

2017-2018

**HOUSE
JUDICIARY I**

MINUTES

HOUSE JUDICIARY I COMMITTEE

2017-2018 SESSION

REPRESENTATIVE TED DAVIS, JR., CHAIRMAN

JUDY LOWE, COMMITTEE ASSISTANT



HOUSE COMMITTEE ON JUDICIARY I
2017-2018 SESSION

Clerk: Judy Lowe



Rep. Ted Davis, Jr. Chair



**Rep. Duane Hall,
Vice-Chair**



**Rep. Darren Jackson,
Vice-Chair**



**Rep. Sarah Stevens,
Vice-Chair**



**Rep. Rena Turner,
Vice-Chair**



Rep. Dean Arp



Rep. Jean Farmer-Butterfield



Rep. Julia Howard



Rep. Grier Martin



Rep. Allen McNeill



Rep. Graig Meyer



Rep. David Rogers



Rep. Bob Steinburg



HOUSE COMMITTEE ON JUDICIARY I

<u>MEMBER</u>	<u>ASSISTANT</u>	<u>PHONE</u>	<u>OFFICE</u>	<u>SEAT</u>
<u>Chairman</u>				
Rep. Ted Davis, Jr.	Judy Lowe	733-5786	417B	27
<u>Vice-Chairs</u>				
Rep. Duane Hall	Brad Kennedy	733-5755	1004	58
Rep. Darren Jackson	Angela McMillan	733-5974	506	57
Rep. Sarah Stevens	Lisa Brown	715-1883	419	7
Rep. Rena Turner	Barbara Gaiser	733-5661	606	52
<u>Members</u>				
Rep. Dean Arp	Wendy Miller	715-3007	529	66
Rep. Jean Farmer-Butterfield	Portia Bright	733-5898	1220	33
Rep. Julia Howard	Cody Honeycutt	733-5904	302	1
Rep. Grier Martin	Sylvia Hammons	733-5773	1023	94
Rep. Allen McNeill	Laura Sullivan	715-4946	418B	55
Rep. Graig Meyer	Daphne Quinn	715-3019	1426	105
Rep. David Rogers	Baxter Knight	733-5749	418C	78
Rep. Bob Steinburg	Andrew Bowers	733-0010	301B	43
<u>Staff</u>				
Bill Patterson		733-2578		
Jennifer Bedford				
Jason Moran-Bates				
<u>Committee Assistant</u>				
Judy Lowe		733-5786		



(Name of Committee)

[illegible]



Corrected #1: Add HB26

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Wednesday, February 15, 2017

TIME: 1:00 PM

LOCATION: 415 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 3</u>	Eminent Domain.	Representative McGrady Representative Lewis Representative Malone Representative Goodman
<u>HB 26</u>	Workers' Comp/Approval of Disputed Legal Fees.	Representative Watford Representative Zachary

Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 12:35 PM on Friday, June 02, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Judy Lowe (Committee Assistant)



Judy Lowe (Rep. Ted Davis)

From: Judy Lowe (Rep. Ted Davis)
Sent: Tuesday, February 14, 2017 10:16 AM
To: Rep. David Lewis; Rep. Chuck McGrady; Rep. Ken Goodman; Rep. Chris Malone
Cc: Grace Rogers (Rep. David Lewis); Brittany Eller (Rep. Chuck McGrady); Judy Veorse (Rep. Ken Goodman); Skye David (Rep. Chris Malone)
Subject: <NCGA> House Judiciary I Committee Meeting Notice for Wednesday, February 15, 2017 at 1:00 PM
Attachments: Add Meeting to Calendar_LINC_.ics

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Wednesday, February 15, 2017
TIME: 1:00 PM
LOCATION: 415 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 3	Eminent Domain Const. Amendment.	Representative McGrady Representative Lewis Representative Malone Representative Goodman

Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 10:13 AM on Tuesday, February 14, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Judy Lowe (Committee Assistant)



House Committee on Judiciary I
Wednesday, February 15, 2017, 1:00 PM
415 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 3	Eminent Domain Const. Amendment.	Representative McGrady Representative Lewis Representative Malone Representative Goodman
HB 26	Workers' Comp/Approval of Disputed Legal Fees.	Representative Watford Representative Zachary

Presentations

Other Business

Adjournment



House Committee on Judiciary I
Wednesday, February 15, 2017 at 1:00 PM
Room 415

MINUTES

The House Committee on Judiciary I met at 1:00 PM on February 15, 2017 in Room 415. Representatives Arp, Davis, Farmer-Butterfield, Howard, Martin, McNeill, Rogers, Steinburg, and Turner attended.

The following staff members were also in attendance: Bill Patterson, Jennifer Bedford, Jason Moran-Bates and Judy Lowe, Committee Clerk.

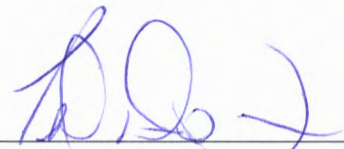
Representative Ted Davis, Jr., Committee Chairman presided.

He introduced the pages as follows: Maanasi Bulusu and Maraeh Carringer. He then introduced the Sergeants at Arms including Bill Bass, Jonas Cherry, Mark Cone and Joe Crook.

The first bill on the agenda was **HB3—Eminent Domain Const. Amendment**. There was a motion to put the PCS before the Committee and Representative McGrady explained the bill, noting that House Bills HB3 and HB10 were combined. The PCS proposes that the North Carolina Constitution be amended to prohibit condemnation of private property except for a public use and to require the payment of just compensation for the property taken in an amount to be determined by jury trial, if requested by any party. The Chairman called for discussion first from the committee members and then from the public. There was none and Representative Arp moved approval for the favorable committee substitute, unfavorable to the original bill. The motion passed unanimously.

HB 26—Workers' Comp/Approval of Disputed Legal Fees was explained by Representative Watford. It would require the Industrial Commission to give notice of the amount of approved attorneys' fees in a workers' compensation case to all attorneys who represented the injured worker. There was an amendment to the bill by Representative Steinburg. Following a brief discussion of the amendment the Chairman called for a vote. The amendment passed. Representative Howard moved approval for the favorable committee substitute, unfavorable to the original bill. The motion passed unanimously.

The meeting adjourned at 1:25 PM.



Representative Ted Davis, Jr., Chair
Presiding



Judy Lowe, Committee Clerk





HOUSE BILL 3: Eminent Domain.

2017-2018 General Assembly

Committee:	House Judiciary I	Date:	February 14, 2017
Introduced by:	Reps. McGrady, Lewis, Malone, Goodman	Prepared by:	Bill Patterson
Analysis of:	PCS to First Edition H3-CSTG-2		Committee Co-Counsel

OVERVIEW: *The Proposed Committee Substitute for House Bill 3 proposes that the North Carolina Constitution be amended to prohibit condemnation of private property except for a public use and to require the payment of just compensation for the property taken in an amount to be determined by jury trial, if requested by any party. The bill also makes a conforming statutory change to state the purpose for which property may be taken by eminent domain as "public use," and clarifies the types of construction projects for which private property may be acquired by eminent domain by private condemnors, local public condemnors and other public condemnors subject to G.S. 40A-3. The PCS adds statutory changes as set forth in new Section 4.*

[As introduced, this bill was identical to S34, as introduced by Sen. B. Jackson, which is currently in Senate Rules and Operations of the Senate.]

CURRENT LAW:

The right of citizens in North Carolina to receive just compensation for property taken by eminent domain for public use is guaranteed under both the United States Constitution and the North Carolina Constitution.¹

The North Carolina Supreme Court has recognized several tests to determine if a particular taking is permissible, including "public use", "public purpose" and "public benefit,"² and has also held that the General Assembly "has the right to determine what portion of this power it will delegate to public or private corporations."³

The General Assembly has enacted various statutes authorizing the use of eminent domain to acquire property by condemnation for "public use or benefit" under certain circumstances.

Chapter 40A of the General Statutes provides condemnation procedures for private condemnors, local public condemnors and other public condemnors. G.S. 40A-3 provides the list of specific purposes for which the power may be used by those condemnors. Other State agencies are granted the power of

¹ The 5th Amendment to the United States Constitution states that private property shall not "be taken for public use without just compensation." Article I, Section 19 of the North Carolina Constitution states that "[n]o person shall be...in any manner deprived of his ... property, but by the law of the land." The North Carolina Supreme Court has ruled that the fundamental right to just compensation for property taken by eminent domain arises from this section. Long v. City of Charlotte, 306 N.C. 187, 293 S.E.2d 101 (1982). In addition, Section 1 of the 14th amendment to the United States Constitution provides that no state may "deprive any person of life, liberty, or property, without due process of law."

² See, e.g. Carolina Telephone and Telegraph Co. v McLeod, 321 N.C. 426, 364 S.E.2d 399 (1988), and Piedmont Triad Airport Authority V. Urbine, 354 N.C. 336, 554 S.E.2d 331 (2001).

³ Carolina Telephone and Telegraph Co. v McLeod, *supra*, 321 N.C. at 429, 364 S.E.2d at 401.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House PCS 3

Page 2

eminent domain for specified purposes in other Chapters of the General Statutes, such as the Department of Transportation under Chapter 136.

Although the North Carolina Supreme Court has ruled that there is no State Constitutional right to a jury trial on the issue of compensation for property taken by eminent domain,⁴ State statutes do authorize a jury trial on the issue of compensation for the taking of property.⁵

In 2006, the General Assembly repealed local acts that had broadened the purposes for which eminent domain may be used beyond those set forth in G.S. 40A-3, and limited the use of eminent domain for certain revenue bond projects.⁶

BILL ANALYSIS:

Section 1 proposes to amend the North Carolina Constitution to add a new Section 19.1 to Article I that would prohibit the taking of private property by eminent domain except for a public use. The amendment also would require just compensation to be paid as determined by jury trial if requested by any party.

Section 2 provides that the amendment shall be submitted to the voters of the State at the statewide election on November 6, 2018.

Section 3 provides that if a majority of the voters favor the amendment, the State Board of Elections shall certify the amendment to the Secretary of State, who shall then enroll the amendment. The amendment would become effective upon certification and apply to takings occurring after that date.

Section 4 (*added by the PCS*) amends G.S. 40A-3 to:

- Change the purpose for which private, local public, and other public condemnors may condemn property from "public use or benefit" to "public use."
- Clarify that the purposes for which private condemnors may acquire property for the public use include construction of "communication facilities" (replacing the current reference to "telegraphs" and "telephones") and "facilities related to the distribution of natural gas."
- Permit private condemnors, local public condemnors, and other public condemnors subject to G.S. 40A-3 to acquire property by eminent domain for the connection of any customer or customers.

EFFECTIVE DATE: Section 4 of this act becomes effective when this act becomes law and applies to takings occurring on or after that date. The remainder of this act is effective when it becomes law.

⁴ Kaperonis v. NC State Highway Commission, 260 N.C. 587, 133 S.E.2d 464 (1963).

⁵ G.S. 40A-29, 136-109.

⁶ S.L. 2006-224. The act was in part, a response to the U.S. Supreme Court decision in the case of Kelo v. City of New London (2005), 545 U.S. 469 (2005). The case held that the State of Connecticut could constitutionally condemn private property for the purpose of transferring some of the property to a third party for economic development purposes. The court found that the redevelopment plan pursuant to which the condemnation and transfer occurred was a public use. The court also reaffirmed its broad interpretation of the term "public purpose" as meeting the requirements of "public use."

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

D

HOUSE BILL 3
PROPOSED COMMITTEE SUBSTITUTE H3-CSTG-2 [v.3]
02/14/2017 03:01:21 PM

Short Title: Eminent Domain.

(Public)

Sponsors:

Referred to:

January 26, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROHIBIT
3 CONDEMNATION OF PRIVATE PROPERTY EXCEPT FOR A PUBLIC USE, TO
4 PROVIDE FOR THE PAYMENT OF JUST COMPENSATION WITH RIGHT OF TRIAL
5 BY JURY IN ALL CONDEMNATION CASES, AND TO MAKE SIMILAR STATUTORY
6 CHANGES.
7 The General Assembly of North Carolina enacts:
8 **SECTION 1.** Article I of the North Carolina Constitution is amended by adding a new
9 section to read:
10 **"Sec. 38. Eminent domain.**
11 Private property shall not be taken by eminent domain except for a public use. Just
12 compensation shall be paid and shall be determined by a jury at the request of any party."
13 **SECTION 2.** The amendment set out in Section 1 of this act shall be submitted to the
14 qualified voters of the State at a statewide election to be conducted on November 6, 2018, which
15 election shall be conducted under the laws then governing elections in the State. The question to
16 be used in the voting systems and ballots shall be:
17 "[] FOR [] AGAINST
18 Constitutional amendment to prohibit condemnation of private property except for a
19 public use and to provide for the payment of just compensation with right of trial by jury in all
20 condemnation cases."
21 **SECTION 3.** If a majority of votes cast on the question are in favor of the amendment
22 set out in Section 1 of this act, the State Board of Elections shall certify the amendment to the
23 Secretary of State. The Secretary of State shall enroll the amendment so certified among the
24 permanent records of that office. The amendment set out in Section 1 of this act becomes effective
25 upon certification and applies to takings after that date.
26 **SECTION 4.** G.S. 40A-3 reads as rewritten:
27 **"§ 40A-3. By whom right may be exercised.**
28 (a) Private Condemnors. – For the public ~~use or benefit~~, use, the persons or organizations
29 listed below shall have the power of eminent domain and may acquire by purchase or
30 condemnation property for the stated purposes and other works which are authorized by ~~law~~ law:
31 (1) Corporations, bodies politic or persons have the power of eminent domain for
32 the construction of railroads, power generating facilities, substations, switching
33 stations, microwave towers, roads, alleys, access railroads, turnpikes, street
34 railroads, plank roads, tramroads, canals, ~~telegraphs, telephones, communication~~
35 facilities, electric power lines, electric lights, public water supplies, public
36 sewerage systems, flumes, bridges, facilities related to the distribution of



1 ~~natural gas, and pipelines or mains originating in North Carolina~~ for the
2 transportation of petroleum products, coal, natural gas, limestone or minerals.
3 Land condemned for any liquid pipelines ~~shall~~ shall meet both of the following
4 requirements:

5 a. Not be less than 50 feet nor more than 100 feet in ~~width; and~~ width.

6 b. Comply with the provisions of G.S. 62-190(b).

7 The width of land condemned for any natural gas pipelines shall not be more
8 than 100 feet.

9 ...

10 (b) Local Public Condemnors – Standard Provision. – For the public ~~use or benefit, use,~~
11 the governing body of each municipality or county shall possess the power of eminent domain and
12 may acquire by purchase, gift or condemnation any property, either inside or outside its
13 boundaries, for the following ~~purposes.~~ purposes:

14 ...

15 (b1) Local Public Condemnors – Modified Provision for Certain Localities. – For the public
16 ~~use or benefit, use,~~ the governing body of each municipality or county shall possess the power of
17 eminent domain and may acquire by purchase, gift or condemnation any property or interest
18 therein, either inside or outside its boundaries, for the following ~~purposes.~~ purposes:

19 ...

20 (c) Other Public Condemnors. – For the public ~~use or benefit, use,~~ the following political
21 entities shall possess the power of eminent domain and may acquire property by purchase, gift, or
22 condemnation for the stated ~~purposes.~~ purposes:

23 ...

24 (d) Connection of Customers. – For the public use, private condemnors, local public
25 condemnors, and other public condemnors in subsections (a), (b), (b1), and (c) of this section shall
26 possess the power of eminent domain and may acquire by purchase, gift, or condemnation any
27 property for the connection of any customer or customers."

28 **SECTION 5.** Section 4 of this act is effective when this act becomes law and applies
29 to takings occurring on or after that date. The remainder of this act is effective when it becomes
30 law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2017

H

1

HOUSE BILL 3

Short Title: Eminent Domain Const. Amendment.

(Public)

Sponsors: Representatives McGrady, Lewis, Malone, and Goodman (Primary Sponsors).

Referred to: Judiciary I

January 26, 2017

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROHIBIT
CONDEMNATION OF PRIVATE PROPERTY EXCEPT FOR A PUBLIC USE AND TO
PROVIDE FOR THE PAYMENT OF JUST COMPENSATION WITH THE RIGHT OF
TRIAL BY JURY IN ALL CONDEMNATION CASES.

The General Assembly of North Carolina enacts:

SECTION 1. Article I of the North Carolina Constitution is amended by adding a new
section to read:

"Sec. 38. Eminent domain.

Private property shall not be taken by eminent domain except for a public use. Just
compensation shall be paid and shall be determined by a jury at the request of any party."

SECTION 2. The amendment set out in Section 1 of this act shall be submitted to the
qualified voters of the State at a statewide election to be conducted on November 6, 2018, which
election shall be conducted under the laws then governing elections in the State. The question to
be used in the voting systems and ballots shall be:

"[] FOR [] AGAINST

Constitutional amendment to prohibit condemnation of private property except for a
public use and to provide for the payment of just compensation with right of trial by jury in all
condemnation cases."

SECTION 3. If a majority of votes cast on the question are in favor of the amendment
set out in Section 1 of this act, the State Board of Elections shall certify the amendment to the
Secretary of State. The Secretary of State shall enroll the amendment so certified among the
permanent records of that office. The amendment set out in Section 1 of this act becomes effective
upon certification and applies to takings after that date.

SECTION 4. This act is effective when it becomes law.







HOUSE BILL 26: Workers' Comp/Approval of Disputed Legal Fees.

2017-2018 General Assembly

Committee: House Judiciary I
Introduced by: Reps. Watford, Zachary
Analysis of: First Edition

Date: February 10, 2017
Prepared by: Jason Moran-Bates
Committee Co-Counsel

OVERVIEW: *House Bill 26 would require the Industrial Commission to give notice of the amount of the approved attorneys' fees in a workers' compensation case to all attorneys who represented the injured worker.*

CURRENT LAW: In workers' compensation proceedings, the amount of the fee for the injured employee's attorney must be approved by the Industrial Commission, and the Commission also hears and determines any dispute between the employee's current and past attorneys over the division of the approved fee. In making that determination, the Commission currently is not required to disclose the total amount of the approved fee to the employee's past attorney.

BILL ANALYSIS: House Bill 26 would amend G.S. 97-90(f) to require the Industrial Commission to provide notice of the total amount of the fee approved for division between attorneys to an injured worker's current and previous attorney.

EFFECTIVE DATE: This act is effective when it becomes law and applies to claims pending on or after that date.

Karen Cochrane-Brown
Director



H 2 6 - S M B C - 1 E 1 - V - 9

Legislative Analysis
Division
919-733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 26

Short Title: Workers' Comp/Approval of Disputed Legal Fees. (Public)

Sponsors: Representatives Watford and Zachary (Primary Sponsors).

Referred to: Judiciary I

January 30, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE WORKERS' COMPENSATION ACT REGARDING THE
3 APPROVAL OF DISPUTED LEGAL FEES BY THE INDUSTRIAL COMMISSION.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 97-90(f) reads as written:

6 "(f) The Commission shall hear and determine any dispute between an employee's current
7 and past attorney or attorneys regarding the division of a fee as approved by the Commission
8 pursuant to this section. Before ordering the division of a fee under this subsection, the
9 Commission shall give notice to each of the employee's current and past attorneys of the total
10 amount of the fee approved by the Commission for division between those attorneys. An attorney
11 who is a-an interested party to an action under this subsection shall have the same rights of appeal
12 as outlined in subsection (c) of this section."

13 **SECTION 2.** This act is effective when it becomes law and applies to claims pending
14 on or after that date.





NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 26

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H26-ABC-4 [v.2]

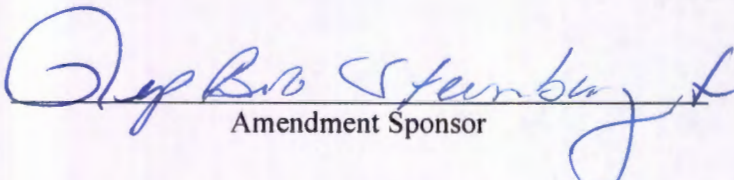
Page 1 of 1

Amends Title [NO]
First Edition

Date _____, 2017

Representative _____

- 1 moves to amend the bill on page 1, lines 6-12, by rewriting those lines to read as follows:
2 "(f) If a dispute arises between an employee's current and past attorney or attorneys
3 regarding the division of a fee as approved by the Commission pursuant to this section, the
4 Commission shall hear and determine any dispute between an employee's current and past attorney
5 or attorneys regarding the division of a fee as approved by the Commission pursuant to this
6 section any dispute after the Commission has approved the settlement agreement. The
7 Commission shall give notice to each of the employee's current and past attorneys of the total
8 amount of the approved fee prior to determining how the fee shall be divided between those
9 attorneys. An attorney who is a an interested party to an action under this subsection shall have the
10 same rights of appeal as outlined in subsection (c) of this section."
11
12

SIGNED 
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



* H 2 6 - A B C - 4 - V - 2 *

**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

**JUDICIARY I COMMITTEE REPORT
Representative Ted Davis, Jr., Chair**

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL

HB 3	Eminent Domain Const. Amendment.
	Draft Number: H3-PCS40073-TG-2
	Serial Referral: None
	Recommended Referral: None
	Long Title Amended: Yes
	Floor Manager: McGrady
HB 26	Workers' Comp/Approval of Disputed Legal Fees.
	Draft Number: H26-PCS40074-BC-2
	Serial Referral: None
	Recommended Referral: None
	Long Title Amended: No
	Floor Manager: Watford

TOTAL REPORTED: 2



★ C M R 1 1 - V - 3 ★



VISITOR REGISTRATION SHEET

Judiciary I

Name of Committee

2/15/17

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Matthew Docklem	Appalachian State University
Alan Brown	UNK-TV
John DelGrosso	Brubaker & Assoc.
Sarah Bales	IL "
Flint Benson	SEANC
Dan Collins	" "
Andy Munn	MVA
Stewart Harbo	NCAABA
Suzanne Birdsong	ACLU-NC
Deborah Villalobos	NCREACTORS



VISITOR REGISTRATION SHEET

Judiciary I

Name of Committee

2/15/17

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

GERY CONEY	Nelson Mullins
David McGowan	NCPL
Bo Hatt	McGuire Wood
Chris Brington	MWC
Peter Bolac	NC State Bar
Joe Turner	Pulse Energy
Ben Z	Dave Z
RM Zee	KOAS
Caitlin Little	UNC SDG
Phil Stary	BMV
Tonya HoAm	TSS
Carson White	MVA
Quarwood	NS
Josh Lane	XL



**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Thursday, February 23, 2017

TIME: **Immediately after Session**

LOCATION: **415 LOB**

COMMENTS: **This is to re-schedule the Judiciary I Committee that was cancelled on February 22nd.**

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 31</u>	Material Fact Disclosure Clarifications.	Representative Hastings Representative Stone Representative Davis Representative Floyd

Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 12:47 PM on Friday, June 02, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Judy Lowe (Committee Assistant)



**House Committee on Judiciary I
Thursday, February 23, 2017, Immediately after Session
415 Legislative Office Building**

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Introduction of Sergeants at Arms

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 31	Material Fact Disclosure Clarifications.	Representative Hastings Representative Stone Representative Davis Representative Floyd

Adjournment



House Committee on Judiciary I
Thursday, February 23, 2017 Immediately after Session
Room 415 of the Legislative Office Building

MINUTES

The House Committee on Judiciary I met immediately after Session on February 23, 2017 in Room 415 of the Legislative Office Building. Representatives Ted Davis, Jr., Duane Hall, Sarah Stevens, Rena Turner, Chairs, and Dean Arp, Jean Farmer-Butterfield, Julia Howard, Grier Martin, Allen McNeill, Graig Meyer and David Rogers attended. Staff members in attendance were Bill Patterson, Jennifer Bedford, Jason Moran-Bates, and Judy Lowe, Committee Clerk were also present.

Representative Ted Davis, Jr. presided. He called the meeting to order at 11:45 AM. He introduced the Sergeants-at-Arms; there were no pages.

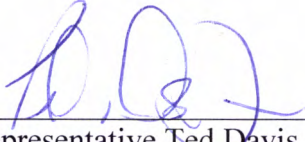
The following bill was considered:

HB 31--Material Fact Disclosure Clarifications. Representative Hastings explained that the bill would clarify that the inclusion of real property in a Comprehensive Transportation Plan (CTP) that is not financially constrained is not a material fact that must be disclosed in a real estate transaction. There were questions from members on why the bill was necessary. Mr. Giles Perry, Legislative Analysis Division responded to the questions.

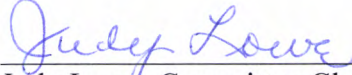
The Chairman asked for questions from the public and Cady Thomas from Focus Carolina and Fred Moreno, NC Real Estate Commission spoke regarding concerns about the bill. They provided a Code of Ethics and Standards of Practice of the National Association of Realtors and the State of North Carolina Residential Property and Owners' Association Disclosure Statement which are attached.

It was determined that the bill would be on the agenda for the next Judiciary I meeting and that an amendment was needed at that time.

The meeting adjourned at 12:55 PM.



Representative Ted Davis, Jr., Presiding Chair

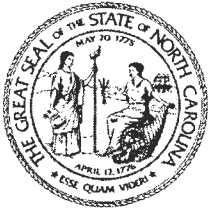


Judy Lowe, Committee Clerk

Attachments:

1. Code of Ethics and Standards of Practice of the National Association of Realtors
2. State of North Carolina Residential Property and Owners' Association Disclosure Statement





HOUSE BILL 31: Material Fact Disclosure Clarifications.

2017-2018 General Assembly

Committee:	House Judiciary I. If favorable, re-refer to Transportation	Date:	February 20, 2017
Introduced by:	Reps. Hastings, Stone, Davis, Floyd	Prepared by:	Jason Moran-Bates
Analysis of:	PCS to First Edition H31-CSBC-3		Committee Co-Counsel

OVERVIEW: *House Bill 31 would clarify that the inclusion of real property in a Comprehensive Transportation Plan (CTP) that is not financially constrained is not a material fact that must be disclosed in a real estate transaction.*

CURRENT LAW: Under G.S. 93A-6(a)(1), the North Carolina Real Estate Commission can take disciplinary action against a real estate broker who misrepresents or omits a material fact in a real estate transaction.

G.S. 47E-4 requires sellers of residential real property to provide the purchaser with a disclosure statement covering specified characteristics and conditions of the property listed for sale. As to each of the listed characteristics and conditions included in the disclosure statement, the seller must respond either that it is present in the property, that it is not present in the property, or that the seller makes no representation as to the characteristic or condition.

Current law does not specifically state whether inclusion of residential real property on a CTP that is not financially constrained is a material fact that must be disclosed by a real estate broker or is a characteristic or condition of the property subject to disclosure by the seller.

BILL ANALYSIS:

Section 1: House Bill 31 would amend Article 9 of Chapter 39 of the General Statutes to clarify that the mere fact that a piece of real property is listed on a CTP that is not financially constrained is not a material fact that must be disclosed by the party offering the real property for conveyance; therefore, failure to disclose the fact that a property was listed on a CTP that is not financially constrained could not, by itself, be the basis for discipline of a broker under G.S. 93A-6(a)(1). House Bill 31 would clarify that a party conveying real property may not knowingly make a false statement regarding the property's inclusion on a CTP that is not financially constrained.

Section 2 of House Bill 31 would add a section to G.S. 47E-4 to clarify that inclusion of a piece of real property on a CTP that is not financially constrained is not a material fact which must be included on the mandatory disclosure form a seller must furnish to a potential buyer of residential real property. The bill would also clarify that neither the seller nor anyone acting as an agent of the seller may make a false statement regarding the inclusion of the property on a CTP that is not financially constrained.

EFFECTIVE DATE: This act is effective when it becomes law and applies to real estate contracts entered into on or after that date.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House PCS 31

Page 2

BACKGROUND: CTPs are long-range, not-financially-constrained transportation plans for municipalities, counties, and large metropolitan areas. They represent a community's consensus on the future transportation systems needed to support anticipated growth over a 20-30 year timeframe. CTPs differ from the State Transportation Improvement Program, which is a list of transportation projects that will receive funding in the next ten years.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 31

Short Title: Material Fact Disclosure Clarifications. (Public)

Sponsors: Representatives Hastings, Stone, Davis, and Floyd (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I, if favorable, Transportation

February 2, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THAT THE INCLUSION OF REAL PROPERTY ON A
3 COMPREHENSIVE TRANSPORTATION PLAN IS NOT A REQUIRED DISCLOSURE
4 OR A MATERIAL FACT FOR THE PURPOSES OF DISCLOSURE FOR REAL ESTATE
5 TRANSACTIONS.
6 The General Assembly of North Carolina enacts:
7 SECTION 1. Article 9 of Chapter 39 of the General Statutes is amended by adding a
8 new section to read:
9 "**§ 39-51. Inclusion of real property in a comprehensive transportation plan not a material**
10 **fact.**
11 In offering real property for conveyance, rent, or lease, it shall not be deemed a material fact
12 that the real property, or any portion thereof, is included in a comprehensive transportation plan
13 adopted pursuant to G.S. 136-66.2 or G.S. 136-212, or in accordance with 23 U.S.C. §§ 134 or
14 135; provided, however, that a party to the conveyance, rental, or lease, or an agent of any said
15 party, may not knowingly make a false statement regarding any such fact."
16 SECTION 2. G.S. 47E-4 reads as rewritten:
17 "**§ 47E-4. Required disclosures.**
18 ...
19 (b3) The adoption of a comprehensive transportation plan pursuant to G.S. 136-66.2 or
20 136-212, or in accordance with 23 U.S.C. §§ 134 or 135, shall not be considered a required
21 disclosure as provided in this section; provided, however, that no person subject to this Chapter, or
22 an agent of a person subject to this Chapter, may knowingly make a false statement regarding any
23 such fact.
24"
25 SECTION 3. This act is effective when it becomes law and applies to real estate
26 contracts entered into on or after that date.





Code of Ethics and Standards of Practice

of the NATIONAL ASSOCIATION OF REALTORS®

Effective January 1, 2017

Where the word REALTORS® is used in this Code and Preamble, it shall be deemed to include REALTOR-ASSOCIATE®s.

While the Code of Ethics establishes obligations that may be higher than those mandated by law, in any instance where the Code of Ethics and the law conflict, the obligations of the law must take precedence.

Preamble

Under all is the land. Upon its wise utilization and widely allocated ownership depend the survival and growth of free institutions and of our civilization. REALTORS® should recognize that the interests of the nation and its citizens require the highest and best use of the land and the widest distribution of land ownership. They require the creation of adequate housing, the building of functioning cities, the development of productive industries and farms, and the preservation of a healthful environment.

Such interests impose obligations beyond those of ordinary commerce. They impose grave social responsibility and a patriotic duty to which REALTORS® should dedicate themselves, and for which they should be diligent in preparing themselves. REALTORS®, therefore, are zealous to maintain and improve the standards of their calling and share with their fellow REALTORS® a common responsibility for its integrity and honor.

In recognition and appreciation of their obligations to clients, customers, the public, and each other, REALTORS® continuously strive to become and remain informed on issues affecting real estate and, as knowledgeable professionals, they willingly share the fruit of their experience and study with others. They identify and take steps, through enforcement of this Code of Ethics and by assisting appropriate regulatory bodies, to eliminate practices which may damage the public or which might discredit or bring dishonor to the real estate profession. REALTORS® having direct personal knowledge of conduct that may violate the Code of Ethics involving misappropriation of client or customer funds or property, willful discrimination, or fraud resulting in substantial economic harm, bring such matters to the attention of the appropriate Board or Association of REALTORS®. (Amended 1/00)

Realizing that cooperation with other real estate professionals promotes the best interests of those who utilize their services, REALTORS® urge exclusive representation of clients; do not attempt to gain any unfair advantage over their competitors; and they refrain from making unsolicited comments about other practitioners. In instances where their opinion is sought, or where REALTORS® believe that comment is necessary, their opinion is offered in an objective, professional manner, uninfluenced by any personal motivation or potential advantage or gain.

The term REALTOR® has come to connote competency, fairness, and high integrity resulting from adherence to a lofty ideal of moral conduct in business relations. No inducement of profit and no instruction from clients ever can justify departure from this ideal.

In the interpretation of this obligation, REALTORS® can take no safer guide than that which has been handed down through the centuries, embodied in the Golden Rule, "Whatsoever ye would that others should do to you, do ye even so to them."

Accepting this standard as their own, REALTORS® pledge to observe its spirit in all of their activities whether conducted personally, through associates or others, or via technological means, and to conduct their business in accordance with the tenets set forth below. (Amended 1/07)

Article 1

When representing a buyer, seller, landlord, tenant, or other client as an agent, REALTORS® pledge themselves to protect and promote the interests of their client. This obligation to the client is primary, but it does not relieve REALTORS® of their obligation to treat all parties honestly. When serving a buyer, seller, landlord, tenant or other party in a non-agency capacity, REALTORS® remain obligated to treat all parties honestly. (Amended 1/01)

• Standard of Practice 1-1

REALTORS®, when acting as principals in a real estate transaction, remain obligated by the duties imposed by the Code of Ethics. (Amended 1/93)

• Standard of Practice 1-2

The duties imposed by the Code of Ethics encompass all real estate-related activities and transactions whether conducted in person, electronically, or through any other means.

The duties the Code of Ethics imposes are applicable whether REALTORS® are acting as agents or in legally recognized non-agency capacities except that any duty imposed exclusively on agents by law or regulation shall not be imposed by this Code of Ethics on REALTORS® acting in non-agency capacities.

As used in this Code of Ethics, "client" means the person(s) or entity(ies) with whom a REALTOR® or a REALTOR®'s firm has an agency or legally recognized non-agency relationship; "customer" means a party to a real estate transaction who receives information, services, or benefits but has no contractual relationship with the REALTOR® or the REALTOR®'s firm; "prospect" means a purchaser, seller, tenant, or landlord who is not subject to a representation relationship with the REALTOR® or REALTOR®'s firm; "agent" means a real estate licensee (including brokers and sales associates) acting in an agency relationship as defined by state law or regulation; and "broker" means a real estate licensee (including brokers and sales associates) acting as an agent or in a legally recognized non-agency capacity. (Adopted 1/95, Amended 1/07)

• Standard of Practice 1-3

REALTORS®, in attempting to secure a listing, shall not deliberately mislead the owner as to market value.

• Standard of Practice 1-4

REALTORS®, when seeking to become a buyer/tenant representative, shall not mislead buyers or tenants as to savings or other benefits that might be realized through use of the REALTOR®'s services. (Amended 1/93)

• Standard of Practice 1-5

REALTORS® may represent the seller/landlord and buyer/tenant in the

same transaction only after full disclosure to and with informed consent of both parties. *(Adopted 1/93)*

• **Standard of Practice 1-6**

REALTORS® shall submit offers and counter-offers objectively and as quickly as possible. *(Adopted 1/93, Amended 1/95)*

• **Standard of Practice 1-7**

When acting as listing brokers, REALTORS® shall continue to submit to the seller/landlord all offers and counter-offers until closing or execution of a lease unless the seller/landlord has waived this obligation in writing. REALTORS® shall not be obligated to continue to market the property after an offer has been accepted by the seller/landlord. REALTORS® shall recommend that sellers/landlords obtain the advice of legal counsel prior to acceptance of a subsequent offer except where the acceptance is contingent on the termination of the pre-existing purchase contract or lease. *(Amended 1/93)*

• **Standard of Practice 1-8**

REALTORS®, acting as agents or brokers of buyers/tenants, shall submit to buyers/tenants all offers and counter-offers until acceptance but have no obligation to continue to show properties to their clients after an offer has been accepted unless otherwise agreed in writing. REALTORS®, acting as agents or brokers of buyers/tenants, shall recommend that buyers/tenants obtain the advice of legal counsel if there is a question as to whether a pre-existing contract has been terminated. *(Adopted 1/93, Amended 1/99)*

• **Standard of Practice 1-9**

The obligation of REALTORS® to preserve confidential information (as defined by state law) provided by their clients in the course of any agency relationship or non-agency relationship recognized by law continues after termination of agency relationships or any non-agency relationships recognized by law. REALTORS® shall not knowingly, during or following the termination of professional relationships with their clients:

- 1) reveal confidential information of clients; or
- 2) use confidential information of clients to the disadvantage of clients; or
- 3) use confidential information of clients for the REALTOR®'s advantage or the advantage of third parties unless:
 - a) clients consent after full disclosure; or
 - b) REALTORS® are required by court order; or
 - c) it is the intention of a client to commit a crime and the information is necessary to prevent the crime; or
 - d) it is necessary to defend a REALTOR® or the REALTOR®'s employees or associates against an accusation of wrongful conduct.

Information concerning latent material defects is not considered confidential information under this Code of Ethics. *(Adopted 1/93, Amended 1/01)*

• **Standard of Practice 1-10**

REALTORS® shall, consistent with the terms and conditions of their real estate licensure and their property management agreement, competently manage the property of clients with due regard for the rights, safety and health of tenants and others lawfully on the premises. *(Adopted 1/95, Amended 1/00)*

• **Standard of Practice 1-11**

REALTORS® who are employed to maintain or manage a client's property shall exercise due diligence and make reasonable efforts to protect it against reasonably foreseeable contingencies and losses. *(Adopted 1/95)*

• **Standard of Practice 1-12**

When entering into listing contracts, REALTORS® must advise sellers/landlords of:

- 1) the REALTOR®'s company policies regarding cooperation and the amount(s) of any compensation that will be offered to subagents, buyer/tenant agents, and/or brokers acting in legally recognized non-agency capacities;

- 2) the fact that buyer/tenant agents or brokers, even if compensated by listing brokers, or by sellers/landlords may represent the interests of buyers/tenants; and

- 3) any potential for listing brokers to act as disclosed dual agents, e.g., buyer/tenant agents. *(Adopted 1/93, Renumbered 1/98, Amended 1/03)*

• **Standard of Practice 1-13**

When entering into buyer/tenant agreements, REALTORS® must advise potential clients of:

- 1) the REALTOR®'s company policies regarding cooperation;
- 2) the amount of compensation to be paid by the client;
- 3) the potential for additional or offsetting compensation from other brokers, from the seller or landlord, or from other parties;
- 4) any potential for the buyer/tenant representative to act as a disclosed dual agent, e.g., listing broker, subagent, landlord's agent, etc., and
- 5) the possibility that sellers or sellers' representatives may not treat the existence, terms, or conditions of offers as confidential unless confidentiality is required by law, regulation, or by any confidentiality agreement between the parties. *(Adopted 1/93, Renumbered 1/98, Amended 1/06)*

• **Standard of Practice 1-14**

Fees for preparing appraisals or other valuations shall not be contingent upon the amount of the appraisal or valuation. *(Adopted 1/02)*

• **Standard of Practice 1-15**

REALTORS®, in response to inquiries from buyers or cooperating brokers shall, with the sellers' approval, disclose the existence of offers on the property. Where disclosure is authorized, REALTORS® shall also disclose, if asked, whether offers were obtained by the listing licensee, another licensee in the listing firm, or by a cooperating broker. *(Adopted 1/03, Amended 1/09)*

• **Standard of Practice 1-16**

REALTORS® shall not access or use, or permit or enable others to access or use, listed or managed property on terms or conditions other than those authorized by the owner or seller. *(Adopted 1/12)*

Article 2

REALTORS® shall avoid exaggeration, misrepresentation, or concealment of pertinent facts relating to the property or the transaction. REALTORS® shall not, however, be obligated to discover latent defects in the property, to advise on matters outside the scope of their real estate license, or to disclose facts which are confidential under the scope of agency or non-agency relationships as defined by state law. *(Amended 1/00)*

• **Standard of Practice 2-1**

REALTORS® shall only be obligated to discover and disclose adverse factors reasonably apparent to someone with expertise in those areas required by their real estate licensing authority. Article 2 does not impose upon the REALTOR® the obligation of expertise in other professional or technical disciplines. *(Amended 1/96)*

• **Standard of Practice 2-2**

(Renumbered as Standard of Practice 1-12 1/98)

• **Standard of Practice 2-3**

(Renumbered as Standard of Practice 1-13 1/98)

• **Standard of Practice 2-4**

REALTORS® shall not be parties to the naming of a false consideration in any document, unless it be the naming of an obviously nominal consideration.

• **Standard of Practice 2-5**

Factors defined as "non-material" by law or regulation or which are expressly referenced in law or regulation as not being subject to disclosure are considered not "pertinent" for purposes of Article 2. *(Adopted 1/93)*

Article 3

REALTORS® shall cooperate with other brokers except when cooperation is not in the client's best interest. The obligation to cooperate does not include the obligation to share commissions, fees, or to otherwise compensate another broker. *(Amended 1/95)*

- **Standard of Practice 3-1**

REALTORS®, acting as exclusive agents or brokers of sellers/ landlords, establish the terms and conditions of offers to cooperate. Unless expressly indicated in offers to cooperate, cooperating brokers may not assume that the offer of cooperation includes an offer of compensation. Terms of compensation, if any, shall be ascertained by cooperating brokers before beginning efforts to accept the offer of cooperation. *(Amended 1/99)*

- **Standard of Practice 3-2**

Any change in compensation offered for cooperative services must be communicated to the other REALTOR® prior to the time that REALTOR® submits an offer to purchase/lease the property. After a REALTOR® has submitted an offer to purchase or lease property, the listing broker may not attempt to unilaterally modify the offered compensation with respect to that cooperative transaction. *(Amended 1/14)*

- **Standard of Practice 3-3**

Standard of Practice 3-2 does not preclude the listing broker and cooperating broker from entering into an agreement to change cooperative compensation. *(Adopted 1/94)*

- **Standard of Practice 3-4**

REALTORS®, acting as listing brokers, have an affirmative obligation to disclose the existence of dual or variable rate commission arrangements (i.e., listings where one amount of commission is payable if the listing broker's firm is the procuring cause of sale/lease and a different amount of commission is payable if the sale/lease results through the efforts of the seller/landlord or a cooperating broker). The listing broker shall, as soon as practical, disclose the existence of such arrangements to potential cooperating brokers and shall, in response to inquiries from cooperating brokers, disclose the differential that would result in a cooperative transaction or in a sale/lease that results through the efforts of the seller/ landlord. If the cooperating broker is a buyer/tenant representative, the buyer/tenant representative must disclose such information to their client before the client makes an offer to purchase or lease. *(Amended 1/02)*

- **Standard of Practice 3-5**

It is the obligation of subagents to promptly disclose all pertinent facts to the principal's agent prior to as well as after a purchase or lease agreement is executed. *(Amended 1/93)*

- **Standard of Practice 3-6**

REALTORS® shall disclose the existence of accepted offers, including offers with unresolved contingencies, to any broker seeking cooperation. *(Adopted 5/86, Amended 1/04)*

- **Standard of Practice 3-7**

When seeking information from another REALTOR® concerning property under a management or listing agreement, REALTORS® shall disclose their REALTOR® status and whether their interest is personal or on behalf of a client and, if on behalf of a client, their relationship with the client. *(Amended 1/11)*

- **Standard of Practice 3-8**

REALTORS® shall not misrepresent the availability of access to show or inspect a listed property. *(Amended 11/87)*

- **Standard of Practice 3-9**

REALTORS® shall not provide access to listed property on terms

other than those established by the owner or the listing broker. *(Adopted 1/10)*

- **Standard of Practice 3-10**

The duty to cooperate established in Article 3 relates to the obligation to share information on listed property, and to make property available to other brokers for showing to prospective purchasers/tenants when it is in the best interests of sellers/landlords. *(Adopted 1/11)*

Article 4

REALTORS® shall not acquire an interest in or buy or present offers from themselves, any member of their immediate families, their firms or any member thereof, or any entities in which they have any ownership interest, any real property without making their true position known to the owner or the owner's agent or broker. In selling property they own, or in which they have any interest, REALTORS® shall reveal their ownership or interest in writing to the purchaser or the purchaser's representative. *(Amended 1/00)*

- **Standard of Practice 4-1**

For the protection of all parties, the disclosures required by Article 4 shall be in writing and provided by REALTORS® prior to the signing of any contract. *(Adopted 2/86)*

Article 5

REALTORS® shall not undertake to provide professional services concerning a property or its value where they have a present or contemplated interest unless such interest is specifically disclosed to all affected parties.

Article 6

REALTORS® shall not accept any commission, rebate, or profit on expenditures made for their client, without the client's knowledge and consent.

When recommending real estate products or services (e.g., homeowner's insurance, warranty programs, mortgage financing, title insurance, etc.), REALTORS® shall disclose to the client or customer to whom the recommendation is made any financial benefits or fees, other than real estate referral fees, the REALTOR® or REALTOR®'s firm may receive as a direct result of such recommendation. *(Amended 1/99)*

- **Standard of Practice 6-1**

REALTORS® shall not recommend or suggest to a client or a customer the use of services of another organization or business entity in which they have a direct interest without disclosing such interest at the time of the recommendation or suggestion. *(Amended 5/88)*

Article 7

In a transaction, REALTORS® shall not accept compensation from more than one party, even if permitted by law, without disclosure to all parties and the informed consent of the REALTOR®'s client or clients. *(Amended 1/93)*

Article 8

REALTORS® shall keep in a special account in an appropriate financial institution, separated from their own funds, monies coming into their possession in trust for other persons, such as escrows, trust funds, clients' monies, and other like items.

Article 9

REALTORS®, for the protection of all parties, shall assure whenever possible that all agreements related to real estate transactions including, but not limited to, listing and representation agreements, purchase contracts, and leases are in writing in clear and understandable language expressing the specific terms, conditions, obligations and commitments of the parties. A copy of each agreement shall be furnished to each party to such agreements upon their signing or initialing. *(Amended 1/04)*

• **Standard of Practice 9-1**

For the protection of all parties, REALTORS® shall use reasonable care to ensure that documents pertaining to the purchase, sale, or lease of real estate are kept current through the use of written extensions or amendments. (*Amended 1/93*)

• **Standard of Practice 9-2**

When assisting or enabling a client or customer in establishing a contractual relationship (e.g., listing and representation agreements, purchase agreements, leases, etc.) electronically, REALTORS® shall make reasonable efforts to explain the nature and disclose the specific terms of the contractual relationship being established prior to it being agreed to by a contracting party. (*Adopted 1/07*)



Article 10

REALTORS® shall not deny equal professional services to any person for reasons of race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity. REALTORS® shall not be parties to any plan or agreement to discriminate against a person or persons on the basis of race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity. (*Amended 1/14*)

REALTORS®, in their real estate employment practices, shall not discriminate against any person or persons on the basis of race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity. (*Amended 1/14*)

• **Standard of Practice 10-1**

When involved in the sale or lease of a residence, REALTORS® shall not volunteer information regarding the racial, religious or ethnic composition of any neighborhood nor shall they engage in any activity which may result in panic selling, however, REALTORS® may provide other demographic information. (*Adopted 1/94, Amended 1/06*)

• **Standard of Practice 10-2**

When not involved in the sale or lease of a residence, REALTORS® may provide demographic information related to a property, transaction or professional assignment to a party if such demographic information is (a) deemed by the REALTOR® to be needed to assist with or complete, in a manner consistent with Article 10, a real estate transaction or professional assignment and (b) is obtained or derived from a recognized, reliable, independent, and impartial source. The source of such information and any additions, deletions, modifications, interpretations, or other changes shall be disclosed in reasonable detail. (*Adopted 1/05, Renumbered 1/06*)

• **Standard of Practice 10-3**

REALTORS® shall not print, display or circulate any statement or advertisement with respect to selling or renting of a property that indicates any preference, limitations or discrimination based on race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity. (*Adopted 1/94, Renumbered 1/05 and 1/06, Amended 1/14*)

• **Standard of Practice 10-4**

As used in Article 10 "real estate employment practices" relates to employees and independent contractors providing real estate-related services and the administrative and clerical staff directly supporting those individuals. (*Adopted 1/00, Renumbered 1/05 and 1/06*)

Article 11

The services which REALTORS® provide to their clients and customers shall conform to the standards of practice and competence which are

reasonably expected in the specific real estate disciplines in which they engage; specifically, residential real estate brokerage, real property management, commercial and industrial real estate brokerage, land brokerage, real estate appraisal, real estate counseling, real estate syndication, real estate auction, and international real estate.

REALTORS® shall not undertake to provide specialized professional services concerning a type of property or service that is outside their field of competence unless they engage the assistance of one who is competent on such types of property or service, or unless the facts are fully disclosed to the client. Any persons engaged to provide such assistance shall be so identified to the client and their contribution to the assignment should be set forth. (*Amended 1/10*)

• **Standard of Practice 11-1**

When REALTORS® prepare opinions of real property value or price they must:

- 1) be knowledgeable about the type of property being valued,
- 2) have access to the information and resources necessary to formulate an accurate opinion, and
- 3) be familiar with the area where the subject property is located

unless lack of any of these is disclosed to the party requesting the opinion in advance.

When an opinion of value or price is prepared other than in pursuit of a listing or to assist a potential purchaser in formulating a purchase offer, the opinion shall include the following unless the party requesting the opinion requires a specific type of report or different data set:

- 1) identification of the subject property
 - 2) date prepared
 - 3) defined value or price
 - 4) limiting conditions, including statements of purpose(s) and intended user(s)
 - 5) any present or contemplated interest, including the possibility of representing the seller/landlord or buyers/tenants
 - 6) basis for the opinion, including applicable market data
 - 7) if the opinion is not an appraisal, a statement to that effect
 - 8) disclosure of whether and when a physical inspection of the property's exterior was conducted
 - 9) disclosure of whether and when a physical inspection of the property's interior was conducted
 - 10) disclosure of whether the REALTOR® has any conflicts of interest
- (*Amended 1/14*)

• **Standard of Practice 11-2**

The obligations of the Code of Ethics in respect of real estate disciplines other than appraisal shall be interpreted and applied in accordance with the standards of competence and practice which clients and the public reasonably require to protect their rights and interests considering the complexity of the transaction, the availability of expert assistance, and, where the REALTOR® is an agent or subagent, the obligations of a fiduciary. (*Adopted 1/95*)

• **Standard of Practice 11-3**

When REALTORS® provide consultative services to clients which involve advice or counsel for a fee (not a commission), such advice shall be rendered in an objective manner and the fee shall not be contingent on the substance of the advice or counsel given. If brokerage or transaction services are to be provided in addition to consultative services, a separate compensation may be paid with prior agreement between the client and REALTOR®. (*Adopted 1/96*)

• **Standard of Practice 11-4**

The competency required by Article 11 relates to services contracted for between REALTORS® and their clients or customers; the duties expressly

imposed by the Code of Ethics; and the duties imposed by law or regulation. (Adopted 1/02)

Article 12

REALTORS® shall be honest and truthful in their real estate communications and shall present a true picture in their advertising, marketing, and other representations. REALTORS® shall ensure that their status as real estate professionals is readily apparent in their advertising, marketing, and other representations, and that the recipients of all real estate communications are, or have been, notified that those communications are from a real estate professional. (Amended 1/08)

• Standard of Practice 12-1

REALTORS® may use the term "free" and similar terms in their advertising and in other representations provided that all terms governing availability of the offered product or service are clearly disclosed at the same time. (Amended 1/97)

• Standard of Practice 12-2

REALTORS® may represent their services as "free" or without cost even if they expect to receive compensation from a source other than their client provided that the potential for the REALTOR® to obtain a benefit from a third party is clearly disclosed at the same time. (Amended 1/97)

• Standard of Practice 12-3

The offering of premiums, prizes, merchandise discounts or other inducements to list, sell, purchase, or lease is not, in itself, unethical even if receipt of the benefit is contingent on listing, selling, purchasing, or leasing through the REALTOR® making the offer. However, REALTORS® must exercise care and candor in any such advertising or other public or private representations so that any party interested in receiving or otherwise benefiting from the REALTOR®'s offer will have clear, thorough, advance understanding of all the terms and conditions of the offer. The offering of any inducements to do business is subject to the limitations and restrictions of state law and the ethical obligations established by any applicable Standard of Practice. (Amended 1/95)

• Standard of Practice 12-4

REALTORS® shall not offer for sale/lease or advertise property without authority. When acting as listing brokers or as subagents, REALTORS® shall not quote a price different from that agreed upon with the seller/landlord. (Amended 1/93)

• Standard of Practice 12-5

REALTORS® shall not advertise nor permit any person employed by or affiliated with them to advertise real estate services or listed property in any medium (e.g., electronically, print, radio, television, etc.) without disclosing the name of that REALTOR®'s firm in a reasonable and readily apparent manner either in the advertisement or in electronic advertising via a link to a display with all required disclosures. (Adopted 11/86, Amended 1/16)

• Standard of Practice 12-6

REALTORS®, when advertising unlisted real property for sale/lease in which they have an ownership interest, shall disclose their status as both owners/landlords and as REALTORS® or real estate licensees. (Amended 1/93)

• Standard of Practice 12-7

Only REALTORS® who participated in the transaction as the listing broker or cooperating broker (selling broker) may claim to have "sold" the property. Prior to closing, a cooperating broker may post a "sold" sign only with the consent of the listing broker. (Amended 1/96)

• Standard of Practice 12-8

The obligation to present a true picture in representations to the public includes information presented, provided, or displayed on REALTORS® websites. REALTORS® shall use reasonable efforts to ensure that information on their websites is current. When it becomes apparent that information on a REALTOR®'s website is no longer current or accurate, REALTORS® shall promptly take corrective action. (Adopted 1/07)

• Standard of Practice 12-9

REALTOR® firm websites shall disclose the firm's name and state(s) of licensure in a reasonable and readily apparent manner.

Websites of REALTORS® and non-member licensees affiliated with a REALTOR® firm shall disclose the firm's name and that REALTOR®'s or non-member licensee's state(s) of licensure in a reasonable and readily apparent manner. (Adopted 1/07)

• Standard of Practice 12-10

REALTORS® obligation to present a true picture in their advertising and representations to the public includes Internet content posted, and the URLs and domain names they use, and prohibits REALTORS® from:

- 1) engaging in deceptive or unauthorized framing of real estate brokerage websites;
- 2) manipulating (e.g., presenting content developed by others) listing and other content in any way that produces a deceptive or misleading result;
- 3) deceptively using metatags, keywords or other devices/methods to direct, drive, or divert Internet traffic; or
- 4) presenting content developed by others without either attribution or without permission, or
- 5) to otherwise mislead consumers. (Adopted 1/07, Amended 1/13)

• Standard of Practice 12-11

REALTORS® intending to share or sell consumer information gathered via the Internet shall disclose that possibility in a reasonable and readily apparent manner. (Adopted 1/07)

• Standard of Practice 12-12

REALTORS® shall not:

- 1) use URLs or domain names that present less than a true picture, or
- 2) register URLs or domain names which, if used, would present less than a true picture. (Adopted 1/08)

• Standard of Practice 12-13

The obligation to present a true picture in advertising, marketing, and representations allows REALTORS® to use and display only professional designations, certifications, and other credentials to which they are legitimately entitled. (Adopted 1/08)

Article 13

REALTORS® shall not engage in activities that constitute the unauthorized practice of law and shall recommend that legal counsel be obtained when the interest of any party to the transaction requires it.

Article 14

If charged with unethical practice or asked to present evidence or to cooperate in any other way, in any professional standards proceeding or investigation, REALTORS® shall place all pertinent facts before the proper tribunals of the Member Board or affiliated institute, society, or council in which membership is held and shall take no action to disrupt or obstruct such processes. (Amended 1/99)

• **Standard of Practice 14-1**

REALTORS® shall not be subject to disciplinary proceedings in more than one Board of REALTORS® or affiliated institute, society, or council in which they hold membership with respect to alleged violations of the Code of Ethics relating to the same transaction or event. *(Amended 1/95)*

• **Standard of Practice 14-2**

REALTORS® shall not make any unauthorized disclosure or dissemination of the allegations, findings, or decision developed in connection with an ethics hearing or appeal or in connection with an arbitration hearing or procedural review. *(Amended 1/92)*

• **Standard of Practice 14-3**

REALTORS® shall not obstruct the Board's investigative or professional standards proceedings by instituting or threatening to institute actions for libel, slander, or defamation against any party to a professional standards proceeding or their witnesses based on the filing of an arbitration request, an ethics complaint, or testimony given before any tribunal. *(Adopted 11/87, Amended 1/99)*

• **Standard of Practice 14-4**

REALTORS® shall not intentionally impede the Board's investigative or disciplinary proceedings by filing multiple ethics complaints based on the same event or transaction. *(Adopted 11/88)*

Article 15

REALTORS® shall not knowingly or recklessly make false or misleading statements about other real estate professionals, their businesses, or their business practices. *(Amended 1/12)*

• **Standard of Practice 15-1**

REALTORS® shall not knowingly or recklessly file false or unfounded ethics complaints. *(Adopted 1/00)*

• **Standard of Practice 15-2**

The obligation to refrain from making false or misleading statements about other real estate professionals, their businesses, and their business practices includes the duty to not knowingly or recklessly publish, repeat, retransmit, or republish false or misleading statements made by others. This duty applies whether false or misleading statements are repeated in person, in writing, by technological means (e.g., the Internet), or by any other means. *(Adopted 1/07, Amended 1/12)*

• **Standard of Practice 15-3**

The obligation to refrain from making false or misleading statements about other real estate professionals, their businesses, and their business practices includes the duty to publish a clarification about or to remove statements made by others on electronic media the REALTOR® controls once the REALTOR® knows the statement is false or misleading. *(Adopted 1/10, Amended 1/12)*

Article 16

REALTORS® shall not engage in any practice or take any action inconsistent with exclusive representation or exclusive brokerage relationship agreements that other REALTORS® have with clients. *(Amended 1/04)*

• **Standard of Practice 16-1**

Article 16 is not intended to prohibit aggressive or innovative business practices which are otherwise ethical and does not prohibit disagreements with other REALTORS® involving commission, fees,

compensation or other forms of payment or expenses. *(Adopted 1/93, Amended 1/95)*

• **Standard of Practice 16-2**

Article 16 does not preclude REALTORS® from making general announcements to prospects describing their services and the terms of their availability even though some recipients may have entered into agency agreements or other exclusive relationships with another REALTOR®. A general telephone canvass, general mailing or distribution addressed to all prospects in a given geographical area or in a given profession, business, club, or organization, or other classification or group is deemed "general" for purposes of this standard. *(Amended 1/04)*

Article 16 is intended to recognize as unethical two basic types of solicitations:

First, telephone or personal solicitations of property owners who have been identified by a real estate sign, multiple listing compilation, or other information service as having exclusively listed their property with another REALTOR® and

Second, mail or other forms of written solicitations of prospects whose properties are exclusively listed with another REALTOR® when such solicitations are not part of a general mailing but are directed specifically to property owners identified through compilations of current listings, "for sale" or "for rent" signs, or other sources of information required by Article 3 and Multiple Listing Service rules to be made available to other REALTORS® under offers of subagency or cooperation. *(Amended 1/04)*

• **Standard of Practice 16-3**

Article 16 does not preclude REALTORS® from contacting the client of another broker for the purpose of offering to provide, or entering into a contract to provide, a different type of real estate service unrelated to the type of service currently being provided (e.g., property management as opposed to brokerage) or from offering the same type of service for property not subject to other brokers' exclusive agreements. However, information received through a Multiple Listing Service or any other offer of cooperation may not be used to target clients of other REALTORS® to whom such offers to provide services may be made. *(Amended 1/04)*

• **Standard of Practice 16-4**

REALTORS® shall not solicit a listing which is currently listed exclusively with another broker. However, if the listing broker, when asked by the REALTOR®, refuses to disclose the expiration date and nature of such listing, i.e., an exclusive right to sell, an exclusive agency, open listing, or other form of contractual agreement between the listing broker and the client, the REALTOR® may contact the owner to secure such information and may discuss the terms upon which the REALTOR® might take a future listing or, alternatively, may take a listing to become effective upon expiration of any existing exclusive listing. *(Amended 1/94)*

• **Standard of Practice 16-5**

REALTORS® shall not solicit buyer/tenant agreements from buyers/tenants who are subject to exclusive buyer/tenant agreements. However, if asked by a REALTOR®, the broker refuses to disclose the expiration date of the exclusive buyer/tenant agreement, the REALTOR® may contact the buyer/tenant to secure such information and may discuss the terms upon which the REALTOR® might enter into a future buyer/tenant agreement or, alternatively, may enter into a buyer/tenant agreement to become effective upon the expiration of any existing exclusive buyer/tenant agreement. *(Adopted 1/94, Amended 1/98)*

• **Standard of Practice 16-6**

When REALTORS® are contacted by the client of another REALTOR® regarding the creation of an exclusive relationship to provide the same type of service, and REALTORS® have not directly or indirectly initiated such discussions, they may discuss the terms upon which they might enter into a future agreement or, alternatively, may enter into an agreement which becomes effective upon expiration of any existing exclusive agreement. *(Amended 1/98)*

• **Standard of Practice 16-7**

The fact that a prospect has retained a REALTOR® as an exclusive representative or exclusive broker in one or more past transactions does not preclude other REALTORS® from seeking such prospect's future business. *(Amended 1/04)*

• **Standard of Practice 16-8**

The fact that an exclusive agreement has been entered into with a REALTOR® shall not preclude or inhibit any other REALTOR® from entering into a similar agreement after the expiration of the prior agreement. *(Amended 1/98)*

• **Standard of Practice 16-9**

REALTORS®, prior to entering into a representation agreement, have an affirmative obligation to make reasonable efforts to determine whether the prospect is subject to a current, valid exclusive agreement to provide the same type of real estate service. *(Amended 1/04)*

• **Standard of Practice 16-10**

REALTORS®, acting as buyer or tenant representatives or brokers, shall disclose that relationship to the seller/landlord's representative or broker at first contact and shall provide written confirmation of that disclosure to the seller/landlord's representative or broker not later than execution of a purchase agreement or lease. *(Amended 1/04)*

• **Standard of Practice 16-11**

On unlisted property, REALTORS® acting as buyer/tenant representatives or brokers shall disclose that relationship to the seller/landlord at first contact for that buyer/tenant and shall provide written confirmation of such disclosure to the seller/landlord not later than execution of any purchase or lease agreement. *(Amended 1/04)*

REALTORS® shall make any request for anticipated compensation from the seller/landlord at first contact. *(Amended 1/98)*

• **Standard of Practice 16-12**

REALTORS®, acting as representatives or brokers of sellers/landlords or as subagents of listing brokers, shall disclose that relationship to buyers/tenants as soon as practicable and shall provide written confirmation of such disclosure to buyers/tenants not later than execution of any purchase or lease agreement. *(Amended 1/04)*

• **Standard of Practice 16-13**

All dealings concerning property exclusively listed, or with buyer/tenants who are subject to an exclusive agreement shall be carried on with the client's representative or broker, and not with the client, except with the consent of the client's representative or broker or except where such dealings are initiated by the client.

Before providing substantive services (such as writing a purchase offer or presenting a CMA) to prospects, REALTORS® shall ask prospects whether they are a party to any exclusive representation agreement. REALTORS® shall not knowingly provide substantive services concerning a prospective transaction to prospects who are parties to exclusive representation agreements, except with the consent of the prospects' exclusive representatives or at the direction of prospects. *(Adopted 1/93, Amended 1/04)*

• **Standard of Practice 16-14**

REALTORS® are free to enter into contractual relationships or to negotiate with sellers/landlords, buyers/tenants or others who are not subject to an exclusive agreement but shall not knowingly obligate them to pay more than one commission except with their informed consent. *(Amended 1/98)*

• **Standard of Practice 16-15**

In cooperative transactions REALTORS® shall compensate cooperating REALTORS® (principal brokers) and shall not compensate nor offer to compensate, directly or indirectly, any of the sales licensees employed by or affiliated with other REALTORS® without the prior express knowledge and consent of the cooperating broker.

• **Standard of Practice 16-16**

REALTORS®, acting as subagents or buyer/tenant representatives or brokers, shall not use the terms of an offer to purchase/lease to attempt to modify the listing broker's offer of compensation to subagents or buyer/tenant representatives or brokers nor make the submission of an executed offer to purchase/lease contingent on the listing broker's agreement to modify the offer of compensation. *(Amended 1/04)*

• **Standard of Practice 16-17**

REALTORS®, acting as subagents or as buyer/tenant representatives or brokers, shall not attempt to extend a listing broker's offer of cooperation and/or compensation to other brokers without the consent of the listing broker. *(Amended 1/04)*

• **Standard of Practice 16-18**

REALTORS® shall not use information obtained from listing brokers through offers to cooperate made through multiple listing services or through other offers of cooperation to refer listing brokers' clients to other brokers or to create buyer/tenant relationships with listing brokers' clients, unless such use is authorized by listing brokers. *(Amended 1/02)*

• **Standard of Practice 16-19**

Signs giving notice of property for sale, rent, lease, or exchange shall not be placed on property without consent of the seller/landlord. *(Amended 1/93)*

• **Standard of Practice 16-20**

REALTORS®, prior to or after their relationship with their current firm is terminated, shall not induce clients of their current firm to cancel exclusive contractual agreements between the client and that firm. This does not preclude REALTORS® (principals) from establishing agreements with their associated licensees governing assignability of exclusive agreements. *(Adopted 1/98, Amended 1/10)*

Article 17

In the event of contractual disputes or specific non-contractual disputes as defined in Standard of Practice 17-4 between REALTORS® (principals) associated with different firms, arising out of their relationship as REALTORS®, the REALTORS® shall mediate the dispute if the Board requires its members to mediate. If the dispute is not resolved through mediation, or if mediation is not required, REALTORS® shall submit the dispute to arbitration in accordance with the policies of the Board rather than litigate the matter.

In the event clients of REALTORS® wish to mediate or arbitrate contractual disputes arising out of real estate transactions, REALTORS® shall mediate or arbitrate those disputes in accordance with the policies of the Board, provided the clients agree to be bound by any resulting agreement or award.

The obligation to participate in mediation and arbitration contemplated by this Article includes the obligation of REALTORS® (principals) to cause their firms to mediate and arbitrate and be bound by any resulting agreement or award. *(Amended 1/12)*

• **Standard of Practice 17-1**

The filing of litigation and refusal to withdraw from it by REALTORS® in an arbitrable matter constitutes a refusal to arbitrate. *(Adopted 2/86)*

• **Standard of Practice 17-2**

Article 17 does not require REALTORS® to mediate in those circumstances when all parties to the dispute advise the Board in writing that they choose not to mediate through the Board's facilities. The fact that all parties decline to participate in mediation does not relieve REALTORS® of the duty to arbitrate.

Article 17 does not require REALTORS® to arbitrate in those circumstances when all parties to the dispute advise the Board in writing that they choose not to arbitrate before the Board. *(Amended 1/12)*

• **Standard of Practice 17-3**

REALTORS®, when acting solely as principals in a real estate transaction, are not obligated to arbitrate disputes with other REALTORS® absent a specific written agreement to the contrary. *(Adopted 1/96)*

• **Standard of Practice 17-4**

Specific non-contractual disputes that are subject to arbitration pursuant to Article 17 are:

- 1) Where a listing broker has compensated a cooperating broker and another cooperating broker subsequently claims to be the procuring cause of the sale or lease. In such cases the complainant may name the first cooperating broker as respondent and arbitration may proceed without the listing broker being named as a respondent. When arbitration occurs between two (or more) cooperating brokers and where the listing broker is not a party, the amount in dispute and the amount of any potential resulting award is limited to the amount paid to the respondent by the listing broker and any amount credited or paid to a party to the transaction at the direction of the respondent. Alternatively, if the complaint is brought against the listing broker, the listing broker may name the first cooperating broker as a third-party respondent. In either instance the decision of the hearing panel as to procuring cause shall be conclusive with respect to all current or subsequent claims of the parties for compensation arising out of the underlying cooperative transaction. *(Adopted 1/97, Amended 1/07)*
- 2) Where a buyer or tenant representative is compensated by the seller or landlord, and not by the listing broker, and the listing broker, as a result, reduces the commission owed by the seller or landlord and, subsequent to such actions, another cooperating broker claims to be the procuring cause of sale or lease. In such cases the complainant may name the first cooperating broker as respondent and arbitration may proceed without the listing broker being named as a respondent. When arbitration occurs between two (or more) cooperating brokers and where the listing broker is not a party, the amount in dispute and the amount of any potential resulting award is limited to the amount paid to the respondent by the seller or landlord and any amount credited or paid to a party to the transaction at the direction of the respondent. Alternatively, if the complaint is brought against the listing broker, the listing broker may name the first cooperating broker as a third-party respondent. In either instance the decision of the hearing panel as to procuring cause shall be conclusive with respect to all current or subsequent claims of the parties for compensation arising out of the underlying cooperative transaction. *(Adopted 1/97, Amended 1/07)*

- 3) Where a buyer or tenant representative is compensated by the buyer or tenant and, as a result, the listing broker reduces the commission owed by the seller or landlord and, subsequent to such actions, another cooperating broker claims to be the procuring cause of sale or lease. In such cases the complainant may name the first cooperating broker as respondent and arbitration may proceed without the listing broker being named as a respondent. Alternatively, if the complaint is brought against the listing broker, the listing broker may name the first cooperating broker as a third-party respondent. In either instance the decision of the hearing panel as to procuring cause shall be conclusive with respect to all current or subsequent claims of the parties for compensation arising out of the underlying cooperative transaction. *(Adopted 1/97)*

- 4) Where two or more listing brokers claim entitlement to compensation pursuant to open listings with a seller or landlord who agrees to participate in arbitration (or who requests arbitration) and who agrees to be bound by the decision. In cases where one of the listing brokers has been compensated by the seller or landlord, the other listing broker, as complainant, may name the first listing broker as respondent and arbitration may proceed between the brokers. *(Adopted 1/97)*

- 5) Where a buyer or tenant representative is compensated by the seller or landlord, and not by the listing broker, and the listing broker, as a result, reduces the commission owed by the seller or landlord and, subsequent to such actions, claims to be the procuring cause of sale or lease. In such cases arbitration shall be between the listing broker and the buyer or tenant representative and the amount in dispute is limited to the amount of the reduction of commission to which the listing broker agreed. *(Adopted 1/05)*

• **Standard of Practice 17-5**

The obligation to arbitrate established in Article 17 includes disputes between REALTORS® (principals) in different states in instances where, absent an established inter-association arbitration agreement, the REALTOR® (principal) requesting arbitration agrees to submit to the jurisdiction of, travel to, participate in, and be bound by any resulting award rendered in arbitration conducted by the respondent(s) REALTOR®'s association, in instances where the respondent(s) REALTOR®'s association determines that an arbitrable issue exists. *(Adopted 1/07)*

Explanatory Notes

The reader should be aware of the following policies which have been approved by the Board of Directors of the National Association:

In filing a charge of an alleged violation of the Code of Ethics by a REALTOR®, the charge must read as an alleged violation of one or more Articles of the Code. Standards of Practice may be cited in support of the charge.

The Standards of Practice serve to clarify the ethical obligations imposed by the various Articles and supplement, and do not substitute for, the Case Interpretations in *Interpretations of the Code of Ethics*.

Modifications to existing Standards of Practice and additional new Standards of Practice are approved from time to time. Readers are cautioned to ensure that the most recent publications are utilized.



STATE OF NORTH CAROLINA
RESIDENTIAL PROPERTY AND OWNERS' ASSOCIATION DISCLOSURE STATEMENT

Instructions to Property Owners

1. The Residential Property Disclosure Act (G.S. 47E) ("Disclosure Act") requires owners of residential real estate (single-family homes, individual condominiums, townhouses, and the like, and buildings with up to four dwelling units) to furnish purchasers a Residential Property and Owners' Association Disclosure Statement ("Disclosure Statement"). This form is the only one approved for this purpose. A disclosure statement must be furnished in connection with the sale, exchange, option, and sale under a lease with option to purchase where the tenant does not occupy or intend to occupy the dwelling. A disclosure statement is not required for some transactions, including the first sale of a dwelling which has never been inhabited and transactions of residential property made pursuant to a lease with option to purchase where the lessee occupies or intends to occupy the dwelling. For a complete list of exemptions, see G.S. 47E-2.
2. You must respond to each of the questions on the following pages of this form by filling in the requested information or by placing a check (✓) in the appropriate box. In responding to the questions, you are only obligated to disclose information about which you have actual knowledge.
 - a. If you check "Yes" for any question, you must explain your answer and either describe any problem or attach a report from an attorney, engineer, contractor, pest control operator or other expert or public agency describing it. If you attach a report, you will not be liable for any inaccurate or incomplete information contained in it so long as you were not grossly negligent in obtaining or transmitting the information.
 - b. If you check "No," you are stating that you have no actual knowledge of any problem. If you check "No" and you know there is a problem, you may be liable for making an intentional misstatement.
 - c. If you check "No Representation," you are choosing not to disclose the conditions or characteristics of the property, even if you have actual knowledge of them or should have known of them.
 - d. If you check "Yes" or "No" and something happens to the property to make your Disclosure Statement incorrect or inaccurate (for example, the roof begins to leak), you must promptly give the purchaser a corrected Disclosure Statement or correct the problem.
3. If you are assisted in the sale of your property by a licensed real estate broker, you are still responsible for completing and delivering the Disclosure Statement to the purchasers; and the broker must disclose any material facts about your property which he or she knows or reasonably should know, regardless of your responses on the Disclosure Statement.
4. You must give the completed Disclosure Statement to the purchaser no later than the time the purchaser makes an offer to purchase your property. If you do not, the purchaser can, under certain conditions, cancel any resulting contract (See "**Note to Purchasers**" below). You should give the purchaser a copy of the Disclosure Statement containing your signature and keep a copy signed by the purchaser for your records.

Note to Purchasers: If the owner does not give you a Residential Property and Owners' Association Disclosure Statement by the time you make your offer to purchase the property, you may under certain conditions cancel any resulting contract without penalty to you as the purchaser. To cancel the contract, you must personally deliver or mail written notice of your decision to cancel to the owner or the owner's agent within three calendar days following your receipt of the Disclosure Statement, or three calendar days following the date of the contract, whichever occurs first. However, in no event does the Disclosure Act permit you to cancel a contract after settlement of the transaction or (in the case of a sale or exchange) after you have occupied the property, whichever occurs first.

5. In the space below, type or print in ink the address of the property (sufficient to identify it) and your name. Then sign and date.

Property Address: _____

Owner's Name(s): _____

Owner(s) acknowledge(s) having examined this Disclosure Statement before signing and that all information is true and correct as of the date signed.

Owner Signature: _____ Date _____, ____

Owner Signature: _____ Date _____, ____

Purchasers acknowledge receipt of a copy of this Disclosure Statement; that they have examined it before signing; that they understand that this is not a warranty by owners or owners' agents; that it is not a substitute for any inspections they may wish to obtain; and that the representations are made by the owners and not the owners' agents or subagents. Purchasers are strongly encouraged to obtain their own inspections from a licensed home inspector or other professional. As used herein, words in the plural include the singular, as appropriate.

Purchaser Signature: _____ Date _____, ____

Purchaser Signature: _____ Date _____, ____

Property Address/Description: _____

The following questions address the characteristics and condition of the property identified above about which the owner has **actual knowledge**. Where the question refers to "dwelling," it is intended to refer to the dwelling unit, or units if more than one, to be conveyed with the property. The term "dwelling unit" refers to any structure intended for human habitation.

	Yes	No	No Representation
1. In what year was the dwelling constructed? _____ Explain if necessary: _____			<input type="checkbox"/>
2. Is there any problem, malfunction or defect with the dwelling's foundation, slab, fireplaces/chimneys, floors, windows (including storm windows and screens), doors, ceilings, interior and exterior walls, attached garage, patio, deck or other structural components including any modifications to them?.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. The dwelling's exterior walls are made of what type of material? <input type="checkbox"/> Brick Veneer <input type="checkbox"/> Wood <input type="checkbox"/> Stone <input type="checkbox"/> Vinyl <input type="checkbox"/> Synthetic Stucco <input type="checkbox"/> Composition/Hardboard <input type="checkbox"/> Concrete <input type="checkbox"/> Fiber Cement <input type="checkbox"/> Aluminum <input type="checkbox"/> Asbestos <input type="checkbox"/> Other _____ (Check all that apply)			<input type="checkbox"/>
4. In what year was the dwelling's roof covering installed? _____ (Approximate if no records are available) Explain if necessary: _____			<input type="checkbox"/>
5. Is there any leakage or other problem with the dwelling's roof?.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Is there any water seepage, leakage, dampness or standing water in the dwelling's basement, crawl space, or slab?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Is there any problem, malfunction or defect with the dwelling's electrical system (outlets, wiring, panel, switches, fixtures, generator, etc.)?.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Is there any problem, malfunction or defect with the dwelling's plumbing system (pipes, fixtures, water heater, etc.)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Is there any problem, malfunction or defect with the dwelling's heating and/or air conditioning?.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. What is the dwelling's heat source? <input type="checkbox"/> Furnace <input type="checkbox"/> Heat Pump <input type="checkbox"/> Baseboard <input type="checkbox"/> Other _____ _____ (Check all that apply)..... Age of system: _____			<input type="checkbox"/>
11. What is the dwelling's cooling source? <input type="checkbox"/> Central Forced Air <input type="checkbox"/> Wall/Window Unit(s) <input type="checkbox"/> Other _____ _____ (Check all that apply) Age of system: _____			<input type="checkbox"/>
12. What are the dwelling's fuel sources? <input type="checkbox"/> Electricity <input type="checkbox"/> Natural Gas <input type="checkbox"/> Propane <input type="checkbox"/> Oil <input type="checkbox"/> Other _____ _____ (Check all that apply) If the fuel source is stored in a tank, identify whether the tank is <input type="checkbox"/> above ground or <input type="checkbox"/> below ground, and whether the tank is <input type="checkbox"/> leased by seller or <input type="checkbox"/> owned by seller. (Check all that apply).....			<input type="checkbox"/>
13. What is the dwelling's water supply source? <input type="checkbox"/> City/County <input type="checkbox"/> Community System <input type="checkbox"/> Private Well <input type="checkbox"/> Shared Well <input type="checkbox"/> Other _____ (Check all that apply).....			<input type="checkbox"/>
14. The dwelling's water pipes are made of what type of material? <input type="checkbox"/> Copper <input type="checkbox"/> Galvanized <input type="checkbox"/> Plastic <input type="checkbox"/> Polybutylene <input type="checkbox"/> Other _____ (Check all that apply).....			<input type="checkbox"/>
15. Is there any problem, malfunction or defect with the dwelling's water supply (including water quality, quantity, or water pressure)?.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16. What is the dwelling's sewage disposal system? <input type="checkbox"/> Septic Tank <input type="checkbox"/> Septic Tank with Pump <input type="checkbox"/> Community System <input type="checkbox"/> Connected to City/County System <input type="checkbox"/> City/County System available <input type="checkbox"/> Straight pipe (wastewater does not go into a septic or other sewer system [note: use of this type of system violates state law]) <input type="checkbox"/> Other _____ (Check all that apply).....			<input type="checkbox"/>
17. If the dwelling is serviced by a septic system, do you know how many bedrooms are allowed by the septic system permit? If your answer is "yes," how many bedrooms are allowed? _____ <input type="checkbox"/> No records available	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18. Is there any problem, malfunction or defect with the dwelling's sewer and/or septic system?.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19. Is there any problem, malfunction or defect with the dwelling's central vacuum, pool, hot tub, spa, attic fan, exhaust fan, ceiling fans, sump pump, irrigation system, TV cable wiring or satellite dish, garage door openers, gas logs, or other systems?.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20. Is there any problem, malfunction or defect with any appliances that may be included in the conveyance (range/oven, attached microwave, hood/fan, dishwasher, disposal, etc.)?.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Owner Initials and Date _____

Owner Initials and Date _____

Purchaser Initials and Date _____

Purchaser Initials and Date _____

- | | Yes | No | No Representation |
|--|--------------------------|--------------------------|--------------------------|
| 21. Is there any problem with present infestation of the dwelling, or damage from past infestation of wood destroying insects or organisms which has not been repaired?..... | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 22. Is there any problem, malfunction or defect with the drainage, grading or soil stability of the property?..... | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 23. Are there any structural additions or other structural or mechanical changes to the dwelling(s) to be conveyed with the property?..... | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 24. Is the property to be conveyed in violation of any local zoning ordinances, restrictive covenants, or other land-use restrictions, or building codes (including the failure to obtain proper permits for room additions or other changes/improvements)?..... | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 25. Are there any hazardous or toxic substances, materials, or products (such as asbestos, formaldehyde, radon gas, methane gas, lead-based paint) which exceed government safety standards, any debris (whether buried or covered) or underground storage tanks, or any environmentally hazardous conditions (such as contaminated soil or water, or other environmental contamination) which affect the property?..... | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 26. Is there any noise, odor, smoke, etc. from commercial, industrial, or military sources which affects the property? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 27. Is the property subject to any utility or other easements, shared driveways, party walls or encroachments from or on adjacent property?..... | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 28. Is the property the subject of any lawsuits, foreclosures, bankruptcy, leases or rental agreements, judgments, tax liens, proposed assessments, mechanics' liens, materialmens' liens, or notices from any governmental agency that could affect title to the property?..... | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 29. Is the property subject to a flood hazard or is the property located in a federally-designated flood hazard area? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 30. Does the property abut or adjoin any private road(s) or street(s)?..... | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 31. If there is a private road or street adjoining the property, is there in existence any owners' association or maintenance agreements dealing with the maintenance of the road or street?..... | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

If you answered "yes" to any of the questions listed above (1-31) please explain (attach additional sheets if necessary):

In lieu of providing a written explanation, you may attach a written report to this Disclosure Statement by a public agency, or by an attorney, engineer, land surveyor, geologist, pest control operator, contractor, home inspector, or other expert, dealing with matters within the scope of that public agency's functions or the expert's license or expertise.

The following questions pertain to the property identified above, including the lot to be conveyed and any dwelling unit(s), sheds, detached garages, or other buildings located thereon.

- | | Yes | No | No Representation |
|---|--------------------------|--------------------------|--------------------------|
| 32. To your knowledge, is the property subject to regulation by one or more owners' association(s) or governing documents which impose various mandatory covenants, conditions, and restrictions upon the lot, including, but not limited to obligations to pay regular assessments or dues and special assessments? If your answer is "yes," please provide the information requested below as to each owners' association to which the property is subject [insert N/A into any blank that does not apply]: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| •(specify name) _____ whose regular assessments ("dues") are \$ _____ per _____. The name, address, and telephone number of the president of the owners' association or the association manager are _____

_____ | | | |
| •(specify name) _____ whose regular assessments ("dues") are \$ _____ per _____. The name, address, and telephone number of the president of the owners' association or the association manager are _____

_____ | | | |

* If you answered "Yes" to question 32 above, you must complete the remainder of this Disclosure Statement. If you answered "No" or "No Representation" to question 32 above, you do not need to answer the remaining questions on this Disclosure Statement. Skip to the bottom of the last page and initial and date the page.

Owner Initials and Date _____

Owner Initials and Date _____

Purchaser Initials and Date _____

Purchaser Initials and Date _____

33. Are any fees charged by the association or by the association's management company in connection with the conveyance or transfer of the lot or property to a new owner? If your answer is "yes," please state the amount of the fees: _____
34. As of the date this Disclosure Statement is signed, are there any dues, fees, or special assessments which have been duly approved as required by the applicable declaration or bylaws, and that are payable to an association to which the lot is subject? If your answer is "yes," please state the nature and amount of the dues, fees, or special assessments to which the property is subject: _____
35. As of the date this Disclosure Statement is signed, are there any unsatisfied judgments against, or pending lawsuits *involving the property or lot to be conveyed*? If your answer is "yes," please state the nature of each pending lawsuit, and the amount of each unsatisfied judgment: _____
36. As of the date this Disclosure Statement is signed, are there any unsatisfied judgments against, or pending lawsuits *involving the planned community or the association to which the property and lot are subject*, with the exception of any action filed by the association for the collection of delinquent assessments on lots other than the property and lot to be conveyed? If your answer is "yes," please state the nature of each pending lawsuit, and the amount of each unsatisfied judgment: _____
37. Which of the following services and amenities are paid for by the owners' association(s) identified above out of the association's regular assessments ("dues")? (Check all that apply).

	Yes	No	No Representation
Management Fees.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Exterior Building Maintenance of Property to be Conveyed.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Exterior Yard/Landscaping Maintenance of Lot to be Conveyed.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Common Areas Maintenance.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trash Removal.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Recreational Amenity Maintenance (specify amenities covered) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pest Treatment/Extermination.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Street Lights.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Water.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sewer.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Storm water Management/Drainage/Ponds.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Internet Service.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cable.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Private Road Maintenance.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parking Area Maintenance.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gate and/or Security.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other: (specify) _____			

Owner Initials and Date _____
Purchaser Initials and Date _____

Owner Initials and Date _____
Purchaser Initials and Date _____

VISITOR REGISTRATION SHEET

Judiciary I

Name of Committee

2/23/17

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Fred Moreno	NCREC
Tim M... ..	NCHBA
Rhaegan Jackson	Focus Carolina
Cathy Thomas	"
Amanda Donovan	TSS
Penny	SOG
Katy Rhymer	OP
Phu Xanda	MNC
James Jenkins	NCA
Scott Last	KEANC
Spencer McQuinn	KEANC



Judy Lowe (Rep. Ted Davis)

From: Judy Lowe (Rep. Ted Davis)
Sent: Tuesday, February 28, 2017 10:07 AM
To: Rep. Elmer Floyd; Rep. Kelly Hastings; Rep. Ted Davis; Rep. Scott D Stone
Cc: Dorothy McLean (Rep. Elmer Floyd); James Jenkins (Rep. Kelly Hastings); Judy Lowe (Rep. Ted Davis); Marissa Turner (Rep. Scott D Stone)
Subject: <NCGA> House Judiciary I Committee Meeting Notice for Wednesday, March 01, 2017 at 1:00 PM
Attachments: Add Meeting to Calendar_LINC_.ics

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Wednesday, March 1, 2017
TIME: 1:00 PM
LOCATION: 415 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 31	Material Fact Disclosure Clarifications.	Representative Hastings Representative Stone Representative Davis Representative Floyd

Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 10:06 AM on Tuesday, February 28, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Judy Lowe (Committee Assistant)



House Committee on Judiciary I
Wednesday, March 1, 2017, 1:00 PM
415 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Introductions of Sergeants at Arms

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 31	Material Fact Disclosure Clarifications.	Representative Hastings Representative Stone Representative Davis Representative Floyd

Adjournment



House Committee on Judiciary I
Wednesday, March 1, 2017 at 1:00 PM
Room 415

MINUTES

The House Committee on Judiciary I met at 1:05 PM on Wednesday, March 1, 2017 in Room 415. Representatives Davis, Hall, Howard, Jackson, Martin, McNeill, Meyer, Rogers, Steinburg, and Turner attended.

