~~

SECTION 17.1.(ww) G.S. 114-15, as recodified as G.S. 143B-919 by subsection (i) of this section, reads as rewritten:

"§ 143B-919. Investigations of lynchings, election frauds, etc.; services subject to call of Governor; witness fees and mileage for ~~Director and assistants~~employees.

(a) The Bureau shall, ~~through its Director and~~ upon request of the Governor, investigate and prepare evidence in the event of any lynching or mob violence in the State; shall investigate all cases arising from frauds in connection with elections when requested to do so by the Board of Elections, and when so directed by the Governor. Such investigation, however, shall in nowise interfere with the power of the Attorney General to make such investigation as the Attorney General is authorized to make under the laws of the State. The Bureau is authorized further, at the request of the Governor, to investigate cases of frauds arising under the Social Security Laws of the State, of violations of the gaming laws, and lottery laws, and matters of similar kind when called upon by the Governor so to do. In all such cases it shall be the duty of the Department to keep such records as may be necessary and to prepare evidence in the cases investigated, for the use of enforcement

1 officers and for the trial of causes. The services of ~~the Director of the Bureau, and of the Director's~~
2 ~~assistants, employees of the Bureau~~ may be required by the Governor in connection with the
3 investigation of any crime committed anywhere in the State when called upon by the enforcement
4 officers of the State, and when, in the judgment of the Governor, such services may be rendered
5 with advantage to the enforcement of the criminal law. The State Bureau of Investigation is hereby
6 authorized to investigate without request the attempted arson of, or arson of, damage of, theft from,
7 or theft of, or misuse of, any State-owned personal property, buildings, or other real property or any
8 assault upon or threats against any legislative officer named in G.S. 147-2(1), (2), or (3), any
9 executive officer named in G.S. 147-3(c), or any court officer as defined in G.S. 14-16.10(1).

10 (a1) The Bureau also is authorized at the request of the Governor to conduct a background
11 investigation on a person that the Governor plans to nominate for a position that must be confirmed
12 by the General Assembly, the Senate, or the House of Representatives. The background
13 investigation of the proposed nominee shall be limited to an investigation of the person's criminal
14 record, educational background, employment record, records concerning the listing and payment of
15 taxes, and credit record, and to a requirement that the person provide the information contained in
16 the statements of economic interest required to be filed by persons subject to Chapter 138A of the
17 General Statutes. The Governor must give the person being investigated written notice that the
18 Governor intends to request a background investigation at least 10 days prior to the date that the
19 Governor requests the State Bureau of Investigation to conduct the background investigation. The
20 written notice shall be sent by regular mail, and there is created a rebuttable presumption that the
21 person received the notice if the Governor has a copy of the notice.

22 ...

23 (c) All records and evidence collected and compiled by ~~the Director of the Bureau and his~~
24 ~~assistants, employees of the Bureau~~ shall, upon request, be made available to the district attorney of
25 any district if the same concerns persons or investigations in his district.

26 (d) In all cases where the cost is assessed against the defendant and paid by him, there shall
27 be assessed in the bill of cost, mileage and witness fees to ~~the Director and any of his assistants, any~~
28 ~~employees of the Bureau~~ who are witnesses in cases arising in courts of this State. The fees so
29 assessed, charged and collected shall be forwarded by the clerks of the court to the Treasurer of the
30 State of North Carolina, and there credited to the Bureau of Identification and Investigation Fund."

31 **SECTION 17.1.(xx)** G.S. 114-19.1(d), as recodified by subsection (l) of this section,
32 reads as rewritten:

33 "(d) Nothing in this section shall be construed as enlarging any right to receive any record of
34 the State Bureau of Investigation. Such rights are and shall be controlled by ~~G.S. 114-15,~~
35 ~~G.S. 114-19, G.S. 143B-919, 143B-906, 120-19.4A,~~ and other applicable statutes."

36 **SECTION 17.1.(yy)** G.S. 114-19.6(b), as recodified by subsection (l) of this section
37 and rewritten by subsection (o) of this section, reads as rewritten:

38 "(b) When requested by the Department of Health and Human Services or the Division of
39 Juvenile Justice of the Department of Public Safety, the North Carolina Department of Public Safety
40 may provide to the requesting department or division a covered person's criminal history from the
41 State Repository of Criminal Histories. Such requests shall not be due to a person's age, sex, race,
42 color, national origin, religion, creed, political affiliation, or handicapping condition as defined by
43 G.S. 168A-3. For requests for a State criminal history record check only, the requesting department
44 or division shall provide to the Department of Public Safety a form consenting to the check signed
45 by the covered person to be checked and any additional information required by the Department of
46 Public Safety. National criminal record checks are authorized for covered applicants who have not
47 resided in the State of North Carolina during the past five years. For national checks the Department
48 of Health and Human Services or the Division of Juvenile Justice of the Department of Public
49 Safety shall provide to the North Carolina Department of Public Safety the fingerprints of the
50 covered person to be checked, any additional information required by the Department of Public
51 Safety, and a form signed by the covered person to be checked consenting to the check of the

1 criminal record and to the use of fingerprints and other identifying information required by the State
2 or National Repositories. The fingerprints of the individual shall be forwarded to the State Bureau
3 of Investigation for a search of the State criminal history record file and the State Bureau of
4 Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national
5 criminal history record check. The Department of Health and Human Services and the Division of
6 Juvenile Justice of the Department of Public Safety shall keep all information pursuant to this
7 section confidential. The Department of Public Safety shall charge a reasonable fee for conducting
8 the checks of the criminal history records authorized by this section."

9 **SECTION 17.1.(zz)** G.S. 114-20, as recodified as G.S. 143B-986 by subsection (m) of
10 this section, reads as rewritten:

11 **"§ 143B-986. Authority to provide protection to certain public officials.**

12 The North Carolina State Bureau of Investigation is authorized to provide protection to public
13 officials who request it, and who, in the discretion of the Director of the Bureau with the approval
14 of ~~the Attorney General~~, the Secretary of Public Safety, demonstrate a need for such protection. The
15 bureau shall not provide protection for any individual other than the Governor for a period greater
16 than 30 days without review and reapproval by the ~~Attorney General~~ Secretary of Public Safety.
17 This review and reapproval shall be required at the end of each 30-day period."

18 **SECTION 17.1.(aaa)** G.S. 114-20.1, as recodified as G.S. 143B-987 by subsection (m)
19 of this section, reads as rewritten:

20 **"§ 143B-987. Authority to designate areas for protection of public officials.**

21 (a) The ~~Attorney General~~ Secretary of Public Safety is authorized to designate buildings and
22 grounds which constitute temporary residences or temporary offices of any public official being
23 protected under authority of ~~G.S. 114-20~~, G.S. 143B-986, or any area that will be visited by any
24 such official, a public building or facility during the time of such use.

25 (b) The ~~Attorney General or the Director of the State Bureau of Investigation~~ Secretary of
26 Public Safety may, with the consent of the official to be protected, make rules governing ingress to
27 or egress from such buildings, grounds or areas designated under this section."

28 **SECTION 17.1.(bbb)** G.S. 122C-80 reads as rewritten:

29 **"§ 122C-80. Criminal history record check required for certain applicants for employment.**

30 ...
31 (b) Requirement. – An offer of employment by a provider licensed under this Chapter to an
32 applicant to fill a position that does not require the applicant to have an occupational license is
33 conditioned on consent to a State and national criminal history record check of the applicant. If the
34 applicant has been a resident of this State for less than five years, then the offer of employment is
35 conditioned on consent to a State and national criminal history record check of the applicant. The
36 national criminal history record check shall include a check of the applicant's fingerprints. If the
37 applicant has been a resident of this State for five years or more, then the offer is conditioned on
38 consent to a State criminal history record check of the applicant. A provider shall not employ an
39 applicant who refuses to consent to a criminal history record check required by this section. Except
40 as otherwise provided in this subsection, within five business days of making the conditional offer
41 of employment, a provider shall submit a request to the ~~Department of Justice~~ Department of Public
42 Safety under ~~G.S. 114-19-10~~ G.S. 143B-939 to conduct a criminal history record check required by
43 this section or shall submit a request to a private entity to conduct a State criminal history record
44 check required by this section. Notwithstanding ~~G.S. 114-19-10~~, G.S. 143B-939, the ~~Department of~~
45 ~~Justice~~ Department of Public Safety shall return the results of national criminal history record checks
46 for employment positions not covered by Public Law 105-277 to the Department of Health and
47 Human Services, Criminal Records Check Unit. Within five business days of receipt of the national
48 criminal history of the person, the Department of Health and Human Services, Criminal Records
49 Check Unit, shall notify the provider as to whether the information received may affect the
50 employability of the applicant. In no case shall the results of the national criminal history record
51 check be shared with the provider. Providers shall make available upon request verification that a

1 criminal history check has been completed on any staff covered by this section. A county that has
2 adopted an appropriate local ordinance and has access to the Division of Criminal Information data
3 bank may conduct on behalf of a provider a State criminal history record check required by this
4 section without the provider having to submit a request to the Department of Justice. In such a case,
5 the county shall commence with the State criminal history record check required by this section
6 within five business days of the conditional offer of employment by the provider. All criminal
7 history information received by the provider is confidential and may not be disclosed, except to the
8 applicant as provided in subsection (c) of this section. For purposes of this subsection, the term
9 "private entity" means a business regularly engaged in conducting criminal history record checks
10 utilizing public records obtained from a State agency.

11 ...

12 (g) Conditional Employment. – A provider may employ an applicant conditionally prior to
13 obtaining the results of a criminal history record check regarding the applicant if both of the
14 following requirements are met:

15 (1) The provider shall not employ an applicant prior to obtaining the applicant's
16 consent for criminal history record check as required in subsection (b) of this
17 section or the completed fingerprint cards as required in
18 ~~G.S. 114-19.10~~G.S. 143B-939.

19 (2) The provider shall submit the request for a criminal history record check not later
20 than five business days after the individual begins conditional employment."

21 **SECTION 17.1.(ccc)** G.S. 122C-205(c) reads as rewritten:

22 "(c) Upon receipt of notice of an escape or breach of a condition of release as described in
23 subsections (a) and (b) of this section, an appropriate law enforcement officer shall take the client
24 into custody and have the client returned to the 24-hour facility from which the client has escaped or
25 has been conditionally released. Transportation of the client back to the 24-hour facility shall be
26 provided in the same manner as described in G.S. 122C-251 and G.S. 122C-408(b). Law
27 enforcement agencies who are notified of a client's escape or breach of conditional release shall be
28 notified of the client's return by the responsible 24-hour facility. Under the circumstances described
29 in this section, the initial notification by the 24-hour facility of the client's escape or breach of
30 conditional release shall be given by telephone communication to the appropriate law enforcement
31 agency or agencies and, if available and appropriate, by ~~Division of Criminal Information~~
32 ~~(DCI)~~Department of Public Safety message to any law enforcement agency in or out of state and by
33 entry into the National Crime Information Center (NCIC) telecommunications system. As soon as
34 reasonably possible following notification, written authorization to take the client into custody shall
35 also be issued by the 24-hour facility. Under this section, law enforcement officers shall have the
36 authority to take a client into custody upon receipt of the telephone notification or ~~Division of~~
37 ~~Criminal Information~~Department of Public Safety message prior to receiving written authorization.
38 The notification of a law enforcement agency does not, in and of itself, render this information
39 public information within the purview of Chapter 132 of the General Statutes. However, the
40 responsible law enforcement agency shall determine the extent of disclosure of personal identifying
41 and background information reasonably necessary, under the circumstances, in order to assure the
42 expeditious return of a client to the 24-hour facility involved and to protect the general public and is
43 authorized to make such disclosure. The responsible law enforcement agency may also place any
44 appropriate message or entry into either the ~~Division of Criminal Information System~~Department of
45 Public Safety's Criminal Information System or National Crime Information System, or both, as
46 appropriate."

47 **SECTION 17.1.(ddd)** G.S. 131D-10.3A reads as rewritten:

48 **"§ 131D-10.3A. Mandatory criminal checks.**

49 ...

50 (d) The ~~Department of Justice~~Department of Public Safety shall provide to the Department
51 the criminal history of the individuals specified in subsection (a) of this section obtained from the

1 State and National Repositories of Criminal Histories as requested by the Department. The
2 Department shall provide to the ~~Department of Justice, Department of Public Safety,~~ along with the
3 request, the fingerprints of the individual to be checked, any additional information required by the
4 ~~Department of Justice, Department of Public Safety,~~ and a form consenting to the check of the
5 criminal record and to the use of fingerprints and other identifying information required by the State
6 or National Repositories signed by the individual to be checked. The fingerprints of the individual
7 to be checked shall be forwarded to the State Bureau of Investigation for a search of the State's
8 criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints
9 to the Federal Bureau of Investigation for a national criminal history record check.

10 ...

11 (i) The ~~Department of Justice~~ Department of Public Safety shall perform the State and
12 national criminal history checks on individuals required by this section and shall charge the
13 Department a reasonable fee only for conducting the checks of the national criminal history records
14 authorized by this section. The Division of Social Services, Department of Health and Human
15 Services, shall bear the costs of implementing this section."

16 **SECTION 17.1.(eee)** G.S. 131D-40 reads as rewritten:

17 **"§ 131D-40. Criminal history record checks required for certain applicants for employment.**

18 (a) Requirement; Adult Care Home. – An offer of employment by an adult care home
19 licensed under this Chapter to an applicant to fill a position that does not require the applicant to
20 have an occupational license is conditioned on consent to a criminal history record check of the
21 applicant. If the applicant has been a resident of this State for less than five years, then the offer of
22 employment is conditioned on consent to a State and national criminal history record check of the
23 applicant. The national criminal history record check shall include a check of the applicant's
24 fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is
25 conditioned on consent to a State criminal history record check of the applicant. An adult care home
26 shall not employ an applicant who refuses to consent to a criminal history record check required by
27 this section. Within five business days of making the conditional offer of employment, an adult care
28 home shall submit a request to the ~~Department of Justice~~ Department of Public Safety under
29 ~~G.S. 114-19.10~~ G.S. 143B-939 to conduct a State or national criminal history record check required
30 by this section, or shall submit a request to a private entity to conduct a State criminal history record
31 check required by this section. Notwithstanding ~~G.S. 114-19.10~~ G.S. 143B-939, the ~~Department of~~
32 ~~Justice~~ Department of Public Safety shall return the results of national criminal history record
33 checks for employment positions not covered by Public Law 105-277 to the Department of Health
34 and Human Services, Criminal Records Check Unit. Within five business days of receipt of the
35 national criminal history of the person, the Department of Health and Human Services, Criminal
36 Records Check Unit, shall notify the adult care home as to whether the information received may
37 affect the employability of the applicant. In no case shall the results of the national criminal history
38 record check be shared with the adult care home. Adult care homes shall make available upon
39 request verification that a criminal history check has been completed on any staff covered by this
40 section. All criminal history information received by the home is confidential and may not be
41 disclosed, except to the applicant as provided in subsection (b) of this section.