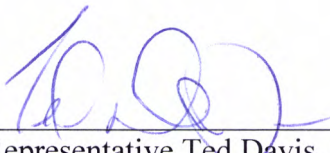
Also in attendance and introduced were the Sergeants at Arms Dean Marshbourne, Rey Cooke and Russell Salisbury. The page was Brion Rogers.

Representative Ted Davis, Jr. presided.

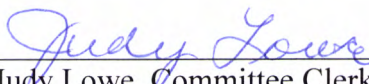
House Bill 31—Material Fact Disclosure Clarifications—An ^{PCS}act to clarify that the mere fact that real property is included in a comprehensive transportation plan, standing alone, is not a required disclosure or a material fact for the purposes of disclosure for real estate transactions. An amendment to the bill was proposed by Representative Duane Hall. He explained the change. There was a motion to consider the amendment which passed unanimously followed by a motion for a favorable committee substitute, unfavorable to the original bill.

There were no announcements.

The meeting adjourned at 1:15.



Representative Ted Davis, Jr.
Presiding



Judy Lowe, Committee Clerk





HOUSE BILL 31: Material Fact Disclosure Clarifications.

2017-2018 General Assembly

Committee:	House Judiciary I. If favorable, re-refer to Transportation	Date:	February 20, 2017
Introduced by:	Reps. Hastings, Stone, Davis, Floyd	Prepared by:	Jason Moran-Bates
Analysis of:	PCS to First Edition H31-CSBC-3		Committee Co-Counsel

OVERVIEW: *House Bill 31 would clarify that the inclusion of real property in a Comprehensive Transportation Plan (CTP) that is not financially constrained is not a material fact that must be disclosed in a real estate transaction.*

CURRENT LAW: Under G.S. 93A-6(a)(1), the North Carolina Real Estate Commission can take disciplinary action against a real estate broker who misrepresents or omits a material fact in a real estate transaction.

G.S. 47E-4 requires sellers of residential real property to provide the purchaser with a disclosure statement covering specified characteristics and conditions of the property listed for sale. As to each of the listed characteristics and conditions included in the disclosure statement, the seller must respond either that it is present in the property, that it is not present in the property, or that the seller makes no representation as to the characteristic or condition.

Current law does not specifically state whether inclusion of residential real property on a CTP that is not financially constrained is a material fact that must be disclosed by a real estate broker or is a characteristic or condition of the property subject to disclosure by the seller.

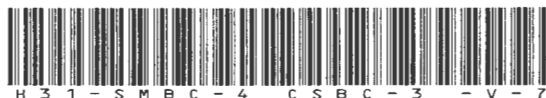
BILL ANALYSIS:

Section 1: House Bill 31 would amend Article 9 of Chapter 39 of the General Statutes to clarify that the mere fact that a piece of real property is listed on a CTP that is not financially constrained is not a material fact that must be disclosed by the party offering the real property for conveyance; therefore, failure to disclose the fact that a property was listed on a CTP that is not financially constrained could not, by itself, be the basis for discipline of a broker under G.S. 93A-6(a)(1). House Bill 31 would clarify that a party conveying real property may not knowingly make a false statement regarding the property's inclusion on a CTP that is not financially constrained.

Section 2 of House Bill 31 would add a section to G.S. 47E-4 to clarify that inclusion of a piece of real property on a CTP that is not financially constrained is not a material fact which must be included on the mandatory disclosure form a seller must furnish to a potential buyer of residential real property. The bill would also clarify that neither the seller nor anyone acting as an agent of the seller may make a false statement regarding the inclusion of the property on a CTP that is not financially constrained.

EFFECTIVE DATE: This act is effective when it becomes law and applies to real estate contracts entered into on or after that date.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House PCS 31

Page 2

BACKGROUND: CTPs are long-range, not-financially-constrained transportation plans for municipalities, counties, and large metropolitan areas. They represent a community's consensus on the future transportation systems needed to support anticipated growth over a 20-30 year timeframe. CTPs differ from the State Transportation Improvement Program, which is a list of transportation projects that will receive funding in the next ten years.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2017

H

D

HOUSE BILL 31

PROPOSED COMMITTEE SUBSTITUTE H31-CSBC-3 [v.5]

02/21/2017 04:55:25 PM

Short Title: Material Fact Disclosure Clarifications.

(Public)

Sponsors:

Referred to:

February 2, 2017

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT THE MERE FACT THAT REAL PROPERTY IS INCLUDED IN A COMPREHENSIVE TRANSPORTATION PLAN, STANDING ALONE, IS NOT A REQUIRED DISCLOSURE OR A MATERIAL FACT FOR THE PURPOSES OF DISCLOSURE FOR REAL ESTATE TRANSACTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 39 of the General Statutes is amended by adding a new section to read:

"§ 39-51. Inclusion of real property in a comprehensive transportation plan not a material fact.

In offering real property for conveyance, rent, or lease, the mere fact that the real property, or any portion thereof, is included in a comprehensive transportation plan that is not financially constrained adopted pursuant to G.S. 136-66.2 or G.S. 136-212, or in accordance with 23 U.S.C. §§ 134 or 135 shall not, standing alone, be deemed material; provided, however, that a party to the conveyance, rental, or lease, or an agent of any said party, may not knowingly make a false statement regarding any such fact."

SECTION 2. G.S. 47E-4 reads as rewritten:

"§ 47E-4. Required disclosures.

...

(b3) The inclusion of real property in a comprehensive transportation plan that is not financially constrained adopted pursuant to G.S. 136-66.2 or 136-212, or in accordance with 23 U.S.C. §§ 134 or 135, shall not be considered a required disclosure as provided in this section; provided, however, that no person subject to this Chapter, or an agent of a person subject to this Chapter, may knowingly make a false statement regarding any such fact.

...."

SECTION 3. This act is effective when it becomes law and applies to real estate contracts entered into on or after that date.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 31

Short Title: Material Fact Disclosure Clarifications. (Public)

Sponsors: Representatives Hastings, Stone, Davis, and Floyd (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I, if favorable, Transportation

February 2, 2017

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT THE INCLUSION OF REAL PROPERTY ON A
COMPREHENSIVE TRANSPORTATION PLAN IS NOT A REQUIRED DISCLOSURE
OR A MATERIAL FACT FOR THE PURPOSES OF DISCLOSURE FOR REAL ESTATE
TRANSACTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 39 of the General Statutes is amended by adding a
new section to read:

**"§ 39-51. Inclusion of real property in a comprehensive transportation plan not a material
fact.**

In offering real property for conveyance, rent, or lease, it shall not be deemed a material fact
that the real property, or any portion thereof, is included in a comprehensive transportation plan
adopted pursuant to G.S. 136-66.2 or G.S. 136-212, or in accordance with 23 U.S.C. §§ 134 or
135; provided, however, that a party to the conveyance, rental, or lease, or an agent of any said
party, may not knowingly make a false statement regarding any such fact."

SECTION 2. G.S. 47E-4 reads as rewritten:

"§ 47E-4. Required disclosures.

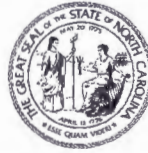
...

(b3) The adoption of a comprehensive transportation plan pursuant to G.S. 136-66.2 or
136-212, or in accordance with 23 U.S.C. §§ 134 or 135, shall not be considered a required
disclosure as provided in this section; provided, however, that no person subject to this Chapter, or
an agent of a person subject to this Chapter, may knowingly make a false statement regarding any
such fact.

...."

SECTION 3. This act is effective when it becomes law and applies to real estate
contracts entered into on or after that date.





NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 31

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H31-ABC-5 [v.5]

Page 1 of 1

Amends Title [NO]
First Edition

Date _____, 2017

Representative Duane Hall

1 moves to amend the Proposed Committee Substitute on page 1, lines 11 to 16, by rewriting those
2 lines to read:

3 "In offering real property for conveyance, rent, or lease, the fact that the real property, or any
4 portion thereof, is included in a financially constrained transportation plan shall be deemed
5 material; however, the mere fact that the real property, or any portion thereof, is included in a
6 comprehensive transportation plan that is not financially constrained adopted pursuant to G.S.
7 136-66.2 or G.S. 136-212, or in accordance with 23 U.S.C. §§ 134 or 135 shall not, standing
8 alone, be deemed material. A party to the conveyance, rental, or lease of real property, or an agent
9 of any said party, may not knowingly make a false statement regarding the property's inclusion on
10 any transportation plan."
11
12

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



* H 3 1 - A B C - 5 - V - 5 *



**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

**JUDICIARY I COMMITTEE REPORT
Representative Ted Davis, Jr., Chair**

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL

HB 31

Material Fact Disclosure Clarifications.

Draft Number:	H31-PCS40139-BC-3
Serial Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes
Floor Manager:	Hastings

TOTAL REPORTED: 1



* C M R 3 5 - V - 1 *



VISITOR REGISTRATION SHEET

House Comm on Judiciary I

Mar 1 2017

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Tim M. A.	NCHBA
Mike Caserta	NCHBA
Steven Wilson	NCHBA
Sullivan Otman	MWCLC
Cathy Thomas	Focus
Scott Palmer	NC REALTORS
Fred Moreno	NCREC
KAT REACH	NASW-NC
Meredith Odinak	MSW NASW-NC
Penny Huff	SOG



Judy Lowe (Rep. Ted Davis)

From: Judy Lowe (Rep. Ted Davis)
Sent: Tuesday, March 14, 2017 4:58 PM
To: Rep. Ted Davis; Rep. Mike Clampitt
Cc: Judy Lowe (Rep. Ted Davis); Edward Stiles (Rep. Mike Clampitt)
Subject: <NCGA> House Judiciary I Committee Meeting Notice for Wednesday, March 15, 2017 at 1:00 PM - CORRECTED #1
Attachments: Add Meeting to Calendar_LINC_.ics

Corrected #1: Added HB260 and HB324

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Wednesday, March 15, 2017
TIME: 1:00 PM
LOCATION: 415 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 230	Revised Uniform Athlete Agents Act.	Representative Davis
HB 260	Attorney General/North Shore Rd. Payment.	Representative Clampitt
HB 324	Pilot Project to Treat Opiate Overdose.	Representative Davis

Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 4:51 PM on Tuesday, March 14, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Judy Lowe (Committee Assistant)



**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Wednesday, March 15, 2017
TIME: 1:00 PM
LOCATION: 415 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 230	Revised Uniform Athlete Agents Act.	Representative Davis

Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 4:31 PM on Monday, March 13, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Judy Lowe (Committee Assistant)



House Committee on Judiciary I
Wednesday, March 15, 2017, 1:00 PM
415 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Introduction of Sergeants at Arms

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 230	Revised Uniform Athlete Agents Act.	Representative Davis
HB 260	Attorney General/North Shore Rd.	Representative Clampitt
HB 324	Pilot Project to Treat Opiate Overdose	Representative Davis

Adjournment



House Committee on Judiciary I
Wednesday, March 15, 2017 at 1:00 PM
Room 415

MINUTES

The House Committee on Judiciary I met at 1:00 PM on March 15, 2017 in Room 415. Representatives Davis, Hall, Jackson and Turner, Howard, Martin, McNeill, Meyer, Rogers, Steinburg attended. Also in attendance were staff members Bill Patterson, Jennifer Bedford, Jason Moran-Bates, and Judy Lowe, Committee Clerk.

Representative Ted Davis, Jr. was the presiding Chairman. He introduced the Sergeants at Arms Bill Moore, Bill Riley and Barry Moore and the pages, Yara Mahmoud, Eleanor McNamee and Sophia Sload.

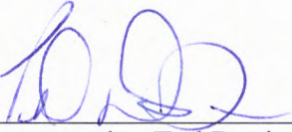
HB260—Attorney General/North Shore Rd. Payment. Representative Clampitt explained that the bill would direct the Attorney General to investigate all legal methods available to Swain County and the State to ensure compliance of the federal government with a 2010 settlement agreement relating to the federal government's failure to build a road through Swain County in the 1940s. The Attorney General must report the results of this investigation to the General Assembly by June 1, 2017. Representative Meyer stated this requires statutory action. Mr. Robert Paschal from the NC Department of Justice spoke briefly on the bill. Representative Stevens moved for a favorable report. The motion passed unanimously.

HB230—Revised Uniform Athlete Agents Act. This is an act to enact the revised Uniform Athlete Agents Act, as recommended by the General Statutes Commission. Representative Davis explained the bill noting that it would make a number of changes to the current law governing the regulation of athlete agents by replacing the Uniform Athlete Agents Act with the Revised Uniform Athlete Agents Act. Representative Davis gave a brief background of the bill and referred questions from members to Floyd Lewis, Reviser of Statutes for the General Statutes Commission. In response to a request for the definition of athlete agent, Mr. Lewis stated that the term includes, among other individuals, an individual, whether or not registered under the Article 9 of Chapter 78C of the General Statutes, who directly or indirectly recruits or solicits a covered athlete to enter into an agency contract. Speakers included Paul Cobe, UNC Associate Athletic Director and Bob Orr, retired member of the NC Supreme Court. Mr. Orr opposed the legislation as a product of the NCAA's efforts. Mr. Lewis noted that the Act had been approved by the national committee in 2014 and North Carolina has been working on it since 2016. He indicated there had been some modifications. Following the discussion, Representative Howard moved for a favorable report and a serial referral to Finance. The motion carried.

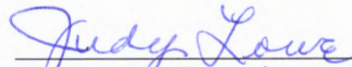
HB324—Pilot Project to Treat Opiate Overdose. Representative Davis explained the bill while Vice-Chairman Sarah Stevens presided. The bill would direct the Department of Public Safety and the City of Wilmington to implement a 2-year pilot project to address the needs of opiate and heroin overdose victims who are not getting follow-up treatment. It would require the Department of Public Safety and the City of Wilmington to report on the project results to the

2019 Session of the General Assembly and would appropriate funds for the project for the 2017-18 and 2018-2019 fiscal years. Representative McNeill asked if the City of Wilmington would be providing any funds for the project which was unknown. Robert Paschal from the Department of Justice spoke in favor of the need for the project. Representative Davis moved for a favorable report with a serial referral to Appropriations. The motion passed unanimously.

The meeting adjourned at 1:40 PM.

A handwritten signature in blue ink, appearing to read "T. Davis, Jr.", written over a horizontal line.

Representative Ted Davis, Jr., Presiding Chair

A handwritten signature in blue ink, appearing to read "Judy Lowe", written over a horizontal line.

Judy Lowe, Committee Assistant





HOUSE BILL 230: Revised Uniform Athlete Agents Act.

2017-2018 General Assembly

Committee:	House Judiciary I. If favorable, re-refer to Finance	Date:	March 15, 2017
Introduced by:	Rep. Davis	Prepared by:	Bill Patterson
Analysis of:	First Edition		Committee Co-Counsel

OVERVIEW: *House Bill 230 would make a number of changes to the current law governing the regulation of athlete agents by replacing the Uniform Athlete Agents Act with the Revised Uniform Athlete Agents Act, as recommended by the General Statutes Commission.*

CURRENT LAW:

The activities of athlete agents who represent student athletes in negotiating professional sports services contracts or endorsement contracts are regulated by the Secretary of State under the Uniform Athlete Agents Act (UAAA), Article 9 of Chapter 78C of the General Statutes, enacted as S.L. 2003-375.

The UAAA requires athlete agents to register with the Secretary of State. The applicant must disclose, among other things, past convictions of felonies or crimes involving moral turpitude, administrative or judicial determinations of false or fraudulent representations, and disciplinary action resulting from occupational or professional conduct.

All agency contracts must contain the amount of the athlete agent's compensation and how it is calculated, a description of the services to be provided, and the duration of the contract, among other things. Athlete agents must maintain certain records for five years, and with regard to such records, a student athlete who enters into an agency contract is deemed to have waived the attorney-client privilege.

The Secretary of State can refuse to register an applicant who has engaged in misconduct and can suspend, revoke, or refuse to renew the registration of a registered athlete agent for misconduct, including engaging in any of the following prohibited conduct:

- Initiating contact with a student athlete unless registered.
- Failing to retain required records or permit their inspection.
- Failing to register as required.
- Making false or misleading statements in the registration application.
- Predating or postdating an agency contract.
- Failing to notify student athletes that entering into an agency contract for a sport will make them ineligible to participate as a student athlete in that sport.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House Bill 230

Page 2

- Giving a student athlete anything of value before the student athlete enters into an agency contract.
- Giving false or misleading information to induce a student athlete to enter into an agency contract.
- Giving anyone other than the student athlete or another athlete agent anything of value to induce the student athlete to enter into an agency contract.

An athlete agent who violates any of the last three of these prohibitions is guilty of a Class I felony.

An educational institution has a right of action against an athlete agent or former student athlete for damages resulting from a violation of Article 9, and the prevailing party in such an action may be awarded costs and attorney's fees. In addition, the Secretary of State can impose a civil penalty for violations of up to \$25,000.

BILL ANALYSIS: House Bill 230 would enact the recommendations of the General Statutes Commission by replacing the Uniform Athlete Agents Act with the Revised Uniform Athlete Agent Act.

Section 1 of the Bill would repeal Article 9 of Chapter 78C.

Section 2 would enact a new Article 10 of Chapter 78C, the Revised Uniform Athlete Agents Act, which would make the following modifications to the current law:

- Define the term "covered athlete" to include both present and former student athletes.
- Extend protection to former student athletes, defined as persons who would be eligible to participate as a student athlete except for having signed an agency contract and persons whose eligibility to participate as a student athlete expired within the past six months.
- Require athlete agents additionally to disclose the following information in their registration applications: past civil proceedings in which they have been a defendant in the past 15 years; any unsatisfied judgments against them; and any bankruptcy filings by them in the past 10 years.
- Expand the Secretary of State's disciplinary authority to include violations of Article 10 or any rules adopted pursuant to it.
- Require agency contracts additionally to state that the agent is registered in this State and to list any other states in which the agent is registered or licensed.
- Require an athlete agent to notify the educational institution:
 - If the agent has an agency contract or relationship with a covered athlete before the athlete enrolled in the educational institution.
 - If the agent is aware of a violation of Article 10 that could render a covered athlete ineligible to compete as a student athlete.
 - Before attempting to contact a covered athlete or if a covered athlete initiates contact with the agent.
- Require an educational institution to notify the Secretary of State of any violations of Article 10 of which it becomes aware.
- Eliminate the current waiver of attorney-client privilege by a student athlete who enters into an agency contract as it applies to any records the athlete agent is required to maintain under Article 10.

House Bill 230

Page 3

- Make it a Class H felony for an unregistered athlete agent to initiate contact with a covered athlete.
- Make it a Class H felony for an athlete agent to do any of the following with the intent to influence a covered athlete (or the athlete's parents or guardians, if a minor) to enter into an agency contract:
 - Give materially false or misleading information or make a materially false promise or representation
 - Furnish anything of value to the student athlete or any other person who is not another registered athlete agent.
- Make it a Class I misdemeanor for an athlete agent to do any of the following:
 - Fail to retain and permit inspection of records as required.
 - Fail to register as required.
 - Provide materially false or misleading information in a registration or renewal application.
 - Predate or postdate an agency contract.
 - Fail to notify a covered athlete or their parent or guardian if a minor, prior to their signing an agency contract for a particular sport, that doing so may disqualify the covered athlete from participating in that sport as a student athlete.
- Eliminate an educational institution's right of action for damages against a former student athlete for violations of the article's requirements.
- Give a covered athlete a right of action for damages for acts or omissions of an athlete agent in violation of Article 10.
- Increase the permissible civil penalty against an athlete agent for violations of Article 10 from \$25,000 to the greater of \$250,000 or the amount of compensation the athlete agent received.

Section 3 of the bill contains a severability clause, and **Section 4** contains conforming technical language relating to the federal Electronic Signatures in Global and National Commerce Act.

EFFECTIVE DATE: This act becomes effective December 1, 2017, and applies to acts or omissions occurring on or after that date. Prosecutions for acts committed prior to the effective date are not affected by this act.





General Statutes Commission

300 N. Salisbury Street, Suite 401
Raleigh, NC 27603-5925
Tel. 919-733-6660 Fax 919-715-5459

Floyd M. Lewis
Revisor of Statutes

P. Bly Hall
Assistant Revisor of Statutes

MEMORANDUM

To: House Judiciary I
From: General Statutes Commission
Re: HB 230 (Revised Uniform Athlete Agents Act)
Date: March 13, 2017

General Comments

This bill is based on the Revised Uniform Athlete Agents Act (RUAAA) that was approved in 2015 by the Uniform Law Commission; this bill modifies RUAAA by making some expansions and statutory drafting style changes. This bill replaces the Uniform Athlete Agents Act (UAAA), enacted by S.L. 2003-375 as Article 9 of Chapter 78C of the General Statutes, with a modified version of RUAAA.

Like UAAA, RUAAA is designed to protect student athletes and educational institutions from the unscrupulous practices of some athlete agents who seek to represent the student athletes in negotiating professional-sports-services contracts and endorsement contracts. Some athlete agents engage in the practice of giving large gifts to student athletes or the student athletes' friends or relatives to induce the student athletes to enter into agency contracts with very unfavorable terms. Consequently, many student athletes have been harmed by these athlete agents' dishonest practices.

These practices also harm educational institutions. When a student athlete enters into an agency contract, the student athlete loses his or her eligibility to play in an interscholastic or intercollegiate sport. If an educational institution unwittingly allows a student athlete to continue to play after he or she has entered into an agency contract, the educational institution may be subject to sanctions from the National Collegiate Athletic Association (NCAA) and significant reputational harm.

Current law based on the UAAA addresses these problems by (i) requiring that all athlete agents register with the State before seeking to represent student athletes, (ii) providing a student athlete with a statutory right to cancel an agency contract within 14 days of signing the contract, (iii) requiring the athlete agent and the student athlete to give notice of an agency contract to the educational institution, (iv) providing an educational institution with a statutory right of action against an athlete agent, (v) establishing a civil penalty, and (vi) criminalizing the practice of an athlete agent deceiving a student athlete or offering an improper inducement to a student athlete to enter into an agency contract.

RUAAA expands UAAA's protections by (i) requiring an athlete agent to notify the educational institution before contacting a student athlete, and (ii) providing a student athlete with a statutory right of action against an athlete agent. RUAAA also offers two alternative registration processes for a state to enact: (i) an in-state registration process, or (ii) an interstate compact for registration.



This bill expands RUAAA's protections by (i) extending the protections to former student athletes who have exhausted their eligibility to compete as student athletes within the past six months, (ii) requiring an athlete agent to notify the educational institution if the athlete agent knows or should have known of a violation of RUAAA that could render a student athlete ineligible to play in an interscholastic or intercollegiate sport, (iii) adding new criminal penalties and increasing the existing criminal penalties, (iv) and increasing the maximum amount of the existing civil penalty. After consultation with interested parties, the General Statutes Commission recommended that this State continue the in-state registration process, instead of the interstate compact for registration. This bill also removes the reciprocal registration process in current law; all athlete agents seeking to represent student athletes in North Carolina must use North Carolina's registration application.

The University of North Carolina Athletic Director's Office and the Department of the Secretary of State participated in the drafting of this bill. A draft of this bill was circulated to the North Carolina High School Athletic Association and the Sports and Entertainment Law Section of the N.C. Bar Association. Drafts of this bill were published on the General Statutes Commission's website. The General Statutes Commission is not aware of any opposition to this bill. Alabama, Idaho, and Washington have enacted RUAAA, and eight states, including South Carolina, have introduced legislation this year to enact RUAAA.

Specific Comments

Section 1 repeals UAAA, as codified in Article 9 of Chapter 78C of the General Statutes.

Section 2 adds a modified version of RUAAA as new Article 10 of Chapter 78C of the General Statutes, consisting of §§ 78C-111 through 78C-130:

§ 78C-111 provides a short title (Revised Uniform Athlete Agents Act).

§ 78C-112 defines terms used in the Article, including the following key terms:

- "Athlete agent" has a definition consistent with current law. The term includes, among other individuals, an individual, whether or not registered under the Article, who directly or indirectly recruits or solicits a covered athlete to enter into an agency contract.
- "Covered athlete" is a new definition added by the General Statutes Commission that includes a student athlete or a former student athlete. This definition extends RUAAA's protections to former student athletes.
- "Former student athlete" is a new definition added by the General Statutes Commission that includes (i) an individual who signed an agency contract who would otherwise be eligible to compete as a student athlete, and (ii) an individual who exhausted his or her eligibility within the past six months. The General Statutes Commission added the first category to clarify that this bill's protections do not immediately terminate once a student athlete signs an agency contract, a result RUAAA's drafters intended. The General Statutes Commission added the second category upon the recommendation of the University of North Carolina Athletic Director's Office.
- "Student athlete" has a definition consistent with current law. The term includes an individual who is eligible to attend an educational institution and engages in, is eligible to engage in, or may be eligible in the future to engage in, any interscholastic or intercollegiate sport.



§ 78C-113 continues the Secretary of State's authority to adopt rules and to issue a subpoena for material relevant to the administration of the Article.

§ 78C-114 continues the requirement that an athlete agent register with the Secretary of State and the provision that declares void an agency contract made by an athlete agent who fails to register.

§ 78C-115 expands the information that an athlete agent must disclose in a registration application, including, for example, (i) whether the athlete agent has been a defendant in a civil proceeding within the past 15 years, (ii) whether the athlete agent has an unsatisfied judgment or a judgment of continuing effect, and (iii) whether the athlete agent has filed bankruptcy within the past 10 years. The Secretary of State may also require additional information.

§ 78C-116 continues to allow the Secretary of State to refuse to issue a certificate of registration to an athlete agent who has engaged in misconduct. A certificate of registration is valid for one year; an athlete agent may apply to renew the athlete agent's registration.

§ 78C-117 continues to allow the Secretary of State to suspend, revoke, or refuse to renew an athlete agent's registration; § 78C-117, however, expands this authority by allowing the Secretary of State to take these actions for any violation of the Article or rules adopted under it.

§ 78C-118 continues to allow the Secretary of State to issue a temporary certificate of registration.

§ 78C-119 continues to provide for application fees and does not change the amounts in current law. § 78C-119 removes the existing fees for applications pursuant to the reciprocal registration process, because this bill removes the reciprocal registration process in current law.

§ 78C-120 continues to require that an agency contract contain the amount and method of calculating the consideration that the covered athlete will pay under the contract, the name of any person not listed in the athlete agent's application for registration that will be paid under the agency contract, and a conspicuous notice warning of possible loss of eligibility to compete as a student athlete. RUAAA adds the requirement that the agency contract contain a statement that the athlete agent is registered in this State and a list of any other states in which the athlete agent is registered or licensed. RUAAA continues to allow a covered athlete to void an agency contract that violates these requirements.

§ 78C-121 continues the requirement that the athlete agent and the covered athlete notify the educational institution of the existence of an agency contract within 72 hours of entering into the agency contract or before the next scheduled athletic event in which the covered athlete may participate, whichever occurs first. RUAAA adds the following notice requirements:

- If an athlete agent and a covered athlete have an agency contract or relationship before the covered athlete enrolls in an educational institution, the athlete agent must notify the educational institution.
- The athlete agent must notify the educational institution before attempting to contact a covered athlete or if a covered athlete attempts to contact the athlete agent.
- The educational institution must notify the Secretary of State when it becomes aware of a violation of the Article.



The General Statutes Commission added the requirement that the athlete agent notify the educational institution if the athlete agent knows or should have known of a violation of the Article that could render a covered athlete ineligible to compete as a student athlete.

§ 78C-122 continues for covered athletes the non-waivable right to cancel an agency contract within 14 days of signing the contract.

§ 78C-123 continues the requirement that an athlete agent retain the athlete agent's records for five years and allows the Secretary of State to inspect the records.

§§ 78C-124 and 78C-125 continue to criminally prohibit the following actions by an athlete agent intending to induce a covered athlete to enter into an agency contract:

- Giving materially false or misleading information or making a materially false promise or representation.
- Furnishing anything of value to the covered athlete or to an individual other than another registered athlete agent.

§§ 78C-124 and 78C-125 increase the punishment for these offenses from a Class I felony to a Class H felony, provide that an unregistered athlete agent's initiation of contact with a covered athlete is also a Class H felony, and add that an athlete agent's (i) failing to retain records, (ii) failing to register, (iii) providing false or misleading information in an application for registration, (iv) predating or postdating an agency contract, and (v) failing to notify a covered athlete that signing an agency contract may render the covered athlete ineligible to compete as a student athlete are Class I misdemeanors.

§ 78C-126 continues the statutory right of action by an educational institution against an athlete agent. § 78C-126 removes an educational institution's right of action against a former student athlete but gives to a covered athlete a right of action against an athlete agent. § 78C-126 provides that a violation of the Article is an unfair trade or deceptive practice and that a plaintiff may recover actual damages and costs and any other remedies, including attorneys' fees, provided under Chapter 75 of the General Statutes.

§ 78C-127 continues to allow the Secretary of State to assess a civil penalty but increases the maximum amount from \$25,000 to \$250,000 or the amount of consideration the athlete agent received, whichever is greater, and lists several factors for the Secretary of State to consider in making this assessment.

§ 78C-128 is reserved for future codification.

§§ 78C-129 and 78C-130 are standard Uniform Act provisions relating to uniformity of application and to the federal E-SIGN act.

Section 3 is a severability provision, and **Section 4** authorizes the printing of official and drafters' comments.

Section 5 provides that this act becomes effective December 1, 2017, and applies to acts and omissions occurring on or after that date.



HOUSE BILL 260: Attorney General/North Shore Rd. Payment.

2017-2018 General Assembly

Committee:	House Judiciary I	Date:	March 14, 2017
Introduced by:	Rep. Clampitt	Prepared by:	Jason Moran-Bates
Analysis of:	First Edition		Committee Co-Counsel

OVERVIEW: *House Bill 260 would direct the Attorney General to investigate all legal methods available to Swain County and the State to ensure compliance of the federal government with a 2010 settlement agreement relating to the federal government's failure to build a road through Swain County in the 1940s. The Attorney general must report the results of this investigation to the General Assembly by June 1, 2017.*

BILL ANALYSIS:

Section 1: According to Section 1 of the bill, on July 30, 1943, the Tennessee Valley Authority (TVA) and the State entered into an agreement for the U.S. Department of the Interior to construct a road (the North Shore Road) from the eastern boundary of the Great Smoky Mountains National Park to the Fontana Dam Access Road. The North Shore Road was never fully constructed.

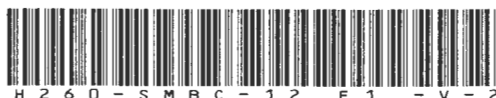
On February 6, 2010, the TVA and the State entered into an agreement for the federal government to pay \$8.8 million within 130 days and additional sums not to exceed \$39.2 million on or before December 31, 2020, to settle all claims related to the failure to construct the North Shore Road. The payments were to be made to Swain County. To date, Swain County has not received any of the additional sums.

Section 2 of House Bill 260 would direct the Attorney General to investigate any legal methods available to ensure the federal government pays the additional sums owed to Swain County under the February 6, 2010 agreement.

Section 3 of the bill would require the Attorney General to report his findings to the General Assembly, in accordance with G.S. 120-29.5, by June 1, 2017.

EFFECTIVE DATE: This bill is effective when it becomes law.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 260

Short Title: Attorney General/North Shore Rd. Payment. (Public)

Sponsors: Representative Clampitt.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I

March 8, 2017

A BILL TO BE ENTITLED
AN ACT DIRECTING THE ATTORNEY GENERAL TO INVESTIGATE LEGAL METHODS
AVAILABLE TO SWAIN COUNTY AND THE STATE TO ENSURE PAYMENT BY THE
FEDERAL GOVERNMENT OF SUMS OF MONEY OWED FOR ITS FAILURE TO
CONSTRUCT THE NORTH SHORE ROAD.

The General Assembly of North Carolina enacts:

SECTION 1. Findings. – The General Assembly finds the following:

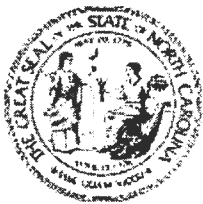
- (1) The Tennessee Valley Authority and the State entered into a Memorandum of Agreement, dated July 30, 1943 (1943 Agreement).
- (2) As part of the 1943 Agreement, the United States Department of the Interior committed to "construct or cause to be constructed" a road that was to run from the eastern boundary of the Great Smoky Mountains National Park to the Fontana Dam Access Road. This road is commonly referred to as the "North Shore Road."
- (3) The North Shore Road has never been fully constructed.
- (4) The Tennessee Valley Authority and the State entered into another Memorandum of Agreement, dated February 6, 2010 (2010 Agreement).
- (5) As part of the 2010 Agreement, the federal government agreed to pay (i) eight million eight hundred thousand dollars (\$8,800,000) within 130 days of the date the 2010 Agreement was executed and (ii) additional sums not to exceed thirty-nine million two hundred thousand dollars (\$39,200,000) on or before December 31, 2020, to Swain County, North Carolina, to settle any and all claims related to the United States Department of the Interior's failure to fully construct the North Shore Road.
- (6) Swain County still has not received any of the additional sums owed to it under the 2010 Agreement.

SECTION 2. Investigation. – The Attorney General shall investigate any legal methods available to Swain County and the State to ensure payment by the federal government of the remaining sums of money owed to Swain County under the 2010 Agreement.

SECTION 3. Report. – The Attorney General shall report its findings, including any legislative recommendations, to the General Assembly by June 1, 2017. The report required under this section shall be submitted in accordance with G.S. 120-29.5.

SECTION 4. Effective Date. – This act is effective when it becomes law.





HOUSE BILL 324: Pilot Project to Treat Opiate Overdose.

2017-2018 General Assembly

Committee:	House Judiciary I. If favorable, re-refer to Appropriations	Date:	March 14, 2017
Introduced by:	Rep. Davis	Prepared by:	Bill Patterson
Analysis of:	First Edition		Committee Counsel

OVERVIEW: *House Bill 324 would: direct the Department of Public Safety and the City of Wilmington to implement a two-year pilot project to address the needs of opiate and heroin overdose victims who are not getting follow-up treatment; require the Department of Public Safety and the City of Wilmington to report on the project results to the 2019 Session of the General Assembly; and appropriate funds for the project for the 2017-18 and 2018-19 fiscal years.*

BILL ANALYSIS: Section 1 of House Bill 324 would direct the Department of Public Safety and the City of Wilmington to develop and implement a pilot project establishing a "Quick Response Team" to address the needs of opiate and heroin overdose victims who are not getting follow-up treatment.

Section 2 would require the Department of Public Safety and the City of Wilmington to report on the results of the pilot project to the 2019 Session of the General Assembly.

Section 3 would appropriate \$250,000 in recurring funds for implementing the pilot project in the City of Wilmington for the 2017-2018 and 2018-2019 fiscal years.

EFFECTIVE DATE: This act is effective when it becomes law.

Karen Cochrane-Brown
Director



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Legislative Analysis
Division
919-733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 324

Short Title: Pilot Project to Treat Opiate Overdose. (Local)

Sponsors: Representative Davis.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I, if favorable, Appropriations

March 14, 2017

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE CITY OF WILMINGTON TO DEVELOP AND IMPLEMENT A
PILOT PROJECT TO ESTABLISH A QUICK RESPONSE TEAM TO ADDRESS THE
UNMET NEEDS OF OPIATE OVERDOSE VICTIMS WHO ARE IN NEED OF
FOLLOW-UP TREATMENT, COUNSELING, SUPPORT, AND OTHER RECOVERY
SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. Pilot Project. – The Department of Public Safety, in conjunction with the City of Wilmington, shall develop and implement a pilot project to establish a "Quick Response Team" (QRT) to address the needs of opiate and heroin overdose victims who are not getting follow-up treatment. The QRT shall be staffed by firefighters, police officers, medics, and other law enforcement as determined by the Department of Public Safety and the City of Wilmington. The Department of Public Safety and the City of Wilmington shall work together to develop the policy and procedures for the QRT. In doing so, all of the following shall be considered:

- (1) Increase engagement and treatment with family counseling and recovery groups.
- (2) Provide follow-up care to survivable overdose incidents with police/medics and licensed counselors.
- (3) Provide short- and long-term support to overdose victims and families.
- (4) Provide follow-up within three to five days after an initial incident.
- (5) Create a fatal review panel to analyze and keep track of the deaths of those served by QRT.

SECTION 2. Report. – The Department of Public Safety and the City of Wilmington shall report on the results of the pilot project to the 2019 Regular Session of the General Assembly, upon its reconvening.

SECTION 3. Appropriation. – There is appropriated from the General Fund to the Department of Public Safety the sum of two hundred fifty thousand dollars (\$250,000) in recurring funds for the 2017-2018 and 2018-2019 fiscal years to fund the implementation of a Quick Response Team to address the needs of opiate and heroin overdose victims in the City of Wilmington.

SECTION 4. Effective Date. – This act is effective when it becomes law.



NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

JUDICIARY I COMMITTEE REPORT
Representative Ted Davis, Jr., Chair

FAVORABLE

HB 260 Attorney General/North Shore Rd. Payment.
Draft Number: None
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: Clampitt

FAVORABLE AND RE-REFERRED

HB 230 Revised Uniform Athlete Agents Act.
Draft Number: None
Serial Referral: FINANCE
Recommended Referral: None
Long Title Amended: No
Floor Manager: Davis

HB 324 Pilot Project to Treat Opiate Overdose.
Draft Number: None
Serial Referral: APPROPRIATIONS
Recommended Referral: None
Long Title Amended: No
Floor Manager: Davis

TOTAL REPORTED: 3



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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 230

Short Title: Revised Uniform Athlete Agents Act.

(Public)

Sponsors: Representative Davis.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I, if favorable, Finance

March 2, 2017

A BILL TO BE ENTITLED
AN ACT TO ENACT THE REVISED UNIFORM ATHLETE AGENTS ACT, AS
RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 78C of the General Statutes is repealed.

SECTION 2. Chapter 78C of the General Statutes is amended by adding a new
Article to read:

"Article 10.

"Revised Uniform Athlete Agents Act.

"§ 78C-111. Short title.

This Article may be cited as the Revised Uniform Athlete Agents Act.

"§ 78C-112. Definitions.

The following definitions apply in this Article:

(1) Agency contract. – An agreement that authorizes a person to negotiate or solicit
on behalf of an individual a professional-sports-services contract or
endorsement contract.

(2) Athlete agent. –

a. An individual, whether or not registered under this Article, who does
any of the following:

1. Directly or indirectly recruits or solicits a covered athlete to
enter into an agency contract or, for compensation, procures
employment or offers, promises, attempts, or negotiates to obtain
employment for a covered athlete as a professional athlete or
member of a professional sports team or organization.

2. For compensation or in anticipation of compensation related to a
covered athlete's participation in athletics, does any of the
following:

I. Serves the covered athlete in an advisory capacity on a
matter related to finances, business pursuits, or career
management decisions, unless the individual is an
employee of an educational institution acting exclusively
as an employee of the educational institution for the
benefit of the educational institution.



- 1 II. Manages the business affairs of the covered athlete by
2 providing assistance with bills, payments, contracts, or
3 taxes.
- 4 3. In anticipation of representing a covered athlete for a purpose
5 related to the covered athlete's participation in athletics, does any
6 of the following:
- 7 I. Gives consideration to the covered athlete or another
8 person.
- 9 II. Serves the covered athlete in an advisory capacity on a
10 matter related to finances, business pursuits, or career
11 management decisions.
- 12 III. Manages the business affairs of the covered athlete by
13 providing assistance with bills, payments, contracts, or
14 taxes.
- 15 4. Represents to the public that the individual is an athlete agent.
- 16 b. The term "athlete agent" does not include an individual who does any of
17 the following:
- 18 1. Acts solely on behalf of a professional sports team or
19 organization.
- 20 2. Is a licensed, registered, or certified professional and offers or
21 provides services to a covered athlete customarily provided by
22 members of the profession, unless the individual does any of the
23 following:
- 24 I. Also recruits or solicits the covered athlete to enter into
25 an agency contract.
- 26 II. Also, for compensation, procures employment or offers,
27 promises, attempts, or negotiates to obtain employment
28 for the covered athlete as a professional athlete or
29 member of a professional sports team or organization.
- 30 III. Receives consideration for providing the services
31 calculated using a different method than for an individual
32 who is not a covered athlete.
- 33 (3) Athletic director. – The individual responsible for administering the overall
34 athletic program of an educational institution or, if an educational institution
35 has separately administered athletic programs for male students and female
36 students, the athletic program for males or the athletic program for females, as
37 appropriate.
- 38 (4) Reserved.
- 39 (5) Reserved.
- 40 (5a) Covered athlete. – A student athlete or a former student athlete.
- 41 (6) Educational institution. – Includes a public or private elementary school,
42 secondary school, technical or vocational school, community college, college,
43 and university.
- 44 (7) Endorsement contract. – An agreement under which an individual is employed
45 or receives consideration to use on behalf of the other party any value that the
46 individual may have because of publicity, reputation, following, or fame
47 obtained because of athletic ability or performance.
- 48 (8) Enrolled. – Registered for courses and attending athletic practice or class.
49 "Enrolls" has a corresponding meaning.
- 50 (8a) Former student athlete. – Any of the following:

- 1 a. An individual who is ineligible to engage in an interscholastic or
2 intercollegiate sport only because the individual executed an agency
3 contract, a professional-sports-services contract, or an endorsement
4 contract or received anything of value from an athlete agent and who
5 would otherwise qualify as a student athlete.
6 b. An individual who exhausted the individual's eligibility to engage in an
7 interscholastic or intercollegiate sport within the preceding six months,
8 whether or not the individual is still enrolled in an educational
9 institution.
10 (9) Intercollegiate sport. – A sport played at the collegiate level for which
11 eligibility requirements for participation by a student athlete are established by
12 a national association that promotes or regulates collegiate athletics.
13 (10) Interscholastic sport. – A sport played between educational institutions that are
14 not community colleges, colleges, or universities.
15 (11) Licensed, registered, or certified professional. – An individual licensed,
16 registered, or certified as an attorney, dealer in securities, financial planner,
17 insurance agent, real estate broker or sales agent, tax consultant, accountant, or
18 member of a profession, other than that of athlete agent, who is licensed,
19 registered, or certified by the State or a nationally recognized organization that
20 licenses, registers, or certifies members of the profession on the basis of
21 experience, education, or testing.
22 (12) Person. – An individual, estate, business or nonprofit entity, public corporation,
23 government or governmental subdivision, agency, instrumentality, business
24 trust, partnership, limited liability company, association, joint venture, or any
25 other legal or commercial entity.
26 (13) Professional-sports-services contract. – An agreement under which an
27 individual is employed as a professional athlete or agrees to render services as a
28 player on a professional sports team or with a professional sports organization.
29 (14) Record. – Information that is inscribed on a tangible medium or that is stored in
30 an electronic or other medium and is retrievable in perceivable form.
31 (15) Recruit or solicit. – Attempt to influence the choice of an athlete agent by a
32 covered athlete or, if the covered athlete is a minor, a parent or guardian of the
33 covered athlete. The term does not include giving advice on the selection of a
34 particular athlete agent in a family or coaching situation unless the individual
35 giving the advice does so because of the receipt or anticipated receipt of an
36 economic benefit, directly or indirectly, from the athlete agent.
37 (16) Registration. – Registration as an athlete agent under this Article.
38 (17) Sign. – With present intent to authenticate or adopt a record, to do any of the
39 following:
40 a. Execute or adopt a tangible symbol.
41 b. Attach to or logically associate with the record an electronic symbol,
42 sound, or process.
43 (18) State. – A state of the United States, the District of Columbia, Puerto Rico, the
44 United States Virgin Islands, or any territory or insular possession subject to the
45 jurisdiction of the United States.
46 (19) Student athlete. – An individual who is eligible to attend an educational
47 institution and engages in, is eligible to engage in, or may be eligible in the
48 future to engage in, any interscholastic or intercollegiate sport. The term does
49 not include an individual permanently ineligible to participate in a particular
50 interscholastic or intercollegiate sport for that sport.

51 **"§ 78C-113. Secretary of State; authority; procedure.**

1 (a) Chapter 150B of the General Statutes applies to this Article. The Secretary of State
2 may adopt rules under Chapter 150B of the General Statutes to implement this Article.

3 (b) By acting as an athlete agent in this State, a nonresident individual appoints the
4 Secretary of State as the individual's agent for service of process in any civil action in this State
5 related to the individual acting as an athlete agent in this State.

6 (c) The Secretary of State may issue a subpoena for material that is relevant to the
7 administration of this Article.

8 **"§ 78C-114. Athlete agent; registration required; void contract.**

9 (a) Except as otherwise provided in subsection (b) of this section, an individual shall not
10 act as an athlete agent in this State without holding a certificate of registration under this Article.

11 (b) Before being issued a certificate of registration under this Article, an individual may
12 act as an athlete agent in this State for all purposes except signing an agency contract, if all of the
13 following occur:

14 (1) A covered athlete or another person acting on behalf of the covered athlete
15 initiates communication with the individual.

16 (2) Not later than seven days after an initial act that requires the individual to
17 register as an athlete agent, the individual submits an application for
18 registration as an athlete agent in this State.

19 (c) An agency contract resulting from conduct in violation of this section is void, and the
20 athlete agent shall return any consideration received under the agency contract. The covered
21 athlete and the covered athlete's parent or guardian are not required to return any consideration
22 received by any of them from the athlete agent to influence the covered athlete to enter into the
23 agency contract.

24 **"§ 78C-115. Registration as athlete agent; application; requirements.**

25 (a) An applicant for registration as an athlete agent must submit an application for
26 registration to the Secretary of State in a form prescribed by the Secretary of State. The applicant
27 must be an individual, and the application must be signed by the applicant under penalty of
28 perjury. The application must contain at least the following:

29 (1) The name, Social Security number, and date and place of birth of the applicant
30 and the following contact information for the applicant:

31 a. The address of the applicant's principal place of business.

32 a1. Home address.

33 b. Work and mobile telephone numbers.

34 c. Any means of communicating electronically, including a facsimile
35 number, electronic mail address, and personal and business or employer
36 Web sites.

37 (2) The name of the applicant's business or employer, if applicable, including, for
38 each business or employer, its mailing address, telephone number, organization
39 form, and the nature of the business.

40 (3) Each social-media account with which the applicant or the applicant's business
41 or employer is affiliated.

42 (4) Each business or occupation in which the applicant engaged within five years
43 before the date of the application, including self-employment and employment
44 by others, and any professional or occupational license, registration, or
45 certification held by the applicant during that time.

46 (5) A description of the applicant's:

47 a. Formal training as an athlete agent.

48 b. Practical experience as an athlete agent, in detail.

49 c. Educational background relating to the applicant's activities as an athlete
50 agent.

- (6) The name of each athlete for whom the applicant acted as an athlete agent within five years before the date of the application or, if the individual is a minor, the name of the parent or guardian of the minor, together with the athlete's sport and last-known team.
- (6a) The name of each athlete who terminated an agency contract or other professional agreement with the applicant or the applicant's then-employing organization within five years before the date of the application.
- (6b) The name of each athlete whose agency contract or professional agreement with the applicant or the applicant's then-employing organization was terminated by the applicant or the applicant's then-employing organization within five years before the date of the application.
- (7) The name and address of each person to which any of the following apply:
- a. Is a partner, member, officer, manager, associate, or profit sharer or directly or indirectly holds an equity interest of five percent (5%) or greater of the athlete agent's business if it is not a corporation.
- b. Is an officer or director of a corporation employing the athlete agent or a shareholder having an interest of five percent (5%) or greater in the corporation.
- (8) A description of the status of any application by the applicant, or any person named under subdivision (7) of this subsection, for a state or federal business, professional, or occupational license, other than as an athlete agent, from a state or federal agency, including any denial, refusal to renew, suspension, withdrawal, or termination of the license and any reprimand or censure related to the license.
- (9) Whether the applicant, or any person named under subdivision (7) of this subsection, has pleaded guilty or no contest to, has been convicted of, or has charges pending for, a crime that would involve moral turpitude or be a felony if committed in this State and, if so, identification of all the following:
- a. The crime.
- b. The law enforcement agency involved.
- c. If applicable, the date of the conviction and the fine or penalty imposed.
- (10) Whether, within 15 years before the date of application, the applicant, or any person named under subdivision (7) of this subsection, has been a defendant or respondent in a civil proceeding, including a proceeding seeking an adjudication of incompetence and, if so, the date and a full explanation of each proceeding.
- (11) Whether the applicant, or any person named under subdivision (7) of this subsection, has an unsatisfied judgment or a judgment of continuing effect, including alimony or a domestic order in the nature of child support, which is not current at the date of the application.
- (12) Whether, within 10 years before the date of application, the applicant, or any person named under subdivision (7) of this subsection, has filed a petition in bankruptcy or was an owner of a business that has filed a petition in bankruptcy.
- (13) Whether there has been any administrative or judicial determination that the applicant, or any person named under subdivision (7) of this subsection, made a false, misleading, deceptive, or fraudulent representation.
- (14) Each instance in which conduct of the applicant, or any person named under subdivision (7) of this subsection, resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic,

- 1 intercollegiate, or professional athletic event on a covered athlete or a sanction
2 on an educational institution.
3 (15) Each sanction, suspension, or disciplinary action taken against the applicant, or
4 any person named under subdivision (7) of this subsection, arising out of
5 occupational or professional conduct.
6 (16) Whether there has been a denial of an application for, suspension or revocation
7 of, refusal to renew, or abandonment of, the registration or licensure of the
8 applicant, or any person named under subdivision (7) of this subsection, as an
9 athlete agent in any state.
10 (17) Each state in which the applicant currently is registered or licensed as an athlete
11 agent or has applied to be registered or licensed as an athlete agent.
12 (18) If the applicant is certified or registered by a professional league or players
13 association, all of the following:
14 a. The name of the league or association.
15 b. The date of certification or registration, and the date of expiration of the
16 certification or registration, if any.
17 c. If applicable, the date of any denial of an application for, suspension or
18 revocation of, refusal to renew, withdrawal of, or termination of, the
19 certification or registration or any reprimand or censure related to the
20 certification or registration.
21 (19) Any additional information required by the Secretary of State.

22 (b) through (d) Reserved.

23 **"§ 78C-116. Certificate of registration; issuance or denial; renewal.**

24 (a) Except as otherwise provided in subsection (b) of this section, the Secretary of State
25 shall issue a certificate of registration to an applicant for registration who complies with
26 G.S. 78C-115(a).

27 (b) The Secretary of State may refuse to issue a certificate of registration to an applicant
28 for registration under G.S. 78C-115(a) if the Secretary of State determines that the applicant has
29 engaged in conduct that significantly adversely reflects on the applicant's fitness to act as an
30 athlete agent. In making the determination, the Secretary of State may consider whether the
31 applicant has done any of the following:

- 32 (1) Pleaded guilty or no contest to, has been convicted of, or has charges pending
33 for, a crime that would involve moral turpitude or be a felony if committed in
34 this State.
35 (2) Made a materially false, misleading, deceptive, or fraudulent representation in
36 the application or as an athlete agent.
37 (3) Engaged in conduct that would disqualify the applicant from serving in a
38 fiduciary capacity.
39 (4) Engaged in conduct prohibited by G.S. 78C-124.
40 (5) Had a registration or licensure as an athlete agent suspended, revoked, or denied
41 in any state.
42 (6) Been refused renewal of registration or licensure as an athlete agent in any
43 state.
44 (7) Engaged in conduct resulting in imposition of a sanction, suspension, or
45 declaration of ineligibility to participate in an interscholastic, intercollegiate, or
46 professional athletic event on a covered athlete or a sanction on an educational
47 institution.
48 (8) Engaged in conduct that adversely reflects on the applicant's credibility,
49 honesty, or integrity.

50 (c) In making a determination under subsection (b) of this section, the Secretary of State
51 shall consider all of the following:

- (1) How recently the conduct occurred.
- (2) The nature of the conduct and the context in which it occurred.
- (3) Other relevant conduct of the applicant.

(d) An athlete agent registered under subsection (a) of this section may apply to renew the registration by submitting an application for renewal in a form prescribed by the Secretary of State. The applicant shall sign the application for renewal under penalty of perjury and include current information on all matters required in an original application for registration.

(e) Reserved.

(f) A certificate of registration or renewal of registration under this Article is valid for one year.

"§ 78C-117. Suspension, revocation, or refusal to renew registration.

(a) The Secretary of State may limit, suspend, revoke, or refuse to renew a registration of an individual registered under G.S. 78C-116(a) for conduct that would have justified refusal to issue a certificate of registration under G.S. 78C-116(b) or for any other violation of this Article or the rules adopted under it. In making a determination under this section, the Secretary of State shall consider the factors in G.S. 78C-116(c).

(b) Reserved.

"§ 78C-118. Temporary registration.

The Secretary of State may issue a temporary certificate of registration as an athlete agent while an application for registration or renewal of registration is pending.

"§ 78C-119. Registration and renewal fees.

An application for registration or renewal of registration as an athlete agent must be accompanied by a fee in the following amount:

- | | |
|--|------------------|
| (1) <u>Initial application for registration</u> | <u>\$200.00</u> |
| (2) <u>Application for renewal of registration</u> | <u>\$200.00.</u> |

"§ 78C-120. Required form of agency contract.

(a) An agency contract must be in a record signed by the parties.

(b) An agency contract must contain all of the following:

- (1) A statement that the athlete agent is registered as an athlete agent in this State and a list of any other states in which the athlete agent is registered or licensed as an athlete agent.
- (2) The amount and method of calculating the consideration to be paid by the covered athlete for services to be provided by the athlete agent under the agency contract and any other consideration the athlete agent has received or will receive from any other source for entering into the agency contract or providing the services.
- (3) The name of any person not listed in the athlete agent's application for registration or renewal of registration that will be compensated because the covered athlete signed the agency contract.
- (4) A description of any expenses the covered athlete agrees to reimburse.
- (5) A description of the services to be provided to the covered athlete.
- (6) The duration of the agency contract.
- (7) The date of execution.

(c) Subject to subsection (g) of this section, an agency contract must contain a conspicuous notice in boldface type and in substantially the following form:

"Warning

If you sign this contract:

- (1) You may lose your eligibility to compete as a student athlete in your sport;
- (2) If you have an athletic director or had an athletic director within the preceding six months, within 72 hours after signing this contract or before the next scheduled athletic event in which you participate, whichever occurs first,

both you and your athlete agent must notify your athletic director that you have entered into this contract and provide the name and contact information of the athlete agent;

(3) You may cancel this contract within 14 days after signing it. Cancellation of this contract may not reinstate your eligibility as a student athlete in your sport."

(d) An agency contract must be accompanied by a separate record signed by the covered athlete or, if the covered athlete is a minor, the parent or guardian of the covered athlete acknowledging that signing the agency contract may result in the loss of the covered athlete's eligibility to participate in the covered athlete's sport as a student athlete.

(e) A covered athlete or, if the covered athlete is a minor, the parent or guardian of the covered athlete may void an agency contract that does not conform to this section. If the agency contract is voided, any consideration received from the athlete agent to induce entering into the agency contract is not required to be returned.

(f) At the time an agency contract is executed, the athlete agent must give the covered athlete or, if the covered athlete is a minor, the parent or guardian of the covered athlete a copy in a record of the agency contract and the separate acknowledgement required by subsection (d) of this section.

(g) If a covered athlete is a minor, an agency contract must be signed by the parent or guardian of the minor and the notice required by subsection (c) of this section must be revised accordingly.

"§ 78C-121. Notice to educational institution.

(a) In this section, "communicating or attempting to communicate" means contacting or attempting to contact by an in-person meeting, a record, or any other method that conveys or attempts to convey a message.

(b) Not later than 72 hours after entering into an agency contract or before the next scheduled athletic event in which the covered athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the agency contract to the athletic director of the educational institution at which the covered athlete is enrolled, was most recently enrolled, or at which the athlete agent has reasonable grounds to believe the covered athlete intends to enroll.

(c) Not later than 72 hours after entering into an agency contract or before the next scheduled athletic event in which the covered athlete may participate, whichever occurs first, the covered athlete shall inform the athletic director of the educational institution at which the covered athlete is enrolled or was most recently enrolled that the covered athlete has entered into an agency contract and shall provide the name and contact information of the athlete agent.

(d) If an athlete agent enters into an agency contract with a covered athlete and the covered athlete subsequently enrolls at an educational institution, the athlete agent shall notify the athletic director of the educational institution of the existence of the agency contract not later than 72 hours after the athlete agent knew or should have known the covered athlete enrolled.

(e) If an athlete agent has a relationship with a covered athlete before the covered athlete enrolls in an educational institution and receives an athletic scholarship from the educational institution, the athlete agent shall notify the educational institution of the relationship not later than 10 days after the enrollment if the athlete agent knows or should have known of the enrollment and any of the following has occurred:

(1) The relationship was motivated in whole or part by the intention of the athlete agent to recruit or solicit the covered athlete to enter an agency contract in the future.

(2) The athlete agent directly or indirectly recruited or solicited the covered athlete to enter an agency contract before the enrollment.

1 (f) An athlete agent shall give notice in a record to the athletic director of any educational
2 institution at which a covered athlete is enrolled or was most recently enrolled before the athlete
3 agent communicates or attempts to communicate with any of the following:

4 (1) The covered athlete or, if the covered athlete is a minor, a parent or guardian of
5 the covered athlete to influence the covered athlete or parent or guardian to
6 enter into an agency contract.

7 (2) Another individual to have that individual influence the covered athlete or, if
8 the covered athlete is a minor, the parent or guardian of the covered athlete to
9 enter into an agency contract.

10 (g) If a communication or attempt to communicate with an athlete agent is initiated by a
11 covered athlete or another individual on behalf of the covered athlete, the athlete agent shall notify
12 in a record the athletic director of any educational institution at which the covered athlete is
13 enrolled or was most recently enrolled. The notification shall be made not later than 10 days after
14 the communication or attempt.

15 (g1) An athlete agent who knows or should have known of a violation of this Article that
16 could render a covered athlete ineligible to engage in an interscholastic or intercollegiate sport
17 shall, not later than 72 hours after becoming aware of the violation or before the next scheduled
18 athletic event in which the covered athlete may participate, whichever occurs first, give notice in a
19 record of the existence of the violation to the athletic director of the educational institution at
20 which the covered athlete is enrolled, was most recently enrolled, or at which the athlete agent has
21 reasonable grounds to believe the covered athlete intends to enroll.

22 (h) An educational institution that becomes aware of a violation of this Article by an
23 athlete agent shall give notice of the violation to the Secretary of State and any professional league
24 or players association with which the educational institution is aware the athlete agent is licensed
25 or registered.

26 **"§ 78C-122. Covered athlete's right to cancel.**

27 (a) A covered athlete or, if the covered athlete is a minor, the parent or guardian of the
28 covered athlete may cancel an agency contract by giving notice in a record of cancellation to the
29 athlete agent not later than 14 days after the agency contract is signed.

30 (b) A covered athlete or, if the covered athlete is a minor, the parent or guardian of the
31 covered athlete may not waive the right to cancel an agency contract.

32 (c) If a covered athlete, parent, or guardian cancels an agency contract, the covered athlete,
33 parent, or guardian is not required to pay any consideration under the agency contract or return
34 any consideration received from the athlete agent to influence the covered athlete to enter into the
35 agency contract.

36 **"§ 78C-123. Required records.**

37 (a) An athlete agent shall create and retain for five years records of all the following:

38 (1) The name and address of each individual represented by the athlete agent.

39 (2) Each agency contract entered into by the athlete agent.

40 (3) The direct costs incurred by the athlete agent in the recruitment or solicitation
41 of each covered athlete to enter into an agency contract.

42 (b) Records described in subsection (a) of this section are open to inspection by the
43 Secretary of State during normal business hours.

44 **"§ 78C-124. Prohibited conduct.**

45 (a) An athlete agent, with the intent to influence a covered athlete or, if the covered athlete
46 is a minor, a parent or guardian of the covered athlete to enter into an agency contract, shall not
47 take any of the following actions or encourage any other individual to take or assist any other
48 individual in taking any of the following actions on behalf of the athlete agent:

49 (1) Give materially false or misleading information or make a materially false
50 promise or representation.

51 (2) Furnish anything of value to the covered athlete.

(3) Furnish anything of value to an individual other than the covered athlete or another registered athlete agent.

(b) Unless registered under this Article, an athlete agent shall not intentionally (i) initiate contact, directly or indirectly, with a covered athlete or, if the covered athlete is a minor, a parent or guardian of the covered athlete to recruit or solicit the covered athlete, parent, or guardian to enter an agency contract or (ii) encourage any other individual to do so on behalf of the athlete agent.

(c) An athlete agent shall not intentionally do any of the following or encourage any other individual to do any of the following on behalf of the athlete agent:

(1) Reserved.

(2) Fail to create or retain or to permit inspection of the records required by G.S. 78C-123.

(3) Fail to register when required by G.S. 78C-114.

(4) Provide materially false or misleading information in an application for registration or renewal of registration.

(5) Predate or postdate an agency contract.

(6) Fail to notify a covered athlete or, if the covered athlete is a minor, a parent or guardian of the covered athlete, before the covered athlete, parent, or guardian signs an agency contract for a particular sport that the signing may make the covered athlete ineligible to participate as a student athlete in that sport.

"§ 78C-125. Criminal penalty.

An athlete agent who violates any provision under G.S. 78C-124(a) or (b) is guilty of a Class H felony. An athlete agent who violates any provision under G.S. 78C-124(c) is guilty of a Class 1 misdemeanor.

"§ 78C-126. Civil remedy.

(a) An educational institution or covered athlete may bring an action for damages against an athlete agent if the educational institution or covered athlete is adversely affected by an act or omission of the athlete agent in violation of this Article. An educational institution or covered athlete is adversely affected by an act or omission of the athlete agent only if, because of the act or omission, the educational institution or an individual who was a covered athlete at the time of the act or omission:

(1) Is suspended or disqualified from participation in an interscholastic or intercollegiate sports event by or under the rules of a state or national federation or association that promotes or regulates interscholastic or intercollegiate sports; or

(2) Suffers financial damage.

(b) A violation of this Article is an unfair trade or deceptive practice for purposes of Chapter 75 of the General Statutes.

(c) A plaintiff that prevails in an action under this section may recover actual damages and costs and any other remedies, including attorneys' fees, provided under Chapter 75 of the General Statutes. An athlete agent found liable under this section forfeits any right of payment for anything of benefit or value provided to the covered athlete and shall refund any consideration paid to the athlete agent by or on behalf of the covered athlete.

"§ 78C-127. Civil penalty; consideration factors.

(a) The Secretary of State may assess a civil penalty against an athlete agent not to exceed two hundred fifty thousand dollars (\$250,000) or the amount of consideration the athlete agent received, whichever is greater, for a violation of this Article. The Secretary of State shall consider all the following factors:

(1) The degree and extent of harm to the covered athlete and the covered athlete's educational institution, including reputational harm.

(2) The nature, gravity, and duration of the violation.

- (3) Whether the violation was committed willfully.
- (4) Whether the violation reflects a continuing pattern of conduct.
- (5) Whether the violation involved elements of fraud or deception of the covered athlete, the covered athlete's educational institution, or the Secretary of State.
- (6) Whether the athlete agent breached any fiduciary duty.
- (7) Whether and the extent to which the athlete agent profited by the violation.
- (8) Any failure of the athlete agent to provide timely or complete responses to any of the following:
- a. The Secretary of State's inquiries about the athlete agent's activities.
- b. Any request for records by the Secretary of State.
- (9) Whether the athlete agent obstructed the inspection of records or any other aspect of an investigation by the Secretary of State.
- (10) Whether the athlete agent exercised reasonable diligence to comply with this Article and any rules adopted under this Article.
- (11) Whether the athlete agent reported the violation to the Secretary of State and, if so, after what period of time following the violation.
- (12) Efforts by the athlete agent to correct the violation.
- (13) Any prior violation by the athlete agent of this Article, former Articles 7, 8, or 9 of this Chapter, any rules adopted under this Article, or a similar law of any other state.
- (14) Whether the athlete agent has pleaded guilty or no contest to or has been convicted of any other crime that bears on the athlete agent's fitness to be an athlete agent but has not caused the Secretary of State to limit, suspend, revoke, or refuse to renew the athlete agent's registration under this Article.
- (15) Whether payment of the civil penalty will prevent payment of damages under G.S. 78C-126 or payment of any other relief in the nature of restitution.
- (16) Any other factors that would tend to mitigate or aggravate the violation.
- (b) The Secretary of State is not required to adopt rules to implement subsection (a) of this section.
- (c) The clear proceeds of civil penalties imposed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.
- "§ 78C-128. Reserved.**
- "§ 78C-129. Uniformity of application and construction.**
- In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.
- "§ 78C-130. Relation to Electronic Signatures in Global and National Commerce Act.**
- This Article modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001, et seq., but does not modify, limit, or supersede Section 101(c) of that Act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that Act, 15 U.S.C. § 7003(b)."
- SECTION 3.** If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.
- SECTION 4.** The Revisor of Statutes shall cause to be printed, as annotations to the published General Statutes, all relevant portions of the Official Comments to the Revised Uniform Athlete Agents Act (2015) and all explanatory comments of the drafters of this act as the Revisor may deem appropriate.
- SECTION 5.** This act becomes effective December 1, 2017, and applies to acts and omissions occurring on or after that date. Prosecutions for offenses committed before the effective

- 1 date of this act are not abated or affected by this act, and the statutes that would be applicable but
- 2 for this act remain applicable to those prosecutions.

VISITOR REGISTRATION SHEET

Judiciary I

Name of Committee

3/15/17

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Mike Arnold	SOS
Rodney Maddox	SOS NC
John DelGrosso	Brubaker + Assoc.
Campan Shuter	INC - CH
Lorian Mearns	WM
Tracy Bzard	NCHS
Carlye Wittek	perkinson law firm
Shirley M	SA
MICHAEL LATAGLIA	
BOB ORR	SELF
Jillian Solomon	WELL



VISITOR REGISTRATION SHEET

Judiciary I

Name of Committee

3/15/17

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Robert PASCH

NC DOJ

Gene Royall

NCFPC

Al Blum

NCBAA

John Madler

NC Sentencing Commission

Perry Griffin

SOG



Corrected #2: CHANGE of TIME and ROOM NUMBER

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Wednesday, March 22, 2017

TIME: 12:00 PM

LOCATION: 423 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 196	Zip Lines/Challenge Courses/Sanders' Law.	Representative Davis Representative Howard
HB 315	Kelsey Smith Act.	Representative Hurley Representative Faircloth Representative McNeill Representative Williams
HB 33	Amend Firearm Restoration Law.	Representative Speciale Representative Pittman Representative Boswell
HB 134	Pistol Permit/Mental Health Record to Sheriff.	Representative McNeill
HB 174	Concealed Carry/Church School Prop.	Representative R. Turner

Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 10:26 AM on Wednesday, March 22, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Judy Lowe (Committee Assistant)



Corrected #1: Add HB33, HB134, HB174

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Wednesday, March 22, 2017
TIME: 1:00 PM
LOCATION: 415 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 196	Zip Lines/Challenge Courses/Sanders' Law.	Representative Davis Representative Howard
HB 315	Kelsey Smith Act.	Representative Hurley Representative Faircloth Representative McNeill Representative Williams
HB 33	Amend Firearm Restoration Law.	Representative Speciale Representative Pittman Representative Boswell
HB 134	Pistol Permit/Mental Health Record to Sheriff.	Representative McNeill
HB 174	Concealed Carry/Church School Prop.	Representative R. Turner

Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 4:29 PM on Tuesday, March 21, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Judy Lowe (Committee Assistant)



Judy Lowe (Rep. Ted Davis)

From: Judy Lowe (Rep. Ted Davis)
Sent: Thursday, March 16, 2017 04:07 PM
To: Rep. Julia Howard; Rep. Ted Davis; Rep. Pat Hurley; Rep. John Faircloth; Rep. Allen McNeill; Rep. Linda Williams
Cc: Cody Huneycutt (Rep. Julia Howard); Judy Lowe (Rep. Ted Davis); Deborah Holder (Rep. Pat Hurley); Becky Bauerband (Rep. John Faircloth); Laura Sullivan (Rep. Allen McNeill); Kathy Peters (Rep. Linda Williams)
Subject: <NCGA> House Judiciary I Committee Meeting Notice for Wednesday, March 22, 2017 at 1:00 PM
Attachments: Add Meeting to Calendar_LINC_ics

NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2017-2018 SESSION

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Wednesday, March 22, 2017
TIME: 1:00 PM
LOCATION: 415 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 196	Zip Lines/Challenge Courses/Sanders' Law.	Representative Davis Representative Howard Representative Hurley Representative Faircloth Representative McNeill Representative Williams
HB 315	Kelsey Smith Act.	



Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 4:05 PM on Thursday, March 16, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Judy Lowe (Committee Assistant)



House Committee on Judiciary I
Wednesday, March 22, 2017, 1200 PM
~~415~~ Legislative Office Building
423

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Introduction of Sergeants of Arms

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 196	Zip Lines/Challenge Courses/Sanders' Law.	Representative Davis Representative Howard
HB 315	Kelsey Smith Act.	Representative Hurley Representative Faircloth Representative McNeill Representative Williams
HB 33	Amend Firearm Restoration Law.	Representative Speciale Representative Pittman Representative Boswell Representative McNeill
HB 134	Pistol Permit/Mental Health Record to Sheriff.	
HB 174	Concealed Carry/Church School Prop.	Representative R. Turner

Adjournment



House Committee on Judiciary I
Wednesday, March 22, 2017 at 12:00 PM
Room 423 of the Legislative Office Building

MINUTES

The House Committee on Judiciary I met at 12:00 PM on March 22, 2017 in Room 423 of the Legislative Office Building. Representatives Davis, Hall, Jackson, Turner, Arp, Howard, Martin, McNeill, Meyer, Rogers and Steinburg attended. The staff members present were Bill Patterson, Jennifer Bedford, Jason Moran-Bates and Judy Lowe, Committee Clerk.

Representative Ted Davis, Jr., presided. He introduced the Sergeants-at-Arms David Leighton, Joe Crook and Russell Salisbury and Kailey Gause, the page.

The following bills were considered:

HB 315 Kelsey Smith Act. Representatives Hurley, Faircloth, McNeill, Williams.

Representation Hurley explained that the bill requires a wireless service provider to make the location of the call data available to law enforcement officials in certain emergency circumstances. Representative Hall asked if due to the probable cause there was no inability for review. Representative Rogers asked if would only be required in an emergency situation. Ms. Bedford clarified that it was for emergencies only. Representative Hall was in favor of the bill but thought there was no mechanism for it. Ms. Bedford explained the wireless service provider would be required to provide call location data. Angel Gray from the NC SBI and Tim Bradley from NC State Firefighters spoke in favor of the bill. Representative Arp moved for a favorable report. The motion passed unanimously.

HB 196 Zip Lines/Challenge Courses/Sanders' Law. Representatives Davis, Howard.

Representative Davis passed the gavel to Representative Turner and then explained the PCS. He stated that the Proposed Committee Substitute makes technical and clarifying corrections to the original bill which would regulate aerial adventure parks, canopy tours, challenge courses, zip lines and other similar devices. The Act will be known as "Sanders' Law." In response to a question Bill Patterson explained that the design, construction and operation of regulated devices would be subject to the rules adopted by the Commissioner of Labor. Representative Howard moved for a favorable report to the PCS, unfavorable to the original bill with a serial referral to Finance. The motion passed unanimously.

HB 33 Amend Firearm Restoration Law. Representatives Speciale, Pittman, Boswell.

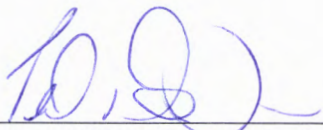
Representative Speciale explained that the bill would restore the firearms rights of certain persons who were convicted of nonviolent felonies before December 1, 1995, and whose firearms rights had been restored before December 1, 1995. Representative Jackson asked if there was an amendment. Representative Davis stated there was concern about guns in a church. A PCS could be prepared or there could be an amendment on the floor. Representative Martin said it should be taken care of before the floor. There being no further discussion, Representative Steinburg moved for a favorable report. The motion passed with one opposed vote.



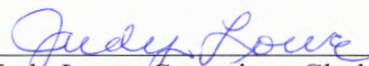
HB 134 Pistol Permit/Mental Health Record to Sheriff. Representative McNeill. Representative McNeill explained that HB134 would change the way the sheriff accesses court orders related to the mental health and capacity necessary to determine applicant eligibility for a pistol purchase permit. The question was raised about **Section I, GS 14-404** and Jennifer Bedford responded that “no additional document or evidence shall be required from any applicant” had been removed from the bill. Representative McNeill stated that there was no intent to increase the number of days to comply beyond 14. Representative Jackson noted that if a sheriff needed to get a court record from California it takes times. Representative Rogers suggested there could be an amendment to the bill on the floor. Representative McNeill moved for a favorable report and the motion passed unanimously.

HB 174 Concealed Carry/Church School Prop. Representative R. Turner. Representative Turner explained that the bill clarifies the prohibition against weapons on educational property and provides for a person who has a concealed handgun permit to carry a handgun on educational property and also a place of worship outside the operating hours of the school. An amendment to the bill was withdrawn. A second amendment amends the bill on page 1, lines 7-18. The amendment is attached. Representative Martin indicated he still had great concern about the bill and weapons on school property. Ms. Bedford responded that the school could post a “no weapons” sign. The Chairman called for a vote on the amendment and there were 6 in favor and 4 opposed. Representative Arp moved for a favorable committee substitute, unfavorable to the original bill. The motion carried.

The meeting adjourned at 1:40 PM.



Representative Ted Davis, Jr., Chair
Presiding



Judy Lowe, Committee Clerk



HOUSE BILL 196: Zip Lines/Challenge Courses/Sanders' Law.

2017-2018 General Assembly

Committee:	House Judiciary 1. If favorable, re-refer to Finance	Date:	March 21, 2017
Introduced by:	Reps. Davis, Howard	Prepared by:	Bill Patterson
Analysis of:	PCS to First Edition H196-CSTG-5		Committee Co-Counsel

OVERVIEW: *The Proposed Committee Substitute for House Bill 196 would regulate aerial adventure parks, canopy tours, challenge courses, zip lines, and other similar devices. The PCS makes clarifying and technical corrections to the original bill.*

CURRENT LAW: Zip lines, aerial adventure parks, canopy tours, and challenge courses are not currently regulated under North Carolina law.

BILL ANALYSIS:

Section 1 of the bill would provide that the act shall be known as "Sanders' Law."

Section 2 of the bill would enact a new Article 14C in Chapter 95, "Zip Line and Challenge Course Safety" subjecting aerial adventure parks,¹ canopy tours,² challenge courses,³ zip lines,⁴ and other similar devices (referred to collectively as "regulated devices") to a regulatory regime similar to that currently in place for amusement devices under the Amusement Device Safety Act (Article 14B of Chapter 95). Article 14C would not apply to devices installed at a private residence not open to the public for which no fee is charged or operated by a government solely for law enforcement or military training.

The design, construction and operation of regulated devices would be subject to rules adopted by the Commissioner of Labor and enforced by the Elevator and Amusement Device Bureau in the Department of Labor. Regulated devices would also be required to meet applicable national standards.⁵

¹ "Aerial adventure park. – A self-guided challenge course that is open to the public." Proposed G.S. 95-112.3(2).

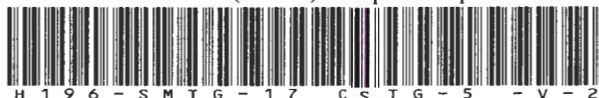
² "Canopy tour. – A belayed aerial recreational or educational, guided or self-guided, traverse or discovery tour of the forest canopy, flora and fauna, and related ecologically significant areas most commonly by means of a series of zip lines or aerial walkways with platforms." Proposed G.S. 95-112.3(5).

³ "Challenge course. – Any apparatus or facility specifically designed or constructed, or both, for the use of individuals or teams, which through high or low nonspotted, spotted, or belayed activities, under trained facilitated supervision, guided or self-guided, are utilized as elements of experiential learning programs or curriculums or as adventure/challenge recreational components or courses. Such facility or facilities usually consists of one or more elements that challenge participants and include zip line tours, canopy tours, or aerial adventure/trekking parks." Proposed G.S. 95-112.3(6).

⁴ "Zip line. – A lifeline suspended between support structures that enables a person attached to a pulley to traverse from a starting point to a terminus propelled by the force of gravity or a passive method of controlled acceleration." Proposed G.S. 95-112.3(20).

⁵ The standards incorporated by reference in Proposed G.S. 95-112.5 are: (1) The Association for Challenge Course Technology (ACCT) ANSI/ACCT 03 2016 Challenge Course and Canopy/Zip Line Tour Standard; (2) The Professional Ropes Course Association (PRCA) ANSI/PRCA 1.0 .3 2014 Ropes Challenge Course Installation, Operation & Training Standard.; (3) The European Ropes Course Association (ERCA) European Ropes Course Standard (EN 15567 2:2014); and

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Article 14C would impose the following requirements, among others:

- The owner of a regulated device would be required annually to obtain a certificate of operation, subject to revocation for regulatory non-compliance, and would be required to post a copy of the certificate near the device entrance where it is readily visible to participants.
- The design and installation of the device, and any additions or alterations to it, would have to be approved by a State-licensed professional engineer.
- Third-party inspectors designated as qualified by the Commissioner of Labor would conduct annual inspections of each regulated device to determine regulatory compliance.
- The Commissioner would have reasonable access to regulated devices for purposes of inspection or testing.
- The owner of a regulated device would have to maintain commercial general liability insurance with per-occurrence limits of at least \$1 million covering liability for personal injury or property damage arising out of operation of the regulated device.
- The owner would have to comply with specified record keeping requirements and applicable federal, State, and local safety, fire, health, or building codes or standards.
- The operator of a regulated device would have to be at least 18 years of age and not under the influence of alcohol or any other impairing substance.
- The owner would have to cease operation of a regulated device and comply with specified procedures and reporting requirements if it was involved in an accident causing serious injury or death to a participant or member of the general public.

Article 14C would authorize the Commissioner of Labor to:

- Order a regulated device not to be operated if its continued operation would expose the public to an unsafe condition likely to result in serious personal injury or property damage.
- Coordinate enforcement and inspection activity to minimize duplication of the owner's liability or regulatory responsibility.
- Charge reasonable fees for the issuance of certificates of operation, for device inspections by Bureau personnel, and to process required biennial applications to be designated as a qualified inspector.
- Investigate and determine the cause of any accident involving a regulated device.
- Assess a civil penalty of up to:
 - \$1,250 for each day a device is operated without a valid certificate of operation or in violation of Article 14C or rules adopted thereunder.
 - \$2,500 for each day a device is operated:
 - After a certificate of operation has been refused or revoked.
 - During which an accident has occurred resulting in a serious injury or fatality.
 - Without having in place the minimum required liability insurance coverage.

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- \$5,000 for each day a regulated device is operated or knowingly permitted to be operated by a person:
 - Who knows or reasonably should know that its operation will expose the public to an unsafe condition likely to result in personal injury or property damage.
 - Who is under the influence of alcohol or any other impairing substance.

In addition to the civil penalty, a willful violation of Article 14C would be punishable as a Class 2 misdemeanor, including a fine of up to \$10,000, upon a first conviction. Any subsequent conviction for willful violation of Article 14C would be punishable as a Class 1 misdemeanor, including a fine of up to \$20,000. A violation causing serious injury or death of any person would be punishable as a Class E felon.

Section 3 of House Bill 196 would authorize the Department to adopt rules, including temporary rules, design and distribute forms, accept applications, and establish and collect fees so that any device subject to the act in existence on or before December 1, 2017, is in compliance with the act and has been issued a certificate of operation by that date.

EFFECTIVE DATE: Section 2 of the act becomes effective December 1, 2017, and the criminal offense provisions in G.S. 95-112.16(g) and (h), as enacted by Section 2 of the act, apply to violations occurring on or after that date. The remainder of this act is effective when it becomes law.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 196
PROPOSED COMMITTEE SUBSTITUTE H196-CSTG-5 [v.4]

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Short Title: Zip Lines/Challenge Courses/Sanders' Law.

(Public)

Sponsors: Representatives Davis and Howard (Primary Sponsors).

Referred to:

February 27, 2017

A BILL TO BE ENTITLED
AN ACT TO REGULATE ZIP LINES AND CHALLENGE COURSES AND TO PROVIDE
THAT THE ACT SHALL BE ENTITLED "SANDERS' LAW."

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known as "Sanders' Law."

SECTION 2. Chapter 95 of the General Statutes is amended by adding a new
Article to read:

"Article 14C.

"Zip Line and Challenge Course Safety.

"§ 95-112.1. Short title and legislative purpose.

(a) This Article shall be known as the "Zip Line and Challenge Course Safety Act of North Carolina."

(b) The General Assembly finds that zip lining and participating in challenge courses is practiced by a large number of North Carolinians and visitors to our State and that the industry is growing rapidly.

(c) The General Assembly finds that there are inherent risks in zip lining and participating in challenge courses which should be understood by each participant and which are essentially impossible to eliminate by the zip line or challenge course operator.

(d) The General Assembly finds that although most zip lines and challenge courses are operated in a safe manner, those which are not impose a substantial probability of serious and preventable injury to the public. Protection of the public from exposure to such unsafe conditions and the prevention of injuries is in the best interest and welfare of the people of the State.

(e) It is the intent of this Article that zip lines, aerial adventure parks, canopy tours, challenge courses, or other similar devices shall be designed, constructed, assembled or disassembled, maintained, and operated so as to prevent injuries.

"§ 95-112.2. Scope.

(a) This Article governs the design, construction, installation, plans review, testing, inspection, certification, operation, use, maintenance, alteration, relocation, and investigation of accidents involving zip lines, aerial adventure parks, canopy tours, challenge courses, or other similar devices.

(b) This Article does not apply to any zip line, aerial adventure park, canopy tour, challenge course, or other similar devices (i) installed at a private residence that is not open to the public and for which no fee is charged or (ii) operated by a government entity solely for law enforcement or military training purposes.

"§ 95-112.3. Definitions.



* H 1 9 6 - C S T G - 5 *

The following definitions apply in this Article:

- (1) ACCT. – Association for Challenge Course Technology.
- (2) Aerial adventure park. – A self-guided challenge course that is open to the public.
- (3) Annual gross volume. – The gross receipts resulting from all types of sales made and business done by operation of a regulated device during a 12-month period.
- (4) Bureau. – Elevator and Amusement Device Bureau of the North Carolina Department of Labor.
- (5) Canopy tour. – A belayed aerial recreational or educational, guided or self-guided, traverse or discovery tour of the forest canopy, flora and fauna, and related ecologically significant areas most commonly by means of a series of zip lines or aerial walkways with platforms.
- (6) Challenge course. – Any apparatus or facility specifically designed or constructed, or both, for the use of individuals or teams, which through high or low nonspotted, spotted, or belayed activities, under trained facilitated supervision, guided or self-guided, are utilized as elements of experiential learning programs or curriculums or as adventure/challenge recreational components or courses. Such facility or facilities usually consists of one or more elements that challenge participants and include zip line tours, canopy tours, or aerial adventure/trekking parks.
- (7) Challenge course standards. – Any standard adopted pursuant to G.S. 95-112.5.
- (8) Chief. – The Chief of the Elevator and Amusement Device Bureau of the North Carolina Department of Labor.
- (9) Commissioner. – Commissioner of Labor of North Carolina.
- (10) ERCA. – European Ropes Course Association.
- (11) Imminent danger. – Practice or condition which could reasonably be expected to cause death or serious injury to participants, operators, or the general public.
- (12) Operator. – Any person, partnership, corporation, or other commercial entity, and their agents, officers, employees, or representatives, who has operational responsibility for any regulated device.
- (13) Owner. – Any person who owns a regulated device, the authorized agent of that person, or any person who is leasing the regulated device from that person.
- (14) Participant. – Any person who engages in activities on a regulated device individually or in a group activity supervised by an operator of a regulated device.
- (15) Person. – Any individual, association, partnership, firm, corporation, private organization, or other entity, however organized. The term "person" also shall include the State of North Carolina or any political subdivision thereof or any unit of local government.
- (16) PRCA. – Professional Ropes Course Association.
- (17) Qualified inspector. – A professional inspector who is certified by the Bureau pursuant to G.S. 95-112.8, or a person employed by the Bureau who meets the training and experience requirements of a qualified inspector pursuant to G.S. 95-112.8.
- (18) Regulated device. – A zip line, aerial adventure park, canopy tour, challenge course, or other similar device subject to the provisions of this Article as set forth in G.S. 95-112.2.

- 1 (19) Serious injury. – An injury that is directly related to any mechanical,
2 electrical, operational, or structural malfunction of a regulated device that
3 results in death, loss of consciousness, or requires medical treatment other
4 than first aid by a physician or other medical professional for which a record
5 is created.
- 6 (20) Third-party inspector. – A qualified inspector, as defined in this section, not
7 directly employed by the owner or operator, manufacturer or vendor of the
8 regulated device, and not offering other services to the owner or operator of
9 the regulated device.
- 10 (21) Zip line. – A lifeline suspended between support structures that enables a
11 person attached to a pulley to traverse from a starting point to a terminus
12 propelled by the force of gravity or a passive method of controlled
13 acceleration.
- 14 (22) Zip line tour. – A belayed recreational or educational, guided or self-guided,
15 course or tour traversing areas of scenic, ecological, and/or cultural
16 significance. Zip line tours typically involve action or activity systems such
17 as zip lines, platforms, landing areas, and connecting trails.

18 **"§ 95-112.4. Powers and duties of Commissioner.**

19 The Commissioner of Labor is hereby empowered to do all of the following:

- 20 (1) To delegate to the Chief of the Elevator and Amusement Device Bureau
21 such powers, duties, and responsibilities as the Commissioner determines
22 will best serve the public interest in the safe operation of zip lines, aerial
23 adventure parks, canopy tours, challenge courses, or other similar devices.
- 24 (2) To supervise the Chief of the Elevator and Amusement Device Bureau in the
25 exercise of powers, duties and responsibilities delegated pursuant to
26 subdivision (1) of this subsection.
- 27 (3) To adopt, modify, or revoke such rules as are necessary for the purpose of
28 carrying out the provisions of this Article including those governing the
29 design, construction, installation, plans review, testing, inspection,
30 certification, operation, use, maintenance, alteration, and relocation of
31 regulated devices. The rules adopted pursuant to this rule-making authority
32 shall conform to good engineering and safety standards, formulas, and
33 practices.
- 34 (4) To enforce rules adopted under authority of this Article.
- 35 (5) To require inspection and testing for all new, modified, and relocated
36 regulated devices. Regulated devices shall be inspected at least once
37 annually.
- 38 (6) To require maintenance and periodic inspections and tests of all regulated
39 devices.
- 40 (7) To issue certificates of operation which certify for use such regulated
41 devices as are found to be in compliance with this Article and the rules
42 adopted thereunder.
- 43 (8) To have reasonable access, with or without notice, to the regulated devices
44 subject to the provisions of this Article during reasonable hours for purposes
45 of inspection or testing.
- 46 (9) To obtain an Administrative Search and Inspection Warrant in accordance
47 with the provisions of Article 4A of Chapter 15 of the General Statutes.
- 48 (10) To investigate accidents involving regulated devices to determine the cause
49 of the accident. The Commissioner shall have full subpoena powers in
50 conducting the investigation.

- (11) To institute proceedings in the civil courts of this State when a provision of this Article or the rules adopted thereunder has been violated.
- (12) To adopt, modify, or revoke rules governing the qualifications of inspectors.
- (13) To grant exceptions from the requirements of the rules adopted under authority of this Article when such exceptions will not expose the public to an unsafe condition likely to result in serious personal injury or property damage.
- (14) To require that before any regulated device is erected in this State, or before any additions or alterations which substantially change the regulated device are made, or before the physical spacing between regulated devices is changed, the owner or the owner's authorized agent shall have the plans, diagrams, specifications, or stress analyses of the regulated device approved by a professional engineer licensed in North Carolina.
- (15) To prohibit the use of any regulated device which is found upon inspection to expose the public to an unsafe condition likely to cause personal injury or property damage. Such a device shall be made operational only upon the Commissioner's determination that it has been made safe.
- (16) To order the payment of all civil penalties provided by this Article. The clear proceeds of funds collected pursuant to a civil penalty order shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.
- (17) To coordinate enforcement and inspection activity relative to equipment, regulated devices, and operations covered by this Article in order to minimize duplication of liability or regulatory responsibility on the part of the employer or owner.
- (18) To charge reasonable fees for:
- a. The issuance of certificates of operation for regulated devices.
 - b. The inspection by the Bureau of regulated devices.
 - c. A qualified inspector designation.

"§ 95-112.5. Adoption of standards.

The following standards and subsequent amendments and editions are adopted and incorporated by reference. The design, manufacture, installation, operation, and maintenance of all regulated devices must conform to one of the following standards, except where otherwise specifically provided in this Article or in rules adopted pursuant to this Article:

- (1) The Association for Challenge Course Technology (ACCT) ANSI/ACCT 03-2016 Challenge Course and Canopy/Zip Line Tour Standard.
- (2) The Professional Ropes Course Association (PRCA) ANSI/PRCA 1.0-3-2014 Ropes Challenge Course Installation, Operation & Training Standard.
- (3) The European Ropes Course Association (ERCA) European Ropes Course Standard (EN 15567-2:2014).
- (4) The American Society for Testing and Materials (ASTM) F2959-14 Standard Practice for Special Requirements for Aerial Adventure Courses.

"§ 95-112.6. Certificate of operation requirements.

(a) An owner of a regulated device shall annually submit an application for a certificate of operation to the Commissioner and shall request a certificate of operation for each regulated device at least 30 days before the expiration of the certificate.

(b) An owner of a regulated device shall submit the application on forms provided by the Commissioner.

1 (c) An owner of a regulated device shall include in the initial application certification
2 from a professional engineer licensed in North Carolina indicating that the design of the
3 regulated device has been approved by the professional engineer.

4 (d) An owner of a regulated device shall include in the initial application certification
5 from a professional engineer licensed in North Carolina indicating that the installation of the
6 regulated device has been approved by the professional engineer.

7 (e) The owner of a regulated device shall include in any subsequent application
8 certification from a professional engineer licensed in North Carolina indicating that any
9 additions or alterations which substantially change the regulated device have been approved by
10 the professional engineer.

11 (f) An owner of a regulated device shall include the following information on the initial
12 as well as the annual application:

13 (1) The name, address, telephone number, e-mail address (if applicable), and
14 Web site address (if applicable) of the owner.

15 (2) Registration of the regulated device, including its location, dates of
16 operation, date of installation, and the name and address of the installer of
17 the equipment.

18 (3) Documentation of the existence of a commercial general liability insurance
19 policy in compliance with G.S. 95-112.15.

20 (4) If the regulated device incorporates any live trees, documentation that each
21 tree has been inspected and found to be in good health within the past twelve
22 months by an arborist certified by the International Society of Arboriculture
23 or other professional with equivalent expertise to ensure the good health and
24 stability of the trees.

25 (5) An inspection report completed no more than 60 days prior to submission of
26 the application prepared by a third-party, qualified inspector pursuant to
27 G.S. 95-112.7(a). The inspection report must include proof of abatement of
28 all deficiencies found in the inspection.

29 (6) Signed certification of compliance with the record-keeping requirements of
30 this Article.

31 (7) Signed certification of compliance with applicable federal, State, and local
32 safety, fire, health, or building codes or standards.

33 (g) An owner of a regulated device shall include the certificate of operation fee with the
34 certificate of application.

35 (h) A certificate of operation for a regulated device expires one year after date of
36 issuance.

37 (i) If any requirement of this section is already met as a condition of liability insurance
38 coverage obtained pursuant to G.S. 95-112.15, the owner may submit documentation of
39 compliance with that requirement to the Commissioner.

40 **"§ 95-112.7. Annual inspection; issuance of certificate of operation.**

41 (a) A third-party, qualified inspector shall inspect a regulated device and determine that
42 it is in compliance with the provisions of this Article and any rules adopted pursuant to this
43 Article before a certificate of operation may be issued.

44 (b) The operator of the device shall post a copy of the certificate of operation in close
45 proximity to the entry to the device where it is readily visible to participants.

46 **"§ 95-112.8. Qualified inspector designation; qualifications and certification of qualified**
47 **inspectors.**

48 (a) A person applying for designation as a qualified inspector shall make application
49 biennially on a form provided by the Commissioner.

50 (b) An applicant shall furnish documentation of the following with the application:

(1) Current Professional Inspector Certification from the ACCT or a substantially equivalent certification as defined in the challenge course standards; or experience and training that the Commissioner has determined in advance are substantially equivalent to the requirements set forth in the challenge course standards.

(2) The applicant must report to the Commissioner any lapse in professional inspector certification. Lapse in professional inspector certification will result in immediate suspension of the individual's qualified inspector designation until such time that the individual provides renewal documentation.

(c) An applicant for designation as a qualified inspector shall include the application fee with the application.

"§ 95-112.9. Pre-opening inspection and test; training; emergency evacuation plan; records; revocation of certificate of operation.

(a) An owner of a regulated device shall conduct a pre-opening inspection and test of the regulated device in accordance with challenge course standards, prior to admitting the participants, each day the regulated device is intended to be used.

(b) An owner of a regulated device shall train employees on the operation of the regulated device in accordance with Part 1.3 of the ANSI/PRCA 2014 Ropes Challenge Course Installation, Operation & Training Standard or a substantially similar standard.

(c) An owner of a regulated device shall have an emergency evacuation plan for the regulated device in accordance with challenge course standards.

(d) An owner of a regulated device shall maintain for at least the previous 12 months a signed record of the required pre-opening inspection and test, training provided to employees, emergency evacuation plan, and such other pertinent information as the Commissioner may require by rule or regulation.

(e) The Commissioner may refuse to issue or renew or may revoke, suspend, or amend the certificate of operation for any regulated device upon failure by the owner or the owner's authorized agent to make the required pre-opening inspection and test, to train employees, to maintain an emergency evacuation plan, or to maintain the required records.

"§ 95-112.10. Noncomplying devices; appeal.

(a) Whenever the Commissioner determines that the operation of a regulated device is exposing the public to an unsafe condition likely to result in serious personal injury or property damage, the Commissioner immediately may order in writing that the use of the device be stopped or limited until such time as the Commissioner determines that the device has been made safe for use by the public.

(b) Whenever the Commissioner determines that the provisions of this Article or the rules and regulations adopted thereunder have not been complied with, the Commissioner may refuse to issue or renew or may revoke, suspend, or amend a certificate of operation.

(c) Any action taken under this section by the Commissioner shall be final unless within 15 days after receipt of notice thereof by certified mail with return receipt, by signature confirmation as provided by the U.S. Postal Service, by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, or via hand delivery the person against whom such action was taken files a petition for a contested case under Chapter 150B of the General Statutes.

"§ 95-112.11. Operation without certificate; operation not in accordance with Article or rules and regulations; operation after refusal to issue or after revocation of certificate.

(a) No person shall operate or permit to be operated or use any regulated device without a valid certificate of operation.

1 **(b)** No person shall operate or permit to be operated or use any regulated device
2 otherwise than in accordance with this Article and the rules and regulations adopted thereunder.

3 **(c)** No person shall operate or permit to be operated or use any regulated device after
4 the Commissioner has refused to issue or has revoked the certificate of operation for such
5 device.

6 **"§ 95-112.12. Operation of unsafe device.**

7 No person shall operate, permit to be operated, or use any regulated device if such person
8 knows or reasonably should know that the operation or use will expose the public to an unsafe
9 condition that is likely to result in personal injury or property damage.

10 **"§ 95-112.13. Accidents; shut down; reporting.**

11 **(a)** If a participant or member of the general public is involved in an accident related to
12 the operation of a regulated device that results in a serious injury or a fatality, the owner or
13 operator shall immediately shut down the operation of the device and secure the safety of other
14 participants and the general public.

15 **(b)** An owner or operator shall ensure that the scene of a serious injury or fatality is left
16 intact from the time of the accident and shall ensure that the regulated device involved is not
17 removed from the scene of the accident without written authorization from the Commissioner.

18 **(c)** The owner, operator, and any employees who witnessed the accident or who
19 operated the regulated device when the accident occurred shall be available to be interviewed
20 by the Commissioner or the Commissioner's designated representative.

21 **(d)** The owner of any regulated device shall notify the Commissioner of any of the
22 following occurrences involving such device within 24 hours of the occurrence:

23 **(1)** Any occurrence resulting in death or injury requiring medical treatment,
24 other than first aid, by a physician. First aid means the onetime treatment or
25 observation of scratches, cuts not requiring stitches, burns, splinters, and
26 contusions, or a diagnostic procedure, including examination and X-rays,
27 which does not ordinarily require medical treatment even though provided
28 by a physician or other licensed personnel.

29 **(2)** Any occurrence resulting in damage to the regulated device indicating a
30 substantial defect in design, mechanics, structure, or equipment, affecting
31 the future safe operation of the device. No reporting is required in the case of
32 normal wear and tear.

33 **(e)** After the owner of the regulated device notifies the Commissioner of a serious
34 injury or fatality, the Commissioner shall, with reasonable promptness, advise the owner
35 whether the regulated device shall remain shut down pending investigation and inspection or
36 whether it can be placed back in service. In deciding whether the device shall remain shut down
37 or whether it can be placed back in service, the Commissioner's sole consideration shall be the
38 safety of participants and the general public.

39 **(f)** The Commissioner, without delay, after notification and determination that an
40 occurrence involving injury or damage specified in subsection (a) of this section has occurred,
41 shall make a complete and thorough investigation of the occurrence. The report of the
42 investigation shall be placed on file in the office of the Bureau and shall give in detail all facts
43 and information available. The owner may submit for inclusion in the file results of
44 investigations independent of the department's investigation.

45 **(g)** No person, following an occurrence involving a regulated device specified in
46 subsection (a) of this section, shall operate, attempt to operate, use or move, or attempt to move
47 such device or part thereof, without the approval of the Commissioner, unless so as to prevent
48 injury to any person or persons.

49 **(h)** No person, following an occurrence involving a regulated device specified in
50 subsection (a) of this section, shall remove or attempt to remove from the premises any
51 damaged or undamaged part of such device or repair or attempt to repair any damaged part

1 necessary to a complete and thorough investigation. The department must initiate its
2 investigation within 24 hours of being notified.

3 (i) The owner of a regulated device involved in an occurrence specified in subsection
4 (a) of this section shall document the accident, to include the full name, address, and telephone
5 number of the injured person, a description of his or her injuries, the identification of the device
6 involved, the names and addresses of the owner and employees who witnessed the accident,
7 and any other pertinent information describing the events leading up to the accident.

8 (j) An owner or operator shall keep a record of every accident or fatality with the
9 certificate of inspection, which shall be readily accessible to the general public. The record
10 shall include the following information:

11 (1) The date of every accident or fatality.

12 (2) A description of the type of accident.

13 (3) The number of people injured or killed.

14 (4) A description of the types of injuries.

15 (k) The owner of a regulated device shall retain all reports, documents, photographs,
16 and records required by this Article for not less than three years from the date of the
17 unscheduled cessation in operation of the device, imminent danger notification involving the
18 device, or serious injury or fatality resulting from operation or use of the device.

19 (l) If an owner violates any provision of this section of the Article, the Commissioner
20 may permanently revoke the certificate of operation.

21 **"§ 95-112.14. Operator age requirement; operator impairment.**

22 (a) Any operator of a regulated device shall be at least 18 years of age. An operator
23 shall be in attendance at all times the device is in operation.

24 (b) No person shall operate a regulated device while under the influence of alcohol or
25 any other impairing substance as defined by G.S. 20-4.01(14a). It shall be a violation of this
26 subsection to knowingly permit the operation of any regulated device while the operator is
27 under the influence of an impairing substance.

28 **"§ 95-112.15. Liability insurance.**

29 (a) No owner shall operate a regulated device unless at the time there is in existence a
30 contract of insurance providing coverage of not less than one million dollars (\$1,000,000) per
31 occurrence against liability for injury to persons or property arising out of the operation or use
32 of such device. The insurance contract to be provided must be by any insurer or surety that is
33 acceptable to the North Carolina Insurance Commissioner and authorized to transact business
34 in this State.

35 (b) No certificate of operation shall be issued by the Commissioner until such time as
36 the owner provides proof of the required contract of insurance.

37 (c) The Commissioner shall have the right to request from the owner of a regulated
38 device proof of the required contract of insurance, and upon failure of the owner or the owner's
39 authorized agent to provide such proof, the Commissioner shall have the right to prevent the
40 commencement of or to stop the operation of the device until such time as proof is provided.

41 (d) The Commissioner shall not accept any commercial general liability insurance
42 policy unless it obligates the insurer to give written notice to the insured at least 15 days before
43 any proposed cancellation, suspension, or nonrenewal of the policy. The owner or the owner's
44 authorized agent shall immediately notify the Commissioner upon receipt of notice of
45 cancellation, suspension, or nonrenewal of the policy.

46 **"§ 95-112.16. Violations; civil penalties; appeal; criminal penalties.**

47 (a) Any person who violates G.S. 95-112.11(a) or (b) (Operation without certificate;
48 operation not in accordance with Article) is subject to a civil penalty not to exceed one
49 thousand two hundred fifty dollars (\$1,250) for each section of this Article or rule or regulation
50 adopted pursuant to this Article violated and for each day each regulated device is so operated
51 or used.

(b) Any person who violates G.S. 95-112.11(c) (Operation after refusal to issue or after revocation of license), G.S. 95-112.13 (Accidents, shut down, reporting), G.S. 95-112.14(a) (Operators; age requirement), or G.S. 95-112.15 (Liability insurance) is subject to a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each day each regulated device is so operated or used.

(c) Any person who violates G.S. 95-112.12 (Operation of unsafe device) or G.S. 95-112.14(b) (Operator impairment) is subject to a civil penalty not to exceed five thousand dollars (\$5,000) for each day each regulated device is so operated or used.

(d) In determining the amount of any penalty ordered under authority of this section, the Commissioner shall give due consideration to the appropriateness of the penalty with respect to the annual gross volume of the person being charged, the gravity of the violation, the good faith of the person, and the record of previous violations.

(e) The determination of the amount of the penalty by the Commissioner is final unless within 15 days after receipt of notice thereof by certified mail with return receipt, by signature confirmation as provided by the U.S. Postal Service, by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, or via hand delivery the person against whom such action was taken files a petition for a contested case under Chapter 150B of the General Statutes.

(f) The Commissioner may file in the office of the clerk of the superior court of the county wherein the person, against whom a civil penalty has been ordered, resides, or if a corporation is involved, in the county wherein the corporation maintains its principal place of business, or in the county wherein the violation occurred, a certified copy of a final order of the Commissioner unappealed from, or of a final order of the Commissioner affirmed upon appeal. The clerk of court shall enter judgment and notify the parties. Such judgment shall have the same effect, and all proceedings in relation thereto shall thereafter be the same, as though said judgment had been rendered in a suit duly heard and determined by the superior court of the General Court of Justice.

(g) Except as provided under subsection (h) of this section, any person who willfully violates any provision of this Article is guilty of a Class 2 misdemeanor, which may include a fine of not more than ten thousand dollars (\$10,000); except that if the conviction is for a violation committed after a first conviction of the person, the person shall be guilty of a Class 1 misdemeanor, which may include a fine of not more than twenty thousand dollars (\$20,000).

(h) Any person who willfully violates any provision of this Article, and that violation causes the serious injury or death of any person, then the person is guilty of a Class E felony, which shall include a fine.

(i) Nothing in this section prevents any prosecuting officer of the State of North Carolina from proceeding against a person who violates this Article on a prosecution charging any degree of willful or culpable homicide.

"§ 95-112.17. Denial of permission to enter regulated device.

The owner or operator of a regulated device may deny any person entrance to the device if the owner believes such entry may jeopardize the safety of the person desiring entry, riders, or other persons.

"§ 95-112.18. Legal representation.

It shall be the duty of the Attorney General of North Carolina, when requested, to represent the Department of Labor in actions or proceedings in connection with this Article or the rules adopted thereunder.

"§ 95-112.19. Authorization for similar safety and health federal-State programs.

Consistent with the requirements and conditions provided in this Article and the rules adopted thereunder, the State, upon recommendation of the Commissioner of Labor, may enter into agreements or arrangements with appropriate federal agencies for the purpose of

1 administering the enforcement of federal statutes, rules, and regulations governing regulated
2 devices.

3 **"§ 95-112.20. Confidentiality of trade secrets.**

4 All information reported to or otherwise obtained by the Commissioner or the
5 Commissioner's agents or representatives in connection with any inspection or proceeding
6 under this Article or the rules and regulations adopted thereunder which contains or might
7 reveal a trade secret shall be considered confidential, except as to carrying out this Article and
8 the rules adopted thereunder or when it is relevant in any proceeding under the same. In any
9 proceeding, the Commissioner or the Court shall issue orders as may be appropriate to protect
10 the confidentiality of trade secrets.

11 **"§ 95-112.21. Construction of Article and rules and regulations and severability.**

12 This Article and the rules adopted thereunder shall receive a liberal construction to the end
13 that the welfare of the people may be protected. If any provisions of either or the application
14 thereof to any person or circumstances is held to be invalid, such invalidity shall not affect
15 those provisions or applications which can be given effect without the invalid provision or
16 application, and, to that end, the provisions of this Article are severable."

17 **SECTION 3.** The Department of Labor may adopt rules, including temporary
18 rules, design and distribute forms, begin accepting applications, and establish and collect fees
19 in order that a device subject to the provisions of this act that is existing on or before December
20 1, 2017, is in compliance with the provisions of this act and has received a certificate of
21 operation from the Department of Labor by that date.

22 **SECTION 4.** Section 2 of this act becomes effective December 1, 2017.
23 G.S. 95-112.16(g) and (h), as enacted by Section 2 of this act, apply to violations occurring on
24 or after December 1, 2017. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

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HOUSE BILL 196

Short Title: Zip Lines/Challenge Courses/Sanders' Law. (Public)

Sponsors: Representatives Davis and Howard (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I, if favorable, Finance

February 27, 2017

A BILL TO BE ENTITLED
AN ACT TO REGULATE ZIP LINES AND CHALLENGE COURSES AND TO PROVIDE
THAT THE ACT SHALL BE ENTITLED "SANDERS' LAW."

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known as "Sanders' Law."

SECTION 2. Chapter 95 of the General Statutes is amended by adding a new Article
to read:

"Article 14C.

"Zip Line and Challenge Course Safety.

"§ 95-112.1. Short title and legislative purpose.

(a) This Article shall be known as the "Zip Line and Challenge Course Safety Act of North Carolina."

(b) The General Assembly finds that zip lining and participating in challenge courses is practiced by a large number of North Carolinians and visitors to our State and that the industry is growing rapidly.

(c) The General Assembly finds that there are inherent risks in zip lining and participating in challenge courses which should be understood by each participant and which are essentially impossible to eliminate by the zip line or challenge course operator.

(d) The General Assembly finds that although most zip lines and challenge courses are operated in a safe manner, those which are not impose a substantial probability of serious and preventable injury to the public. Protection of the public from exposure to such unsafe conditions and the prevention of injuries is in the best interest and welfare of the people of the State.

(e) It is the intent of this Article that zip lines, aerial adventure parks, canopy tours, challenge courses, or other similar devices shall be designed, constructed, assembled or disassembled, maintained, and operated so as to prevent injuries.

"§ 95-112.2. Scope.

(a) This Article governs the design, construction, installation, plans review, testing, inspection, certification, operation, use, maintenance, alteration, relocation, and investigation of accidents involving zip lines, aerial adventure parks, canopy tours, challenge courses, or other similar devices.

(b) This Article does not apply to any zip line, aerial adventure park, canopy tour, challenge course, or other similar devices (i) installed at a private residence that is not open to the public and for which no fee is charged or (ii) operated by a government entity solely for law enforcement or military training purposes.

"§ 95-112.3. Definitions.



* H 1 9 6 - V - 1 *

The following definitions apply in this Article:

- (1) ACCT. – Association for Challenge Course Technology.
- (2) Aerial adventure park. – A self-guided challenge course that is open to the public.
- (3) Annual gross volume. – The gross receipts a person or device receives from all types of sales made and business done during a 12-month period.
- (4) Bureau. – Elevator and Amusement Device Bureau of the North Carolina Department of Labor.
- (5) Canopy tour. – A belayed aerial recreational or educational, guided or self-guided, traverse or discovery tour of the forest canopy, flora and fauna, and related ecologically significant areas most commonly by means of a series of zip lines or aerial walkways with platforms.
- (6) Challenge course. – Any apparatus or facility specifically designed or constructed, or both, for the use of individuals or teams, which through high or low nonspotted, spotted, or belayed activities, under trained facilitated supervision, guided or self-guided, are utilized as elements of experiential learning programs or curriculums or as adventure/challenge recreational components or courses. Such facility or facilities usually consists of one or more elements that challenge participants and include zip line tours, canopy tours, or aerial adventure/trekking parks.
- (7) Challenge course standards. – Any standard adopted pursuant to G.S. 95-112.5.
- (8) Chief. – The Chief of the Elevator and Amusement Device Bureau of the North Carolina Department of Labor.
- (9) Commissioner. – Commissioner of Labor of North Carolina.
- (10) ERCA. – European Ropes Course Association.
- (11) Imminent danger. – Practice or condition which could reasonably be expected to cause death or serious injury to participants, operators, or the general public.
- (12) Operator. – Any person, partnership, corporation, or other commercial entity, and their agents, officers, employees, or representatives, who has operational responsibility for any device subject to the provisions of this Article.
- (13) Owner. – Any person or authorized agent of such person who owns a device subject to the provisions of this Article or in the event such device is leased, the lessee. The term "owner" also shall include the State of North Carolina or any political subdivision thereof or any unit of local government.
- (14) Participant. – Any person who engages in activities on a device subject to the provisions of this Article individually or in a group activity supervised by an operator of such a device.
- (15) Person. – Any individual, association, partnership, firm, corporation, private organization, or the State of North Carolina or any political subdivision thereof or any unit of local government.
- (16) PRCA. – Professional Ropes Course Association.
- (17) Qualified inspector. – A professional inspector who is certified by the Bureau pursuant to G.S. 95-112.8, or a person employed by the Bureau who meets the training and experience requirements of a qualified inspector pursuant to G.S. 95-112.8.
- (18) Serious injury. – An injury that is directly related to any mechanical, electrical, operational, or structural malfunction of a device subject to the provisions of this Article that results in death, loss of consciousness, or requires medical treatment other than first aid by a physician or other medical professional for which a record is created.

- 1 (19) Third-party inspector. – A qualified inspector, as defined in this section, not
2 directly employed by the operator or parent company of the device subject to
3 the provisions of this Article, original equipment manufacturer, or vendor and
4 not offering other services to the operator or parent company of the device
5 subject to the provisions of this Article.
6 (20) Zip line. – A lifeline suspended between support structures that enables a
7 person attached to a pulley to traverse from a starting point to a terminus
8 propelled by the force of gravity or a passive method of controlled acceleration.
9 (21) Zip line tour. – A belayed recreational or educational, guided or self-guided,
10 course or tour traversing areas of scenic, ecological, and/or cultural
11 significance. Zip line tours typically involve action or activity systems such as
12 zip lines, platforms, landing areas, and connecting trails.

13 **"§ 95-112.4. Powers and duties of Commissioner.**

14 The Commissioner of Labor is hereby empowered to do all of the following:

- 15 (1) To delegate to the Chief of the Elevator and Amusement Device Bureau such
16 powers, duties, and responsibilities as the Commissioner determines will best
17 serve the public interest in the safe operation of zip lines, aerial adventure
18 parks, canopy tours, challenge courses, or other similar devices.
19 (2) To supervise the Chief of the Elevator and Amusement Device Bureau.
20 (3) To adopt, modify, or revoke such rules as are necessary for the purpose of
21 carrying out the provisions of this Article including those governing the design,
22 construction, installation, plans review, testing, inspection, certification,
23 operation, use, maintenance, alteration, and relocation of devices subject to the
24 provisions of this Article. The rules adopted pursuant to this rule-making
25 authority shall conform to good engineering and safety standards, formulas, and
26 practices.
27 (4) To enforce rules adopted under authority of this Article.
28 (5) To require inspection and testing for all new, modified, and relocated devices
29 subject to the provisions of this Article. Devices shall be inspected at least once
30 annually.
31 (6) To require maintenance and periodic inspections and tests of all devices subject
32 to the provisions of this Article.
33 (7) To issue certificates of operation which certify for use such devices as are
34 found to be in compliance with this Article and the rules adopted thereunder.
35 (8) To have reasonable access, with or without notice, to the devices subject to the
36 provisions of this Article during reasonable hours for purposes of inspection or
37 testing.
38 (9) To obtain an Administrative Search and Inspection Warrant in accordance with
39 the provisions of Article 4A of Chapter 15 of the General Statutes.
40 (10) To investigate accidents involving devices subject to the provisions of this
41 Article to determine the cause of the accident. The Commissioner shall have
42 full subpoena powers in conducting the investigation.
43 (11) To institute proceedings in the civil courts of this State when a provision of this
44 Article or the rules adopted thereunder has been violated.
45 (12) To adopt, modify, or revoke rules governing the qualifications of inspectors.
46 (13) To grant exceptions from the requirements of the rules adopted under authority
47 of this Article and to permit the use of other devices when these exceptions and
48 uses will not expose the public to an unsafe condition likely to result in serious
49 personal injury or property damage.
50 (14) To require that before any device subject to the provisions of this Article is
51 erected in this State, or before any additions or alterations which substantially

change the device are made, or before the physical spacing between the devices is changed, the owner or the owner's authorized agent shall have the plans, diagrams, specifications, or stress analyses of the device approved by a professional engineer licensed in North Carolina.

(15) To prohibit the use of any device subject to the provisions of this Article which is found upon inspection to expose the public to an unsafe condition likely to cause personal injury or property damage. Such a device shall be made operational only upon the Commissioner's determination that it has been made safe.

(16) To order the payment of all civil penalties provided by this Article. The clear proceeds of funds collected pursuant to a civil penalty order shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(17) To coordinate enforcement and inspection activity relative to equipment, devices, and operations covered by this Article in order to minimize duplication of liability or regulatory responsibility on the part of the employer or owner.

(18) To charge reasonable fees for:

a. The issuance of certificates of operation for devices subject to this Article.

b. The inspection by the Bureau of devices subject to this Article.

c. A qualified inspector designation.

"§ 95-112.5. Adoption of standards.

The following standards and subsequent amendments and editions are adopted and incorporated by reference. The design, manufacture, installation, operation, and maintenance of all devices subject to this Article must conform to one of the following standards, except where otherwise specifically provided in this Article or in rules adopted pursuant to this Article:

(1) The Association for Challenge Course Technology (ACCT) ANSI/ACCT 03-2016 Challenge Course and Canopy/Zip Line Tour Standard.

(2) The Professional Ropes Course Association (PRCA) ANSI/PRCA 1.0-.3-2014 Ropes Challenge Course Installation, Operation & Training Standard.

(3) The European Ropes Course Association (ERCA) European Ropes Course Standard (EN 15567-2:2014).

(4) The American Society for Testing and Materials (ASTM) F2959-14 Standard Practice for Special Requirements for Aerial Adventure Courses.

"§ 95-112.6. Certificate of operation requirements.

(a) An owner of a device subject to the provisions of this Article shall annually submit an application for a certificate of operation to the Commissioner and shall request a certificate of operation for each device at least 30 days before the expiration of the certificate.

(b) An owner of a device subject to the provisions of this Article shall submit the application on forms provided by the Commissioner.

(c) An owner of a device subject to the provisions of this Article shall include in the initial application certification from a professional engineer licensed in North Carolina indicating that the design of the device has been approved by the professional engineer.

(d) An owner of a device subject to the provisions of this Article shall include in the initial application certification from a professional engineer licensed in North Carolina indicating that the installation of the device has been approved by the professional engineer.

(e) The owner of a device subject to the provisions of this Article shall include in any subsequent application certification from a professional engineer licensed in North Carolina indicating that any additions or alterations which substantially change the device have been approved by the professional engineer.

(f) An owner of a device subject to the provisions of this Article shall include the following information on the initial as well as the annual application:

- (1) The name, address, telephone number, e-mail address (if applicable), and Web site address (if applicable) of the device owner.
 - (2) Registration of the device, including its location, dates of operation, date of installation, and the name and address of the installer of the equipment.
 - (3) Documentation of a commercial general liability insurance policy covering claims for personal injury, death, and property damages arising from the operation of a device subject to the provisions of this Article in amounts not less than those specified in G.S. 95-112.12.
 - (4) If the device incorporates live trees, the tree or trees shall be inspected and approved by an International Society of Arboriculture-certified arborist or other professional with equivalent expertise to ensure good health and stability of the trees. All trees shall receive this assessment no less than annually.
 - (5) An inspection report completed no more than 60 days prior to submission of the application prepared by a third-party, qualified inspector pursuant to G.S. 95-112.7(a). The inspection report must include proof of abatement of all deficiencies found in the inspection.
 - (6) Signed certification of compliance with the record-keeping requirements of G.S. 95-112.9.
 - (7) Signed certification of compliance with applicable federal, State, and local safety, fire, health, or building codes or standards.
- (g) An owner of the device shall include the certificate of operation fee with the certificate of application.
- (h) A certificate of operation for a device expires one year after date of issuance.
- (i) If any requirement of this section is already met as a condition of liability insurance coverage obtained pursuant to G.S. 95-112.15, the owner may submit documentation of compliance with that requirement to the Commissioner.
- "§ 95-112.7. Annual inspection; issuance of certificate of operation.**
- (a) A third-party, qualified inspector shall inspect a device subject to the provisions of this Article and determine that it is in compliance with the provisions of this Article and any rules adopted pursuant to this Article before a certificate of operation may be issued.
- (b) The operator of the device shall post a copy of the certificate of operation in close proximity to the entry to the device where it is readily visible to participants.
- "§ 95-112.8. Qualified inspector designation; qualifications and certification of qualified inspectors.**
- (a) A person applying for designation as a qualified inspector shall make application biennially on a form provided by the Commissioner.
- (b) An applicant shall furnish documentation of the following with the application:
- (1) Current Professional Inspector Certification from the ACCT or a substantially equivalent certification as defined in the challenge course standards; or experience and training that the Commissioner has determined in advance are substantially equivalent to the requirements set forth in the challenge course standards.
 - (2) The applicant must report to the Commissioner any lapse in professional inspector certification. Lapse in professional inspector certification will result in immediate suspension of the individual's qualified inspector designation until such time that the individual provides renewal documentation.
- (c) An applicant for designation as a qualified inspector shall include the application fee with the application.
- "§ 95-112.9. Pre-opening inspection and test; training; emergency evacuation plan; records; revocation of certificate of operation.**

(a) An owner of a device subject to the provisions of this Article, or the owner's authorized agent, is hereby required to make a preopening inspection and test of such device, prior to admitting the participants, each day such device is intended to be used and in accordance with challenge course standards.

(b) An owner of a device subject to the provisions of this Article, or the owner's authorized agent, is hereby required to train employees on the operation of the device in accordance with Part 1.3 of the ANSI/PRCA 2014 Ropes Challenge Course Installation, Operation & Training Standard or a substantially similar standard.

(c) An owner of a device subject to the provisions of this Article, or the owner's authorized agent, is hereby required to have an emergency evacuation plan for the device in accordance with challenge course standards.

(d) An owner of a device subject to the provisions of this Article, or the owner's authorized agent, is required to maintain for at least the previous 12 months a signed record of the required pre-opening inspection and test, training provided to employees, emergency evacuation plan, and such other pertinent information as the Commissioner may require by rule or regulation.

(e) The Commissioner may refuse to issue or renew or may revoke, suspend, or amend the certificate of operation for any device regulated by this Article upon failure by the owner or the owner's authorized agent to make the required pre-opening inspection and test, to train employees, to maintain an emergency evacuation plan, or to maintain the required records.

"§ 95-112.10. Noncomplying devices; appeal.

(a) Whenever the Commissioner determines that a device is subject to the provisions of this Article and the operation of such device is exposing the public to an unsafe condition likely to result in serious personal injury or property damage, the Commissioner immediately may order in writing that the use of the device be stopped or limited until such time as the Commissioner determines that the device has been made safe for use by the public.

(b) Whenever the Commissioner determines that the provisions of this Article or the rules and regulations adopted thereunder have not been complied with, the Commissioner may refuse to issue or renew or may revoke, suspend, or amend a certificate of operation.

(c) Any action taken under this section by the Commissioner shall be final unless within 15 days after receipt of notice thereof by certified mail with return receipt, by signature confirmation as provided by the U.S. Postal Service, by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, or via hand delivery the person against whom such action was taken files a petition for a contested case under Chapter 150B of the General Statutes.

"§ 95-112.11. Operation without certificate; operation not in accordance with Article or rules and regulations; operation after refusal to issue or after revocation of certificate.

(a) No person shall operate or permit to be operated or use any device subject to the provisions of this Article without a valid certificate of operation.

(b) No person shall operate or permit to be operated or use any device subject to the provisions of this Article otherwise than in accordance with this Article and the rules and regulations adopted thereunder.

(c) No person shall operate or permit to be operated or use any device subject to the provisions of this Article after the Commissioner has refused to issue or has revoked the certificate of operation for such device.

"§ 95-112.12. Operation of unsafe device.

No person shall operate, permit to be operated, or use any device subject to the provisions of this Article if such person knows or reasonably should know that the operation or use will expose the public to an unsafe condition that is likely to result in personal injury or property damage.

"§ 95-112.13. Accidents; shut down; reporting.

1 (a) If a participant or member of the general public is involved in an accident related to the
2 operation of a device subject to the provisions of this Article that results in a serious injury or a
3 fatality, the owner or operator shall immediately shut down the operation of the device and secure
4 the safety of other participants and the general public.

5 (b) An owner or operator shall ensure that the scene of a serious injury or fatality is left
6 intact from the time of the accident and shall ensure that the device involved is not removed from
7 the scene of the accident without written authorization from the Commissioner.

8 (c) The owner, operator, and any employees who witnessed the accident or who operated
9 the device when the accident occurred shall be available to be interviewed by the Commissioner or
10 the Commissioner's designated representative.

11 (d) The owner of any device regulated under the provisions of this Article, or the owner's
12 authorized agent, shall within 24 hours notify the Commissioner of each and every occurrence
13 involving such device when any of the following occur:

14 (1) The occurrence results in death or injury requiring medical treatment, other than
15 first aid, by a physician. First aid means the onetime treatment or observation of
16 scratches, cuts not requiring stitches, burns, splinters, and contusions, or a
17 diagnostic procedure, including examination and X-rays, which does not
18 ordinarily require medical treatment even though provided by a physician or
19 other licensed personnel.

20 (2) The occurrence results in damage to the device indicating a substantial defect in
21 design, mechanics, structure, or equipment, affecting the future safe operation
22 of the device. No reporting is required in the case of normal wear and tear.

23 (e) After the owner of the device subject to the provisions of this Article notifies the
24 Commissioner of a serious injury or fatality, the Commissioner shall, with reasonable promptness,
25 advise the owner whether the device shall remain shut down pending investigation and inspection
26 or whether it can be placed back in service. In deciding whether the device shall remain shut down
27 or whether it can be placed back in service, the Commissioner's sole consideration shall be the
28 safety of participants and the general public.

29 (f) The Commissioner, without delay, after notification and determination that an
30 occurrence involving injury or damage as specified in subsection (a) of this section has occurred,
31 shall make a complete and thorough investigation of the occurrence. The report of the
32 investigation shall be placed on file in the office of the Bureau and shall give in detail all facts and
33 information available. The owner may submit for inclusion in the file results of investigations
34 independent of the department's investigation.

35 (g) No person, following an occurrence as specified in subsection (a) of this section, shall
36 operate, attempt to operate, use or move, or attempt to move such device or part thereof, without
37 the approval of the Commissioner, unless so as to prevent injury to any person or persons.

38 (h) No person, following an occurrence as specified in subsection (a) of this section, shall
39 remove or attempt to remove from the premises any damaged or undamaged part of such device or
40 repair or attempt to repair any damaged part necessary to a complete and thorough investigation.
41 The department must initiate its investigation within 24 hours of being notified.

42 (i) The owner shall document the accident, to include the full name, address, and
43 telephone number of the injured person, a description of his or her injuries, the identification of the
44 device involved, the names and addresses of the owner and employees who witnessed the
45 accident, and any other pertinent information describing the events leading up to the accident.

46 (j) An owner or operator shall keep a record of every accident or fatality with the
47 certificate of inspection, which shall be readily accessible to the general public. The record shall
48 include the following information:

49 (1) The date of every accident or fatality.

50 (2) A description of the type of accident.

51 (3) The number of people injured or killed.

(4) A description of the types of injuries.

(k) The owner of the device shall retain all reports, documents, photographs, and records required by this Article for not less than three years from the date of the unscheduled cessation, imminent danger notification, or serious injury or fatality.

(l) If an owner violates any provision of this section of the Article, the Commissioner may permanently revoke the certificate of operation.

"§ 95-112.14. Operator age requirement; operator impairment.

(a) Any operator of a device subject to the provisions of this Article shall be at least 18 years of age. An operator shall be in attendance at all times the device is in operation.

(b) No person shall operate a device subject to the provisions of this Article while under the influence of alcohol or any other impairing substance as defined by G.S. 20-4.01(14a). It shall be a violation of this subsection to knowingly permit the operation of any device subject to the provisions of this Article while the operator is under the influence of an impairing substance.

"§ 95-112.15. Liability insurance.

(a) No owner shall operate a device subject to the provisions of this Article unless at the time there is in existence a contract of insurance providing coverage of not less than one million dollars (\$1,000,000) per occurrence against liability for injury to persons or property arising out of the operation or use of such device. The insurance contract to be provided must be by any insurer or surety that is acceptable to the North Carolina Insurance Commissioner and approved or authorized to transact business in this State.

(b) No certificate of operation shall be issued by the Commissioner until such time as the owner or the owner's authorized agent provides proof of the required contract of insurance.

(c) The Commissioner shall have the right to request from the owner of a device regulated by this Article, or the owner's authorized agent, proof of the required contract of insurance, and upon failure of the owner or the owner's authorized agent to provide such proof, the Commissioner shall have the right to prevent the commencement of or to stop the operation of the device until such time as proof is provided.

(d) The Commissioner shall not accept any commercial general liability insurance policy unless it obligates the insurer to give written notice to the insured at least 15 days before any proposed cancellation, suspension, or nonrenewal of the policy. The owner or the owner's authorized agent shall immediately notify the Commissioner upon receipt of notice of cancellation, suspension, or nonrenewal of the policy.

"§ 95-112.16. Violations; civil penalties; appeal; criminal penalties.

(a) Any person who violates G.S. 95-112.11(a) or (b) (Operation without certificate; operation not in accordance with Article) is subject to a civil penalty not to exceed one thousand two hundred fifty dollars (\$1,250) for each section of this Article or rule or regulation adopted pursuant to this Article violated and for each day each device is so operated or used.

(b) Any person who violates G.S. 95-112.11(c) (Operation after refusal to issue or after revocation of license), G.S. 95-112.13 (Accidents, shut down, reporting), G.S. 95-112.14(a) (Operators; age requirement), or G.S. 95-112.15 (Liability insurance) is subject to a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each day each device is so operated or used.

(c) Any person who violates G.S. 95-291 (Operation of unsafe device) or G.S. 95-293(b) (Operator impairment) is subject to a civil penalty not to exceed five thousand dollars (\$5,000) for each day each device is so operated or used.

(d) In determining the amount of any penalty ordered under authority of this section, the Commissioner shall give due consideration to the appropriateness of the penalty with respect to the annual gross volume of the person being charged, the gravity of the violation, the good faith of the person, and the record of previous violations.

(e) The determination of the amount of the penalty by the Commissioner is final unless within 15 days after receipt of notice thereof by certified mail with return receipt, by signature

confirmation as provided by the U.S. Postal Service, by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, or via hand delivery the person against whom such action was taken files a petition for a contested case under Chapter 150B of the General Statutes.

(f) The Commissioner may file in the office of the clerk of the superior court of the county wherein the person, against whom a civil penalty has been ordered, resides, or if a corporation is involved, in the county wherein the corporation maintains its principal place of business, or in the county wherein the violation occurred, a certified copy of a final order of the Commissioner unappealed from, or of a final order of the Commissioner affirmed upon appeal. The clerk of court shall enter judgment and notify the parties. Such judgment shall have the same effect, and all proceedings in relation thereto shall thereafter be the same, as though said judgment had been rendered in a suit duly heard and determined by the superior court of the General Court of Justice.

(g) Except as provided under subsection (h) of this section, any person who willfully violates any provision of this Article is guilty of a Class 2 misdemeanor, which may include a fine of not more than ten thousand dollars (\$10,000); except that if the conviction is for a violation committed after a first conviction of the person, the person shall be guilty of a Class 1 misdemeanor, which may include a fine of not more than twenty thousand dollars (\$20,000).

(h) Any person who willfully violates any provision of this Article, and that violation causes the serious injury or death of any person, then the person is guilty of a Class E felony, which shall include a fine.

(i) Nothing in this section prevents any prosecuting officer of the State of North Carolina from proceeding against a person who violates this Article on a prosecution charging any degree of willful or culpable homicide.

"§ 95-112.17. Denial of permission to enter device subject to the provisions of this Article.

The owner or operator of a device subject to the provisions of this Article may deny any person entrance to any device if he or she believes such entry may jeopardize the safety of the person desiring entry, riders, or other persons.

"§ 95-112.18. Legal representation.

It shall be the duty of the Attorney General of North Carolina, when requested, to represent the Department of Labor in actions or proceedings in connection with this Article or the rules adopted thereunder.

"§ 95-112.19. Authorization for similar safety and health federal-State programs.

Consistent with the requirements and conditions provided in this Article and the rules adopted thereunder, the State, upon recommendation of the Commissioner of Labor, may enter into agreements or arrangements with appropriate federal agencies for the purpose of administering the enforcement of federal statutes, rules, and regulations governing devices subject to the provisions of this Article.

"§ 95-112.20. Confidentiality of trade secrets.

All information reported to or otherwise obtained by the Commissioner or the Commissioner's agents or representatives in connection with any inspection or proceeding under this Article or the rules and regulations adopted thereunder which contains or might reveal a trade secret shall be considered confidential, except as to carrying out this Article and the rules adopted thereunder or when it is relevant in any proceeding under the same. In any proceeding, the Commissioner or the Court shall issue orders as may be appropriate to protect the confidentiality of trade secrets.

"§ 95-112.21. Construction of Article and rules and regulations and severability.

This Article and the rules adopted thereunder shall receive a liberal construction to the end that the welfare of the people may be protected. If any provisions of either or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect those provisions or applications which can be given effect without the invalid provision or application, and, to that end, the provisions of this Article are severable."

1 **SECTION 3.** The Department of Labor may adopt rules, including temporary rules,
2 design and distribute forms, begin accepting applications, and establish and collect fees in order
3 that a device subject to the provisions of this act that is existing on or before December 1, 2017, is
4 in compliance with the provisions of this act and has received a certificate of operation from the
5 Department of Labor by that date.

6 **SECTION 4.** Section 2 of this act becomes effective December 1, 2017.
7 G.S. 95-112.16(g) and (h), as enacted by Section 2 of this act, apply to violations occurring on or
8 after December 1, 2017.



HOUSE BILL 315: Kelsey Smith Act.

2017-2018 General Assembly

Committee:	House Judiciary I	Date:	March 21, 2017
Introduced by:	Reps. Hurley, Faircloth, McNeill, Williams	Prepared by:	Jennifer Bedford
Analysis of:	First Edition		Legislative Analyst

SUMMARY: *House Bill 315 would require a wireless service provider to make call location data available to law enforcement in certain emergency circumstances.*

BILL ANALYSIS:

Section 1 of House Bill 315 would name the act the "Kelsey Smith Act".

Section 2 of House Bill 315 would make wireless call location data available to a law enforcement agency or a public safety answering point (PSAP) without a warrant, in the event of an emergency situation that involves an imminent risk of death or serious physical harm.

Call location data does not include the contents of a communication; but does include global positioning system (GPS) information, triangulation, and per-call measurement data

PSAP is the public safety agency that receives an incoming 911 call, and dispatches appropriate public safety agencies to respond.

A wireless service provider would:

- Be required to provide call location data to a law enforcement agency, or a PSAP without a warrant.
- Be allowed to establish procedures for the voluntary disclosure of call location data.
- Be immune to a civil action for complying with this act in good faith reliance of representations made by law enforcement.
- Be required to submit, and when appropriate update, emergency contact information to the State Bureau of Investigation.

A law enforcement agency or PSAP would:

- Only be allowed to request call location data in an emergency situation where the length of time to obtain the information another way would significantly reduce the chance of preventing death or serious physical harm.

EFFECTIVE DATE: This act would become effective July 1, 2017.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 315

Short Title: Kelsey Smith Act.

(Public)

Sponsors: Representatives Hurley, Faircloth, McNeill, and Williams (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I

March 13, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR WARRANTLESS ACCESS BY LAW ENFORCEMENT TO
3 TELECOMMUNICATIONS DEVICE LOCATION INFORMATION UNDER CERTAIN
4 CIRCUMSTANCES.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. This act shall be known as the Kelsey Smith Act.

7 SECTION 2. Chapter 15A of the General Statutes is amended by adding a new
8 Article to read:

9 "Article 16C.

10 "Provision of Wireless Call Location Data to Law Enforcement.

11 "§ 15A-300.10. Provision of call location data by wireless service provider to law
12 enforcement.

13 (a) The following definitions apply in this section:

14 (1) Call location data. – Global positioning system, triangulation, and per-call
15 measurement data indicating the location of a telecommunications device. Call
16 location data does not include the contents of any communication made using a
17 telecommunications device.

18 (2) Imminent. – With respect to a risk of death or serious physical harm, means that
19 the length of time necessary to comply with otherwise applicable provisions of
20 law pertaining to obtaining authorization for electronic surveillance would, in
21 the professional judgment of the law enforcement agency based upon generally
22 accepted surveillance and investigation protocols, significantly reduce the
23 chance of preventing death or serious physical harm.

24 (3) Public safety answering point. – Defined in G.S. 143B-1400.

25 (4) Wireless service provider. – A commercial mobile radio service provider, as
26 defined in G.S. 143B-1400, including providers of subscription-based,
27 in-vehicle security service.

28 (b) Upon request of a law enforcement agency or a public safety answering point on behalf
29 of a law enforcement agency, a wireless service provider shall provide call location data
30 concerning the telecommunications device of a user to the requesting law enforcement agency or
31 public safety answering point. A law enforcement agency or public safety answering point may
32 request data under this section only in an emergency situation that involves an imminent risk of
33 death or serious physical harm.

34 (c) A wireless service provider may establish procedures for voluntary disclosure of call
35 location data.



1 (d) A civil action may not be brought in any court against any wireless service provider or
2 any other person for providing call location data if the provider acted in good faith reliance upon
3 the representations of the law enforcement agency or public safety answering point and as required
4 by this section.

5 (e) All wireless service providers registered to do business in the State shall submit
6 emergency contact information to the State Bureau of Investigation in order to facilitate requests
7 from law enforcement agencies for call location data. This information must be submitted annually
8 by June 15 or immediately upon any change in emergency contact information.

9 (f) The State Bureau of Investigation shall maintain a database containing emergency
10 contact information for all wireless service providers registered to do business in the State and
11 shall make the information readily available upon request to all public safety answering points
12 located in the State."

13 **SECTION 3.** This act becomes effective July 1, 2017.



HOUSE BILL 33: Amend Firearm Restoration Law.

2017-2018 General Assembly

Committee: House Judiciary I
Introduced by: Reps. Speciale, Pittman, Boswell
Analysis of: First Edition

Date: March 22, 2017
Prepared by: Jennifer Bedford*
Legislative Analyst

SUMMARY: *House Bill 33 would restore the firearms rights of certain persons who were convicted of nonviolent felonies before December 1, 1995, and whose firearms rights had been restored before December 1, 1995.*

CURRENT LAW: Any person convicted of a felony loses certain rights, such as the right to vote and the right to possess a firearm. When they have completed any sentence received as a result of conviction those rights are restored, except for the firearm rights. G.S. 14-415.4 authorizes the restoration of firearm rights of certain persons convicted of nonviolent felonies after 20 years from the date all other civil rights were restored.

BILL ANALYSIS: House Bill 33 would automatically restore the firearms rights of anyone convicted of a felony who meets all of the following criteria:

- The person had their firearms rights restored prior to December 1, 1995, and the forfeiture on December 1, 1995 was only as a result of the changes to G.S. 14-415.1 enacted by S.L. 1995-487 and further amended by S.L. 2004-186 became effective.
- The person's felony convictions prior to December 1, 1995 are only for nonviolent felonies as defined by G.S. 14-415.4.
- The person has not been convicted of any subsequent felony on or after December 1, 1995 that would require forfeiture of the person's firearms rights.

EFFECTIVE DATE: This act would become effective October 1, 2017.

BACKGROUND: Prior to 1995, a person convicted of certain felonies only had their right to possess a handgun restricted, but could still possess a long gun. Additionally, their right to possess a handgun was restored after 5 years. Changes to the law in 1995 applied the rights revocation to all felonies and revoked the handgun rights permanently, but still allowed felons to possess a long gun. In 2004, the law was changed to take away the long gun rights of a convicted felon permanently as well. In 2010, G.S. 14-415.4 was enacted to allow restoration of those rights after a period of 20 years.

In 2009, the North Carolina Supreme Court decided in *Britt v. North Carolina* that the 1995 and 2004 laws were unconstitutional as applied to Mr. Britt in part because his rights had been restored completely prior to the 1995 change, and his felony was "nonviolent". But the court was clear that the opinion applied specifically to Mr. Britt, and did not declare the statute itself unconstitutional.

*Susan Sitze, Staff Attorney, contributed significantly to this summary.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 33

Short Title: Amend Firearm Restoration Law.

(Public)

Sponsors: Representatives Speciale, Pittman, and Boswell (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I

February 2, 2017

A BILL TO BE ENTITLED

AN ACT TO RESTORE THE FIREARMS RIGHTS OF CERTAIN PERSONS WHO WERE
CONVICTED OF NONVIOLENT FELONIES BEFORE DECEMBER 1, 1995, AND
WHOSE FIREARMS RIGHTS HAD BEEN RESTORED BEFORE DECEMBER 1, 1995.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-415.1 is amended by adding a new subsection to read:

"(f) This section does not apply to, there is no disentitlement under this section for, and the firearms rights as defined in G.S. 14-415.4 are restored to any person who satisfies all of the following criteria:

- (1) The person's firearms rights were restored prior to December 1, 1995, and the forfeiture of the person's firearms rights on December 1, 1995, occurred only because amendments to G.S. 14-415.1, enacted by S.L. 1995-487 and further amended by S.L. 2004-186, and applicable to any person convicted of a felony before December 1, 1995, became effective.
- (2) The person's felony convictions prior to December 1, 1995, are only for nonviolent felonies as defined in G.S. 14-415.4.
- (3) The person has not been convicted of any subsequent felony on or after December 1, 1995, that would require forfeiture of the person's firearms rights and cause the person to be disentitled under this section."

SECTION 2. This act becomes effective October 1, 2017.





HOUSE BILL 134: Pistol Permit/Mental Health Record to Sheriff.

2017-2018 General Assembly

Committee: House Judiciary I
Introduced by: Rep. McNeill
Analysis of: First Edition

Date: March 22, 2017
Prepared by: Jennifer Bedford
Legislative Analyst

OVERVIEW: *House Bill 134 would change the way the sheriff accesses court orders related to the mental health and capacity necessary to determine applicant eligibility for a pistol purchase permit.*

BACKGROUND: Sheriffs have the responsibility to issue or deny pistol purchase permits. An applicant who has been adjudicated mentally incompetent or committed to a mental institution is disqualified from purchasing a gun under state and federal law.

In order to determine a pistol purchase permit applicant's eligibility, the sheriff is required to check computerized criminal records maintained by the Administrative Office of the Courts, the State Bureau of Investigation, the Federal Bureau of Investigation, and the National Instant Criminal Background Check System (NICS).

BILL ANALYSIS AND CURRENT LAW:

Currently G. S. 14-404 requires a pistol purchase permit applicant to disclose any court orders related to mental health and capacity, and sign a release to allow the sheriff to access any court orders related to mental health and capacity.

Section 1 of House Bill 134 would change the way the sheriff accesses court orders related to mental health and capacity by eliminating the waiver and required disclosure by the applicant; and giving the sheriff the discretion to ask an applicant to disclose any court orders related to mental health or capacity.

Currently G. S. 122C-54 authorizes the sheriff to access the types of mental health and substance abuse treatment records reported to NICS for the purpose of pistol purchase permit background checks by providing a statutory exception to patient confidentiality.

Section 2 of House Bill 134 would amend the law giving the sheriff access to court orders related to mental health and capacity by requiring a potential holder of a court order related to mental health or capacity to release the mental health orders to the sheriff upon request.

EFFECTIVE DATE: This act would become effective August 1, 2017, and would apply to applications pending or submitted on or after that date.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 134

Short Title: Pistol Permit/Mental Health Record to Sheriff.

(Public)

Sponsors: Representative McNeill.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I

February 20, 2017

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE REQUIREMENT THAT A SIGNED RELEASE FORM FOR MENTAL HEALTH RECORDS BE PROVIDED WITH AN APPLICATION FOR A PISTOL PERMIT AND TO PROVIDE THAT A SHERIFF MAY REQUEST DISCLOSURE OF ANY COURT ORDERS CONCERNING THE MENTAL HEALTH OF AN APPLICANT FOR A PISTOL PERMIT AND THAT THE HOLDER OF ANY OF THOSE COURT ORDERS SHALL RELEASE THOSE RECORDS TO THE SHERIFF UPON THE SHERIFF'S REQUEST.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-404 reads as rewritten:

"§ 14-404. Issuance or refusal of permit; appeal from refusal; grounds for refusal; sheriff's fee.

...

(e1) The application for a permit shall be on a form created by the State Bureau of Investigation in consultation with the North Carolina Sheriffs' Association. This application shall be used by all sheriffs and must be provided by the sheriff both electronically and in paper form. Only the following shall be required to be submitted by an applicant for a permit:

- (1) The permit application developed pursuant to this subsection.
- (2) Five dollars for each permit requested pursuant to subsection (e) of this section.
- (3) A government issued identification confirming the identity of the applicant.
- (4) Proof of residency.
- (5) ~~A signed release, in a form to be prescribed by the Administrative Office of the Court, that authorizes and requires disclosure to the sheriff of any court orders concerning the mental health or capacity of the applicant to be used for the sole purpose of determining whether the applicant is disqualified to receive a permit pursuant to this section.~~

~~No additional document or evidence shall be required from any applicant.~~

(e2) The sheriff may, in the sheriff's discretion, request disclosure to the sheriff of any court orders concerning the mental health or mental capacity of the applicant to be used for the sole purpose of determining whether the applicant is disqualified to receive a permit pursuant to this section.

...

(i) ~~A person or entity shall promptly disclose to the sheriff, upon presentation by the applicant or sheriff of an original or photocopied release form described in subdivision (5) of~~



* H 1 3 4 - V - 1 *

1 subsection (e1) of this section, any court orders concerning the mental health or capacity of the
2 applicant who signed the release form."

3 **SECTION 2.** G.S. 122C-54 reads as rewritten:

4 **"§ 122C-54. Exceptions; abuse reports and court proceedings.**

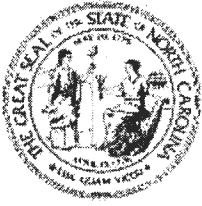
5 ...

6 (d2) ~~The record of involuntary commitment for inpatient or outpatient mental health~~
7 ~~treatment or for substance abuse treatment required to be reported to the National Instant Criminal~~
8 ~~Background Check System (NICCS) by G.S. 14-409.43 shall be accessible only by the sheriff or the~~
9 ~~sheriff's designee for the purposes of conducting background checks under G.S. 14-404 and shall~~
10 ~~remain otherwise confidential as provided by this Article.~~

11 (d3) Notwithstanding G.S. 122C-207 and subsection (d) of this section, when a sheriff
12 notifies the potential holder of a mental health order in writing that a particular individual has
13 completed an application for a pistol purchase permit, the holder of any court orders that concern
14 the mental health or mental capacity of an applicant for a pistol purchase permit shall, upon
15 request, release to the sheriff of the county any and all mental health orders concerning the pistol
16 purchase permit applicant.

17"

18 **SECTION 3.** This act becomes effective August 1, 2017, and applies to applications
19 for pistol purchases pending or submitted on or after that date.



HOUSE BILL 174: Concealed Carry/Church School Prop.

2017-2018 General Assembly

Committee: House Judiciary I
Introduced by: Rep. R. Turner
Analysis of: First Edition

Date: March 22, 2017
Prepared by: Jennifer Bedford
Legislative Analyst

OVERVIEW: *House Bill 174 would clarify the prohibition against weapons on educational property.*

CURRENT LAW AND BILL ANALYSIS:

G.S. 14-269.2 generally prohibits any gun, rifle, pistol, or other firearms on educational property however, a person with a concealed handgun permit may:

- Store a handgun within a locked vehicle on educational property.
- Move a handgun from concealment on their person to a closed compartment in a locked vehicle.

House Bill 174 would allow a concealed handgun permittee, or someone exempt from needing a concealed handgun permit, to possess and carry a handgun at:

- A place of religious worship that is also the location of a school; during the hours the school is not operating.

House Bill 174 would provide that aside from law enforcement officers and qualified retired law enforcement officers, a concealed handgun permit does not authorize a person to carry a concealed handgun:

- On any educational property during the hours of operation.

House Bill 174 also echoes current law that authorizes a concealed handgun permittee, or someone exempt from needing a concealed handgun permit, to carry concealed:

- At an establishment where alcoholic beverages are sold and consumed.
- At a parade, funeral procession, picket line, or demonstration.

EFFECTIVE DATE: This act would become effective December 1, 2017.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 174

Short Title: Concealed Carry/Church School Prop.

(Public)

Sponsors: Representative R. Turner.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I

February 23, 2017

- 1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE THAT A PERSON WHO HAS A CONCEALED HANDGUN PERMIT
3 MAY CARRY A HANDGUN ON EDUCATIONAL PROPERTY THAT IS THE
4 LOCATION OF BOTH A SCHOOL AND A PLACE OF RELIGIOUS WORSHIP OUTSIDE
5 THE OPERATING HOURS OF THE SCHOOL.
6 The General Assembly of North Carolina enacts:
7 **SECTION 1.** G.S. 14-269.2 is amended by adding a new subsection to read:
8 "(m) Notwithstanding subsection (b) of this section, if educational property is the location of
9 both a school and a building that is a place of religious worship as defined in G.S. 14-54.1, then a
10 person who has a concealed handgun permit issued in accordance with Article 54B of Chapter 14
11 of the General Statutes or considered valid under G.S. 14-415.24, or is exempt from obtaining a
12 permit pursuant to G.S. 14-415.25, may possess and carry a handgun on the premises of the place
13 of religious worship and any associated parking lot outside the operating hours of the school."
14 **SECTION 2.** G.S. 14-415.11(c)(1) reads as rewritten:
15 "(c) Except as provided in G.S. 14-415.27, a permit does not authorize a person to carry a
16 concealed handgun in any of the following:
17 (1) Areas prohibited by G.S. 14-269.2, 14-269.3, and 14-277.2, except as allowed
18 under G.S. 14-269.2(m), G.S. 14-269.3, and G.S. 14-277.2."
19 **SECTION 3.** This act becomes effective December 1, 2017.





**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 174**

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H174-ATT-3 [v.7]

Page 1 of 2

Amends Title [NO]
First Edition

Date _____, 2017

Representative R. Turner

1 moves to amend the bill on page 1, lines 7-18, by rewriting the lines to read:

2 "SECTION 1. G.S. 14-269.2 reads as rewritten:

3 "**§ 14-269.2. Weapons on campus or other educational property.**

4 (a) The following definitions apply to this section:

5 ...

6 (1c) School operating hours. – Any times when curricular or extracurricular
7 activities are taking place on the premises and any time when the premises
8 are being used for educational, instructional, or school sponsored activities.

9

10 "(k1) The provisions of this section shall not apply to a person who has a concealed
11 handgun permit that is valid under Article 54B of this Chapter, or who is exempt from
12 obtaining a permit pursuant to that article, if all of the following conditions apply:

- 13 (1) The person possesses and carries a handgun on educational property other
14 than an institution of higher education as defined by G.S. 116-143.1; or a
15 nonpublic, post-secondary educational institution.
16 (2) The educational property is the location of both a school and a building that
17 is a place of religious worship as defined in G.S. 14-54.1.
18 (3) The weapon is a handgun.
19 (4) The handgun is only possessed and carried on educational property outside
20 of the school operating hours.
21



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**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 174**

AMENDMENT NO. _____

(to be filled in by
Principal Clerk)

H174-ATT-3 [v.7]

Page 2 of 2

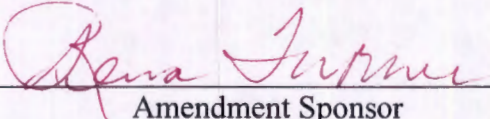
SECTION 2. G.S. 14-415.11(c) reads as rewritten:

"(c) Except as provided in G.S. 14-415.27, a permit does not authorize a person to carry a concealed handgun in any of the following:

(1) Areas prohibited by G.S. 14-269.2, ~~14-269.3, and 14-277.2~~ except as allowed under G.S. 14-269.2(k1).

(1a) Areas prohibited by G.S. 14-269.3, and G.S. 14-277.2.
...."".

SIGNED _____


Amendment Sponsor

SIGNED _____

Committee Chair if Senate Committee Amendment

ADOPTED _____

FAILED _____

TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 174

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H174-ATT-3 [v.5]

Page 1 of 2

Amends Title [NO]
First Edition

Date _____, 2017

Representative R. Turner

moves to amend the bill on page 1, lines 7-18, by rewriting the lines to read:

"SECTION 1. G.S. 14-269.2 is amended by adding a new subsection to read:

"(k1) The provisions of this section shall not apply to a person who has a concealed handgun permit that is valid under Article 54B of this Chapter, or who is exempt from obtaining a permit pursuant to that article, if all of the following conditions apply:

- (1) The person possesses and carries a handgun on educational property other than an institution of higher education as defined by G.S. 116-143.1; or a nonpublic, post-secondary educational institution.
- (2) The educational property is the location of both a school and a building that is a place of religious worship as defined in G.S. 14-54.1.
- (3) The weapon is a handgun.
- (4) The handgun is only possessed and carried on educational property outside of the operating hours of the school.
- (5) The person has previously obtained written authorization to possess and carry a handgun on the educational property from a representative of the educational property.
- (6) The person carries the permit together with valid identification and the written authorization from the representative of the educational property, prepared to disclose to any law enforcement officer that the person holds a valid permit and is carrying a handgun when approached or addressed by the officer."

SECTION 2. G.S. 14-415.11(c)(1) reads as rewritten:

"(c) Except as provided in G.S. 14-415.27, a permit does not authorize a person to carry a concealed handgun in any of the following:

(1) Areas prohibited by G.S. 14-269.2, 14-269.3, and 14-277.2, except as allowed under G.S. 14-269.2(k1).

(1a) Areas prohibited by G.S. 14-269.3, and G.S. 14-277.2."



* H 1 7 4 - A T T - 3 - V - 5 *



**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 174**

H174-ATT-3 [v.5]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 2 of 2

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

**JUDICIARY I COMMITTEE REPORT
Representative Ted Davis, Jr., Chair**

FAVORABLE

HB 33	Amend Firearm Restoration Law.
	Draft Number: None
	Serial Referral: None
	Recommended Referral: None
	Long Title Amended: No
	Floor Manager: Speciale
HB 134	Pistol Permit/Mental Health Record to Sheriff.
	Draft Number: None
	Serial Referral: None
	Recommended Referral: None
	Long Title Amended: No
	Floor Manager: McNeill
HB 315	Kelsey Smith Act.
	Draft Number: None
	Serial Referral: None
	Recommended Referral: None
	Long Title Amended: No
	Floor Manager: Hurley

TOTAL REPORTED: 3



* C M R 9 6 - V - 1 *



**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

**JUDICIARY I COMMITTEE REPORT
Representative Ted Davis, Jr., Chair**

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL

HB 174 Concealed Carry/Church School Prop.
 Draft Number: H174-PCS10153-TT-2
 Serial Referral: None
 Recommended Referral: None
 Long Title Amended: No
 Floor Manager: R. Turner

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB 196 Zip Lines/Challenge Courses/Sanders' Law.
 Draft Number: H196-PCS10152-TG-5
 Serial Referral: **FINANCE**
 Recommended Referral: None
 Long Title Amended: No
 Floor Manager: Davis

TOTAL REPORTED: 2





VISITOR REGISTRATION SHEET

House Committee on Judiciary I

3/22/2017

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Hazel Speciale	LA for Rep Speciale
Kevin Harris	Bailey NC
Tom Chamber	NC DOL
Jennifer Hauswald	NC DA
David Ferrin	VPB
John Harzo	MFS
Mark Lanier	UNW
JUSAN HARRISON	NYCDTSEA
Francis Penny	YMCA 12:15
Doug McMillan	YMCA 12:15
Tim Bradley	NC STATE FIREFIGHTERS



VISITOR REGISTRATION SHEET

House Committee on Judiciary I

3/22/2017


Name of Committee

Date

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NAME

FIRM OR AGENCY AND ADDRESS

Deb Clary	NCSP
Brian Col	NCSPA
Jack Gzart	Carry
Meghan Cook	DOI
George Robinson	DOI
Bryan Heckle	DOI
Seth Banks	DA's Office 24 th
Ed Bell	DA - 29A
	MWC
Nick Cummings	Shadowing Rep Steinburg



VISITOR REGISTRATION SHEET

House Committee on Judiciary I

Name of Committee

3/22/2017

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Rebecca Mundock	NC Sentencing Commission
Angel Gray	NC SBI
Tony Rabon	AT&T
Chris McClure	BP
Therrell	CG
Betty Carroll	NCEV
Skye David	now frame
Brian Lewis	now frame
Dana B. Clay	UNCLOS
Amanda Donovan	KTS
DICK JONES	YMCA of Southeastern NC



VISITOR REGISTRATION SHEET

Judiciary I

Name of Committee

3/22/17

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Sarah Kuncze	NCDO
Dolores Quisenberry	NCDO
Jill Cramer	NCDO
Ann Couch	NCBA
Jason Tyson	NCDO Labor
WALKER RYD	YMCA - SENC
Salie Ransom	YMCA
Dean MATHX	YMCA
Andy Sechrest	Rep Stevens Guest
Katelyn Joyce	Rep Stevens Guest
Michelle Ball	Clerk of Court - Johnston Co.



VISITOR REGISTRATION SHEET

House Committee on Judiciary I

3/22/2017

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Kathy Kitzman	BP
Tom Hart	NCTICU
Peter Bolac	NC State Bar
Jackie Cooper	ASS
Andrew Cagle	UNC Greensboro
Jamie Lassiter	Conf. of Clerks
Stephen Kouba	KMA
Andy Chase	KMA
Sarah Wolfe	MWC
Sarah Gillooly	ACLU
Ilona Fisa	citizen



VISITOR REGISTRATION SHEET

House Committee on Judiciary I

Name of Committee

3/22/2017

Date _____

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

ANTHONY RANLITTE

 $\sim 12A$

Emma Shelby

The Policy Group

Dennis Allen

NCRPA

Craig Zerbe,

ufo



Corrected #2: Delete HB392 and HB404

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Wednesday, March 29, 2017
TIME: 1:00 PM
LOCATION: 415 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 258	Amend Med. Mal. Health Care Provider Defin.	Representative Riddell Representative Fraley Representative Bert Jones Representative Clampitt
HB 105	Const. Amendment-Limit Governor/LG to 2 Terms.	Representative Bert Jones

Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 4:42 PM on Tuesday, March 28, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Judy Lowe (Committee Assistant)



Corrected #1: Add HB105

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Wednesday, March 29, 2017
TIME: 1:00 PM
LOCATION: 415 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 258	Amend Med. Mal. Health Care Provider Defin.	Representative Riddell Representative Fraley Representative Bert Jones Representative Clampitt
HB 392	Notary Public/Noncitizens.	Representative Millis Representative Burr Representative Cleveland Representative Conrad
HB 404	Debts to Judgment Debtors/Pay to Sheriff.	Representative Ford Representative McNeill
HB 105	Const. Amendment-Limit Governor/LG to 2 Terms.	Representative Bert Jones

Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 12:14 PM on Tuesday, March 28, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Judy Lowe (Committee Assistant)



**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Wednesday, March 29, 2017
TIME: 1:00 PM
LOCATION: 415 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 258	Amend Med. Mal. Health Care Provider Defin.	Representative Riddell Representative Fraley Representative Bert Jones Representative Clampitt
HB 392	Notary Public/Noncitizens.	Representative Millis Representative Burr Representative Cleveland Representative Conrad
HB 404	Debts to Judgment Debtors/Pay to Sheriff.	Representative Ford Representative McNeill

Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 4:10 PM on Monday, March 27, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Judy Lowe (Committee Assistant)



House Committee on Judiciary I
Wednesday, March 29, 2017, 1:00 PM
415 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Introduction of Sergeants at Arms

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 258	Amend Med. Mal. Health Care Provider Defin.	Representative Riddell Representative Fraley Representative Bert Jones Representative Clampitt
HB 105	Const. Amendment-Limit Governor/LG to 2 Terms.	Representative Bert Jones

Adjournment



House Committee on Judiciary I
Wednesday, March 29, 2017 at 1:00 PM
Room 415 of the Legislative Office Building

MINUTES

The House Committee on Judiciary I met at 1:05 PM on March 29, 2017 in Room 415 of the Legislative Office Building. Representatives Davis, Turner, Arp, Farmer-Butterfield, Howard, Martin, McNeill, Meyer, and Rogers attended. Staff members Bill Patterson, Jennifer Bedford, Jason-Moran and Judy Lowe, Committee Clerk were also present.

Representative Rena Turner called the meeting to order. She introduced Sergeants-at-Arms Bill Moore, Bill Riley and Barry Moore and the pages Darius Bellamy and Hunter Freeman and thanked them for their assistance with the Committee.

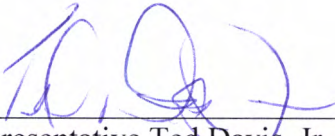
The following bills were considered:

HB 105 Const. Amendment-Limit Governor/LG to 2 Terms. Representative Bert Jones. Representative Bert Jones explained that HB105 would allow voters to determine if the Governor and Lieutenant Governor should be limited to two terms in the same office in a lifetime. Representative Martin inquired about the need for this bill. Representative McNeill stated it is a good bill and give voters the opportunity to make the decision. Jennifer Bedford noted that 8 states limit terms to lifetime, not consecutive. Representative Martin asked what the five other existing former Governors of North Carolina think about the bill. He expressed a gut instinct that it was good to have a limit and offered to call former Governors Hunt and Easley for their opinion. Representative Howard moved for a favorable report with the referral to the Elections and Ethics Law Committee. The motion carried unanimously.

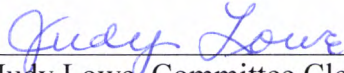
Representative Davis resumed the Chair.

HB 258 Amend Med. Mal. Health Care Provider Defin. Representatives Riddell, Fraley, Bert Jones, Clampitt. Representative Riddell explained that the bill would amend Article 1B of Chapter 90 of the General Statutes to include paramedics under the definition of health care providers for purposes of medical malpractice actions. There was no discussion on the bill and Representative Arp moved for a favorable report. The motion passed unanimously.

The meeting adjourned at 1:40 PM.



Representative Ted Davis, Jr.
Presiding Chair



Judy Lowe, Committee Clerk





HOUSE BILL 105: Const. Amendment-Limit Governor/LG to 2 Terms.

2017-2018 General Assembly

Committee:	House Judiciary I. If favorable, re-refer to Elections and Ethics Law	Date:	March 29, 2017
Introduced by:	Rep. Bert Jones	Prepared by:	Jennifer Bedford
Analysis of:	First Edition		Legislative Analyst

OVERVIEW: *House Bill 105 would allow voters to determine if the Governor and Lieutenant Governor should be limited to two terms in the same office in a lifetime.*

CURRENT LAW: No one elected to the office of Governor or Lieutenant Governor is eligible for election to more than two **consecutive** terms in the same office.

BILL ANALYSIS: **House Bill 105** would place a constitutional amendment on the November 2018 ballot to limit the Governor and Lieutenant Governor's terms in the same office to two, regardless of whether the two terms are consecutive or intermittent.

EFFECTIVE DATE: This act is effective when it becomes law, and would be submitted to voters in the November 2018 election. Subject to voter approval, this act would apply to terms of office beginning on or after January 1, 2021.

Karen Cochrane-Brown
Director



H 1 0 5 - S M T T - 1 3 E 1 - V - 1

Legislative Analysis
Division
919-733-2578



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 105

Short Title: Const. Amendment-Limit Governor/LG to 2 Terms. (Public)

Sponsors: Representative Bert Jones.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I, if favorable, Elections and Ethics Law

February 16, 2017

A BILL TO BE ENTITLED

AN ACT TO LIMIT THE GOVERNOR AND THE LIEUTENANT GOVERNOR TO A
LIFETIME MAXIMUM OF TWO TERMS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of Article III of the North Carolina Constitution reads as
rewritten:

"Sec. 2. Governor and Lieutenant Governor: election, term, and qualifications.

...

(2) Qualifications. No person shall be eligible for election to the office of Governor or
Lieutenant Governor unless, at the time of his election, he shall have attained the age of 30 years
and shall have been a citizen of the United States for five years and a resident of this State for two
years immediately preceding his election. No Beginning with terms of office commencing on or
after January 1, 2021, no person elected to the office of Governor or Lieutenant Governor shall be
eligible for election to more than two consecutive terms of the same office."

SECTION 2. The amendment set out in Section 1 of this act shall be submitted to the
qualified voters of the State at the general election in November 2018, which election shall be
conducted under the laws then governing elections in the State. Ballots, voting systems, or both
may be used in accordance with Chapter 163 of the General Statutes. The question to be used in
the voting systems and ballots shall be:

"[] FOR [] AGAINST

Constitutional amendment providing that no person may serve more than two terms as
the Governor or as the Lieutenant Governor."

SECTION 3. If a majority of the votes cast on the question are in favor of the
amendments set out in this act, the State Board of Elections shall certify the amendment to the
Secretary of State. The Secretary of State shall enroll the amendment so certified among the
permanent records of that office. The amendment set out in Section 1 of this act becomes effective
upon certification.

SECTION 4. This act is effective when it becomes law.





HOUSE BILL 258: Amend Med. Mal. Health Care Provider Defin.

2017-2018 General Assembly

Committee:	House Judiciary I	Date:	March 29, 2017
Introduced by:	Reps. Riddell, Fraley, Bert Jones, Clampitt	Prepared by:	Jason Moran-Bates
Analysis of:	First Edition		Committee Co-Counsel

OVERVIEW: *House Bill 258 would amend Article 1B of Chapter 90 of the General Statutes to include paramedics under the definition of health care providers for purposes of medical malpractice actions.*

CURRENT LAW: Article 1B of Chapter 90 sets forth the standards of care and burdens of proof for "medical malpractice actions," defined as civil actions against a health care provider seeking damages for personal injury or death arising out of the furnishing or failure to furnish professional health care services.

Because Article 1B does not include paramedics within the definition of "health care provider," a civil action seeking damages for personal injury or death arising from a paramedic's performance or failure to perform his or her professional duties is not a medical malpractice action subject to the requirements of Article 1B. Instead, such actions are subject to the substantive and procedural requirements applicable to ordinary negligence actions.

BILL ANALYSIS: House Bill 258 would amend the definition of health care provider in G.S. 90-21.11(1) to include paramedics as defined in G.S. 131E-155(15a). In order to be a paramedic under G.S. 131E-155(15a) an individual must complete education in emergency medical care approved by DHHS and be credentialed as a paramedic by DHHS. Under House Bill 258, a plaintiff would not be able to recover damages from a paramedic unless the plaintiff showed by the preponderance of evidence that the paramedic failed to provide the level of care that would have been provided by a similarly educated and trained paramedic from a similar community under similar circumstances. If the care the paramedic provided was emergency care, the plaintiff's burden of proof would rise to clear and convincing evidence. In addition, paramedics would be covered by the \$500,000 liability limit for non-economic damages in G.S. 90-21.19, unless one of the statutory exceptions applied.

EFFECTIVE DATE: This act would be effective when it becomes law and would apply to causes of action arising on or after that date.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 258

Short Title: Amend Med. Mal. Health Care Provider Defin. (Public)

Sponsors: Representatives Riddell, Fraley, Bert Jones, and Clampitt (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Health, if favorable, Judiciary I

March 7, 2017

1 A BILL TO BE ENTITLED
2 AN ACT AMENDING THE DEFINITION OF HEALTH CARE PROVIDER IN ARTICLE 1B
3 OF CHAPTER 90 OF THE GENERAL STATUTES TO INCLUDE PARAMEDICS.
4 The General Assembly of North Carolina enacts:
5 **SECTION 1.** G.S. 90-21.11(1) reads as rewritten:
6 "(1) Health care provider. – Without limitation, any of the following:
7 ...
8 e. Any paramedic, as defined in G.S. 131E-155(15a)."
9 **SECTION 2.** This act is effective when it becomes law and applies to causes of action
10 arising on or after that date.



★ H 2 5 8 - V - 1 ★



**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

**JUDICIARY I COMMITTEE REPORT
Representative Ted Davis, Jr., Chair**

FAVORABLE

HB 258 Amend Med. Mal. Health Care Provider Defin.
Draft Number: None
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: Riddell

FAVORABLE AND RE-REFERRED

HB 105 Const. Amendment-Limit Governor/LG to 2 Terms.
Draft Number: None
Serial Referral: ELECTIONS AND ETHICS LAW
Recommended Referral: None
Long Title Amended: No
Floor Manager: Bert Jones

TOTAL REPORTED: 2



* C M R 1 2 3 - V - 1 *



VISITOR REGISTRATION SHEET

Judiciary I

Name of Committee

3/29/17
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Mam Jennings	Speakers staff
JOEL MANNARD	ERMC & AESCC
Katy Kingsbury	DP
Dodie Benfer	CCR
Joel Faircloth	NC Assoc of Rescue & EMS
Fred Bone	Bone & Assoc
Caroline Miller	AMGA
Rep. D. Riddell	NEGA
John Sire	NC FPC
Peter Bolaz	NC State Bar
Lauren H	Press
Lexi Arthur	NCRMA



3/29/17

Date _____

FIRM OR AGENCY AND ADDRESS

OSX

Duke Energy



Judy Lowe (Rep. Ted Davis)

From: Dianne Russell (House Legislative Assistant Director)
Sent: Thursday, April 13, 2017 11:49 AM
To: Rep. Duane Hall; Rep. David Rogers; Rep. Destin Hall; Rep. Joe John; Rep. Sarah Stevens; Rep. Jonathan Jordan; Rep. Ted Davis; Rep. Rena Turner; Rep. John Faircloth; Rep. Allen McNeill; Rep. Stephen Ross; Rep. George Cleveland; Rep. Jeff Collins; Rep. Chris Millis; Rep. Mike Clampitt; Rep. Craig Horn; Rep. Chris Malone; Rep. Gregory Murphy; Rep. John Bradford; Rep. Julia Howard; Rep. Mitchell Setzer; Rep. Nelson Dollar; Rep. Cody Henson; Rep. Chuck McGrady; Rep. Josh Dobson; Rep. Lee Zachary
Cc: Greg Lademann (Rep. Duane Hall); Baxter Knight (Rep. David Rogers); Katelyn Garlow (Rep. Destin Hall); Dustin Ingalls (Rep. Joe John); Lisa Brown (Rep. Sarah Stevens); Emma Benson (Rep. Jonathan Jordan); Judy Lowe (Rep. Ted Davis); Barbara Gaiser (Rep. Rena Turner); Becky Bauerband (Rep. John Faircloth); Laura Sullivan (Rep. Allen McNeill); Kirk O'Steen (Rep. Stephen Ross); Pamela Ahlin (Rep. George Cleveland); Wes Householder (Rep. Jeff Collins); John Ganem (Rep. Chris Millis); Edward Stiles (Rep. Mike Clampitt); Pattie Fleming (Rep. Craig Horn); Christian Campbell (Rep. Chris Malone); Theresa Lopez (Rep. Gregory Murphy); Anita Spence (Rep. John Bradford); Cody Huneycutt (Rep. Julia Howard); Margaret Herring (Rep. Mitchell Setzer); Candace Slate (Rep. Nelson Dollar); Megan Kluttz (Rep. Cody Henson); Kimberly Neptune (Rep. Chuck McGrady); Julie Ryan (Rep. Josh Dobson); Martha Jenkins (Rep. Lee Zachary)
Subject: <NCGA> House Judiciary I Committee Meeting Notice for Wednesday, April 19, 2017 at 12:00 PM - CORRECTED #1
Attachments: Add Meeting to Calendar_LINC_.ics

Corrected #1: Add HB 616

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Wednesday, April 19, 2017
TIME: 12:00 PM
LOCATION: 415 LOB
COMMENTS: This will be a 2 hour committee meeting and there may be more bills added.

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 224</u>	Warrant Check of Inmates in Custody.	Representative Rogers Representative Duane Hall



<u>HB 227</u>	Preserve Tenancy by the Entirety.	Representative Destin Hall Representative John Representative Davis Representative Jordan Representative Stevens Representative R. Turner Representative Faircloth Representative McNeill Representative Ross Representative Davis Representative Cleveland Representative Clampitt Representative Collins Representative Millis Representative Horn Representative Murphy Representative Malone Representative Bradford
<u>HB 236</u>	NCAOC Omnibus Bill.	
<u>HB 242</u>	License Plate Reader Systems in State ROWs.	
<u>HB 341</u>	Unlicensed Driver/Tow Vehicle.	
<u>HB 464</u>	Revise Schedule of Controlled Substances.	
<u>HB 502</u>	Define "Consumer" - Auto Renewal Contracts.	
<u>HB 598</u>	Swimming Pool Electrical Safety.	Representative Setzer Representative Howard Representative Dollar Representative Henson Representative McGrady Representative Dobson Representative Ross Representative Zachary
<u>HB 616</u>	North Carolina Public Benefit Corporation Act.	

Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 11:48 AM on Thursday, April 13, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Dianne Russell (Committee Assistant)



**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Wednesday, April 19, 2017

TIME: 12:00 PM

LOCATION: 415 LOB

COMMENTS: This will be a 2 hour committee meeting and there may be more bills added.