42 (a1) Requirement; Contract Agency of Adult Care Home. – An offer of employment by a
43 contract agency of an adult care home licensed under this Chapter to an applicant to fill a position
44 that does not require the applicant to have an occupational license is conditioned upon consent to a
45 criminal history record check of the applicant. If the applicant has been a resident of this State for
46 less than five years, then the offer of employment is conditioned on consent to a State and national
47 criminal history record check of the applicant. The national criminal history record check shall
48 include a check of the applicant's fingerprints. If the applicant has been a resident of this State for
49 five years or more, then the offer is conditioned on consent to a State criminal history record check
50 of the applicant. A contract agency of an adult care home shall not employ an applicant who refuses
51 to consent to a criminal history record check required by this section. Within five business days of

1 making the conditional offer of employment, a contract agency of an adult care home shall submit a
2 request to the ~~Department of Justice~~Department of Public Safety under
3 ~~G.S. 114-19.10~~G.S. 143B-939 to conduct a State or national criminal history record check required
4 by this section, or shall submit a request to a private entity to conduct a State criminal history record
5 check required by this section. Notwithstanding ~~G.S. 114-19.10~~G.S. 143B-939, the ~~Department of~~
6 ~~Justice~~Department of Public Safety shall return the results of national criminal history record
7 checks for employment positions not covered by Public Law 105-277 to the Department of Health
8 and Human Services, Criminal Records Check Unit. Within five business days of receipt of the
9 national criminal history of the person, the Department of Health and Human Services, Criminal
10 Records Check Unit, shall notify the contract agency of the adult care home as to whether the
11 information received may affect the employability of the applicant. In no case shall the results of the
12 national criminal history record check be shared with the contract agency of the adult care home.
13 Contract agencies of adult care homes shall make available upon request verification that a criminal
14 history check has been completed on any staff covered by this section. All criminal history
15 information received by the contract agency is confidential and may not be disclosed, except to the
16 applicant as provided by subsection (b) of this section.

17 ...

18 (f) Conditional Employment. – An adult care home may employ an applicant conditionally
19 prior to obtaining the results of a criminal history record check regarding the applicant if both of the
20 following requirements are met:

- 21 (1) The adult care home shall not employ an applicant prior to obtaining the
22 applicant's consent for a criminal history record check as required in subsection
23 (a) of this section or the completed fingerprint cards as required in
24 ~~G.S. 114-19.10~~G.S. 143B-939.
- 25 (2) The adult care home shall submit the request for a criminal history record check
26 not later than five business days after the individual begins conditional
27 employment.

28"

29 **SECTION 17.1.(fff)** G.S. 131E-159(g) reads as rewritten:

30 "(g) An individual who applies for EMS credentials, seeks to renew EMS credentials, or
31 holds EMS credentials is subject to a criminal background review by the Department. At the request
32 of the Department, the Emergency Medical Services Disciplinary Committee, established by
33 G.S. 143-519, shall review criminal background information and make a recommendation regarding
34 the eligibility of an individual to obtain initial EMS credentials, renew EMS credentials, or maintain
35 EMS credentials. The Department and the Emergency Medical Services Disciplinary Committee
36 shall keep all information obtained pursuant to this subsection confidential. The Medical Care
37 Commission shall adopt rules to implement the provisions of this subsection, including rules to
38 establish a reasonable fee to offset the actual costs of criminal history information obtained pursuant
39 to ~~G.S. 114-19.21~~G.S. 143B-952."

40 **SECTION 17.1.(ggg)** G.S. 131E-265 reads as rewritten:

41 **"§ 131E-265. Criminal history record checks required for certain applicants for employment.**

42 (a) Requirement; Nursing Home or Home Care Agency. – An offer of employment by a
43 nursing home licensed under this Chapter to an applicant to fill a position that does not require the
44 applicant to have an occupational license is conditioned on consent to a criminal history record
45 check of the applicant. If the applicant has been a resident of this State for less than five years, then
46 the offer of employment is conditioned on consent to a State and national criminal history record
47 check of the applicant. The national criminal history record check shall include a check of the
48 applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then
49 the offer is conditioned on consent to a State criminal history record check of the applicant. An
50 offer of employment by a home care agency licensed under this Chapter to an applicant to fill a
51 position that requires entering the patient's home is conditioned on consent to a criminal history

1 record check of the applicant. In addition, employment status change of a current employee of a
2 home care agency licensed under this Chapter from a position that does not require entering the
3 patient's home to a position that requires entering the patient's home shall be conditioned on consent
4 to a criminal history record check of that current employee. If the applicant for employment or if the
5 current employee who is changing employment status has been a resident of this State for less than
6 five years, then the offer of employment or change in employment status is conditioned on consent
7 to a State and national criminal history record check. The national criminal history record check
8 shall include a check of the applicant's or current employee's fingerprints. If the applicant or current
9 employee has been a resident of this State for five years or more, then the offer is conditioned on
10 consent to a State criminal history record check of the applicant or current employee applying for a
11 change in employment status. A nursing home or a home care agency shall not employ an applicant
12 who refuses to consent to a criminal history record check required by this section. In addition, a
13 home care agency shall not change a current employee's employment status from a position that
14 does not require entering the patient's home to a position that requires entering the patient's home
15 who refuses to consent to a criminal history record check required by this section. Within five
16 business days of making the conditional offer of employment, a nursing home or home care agency
17 shall submit a request to the ~~Department of Justice~~Department of Public Safety under
18 ~~G.S. 114-19.10~~G.S. 143B-939 to conduct a State or national criminal history record check required
19 by this section, or shall submit a request to a private entity to conduct a State criminal history record
20 check required by this section. Notwithstanding ~~G.S. 114-19.10, G.S. 143B-939~~, the ~~Department of~~
21 ~~Justice~~Department of Public Safety shall return the results of national criminal history record
22 checks for employment positions not covered by Public Law 105-277 to the Department of Health
23 and Human Services, Criminal Records Check Unit. Within five business days of receipt of the
24 national criminal history of the person, the Department of Health and Human Services, Criminal
25 Records Check Unit, shall notify the nursing home or home care agency as to whether the
26 information received may affect the employability of the applicant. In no case shall the results of the
27 national criminal history record check be shared with the nursing home or home care agency.
28 Nursing homes and home care agencies shall make available upon request verification that a
29 criminal history check has been completed on any staff covered by this section. All criminal history
30 information received by the home or agency is confidential and may not be disclosed, except to the
31 applicant as provided in subsection (b) of this section.

32 (a1) Requirement; Contract Agency of Nursing Home or Home Care Agency. – An offer of
33 employment by a contract agency of a nursing home or home care agency licensed under this
34 Chapter to an applicant to fill a position that does not require the applicant to have an occupational
35 license is conditioned upon consent to a criminal history record check of the applicant. If the
36 applicant has been a resident of this State for less than five years, then the offer of employment is
37 conditioned on consent to a State and national criminal history record check of the applicant. The
38 national criminal history record check shall include a check of the applicant's fingerprints. If the
39 applicant has been a resident of this State for five years or more, then the offer is conditioned on
40 consent to a State criminal history record check of the applicant. A contract agency of a nursing
41 home or home care agency shall not employ an applicant who refuses to consent to a criminal
42 history record check required by this section. Within five business days of making the conditional
43 offer of employment, a contract agency of a nursing home or home care agency shall submit a
44 request to the ~~Department of Justice~~Department of Public Safety under
45 ~~G.S. 114-19.10~~G.S. 143B-939 to conduct a State or national criminal history record check required
46 by this section, or shall submit a request to a private entity to conduct a State criminal history record
47 check required by this section. Notwithstanding ~~G.S. 114-19.10, G.S. 143B-939~~, the ~~Department of~~
48 ~~Justice~~Department of Public Safety shall return the results of national criminal history record
49 checks for employment positions not covered by Public Law 105-277 to the Department of Health
50 and Human Services, Criminal Records Check Unit. Within five business days of receipt of the
51 national criminal history of the person, the Department of Health and Human Services, Criminal

Records Check Unit, shall notify the contract agency of the nursing home or home care agency as to whether the information received may affect the employability of the applicant. In no case shall the results of the national criminal history record check be shared with the contract agency of the nursing home or home care agency. Contract agencies of nursing homes and home care agencies shall make available upon request verification that a criminal history check has been completed on any staff covered by this section. All criminal history information received by the contract agency is confidential and may not be disclosed, except to the applicant as provided by subsection (b) of this section.

...

(f) Conditional Employment. – A nursing home or home care agency may employ an applicant conditionally prior to obtaining the results of a criminal history record check regarding the applicant if both of the following requirements are met:

- (1) The nursing home or home care agency shall not employ an applicant prior to obtaining the applicant's consent for a criminal history record check as required in subsection (a) of this section or the completed fingerprint cards as required in ~~G.S. 114-19.10~~G.S. 143B-939.
- (2) The nursing home or home care agency shall submit the request for a criminal history record check not later than five business days after the individual begins conditional employment.

...."

SECTION 17.1.(hhh) G.S. 143-143.10(b)(6) reads as rewritten:

"(6) To request that the ~~Department of Justice~~Department of Public Safety conduct criminal history checks of applicants for licensure pursuant to ~~G.S. 114-19.13~~G.S. 143B-944."

SECTION 17.1.(iii) G.S. 148-37.3(c) reads as rewritten:

"(c) Any private corporation described in subsection (a) of this section shall reimburse the State and any county or other law enforcement agency for the full cost of any additional expenses incurred by the State or the county or other law enforcement agency in connection with the pursuit and apprehension of an escaped inmate from the facility.

In the event of an escape from the facility, any private corporation described in subsection (a) of this section shall immediately notify the sheriff in the county in which the facility is located, who shall cause an immediate entry into the ~~State Bureau of Investigation Division of Criminal Information network~~Department of Public Safety's Criminal Information Network. The sheriff of the county in which the facility is located shall be the lead law enforcement officer in connection with the pursuit and apprehension of an escaped inmate from the facility."

SECTION 17.1.(jjj) G.S. 153A-94.2 reads as rewritten:

"§ 153A-94.2. Criminal history record checks of employees permitted.

The board of commissioners may adopt or provide for rules and regulations or ordinances concerning a requirement that any applicant for employment be subject to a criminal history record check of State and National Repositories of Criminal Histories conducted by the ~~Department of Justice~~Department of Public Safety in accordance with ~~G.S. 114-19.14~~G.S. 143B-945. The local or regional public employer may consider the results of these criminal history record checks in its hiring decisions."

SECTION 17.1.(kkk) G.S. 160A-164.2 reads as rewritten:

"§ 160A-164.2. Criminal history record check of employees permitted.

The council may adopt or provide for rules and regulations or ordinances concerning a requirement that any applicant for employment be subject to a criminal history record check of State and National Repositories of Criminal Histories conducted by the ~~Department of Justice~~Department of Public Safety in accordance with ~~G.S. 114-19.14~~G.S. 143B-945. The city may consider the results of these criminal history record checks in its hiring decisions."

SECTION 17.1.(lll) G.S. 164-44(a) reads as rewritten:

1 "(a) The Commission shall have the secondary duty of collecting, developing, and
2 maintaining statistical data relating to sentencing, corrections, and juvenile justice so that the
3 primary duties of the Commission will be formulated using data that is valid, accurate, and relevant
4 to this State. All State agencies shall provide data as it is requested by the Commission. For the
5 purposes of ~~G.S. 114-19.1~~, G.S. 143B-930, the Commission shall be considered to be engaged in the
6 administration of criminal justice. All meetings of the Commission shall be open to the public and
7 the information presented to the Commission shall be available to any State agency or member of
8 the General Assembly."

9 **SECTION 17.1.(mmm)** Subpart C of Part 2 of Article 4 of Chapter 143B of the
10 General Statutes is amended by adding a new section to read:

11 **"§ 143B-926. Appointment and term of the Director of the State Bureau of Investigation.**

12 (a) The Director of the State Bureau of Investigation shall be appointed by the Governor for
13 a term of eight years subject to confirmation by the General Assembly by joint resolution. The name
14 of the person to be appointed by the Governor shall be submitted by the Governor to the General
15 Assembly for confirmation by the General Assembly on or before May 1 of the year in which the
16 term for which the appointment is to be made expires. Upon failure of the Governor to submit a
17 name as herein provided, the President Pro Tempore of the Senate and the Speaker of the House of
18 Representatives jointly shall submit a name of an appointee to the General Assembly on or before
19 May 15 of the same year. The appointment shall then be made by enactment of a bill. The bill shall
20 state the name of the person being appointed, the office to which the appointment is being made, the
21 effective date of the appointment, the date of expiration of the term, the residence of the appointee,
22 and that the appointment is made upon the joint recommendation of the Speaker of the House of
23 Representatives and the President Pro Tempore of the Senate. Nothing precludes any member of the
24 General Assembly from proposing an amendment to any bill making such an appointment.

25 (b) The Director may be removed from office by the Governor for any of the grounds set
26 forth in G.S. 143B-13(b), (c), and (d). In case of a vacancy in the office of the Director of the State
27 Bureau of Investigation for any reason prior to the expiration of the Director's term of office, the
28 name of the Director's successor shall be submitted by the Governor to the General Assembly not
29 later than 60 days after the vacancy arises. If a vacancy arises in the office when the General
30 Assembly is not in session, the Director shall be appointed by the Governor to serve on an interim
31 basis pending confirmation by the General Assembly."

32 **SECTION 17.1.(nnn)** Notwithstanding anything in G.S. 143B-926, as enacted by
33 subsection (mmm) of this section, to the contrary, the Governor shall appoint an acting Director of
34 the State Bureau of Investigation who shall serve until a new Director is appointed pursuant to
35 G.S. 143B-926. A Director shall be appointed pursuant to G.S. 143B-926 no later than June 1, 2015,
36 for a term that shall end on June 30, 2023.

37 **SECTION 17.1.(ooo)** Notwithstanding any other provision of law, there shall be no
38 transfer of positions to or from the State Bureau of Investigation and no changes to the authorized
39 budget of the State Bureau of Investigation, as it existed on March 1, 2014, prior to the transfer of
40 the State Bureau of Investigation to the Department of Public Safety. Under no circumstances shall
41 funds be expended from Budget Code 23606 – Justice Seized and Forfeited Assets, unless those
42 expenditures were reported to the NC General Assembly on or before February 4, 2014.

43
44 **ALCOHOL LAW ENFORCEMENT SECTION TRANSFER**

45 **SECTION 17.1.(ppp)** The Alcohol Law Enforcement Section shall be relocated as a
46 branch under the State Bureau of Investigation.

47 **SECTION 17.1.(qqq)** G.S. 18B-500 reads as rewritten:

48 **"§ 18B-500. Alcohol law-enforcement agents.**

49 (a) Appointment. – ~~The Secretary of Public Safety~~Director of the State Bureau of
50 Investigation shall appoint alcohol law-enforcement agents and other enforcement personnel. The
51 ~~Secretary of Public Safety~~Director may also appoint regular employees of the Commission as

1 alcohol law-enforcement agents. Alcohol law-enforcement agents shall be designated as "alcohol
2 law-enforcement agents". Persons serving as reserve alcohol law-enforcement agents are considered
3 employees of the Alcohol Law Enforcement ~~Section-Branch~~ for workers' compensation purposes
4 while performing duties assigned or approved by the ~~Director-Head~~ of the Alcohol Law
5 Enforcement ~~Section-Branch~~ or the ~~Director's-Head's~~ designee.

6 (b) Subject Matter Jurisdiction. – After taking the oath prescribed for a peace officer, an
7 alcohol law-enforcement agent shall have authority to arrest and take other investigatory and
8 enforcement actions for any criminal offense. The primary responsibility of an agent shall be
9 enforcement of the ~~ABC laws, lottery laws, and Article 5 of Chapter 90 (The Controlled Substances~~
10 ~~Act); however, an agent may perform any law enforcement duty assigned by the Secretary of Public~~
11 ~~Safety or the Governor-ABC and lottery laws.~~

12 ...
13 (g) Shifting of Personnel From One District to Another. – The ~~Director-Head~~ of the Alcohol
14 Law Enforcement ~~Section-Branch~~, under rules adopted by the Department of Public Safety may,
15 from time to time, shift the forces from one district to another or consolidate more than one district
16 force at any point for special purposes. Whenever an agent of the Alcohol Law Enforcement
17 Section is transferred from one district to another for the convenience of the State or for reasons
18 other than the request of the agent, the Department shall be responsible for transporting the
19 household goods, furniture, and personal apparel of the agent and members of the agent's
20 household."

21 **SECTION 17.1.(rrr)** The following statutes are amended by deleting the word
22 "Section" wherever it appears in uppercase and substituting "Branch": G.S. 18B-101(5), 18B-201,
23 18B-202, 18B-203, 18B-504, 18B-805, 18B-902, 18B-903, 18B-904, 19-2.1, 105-259(b)(15), and
24 143-652.1 through 143-658.

25 **SECTION 17.1.(sss)** G.S. 143-651 reads as rewritten:
26 "**§ 143-651. Definitions.**

27 The following definitions apply in this Article:

28 ...
29 (4a) Branch. – The Alcohol Law Enforcement Branch of the State Bureau of
30 Investigation.

31 ...
32 (23b) Sanctioned amateur match. – Any match regulated by an amateur sports
33 organization that has been recognized and approved by the ~~Section-Branch~~.

34 ...
35 (24a) ~~Section. – The Alcohol Law Enforcement Section of the Department of Public~~
36 ~~Safety.~~

37"
38 **SECTION 17.1.(ttt)** G.S. 114-19(a), recodified as G.S. 143B-906 by subsection (j) of
39 this act, reads as rewritten:

40 "(a) It shall be the duty of the State Bureau of Investigation to receive and collect ~~police~~
41 criminal information, to assist in locating, identifying, and keeping records of criminals in this
42 State, and from other states, and to compare, classify, compile, publish, make available and
43 disseminate any and all such information to the sheriffs, constables, police authorities, courts or any
44 other officials of the State requiring such criminal identification, crime statistics and other
45 information respecting crimes local and national, and to conduct surveys and studies for the purpose
46 of determining so far as is possible the source of any criminal conspiracy, crime wave, movement or
47 cooperative action on the part of the criminals, reporting such conditions, and to cooperate with all
48 officials in detecting and preventing."

49 MISCELLANEOUS PROVISIONS

1 **SECTION 17.1.(uuu)** The Department of Public Safety shall consolidate ALE and SBI
2 Regions and Regional Offices. These regional offices shall be operational by October 1, 2014.

3 **SECTION 17.1.(vvv)** The Department of Public Safety shall make the following
4 reports on progress implementing this section to the Joint Legislative Oversight Committee on
5 Justice and Public Safety:

6 (1) An interim report on or before January 1, 2015.

7 (2) A second interim report on or before April 1, 2015.

8 (3) A final report on or before October 1, 2015. This report may include any
9 recommendations for changes to applicable statutes.

10 **SECTION 17.1.(xxx)** Subsection (ooo) of this section is effective when it becomes law.
11 The remainder of this section becomes effective July 1, 2014.
12

13

1
2 **Senate Only**

3 **TRANSFER THE NORTH CAROLINA STATE CRIME LABORATORY TO THE**
4 **DEPARTMENT OF PUBLIC SAFETY**

5 **SECTION 17.2.(a)** The North Carolina State Crime Laboratory and the State DNA
6 Database and Databank are hereby transferred from the Department of Justice to the Department of
7 Public Safety. This transfer shall have all of the elements of a Type I transfer, as described in
8 G.S. 143A-6.

9 **SECTION 17.2.(b)** The Forensic Science Advisory Board is hereby transferred from
10 the Department of Justice to the Department of Public Safety. This transfer shall have all of the
11 elements of a Type I transfer, as described in G.S. 143A-6.

12 **SECTION 17.2.(c)** Article 9 of Chapter 114 of the General Statutes is recodified as Part
13 8 of Article 13 of Chapter 143B of the General Statutes, G.S. 143B-1205 through G.S. 143B-1208

14 **SECTION 17.2.(d)** G.S. 114-8.6 is recodified as G.S. 143B-1209 under Part 8 of
15 Article 13 of Chapter 143B of the General Statutes, as created by subsection (c) of this section.

16 **SECTION 17.2.(e)** G.S. 7A-304(a) reads as rewritten:

17 **"§ 7A-304. Costs in criminal actions.**

18 (a) In every criminal case in the superior or district court, wherein the defendant is
19 convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the
20 prosecuting witness, the following costs shall be assessed and collected. No costs may be assessed
21 when a case is dismissed. Only upon entry of a written order, supported by findings of fact and
22 conclusions of law, determining that there is just cause, the court may (i) waive costs assessed under
23 this section or (ii) waive or reduce costs assessed under subdivision (7), (8), (11), or (12) of this
24 section.

25 ...
26 (7) For the services of the North Carolina State Crime Laboratory facilities, the
27 district or superior court judge shall, upon conviction, order payment of the sum
28 of six hundred dollars (\$600.00) to be remitted to the ~~Department of~~
29 ~~Justice~~Department of Public Safety for support of the Laboratory. This cost shall
30 be assessed only in cases in which, as part of the investigation leading to the
31 defendant's conviction, the laboratories have performed DNA analysis of the
32 crime, tests of bodily fluids of the defendant for the presence of alcohol or
33 controlled substances, or analysis of any controlled substance possessed by the
34 defendant or the defendant's agent.

35 ...
36 (9) For the support and services of the State DNA Database and DNA Databank, the
37 sum of two dollars (\$2.00). This amount is annually appropriated to the
38 ~~Department of Justice~~Department of Public Safety for this purpose.
39 Notwithstanding the provisions of subsection (e) of this section, this cost does
40 not apply to infractions.

41 ...
42 (11) For the services of an expert witness employed by the North Carolina State
43 Crime Laboratory who completes a chemical analysis pursuant to G.S. 20-139.1
44 or a forensic analysis pursuant to G.S. 8-58.20 and provides testimony about that
45 analysis in a defendant's trial, the district or superior court judge shall, upon
46 conviction of the defendant, order payment of the sum of six hundred dollars
47 (\$600.00) to be remitted to the ~~Department of Justice~~Department of Public
48 Safety for support of the State Crime Laboratory. This cost shall be assessed only
49 in cases in which the expert witness provides testimony about the chemical or

forensic analysis in the defendant's trial and shall be in addition to any cost assessed under subdivision (7) of this subsection.

...."

SECTION 17.2.(f) G.S. 15A-266.2(1c) reads as rewritten:

"§ 15A-266.2. Definitions.

As used in this Article, unless another meaning is specified or the context clearly requires otherwise, the following terms have the meanings specified:

...

(1c) "Crime Laboratory" means the North Carolina State Crime Laboratory of the ~~Department of Justice~~Department of Public Safety.

...."

SECTION 17.2.(g) G.S. 15A-266.3A(d) reads as rewritten:

"(d) After taking a DNA sample from an arrested person required to provide a DNA sample pursuant to this section, the person taking the DNA sample shall provide the arrested person with a written notice of the procedures for seeking an expunction of the DNA sample pursuant to subsections (h), (i), (j), (k), and (l) of this section. The ~~Department of Justice~~Department of Public Safety shall provide the written notice required by this subsection."

SECTION 17.2.(h) G.S. 114-60, as recodified as G.S. 143B-1205 by subsection (c) of this section, reads as rewritten:

"§ 143B-1205. Laboratory and clinical facilities; employment of criminologists; services of scientists, etc., employed by State; radio system.State.

In the ~~Department of Justice~~Department of Public Safety there shall be provided laboratory facilities for the analysis of evidences of crime, including the determination of presence, quantity and character of poisons, the character of bloodstains, microscopic and other examination material associated with the commission of crime, examination and analysis of projectiles of ballistic imprints and records which might lead to the determination or identification of criminals, the examination and identification of fingerprints, and other evidence leading to the identification, apprehension, or conviction of criminals. A sufficient number of persons skilled in such matters shall be employed to render a reasonable service to the public through the criminal justice system and to the criminal justice system in the discharge of their duties.

The laboratory and clinical facilities of the institutions of the State, both educational and departmental, shall be made available to the Laboratory, and scientists and doctors now working for the State through its institutions and departments may be called upon by the Governor to aid the Laboratory in the evaluation, preparation, and preservation of evidence in which scientific methods are employed, and a reasonable fee may be allowed by the Governor for such service.

The Director of the State Crime Laboratory shall be subject to the direction and control of the Secretary of Public Safety."

SECTION 17.2.(i) G.S. 114-61, as recodified as G.S. 143B-1206 by subsection (c) of this section, reads as rewritten:

"§ 143B-1206. Forensic Science Advisory Board.

(a) Creation and Membership. – The North Carolina Forensic Science Advisory Board (Board) is hereby established as an advisory board within the ~~Department of Justice~~Department of Public Safety. The Board shall consist of 16 members, consisting of the State Crime Laboratory Director, and 15 members appointed by the ~~Attorney General~~Secretary of Public Safety as follows:

...

A chairman shall be elected from among the members appointed, and staff shall be provided by the ~~Department of Justice~~Department of Public Safety.

(b) Meetings. – The Board shall meet quarterly and at such other times and places as it determines. Members of the Board cannot designate a proxy to vote in their absence.

(c) Terms. – Members of the Board initially appointed shall serve the following terms: five members shall serve a term of two years; five members shall serve a term of three years; and five

members shall serve a term of four years. Thereafter, all appointments shall be for a term of four years. A vacancy other than by expiration of term shall be filled by the ~~Attorney General~~Secretary of Public Safety for the unexpired term. Members of the Board cannot designate a proxy to vote in their absence.

...."

SECTION 17.2.(j) G.S. 114-62, as recodified as G.S. 143B-1207 by subsection (c) of this section, reads as rewritten:

"§ 143B-1207. North Carolina State Crime Laboratory Ombudsman.

The position of ombudsman is created in the North Carolina State Crime Laboratory within the ~~North Carolina Department of Justice~~Department of Public Safety. The primary purpose of this position shall be to work with defense counsel, prosecutorial agencies, criminal justice system stakeholders, law enforcement officials, and the general public to ensure all processes, procedures, practices, and protocols at the State Crime Laboratory are consistent with State and federal law, best forensic law practices, and in the best interests of justice in this State. The ombudsman shall mediate complaints brought to the attention of the ombudsman between the Crime Laboratory and defense counsel, prosecutorial agencies, law enforcement agencies, and the general public. The ombudsman shall ensure all criminal justice stakeholders and the general public are aware of the availability, responsibilities, and role of the ombudsman and shall regularly attend meetings of the Conferences of the District Attorneys, District and Superior Court Judges, Public Defenders, the Advocates for Justice, and Bar Criminal Law Sections. The ombudsman shall make recommendations on a regular basis to the Director of the State Crime Laboratory and the ~~Attorney General of North Carolina~~Secretary of Public Safety as to policies, procedures, practices, and training of employees needed at the Laboratory to ensure compliance with State and federal law, best forensic law practices, and to resolve any meritorious systemic complaints received by the ombudsman."

SECTION 17.2.(k) G.S. 114-8.6, as recodified as G.S. 143B-1209 by subsection (d) of this section, reads as rewritten:

"§ 143B-1209. Designation of State Crime Laboratory as Internet Crimes Against Children affiliated agency.

The ~~Attorney General~~Secretary of Public Safety shall designate the North Carolina State Crime Laboratory as a North Carolina Internet Crimes Against Children (ICAC) affiliated agency."

SECTION 17.2.(l) Notwithstanding any other provision of law, there shall be no transfer of positions to or from the State Crime Laboratory and no changes to the authorized budget of the State Crime Laboratory, as it existed on March 1, 2014, prior to the transfer of the State Crime Laboratory to the Department of Public Safety.

SECTION 17.2.(m) Section 17.2 of S.L. 2013-360 is repealed.

SECTION 17.2.(n) Part 8 of Article 13 of Chapter 143B of the General Statutes, as created by subsection (c) of this section, is amended by adding a new section to read:

"§ 143B-1210. Annual Crime Laboratory report.

No later than October 1 every year, the Department of Public Safety shall report on the work of the North Carolina State Crime Laboratory during the previous fiscal year. The reports required by this section shall be filed with the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and with the Fiscal Research Division. Each report shall include at least the following:

- (1) Information about the workload of the Laboratory during the previous fiscal year, including the number of submissions, identified by forensic discipline, received at each location of the Laboratory.
- (2) Information about the number of cases completed in the previous fiscal year, identified by forensic discipline, at each location of the Laboratory.
- (3) A breakdown by county of the number of submissions received by the Laboratory in the previous fiscal year.

1 (4) An average estimate of the dollar and time cost to perform each type of
2 procedure and analysis performed by the Laboratory."

3 **SECTION 17.2.(o)** Section 17.4 of S.L. 2013-360 reads as rewritten:

4 **"USE OF TOXICOLOGY ANALYSIS FUNDS**

5 **"SECTION 17.4.** If the ~~Attorney General~~Secretary of the Department of Public Safety
6 determines that it is not appropriate to outsource toxicology cases due to legal or fiscal concerns
7 involving analyst testimony, funds appropriated in this act for that purpose shall be reallocated to
8 increase toxicology analysis capabilities within the North Carolina State Crime Laboratory."

9 **SECTION 17.2.(p)** Section 17.5 of S.L. 2013-360 reads as rewritten:

10 **"NO HIRING OF SWORN STAFF POSITIONS FOR THE NORTH CAROLINA STATE**
11 **CRIME LABORATORY**

12 **"SECTION 17.5.** The ~~Department of Justice~~Department of Public Safety shall not hire sworn
13 personnel to fill vacant positions in the North Carolina State Crime Laboratory. Nothing in this
14 section shall be construed to require the termination of sworn personnel, but as vacant positions in
15 the State Laboratory are filled, they shall be filled only with nonsworn personnel. Nothing in this
16 section shall be construed to affect North Carolina State Crime Laboratory personnel who are sworn
17 and employed by the Laboratory as of the effective date of this section and who continue to meet
18 the sworn status retention standards mandated by the NC Criminal Justice Education and Standards
19 Commission."