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
✓ <u>HB 224</u>	Warrant Check of Inmates in Custody.	Representative Rogers Representative Duane Hall Representative Destin Hall Representative John
<u>HB 227</u>	Preserve Tenancy by the Entirety.	Representative Davis Representative Jordan Representative Stevens
<u>HB 236</u>	NCAOC Omnibus Bill.	Representative R. Turner
✓ <u>HB 242</u>	License Plate Reader Systems in State ROWs.	Representative Faircloth Representative McNeill Representative Ross
<u>HB 341</u>	Unlicensed Driver/Tow Vehicle.	Representative Davis Representative Cleveland Representative Clampitt Representative Collins Representative Millis
<u>HB 464</u>	Revise Schedule of Controlled Substances.	Representative Horn Representative Murphy Representative Malone
<u>HB 502</u>	Define "Consumer" - Auto Renewal Contracts.	Representative Bradford
<u>HB 598</u>	Swimming Pool Electrical Safety.	Representative Setzer Representative Howard Representative Dollar Representative Henson



Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 1:26 PM on Wednesday, April 12, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Judy Lowe (Committee Assistant)



House Committee on Judiciary I
Wednesday, April 19, 2017, 12:00 PM
415 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 224	Warrant Check of Inmates in Custody.	Representative Rogers Representative Duane Hall Representative Destin Hall Representative John
HB 227	Preserve Tenancy by the Entirety.	Representative Davis Representative Jordan Representative Stevens
HB 236	NCAOC Omnibus Bill.	Representative R. Turner
HB 242	License Plate Reader Systems in State ROWs.	Representative Faircloth Representative McNeill Representative Ross Representative Davis
✓ HB 341	Unlicensed Driver/Tow Vehicle.	Representative Cleveland Representative Clampitt Representative Collins Representative Millis
HB 464	Revise Schedule of Controlled Substances.	Representative Horn Representative Murphy Representative Malone
HB 502	Define "Consumer" - Auto Renewal Contracts.	Representative Bradford
HB 616	North Carolina Public Benefit Corporation Act.	Representative McGrady Representative Dobson Representative Ross Representative Zachary
HB 677	Amend Who Can Serve on Three-Judge Panel.	Representative Stevens

Adjournment



House Committee on Judiciary I
Wednesday, April 19, 2017 at 12:00 PM
Room 415 of the Legislative Office Building

MINUTES

The House Committee on Judiciary I met at 12:00 PM on April 19, 2017 in Room 415 of the Legislative Office Building. Representatives Davis, Hall, Jackson, Stevens, Turner, Arp, Farmer-Butterfield, Howard, Martin, McNeill, Meyer, Rogers and Steinburg attended. Staff members Bill Patterson, Jennifer Bedford, Jason Moran-Bates and Judy Lowe, Committee Clerk was also in attendance.

Representative Ted Davis, Jr. presided. He introduced the Sergeants-at-Arms . There were no pages.

The following bills were considered:

HB 224 Warrant Check of Inmates in Custody. Representatives Rogers, Duane Hall, Destin Hall, John. Representative Rogers explained the bill noting that it would clarify in S.L. 2015-48 for courts to attempt to determine if a defendant has any outstanding warrants. The Chairman called for discussion from the members and the visitors and there was none. Representative Stevens moved for a favorable report and the motion passed.

HB 242 License Plate Reader Systems in State ROWs. Representatives Faircloth, McNeill, Ross, Davis. Representative Faircloth explained that the bill would authorize the Department of Transportation to enter into encroachment agreements with municipalities, counties, and other governmental entities for automatic license plate reader system installation or temporary placement within the State highway rights-of-way. Chief Cassandra Deck-Brown from the Raleigh Police Depart and Chief Dan Houser, Wrightsville Beach had concerns about the bill. Representative Arp moved for a favorable report and re-referral to Regulator Reform and the motion passed.

HB 616 North Carolina Public Benefit Corporation Act. Representatives McGrady, Dobson, Ross, Zachary. Representative McGrady stated that the bill would establish the North Carolina Benefit Corporation Act. It would allow the creation of public benefit corporations and establish procedures for existing corporations to become public benefit corporations. Representative Arp indicated that a change from a C-Corp. to a B-Corp requires a two-thirds majority vote. Representative Sarah Stevens proposed an amendment to page 2, line 28 rewriting it to read "merger or share exchange must be approved unanimously by the outstanding shares of the". The amendment passed. Representative Meyer moved for a favorable report to the committee substitute, unfavorable to the original bill and re-referred to Commerce and Job Development. The motion passed.

HB 677 Amend Who Can Serve on Three-Judge Panel. Representative Stevens. Representative Stevens explained that the bill would permit district court judges to be appointed to a three-judge panel determining the validity of acts apportioning or redistricting State



legislative or congressional districts or the validity of facial challenges to other acts of the General Assembly. There was a motion for a favorable report and the motion passed.

HB 227 Preserve Tenancy by the Entirety. Representatives Davis, Jordan, Stevens.

Representative Davis stated the PCS would make conforming changes to clarify that tenancy by the entirety is preserved in this State as recommended by the General Statutes Commission and Pt. I is supported by the North Carolina Bar Association. There was a "general comments" memorandum which is attached. Representative Hall moved for a favorable committee substitute, unfavorable to the original bill. The motion was passed.

HB 236 NCAOC Omnibus Bill. Representative R. Turner. Representative Turner explained that the PCS would make numerous technical corrections to several statutes dealing with the administration of the General Courts of Justice. Following a brief discussion, Representative Turner offered an amendment which rewrote line 18 on page 13 to read "practice of law shall not include the performance of pro bono legal services by a lawyer, other than a justice or judge of the general court of justice, who is". The amendment passed unanimously. Maureen Cooper, Moore County DA expressed concern about unintended policies. Representative Jackson had a second amendment which deleted the lines on page 9 from 47 through 25 on page 10. That amendment also passed. Representative Rogers moved for a favorable committee substitute, unfavorable to the original bill and re-referral to State and Local Government II. The motion carried.

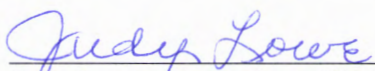
HB 341 Unlicensed Driver/Tow Vehicle. Representatives Cleveland, Clampitt, Collins, Millis. Representative Cleveland state the PCS for the bill would require the towing and storage of a motor vehicle when the operator is charged with an unlicensed driver violation unless, in the officer's presence, the charged person contacts a licensed drive who can pick up the vehicle within an hour. This bill was not reported out of committee.

HB 464 Revise Schedule of Controlled Substances. Representatives Horn, Murphy, Malone. The PCS was properly before the committee and Representative Horn explained that it would amend the classification of controlled substances. Representative Jackson moved for favorable committee substitute #2, unfavorable committee substitute #1. The motion carried.

HB 502 Define "Consumer" - Auto Renewal Contracts. Representative Bradford. Representative Bradford explained that HB502 defines the term "consumer" for purposes of the law governing contracts with automatic renewal clauses. Cady Thomas from the NC Realtors asked for a point of clarification. Representative Steinburg moved for a favorable report and the motion carried.

The meeting adjourned at 1:40 PM.

Representative Ted Davis, Jr., Presiding Chair



Judy Lowe, Committee Clerk





HOUSE BILL 224: Warrant Check of Inmates in Custody.

2017-2018 General Assembly

Committee:	House Judiciary I	Date:	April 19, 2017
Introduced by:	Reps. Rogers, Duane Hall, Destin Hall, John	Prepared by:	Jennifer H. Bedford
Analysis of:	First Edition		Legislative Analyst

OVERVIEW: *House Bill 224 would clarify the requirement created in S.L. 2015-48 for courts to attempt to determine if a defendant has any outstanding warrants.*

CURRENT LAW: G.S. 15A-301.1 provides for a statewide warrant repository, NCAWARE, to maintain and track criminal processes such as warrants, criminal summons, orders for arrest, and appearance bonds.

In an effort to resolve an inmate's outstanding warrants while in custody, G.S. 15A-301.1 was amended by S.L. 2015-48. Upon confinement, law enforcement is required to determine if there are any outstanding warrants against the inmate. Prior to entry of an order, courts are required to attempt to determine if there are any outstanding warrants against the defendant.

BILL ANALYSIS: **House Bill 224** would clarify that the court is not required to attempt to determine if every defendant has any outstanding warrants, prior to entering an order. The court is only required to attempt to determine if a defendant in custody has any outstanding warrants.

EFFECTIVE DATE: This act becomes effective December 1, 2017, and applies to orders entered on or after that date.

Karen Cochrane-Brown
Director



H 2 2 4 - S M T T - 2 0 E 1 - V - 2

Legislative Analysis
Division
919-733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 224

Short Title: Warrant Check of Inmates in Custody. (Public)

Sponsors: Representatives Rogers, Duane Hall, Destin Hall, and John (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Rules, Calendar, and Operations of the House

March 2, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THE COURT TO ATTEMPT TO IDENTIFY OUTSTANDING
3 WARRANTS BEFORE ENTERING AN ORDER IN A CRIMINAL CASE ONLY IN
4 CASES IN WHICH THE DEFENDANT IS IN CUSTODY, AS RECOMMENDED BY THE
5 NORTH CAROLINA COURTS COMMISSION.
6 The General Assembly of North Carolina enacts:
7 **SECTION 1.** G.S. 15A-301.1(p) reads as rewritten:
8 "**§ 15A-301.1. Electronic Repository.**
9 ...
10 (p) Prior to the entry of any order of the court in a criminal case, the court shall attempt to
11 identify all outstanding warrants against that ~~individual~~individual, if in custody, and notify the
12 appropriate law enforcement agencies of the location of the individual."
13 **SECTION 2.** This act becomes effective December 1, 2017, and applies to orders
14 entered on or after that date.



* H 2 2 4 - V - 1 *



HOUSE BILL 242: License Plate Reader Systems in State ROWs.

2017-2018 General Assembly

Committee: House Judiciary I
Introduced by: Reps. Faircloth, McNeill, Ross, Davis
Analysis of: First Edition

Date: April 19, 2017
Prepared by: Jason Moran-Bates
Committee Co-Counsel

OVERVIEW: *House Bill 242 would authorize the Department of Transportation (DOT) to enter into encroachment agreements with municipalities, counties, and other governmental entities for automatic license plate reader system installation or temporary placement within the State highway rights-of-way.*

CURRENT LAW: Under G.S. 138-18 DOT maintains exclusive control of the State highway system, which includes rights-of-way.

G.S. 136-18(2)(c) authorizes DOT to use rights-of-way for water, sewer, telephone, electric, and other utility lines, and for nonutility owned communications or data transmission infrastructure.

DOT currently authorizes and approves encroachments into highway rights-of-way by agreement with the encroaching entity.

BILL ANALYSIS: House Bill 242 would authorize DOT to enter into encroachment agreements with municipalities, counties, and other governmental entities for the installation or temporary placement of automatic license plate reader systems within State highway rights-of-way, provided that the installation does not interfere with existing rights-of-way usage by a public utility, the use will be immediately terminated if a public utility objects, and the readers used comply with the provisions of the Underground Utility Safety and Damage Prevention Act, Article 8A of Chapter 87 of the General Statutes.

The bill would also allow the Department to approve requests by municipalities, counties, and other governmental entities for the installation or temporary placement of automatic license plate reader systems in rights-of-way currently encumbered by utility easements, provided that the installation is temporary and completely above ground, does not interfere with the utility facilities, is terminated immediately at the request of the public utility, and the readers used comply with the provisions of Article 8A of Chapter 87 of the General Statutes.

EFFECTIVE DATE: This act would become effective when it becomes law.

BACKGROUND: Article 3D of Chapter 20 contains the State law governing use of automatic license plate reader systems. Pursuant to G.S. 20-183.30, license plate readers can only be used to convert license plate images into computer-readable data. They cannot be equipped to work in conjunction with a traffic control device or radar to identify violations of traffic laws. Data captured by a license plate reader system is only accessible by law enforcement agencies, and may be used only for law enforcement or criminal justice purposes. The data may only be retained for 90 days unless a search warrant or formal retention request has been issued.

Howard Marsilio of the Legislative Analysis Division substantially contributed to this summary.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 242

Short Title: License Plate Reader Systems in State ROWs. (Public)

Sponsors: Representatives Faircloth, McNeill, Ross, and Davis (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Transportation, if favorable, Energy and Public Utilities

March 6, 2017

A BILL TO BE ENTITLED
AN ACT TO AUTHORIZE THE INSTALLATION AND USE OF AUTOMATIC LICENSE
PLATE READER SYSTEMS IN STATE RIGHTS-OF-WAY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-18 is amended by adding a new subdivision to read:

"(46) For purposes of this subdivision, the term (i) "public utility" means any of the following: a public utility, as defined in G.S. 62-3(23); an electric membership corporation; telephone membership corporation; a joint municipal power agency; or a city or county engaged in producing, generating, transmitting, delivering, or furnishing electricity for private or public use and (ii) "automatic license plate reader system" is as defined in G.S. 20-183.30. The Department shall have the following powers related to automatic license plate reader systems:

a. To enter into agreements with municipalities, counties, and other governmental entities for the use of and encroachment upon the right-of-way of any road designated as part of the State highway system for the installation and use of automatic license plate reader systems; provided that (i) the agreements do not unreasonably interfere with the use of the right-of-way by a public utility with facilities already located within the right-of-way, (ii) the use shall immediately be terminated and the automatic license plate reader system and any related equipment removed upon request by any affected public utility, and (iii) the entity installing the automatic license plate reader system complies with the provisions of Article 8A of Chapter 87 of the General Statutes.

b. To approve requests by municipalities, counties, and other governmental entities to use land or right-of-way owned by the Department of Transportation that is encumbered by utility easements, or otherwise being lawfully occupied by a public utility, for the installation and use of automatic license plate reader systems; provided that (i) the use of the land or right-of-way is temporary in nature; (ii) the automatic license plate reader system shall be completely aboveground, easily moveable, and contain no combustible fuel; (iii) the use shall not unreasonably interfere with the operation and maintenance of the utility facilities or cause the utility facilities to fail to comply with all applicable laws, codes, and regulatory requirements; (iv) the use shall



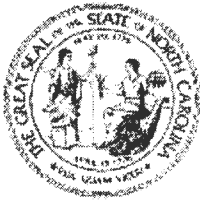
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1 immediately be terminated and the automatic license plate reader system
2 and any related equipment removed upon request by any affected public
3 utility; and (v) the use shall comply with provisions of Article 8A of
4 Chapter 87 of the General Statutes. The affected public utility shall have
5 the right to move the automatic license plate reader system in the event
6 that the public utility needs immediate access to its utility facilities and,
7 in such event, shall only be liable for damages to the automatic license
8 plate reader system caused solely by its gross negligence or willful
9 misconduct.

10 c. Nothing in this subdivision shall relieve any entity, public or private, of
11 its obligation to comply with the provisions of Article 8A of Chapter 87
12 of the General Statutes."

13 **SECTION 2.** This act is effective when it becomes law.





HOUSE BILL 616: North Carolina Public Benefit Corporation Act.

2017-2018 General Assembly

Committee:	House Judiciary I. If favorable, re-refer to Commerce and Job Development	Date:	April 19, 2017
Introduced by:	Reps. McGrady, Dobson, Ross, Zachary	Prepared by:	Jason Moran-Bates
Analysis of:	First Edition		Committee Co-Counsel

OVERVIEW: *House Bill 616 would establish the North Carolina Public Benefit Corporation Act. The bill would allow the creation of public benefit corporations, which are corporation that have positive effects of an artistic, charitable, cultural, economic, educational, environmental, literary, medical, religious, scientific, or technological nature. The bill would establish procedures for existing corporations to become public benefit corporations, notice requirements, duties for directors of public benefit corporations, and standards for certifying the corporation is promoting a specific public benefit. House Bill 616 would also permit derivative suits by shareholders against a public benefit corporation.*

CURRENT LAW: There is currently no statutory law regarding public benefit corporations.

BILL ANALYSIS:

Section 1 of the bill would amend Chapter 55 of the General Statutes by adding a new Article creating and regulating public benefit corporations.

- G.S. 55-15-01 would establish the title of the Article.
- G.S. 55-18-02 would make the Article applicable to all public benefit corporations and establish that if the Article conflicts with another provision of Chapter 55, the Article controls. This section also prohibits public benefit corporations from adopting articles of incorporation or bylaws that are inconsistent with the Article and clarifies that nothing in the Article confers tax-exempt status on public benefit corporations.
- G.S. 55-18-03 would define the terms "public benefit corporation" and "public benefit."
- G.S. 55-18-04 would require the articles of incorporation of a public benefit corporation to state that the corporation is a public benefit corporation and identify the public benefit the corporation promotes. It would also prohibit a public benefit corporation from issuing stock unless the phrase "public benefit corporation" or the initials "P.B.C." was on the stock certificate, except in certain specific circumstances.
- G.S. 55-18-05 would permit existing corporations to become public benefit corporations by amending their articles of incorporation or by merger or share exchange, provided the transition is approved by two-thirds of the outstanding shares entitled to vote.
- G.S. 55-18-07 would require a public benefit corporation to conspicuously state it is a public benefit corporation on all stock certificates and notices required under G.S. 55-1-41.

Karen Cochrane-Brown
Director



Legislative Analysis
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House Bill 616

Page 2

- G.S. 55-18-08 would require directors of a public benefit corporation to manage its business in a manner that balances the pecuniary interests of the corporation, the best interests of those materially affected by the corporation, and the public benefits identified in the articles of incorporation. Directors would not have any obligations to any individual because of that individual's interest in the public benefit identified in the corporation's articles of incorporation. Directors would be deemed to have met the balance requirement of this section if their actions are informed, disinterested, and would be approved by a person of ordinary, sound judgment. A public benefit corporation may adopt articles of incorporation that include provisions that disinterested failures to satisfy this section are not grounds for bad faith or a breach of a director's duties.
- G.S. 55-18-09 would require a public benefit corporation to biennially provide its shareholders with a statement regarding the corporation's promotion of the public interest listed in its articles of incorporation. This statement must include at least:
 - The objectives established by the board of directors to promote specific public benefits and the interests of those persons materially affected by the corporation's conduct.
 - The standards the board of directors has adopted to measure the corporation's progress in promoting specific public benefits.
 - Objective factual information based on the adopted standards regarding the corporation's success in meeting its objectives.
 - An assessment of the corporation's success in meeting its objectives.

This section would also permit a public benefit corporation to provide the required statement more than biennially, make the statement available to the public, and use a third-party standard or certification for making the assessment required in the statement.

- G.S. 55-18-10 would allow shareholders of a public benefit corporation to bring a derivative suit against the corporation if the shareholders bringing the suit own at least 2% of the corporation's outstanding shares. In addition to the 2% threshold, if the corporation is traded on a national securities exchange, the shareholders may bring suit if they own shares with a market value of at least \$2,000,000.

Section 2 would amend G.S. 55-13-02(a) to add a provision allowing a shareholder in a corporation to have appraisal rights and obtain fair value of the shareholder's shares if the corporation is transitioning to a public benefit corporation, unless the shareholder voted in favor of the transition or any class of shares were listed on a national securities exchange or held by more than 2,000 shareholders.

EFFECTIVE DATE: This bill would become effective October 1, 2017.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 616

Short Title: North Carolina Public Benefit Corporation Act. (Public)

Sponsors: Representatives McGrady, Dobson, Ross, and Zachary (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I, if favorable, Commerce and Job Development

April 10, 2017

A BILL TO BE ENTITLED
AN ACT TO ENACT THE NORTH CAROLINA PUBLIC BENEFIT CORPORATION ACT.
The General Assembly of North Carolina enacts:

SECTION 1. Chapter 55 of the General Statutes is amended by adding a new Article to read:

"Article 18.

"The North Carolina Public Benefit Corporation Act.

"§ 55-18-01. Short title.

This Article may be cited as "The North Carolina Public Benefit Corporation Act."

"§ 55-18-02. Application and effect of Article.

(a) Applicability. – This Article applies to all public benefit corporations.

(b) Applicability of Chapter. – The provisions of the other Articles of this Chapter apply to public benefit corporations. If any provision of this Article conflicts with any provision of the other Articles of this Chapter, the provision of this Article shall control.

(c) Effect of Article on Other Corporations. – Other than as provided in G.S. 55-18-05, corporations that are not public benefit corporations shall not be subject to this Article, and this Article shall not otherwise affect any law that is applicable to a corporation that is not a public benefit corporation.

(d) Effect of Articles of Incorporation and Bylaws. – A provision of the articles of incorporation or bylaws of a public benefit corporation may not be inconsistent with or supersede a provision of this Article, except to the extent expressly permitted in this Article.

(e) Not Tax Exempt. – Nothing in this Article shall be construed as conferring tax-exempt status under applicable law on a public benefit corporation formed under the provisions of this Article.

"§ 55-18-03. Definitions.

The following definitions apply in this Article:

(1) Public benefit corporation. – A corporation for profit that is incorporated under and subject to the requirements of this Chapter and that is intended to produce one or more public benefits and to operate in a responsible manner by managing in a manner that balances the stockholders' pecuniary interests, the best interests of those materially affected by the corporation's conduct, and the one or more specific public benefits identified in its articles of incorporation.

(2) Public benefit. – A positive effect or reduction of a negative effect on one or more categories of persons, entities, communities, or interests. This term



includes effects of an artistic, charitable, cultural, economic, educational, environmental, literary, medical, religious, scientific, or technological nature. This term does not include effects on shareholders in their capacities as shareholders.

"§ 55-18-04. Articles of incorporation; name.

(a) Articles of Incorporation. – In addition to the required information set forth in G.S. 55-2-02, a public benefit corporation shall include both of the following in its articles of incorporation:

(1) A statement that the corporation is a public benefit corporation.

(2) An identification of one or more specific public benefits to be promoted by the corporation.

(b) Name. – The name of a public benefit corporation may satisfy the requirements of G.S. 55D-20 by including the words "public benefit corporation", or the abbreviation "P.B.C.", or the designation "PBC". If the name does not contain this language, the corporation shall, prior to issuing unissued shares or reissuing shares acquired by the corporation, provide notice to any person acquiring a share that it is a public benefit corporation, unless either of the following conditions exists:

(1) The issuance or reissuance is pursuant to an offering registered under the Securities Act of 1933, as amended.

(2) At the time of the issuance or reissuance, the corporation has a class of shares that is registered under the Exchange Act, as defined in G.S. 55-9-01(b).

"§ 55-18-05. Transition to public benefit corporation status.

(a) Amendment. – An existing corporation may become a public benefit corporation by amending its articles of incorporation to include the information set forth in G.S. 55-18-04(a). Notwithstanding any provision of Article 10 of this Chapter to the contrary, an existing corporation may amend its articles of incorporation pursuant to this subsection only upon two-thirds approval of the outstanding shares of the corporation entitled to vote thereon.

(b) Merger or Share Exchange. – Notwithstanding any provision of Article 11 of this Chapter to the contrary, if a corporation that is not a public benefit corporation is a party to a merger or share exchange, and the surviving or acquiring corporation in the merger or share exchange is, or is to be as a result of the transaction, a public benefit corporation, the plan of merger or share exchange must be approved by two-thirds of the outstanding shares of the corporation entitled to vote thereon.

"§ 55-18-06. Termination of public benefit corporation status.

(a) Amendment. – A public benefit corporation may terminate its status and cease to be subject to this Article by amending its articles of incorporation to delete the information set forth in G.S. 55-18-04(a). Notwithstanding any provision of Article 10 of this Chapter to the contrary, a public benefit corporation may amend its articles of incorporation pursuant to this subsection only upon two-thirds approval of the outstanding shares of the corporation entitled to vote thereon.

(b) Merger or Share Exchange. – Notwithstanding any provision of Article 11 of this Chapter to the contrary, if a plan of merger or share exchange would have the effect of terminating the status of a corporation as a public benefit corporation, the plan must be approved by two-thirds of the outstanding shares of the corporation entitled to vote thereon.

"§ 55-18-07. Notice requirements.

Any stock certificates issued by a public benefit corporation shall note conspicuously that the corporation is a public benefit corporation formed pursuant to this Article. Any notice sent by a public benefit corporation pursuant to G.S. 55-1-41 shall state conspicuously that the corporation is a public benefit corporation formed pursuant to this Article.

"§ 55-18-08. Duties of directors.

1 (a) General Duty. – The board of directors shall manage or direct the business and
2 affairs of the public benefit corporation in a manner that balances the pecuniary interests of the
3 shareholders, the best interests of those materially affected by the corporation's conduct, and
4 the one or more specific public benefits identified in its articles of incorporation.

5 (b) Duty to Individuals. – A director of a public benefit corporation shall not, by virtue
6 of the one or more specific public benefits identified in the public benefit corporation's articles
7 of incorporation or the provisions of subsection (a) of this section, have any duty to any person
8 on account of any interest of the person in the one or more specific public benefits identified in
9 the articles of incorporation or on account of any interest materially affected by the
10 corporation's conduct. With respect to a decision implicating the balance requirement in
11 subsection (a) of this section, a director's fiduciary duties to shareholders and the corporation
12 shall be deemed to be satisfied if the director's decision is (i) informed and disinterested and (ii)
13 would be approved by a person of ordinary, sound judgment.

14 (c) Option. – The articles of incorporation of a public benefit corporation may include a
15 provision that any disinterested failure to satisfy this section shall not, for the purposes of
16 G.S. 55-2-02(b)(3) or Part 5 of Article 8 of this Chapter, constitute an act or omission not in
17 good faith or a breach of the duty of loyalty.

18 **"§ 55-18-09. Periodic statements and third-party certification.**

19 (a) Shareholder Meeting Notice. – A public benefit corporation shall include in every
20 notice of a shareholder meeting a statement that it is a public benefit corporation formed under
21 the provisions of this Article.

22 (b) Biennial Statement. – A public benefit corporation shall no less than biennially
23 provide its shareholders with a statement as to the corporation's promotion of the one or more
24 specific public benefits identified in its articles of incorporation and of the best interests of
25 those persons materially affected by the corporation's conduct. The statement shall include all
26 of the following:

27 (1) The objectives established by the board of directors to promote the one or
28 more specific public benefits and the interests of those persons materially
29 affected by the corporation's conduct.

30 (2) The standards the board of directors has adopted to measure the
31 corporation's progress in promoting the one or more specific public benefits
32 and the interests of those persons materially affected by the corporation's
33 conduct.

34 (3) Objective factual information based on the standards adopted under
35 subdivision (2) of this subsection regarding the corporation's success in
36 meeting the objectives established under subdivision (1) of this subsection.

37 (4) An assessment of the corporation's success in meeting the objectives
38 established under subdivision (1) of this subsection.

39 (c) Options. – The articles of incorporation or bylaws of a public benefit corporation
40 may require the corporation to do any or all of the following:

41 (1) Provide the statement required under subsection (b) of this section more
42 frequently than biennially.

43 (2) Make the statement required under subsection (b) of this section available to
44 the public.

45 (3) Use either or both a third-party standard or third-party certification in
46 making the assessment required under subdivision (4) of subsection (b) of
47 this section.

48 **"§ 55-18-10. Derivative suits.**

49 Shareholders of a public benefit corporation may bring a derivative proceeding in
50 accordance with Part 4 of Article 7 of this Chapter if, at the time the proceeding is brought,
51 either of the following requirements is met:

1 (1) For a public benefit corporation with shares on a national securities
2 exchange, the shareholders bringing the proceeding own, individually or
3 collectively, the lesser of (i) at least two percent (2%) of the corporation's
4 outstanding shares or (ii) shares with a market value of at least two million
5 dollars (\$2,000,000).

6 (2) For all other public benefit corporations, the shareholders bringing the
7 proceeding own, individually or collectively, at least two percent (2%) of the
8 corporation's outstanding shares."

9 **SECTION 2.** G.S. 55-13-02(a) is amended by adding a new subdivision to read:

10 "(9) Consummation of a transition to public benefit corporation status in
11 accordance with G.S. 55-18-05, unless any of the following conditions
12 applies:

13 a. The shareholder voted in favor of, or consented in writing pursuant to
14 G.S. 55-7-04 to, the transition to public benefit corporation status.

15 b. Any class or series of shares at the record date fixed to determine the
16 shareholders entitled to receive notice of the meeting to act upon the
17 transition to public benefit corporation status were either (i) listed on
18 a national securities exchange or (ii) held of record by more than
19 2,000 shareholders."

20 **SECTION 3.** This act becomes effective October 1, 2017.



**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 616**

H616-ABC-12 [v.2]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 1 of 1

Amends Title [NO]
First Edition

Date 4/19/17, 2017

Representative Stevens

1 moves to amend the bill on page 2, line 28 by rewriting it to read:
2 "unanimous approval of the outstanding shares of the corporation entitled to vote thereon.";
3
4 and on page 2, line 33 by rewriting the line to read:
5 "merger or share exchange must be approved unanimously by the outstanding shares of the"
6
7

SIGNED

Sarah Stevens
Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED

FAILED

TABLED



* H 6 1 6 - A B C - 1 2 - V - 2 *



HOUSE BILL 677: Amend Who Can Serve on Three-Judge Panel.

2017-2018 General Assembly

Committee: House Judiciary I
Introduced by: Rep. Stevens
Analysis of: First Edition

Date: April 18, 2017
Prepared by: Jason Moran-Bates
Committee Co-Counsel

OVERVIEW: *House Bill 677 would permit district court judges to be appointed to a three-judge panel determining the validity of acts apportioning or redistricting State legislative or congressional districts or the validity of facial challenges to other acts of the General Assembly.*

CURRENT LAW: Under G.S. 1-267.1, a three-judge panel may be appointed to hear redistricting challenges or facial challenges to acts of the General Assembly. Current law permits only superior court judges to be appointed to the panels.

BILL ANALYSIS: House Bill 677 would amend G.S. 1-267.1 to allow the appointment of both superior court judges and district court judges to any three-judge panel formed to hear a challenge to the validity of a redistricting act or a facial challenge to any other act of the General Assembly.

EFFECTIVE DATE: This bill would be effective when it becomes law.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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1

HOUSE BILL 677

Short Title: Amend Who Can Serve on Three-Judge Panel. (Public)

Sponsors: Representative Stevens.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I

April 11, 2017

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT DISTRICT COURT JUDGES MAY BE APPOINTED TO
SERVE ON THREE-JUDGE PANELS FOR ACTIONS CHALLENGING THE
VALIDITY OF ACTS OF THE GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 1-267.1 reads as rewritten:

**"§ 1-267.1. Three-judge panel for actions challenging plans apportioning or redistricting
State legislative or congressional districts; claims challenging the facial validity
of an act of the General Assembly.**

(a) Any action challenging the validity of any act of the General Assembly that
apportions or redistricts State legislative or congressional districts shall be filed in the Superior
Court of Wake County and shall be heard and determined by a three-judge panel of the
Superior Court of Wake County organized as provided by subsection (b) of this section.

(a1) Except as otherwise provided in subsection (a) of this section, any facial challenge
to the validity of an act of the General Assembly shall be transferred pursuant to G.S. 1A-1,
Rule 42(b)(4), to the Superior Court of Wake County and shall be heard and determined by a
three-judge panel of the Superior Court of Wake County, organized as provided by subsection
(b2) of this section.

(b) Whenever any person files in the Superior Court of Wake County any action
challenging the validity of any act of the General Assembly that apportions or redistricts State
legislative or congressional districts, a copy of the complaint shall be served upon the senior
resident superior court judge of Wake County, who shall be the presiding judge of the
three-judge panel required by subsection (a) of this section. Upon receipt of that complaint, the
senior resident superior court judge of Wake County shall notify the Chief Justice, who shall
appoint two additional resident superior court judges or district court judges to the three-judge
panel of the Superior Court of Wake County to hear and determine the action. Before making
those appointments, the Chief Justice shall consult with the North Carolina Conference of
Superior Court Judges, which shall provide the Chief Justice with a list of recommended
appointments. To ensure that members of the three-judge panel are drawn from different
regions of the State, the Chief Justice shall appoint to the three-judge panel one resident
superior court judge or district court judge from the First through Fourth Judicial Divisions and
one resident superior court judge or district court judge from the Fifth through Eighth Judicial
Divisions. In order to ensure fairness, to avoid the appearance of impropriety, and to avoid
political bias, no member of the panel, including the senior resident superior court judge of
Wake County, may be a former member of the General Assembly. Should the senior resident



1 superior court judge of Wake County be disqualified or otherwise unable to serve on the
2 three-judge panel, the Chief Justice shall appoint another resident superior court judge of Wake
3 County as the presiding judge of the three-judge panel. Should any other member of the
4 three-judge panel be disqualified or otherwise unable to serve on the three-judge panel, the
5 Chief Justice shall appoint as a replacement another resident superior court judge or district
6 court judge from the same group of judicial divisions as the resident superior court judge being
7 replaced.

8 (b1) Any facial challenge to the validity of an act of the General Assembly filed in the
9 Superior Court of Wake County, other than a challenge to plans apportioning or redistricting
10 State legislative or congressional districts that shall be heard pursuant to subsection (b) of this
11 section, or any claim transferred to the Superior Court of Wake County pursuant to subsection
12 (a1) of this section, shall be assigned by the senior resident Superior Court Judge of Wake
13 County to a three-judge panel established pursuant to subsection (b2) of this section.

14 (b2) For each challenge to the validity of statutes and acts subject to subsection (a1) of
15 this section, the Chief Justice of the Supreme Court shall appoint three resident superior court
16 judges or district court judges to a three-judge panel of the Superior Court of Wake County to
17 hear the challenge. The Chief Justice shall appoint a presiding judge of each three-judge panel.
18 To ensure that members of each three-judge panel are drawn from different regions of the State,
19 the Chief Justice shall appoint to each three-judge panel one resident superior court judge or
20 district court judge from the First, Second, or Fourth Judicial Division, one resident superior
21 court judge or district court judge from the Seventh or Eighth Judicial Division, and one
22 resident superior court judge or district court judge from the Third, Fifth, or Sixth Judicial
23 Division. Should any member of a three-judge panel be disqualified or otherwise unable to
24 serve on the three-judge panel or be removed from the panel at the discretion of the Chief
25 Justice, the Chief Justice shall appoint as a replacement another resident superior court judge or
26 district court judge from the same group of judicial divisions as the resident superior court
27 judge or district court judge being replaced.

28 (c) No order or judgment shall be entered affecting the validity of any act of the
29 General Assembly that apportions or redistricts State legislative or congressional districts, or
30 finds that an act of the General Assembly is facially invalid on the basis that the act violates the
31 North Carolina Constitution or federal law, except by a three-judge panel of the Superior Court
32 of Wake County organized as provided by subsection (b) or subsection (b2) of this section. In
33 the event of disagreement among the three resident superior court judges comprising a
34 three-judge panel, then the opinion of the majority shall prevail.

35 (d) This section applies only to civil proceedings. Nothing in this section shall be
36 deemed to apply to criminal proceedings, to proceedings under Chapter 15A of the General
37 Statutes, to proceedings making a collateral attack on any judgment entered in a criminal
38 proceeding, or to civil proceedings filed by a taxpayer pursuant to G.S. 105-241.17."

39 **SECTION 2.** This act is effective when it becomes law.





HOUSE BILL 227: Preserve Tenancy by the Entirety.

2017-2018 General Assembly

Committee:	House Judiciary I	Date:	April 18, 2017
Introduced by:	Reps. Davis, Jordan, Stevens	Prepared by:	Bill Patterson
Analysis of:	PCS to First Edition H227-CSMN-1		Committee Co-Counsel

OVERVIEW: *House Bill 227 would make conforming changes to clarify that tenancy by the entirety is preserved in this State following Obergefell v. Hodges, 135 S.Ct. 2584 (2015), as recommended by the General Statutes Commission. Part I is also supported by the North Carolina Bar Association.*

The Proposed Committee Substitute (PCS) adds Part II, as recommended by the North Carolina Bar Association, which makes additional corollary amendments to those in Part I for other real-estate-related sections of the General Statutes; Part II would also modernize terminology and references to procedures and make other technical and clarifying amendments in those sections.

BILL ANALYSIS:

Part I: See the Memorandum from the General Statutes Commission to the House Committee on Judiciary I, attached at the end of this summary.

Part II:

Section 2.1 would amend G.S. 29-30, which allows a surviving spouse to take a life estate in one-third of the value of the deceased spouse's real property instead of an intestate share or the elective share under G.S. 30-3.1. The amendments would (i) specifically recognize two additional forms used for one spouse to waive interests in the other's property; (ii) update terms (for example, "waived, released, or conveyed" rather than "released or quitclaimed"); (iii) require that if there is no estate administration, a notice of the surviving spouse's election be recorded in every county where affected real property is located; and (iv) clarify that the protection of life estates under this section against the deceased spouse's creditors does not extend to real property that is subject to a purchase money mortgage given by a lender, regardless of whether the lender is the seller or a third-party lender, and also that this protection against creditors does not apply to real property not included in the life estate.

Section 2.2 would make the title of Article 2 of Chapter 39 of the General Statutes gender neutral.

Section 2.3 would amend G.S. 39-7 to make stylistic updates (for example, referring to "individual" rather than "person" because "individual" is the term currently used in the General Statutes to refer to a human being, whereas "person" is used to refer to both individuals and entities such as corporations).

Section 2.4 would amend G.S. 39-8 to reduce legalese, make references gender neutral, and modernize terms (for example, "proof or acknowledgement" rather than "probate" with reference to notarizing or witnessing an instrument).

Section 2.5 would amend G.S. 39-9 to make the terminology gender neutral and to correct the punctuation.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
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House PCS 227

Page 2

Section 2.6 would rewrite G.S. 39-13 for greater clarity. That section provides a purchase money mortgage or deed of trust is good against a spouse even if the spouse did not join in the execution of the instrument.

Section 2.7 would amend G.S. 39-13.2 to reduce legalese, update "person" to "individual", and make references to spouses gender neutral.

Section 2.8 would amend G.S. 39-13.4 to modernize terminology (for example, by referring to "deed of separation, separation agreement, or property settlement" rather than just "deed of separation"), make references gender neutral, and reduce legalese.

Section 2.9 would amend G.S. 39-13.5 by updating the style, making references gender neutral, and reducing legalese.

Section 2.10 would amend G.S. 39-13.7, which allows a married couple to transfer real property owned by them as tenants by the entirety to trust. As long as the conditions in G.S. 39-13.7 are met, the real property will continue to have tenancy by the entirety's protection against creditors of only one of the spouses until one spouse passes away. The amendment in Section 2.10 would add two new subsections to G.S. 39-13.7 to (i) allow a notice to be included in the conveyance to the trust that the real property qualifies as still protected against one spouse's individual creditors under G.S. 39-13.7, which will provide notice to the public, and (ii) provide a way for other persons at a later date to verify whether the real property remains protected.

Section 2.11 would amend G.S. 41-10 by making terminology gender neutral and by attempting to modernize the language and reduce legalese.

Section 2.12 would amend G.S. 52-10 to make terminology gender neutral and reduce legalese.

Section 2.13 would amend G.S. 52-10.1 to make terminology gender neutral and reduce legalese.

EFFECTIVE DATE: The act would be effective when it becomes law and would apply to conveyances made on or before October 10, 2014.¹

¹ This was the effective date of the final order in Bostic v. Schaefer, 760 F.3d 352 (4th Cir. 2014), the Fourth Circuit opinion that preceded Obergefell, but that essentially had the same holding.).



General Statutes Commission

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Floyd M. Lewis
Revisor of Statutes

P. Bly Hall
Assistant Revisor of Statutes

MEMORANDUM

To: House Judiciary I
From: General Statutes Commission
Re: HB 227 (Preserve Tenancy by the Entirety)
Date: April 18, 2017

General Comments

Part I of the proposed committee substitute for this bill, if enacted, will preserve the centuries-old traditional form of property-holding for married couples in this State by adjusting the wording of our statutes on that subject in light of the definitional changes by *Obergefell v. Hodges*, 135 S.Ct. 2584 (2015). It will provide stability and certainty to the thousands of married couples in North Carolina who currently own their homes as tenants by the entirety.

Tenancy by the entirety is a traditional form of owning real property, derived from common law, that is available only to married couples. Unless another form of tenancy is specified, a tenancy by the entirety is created when real property is deeded in one deed to two people who are husband and wife at the time they take the property. Both spouses own the entire property rather than a fractional interest in it, and when one spouse dies, the survivor continues to own the entire property. Neither spouse can unilaterally defeat or in any way affect the other spouse's right of survivorship.¹ For example, one spouse cannot validly sell a share of the property without the consent of the other spouse during the other spouse's lifetime, and property held in a tenancy by the entirety is not subject to a partition proceeding. Although a creditor can levy on the property for debts owed jointly by the couple (a typical example being a mortgage the couple takes out to buy the property), the creditors of only one spouse cannot do so.² The result is that each spouse, and therefore the family unit as a whole, is protected against the individual liabilities of the other spouse.³

For many married couples, their home is their major asset. According to figures from the 2010 United States Census, North Carolina had 3,745,155 households, of which 48.4% were husband-wife households. These households resided in 3,745,155 housing units, of which 66.7% were owner-occupied. Although the General Statutes Commission does not have any figures on the number of properties held in tenancies by the entirety, it is clear from the census figures that they number in the thousands.

¹ A divorce converts a tenancy by the entirety to a tenancy in common, with no survivorship rights or protection against the ex-spouse's creditors.

² The federal government with respect to a federal tax lien is an exception. *U.S. v. Craft*, 535 U.S. 274, 122 S.Ct. 1414 (2002).

³ See 1 WEBSTER'S REAL ESTATE LAW IN NORTH CAROLINA §§ 7.04 and 7.15-7.19 (6th ed. 2011 & Supp. 2015).

The problem that has arisen, and the reason for this bill, is that the wording of this State's statutes on tenancy by the entirety may no longer pass muster against an equal protection challenge in light of the United States Supreme Court's decision in *Obergefell*. For example, G.S. 39-13.6, the primary statute on the subject, refers to "spouses" but also begins "[a] husband and wife" This wording raises the question whether a same-sex couple in a valid marriage can take real property in this State in a tenancy by the entirety. Given that *Obergefell* effectively mandated recognition of marriages between persons of the same sex, it is foreseeable that the question will eventually be raised in a court unless the General Assembly acts first.

Courts that have found gender-specific provisions in the law to be unconstitutional have taken a variety of approaches in dealing with the result. For example, the growth of married women's property protections in state laws and state constitutions during the 1800s resulted in challenges to the existence of tenancies by the entirety. Because the married women's property protections granted married women the right to have and control their own property, just as though they were single, while the common law vested control over property held in a tenancy by the entirety in the husband, some courts saw the two as incompatible and judicially abolished tenancy by the entirety as a result. South Carolina is one example, and in the process it decided to recognize a survivorship right created by deed in a tenancy in common.⁴ North Carolina in contrast dealt with the issue legislatively, by enacting G.S. 39-13.6.⁵ More recently, equal protection challenges to the common law doctrine of necessities became popular in the 1980s. That common-law doctrine made a husband liable for debts incurred by his wife or minor children for "necessaries," that is, things like food, medicine, etc. North Carolina's Supreme Court dealt with the issue by extending the doctrine to apply to wives as well as husbands;⁶ Alabama's Supreme Court, on the other hand, abolished the doctrine.⁷

Due to the uncertainty caused by *Obergefell* in this area of the law, an ad hoc group, consisting of members of different sections of the North Carolina Bar Association, some title attorneys, and others who practice in property and related fields, identified five sections of the North Carolina General Statutes dealing with tenancy by the entirety that the group felt needed to be amended. The General Statutes Commission reviewed the proposed amendments and agreed that they should be made, with a few stylistic changes.

Accordingly, given the foreseeability of a constitutional challenge to our tenancy by the entirety statutes absent action by the General Assembly, and given the possibility that a court may respond by abolishing this form of property holding, and given that thousands of existing married North Carolinians who currently own their homes as tenants by the entirety would be negatively affected by such a result, the General Statutes Commission decided to recommend this bill to give the General Assembly the opportunity to settle the issue rather than the courts.

⁴ E.g., *Davis v. Davis*, 75 S.E.2d 46 (S.C. 1953).

⁵ See Chapter 1245 of the 1981 Session Laws (Reg. Sess. 1982) ("An Act To Equalize Between Married Persons the Right to Income, Possession, and Control in Property Owned Concurrently in Tenancy by the Entirety").

⁶ *North Carolina Baptist Hospitals, Inc. v. Harris*, 319 N.C. 347, 354 S.E.2d 471 (1987).

⁷ *Emanuel v. McGriff*, 596 So.2d 578 (Ala. 1992).

Specific Comments

Part I contains amendments recommended by the General Statutes Commission. The North Carolina Bar Association also supports these amendments.

Section 1.1 amends G.S. 39-13.3 (Conveyances between husband and wife) to replace references to a husband and a wife with references to a "married" grantor or grantee or individual and that person's spouse.

Section 1.2 amends G.S. 39-13.6 (Control of real property held in tenancy by the entirety) to replace some references to a husband and wife with a reference to two individuals married to each other and to update the format of subsection (b). References to a husband or wife in subdivisions (b)(1), (2), and (3) are not changed because these are historic. Subdivision (b)(2a) is included and subdivision (b)(3) is amended to specifically allow a reference to a "spouse" in a deed.

Section 1.3 amends G.S. 39-13.7 (Tenancy by the entireties trusts in real property) to make the terminology gender neutral.

Section 1.4 amends G.S. 41-2 (Survivorship in joint tenancy defined; proviso as to partnership; unequal ownership interests) to replace the reference in subsection (b) to a husband and wife with a reference to two individuals married to each other.

Section 1.5 amends G.S. 41-2.5 (Tenancy by the entirety in mobile homes) to make in subsection (b) the same changes as described in Section 4 and to correct an obvious error in subsection (c), where the reference to "Article" should be to "section."

Part II contains related amendments recommended by the North Carolina Bar Association.

Part III contains the effective date and applicability provisions for the bill.

Section 3.1 explains that the effective date is derived from the final order in the first case that applied to this State the holding in *Bostic v. Schaefer*, 760 F.3d 352 (4th Cir. 2014) (the Fourth Circuit predecessor to *Obergefell*).

Section 3.2 sets an effective date of October 10, 2014, applicable to conveyances on or after that date.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

D

HOUSE BILL 227
PROPOSED COMMITTEE SUBSTITUTE H227-CSMN-1 [v.4]

04/17/2017 09:05:50 PM

Short Title: Preserve Tenancy by the Entirety.

(Public)

Sponsors:

Referred to:

March 2, 2017

A BILL TO BE ENTITLED
AN ACT TO MAKE CONFORMING AMENDMENTS TO CLARIFY THAT TENANCY
BY THE ENTIRETY IS PRESERVED IN THIS STATE IN LIGHT OF THE UNITED
STATES SUPREME COURT DECISION IN *OBERGEFELL V. HODGES*, AS
RECOMMENDED BY THE GENERAL STATUTES COMMISSION, AND TO MAKE
OTHER TECHNICAL, CLARIFYING, AND OTHER SIMILAR AMENDMENTS TO
THE LAWS RELATING TO PROPERTY CONVEYED BY ONE SPOUSE OR
BETWEEN SPOUSES.

The General Assembly of North Carolina enacts:

PART I. PRESERVE TENANCY BY THE ENTIRETY.

SECTION 1.1. G.S. 39-13.3 reads as rewritten:

"§ 39-13.3. Conveyances between ~~husband and wife~~ spouses.

(a) A conveyance from a ~~husband or wife to the other~~ married grantor to that individual's spouse of real property or any interest therein owned by the grantor alone vests ~~such the~~ property or interest in the grantee.

(b) A conveyance of real property, or any interest therein, by a ~~husband or a wife to such husband and wife~~ married grantor to that individual and the individual's spouse vests the ~~same property~~ in the ~~husband and wife~~ grantees as tenants by the entirety unless a contrary intention is expressed in the conveyance.

(c) A conveyance from a ~~husband or a wife to the other~~ married individual to that individual's spouse of real property, or any interest therein, held by ~~such husband and wife the spouses~~ as tenants by the entirety dissolves ~~such the~~ tenancy in the property or interest conveyed and vests ~~such the~~ property or interest formerly held by the entirety in the grantee.

(d) The joinder of the spouse of the grantor in any conveyance made by a ~~husband or a wife married grantor~~ pursuant to the foregoing provisions of this section is not necessary.

(e) Any conveyance authorized by this section is subject to the provisions of G.S. 52-10 or 52-10.1, except that acknowledgment by the spouse of the grantor is not necessary."

SECTION 1.2. G.S. 39-13.6 reads as rewritten:

"§ 39-13.6. Control of real property held in tenancy by the entirety.

(a) ~~A husband and wife~~ Two individuals married to each other shall have an equal right to the control, use, possession, rents, income, and profits of real property held by them in tenancy by the entirety. Neither spouse may bargain, sell, lease, mortgage, transfer, convey or in any manner encumber any property so held without the written joinder of the other spouse. This section shall not be construed to require the spouse's joinder where a different provision is made under G.S. 39-13, G.S. 39-13.3, G.S. 39-13.4, or G.S. 52-10.



* H 2 2 7 - C S M N - 1 *

(b) ~~A-Unless a contrary intention is expressed in the conveyance, a conveyance of real property, or any interest therein, to a husband and wife two individuals then married to each other vests title in them as tenants by the entirety when the conveyance is to:~~

- (1) A named ~~man~~ individual "and wife," or
 - (2) A named ~~woman~~ individual "and husband," or
 - (2a) A named individual "and spouse," or
 - (3) Two named ~~persons, individuals,~~ whether or not identified in the conveyance as being (i) husband and wife, (ii) spouses, or (iii) married to each other, if at the time of conveyance they are legally ~~married; married to each other.~~
- ~~unless a contrary intention is expressed in the conveyance.~~

(c) For income tax purposes, each spouse is considered to have received one-half (1/2) the income or loss from property owned by the couple as tenants by the entirety."

SECTION 1.3. G.S. 39-13.7 reads as rewritten:

"§ 39-13.7. Tenancy by the entireties trusts in real property.

(a) Any real property held by ~~a husband and wife two individuals married to each other~~ as a tenancy by the entireties and conveyed to (i) a joint trust or (ii) in equal shares to two separate trusts; shall no longer be held by ~~the husband and wife the grantors~~ as tenants by the entirety and shall be disposed of by the terms of the trust or trusts, but, subject to the provisions of subsection (b) of this section, the real property shall have the same immunity from the claims of the separate creditors of ~~the husband and wife each spouse~~ as would exist if the spouses had continued to hold the property as tenants by the entireties.

(b) The immunity from the claims of separate creditors provided by subsection (a) of this section shall apply as long as all of the following apply:

- (1) ~~The husband and wife two individuals~~ remain ~~married; married to each other.~~
- (2) The real property continues to be held in the trust or trusts as provided in subsection (a) of this section.
- (3) Both ~~husband and wife spouses~~ are current beneficiaries of the joint trust if the real property is conveyed to that trust or of each separate trust if the real property is conveyed in equal shares to their separate trusts.

(c) After the death of the first of ~~the husband and wife spouse~~ to die, all property held in trust that was immune from the claims of their separate creditors under subsection (a) of this section immediately prior to the individual's death shall continue to have immunity from the claims of the decedent's separate creditors as would have existed if ~~the husband and wife both spouses~~ continued to hold the property conveyed in trust as tenants by the entirety.

(d) The trustee acting under the express provisions of a trust instrument or with the written consent of both ~~the husband and wife spouses~~ may waive the immunity from the claims of separate creditors provided under this section as to any specific creditor or any specifically described property including all separate creditors of a ~~husband and wife spouse~~ or all former tenancy by the entirety property conveyed to the trustee.

(e) For purposes of this section:

- (1) The reference to the real property conveyed to or held in the trust shall be deemed to include the proceeds arising from the involuntary conversion of the real property.
- (2) The reference to a "joint trust" means a revocable or irrevocable trust of which both ~~the husband and wife spouses~~ are the settlors, and the reference to "separate trusts" means revocable or irrevocable trusts of which ~~the husband and one spouse~~ is the settlor of one trust and the ~~wife other spouse~~ is the settlor of the other trust.
- (3) The ~~husband and wife two spouses~~ are "beneficiaries" of a trust if they are distributees or permissible distributees of the income or principal of the trust

whether or not other persons are also current or future beneficiaries of the trust."

SECTION 1.4. G.S. 41-2 reads as rewritten:

"§ 41-2. Survivorship in joint tenancy defined; proviso as to partnership; unequal ownership interests.

...

(b) The interests of the grantees holding property in joint tenancy with right of survivorship shall be deemed to be equal unless otherwise specified in the conveyance. Any joint tenancy interest held by ~~a husband and wife, two individuals then married to each other,~~ unless otherwise specified, shall be deemed to be held by them as a single tenancy by the entirety, which shall be treated as a single party when determining interests in the joint tenancy with right of survivorship. Joint tenancy interests among two or more joint tenants holding property in joint tenancy with right of survivorship are subject to the provisions of G.S. 28A-24-3 upon the death of one or more of the joint tenants.

This subsection shall apply to any conveyance of an interest in property created at any time that explicitly sought to create unequal ownership interests in a joint tenancy with right of survivorship. Distributions made prior to the enactment of this subsection that were made in equal amounts from a joint tenancy with the right of survivorship that sought to create unequal ownership shares shall remain valid and shall not be subject to modification on the basis of this subsection."

SECTION 1.5. G.S. 41-2.5 reads as rewritten:

"§ 41-2.5. Tenancy by the entirety in mobile homes.

(a) When ~~a husband and wife, two individuals then married to each other~~ become co-owners of a mobile home, in the absence of anything to the contrary appearing in the instrument of title, they become tenants by the entirety with all the incidents of an estate by the entirety in real property, including the right of survivorship in the case of death of either.

(b) For the purpose of this section it shall be immaterial whether the property at any particular time shall be classified for any purpose as either real or personal. The provisions of subsection (a) of this section shall not limit or prohibit any other type of ownership otherwise authorized by law.

(c) For purposes of this section "mobile home" means a portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over eight feet in width. As used in this ~~Article, section,~~ "mobile home" also means a double-wide mobile home which is two or more portable manufactured housing units designed for transportation on their own chassis, which connect on site for placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over eight feet in width.

(d) This section does not repeal or modify any provisions of the law relating to estate or inheritance taxes."

PART II. OTHER AMENDMENTS TO THE LAWS ON CONVEYANCES OF REAL PROPERTY BETWEEN SPOUSES AND CONVEYANCES BY SPOUSES TO OTHER PARTIES.

SECTION 2.1. G.S. 29-30 reads as rewritten:

"§ 29-30. Election of surviving spouse to take life interest in lieu of intestate share provided.

(a) Except as provided in this subsection, ~~in~~ in lieu of the intestate share provided in G.S. 29-14 or G.S. 29-21, or of the elective share provided in G.S. 30-3.1, the surviving spouse of an intestate or the surviving spouse who has petitioned for an elective share shall be entitled to take as the surviving spouse's intestate share or elective share a life estate in one third in value of all the real estate of which the deceased spouse was seised and possessed of an estate

of inheritance at any time during ~~coverture, coverture, except that real estate as to which the surviving spouse:~~ The following exceptions apply if the surviving spouse:

(1) Has waived the surviving spouse's rights by joining with the other spouse in a conveyance ~~thereof, or thereof.~~

(1a) Has waived the right to take a life estate in lieu of an intestate or elective share by an express written waiver thereof.

(2) ~~Has released or quitclaimed~~ Has waived, released, or conveyed the surviving spouse's interest therein in accordance with G.S. 52-10, or G.S. 52-10.

(3) Was not required by law to join in conveyance thereof in order to bar the elective life ~~estate, or estate.~~

(3a) Has executed a written declaration permitting the deceased spouse to convey or encumber the property without the consent or joinder of the surviving spouse.

(4) Is otherwise not legally entitled to the election provided in this section.

...

(c) The election provided for in subsection (a) shall be made by (i) the filing of a petition in accordance with Article 2 of Chapter 28A of the General Statutes with the clerk of the superior court of the county in which the administration of the estate is pending, or (ii), if no administration is pending, then with the clerk of the superior court of any county in which the administration of the estate could be ~~commenced, commenced, together with the recording of a notice indicating the county and file number of the clerk's filing with the register of deeds in every county where real property to be claimed under the filing is located.~~ The election shall be made prior to the shorter of the following applicable periods:

...

...

(g) Neither the household furnishings in the dwelling house nor the life estates taken by election under this section shall be subject to the payment of debts due from the estate of the deceased spouse, except those debts secured by such property as follows:

(1) By a mortgage or deed of trust in which the surviving spouse has waived the surviving spouse's rights by joining with the other spouse in the making ~~thereof, or thereof.~~

(2) By a ~~purchase money mortgage or deed of trust, trust given by the deceased spouse to secure a loan, the proceeds of which were used to pay all or a portion of the purchase price of the encumbered real property, regardless of whether the secured party is the seller of the real property or a third-party lender, or by a conditional sales contract of personal property in which title is retained by the vendor, made prior to or during the marriage; or marriage.~~

(3) By a mortgage or deed of trust made prior to the ~~marriage; or marriage.~~

(4) By a mortgage or deed of trust constituting a lien on the property at the time of its acquisition by the deceased spouse either before or during the marriage.

(5) By a mortgage or deed of trust on property with respect to which the elective life estate provided for in this section does not apply as provided in subsection (a) of this section.

...."

SECTION 2.2. The title of Article 2 of Chapter 39 of the General Statutes reads as rewritten:

"Article 2.

"Conveyances by Married Individuals. Conveyances by Husband and Wife."

SECTION 2.3. G.S. 39-7 reads as rewritten:

1 **"§ 39-7. Instruments affecting married ~~person's~~individual's title; joinder of spouse;**
2 **exceptions.**

3 (a) In order to waive ~~the a spouse's~~ elective life estate of ~~either husband or wife~~ as
4 provided for in G.S. 29-30, every ~~conveyance~~ conveyance, waiver, release, or other instrument
5 affecting the estate, right or title of any married ~~person~~ individual in lands, tenements or
6 hereditaments must be executed by ~~such husband or wife,~~ the spouse, and due proof or
7 acknowledgment thereof must be made and certified as provided by law.

8 (b) A married ~~person~~ individual may bargain, sell, lease, mortgage, transfer and convey
9 any of his or her separate real estate without joinder or other waiver by his or her spouse if ~~such~~
10 the spouse is incompetent and a guardian or trustee has been appointed as provided by the laws
11 of North Carolina, and if the appropriate instrument is executed by the married
12 ~~individual~~ person and the guardian or trustee of the incompetent spouse and is probated and
13 registered in accordance with law, it shall convey all the estate and interest as therein intended
14 of the married ~~individual~~ person in the land conveyed, free and exempt from the elective life
15 estate as provided in G.S. 29-30 and all other interests of the incompetent spouse.

16 (c) Subsection (a) shall not be construed to require the spouse's joinder or other waiver
17 of the elective life estate of ~~such the~~ spouse as provided for in G.S. 29-30 where a different
18 provision is made or provided for in the General Statutes including, but not limited to,
19 G.S. 39-13, 39-13.3, 39-13.4, 31A-1(d), and 52-10."

20 **SECTION 2.4. G.S. 39-8 reads as rewritten:**

21 **"§ 39-8. Acknowledgment at different times and places; before different officers; order**
22 **immaterial.**

23 In all cases of deeds, or other instruments executed by ~~husband and wife~~ two individuals
24 married to each other and requiring registration, the ~~probate proof or acknowledgment of such~~
25 the instruments as to the husband one spouse and due proof or acknowledgment of the ~~wife~~
26 other spouse may be taken before different officers authorized by law to ~~taken take the~~ probate
27 of deeds, and at different times and places, whether ~~either or both of said the~~ officials reside in
28 this State or ~~only one in this State and the other in another state or country~~. And in taking the
29 probate of ~~such the~~ instruments executed by ~~husband and wife,~~ two individuals married to each
30 other, it is immaterial whether the execution of the instrument was proven as to or
31 acknowledged by ~~the husband one spouse~~ before or after due proof as to or acknowledgment of
32 the ~~wife other spouse.~~

33 **SECTION 2.5. G.S. 39-9 reads as rewritten:**

34 **"§ 39-9. Absence of ~~wife's~~ one spouse's acknowledgment does not affect deed as to**
35 **~~husband the~~ other spouse.**

36 When an instrument purports to be signed by ~~a husband and wife~~ two individuals married to
37 each other, the instrument may be ordered ~~registered,~~ registered if the acknowledgment of ~~the~~
38 ~~husband one spouse~~ is duly taken, but no such instrument shall be the act or deed of the ~~wife~~
39 other spouse unless proven or acknowledged by her that individual according to law."

40 **SECTION 2.6. G.S. 39-13 reads as rewritten:**

41 **"§ 39-13. Spouse need not join in purchase-money mortgage.**

42 ~~The purchaser of real estate who does not pay the whole of the purchase money at the time~~
43 ~~when he or she takes a deed for title may make a mortgage or deed of trust for securing the~~
44 ~~payment of such purchase money, or such part thereof as may remain unpaid, which A~~
45 mortgage or deed of trust given by the purchaser of real property to secure a loan, the proceeds
46 of which were used to pay all or a portion of the purchase price of the encumbered real
47 property, regardless of whether the secured party is the seller of the real property or a third-
48 party lender, shall be good and effectual against his or her the purchaser's spouse as well as the
49 purchaser, without requiring the spouse to join in the execution of such the mortgage or deed of
50 trust."

51 **SECTION 2.7. G.S. 39-13.2 reads as rewritten:**

1 "§ 39-13.2. ~~Married persons~~ individuals under 18 made competent as to certain
2 transactions; certain transactions validated.

3 (a) Any married ~~person~~ individual under 18 years of age is authorized and empowered
4 and shall have the same privileges as are conferred upon married ~~persons~~ individuals 18 years
5 of age or older ~~to do any of the following:~~

6 (1) Waive, release or renounce by deed or other written instrument any right or
7 interest which he or she may have in the real or personal ~~property (tangible~~
8 ~~or intangible)~~ property, tangible or intangible, of the other spouse; or spouse.

9 (2) Jointly execute with his or her spouse, if ~~such the~~ spouse is 18 years of age
10 or older, any note, contract of insurance, deed, deed of trust, mortgage, lien
11 of whatever nature or other instrument with respect to real or personal
12 ~~property (tangible or intangible)~~ property, tangible or intangible, held with
13 ~~such the~~ other spouse either as tenants by the entirety, joint tenants, tenants
14 in common, or in any other manner.

15 (b) Any transaction ~~between a husband and wife~~ pursuant to this section between two
16 individuals married to each other shall be subject to the provisions of G.S. 52-10 or 52-10.1
17 whenever applicable.

18"

19 SECTION 2.8. G.S. 39-13.4 reads as rewritten:

20 "§ 39-13.4. Conveyances by husband or wife ~~spouses~~ under deed of separation ~~separation,~~
21 separation agreement, or property settlement.

22 Any conveyance of real property, or any interest therein, by ~~the husband or wife~~ a spouse
23 who ~~have~~ previously executed a valid and lawful deed of separation, separation agreement, or
24 property settlement ~~separation~~ which that authorizes said ~~husband or wife~~ the conveying spouse
25 to convey real property or any interest therein without the consent and joinder of the other
26 spouse and which deed of ~~separation~~ separation, separation agreement, or property settlement,
27 or a memorandum of the deed of separation, separation agreement, or property
28 settlement ~~separation~~ setting forth ~~such the~~ authorization is recorded in the county where the
29 land lies, shall be valid to pass such title as the conveying spouse may have to ~~his or her~~ the
30 grantee and shall pass ~~such the~~ title free and clear of all rights in ~~such the~~ property and free and
31 clear of ~~such the~~ interest in property that the other spouse has, had, or might acquire solely as a
32 result of the marriage, including any rights arising under G.S. 29-30, unless an instrument in
33 writing canceling the deed of separation, separation agreement, or property
34 settlement ~~separation~~ or memorandum thereof and properly executed and acknowledged by ~~said~~
35 ~~husband and wife~~ both spouses is recorded in the office of ~~said the~~ register of ~~deeds, deeds of~~
36 that county. The instrument ~~which that~~ is registered under this section to authorize the
37 conveyance of an interest in real property or the cancellation of the deed of separation,
38 separation agreement, or property settlement ~~separation~~ or memorandum thereof shall comply
39 with the provisions of G.S. 52-10 or 52-10.1.

40 All conveyances of any interest in real property by a spouse who had previously executed a
41 valid and lawful deed of separation, ~~or~~ separation agreement, or property settlement, ~~settlement~~
42 ~~which that~~ authorized the parties thereto to convey real property or any interest therein without
43 the consent and joinder of the other, when ~~said the~~ deed of separation, separation agreement, or
44 property settlement, or a memorandum of the deed of separation, separation agreement, or
45 property settlement, setting forth ~~such the~~ authorization, had been previously recorded in the
46 county where the property is located, and when ~~such the~~ conveyances were executed before
47 October 1, 1981, shall be valid to pass such title as the conveying spouse may have to ~~his or~~
48 ~~her~~ the grantee, and shall pass ~~such the~~ title to ~~him the~~ grantee free and clear of the rights in
49 ~~such the~~ property and free and clear of ~~such the~~ interest in ~~such the~~ property that the other
50 spouse has, had, or might acquire solely as a result of the marriage, including any rights arising
51 under G.S. 29-30, unless an instrument in writing canceling the deed of separation, separation

1 agreement,—or property settlement, or memorandum thereof, properly executed and
2 acknowledged by ~~said husband and wife, both spouses~~, is recorded in the office of ~~said the~~
3 register of ~~deeds—deeds of that county~~. The instrument which is registered under this section to
4 authorize the conveyance of an interest in real property or the cancellation of the deed of
5 separation, separation agreement, property settlement, or memorandum thereof shall comply
6 with G.S. 52-10 or 52-10.1."

7 **SECTION 2.9.** G.S. 39-13.5 reads as rewritten:

8 **"§ 39-13.5. Creation of tenancy by entirety in partition of real property.**

9 When ~~either a husband or a wife~~ a married individual owns an undivided interest in real
10 property as a tenant in common with some person or persons other than his or her spouse and
11 there occurs an actual partition of the property, a tenancy by the entirety may be created in the
12 ~~husband or wife~~ married individual who owned the undivided interest and his or her spouse in
13 ~~the manner hereinafter provided: one of the following manners:~~

- 14 (1) In a division by cross-deed or deeds, between or among the tenants in
15 common provided that the intent of the tenant in common to create a tenancy
16 by the entirety with ~~his or her~~ the tenant's spouse in this exchange of deeds
17 must be clearly stated in the granting clause of the deed or deeds to ~~such the~~
18 tenant and ~~his or her~~ the tenant's spouse, and further provided that the deed or
19 deeds to ~~such the~~ tenant in common and ~~his or her~~ the tenant's spouse is
20 signed by ~~such the~~ tenant in common and is acknowledged before a
21 certifying officer in accordance with ~~G.S. 52-10; G.S. 52-10.~~
- 22 (2) In a judicial proceeding for partition. In such a proceeding, both spouses
23 have the right to become parties to the proceeding and to have their
24 pleadings state that the intent of the tenant in common is to create a tenancy
25 by the entirety with ~~his or her~~ the tenant's spouse. The order of partition shall
26 provide that the real property assigned to ~~such the~~ tenant and ~~his or her~~ the
27 tenant's spouse shall be owned by them as tenants by the entirety."

28 **SECTION 2.10.** G.S. 39-13.7, as amended by Section 1.3 of this act, is amended
29 by adding two new subsections to read:

30 "(f) Notice that the real property held in trust receives immunity from the claims of
31 separate creditors may be given in a statement in the conveyance of the tenancy by the
32 entireties real property to the trust that the real property is held under this section and that as of
33 the date of the conveyance, the requirements of subsection (b) of this section are met.

34 "(g) A person entering into a transaction involving real property held in trust under this
35 section may request confirmation from the trustee whether the requirements of this section
36 providing immunity from the claims of separate creditors are met at the time of the
37 transaction."

38 **SECTION 2.11.** G.S. 41-10 reads as rewritten:

39 **"§ 41-10. Titles quieted.**

40 An action may be brought by any person against another who claims an estate or interest in
41 real property adverse to ~~him the person who brought the action~~ for the purpose of determining
42 ~~such the~~ adverse claims; and by any ~~man or woman~~ individual against ~~his or her wife or~~
43 ~~husband~~ that individual's spouse or alleged ~~wife or husband's~~ spouse who have not lived together
44 as ~~man and wife~~ married couple within the two years preceding, and who at the death of ~~such~~
45 ~~the~~ plaintiff might have or claim to have an interest in ~~his or her~~ the plaintiff's estate, and a
46 decree for the plaintiff shall debar all claims of the defendant in the property of the plaintiff
47 then owned or afterwards acquired: Provided, that no such relief shall be granted against such
48 ~~husband or wife~~ spouse or alleged ~~wife or husband, except in cases~~ spouse, unless the summons
49 in ~~said the~~ action is personally served on ~~such the~~ defendant.

50 If the defendant in ~~such the~~ action ~~disclaim~~ disclaims in ~~his the~~ defendant's answer any
51 interest or estate in the property, or ~~suffer~~ suffers judgment to be taken against ~~him the~~

defendant without answer, the plaintiff cannot recover costs. In any case in which judgment has been or ~~shall will~~ be docketed, whether ~~such the~~ judgment is in favor of or against the ~~person individual~~ bringing ~~such the~~ action, or is claimed by ~~him, the individual~~, or affects real estate claimed by ~~him, the individual~~, or whether ~~such the~~ judgment is in favor of or against the ~~person individual~~ against whom ~~such the~~ action may be brought, or is claimed by ~~him, that individual~~, or affects real estate claimed by ~~him, that individual~~, the lien of ~~said the~~ judgment shall be such claim of an estate or interest in real estate as is contemplated by this section."

SECTION 2.12. G.S. 52-10 reads as rewritten:

"§ 52-10. Contracts between ~~husband and wife~~ spouses generally; releases.

(a) Contracts between ~~husband and wife~~ two individuals married to each other not inconsistent with public policy are valid, and any ~~persons individuals~~ of full age about to be married and married ~~persons individuals~~ may, with or without a valuable consideration, ~~release and quitclaim~~ waive, release, or convey ~~such rights~~ which they might respectively acquire or may have acquired by marriage in the property of each other; and ~~such releases the waivers, releases, or conveyances~~ may be pleaded in bar of any action or proceeding for the recovery of the rights and estate so ~~released waived, released, or conveyed~~. No ~~contract or release~~ contract, waiver, release, or conveyance between ~~husband and wife~~ two individuals married to each other made during their coverture shall be valid to affect or change any part of the real estate of either spouse, or the accruing income thereof for a longer time than three years next ensuing the making of ~~such contract or release~~, the contract, waiver, release, or conveyance, unless it is in writing and is acknowledged by both parties before a certifying officer.

(a1) A contract between ~~a husband and wife~~ two individuals married to each other made, with or without a valuable consideration, during a period of separation to waive, release, or establish rights and obligations to post separation support, alimony, or spousal support is valid and not inconsistent with public policy. A provision waiving, releasing, or establishing rights and obligations to post separation support, alimony, or spousal support shall remain valid following a period of reconciliation and subsequent separation, if the contract satisfies all of the following requirements:

(1) The contract is in writing.

(2) The provision waiving the rights or obligations is clearly stated in the contract.

(3) The contract was acknowledged by both parties before a certifying officer.

A release made pursuant to this subsection may be pleaded in bar of any action or proceeding for the recovery of the rights released.

...

(c) This section shall not apply to any judgment of the superior court or other State court of competent jurisdiction, which, by reason of its being consented to by ~~a husband and wife~~, two individuals married to each other, or their attorneys, may be construed to constitute a contract or release between ~~such husband and wife~~, the two spouses."

SECTION 2.13. G.S. 52-10.1 reads as rewritten:

"§ 52-10.1. Separation agreements.

Any married couple is hereby authorized to execute a separation agreement not inconsistent with public policy which shall be legal, valid, and binding in all respects; provided, that the separation agreement must be in writing and acknowledged by both parties before a certifying officer as defined in G.S. 52-10(b). Such certifying officer must not be a party to the contract. This section shall not apply to any judgment of the superior court or other State court of competent jurisdiction, which, by reason of its being consented to by ~~a husband and wife~~, two individuals married to each other, or their attorneys, may be construed to constitute a separation agreement between ~~such husband and wife~~, the two spouses."

PART III. EFFECTIVE DATE AND APPLICABILITY.

1 **SECTION 3.1.** This act is intended to reflect rights established by federal law that
2 became effective in this State on October 10, 2014, by application of *General Synod of the*
3 *United Church of Christ v. Resinger*, 12 F.Supp.3d 790 (W.D. N.C., Oct. 10, 2014).

4 **SECTION 3.2.** This act is effective when it becomes law and applies to
5 conveyances made on or after October 10, 2014.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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1

HOUSE BILL 227

Short Title: Preserve Tenancy by the Entirety.

(Public)

Sponsors: Representatives Davis, Jordan, and Stevens (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Rules, Calendar, and Operations of the House

March 2, 2017

A BILL TO BE ENTITLED

AN ACT TO MAKE CONFORMING AMENDMENTS TO CLARIFY THAT TENANCY BY THE ENTIRETY IS PRESERVED IN THIS STATE IN LIGHT OF THE UNITED STATES SUPREME COURT DECISION IN *OBERGEFELL V. HODGES*, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 39-13.3 reads as rewritten:

"§ 39-13.3. Conveyances between husband and wife spouses.

(a) A conveyance from a ~~husband or wife to the other~~ married grantor to that individual's spouse of real property or any interest therein owned by the grantor alone vests ~~such the~~ property or interest in the grantee.

(b) A conveyance of real property, or any interest therein, by a ~~husband or a wife to such husband and wife~~ married grantor to that individual and the individual's spouse vests the ~~same~~ property in the ~~husband and wife~~ grantees as tenants by the entirety unless a contrary intention is expressed in the conveyance.

(c) A conveyance from a ~~husband or a wife to the other~~ married individual to that individual's spouse of real property, or any interest therein, held by ~~such husband and wife the spouses~~ as tenants by the entirety dissolves ~~such the~~ tenancy in the property or interest conveyed and vests ~~such the~~ property or interest formerly held by the entirety in the grantee.

(d) The joinder of the spouse of the grantor in any conveyance made by a ~~husband or a wife~~ married grantor pursuant to the foregoing provisions of this section is not necessary.

(e) Any conveyance authorized by this section is subject to the provisions of G.S. 52-10 or 52-10.1, except that acknowledgment by the spouse of the grantor is not necessary."

SECTION 2. G.S. 39-13.6 reads as rewritten:

"§ 39-13.6. Control of real property held in tenancy by the entirety.

(a) ~~A husband and wife~~ Two individuals married to each other shall have an equal right to the control, use, possession, rents, income, and profits of real property held by them in tenancy by the entirety. Neither spouse may bargain, sell, lease, mortgage, transfer, convey or in any manner encumber any property so held without the written joinder of the other spouse. This section shall not be construed to require the spouse's joinder where a different provision is made under G.S. 39-13, G.S. 39-13.3, G.S. 39-13.4, or G.S. 52-10.

(b) ~~A~~ Unless a contrary intention is expressed in the conveyance, a conveyance of real property, or any interest therein, to a ~~husband and wife~~ two individuals then married to each other vests title in them as tenants by the entirety when the conveyance is to:

(1) A named ~~man~~ individual "and wife," or



(2) A named ~~woman individual~~ "and husband," or
(2a) A named individual "and spouse," or
(3) Two named ~~persons, individuals,~~ whether or not identified in the conveyance as being (i) husband and wife, (ii) spouses, or (iii) married to each other, if at the time of conveyance they are legally ~~married;~~ married to each other.

~~unless a contrary intention is expressed in the conveyance.~~

(c) For income tax purposes, each spouse is considered to have received one-half (1/2) the income or loss from property owned by the couple as tenants by the entirety."

SECTION 3. G.S. 39-13.7 reads as rewritten:

"§ 39-13.7. Tenancy by the entireties trusts in real property.

(a) Any real property held by ~~a husband and wife~~ two individuals married to each other as a tenancy by the entireties and conveyed to (i) a joint trust or (ii) in equal shares to two separate trusts; shall no longer be held by ~~the husband and wife~~ them as tenants by the entirety and shall be disposed of by the terms of the trust or trusts, but, subject to the provisions of subsection (b) of this section, the real property shall have the same immunity from the claims of the separate creditors of ~~the husband and wife~~ each spouse as would exist if the spouses had continued to hold the property as tenants by the entireties.

(b) The immunity from the claims of separate creditors provided by subsection (a) of this section shall apply as long as all of the following apply:

(1) ~~The husband and wife~~ two individuals remain ~~married;~~ married to each other.

(2) The real property continues to be held in the trust or trusts as provided in subsection (a) of this section.

(3) Both ~~husband and wife~~ spouses are current beneficiaries of the joint trust if the real property is conveyed to that trust or of each separate trust if the real property is conveyed in equal shares to their separate trusts.

(c) After the death of the first of ~~the husband and wife~~ spouse to die, all property held in trust that was immune from the claims of their separate creditors under subsection (a) of this section immediately prior to the individual's death shall continue to have immunity from the claims of the decedent's separate creditors as would have existed if ~~the husband and wife~~ both spouses continued to hold the property conveyed in trust as tenants by the entirety.

(d) The trustee acting under the express provisions of a trust instrument or with the written consent of both ~~the husband and wife~~ spouses may waive the immunity from the claims of separate creditors provided under this section as to any specific creditor or any specifically described property including all separate creditors of a ~~husband and wife~~ spouse or all former tenancy by the entirety property conveyed to the trustee.

(e) For purposes of this section:

(1) The reference to the real property conveyed to or held in the trust shall be deemed to include the proceeds arising from the involuntary conversion of the real property.

(2) The reference to a "joint trust" means a revocable or irrevocable trust of which both ~~the husband and wife~~ spouses are the settlors, and the reference to "separate trusts" means revocable or irrevocable trusts of which ~~the husband~~ one spouse is the settlor of one trust and the ~~wife~~ other spouse is the settlor of the other trust.

(3) The ~~husband and wife~~ two spouses are "beneficiaries" of a trust if they are distributees or permissible distributees of the income or principal of the trust whether or not other persons are also current or future beneficiaries of the trust."

SECTION 4. G.S. 41-2 reads as rewritten:

"§ 41-2. Survivorship in joint tenancy defined; proviso as to partnership; unequal ownership interests.

1 ...
2 (b) The interests of the grantees holding property in joint tenancy with right of
3 survivorship shall be deemed to be equal unless otherwise specified in the conveyance. Any joint
4 tenancy interest held by ~~a husband and wife, two individuals then married to each other,~~ unless
5 otherwise specified, shall be deemed to be held by them as a single tenancy by the entirety, which
6 shall be treated as a single party when determining interests in the joint tenancy with right of
7 survivorship. Joint tenancy interests among two or more joint tenants holding property in joint
8 tenancy with right of survivorship are subject to the provisions of G.S. 28A-24-3 upon the death of
9 one or more of the joint tenants.

10 This subsection shall apply to any conveyance of an interest in property created at any time
11 that explicitly sought to create unequal ownership interests in a joint tenancy with right of
12 survivorship. Distributions made prior to the enactment of this subsection that were made in equal
13 amounts from a joint tenancy with the right of survivorship that sought to create unequal
14 ownership shares shall remain valid and shall not be subject to modification on the basis of this
15 subsection."

16 **SECTION 5.** G.S. 41-2.5 reads as rewritten:

17 **"§ 41-2.5. Tenancy by the entirety in mobile homes.**

18 (a) When ~~a husband and wife, two individuals then married to each other~~ become
19 co-owners of a mobile home, in the absence of anything to the contrary appearing in the
20 instrument of title, they become tenants by the entirety with all the incidents of an estate by the
21 entirety in real property, including the right of survivorship in the case of death of either.

22 (b) For the purpose of this section it shall be immaterial whether the property at any
23 particular time shall be classified for any purpose as either real or personal. The provisions of
24 subsection (a) of this section shall not limit or prohibit any other type of ownership otherwise
25 authorized by law.

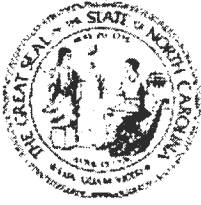
26 (c) For purposes of this section "mobile home" means a portable manufactured housing
27 unit designed for transportation on its own chassis and placement on a temporary or
28 semipermanent foundation having a measurement of over 32 feet in length and over eight feet in
29 width. As used in this ~~Article, section,~~ "mobile home" also means a double-wide mobile home
30 which is two or more portable manufactured housing units designed for transportation on their
31 own chassis, which connect on site for placement on a temporary or semipermanent foundation
32 having a measurement of over 32 feet in length and over eight feet in width.

33 (d) This section does not repeal or modify any provisions of the law relating to estate or
34 inheritance taxes."

35 **SECTION 6.(a)** This act is intended to reflect rights established by federal law that
36 became effective in this State on October 10, 2014, by application of *General Synod of the United*
37 *Church of Christ v. Resinger*, 12 F.Supp.3d 790 (W.D. N.C., Oct. 10, 2014).

38 **SECTION 6.(b)** This act is effective when it becomes law and applies to conveyances
39 made on or after October 10, 2014.





HOUSE BILL 236: NCAOC Omnibus Bill.

2017-2018 General Assembly

Committee:	House Judiciary I. If favorable, re-refer to State and Local Government II	Date:	April 19, 2017
Introduced by:	Rep. R. Turner	Prepared by:	Jason Moran-Bates
Analysis of:	PCS to First Edition H236-CSBC-13		Committee Co-Counsel

OVERVIEW: *The PCS to House Bill 236 would make numerous technical corrections to several statutes dealing with the administration of the General Courts of Justice. It would also:*

- *Allow documents filed with the court to remain valid, even if a date stamp is not attached,*
- *Allow summary removal of disbarred or suspended attorneys serving as estate administrators or guardians,*
- *Provide an easier process for the appointment of an interim guardian in incompetency proceedings,*
- *Clarify the rules for filing estate inventory, accountings, and tax returns,*
- *Permit civil contempt cases to be heard in front of the clerk of court in some instances,*
- *Allow an arrest warrant to be issued for individuals who fail to show at civil contempt hearings,*
- *Permit an assistant to a district attorney to be appointed in cases where the district attorney has a conflict of interest,*
- *Eliminate clerks of court from being parties to actions against official bonds,*
- *Streamline the process of issuing service of process on behalf of indigent inmates,*
- *Clarify registration rules for those convicted of a sex offense in a federal court,*
- *Clarify videoconferencing rules for inpatient commitment proceedings,*
- *Permit the Administrative Office of the Courts (AOC) and Department of Natural and Cultural Resources to establish a records retention schedule for audio recordings in cases involving juveniles, and*
- *Permit various state officials to perform pro bono legal work, notwithstanding prohibitions on the private practice of law.*

All these changes were recommended by the North Carolina Administrative Office of the Courts.

CURRENT LAW: When necessary, the current law is summarized in italics in each section of the Bill Analysis.

BILL ANALYSIS

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House PCS 236

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Section 1 would make a series of technical corrections to the Rules of Civil Procedure regarding the service of pleadings and other papers. It also clarifies that the failure to date stamp a filed document will not affect its sufficiency, validity, or enforceability, provided that the clerk enters it as being effective nunc pro tunc after giving adequate notice to the parties affected. *Currently, there is no law establishing the validity or lack of validity of filed documents lacking a date stamp.*

Section 2 would make a technical change to Rule of Civil Procedure 58, which deals with the entry of judgments.

Section 3 would amend G.S. 28A-9-2(a) to summarily revoke, without a hearing, letters of administration, letters of collection, and letters testamentary issued to an attorney who is later enjoined, suspended, or disbarred. *Currently, there is no summary procedure to remove an attorney in this situation.*

Section 4 would make a series of technical changes to G.S. 35A-1290. It would also clarify it is the duty of the clerk of court to remove an appointed guardian who is an attorney if that attorney is enjoined, suspended, or disbarred. *Currently, there is no summary procedure to remove an attorney in this situation.*

Section 5 would amend G.S. 30-17 to allow the \$5,000 support allowance payable to a child from a deceased parent's estate to be paid to either the child's guardian of the estate or to the general guardian. *Currently, the payment can only be made to the general guardian.*

Section 6 would amend G.S. 35A-1114 to allow a guardian ad litem to petition the court for appointment of an interim guardian in an incompetency proceeding. It would also require notice of the hearing for an interim guardian to be served on the petitioner, the respondent, and the respondent's counsel or guardian ad litem. The hearing on the interim guardian motion must be within 15 days of service on the respondent. *Currently, a guardian ad litem cannot file a petition for appointment of an interim guardian.*

Section 7 would amend G.S. 35A-1112 to allow the clerk of court in an incompetency proceeding to appoint an interim guardian, without a motion from another party, if the clerk determines it is in the respondent's best interest. *Currently, the clerk may not appoint an interim guardian without a motion by a party to the proceeding.*

Section 8 would amend G.S. 28A-20-1 to allow the clerk to extend the time within which a personal representative or collector must file an inventory of a decedent's estate. *Under current law the inventory is due within 3 months of qualification of the personal representative or collector.*

Section 9 would amend G.S. 28A-21-1 to clarify that the initial annual accounting must be filed by a personal representative or collector within 30 days of the first anniversary of that individual's qualification as personal representative or collector.

Section 10 would amend 28A-21-2 would allow personal representatives or collectors of decedents who die before January 1, 2013, to certify in the final accounting that no estate or inheritance tax return was required to be filed by the estate. The certification must include a list of all the decedent's property, including any property transferred within three years of the decedent's death. Once accepted by the clerk, this filing is prima facie evidence the property is free from estate or inheritance tax. Section 10 would also require personal representatives or collectors to produce vouchers or other verified proof of all payments made. *Current law does not make any provision for this certification*

Section 11 would amend G.S. 5A-23(b) to allow civil contempt proceedings to be heard in front of the clerk of court when the clerk has original subject matter jurisdiction. *Current law does not allow clerks to hear civil contempt matters unless the General Statutes specifically provide for it.*

House PCS 236

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Section 12 would amend G.S. 15A-305(b) to permit an arrest warrant to be issued for an individual who fails to appear at a show cause hearing for civil contempt. *Current law does not provide for issuance of an arrest warrant for those who do not appear at a civil contempt show cause hearing.*

Section 13 would make technical corrections to G.S. 7A-307, which governs court costs in the administration of estates. No fee amounts are affected.

Section 14 would amend G.S. 7A-64 to allow the Director of the Administrative Office of the Courts (AOC) to assign a district attorney from another district, appoint a private attorney, or enter into contracts with local governments to provide assistance to a district attorney if there is a conflict of interest in a given matter. Section 14 would also amend G.S. 7A-64 to remove the Director's power to assign an assistant in cases where there is evidence of prosecutorial misconduct. *Currently, no assignment can be made if there is a conflict of interest and an assignment can be made if there is evidence of prosecutorial misconduct.*

Section 15 would amend G.S. 7A-343 to make technical corrections to the duties of the Director of the AOC.

Section 16 would amend G.S. 122C-268(g) to clarify the rules for videoconferencing in an inpatient commitment hearing.

Section 17 would amend G.S. 58-76-15 to remove the clerk of court as an individual against whom a plaintiff may have summary remedy on an official bond.