20 **SECTION 17.2.(q)** Subsection (l) of this section is effective when it becomes law. The
21 remainder of this section becomes effective on July 1, 2014.
22

1

2 **House Only**

3 **STUDY MERGER OF STATE CRIME LAB AND OFFICE OF THE STATE MEDICAL**
4 **EXAMINER**

5 **SECTION 17.3.** The Joint Legislative Oversight Committee on Justice and Public
6 Safety and the Joint Legislative Oversight Committee on Health and Human Services shall jointly
7 study merging the North Carolina State Crime Laboratory and the Office of the State Medical
8 Examiner into a single independent State agency and shall report their findings and
9 recommendations to the 2015 General Assembly. The study and report required by this section shall
10 include at least the following:

- 11 (1) An examination of whether the quality or quantity of services provided by each
12 agency would improve if the two agencies were merged into a single independent
13 State agency.
14 (2) An analysis of potential cost-savings that might be realized as a result of the
15 merger.
16 (3) Identification of potential obstacles to the merger.
17

1

2 **House Only**

3 **ENSURE PROPER ROLE FOR ATTORNEY GENERAL**

4 **SECTION 17.3A.(a)** G.S. 120-32.6 reads as rewritten:

5 "**§ 120-32.6. Certain employment authority.**

6 (a) Use of Private Counsel. – G.S. 114-2.3 and G.S. 147-17 (a) through (c) shall not apply to
7 the General Assembly.

8 (b) General Assembly as Client of Attorney General by Operation of Law. – Whenever the
9 validity or constitutionality of an act of the General Assembly or a provision of the Constitution of
10 North Carolina is the subject of an action in any court of this State, if the General Assembly hires
11 outside counsel to represent the General Assembly in connection with that action, the General
12 Assembly shall be deemed to be a client of the Attorney General for purposes of that action as a
13 matter of law.

14 (c) General Assembly Counsel Shall Be Lead Counsel. – In those instances when the
15 General Assembly employs counsel in addition to or other than the Attorney General, the Speaker
16 of the House of Representatives and the President Pro Tempore of the Senate may jointly designate
17 the counsel employed by the General Assembly as lead counsel. The lead counsel so designated
18 shall possess final decision-making authority with respect to the representation, counsel, or service,
19 and other cocounsel shall, consistent with the Rules of Professional Conduct, cooperate with such
20 designated lead counsel.

21 (d) The rights provided by this section shall be supplemental to those provided by any other
22 provision of law."

23 **SECTION 17.3A.(b)** This section is effective when it becomes law.
24

1
2 **House Only**

3 **TRANSFER PRIVATE PROTECTIVE SERVICES BOARD AND ALARM SYSTEMS**
4 **LICENSING BOARD TO THE DEPARTMENT OF PUBLIC SAFETY**

5 **SECTION 17.5.(a)** The Private Protective Services Board and the Alarm Systems
6 Licensing Board are hereby transferred to the Department of Public Safety. These transfers shall
7 have all of the elements of a Type II transfer, as described in G.S. 143A-6.

8 **SECTION 17.5.(b)** The following statutes are amended by deleting "Attorney General"
9 wherever it appears and substituting "Secretary of Public Safety": G.S. 74C-6, 74C-7, and 74C-13.

10 **SECTION 17.5.(c)** G.S. 74C-4 reads as rewritten:

11 **"§ 74C-4. Private Protective Services Board established; members; terms; vacancies;**
12 **compensation; meetings.**

13 (a) The Private Protective Services Board is hereby established in the ~~Department of Justice~~
14 Department of Public Safety to administer the licensing and set educational and training
15 requirements for persons, firms, associations, and corporations engaged in a private protective
16 services profession within this State.

17 (b) The Board shall consist of 14 members: ~~the Attorney General or his~~ the Secretary of
18 Public Safety or the Secretary's designated representative, ~~two persons appointed by the Attorney~~
19 ~~General, one person~~ three persons appointed by the Governor, five persons appointed by the
20 General Assembly upon the recommendation of the President Pro Tempore of the Senate, and five
21 persons appointed by the General Assembly upon the recommendation of the Speaker of the House
22 of Representatives. All appointments by the General Assembly shall be subject to the provisions of
23 G.S. 120-121, and vacancies in the positions filled by those appointments shall be filled pursuant to
24 G.S. 120-122. One of those persons appointed by the General Assembly upon the recommendation
25 of the President Pro Tempore of the Senate and all five persons appointed by the General Assembly
26 upon the recommendation of the Speaker of the House of Representatives shall be licensees under
27 this Chapter; all other appointees may not be licensees of the Board nor licensed by the Board while
28 serving as Board members. All persons appointed shall serve terms of three years. With the
29 exception of the ~~Attorney General or his~~ Secretary of Public Safety or the Secretary's designated
30 representative, no person shall serve more than eight consecutive years on the ~~Board, including~~
31 ~~years of service prior and subsequent to July 1, 1983.~~ Board. Board members may continue to serve
32 until their successors have been appointed.

33"

34 **SECTION 17.5.(d)** G.S. 74C-6, as rewritten by subsection (b) of this section, reads as
35 rewritten:

36 **"§ 74C-6. Position of Director created.**

37 The position of Director of the Private Protective Services Board is hereby created within the
38 ~~Department of Justice.~~ Department of Public Safety. The Secretary of Public Safety shall appoint a
39 person to fill this full-time position. The Director's duties shall be to administer the directives
40 contained in this Chapter and the rules promulgated by the Board to implement this Chapter and to
41 carry out the administrative duties incident to the functioning of the Board in order to actively
42 police the private protective services industry to ensure compliance with the law in all aspects."

43 **SECTION 17.5.(e)** G.S. 74D-4(b) reads as rewritten:

44 "(b) The Board shall consist of seven members: ~~the Attorney General~~ Secretary of Public
45 Safety or his designee; two persons appointed by the Governor, one of whom shall be licensed
46 under this Chapter and one of whom shall be a public member; two persons appointed by the
47 General Assembly upon the recommendation of the President Pro Tempore of the Senate in
48 accordance with G.S. 120-121, one of whom shall be licensed under this Chapter and one of whom
49 shall be a public member; and two persons appointed by the General Assembly upon the

1 recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121,
2 one of whom shall be licensed under this Chapter and one of whom shall be a public member."

3 **SECTION 17.5.(f)** G.S. 74D-5.1 reads as rewritten:

4 **"§ 74D-5.1. Position of Director created.**

5 The position of Director of the Alarm Systems Licensing Board is hereby created within the
6 Department of ~~Justice~~. Public Safety. The ~~Attorney General~~ Secretary of Public Safety shall appoint
7 a person to fill this full-time position. The Director's duties shall be to administer the directives
8 contained in this Chapter and the rules promulgated by the Board to implement this Chapter and to
9 carry out the administrative duties incident to the functioning of the Board in order to actively
10 police the alarm systems industry to insure compliance with the law in all aspects. The Director may
11 issue a temporary grant or denial of a request for registration subject to final action by the Board at
12 its next regularly scheduled meeting."

13 **SECTION 17.5.(g)** G.S. 74D-5.2 reads as rewritten:

14 **"§ 74D-5.2. Investigative powers of the ~~Attorney General~~ Secretary of Public Safety.**

15 The ~~Attorney General for the State of North Carolina~~ Secretary of Public Safety shall have the
16 power to investigate or cause to be investigated any complaints, allegations, or suspicions of
17 wrongdoing or violations of this Chapter involving individuals licensed, or to be licensed, under this
18 Chapter. Any investigation conducted pursuant to this section is deemed confidential and is not
19 subject to review under G.S. 132-1 until the investigation is complete and a report is presented to
20 the Board. However, the report may be released to the licensee after the investigation is complete
21 but before the report is presented to the Board."
22

1

2 **Senate Only**

3 **INDIGENT DEFENSE SERVICES FEE TRANSPARENCY**

4 **SECTION 18A.1.** The Office of Indigent Defense Services, in consultation and
5 cooperation with the Office of the State Controller and the Office of State Budget and Management,
6 shall develop and implement a plan for making all fee applications by attorneys publicly available
7 online. The plan shall provide for (i) the information to be updated at least monthly, (ii) the fee
8 applications to be searchable, and (iii) all fee applications in capital cases to be clearly labeled as
9 such. The Office of Indigent Defense Services shall report on the development and implementation
10 of this plan to the Chairs of the Senate and House Appropriations Subcommittees on Justice and
11 Public Safety by October 1, 2014.

12

1

2 **House Only**

3 **FINAL REPORT ON CRIMINAL CASE INFORMATION SYSTEM**

4 **SECTION 18A.2.** Section 18B.10 of S.L. 2013-360 reads as rewritten:

5 "SECTION 18B.10. The Administrative Office of the Courts, in consultation with the Office
6 of Indigent Defense Services, shall use the sum of three hundred fifty thousand dollars (\$350,000)
7 in funds available to the Administrative Office of the Courts for the 2013-2015 fiscal biennium and
8 the sum of three hundred fifty thousand dollars (\$350,000) in funds available to the Office of
9 Indigent Defense Services for the 2013-2015 fiscal biennium to develop or acquire and to
10 implement a component of the Department's criminal case information system for use by public
11 defenders no later than February 1, 2015. The Administrative Office of the Courts shall make an
12 interim report on the development and implementation of this system by February 1, 2014, and a
13 final report on the completed implementation of the system by ~~March 1, 2015.~~ July 1, 2015, to the
14 Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and to the Chairs
15 of the House of Representatives Appropriations Subcommittee on Justice and Public Safety and the
16 Senate Appropriations Committee on Justice and Public Safety."

17

Senate and House Differ

Senate Version

AMEND VARIOUS PROVISIONS REQUIRING REPORTS ON THE OPERATIONS OF THE COURTS

SECTION 18B.1.(a) G.S. 7A-343 reads as rewritten:

"§ 7A-343. Duties of Director.

The Director is the Administrative Officer of the Courts, and the Director's duties include all of the following:

...

- (8) Prepare and submit an annual report on the work of the Judicial Department to the Chief Justice, and transmit a copy to ~~each member of the General Assembly~~ the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety. The annual report shall include the activities of each North Carolina Business Court site, including the number of new, closed, and pending cases, the average age of pending cases, and the annual expenditures for the prior fiscal year.

...."

SECTION 18B.1.(b) G.S. 7A-343.2 reads as rewritten:

"§ 7A-343.2. Court Information Technology Fund.

(a) Fund. – The Court Information Technology Fund is established within the Judicial Department as a special revenue fund. Interest and other investment income earned by the Fund accrues to it. The Fund consists of the following revenues:

- (1) All monies collected by the Director pursuant to G.S. 7A-109(d) and G.S. 7A-49.5.
- (2) State judicial facilities fees credited to the Fund under G.S. 7A-304 through G.S. 7A-307.

(b) Use. – Money in the Fund derived from State judicial facilities fees must be used to upgrade, maintain, and operate the judicial and county courthouse phone systems. All other monies in the Fund must be used to supplement funds otherwise available to the Judicial Department for court information technology and office automation needs.

(c) Report. – The Director must report annually by ~~August 1 and~~ February 1 of each year to ~~the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House Appropriations Committees, and the~~ Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety. The report must include the following:

- (1) Amounts credited in the preceding ~~six months~~ year to the Fund.
- (2) Amounts expended in the preceding ~~six months~~ year from the Fund and the purposes of the expenditures.
- (3) Proposed expenditures of the monies in the Fund."

SECTION 18B.1.(c) G.S. 7A-809 reads as rewritten:

"§ 7A-809. Reports.

The Conference of Clerks of Superior Court shall, in consultation with the registers of deeds, annually study the status of the individual counties and judicial districts as to whether or not the clerks of superior court or the registers of deeds are implementing G.S. 132-1.10(f1) and report

1 results of the study to the ~~Joint Legislative Commission on Governmental Operations~~Joint
2 Legislative Oversight Committee on Justice and Public Safety on or before March 1 of each year."

3 **SECTION 18B.1.(d)** Section 15.4 of S.L. 2009-451 is repealed.

4 **SECTION 18B.1.(e)** Article 7 of Chapter 7A of the General Statutes is amended by
5 adding a new section to read:

6 **"§ 7A-45.5. Annual report on Business Court activities.**

7 The Administrative Office of the Courts shall report to the Chairs of the House of
8 Representatives Appropriations Subcommittee on Justice and Public Safety and the Senate
9 Appropriations Committee on Justice and Public Safety by March 1 of each year on the activities of
10 each North Carolina Business Court site, including the number of new, closed, and pending cases,
11 average age of pending cases, and annual expenditures for the prior fiscal year."

12 **SECTION 18B.1.(f)** Section 18B.2 of S.L. 2013-360 is repealed.

13 **SECTION 18B.1.(g)** G.S. 15A-1475 reads as rewritten:

14 **"§ 15A-1475. Reports.**

15 ~~Beginning January 1, 2008, and annually thereafter, the~~The North Carolina Innocence Inquiry
16 Commission shall report annually by February 1 of each year on its activities to the Joint
17 Legislative Oversight Committee on Justice and Public Safety and the State Judicial Council. The
18 report may contain recommendations of any needed legislative changes related to the activities of
19 the Commission. The report shall recommend the funding needed by the Commission, the district
20 attorneys, and the State Bureau of Investigation in order to meet their responsibilities under S.L.
21 2006-184. Recommendations concerning the district attorneys or the State Bureau of Investigation
22 shall only be made after consultations with the North Carolina Conference of District Attorneys and
23 the Attorney General."

24 **SECTION 18B.1.(h)** G.S. 7A-38.6 is repealed.

25 **SECTION 18B.1.(i)** G.S. 7A-409.1(g) reads as rewritten:

26 "(g) The State Judicial Council shall report annually to the ~~General Assembly~~Chairs of the
27 Joint Legislative Oversight Committee on Justice and Public Safety and the Chief Justice ~~no later~~
28 ~~than December 31, 2009, and~~no later than December 31 of every third year, regarding the
29 implementation of S.L. 2006-184S.L. 2006-184, the act creating the North Carolina Innocence
30 Inquiry Commission, and shall include in its report the statistics regarding inquiries and any
31 recommendations for changes. The House of Representatives and the Senate shall refer the report of
32 the State Judicial Council to the Joint Legislative Oversight Committee on Justice and Public Safety
33 and such other committees as the Speaker of the House of Representatives or the President Pro
34 Tempore of the Senate shall deem appropriate, for their review."

35 **SECTION 18B.1.(j)** Section 18A.1 of S.L. 2013-360 is repealed.