Section 18 would amend G.S. 58-76-25 to remove clerks of court from the list of individuals providing official bond against whom evidence of the principle's default can be used as evidence against the provider of the bond.

Section 19 would amend G.S. 1-110(b) to clarify that the clerk of court shall issue service of process against a defendant, relating back to the date an action was filed, in the even the plaintiff is an inmate in custody of the Division of Adult Correction of the Department of Public Safety and has been granted leave to proceed as an indigent.

Section 20 would amend Rule 3 of the Rules of Civil Procedure to remove the requirement that the clerk of court keep an index of all malpractice actions.

Section 21 would amend G.S. 122C-264 to remove the requirement that the clerk of court keep a list of outpatient commitment proceedings.

Section 22: Would amend G.S. 14-208.12A(a) to state that, for purposes of sex offender registration, a conviction of a sex offense in federal court will be treated as an out-of-state offense.

Section 23 would amend G.S. 7B-2901(a) to permit recordings of juvenile cases involving allegations of abuse, neglect, or dependency to be erased in accordance with a records retention schedule approved by the AOC and Department of Natural and Cultural Resources.

Section 24 would amend G.S. 7B-3000(d) to permit recordings of hearings involving juveniles to be erased in accordance with a records retention schedule approved by the AOC and Department of Natural and Cultural Resources.

Section 25 would make technical changes to G.S. 7B-603(b1).

Section 26 would amend G.S. 84-2 to clarify that the prohibition against the private practice of law by justices, judges, magistrates, full-time district attorneys, full-time assistant district attorneys, public defenders, assistant public defenders, clerks, deputy or assistant clerks of court, registers of deeds, deputy or assistant registers of deeds, and sheriffs or deputy sheriffs does not include unpaid pro bono

House PCS 236

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legal services provided by a professional association of lawyers or a nonprofit organization rendering legal services.

EFFECTIVE DATE: Section 22 would be effective when this act becomes law and apply to petitions filed on or after that date. The remainder of the act would be effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 236
PROPOSED COMMITTEE SUBSTITUTE H236-CSBC-13 [v.2]

04/17/2017 05:04:39 PM

Short Title: NCAOC Omnibus Bill.

(Public)

Sponsors:

Referred to:

March 6, 2017

A BILL TO BE ENTITLED
AN ACT TO PROVIDE FOR THE CLERK TO APPOINT AN INTERIM GUARDIAN AD
LITEM ON THE CLERK'S OWN MOTION; TO PROVIDE FOR THE CLERK TO
EXTEND THE TIME FOR FILING INVENTORY IN THE PROPERTY OF THE
DECEASED; TO PROVIDE FOR ISSUANCE OF AN ORDER FOR AN ARREST
WHEN A PERSON FAILS TO APPEAR AFTER BEING SERVED WITH A SHOW
CAUSE IN A CIVIL PROCEEDING; TO AMEND HOW COSTS IN
ADMINISTRATION OF ESTATES ARE ASSESSED; TO ALLOW FOR TEMPORARY
ASSISTANCE FOR DISTRICT ATTORNEYS WHEN THERE IS A CONFLICT OF
INTEREST; AND TO AMEND OTHER STATUTES GOVERNING THE GENERAL
COURT OF JUSTICE, AS RECOMMENDED BY THE NORTH CAROLINA
ADMINISTRATIVE OFFICE OF THE COURTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 1A-1, Rule 5(e), reads as rewritten:

"Rule 5. Service and filing of pleadings and other papers.

...

(e) (1) Filing with the court defined. – The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of the court, pursuant to the rules promulgated under G.S. 7A-109 or subsection (e)(2) hereunder, except that the judge may permit the papers to be filed with him, in which event he shall note thereon the filing date and forthwith transmit them to the office of the clerk.

(2) Filing by electronic means. – If, pursuant to ~~G.S. 7A-34~~ G.S. 7A-34, G.S. 7A-49.5, and G.S. 7A-343, the Supreme Court and the Administrative Officer of the Courts establish uniform rules, regulations, costs, procedures and specifications for the filing of pleadings or other court papers by electronic means, filing may be made by the electronic means when, in the manner, and to the extent provided therein.

(3) The failure to affix a date stamp or file stamp on any order or judgment filed in a civil action, estate proceeding, or special proceeding shall not affect the sufficiency, validity, or enforceability of the order or judgment if the clerk or the court, after giving the parties adequate notice and opportunity to be heard, enters the order or judgment nunc pro tunc to the date of filing."

SECTION 2. G.S. 1A-1, Rule 58, reads as rewritten:

"Rule 58. Entry of judgment.



1 Subject to the provisions of Rule 54(b), a judgment is entered when it is reduced to writing,
2 signed by the judge, and filed with the clerk of ~~court~~ court pursuant to Rule 5. The party
3 designated by the judge or, if the judge does not otherwise designate, the party who prepares
4 the judgment, shall serve a copy of the judgment upon all other parties within three days after
5 the judgment is entered. Service and proof of service shall be in accordance with Rule 5. If
6 service is by mail, three days shall be added to the time periods prescribed by Rule 50(b), Rule
7 52(b), and Rule 59. All time periods within which a party may further act pursuant to Rule
8 50(b), Rule 52(b), or Rule 59 shall be tolled for the duration of any period of noncompliance
9 with this service requirement, provided however that no time period under Rule 50(b), Rule
10 52(b), or Rule 59 shall be tolled longer than 90 days from the date the judgment is entered.
11 Subject to the provisions of Rule 7(b)(4), consent for the signing and entry of a judgment out of
12 term, session, county, and district shall be deemed to have been given unless an express
13 objection to such action was made on the record prior to the end of the term or session at which
14 the matter was heard.

15 Notwithstanding any other law to the contrary, any judgment entered by a magistrate in a
16 small claims action pursuant to Article 19 of Chapter 7A shall be entered in accordance with
17 this Rule except judgments announced and signed in open court at the conclusion of a trial are
18 considered to be served on the parties, and copies of any judgment not announced and signed in
19 open court at the conclusion of a trial shall be served by the magistrate on all parties in
20 accordance with this Rule, within three days after the judgment is entered. If service is by mail,
21 three days shall be added to the time periods prescribed by G.S. 7A-228. All time periods
22 within which a party may further act pursuant to G.S. 7A-228 shall be tolled for the duration of
23 any period of noncompliance of this service requirement, provided that no time period shall be
24 tolled longer than 90 days from the date judgment is entered."

25 **SECTION 3.** G.S. 28A-9-2(a) reads as rewritten:

26 **"§ 28A-9-2. Summary revocation.**

27 (a) Grounds. – Letters testamentary, letters of administration, or letters of collection,
28 shall be revoked by the clerk of superior court without hearing when:

- 29 (1) After letters of administration or collection have been issued, a will is
30 subsequently admitted to probate.
- 31 (2) After letters testamentary have been issued:
 - 32 a. The will is set aside, or
 - 33 b. A subsequent testamentary paper revoking the appointment of the
34 executor is admitted to probate.
- 35 (3) Any personal representative or collector required to give a new bond or
36 furnish additional security pursuant to G.S. 28A-8-3 fails to do so within the
37 time ordered.
- 38 (4) A nonresident personal representative refuses or fails to obey any citation,
39 notice, or process served on that nonresident personal representative or the
40 process agent of the nonresident personal representative.
- 41 (5) A trustee in bankruptcy, liquidating agent, or receiver has been appointed for
42 any personal representative or collector, or any personal representative or
43 collector has executed an assignment for the benefit of creditors.
- 44 (6) A personal representative has failed to file an inventory or an annual account
45 with the clerk of superior court, as required by Article 20 and Article 21 of
46 this Chapter, and proceedings to compel such filing pursuant to
47 G.S. 28A-20-2 or 28A-21-4 cannot be had because service cannot be
48 completed because the personal representative cannot be found.
- 49 (7) A personal representative or collector is a licensed attorney, and the clerk is
50 in receipt of an order entered pursuant to G.S. 84-28 enjoining, suspending,
51 or disbarring the attorney."

1 **SECTION 4.** G.S. 35A-1290 reads as rewritten:
2 "**§ 35A-1290. Removal by Clerk.**

3 ...
4 (b) It is the clerk's duty to remove a guardian or to take other action sufficient to protect
5 the ward's interests in the following cases:

- 6 (1) The guardian wastes the ward's money or estate or converts it to his own use.
- 7 (2) The guardian in any manner mismanages the ward's estate.
- 8 (3) The guardian neglects to care for or maintain the ward or his dependents in a
9 suitable manner.
- 10 (4) The guardian or his sureties are likely to become insolvent or to become
11 nonresidents of the State.
- 12 (5) The original appointment was made on the basis of a false representation or
13 a mistake.
- 14 (6) The guardian has violated a fiduciary duty through default or misconduct.
- 15 (7) The guardian has a private interest, whether direct or indirect, that might
16 tend to hinder or be adverse to carrying out his duties as guardian.

17 ~~(e) It is the clerk's duty to remove a guardian or to take other action sufficient to protect~~
18 ~~the ward's interests in the following cases:~~

- 19 ~~(1)~~(8) The guardian has been adjudged incompetent by a court of competent
20 jurisdiction and has not been restored to competence.
- 21 ~~(2)~~(9) The guardian has been convicted of a felony under the laws of the United
22 States or of any state or territory of the United States or of the District of
23 Columbia and his citizenship has not been restored.
- 24 ~~(3)~~(10) The guardian was originally unqualified for appointment and continues to be
25 unqualified, or the guardian would no longer qualify for appointment as
26 guardian due to a change in residence, a change in the charter of a corporate
27 guardian, or any other reason.
- 28 ~~(4)~~(11) The guardian is the ward's spouse and has lost his rights as provided by
29 Chapter 31A of the General Statutes.
- 30 ~~(5)~~(12) The guardian fails to post, renew, or increase a bond as required by law or
31 by order of the court.
- 32 ~~(6)~~(13) The guardian refuses or fails without justification to obey any citation,
33 notice, or process served on him in regard to the guardianship.
- 34 ~~(7)~~(14) The guardian fails to file required accountings with the clerk.
- 35 ~~(8)~~(15) The clerk finds the guardian unsuitable to continue serving as guardian for
36 any reason.
- 37 ~~(9)~~(16) The guardian is a nonresident of the State and refuses or fails to obey any
38 citation, notice, or process served on the guardian or the guardian's process
39 agent.
- 40 (17) The guardian is a licensed attorney, and the clerk is in receipt of an order
41 entered pursuant to G.S. 84-28 enjoining, suspending, or disbarring the
42 attorney."

43 **SECTION 5.** G.S. 30-17 reads as rewritten:
44 "**§ 30-17. When children entitled to an allowance.**

45 Whenever any parent dies survived by any child under the age of 18 years, including an
46 adopted child or a child with whom the widow may be pregnant at the death of her husband, or
47 a child who is less than 22 years of age and is a full-time student in any educational institution,
48 or a child under 21 years of age who has been declared mentally incompetent, or a child under
49 21 years of age who is totally disabled, or any other person under the age of 18 years residing
50 with the deceased parent at the time of death to whom the deceased parent or the surviving
51 parent stood in loco parentis, every such child shall be entitled to receive an allowance of five

1 thousand dollars (\$5,000) for the child's support for the year next ensuing the death of the
2 parent. The allowance shall be in addition to the child's share of the deceased parent's estate and
3 shall be exempt from any lien by judgment or execution against the property of the deceased
4 parent. The personal representative of the deceased parent shall, within one year after the
5 parent's death, assign to every such child the allowance herein provided for; but if there is no
6 personal representative or if the personal representative fails or refuses to act within 10 days
7 after written application by a guardian or next friend on behalf of the child, the allowance may
8 be assigned by a magistrate or clerk of court upon application.

9 If the child resides with the surviving spouse of the deceased parent at the time the
10 allowance is paid, the allowance shall be paid to the surviving spouse for the benefit of the
11 child. If the child resides with its surviving parent who is other than the surviving spouse of the
12 deceased parent, the allowance shall be paid to the surviving parent for the use and benefit of
13 the child. The payment shall be made regardless of whether the deceased died testate or
14 intestate or whether the surviving spouse petitioned for an elective share under Article 1A of
15 Chapter 30 of the General Statutes. Provided, however, the allowance shall not be available to a
16 deceased father's child born out of wedlock, unless the deceased father has recognized the
17 paternity of the child by deed, will, or other paper-writing, or unless the deceased father died
18 prior to or within one year after the birth of the child and is established to have been the father
19 of the child by DNA testing. If the child does not reside with a surviving spouse or a surviving
20 parent when the allowance is paid, the allowance shall be paid to the child's general
21 ~~guardian, guardian or guardian of the estate~~, if any, and if none, to the clerk of the superior court
22 who shall receive and disburse the allowance for the benefit of the child."

23 **SECTION 6.** G.S. 35A-1114 reads as rewritten:

24 **"§ 35A-1114. Appointment of interim guardian.**

25 (a) At the time of or subsequent to the filing of a petition under this Article, the
26 petitioner or guardian ad litem may also file a verified motion with the clerk seeking the
27 appointment of an interim guardian.

28 (b) The motion filed by the petitioner or guardian ad litem shall set forth facts tending
29 to show:

30 (1) That there is reasonable cause to believe that the respondent is incompetent,
31 and

32 (2) One or both of the following:

33 a. That the respondent is in a condition that constitutes or reasonably
34 appears to constitute an imminent or foreseeable risk of harm to his
35 physical well-being and that requires immediate intervention;

36 b. That there is or reasonably appears to be an imminent or foreseeable
37 risk of harm to the respondent's estate that requires immediate
38 intervention in order to protect the respondent's interest, and

39 (3) That the respondent needs an interim guardian to be appointed immediately
40 to intervene on his behalf prior to the adjudication hearing.

41 (c) Upon filing of the motion for appointment of an interim ~~guardian, guardian by the~~
42 petitioner or the guardian ad litem, the clerk shall immediately set a date, time, and place for a
43 hearing on the motion. The motion and a notice setting the date, time, and place for the hearing
44 shall be served promptly on the respondent and on his counsel or guardian ad litem and other
45 persons the clerk may designate. The hearing shall be held as soon as possible but no later than
46 15 days after the motion has been served on the respondent.

47 (c1) The motion and notice setting the date, time, and place for the hearing shall be
48 served promptly on the petitioner, the respondent and on his counsel or guardian ad litem, and
49 other persons the clerk may designate. The hearing shall be held as soon as possible but not
50 later than 15 days after the motion has been served on the respondent.

51"

1 **SECTION 7.** G.S. 35A-1112 reads as rewritten:

2 **"§ 35A-1112. Hearing on petition; adjudication order.**

3 ...

4 **(b1)** At the hearing on the petition, on the clerk's own motion, the clerk may appoint an
5 interim guardian pursuant to G.S. 35A-1114(d) and (e) if the clerk determines such an
6 appointment to be in the best interests of the respondent.

7 "

8 **SECTION 8.** G.S. 28A-20-1 reads as rewritten:

9 **"§ 28A-20-1. Inventory within three months.**

10 ~~Every~~Unless the time for filing the inventory has been extended by the clerk of superior
11 court, every personal representative and collector, within three months after the qualification of
12 that personal representative or collector, shall return to the clerk, on oath, a just, true and
13 perfect inventory of all the real and personal property of the deceased, which have come to the
14 hands of the personal representative or collector, or to the hands of any person for the personal
15 representative or collector, which inventory shall be signed by the personal representative or
16 collector and be recorded by the clerk."

17 **SECTION 9.** G.S. 28A-21-1 reads as rewritten:

18 **"§ 28A-21-1. Annual accounts.**

19 Until the final account has been filed pursuant to G.S. 28A-21-2, the personal representative
20 or collector shall, for so long as any of the property of the estate remains in the control, custody
21 or possession of the personal representative or collector, file annually in the office of the clerk
22 of superior court an inventory and account, under oath, of the amount of property received by
23 the personal representative or collector, or invested by the personal representative or collector,
24 and the manner and nature of such investment, and the receipts and disbursements of the
25 personal representative or collector for the past year. Such accounts shall be due 30 days after
26 the expiration of one year from the date of qualification of the personal representative or
27 collector, or if a fiscal year is selected by the fifteenth day of the fourth month after the close of
28 the fiscal year selected by the personal representative or collector, and annually on the same
29 date thereafter. The election of a fiscal year shall be made by the personal representative or
30 collector upon filing of the first annual account. In no event may a personal representative or
31 collector select a fiscal year-end which is more than twelve months from the date of death of
32 the decedent or, in the case of trust administration, the date of the opening of the trust. Any
33 fiscal year selected may not be changed without the permission of the clerk of superior court.

34 The personal representative or collector shall produce vouchers for all payments or verified
35 proof for payments in lieu of vouchers. The clerk of superior court may examine, under oath,
36 such accounting party, or any other person, concerning the receipts, disbursements or any other
37 matter relating to the estate. The clerk of superior court must carefully review and audit such
38 account and, if the clerk approves the account, the clerk must endorse the approval of the clerk
39 thereon, which shall be prima facie evidence of correctness, and cause the same to be
40 recorded."

41 **SECTION 10.** G.S. 28A-21-2 reads as rewritten:

42 **"§ 28A-21-2. Final accounts.**

43 (a) Unless the time for filing the final account has been extended by the clerk of
44 superior court, the personal representative or collector must file the final account for settlement
45 within one year after qualifying or within six months after receiving a State estate or
46 inheritance tax release, or in the time period for filing an annual account pursuant to
47 G.S. 28A-21-1, whichever is later. If no estate or inheritance tax return was required to be filed
48 for the estate, the personal representative or collector shall so certify in the final account filed
49 with the clerk of superior court. Such certification shall list the amount and value of all of the
50 decedent's property, and with respect to real estate, its particular location within or outside the
51 State, including any property transferred by the decedent over which the decedent had retained

1 any interest, or any property transferred within three years prior to the date of the decedent's
2 death, and after being filed and accepted by the clerk of superior court shall be prima facie
3 evidence that such property is free of any State inheritance or State estate tax liability. The
4 personal representative or collector shall produce vouchers for all payments or verified proof
5 for all payments in lieu of vouchers. With the approval of the clerk of superior court, such
6 account may be filed voluntarily at any time. In all cases, the accounting shall be reviewed,
7 audited and recorded by the clerk of superior court in the manner prescribed in G.S. 28A-21-1.

8 (a1) If no estate or inheritance tax return was required to be filed for the estate, the
9 personal representative or collector shall so certify in the final account filed with the clerk of
10 superior court. Such certification shall list the amount and value of all of the decedent's
11 property, and with respect to real estate, its particular location within or outside the State,
12 including any property transferred by the decedent over which the decedent had retained any
13 interest, or any property transferred within three years prior to the date of the decedent's death,
14 and after being filed and accepted by the clerk of superior court shall be prima facie evidence
15 that such property is free from any State inheritance or State estate tax liability. This subsection
16 only applies to estates of decedents who died before January 1, 2013.

17 (a2) The personal representative or collector shall produce vouchers for all payments or
18 verified proof for all payments in lieu of vouchers. With the approval of the clerk of superior
19 court, such account may be filed voluntarily at any time. In all cases, the accounting shall be
20 reviewed, audited, and recorded by the clerk of superior court in the manner prescribed by
21 G.S. 28A-21-1.

22 (b) Except as provided in subsection (a), after the date specified in the general notice to
23 creditors as provided for in G.S. 28A-14-1, if all of the debts and other claims against the estate
24 of the decedent duly presented and legally owing have been paid in the case of a solvent estate
25 or satisfied pro rata according to applicable statutes in the case of an insolvent estate, the
26 personal representative or collector may file the personal representative's or collector's final
27 account to be reviewed, audited and recorded by the clerk of superior court. Nothing in this
28 subsection shall be construed as limiting the right of the surviving spouse or minor children to
29 file for allowances under G.S. 30-15 through 30-18 and the right of a surviving spouse to file
30 for property rights under G.S. 29-30."

31 **SECTION 11.** G.S. 5A-23(b) reads as rewritten:

32 "(b) Except when the clerk of superior court has original subject matter jurisdiction and
33 issued the order or when the General Statutes specifically provide for the exercise of contempt
34 power by the clerk of superior court, proceedings under this section are before a district court
35 judge, unless a court superior to the district court issued the order in which case the
36 proceedings are before that court. When the proceedings are before a superior court, venue is in
37 the superior court district or set of districts as defined in G.S. 7A-41.1 of the court which issued
38 the order. Otherwise, venue is in the county where the order was issued."

39 **SECTION 12.** G.S. 15A-305(b) reads as rewritten:

40 "(b) When Issued. – An order for arrest may be issued when:

- 41 (1) A grand jury has returned a true bill of indictment against a defendant who is
42 not in custody and who has not been released from custody pursuant to
43 Article 26 of this Chapter, Bail, to answer to the charges in the bill of
44 indictment.
- 45 (2) A defendant who has been arrested and released from custody pursuant to
46 Article 26 of this Chapter, Bail, fails to appear as required.
- 47 (3) The defendant has failed to appear as required by a duly executed criminal
48 summons issued pursuant to G.S. 15A-303 or a citation issued by a law
49 enforcement officer or other person authorized by statute pursuant to
50 G.S. 15A-302 that charged the defendant with a misdemeanor.
- 51 (4) A defendant has violated the conditions of probation.

- (5) In any criminal proceeding in which the defendant has become subject to the jurisdiction of the court, it becomes necessary to take the defendant into custody.
- (6) It is authorized by G.S. 15A-803 in connection with material witness proceedings.
- (7) The common-law writ of capias has heretofore been ~~issuable~~, issuable, including when a person fails to appear after being served with a show cause order in a civil contempt proceeding.
- (8) When a defendant fails to appear as required in a show cause order issued in a criminal proceeding.
- (9) It is authorized by G.S. 5A-16 in connection with contempt proceedings."

SECTION 13. G.S. 7A-307 reads as rewritten:

"§ 7A-307. Costs in administration of estates.

(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:

- (1) For the use of the courtroom and related judicial facilities, the sum of ten dollars (\$10.00), to be remitted to the county. Funds derived from the facilities fees shall be used in the same manner, for the same purposes, and subject to the same restrictions, as facilities fees assessed in criminal actions.
- (1a) For the upgrade, maintenance, and operation of the judicial and county courthouse telecommunications and data connectivity, the sum of four dollars (\$4.00), to be credited to the Court Information Technology Fund.
- (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 inventory.~~ 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~~ computed from the information reported in 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.
- (2a) Notwithstanding subdivision (2) of this subsection, the fee of forty cents (40¢) per one hundred dollars (\$100.00), or major fraction, of the gross estate, not to exceed six thousand dollars (\$6,000), shall not be assessed on personalty received by a trust under a will when the estate of the decedent was administered under Chapters 28 or 28A of the General Statutes. Instead, a fee of twenty dollars (\$20.00) shall be assessed on the filing of each annual

- 1 and final account. However, the fee shall be assessed only on newly
 2 contributed or acquired assets, all interest or other income that accrues or is
 3 earned on or with respect to any existing or newly contributed or acquired
 4 assets, and realized gains on the sale of any and all trust assets. Newly
 5 contributed or acquired assets do not include assets acquired by the sale,
 6 transfer, exchange, or otherwise of the amount of trust property on which
 7 fees were previously assessed.
- 8 (2b) Notwithstanding subdivisions (1) and (2) of this subsection, no costs shall be
 9 assessed when the estate is administered or settled pursuant to
 10 G.S. 28A-25-6.
- 11 (2c) Notwithstanding subdivision (2) of this subsection, the fee of forty cents
 12 (40¢) per one hundred dollars (\$100.00), or major fraction, of the gross
 13 estate shall not be assessed on the gross estate of a trust that is the subject of
 14 a proceeding under G.S. 36C-2-203 if there is no requirement in the trust
 15 that accountings be filed with the clerk.
- 16 (2d) Notwithstanding subdivisions (1) and (2) of this subsection, the only cost
 17 assessed in connection with the qualification of a limited personal
 18 representative under G.S. 28A-29-1 shall be a fee of twenty dollars (\$20.00)
 19 to be assessed upon the filing of the petition.
- 20 (3) For probate of a will without qualification of a personal representative, the
 21 clerk shall assess a facilities fee as provided in subdivision (1) of this
 22 subsection and shall assess for support of the General Court of Justice, the
 23 sum of twenty dollars (\$20.00).
- 24 (4) For the support of the General Court of Justice, the sum of twenty dollars
 25 (\$20.00) shall accompany any filing of a notice of hearing on a motion not
 26 listed in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed
 27 to a notice of hearing on a motion containing as a sole claim for relief the
 28 taxing of costs, including attorneys' fees, or to a motion filed pursuant to
 29 G.S. 1C-1602 or G.S. 1C-1603. No more than one fee shall be assessed for
 30 any motion for which a notice of hearing is filed, regardless of whether the
 31 hearing is continued, rescheduled, or otherwise delayed.
- 32 (5) For the filing of a caveat to a will, the clerk shall assess for support of the
 33 General Court of Justice, the sum of two hundred dollars (\$200.00).
- 34 (6) Notwithstanding subdivisions (1) and (2) of this subsection, the only cost
 35 assessed in connection with the reopening of an estate administration under
 36 G.S. 28A-23-5 shall be forty cents (40¢) per one hundred dollars (\$100.00),
 37 or major fraction, of any additional gross estate, including income, coming
 38 into the hands of the fiduciary after the estate is reopened; provided that the
 39 total cost assessed when added to the total cost assessed in all prior
 40 administrations of the estate shall not exceed six thousand dollars (\$6,000).
- 41 (b) In collections of personal property by affidavit, the facilities fee and thirty dollars
 42 (\$30.00) of the General Court of Justice fee shall be paid at the time of filing the qualifying
 43 affidavit pursuant to G.S. 28A-25-1. ~~In all other cases, these fees shall be paid at the time of~~
 44 ~~filing of the first inventory.~~ If the sole asset of the estate is a cause of action, these fees shall be
 45 paid at the time of the qualification of the fiduciary.
- 46 (b1) The clerk shall assess the following miscellaneous fees:
- 47 (1) Filing and indexing a will with no probate
- 48 – first page..... \$ 1.00
- 49 – each additional page or fraction thereof..... .25
- 50 (2) Issuing letters to fiduciaries, per letter over five letters issued 1.00
- 51 (3) Inventory of safe deposits of a decedent, per box, per day 15.00

- 1 (4) Taking a deposition 10.00
 2 (5) Docketing and indexing a will probated in another county in the State
 3 – first page..... 6.00
 4 – each additional page or fraction thereof..... .25
 5 (6) Hearing petition for year's allowance to surviving spouse or
 6 child,
 7 in cases not assigned to a magistrate, and allotting the same..... 8.00
 8 (c) The following additional expenses, when incurred, are also assessable or
 9 recoverable, as the case may be:
 10 (1) Witness fees, as provided by law.
 11 (2) Counsel fees, as provided by law.
 12 (3) Costs on appeal, of the original transcript of testimony, if any, insofar as
 13 essential to the appeal.
 14 (4) Fees for personal service of civil process, and other sheriff's fees, as
 15 provided by law.
 16 (5) Fees of guardians ad litem, referees, receivers, commissioners, surveyors,
 17 arbitrators, appraisers, and other similar court appointees, as provided by
 18 law.
 19 (d) Costs assessed before the clerk shall be added to costs assessable on appeal to the
 20 judge or upon transfer to the civil issue docket.
 21 (e) Nothing in this section shall affect the liability of the respective parties for costs, as
 22 provided by law."

23 **SECTION 14.** G.S. 7A-64 reads as rewritten:

24 **"§ 7A-64. Temporary assistance for district attorneys.**

25 (a) A district attorney may apply to the Director of the Administrative Office of the
 26 Courts to:

- 27 (1) Temporarily assign an assistant district attorney from another district, after
 28 consultation with the district attorney thereof, to assist in the prosecution of
 29 cases in the requesting district;
 30 (2) Authorize the temporary appointment, by the requesting district attorney, of
 31 a qualified attorney to assist the requesting district attorney; or
 32 (3) Enter into contracts with local governments for the provision of services by
 33 the State pursuant to G.S. 153A-212.1 or G.S. 160A-289.1.

34 (a1) Repealed by Session Laws 2012-7, s. 9, effective June 7, 2012.

35 (b) The Director of the Administrative Office of the Courts may provide this assistance
 36 only upon a showing by the requesting district attorney ~~or the Chair of the North Carolina~~
 37 ~~Innocence Inquiry Commission, as appropriate, supported~~ supported by facts, that:

- 38 (1) Criminal cases have accumulated on the dockets of the superior or district
 39 courts of the district beyond the capacity of the district attorney and the
 40 district attorney's full-time assistants to keep the dockets reasonably current;
 41 (2) The overwhelming public interest warrants the use of additional resources
 42 for the speedy disposition of cases involving drug offenses, domestic
 43 violence, or other offenses involving a threat to public safety; or
 44 (3) ~~There is an allegation of or evidence of prosecutorial misconduct in the case~~
 45 ~~that is the subject of the hearing under G.S. 15A-1469.~~ There is a conflict of
 46 interest.

47 (c) The length of service and compensation of any temporary appointee or the terms of
 48 any contract entered into with local governments shall be fixed by Director of the
 49 Administrative Office of the Courts in each case. Nothing in this section shall be construed to
 50 obligate the General Assembly to make any appropriation to implement the provisions of this
 51 section or to obligate the Administrative Office of the Courts to provide the administrative

1 costs of establishing or maintaining the positions or services provided for under this section.
2 Further, nothing in this section shall be construed to obligate the Administrative Office of the
3 Courts to maintain positions or services initially provided for under this section."

4 **SECTION 15.** G.S. 7A-343 reads as rewritten:

5 **"§ 7A-343. Duties of Director.**

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

8 ...
9 (3) Prescribe uniform administrative and business methods, systems,
10 ~~forms~~forms, practices and procedures, and records to be used in the ~~offices~~
11 ~~of the clerks of superior court courts.~~

12 (3a) Maintain and staff as necessary an Internal Audit Division of the Judicial
13 Department and the Administrative Office of the Courts that:

- 14 a. Evaluates and discloses potential weaknesses in the effectiveness of
15 internal controls in the court system for the purpose of safeguarding
16 public funds and assets and minimizing incidences of fraud, waste,
17 and abuse.
- 18 b. Examines and analyzes the design and effectiveness of administrative
19 and procedural operations.
- 20 c. Ensures overall compliance with federal and State laws, internal and
21 external regulations, rules and procedures, and other applicable
22 requirements.
- 23 d. Inspects and reviews the effectiveness and efficiency of processes
24 and proceedings conducted by judicial officers.
- 25 e. Collaborates with other divisions to guide, direct, and support court
26 officials in efforts to conform to both recommended and required
27 compliance standards.
- 28 f. Executes routine audits of the Judicial Department's systems and
29 controls, including, but not limited to:
 - 30 1. Accounting systems and controls.
 - 31 2. Administrative systems and controls.
 - 32 3. Electronic data processing systems and controls.

33"

34 **SECTION 16.** G.S. 122C-268(g) reads as rewritten:

35 "(g) Hearings may be held in an appropriate room not used for treatment of clients at the
36 facility in which the respondent is being treated if it is located within the judge's district court
37 district as defined in G.S. 7A-133, by ~~interactive videoconferencing~~audio and video
38 transmission between a treatment facility and a ~~courtroom~~courtroom in which the judge and
39 the respondent can see and hear each other, or in the judge's chambers. A hearing may not be
40 held in a regular courtroom, over objection of the respondent, if in the discretion of a judge a
41 more suitable place is available. If the respondent has counsel, the respondent shall be allowed
42 to communicate fully and confidentially with his attorney during the proceeding. Prior to the
43 use of the audio and video transmission, the procedures and type of equipment for audio and
44 video transmission shall be submitted to the Administrative Office of the Courts by the chief
45 district court judge and approved by the Administrative Office of the Courts."

46 **SECTION 17.** G.S. 58-76-15 reads as rewritten:

47 **"§ 58-76-15. Summary remedy on official bond.**

48 When a sheriff, coroner, ~~clerk~~, county or town treasurer, or other officer, collects or
49 receives any money by virtue or under color of his office, and on demand fails to pay the same
50 to the person entitled to require the payment thereof, the person thereby aggrieved may move
51 for judgment in the superior court against such officer and his sureties for any sum demanded;

1 and the court shall try the same and render judgment at the session when the motion shall be
2 made, but 10 days' notice in writing of the motion must have been previously given."

3 **SECTION 18.** G.S. 58-76-25 reads as rewritten:

4 **"§ 58-76-25. Evidence against principal admissible against sureties.**

5 In actions brought upon the official bonds of ~~clerks of courts~~, sheriffs, coroners, or other
6 public officers, and also upon the bonds of executors, administrators, collectors or guardians,
7 when it may be necessary for the plaintiff to prove any default of the principal obligors, any
8 receipt or acknowledgment of such obligors, or any other matter or thing which by law would
9 be admissible and competent for or toward proving the same as against him, shall in like
10 manner be admissible and competent as presumptive evidence only against all or any of his
11 sureties who may be defendants with or without him in said actions."

12 **SECTION 19.** G.S. 1-110(b) reads as rewritten:

13 "(b) Whenever a motion to proceed as an indigent is filed pro se by an inmate in the
14 custody of the Division of Adult Correction of the Department of Public Safety, the motion to
15 proceed as an indigent and the proposed complaint shall be presented to any superior court
16 judge of the judicial district. This judge shall determine whether the complaint is frivolous. In
17 the discretion of the court, a frivolous case may be dismissed by order. The clerk of superior
18 court shall serve a copy of the order of dismissal upon the prison inmate. If the judge
19 determines that the inmate may proceed as an indigent, the clerk of superior court shall issue
20 service of process nunc pro tunc to the date of filing upon the defendant ~~shall issue without~~
21 ~~further order of the court.~~ defendant."

22 **SECTION 20.** G.S. 1A-1, Rule 3, reads as rewritten:

23 **"Rule 3. Commencement of action.**

24 (a) A civil action is commenced by filing a complaint with the court. The clerk shall
25 enter the date of filing on the original complaint, and such entry shall be prima facie evidence
26 of the date of filing.

27 A civil action may also be commenced by the issuance of a summons when

- 28 (1) A person makes application to the court stating the nature and purpose of his
29 action and requesting permission to file his complaint within 20 days and
30 (2) The court makes an order stating the nature and purpose of the action and
31 granting the requested permission.

32 The summons and the court's order shall be served in accordance with the provisions of Rule 4.
33 When the complaint is filed it shall be served in accordance with the provisions of Rule 4 or by
34 registered mail if the plaintiff so elects. If the complaint is not filed within the period specified
35 in the clerk's order, the action shall abate.

36 (b) ~~The clerk shall maintain as prescribed by the Administrative Office of the Courts a~~
37 ~~separate index of all medical malpractice actions, as defined in G.S. 90-21.11. Upon the~~
38 ~~commencement of a medical malpractice action, the clerk shall provide a current copy of the~~
39 ~~index to the senior regular resident judge of the district in which the action is pending."~~

40 **SECTION 21.** G.S. 122C-264 reads as rewritten:

41 **"§ 122C-264. Duties of clerk of superior court and the district attorney.**

42 ...

43 (e) ~~The clerk of superior court of the county where outpatient commitment is to be~~
44 ~~supervised shall keep a separate list regarding outpatient commitment and shall prepare~~
45 ~~quarterly reports listing all active cases, the assigned supervisor, and the disposition of all~~
46 ~~hearings, supplemental hearings, and rehearings.~~

47 (f) The clerk of superior court of the county where inpatient commitment hearings and
48 rehearings are held shall provide all notices, send all records and maintain a record of all
49 proceedings as required by this Part; provided that if the respondent has been committed to a
50 24-hour facility in a county other than his county of residence and the district court hearing is
51 held in the county of the facility, the clerk of superior court in the county of the facility shall

1 forward the record of the proceedings to the clerk of superior court in the county of
2 respondent's residence, where they shall be maintained by receiving clerk."

3 **SECTION 22.** G.S. 14-208.12A(a) reads as rewritten:

4 "(a) Ten years from the date of initial county registration, a person required to register
5 under this Part may petition the superior court to terminate the 30-year registration requirement
6 if the person has not been convicted of a subsequent offense requiring registration under this
7 Article.

8 If the reportable conviction is for an offense that occurred in North Carolina, the petition
9 shall be filed in the district where the person was convicted of the offense.

10 If the reportable conviction is for an offense that occurred in another state, the petition shall
11 be filed in the district where the person resides. A person who petitions to terminate the
12 registration requirement for a reportable conviction that is an out-of-state offense shall also do
13 the following: (i) provide written notice to the sheriff of the county where the person was
14 convicted that the person is petitioning the court to terminate the registration requirement and
15 (ii) include with the petition at the time of its filing, an affidavit, signed by the petitioner, that
16 verifies that the petitioner has notified the sheriff of the county where the person was convicted
17 of the petition and that provides the mailing address and contact information for that sheriff.

18 Regardless of where the offense occurred, if the defendant was convicted of a reportable
19 offense in any federal court, the conviction will be treated as an out-of-state offense for the
20 purposes of this section."

21 **SECTION 23.** G.S. 7B-2901(a) reads as rewritten:

22 "(a) The clerk shall maintain a complete record of all juvenile cases filed in the clerk's
23 office alleging abuse, neglect, or dependency. The records shall be withheld from public
24 inspection and, except as provided in this subsection, may be examined only by order of the
25 court. The record shall include the summons, petition, custody order, court order, written
26 motions, the electronic or mechanical recording of the hearing, and other papers filed in the
27 proceeding. The recording of the hearing shall be reduced to a written transcript only when
28 notice of appeal has been timely given. After the time for appeal has expired with no appeal
29 having been filed, the recording of the hearing may be erased or destroyed upon the written
30 order of the ~~court~~ court or in accordance with a retention schedule approved by the Director of
31 the Administrative Office of the Courts and the Department of Natural and Cultural Resources
32 under G.S. 121-5(c).

33 The following persons may examine the juvenile's record maintained pursuant to this
34 subsection and obtain copies of written parts of the record without an order of the court:

- 35 (1) The person named in the petition as the juvenile;
36 (2) The guardian ad litem;
37 (3) The county department of social services; and
38 (4) The juvenile's parent, guardian, or custodian, or the attorney for the juvenile
39 or the juvenile's parent, guardian, or custodian."

40 **SECTION 24.** G.S. 7B-3000(d) reads as rewritten:

41 "(d) Any portion of a juvenile's record consisting of an electronic or mechanical
42 recording of a hearing shall be transcribed only when notice of appeal has been timely given
43 and shall be copied electronically or mechanically, only by order of the court. After the time for
44 appeal has expired with no appeal having been filed, the court may enter a written order
45 directing the clerk to destroy the recording of the ~~hearing~~ hearing or the recording may be
46 destroyed in accordance with a retention schedule approved by the Director of the
47 Administrative Office of the Courts and the Department of Natural and Cultural Resources
48 under G.S.121-5(c)."

49 **SECTION 25.** G.S. 7B-603(b1) reads as rewritten:

50 "(b1) The court may require payment of the fee for an attorney appointed pursuant to
51 G.S. 7B-602 or ~~G.S. 7B-1101~~ G.S. 7B-1101.1 from the respondent. In no event shall the

1 respondent be required to pay the fees for a court-appointed attorney in an abuse, neglect, or
2 dependency proceeding unless the juvenile has been adjudicated to be abused, neglected, or
3 dependent or, in a proceeding to terminate parental rights, unless the respondent's rights have
4 been terminated. At the dispositional hearing or other appropriate hearing, the court shall make
5 a determination whether the respondent should be held responsible for reimbursing the State for
6 the respondent's attorneys' fees. This determination shall include the respondent's financial
7 ability to pay.

8 If the court determines that the respondent is responsible for reimbursing the State for the
9 respondent's attorneys' fees, the court shall so order. If the respondent does not comply with the
10 order at the time of disposition, the court shall file a judgment against the respondent for the
11 amount due the State."

12 **SECTION 26.** G.S. 84-2 reads as rewritten:

13 **"§ 84-2. Persons disqualified.**

14 No justice, judge, magistrate, full-time district attorney, full-time assistant district attorney,
15 full-time public defender, full time assistant public defender, clerk, deputy or assistant clerk of
16 the General Court of Justice, register of deeds, deputy or assistant register of deeds, sheriff or
17 deputy sheriff shall engage in the private practice of law. As used in this section, the private
18 practice of law shall not include the performance of pro bono legal services by a lawyer who is
19 otherwise disqualified by this section if the pro bono services are sponsored or organized by a
20 professional association of lawyers or a nonprofit corporation rendering legal services pursuant
21 to G.S. 84-5.1. Persons violating this provision shall be guilty of a Class 3 misdemeanor and
22 only fined not less than two hundred dollars (\$200.00)."

23 **SECTION 27.** Section 22 of this act is effective when it becomes law and applies
24 to petitions filed on or after that date. The remainder of this act is effective when it becomes
25 law.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

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HOUSE BILL 236

Short Title: NCAOC Omnibus Bill.

(Public)

Sponsors: Representative R. Turner.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I

March 6, 2017

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE CLERK TO APPOINT AN INTERIM GUARDIAN AD LITEM ON THE CLERK'S OWN MOTION; TO PROVIDE FOR THE CLERK TO EXTEND THE TIME FOR FILING INVENTORY IN THE PROPERTY OF THE DECEASED; TO PROVIDE FOR ISSUANCE OF AN ORDER FOR AN ARREST WHEN A PERSON FAILS TO APPEAR AFTER BEING SERVED WITH A SHOW CAUSE IN A CIVIL PROCEEDING; TO AMEND HOW COSTS IN ADMINISTRATION OF ESTATES ARE ASSESSED; TO ALLOW FOR TEMPORARY ASSISTANCE FOR DISTRICT ATTORNEYS WHEN THERE IS A CONFLICT OF INTEREST; AND TO AMEND OTHER STATUTES GOVERNING THE GENERAL COURT OF JUSTICE, AS RECOMMENDED BY THE NORTH CAROLINA ADMINISTRATIVE OFFICE OF THE COURTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 1A-1, Rule 5(e), reads as rewritten:

"Rule 5. Service and filing of pleadings and other papers.

...

- (e) (1) Filing with the court defined. – The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of the ~~court~~ court, pursuant to the rules promulgated under G.S. 7A-109 or subsection (e)(2) hereunder, except that the judge may permit the papers to be filed with him, in which event he shall note thereon the filing date and forthwith transmit them to the office of the clerk.
- (2) Filing by electronic means. – If, pursuant to ~~G.S. 7A-34~~ G.S. 7A-34, G.S. 7A-49.5, and G.S. 7A-343, the Supreme Court and the Administrative Officer of the Courts establish uniform rules, regulations, costs, procedures and specifications for the filing of pleadings or other court papers by electronic means, filing may be made by the electronic means when, in the manner, and to the extent provided therein.
- (3) The failure to affix a date stamp or file stamp on any pleading or other papers filed in a civil action or special proceeding shall not affect the sufficiency, validity, or enforceability of the document."

SECTION 2. G.S. 1A-1, Rule 58, reads as rewritten:

"Rule 58. Entry of judgment.

Subject to the provisions of Rule 54(b), a judgment is entered when it is reduced to writing, signed by the judge, and filed with the clerk of ~~court~~ court pursuant to Rule 5. The party



1 designated by the judge or, if the judge does not otherwise designate, the party who prepares the
2 judgment, shall serve a copy of the judgment upon all other parties within three days after the
3 judgment is entered. Service and proof of service shall be in accordance with Rule 5. If service is
4 by mail, three days shall be added to the time periods prescribed by Rule 50(b), Rule 52(b), and
5 Rule 59. All time periods within which a party may further act pursuant to Rule 50(b), Rule 52(b),
6 or Rule 59 shall be tolled for the duration of any period of noncompliance with this service
7 requirement, provided however that no time period under Rule 50(b), Rule 52(b), or Rule 59 shall
8 be tolled longer than 90 days from the date the judgment is entered. Subject to the provisions of
9 Rule 7(b)(4), consent for the signing and entry of a judgment out of term, session, county, and
10 district shall be deemed to have been given unless an express objection to such action was made
11 on the record prior to the end of the term or session at which the matter was heard.

12 Notwithstanding any other law to the contrary, any judgment entered by a magistrate in a
13 small claims action pursuant to Article 19 of Chapter 7A shall be entered in accordance with this
14 Rule except judgments announced and signed in open court at the conclusion of a trial are
15 considered to be served on the parties, and copies of any judgment not announced and signed in
16 open court at the conclusion of a trial shall be served by the magistrate on all parties in accordance
17 with this Rule, within three days after the judgment is entered. If service is by mail, three days
18 shall be added to the time periods prescribed by G.S. 7A-228. All time periods within which a
19 party may further act pursuant to G.S. 7A-228 shall be tolled for the duration of any period of
20 noncompliance of this service requirement, provided that no time period shall be tolled longer than
21 90 days from the date judgment is entered."

22 **SECTION 3.** G.S. 28A-9-2(a) reads as rewritten:

23 **"§ 28A-9-2. Summary revocation.**

24 (a) Grounds. – Letters testamentary, letters of administration, or letters of collection, shall
25 be revoked by the clerk of superior court without hearing when:

- 26 (1) After letters of administration or collection have been issued, a will is
27 subsequently admitted to probate.
- 28 (2) After letters testamentary have been issued:
 - 29 a. The will is set aside, or
 - 30 b. A subsequent testamentary paper revoking the appointment of the
31 executor is admitted to probate.
- 32 (3) Any personal representative or collector required to give a new bond or furnish
33 additional security pursuant to G.S. 28A-8-3 fails to do so within the time
34 ordered.
- 35 (4) A nonresident personal representative refuses or fails to obey any citation,
36 notice, or process served on that nonresident personal representative or the
37 process agent of the nonresident personal representative.
- 38 (5) A trustee in bankruptcy, liquidating agent, or receiver has been appointed for
39 any personal representative or collector, or any personal representative or
40 collector has executed an assignment for the benefit of creditors.
- 41 (6) A personal representative has failed to file an inventory or an annual account
42 with the clerk of superior court, as required by Article 20 and Article 21 of this
43 Chapter, and proceedings to compel such filing pursuant to G.S. 28A-20-2 or
44 28A-21-4 cannot be had because service cannot be completed because the
45 personal representative cannot be found.
- 46 (7) A personal representative or collector is a licensed attorney, and the clerk is in
47 receipt of an order entered pursuant to G.S. 84-28 enjoining, suspending, or
48 disbarring the attorney."

49 **SECTION 4.** G.S. 35A-1290 reads as rewritten:

50 **"§ 35A-1290. Removal by Clerk.**

51 ...

(b) It is the clerk's duty to remove a guardian or to take other action sufficient to protect the ward's interests in the following cases:

- (1) The guardian wastes the ward's money or estate or converts it to his own use.
- (2) The guardian in any manner mismanages the ward's estate.
- (3) The guardian neglects to care for or maintain the ward or his dependents in a suitable manner.
- (4) The guardian or his sureties are likely to become insolvent or to become nonresidents of the State.
- (5) The original appointment was made on the basis of a false representation or a mistake.
- (6) The guardian has violated a fiduciary duty through default or misconduct.
- (7) The guardian has a private interest, whether direct or indirect, that might tend to hinder or be adverse to carrying out his duties as guardian.

~~(e) It is the clerk's duty to remove a guardian or to take other action sufficient to protect the ward's interests in the following cases:~~

- ~~(1)~~(8) The guardian has been adjudged incompetent by a court of competent jurisdiction and has not been restored to competence.
- ~~(2)~~(9) The guardian has been convicted of a felony under the laws of the United States or of any state or territory of the United States or of the District of Columbia and his citizenship has not been restored.
- ~~(3)~~(10) The guardian was originally unqualified for appointment and continues to be unqualified, or the guardian would no longer qualify for appointment as guardian due to a change in residence, a change in the charter of a corporate guardian, or any other reason.
- ~~(4)~~(11) The guardian is the ward's spouse and has lost his rights as provided by Chapter 31A of the General Statutes.
- ~~(5)~~(12) The guardian fails to post, renew, or increase a bond as required by law or by order of the court.
- ~~(6)~~(13) The guardian refuses or fails without justification to obey any citation, notice, or process served on him in regard to the guardianship.
- ~~(7)~~(14) The guardian fails to file required accountings with the clerk.
- ~~(8)~~(15) The clerk finds the guardian unsuitable to continue serving as guardian for any reason.
- ~~(9)~~(16) The guardian is a nonresident of the State and refuses or fails to obey any citation, notice, or process served on the guardian or the guardian's process agent.
- (17) The guardian is a licensed attorney, and the clerk is in receipt of an order entered pursuant to G.S. 84-28 enjoining, suspending, or disbarring the attorney."

SECTION 5. G.S. 30-17 reads as rewritten:

"§ 30-17. When children entitled to an allowance.

Whenever any parent dies survived by any child under the age of 18 years, including an adopted child or a child with whom the widow may be pregnant at the death of her husband, or a child who is less than 22 years of age and is a full-time student in any educational institution, or a child under 21 years of age who has been declared mentally incompetent, or a child under 21 years of age who is totally disabled, or any other person under the age of 18 years residing with the deceased parent at the time of death to whom the deceased parent or the surviving parent stood in loco parentis, every such child shall be entitled to receive an allowance of five thousand dollars (\$5,000) for the child's support for the year next ensuing the death of the parent. The allowance shall be in addition to the child's share of the deceased parent's estate and shall be exempt from any lien by judgment or execution against the property of the deceased parent. The personal

1 representative of the deceased parent shall, within one year after the parent's death, assign to every
2 such child the allowance herein provided for; but if there is no personal representative or if the
3 personal representative fails or refuses to act within 10 days after written application by a guardian
4 or next friend on behalf of the child, the allowance may be assigned by a magistrate or clerk of
5 court upon application.

6 If the child resides with the surviving spouse of the deceased parent at the time the allowance
7 is paid, the allowance shall be paid to the surviving spouse for the benefit of the child. If the child
8 resides with its surviving parent who is other than the surviving spouse of the deceased parent, the
9 allowance shall be paid to the surviving parent for the use and benefit of the child. The payment
10 shall be made regardless of whether the deceased died testate or intestate or whether the surviving
11 spouse petitioned for an elective share under Article 1A of Chapter 30 of the General Statutes.
12 Provided, however, the allowance shall not be available to a deceased father's child born out of
13 wedlock, unless the deceased father has recognized the paternity of the child by deed, will, or
14 other paper-writing, or unless the deceased father died prior to or within one year after the birth of
15 the child and is established to have been the father of the child by DNA testing. If the child does
16 not reside with a surviving spouse or a surviving parent when the allowance is paid, the allowance
17 shall be paid to the child's general ~~guardian~~, guardian or guardian of the estate, if any, and if none,
18 to the clerk of the superior court who shall receive and disburse the allowance for the benefit of
19 the child."

20 **SECTION 6.** G.S. 35A-1114 reads as rewritten:

21 **"§ 35A-1114. Appointment of interim guardian.**

22 (a) At the time of or subsequent to the filing of a petition under this Article, the petitioner
23 or guardian ad litem may also file a verified motion with the clerk seeking the appointment of an
24 interim guardian.

25 (b) The motion filed by the petitioner or guardian ad litem shall set forth facts tending to
26 show:

- 27 (1) That there is reasonable cause to believe that the respondent is incompetent, and
28 (2) One or both of the following:
29 a. That the respondent is in a condition that constitutes or reasonably
30 appears to constitute an imminent or foreseeable risk of harm to his
31 physical well-being and that requires immediate intervention;
32 b. That there is or reasonably appears to be an imminent or foreseeable
33 risk of harm to the respondent's estate that requires immediate
34 intervention in order to protect the respondent's interest, and
35 (3) That the respondent needs an interim guardian to be appointed immediately to
36 intervene on his behalf prior to the adjudication hearing.

37 (c) Upon filing of the motion for appointment of an interim ~~guardian~~, guardian by the
38 petitioner or the guardian ad litem, the clerk shall immediately set a date, time, and place for a
39 hearing on the motion. The motion and a notice setting the date, time, and place for the hearing
40 shall be served promptly on the respondent and on his counsel or guardian ad litem and other
41 persons the clerk may designate. The hearing shall be held as soon as possible but no later than 15
42 days after the motion has been served on the respondent.

43 (c1) The motion and notice setting the date, time, and place for the hearing shall be served
44 promptly on the petitioner, the respondent and on his counsel or guardian ad litem, and other
45 persons the clerk may designate. The hearing shall be held as soon as possible but not later than 15
46 days after the motion has been served on the respondent.

47"

48 **SECTION 7.** G.S. 35A-1112 reads as rewritten:

49 **"§ 35A-1112. Hearing on petition; adjudication order.**

50 ...

(b1) At the hearing on the petition, on the clerk's own motion, the clerk may appoint an interim guardian pursuant to G.S. 35A-1114(d) and (e) if the clerk determines such an appointment to be in the best interests of the respondent.

...."

SECTION 8. G.S. 28A-20-1 reads as rewritten:

"§ 28A-20-1. Inventory within three months.

Every ~~Unless the time for filing the inventory has been extended by the clerk of superior court,~~
every personal representative and collector, within three months after the qualification of that personal representative or collector, shall return to the clerk, on oath, a just, true and perfect inventory of all the real and personal property of the deceased, which have come to the hands of the personal representative or collector, or to the hands of any person for the personal representative or collector, which inventory shall be signed by the personal representative or collector and be recorded by the clerk."

SECTION 9. G.S. 28A-21-1 reads as rewritten:

"§ 28A-21-1. Annual accounts.

Until the final account has been filed pursuant to G.S. 28A-21-2, the personal representative or collector shall, for so long as any of the property of the estate remains in the control, custody or possession of the personal representative or collector, file annually in the office of the clerk of superior court an inventory and account, under oath, of the amount of property received by the personal representative or collector, or invested by the personal representative or collector, and the manner and nature of such investment, and the receipts and disbursements of the personal representative or collector for the past year. Such accounts shall be due 30 days after the expiration of one year from the date of qualification of the personal representative or collector, or if a fiscal year is selected by the fifteenth day of the fourth month after the close of the fiscal year selected by the personal representative or collector, and annually on the same date thereafter. The election of a fiscal year shall be made by the personal representative or collector upon filing of the first annual account. In no event may a personal representative or collector select a fiscal year-end which is more than twelve months from the date of death of the decedent or, in the case of trust administration, the date of the opening of the trust. Any fiscal year selected may not be changed without the permission of the clerk of superior court.

The personal representative or collector shall produce vouchers for all payments or verified proof for payments in lieu of vouchers. The clerk of superior court may examine, under oath, such accounting party, or any other person, concerning the receipts, disbursements or any other matter relating to the estate. The clerk of superior court must carefully review and audit such account and, if the clerk approves the account, the clerk must endorse the approval of the clerk thereon, which shall be prima facie evidence of correctness, and cause the same to be recorded."

SECTION 10. G.S. 28A-21-2 reads as rewritten:

"§ 28A-21-2. Final accounts.

(a) Unless the time for filing the final account has been extended by the clerk of superior court, the personal representative or collector must file the final account for settlement within one year after qualifying or within six months after receiving a State estate or inheritance tax release, or in the time period for filing an annual account pursuant to G.S. 28A-21-1, whichever is later. If no estate or inheritance tax return was required to be filed for the estate, the personal representative or collector shall so certify in the final account filed with the clerk of superior court. Such certification shall list the amount and value of all of the decedent's property, and with respect to real estate, its particular location within or outside the State, including any property transferred by the decedent over which the decedent had retained any interest, or any property transferred within three years prior to the date of the decedent's death, and after being filed and accepted by the clerk of superior court shall be prima facie evidence that such property is free of any State inheritance or State estate tax liability. The personal representative or collector shall produce vouchers for all payments or verified proof for all payments in lieu of vouchers. With the approval

1 of the clerk of superior court, such account may be filed voluntarily at any time. In all cases, the
2 accounting shall be reviewed, audited and recorded by the clerk of superior court in the manner
3 prescribed in G.S. 28A-21-1.

4 (a1) If no estate of inheritance tax return was required to be filed for the estate, the personal
5 representative or collector shall so certify in the final account filed with the clerk of superior court.
6 Such certification shall list the amount and value of all of the decedent's property, and with respect
7 to real estate, its particular location within or outside the State, including any property transferred
8 by the decedent over which the decedent had retained any interest, or any property transferred
9 within three years prior to the date of the decedent's death, and after being filed and accepted by
10 the clerk of superior court shall be prima facie evidence that such property is free from any State
11 inheritance or State estate tax liability. This subsection only applies to estates of decedents who
12 died before January 1, 2013.

13 (a2) The personal representative or collector shall produce vouchers for all payments or
14 verified proof for all payments in lieu of vouchers. With the approval of the clerk of superior
15 court, such account may be filed voluntarily at any time. In all cases, the accounting shall be
16 reviewed, audited, and recorded by the clerk of superior court in the manner prescribed by
17 G.S. 28A-21-1.

18 (b) Except as provided in subsection (a), after the date specified in the general notice to
19 creditors as provided for in G.S. 28A-14-1, if all of the debts and other claims against the estate of
20 the decedent duly presented and legally owing have been paid in the case of a solvent estate or
21 satisfied pro rata according to applicable statutes in the case of an insolvent estate, the personal
22 representative or collector may file the personal representative's or collector's final account to be
23 reviewed, audited and recorded by the clerk of superior court. Nothing in this subsection shall be
24 construed as limiting the right of the surviving spouse or minor children to file for allowances
25 under G.S. 30-15 through 30-18 and the right of a surviving spouse to file for property rights
26 under G.S. 29-30."

27 **SECTION 11.** G.S. 5A-23(b) reads as rewritten:

28 "(b) Except when the clerk of superior court has original subject matter jurisdiction and
29 issued the order when the General Statutes specifically provide for the exercise of contempt power
30 by the clerk of superior court, proceedings under this section are before a district court judge,
31 unless a court superior to the district court issued the order in which case the proceedings are
32 before that court. When the proceedings are before a superior court, venue is in the superior court
33 district or set of districts as defined in G.S. 7A-41.1 of the court which issued the order.
34 Otherwise, venue is in the county where the order was issued."

35 **SECTION 12.** G.S. 15A-305(b) reads as rewritten:

36 "(b) When Issued. – An order for arrest may be issued when:

- 37 (1) A grand jury has returned a true bill of indictment against a defendant who is
38 not in custody and who has not been released from custody pursuant to Article
39 26 of this Chapter, Bail, to answer to the charges in the bill of indictment.
- 40 (2) A defendant who has been arrested and released from custody pursuant to
41 Article 26 of this Chapter, Bail, fails to appear as required.
- 42 (3) The defendant has failed to appear as required by a duly executed criminal
43 summons issued pursuant to G.S. 15A-303 or a citation issued by a law
44 enforcement officer or other person authorized by statute pursuant to
45 G.S. 15A-302 that charged the defendant with a misdemeanor.
- 46 (4) A defendant has violated the conditions of probation.
- 47 (5) In any criminal proceeding in which the defendant has become subject to the
48 jurisdiction of the court, it becomes necessary to take the defendant into
49 custody.
- 50 (6) It is authorized by G.S. 15A-803 in connection with material witness
51 proceedings.

(7) The common-law writ of capias has heretofore been ~~issuable~~-issuable, including when a person fails to appear after being served with a show cause order in a civil contempt proceeding.

(8) When a defendant fails to appear as required in a show cause order issued in a criminal proceeding.

(9) It is authorized by G.S. 5A-16 in connection with contempt proceedings."

SECTION 13. G.S. 7A-307 reads as rewritten:

"§ 7A-307. Costs in administration of estates.

(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:

(1) For the use of the courtroom and related judicial facilities, the sum of ten dollars (\$10.00), to be remitted to the county. Funds derived from the facilities fees shall be used in the same manner, for the same purposes, and subject to the same restrictions, as facilities fees assessed in criminal actions.

(1a) For the upgrade, maintenance, and operation of the judicial and county courthouse telecommunications and data connectivity, the sum of four dollars (\$4.00), to be credited to the Court Information Technology Fund.

(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.~~ inventory. 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~~ computed from the information reported in 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.

(2a) Notwithstanding subdivision (2) of this subsection, the fee of forty cents (40¢) per one hundred dollars (\$100.00), or major fraction, of the gross estate, not to exceed six thousand dollars (\$6,000), shall not be assessed on personalty received by a trust under a will when the estate of the decedent was administered under Chapters 28 or 28A of the General Statutes. Instead, a fee of twenty dollars (\$20.00) shall be assessed on the filing of each annual and final account. However, the fee shall be assessed only on newly contributed or acquired assets, all interest or other income that accrues or is earned on or with respect to any existing or newly contributed or acquired assets, and realized gains on the sale of any and all trust assets. Newly contributed or acquired assets do not include assets acquired by the sale, transfer, exchange, or

- 1 otherwise of the amount of trust property on which fees were previously
2 assessed.
- 3 (2b) Notwithstanding subdivisions (1) and (2) of this subsection, no costs shall be
4 assessed when the estate is administered or settled pursuant to G.S. 28A-25-6.
- 5 (2c) Notwithstanding subdivision (2) of this subsection, the fee of forty cents (40¢)
6 per one hundred dollars (\$100.00), or major fraction, of the gross estate shall
7 not be assessed on the gross estate of a trust that is the subject of a proceeding
8 under G.S. 36C-2-203 if there is no requirement in the trust that accountings be
9 filed with the clerk.
- 10 (2d) Notwithstanding subdivisions (1) and (2) of this subsection, the only cost
11 assessed in connection with the qualification of a limited personal
12 representative under G.S. 28A-29-1 shall be a fee of twenty dollars (\$20.00) to
13 be assessed upon the filing of the petition.
- 14 (3) For probate of a will without qualification of a personal representative, the clerk
15 shall assess a facilities fee as provided in subdivision (1) of this subsection and
16 shall assess for support of the General Court of Justice, the sum of twenty
17 dollars (\$20.00).
- 18 (4) For the support of the General Court of Justice, the sum of twenty dollars
19 (\$20.00) shall accompany any filing of a notice of hearing on a motion not
20 listed in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed to a
21 notice of hearing on a motion containing as a sole claim for relief the taxing of
22 costs, including attorneys' fees, or to a motion filed pursuant to G.S. 1C-1602 or
23 G.S. 1C-1603. No more than one fee shall be assessed for any motion for which
24 a notice of hearing is filed, regardless of whether the hearing is continued,
25 rescheduled, or otherwise delayed.
- 26 (5) For the filing of a caveat to a will, the clerk shall assess for support of the
27 General Court of Justice, the sum of two hundred dollars (\$200.00).
- 28 (6) Notwithstanding subdivisions (1) and (2) of this subsection, the only cost
29 assessed in connection with the reopening of an estate administration under
30 G.S. 28A-23-5 shall be forty cents (40¢) per one hundred dollars (\$100.00), or
31 major fraction, of any additional gross estate, including income, coming into
32 the hands of the fiduciary after the estate is reopened; provided that the total
33 cost assessed when added to the total cost assessed in all prior administrations
34 of the estate shall not exceed six thousand dollars (\$6,000).
- 35 (b) In collections of personal property by affidavit, the facilities fee and thirty dollars
36 (\$30.00) of the General Court of Justice fee shall be paid at the time of filing the qualifying
37 affidavit pursuant to G.S. 28A-25-1. ~~In all other cases, these fees shall be paid at the time of filing~~
38 ~~of the first inventory.~~ If the sole asset of the estate is a cause of action, these fees shall be paid at
39 the time of the qualification of the fiduciary.
- 40 (b1) The clerk shall assess the following miscellaneous fees:
- 41 (1) Filing and indexing a will with no probate
- 42 – first page..... \$ 1.00
- 43 – each additional page or fraction thereof..... .25
- 44 (2) Issuing letters to fiduciaries, per letter over five letters issued..... 1.00
- 45 (3) Inventory of safe deposits of a decedent, per box, per day 15.00
- 46 (4) Taking a deposition 10.00
- 47 (5) Docketing and indexing a will probated in another county in the State
- 48 – first page..... 6.00
- 49 – each additional page or fraction thereof..... .25
- 50 (6) Hearing petition for year's allowance to surviving spouse or child,
51 in cases not assigned to a magistrate, and allotting the same..... 8.00

(c) The following additional expenses, when incurred, are also assessable or recoverable, as the case may be:

- (1) Witness fees, as provided by law.
- (2) Counsel fees, as provided by law.
- (3) Costs on appeal, of the original transcript of testimony, if any, insofar as essential to the appeal.
- (4) Fees for personal service of civil process, and other sheriff's fees, as provided by law.
- (5) Fees of guardians ad litem, referees, receivers, commissioners, surveyors, arbitrators, appraisers, and other similar court appointees, as provided by law.

(d) Costs assessed before the clerk shall be added to costs assessable on appeal to the judge or upon transfer to the civil issue docket.

(e) Nothing in this section shall affect the liability of the respective parties for costs, as provided by law."

SECTION 14. G.S. 7A-64 reads as rewritten:

"§ 7A-64. Temporary assistance for district attorneys.

(a) A district attorney may apply to the Director of the Administrative Office of the Courts to:

- (1) Temporarily assign an assistant district attorney from another district, after consultation with the district attorney thereof, to assist in the prosecution of cases in the requesting district;
 - (2) Authorize the temporary appointment, by the requesting district attorney, of a qualified attorney to assist the requesting district attorney; or
 - (3) Enter into contracts with local governments for the provision of services by the State pursuant to G.S. 153A-212.1 or G.S. 160A-289.1.
- (a1) Repealed by Session Laws 2012-7, s. 9, effective June 7, 2012.

(b) The Director of the Administrative Office of the Courts may provide this assistance only upon a showing by the requesting district attorney or the Chair of the North Carolina Innocence Inquiry Commission, as appropriate, supported by facts, that:

- (1) Criminal cases have accumulated on the dockets of the superior or district courts of the district beyond the capacity of the district attorney and the district attorney's full-time assistants to keep the dockets reasonably current;
- (2) The overwhelming public interest warrants the use of additional resources for the speedy disposition of cases involving drug offenses, domestic violence, or other offenses involving a threat to public safety; or
- (3) There is an allegation of or evidence of prosecutorial misconduct in the case that is the subject of the hearing under G.S. 15A-1469.
- (4) There is a conflict of interest.

(c) The length of service and compensation of any temporary appointee or the terms of any contract entered into with local governments shall be fixed by Director of the Administrative Office of the Courts in each case. Nothing in this section shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this section or to obligate the Administrative Office of the Courts to provide the administrative costs of establishing or maintaining the positions or services provided for under this section. Further, nothing in this section shall be construed to obligate the Administrative Office of the Courts to maintain positions or services initially provided for under this section."

SECTION 15. 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:

...

- (3) Prescribe uniform administrative and business methods, systems, ~~forms~~forms, practices and procedures, and records to be used in the ~~offices of the clerks of superior court courts~~.
- (3a) Maintain and staff as necessary an Internal Audit Division of the Judicial Department and the Administrative Office of the Courts that:
- a. Evaluates and discloses potential weaknesses in the effectiveness of internal controls in the court system for the purpose of safeguarding public funds and assets and minimizing incidences of fraud, waste, and abuse.
 - b. Examines and analyzes the design and effectiveness of administrative and procedural operations.
 - c. Ensures overall compliance with federal and State laws, internal and external regulations, rules and procedures, and other applicable requirements.
 - d. Inspects and reviews the effectiveness and efficiency of processes and proceedings conducted by judicial officers.
 - e. Collaborates with other divisions to guide, direct, and support court officials in efforts to conform to both recommended and required compliance standards.
 - f. Executes routine audits of the Judicial Department's systems and controls, including, but not limited to:
 1. Accounting systems and controls.
 2. Administrative systems and controls.
 3. Electronic data processing systems and controls.

...."

SECTION 16. G.S. 122C-268(g) reads as rewritten:

"(g) Hearings may be held in an appropriate room not used for treatment of clients at the facility in which the respondent is being treated if it is located within the judge's district court district as defined in G.S. 7A-133, by ~~interactive videoconferencing~~audio and video transmission between a treatment facility and a ~~courtroom~~courtroom in which the judge and the respondent can see and hear each other, or in the judge's chambers. A hearing may not be held in a regular courtroom, over objection of the respondent, if in the discretion of a judge a more suitable place is available. If the respondent has counsel, the respondent shall be allowed to communicate fully and confidentially with his attorney during the proceeding. Prior to the use of the audio and video transmission, the procedures and type of equipment for audio and video transmission shall be submitted to the Administrative Office of the Courts by the chief district court judge and approved by the Administrative Office of the Courts."

SECTION 17. G.S. 58-76-15 reads as rewritten:

"§ 58-76-15. Summary remedy on official bond.

When a sheriff, coroner, ~~clerk~~, county or town treasurer, or other officer, collects or receives any money by virtue or under color of his office, and on demand fails to pay the same to the person entitled to require the payment thereof, the person thereby aggrieved may move for judgment in the superior court against such officer and his sureties for any sum demanded; and the court shall try the same and render judgment at the session when the motion shall be made, but 10 days' notice in writing of the motion must have been previously given."

SECTION 18. G.S. 58-76-25 reads as rewritten:

"§ 58-76-25. Evidence against principal admissible against sureties.

In actions brought upon the official bonds of ~~clerks of courts~~, sheriffs, coroners, or other public officers, and also upon the bonds of executors, administrators, collectors or guardians, when it may be necessary for the plaintiff to prove any default of the principal obligors, any receipt or acknowledgment of such obligors, or any other matter or thing which by law would be

admissible and competent for or toward proving the same as against him, shall in like manner be admissible and competent as presumptive evidence only against all or any of his sureties who may be defendants with or without him in said actions."

SECTION 19. G.S. 1-110(b) reads as rewritten:

"(b) Whenever a motion to proceed as an indigent is filed pro se by an inmate in the custody of the Division of Adult Correction of the Department of Public Safety, the motion to proceed as an indigent and the proposed complaint shall be presented to any superior court judge of the judicial district. This judge shall determine whether the complaint is frivolous. In the discretion of the court, a frivolous case may be dismissed by order. The clerk of superior court shall serve a copy of the order of dismissal upon the prison inmate. If the judge determines that the inmate may proceed as an indigent, the clerk of superior court shall issue service of process nunc pro tunc to the date of filing upon the defendant shall issue without further order of the court. defendant."

SECTION 20. G.S. 1A-1, Rule 3, reads as rewritten:

"Rule 3. Commencement of action.

(a) A civil action is commenced by filing a complaint with the court. The clerk shall enter the date of filing on the original complaint, and such entry shall be prima facie evidence of the date of filing.

A civil action may also be commenced by the issuance of a summons when

(1) A person makes application to the court stating the nature and purpose of his action and requesting permission to file his complaint within 20 days and

(2) The court makes an order stating the nature and purpose of the action and granting the requested permission.

The summons and the court's order shall be served in accordance with the provisions of Rule 4. When the complaint is filed it shall be served in accordance with the provisions of Rule 4 or by registered mail if the plaintiff so elects. If the complaint is not filed within the period specified in the clerk's order, the action shall abate.

(b) ~~The clerk shall maintain as prescribed by the Administrative Office of the Courts a separate index of all medical malpractice actions, as defined in G.S. 90-21.11. Upon the commencement of a medical malpractice action, the clerk shall provide a current copy of the index to the senior regular resident judge of the district in which the action is pending.~~

SECTION 21. G.S. 122C-264 reads as rewritten:

"§ 122C-264. Duties of clerk of superior court and the district attorney.

...

(e) ~~The clerk of superior court of the county where outpatient commitment is to be supervised shall keep a separate list regarding outpatient commitment and shall prepare quarterly reports listing all active cases, the assigned supervisor, and the disposition of all hearings, supplemental hearings, and rehearings.~~

(f) The clerk of superior court of the county where inpatient commitment hearings and rehearings are held shall provide all notices, send all records and maintain a record of all proceedings as required by this Part; provided that if the respondent has been committed to a 24-hour facility in a county other than his county of residence and the district court hearing is held in the county of the facility, the clerk of superior court in the county of the facility shall forward the record of the proceedings to the clerk of superior court in the county of respondent's residence, where they shall be maintained by receiving clerk."

SECTION 22. G.S. 14-208.12A(a) reads as rewritten:

"(a) Ten years from the date of initial county registration, a person required to register under this Part may petition the superior court to terminate the 30-year registration requirement if the person has not been convicted of a subsequent offense requiring registration under this Article.

If the reportable conviction is for an offense that occurred in North Carolina, the petition shall be filed in the district where the person was convicted of the offense.

1 If the reportable conviction is for an offense that occurred in another state, the petition shall be
2 filed in the district where the person resides. A person who petitions to terminate the registration
3 requirement for a reportable conviction that is an out-of-state offense shall also do the following:
4 (i) provide written notice to the sheriff of the county where the person was convicted that the
5 person is petitioning the court to terminate the registration requirement and (ii) include with the
6 petition at the time of its filing, an affidavit, signed by the petitioner, that verifies that the
7 petitioner has notified the sheriff of the county where the person was convicted of the petition and
8 that provides the mailing address and contact information for that sheriff.

9 Regardless of where the offense occurred, if the defendant was convicted of a reportable
10 offense in any federal court, the conviction will be treated as an out-of-state offense for the
11 purposes of this section."

12 **SECTION 23.** G.S. 7B-2901(a) reads as rewritten:

13 "(a) The clerk shall maintain a complete record of all juvenile cases filed in the clerk's
14 office alleging abuse, neglect, or dependency. The records shall be withheld from public
15 inspection and, except as provided in this subsection, may be examined only by order of the court.
16 The record shall include the summons, petition, custody order, court order, written motions, the
17 electronic or mechanical recording of the hearing, and other papers filed in the proceeding. The
18 recording of the hearing shall be reduced to a written transcript only when notice of appeal has
19 been timely given. After the time for appeal has expired with no appeal having been filed, the
20 recording of the hearing may be erased or destroyed upon the written order of the ~~court~~ court or in
21 accordance with a retention schedule approved by the Director of the Administrative Office of the
22 Courts and the Department of Natural and Cultural Resources under G.S. 121-5(c).

23 The following persons may examine the juvenile's record maintained pursuant to this
24 subsection and obtain copies of written parts of the record without an order of the court:

- 25 (1) The person named in the petition as the juvenile;
- 26 (2) The guardian ad litem;
- 27 (3) The county department of social services; and
- 28 (4) The juvenile's parent, guardian, or custodian, or the attorney for the juvenile or
29 the juvenile's parent, guardian, or custodian."

30 **SECTION 24.** G.S. 7B-3000(d) reads as rewritten:

31 "(d) Any portion of a juvenile's record consisting of an electronic or mechanical recording
32 of a hearing shall be transcribed only when notice of appeal has been timely given and shall be
33 copied electronically or mechanically, only by order of the court. After the time for appeal has
34 expired with no appeal having been filed, the court may enter a written order directing the clerk to
35 destroy the recording of the ~~hearing~~ hearing or the recording may be destroyed in accordance with
36 a retention schedule approved by the Director of the Administrative Office of the Courts and the
37 Department of Natural and Cultural Resources under G.S.121-5(c)."

38 **SECTION 25.** G.S. 7B-603(b1) reads as rewritten:

39 "(b1) The court may require payment of the fee for an attorney appointed pursuant to
40 G.S. 7B-602 or ~~G.S. 7B-1101~~ G.S. 7B-1101.1 from the respondent. In no event shall the
41 respondent be required to pay the fees for a court-appointed attorney in an abuse, neglect, or
42 dependency proceeding unless the juvenile has been adjudicated to be abused, neglected, or
43 dependent or, in a proceeding to terminate parental rights, unless the respondent's rights have been
44 terminated. At the dispositional hearing or other appropriate hearing, the court shall make a
45 determination whether the respondent should be held responsible for reimbursing the State for the
46 respondent's attorneys' fees. This determination shall include the respondent's financial ability to
47 pay.

48 If the court determines that the respondent is responsible for reimbursing the State for the
49 respondent's attorneys' fees, the court shall so order. If the respondent does not comply with the
50 order at the time of disposition, the court shall file a judgment against the respondent for the
51 amount due the State."

1 **SECTION 26.** G.S. 84-2 reads as rewritten:

2 **"§ 84-2. Persons disqualified.**

3 No justice, judge, magistrate, full-time district attorney, full-time assistant district attorney,
4 public defender, assistant public defender, clerk, deputy or assistant clerk of the General Court of
5 Justice, register of deeds, deputy or assistant register of deeds, sheriff or deputy sheriff shall
6 engage in the private practice of law. Notwithstanding the provisions of G.S. 84-2.1, as used in
7 this section, the private practice of law shall not include the performance of unpaid pro bono legal
8 services. Persons violating this provision shall be guilty of a Class 3 misdemeanor and only fined
9 not less than two hundred dollars (\$200.00)."

10 **SECTION 27.** Section 22 of this act is effective when it becomes law and applies to
11 petitions filed on or after that date. The remainder of this act is effective when it becomes law.





NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 236

H236-ABC-13 [v.2]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 1 of 1

Amends Title [NO]
First Edition

Date 4/19/17 2017

Representative R. Turner

1 moves to amend the proposed committee substitute on page 10, line 10 by inserting the words
2 "recommended best" before the word practices;
3
4 and on page 13, line 18 by rewriting the line to read:
5 "practice of law shall not include the performance of pro bono legal services by a lawyer, other
6 than a justice or judge of the general court of justice, who is"
7
8

SIGNED _____

Rena Turner
Amendment Sponsor

SIGNED _____

Committee Chair if Senate Committee Amendment

ADOPTED _____

FAILED _____

TABLED _____



* H 2 3 6 - A B C - 1 3 - V - 2 *



**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 236**

H236-ABC-11 [v.1]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

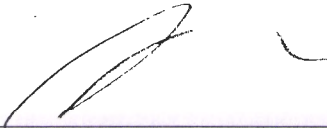
Page 1 of 1

Amends Title [NO]
First Edition

Date 4-19-17, 2017

Representative Jackson

1 moves to amend the bill on page 9, line 47 through page 10, line 25, by deleting the lines.
2
3

SIGNED 
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



* H 2 3 6 - A B C - 1 1 - V - 1 *



HOUSE BILL 341: Unlicensed Driver/Tow Vehicle.

2017-2018 General Assembly

Committee:	House Judiciary I. If favorable, re-refer to Appropriations	Date:	April 14, 2017
Introduced by:	Reps. Cleveland, Clampitt, Collins, Millis	Prepared by:	Bill Patterson
Analysis of:	PCS to First Edition H341-CSTG-10		Staff Attorney

OVERVIEW: *The Proposed Committee Substitute for House Bill 341 would require the towing and storage of a motor vehicle when the operator is charged with an unlicensed driver violation unless, in the officer's presence, the charged person contacts a licensed driver who can pick up the vehicle within an hour.*

To obtain release of the stored vehicle the owner would be required to present a valid drivers license to the charging law enforcement agency or prosecuting district attorney and, if the owner had no knowledge and no reason to know that the operator did not have a valid license, also present a written statement stating that fact and also affirming that the owner has taken reasonable precautions to prevent the charged operator from using the motor vehicle. Upon meeting these conditions, and upon payment of any towing and storage fees, the owner could obtain possession of the stored vehicle.

The custodian of the stored vehicle would be entitled to a storage fee not exceeding \$10 per day and would have a lien on the motor vehicle for all unpaid towing and storage costs for a vehicle not retrieved by the owner within 90 days.

In addition to technical and clarifying changes, the PCS added provisions requiring the holder of a perfected security interest in the vehicle to be notified of its location, and requiring release of a stored vehicle to a lienholder with a perfected security interest upon payment of towing and storage fees.

CURRENT LAW: There is currently no provision of law requiring the towing and storage of a vehicle operated by a person who is charged with operating a motor vehicle without a valid license or in violation of license restrictions.

BILL ANALYSIS: Section 1 of the PCS would enact a new G.S. 20-35.1, which would require the towing and storage of a motor vehicle operated by a person charged with driving with no license, driving with an expired license, or failing to comply with drivers license restrictions (defined as "unlicensed driver violations"), unless a licensed driver is contacted by the charged person in the presence of the charging officer and can pick up the motor vehicle within an hour.

In order to obtain release of the towed and stored vehicle, the owner would have to satisfy a number of conditions. First, the owner would go to the charging law enforcement agency or prosecuting district attorney and present a valid drivers license. If the owner did not know and had no reason to know not the person charged did not have a valid drivers license, then the owner would also have to present the law enforcement agency or district attorney with a written document acknowledging that:

1. The motor vehicle was operated by a person charged with an unlicensed driver violation;

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House PCS 341

Page 2

2. The owner has taken reasonable precautions to prevent the use of the motor vehicle by the person charged and will immediately report any unauthorized use of the vehicle to an appropriate law enforcement agency.

Upon complying with these requirements, the owner would receive documentation from the charging law enforcement agency or prosecuting district attorney certifying such compliance, which the owner would then present to the custodian of the stored motor vehicle, together with payment in full of any towing and storage costs, whereupon the vehicle would be released.

The custodian of the stored motor vehicle would be entitled to charge a maximum storage fee of \$10 per day. If the owner did not obtain release of the vehicle within 90 days, then the custodian would also be granted a lien upon the vehicle for all towing and storage costs.

The charging law enforcement agency would be required to contact the Division of Motor Vehicles to request the name and address of any lienholder with a perfected security interest in the vehicle within one regular business day after towing of the vehicle. DMV would then be required to respond within one regular business day, and within 24 hours of receiving this information the law enforcement agency would be required to notify any lienholder mail of the name and address of the location of the stored vehicle by first-class mail.

Section 2 of the PCS would exempt vehicles towed and stored pursuant to G.S. 20-35.2 from the lien rights granted under G.S. 44A-2(d) for towing or storing a motor vehicle pursuant to an express or implied contract with the owner. Instead, the right to payment for such towing and storage charges would be those provided under G.S. 20-35.1.

EFFECTIVE DATE: This act would become effective on December 1, 2017, and would apply to charges filed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

D

HOUSE BILL 341
PROPOSED COMMITTEE SUBSTITUTE H341-CSTG-10 [v.2]

04/18/2017 06:26:29 PM

Short Title: Unlicensed Driver/Tow Vehicle.

(Public)

Sponsors: Representatives Cleveland, Clampitt, Collins, and Millis (Primary Sponsors).

Referred to:

March 15, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THE TOWING AND STORAGE OF A MOTOR VEHICLE BEING
3 OPERATED BY A DRIVER CHARGED WITH AN UNLICENSED DRIVER
4 VIOLATION.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Article 2 of Chapter 20 of the General Statutes is amended by adding
7 a new section to read:

8 **"§ 20-35.1. Towing and storage of motor vehicle for unlicensed driving.**

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

10 (1) Innocent owner. – A motor vehicle owner who did not know and had no
11 reason to know that the person charged did not have a valid drivers license.

12 (2) Unlicensed driver acknowledgement. – A written document acknowledging
13 both of the following:

14 a. The motor vehicle was operated by a person charged with an
15 unlicensed driver violation.

16 b. The motor vehicle owner has taken all reasonable precautions to
17 prevent the use of the motor vehicle by the person charged and will
18 immediately report, upon discovery, any unauthorized use to the
19 appropriate law enforcement agency.

20 (3) Unlicensed driver violation. – A violation of any of the following:

21 a. G.S. 20-7(a) for failing to obtain a license before driving a motor
22 vehicle.

23 b. G.S. 20-7(e) for failing to comply with drivers license restrictions.

24 c. G.S. 20-7(f) for operating a motor vehicle with an expired license.

25 (b) Towing and Storage. – At the time a person is charged with an unlicensed driver
26 violation, the charging law enforcement officer shall have the motor vehicle driven by the
27 person towed and stored, unless the person charged can contact a licensed driver while the
28 charging law enforcement officer is present and the licensed driver can pick up the motor
29 vehicle no later than one hour from the time the person charged initially contacted the licensed
30 driver. A person in custody of a motor vehicle towed and stored pursuant to this subsection
31 may charge a reasonable fee for storage not to exceed ten dollars (\$10.00) per calendar day.

32 (c) Release of Motor Vehicle. – A person in custody of a motor vehicle towed and
33 stored pursuant to subsection (b) of this section shall release the motor vehicle to its owner
34 when both of the following conditions are met:

35 (1) The owner presents to the charging law enforcement agency or the
36 prosecuting district attorney (i) a valid drivers license and (ii) an unlicensed



1 driver acknowledgment if the owner is an innocent owner. For an innocent
2 owner, the charging law enforcement agency or prosecuting district attorney
3 shall also confirm the identity of the person as the owner of the motor
4 vehicle. The charging law enforcement agency or prosecuting district
5 attorney shall present the owner with documentation certifying that the
6 owner has complied with the requirements set forth in this subdivision.

7 (2) The owner submits to the person in custody of the motor vehicle (i) the
8 documentation provided by the charging law enforcement agency pursuant
9 to subdivision (1) of this subsection and (ii) payment in full of any towing
10 and storage costs.

11 (d) Notice to the Lienholder and Right to Take Possession. – Notwithstanding any other
12 provision of this section, if a motor vehicle is towed and stored under subsection (b) of this
13 section, the charging law enforcement agency shall contact the Division within one regular
14 business day after the motor vehicle is towed and stored to obtain the name and address of any
15 lienholder who has a perfected security interest in the motor vehicle. The Division shall provide
16 the requested information to the charging law enforcement agency within one regular business
17 day. The charging law enforcement agency must then notify any lienholder by first-class mail
18 of the name and address of where the motor vehicle is stored. The notification to the lienholder
19 must be sent as soon as practical but not later than 24 hours after receipt of the information
20 from the Division.

21 A person in custody of a motor vehicle towed and stored pursuant to subsection (b) of this
22 section shall, upon presentation of a copy of the title to the motor vehicle showing a perfected
23 security interest and without delay during regular business hours, allow a lienholder access to
24 the motor vehicle. Upon payment of any towing and storage fees, a lienholder shall be allowed
25 to take possession of the motor vehicle. The lienholder may thereafter exercise any rights
26 reserved to it under any note, contract, and security agreement.

27 (e) Failure of Owner to Obtain Release. – Notwithstanding G.S. 44A-2(d), if the owner
28 of a motor vehicle towed and stored pursuant to subsection (b) of this section does not obtain
29 release of the motor vehicle within 90 days from the date the motor vehicle was towed and
30 stored, the person in custody of the motor vehicle has a lien on the motor vehicle for the full
31 amount of the towing and storage costs incurred since the motor vehicle was towed and stored
32 and may dispose of the motor vehicle pursuant to Article 1 of Chapter 44A of the General
33 Statutes.

34 (f) Construction. – If the person charged with an unlicensed driver violation is also
35 charged with a violation of law arising out of the same transaction that requires seizure of the
36 motor vehicle, nothing in this section shall be construed to alter or supersede the law requiring
37 seizure of the motor vehicle."

38 **SECTION 2.** G.S. 44A-2(d) reads as rewritten:

39 "(d) Any person who repairs, services, tows, or stores motor vehicles in the ordinary
40 course of the person's business pursuant to an express or implied contract with an owner or
41 legal possessor of the motor vehicle, except for a motor vehicle seized pursuant to G.S.
42 20-28.3, G.S. 20-28.3 or towed and stored pursuant to G.S. 20-35.1, has a lien upon the motor
43 vehicle for reasonable charges for such repairs, servicing, towing, storing, or for the rental of
44 one or more substitute vehicles provided during the repair, servicing, or storage. This lien shall
45 have priority over perfected and unperfected security interests. Payment for towing and storing
46 a motor vehicle seized pursuant to G.S. 20-28.3 shall be as provided for in G.S. 20-28.2
47 through G.S. 20-28.5. Payment for towing and storing a motor vehicle pursuant to G.S. 20-35.1
48 shall be as provided in G.S. 20-35.1."

49 **SECTION 3.** This act becomes effective December 1, 2017, and applies to charges
50 filed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 341

Short Title: Unlicensed Driver/Tow Vehicle.

(Public)

Sponsors: Representatives Cleveland, Clampitt, Collins, and Millis (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I

March 15, 2017

A BILL TO BE ENTITLED
AN ACT TO REQUIRE THE TOWING AND STORAGE OF A MOTOR VEHICLE BEING
OPERATED BY A DRIVER CHARGED WITH AN UNLICENSED DRIVER VIOLATION.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-35.1. Towing and storage of vehicle for unlicensed driving.

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

(1) Innocent owner. – A motor vehicle owner who did not know and had no reason to know that the person charged did not have a valid drivers license.

(2) Unlicensed driver acknowledgement. – A written document acknowledging both of the following:

a. The motor vehicle was operated by a person charged with an unlicensed driver violation.

b. The motor vehicle owner has taken all reasonable precautions to prevent the use of the motor vehicle by the person charged and will immediately report, upon discovery, any unauthorized use to the appropriate law enforcement agency.

(3) Unlicensed driver violation. – A violation of any of the following:

a. G.S. 20-7(a) for failing to obtain a license before driving a motor vehicle.

b. G.S. 20-7(e) for failing to comply with drivers license restrictions.

c. G.S. 20-7(f) for operating a motor vehicle with an expired license.

(b) Towing and Storage. – At the time a person is charged with an unlicensed driver violation, the charging law enforcement officer shall have the vehicle driven by the person towed and stored, unless the person charged can contact a licensed driver while the charging law enforcement officer is present and the licensed driver can pick up the motor vehicle no later than one hour from the time the person charged initially contacted the licensed driver. A person in custody of a vehicle towed and stored pursuant to this subsection may charge a reasonable fee for storage not to exceed ten dollars (\$10.00) per calendar day.

(c) Release of Vehicle. – A person in custody of a vehicle towed and stored pursuant to subsection (b) of this section shall release the vehicle to its owner when both of the following conditions are met:

(1) The owner presents to the charging law enforcement agency (i) a valid drivers license and (ii) an unlicensed driver acknowledgment if the owner is an



* H 3 4 1 - V - 1 *

1 innocent owner. For an innocent owner, the charging law enforcement agency
2 shall also confirm the identity of the person as the owner of the motor vehicle.
3 The charging law enforcement agency shall present the owner with
4 documentation certifying that the owner has complied with the requirements set
5 forth in this subdivision.

6 (2) The owner submits to the person in custody of the vehicle (i) the documentation
7 provided by the charging law enforcement agency pursuant to subdivision (1)
8 of this subsection and (ii) payment in full of any towing and storage costs.

9 (d) Failure of Owner to Obtain Release. – Notwithstanding G.S. 44A-2(d), if the owner of
10 a motor vehicle towed and stored pursuant to subsection (b) of this section does not obtain release
11 of the vehicle within 90 days from the date the vehicle was towed and stored, the person in
12 custody of the motor vehicle has a mechanics' lien on the motor vehicle for the full amount of the
13 towing and storage costs incurred since the motor vehicle was towed and stored and may dispose
14 of the motor vehicle pursuant to Article 1 of Chapter 44A of the General Statutes.

15 (e) Construction. – If the person charged with an unlicensed driver violation is also
16 charged with a violation of law arising out of the same transaction that requires seizure of the
17 vehicle, nothing in this section shall be construed to alter or supersede the law requiring seizure of
18 the vehicle."

19 **SECTION 2.** G.S. 44A-2(d) reads as rewritten:

20 "(d) Any person who repairs, services, tows, or stores motor vehicles in the ordinary course
21 of the person's business pursuant to an express or implied contract with an owner or legal
22 possessor of the motor vehicle, except for a motor vehicle seized pursuant to ~~G.S.~~
23 ~~20-28.3~~, G.S. 20-28.3 or towed and stored pursuant to G.S. 20-35.1, has a lien upon the motor
24 vehicle for reasonable charges for such repairs, servicing, towing, storing, or for the rental of one
25 or more substitute vehicles provided during the repair, servicing, or storage. This lien shall have
26 priority over perfected and unperfected security interests. Payment for towing and storing a motor
27 vehicle seized pursuant to G.S. 20-28.3 shall be as provided for in G.S. 20-28.2 through
28 G.S. 20-28.5. Payment for towing and storing a motor vehicle pursuant to G.S. 20-35.1 shall be as
29 provided in G.S. 20-35.1."

30 **SECTION 3.** This act becomes effective December 1, 2017, and applies to charges
31 filed on or after that date.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 341

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H341-ATG-15 [v.4]

Page 1 of 1

Amends Title [NO]
H341-CSTG-10[v.2]

Date _____, 2017

Representative _____

1 moves to amend the bill on page 1, line 27, by rewriting the line to read:

2
3 "person towed and stored utilizing that law enforcement agency's current rotation system and
4 regulations pertaining to towing and storage, unless the person charged can contact a licensed
5 driver while the"; and

6
7 on page 1, lines 29-31, by rewriting the lines to read:

8
9 "vehicle within a reasonable time from the time the person charged initially contacted the
10 licensed driver."; and

11
12 on page 2, line 29, by rewriting the line to read:

13
14 "release of the motor vehicle that was towed and"; and

15
16 on page 2, lines 38-50, by rewriting the lines to read:

17
18 "SECTION 2. This act becomes effective December 1, 2017, and applies to
19 charges filed on or after that date."
20
21

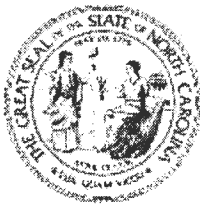
SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



* H 3 4 1 - A T G - 1 5 - V - 4 *



HOUSE BILL 464: Revise Schedule of Controlled Substances.

2017-2018 General Assembly

Committee: House Judiciary I
Introduced by: Reps. Horn, Murphy, Malone
Analysis of: PCS to Second Edition
H464-CSTY-5

Date: April 19, 2017
Prepared by: Jennifer Bedford
Legislative Analyst

OVERVIEW: *The PCS for House Bill 464 would amend the classification of controlled substances.*

[As introduced, this bill was identical to S347, as introduced by Sens. J. Davis, McInnis, which is currently in Senate Rules and Operations of the Senate.]

CURRENT LAW: Controlled substances are divided into six schedules:

- Schedule I-** Substances that have no current medical use, lack of accepted safety, and a high potential for abuse. *Heroin, GHB, MDMA.*
- Schedule II-** Substances that have a high potential for abuse and physical dependence, and limited medical use. *Cocaine, Opium, Oxycodone.*
- Schedule III-** Substances have a potential for abuse lower than Schedules I and II, and may lead to moderate physical dependence. *Ketamine, Secobarbital, Paregoric.*
- Schedule IV-** Substances in this schedule have a low potential for abuse relative to substances in Schedule III. *Clonazepam, Xanax, Valium.*
- Schedule V-** Substances in this section have a low potential for abuse, and have an accepted medical use. *Robitussin, Lyrica.*
- Schedule VI-** Substances in this schedule have a potential for abuse and dependence lower than Schedule V. *Marijuana.*

BILL ANALYSIS:

Section 1 would name the act "Synthetic Opioid and Other Dangerous Drug Control Act."

Section 2 would:

- Expand the definition of "isomer"¹.
- Add the term "opioid"².

Section 3 would amend Schedule I in the following ways:

- Exclude LAAM³ from the definition of "Opiates".
- Classify "Fentanyl⁴ Derivatives" as Schedule I Controlled Substances.

¹ Isomer. – Two or more compounds with the same formula but a different arrangement of atoms.

² Opioid. – An opium-like compound that affects the nervous system, and relieves pain.

³ LAAM. – A long-lasting medication similar to methadone to reduce drug cravings, and withdrawal.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House PCS 464

Page 2

- Reorganize Schedule I by naming subcategories.
- Add six hallucinogenic substances to Schedule I.
- Add three systemic depressants to Schedule I.
- Add four stimulants to Schedule I.
- Elevate "Synthetic Cannabinoids"⁵ to Schedule I Controlled Substances. (Currently classified as Schedule VI).

Section 4 would amend Schedule II by expanding the definition of opium, opiate, or opioid to include any quantity of hydrocodone⁶. (Currently small amounts are classified as Schedule III.)

Section 5 would amend Schedule III in the following ways:

- Make changes to conform to Section 4.
- Add one narcotic.
- Add four anabolic steroids.

Section 6 would amend Schedule IV in the following ways:

- Add four depressants.
- Add Tramadol⁷ as a "Narcotic Drug".

Section 7 would add the category of "Anticonvulsants"⁸, and specifically four anticonvulsants, to Schedule V.

Section 8 would repeal the law that classified synthetic cannabinoids as a Schedule VI controlled substance in order to conform to Section 3.

EFFECTIVE DATE: This act would be effective December 1, 2017 and apply to offenses committed on or after that date.

⁴ Fentanyl. – A fast-acting narcotic and sedative for pain relief.

⁵ Synthetic Cannabinoid. – Man-made mind-altering chemicals sprayed on dried plant material. (Sometimes marketed as "Spice", or "K2".)

⁶ Hydrocodone. – A narcotic for pain relief.

⁷ Tramadol. – A pain medication for moderate to severe pain.

⁸ Anticonvulsants. – Medication used to reduce the severity of seizures.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

2

HOUSE BILL 464*
Committee Substitute Favorable 4/5/17

Short Title: Revise Schedule of Controlled Substances.

(Public)

Sponsors:

Referred to:

March 27, 2017

1 A BILL TO BE ENTITLED
2 AN ACT REVISING THE SCHEDULE OF CONTROLLED SUBSTANCES TO ADD
3 SYNTHETIC FENTANYLS, DESIGNER HALLUCINOGENICS, SYNTHETIC
4 CANNABINOIDS, SYSTEM DEPRESSANTS, AND OTHER SUBSTANCES.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. This act shall be known and may be cited as the "Synthetic Opioid
7 and Other Dangerous Drug Control Act."

8 SECTION 2. G.S. 90-89 reads as rewritten:

9 "§ 90-89. Schedule I controlled substances.

10 This schedule includes the controlled substances listed or to be listed by whatever official
11 name, common or usual name, chemical name, or trade name designated. In determining that a
12 substance comes within this schedule, the Commission shall find: a high potential for abuse, no
13 currently accepted medical use in the United States, or a lack of accepted safety for use in
14 treatment under medical supervision. The following controlled substances are included in this
15 schedule:

- 16 (1) Opiates. — Any of the following opiates, including the isomers, esters, ethers,
17 salts and salts of isomers, esters, and ethers, unless specifically excepted, or
18 listed in another schedule, whenever the existence of such isomers, esters,
19 ethers, and salts is possible within the specific chemical designation:
20 a. Acetyl-alpha-methylfentanyl
21 (N[1-(1-methyl-2-phenethyl)-4/y-piperidiny]-N-phenylacet amide).
22 b. Acetylmethadol.
23 c. Repealed by Session Laws 1987, c. 412, s. 2.
24 d. Alpha-methylthiofentanyl
25 (N-[1-methyl-2-(2-thienyl)ethyl/y-4/y-piperidiny]-N-phenylpropana
26 mide).
27 e. Allylprodine.
28 f. Alphacetylmethadol.
29 g. Alphameprodine.
30 h. Alphamethadol.
31 i. Alpha-methylfentanyl (N-(1-(alpha-methyl-beta-phenyl)
32 ethyl-4-piperidyl) propionalilide;
33 1(1-methyl-2-phenyl-ethyl)-4-(N-propanilido) piperidine).
34 j. Benzethidine.
35 k. Betacetylmethadol.



1	l.	Beta-hydroxyfentanyl
2		(N-[1-(2-hydroxy-2-phenethyl)-4-piperidiny]-N-phenylpropanamide
3).
4	m.	Beta-hydroxy-3-methylfentanyl
5		(N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidiny]-N-pheny
6		lpropanamide).
7	n.	Betameprodine.
8	o.	Betamethadol.
9	p.	Betaprodine.
10	q.	Clonitazene.
11	r.	Dextromoramide.
12	s.	Diampromide.
13	t.	Diethylthiambutene.
14	u.	Difenoxin.
15	v.	Dimenoxadol.
16	w.	Dimepheptanol.
17	x.	Dimethylthiambutene.
18	y.	Dioxaphetyl butyrate.
19	z.	Dipipanone.
20	aa.	Ethylmethylthiambutene.
21	bb.	Etonitazene.
22	cc.	Etoxeridine.
23	dd.	Furethidine.
24	ee.	Hydroxypethidine.
25	ff.	Ketobemidone.
26	gg.	Levomoramide.
27	hh.	Levophenacymorphan.
28	ii.	1-methyl-4-phenyl-4-propionoxypiperidine (MPPP).
29	jj.	3-Methylfentanyl
30		(N-[3-methyl-1-(2-Phenylethyl)-4-Pi- peridyl]-N-Phenylpropanamid
31		e).
32	kk.	3-Methylthiofentanyl
33		(N-[(3-methyl-1-(2-thienyl)ethyl)-4-piperidiny]-N-phenylpropanam
34		ide).
35	ll.	Morpheridine.
36	mm.	Noracymethadol.
37	nn.	Norlevorphanol.
38	oo.	Normethadone.
39	pp.	Norpipanone.
40	qq.	Para-fluorofentanyl
41		(N-(4-fluorophenyl)-N-[1-(2-phen-ethyl)-4-piperidiny]-propanamide
42		.
43	rr.	Phenadoxone.
44	ss.	Phenampromide.
45	tt.	1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine (PEPAP).
46	uu.	Phenomorphane.
47	vv.	Phenoperidine.
48	ww.	Piritramide.
49	xx.	Proheptazine.
50	yy.	Properidine.
51	zz.	Propiram.

- 1 aaa. Racemoramide.
2 bbb. Thiofentanyl
3 (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide.
4 ccc. Tilidine.
5 ddd. Trimeperidine.
6 eee. Acetyl Fentanyl.
7 fff.

8 Trans-3,4-dichloro-N-(2(dimethylamino)cyclohexyl)-N-methyl-b
9 enzamide (U47700).

10 (1a) Fentanyl Derivatives. – Any compounds derived from
11 N-[1-(2-phenylethyl)-4-piperidinyl]-N-phenylpropanamide (Fentanyl) by
12 any substitution on or replacement of the phenethyl group, any substitution
13 on the piperidine ring, any substitution on or replacement of the
14 propanamide group, any substitution on the anilido phenyl group, or any
15 combination of the above unless specifically excepted or listed in another
16 schedule to include their salts, isomers, and salts of isomers. Fentanyl
17 derivatives include, but are not limited to, the following:

- 18 a. N-(1-phenylethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide (also
19 known as Furanyl Fentanyl).
20 b. N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide;
21 N-(1-phenethylpiperidin-4-yl)-N-phenylbutanamide (also known as
22 Butyryl Fentanyl).
23 c. N-[1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl]-N-
24 phenylpropionamide;
25 N-[1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidinyl]-N-phenylpropana
26 mide (also known as Beta-Hydroxythiofentanyl).
27 d. N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]-2propanamide (also
28 known as Acrylfentanyl).
29 e. N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-pentanamide (also
30 known as Valeryl Fentanyl).
31 f. N-(2-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-
32 propanamide (also known as 2-fluorofentanyl).
33 g. N-(3-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-
34 propanamide (also known as 3-fluorofentanyl).
35 h. N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-
36 carboxamide (also known as tetrahydrofuran fentanyl).
37 i. N-(4-fluorophenyl)-2-methyl-N-[1-(2-phenylethyl)-4-piperidinyl]-
38 propanamide (also known as 4-fluoroisobutyryl fentanyl, 4-FIBF).
39 j. N-(4-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide
40 (also known as 4-fluorobutyryl fentanyl, 4-FBF).

41 (2) Opium Derivatives. – Any of the following opium derivatives, including
42 their salts, isomers, and salts of isomers, unless specifically excepted, or
43 listed in another schedule, whenever the existence of such salts, isomers, and
44 salts of isomers is possible within the specific chemical designation:

- 45 a. Acetorphine.
46 b. Acetyldihydrocodeine.
47 c. Benzylmorphine.
48 d. Codeine methylbromide.
49 e. Codeine-N-Oxide.
50 f. Cyprenorphine.
51 g. Desomorphine.

- 1 h. Dihydromorphine.
- 2 i. Etorphine (except hydrochloride salt).
- 3 j. Heroin.
- 4 k. Hydromorphenol.
- 5 l. Methylodesorphine.
- 6 m. Methyldihydromorphine.
- 7 n. Morphine methylbromide.
- 8 o. Morphine methylsulfonate.
- 9 p. Morphine-N-Oxide.
- 10 q. Myrophine.
- 11 r. Nicocodeine.
- 12 s. Nicomorphine.
- 13 t. Normorphine.
- 14 u. Pholcodine.
- 15 v. Thebacon.
- 16 w. Drotebanol.
- 17 (3) Hallucinogenic Substances. — Any material, compound, mixture, or
- 18 preparation which contains any quantity of the following hallucinogenic
- 19 substances, including their salts, isomers, and salts of isomers, unless
- 20 specifically excepted, or listed in another schedule, whenever the existence
- 21 of such salts, isomers, and salts of isomers is possible within the specific
- 22 chemical designation:
- 23 a. 3, 4-methylenedioxyamphetamine.
- 24 b. 5-methoxy-3, 4-methylenedioxyamphetamine.
- 25 c. 3, 4-Methylenedioxymethamphetamine (MDMA).
- 26 d. 3,4-methylenedioxy-N-ethylamphetamine (also known as
- 27 N-ethyl-alpha-methyl-3,4-(methylenedioxy)phenethylamine, N-ethyl
- 28 MDA, MDE, and MDEA).
- 29 e. N-hydroxy-3,4-methylenedioxyamphetamine (also known as
- 30 N-hydroxy/y-alpha-methyl-3,4-(methylenedioxy)phenethylamine,
- 31 and N-hydroxy MDA).
- 32 f. 3, 4, 5-trimethoxyamphetamine.
- 33 g. Alpha-ethyltryptamine. Some trade or other names: etryptamine,
- 34 Monase, alpha-ethyl-1H-indole-3- ethanamine, 3-(2-aminobutyl)
- 35 indole, alpha-ET, and AET.
- 36 h. Bufotenine.
- 37 i. Diethyltryptamine.
- 38 j. Dimethyltryptamine.
- 39 k. 4-methyl-2, 5-dimethoxyamphetamine.
- 40 l. Ibogaine.
- 41 m. Lysergic acid diethylamide.
- 42 n. Mescaline.
- 43 o. Peyote, meaning all parts of the plant presently classified botanically
- 44 as Lophophora Williamsii Lemaire, whether growing or not; the
- 45 seeds thereof; any extract from any part of such plant; and every
- 46 compound, manufacture, salt, derivative, mixture or preparation of
- 47 such plant, its seed or extracts.
- 48 p. N-ethyl-3-piperidyl benzilate.
- 49 q. N-methyl-3-piperidyl benzilate.
- 50 r. Psilocybin.
- 51 s. Psilocin.

- 1 t. 2, 5-dimethoxyamphetamine.
2 u. 2, 5-dimethoxy-4-ethylamphetamine. Some trade or other names:
3 DOET.
4 v. 4-bromo-2, 5-dimethoxyamphetamine.
5 w. 4-methoxyamphetamine.
6 x. Ethylamine analog of phencyclidine. Some trade or other names:
7 N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine,
8 N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE.
9 y. Pyrrolidine analog of phencyclidine. Some trade or other names:
10 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP.
11 z. Thiophene analog of phencyclidine. Some trade or other names:
12 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of
13 phencyclidine, TPCP, TCP.
14 aa. 1-[1-(2-thienyl)cyclohexyl]pyrrolidine; Some other names: TCPy.
15 bb. Parahexyl.
16 cc. 4-Bromo-2, 5-Dimethoxyphenethylamine.
17 dd. Alpha-Methyltryptamine.
18 ee. 5-Methoxy-n-diisopropyltryptamine.
19 ff. Methoxetamine (other names: MXE, 3-MeO-2-Oxo-PCE).
20 gg. BTCP (Benzothiophenylcyclohexylpiperidine).
21 hh. Deschloroketamine.
22 jj. 3-MeO-PCP (3-methoxyphencyclidine).
23 kk. 4-hydroxy-MET.
24 ll. 4-OH-MiPT (4-hydroxy-N-methyl-N-isopropyltryptamine).
25 mm. 5-methoxy-N-methyl-N-propyltryptamine (5-MeO-MiPT).
26 (4) Systemic Depressants. – Any material compound, mixture, or preparation
27 which contains any quantity of the following substances having a depressant
28 effect on the central nervous system, including its salts, isomers, and salts of
29 isomers whenever the existence of such salts, isomers, and salts of isomers is
30 possible within the specific chemical designation, unless specifically
31 excepted or unless listed in another schedule:
32 a. Mecloqualone.
33 b. Methaqualone.
34 c. Gamma hydroxybutyric acid; Some other names: GHB,
35 gamma-hydroxybutyrate, 4-hydroxybutyrate, 4-hydroxybutanoic
36 acid; sodium oxybate; sodium oxybutyrate.
37 d. Etizolam.
38 e. Flubromazepam.
39 (5) Stimulants. – Unless specifically excepted or unless listed in another
40 schedule, any material, compound, mixture, or preparation that contains any
41 quantity of the following substances having a stimulant effect on the central
42 nervous system, including its salts, isomers, and salts of isomers:
43 a. Aminorex. Some trade or other names: aminoxaphen;
44 2-amino-5-phenyl-2-oxazoline; or
45 4,5-dihydro-5-phenyl-2-oxazolamine.
46 b. Cathinone. Some trade or other names:
47 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone,
48 2-aminopropiophenone, and norephedrone.
49 c. Fenethylamine.
50 d. Methcathinone. Some trade or other names:
51 2-(methylanino)- propiophenone,

- alpha-(methylamino)propionophenone,
2-(methylamino)-1-phenylpropan-1-one,
alpha-N-methylamino-propionophenone, monomethylpropion,
ephedrone, N-methylcathinone, methylcathinone, AL-464, AL-422,
AL-463, and UR1432.
- e. (+-)-cis-4-methylaminorex
[(+)-cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazoline] (also known
as 2-amino-4-methyl-5-phenyl-2-oxazoline).
- f. N,N-dimethylamphetamine. Some other names:
N,N,alpha-trimethylbenzeneethanamine;
N,N,alpha-trimethylphenethylamine.
- g. N-ethylamphetamine.
- h. 4-methylmethcathinone (also known as mephedrone).
- i. 3,4-Methylenedioxypyrovalerone (also known as MDPV).
- j. A compound, other than bupropion, that is structurally derived from
2-amino-1-phenyl-1-propanone by modification in any of the
following ways: (i) by substitution in the phenyl ring to any extent
with alkyl, alkoxy, alkylenedioxy, haloalkyl, or halide substituents,
whether or not further substituted in the phenyl ring by one or more
other univalent substituents; (ii) by substitution at the 3-position with
an alkyl substituent; or (iii) by substitution at the nitrogen atom with
alkyl or dialkyl groups or by inclusion of the nitrogen atom in a
cyclic structure.
- k. N-Benzylpiperazine.
- l. 2,5-Dimethoxy-4-(n)-propylthiophenethylamine.
- (6) NBOMe Compounds. – Any material compound, mixture, or preparation
which contains any quantity of the following substances, including its salts,
isomers, and salts of isomers whenever the existence of such salts, isomers,
and salts of isomers is possible within the specific chemical designation
unless specifically excepted or unless listed in another schedule:
- a. 25B-NBOMe
(2C-B-NBOMe)-2-(4-Bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine.
- b. 25C-NBOMe
(2C-C-NBOMe)-2-(4-Chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine.
- c. 25D-NBOMe
(2C-D-NBOMe)-2-(2,5-dimethoxy-4-methylphenyl)-N-(2-methoxybenzyl)ethanamine.
- d. 25E-NBOMe
(2C-E-NBOMe)-2-(4-Ethyl-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine.
- e. 25G-NBOMe
(2C-G-NBOMe)-2-(2,5-dimethoxy-3,4-dimethylphenyl)-N-(2-methoxybenzyl)ethanamine.
- f. 25H-NBOMe
(2C-H-NBOMe)-2-(2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine.
- g. 25I-NBOMe
(2C-I-NBOMe)-2-(4-Iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine.

- h. 25N-NBOMe
(2C-N-NBOMe)-2-(2,5-dimethoxy-4-nitrophenyl)-N-(2-methoxybenzyl)ethanamine.
- i. 25P-NBOMe
(2C-P-NBOMe)-2-(4-Propyl-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine.
- j. 25T2-NBOMe
(2C-T2-NBOMe)-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-4-(methylthio)-benzeneethanamine.
- k. 25T4-NBOMe
(2C-T4-NBOMe)-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-4-[(1-methylethyl)thio]-benzeneethanamine.
- l. 25T7-NBOMe
(2C-T7-NBOMe)-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-4-(propylthio)-benzeneethanamine."
- (7) Synthetic Cannabinoids. – Any quantity of any synthetic chemical compound that (i) is a cannabinoid receptor agonist and mimics the pharmacological effect of naturally occurring substances or (ii) has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is not listed as a controlled substance in Schedule I through V, and is not an FDA-approved drug. Synthetic cannabinoids include, but are not limited to, the substances listed in sub-subdivisions a. through p. of this subdivision and any substance that contains any quantity of their salts, isomers (whether optical, positional, or geometric), homologues, and salts of isomers and homologues, unless specifically excepted, whenever the existence of these salts, isomers, homologues, and salts of isomers and homologues is possible within the specific chemical designation. The following substances are examples of synthetic cannabinoids and are not intended to be inclusive of the substances included in this Schedule:
- a. Naphthoylindoles. Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Some trade or other names: JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200, JWH-210, JWH-398, AM-2201, and WIN 55-212.
- b. Naphthylmethylindoles. Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent.
- c. Naphthoylpyrroles. Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the pyrrole ring to any extent

and whether or not substituted in the naphthyl ring to any extent.
Another name: JWH-307.

d. Naphthylmethylindenes. Any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent.

e. Phenylacetylindoles. Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Some trade or other names: SR-18, RCS-8, JWH-250, and JWH-203.

f. Cyclohexylphenols. Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not substituted in the cyclohexyl ring to any extent. Some trade or other names: CP 47,497 (and homologues), cannabicyclohexanol.

g. Benzoylindoles. Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Some trade or other names: AM-694, Pravadoline (WIN 48,098), and RCS-4.

h. 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone. Some trade or other names: WIN 55,212-2.

i. (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl) - 6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol 7370. Some trade or other names: HU-210.

j. 3-(cyclopropylmethanone) indole or 3-(cyclobutylmethanone) indole or 3-(cyclopentylmethanone) indole by substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not further substituted on the cyclopropyl, cyclobutyl, or cyclopentyl rings to any extent. Substances in this class include, but are not limited to: UR-144, fluoro-UR-144, XLR-11, A-796,260, and A-834,735.

k. Indole carboxaldehydes. Any compound structurally derived from 1H-indole-3-carboxaldehyde or 1H-indole-2-carboxaldehyde substituted in both of the following ways:

1. At the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,

1 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl,
2 1-(N-methyl-2-pyrrolidinyl)methyl,
3 1-(N-methyl-3-morpholinyl)methyl,
4 tetrahydropyranylmethyl, benzyl, or halo benzyl group; and
5 2. At the carbon of the carboxaldehyde by a phenyl, benzyl,
6 naphthyl, adamantyl, cyclopropyl, or propionaldehyde group;
7 whether or not the compound is further modified to any extent in the
8 following ways: (i) substitution to the indole ring to any extent, (ii)
9 substitution to the phenyl, benzyl, naphthyl, adamantyl, cyclopropyl,
10 or propionaldehyde group to any extent, (iii) a nitrogen heterocyclic
11 analog of the indole ring, or (iv) anitrogen heterocyclic analog of the
12 phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring. Substances
13 in this class include but are not limited to: AB-001.

14 *l.* Indole carboxamides. Any compound structurally derived from
15 1H-indole-3-carboxamide or 1H-indole-2-carboxamide substituted in
16 both of the following ways:

17 1. At the nitrogen atom of the indole ring by an alkyl, haloalkyl,
18 cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
19 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl,
20 1-(N-methyl-2-pyrrolidinyl)methyl,
21 1-(N-methyl-3-morpholinyl)methyl,
22 tetrahydropyranylmethyl, benzyl, or halo benzyl group; and
23 2. At the nitrogen of the carboxamide by a phenyl, benzyl,
24 naphthyl, adamantyl, cyclopropyl, or propionaldehyde group;
25 whether or not the compound is further modified to any extent in the
26 following ways: (i) substitution to the indole ring to any extent, (ii)
27 substitution to the phenyl, benzyl, naphthyl, adamantyl, cyclopropyl,
28 or propionaldehyde group to any extent, (iii) a nitrogen heterocyclic
29 analog of the indole ring, or (iv) a nitrogen heterocyclic analog of the
30 phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring. Substances
31 in this class include, but are not limited to: SDB-001 and STS-135.

32 *m.* Indole carboxylic acids. Any compound structurally derived from
33 1H-indole-3-carboxylic acid or 1H-indole-2-carboxylic acid
34 substituted in both of the following ways:

35 1. At the nitrogen atom of the indole ring by an alkyl, haloalkyl,
36 cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
37 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl,
38 1-(N-methyl-2-pyrrolidinyl)methyl,
39 1-(N-methyl-3-morpholinyl)methyl,
40 tetrahydropyranylmethyl, benzyl, or halo benzyl group; and
41 2. At the nitrogen of the carboxamide by a phenyl, benzyl,
42 naphthyl, adamantyl, cyclopropyl, or propionaldehyde group;
43 whether or not the compound is further modified to any
44 extent in the following ways: (i) substitution to the indole ring
45 to any extent, (ii) substitution to the phenyl, benzyl, naphthyl,
46 adamantyl, cyclopropyl, or propionaldehyde group to any
47 extent, (iii) a nitrogen heterocyclic analog of the indole ring,
48 or (iv) a nitrogen heterocyclic analog of the phenyl, benzyl,
49 naphthyl, adamantyl, or cyclopropyl ring. Substances in this
50 class include, but are not limited to: SDB-001 and STS-135.

whether or not the compound is further modified to any extent in the following ways: (i) substitution to the indole ring to any extent, (ii) substitution to the phenyl, benzyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group to any extent, (iii) a nitrogen heterocyclic analog of the indole ring, or (iv) a nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring. Substances in this class include, but are not limited to: PB-22 and fluoro-PB-22.

n. Indazole carboxaldehydes. Any compound structurally derived from 1H-indazole-3-carboxaldehyde or 1H-indazole-2-carboxaldehyde substituted in both of the following ways:

1. At the nitrogen atom of the indazole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group; and

2. At the carbon of the carboxaldehyde by a phenyl, benzyl, whether or not the compound is further modified to any extent in the following ways: (i) substitution to the indazole ring to any extent, (ii) substitution to the phenyl, benzyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group to any extent, (iii) a nitrogen heterocyclic analog of the indazole ring, or (iv) a nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.

o. Indazole carboxamides. Any compound structurally derived from 1H-indazole-3-carboxamide or 1H-indazole-2-carboxamide substituted in both of the following ways:

1. At the nitrogen atom of the indazole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group; and

2. At the nitrogen of the carboxamide by a phenyl, benzyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group; whether or not the compound is further modified to any extent in the following ways: (i) substitution to the indazole ring to any extent, (ii) substitution to the phenyl, benzyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group to any extent, (iii) a nitrogen heterocyclic analog of the indazole ring, or (iv) a nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring. Substances in this class include, but are not limited to: AKB-48, fluoro-AKB-48, APINCACA, AB-PINACA, AB-FUBINACA, ADB-FUBINACA, and ADB-PINACA.

p. Indazole carboxylic acids. Any compound structurally derived from 1H-indazole-3-carboxylic acid or 1H-indazole-2-carboxylic acid substituted in both of the following ways:

1. At the nitrogen atom of the indazole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl,

1 1-(N-methyl-3-morpholinyl)methyl,
2 tetrahydropyranylmethyl, benzyl, or halo benzyl group; and
3 2. At the hydroxyl group of the carboxylic acid by a phenyl,
4 benzyl, naphthyl, adamantyl, cyclopropyl, or
5 propionaldehyde group;
6 whether or not the compound is further modified to any extent in the
7 following ways: (i) substitution to the indazole ring to any extent, (ii)
8 substitution to the phenyl, benzyl, naphthyl, adamantyl, cyclopropyl,
9 or propionaldehyde group to any extent, (iii) a nitrogen heterocyclic
10 analog of the indazole ring, or (iv) a nitrogen heterocyclic analog of
11 the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring."

12 **SECTION 3. G.S. 90-90 reads as rewritten:**

13 **"§ 90-90. Schedule II controlled substances.**

14 This schedule includes the controlled substances listed or to be listed by whatever official
15 name, common or usual name, chemical name, or trade name designated. In determining that a
16 substance comes within this schedule, the Commission shall find: a high potential for abuse;
17 currently accepted medical use in the United States, or currently accepted medical use with
18 severe restrictions; and the abuse of the substance may lead to severe psychic or physical
19 dependence. The following controlled substances are included in this schedule:

20 (1) Any of the following substances whether produced directly or indirectly by
21 extraction from substances of vegetable origin, or independently by means
22 of chemical synthesis, or by a combination of extraction and chemical
23 synthesis, unless specifically excepted or unless listed in another schedule:

24 a. Opium and opiate, and any salt, compound, derivative, or preparation
25 of opium and opiate, excluding apomorphine, nalbuphine,
26 dextrophan, naloxone, naltrexone and nalmefene, and their
27 respective salts, but including the following:

- 28 1. Raw opium.
- 29 2. Opium extracts.
- 30 3. Opium fluid extracts.
- 31 4. Powdered opium.
- 32 5. Granulated opium.
- 33 6. Tincture of opium.
- 34 7. Codeine.
- 35 8. Ethylmorphine.
- 36 9. Etorphine hydrochloride.
- 37 10. ~~Hydrocodone.~~ Any material, compound, mixture, or
38 preparation which contains any quantity of hydrocodone.
- 39 11. Hydromorphone.
- 40 12. Metopon.
- 41 13. Morphine.
- 42 14. Oxycodone.
- 43 15. Oxymorphone.
- 44 16. Thebaine.
- 45 17. Dihydroetorphine.

46 b. Any salt, compound, derivative, or preparation thereof which is
47 chemically equivalent or identical with any of the substances referred
48 to in paragraph 1 of this subdivision, except that these substances
49 shall not include the isoquinoline alkaloids of opium.

50 c. Opium poppy and poppy straw.

- d. Cocaine and any salt, isomer, salts of isomers, compound, derivative, or preparation thereof, or coca leaves and any salt, isomer, salts of isomers, compound, derivative, or preparation of coca leaves, or any salt, isomer, salts of isomers, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocanized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine.
- e. Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrine alkaloids of the opium poppy).

...."

SECTION 4. G.S. 90-91 reads as rewritten:

"§ 90-91. Schedule III controlled substances.

This schedule includes the controlled substances listed or to be listed by whatever official name, common or usual name, chemical name, or trade name designated. In determining that a substance comes within this schedule, the Commission shall find: a potential for abuse less than the substances listed in Schedules I and II; currently accepted medical use in the United States; and abuse may lead to moderate or low physical dependence or high psychological dependence. The following controlled substances are included in this schedule:

...

(d) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof unless specifically exempted or listed in another schedule:

1. Not more than 1.80 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit with an equal or greater quantity of an isoquinoline alkaloid of opium.
2. Not more than 1.80 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
3. ~~Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit with a four fold or greater quantity of an isoquinoline alkaloid of opium.~~
4. ~~Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.~~
5. Not more than 1.80 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
6. Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
7. Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
8. Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
9. Buprenorphine.

...

(k) Anabolic steroids. The term "anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, including, but not limited to, the following:

1. Methandrostenolone,
2. Stanozolol,
3. Ethylestrenol,
4. Nandrolone phenpropionate,
5. Nandrolone decanoate,
6. Testosterone propionate,
7. Chorionic gonadotropin,
8. Boldenone,
- 8a. Boldione.
9. Chlorotestosterone (4-chlorotestosterone),
10. Clostebol,
11. Dehydrochlormethyltestosterone,
- 11a. Desoxymethyltestosterone
(17[alpha]-methyl-5[alpha]-androst-2-en-17[beta]-ol) (also known as madol),
12. Dibydrotestosterone (4-dihydrotestosterone),
13. Drostanolone,
14. Fluoxymesterone,
15. Formebolone (formebolone),
16. Mesterolene,
17. Methandienone,
18. Methandranone,
19. Methandriol,
- 19a. Methasterone.
20. Methenolene,
21. Methyltestosterone,
22. Mibolerone,
23. Nandrolene,
24. Norethandrolene,
25. Oxandrolone,
26. Oxymesterone,
27. Oxymetholone,
28. Stanolone,
29. Testolactone,
30. Testosterone,
31. Trenbolone, ~~and~~
- 31a. 19-nor-4, 9(10)-androstadienedione (estra-4, 9(10)-diene-3, 17-dione), and
32. Any salt, ester, or isomer of a drug or substance described or listed in this subsection, if that salt, ester, or isomer promotes muscle growth. Except such term does not include (i) an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for such administration or (ii) chorionic gonadotropin when administered by injection for veterinary use by a licensed veterinarian or the veterinarian's designated agent. If any person prescribes, dispenses, or distributes such steroid for human use, such person shall be considered to

have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this subsection.

...."

SECTION 5. G.S. 90-92(a) reads as rewritten:

"(a) This schedule includes the controlled substances listed or to be listed by whatever official name, common or usual name, chemical name, or trade name designated. In determining that a substance comes within this schedule, the Commission shall find: a low potential for abuse relative to the substances listed in Schedule III of this Article; currently accepted medical use in the United States; and limited physical or psychological dependence relative to the substances listed in Schedule III of this Article. The following controlled substances are included in this schedule:

(1) Depressants. – Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- a. Alprazolam.
- b. Barbitol.
- c. Bromazepam.
- d. Camazepam.
- dl. Carisoprodol.
- e. Chloral betaine.
- f. Chloral hydrate.
- g. Chlordiazepoxide.
- h. Clobazam.
- i. Clonazepam.
- j. Clorazepate.
- k. Clotiazepam.
- l. Cloxazolam.
- m. Delorazepam.
- n. Diazepam.
- nl. Dichloralphenazone.
- o. Estazolam.
- p. Ethchlorvynol.
- q. Ethinamate.
- r. Ethyl loflazepate.
- s. Fludiazepam.
- t. Flunitrazepam.
- u. Flurazepam.
- ul. Fospropol.
- v. Repealed by Session Laws 2000, c. 140, s. 92.2(c).
- w. Halazepam.
- x. Haloxazolam.
- y. Ketazolam.
- z. Loprazolam.
- aa. Lorazepam.
- bb. Lormetazepam.
- cc. Mebutamate.
- dd. Medazepam.
- ee. Meprobamate.
- ff. Methohexital.

gg. Methylphenobarbital (mephobarbital).
hh. Midazolam.
ii. Nimetazepam.
jj. Nitrazepam.
kk. Nordiazepam.
ll. Oxazepam.
mm. Oxazolam.
nn. Paraldehyde.
oo. Petrichloral.
pp. Phenobarbital.
qq. Pinazepam.
rr. Prazepam.
ss. Quazepam.
tt. Temazepam.
uu. Tetrazepam.
uul. Tramadol.
vv. Triazolam.
ww. Zolpidem.
xx. Zaleplon.
yy. Zopiclone.

- ...
- (5) Narcotic Drugs. – Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of ~~any of the following narcotic drugs, or any salts thereof:~~
- a. ~~Not not~~ more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.
- b. ~~Buprenorphine.~~"

SECTION 6. G.S. 90-93(a) is amended by adding a new subdivision to read:

"(4) Anticonvulsants. – Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

- a. Ezogabine.
b. Lacosamide."

SECTION 7. G.S. 90-94(3) is repealed.

SECTION 8. This act becomes effective December 1, 2017, and applies to offenses committed on or after that date.

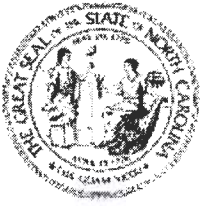
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HOUSE BILL 502: Define "Consumer" - Auto Renewal Contracts.

2017-2018 General Assembly

Committee: House Judiciary I
Introduced by: Rep. Bradford
Analysis of: First Edition

Date: April 18, 2017
Prepared by: Bill Patterson
Committee Co-Counsel

OVERVIEW: *House Bill 502 defines the term "consumer" for purposes of the law governing contracts with automatic renewal clauses.*

CURRENT LAW: G.S. 75-41 makes an automatic renewal clause in a contract for the sale, lease of products or services to a consumer for a term exceeding 60 days void and unenforceable unless the consumer is given written notice that the contract will automatically renew if the consumer does not cancel it. The term "consumer" is not defined for purposes of this section.

BILL ANALYSIS: House Bill 502 would amend G.S. 75-41 to define "consumer" for purposes of this section as "any natural person who purchases or leases any products or services pursuant to a contract containing an automatic renewal clause for personal, family, household, or agricultural purposes."

EFFECTIVE DATE: This act becomes effective on October 1, 2017, and applies to contracts entered into on or after that date.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 502

Short Title: Define "Consumer" - Auto Renewal Contracts. (Public)

Sponsors: Representative Bradford.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I

March 29, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO DEFINE THE TERM "CONSUMER" FOR PURPOSES OF THE LAW
3 RELATED TO CONTRACTS WITH AUTOMATIC RENEWAL CLAUSES.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 75-41 is amended by adding a new subsection to read:

6 **"§ 75-41. Contracts with automatic renewal clauses.**

7 (a) Any person engaged in commerce that sells, leases, or offers to sell or lease, any
8 products or services to a consumer pursuant to a contract, where the contract automatically
9 renews unless the consumer cancels the contract, shall do all of the following:

10 (1) Disclose the automatic renewal clause clearly and conspicuously in the
11 contract or contract offer.

12 (2) Disclose clearly and conspicuously how to cancel the contract in the initial
13 contract, contract offer, or with delivery of products or services.

14 (3) For any automatic renewal exceeding 60 days, provide written notice to the
15 consumer by personal delivery, electronic mail, or first-class mail, at least 15
16 days but no earlier than 45 days before the date the contract is to be
17 automatically renewed, stating the date on which the contract is scheduled to
18 automatically renew and notifying the consumer that the contract will
19 automatically renew unless it is cancelled by the consumer prior to that date.

20 (4) If the terms of the contract will change upon the automatic renewal of the
21 contract, disclose the changing terms of the contract clearly and
22 conspicuously on the notification in at least 12 point type and in bold print.

23 (b) Repealed by Session Laws 2016-113, s. 16(a), effective July 26, 2016, and
24 applicable to contracts entered into on or after that date.

25 (c) A person that fails to comply with the requirements of this section is in violation of
26 this section unless the person demonstrates that all of the following are its routine business
27 practice:

28 (1) The person has established and implemented written procedures to comply
29 with this section and enforces compliance with the procedures.

30 (2) Any failure to comply with this section is the result of error.

31 (3) Where an error has caused the failure to comply with this section, the person
32 provides a full refund or credit for all amounts billed to or paid by the
33 consumer from the date of the renewal until the date of the termination of the
34 contract, or the date of the subsequent notice of renewal, whichever occurs
35 first.



(d) This section does not apply to insurers licensed under Chapter 58 of the General Statutes, or to banks, trust companies, savings and loan associations, savings banks, or credit unions licensed or organized under the laws of any state or the United States, or any foreign bank maintaining a branch or agency licensed under the laws of the United States, or any subsidiary or affiliate thereof, nor does this section apply to any entity subject to regulation by the Federal Communications Commission under Title 47 of the United States Code or by the North Carolina Utilities Commission under Chapter 62 of the General Statutes, or to any entity doing business directly or through an affiliate pursuant to a franchise, license, certificate, or other authorization issued by a political subdivision of the State or an agency thereof.

(d1) For purposes of this section, the term "consumer" means any natural person who purchases or leases any products or services pursuant to a contract containing an automatic renewal clause for personal, family, household, or agricultural purposes.

(e) A violation of this section renders the automatic renewal clause void and unenforceable."

SECTION 2. This act becomes effective October 1, 2017, and applies to contracts entered into on or after that date.



NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

JUDICIARY I COMMITTEE REPORT
Representative Ted Davis, Jr., Chair

FAVORABLE

HB 224 Warrant Check of Inmates in Custody.
Draft Number: None
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: Rogers

HB 502 Define "Consumer" - Auto Renewal Contracts.
Draft Number: None
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: Bradford

HB 677 Amend Who Can Serve on Three-Judge Panel.
Draft Number: None
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: Stevens

FAVORABLE AND RE-REFERRED

HB 242 License Plate Reader Systems in State ROWs.
Draft Number: None
Serial Referral: REGULATORY REFORM
Recommended Referral: None
Long Title Amended: No
Floor Manager: Faircloth

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL

HB 227 Preserve Tenancy by the Entirety.
Draft Number: H227-PCS40492-MN-1
Serial Referral: None
Recommended Referral: None
Long Title Amended: Yes
Floor Manager: Davis



* C M R 2 3 9 - V - 2 *



**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

**JUDICIARY I COMMITTEE REPORT
Representative Ted Davis, Jr., Chair**

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB 236

NCAOC Omnibus Bill.

Draft Number: H236-PCS40499-BC-15

Serial Referral: **STATE AND LOCAL
GOVERNMENT II**

Recommended Referral: None

Long Title Amended: No

Floor Manager: R. Turner

FAVORABLE COM SUB NO. 2, UNFAVORABLE COM SUB NO. 1

HB 464 (CS#1)

Revise Schedule of Controlled Substances.

Draft Number: H464-PCS40507-TT-9

Serial Referral: None

Recommended Referral: None

Long Title Amended: No

Floor Manager: Horn

TOTAL REPORTED: 2



* C M R 2 5 7 - V - 2 *



FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB 616

North Carolina Public Benefit Corporation Act.

Draft Number: H616-PCS40496-BC-14

Serial Referral: **COMMERCE AND JOB
DEVELOPMENT**

Recommended Referral: None

Long Title Amended: No

Floor Manager: McGrady

TOTAL REPORTED: 6



* C M R 2 3 9 - V - 2 *



VISITOR REGISTRATION SHEET

Judiciary I
Appropriations Committee on Justice and Public Safety

Date: _____

4/19/17

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
✓ Sgt John Maulsby	Raleigh Police Dept 6716 Six Forks Rd, Raleigh
✓ Chief Cassandra Deck-Brown	Raleigh Police Dept
Sarah Gillbody	AB227 ACLU
James Creekman	NC Bar HB227
Bert Kemp	NC Courts Commission Focus Carolina Fore
✓ Cady Thomas	NC REALTORS H 502
✓ Weyne Coleman	



VISITOR REGISTRATION SHEET

Judiciary I
Appropriations Committee on Justice and Public Safety

Date: _____

4/19/17

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Unda F. Johnson	NCBA
John McLean	NCBA
AMES SIMMONS	EQUALITY NC
Dodie Roper	CCR



Corrected #1: Add HB684

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Thursday, April 20, 2017
TIME: 11:00 AM
LOCATION: 421 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 819</u>	Protect NC Right to Work Constitutional Amend.	Representative Burr Representative Dixon Representative Presnell Representative Millis
<u>HB 820</u>	Protect Right to Work/Conforming Changes.	Representative Burr Representative Dixon Representative K. Hall Representative Saine
<u>HB 684</u>	Sex Offender Registry Fee.	Representative Hastings Representative Davis Representative R. Turner Representative Zachary

Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 3:32 PM on Friday, April 21, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Judy Lowe (Committee Assistant)



**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Thursday, April 20, 2017
TIME: 11:00 AM
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<u>HB 820</u>	Protect Right to Work/Conforming Changes.	Representative Burr Representative Dixon Representative K. Hall Representative Saine

Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 5:26 PM on Wednesday, April 19, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Judy Lowe (Committee Assistant)



House Committee on Judiciary I
Thursday, April 20, 2017, 11:00 AM
421 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Sergeants at Arms

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 819	Protect NC Right to Work Constitutional Amend.	Representative Burr Representative Dixon Representative Presnell Representative Millis
HB 820	Protect Right to Work/Conforming Changes.	Representative Burr Representative Dixon Representative K. Hall Representative Saine
HB 684	Sex Offender Registry Fee.	Representative Hastings Representative Davis Representative R. Turner Representative Zachary

Adjournment



House Committee on Judiciary I
Thursday, April 20, 2017 at 11:00 AM
Room 421 of the Legislative Office Building

MINUTES

The House Committee on Judiciary I met at 11:00 AM on April 20, 2017 in Room 421 of the Legislative Office Building. Representatives Davis, Hall, Jackson, Stevens, Turner, Arp, Farmer-Butterfield, Howard, Martin, Meyer, Rogers and Steinburg attended. Staff members Bill Patterson, Jennifer Bedford, Jason Moran-Bates and Judy Lowe, Committee Clerk also attended.

Representative Ted Davis, Jr. presided. He introduced the Sergeants-at-Arms Bill, Bass, Mark Cone and Will Crocker.

The following bills were considered:

HB 684 Sex Offender Registry Fee. Representatives Hastings, Davis, R. Turner, Zachary. Representative Hastings explained that the bill would require individuals who must register as sex offenders to pay an annual registration fee of \$90 beginning on the date of registration and then on each anniversary of that date. Representative Stevens asked if there was any consideration for the indigent. Representative Hastings said it was contemplated. Ms. Bedford noted that the fee was not tied to compliance. Representative Rogers moved for a favorable report with a re-referral to Finance. The motion passed unanimously.

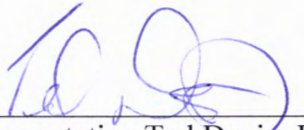
HB 819 Protect NC Right to Work Constitutional Amend. Representatives Burr, Dixon, Presnell, Millis. Representative Burr explained that the bill would submit an amendment to the North Carolina Constitution to voters in the November 6, 2018 election. The proposed amendment would prohibit employers from requiring employees to join a labor organization, to refrain from joining a labor organization, or to pay dues to a labor organization as a condition of employment. Representative Martin asked, if it passes, how would the law be different? Representative Farmer-Butterfield asked what led to sponsoring this bill. Representative Burr responded it is a step to strengthen and take one step further. Representative Meyer said he was not a fan of tinkering with the Constitution and will not support. Representative Arp indicated he was 100% in favor as it gives voters a choice by not being compelled to join an organization/union. Representative Turner noted it was a perfect time to consider what voters want. Representative Meyer stated the bulk of the Constitution deals with limits. Representative Burr said there are protections in our Constitution for individual's rights. Aiden Graham, representing the NC AFL-CIO said such a law has been on the books for 70 years and the bill is confusing. No worker is ever compelled to join a union. Representative Arp moved for a favorable report with a re-referral to Rules, Calendar and Operations of the House. The motion carried on a 6-5 vote.

HB 820 Protect Right to Work/Conforming Changes. Representatives Burr, Dixon, K. Hall, Saine. Representative Burr noted that **HB820** would amend the Declaration of Policy as to Labor Organizations, Article 10 of chapter 95 of the GS, to clarify that the term "labor

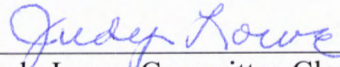


organization” means “any trade union, labor union, or other labor association.” It would make several technical and conforming changes throughout Article 10. These changes would only be effective if the amendment to the NC Constitution proposed by **HB819** is approved. Representative Stevens moved for a favorable report. The motion passed by a 6-5 vote.

The meeting adjourned at 12:35 PM.

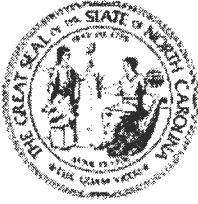


Representative Ted Davis, Jr.
Presiding



Judy Lowe, Committee Clerk





HOUSE BILL 684: Sex Offender Registry Fee.

2017-2018 General Assembly

Committee:	House Judiciary II. If favorable, re-refer to Finance	Date:	April 19, 2017
Introduced by:	Reps. Hastings, Davis, R. Turner, Zachary	Prepared by:	Jason Moran-Bates
Analysis of:	First Edition		Committee Co-Counsel

OVERVIEW: *House Bill 684 would require individuals who must register as sex offenders to pay an annual registration fee of \$90 beginning on the date of registration and then on each anniversary of that date.*

CURRENT LAW: Part 2 of Article 27A of Chapter 14 of the General Statutes is the Sex Offender Registration Program. Currently individuals required to register as sex offenders under Part 2 are not required to pay any fees.

BILL ANALYSIS:

Section 1 would amend Part 2 of Article 27A to require all individuals registering under Article 27A to pay a fee of \$90.00 at the time of initial registration. An additional fee of \$90.00 must be paid annually on the anniversary of the offender's initial registration. The annual fee would be paid to the sheriff who received the offender's verification form under G.S. 14-208.9A and used only to offset the costs associated with registration. Sheriffs would be required to register offenders even if they did not pay the fee. At the end of each calendar year, sheriffs must report all fees which have been unpaid for at least a year to the Attorney General, who may collect those fees in a civil action. Upon collection, the Attorney General must deduct the costs of collection, not to exceed 20%, and remit the remaining recovered funds to the appropriate county. Section 1 would not apply to juveniles required to register under Part 4 of Article 27A.

Section 2 would require probationers under G.S. 15A-1343 who were convicted of either a reportable offense under G.S. 14-208.6(4), or an offense involving the physical, mental, or sexual abuse of a minor to pay the fees described in Section 1.

Section 3 would require individuals subject to post-release supervision under G.S. 15A-1368.4 who were convicted of either a reportable offense under G.S. 14-208.6(4), or an offense involving the physical, mental, or sexual abuse of a minor to pay the fees described in Section 1.

EFFECTIVE DATE: This bill would be effective December 1, 2017. The requirement to pay an initial registration fee would apply to adults who initially register on or after that date. The annual fee requirements would apply to all adults registered under Article 27A on or after that date. The requirements of Sections 2 and 3 would apply to individuals placed on probation or post-release supervision, respectively, after that date.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 684

Short Title: Sex Offender Registry Fee.

(Public)

Sponsors: Representatives Hastings, Davis, R. Turner, and Zachary (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary II, if favorable, Finance

April 11, 2017

A BILL TO BE ENTITLED
AN ACT TO REQUIRE EACH SEX OFFENDER TO PAY AN INITIAL REGISTRATION
FEE AND AN ANNUAL REGISTRATION FEE.

The General Assembly of North Carolina enacts:

SECTION 1. Part 2 of Article 27A of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-208.7A. Registration fees.

(a) Each person required to register under this Article shall pay an initial registration fee of ninety dollars (\$90.00) at the time of the person's initial registration. Each sex offender shall pay an annual registration fee of ninety dollars (\$90.00) on the anniversary of the person's initial registration date. The initial fee shall be payable to the sheriff of the county in which the person initially registers. The annual fee shall be paid to the sheriff who receives the person's verification form under G.S. 14-208.9A. The sheriff shall transmit the proceeds of these fees to the county finance officer to be credited to the sheriff's office. The fees shall be used only to offset the costs associated with the registration of sex offenders.

(b) A person required to register under this Article must still register pursuant to this Article without regard as to whether the person pays the fee assessed under this section. The sheriff shall not refuse to register a person who does not pay the fee assessed by this section. At the end of each calendar year, the sheriff shall report to the attorney general all fees that have been due and unpaid for more than one year and that the sheriff has not previously reported. The attorney general may recover those delinquent fees in a civil action. When the Attorney General collects delinquent fees pursuant to this section, the attorney general shall deduct the actual costs of collection, not to exceed twenty percent (20%) of the amount collected, and remit the remaining funds to the appropriate counties to be credited to the office of the sheriff of that county.

(c) This section does not apply to juveniles required to register pursuant to Part 4 of Article 27A of Chapter 14 of the General Statutes."

SECTION 2. G.S. 15A-1343(b2) is rewritten to read:

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

- (1) Register as required by G.S. 14-208.7 if the offense is a reportable conviction as defined by G.S. 14-208.6(4).



- 1 (1a) Pay an initial registration fee and annual registration fees pursuant to
2 G.S. 14-208.7A.
3 (2) Participate in such evaluation and treatment as is necessary to complete a
4 prescribed course of psychiatric, psychological, or other rehabilitative
5 treatment as ordered by the court.
6 (3) Not communicate with, be in the presence of, or found in or on the premises
7 of the victim of the offense.
8 (4) Not reside in a household with any minor child if the offense is one in which
9 there is evidence of sexual abuse of a minor.
10 (5) Not reside in a household with any minor child if the offense is one in which
11 there is evidence of physical or mental abuse of a minor, unless the court
12 expressly finds that it is unlikely that the defendant's harmful or abusive
13 conduct will recur and that it would be in the minor child's best interest to
14 allow the probationer to reside in the same household with a minor child.
15 (6) Satisfy any other conditions determined by the court to be reasonably related
16 to his rehabilitation.
17 (7) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of
18 Chapter 14 of the General Statutes, if the defendant is described by
19 G.S. 14-208.40(a)(1).
20 (8) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of
21 Chapter 14 of the General Statutes, if the defendant is in the category
22 described by G.S. 14-208.40(a)(2), and the Division of Adult Correction of
23 the Department of Public Safety, based on the Division's risk assessment
24 program, recommends that the defendant submit to the highest possible level
25 of supervision and monitoring.
26 (9) Submit at reasonable times to warrantless searches by a probation officer of
27 the probationer's person and of the probationer's vehicle and premises while
28 the probationer is present, for purposes specified by the court and reasonably
29 related to the probation supervision, but the probationer may not be required
30 to submit to any other search that would otherwise be unlawful. For
31 purposes of this subdivision, warrantless searches of the probationer's
32 computer or other electronic mechanism which may contain electronic data
33 shall be considered reasonably related to the probation supervision.
34 Whenever the warrantless search consists of testing for the presence of
35 illegal drugs, the probationer may also be required to reimburse the Division
36 of Adult Correction of the Department of Public Safety for the actual cost of
37 drug screening and drug testing, if the results are positive.

38 Defendants subject to the provisions of this subsection shall not be placed on unsupervised
39 probation."

40 **SECTION 3.** G.S. 15A-1368.4(b1) reads as rewritten:

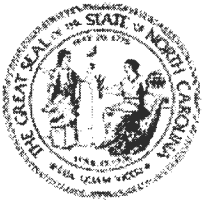
41 "(b1) Additional Required Conditions for Sex Offenders and Persons Convicted of
42 Offenses Involving Physical, Mental, or Sexual Abuse of a Minor. – In addition to the required
43 condition set forth in subsection (b) of this section, for a supervisee who has been convicted of
44 an offense which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

- 47 (1) Register as required by G.S. 14-208.7 if the offense is a reportable
48 conviction as defined by G.S. 14-208.6(4).
49 (1a) Pay an initial registration fee and annual registration fees pursuant to
50 G.S. 14-208.7A.

- (2) Participate in such evaluation and treatment as is necessary to complete a prescribed course of psychiatric, psychological, or other rehabilitative treatment as ordered by the Commission.
- (3) Not communicate with, be in the presence of, or found in or on the premises of the victim of the offense.
- (4) Not reside in a household with any minor child if the offense is one in which there is evidence of sexual abuse of a minor.
- (5) Not reside in a household with any minor child if the offense is one in which there is evidence of physical or mental abuse of a minor, unless a court of competent jurisdiction expressly finds that it is unlikely that the defendant's harmful or abusive conduct will recur and that it would be in the child's best interest to allow the supervisee to reside in the same household with a minor child.
- (6) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the offense is a reportable conviction as defined by G.S. 14-208.6(4) and the supervisee is in the category described by G.S. 14-208.40(a)(1).
- (7) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the offense is a reportable conviction as defined by G.S. 14-208.6(4) and the supervisee is in the category described by G.S. 14-208.40(a)(2).
- (8) Submit at reasonable times to warrantless searches by a post-release supervision officer of the supervisee's person and of the supervisee's vehicle and premises while the supervisee is present, for purposes reasonably related to the post-release supervision, but the supervisee may not be required to submit to any other search that would otherwise be unlawful. For purposes of this subdivision, warrantless searches of the supervisee's computer or other electronic mechanism which may contain electronic data shall be considered reasonably related to the post-release supervision. Whenever the warrantless search consists of testing for the presence of illegal drugs, the supervisee may also be required to reimburse the Division of Adult Correction of the Department of Public Safety for the actual cost of drug screening and drug testing, if the results are positive."

SECTION 4. This act becomes effective December 1, 2017. The requirement to pay an initial registration fee applies to all adult persons who initially register on or after that date. The requirement to pay an annual registration fee applies to all adult persons registered under Article 27A of Chapter 14 of the General Statutes on or after that date. Sections 2 and 3 of this act apply to persons placed on probation or post-release supervision on or after that date.





HOUSE BILL 819: Protect NC Right to Work Constitutional Amend.

2017-2018 General Assembly

Committee:	House Judiciary I. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	April 19, 2017
Introduced by:	Reps. Burr, Dixon, Presnell, Millis	Prepared by:	Jason Moran-Bates
Analysis of:	First Edition		Committee Co-Counsel

OVERVIEW: *House Bill 819 would submit an amendment to the North Carolina Constitution to voters in the November 6, 2018, election. The proposed amendment would prohibit employers from requiring employees to join a labor organization, to refrain from joining a labor organization, or to pay dues to a labor organization as a condition of employment.*

[As introduced, this bill was identical to S632, as introduced by Sens. B. Jackson, Daniel, Edwards, which is currently in Senate Rules and Operations of the Senate.]

CURRENT LAW: G.S. 95-80 makes it illegal for an employer to require employees to become or remain members of any labor union or organization as a condition of employment. G.S. 95-81 makes it illegal for an employer to require employees to abstain or refrain from membership in any labor union or organization as a condition of employment. G.S. 95-82 makes it illegal for an employer to require employees to pay dues to any labor union or organization as a condition of employment. G.S. 95-83 allows employees to recover damages from employers who violate the provisions of G.S. 95-80, G.S. 95-81, or G.S. 95-82. *State v. Bishop*, 228 N.C. 371 (1947), held violation of G.S. 95-80, G.S. 95-81, or G.S. 95-82 was criminally punishable as a misdemeanor.

BILL ANALYSIS:

Section 1 of the bill would propose an amendment to the North Carolina Constitution that would establish the right to work as the public policy of North Carolina. The proposed amendment would prohibit employers from requiring employees to become or remain members in a labor organization, to abstain or refrain from becoming members in a labor organization, or to pay dues, fees, or charges to a labor organization as a condition of employment. The amendment would not apply to any contract in force on the effective date, but it would apply to any renewal or extension of a contract after the effective date.

Section 2 of the bill would place the question of whether voters are for or against a "Constitutional amendment to provide that the right to live includes the right to work and therefore the right of persons to work shall not be denied or abridged on account of membership or nonmembership in any labor organization" on the November 6, 2018, ballot.

Section 3 would require, if a majority of votes are cast in favor of the amendment, the State Board of Elections to certify the amendment to the Secretary of State and would require the Secretary of State to enroll the amendment in the records of the Secretary's office.

Section 4 would make the amendment effective on certification.

EFFECTIVE DATE: This bill would be effective when it becomes law.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 819

Short Title: Protect NC Right to Work Constitutional Amend. (Public)

Sponsors: Representatives Burr, Dixon, Presnell, and Millis (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I, if favorable, Rules, Calendar, and Operations of the House

April 13, 2017

A BILL TO BE ENTITLED
AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO GUARANTEE A
PERSON'S RIGHT TO WORK.

The General Assembly of North Carolina enacts:

SECTION 1. Article I of the North Carolina Constitution is amended by adding a
new section to read:

"Sec. 38. Right to Work.

(1) The right to live includes the right to work. The exercise of the right to work must be protected and maintained free from undue restraints and coercion. It is hereby declared to be the public policy of North Carolina that the right of persons to work shall not be denied or abridged on account of membership or nonmembership in a labor organization.

(2) No person shall be required by an employer to become or remain a member of a labor organization as a condition of employment or continuation of employment with the employer.

(3) No person shall be required by an employer to abstain or refrain from membership in any labor organization as a condition of employment or continued employment.

(4) No employer shall require any person, as a condition of employment or continued employment, to pay to a labor organization any dues, fees, or other charges of any kind.

(5) This section does not apply to any lawful contract in force on the effective date but shall apply in all respects to contracts entered into thereafter and to any renewal or extension of any existing contract.

(6) The term "labor organization" as used in this section means any trade union, labor union, or other labor association."

SECTION 2. The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at a statewide election to be conducted on November 6, 2018, which election shall be conducted under the laws then governing elections in the State. The question to be used in the voting systems and ballots shall be:

"[] FOR [] AGAINST

Constitutional amendment to provide that the right to live includes the right to work and therefore the right of persons to work shall not be denied or abridged on account of membership or nonmembership in any labor organization."

SECTION 3. If a majority of votes cast on the question are in favor of the amendment set out in Section 1 of this act, the State Board of Elections shall certify the amendment to the Secretary of State. The Secretary of State shall enroll the amendment so certified among the permanent records of that office.



1 **SECTION 4.** The amendment set out in Section 1 of this act is effective upon
2 certification.

3 **SECTION 5.** This act is effective when it becomes law.



HOUSE BILL 820: Protect Right to Work/Conforming Changes.

2017-2018 General Assembly

Committee: House Judiciary I
Introduced by: Reps. Burr, Dixon, K. Hall, Saine
Analysis of: First Edition

Date: April 20, 2017
Prepared by: Jason Moran-Bates
Committee Co-Counsel

OVERVIEW: *House Bill 820 would amend the Declaration of Policy as to Labor Organizations, Article 10 of Chapter 95 of the General Statutes, to clarify that the term "labor organization" means "any trade union, labor union, or other labor association." It would also make several technical and conforming changes throughout Article 10. These changes would only be effective if the amendment to the North Carolina Constitution proposed by House Bill 819 is approved.*

[As introduced, this bill was identical to S631, as introduced by Sens. B. Jackson, Daniel, Edwards, which is currently in Senate Rules and Operations of the Senate.]

CURRENT LAW: Article 10 of Chapter 95 is the Declaration of Policy as to Labor Organizations. It states the right to work cannot be denied or abridged by virtue of an employee's membership or nonmembership in a labor organization. It prohibits employers from requiring employees to join, refrain from joining, or pay dues to any labor organization as a condition of employment. It also provides for recovery of damages by employees from employers who violate the Article's provisions.

BILL ANALYSIS: House Bill 820 would amend Article 10 of Chapter 90 to clarify that the term "labor organization" means "any trade union, labor union, or other labor association." It would replace the term "labor union or labor organization" with the term "labor organization" throughout Article 10. It would also make several technical and conforming changes.

EFFECTIVE DATE: The bill would be effective if and when the amendment to the North Carolina Constitution proposed by House Bill 819 is approved by voters.

Karen Cochrane-Brown
Director



H 8 2 0 - S M B C - 4 2 E 1 - V - 2

Legislative Analysis
Division
919-733-2578



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 820

Short Title: Protect Right to Work/Conforming Changes.

(Public)

Sponsors: Representatives Burr, Dixon, K. Hall, and Saine (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I

April 13, 2017

A BILL TO BE ENTITLED
AN ACT CLARIFYING THE STATE'S LABOR LAWS PROTECTING A PERSON'S
RIGHT TO WORK.

The General Assembly of North Carolina enacts:

SECTION 1. If the qualified voters approve a constitutional amendment in November 2018 that protects the right to work as set forth in legislation filed during the 2017 Regular Session of the General Assembly, then Article 10 of Chapter 95 of the General Statutes reads as rewritten:

"Article 10.

"Declaration of Policy as to Labor Organizations.

"§ 95-78. Declaration of public policy.

(a) The right to live includes the right to work. The exercise of the right to work must be protected and maintained free from undue restraints and coercion. It is hereby declared to be the public policy of North Carolina that the right of persons to work shall not be denied or abridged on account of membership or nonmembership in any labor ~~union or labor organization~~ or association organization.

(b) The term "labor organization" as used in this Article means any trade union, labor union, or other labor association.

"§ 95-79. Certain agreements declared illegal.

(a) Any agreement or combination between any employer and any labor ~~union or labor~~ organization whereby persons not members of ~~such union or the labor~~ organization shall be denied the right to work for ~~said the~~ employer, or whereby such membership is made a condition of employment or continuation of employment by ~~such the~~ employer, or whereby any such union or organization acquires an employment monopoly in any enterprise, is hereby declared to be against the public policy and an illegal combination or conspiracy in restraint of trade or commerce in the State of North Carolina.

(b) Any provision that directly or indirectly conditions the purchase of agricultural products or the terms of an agreement for the purchase of agricultural products upon an agricultural producer's status as a union or nonunion employer or entry into or refusal to enter into an agreement with a labor union or labor organization is invalid and unenforceable as against public policy in restraint of trade or commerce in the State of North Carolina. For purposes of this subsection, the term "agricultural producer" means any producer engaged in any service or activity included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938, 29 U.S.C. § 203, or section 3121(g) of the Internal Revenue Code of 1986, 26 U.S.C. § 3121.



1 **"§ 95-80. Membership in labor organization as condition of employment prohibited.**

2 No person shall be required by an employer to become or remain a member of any labor
3 ~~union or labor~~ organization as a condition of employment or continuation of employment by
4 such employer.

5 **"§ 95-81. Nonmembership as condition of employment prohibited.**

6 No person shall be required by an employer to abstain or refrain from membership in any
7 labor ~~union or labor~~ organization as a condition of employment or continuation of employment.

8 **"§ 95-82. Payment of dues as condition of employment prohibited.**

9 No employer shall require any person, as a condition of employment or continuation of
10 employment, to pay any dues, fees, or other charges of any kind to any labor ~~union or labor~~
11 organization.

12 **"§ 95-83. Recovery of damages by persons denied employment.**

13 Any person who may be denied employment or be deprived of continuation of ~~his~~ the
14 person's employment in violation of G.S. 95-80, 95-81 and 95-82 or of one or more of such
15 sections, shall be entitled to recover from ~~such the~~ employer and from any other person, firm,
16 corporation, or association acting in concert with ~~him~~ the employer by appropriate action in the
17 courts of this State such damages as ~~he~~ the person may have sustained by reason of such denial
18 or deprivation of employment.

19 **"§ 95-84. Application of Article.**

20 The provisions of this Article ~~shall do~~ not apply to any lawful contract in force on the
21 effective date hereof but they shall apply in all respects to contracts entered into thereafter and
22 to any renewal or extension of any existing contract."

23 **SECTION 2.** This act is effective when it becomes law but only as expressly
24 provided by Section 1 of this act.

NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

JUDICIARY I COMMITTEE REPORT
Representative Ted Davis, Jr., Chair

FAVORABLE

HB 820 Protect Right to Work/Conforming Changes.
Draft Number: None
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: Burr

FAVORABLE AND RE-REFERRED

HB 684 Sex Offender Registry Fee.
Draft Number: None
Serial Referral: FINANCE
Recommended Referral: None
Long Title Amended: No
Floor Manager: Hastings

HB 819 Protect NC Right to Work Constitutional Amend.
Draft Number: None
**Serial Referral: RULES, CALENDAR, AND
OPERATIONS OF THE HOUSE**
Recommended Referral: None
Long Title Amended: No
Floor Manager: Burr

TOTAL REPORTED: 3



* C M R 2 7 0 - V - 1 *



VISITOR REGISTRATION SHEET

Judiciary I

Name of Committee

4/20/17

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Katie Gammon	Governor's Office
Sarah Xance	NADU
James R. [unclear]	NAC
Kim Curren	NABA
Chp Beyer	NAMS
LAURA PURYEAR	NWC
Joe Royal	NCFPC
Marian Coven	NASW-NE
Bruce Johnson	NASW-NC
Caroline Miller	AMBA
Liz Haker	Smith Barless



VISITOR REGISTRATION SHEET

Judiciary I

Name of Committee

4/20/17

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Allan Freyer	NC JC
Aiden Graham	NC AFL-CIO
JAKE PARKER	WCFB
Gary Salomieu	NC Chamber
Skye David	NEW FRAME
Dick Layh	NCAB
BRIAN LEWIS	NEW FRAME



4/20/17

Date _____



FIRM OR AGENCY AND ADDRESS



B. BORSINI

Рег. Вука



2.

3.

4.

5.

Judy Lowe (Rep. Ted Davis)

From: Judy Lowe (Rep. Ted Davis)
Sent: Tuesday, April 25, 2017 10:25 AM
To: Rep. George Cleveland; Rep. Chris Millis; Rep. Michael Speciale; Rep. Debra Conrad; Rep. Jeff Collins; Rep. Mike Clampitt; Rep. Justin Burr; Rep. Jason Saine; Rep. Dana Bumgardner; Rep. Kyle Hall; Rep. Kelly M. Alexander; Rep. Bobbie Richardson; Rep. Jon Hardister; Rep. Edward Hanes; Rep. Josh Dobson; Rep. Amos Quick; Rep. John M. Blust; Rep. Dean Arp; Rep. Jonathan Jordan
Cc: Pamela Ahlin (Rep. George Cleveland); John Ganem (Rep. Chris Millis); Hazel Speciale (Rep. Michael Speciale); Danielle Brinton (Rep. Debra Conrad); Wes Householder (Rep. Jeff Collins); Edward Stiles (Rep. Mike Clampitt); Dina Long (Rep. Justin Burr); Stephen Wiley (Rep. Jason Saine); Margie Penven (Rep. Dana Bumgardner); Cameron Dawson (Rep. Kyle Hall); Marjorie H. Conner (Rep. Kelly Alexander); Anna Meadows (Rep. Bobbie Richardson); Jayne Nelson (Rep. Jon Hardister); Wanda Kay (Rep. Edward Hanes); Julie Ryan (Rep. Josh Dobson); Mildred Alston (Rep. Amos Quick); Gennie Thurlow (Rep. John M. Blust); Wendy Miller (Rep. Dean Arp); Emma Benson (Rep. Jonathan Jordan)
Subject: <NCGA> House Judiciary I Committee Meeting Notice for Tuesday, April 25, 2017 at 12:00 PM - CORRECTED #2
Attachments: Add Meeting to Calendar_LINC_ics

Corrected #2: Remove HB571

NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2017-2018 SESSION

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Tuesday, April 25, 2017
TIME: 12:00 PM
LOCATION: 415 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 113</u>	Pvt Action Local Compliance/Immigration Laws.	Representative Cleveland Representative Conrad Representative Millis Representative Speciale
<u>HB 308</u>	No Insurance While Driving/Tow Vehicle.	Representative Cleveland Representative Clampitt Representative Collins

<u>HB 330</u>	CivPro/Qualified Immunity for Auto Accident.	Representative Millis
<u>HB 335</u>	Vacancies/NC Sup Ct/Ct of App/Superior Ct/DAs.	Representative Burr Representative Millis Representative Burr Representative K. Hall Representative Saine Representative Bumgardner
<u>HB 455</u>	Increase Funeral Expense Allowance.	Representative B. Richardson Representative Alexander
<u>HB 571</u>	Automatic Expunction/Wrongful Conviction.	Representative Hanes Representative Hardister Representative Dobson Representative Quick Representative Blust
<u>HB 645</u>	Legal Services Rendered for Nonprofits.	
<u>HB 816</u>	Consumer Protection/Roofing Contractors.	Representative Arp
<u>HB 527</u>	Restore/Preserve Campus Free Speech.	Representative Millis Representative Jordan

Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 10:23 AM on Tuesday, April 25, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Judy Lowe (Committee Assistant)

Judy Lowe (Rep. Ted Davis)

From: Judy Lowe (Rep. Ted Davis)
Sent: Tuesday, April 25, 2017 9:24 AM
To: Rep. George Cleveland; Rep. Chris Millis; Rep. Michael Speciale; Rep. Debra Conrad; Rep. Jeff Collins; Rep. Mike Clampitt; Rep. Justin Burr; Rep. Jason Saine; Rep. Dana Bumgardner; Rep. Kyle Hall; Rep. Kelly M. Alexander; Rep. Bobbie Richardson; Rep. Jon Hardister; Rep. Edward Hanes; Rep. Josh Dobson; Rep. Amos Quick; Rep. John M. Blust; Rep. Dean Arp; Rep. Jonathan Jordan
Cc: Pamela Ahlin (Rep. George Cleveland); John Ganem (Rep. Chris Millis); Hazel Speciale (Rep. Michael Speciale); Danielle Brinton (Rep. Debra Conrad); Wes Householder (Rep. Jeff Collins); Edward Stiles (Rep. Mike Clampitt); Dina Long (Rep. Justin Burr); Stephen Wiley (Rep. Jason Saine); Margie Penven (Rep. Dana Bumgardner); Cameron Dawson (Rep. Kyle Hall); Marjorie H. Conner (Rep. Kelly Alexander); Anna Meadows (Rep. Bobbie Richardson); Jayne Nelson (Rep. Jon Hardister); Wanda Kay (Rep. Edward Hanes); Julie Ryan (Rep. Josh Dobson); Mildred Alston (Rep. Amos Quick); Gennie Thurlow (Rep. John M. Blust); Wendy Miller (Rep. Dean Arp); Emma Benson (Rep. Jonathan Jordan)
Subject: <NCGA> House Judiciary I Committee Meeting Notice for Tuesday, April 25, 2017 at 12:00 PM - CORRECTED #1
Attachments: Add Meeting to Calendar_LINC_ics

Corrected #1: Add HB527

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Tuesday, April 25, 2017
TIME: 12:00 PM
LOCATION: 415 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 113</u>	Pvt Action Local Compliance/Immigration Laws.	Representative Cleveland Representative Conrad Representative Millis Representative Speciale
<u>HB 308</u>	No Insurance While Driving/Tow Vehicle.	Representative Cleveland Representative Clampitt Representative Collins



<u>HB 330</u>	CivPro/Qualified Immunity for Auto Accident.	Representative Millis
<u>HB 335</u>	Vacancies/NC Sup Ct/Ct of App/Superior Ct/DAs.	Representative Burr Representative Millis Representative Burr Representative K. Hall Representative Saine Representative Bumgardner
<u>HB 455</u>	Increase Funeral Expense Allowance.	Representative B. Richardson Representative Alexander
<u>HB 571</u>	Automatic Expunction/Wrongful Conviction.	Representative Hanes Representative Hardister Representative Dobson Representative Quick Representative Blust
<u>HB 645</u>	Legal Services Rendered for Nonprofits.	
<u>HB 816</u>	Consumer Protection/Roofing Contractors.	Representative Arp
<u>HB 527</u>	Restore/Preserve Campus Free Speech.	Representative Millis Representative Jordan

Respectfully,

Representative Ted Davis, Jr., Chair

hereby certify this notice was filed by the committee assistant at the following offices at 9:23 AM on Tuesday, April 25, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Judy Lowe (Committee Assistant)



Judy Lowe (Rep. Ted Davis)

From: Judy Lowe (Rep. Ted Davis)
Sent: Friday, April 21, 2017 3:45 PM
To: Rep. George Cleveland; Rep. Chris Millis; Rep. Michael Speciale; Rep. Debra Conrad; Rep. Jeff Collins; Rep. Mike Clampitt; Rep. Justin Burr; Rep. Jason Saine; Rep. Dana Bumgardner; Rep. Kyle Hall; Rep. Kelly M. Alexander; Rep. Bobbie Richardson; Rep. Jon Hardister; Rep. Edward Hanes; Rep. Josh Dobson; Rep. Amos Quick; Rep. John M. Blust; Rep. Dean Arp
Cc: Pamela Ahlin (Rep. George Cleveland); John Ganem (Rep. Chris Millis); Hazel Speciale (Rep. Michael Speciale); Danielle Brinton (Rep. Debra Conrad); Wes Householder (Rep. Jeff Collins); Edward Stiles (Rep. Mike Clampitt); Dina Long (Rep. Justin Burr); Stephen Wiley (Rep. Jason Saine); Margie Penven (Rep. Dana Bumgardner); Cameron Dawson (Rep. Kyle Hall); Marjorie H. Conner (Rep. Kelly Alexander); Anna Meadows (Rep. Bobbie Richardson); Jayne Nelson (Rep. Jon Hardister); Wanda Kay (Rep. Edward Hanes); Julie Ryan (Rep. Josh Dobson); Mildred Alston (Rep. Amos Quick); Gennie Thurlow (Rep. John M. Blust); Wendy Miller (Rep. Dean Arp)
Subject: <NCGA> House Judiciary I Committee Meeting Notice for Tuesday, April 25, 2017 at 12:00 PM
Attachments: Add Meeting to Calendar_LINC_ics

NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2017-2018 SESSION

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Tuesday, April 25, 2017

TIME: 12:00 PM

LOCATION: 415 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
✓ <u>HB 113</u>	Pvt Action Local Compliance/Immigration Laws.	Representative Cleveland Representative Conrad Representative Millis Representative Speciale
✓ <u>HB 308</u>	No Insurance While Driving/Tow Vehicle.	Representative Cleveland Representative Clampitt Representative Collins Representative Millis
✓ <u>HB 330</u>	CivPro/Qualified Immunity for Auto	Representative Burr



✓ <u>HB 335</u>	Accident. Vacancies/NC Sup Ct/Ct of App/Superior Ct/DAs.	Representative Millis Representative Burr Representative K. Hall Representative Saine Representative Bumgardner
⁴ <u>HB 455</u>	Increase Funeral Expense Allowance.	Representative B. Richardson Representative Alexander
<u>HB 571</u>	Automatic Expunction/Wrongful Conviction.	Representative Hanes Representative Hardister Representative Dobson Representative Quick
<u>HB 645</u>	Legal Services Rendered for Nonprofits.	Representative Blust
✓ <u>HB 816</u>	Consumer Protection/Roofing Contractors.	Representative Arp

Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 3:40 PM on Friday, April 21, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Judy Lowe (Committee Assistant)



House Committee on Judiciary I
Tuesday, April 25, 2017, 12:00 PM
415 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 113	Pvt Action Local Compliance/Immigration Laws.	Representative Cleveland Representative Conrad Representative Millis Representative Speciale
HB 308	No Insurance While Driving/Tow Vehicle.	Representative Cleveland Representative Clampitt Representative Collins Representative Millis
HB 330	CivPro/Qualified Immunity for Auto Accident.	Representative Burr Representative Millis
HB 335	Vacancies/NC Sup Ct/Ct of App/Superior Ct/DAs.	Representative Burr Representative K. Hall Representative Saine Representative Bumgardner
HB 455	Increase Funeral Expense Allowance.	Representative B. Richardson Representative Alexander
HB 571	Automatic Expunction/Wrongful Conviction.	Representative Hanes Representative Hardister Representative Dobson Representative Quick Representative Blust
HB 645	Legal Services Rendered for Nonprofits.	
HB 816	Consumer Protection/Roofing Contractors.	Representative Arp
HB 527	Restore/Preserve Campus Free Speech.	Representative Millis Representative Jordan

Adjournment



House Committee on Judiciary I
Tuesday, April 25, 2017 at 12:00 PM
Room 415 of the Legislative Office Building

MINUTES

The House Committee on Judiciary I met at 12:05 PM on April 25, 2017 in Room 415 of the Legislative Office Building. Representatives Davis, Hall, Jackson, Stevens, Turner, Arp, Farmer-Butterfield, Howard, Martin, McNeill, Meyer, Rogers and Steinburg attended. Staff members Bill Patterson, Jennifer Bedford, Jason Moran-Bates and Judy Lowe, Committee Clerk, were also present.

Representative Ted Davis, Jr. presided. He introduced the Sergeants-at-Arms Bill Riley, Bill Moore and Bear Moore as well as pages Christopher Barber and Zaccary Grierson.

The following bills were considered:

HB 113 Pvt Action Local Compliance/Immigration Laws. Representatives Cleveland, Conrad, Millis, Speciale. Representative Steven moved for the PCS to be before the committee and Representative Cleveland explained the bill. He stated that it would permit a person to bring an action against a city, county, or local law enforcement agency for declaratory or injunctive relief based on noncompliance with certain State laws. The PCS made a technical correction in Sections 2 and 3 of the bill to removed references to law enforcement agencies. There was a motion for favorable committee substitute, unfavorable to original bill and re-referral to State and Local Government Committee. The motion carried.

HB 308 No Insurance While Driving/Tow Vehicle. Representatives Cleveland, Clampitt, Collins, Millis. The Chairman determined that the PCS was properly before the committee and asked Representative Cleveland to explain the bill. He stated that it would require the towing and storage of a vehicle when the owner is charged with operating or allowing his or her vehicle to be operated without insurance. He further noted that two-thirds of the people in North Carolina are without insurance. Alex Miller representing the Towing and Recovery Professionals of North Carolina spoke on his concerns with the bill. Representative Arp moved for favorable to the PCS, unfavorable to the original bill and re-referral to Rules, Calendar and Operations of the House. The motion carried.