36 **SECTION 18B.1.(k)** Article 39B of Chapter 7A of the General Statutes is amended by
37 adding a new section to read:

38 **"§ 7A-498.9. Annual report on Office of Indigent Defense Services.**

39 The Office of Indigent Defense Services shall report to the Chairs of the Joint Legislative
40 Oversight Committee on Justice and Public Safety and the Chairs of the House of Representatives
41 Subcommittee on Justice and Public Safety and the Chairs of the Senate Appropriations Committee
42 on Justice and Public Safety by February 1 of each year on the following:

- 43 (1) The volume and cost of cases handled in each district by assigned counsel or
44 public defenders;
- 45 (2) Actions taken by the Office to improve the cost-effectiveness and quality of
46 indigent defense services, including the capital case program;
- 47 (3) Plans for changes in rules, standards, or regulations in the upcoming year; and
- 48 (4) Any recommended changes in law or funding procedures that would assist the
49 Office in improving the management of funds expended for indigent defense
50 services, including any recommendations concerning the feasibility and
51 desirability of establishing regional public defender offices."

1 **SECTION 18B.1.(I)** Section 18A.4 of S.L. 2013-360 reads as rewritten:

2 **"SECTION 18A.4.** The Office of Indigent Defense Services shall issue a request for proposals
3 from private law firms or not-for-profit legal representation organizations for the provision of all
4 classes of legal cases for indigent clients in all judicial districts. The Office of Indigent Defense
5 Services shall report on the issuance of this request for proposals to the ~~Joint Legislative~~
6 ~~Commission on Governmental Operations by October 1, 2013.~~Chairs of the Joint Legislative
7 Oversight Committee on Justice and Public Safety by October 1 of each year. In cases where the
8 proposed contract can provide representation services more efficiently than current costs and ensure
9 that the quality of representation is sufficient to meet applicable constitutional and statutory
10 standards, the Office of Indigent Defense Services shall use private assigned counsel funds to enter
11 into contracts for this purpose. In selecting contracts, the Office of Indigent Defense Services shall
12 consider the cost-effectiveness of the proposed contract. Disputes regarding the ability of the
13 potential contractor to provide effective representation for clients served by the contract shall be
14 determined by the senior resident superior court judge for the district."
15
16

House Version

AMEND VARIOUS PROVISIONS REQUIRING REPORTS ON THE OPERATIONS OF THE COURTS

SECTION 18B.1.(a) G.S. 7A-343 reads as rewritten:

"§ 7A-343. Duties of Director.

The Director is the Administrative Officer of the Courts, and the Director's duties include all of the following:

- ...
- (8) Prepare and submit an annual report on the work of the Judicial Department to the Chief Justice, and transmit a copy to ~~each member of the General Assembly; the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety and to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety.~~ The annual report shall include the activities of each North Carolina Business Court site, including the number of new, closed, and pending cases, the average age of pending cases, and the annual expenditures for the prior fiscal year.

...."

SECTION 18B.1.(b) G.S. 7A-343.2 reads as rewritten:

"§ 7A-343.2. Court Information Technology Fund.

(a) Fund. – The Court Information Technology Fund is established within the Judicial Department as a special revenue fund. Interest and other investment income earned by the Fund accrues to it. The Fund consists of the following revenues:

- (1) All monies collected by the Director pursuant to G.S. 7A-109(d) and G.S. 7A-49.5.
- (2) State judicial facilities fees credited to the Fund under G.S. 7A-304 through G.S. 7A-307.

(b) Use. – Money in the Fund derived from State judicial facilities fees must be used to upgrade, maintain, and operate the judicial and county courthouse phone systems. All other monies in the Fund must be used to supplement funds otherwise available to the Judicial Department for court information technology and office automation needs.

(c) Report. – The Director must report annually by August 1 and February 1 of each year to ~~the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety.~~ The report must include the following:

- (1) Amounts credited in the preceding six months year to the Fund.
- (2) Amounts expended in the preceding six months year from the Fund and the purposes of the expenditures.
- (3) Proposed expenditures of the monies in the Fund."

SECTION 18B.1.(c) G.S. 7A-809 reads as rewritten:

"§ 7A-809. Reports.

The Conference of Clerks of Superior Court shall, in consultation with the registers of deeds, annually study the status of the individual counties and judicial districts as to whether or not the clerks of superior court or the registers of deeds are implementing G.S. 132-1.10(f1) and report results of the study to the ~~Joint Legislative Commission on Governmental Operations~~ Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety and to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on or before March 1 of each year."

SECTION 18B.1.(d) Section 15.4 of S.L. 2009-451 is repealed.

1 **SECTION 18B.1.(e)** Article 7 of Chapter 7A of the General Statutes is amended by
2 adding a new section to read:

3 **"§ 7A-45.5. Annual report on Business Court activities.**

4 The Administrative Office of the Courts shall report to the Chairs of the House of
5 Representatives Appropriations Subcommittee on Justice and Public Safety and the Senate
6 Appropriations Committee on Justice and Public Safety and to the Chairs of the Joint Legislative
7 Oversight Committee on Justice and Public Safety by March 1 of each year on the activities of each
8 North Carolina Business Court site, including the number of new, closed, and pending cases,
9 average age of pending cases, and annual expenditures for the prior fiscal year."

10 **SECTION 18B.1.(f)** G.S. 15A-1475 reads as rewritten:
11 **"§ 15A-1475. Reports.**

12 ~~Beginning January 1, 2008, and annually thereafter, the~~ The North Carolina Innocence Inquiry
13 Commission shall report annually by February 1 of each year on its activities to the Joint
14 Legislative Oversight Committee on Justice and Public Safety and the State Judicial Council. The
15 report may contain recommendations of any needed legislative changes related to the activities of
16 the Commission. The report shall recommend the funding needed by the Commission, the district
17 attorneys, and the State Bureau of Investigation in order to meet their responsibilities under S.L.
18 2006-184. Recommendations concerning the district attorneys or the State Bureau of Investigation
19 shall only be made after consultations with the North Carolina Conference of District Attorneys and
20 the Attorney General."

21 **SECTION 18B.1.(g)** G.S. 7A-38.6 is repealed.

22 **SECTION 18B.1.(h)** G.S. 7A-409.1(g) reads as rewritten:

23 "(g) The State Judicial Council shall report annually to the ~~General Assembly Chairs of the~~
24 House of Representatives Appropriations Subcommittee on Justice and Public Safety and the Senate
25 Appropriations Committee on Justice and Public Safety, to the Chairs of the Joint Legislative
26 Oversight Committee on Justice and Public Safety, and to the Chief Justice no later than December
27 31, 2009, and no later than December 31 of every third year, regarding the implementation of S.L.
28 2006-184 S.L. 2006-184, the act creating the North Carolina Innocence Inquiry Commission, and
29 shall include in its report the statistics regarding inquiries and any recommendations for changes.
30 The House of Representatives and the Senate shall refer the report of the State Judicial Council to
31 the Joint Legislative Oversight Committee on Justice and Public Safety and such other committees
32 as the Speaker of the House of Representatives or the President Pro Tempore of the Senate shall
33 deem appropriate, for their review."

34 **SECTION 18B.1.(i)** Section 18A.1 of S.L. 2013-360 is repealed.

35 **SECTION 18B.1.(j)** Article 39B of Chapter 7A of the General Statutes is amended by
36 adding a new section to read:

37 **"§ 7A-498.9. Annual report on Office of Indigent Defense Services.**

38 The Office of Indigent Defense Services shall report to the Chairs of the Joint Legislative
39 Oversight Committee on Justice and Public Safety and to the Chairs of the House of
40 Representatives Subcommittee on Justice and Public Safety and the Senate Appropriations
41 Committee on Justice and Public Safety by February 1 of each year on the following:

- 42 (1) The volume and cost of cases handled in each district by assigned counsel or
43 public defenders;
- 44 (2) Actions taken by the Office to improve the cost-effectiveness and quality of
45 indigent defense services, including the capital case program;
- 46 (3) Plans for changes in rules, standards, or regulations in the upcoming year; and
- 47 (4) Any recommended changes in law or funding procedures that would assist the
48 Office in improving the management of funds expended for indigent defense
49 services, including any recommendations concerning the feasibility and
50 desirability of establishing regional public defender offices."

51 **SECTION 18B.1.(k)** Section 18A.4 of S.L. 2013-360 reads as rewritten:

"SECTION 18A.4. The Office of Indigent Defense Services shall issue a request for proposals from private law firms or not-for-profit legal representation organizations for the provision of all classes of legal cases for indigent clients in all judicial districts. The Office of Indigent Defense Services shall report on the issuance of this request for proposals to the ~~Joint Legislative Commission on Governmental Operations by October 1, 2013. Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety and to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by October 1 of each year.~~ In cases where the proposed contract can provide representation services more efficiently than current costs and ensure that the quality of representation is sufficient to meet applicable constitutional and statutory standards, the Office of Indigent Defense Services shall use private assigned counsel funds to enter into contracts for this purpose. In selecting contracts, the Office of Indigent Defense Services shall consider the cost-effectiveness of the proposed contract. Disputes regarding the ability of the potential contractor to provide effective representation for clients served by the contract shall be determined by the senior resident superior court judge for the district."

Senate and House Differ

Senate Version

ANNUAL REPORT ON CRIMINAL COURT COST WAIVERS

SECTION 18B.2. Section 15.10(b) of S.L. 2011-145 reads as rewritten:

"**SECTION 15.10.(b)** The Administrative Office of the Courts shall make the necessary modifications to its information systems to maintain records of all cases in which the judge makes a finding of just cause to grant a waiver of criminal court costs under G.S. 7A-304(a) and shall report on those waivers to the ~~Joint Legislative Commission on Governmental Operations by October 1~~ Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety by February 1 of each year. The report shall aggregate the waivers by the district in which the waiver or waivers were granted and by the name of each judge granting a waiver or waivers."

1
2
3
4
5
6
7
8
9
10
11
12
13
14

SECTION 15.10(b) The Administrative Office of the Courts shall make the necessary modifications to its information systems to maintain records of all cases in which the judge makes a finding of just cause to grant a waiver of criminal court costs under G.S. 7A-304(a) and shall report on those waivers to the ~~Joint Legislative Commission on Governmental Operations by October 1~~ Chairs of the Senate Appropriations Committee on Justice and Public Safety, the Chairs of the House Appropriations Subcommittee on Justice and Public Safety, and the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by February 1 of each year. The report shall aggregate the waivers by the district in which the waiver or waivers were granted and by the name of each judge granting a waiver or waivers."

Senate and House Differ

Senate Version

COMPENSATION OF COURT REPORTERS

SECTION 18B.3. Section 18B.21 of S.L. 2013-360 reads as rewritten:

"SECTION 18B.21. The Administrative Office of the Courts, in consultation with the National Center for State Courts, shall study the most effective and efficient deployment of court reporters to produce timely records of court proceedings and the most appropriate and effective compensation for court reporters. The Administrative Office of the Courts shall make an interim report of its findings and recommendations to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by February 1, 2014. ~~February 1, 2014,~~ and a final report of its findings and recommendations by September 1, 2014."**"**

1
2
3
4
5
6
7
8
9
10
11
12
13
14

3
4
5
6
7
8
9
10
11
12
13

14

14

1

2 **Senate Only**

3 **FAMILY COURT PROGRAMS**

4 **SECTION 18B.4.** Section 18B.6 of S.L. 2013-360 reads as rewritten:

5 "SECTION 18B.6. The Administrative Office of the Courts shall provide direction and
6 oversight to the existing family court programs in order to ensure that each district with a family
7 court program is utilizing best practices and is working effectively and efficiently in the disposition
8 of domestic and juvenile cases. The Administrative Office of the Courts shall report on its efforts in
9 this regard and the results of those efforts to the Chairs of the House of Representatives
10 Appropriations Subcommittee on Justice and Public Safety, the Senate Appropriations Committee
11 on Justice and Public Safety, and the Joint Legislative Oversight Committee on Justice and Public
12 Safety by ~~March 1, 2014.~~March 1 of each year."

13

1
2
3
4
5
6
7
8
9
10
11
12
13

Senate and House Differ

Senate Version

TRAINING FOR SUPERIOR AND DISTRICT COURT JUDGES

SECTION 18B.5. The School of Government at the University of North Carolina at Chapel Hill shall ensure that the continuing judicial training conducted by its faculty on behalf of the Conference of District Court Judges and the Conference of Superior Court Judges provides annual training for superior and district court judges in the State on the work of the State Crime Laboratory and the proper custody and handling of biological evidence in the court system.

1 **House Version**

2 **TRAINING FOR SUPERIOR AND DISTRICT COURT JUDGES**

3 **SECTION 18B.5.** The School of Government at the University of North Carolina at
4 Chapel Hill, in cooperation with the Administrative Office of the Courts, the North Carolina
5 Association of District Court Judges, the North Carolina Conference of Superior Court Judges, and
6 the State Crime Laboratory, shall ensure that the continuing judicial education programs
7 coordinated by the School of Government incorporate content related to the proper custody and
8 handling of biological evidence, including relevant information about the work of the State Crime
9 Laboratory. The topic shall be addressed in continuing legal education programs for superior and
10 district court judges on a regular basis.
11
12

Senate and House Differ

Senate Version

ABOLISH FOUR SPECIAL SUPERIOR COURT JUDGESHIPS

SECTION 18B.6. G.S. 7A-45.1 is amended by adding a new subsection to read:

"(a8) Notwithstanding any other provision of this section, the four special superior court judgeships held as of April 1, 2014, by judges whose terms expire between July 1, 2014, and June 30, 2016, and who had not been designated under G.S. 7A-45.3 as business court judges, are abolished when any of the following first occurs:

- (1) Retirement of the incumbent judge.
- (2) Resignation of the incumbent judge.
- (3) Removal from office of the incumbent judge.
- (4) Death of the incumbent judge.
- (5) Expiration of the term of the incumbent judge."

1 **House Version**

2 **ABOLISH TWO SPECIAL SUPERIOR COURT JUDGESHIPS/AUTHORIZE TWO**
3 **ADDITIONAL BUSINESS COURT JUDGES/PROVIDE FOR THE APPOINTMENT OF**
4 **BUSINESS COURT JUDGES BY THE GOVERNOR IN CONSULTATION WITH THE**
5 **CHIEF JUSTICE**

6 **SECTION 18B.6.(a)** G.S. 7A-45.1 is amended by adding a new subsection to read:
7 "(a8) Notwithstanding any other provision of this section, the two special superior court
8 judgeships held as of April 1, 2014, by judges whose terms expire on January 26, 2016, are
9 abolished when any of the following first occurs:

- 10 (1) Retirement of the incumbent judge.
11 (2) Resignation of the incumbent judge.
12 (3) Removal from office of the incumbent judge.
13 (4) Death of the incumbent judge.
14 (5) Expiration of the term of the incumbent judge."