HB 330 CivPro/Qualified Immunity for Auto Accident. Representatives Burr, Millis. Representative Burr stated that the bill would change the title of 43B of Chapter 1 of the General Statutes and provide immunity from civil liability to drivers who, while exercising due care, injure individuals who are blocking traffic in a public right-of-way during a protest or demonstration. Representative Jackson asked for the definition of a public right-of-way. Mr. Moran-Bates said he would check and respond. Mr. Moran-Bates also was to get a report on how often this has often this has occurred. Representative Stevens moved for a favorable report and the motion passed.



HB 335 Vacancies/NC Sup Ct/Ct of App/Superior Ct/DAs. Representatives Burr, K. Hall, Saine, Bumgardner. Representative Burr explained the bill which would change the procedure for filling vacancies occurring in the office of Justice of the Supreme Court, Judge of the Court of Appeals, judge of the Superior Court and district attorney. Representative Jackson stated that it was unconstitutional. Melissa Price Kromin from the NC Voters for Clean Elections also spoke on the bill. Representative Stevens moved for a favorable report. The motion carried.

HB 455 Combine Funeral and Grave Expense Allowances. Representatives B. Richardson, Alexander. Representative Alexander explained the bill to increase the amount of funeral expenses payable as second-class claims against a decedent's estate from \$3,500 to \$6,000. Representative Richardson said she would like to make a change to the bill and would bring an amendment to the floor. Susan Hicks, a Superior Court Clerk from Moore County also spoke on the bill. Representative Stevens moved for a report without prejudice and re-referral to Finance. The motion passed unanimously.

HB 571 Automatic Expunction/Wrongful Conviction. Representatives Hanes, Hardister, Dobson, Quick. Chairman Davis announced this bill was removed from the agenda and will be heard in the committee on April 26, 2017.

HB 645 Legal Services Rendered for Nonprofits. Representative Blust. Representative Blust explained that the bill would permit a nonprofit membership association to render legal services to its members provided by its officers, employees, or agents who are licensed attorneys and to charge for the legal services rendered to members. Discussion centered on whether the services would be unlimited, how the charges would be determined, and regulation by the NC Bar. Mr. Bruce Clarke, CAI President, stated that if doing legal services, ethical rules would apply. Mr. Mark Marin, President of the NC State Bar, indicated that no state allows this. Representative Blust confirmed that the provider would have to be licensed to practice law. Mr. Chip Baggett from the NC Medical Society stated that his organization is in support of the bill. Mr. Clark reported that 12 states allow this to occur and there is no evidence of complaints. He would support limiting the practice area. Representative Jackson proposed an amendment which would add "consistent with the mission, charter, or purpose of such non-profit association" between the words "members" and "provided" on page 1, line 24 of the bill. Representative Rogers indicated he was in favor of the bill with the amendment. The Chairman call for the vote on the amendment and it passed unanimously. Representative Meyer moved for a favorable committee substitute and unfavorable to original bill. The motion carried.

HB 816 Consumer Protection/Roofing Contractors. Representative Arp. Representative Arp explained that the PCS would establish a new unfair and deceptive trade practice under Chapter 75 of the General Statutes. It would require all roofing repair contracts to be in writing; allow for cancellation if consumer find out the insurance claim will not be paid and define certain actions that a roof repair contractor cannot take. Representative Arp proposed an amendment regarding an itemized estimate of repair costs. The amendment passed and Representative Stevens moved for a favorable committee substitute, unfavorable to the original bill. The motion passed.

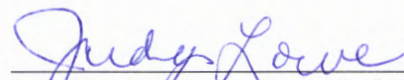


HB 527 Restore/Preserve Campus Free Speech. Representatives Millis, Jordan.

Representative Jordan introduced the PCS which would require the Board of Governors of UNC to develop, adopt, and implement various policies related to free expression and to form a committee on free expression which must make annual reports to the Board of Governors, the General Assembly and the governor. Representative Stevens had an amendment which added "unless the requested information is required to be kept confidential by other provisions of State or federal law" after "the Committee" on page 3, line 5 of the PCS. Representative Millis further discussed the details of the bill. Representative Martin asked if there had been a problem in the University System. Representative Millis responded that there had been. Representative Arp moved to approve the amendment and the vote was unanimous. He then moved for a favorable committee substitute No. 2, unfavorable committee substitute No. 1. The motion passed.

The meeting adjourned at 1:40 PM.

Representative Ted Davis, Jr. Presiding Chair



Judy Lowe, Committee Clerk





HOUSE BILL 113: Pvt Action Local Compliance/Immigration Laws.

2017-2018 General Assembly

Committee:	House Judiciary I. If favorable, re-refer to State and Local Government II	Date:	April 23, 2017
Introduced by:	Reps. Cleveland, Conrad, Millis, Speciale	Prepared by:	Bill Patterson
Analysis of:	PCS to First Edition H113-CSTG-13		Committee Co-Counsel

OVERVIEW: *House Bill 113 would permit a person to bring an action against a city, county, or local law enforcement agency for declaratory or injunctive relief based on noncompliance with certain State laws related to immigration, and would impose a civil penalty of up to \$10,000 per day upon a city, county, or law enforcement agency that fails to comply with any order issued as a result of the action. The PCS made a technical correction in Sections 2 and 3 of the bill to remove references to law enforcement agencies.*

CURRENT LAW:

G.S. 15A-311, Article 18 of Chapter 15A of the General Statutes, prohibits cities, counties, and local law enforcement agencies from accepting the following documents as forms of identification for use in determining a person's identity or residency or from establishing by policy or ordinance the acceptability of these documents for such use:

- A matricula consular or other similar document issued by a consulate or embassy of another country other than a valid passport
- An identity document created by any person, organization, county, city or other local authority not expressly authorized to be used for this purpose by the General Assembly.¹

Pursuant to G.S. 153A-145.5 (counties) and G.S. 160A-205.2 (cities), local governments are not permitted to:

- Adopt any policy, ordinance or procedure that limiting the enforcement of federal immigration laws.
- Prohibit law enforcement officials or agencies from gathering information about the citizenship or immigration status of any person or direct the officials or agencies not to gather such information.
- Prohibit communication of such information to federal law enforcement agencies.

There currently are no penalties authorized for noncompliance with these statutory prohibitions.

¹ An exception to this prohibition is provided in subsection (c) of this section, which permits these forms of identification to be used by a law enforcement officer to assist in determining the identity or residency of a person when they are the only documents available to the law enforcement officer at the time.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House PCS 113

Page 2

BILL ANALYSIS:

Section 1 of the bill would amend Article 18 of Chapter 15A of the General Statutes to add a new section permitting any person residing within the jurisdiction of a city, county, or law enforcement agency to bring an action for declaratory and injunctive relief based on its noncompliance with Article 18. The prevailing party in such an action would be entitled to reasonable attorneys' fees and court costs. Any city, county, or local law enforcement agency failing to comply with an order issued as a result of the action would be subject to a civil penalty of up to \$10,000 per day of noncompliance with the order.

Sections 2 and 3 would amend G.S. 153A-145.5 and G.S. 160A-205.2 to permit any person residing within the jurisdiction of a local government to bring an action for declaratory and injunctive relief based on noncompliance with these sections. The prevailing party in such an action would be entitled to reasonable attorneys' fees and court costs. Any local government failing to comply with an order issued as a result of the action would be subject to a civil penalty of up to \$10,000 per day of noncompliance with the order.

EFFECTIVE DATE: The act would become effective October 1, 2017.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

D

HOUSE BILL 113
PROPOSED COMMITTEE SUBSTITUTE H113-CSTG-13 [v.1]

04/23/2017 10:36:34 AM

Short Title: Pvt Action Local Compliance/Immigration Laws.

(Public)

Sponsors:

Referred to:

February 16, 2017

A BILL TO BE ENTITLED

AN ACT TO CREATE A PRIVATE CAUSE OF ACTION TO REMEDY LOCAL
GOVERNMENT NONCOMPLIANCE WITH STATE IMMIGRATION LAWS

The General Assembly of North Carolina enacts:

SECTION 1. Article 18 of Chapter 15A of the General Statutes is amended by
adding a new section to read:

"§ 15A-312. Private cause of action.

In addition to any other remedies at law or in equity, any person who resides within the jurisdiction of a city, county, or law enforcement agency that the person believes is not in compliance with this Article may bring an action for declaratory and injunctive relief. Such action shall be filed in the superior court of any county in which the defendant city, county, or local law enforcement agency has jurisdiction. The court shall award the prevailing party in an action brought under this section reasonable attorneys' fees and court costs as authorized by law. The court shall impose a civil penalty against any city, county, or law enforcement agency that fails to comply with an order issued as a result of an action pursuant to this section in an amount up to ten thousand dollars (\$10,000) per day for each day the city, county, or local law enforcement agency fails to comply with the order. As used in this section, the phrase "local law enforcement agency" means a city police department, a county police department, or a sheriff's office."

SECTION 2. G.S. 153A-145.5 is amended by adding a subsection to read:

"(c) In addition to any other remedies at law or in equity, any person who resides within the jurisdiction of a county that the person believes is not in compliance with this section may bring an action for declaratory and injunctive relief in the superior court of the defendant county. The court shall award the prevailing party in an action brought under this subsection reasonable attorneys' fees and court costs as authorized by law. The court shall impose a civil penalty against any county that fails to comply with an order issued as a result of an action pursuant to this section in an amount up to ten thousand dollars (\$10,000) per day for each day the county fails to comply with the order."

SECTION 3. G.S. 160A-205.2 is amended by adding a subsection to read:

"(c) In addition to any other remedies at law or in equity, any person who resides within the jurisdiction of a city that the person believes is not in compliance with this section may bring an action for declaratory and injunctive relief. Such action shall be filed in the superior court of any county in which the defendant city has jurisdiction. The court shall award the prevailing party in an action brought under this subsection reasonable attorneys' fees and court costs as authorized by law. The court shall impose a civil penalty against any city that fails to



* H 1 1 3 - C S T G - 1 3 *

1 comply with an order issued as a result of an action pursuant to this section in an amount up to
2 ten thousand dollars (\$10,000) per day for each day the city fails to comply with the order."

3 **SECTION 4.** This act becomes effective October 1, 2017.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 113

Short Title: Pvt Action Local Compliance/Immigration Laws. (Public)

Sponsors: Representatives Cleveland, Conrad, Millis, and Speciale (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I, if favorable, State and Local Government II

February 16, 2017

A BILL TO BE ENTITLED
AN ACT TO CREATE A PRIVATE CAUSE OF ACTION TO REMEDY LOCAL
GOVERNMENT NONCOMPLIANCE WITH STATE IMMIGRATION LAWS

The General Assembly of North Carolina enacts:

SECTION 1. Article 18 of Chapter 15A of the General Statutes is amended by adding a new section to read:

"§ 15A-312. Private cause of action.

In addition to any other remedies at law or in equity, any person who resides within the jurisdiction of a city, county, or law enforcement agency that the person believes is not in compliance with this Article may bring an action for declaratory and injunctive relief. Such action shall be filed in the superior court of any county in which the defendant city, county, or local law enforcement agency has jurisdiction. The court shall award the prevailing party in an action brought under this section reasonable attorneys' fees and court costs as authorized by law. The court shall impose a civil penalty against any city, county, or law enforcement agency that fails to comply with an order issued as a result of an action pursuant to this section in an amount up to ten thousand dollars (\$10,000) per day for each day the city, county, or local law enforcement agency fails to comply with the order. As used in this section, the phrase "local law enforcement agency" means a city police department, a county police department, or a sheriff's office."

SECTION 2. G.S. 153A-145.5 is amended by adding a subsection to read:

"(c) In addition to any other remedies at law or in equity, any person who resides within the jurisdiction of a county, a county police department, or a sheriff's office that the person believes is not in compliance with this section may bring an action for declaratory and injunctive relief. Such action shall be filed in the superior court of any county in which the defendant county, county police department, or sheriff's office has jurisdiction. The court shall award the prevailing party in an action brought under this subsection reasonable attorneys' fees and court costs as authorized by law. The court shall impose a civil penalty against any county, county police department, or sheriff's office that fails to comply with an order issued as a result of an action pursuant to this section in an amount up to ten thousand dollars (\$10,000) per day for each day the county, county police department, or sheriff's office fails to comply with the order."

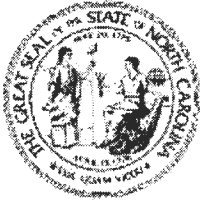
SECTION 3. G.S. 160A-205.2 is amended by adding a subsection to read:

"(c) In addition to any other remedies at law or in equity, any person who resides within the jurisdiction of a city or city police department that the person believes is not in compliance with this section may bring an action for declaratory and injunctive relief. Such action shall be filed in the superior court of any county in which the defendant city or city police department has jurisdiction. The court shall award the prevailing party in an action brought under this subsection



1 reasonable attorneys' fees and court costs as authorized by law. The court shall impose a civil
2 penalty against any city or city police department that fails to comply with an order issued as a
3 result of an action pursuant to this section in an amount up to ten thousand dollars (\$10,000) per
4 day for each day the city or city police department fails to comply with the order."

5 **SECTION 4.** This act becomes effective October 1, 2017.



HOUSE BILL 308: No Insurance While Driving/Tow Vehicle.

2017-2018 General Assembly

Committee:	House Judiciary I	Date:	April 22, 2017
Introduced by:	Reps. Cleveland, Clampitt, Collins, Millis	Prepared by:	Bill Patterson
Analysis of:	PCS to Second Edition H308-CSTG-12		Committee Co-Counsel

OVERVIEW: *The Proposed Committee Substitute for House Bill 308 would require the towing and storage of a vehicle when the owner is charged with operating or allowing his or her vehicle to be operated without insurance. It also would require law enforcement to notify any lienholders with a perfected security interest in the vehicle of the location of the seized vehicle and would permit the lienholder to take possession of the vehicle.*

The PCS removed a provision setting the charge for storage of a towed vehicle, rewrote subsection (f) relating to the owner's right to a hearing before the clerk, removed Section 2, and made other technical and conforming corrections.

CURRENT LAW: G.S. 20-313 sets forth punishment and evidence requirements for owners of vehicles registered in this State who are operating, or permitting their vehicles to be operated, without insurance. Violators are guilty of a Class 3 misdemeanor.

BILL ANALYSIS:

Section 1 would amend G.S. 20-313 by adding the following new subsections:

- **Subsection (c)** would require a law enforcement officer, at the time an owner is charged for not having insurance, to have the vehicle towed and stored, utilizing that law enforcement agency's current rotation system and regulations pertaining to towing and storage. A stored vehicle would be released when both of the following conditions were met:
 - The owner provides proof of at least six months of insurance coverage to either the charging law enforcement agency or the prosecuting district attorney. Either entity would then provide documentation acknowledging compliance by the owner.
 - The owner presents the compliance document to the person in custody of the stored vehicle and pays any towing and storage fees.
- **Subsection (d)** would require the charging law enforcement agency to contact the Division of Motor Vehicles (DMV) within one regular business day of the seizing of the vehicle to obtain the name and address of any lienholder who has a perfected security interest in the vehicle. DMV would be required to provide the requested information within one regular business day. Law enforcement would then be required to provide notification to any lienholder of the location of the vehicle within 24 hours, and the lienholder could take possession of the stored vehicle by presenting to the custodian a copy of the title showing its perfected security interest.
- **Subsection (e)** would allow the person in custody of the stored vehicle to obtain a lien upon the vehicle if it was not claimed either by the owner or the lienholder.

Karen Cochrane-Brown
Director



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House PCS 308

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- **Subsection (f)** would allow the owner to file a petition with the clerk of court seeking a determination that there has been no lapse in financial responsibility. Upon receiving the clerk's decision in the owner's favor, the owner would be entitled to obtain release of the vehicle after paying any towing and storage charges.
- **Subsection (g)** would provide that if the owner is charged with a violation arising out of the same transaction that also requires seizure of the vehicle, nothing in the bill would alter or supersede that law.

EFFECTIVE DATE: This act becomes effective December 1, 2017, and applies to charges filed on or after that date.

Kristen Harris, counsel to House Insurance, substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

D

HOUSE BILL 308
Committee Substitute Favorable 4/11/17
PROPOSED COMMITTEE SUBSTITUTE H308-CSTG-12 [v.5]

04/24/2017 12:31:02 PM

Short Title: No Insurance While Driving/Tow Vehicle.

(Public)

Sponsors:

Referred to:

March 13, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THE TOWING AND STORAGE OF A VEHICLE BEING
3 OPERATED BY A DRIVER WHO IS CHARGED WITH FAILING TO MAINTAIN
4 FINANCIAL RESPONSIBILITY.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 20-313 reads as rewritten:

7 "§ 20-313. Operation of motor vehicle without financial responsibility a misdemeanor.

8 (a) Punishment. — On or after July 1, 1963, any owner of a motor vehicle registered or
9 required to be registered in this State who shall operate or permit such motor vehicle to be
10 operated in this State without having in full force and effect the financial responsibility required
11 by this Article shall be guilty of a Class 3 misdemeanor.

12 (b) Evidence. — Evidence that the owner of a motor vehicle registered or required to be
13 registered in this State has operated or permitted such motor vehicle to be operated in this State,
14 coupled with proof of records of the Division of Motor Vehicles indicating that the owner did
15 not have financial responsibility applicable to the operation of the motor vehicle in the manner
16 certified by him for purposes of G.S. 20-309, shall be prima facie evidence that such owner did
17 at the time and place alleged operate or permit such motor vehicle to be operated without
18 having in full force and effect the financial responsibility required by the provisions of this
19 Article.

20 (c) Towing and Storage. — At the time the owner of a motor vehicle is charged with a
21 violation of subsection (a) of this section, the charging law enforcement officer shall have the
22 motor vehicle towed and stored utilizing that law enforcement agency's current rotation system
23 and regulations pertaining to towing and storage. A person in custody of a motor vehicle towed
24 and stored pursuant to this subsection shall release the motor vehicle to its owner when both of
25 the following conditions are met:

26 (1) The owner presents proof of financial responsibility required by this Article
27 covering the motor vehicle for a period of at least six months to the charging
28 law enforcement agency or the prosecuting district attorney. The charging
29 law enforcement agency or prosecuting district attorney shall present the
30 owner with documentation acknowledging that the owner has complied with
31 the requirement set forth in this subdivision.

32 (2) The owner submits to the person in custody of the motor vehicle (i) the
33 documentation provided by the charging law enforcement agency or
34 prosecuting district attorney pursuant to subdivision (1) of this subsection
35 and (ii) payment of any towing and storage fees.



1 (d) Notice to the Lienholder and Right to Take Possession. – Notwithstanding any other
2 provision of this section, if a motor vehicle is towed and stored under subsection (c) of this
3 section, the charging law enforcement agency shall contact the Division within one regular
4 business day after the motor vehicle is towed and stored to obtain the name and address of any
5 lienholder who has a perfected security interest in the motor vehicle. The Division shall provide
6 the requested information to the charging law enforcement agency within one regular business
7 day. The charging law enforcement agency must then notify any lienholder by first-class mail
8 of the name and address of where the motor vehicle is stored. The notification to the lienholder
9 must be sent as soon as practical but not later than 24 hours after receipt of the information
10 from the Division.

11 A person in custody of a motor vehicle towed and stored pursuant to subsection (c) of this
12 section shall, upon presentation of a copy of the title to the motor vehicle showing a perfected
13 security interest and without delay during regular business hours, allow a lienholder access to
14 the motor vehicle. Upon payment of any towing and storage fees, a lienholder shall be allowed
15 to take possession of the motor vehicle. The lienholder may thereafter exercise any rights
16 reserved to it under any note, contract, and security agreement.

17 (e) Failure of Owner to Obtain Release. – Notwithstanding G.S. 44A-2(d), if the owner
18 of a motor vehicle towed and stored pursuant to subsection (c) of this section does not obtain
19 release of the motor vehicle that was towed and stored, or a lienholder has not recovered
20 possession of the motor vehicle, the person in custody of the motor vehicle has a lien on the
21 motor vehicle for the full amount of the towing and storage costs incurred since the motor
22 vehicle was towed and stored and may dispose of the motor vehicle pursuant to Article 1 of
23 Chapter 44A of the General Statutes.

24 (f) Release of Motor Vehicle to Innocent Owner. – An owner of a motor vehicle
25 charged with a violation of subsection (a) of this section may file a petition with the clerk of
26 superior court seeking a determination that he or she has not had a lapse in financial
27 responsibility. The clerk shall schedule a hearing before a judge in the Division no later than 10
28 regular business days or as soon as thereafter may be feasible. Notice of the hearing shall be
29 given to the owner, the charging law enforcement agency, and the prosecuting district attorney.
30 If it is determined that there was no violation of subsection (a) of this section, the clerk of court
31 shall enter an order releasing the motor vehicle to the owner upon payment of all towing and
32 storing charges incurred as a result of the seizure. For purposes of this subsection, an "innocent
33 owner" is an owner of a motor vehicle registered in this State who has maintained financial
34 responsibility as required by G.S. 20-309 and who has not violated subsection (a) of this
35 section.

36 (g) Construction. – If the person charged with a violation of subsection (a) of this
37 section is also charged with a violation of law arising out of the same transaction that requires
38 seizure of the motor vehicle, nothing in this section shall be construed to alter or supersede the
39 law requiring seizure of the motor vehicle."

40 **SECTION 2.** This act becomes effective December 1, 2017, and applies to charges
41 filed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 308
Committee Substitute Favorable 4/11/17

Short Title: No Insurance While Driving/Tow Vehicle.

(Public)

Sponsors:

Referred to:

March 13, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THE TOWING AND STORAGE OF A VEHICLE BEING
3 OPERATED BY A DRIVER WHO IS CHARGED WITH FAILING TO MAINTAIN
4 FINANCIAL RESPONSIBILITY.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 20-313 reads as rewritten:

7 "§ 20-313. Operation of motor vehicle without financial responsibility a misdemeanor.

8 (a) Punishment. — On or after July 1, 1963, any owner of a motor vehicle registered or
9 required to be registered in this State who shall operate or permit such motor vehicle to be
10 operated in this State without having in full force and effect the financial responsibility required
11 by this Article shall be guilty of a Class 3 misdemeanor.

12 (b) Evidence. — Evidence that the owner of a motor vehicle registered or required to be
13 registered in this State has operated or permitted such motor vehicle to be operated in this State,
14 coupled with proof of records of the Division of Motor Vehicles indicating that the owner did
15 not have financial responsibility applicable to the operation of the motor vehicle in the manner
16 certified by him for purposes of G.S. 20-309, shall be prima facie evidence that such owner did
17 at the time and place alleged operate or permit such motor vehicle to be operated without
18 having in full force and effect the financial responsibility required by the provisions of this
19 Article.

20 (c) Towing and Storage. — At the time the owner of a motor vehicle is charged with a
21 violation of subsection (a) of this section, the charging law enforcement officer shall have the
22 motor vehicle towed and stored. A person in custody of a motor vehicle towed and stored
23 pursuant to this subsection may charge a reasonable fee for storage not to exceed ten dollars
24 (\$10.00) per calendar day. A person in custody of a motor vehicle towed and stored pursuant to
25 this subsection shall release the motor vehicle to its owner when both of the following
26 conditions are met:

27 (1) The owner presents proof of financial responsibility required by this Article
28 covering the motor vehicle for a period of at least six months to the charging
29 law enforcement agency or the prosecuting district attorney. The charging
30 law enforcement agency or prosecuting district attorney shall present the
31 owner with documentation acknowledging that the owner has complied with
32 the requirement set forth in this subdivision.

33 (2) The owner submits to the person in custody of the motor vehicle (i) the
34 documentation provided by the charging law enforcement agency or
35 prosecuting district attorney pursuant to subdivision (1) of this subsection
36 and (ii) payment of any towing and storage fees.



(d) Notice to the Lienholder and Right to Take Possession. – Notwithstanding any other provision of this section, if a motor vehicle is towed and stored under subsection (c) of this section, the charging law enforcement agency shall contact the Division within one regular business day after the motor vehicle is towed and stored to obtain the name and address of any lienholder who has a perfected security interest in the motor vehicle. The Division shall provide the requested information to the charging law enforcement agency within one regular business day. The charging law enforcement agency must then notify any lienholder by first-class mail of the name and address of where the motor vehicle is stored. The notification to the lienholder must be sent as soon as practical but not later than 24 hours after receipt of the information from the Division.

A person in custody of a motor vehicle pursuant to subsection (c) of this section shall, upon presentation of a copy of the title to the motor vehicle showing a perfected security interest and without delay during regular business hours, allow a lienholder access to the motor vehicle. Upon payment of any towing and storage fees, a lienholder shall be allowed to take possession of the motor vehicle. The lienholder may thereafter exercise any rights reserved to it under any note, contract, and security agreement.

(e) Failure of Owner to Obtain Release. – Notwithstanding G.S. 44A-2(d), if the owner of a motor vehicle towed and stored pursuant to subsection (c) of this section does not obtain release of the motor vehicle within 90 days from the date the motor vehicle was towed and stored, or a lienholder has not recovered possession of the motor vehicle within this period of time, the person in custody of the motor vehicle has a lien on the motor vehicle for the full amount of the towing and storage costs incurred since the motor vehicle was towed and stored and may dispose of the motor vehicle pursuant to Article 1 of Chapter 44A of the General Statutes.

(f) Pretrial Release of Motor Vehicle. – An owner of a motor vehicle may file a petition with the clerk of court of superior court seeking a pretrial release of the motor vehicle. The clerk shall consider the petition and make a determination as soon as feasible.

(g) Construction. – If the person charged with a violation of subsection (a) of this section is also charged with a violation of law arising out of the same transaction that requires seizure of the motor vehicle, nothing in this section shall be construed to alter or supersede the law requiring seizure of the motor vehicle."

SECTION 2. G.S. 44A-2(d) reads as rewritten:

"(d) Any person who repairs, services, tows, or stores motor vehicles in the ordinary course of the person's business pursuant to an express or implied contract with an owner or legal possessor of the motor vehicle, except for a motor vehicle seized pursuant to ~~G.S. 20-28.3~~, G.S. 20-28.3 or towed and stored pursuant to G.S. 20-313, has a lien upon the motor vehicle for reasonable charges for such repairs, servicing, towing, storing, or for the rental of one or more substitute vehicles provided during the repair, servicing, or storage. This lien shall have priority over perfected and unperfected security interests. Payment for towing and storing a motor vehicle seized pursuant to G.S. 20-28.3 shall be as provided for in G.S. 20-28.2 through G.S. 20-28.5. Payment for towing and storing a motor vehicle pursuant to G.S. 20-313 shall be as provided in G.S. 20-313."

SECTION 3. This act becomes effective December 1, 2017, and applies to charges filed on or after that date.



HOUSE BILL 330: CivPro/Qualified Immunity for Auto Accident.

2017-2018 General Assembly

Committee: House Judiciary I
Introduced by: Reps. Burr, Millis
Analysis of: First Edition

Date: April 25, 2017
Prepared by: Jason Moran-Bates
Committee Co-Counsel

OVERVIEW: *House Bill 330 would change the title of Article 43B of Chapter 1 of the General Statutes and provide immunity from civil liability to drivers who, while exercising due care, injure individuals who are blocking traffic in a public right-of-way during a protest or demonstration.*

CURRENT LAW: Currently, Article 43B of Chapter 1 is entitled "Defense of Charitable Immunity Abolished; and Qualified Immunity for Volunteers." Drivers do not receive immunity from civil liability for injuring someone protesting in a public right-of-way.

BILL ANALYSIS:

Section 1 of the bill would rename Article 43B of Chapter 1 "Immunities and Other Defenses."

Section 2 of the bill would make drivers immune from civil liability for injuries they cause to individuals blocking traffic in a public right-of-way as part of a protest or demonstration. Drivers would have to be exercising due care in order to receive civil immunity and would not be immune from liability for willful or wanton conduct.

EFFECTIVE DATE: This bill would be effective when it becomes law and apply to injuries sustained on or after that date.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE BILL 330

Short Title: CivPro/Qualified Immunity for Auto Accident. (Public)

Sponsors: Representatives Burr and Millis (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I

March 14, 2017

A BILL TO BE ENTITLED

AN ACT PROVIDING THAT A PERSON DRIVING AN AUTOMOBILE WHILE EXERCISING DUE CARE IS IMMUNE FROM CIVIL LIABILITY FOR ANY INJURY TO ANOTHER IF THE INJURED PERSON WAS PARTICIPATING IN A PROTEST OR DEMONSTRATION AND BLOCKING TRAFFIC IN A PUBLIC RIGHT-OF-WAY AT THE TIME OF THE INJURY.

The General Assembly of North Carolina enacts:

SECTION 1. The title of Article 43B of Chapter 1 of the General Statutes reads as rewritten:

"Article 43B.

~~"Defense of Charitable Immunity Abolished; and Qualified Immunity for Volunteers.~~
Immunities and Other Defenses."

SECTION 2. Article 43B of Chapter 1 of the General Statutes is amended by adding a new section to read:

"§ 1-539.13 Immunity from civil liability for certain automobile drivers.

(a) A person driving an automobile who is exercising due care and injures another person who is participating in a protest or demonstration and is blocking traffic in a public right-of-way is immune from civil liability for the injury.

(b) A person shall not be immune from civil liability if the actions leading to the injury were willful or wanton."

SECTION 3. This act is effective when it becomes law and applies to injuries occurring on or after that date.





HOUSE BILL 335: Vacancies/NC Sup Ct/Ct of App/Superior Ct/DAs.

2017-2018 General Assembly

Committee:	House Judiciary I	Date:	April 23, 2017
Introduced by:	Reps. Burr, K. Hall, Saine, Bumgardner	Prepared by:	Bill Patterson
Analysis of:	First Edition		Committee Co-Counsel

OVERVIEW: *House Bill 335 would change the procedure for filling vacancies occurring in the offices of Justice of the Supreme Court, judge of the Court of Appeals, judge of the superior court, and district attorney. It would require the Governor to appoint the replacement from a list of three persons recommended by the executive committee of the political party with which the vacating member was affiliated when elected, if any, provided that the recommendations are made within 30 days of the occurrence of the vacancy.*

CURRENT LAW: Vacancies occurring in the office of Justice of the Supreme Court, judge of the Court of Appeals, judge of the superior court, and district attorney for causes other than expiration of the term are currently filled by appointment of the Governor. G.S. 163-9(a); G.S. 163-10.

BILL ANALYSIS: **Section 1** of the bill would amend G.S. 163-9(a) to require the Governor to fill vacancies in the office of Justice of the Supreme Court, judge of the Court of Appeals, and judge of the superior court as follows:

- To fill a vacancy in the office of Justice of the Supreme Court or judge of the Court of Appeals the Governor would appoint one person from a list of three persons recommended by the State executive committee of the political party with which the vacating member was affiliated when elected, if any.
- To fill a vacancy in the office of superior court judge in a single-county judicial district the Governor would appoint one person from a list of three persons recommended by the county executive committee of the political party with which the vacating member was affiliated when elected, if any.
- To fill a vacancy in the office of superior court judge in a multicounty judicial district the Governor would appoint one person from a list of three persons recommended by the district executive committee of the political party with which the vacating member was affiliated when elected, if any.

The foregoing procedures would apply only if the applicable political party executive committee makes the recommendations within 30 days of the occurrence of the vacancy.

Section 2 would amend G.S. 163-10 to require the Governor to fill a vacancy in the office of district attorney by appointing one person from a list of three persons recommended by the prosecutorial district committee of the political party with which the vacating member was affiliated when elected, if any.

The prosecutorial district committee would comprise at least one member appointed by the county executive committee of that political party for each county included in the prosecutorial district. In the event that more than one member were to be appointed to the prosecutorial district committee by a

Karen Cochrane-Brown
Director



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House Bill 335

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county executive committee, each member appointed by that county executive committee would cast an equal share of the votes allotted to that county.

This procedure would apply only if the recommendations are made by the party prosecutorial district committee within 30 days of the occurrence of the vacancy.

EFFECTIVE DATE: This act is effective when it becomes law and applies to vacancies filled on or after that date.

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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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1

HOUSE BILL 335

Short Title: Vacancies/NC Sup Ct/Ct of App/Superior Ct/DAs. (Public)

Sponsors: Representatives Burr, K. Hall, Saine, and Bumgardner (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I

March 14, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE MANNER IN WHICH VACANCIES ARE FILLED IN THE
3 OFFICES OF JUSTICE OF THE NORTH CAROLINA SUPREME COURT, JUDGE OF
4 THE NORTH CAROLINA COURT OF APPEALS, JUDGE OF SUPERIOR COURT, AND
5 DISTRICT ATTORNEY.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 163-9(a) reads as rewritten:

8 "(a) Vacancies occurring in the offices of Justice of the Supreme Court, judge of the Court
9 of Appeals, and judge of the superior court for causes other than expiration of term shall be filled
10 by appointment of the Governor. When filling a vacancy occurring in the office of Justice of the
11 Supreme Court or judge of the Court of Appeals, the Governor shall appoint from a list of three
12 persons recommended by State executive committee of the political party with which the vacating
13 member was affiliated when elected, if any, if that party executive committee makes
14 recommendations within 30 days of the occurrence of the vacancy. When filling a vacancy
15 occurring in the office of judge of the superior court in a single-county judicial district, the
16 Governor shall appoint from a list of three persons recommended by county executive committee
17 of the political party with which the vacating member was affiliated when elected, if any, if that
18 party executive committee makes recommendations within 30 days of the occurrence of the
19 vacancy. When filling a vacancy occurring in the office of judge of the superior court in a
20 multicounty judicial district, the Governor shall appoint from a list of three persons recommended
21 by district executive committee of the political party with which the vacating member was
22 affiliated when elected, if any, if that party executive committee makes recommendations within
23 30 days of the occurrence of the vacancy. An appointee to the office of Justice of the Supreme
24 Court or judge of the Court of Appeals shall hold office until January 1 next following the election
25 for members of the General Assembly that is held more than 60 days after the vacancy occurs, at
26 which time an election shall be held for an eight-year term and until a successor is elected and
27 qualified."

28 **SECTION 2.** G.S. 163-10 reads as rewritten:

29 **"§ 163-10. Filling vacancy in office of district attorney.**

30 Any vacancy occurring in the office of district attorney for causes other than expiration of term
31 shall be filled by appointment of the Governor. An appointee shall hold his place until the next
32 election for members of the General Assembly that is held more than 60 days after the vacancy
33 occurs, at which time an election shall be held to fill the unexpired term of the office: Provided,
34 that when the unexpired term of the office in which the vacancy has occurred expires on the first



1 day of January succeeding the next election for members of the General Assembly, the Governor
2 shall appoint to fill that vacancy for the unexpired term of the office.

3 The Governor shall appoint from a list of three persons recommended by prosecutorial district
4 committee of the political party with which the vacating member was affiliated when elected, if
5 any, if that prosecutorial district committee makes recommendations within 30 days of the
6 occurrence of the vacancy. The prosecutorial district committee shall consist of at least one
7 member appointed by the county executive committee of that political party from each county
8 included in that prosecutorial district. A county executive committee may elect more than one
9 member to the district committee, but in the event that more than one member is selected from that
10 county, each member shall cast an equal share of the votes allotted to the county."

11 **SECTION 3.** This act is effective when it becomes law and applies to vacancies filled
12 on or after that date.



HOUSE BILL 455: Increase Funeral Expense Allowance.

2017-2018 General Assembly

Committee:	House Judiciary I. If favorable, re-refer to Finance	Date:	April 25, 2017
Introduced by:	Reps. B. Richardson, Alexander	Prepared by:	Jason Moran-Bates
Analysis of:	First Edition		Committee Co-Counsel

OVERVIEW: *House Bill 455 would increase the amount of funeral expenses payable as second-class claims against a decedent's estate from \$3,500 to \$6,000.*

CURRENT LAW: Under G.S. 28A-19-6, claims against decedents' estates are divided into classes from first to ninth and are paid out in class order. Funeral expenses up to \$3,500, not including burial place and headstone, are second class claims. Under current law, they are paid from an estate after costs of administration and claims of creditors secured by liens on specific property. The amount is not diminished by any Veteran's Administration or other federal benefits paid to the estate. Funeral expenses in excess of \$3,500 are included in ninth-class claims and are paid last.

BILL ANALYSIS: House Bill 455 would amend G.S. 28A-19-6(a) to raise the amount of funeral expenses comprising a second-class claim against an estate from \$3,500 to \$6,000.

EFFECTIVE DATE: This bill would be effective October 1, 2017, and apply to estates of decedents dying on or after that date.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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1

HOUSE BILL 455

Short Title: Increase Funeral Expense Allowance. (Public)

Sponsors: Representatives B. Richardson and Alexander (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Homeland Security, Military, and Veterans Affairs, if favorable, Finance

March 27, 2017

A BILL TO BE ENTITLED
AN ACT TO INCREASE THE ALLOWABLE FUNERAL EXPENSE AMOUNT IN
SECOND CLASS PRIORITY CLAIMS FOR FUNERAL EXPENSES AGAINST THE
ESTATE OF A DECEDENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 28A-19-6(a) reads as rewritten:

"§ 28A-19-6. Order of payment of claims.

(a) After payment of costs and expenses of administration, the claims against the estate of a decedent must be paid in the following order:

First class. Claims which by law have a specific lien on property to an amount not exceeding the value of such property.

Second class. Funeral expenses to the extent of ~~three-six thousand five hundred~~ dollars ~~(\$3,500)-(\$6,000)~~. This limitation shall not include burial place or gravestone. The preferential limitation herein granted shall be construed to be only a limit with respect to preference of payment and shall not be construed to be a limitation on reasonable funeral expenses which may be incurred; nor shall the preferential limitation of payment in the amount of ~~three-six thousand five hundred~~ dollars ~~(\$3,500)-(\$6,000)~~ be diminished by any Veterans Administration, social security or other federal governmental benefits awarded to the estate of the decedent or to the decedent's beneficiaries.

Third class. Costs associated with gravestones and reasonable costs for the purchase of a suitable burial place as provided in G.S. 28A-19-9 to the extent of one thousand five hundred dollars (\$1,500). The preferential limitation herein granted shall be construed to be only a limit with respect to preference of payment and shall not be construed to be a limitation on reasonable gravestone or burial place expenses which may be incurred; nor shall the preferential limitation of payment in the amount of one thousand five hundred dollars (\$1,500) be diminished by any Veterans Administration, social security or other federal governmental benefits awarded to the estate of the decedent or to the decedent's beneficiaries.

Fourth class. All dues, taxes, and other claims with preference under the laws of the United States.

Fifth class. All dues, taxes, and other claims with preference under the laws of the State of North Carolina and its subdivisions.

Sixth class. Judgments of any court of competent jurisdiction within the State, docketed and in force, to the extent to which they are a lien on the property of the decedent at the decedent's death. The Department of Health and Human Services is a sixth-class creditor for purposes of determining the order of claims against the estate; provided, however, that judgments in favor



1 of other sixth-class creditors docketed and in force before the Department seeks recovery for
2 medical assistance shall be paid prior to recovery by the Department.

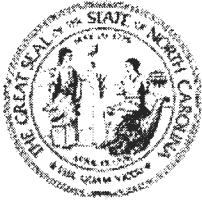
3 Seventh class. Wages due to any employee employed by the decedent, which claim for
4 wages shall not extend to a period of more than 12 months next preceding the death; or if such
5 employee was employed for the year current at the decease, then from the time of such
6 employment; for medical services within the 12 months preceding the decease; for drugs and
7 all other medical supplies necessary for the treatment of such decedent during the last illness of
8 such decedent, said period of last illness not to exceed 12 months.

9 Eighth class. A claim for equitable distribution.

10 Ninth class. All other claims."

11 **SECTION 2.** This act becomes effective October 1, 2017, and applies to estates of
12 decedents dying on or after that date.





HOUSE BILL 645: Legal Services Rendered for Nonprofits.

2017-2018 General Assembly

Committee: House Judiciary I
Introduced by: Rep. Blust
Analysis of: First Edition

Date: April 24, 2017
Prepared by: Bill Patterson
Committee Co-Counsel

OVERVIEW: *House Bill 645 would permit a nonprofit membership association to render legal services to its members provided by its officers, employees, or agents who are licensed attorneys and to charge for the legal services rendered to its members.*

[As introduced, this bill was identical to S534, as introduced by Sen. B. Jackson, which is currently in Senate Rules and Operations of the Senate.]

CURRENT LAW: G.S. 84-5.1 permits a tax exempt nonprofit corporation organized under Chapter 55A of the General Statutes as a public interest law firm rendering indigent legal services to render such legal services provided by duly licensed attorneys.

BILL ANALYSIS: House Bill 645 would amend G.S. 84-5.1 to permit a nonprofit membership association organized under Chapter 55A of the General Statutes to render legal services to its members provided by its officers, employees, or agents who are duly licensed attorneys, provided that the attorney controls the manner and course of the legal services rendered. The bill would also permit the association to charge for the legal services rendered to its members.

EFFECTIVE DATE: This act is effective when it becomes law.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 645*

Short Title: Legal Services Rendered for Nonprofits.

(Public)

Sponsors: Representative Blust.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I

April 11, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW LICENSED ATTORNEYS EMPLOYED BY NONPROFIT
3 MEMBERSHIP ASSOCIATIONS TO PROVIDE LEGAL SERVICES TO THE
4 MEMBERS OF THOSE NONPROFIT MEMBERSHIP ASSOCIATIONS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 84-5.1 reads as rewritten:

7 "**§ 84-5.1. Rendering of legal services by certain nonprofit ~~corporations~~ entities.**

8 (a) Subject to the rules and regulations of the North Carolina State Bar, as approved by
9 the Supreme Court of North Carolina, a nonprofit corporation, tax exempt under 26 U.S.C. §
10 501(c)(3), organized or authorized under Chapter 55A of the General Statutes of North
11 Carolina and operating as a public interest law firm as defined by the applicable Internal
12 Revenue Service guidelines or for the primary purpose of rendering indigent legal services,
13 may render such services provided by attorneys duly licensed to practice law in North Carolina,
14 for the purposes for which the nonprofit corporation was organized. The nonprofit corporation
15 must have a governing structure that does not permit an individual or group of individuals other
16 than an attorney duly licensed to practice law in North Carolina to control the manner or course
17 of the legal services rendered and must continually satisfy the criteria established by the
18 Internal Revenue Service for 26 U.S.C. § 501(c)(3) status, whether or not any action has been
19 taken to revoke that status.

20 (b) In no instance may legal services rendered by a nonprofit corporation under
21 subsection (a) of this section be conditioned upon the purchase or payment for any product,
22 good, or service other than the legal service rendered.

23 (c) A nonprofit membership association organized or authorized under Chapter 55A of
24 the General Statutes may render legal services to its members provided by the association's
25 officers, employees, or agents who are attorneys licensed pursuant to this Chapter; provided,
26 however, that the attorney shall control the manner and course of the legal services rendered. A
27 nonprofit membership association may charge for the legal services rendered to its members
28 pursuant to this subsection. The provisions of this subsection apply notwithstanding any other
29 provision of law to the contrary."

30 SECTION 2. This act is effective when it becomes law.



NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 645

DATE 4/25/17

S. B. No. _____

Amendment No. 1

(to be filled in by
Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Jackson
Sen.) _____

1 moves to amend the bill on page 1, line 24

2 () WHICH CHANGES THE TITLE

3 by rewriting the line ~~transfers~~ insert the

4 following between the words "member" and

5 provided":

6

7 "consistent with the mission, charter,

8 or purpose of such nonprofit association"

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SIGNED 

ADOPTED _____ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

REASONS FOR THE STATE BAR'S OPPOSITION TO H645and S534

The North Carolina State Bar was created by the General Assembly to regulate the practice of law. N.C.G.S. 84-15, 84-23(a). Its primary mission is to protect the public. One of its most important duties is to prevent harm caused by the unauthorized practice of law. N.C.G.S. 84-23(a). The State Bar is deeply concerned that the proposed legislation would establish a system in which the interests of clients could be subordinated to the interests of third parties who are beyond the State's regulation.

There has long been a prohibition in North Carolina against corporations practicing law. N.C.G.S. 84-5; *State v. Carolina Motor Club*, 209 N.C. 624 (1936). The reasons for this prohibition are compelling. Licensed attorneys take an oath and, thereby, become officers of the court. The proper functioning of North Carolina's legal system is premised on lawyers fulfilling their responsibilities and elevating the interests of their clients, the courts and the justice system above their own self-interests. Elevating the client's interests above the interests of the lawyer is a fiduciary obligation. Lawyers are not mere vendors of legal services as commodities, but provide independent personal advice and services to their clients. The fiduciary obligation of a for-profit corporation to maximize profits directly conflicts with a lawyer's fiduciary responsibility to put the client's interest ahead of all others. The mission of a nonprofit corporation may also conflict with the client's interests. The client may want to settle a dispute to obtain needed compensation while the corporation prefers to reach a public resolution to promote an economic or political agenda. The corporation may want to settle because the proposed settlement promotes the corporation's agenda or because the corporation does not want to invest more resources in the litigation while the client does not want to settle because the offered compensation is inadequate. The lawyer charged with promoting the client's best interests has a direct conflict with the interests of his or her employer.

People, not corporations, are licensed to practice law. Regulation of the profession, and therefore protection of the public, depends entirely upon the obligation of each individual lawyer to comply with the Rules of Professional Conduct. A nonprofit corporation cannot have a law license and therefore could not be sanctioned for failing to comply with the Rules of Professional Conduct. Its business decisions are not made with reference to the requirements of the Rules of Professional Conduct. However, the continued employment of a lawyer employed by a corporation to provide legal services to its members would be dependent upon the lawyer's obedience to the corporation's officers and directors. The lawyer's independence and ability to serve the client's interests could easily be compromised.

For all of these reasons, the prohibition against the practice of law by corporations, both for-profit and nonprofit, is virtually universal. To the State Bar's knowledge, Pennsylvania is the only jurisdiction in the United States that has adopted legislation at all similar to the proposed legislation. 42 Pa.C.S. § 2524 (2010).

North Carolina statutes already contain the only two exceptions dictated by the public's interest: legal services organizations and public interest law firms. These exceptions arise from a line of United States Supreme Court decisions beginning with *NAACP v. Button*, 371 U.S. 415 (1963). The *Button* exceptions are narrowly drawn to provide access to the courts to pursue shared legal interests by members who otherwise could not obtain legal representation. In contrast, the proposed legislation would permit any nonprofit corporation with a membership to provide, and charge fees for, legal services even when the legal issues involved are not related to a shared political agenda. There is no reason to believe that all or even a majority of members of nonprofit corporations, particularly those whose members are corporations and other business entities, lack access to legal representation. Any exception to the prohibition against the practice of law by corporations must promote a compelling public purpose and be narrowly drafted. Granting the privilege of practicing law to any nonprofit membership association is simply too broad and serves no public purpose.

Concerns and Problems with H645 and S534

(H645/S534: An act to allow licensed attorneys employed by nonprofit membership associations to provide legal services to the members of those membership associations.)

Bill would be a radical change in the practice of law. No other state allows any nonprofit corporation with a membership to provide legal services. There are currently over 120,000 registered nonprofit corporations in North Carolina.

Reasons to prohibit corporations, both for-profit and nonprofit, from providing legal services is to protect client interests:

- Inherent conflict of interest
 - Corporations (and other entities) promote their own interests and missions
 - Client interests may conflict with corporate interests
 - Independence of the lawyer suffers
 - Lawyer loyalty to client is impaired by loyalty to corporate employer
 - Bill would permit persons who are not officers of the court and not subject to discipline to control and direct the provision of legal services to the public
- Potential loss of attorney-client confidences and privilege
- Protection of consumers from excessive legal fees and expenses
- Protection from fraud
 - Regulation of the practice of law is based on individual licensure, not entity licensure
 - Bill would curb the ability of the State Bar to stop abusive “debt relief” and “loan modification” companies that induce consumers to pay thousands of dollars for worthless services by claiming to provide legal services
 - Bill would permit these companies to form as nonprofit corporations and evade current consumer protection

No real distinction between for-profit and nonprofit corporations

- Nonprofit is not the same as charitable or altruistic
- Nonprofit corporation managers may be highly paid
- Control of corporation is still in the hands of directors and officers who are not governed by the rules that apply to lawyers, rules that are specifically designed and approved by the NC Supreme Court to protect consumers

Bill is so broad that it essentially allows anybody to practice law by forming a nonprofit corporation

- There is no legal definition of a “nonprofit membership association” in Chapter 55A, making such a designation impossibly broad and easily abused
- Bill is internally inconsistent – a lawyer cannot possibly “control the manner and course of the legal services rendered” while subordinate to non-lawyer management

There is no interest in this change from the over 1,500 nonprofit members of the North Carolina Center for Nonprofits

Contact: Peter Bolac, Legislative Liaison, North Carolina State Bar
PBolac@ncbar.gov, (919) 609-9280



HOUSE BILL 816: Consumer Protection/Roofing Contractors.

This Bill Analysis
reflects the contents
of the bill as it was
presented in
committee.

2017-2018 General Assembly

Committee: House Judiciary I
Introduced by: Rep. Arp
Analysis of: PCS to First Edition
H816-CSST-15

Date: April 20, 2017
Prepared by: Erika Churchill
Staff Attorney

OVERVIEW: *The proposed committee substitute for House Bill 816 would establish a new unfair and deceptive trade practice under Chapter 75 of the General Statutes. The PCS would do all of the following:*

- *Require all roofing repair contracts to be in writing.*
- *Require all roofing repair contracts where proceeds to pay for performance under the contract are expected from an insurance claim to have a right of cancellation if the consumer finds out the insurance claim will not be paid, in full or in part.*
- *Specify certain actions that a roof repair contractor cannot take.*

CURRENT LAW: North Carolina does not currently regulate or license individuals who perform roofing repair services, unless those services are performed as a general contractor.

G.S. 75-1.1 provides that unfair or deceptive acts or practices in or affecting commerce are unlawful. Whether an act or practice is unfair or deceptive usually depends on the facts of each case, but the general test is whether the act or practice has the capacity or tendency to deceive. Chapter 75 provides for the prosecution of such acts by the Attorney General and through private civil actions. Under suits initiated by the Attorney General, the court may impose a civil penalty of up to \$5,000 for each violation. Under private civil actions, the plaintiff may be entitled to treble damages and attorney's fees.

BILL ANALYSIS: The PCS would require that all consumers and roofing repair contractors who contract for a roofing repair to reduce that agreement to writing. With that, the following definitions apply:

- Consumer: a person hiring a roofing repair contractor, including the property owner, person in legal possession of the property, or any agent thereof, including the State and any of its political subdivisions.
- Roofing repair contractor: any person engaged in the business of residential roofing services in North Carolina for a fee or who offers to engage in or solicits roofing related services, including construction, installation, renovation, repair, maintenance, alteration, or waterproofing.
- Roofing repair: repairs to an existing roofing system with an estimated cost of more than \$750.00.

The written contract must contain: the name of the consumer; the name and contact information for the roofing repair contractor; the address and description of the property to be repaired; an estimate and description of the work to be done; the date of the contract; and a statement that the roofing repair

Karen Cochran-Brown
Director



Legislative Analysis
Division
919-733-2578

House PCS 816

Page 2

contractor will hold in trust any payment from the consumer until the materials are delivered to the site or has performed a majority of the work.

If money to pay for performance on the roofing repair contract is expected to come from insurance proceeds, the contract must also allow for the consumer to cancel the contract if the insurance company does not pay, in full or in part, the insurance claim. In order to cancel, a consumer must notify the roofing repair contractor, in writing, by midnight of the third day following notification of the failure to pay the insurance claim. All monies paid by the consumer to the roofing repair contractor must be returned to the consumer within 10 days of cancellation, except for the reasonable value of any services performed by the roofing repair contractor for emergency services.

Roofing repair contractors are prohibited from doing any of the following:

1. Advertise or otherwise promise or offer to pay, or pay, all or any portion of any insurance deductible as an inducement to the sale of any materials, labor, and or services.
2. Offer, or provide, any upgraded work, material, or product, grant any allowance or offer any discount against the fees to be charged, or pay the consumer any form of compensation, gift, prize, bonus, coupon, credit, referral fee, trade-in or trade-in payment, advertising, or other fee or payment as an inducement to the sale of any materials, labor, or services.
3. Offer, or provide, anything of value in exchange for permitting the roofing repair contractor to display a sign or any other type of advertisement at the consumer's premises.
4. With respect to any insurance claim connected with the roofing repair, or the performance of any other exterior work, do any of the following:
 - a. Seek to obtain, or obtain, a power of attorney from or on behalf of a consumer.
 - b. Offer to report or adjust a claim on behalf of a consumer.
 - c. Represent or negotiate, obtain, or attempt to obtain, an assignment of claims rights, benefits, or proceeds from or on behalf of a consumer.
 - d. Offer or advertise to represent or negotiate, obtain, or attempt to obtain an assignment of claims rights, benefits, or proceeds.

Violation of any of the above would be an unfair and deceptive trade practice. Chapter 75 of the General Statutes provides for the prosecution of unfair and deceptive trade practice acts by the Attorney General and through private civil actions. Under suits initiated by the Attorney General, the court may impose a civil penalty of up to \$5,000 for each violation. Under private civil actions, the plaintiff may be entitled to treble damages and attorney's fees.

The requirements of roofing contractors implemented by the PCS would not apply to persons engaged in the business of residential roofing services who meet any of the following descriptions:

- A licensed general contractor.
- A person engaged in the demolition of a structure or the cleanup of construction waste and debris that contains roofing material.
- A person working under the direct supervision of a roofing repair contractor who is hired either as an employee, day laborer, or contract laborer.
- A person providing roofing related services as a subcontractor under a licensed NC general contractor.

EFFECTIVE DATE: August 1, 2017, and applies to roofing repair contracts entered into on or after that date.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

D

HOUSE BILL 816
PROPOSED COMMITTEE SUBSTITUTE H816-CSST-15 [v.1]

04/20/2017 03:19:57 PM

Short Title: Consumer Protection/Roofing Contractors.

(Public)

Sponsors:

Referred to:

April 13, 2017

A BILL TO BE ENTITLED
AN ACT TO PROVIDE CONSUMER PROTECTIONS RELATED TO ROOFING REPAIR
CONTRACTORS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 75 of the General Statutes is amended by adding a new
Article to read:

"Article 9.

"Roofing Repair Contractors.

"§ 75-150. Definitions.

The following definitions apply in this Article:

- (1) Consumer. – The person hiring a roofing repair contractor, including the property owner, person in legal possession of the property, or any agent thereof, including the State and any of its political subdivisions.
- (2) Emergency services. – Any repair needed as the result of a serious, unexpected, or dangerous situation that requires immediate action.
- (3) Roofing repair. – Repairs to an existing roofing system with an estimated cost of more than seven hundred fifty dollars (\$750.00), including a total replacement of the existing roofing system.
- (4) Roofing repair contractor. – A person engaged in the business of residential roofing services in North Carolina for a fee or who offers to engage in or solicits roofing-related services, including construction, installation, renovation, repair, maintenance, alteration, or waterproofing. The term shall not include any of the following:
 - a. A licensed general contractor.
 - b. A person engaged in the demolition of a structure or the cleanup of construction waste and debris that contains roofing material.
 - c. A person working under the direct supervision of a roofing repair contractor who is hired either as an employee, day laborer, or contract laborer.
 - d. A person providing roofing-related services as a subcontractor, regardless of tier, under a licensed North Carolina general contractor.
 - e. A person generally engaged in the business of selling materials and products that may be used for the construction, installation, renovation, repair, maintenance, alteration, or waterproofing of a roof and as part of that business offers the installation of the materials and products.



* H 8 1 6 - C S S T - 1 5 *

1 "§ 75-151. Construction of Article.

2 The requirements of this Article shall be construed to be in addition to, and not in lieu of,
3 any required licensure of persons for certain professions and trades in this State. This Article
4 shall not be deemed to conflict with or affect the authority of any State or local agency, board,
5 or commission whose duty and authority is to administer or enforce any law or ordinance or to
6 establish, administer, or enforce any policy, rule, qualification, or standard for any trade or
7 profession.

8 "§ 75-152. Reserved.

9 "§ 75-153. Written contract required.

10 (a) All contracts for roofing repair entered into by a roofing repair contractor shall be in
11 writing. The written contract shall contain at least all of the following:

- 12 (1) The name, mailing address, physical address if different from the mailing
13 address, and phone number of the roofing contractor. If the roofing
14 contractor uses e-mail for business purposes, the contract shall also include
15 that e-mail address.
- 16 (2) The name of the consumer.
- 17 (3) The physical location of the property subject to the roofing repair, and a
18 brief description of the structure to be repaired.
- 19 (4) Include a copy of a repair estimate that addresses all of the following
20 disclosures:
- 21 a. A precise description and location of all damage claimed on the
22 repair estimate.
- 23 b. An itemized estimate of repair costs, including the cost of raw
24 materials, hourly labor rate, and the number of hours for each item of
25 repair or a unit cost basis.
- 26 c. If any damaged areas are not included on the repair estimate, a
27 specification of those damaged areas and all reasons for the exclusion
28 from the repair estimate.
- 29 d. A statement as to whether or not the property was inspected in any
30 manner prior to the preparation of the estimate, and a description of
31 the nature of that inspection if an inspection was done, including a
32 statement of whether or not the roof was physically accessed.
- 33 (5) Be written in the same language as that principally used in the sales
34 presentation, oral or otherwise, to the consumer.
- 35 (6) Clearly indicate the date on which the consumer actually signs the contract.
- 36 (7) Include a statement indicating that the roofing repair contractor shall hold in
37 trust any payment from the consumer until the roofing repair contractor has
38 delivered roofing materials at the property site or has performed a majority
39 of the roofing work on the property, whichever occurs first.

40 (b) Any written contract for roofing repairs entered into by a roofing repair contractor
41 for which the consumer anticipates the proceeds of any insurance policy will be used to pay, in
42 whole or in part, to pay for performance under the contract and the roofing repair contractor is
43 aware of the source of the funds to pay for performance under the contract, shall also include
44 all of the following:

- 45 (1) A disclosure that the consumer is responsible for payment for any work
46 performed if the insurer should deny payment or coverage on any part of the
47 loss.
- 48 (2) A statement that the roofing repair contractor has made no assurances that
49 the claimed loss will be covered by an insurance policy.

(3) In immediate proximity to the space reserved for the signature of the consumer, in bold-face type of a minimum size of 10 points, a statement in substantially the following form:

"You may cancel this contract or transaction at any time prior to midnight of the third business day after you have received written notification from your insurer that all or any part of the claim or contract is not a covered loss under the insurance policy. See the attached Notice of Cancellation form for an explanation of this right."

(4) A separate document as an attachment, which is easily detachable and is a form in duplicate that is captioned "Notice of Cancellation." The notice of cancellation form shall contain, in 10-point bold-face type, the following information and statements in the same language as that used in the contract:

"Notice of Cancellation
(enter date of transaction)
(date)

On (enter date of notice), I have received notice from my insurer that all or any part of my insurance claim will not be a covered loss under the insurance policy, and I hereby cancel our contract for roofing. I request that all payments made by me under our roofing repair contract to be returned to me within 10 business days following your receipt of this cancellation notice. I also request that any security interest arising out of the transaction be cancelled.

I HEREBY CANCEL THIS TRANSACTION

(date)

(consumer's signature)"

"§ 75-154-156. Reserved.

"§ 75-157. Limited right to cancel contract if not covered by insurance.

(a) Right to Cancel. – A consumer who has entered into a written contract for roofing repair with a roofing repair contractor to provide materials, labor, or services to be paid from the proceeds of an insurance policy may cancel the written contract at any time prior to midnight of the third business day after the consumer has received written notification from the insurer that the insurer will not be paying a claim for the roofing repair under the insurance policy covering the property subject to the roofing repair.

(b) Procedure for Cancellation. – Cancellation shall be evidenced by the consumer giving written notice of cancellation to the roofing repair contractor at the mailing, physical, or e-mail address stated in the contract. Notice of cancellation, if delivered to the mailing address provided by the roofing repair contractor, is effective upon deposit into the United States mail, postage prepaid, and properly addressed to the roofing repair contractor. Notice of cancellation need not be on the form required to be attached to the written contract under G.S. 75-153(b) or take a particular form. The notice of cancellation is sufficient if it indicates, by any form of written expression, the intention of the consumer not to be bound by the contract and provides information as to when the consumer received notice from the insurer of failure to pay.

(c) Refund of Payments to Consumer. – Within 10 days after a contract for roofing repairs has been cancelled, the roofing repair contractor shall tender to the consumer any payments, partial payments, or deposits made by the consumer and cancel any note or other evidence of indebtedness.

(d) Emergency Services. – If the roofing repair contractor has performed any emergency services, acknowledged by the consumer in writing to be necessary to prevent further damage to the premises, the roofing repair contractor is entitled to the reasonable value of such emergency services. Any provision in a written contract for roofing repairs that in the event of cancellation requires the payment of any fee for anything except emergency services shall constitute a violation of G.S. 75-1.1 and shall not be enforceable against any consumer who has cancelled a contract under this section.

"§ 75-158-159. Reserved.

"§ 75-160. Prohibited conduct.

(a) A roofing repair contractor shall not do any of the following:

- (1) Advertise or otherwise promise or offer to pay, or pay, all or any portion of any insurance deductible as an inducement to the sale of any materials, labor, and or services.
- (2) Offer, or provide, any upgraded work, material, or product, grant any allowance or offer any discount against the fees to be charged, or pay the consumer any form of compensation, gift, prize, bonus, coupon, credit, referral fee, trade-in or trade-in payment, advertising, or other fee or payment as an inducement to the sale of any materials, labor, or services.
- (3) Offer, or provide, anything of value in exchange for permitting the roofing repair contractor to display a sign or any other type of advertisement at the consumer's premises.
- (4) With respect to any insurance claim in connection with the repair or replacement of roof systems, or the performance of any other exterior repair, replacement, construction, or reconstruction work, do any of the following:
 - a. Seek to obtain, or obtain, a power of attorney from or on behalf of a consumer.
 - b. Offer to report or adjust a claim on behalf of a consumer.
 - c. Represent or negotiate, obtain, or attempt to obtain, an assignment of claims, rights, benefits, or proceeds from or on behalf of a consumer.
 - d. Offer or advertise to represent or negotiate, obtain, or attempt to obtain an assignment of claims, rights, benefits, or proceeds.
- (5) Act as an adjuster as defined in G.S. 58-33-10(2) or a public adjuster as defined in 28 G.S. 58-33A-5(7).

(b) An adjuster as defined in G.S. 58-33-10(2) or a public adjuster as defined in G.S. 58-33A-5(7) shall not act as a roofing repair contractor.

"§ 75-161-165. Reserved.

"§ 75-166. Violations an unfair and deceptive trade practice.

A violation of this Article shall constitute an unfair and deceptive trade practice under G.S. 75-1.1."

SECTION 2. G.S. 58-33-46(a) is amended by adding a new subdivision to read:

"(18) Improperly acting as a roofing repair contractor in violation of G.S. 75-160."

SECTION 3. G.S. 58-33A-45(a) is amended by adding a new subdivision to read:

"(15) Improperly acting as a roofing repair contractor in violation of G.S. 75-160."

SECTION 4. G.S. 58-33A-80 is amended by adding a new subsection to read:

"(l) A public adjuster shall not act as a contractor in the mitigation, repair, restoration of, or act as a salvor of damaged property as related to First Party Property Insurance Losses."

1 **SECTION 5.** This act becomes effective August 1, 2017, and applies to contracts
2 for roofing repair entered into on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 816

Short Title: Consumer Protection/Roofing Contractors.

(Public)

Sponsors: Representative Arp.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Insurance, if favorable, Judiciary I

April 13, 2017

A BILL TO BE ENTITLED
AN ACT TO PROVIDE CONSUMER PROTECTIONS RELATED TO ROOFING REPAIR
CONTRACTORS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 75 of the General Statutes is amended by adding a new
Article to read:

"Article 9.

"Roofing Repair Contractors.

"§ 75-150. Definitions.

The following definitions apply in this Article:

- (1) Consumer. – The person hiring a roofing repair contractor, including the property owner, person in legal possession of the property, or any agent thereof, including the State and any of its political subdivisions.
- (2) Emergency services. – Any repair needed as the result of a serious, unexpected, or dangerous situation that requires immediate action.
- (3) Roofing repair. – Repairs to an existing roofing system with an estimated cost of more than seven hundred fifty dollars (\$750.00), including a total replacement of the existing roofing system.
- (4) Roofing repair contractor. – A person engaged in the business of residential roofing services in North Carolina for a fee or who offers to engage in or solicits roofing-related services, including construction, installation, renovation, repair, maintenance, alteration, or waterproofing. The term shall not include any of the following:
 - a. A licensed general contractor.
 - b. A person engaged in the demolition of a structure or the cleanup of construction waste and debris that contains roofing material.
 - c. A person working under the direct supervision of a roofing repair contractor who is hired either as an employee, day laborer, or contract laborer.
 - d. A person providing roofing-related services as a subcontractor, regardless of tier, under a licensed North Carolina general contractor.

"§ 75-151. Construction of Article.

The requirements of this Article shall be construed to be in addition to, and not in lieu of, any required licensure of persons for certain professions and trades in this State. This Article shall not be deemed to conflict with or affect the authority of any State or local agency, board,



1 or commission whose duty and authority is to administer or enforce any law or ordinance or to
2 establish, administer, or enforce any policy, rule, qualification, or standard for any trade or
3 profession.

4 "§ 75-152. Reserved.

5 "§ 75-153. Written contract required.

6 (a) All contracts for roofing repair shall be in writing. The written contract shall contain
7 at least all of the following:

8 (1) The name, mailing address, physical address, if different from the mailing
9 address, and phone number of the roofing contractor. If the roofing
10 contractor uses e-mail for business purposes, the contract shall also include
11 that e-mail address.

12 (2) The name of the consumer.

13 (3) The physical location of the property subject to the roofing repair and a brief
14 description of the structure to be repaired.

15 (4) Include a copy of a repair estimate that addresses all of the following
16 disclosures:

17 a. A precise description and location of all damage claimed on the
18 repair estimate.

19 b. An itemized estimate of repair costs, including the cost of raw
20 materials, hourly labor rate, and the number of hours for each item of
21 repair or a unit cost basis.

22 c. If any damaged areas are not included on the repair estimate, a
23 specification of those damaged areas and all reasons for the exclusion
24 from the repair estimate.

25 d. A statement as to whether or not the property was inspected in any
26 manner prior to the preparation of the estimate and a description of
27 the nature of that inspection if an inspection was done, including a
28 statement of whether or not the roof was physically accessed.

29 (5) Be written in the same language as that principally used in the sales
30 presentation, oral or otherwise, to the consumer.

31 (6) Clearly indicate the date on which the consumer actually signs the contract.

32 (7) Include a statement indicating that the roofing repair contractor shall hold in
33 trust any payment from the consumer until the roofing repair contractor has
34 delivered roofing materials at the property site or has performed a majority
35 of the roofing work on the property, whichever occurs first.

36 (b) Any written contract for roofing repairs for which the consumer anticipates the
37 proceeds of any insurance policy will be used to pay, in whole or in part, to pay for
38 performance under the contract and the roofing repair contractor is aware of the source of the
39 funds to pay for performance under the contract, shall also include all of the following:

40 (1) A disclosure that the consumer is responsible for payment for any work
41 performed if the insurer should deny payment or coverage on any part of the
42 loss.

43 (2) A statement that the roofing repair contractor has made no assurances that
44 the claimed loss will be covered by an insurance policy.

45 (3) In immediate proximity to the space reserved for the signature of the
46 consumer, in bold-face type of a minimum size of 10 points, a statement in
47 substantially the following form:

48 "You may cancel this contract or transaction at any time prior to midnight of
49 the third business day after you have received written notification from your
50 insurer that all or any part of the claim or contract is not a covered loss under

the insurance policy. See the attached Notice of Cancellation form for an explanation of this right."

- (4) A separate document as an attachment, which is easily detachable and is a form in duplicate that is captioned "Notice of Cancellation." The notice of cancellation form shall contain, in 10-point bold-face type, the following information and statements in the same language as that used in the contract:

"Notice of Cancellation

(enter date of transaction)

(date)

On (enter date of notice), I have received notice from my insurer that all or any part of my insurance claim will not be a covered loss under the insurance policy and I hereby cancel our contract for roofing. I request that all payments made by me under our roofing repair contract to be returned to me within 10 business days following your receipt of this cancellation notice. I also request that any security interest arising out of the transaction be cancelled.

I HEREBY CANCEL THIS TRANSACTION

(date)

(consumer's signature)"

"§§ 75-154 through 75-156. Reserved.

"§ 75-157. Limited right to cancel contract if not covered by insurance.

(a) Right to Cancel. – A consumer who has entered into a written contract for roofing repair with a roofing repair contractor to provide materials, labor, or services to be paid from the proceeds of an insurance policy may cancel the written contract at any time prior to midnight of the third business day after the consumer has received written notification from the insurer that the insurer will not be paying a claim for the roofing repair under the insurance policy covering the property subject to the roofing repair.

(b) Procedure for Cancellation. – Cancellation shall be evidenced by the consumer giving written notice of cancellation to the roofing repair contractor at the mailing, physical, or e-mail address stated in the contract. Notice of cancellation, if delivered to the mailing address provided by the roofing repair contractor, is effective upon deposit into the United States mail, postage prepaid, and properly addressed to the roofing repair contractor. Notice of cancellation need not be on the form required to be attached to the written contract under G.S. 75-153(b) or take a particular form. The notice of cancellation is sufficient if it indicates, by any form of written expression, the intention of the consumer not to be bound by the contract and provides information as to when the consumer received notice from the insurer of failure to pay.

(c) Refund of Payments to Consumer. – Within 10 days after a contract for roofing repairs has been cancelled, the roofing repair contractor shall tender to the consumer any payments, partial payments, or deposits made by the consumer and cancel any note or other evidence of indebtedness.

(d) Emergency Services. – If the roofing repair contractor has performed any emergency services, acknowledged by the consumer in writing to be necessary to prevent further damage to the premises, the roofing repair contractor is entitled to the reasonable value of such emergency services. Any provision in a written contract for roofing repairs that in the event of cancellation requires the payment of any fee for anything except emergency services shall constitute a violation of G.S. 75-1.1 and shall not be enforceable against any consumer who has cancelled a contract under this section.

"§§ 75-158 through 75-159. Reserved.

"§ 75-160. Prohibited conduct.

(a) A roofing repair contractor shall not do any of the following:

- (1) Advertise or otherwise promise or offer to pay, or pay, all or any portion of any insurance deductible as an inducement to the sale of any materials, labor, and or services.
- (2) Offer, or provide, any upgraded work, material, or product, grant any allowance or offer any discount against the fees to be charged or pay the consumer any form of compensation, gift, prize, bonus, coupon, credit, referral fee, trade-in or trade-in payment, advertising, or other fee or payment as an inducement to the sale of any materials, labor, or services.
- (3) Offer, or provide, anything of value in exchange for permitting the roofing repair contractor to display a sign or any other type of advertisement at the consumer's premises.
- (4) With respect to any insurance claim in connection with the repair or replacement of roof systems, or the performance of any other exterior repair, replacement, construction, or reconstruction work, do any of the following:
 - a. Seek to obtain or obtain a power of attorney from or on behalf of a consumer.
 - b. Offer to report or adjust a claim on behalf of a consumer.
 - c. Represent or negotiate, obtain or attempt to obtain, an assignment of claims, rights, benefits, or proceeds from or on behalf of a consumer.
 - d. Offer or advertise to represent or negotiate, obtain, or attempt to obtain an assignment of claims, rights, benefits, or proceeds.

(b) An adjuster as defined in G.S. 58-33-10(2) or a public adjuster as defined in G.S. 58-33A-5(7) shall not act as a roofing repair contractor.

"§§ 75-161 through 75-165. Reserved.

"§ 75-166. Violation an unfair and deceptive trade practice.

A violation of this Article shall constitute an unfair and deceptive trade practice under G.S. 75-1.1."

SECTION 2. This act becomes effective October 1, 2017, and applies to contracts for roofing repair entered into on or after that date.





NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 816

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H816-AST-19 [v.2]

Page 1 of 1

Amends Title [NO]
H816-CSST-15v.1

Date 4/25/17 ,2017

Representative Arp

1 moves to amend the bill on page 2, lines 23-25, by rewriting those lines to read:

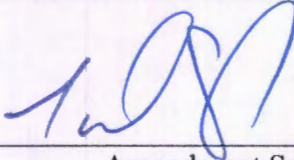
2
3 "b. An itemized estimate of repair costs.";

4
5 and on page 3, line 32, by deleting the " on that line;

6
7 and on page 3, lines 32-33, by inserting the following between those lines:

8 "(c) If after work is initiated on the written contract for roofing repair additional roofing
9 repair is discovered or requested, any agreement to address those roofing repairs shall be
10 subject to the requirements of this section and G.S. 75-157."

SIGNED _____


Amendment Sponsor

SIGNED _____

Committee Chair if Senate Committee Amendment

ADOPTED _____

FAILED _____

TABLED _____



* H 8 1 6 - A S T - 1 9 - V - 2 *



HOUSE BILL 527: Restore/Preserve Campus Free Speech.

2017-2018 General Assembly

Committee: House Judiciary I
Introduced by: Reps. Millis, Jordan
Analysis of: PCS to First Edition
H527-CSBE-20

Date: April 25, 2017
Prepared by: Jason Moran-Bates
Committee Co-Counsel

OVERVIEW: *House Bill 527 would require the Board of Governors of the University of North Carolina to develop, adopt, and implement various policies related to free expression and to form a committee on free expression, which must make annual reports to the Board of Governors, the General Assembly, and the governor. Nothing in the bill can be construed to impose liability on members of the Board of Trustees of any institution in the University of North Carolina system and members of the Board of Governors for actions taken pursuant to their official duties, or to impose liability on any institution in the University of North Carolina system for relocating or restricting expressive activity that presents a significant threat to the health and safety of students or the functioning of campus activities.*

CURRENT LAW: Currently, no statutes address free speech at the constituent institutions of the University of North Carolina. The Board of Governors has adopted a broad policy that "supports and encourages freedom of inquiry for faculty members and students"; protects faculty and students "in their responsible exercise of the freedom to teach, to learn, and otherwise to seek and speak the truth"; and charges faculty and students with the responsibility of maintaining a respectful community in which academic freedom flourishes. Within that framework, constituent institutions may create their own policies that comply with the First Amendment.

BILL ANALYSIS:

Section 1 of the bill would require the Board of Governors of the University of North Carolina to develop, adopt, and implement various policies related to free expression.

G.S. 116-300 would require adoption of a system-wide policy on free expression that includes at least the following:

- A statement that the primary function of each constituent institution is the discovery of knowledge and that function can only be fulfilled by the fullest degree of intellectual freedom and free expression.
- A statement it is not the proper role of a constituent institution to shield individuals from speech protected by the First Amendment.
- A prohibition on the constituent institutions taking action that requires students, faculty, or administrators to express a given view of social policy.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House PCS 527

Page 2

- A guarantee that students and faculty have the right to discuss any problem, limited only by narrowly-tailored, content-neutral, time, place, and manner restrictions, as well as the right to engage in spontaneous demonstrative activity that is not illegal or substantially disruptive.
- A statement that park areas, sidewalks, plazas, and similar places are public forums, while other areas of campus are non-public forums.
- The right of any invited speaker to be on campus, subject to reasonable time, place, and manner restrictions.
- The implementation of a disciplinary process for individuals accused of interfering with the protected free expression rights of others. All students accused under this process have the right 1) to have notice of the charges against them, 2) to review evidence against them, 3) to confront witnesses against them, 4) to present a defense and call witnesses, 5) to have assistance of counsel, and 6) to receive a decision from an impartial arbiter or panel, which may be appealed.

G.S. 116-301 would direct the Board of Governors to create a Committee on Free Expression, which must report annually to the Board of Governors, the General Assembly, and the governor on the following:

- Any barriers to, or disruptions of, free expression.
- A description of administrative handling of those disruptions or barriers.
- A description of the efforts to maintain institutional neutrality regarding political or social issues.
- Any assessments, criticisms, commendations, or recommendations the committee sees fit to include.

G.S. 116-302 would require policies on free expression to be included in freshman orientation at constituent institutions.

G.S. 116-303 would allow the Board of Governors and constituent institutions to adopt additional policies, including policies restricting expressive activity not protected by the First Amendment.

G.S. 116-304 would exempt from personal liability members of the boards of trustees, chancellors, officers, or other employees of constituent institutions, as well as the President, officers, employees, and members of the Board of Governors of the University of North Carolina for actions taken pursuant to their official duties. In addition, constituent institutions would be exempt from liability for relocating or restricting expressive activity due to a threat to the health and safety of individuals or to the continued functioning of campus operations.

Section 2 of the bill would require the Board of Governors to develop a policy requiring each constituent institution to identify the individual responsible for ensuring compliance with this act. This policy shall require that individual to receive training developed and provided by the University of North Carolina School of Government.

EFFECTIVE DATE: The bill would be effective June 30, 2017. The initial annual report of the Committee on Free Expression would be due by September 1, 2018.

Brian Gwyn of the Legislative Analysis Division substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

2

HOUSE BILL 527*
Committee Substitute Favorable 4/24/17

Short Title: Restore/Preserve Campus Free Speech.

(Public)

Sponsors:

Referred to:

March 30, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO RESTORE AND PRESERVE FREE SPEECH ON THE CAMPUSES OF THE
3 CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.

4 Whereas, the Constitution of North Carolina recognizes in Article I, Section 14, that
5 "Freedom of speech and of the press are two of the great bulwarks of liberty and therefore shall
6 never be restrained, but every person shall be held responsible for their abuse"; and

7 Whereas, the constituent institutions of The University of North Carolina have
8 historically embraced a commitment to freedom of expression in policy; and

9 Whereas, it is appropriate for The University of North Carolina System to restate
10 and confirm their commitment to free expression; and

11 Whereas, in 1974, the Committee on Free Expression at Yale issued a statement
12 known as the Woodward Report that stands as a classic defense of free expression on
13 campuses; in 2015, the Committee on Freedom of Expression at the University of Chicago
14 issued a similar and widely respected report; and in 1967, the Kalven Committee Report of the
15 University of Chicago articulated the principle of institutional neutrality regarding political and
16 social issues and the essential role of such neutrality in protecting freedom of thought and
17 expression at universities. The principles affirmed by these three highly regarded reports are
18 inspiring articulations of the critical importance of free expression in higher education; and

19 Whereas, the General Assembly views freedom of expression as being of critical
20 importance and requires that each constituent institution ensure free, robust, and uninhibited
21 debate and deliberation by students of constituent institutions; and

22 Whereas, the General Assembly has determined that it is a matter of statewide
23 concern that all constituent institutions of The University of North Carolina officially recognize
24 freedom of speech as a fundamental right; Now, therefore,
25 The General Assembly of North Carolina enacts:

26 **SECTION 1.** Chapter 116 of the General Statutes is amended by adding a new
27 Article to read:

28 "Article 36.

29 "Campus Free Speech.

30 "**§ 116-300. Policies required.**

31 The Board of Governors of The University of North Carolina shall develop and adopt a
32 policy on free expression that states, at least, the following:

33 (1) The primary function of each constituent institution is the discovery,
34 improvement, transmission, and dissemination of knowledge by means of
35 research, teaching, discussion, and debate. To fulfill this function, the



- 1 constituent institution must strive to ensure the fullest degree of intellectual
2 freedom and free expression.
- 3 (2) It is not the proper role of any constituent institution to shield individuals
4 from speech protected by the First Amendment, including, without
5 limitation, ideas and opinions they find unwelcome, disagreeable, or even
6 deeply offensive.
- 7 (3) The constituent institution may not take action, as an institution, on the
8 public policy controversies of the day in such a way as to require students,
9 faculty, or administrators to publicly express a given view of social policy.
- 10 (4) Students and faculty have the freedom to discuss any problem that presents
11 itself, as the First Amendment permits and within the limits of narrowly
12 tailored viewpoint- and content-neutral restrictions on time, place, and
13 manner of expression that are consistent with this Article and that are
14 necessary to achieve a significant institutional interest, provided that these
15 restrictions are clear, published, and provide ample alternative means of
16 expression. Students and faculty shall be permitted to assemble and engage
17 in spontaneous expressive activity as long as such activity is lawful and does
18 not materially and substantially disrupt the functioning of the constituent
19 institution, subject to the requirements of this section.
- 20 (5) Park areas, sidewalks, plazas, and similar spaces on the campuses of the
21 constituent institutions are traditional public forums, open on the same terms
22 to any speaker. Other areas of the campuses of the constituent institutions
23 are nonpublic forums consistent with First Amendment jurisprudence.
- 24 (6) Consistent with First Amendment jurisprudence, including any reasonable
25 time, place, and manner restrictions adopted by a constituent institution,
26 campuses of the constituent institutions are open to any speaker whom
27 students, student groups, or members of the faculty have invited.
- 28 (7) The constituent institution shall implement a range of disciplinary sanctions
29 for anyone under the jurisdiction of a constituent institution who
30 substantially disrupts the functioning of the constituent institution or
31 substantially interferes with the protected free expression rights of others,
32 including protests and demonstrations that infringe upon the rights of others
33 to engage in and listen to expressive activity when the expressive activity
34 has been scheduled pursuant to this policy or is located in a nonpublic
35 forum.
- 36 (8) In all student disciplinary cases involving expressive speech or conduct,
37 students are entitled to a disciplinary hearing under published procedures,
38 including, at a minimum, (i) the right to receive advance written notice of
39 the charges, (ii) the right to review the evidence in support of the charges,
40 (iii) the right to confront witnesses against them, (iv) the right to present a
41 defense, (v) the right to call witnesses, (vi) a decision by an impartial arbiter
42 or panel, (vii) the right of appeal, and (viii) the right to active assistance of
43 counsel, consistent with G.S. 116-40.11.

44 **"§ 116-301. Committee on Free Expression.**

45 (a) The Board of Governors of The University of North Carolina System shall establish
46 the Committee on Free Expression and appoint 11 individuals from among its membership to
47 the Committee. The members of the Committee on Free Expression shall elect a chair from the
48 members of the Committee. Each member of the Committee on Free Expression shall serve on
49 the Committee at the pleasure of the Board of Governors. Each member's term shall be equal to
50 the remainder of the member's respective term on the Board of Governors. In the event of a

1 vacancy on the Committee, the Board of Governors shall appoint a replacement from among its
2 membership.

3 (b) All employees of The University of North Carolina System and all State agencies
4 shall cooperate with the Committee on Free Expression by providing information requested by
5 the Committee.

6 (c) The Committee on Free Expression shall report to the public, the Board of
7 Governors, the Governor, and the General Assembly by September 1 of every year. The report
8 shall include all of the following:

- 9 (1) A description of any barriers to or disruptions of free expression within the
10 constituent institutions.
- 11 (2) A description of the administrative handling and discipline relating to these
12 disruptions or barriers.
- 13 (3) A description of substantial difficulties, controversies, or successes in
14 maintaining a posture of administrative and institutional neutrality with
15 regard to political or social issues.
- 16 (4) Any assessments, criticisms, commendations, or recommendations the
17 Committee sees fit to include.

18 The requirement of reporting to the public may be met by publishing the report on The
19 University of North Carolina System's Web site.

20 **"§ 116-302. Freshman orientation.**

21 All constituent institutions of The University of North Carolina shall include in freshman
22 orientation programs a section describing the policies regarding free expression consistent with
23 this Article.

24 **"§ 116-303. Guidelines and additional policies authorized.**

25 The Board of Governors, and the constituent institutions of The University of North
26 Carolina subject to approval of the Board of Governors, may adopt additional policies and
27 guidelines to further the purposes of the policies adopted pursuant to this Article. Nothing in
28 this Article shall be construed to prevent institutions from regulating student speech or activity
29 that is prohibited by law. Except as further limited by this Article, constituent institutions shall
30 be allowed to restrict student expression only for expressive activity not protected by the First
31 Amendment, including all of the following:

- 32 (1) Violations of State or federal law.
- 33 (2) Expression that a court has deemed unprotected defamation.
- 34 (3) Unlawful harassment.
- 35 (4) True threats, which are defined as statements meant by the speaker to
36 communicate a serious expression of intent to commit an act of unlawful
37 violence to a particular individual or group of individuals.
- 38 (5) An unjustifiable invasion of privacy or confidentiality not involving a matter
39 of public concern.
- 40 (6) An action that substantially disrupts the function of the constituent
41 institutions.
- 42 (7) Reasonable time, place, and manner restrictions on expressive activities,
43 consistent with G.S. 116-300(3).
- 44 (8) Speech that interferes with the treatment of patients.

45 **"§ 116-304. Limitations on liability.**

46 (a) Nothing in this Article shall be construed to make any chancellor, officer, employee,
47 or member of a Board of Trustees of a constituent institution or the President, officer,
48 employee, or member of the Board of Governors of The University of North Carolina
49 personally liable for acts taken pursuant to their official duties.

50 (b) Nothing in this Article shall be construed to impose liability on The University of
51 North Carolina or a constituent institution for relocating or restricting expressive activity

1 permitted by this act following a reasonable determination that there exists an articulable and
2 significant threat to the health and safety of a student or other individuals, or that the continuity
3 or functioning of campus operations cannot be reasonably remedied except by relocating or
4 restricting expressive activity."

5 **SECTION 2.** The Board of Governors shall develop a policy that requires each
6 constituent institution to identify the officer, office, or department with responsibilities for
7 ensuring compliance with this act and for answering any related questions or concerns. This
8 policy shall require that any officer with these responsibilities receive training on ensuring
9 compliance with this act. Such training shall be developed and provided by the University of
10 North Carolina School of Government.

11 **SECTION 3.** This act becomes effective June 30, 2017. The initial annual report of
12 the Committee on Free Expression is due by September 1, 2018.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 527*

Short Title: Restore/Preserve Campus Free Speech. (Public)

Sponsors: Representatives Millis and Jordan (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Education - Universities, if favorable, Judiciary I

March 30, 2017

A BILL TO BE ENTITLED

AN ACT TO RESTORE AND PRESERVE FREE SPEECH ON THE CAMPUSES OF THE
CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.