15 **SECTION 18B.6.(b)** G.S. 7A-45.3 reads as rewritten:

16 **"§ 7A-45.3. Superior court judges designated for complex business cases.**

17 (a) The Chief Justice may exercise the authority under rules of practice prescribed pursuant
18 to G.S. 7A-34 to designate one or more of the special superior court judges authorized by
19 G.S. 7A-45.1 Governor, in consultation with the Chief Justice, shall appoint up to five special
20 superior court judges as initially provided for in subsections (b) and (c) of this section to hear and
21 decide complex business cases as prescribed by the rules of practice. Any judge so designated
22 appointed shall be known as a Business Court Judge-business court judge and shall preside in the
23 Business Court-business court. If there is more than one business court judge, the Chief Justice may
24 designate one of them as the Senior Business Court Judge-senior business court judge. If there is no
25 designation by the Chief Justice, the judge with the longest term of service on the court shall serve
26 as Senior Business Court Judge-senior business court judge until the Chief Justice makes an
27 appointment to the position.

28 (b) The three special superior court judges designated by the Chief Justice as of April 1,
29 2014, as business court judges shall serve as three of the business court judges authorized under
30 subsection (a) of this section until each judge's retirement, resignation, removal from office, or
31 death or until the expiration of that judge's term. Upon the occurrence of each judge's retirement,
32 resignation, removal from office, or death or until the expiration of the judge's term, the Governor
33 shall appoint a successor as provided in subsection (a) of this section.

34 (c) Notwithstanding the provisions of G.S. 7A-45.1, the two additional business court
35 judges shall be filled by appointment of the Governor as provided in subsection (a) of this section
36 upon the retirement, resignation, removal from office, or death or until the expiration of the term of
37 the incumbent judge of each of the two special superior court judgeships held as of April 1, 2014,
38 by judges whose terms expire on April 29, 2015, and October 20, 2015.

39 (d) Upon appointment, each business court judge shall serve a term expiring five years from
40 the date that each judge takes office."

Senate Only

ALLOCATION OF ASSISTANT DISTRICT ATTORNEYS

SECTION 18B.7.(a) G.S. 7A-60 reads as rewritten:

"§ 7A-60. District attorneys and prosecutorial districts.

...

(a1) The counties of the State are organized into prosecutorial districts, and each district has the counties and the number of full-time assistant district attorneys set forth in the following table:

Prosecutorial District	Counties	No. of Full Time Asst. District Attorneys
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	11
2	Beaufort, Hyde, Martin, Tyrrell, Washington	8
3A	Pitt	11
3B	Carteret, Craven, Pamlico	12
4	Duplin, Jones, Onslow, Sampson	18
5	New Hanover, Pender	18
6A	Halifax	5
6B	Bertie, Hertford, Northampton	5
7	Edgecombe, Nash, Wilson	18
8	Greene, Lenoir, Wayne	14
9	Franklin, Granville, Vance, Warren	10
9A	Person, Caswell	6
10	Wake	11
11A	Harnett, Lee	9
11B	Johnston	10
12	Cumberland	23
13	Bladen, Brunswick, Columbus	13
14	Durham	18
15A	Alamance	11
15B	Orange, Chatham	10
16A	Scotland, Hoke	7
16B	Robeson	12
17A	Rockingham	7
17B	Stokes, Surry	8
18	Guilford	32
19A	Cabarrus	9
19B	Montgomery, Randolph	9
19C	Rowan	8
19D	Moore	5
20A	Anson, Richmond, Stanly	11
20B	Union	10

1	21	Forsyth	25
2	22A	Alexander, Iredell	11
3	22B	Davidson, Davie	11
4	23	Alleghany, Ashe, Wilkes,	8
5		Yadkin	
6	24	Avery, Madison, Mitchell,	7
7		Watauga, Yancey	
8	25	Burke, Caldwell, Catawba	18
9	26	Mecklenburg	58
10	27A	Gaston	14
11	27B	Cleveland,	11
12		Lincoln	
13	28	Buncombe	14
14	29A	McDowell, Rutherford	7
15	29B	Henderson, Polk, Transylvania	8
16	30	Cherokee, Clay, Graham,	10
17		Haywood, Jackson, Macon,	
18		Swain.	

(a2) Upon the convening of each regular session of the General Assembly and its reconvening in the even-numbered year, the Administrative Office of the Courts shall report its ~~recommendations regarding the~~ allocation of assistant district attorneys for the upcoming fiscal biennium and fiscal year to the General Assembly, including any request for additional assistant district attorneys. The report shall include the number of assistant district attorneys that the Administrative Office of the Courts ~~recommends to be~~ has allocated to each prosecutorial district and the caseload and criteria on which each ~~recommended~~ allocation is based. Any reports required under this subsection shall be made to the Joint Legislative Commission of Governmental Operations, the House of Representatives and Senate Appropriations Subcommittees on Justice and Public, and the Fiscal Research Division.

...."

SECTION 18B.7.(b) G.S. 7A-63 reads as rewritten:
"§ 7A-63. Assistant district attorneys.

Each district attorney shall be entitled to the number of full-time assistant district attorneys ~~set out in this Subchapter, allocated by the Administrative Office of the Courts,~~ to be appointed by the district attorney, to serve at his pleasure. A vacancy in the office of assistant district attorney shall be filled in the same manner as the initial appointment. An assistant district attorney shall take the same oath of office as the district attorney, and shall perform such duties as may be assigned by the district attorney. ~~He~~ The district attorney shall devote his or her full time to the duties of ~~his~~ the office and shall not engage in the private practice of law during his or her term."

1

2 **Senate Only**

3 **POSSESSION OF MARIJUANA PARAPHERNALIA/CLASS 3 MISDEMEANOR**

4 **SECTION 18B.8.(a)** G.S. 90-113.22 reads as rewritten:

5 **"§ 90-113.22. Possession of drug paraphernalia.**

6 (a) It is unlawful for any person to knowingly use, or to possess with intent to use, drug
7 paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,
8 produce, process, prepare, test, analyze, package, repackage, store, contain, or conceal a controlled
9 substance which it would be unlawful to possess, or to inject, ingest, inhale, or otherwise introduce
10 into the body a controlled substance which it would be unlawful to possess.

11 (b) ~~Violation~~ Except as provided in G.S. 90-113.22A, a violation of this section is a Class 1
12 misdemeanor.

13 (c) Prior to searching a person, a person's premises, or a person's vehicle, an officer may ask
14 the person whether the person is in possession of a hypodermic needle or other sharp object that
15 may cut or puncture the officer or whether such a hypodermic needle or other sharp object is on the
16 premises or in the vehicle to be searched. If there is a hypodermic needle or other sharp object on
17 the person, on the person's premises, or in the person's vehicle and the person alerts the officer of
18 that fact prior to the search, the person shall not be charged with or prosecuted for possession of
19 drug paraphernalia for the needle or sharp object. The exemption under this subsection does not
20 apply to any other drug paraphernalia that may be present and found during the search. For purposes
21 of this subsection, the term "officer" includes "criminal justice officers" as defined in G.S. 17C-2(3)
22 and a "justice officer" as defined in G.S. 17E-2(3)."

23 **SECTION 18B.8.(b)** Article 5B of Chapter 90 of the General Statutes is amended by
24 adding a new section to read:

25 **"§ 90-113.22A. Possession of marijuana drug paraphernalia.**

26 (a) It is unlawful for any person to knowingly use, or to possess with intent to use, drug
27 paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,
28 produce, process, prepare, test, analyze, package, repackage, store, contain, or conceal marijuana, or
29 to inject, ingest, inhale, or otherwise introduce marijuana into the body.

30 (b) A violation of this section is a Class 3 misdemeanor."

31 **SECTION 18B.8.(c)** This section becomes effective December 1, 2014, and applies to
32 offenses committed on or after that date.
33

1

2 **Senate Only**

3 **AMEND DEFERRED PROSECUTION**

4 **SECTION 18B.9.(a)** G.S. 15A-1341(a1) reads as rewritten:

5 "(a1) Deferred Prosecution. – ~~A person who has been charged with~~ Whenever a person pleads
6 guilty to or is found guilty of a Class H or I felony or a misdemeanor may be placed misdemeanor,
7 the court may, without entering a judgment of guilt and with the consent of the person, defer further
8 proceedings and place the person on probation as provided in this Article on motion of the
9 defendant and the prosecutor if the court finds each of the following facts:

- 10 (1) Prosecution has been deferred by the prosecutor pursuant to written agreement
11 with the defendant, with the approval of the court, for the purpose of allowing the
12 defendant to demonstrate ~~his~~ the defendant's good conduct.
- 13 (2) Each known victim of the crime has been notified of the motion for probation by
14 subpoena or certified mail and has been given an opportunity to be heard.
- 15 (3) The defendant has not been convicted of any felony or of any misdemeanor
16 involving moral turpitude.
- 17 (4) The defendant has not previously been placed on probation and so states under
18 oath.
- 19 (5) The defendant is unlikely to commit another offense other than a Class 3
20 misdemeanor."

21 **SECTION 18B.9.(b)** This section becomes effective December 1, 2014, and applies to
22 offenses committed on or after that date.
23

1
2 **Senate Only**

3 **UNLAWFUL TO CHARGE FEE TO RETRACT OR REMOVE BOOKING PHOTO AND**
4 **OTHER CRIMINAL RECORD INFORMATION WHEN NO CONVICTION**

5 **SECTION 18B.10.(a)** Article 23 of Chapter 15A of the General Statutes is amended by
6 adding a new section to read:

7 **"§ 15A-502.2. Prohibition on providing copy of booking photograph; statement required;**
8 **criminal liability for false statement.**

9 (a) Notwithstanding the provisions of G.S. 132-1, a law enforcement agency shall not
10 provide a copy of a photograph taken pursuant to G.S. 15A-502(a)(1) or G.S. 15A-502(a2) or
11 authorized by G.S. 15A-502(b) in any format to a person requesting a copy of the photograph for
12 the following purposes:

13 (1) The photograph will be placed in a publication or posted to a Web site; and

14 (2) Removal of the photograph from the publication or Web site will require the
15 payment of a fee or other consideration.

16 (b) A person who requests a copy of a photograph taken pursuant to G.S. 15A-502(a)(1) or
17 G.S. 15A-502(a2) or authorized by G.S. 15A-502(b) from a law enforcement agency shall, at the
18 time of making the request, submit a written statement signed by the person affirming that the
19 photograph will not be placed in a publication or posted to a Web site that requires the payment of a
20 fee or other consideration in order to remove or delete the photograph from the publication or Web
21 site. A person who submits a false statement under this subsection is criminally liable under
22 G.S. 14-101.1."

23 **SECTION 18B.10.(b)** Article 19 of Chapter 14 of the General Statutes is amended by
24 adding a new section to read:

25 **"§ 14-101.1. Written false statement to law enforcement agency to obtain booking**
26 **photograph.**

27 Any person who, with the intent to deceive a law enforcement agency, submits a false statement
28 to obtain a photograph under G.S. 15A-502.2 is guilty of a Class 1 misdemeanor."

29 **SECTION 18B.10.(c)** Article 1 of Chapter 75 of the General Statutes is amended by
30 adding a new section to read:

31 **"§ 75-43. Unfair use of criminal record information.**

32 (a) The violation of any provision of this section shall be considered an unfair trade practice,
33 as prohibited by G.S. 75-1.1.

34 (b) A person commits a violation under this section if the person does both of the following:

35 (1) Engages in publishing or otherwise disseminating, in print or over the Internet,
36 photographs of an individual taken pursuant to G.S. 15A-502(a)(1) or
37 G.S. 15A-502(a2) or authorized by G.S. 15A-502(b); and

38 (2) Solicits or accepts the payment of a fee or other consideration to remove the
39 individual's photograph when the individual is acquitted or the charges are
40 dropped or otherwise resolved without a conviction.

41 (c) Any publisher of a print publication or operator of an Internet Web site that contains
42 criminal record information of a person charged with a crime shall, within 15 days after written
43 notification from the person or the person's designee, remove, or retract if removal is not possible,
44 criminal record information and any other personal information if the person is acquitted or the
45 charges are dropped or otherwise resolved without a conviction. The removal or retraction shall be
46 without charge to the person. Failure of the publisher or operator to remove the person's name or
47 personal information shall result in a civil penalty of one hundred dollars (\$100.00) per instance per
48 week and, after 45 days, shall create a presumption of defamation of character of the person.

1 (d) For the purposes of this section, "criminal record information" includes any and all of
2 the following:

3 (1) Descriptions or notations of any arrests, any formal criminal charges, and the
4 disposition of those criminal charges.

5 (2) Photographs of the person taken pursuant to an arrest or other involvement in the
6 criminal justice system.

7 (3) Personal identifying information, including a person's name, address, date of
8 birth, photograph, and social security number or other government-issued
9 identification number.

10 (4) Any information collected pursuant to Article 23 of Chapter 15A of the General
11 Statutes."

12 **SECTION 18B.10.(d)** This section becomes effective December 1, 2014. Subsection
13 (a) of this section applies to requests made on or after December 1, 2014. Subsection (b) of this
14 section applies to offenses committed on or after December 1, 2014. Subsection (c) of this section
15 applies to photographs and other criminal record information published or disseminated on or after
16 December 1, 2014.
17

1

2 **Senate Only**

3 **INCREASE PENALTY FOR CRIMINAL OFFENSE OF CARRYING A CONCEALED**
4 **WEAPON WHEN WEAPON IS A GUN**

5 **SECTION 18B.11.(a)** G.S. 14-269(c) reads as rewritten:

6 "(c) Any person violating the provisions of subsection (a) of this section shall be guilty of a
7 Class 2 misdemeanor. Any person violating the provisions of subsection (a1) of this section shall be
8 guilty of a ~~Class 2 misdemeanor~~ Class A1 misdemeanor for the first offense. A second or
9 subsequent offense is punishable as a ~~Class I felony~~ Class H felony. A violation punishable under
10 G.S. 14-415.21(a) is not punishable under this section."

11 **SECTION 18B.11.(b)** This section becomes effective December 1, 2014, and applies to
12 offenses committed on or after that date.

13

1
2
3
4
5
6
7

Senate Only

MAINTAIN TRIAL COURT ADMINISTRATOR

SECTION 18B.13. The Administrative Office of the Courts shall maintain the trial court administrator position serving Superior Court Districts 7B and 7C and ensure that the position remains filled during the 2014-2015 fiscal year.

Senate and House Differ

Senate Version

AUTHORIZE THE COURT TO ASSESS A FEE FOR THE COSTS OF THE SERVICES OF A PRIVATE HOSPITAL PERFORMING TOXICOLOGICAL TESTING FOR A PROSECUTORIAL DISTRICT

SECTION 18B.14.(a) G.S. 7A-304(a) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected. No costs may be assessed when a case is dismissed. Only upon entry of a written order, supported by findings of fact and conclusions of law, determining that there is just cause, the court may (i) waive costs assessed under this section or (ii) waive or reduce costs assessed under subdivision (7), (8), (8a), (11), ~~or (12)-(12)~~, or (13) of this section.

...

(7) For the services of the North Carolina State Crime Laboratory facilities, the district or superior court judge shall, upon conviction, order payment of the sum of six hundred dollars (\$600.00) to be remitted to the Department of Justice for support of the Laboratory. This cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratories have performed DNA analysis of the crime, tests of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent.

(8) For the services of any crime laboratory facility operated by a local government or group of local governments, the district or superior court judge shall, upon conviction, order payment of the sum of six hundred dollars (\$600.00) to be remitted to the general fund of the local governmental unit that operates the laboratory to be used for law enforcement purposes. The cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratory has performed DNA analysis of the crime, test of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent. The costs shall be assessed only if the court finds that the work performed at the local government's laboratory is the equivalent of the same kind of work performed by the North Carolina State Crime Laboratory under subdivision (7) of this subsection.

(8a) For the services of any private hospital performing toxicological testing under contract with a prosecutorial district, the district or superior court judge shall, upon conviction, order payment of the sum of six hundred dollars (\$600.00) to be remitted to the Judicial Department for reimbursement to and support of the prosecutorial district. The cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratory has performed testing of bodily fluids of the defendant for the presence of alcohol or controlled substances. The costs shall be assessed only if the court finds that the work performed by the local hospital is the equivalent of the same kind of work

1 performed by the North Carolina State Crime Laboratory under subdivision (7)
2 of this subsection.

- 3 ...
- 4 (11) For the services of an expert witness employed by the North Carolina State
5 Crime Laboratory who completes a chemical analysis pursuant to G.S. 20-139.1
6 or a forensic analysis pursuant to G.S. 8-58.20 and provides testimony about that
7 analysis in a defendant's trial, the district or superior court judge shall, upon
8 conviction of the defendant, order payment of the sum of six hundred dollars
9 (\$600.00) to be remitted to the Department of Justice for support of the State
10 Crime Laboratory. This cost shall be assessed only in cases in which the expert
11 witness provides testimony about the chemical or forensic analysis in the
12 defendant's trial and shall be in addition to any cost assessed under subdivision
13 (7) of this subsection.
- 14 (12) For the services of an expert witness employed by a crime laboratory operated by
15 a local government or group of local governments who completes a chemical
16 analysis pursuant to G.S. 20-139.1 or a forensic analysis pursuant to G.S. 8-58.20
17 and provides testimony about that analysis in a defendant's trial, the district or
18 superior court judge shall, upon conviction of the defendant, order payment of
19 the sum of six hundred dollars (\$600.00) to be remitted to the general fund of the
20 local governmental unit that operates the laboratory to be used for local law
21 enforcement. This cost shall be assessed only in cases in which the expert
22 witness provides testimony about the chemical or forensic analysis in the
23 defendant's trial and shall be in addition to any cost assessed under subdivision
24 (8) of this subsection.
- 25 (13) For the services of an expert witness employed by a private hospital performing
26 toxicological testing under contract with a prosecutorial district who completes a
27 chemical analysis pursuant to G.S. 20-139.1 and provides testimony about that
28 analysis in a defendant's trial, the district or superior court judge shall, upon
29 conviction of the defendant, order payment of the sum of six hundred dollars
30 (\$600.00) to be remitted to the Judicial Department for reimbursement to and
31 support of the prosecutorial district. This cost shall be assessed only in cases in
32 which the expert witness provides testimony about the chemical analysis in the
33 defendant's trial and shall be in addition to any cost assessed under subdivision
34 (8a) of this subsection."

35 **SECTION 18B.14.(b)** This section becomes effective July 1, 2014, and applies to fees
36 assessed or collected on or after that date.
37
38

House Version

AUTHORIZE THE COURT TO ASSESS A FEE FOR THE COSTS OF THE SERVICES OF A PRIVATE HOSPITAL PERFORMING TOXICOLOGICAL TESTING FOR A PROSECUTORIAL DISTRICT

SECTION 18B.14.(a) G.S. 7A-304(a) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected. No costs may be assessed when a case is dismissed. Only upon entry of a written order, supported by findings of fact and conclusions of law, determining that there is just cause, the court may (i) waive costs assessed under this section or (ii) waive or reduce costs assessed under subdivision (7), (8), (8a), (11), ~~or (12)-(12),~~ or (13) of this section.

...

(7) For the services of the North Carolina State Crime Laboratory facilities, the district or superior court judge shall, upon conviction, order payment of the sum of six hundred dollars (\$600.00) to be remitted to the Department of Justice for support of the Laboratory. This cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratories have performed DNA analysis of the crime, tests of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent.

(8) For the services of any crime laboratory facility operated by a local government or group of local governments, the district or superior court judge shall, upon conviction, order payment of the sum of six hundred dollars (\$600.00) to be remitted to the general fund of the local governmental unit that operates the laboratory to be used for law enforcement purposes. The cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratory has performed DNA analysis of the crime, test of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent. The costs shall be assessed only if the court finds that the work performed at the local government's laboratory is the equivalent of the same kind of work performed by the North Carolina State Crime Laboratory under subdivision (7) of this subsection.

(8a) For the services of any private hospital performing toxicological testing under contract with a prosecutorial district, the district or superior court judge shall, upon conviction, order payment of the sum of six hundred dollars (\$600.00) to be remitted to the State Treasurer for the support of the General Court of Justice. The cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratory has performed testing of bodily fluids of the defendant for the presence of alcohol or controlled substances. The costs shall be assessed only if the court finds that the work performed by the local hospital is the equivalent of the same kind of work performed by the North Carolina State Crime Laboratory under subdivision (7) of this subsection.

...

(11) For the services of an expert witness employed by the North Carolina State Crime Laboratory who completes a chemical analysis pursuant to G.S. 20-139.1 or a forensic analysis pursuant to G.S. 8-58.20 and provides testimony about that analysis in a defendant's trial, the district or superior court judge shall, upon

conviction of the defendant, order payment of the sum of six hundred dollars (\$600.00) to be remitted to the Department of Justice for support of the State Crime Laboratory. This cost shall be assessed only in cases in which the expert witness provides testimony about the chemical or forensic analysis in the defendant's trial and shall be in addition to any cost assessed under subdivision (7) of this subsection.

(12) For the services of an expert witness employed by a crime laboratory operated by a local government or group of local governments who completes a chemical analysis pursuant to G.S. 20-139.1 or a forensic analysis pursuant to G.S. 8-58.20 and provides testimony about that analysis in a defendant's trial, the district or superior court judge shall, upon conviction of the defendant, order payment of the sum of six hundred dollars (\$600.00) to be remitted to the general fund of the local governmental unit that operates the laboratory to be used for local law enforcement. This cost shall be assessed only in cases in which the expert witness provides testimony about the chemical or forensic analysis in the defendant's trial and shall be in addition to any cost assessed under subdivision (8) of this subsection.

(13) For the services of an expert witness employed by a private hospital performing toxicological testing under contract with a prosecutorial district who completes a chemical analysis pursuant to G.S. 20-139.1 and provides testimony about that analysis in a defendant's trial, the district or superior court judge shall, upon conviction of the defendant, order payment of the sum of six hundred dollars (\$600.00) to be remitted to the State Treasurer for the support of the General Court of Justice. This cost shall be assessed only in cases in which the expert witness provides testimony about the chemical analysis in the defendant's trial and shall be in addition to any cost assessed under subdivision (8a) of this subsection."

SECTION 18B.14.(b) This section becomes effective December 1, 2014, and applies to fees assessed or collected on or after that date.

1
2 **Senate Only**

3 **REPEAL OF TRANSFER OF CERTAIN FEE PROCEEDS TO THE NC STATE BAR**

4 **SECTION 18B.15.(a)** G.S. 7A-304(a)(4) reads as rewritten:

5 "(a) In every criminal case in the superior or district court, wherein the defendant is
6 convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the
7 prosecuting witness, the following costs shall be assessed and collected. No costs may be assessed
8 when a case is dismissed. Only upon entry of a written order, supported by findings of fact and
9 conclusions of law, determining that there is just cause, the court may (i) waive costs assessed under
10 this section or (ii) waive or reduce costs assessed under subdivision (7), (8), (11), or (12) of this
11 section.

12 ...
13 (4) For support of the General Court of Justice, the sum of one hundred twenty-nine
14 dollars and fifty cents (\$129.50) in the district court, including cases before a
15 magistrate, and the sum of one hundred fifty-four dollars and fifty cents
16 (\$154.50) in the superior court, to be remitted to the State Treasurer. For a person
17 convicted of a felony in superior court who has made a first appearance in district
18 court, both the district court and superior court fees shall be assessed. The State
19 Treasurer shall remit the sum of ~~one dollar and fifty cents (\$1.50) of each fee~~
20 ~~collected under this subdivision to the North Carolina State Bar for the provision~~
21 ~~of services described in G.S. 7A-474.4, and ninety-five cents (\$.95)~~ninety-five
22 cents (95¢) of each fee collected under this subdivision to the North Carolina
23 State Bar for the provision of services described in G.S. 7A-474.19."

24 **SECTION 18B.15.(b)** G.S. 7A-305 reads as rewritten:

25 **"§ 7A-305. Costs in civil actions.**

26 (a) In every civil action in the superior or district court, except for actions brought under
27 Chapter 50B of the General Statutes, shall be assessed:

28 ...
29 (2) For support of the General Court of Justice, the sum of one hundred eighty
30 dollars (\$180.00) in the superior court and the sum of one hundred thirty dollars
31 (\$130.00) in the district court except that if the case is assigned to a magistrate
32 the sum shall be eighty dollars (\$80.00). If a case is assigned to a special superior
33 court judge as a complex business case under G.S. 7A-45.3, upon assignment the
34 party filing the notice of designation pursuant to G.S. 7A-45.4 or the motion for
35 complex business designation shall pay an additional one thousand dollars
36 (\$1,000) for support of the General Court of Justice; if a case is assigned to a
37 special superior court judge as a complex business case under G.S. 7A-45.3 by a
38 court on its own motion, upon assignment the plaintiff shall pay an additional
39 one thousand dollars (\$1,000) for support of the General Court of Justice. Sums
40 collected under this subdivision shall be remitted to the State Treasurer. The
41 State Treasurer shall remit the sum of ~~one dollar and fifty cents (\$1.50) of each~~
42 ~~fee collected under this subdivision to the North Carolina State Bar for the~~
43 ~~provision of services described in G.S. 7A-474.4, and ninety-five cents~~
44 ~~(\$.95)~~ninety-five cents (95¢) of each fee collected under this subdivision to the
45 North Carolina State Bar for the provision of services described in
46 G.S. 7A-474.19.

47 ...
48 (a5) In every civil action in the superior or district court wherein a party files a pleading
49 containing one or more counterclaims, third-party complaints, or cross-claims, except for

counterclaim and cross-claim actions brought under Chapter 50B of the General Statutes for which costs are assessed pursuant to subsection (a1) of this section, the following shall be assessed:

- ...
- (3) For support of the General Court of Justice, the sum of one hundred eighty dollars (\$180.00) in the superior court, except that if a case is assigned to a special superior court judge as a complex business case under G.S. 7A-45.3, filing fees shall be collected and disbursed in accordance with subsection (a) of this section, and the sum of one hundred thirty dollars (\$130.00) in the district court, except that if the case is assigned to a magistrate, the sum shall be eighty dollars (\$80.00). Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of ~~one dollar and fifty cents (\$1.50) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4, and ninety five cents (\$.95)~~ninety-five cents (95¢) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.19.

...."

SECTION 18B.15.(c) G.S. 7A-307(a)(2) reads as rewritten:

"(a) In the administration of the estates of decedents, minors, incompetents, of missing persons, and of trusts under wills and under powers of attorney, in trust proceedings under G.S. 36C-2-203, in estate proceedings under G.S. 28A-2-4, and in collections of personal property by affidavit, the following costs shall be assessed:

- ...
- (2) For support of the General Court of Justice, the sum of one hundred six dollars (\$106.00), plus an additional forty cents (40¢) per one hundred dollars (\$100.00), or major fraction thereof, of the gross estate, not to exceed six thousand dollars (\$6,000). Gross estate shall include the fair market value of all personalty when received, and all proceeds from the sale of realty coming into the hands of the fiduciary, but shall not include the value of realty. In collections of personal property by affidavit, the fee based on the gross estate shall be computed from the information in the final affidavit of collection made pursuant to G.S. 28A-25-3 and shall be paid when that affidavit is filed. In all other cases, this fee shall be computed from the information reported in the inventory and shall be paid when the inventory is filed with the clerk. If additional gross estate, including income, comes into the hands of the fiduciary after the filing of the inventory, the fee for such additional value shall be assessed and paid upon the filing of any account or report disclosing such additional value. For each filing the minimum fee shall be fifteen dollars (\$15.00). Sums collected under this subdivision shall be remitted to the State Treasurer. ~~The State Treasurer shall remit the sum of one dollar and fifty cents (\$1.50) of each one hundred six dollar (\$106.00) General Court of Justice fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4."~~

SECTION 18B.15.(d) G.S. 7A-306(a)(2) reads as rewritten:

"(a) In every special proceeding in the superior court, the following costs shall be assessed:

- ...
- (2) For support of the General Court of Justice the sum of one hundred six dollars (\$106.00). In addition, in proceedings involving land, except boundary disputes, if the fair market value of the land involved is over one hundred dollars (\$100.00), there shall be an additional sum of thirty cents (30¢) per one hundred dollars (\$100.00) of value, or major fraction thereof, not to exceed a maximum

1 additional sum of two hundred dollars (\$200.00). Fair market value is determined
2 by the sale price if there is a sale, the appraiser's valuation if there is no sale, or
3 the appraised value from the property tax records if there is neither a sale nor an
4 appraiser's valuation. Sums collected under this subdivision shall be remitted to
5 the State Treasurer. ~~The State Treasurer shall remit the sum of one dollar and~~
6 ~~fifty cents (\$1.50) of each one hundred six dollar (\$106.00) General Court of~~
7 ~~Justice fee collected under this subdivision to the North Carolina State Bar for~~
8 ~~the provision of services described in G.S. 7A-474.4."~~

9 **SECTION 18B.15.(e)** This subsection applies to fees assessed or collected on or after
10 July 1, 2014.
11

1
2 **Senate Only**

3 **THREE-JUDGE PANEL/CONSTITUTIONALITY OF ACTS**

4 **SECTION 18B.16.(a)** Article 26A of Chapter 1 of the General Statutes reads as
5 rewritten:

6 "Article 26A.

7 "Three-Judge Panel for Redistricting ~~Challenges~~. Challenges and
8 for Certain Challenges to State Laws.

9 **"§ 1-267.1. Three-judge panel for actions challenging plans apportioning or redistricting**
10 **State legislative or congressional ~~districts~~. districts; claims challenging the facial**
11 **validity of an act of the General Assembly.**

12 (a) Any action challenging the validity of any act of the General Assembly that apportions
13 or redistricts State legislative or congressional districts shall be filed in the Superior Court of Wake
14 County and shall be heard and determined by a three-judge panel of the Superior Court of Wake
15 County organized as provided by subsection (b) of this section.

16 (a1) Except as otherwise provided in subsection (a) of this section, any challenge to the
17 validity of an act of the General Assembly on its face shall be transferred pursuant to G.S. 1A-1,
18 Rule 42(b)(4) to the Superior Court of Wake County and shall be heard and determined by a
19 three-judge panel of the Superior Court of Wake County, organized as provided by subsection (b1)
20 of this section.

21 (b) Whenever any person files in the Superior Court of Wake County any action challenging
22 the validity of any act of the General Assembly that apportions or redistricts State legislative or
23 congressional districts, a copy of the complaint shall be served upon the senior resident superior
24 court judge of Wake County, who shall be the presiding judge of the three-judge panel required by
25 subsection (a) of this section. Upon receipt of that complaint, the senior resident superior court
26 judge of Wake County shall notify the Chief Justice, who shall appoint two additional resident
27 superior court judges to the three-judge panel of the Superior Court of Wake County to hear and
28 determine the action. Before making those appointments, the Chief Justice shall consult with the
29 North Carolina Conference of Superior Court Judges, which shall provide the Chief Justice with a
30 list of recommended appointments. To ensure that members of the three-judge panel are drawn from
31 different regions of the State, the Chief Justice shall appoint to the three-judge panel one resident
32 superior court judge from the First through Fourth Judicial Divisions and one resident superior court
33 judge from the Fifth through Eighth Judicial Divisions. In order to ensure fairness, to avoid the
34 appearance of impropriety, and to avoid political bias, no member of the panel, including the senior
35 resident superior court judge of Wake County, may be a former member of the General Assembly.
36 Should the senior resident superior court judge of Wake County be disqualified or otherwise unable
37 to serve on the three-judge panel, the Chief Justice shall appoint another resident superior court
38 judge of Wake County as the presiding judge of the three-judge panel. Should any other member of
39 the three-judge panel be disqualified or otherwise unable to serve on the three-judge panel, the
40 Chief Justice shall appoint as a replacement another resident superior court judge from the same
41 group of judicial divisions as the resident superior court judge being replaced.

42 (b1) Any challenge to the validity of an act of the General Assembly on its face filed in the
43 Superior Court of Wake County, other than a challenge to plans apportioning or redistricting State
44 legislative or congressional districts that shall be heard pursuant to subsection (b) of this section, or
45 any claim transferred to the Superior Court of Wake County pursuant to subsection (a1) of this
46 section, shall be assigned by the senior resident superior court judge of Wake County to the
47 three-judge panel established pursuant to subsection (b2) of this section.

48 (b2) The Chief Justice of the Supreme Court shall appoint three resident superior court judges
49 to a three-judge panel of the Superior Court of Wake County to hear and determine challenges to

1 the validity of statutes and acts pursuant to subsection (a1) of this section. The initial judges
2 appointed to the panel shall remain as a standing three-judge panel to hear any action transferred to
3 the panel for determination pursuant to this section, and the Chief Justice shall appoint a presiding
4 judge of the three-judge panel. To ensure that members of the three-judge panel are drawn from
5 different regions of the State, the Chief Justice shall appoint to the three-judge panel one resident
6 superior court judge from the First or Second Judicial Division, one resident superior court judge
7 from the Seventh or Eighth Judicial Division, and one resident superior court judge from the Third,
8 Fourth, Fifth, or Sixth Division. Should any member of the three-judge panel be disqualified or
9 otherwise unable to serve on the three-judge panel, or is removed from the panel at the discretion of
10 the Chief Justice, the Chief Justice shall appoint as a replacement another resident superior court
11 judge from the same group of judicial divisions as the resident superior court judge being replaced.

12 (c) No order or judgment shall be entered affecting the validity of any act of the General
13 Assembly that apportions or redistricts State legislative or congressional ~~districts~~-districts, or finds
14 that an act of the General Assembly is facially invalid based upon the North Carolina or United
15 States Constitutions, except by the three-judge panel of the Superior Court of Wake County
16 organized as provided by subsection (b) or subsection (b1) of this section. In the event of
17 disagreement among the three resident superior court judges comprising the three-judge panel, then
18 the opinion of the majority shall prevail.

19 (d) This section applies only to civil proceedings, and nothing in this section shall be
20 deemed to apply to a defendant in criminal proceedings, or to proceedings in which Chapter 15A of
21 the General Statutes, is applicable."

22 **SECTION 18B.16.(b)** G.S. 1-81.1 reads as rewritten:

23 **"§ 1-81.1. Venue in apportionment or redistricting eases~~cases~~; certain injunctive relief**
24 **actions.**

25 (a) Venue lies exclusively with the Wake County Superior Court in any action concerning
26 any act of the General Assembly apportioning or redistricting State legislative or congressional
27 ~~districts~~districts lies exclusively with the Wake County Superior Court.

28 (a1) Venue lies exclusively with the Wake County Superior Court with regard to any claim,
29 seeking an order or judgment of a court, either final or interlocutory, to restrain the enforcement,
30 operation, or execution of an act of the General Assembly, in whole or in part, based upon an
31 allegation that the act of the General Assembly is unconstitutional on its face pursuant to the United
32 States Constitution or North Carolina Constitution. Pursuant to G.S. 1-267.1(a) and Rule 42(b)(4),
33 claims described in this subsection that are filed or raised in courts other than Wake County
34 Superior Court or are filed in Wake County Superior Court, shall be transferred to the three-judge
35 panel of the Wake County Superior Court if, after all other matters in the action have been resolved,
36 a determination as to the facial validity of an act of the General Assembly must be made in order to
37 completely resolve any issues in the case.

38 (b) Any action brought concerning an act of the General Assembly apportioning or
39 redistricting the State legislative or congressional districts shall be filed in the Superior Court of
40 Wake County."

41 **SECTION 18B.16.(c)** G.S. 1A-1, Rule 42, reads as rewritten:

42 **"Rule 42. Consolidation; separate trials.**

43 (a) Consolidation. – Except as provided in subdivision (b)(2) of this section, when actions
44 involving a common question of law or fact are pending in one division of the court, the judge may
45 order a joint hearing or trial of any or all the matters in issue in the actions; he may order all the
46 actions consolidated; and he may make such orders concerning proceedings therein as may tend to
47 avoid unnecessary costs or delay. When actions involving a common question of law or fact are
48 pending in both the superior and the district court of the same county, a judge of the superior court
49 in which the action is pending may order all the actions consolidated, and he may make such orders
50 concerning proceedings therein as may tend to avoid unnecessary costs or delay.

51 (b) Separate trials. –

- (1) The court may in furtherance of convenience or to avoid prejudice and shall for considerations of venue upon timely motion order a separate trial of any claim, cross-claim, counterclaim, or third-party claim, or of any separate issue or of any number of claims, cross-claims, counterclaims, third-party claims, or issues.
- (2) Upon motion of any party in an action that includes a claim commenced under Article 1G of Chapter 90 of the General Statutes involving a managed care entity as defined in G.S. 90-21.50, the court shall order separate discovery and a separate trial of any claim, cross-claim, counterclaim, or third-party claim against a physician or other medical provider.
- (3) Upon motion of any party in an action in tort wherein the plaintiff seeks damages exceeding one hundred fifty thousand dollars (\$150,000), the court shall order separate trials for the issue of liability and the issue of damages, unless the court for good cause shown orders a single trial. Evidence relating solely to compensatory damages shall not be admissible until the trier of fact has determined that the defendant is liable. The same trier of fact that tries the issues relating to liability shall try the issues relating to damages.
- (4) Pursuant to G.S. 1-267.1, any challenge to the validity of an act of the General Assembly on its face, other than a challenge to plans apportioning or redistricting State legislative or congressional districts, shall be heard by a three-judge panel in the Superior Court of Wake County. If a claimant brings such a challenge in any court in this State, or if such a challenge is raised by the defendant in the defendant's motions or pleadings in any court in this State, the court shall, on its own motion, transfer that portion of the action challenging the validity of the act of the General Assembly to the Superior Court of Wake County for resolution by the three-judge panel if, after all other matters in the action have been resolved, a determination as to the facial validity of an act of the General Assembly must be made in order to completely resolve any matters in the case. The court in which the action originated shall maintain jurisdiction over all matters other than the constitutional challenge. The court shall stay all matters that are contingent upon the outcome of the constitutional challenge pending a ruling on the constitutional challenge and until all appeal rights are exhausted. Once the three-judge panel has ruled and all appeal rights have been exhausted, the matter shall be transferred or remanded back to the trial court in which the action originated for resolution of any outstanding matters."

SECTION 18B.16.(d) G.S. 1A-1, Rule 62, reads as rewritten:

"Rule 62. Stay of proceedings to enforce a judgment.

(a) Automatic stay; exceptions – Injunctions and receiverships. – Except as otherwise stated herein, no execution shall issue upon a judgment nor shall proceedings be taken for its enforcement until the expiration of the time provided in the controlling statute or rule of appellate procedure for giving notice of appeal from the judgment. Unless otherwise ordered by the court, an interlocutory or final judgment in an action for an injunction or in a receivership action shall not be stayed during the period after its entry and until an appeal is taken or during the pendency of an appeal. The provisions of section (c) govern the suspending, modifying, restoring, or granting of an injunction during the pendency of an appeal.

(b) Stay on motion for new trial or for judgment. – In its discretion and on such conditions for the security of the adverse party as are proper, the court may stay the execution of or any proceedings to enforce a judgment pending the disposition of a motion for a new trial or to alter or amend a judgment made pursuant to Rule 59, or of a motion for relief from a judgment or order made pursuant to Rule 60, or of a motion for judgment made pursuant to Rule 50, or of a motion for amendment to the findings or for additional findings made pursuant to Rule 52(b). If the time provided in the controlling statute or rule of appellate procedure for giving notice of appeal from the

1 judgment had not expired before a stay under this subsection was entered, that time shall begin to
2 run immediately upon the expiration of any stay under this section, and no execution shall issue nor
3 shall proceedings be taken for enforcement of the judgment until the expiration of that time.

4 (c) Injunction pending appeal. – When an appeal is taken from an interlocutory or final
5 judgment granting, dissolving, or denying an injunction, the court in its discretion may suspend,
6 modify, restore, or grant an injunction during the pendency of the appeal upon such terms as to
7 bond or otherwise as it considers proper for the security of the rights of the adverse party.

8 (d) Stay upon appeal. – When an appeal is taken, the appellant may obtain a stay of
9 execution, subject to the exceptions contained in section (a), by proceeding in accordance with and
10 subject to the conditions of G.S. 1-289, G.S. 1-290, G.S. 1-291, G.S. 1-292, G.S. 1-293, G.S. 1-294,
11 and G.S. 1-295.

12 When stay is had by giving supersedeas bond, the bond may be given at or after the time of
13 filing the notice of appeal or of procuring the order allowing the appeal as the case may be, and stay
14 is then effective when the supersedeas bond is approved by the court.

15 (e) Stay in favor of North Carolina, city, county, local board of education, or agency thereof.
16 – When an appeal is taken by the State of North Carolina, or a city or a county thereof, a local board
17 of education, or an officer in his official capacity or agency thereof or by direction of any
18 department or agency of the State of North Carolina or a city or county thereof or a local board of
19 education and the operation or enforcement of the judgment is stayed, no bond, obligation, or other
20 security shall be required from the appellant.

21 (f) Power of appellate court not limited. – The provisions of this rule do not limit any power
22 of an appellate court or of a judge or justice thereof to stay proceedings during the pendency of an
23 appeal or to suspend, modify, restore, or grant an injunction during the pendency of an appeal or to
24 make any order appropriate to preserve the status quo or the effectiveness of the judgment
25 subsequently to be entered.

26 (g) Stay of judgment as to multiple claims or multiple parties. – When a court has ordered a
27 final judgment under the conditions stated in Rule 54(b), the court may stay enforcement of that
28 judgment until the entering of a subsequent judgment or judgments and may prescribe such
29 conditions as are necessary to secure the benefit thereof to the party in whose favor the judgment is
30 entered.

31 (h) Injunction pending appeal of as-applied constitutional challenge. – Notwithstanding any
32 other provision of law, where a trial court grants interlocutory, temporary, or permanent injunctive
33 or declaratory relief restraining the State or a political subdivision of the State from enforcing the
34 operation or execution of an act of the General Assembly as applied against a party in a civil action,
35 the court shall stay the relief granted pending appeal. This subsection only applies where the State
36 or a political subdivision of the State is a party in the civil action. This subsection does not apply to
37 facial challenges heard by a three-judge panel pursuant to G.S. 1-267.1."

38 **SECTION 18B.16.(e)** G.S. 7A-27 reads as rewritten:

39 **"§ 7A-27. Appeals of right from the courts of the trial divisions.**

40 (a) Appeal lies of right directly to the Supreme Court in all cases in which the defendant is
41 convicted of murder in the first degree and the judgment of the superior court includes a sentence of
42 death.

43 (a1) Appeal lies of right directly to the Supreme Court from any order or judgment of a court,
44 either final or interlocutory, that holds that an act of the General Assembly, based upon the United
45 States Constitution or North Carolina Constitution, is unconstitutional on its face.

46 (b) Appeal lies of right directly to the Court of Appeals in any of the following cases:

47 (1) From any final judgment of a superior court, other than the one described in
48 subsection (a) of this section, or one based on a plea of guilty or nolo contendere,
49 including any final judgment entered upon review of a decision of an
50 administrative agency, except for a final judgment entered upon review of a court
51 martial under G.S. 127A-62.

- 1 (2) From any final judgment of a district court in a civil action.
- 2 (3) From any interlocutory order or judgment of a superior court or district court in a
- 3 civil action or proceeding which does any of the following:
- 4 a. Affects a substantial right.
- 5 b. In effect determines the action and prevents a judgment from which an
- 6 appeal might be taken.
- 7 c. Discontinues the action.
- 8 d. Grants or refuses a new trial.
- 9 e. Determines a claim prosecuted under G.S. 50-19.1.
- 10 f. Grants temporary injunctive relief restraining the State or a political
- 11 subdivision of the State from enforcing the operation or execution of an
- 12 act of the General Assembly as applied against a party in a civil action.
- 13 This subsection only applies where the State or a political subdivision of
- 14 the State is a party in the civil action. This subsection does not apply to
- 15 facial challenges heard by a three-judge panel pursuant to G.S. 1-267.1.
- 16 (4) From any other order or judgment of the superior court from which an appeal is
- 17 authorized by statute.
- 18 (c) through (e) Repealed by Session Laws 2013-411, s. 1, effective August 23, 2013."
- 19 **SECTION 18B.16.(f)** This section becomes effective on July 1, 2014, and applies to
- 20 any claim filed on or after that date, whether alleged in any filed action or raised as a defense or
- 21 claim during proceedings on any action, that asserts that an act of the General Assembly is either
- 22 facially invalid or invalid as applied to a set of factual circumstances, based upon the North
- 23 Carolina or United States Constitutions.
- 24