Whereas, the Constitution of North Carolina recognizes in Article I, Section 14, that
"Freedom of speech and of the press are two of the great bulwarks of liberty and therefore shall
never be restrained, but every person shall be held responsible for their abuse"; and

Whereas, the constituent institutions of The University of North Carolina have
historically embraced a commitment to freedom of expression in policy; and

Whereas, it is appropriate for The University of North Carolina System to restate
and confirm their commitment to free expression; and

Whereas, in 1974, the Committee on Free Expression at Yale issued a statement
known as the Woodward Report that stands as a classic defense of free expression on
campuses; in 2015, the Committee on Freedom of Expression at the University of Chicago
issued a similar and widely respected report; and in 1967, the Kalven Committee Report of the
University of Chicago articulated the principle of institutional neutrality regarding political and
social issues and the essential role of such neutrality in protecting freedom of thought and
expression at universities. The principles affirmed by these three highly regarded reports are
inspiring articulations of the critical importance of free expression in higher education; and

Whereas, the General Assembly views freedom of expression as being of critical
importance and requires that each constituent institution ensure free, robust, and uninhibited
debate and deliberation by students of constituent institutions whether on or off campus; and

Whereas, the General Assembly has determined that it is a matter of statewide
concern that all constituent institutions of The University of North Carolina officially recognize
freedom of speech as a fundamental right; Now, therefore,
The General Assembly of North Carolina enacts:

SECTION 1. Chapter 116 of the General Statutes is amended by adding a new
Article to read:

"Article 36.

"Campus Free Speech.

"§ 116-300. Policies required.

The Board of Governors of The University of North Carolina shall develop and adopt a
policy on free expression that states, at least, the following:

- (1) The primary function of each constituent institution is the discovery,
improvement, transmission, and dissemination of knowledge by means of
research, teaching, discussion, and debate. To fulfill this function, the



- 1 constituent institution must strive to ensure the fullest degree of intellectual
2 freedom and free expression.
- 3 (2) It is not the proper role of any constituent institution to shield individuals
4 from speech protected by the First Amendment, including, without
5 limitation, ideas and opinions they find unwelcome, disagreeable, or even
6 deeply offensive.
- 7 (3) Students and faculty have the freedom to discuss any problem that presents
8 itself, as the First Amendment permits and within the limits of narrowly
9 tailored viewpoint- and content-neutral restrictions on time, place, and
10 manner of expression that are consistent with this Article and that are
11 necessary to achieve a significant institutional interest, provided that these
12 restrictions are clear, published, and provide ample alternative means of
13 expression. Students and faculty shall be permitted to assemble and engage
14 in spontaneous expressive activity as long as such activity is lawful and does
15 not materially and substantially disrupt the functioning of the constituent
16 institution, subject to the requirements of this section.
- 17 (4) Any person lawfully present on campus may protest or demonstrate there. It
18 shall be made clear that protests and demonstrations that infringe upon the
19 rights of others to engage in or listen to expressive activity shall not be
20 permitted and shall be subject to sanction. This shall not prohibit professors
21 or other instructors from maintaining order in the classroom.
- 22 (5) The campuses of the constituent institutions are open to any speaker whom
23 students, student groups, or members of the faculty have invited.
- 24 (6) The public areas of campuses of the constituent institutions are traditional
25 public forums, open on the same terms to any speaker.
- 26 (7) The policy shall include a range of disciplinary sanctions for anyone under
27 the jurisdiction of a constituent institution who interferes with the free
28 expression of others.
- 29 (8) In all disciplinary cases involving expressive conduct, students are entitled
30 to a disciplinary hearing under published procedures, including, at a
31 minimum, (i) the right to receive advance written notice of the charges, (ii)
32 the right to review the evidence in support of the charges, (iii) the right to
33 confront witnesses against them, (iv) the right to present a defense, (v) the
34 right to call witnesses, (vi) a decision by an impartial arbiter or panel, (vii)
35 the right of appeal, and (viii) the right to active assistance of counsel.
- 36 (9) The constituent institutions (i) shall strive to remain neutral, as an institution,
37 on the public policy controversies of the day and (ii) may not take action, as
38 an institution, on the public policy controversies of the day in such a way as
39 to require students or faculty to publicly express a given view of social
40 policy.

41 **"§ 116-301. Committee on Free Expression.**

42 (a) The Board of Governors of The University of North Carolina System shall establish
43 the Committee on Free Expression and appoint 11 individuals from among its membership to
44 the Committee. The members of the Committee on Free Expression shall elect a chair from the
45 members of the Committee. Each member of the Committee on Free Expression shall serve on
46 the Committee at the pleasure of the Board of Governors. Each member's term shall be equal to
47 the remainder of the member's respective term on the Board of Governors. In the event of a
48 vacancy on the Committee, the Board of Governors shall appoint a replacement from among its
49 membership.

(b) All employees of The University of North Carolina System and all State agencies shall cooperate with the Committee on Free Expression by providing information requested by the Committee.

(c) The Committee on Free Expression shall report to the public, the Board of Governors, the Governor, and the General Assembly by September 1 of every year. The report shall include all of the following:

- (1) A description of any barriers to or disruptions of free expression within the constituent institutions.
- (2) A description of the administrative handling and discipline relating to these disruptions or barriers.
- (3) A description of substantial difficulties, controversies, or successes in maintaining a posture of administrative and institutional neutrality with regard to political or social issues.
- (4) Any assessments, criticisms, commendations, or recommendations the Committee sees fit to include.

"§ 116-302. Freshman orientation.

All constituent institutions of The University of North Carolina shall include in freshman orientation programs a section describing the policies regarding free expression consistent with this Article.

"§ 116-303. Guidelines and additional policies authorized.

The Board of Governors, and the constituent institutions of The University of North Carolina subject to approval of the Board of Governors, may adopt additional policies and guidelines to further the purposes of the policies adopted pursuant to this Article. Nothing in this Article shall be construed to prevent institutions from regulating student speech or activity that is prohibited by law. Except as further limited by this Article, constituent institutions shall be allowed to restrict student expression only for expressive activity not protected by the First Amendment, including all of the following:

- (1) Violations of State or federal law.
- (2) Expression that a court has deemed unprotected defamation.
- (3) Harassment.
 - a. "Peer-on-peer harassment," which is defined as conduct directed by a student toward another individual student that is so severe, pervasive, and objectively offensive that it effectively deprives the victim of access to the educational opportunities or benefits provided by the university.
 - b. "Quid pro quo sexual harassment," which is defined as explicitly or implicitly conditioning a student's participation in an education program or activity or basing an educational decision on the student's submission to unwelcome sexual advances, requests for sexual favors, or other verbal, nonverbal, or physical conduct of a sexual nature.
- (4) True threats, which are defined as statements meant by the speaker to communicate a serious expression of intent to commit an act of unlawful violence to a particular individual or group of individuals.
- (5) An unjustifiable invasion of privacy or confidentiality not involving a matter of public concern.
- (6) An action that unlawfully disrupts the function of the university.
- (7) Narrowly tailored time, place, and manner restrictions on expressive activities consistent with G.S. 116-300(3).

"§ 116-304. Actions to enforce the provisions of this Article.

1 (a) A constituent institution may restrict expressive conduct in the public areas of
2 campus only if it demonstrates that the restriction satisfies all of the following criteria:

3 (1) Is necessary to achieve a compelling governmental interest.

4 (2) Is the least restrictive means of furthering that compelling governmental
5 interest.

6 (3) Leaves open ample other opportunities to engage in the expressive conduct.

7 (4) Provides for spontaneous assembly and distribution of literature.

8 (b) The Attorney General or any person whose expressive rights are violated under this
9 section may bring an action in a court of competent jurisdiction against the constituent
10 institution to enjoin any violation of this section and to recover reasonable court costs and
11 reasonable attorneys' fees.

12 (c) In an action brought under subsection (b) of this section, if the court finds that a
13 violation of this section occurred, the court shall award the aggrieved person injunctive relief
14 for the violation and shall award reasonable court costs and reasonable attorneys' fees. The
15 court shall also award damages of one thousand dollars (\$1,000) or actual damages, whichever
16 is higher.

17 (d) A person shall bring an action for a violation of this section within one year after the
18 date the cause of action accrues. For the purpose of calculating the one-year limitation period,
19 each day that the violation persists or each day that a policy in violation of this section remains
20 in effect constitutes a new violation of this section and shall be considered a day that the cause
21 of action has accrued.

22 (e) Nothing in this section shall be construed to make any chancellor, other official, or
23 other employee of a constituent institution personally liable for acts taken pursuant to their
24 official duties."

25 **SECTION 2.** The Board of Governors shall develop a policy that requires the
26 diversity office or department of each constituent institution, if such office or department
27 exists, to include among the duties of the diversity office or department compliance with this
28 act. This policy shall include a renaming of the constituent diversity office or department to
29 include the phrase "Free Speech Compliance" and shall require that diversity and free speech
30 compliance officers receive training on ensuring compliance with this act. Such training shall
31 be developed and provided by the University of North Carolina School of Government.

32 **SECTION 3.** This act becomes effective June 30, 2017. The initial annual report of
33 the Committee on Free Expression is due by September 1, 2018.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 527*

AMENDMENT NO. 93
(to be filled in by
Principal Clerk)

H527-ABE-33 [v.1]

Page 1 of 1

Amends Title [NO]
Second Edition

Date April 25, 2017

Representative _____

1 moves to amend the bill on page 3, line 5, by rewriting the line to read:

2
3 "the Committee, unless the requested information is required to be kept confidential by other
4 provisions of State or federal law."
5
6

SIGNED _____

Amendment Sponsor

SIGNED _____

Committee Chair if Senate Committee Amendment

ADOPTED _____

FAILED _____

TABLED _____



* H 5 2 7 - A B E - 3 3 - V - 1 *

The First Amendment & the UNC System

Timeline of Recent First Amendment Violations

Right now

At **UNC-Chapel Hill**, more than 40 members of the history department say that a *course was cancelled* in order prevent students from hearing details about the UNC athletic scandal.

July 19, 2016

The US District Court issued an injunction that halted a student speech policy at **NC State** that had been used to *discriminate against a Christian student group*. The University was also ordered to pay \$72,500 in attorney's fees.

June 10, 2014

Professor Mike Adams won his case against **UNC Wilmington**, in which he argued that the university denied him a promotion as *retaliation for his political columns*.

March 16, 2012

At **Appalachian State**, tenured professor Jammi Price was *suspended for classroom speech*.

January 6, 2012

The advisor of The East Carolinian, a student newspaper at **ECU**, was *fired after the paper published a photo* of a campus streaker.

First Amendment Ratings from FIRE



UNC-Chapel Hill

Only UNC-Chapel Hill has a "Green Light" from the Foundation for Individual Rights in Education (FIRE).



ASU, ECU, ECSU, FSU, NCA&T, NCCU, NCSU, UNCA, UNCC, UNCP, UNCW, WCU

Most schools in the UNC system have policies that could ban or excessively regulate protected speech.



UNCG, UNCSA, and WSSU

Each school has at least one policy that substantially restricts freedom of speech.



**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

**JUDICIARY I COMMITTEE REPORT
Representative Ted Davis, Jr., Chair**

FAVORABLE

HB 330 CivPro/Qualified Immunity for Auto Accident.
Draft Number: None
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: Burr

HB 335 Vacancies/NC Sup Ct/Ct of App/Superior Ct/DAs.
Draft Number: None
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: Burr

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL

HB 645 Legal Services Rendered for Nonprofits.
Draft Number: H645-PCS30403-TG-17
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: Blust

HB 816 Consumer Protection/Roofing Contractors.
Draft Number: H816-PCS40553-ST-15
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: Arp

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB 113 Pvt Action Local Compliance/Immigration Laws.
Draft Number: H113-PCS40550-TG-13
Serial Referral: STATE AND LOCAL GOVERNMENT II
Recommended Referral: None
Long Title Amended: No
Floor Manager: Cleveland





REPORTED WITHOUT PREJUDICE AND RE-REFERRED

HB 455 Increase Funeral Expense Allowance.
Draft Number: None
Serial Referral: FINANCE
Recommended Referral: None
Long Title Amended: No
Floor Manager: Alexander

FAVORABLE COM SUB NO. 2, UNFAVORABLE COM SUB NO. 1

HB 527 (CS#1) Restore/Preserve Campus Free Speech.
Draft Number: H527-PCS30405-BC-21
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: Jordan

FAVORABLE COM SUB NO. 2, UNFAVORABLE COM SUB NO. 1 AND RE-REFERRED

HB 308 (CS#1) No Insurance While Driving/Tow Vehicle.
Draft Number: H308-PCS40551-TG-12
Serial Referral: RULES, CALENDAR, AND
OPERATIONS OF THE HOUSE
Recommended Referral: None
Long Title Amended: No
Floor Manager: Cleveland

TOTAL REPORTED: 8



* C M R 3 3 5 - V - 2 *



VISITOR REGISTRATION SHEET

Judiciary I
Appropriations Committee on Justice and Public Safety

Date: _____

4/25/17

Speaker

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Alex Miller	AMGA H308 ✓
Alison Stuebe	El Pueblo HB 113
Jamie Lassiter (Susan Hicks)	clerk of Moore County Conf. of Clerks ✓
Sarah Collins	HB 113 - NC League of Municipalities
Aaron Sanchez	HB 113 - El Pueblo
Alison Stuebe	HB 113 - El Pueblo
Melissa Rice Kramm	NC Voters for Clean Elections ✓
Bruce Clarke	CAI, President
MAY ROS Hogarten	NCNLG

HB 455/308

H525

H 556
H 487



VISITOR REGISTRATION SHEET

House Judiciary I

Name of Committee

4/25/17
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Steven Wall	Lt. Gov.
Danielle Albert	Lt. Governor's Office
Phoebe Landon	MWC
Tim Martin	NCHBA
Susan Birdsong	ACUL-NC
Brian Lewis	NEW FRAME
MILENA WERTH	NEW FRAME
Jamie Lassiter	Conf. of Clerks
Susan Hicks	CSC Moore Co.
Barbara Moore	NCAOC
Sarah Collins	NC LM



VISITOR REGISTRATION SHEET

House Judiciary I

Name of Committee

4/25/17

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Rose Williams

NCLM

Cathin Little

UNC SDS

Tonya Horton

TSS

Griselda Alonso

Comité Popular Somos Raleigh

Iliana Santillan

El Pueblo

Felicia Arriaga

El Pueblo

Alberto Zarraga

El Pueblo

Bruce Clarke

CAI/ECNC

Mimi Soule

Soule Law Firm / CAI Raleigh

GERRY COHEN

NM

McNeil Chestnut

RLNC



Judy Lowe (Rep. Ted Davis)

From: Judy Lowe (Rep. Ted Davis)
Sent: Wednesday, April 26, 2017 10:14 AM
To: Rep. Grier Martin; Rep. John Szoka; Rep. Jon Hardister; Rep. Edward Hanes; Rep. Josh Dobson; Rep. Amos Quick; Rep. Allen McNeill; Rep. John Faircloth
Cc: Sylvia Hammons (Rep. Grier Martin); Beverly Slagle (Rep. John Szoka); Jayne Nelson (Rep. Jon Hardister); Wanda Kay (Rep. Edward Hanes); Julie Ryan (Rep. Josh Dobson); Mildred Alston (Rep. Amos Quick); Laura Sullivan (Rep. Allen McNeill); Becky Bauerband (Rep. John Faircloth)
Subject: <NCGA> House Judiciary I Committee Meeting Notice for Wednesday, April 26, 2017 at 12:00 PM - CORRECTED #1
Attachments: Add Meeting to Calendar_LINC_ics

Corrected #1: Meeting starts at 12:00--Add HB385

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Wednesday, April 26, 2017
TIME: 12:00 PM
LOCATION: 415 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 487</u>	Nat. Guard Reemployment Rights/Definitions.	Representative G. Martin
<u>HB 571</u>	Automatic Expunction/Wrongful Conviction.	Representative Szoka
		Representative Hanes
		Representative Hardister
		Representative Dobson
		Representative Quick
<u>HB 732</u>	Household Goods Carrier Revisions.	Representative McNeill
<u>HB 797</u>	Changes to Current BWC Law.	Representative Faircloth
		Representative McNeill



Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 10:12 AM on Wednesday, April 26, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Judy Lowe (Committee Assistant)



Judy Lowe (Rep. Ted Davis)

From: Judy Lowe (Rep. Ted Davis)
Sent: Tuesday, April 25, 2017 7:03 PM
To: Rep. Grier Martin; Rep. John Szoka; Rep. Jon Hardister; Rep. Edward Hanes; Rep. Josh Dobson; Rep. Amos Quick; Rep. Allen McNeill; Rep. John Faircloth
Cc: Sylvia Hammons (Rep. Grier Martin); Beverly Slagle (Rep. John Szoka); Jayne Nelson (Rep. Jon Hardister); Wanda Kay (Rep. Edward Hanes); Julie Ryan (Rep. Josh Dobson); Mildred Alston (Rep. Amos Quick); Laura Sullivan (Rep. Allen McNeill); Becky Bauerband (Rep. John Faircloth)
Subject: <NCGA> House Judiciary I Committee Meeting Notice for Wednesday, April 26, 2017 at 1:00 PM
Attachments: Add Meeting to Calendar_LINC_.ics

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Wednesday, April 26, 2017
TIME: 1:00 PM
LOCATION: 415 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 487</u>	Nat. Guard Reemployment Rights/Definitions.	Representative G. Martin Representative Szoka
<u>HB 571</u>	Automatic Expunction/Wrongful Conviction.	Representative Hanes Representative Hardister Representative Dobson Representative Quick
<u>HB 732</u>	Household Goods Carrier Revisions.	Representative McNeill
<u>HB 797</u>	Changes to Current BWC Law.	Representative Faircloth Representative McNeill



Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 7:01 PM on Tuesday, April 25, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Judy Lowe (Committee Assistant)



House Committee on Judiciary I
Wednesday, April 26, 2017, 12:00 PM
415 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Sgts. At Arms

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 487	Nat. Guard Reemployment Rights/Definitions.	Representative G. Martin
HB 571	Automatic Expunction/Wrongful Conviction.	Representative Szoka Representative Hanes Representative Hardister Representative Dobson Representative Quick
HB 732	Household Goods Carrier Revisions.	Representative McNeill
HB 797	Changes to Current BWC Law.	Representative Faircloth Representative McNeill
HB 385	Impaired Hunting/Orange County.	Representative Meyer Representative Insko

Adjournment



House Committee on Judiciary I
Wednesday, April 26, 2017 at 12:00 PM
Room 415 of the Legislative Office Building

MINUTES

The House Committee on Judiciary I met at 12:00 PM on April 26, 2017 in Room 415 of the Legislative Office Building. Representatives Davis, Hall, Stevens, Turner, Arp, Farmer-Butterfield, Howard, Martin, McNeill, Meyer, Rogers and Steinburg attended. Bill Patterson, Jennifer Bedford, Jason Moran-Bates and Judy Lowe, Committee Clerk, were also present.

Representative Ted Davis, Jr. presided. The Chair introduced the Sergeants-at-Arms Bill Moore, Bill Riley and Bear Moore and the pages Christopher Barber and Zaccary Geierson and thanked them for their service to the Committee.

The following bills were considered:

HB 487 Nat. Guard Reemployment Rights/Definitions. Representatives G. Martin, Szoka. Representative Martin stated that the bill would add several definitions to the National Guard Reemployment Rights Act and require employers to return employees who served on state duty to their previous positions within five days of the employees' release from state duty. It would increase the time period employees who served more than 30 days have to apply for reemployment from five days to 14 days. A member from the NC National Guard spoke on the bill. Representative Martin presented an amendment and Representative Howard moved for approval. The amendment passed and is attached. Representative Farmer-Butterfield moved for a favorable committee substitute, unfavorable to the original bill. The motion passed unanimously.

HB 571 Automatic Expunction/Wrongful Conviction. Representatives Hanes, Hardister, Dobson, Quick. The Chair determined that a Proposed Committee Substitute was properly before the committee and called on Representative Hanes to explain the bill. He stated that the PCS would require the expunction of false criminal charges for exonerated individuals released from prison. Representative Arp asked if anyone had gone there and not received expunction from the records. Representative McNeill asked if there was a suit and no record, how would agencies handle it. Ms. Bedford stated original and complete records would be included. Representatives McNeill and Hardister said there needs to be a balance. Ms. Bedford agreed to look into the roles of pardons. Representative Steinburg noted that the objective is to close the gap from expunction process and Representative Hanes concurred. Representative Farmer-Butterfield noted there is a statute of limitation on suits. Representative Hanes stated he would work with staff on an amendment. Representative Steven's amendment rewrote lines 1 and 2 of the PCS. She moved for approval of the amendment which passed and is attached as did the motion for a favorable committee substitute, unfavorable to the original bill and a re-referral to Appropriations.

HB 732 Household Goods Carrier Revisions. Representative McNeill. Representative McNeill explained that **HB732 (CS#1)** would make some changes to the law regarding carriers



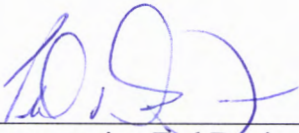
of household goods. There was no discussion or public comment. Representative Stevens moved for a favorable report. The motion passed unanimously.

HB 797 Changes to Current BWC Law. Representatives Faircloth, McNeill.

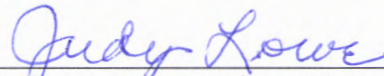
The Chairman determined that the bill was properly before the Committee and asked Representative Faircloth to explain the bill. He stated that the bill would amend the law governing the disclosure and release of body-worn camera recordings by law enforcement. Representative Meyer stated that the bill was a great addition to what was done last year. Representative Duane Hall moved for favorable committee substitute, unfavorable to the original bill. The motion carried.

HB 385 Impaired Hunting/Orange County. Representatives Meyer, Insko. Representative Meyer explained that the bill makes hunting on the land of another while impaired unlawful in Orange County and enforceable by Wildlife Resource Commission officers, sheriffs, and other officers with general subject matter jurisdiction. There were no questions or comments from the committee members or the public. Representative Martin moved for a favorable report and the motion carried unanimously.

The meeting adjourned at 1:20 PM.



Representative Ted Davis, Jr., Presiding Chair



Judy Lowe, Committee Clerk

Attached:

Amendment for **HB487**

Amendment for **HB571**

1

2

3

4



HOUSE BILL 487: Nat. Guard Reemployment Rights/Definitions.

2017-2018 General Assembly

Committee: House Judiciary I
Introduced by: Reps. G. Martin, Szoka
Analysis of: First Edition

Date: April 26, 2017
Prepared by: Jason Moran-Bates
Committee Co-Counsel

OVERVIEW: *House Bill 487 would add several definitions to the National Guard Reemployment Rights Act, Article 16 of Chapter 127A of the General Statutes and require employers to return employees who served on state duty to their previous positions within five days of the employees' release from state duty. It would increase the time period employees who served more than thirty days have to apply for reemployment from five days to fourteen days and permit employees injured in the line of duty to have up to two years to apply for reemployment during their recovery period.*

[As introduced, this bill was identical to S404, as introduced by Sen. Britt, which is currently in Senate Rules and Operations of the Senate.]

CURRENT LAW: Currently, employees released from service or injured in the line of duty must make written application to their employers for reemployment within five days of release from duty or release from hospitalization. If still qualified for the previous employment, the employee must be restored to the previous position or one of like seniority, status, and salary, unless the employer's circumstances make restoration unreasonable.

BILL ANALYSIS:

Section 1 of the bill would add definitions of "benefit of employment," "qualified," "seniority," and "state duty" to Article 16 of Chapter 127A.

Section 2 would amend G.S. 127A-202 to require employers to return an employee to the employee's previous position within five days of the employee's release from state duty. If the employee's state duty lasted more than thirty days, the bill would require the employee to apply for reemployment in writing within fourteen days of the employee's release from state duty. Section 2 would amend G.S. 127A-202 to permit an employee injured in the line of duty to apply for reemployment any time within the employee's period of recovery. This period is the time necessary for the employee to recover from illness or injury, not to exceed two years. An employee may petition the Commissioner of Labor to extend this two year period. If the extension is granted, the Commissioner must notify the employer of the length of the extension. If it is not granted, the employee may commence a contested case under Article 3 of Chapter 150B. Section 2 also makes a technical and conforming change to G.S. 127A-203.

EFFECTIVE DATE: This bill would be effective when it becomes law and apply to state duty, as defined in the bill, commencing on or after that date.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 487*

Short Title: Nat. Guard Reemployment Rights/Definitions. (Public)

Sponsors: Representatives G. Martin and Szoka (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Homeland Security, Military, and Veterans Affairs, if favorable, Judiciary I

March 28, 2017

A BILL TO BE ENTITLED

AN ACT TO PROVIDE DEFINITIONS TO CLARIFY THE NATIONAL GUARD
REEMPLOYMENT RIGHTS AND TO EXTEND THE REEMPLOYMENT
APPLICATION PERIOD FOR NATIONAL GUARD MEMBERS WHO HAVE
INCURRED AN INJURY DURING THE PERFORMANCE OF STATE ACTIVE DUTY.

The General Assembly of North Carolina enacts:

SECTION 1. Article 16 of Chapter 127A of the General Statutes reads as
rewritten:

"Article 16.

"National Guard Reemployment Rights.

"§ 127A-201. Entitlement.

Any member of the North Carolina National Guard or the National Guard of another state
who, at the direction of a state's Governor, enters ~~State-state~~ duty, is entitled, upon honorable
release from ~~State-state~~ duty, to all the reemployment rights provided for in this Article.

"§ 127A-201.1. Definitions.

The following definitions apply in this Article:

- (1) Benefit of employment. – A term, condition, or privilege of employment,
including any wages, salary, advantage, profit, privilege, gain, status,
account, or interest that accrues by reason of an employment contract or
agreement or an employer policy, plan, or practice. The definition also
includes rights and benefits under a pension plan, a health plan, an employee
stock ownership plan, insurance coverage and awards, bonuses, severance
pay, supplemental unemployment benefits, vacations, and the opportunity to
select work hours or location of employment.
- (2) Qualified. – Having the ability to perform the essential tasks of an
employment position.
- (3) Seniority. – Longevity in employment together with any benefits of
employment which accrue with, or are determined by, longevity in
employment.
- (4) State duty. – Any of the following:
 - a. In the case of a member of the North Carolina National Guard, State
active duty under an order of the Governor pursuant to this Chapter.
 - b. In the case of a member of the National Guard of another state,
service under an order of the governor of that state, which is similar
to State active duty.



* H 4 8 7 - V - 1 *

1 **"§ 127A-202. Rights.**

2 (a) Release From State Duty. – Upon an employee's release from state duty, the
3 employee's previous employer shall reemploy the employee in the employee's previous position
4 within five days of the employee's release from state duty. Upon release from State duty, If the
5 employee's state duty lasted more than 30 days, the employee shall make written application to
6 the employee's previous employer for reemployment within five–14 days of the employee's
7 release from duty or from hospitalization continuing after release. state duty. If the employee is
8 still qualified for the employee's previous employment, the employee shall be restored to his
9 the employee's previous position or to a position of like seniority, status–status, and salary,
10 unless the employer's circumstances now make the restoration unreasonable. If the employee is
11 no longer qualified for the employee's previous employment, the employee shall be placed in
12 another position, for which the employee is qualified, and which will give the employee
13 appropriate seniority, status–status, and salary, unless the employer's circumstances now make
14 the placement unreasonable.

15 (b) Period of Recovery. – Notwithstanding the time limitations of subsection (a) of this
16 section, if an employee is hospitalized for, or convalescing from, an illness or injury incurred
17 in, or aggravated during, the performance of state duty, the employee shall make written
18 application for reemployment within the period of recovery. The period of recovery is the
19 period necessary for the employee to recover from the illness or injury, not to exceed two years
20 unless the Commissioner of Labor extends the period. The Commissioner may extend the
21 two-year period of recovery only if (i) the employee files with the Commissioner a written
22 request for extension at least 15 days prior to the expiration of the two-year period of recovery
23 and (ii) the Commissioner finds that reemployment during the two-year period would place an
24 undue burden on the employee. The Commissioner, if extending the two-year period of
25 recovery, shall notify the employee's previous employer of the amount of the extension. A party
26 who is dissatisfied with a decision of the Commissioner may commence a contested case under
27 Article 3 of Chapter 150B of the General Statutes.

28 ...

29 **"§ 127A-203. Penalties for denial.**

30 If any employer, public or private, fails or refuses to comply with G.S. 127A-202, the
31 superior court for the district of the employer's place of business may, upon the filing of a
32 motion, petition, or other appropriate pleading by the employee, require the employer to
33 comply with G.S. 127A-202 and to compensate the employee for any loss of wages or benefits
34 of employment suffered by reason of the employer's unlawful failure or refusal."

35 **SECTION 2.** This act is effective when it becomes law and applies to state duty, as
36 defined in this act, commencing on or after that date.





NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 487*

H487-ABC-17 [v.3]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 1 of 1

Amends Title [NO]
First Edition

Date 26 APR .2017

Representative G. Martin

1 moves to amend the bill on page 2, line 4, by rewriting the line to read:
2 "within five days of the employee's release from state duty. Upon release from state duty, If the
3 employee's state duty lasted 30 days or less, the employee shall make written application to the
4 employee's previous employer for reemployment no later than the first regularly scheduled
5 work period which begins eight hours after the employee has safely traveled from the place of
6 state service to the employee's residence. If the"
7
8

SIGNED _____

Amendment Sponsor

SIGNED _____

Committee Chair if Senate Committee Amendment

ADOPTED _____

FAILED _____

TABLED _____



* H 4 8 7 - A B C - 1 7 - V - 3 *



HOUSE BILL 571: Automatic Expunction/Wrongful Conviction.

2017-2018 General Assembly

Committee:	House Judiciary I. If favorable, re-refer to Appropriations	Date:	April 26, 2017
Introduced by:	Reps. Hanes, Hardister, Dobson, Quick	Prepared by:	Jennifer H. Bedford
Analysis of:	PCS to First Edition H571-CSTT-18		Legislative Analyst

OVERVIEW: The PCS for House Bill 571 would require the expunction of false criminal charges for exonerated individuals released from prison.

CURRENT LAW: G.S. 15A-146 provides for the expunction of records when charges are dismissed or there is a finding of not guilty. A person charged with any crime, whether a misdemeanor or a felony, who is not convicted of that offense, can apply to have the charge expunged. An individual who has previously received an expunction under this or other specified provisions, or someone who has previously been convicted of a felony would not qualify for an expunction under this provision.

BILL ANALYSIS: The PCS for House Bill 571 would:

- Require that a court that exonerates an individual, would also order the expunction of the false charges.
- Require, in cases determined by the Innocence Inquiry Commission, that the three judge panel that exonerates an individual, would also order the expunction of the false charges.
- Make the expunction of an exoneree automatic.
- Require the clerk to notify law enforcement and relevant State agencies that records of the charge, apprehension, and conviction of the exoneree must be expunged.
- Protect the exoneree from perjury if the exoneree fails to recite facts concerning the expunged charges.
- Waive the costs and fees associated with an exoneree's expunction.
- Provide legal counsel, if requested, at no cost to the exoneree.

An individual who was exonerated prior to the effective date of this bill, may petition the court for expunction.

EFFECTIVE DATE: This act would become effective December 1, 2017, and would apply to exonerations ordered on or after that date.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

D

HOUSE BILL 571
PROPOSED COMMITTEE SUBSTITUTE H571-CSTT-18 [v.5]

04/25/2017 4:12:30 PM

Short Title: Automatic Expunction/Wrongful Conviction.

(Public)

Sponsors: Representatives Hanes, Hardister, Dobson, and Quick (Primary Sponsors).

Referred to:

April 6, 2017

A BILL TO BE ENTITLED
AN ACT TO PROVIDE FOR THE AUTOMATIC EXPUNCTION OF A PERSON'S
RECORD IF THE PERSON IS WRONGLY CONVICTED, INCARCERATED, AND
EXONERATED.

The General Assembly of North Carolina enacts:

SECTION 1. Article 5 of Chapter 15A of the General Statutes is amended by
adding a new section to read:

"§ 15A-149A. Expunction of records when person is wrongly convicted and later cleared.

(a) Any person who, having been convicted of a felony and having been imprisoned
therefor in a prison of this State, and who is determined to be innocent of all charges as a result
of a successful appeal, motion for appropriate relief, or writ of habeas corpus, the reviewing
court that determined the person was wrongfully convicted and ordered the person be
discharged from prison shall also enter an order to expunge from all official records any entries
relating to the person's apprehension, charge, or trial as provided by this section.

A person who was wrongly convicted of a felony and having been imprisoned therefor in a
prison of this State, and who is determined to be innocent of all charges and who was
discharged from prison prior to December 1, 2017, may petition the reviewing court that
determined the person was wrongfully convicted and ordered the person's discharge from
prison for an order to expunge from all official records any entries relating to the person's
apprehension, charge, or trial as provided by this section.

(b) If any person is wrongly convicted and incarcerated but later is discharged from
prison as a result of a determination pursuant to Article 92 of this Chapter that the person is
innocent, the three-judge panel that determined the person's innocence and entered the
dismissal of the charges shall also enter an order to expunge from all official records any
entries relating to the person's apprehension, charge, or trial as provided by this section.

A person who was wrongly convicted and incarcerated and was discharged from prison
prior to December 1, 2017, as a result of a determination pursuant to Article 92 of this Chapter
that the person was innocent, may petition the three-judge panel that determined the person's
innocence and entered the dismissal of the charges for an order to expunge from all official
records any entries relating to the person's apprehension, charge, or trial as provided by this
section. The court shall hold a hearing on the application and, upon finding that the person was
wrongly convicted and incarcerated but later discharged from prison as a result of the
Commission's determination of the person's innocence, shall enter an order to expunge all
official records as provided by this section.

(c) The order of expunction shall include an instruction that any entries relating to the
person's apprehension, charge, or trial shall be expunged from the records of the court and



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1 direct all law enforcement agencies, the Division of Adult Correction of the Department of
2 Public Safety, the Division of Motor Vehicles, or any other State or local government agencies
3 identified by the petitioner as bearing record of the same to expunge their records of the entries.
4 The clerk shall notify State and local agencies of the court's order, as provided in
5 G.S. 15A-150. The expunction shall be automatic and the person shall not be required to file a
6 petition for the expunction. The costs of expunging the records, as required under
7 G.S. 15A-150, shall not be taxed against the petitioner.

8 (d) No person as to whom such an order has been entered under this section shall be
9 held thereafter under any provision of any law to be guilty of perjury, or to be guilty of
10 otherwise giving a false statement or response to any inquiry made for any purpose, by reason
11 of the person's failure to recite or acknowledge any expunged entries concerning apprehension,
12 charge, or trial.

13 (e) It is the intent of the General Assembly that the State pay the cost for any legal
14 services provided by counsel pursuant to this section and that the State also waive any legal
15 fees or court costs associated with a proceeding under this section to have records expunged.
16 Therefore, notwithstanding any other provision of law, a person discharged from prison prior to
17 December 1, 2017, who may petition the court for an expunction under this section is entitled
18 to services of counsel for the expunction proceeding regardless of the person's financial status.
19 Further, notwithstanding any other provision of law, any legal fee or court cost associated with
20 the proceeding shall be waived.

21 A person who wants counsel appointed shall file with the clerk of court a written request for
22 the appointment of counsel. The court shall appoint counsel in accordance with rules adopted
23 by the Office of Indigent Defense Services. Appointment of counsel shall be made no later than
24 10 days from the date of receipt of the request by the clerk of court. The professional
25 relationship of counsel provided pursuant to this subsection is the same as if counsel had been
26 privately retained by the person. Unless a public defender or assistant public defender is
27 appointed to serve, private counsel appointed under this section shall receive reasonable
28 compensation to be paid by the State."

29 **SECTION 2.** This act would become effective December 1, 2017, and applies to
30 exonerations on or after that date. Additionally, this act provides that an individual exonerated
31 prior to December 1, 2017 may petition the court for an expunction as described.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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1

HOUSE BILL 571

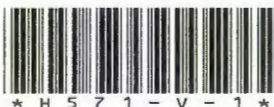
Short Title: Automatic Expunction/Wrongful Conviction. (Public)

Sponsors: Representatives Hanes, Hardister, Dobson, and Quick (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I, if favorable, Appropriations

April 6, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR THE AUTOMATIC EXPUNCTION OF A PERSON'S
3 RECORD IF THE PERSON IS WRONGLY CONVICTED, INCARCERATED, AND
4 LATER CLEARED OF THE CHARGE AND TO APPROPRIATE FUNDS TO THE
5 ADMINISTRATIVE OFFICE OF THE COURTS TO HELP IMPLEMENT THIS ACT.
6 The General Assembly of North Carolina enacts:
7 **SECTION 1.** Article 5 of Chapter 15A of the General Statutes is amended by
8 adding a new section to read:
9 **"§ 15A-149A. Expunction of records when person is wrongly convicted and later cleared.**
10 (a) If any person is wrongly convicted and incarcerated but later is discharged from
11 prison as a result of a successful appeal, motion for appropriate relief, or writ of habeas corpus,
12 the reviewing court that determined the person was wrongfully convicted and ordered the
13 person be discharged from prison shall also enter an order to expunge from all official records
14 any entries relating to the person's apprehension, charge, or trial as provided by this section.
15 A person who was wrongly convicted and incarcerated and who was discharged from
16 prison prior to December 1, 2017, may petition the reviewing court that determined the person
17 was wrongfully convicted and ordered the person's discharge from prison for an order to
18 expunge from all official records any entries relating to the person's apprehension, charge, or
19 trial as provided by this section. The court shall hold a hearing on the application and, upon
20 finding that the person was wrongly convicted and incarcerated but later discharged from
21 prison, shall enter an order to expunge all official records as provided by this section.
22 (b) If any person is wrongly convicted and incarcerated but later is discharged from
23 prison as a result of a determination pursuant to Article 92 of this Chapter that the person is
24 innocent, the three-judge panel that determined the person's innocence and entered the
25 dismissal of the charges shall also enter an order to expunge from all official records any
26 entries relating to the person's apprehension, charge, or trial as provided by this section.
27 A person who was wrongly convicted and incarcerated and was discharged from prison
28 prior to December 1, 2017, as a result of a determination pursuant to Article 92 of this Chapter
29 that the person was innocent, may petition the three-judge panel that determined the person's
30 innocence and entered the dismissal of the charges for an order to expunge from all official
31 records any entries relating to the person's apprehension, charge, or trial as provided by this
32 section. The court shall hold a hearing on the application and, upon finding that the person was
33 wrongly convicted and incarcerated but later discharged from prison as a result of the
34 Commission's determination of the person's innocence, shall enter an order to expunge all
35 official records as provided by this section.



1 (c) The order of expunction shall include an instruction that any entries relating to the
2 person's apprehension, charge, or trial shall be expunged from the records of the court and
3 direct all law enforcement agencies, the Division of Adult Correction of the Department of
4 Public Safety, the Division of Motor Vehicles, or any other State or local government agencies
5 identified by the petitioner as bearing record of the same to expunge their records of the entries.
6 The clerk shall notify State and local agencies of the court's order, as provided in
7 G.S. 15A-150. The expunction shall be automatic and the person shall not be required to file a
8 petition for the expunction. The costs of expunging the records, as required under
9 G.S. 15A-150, shall not be taxed against the petitioner.

10 (d) No person as to whom such an order has been entered under this section shall be
11 held thereafter under any provision of any law to be guilty of perjury, or to be guilty of
12 otherwise giving a false statement or response to any inquiry made for any purpose, by reason
13 of the person's failure to recite or acknowledge any expunged entries concerning apprehension,
14 charge, or trial.

15 (e) It is the intent of the General Assembly that the State pay the cost for any legal
16 services provided by counsel pursuant to this section and that the State also waive any legal
17 fees or court costs associated with a proceeding under this section to have records expunged.
18 Therefore, notwithstanding any other provision of law, a person discharged from prison prior to
19 December 1, 2017, who may petition the court for an expunction under this section is entitled
20 to services of counsel for the expunction proceeding regardless of the person's financial status.
21 Further, notwithstanding any other provision of law, any legal fee or court cost associated with
22 the proceeding shall be waived.

23 A person who wants counsel appointed shall file with the clerk of court a written request for
24 the appointment of counsel. The court shall appoint counsel in accordance with rules adopted
25 by the Office of Indigent Defense Services. Appointment of counsel shall be made no later than
26 10 days from the date of receipt of the request by the clerk of court. The professional
27 relationship of counsel provided pursuant to this subsection is the same as if counsel had been
28 privately retained by the person. Unless a public defender or assistant public defender is
29 appointed to serve, private counsel appointed under this section shall receive reasonable
30 compensation to be paid by the State."

31 **SECTION 2.** There is appropriated from the General Fund to the Judicial
32 Department to be allocated to the Administrative Office of the Courts the sum of ten thousand
33 dollars (\$10,000) to assist with the cost of implementing this act.

34 **SECTION 3.** Sections 2 and 3 of this act become effective July 1, 2017. The
35 remainder of this act becomes effective December 1, 2017.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____

DATE _____

S. B. No. _____

Amendment No. _____

(to be filled in by
Principal Clerk)

COMMITTEE SUBSTITUTE ☒

Rep.) Stevens
)
Sen.) _____

1 moves to amend the bill on page 2, lines 1-2

2 () WHICH CHANGES THE TITLE

3 by rewriting the lines to read:

4 "direct all law enforcement agencies, the Department
5 of Public Safety, Combined Records Section, the State
6 Bureau of Investigation, the Division of Motor
7 Vehicles, or any other State or local
8 government agencies".

9 _____

10 _____

11 _____

12 _____

13 _____

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18 _____

19 _____

SIGNED Sarah Stein

ADOPTED _____ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)



HOUSE BILL 732: Household Goods Carrier Revisions.

2017-2018 General Assembly

Committee: House Judiciary I
Introduced by: Rep. McNeill
Analysis of: Second Edition

Date: April 25, 2017
Prepared by: Bill Patterson
Committee Co-Counsel

OVERVIEW: *House Bill 732 would make the following changes to the law regarding carriers of household goods:*

- *Specify that attempt to operate a motor vehicle to transport household goods without the proper vehicle markings is unlawful.*
- *Specify that aiding and abetting a person in falsely representing that they are authorized to operate as a carrier of household goods is unlawful.*
- *Authorize any law enforcement officer with territorial jurisdiction to enforce provisions prohibiting operating a vehicle to transport household goods without proper vehicle markings or falsely representing that a person is authorized to operate as a carrier of household goods.*
- *Authorize the Utilities Commission to share background check information on applicants and holders of certificates to transport household goods with the Public Staff, who participate in the certification and disciplinary proceedings for those individuals.*

CURRENT LAW: Under G.S. 20-382.1, a motor carrier that hauls household goods for compensation must register its operations with the State by obtaining a certificate of authority from the North Carolina Utilities Commission. The Commission is required to conduct criminal history record checks of applicants and current holders of a certificate.

G.S. 20-398 prohibits carriers of household goods from operating on public roads for compensation without proper markings on the vehicle. The statute requires that the carrier's name and the number assigned by the Utilities Commission appear on each side of the vehicle, with the number also on the rear of the vehicle, in letters and figures at least three inches high. G.S. 62-280.1 prohibits a person who does not have a certificate of authority from falsely representing to the public that he or she is authorized to operate as a carrier of household goods. Violation of either prohibition is a Class 3 misdemeanor, punishable only by a fine of not more than \$500 for a first offense and not more than \$2,000 for a subsequent offense. The Utilities Commission may also assess a civil penalty of up to \$5,000 for a violation of either prohibition.

Under G.S. 20-383, only designated inspectors, officers, and personnel of the Department of Public Safety have authority to enforce these provisions.

BILL ANALYSIS: House Bill 732 would amend the law pertaining to carriers of household goods by specifying that it is unlawful to attempt to operate a motor vehicle as a carrier of household goods without the proper vehicle markings or to aid and abet a person in falsely representing to the public that he or she is an authorized carrier of household goods. Both offenses would be Class 3 misdemeanors,

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House Bill 732

Page 2

the same as the underlying offense, punishable only by a fine of not more than \$500 for a first offense and not more than \$2,000 for a subsequent offense.

The bill would also give any law enforcement officer with territorial jurisdiction, not just officers of the Department of Public Safety, the authority to enforce the provisions prohibiting operating on the highway without proper markings and falsely representing the authority to transport household goods.

The bill would also authorize the Utilities Commission to provide information obtained as part of a criminal background check on applicants and current holders of certificates to the Public Staff, since the Public Staff participates in the certification and discipline proceedings for carriers of household goods. The Public Staff would have to keep any information obtained from the background check confidential.

EFFECTIVE DATE: Provisions of the act regarding unlawful operation of a vehicle transporting household goods and false representation of certification to move household goods and enforcement of those provisions are effective December 1, 2017, and apply to violations committed on or after that date. The remainder of the act would be effective when it becomes law.

Wendy Ray, counsel to House Transportation, substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

2

HOUSE BILL 732
Committee Substitute Favorable 4/24/17

Short Title: Household Goods Carrier Revisions.

(Public)

Sponsors:

Referred to:

April 13, 2017

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT AN INTRASTATE HOUSEHOLD GOODS CARRIER SHALL NOT ATTEMPT TO OPERATE UPON A ROAD WITHIN THIS STATE WITHOUT MEETING CERTAIN REQUIREMENTS, TO EXPAND THE TYPES OF LAW ENFORCEMENT THAT MAY ENFORCE THE LAWS GOVERNING AN INTRASTATE HOUSEHOLD GOODS CARRIER, AND TO AUTHORIZE THE UTILITIES COMMISSION TO SHARE CRIMINAL HISTORY RECORD CHECK INFORMATION WITH THE PUBLIC STAFF.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-398 reads as rewritten:

"§ 20-398. Household goods carrier; marking or identification of vehicles.

(a) No carrier shall operate or attempt to operate any motor vehicle upon a highway, public street, or public vehicular area within the State in the transportation of household goods for compensation unless the name or trade name and the North Carolina number assigned to the carrier by the North Carolina Utilities Commission appear on each side of the vehicle in letters and figures not less than three inches high. The North Carolina number assigned to the carrier shall also be placed on the rear left upper quadrant of the vehicle in letters and figures not less than three inches high. In case of a tractor-trailer unit, the side markings must be on the tractor and the rear markings must be on the trailer. The markings required may be printed on the vehicle or on durable placards securely fastened on the vehicle.

...

(e) Notwithstanding any provision of G.S. 20-383 to the contrary, any law enforcement officer with territorial jurisdiction may enforce the provisions of this section."

SECTION 2. G.S. 62-280.1 reads as rewritten:

"§ 62-280.1. False representation of household goods carrier certificate unlawful.

...

(b) Any person who violates subsection (a) of this ~~section~~ section or who aids and abets another person in violating subsection (a) of this section shall be guilty of a Class 3 misdemeanor and punished only by a fine of not more than five hundred dollars (\$500.00) for the first offense and not more than two thousand dollars (\$2,000) for any subsequent offense.

...

(d) Notwithstanding any provision of G.S. 20-383 to the contrary, any law enforcement officer with territorial jurisdiction may enforce the provisions of this section."

SECTION 3. G.S. 143B-963 reads as rewritten:

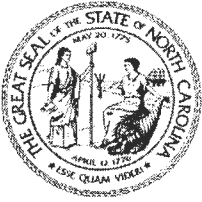
"§ 143B-963. Criminal history record checks of applicants for and current holders of certificate to transport household goods.



1 (a) The Department of Public Safety may provide to the Utilities Commission from the
2 State and National Repositories of Criminal Histories the criminal history of any applicant for
3 or current holder of a certificate to transport household goods. Along with the request, the
4 Commission shall provide to the Department of Public Safety the fingerprints of the applicant
5 or current holder, a form signed by the applicant or current holder consenting to the criminal
6 history record check and use of fingerprints and other identifying information required by the
7 State and National Repositories of Criminal Histories, and any additional information required
8 by the Department of Public Safety. The applicant's or current holder's fingerprints shall be
9 forwarded to the State Bureau of Investigation for a search of the State's criminal history record
10 file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal
11 Bureau of Investigation for a national criminal history record check. The Utilities Commission
12 shall keep all information obtained pursuant to this section confidential. The Department of
13 Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal history
14 record check under this section. The fee shall not exceed the actual cost of locating, editing,
15 researching, and retrieving the information. The Department of Public Safety shall send a copy
16 of the results of the criminal history record checks directly to the Utilities Commission Chief
17 Clerk.

18 (b) The Utilities Commission may provide the information obtained pursuant to this
19 section to the Public Staff for the purpose of participating in proceedings before the
20 Commission. The Public Staff shall keep all information obtained pursuant to this section
21 confidential."

22 **SECTION 4.** Sections 1 and 2 of this act become effective December 1, 2017, and
23 apply to violations committed on or after that date. The remainder of this act is effective when
24 it becomes law.



HOUSE BILL 797: Changes to Current BWC Law.

2017-2018 General Assembly

Committee: House Judiciary I
Introduced by: Reps. Faircloth, McNeill
Analysis of: PCS to First Edition
H797-CSTT-20

Date: April 25, 2017
Prepared by: Jennifer H. Bedford
Legislative Analyst

OVERVIEW: The PCS for House Bill 797 would amend the law governing the disclosure and release of body-worn camera recordings by law enforcement.

CURRENT LAW: G.S. 132-1.4A governs recordings¹, and access to recordings. Recordings are not public records and they are not personnel records.

A written request for disclosure² by a person whose image or voice is in the recording, or to a specific list of people who represent the interests of the individual depicted in the recording, is required. If the law enforcement agency denies a request or fails to respond within three business days of the request, a person who is eligible for disclosure may appeal to superior court.

The law permits a limited use of recordings for law enforcement purposes.

G.S. 132-1.4A provides an exception to the open meetings law to allow for for a closed session of a public body in order to view a released recording.

BILL ANALYSIS: The PCS for House Bill 797 would: define "citizen review board", and "deceased person" in context of the disclosure and release by law enforcement of body-worn camera recordings; and increase the number of days before a denial of disclosure can be reviewed in court.

The PCS for House Bill 797 also would authorize the disclosure and release of recordings for the following law enforcement and prosecutorial purposes:

- Agency administration and training.
- Multi-agency investigations.
- To identify and locate a potential criminal suspect.
- For use by a municipal or county manager for administration or management such as police operational review.
- For use by a city or town council, or citizen review board under specific circumstances, in a closed session.

EFFECTIVE DATE: This act is effective when it becomes law.

¹"Recordings" means recordings made for law enforcement purposes, specifically including body-worn camera and dashboard camera recordings.

²"Disclosure" means to make a recording available for viewing.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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D

HOUSE BILL 797
PROPOSED COMMITTEE SUBSTITUTE H797-CSTT-20 [v.2]

04/25/2017 3:26:06 PM

Short Title: Changes to Current BWC Law.

(Public)

Sponsors:

Referred to:

April 13, 2017

A BILL TO BE ENTITLED
AN ACT TO AMEND THE BODY-WORN CAMERA LEGISLATION TO CLARIFY THE
DEFINITION OF A DECEASED PERSON AND TO PROVIDE FOR DISCLOSURE TO
CITIZEN REVIEW BOARDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 132-1.4A reads as rewritten:

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

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

(1) Body-worn camera. – An operational video or digital camera or other electronic device, including a microphone or other mechanism for allowing audio capture, affixed to the uniform or person of law enforcement agency personnel and positioned in a way that allows the camera or device to capture interactions the law enforcement agency personnel has with others.

(1a) Citizen review board. – A board or commission, by whatever name, legally designed by a city council to review police matters or complaints against a police agency and individual officers.

(2) Custodial law enforcement agency. – The law enforcement agency that owns or leases or whose personnel operates the equipment that created the recording at the time the recording was made.

(3) Dashboard camera. – A device or system installed or used in a law enforcement agency vehicle that electronically records images or audio depicting interaction with others by law enforcement agency personnel. This term does not include body-worn cameras.

(3a) Deceased person. – A person whose image or voice is captured in a recording, was living at the time the recording began, and died during or subsequent to the event captured on the recording.

(4) Disclose or disclosure. – To make a recording available for viewing or listening to by the person requesting disclosure, at a time and location chosen by the custodial law enforcement agency. This term does not include the release of a recording.

(5) Personal representative. – A parent, court-appointed guardian, spouse, or attorney of a person whose image or voice is in the recording. If a person whose image or voice is in the recording is deceased, the term also means the personal representative of the estate of the deceased person; the deceased person's surviving spouse, parent, or adult child; the deceased person's



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attorney; or the parent or guardian of a surviving minor child of the deceased.

(6) Recording. – A visual, audio, or visual and audio recording captured by a body-worn camera, a dashboard camera, or any other video or audio recording device operated by or on behalf of a law enforcement agency or law enforcement agency personnel when carrying out law enforcement responsibilities. This term does not include any video or audio recordings of interviews regarding agency internal investigations or interviews or interrogations of suspects or witnesses.

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

...

(e) Appeal of Disclosure Denial. – If a law enforcement agency denies disclosure pursuant to subsection (d) of this section, or has failed to provide disclosure more than ~~three~~five business days after the request for disclosure, the person seeking disclosure may apply to the superior court in any county where any portion of the recording was made for a review of the denial of disclosure. The court may conduct an in-camera review of the recording. The court may order the disclosure of the recording only if the court finds that the law enforcement agency abused its discretion in denying the request for disclosure. The court may only order disclosure of those portions of the recording that are relevant to the person's request. A person who receives disclosure pursuant to this subsection shall not record or copy the recording. An order issued pursuant to this subsection may not order the release of the recording.

In any proceeding pursuant to this subsection, the following persons shall be notified and those persons, or their designated representative, shall be given an opportunity to be heard at any proceeding: (i) the head of the custodial law enforcement agency, (ii) any law enforcement agency personnel whose image or voice is in the recording and the head of that person's employing law enforcement agency, and (iii) the District Attorney. Actions brought pursuant to this subsection shall be set down for hearing as soon as practicable, and subsequent proceedings in such actions shall be accorded priority by the trial and appellate courts.

...

(h) Release of Recordings; Law Enforcement Purposes. – Notwithstanding the requirements of subsections (c), (f), and (g) of this section, a custodial law enforcement agency shall disclose or release a recording to a district attorney (i) for review of potential criminal charges, (ii) in order to comply with discovery requirements in a criminal prosecution, (iii) for use in criminal proceedings in district court, or (iv) any other law enforcement or prosecutorial purpose, and ~~may; may disclose or release a recording for any of the following purposes:~~

~~(1) For law enforcement training purposes.~~

~~(2) Within the custodial law enforcement agency for any administrative, training, or law enforcement purpose.~~

~~(3) To another law enforcement agency for law enforcement purposes.~~

(1) Disclose or release a recording within the custodial law enforcement agency for agency administrative and training purposes.

(2) Disclose or release a recording to another law enforcement agency for mutual law enforcement investigative purposes.

(3) Disclose or release a single or limited number of randomly selected still images extracted from a recording, as deemed necessary, to identify or locate a potential criminal suspect. The images shall only depict the face or other identifying characteristics of the criminal suspect.

(4) Disclose a recording to the municipal manager or county manager, upon the manager's request, for management and administrative purposes including police operational review if the custodial law enforcement agency is a municipal police agency or a combined city-and-county police agency

headed by a chief officer other than a County Sheriff. Prior to viewing the recording, the manager shall execute a confidentiality statement agreeing to maintain the confidentiality of the recording. Recording images can be released publicly only upon court order.

- (5) Disclose a recording, in a closed session, to the city or town council or citizen review board upon recommendation of the city or town manager and majority vote of the city or town council. In advance of the disclosure council, board, or commission members shall execute a confidentiality statement agreeing to maintain the confidentiality of the recording prior to viewing the recording. Recording images may be released publicly only upon court order.

...."

SECTION 2. G.S. 143-318.11(a) reads as rewritten:

"§ 143-318.11. Closed sessions.

(a) Permitted Purposes. – It is the policy of this State that closed sessions shall be held only when required to permit a public body to act in the public interest as permitted in this section. A public body may hold a closed session and exclude the public only when a closed session is required:

...

- (10) To view a recording ~~released~~ regulated pursuant to G.S. 132-1.4A."

SECTION 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 797

Short Title: Changes to Current BWC Law.

(Public)

Sponsors: Representatives Faircloth and McNeill (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I

April 13, 2017

A BILL TO BE ENTITLED
AN ACT TO AMEND THE BODY-WORN CAMERA LEGISLATION TO CLARIFY THE
DEFINITION OF A DECEASED PERSON AND TO PROVIDE FOR DISCLOSURE TO
CITIZEN REVIEW BOARDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 132-1.4A reads as rewritten:

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

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

- (1) Body-worn camera. – An operational video or digital camera or other electronic device, including a microphone or other mechanism for allowing audio capture, affixed to the uniform or person of law enforcement agency personnel and positioned in a way that allows the camera or device to capture interactions the law enforcement agency personnel has with others.
- (2) Custodial law enforcement agency. – The law enforcement agency that owns or leases or whose personnel operates the equipment that created the recording at the time the recording was made.
- (3) Dashboard camera. – A device or system installed or used in a law enforcement agency vehicle that electronically records images or audio depicting interaction with others by law enforcement agency personnel. This term does not include body-worn cameras.
- (4) Disclose or disclosure. – To make a recording available for viewing or listening to by the person requesting disclosure, at a time and location chosen by the custodial law enforcement agency. This term does not include the release of a recording.
- (5) Personal representative. – A parent, court-appointed guardian, spouse, or attorney of a person whose image or voice is in the recording. If a person whose image or voice is in the recording is deceased, the term also means the personal representative of the estate of the deceased person; the deceased person's surviving spouse, parent, or adult child; the deceased person's attorney; or the parent or guardian of a surviving minor child of the deceased. Deceased person is defined as a person whose image or voice is captured in a recording and was living at the time the recording began and died during or subsequent to the event captured on the recording.
- (6) Recording. – A visual, audio, or visual and audio recording captured by a body-worn camera, a dashboard camera, or any other video or audio



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

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

7 ...

8 (e) Appeal of Disclosure Denial. – If a law enforcement agency denies disclosure
9 pursuant to subsection (d) of this section, or has failed to provide disclosure more than ~~three~~five
10 business days after the request for disclosure, the person seeking disclosure may apply to the
11 superior court in any county where any portion of the recording was made for a review of the
12 denial of disclosure. The court may conduct an in-camera review of the recording. The court
13 may order the disclosure of the recording only if the court finds that the law enforcement
14 agency abused its discretion in denying the request for disclosure. The court may only order
15 disclosure of those portions of the recording that are relevant to the person's request. A person
16 who receives disclosure pursuant to this subsection shall not record or copy the recording. An
17 order issued pursuant to this subsection may not order the release of the recording.

18 In any proceeding pursuant to this subsection, the following persons shall be notified and
19 those persons, or their designated representative, shall be given an opportunity to be heard at
20 any proceeding: (i) the head of the custodial law enforcement agency, (ii) any law enforcement
21 agency personnel whose image or voice is in the recording and the head of that person's
22 employing law enforcement agency, and (iii) the District Attorney. Actions brought pursuant to
23 this subsection shall be set down for hearing as soon as practicable, and subsequent
24 proceedings in such actions shall be accorded priority by the trial and appellate courts.

25 ...

26 (h) Release of Recordings; Law Enforcement Purposes. – Notwithstanding the
27 requirements of subsections (c), (f), and (g) of this section, a custodial law enforcement agency
28 shall disclose or release a recording to a district attorney (i) for review of potential criminal
29 charges, (ii) in order to comply with discovery requirements in a criminal prosecution, (iii) for
30 use in criminal proceedings in district court, or (iv) any other law enforcement purpose, and
31 may disclose or release a recording for any of the following purposes:

32 (1) For law enforcement training purposes.

33 (2) Within the custodial law enforcement agency for any administrative,
34 training, or law enforcement ~~purpose~~purpose, which includes disclosing the
35 recording to the city manager, city council, and any other city board or
36 commission designated by city council to review police matters or
37 complaints against the police offices such as a citizen police review board,
38 provided that the city manager and all members of city council or the city
39 board or commission reviewing the recording have executed, in advance of
40 the disclosure, a confidential statement agreeing to maintain the
41 confidentiality of the recording.

42 (3) To another law enforcement agency for law enforcement purposes.

43 (4) To any person, a limited number of still images, not to exceed 10 images,
44 extracted from a recording for the purpose of identifying a potential criminal
45 suspect. The still images shall depict only the face and/or identifying
46 characteristics of the criminal suspect.

47"

48 SECTION 2. G.S. 143-318.11(a) reads as rewritten:

49 "§ 143-318.11. Closed sessions.

50 (a) Permitted Purposes. – It is the policy of this State that closed sessions shall be held
51 only when required to permit a public body to act in the public interest as permitted in this

1 section. A public body may hold a closed session and exclude the public only when a closed
2 session is required:

3 ...

4 (10) To view a recording ~~released~~regulated pursuant to G.S. 132-1.4A."

5 **SECTION 3.** This act is effective when it becomes law.





HOUSE BILL 385: Impaired Hunting/Orange County.

2017-2018 General Assembly

Committee:	House Judiciary I	Date:	April 25, 2017
Introduced by:	Reps. Meyer, Insko	Prepared by:	Jason Moran-Bates
Analysis of:	First Edition		Committee Co-Counsel

OVERVIEW: *House Bill 385 makes hunting on the land of another while impaired unlawful in Orange County, enforceable by Wildlife Resource Commission officers, sheriffs, and other officers with general subject matter jurisdiction.*

CURRENT LAW: Several local acts address hunting while impaired:

S.L. 2001-165 authorizes **Orange County** to prohibit by ordinance hunting while impaired with firearms, enforceable by local law enforcement but not Wildlife Resource Commission officers.

S.L. 2002-142 makes hunting while impaired unlawful in **Pitt County**, enforceable by Wildlife Resource Commission officers, sheriffs, and other officers with general subject matter jurisdiction.

S.L. 2004-87 authorizes **Wake County** to prohibit by ordinance hunting while impaired with firearms, enforceable by local law enforcement, but not Wildlife Resource Commission officers.

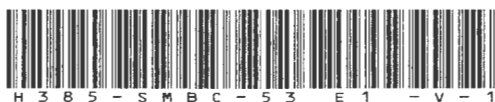
S.L. 2007-264 makes hunting on the land of another while impaired unlawful in **Caswell, Johnston, and Stanly Counties**, enforceable by Wildlife Resource Commission officers, sheriffs, and other officers with general subject matter jurisdiction.

BILL ANALYSIS: House Bill 385 makes hunting on the land of another while impaired unlawful in **Orange County**, enforceable by Wildlife Resource Commission officers, sheriffs, and other officers with general subject matter jurisdiction.

EFFECTIVE DATE: This act is effective when it becomes law.

Giles Perry of the Legislative Analysis Division substantially contributed to this summary.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 385

Short Title: Impaired Hunting/Orange County. (Local)

Sponsors: Representatives Meyer and Insko (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: State and Local Government I, if favorable, Judiciary I

March 20, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO PROHIBIT HUNTING ON PRIVATE PROPERTY IN ORANGE COUNTY
3 WHILE UNDER THE INFLUENCE OF AN IMPAIRING SUBSTANCE.
4 The General Assembly of North Carolina enacts:
5 **SECTION 1.** Section 5 of S.L. 2007-264 reads as rewritten:
6 "SECTION 5. Sections 1 through 4 of this act apply to Caswell, Johnston, Orange, and Stanly
7 Counties. ~~Sections 1, 3, and 4 of this act apply to Orange County.~~"
8 **SECTION 2.** This act is effective when it becomes law.



★ H 3 8 5 - V - 1 ★

NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

JUDICIARY I COMMITTEE REPORT
Representative Ted Davis, Jr., Chair

FAVORABLE

HB 385 Impaired Hunting/Orange County.
Draft Number: None
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: Meyer

HB 732 (CS#1) Household Goods Carrier Revisions.
Draft Number: None
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: McNeill

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL

HB 487 Nat. Guard Reemployment Rights/Definitions.
Draft Number: H487-PCS40564-BC-23
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: G. Martin

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB 571 Automatic Expunction/Wrongful Conviction.
Draft Number: H571-PCS10341-TT-23
Serial Referral: **APPROPRIATIONS**
Recommended Referral: None
Long Title Amended: Yes
Floor Manager: Hanes

TOTAL REPORTED: 4



* C M R 3 8 7 - V - 1 *



**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

**JUDICIARY I COMMITTEE REPORT
Representative Ted Davis, Jr., Chair**

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL

HB 797

Changes to Current BWC Law.

Draft Number:	H797-PCS40567-TT-20
Serial Referral:	None
Recommended Referral:	None
Long Title Amended:	No
Floor Manager:	Faircloth

TOTAL REPORTED: 1



* C M R 3 9 2 - V - 1 *



VISITOR REGISTRATION SHEET

House Judiciary I

Name of Committee

4/26/17

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Matt Burn	WKAL
Tasha Pardo	UNE alum
Jillian Toman	MWCLLC
Dode Rensu	CCR
Dianna Downey	PSNCHC
Chris Ayers	PSNCHC
Bob May	NCARNG
Joe McClees	McClees Consulting



VISITOR REGISTRATION SHEET

Judiciary I

Name of Committee

4/26/17

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Tom Bowlin

NC NATIONAL GUARD

LTC Troy Horowitz

NC National Guard

Lara Cole

DPS

Tamara Callahan

CA SR

Brad Salmer

IAS

Suzanna Bidsong

ACLU-NC



HOUSE JUDICIARY I COMMITTEE

2017-2018 SESSION

REPRESENTATIVE TED DAVIS, JR., CHAIRMAN

JUDY LOWE, COMMITTEE ASSISTANT



Corrected #2: ADDED SB148

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Wednesday, May 10, 2017

TIME: 12:00 PM

LOCATION: 415 LOB

COMMENTS: HB280-Juvenile Justice Reinvestment Act will begin at 1:00 PM

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>SB 53</u>	Law Enforcement Authority/Custody of Child.	Senator J. Davis
<u>SB 117</u>	Forfeiture of Retirement Benefits/Judges.	Senator Pate Senator Tucker
<u>SB 344</u>	Combine Adult Correction & Juvenile Justice.	Senator Randleman
<u>SB 547</u>	Restitution Remission/Notice and Hearing Req.	Senator Randleman Senator Daniel
<u>HB 280</u>	Juvenile Justice Reinvestment Act.	Representative McGrady Representative Lewis Representative Duane Hall Representative S. Martin
<u>SB 148</u>	Juror Excused by Clerk of Sup. Ct.	Senator Britt Senator Randleman

Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 2:00 PM on Tuesday, May 09, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Judy Lowe (Committee Assistant)



Corrected #1: TIME CHANGE and 4 BILLS ADDED

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Wednesday, May 10, 2017

TIME: 12:00 PM

LOCATION: 415 LOB

COMMENTS: **HB280-Juvenile Justice Reinvestment Act will begin at 1:00 PM**

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>SB 53</u>	Law Enforcement Authority/Custody of Child.	Senator J. Davis
<u>SB 117</u>	Forfeiture of Retirement Benefits/Judges.	Senator Pate Senator Tucker
<u>SB 344</u>	Combine Adult Correction & Juvenile Justice.	Senator Randleman
<u>SB 547</u>	Restitution Remission/Notice and Hearing Req.	Senator Randleman Senator Daniel
<u>HB 280</u>	Juvenile Justice Reinvestment Act.	Representative McGrady Representative Lewis Representative Duane Hall Representative S. Martin

Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 7:25 AM on Tuesday, May 09, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Judy Lowe (Committee Assistant)



Laura Sullivan (Rep. Allen McNeill)

From: Dianne Russell (House Legislative Assistant Director)
Sent: Wednesday, May 10, 2017 12:29 PM
To: Rep. David Lewis; Rep. Chuck McGrady; Rep. Susan Martin; Rep. Duane Hall
Cc: Grace Rogers (Rep. David Lewis); Kimberly Neptune (Rep. Chuck McGrady); Susie Farrell (Rep. Susan Martin); Greg Lademann (Rep. Duane Hall)
Subject: <NCGA> House Judiciary I Committee Meeting Notice for Wednesday, May 10, 2017 at 1:00 PM - CORRECTED #1
Attachments: Add Meeting to Calendar_LINC_.ics

Corrected #1: Meeting Moved to Room 423

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Wednesday, May 10, 2017
TIME: 1:00 PM
LOCATION: 423 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 280</u>	Juvenile Justice Reinvestment Act.	Representative McGrady Representative Lewis Representative Duane Hall Representative S. Martin

Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 12:28 PM on Wednesday, May 10, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Dianne Russell (Committee Assistant)



**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Wednesday, May 10, 2017
TIME: 1:00 PM
LOCATION: 415 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 280</u>	Juvenile Justice Reinvestment Act.	Representative McGrady Representative Lewis Representative Duane Hall Representative S. Martin

Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 11:39 AM on Thursday, May 04, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Judy Lowe (Committee Assistant)



House Committee on Judiciary I
Wednesday, May 10, 2017 at 12:00PM
Room 415 LOB

MINUTES

The House Committee on Judiciary I met on Wednesday, May 10, 2017 at 12:00 pm in Room 415 of the Legislative Office Building. Representatives Ted Davis, Jr., Duane Hall, Jackson, Stevens, Rena Turner, Arp, Farmer-Butterfield, Howard, Martin, McNeill, Meyer, Rogers, and Steinburg were in attendance.

Representative Ted Davis, Jr. presided and called the meeting to order at 12:02pm. He introduced the Sergeant at Arms staff and the one page. Chairman Davis announced that the first part of the meeting they would do the Senate bills and take up House bill 280 at 1:00.

Chairman Davis informed the committee there was a PCS before them and being no objection, he recognized Senator Jim Davis to explain **SB 53 Law Enforcement Authority/Custody of Child**. Senator Davis asked District Attorney, Ashley Welch, from the 30th District to also comment on the bill. Ms. Welch explained her position on the bill to the committee. Chairman Davis then asked the committee if there were any questions. Representatives Turner and Arp asked questions and Ms. Welch provided the answers. Representative McNeill questioned Senator Davis. Chairman Davis asked if there was any public comment and being none, he recognized Representative Turner for a motion of unfavorable to the original bill, favorable to the PCS. The motion passed.

The next bill before the committee was **SB 344 Combine Adult Correction & Juvenile Justice**. Representative Turner was recognized to explain the bill. There was some discussion from the committee between Representative Turner and Jennifer Bedford from Staff. Chairman Davis recognized Representative Farmer-Butterfield for a motion of a favorable report. The motion passed.

Chairman Davis recognized Representative Turner to explain the next bill, **SB 547 Restitution Remission/Notice and Hearing Req.** There was no discussion and Chairman Davis recognized Representative McNeill for a motion. He moved for a favorable report and the motion passed.

SB 148 Juror Excused by Clerk of Sup. Ct. was the next bill before the committee and it had a PCS. There was no objection to the PCS and Chairman Davis recognized Representative Lewis to explain this bill. There was no discussion from the committee. Representative Farmer-Butterfield was recognized for a motion, unfavorable to the original bill, favorable to the PCS. The motion passed.

Chairman Davis then recognized Tawanda Foster from Staff to explain **SB 117 Forfeiture Enforcement Authority/Custody of Child**. There was some discussion from the committee. Questions were answered by Tawanda Foster from Staff and Sam Watts from the Treasurer's Office. Representative Arp was recognized for a motion, a favorable report. The motion passed.



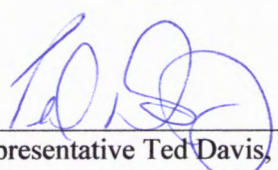
Chairman Davis then explained that the committee would recess and return at 1:00 to hear **HB 280 Juvenile Justice Reinvestment Act**. He also announced that that would reconvene in room 423/424 across the hall. The committee recessed at 12:30pm.

The committee came back to order at 1:04pm in room 423/424. Chairman Davis recognized the Sergeants at Arms staff and the pages for this part of the meeting.

Chairman Davis advised the committee that this bill had a PCS and there was no objection. Representative McGrady was then recognized to explain **HB 280 Juvenile Justice Reinvestment Act**. After his explanation, Representative McNeill was called on to present his amendment before the committee discussion. Representative McNeill explained his amendment and answered questions from the committee about the amendment. Tawanda Foster from staff also answered questions from the committee. Representative Stevens motioned for the favorable amendment and it did pass. Chairman Davis then asked for questions from the committee. There was discussion from the committee. Representative McGrady and Morey responded to questions as did Tawanda Foster from staff. After the committee discussion, Chairman Davis asked for public comment. Those who spoke in favor of the bill were Brenda Howerton from Durham County Commissioners; Judge Corpening and District Attorney Ben David from New Hanover County; Michelle Ball, Johnston County Clerk of Court; Gwendolyn Chunn, a retiree and citizen; Adam Sotak, NC Child; Ricky Watson, Co-director Youth Justice Project; and Karen Simon, citizen from Charlotte. Representative Steinburg was then recognized for a motion, unfavorable to the original bill, favorable to the PCS.

There being no further business, Chairman Davis adjourned the meeting at 2:03pm.

Respectfully submitted,



Representative Ted Davis, Jr., Chair



Laura Sullivan, Committee Clerk



House Committee on Judiciary I
Wednesday, May 10, 2017, 12:00 PM
415 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Introductions of Sgts. At Arms

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 53	Law Enforcement Authority/Custody of Child.	Senator J. Davis §
SB 117	Forfeiture of Retirement Benefits/Judges.	Senator Pate Senator Tucker
SB 344	Combine Adult Correction & Juvenile Justice.	Senator Randleman
SB 547	Restitution Remission/Notice and Hearing Req.	Senator Randleman Senator Daniel
HB 280	Juvenile Justice Reinvestment Act.	Representative McGrady Representative Lewis Representative Duane Hall Representative S. Martin
SB 148	Juror Excused by Clerk of Sup. Ct.	Senator Britt Senator Randleman

Adjournment





SENATE BILL 53: Law Enforcement Authority/Custody of Child.

2017-2018 General Assembly

Committee: House Judiciary I
Introduced by: Sen. J. Davis
Analysis of: PCS to Second Edition
S53-CSTT-24

Date: May 10, 2017
Prepared by: Jennifer H. Bedford
Committee Counsel

OVERVIEW: *The PCS for Senate Bill 53 would amend the laws regarding the temporary modification of child-custody in certain circumstance that present a substantial risk to the child.*

CURRENT LAW: G.S. 50A-311 provides the procedure and requirements for obtaining a warrant for law enforcement to take physical custody of a child if there is a substantial risk of bodily injury, sexual abuse, or that the child is going to be abducted.

The warrant must recite the facts that led the court to believe that the child was in imminent danger, direct law enforcement to take physical custody of the child immediately; and provide placement for the child pending a judicial hearing.

The court may authorize law enforcement to enter private property and if there are exigent circumstances, make forcible entry at any hour.

The parent who had the child must be served with the warrant and order immediately after the child is taken into custody.

BILL ANALYSIS:

Section 1 of the PCS would recognizes that a warrant issued by a judge, to take physical custody of a minor child pursuant to G.S. 50A-311 is an exception to the normally enforced child custody order.

Section 2 of the PCS would require that an emergency temporary custody order be accompanied by a warrant to take the child into custody.

Section 3 of the PCS would authorize officers to execute the warrant to take custody of the child without further verification of the order if it appears regular and complete on its face. It would also provide civil and criminal protection for an officer executing the court's warrant to take custody of the child.

EFFECTIVE DATE: This act would become effective October 1, 2017 and apply to orders for temporary custody on or after that date.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 53
Judiciary Committee Substitute Adopted 4/25/17
PROPOSED HOUSE COMMITTEE SUBSTITUTE S53-CSTT-24 [v.2]
05/09/2017 4:57:57 PM

Short Title: Law Enforcement Authority/Custody of Child.

(Public)

Sponsors: Senator J. Davis (Primary Sponsor).

Referred to:

February 9, 2017

A BILL TO BE ENTITLED
AN ACT TO AUTHORIZE A LAW ENFORCEMENT OFFICER TO OBTAIN CUSTODY
OF A CHILD UPON DETERMINATION BY THE COURT THAT THE CHILD IS IN
DANGER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 50-13.3 reads as rewritten:

"§ 50-13.3. Enforcement of order for custody.

...

(c) Notwithstanding subsections (a) and (b) of this section, a warrant to take physical custody of a child issued by a court pursuant to G.S. 50A-311 is enforceable throughout this State."

SECTION 2. G.S. 50-13.5 reads as rewritten:

"§ 50-13.5. Procedure in actions for custody or support of minor children.

...

(d) Service of Process; Notice; Interlocutory Orders. –

...

(3) A temporary order for custody which changes the living arrangements of a child or changes custody shall not be entered ex parte and prior to service of process or notice, unless the court finds that the child is exposed to a substantial risk of bodily injury or sexual abuse or that there is a substantial risk that the child may be abducted or removed from the State of North Carolina for the purpose of evading the jurisdiction of North Carolina courts. A temporary custody order that requires a law enforcement officer to take physical custody of a minor child shall be accompanied by a warrant to take physical custody of a minor child as set forth in G.S. 50A-311.

...."

SECTION 3. G.S. 50A-311 reads as rewritten:

"§ 50A-311. Warrant to take physical custody of child.

(a) Upon the filing of a petition seeking enforcement of a child-custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is immediately likely to suffer serious physical harm or be removed from this State.





1 (b) If the court, upon the testimony of the petitioner or other witness, finds that the child
2 is imminently likely to suffer serious physical harm or be removed from this State, it may issue
3 a warrant to take physical custody of the child. The petition must be heard on the next judicial
4 day after the warrant is executed unless that date is impossible. In that event, the court shall
5 hold the hearing on the first judicial day possible. The application for the warrant must include
6 the statements required by G.S. 50A-308(b).

7 (c) A warrant to take physical custody of a child must:

- 8 (1) Recite the facts upon which a conclusion of imminent serious physical harm
9 or removal from the jurisdiction is based;
10 (2) Direct law enforcement officers to take physical custody of the child
11 immediately; and
12 (3) Provide for the placement of the child pending final relief.

13 (d) The respondent must be served with the petition, warrant, and order immediately
14 after the child is taken into physical custody.

15 (e) A warrant to take physical custody of a child is enforceable throughout this State. If
16 the court finds on the basis of the testimony of the petitioner or other witness that a less
17 intrusive remedy is not ~~effective, available,~~ it may authorize law enforcement officers to enter
18 private property to take physical custody of the child. If required by exigent circumstances of
19 the case, the court may authorize law enforcement officers to make a forcible entry at any hour.
20 An officer executing a warrant to take physical custody of the child, that is complete and
21 regular on its face, is not required to inquire into the regularity and continued validity of the
22 order. An officer executing a warrant pursuant to this section shall not incur criminal or civil
23 liability for its due service.

24 (f) The court may impose conditions upon placement of a child to ensure the
25 appearance of the child and the child's custodian."

26 **SECTION 4.** This act becomes effective October 1, 2017, and applies to orders for
27 temporary custody on or after that date.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 53
Judiciary Committee Substitute Adopted 4/25/17

Short Title: Law Enforcement Authority/Custody of Child.

(Public)

Sponsors:

Referred to:

February 9, 2017

A BILL TO BE ENTITLED
AN ACT TO AUTHORIZE A LAW ENFORCEMENT OFFICER TO OBTAIN CUSTODY
OF A CHILD UPON DETERMINATION BY THE COURT THAT THE CHILD IS IN
DANGER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 50-13.5(d)(3) reads as rewritten:

"(d) Service of Process; Notice; Interlocutory Orders. –

...

(3) A temporary order for custody which changes the living arrangements of a child or changes custody shall not be entered ex parte and prior to service of process or notice, unless the court finds that the child is exposed to a substantial risk of bodily injury or sexual abuse or that there is a substantial risk that the child may be abducted or removed from the State of North Carolina for the purpose of evading the jurisdiction of North Carolina courts. A temporary custody order that requires a law enforcement officer to take physical custody of a minor child shall be accompanied by a Warrant to Take Physical Custody of a Minor Child as set forth in G.S. 50A-311."

SECTION 2. G.S. 50-13.3 is amended by creating a new subsection to read:

"(c) Notwithstanding subsections (a) and (b) of this section, upon the filing of a verified application for a warrant to take physical custody of a minor child that alleges the child is in imminent danger of suffering serious physical harm or of being removed from the State, any court of this State having jurisdiction to make an award of custody of a minor child may issue a warrant to take physical custody of a minor child pursuant to G.S. 50A-311, and such provisions are applicable in foreign or domestic child custody determinations."

SECTION 3. G.S. 50A-311 reads as rewritten:

"§ 50A-311. Warrant to take physical custody of child.

...

(e) A warrant to take physical custody of a child is enforceable throughout this State. ~~If the court finds on the basis of the testimony of the petitioner or other witness that a less intrusive remedy is not effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances of the case, the court may authorize law enforcement officers to make a forcible entry at any hour.~~ If the court finds on the basis of the petition and request for custody or the testimony of the petitioner that a less intrusive remedy is not reasonably available, the court may authorize a law enforcement officer to enter private property to take physical custody of the child or children. If required by exigent circumstances, the court may authorize a law enforcement officer to make a





1 forcible entry at any hour and to use such reasonable force as is necessary to effectuate the
2 terms and purposes of the order or warrant for custody. The officer is not required to inquire
3 into the regularity or continued validity of the order and shall not incur criminal or civil liability
4 for its due service.

5"

6 **SECTION 4.** This act becomes effective October 1, 2017, and applies to orders for
7 temporary custody on or after that date.





SENATE BILL 117: Forfeiture of Retirement Benefits/Judges.

2017-2018 General Assembly

Committee: House Judiciary I
Introduced by: Sens. Pate, Tucker
Analysis of: Third Edition

Date: May 9, 2017
Prepared by: Tawanda N. Foster
Staff Attorney

OVERVIEW: *Senate Bill 117 would establish retirement benefit restrictions for any judge who has been convicted on impeachment by the General Assembly, or removed from office by the Supreme Court, for acts committed after December 1, 2017. If the judge has not vested in the Consolidated Judicial Retirement System (CJRS) on December 1, 2017, is convicted on impeachment or removed from office for acts committed after December 1, 2017, then the judge forfeits all benefits under the system, except for a return of member contributions plus interest. If the judge has vested in the CJRS on December 1, 2017, is convicted on impeachment or removed from office for acts committed after December 1, 2017, then the judge is not entitled to any creditable service that accrued after December 1, 2017. The bill would become effective December 1, 2017, and apply to offenses committed on or after that date.*

[As introduced, this bill was identical to H160, as introduced by Reps. Burr, Lewis, Bumgardner, Bert Jones, which is currently in House Pensions and Retirement.].

BILL ANALYSIS: Section 1 of Senate Bill 117 would add G.S. 135-75.1B to the laws pertaining to the Consolidated Judicial Retirement System, providing for the forfeiture of retirement benefits for conviction on impeachment or removal from office. Except as provided in G.S. 135-56(k) (Section 2 of the bill), the Board of Trustees is prohibited from paying retirement benefits or allowances, except for a return of member contributions plus interest to any justice or judge of the General Court of Justice if:

- (1) the judge is convicted on impeachment under Article IV of the Constitution and Chapter 123 of the General Statutes for reasons other than physical and mental incapacity; or
- (2) the judge is removed from office by the Supreme Court under G.S. 7A-376(b).

This section adds G.S. 135-75.1B(b) to address restoration in the event that the conviction on impeachment or removal from office is vacated or set aside. If a justice or judge, or former justice or judge, whose benefits were forfeited has the conviction on impeachment or removal from office vacated or set aside, the member or former member may seek a reversal of the benefit forfeiture by presenting sufficient evidence to the State Treasurer. If the State Treasurer determines a reversal of the benefit forfeiture is appropriate, then all benefits will be restored upon repayment of all accumulated contributions plus interest and the individual will receive reinstatement of the service credit forfeited.

Section 2 of the bill would add a new subsection (k) to G.S. 135-56 providing that:

- If a justice or judge who is in service and has not vested in the Consolidated Judicial Retirement System on December 1, 2017, is convicted on impeachment or removed from office for acts committed after December 1, 2017, then the member forfeits all benefits under the system, except for a return of member contributions plus interest.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578



Senate Bill 117

Page 2

- If a member who is in service and has vested in the Consolidated Judicial Retirement System on December 1, 2017, is convicted on impeachment or removed from office for acts committed after December 1, 2017, then that member is not entitled to any creditable service that accrued after December 1, 2017.

Section 3 would make a conforming change to G.S. 7A-376(b), to clarify that a judge removed from office receives a return of member contributions plus interest as provided in G.S. 135-56(k).

Section 4 would require the General Assembly and the Supreme Court to notify the State Treasurer and the Board of Trustees of the conviction on impeachment or removal from office of a justice or judge.

EFFECTIVE DATE: Senate Bill 117 would become effective December 1, 2017, and apply to offenses committed on or after that date.

CURRENT LAW:

Removal from Office: Article IV, Section 17(1) of the North Carolina Constitution provides that a judge's removal from office by the General Assembly for any reason other than mental or physical incapacity shall be by impeachment.¹ Pursuant to G.S. 123-5, each member of the Council of State and each justice or judge of the General Court of Justice can be impeached for commission of any felony, commission of any misdemeanor involving moral turpitude, malfeasance in office, or willful neglect of duty. Upon conviction by the Senate with concurrence of two-thirds of the Senators present, the judge can be removed from office and/or disqualified from holding any office of honor, trust, or profit under this State.²

In addition to the General Assembly's power to remove a judge, G.S. 7A-376(b) authorizes the North Carolina Supreme Court to remove any justice or judge of the General Court of Justice for willful misconduct in office, willful and persistent failure to perform the judge's duties, habitual intemperance, conviction of a crime involving moral turpitude, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute. G.S. 7A-376(c) provides that a judge removed for mental or physical incapacity is entitled to retirement compensation if the judge has accumulated the years of creditable service required for incapacity of disability retirement under any provision of State law.

Pension Benefit Forfeiture Laws: The General Assembly has previously enacted laws pertaining to pension benefit forfeiture: S.L. 2012-193 and S.L. 2007-179.

S.L. 2012-193 amended the laws governing the State's public retirement systems to establish retirement benefit restrictions for members convicted of any felony under federal or State law for acts committed after December 1, 2012, if the offense is committed while in service and the conduct resulting in the conviction is directly related to the member's office or employment. The impact of the benefit restriction depends on whether the member vested on or after December 1, 2012. Section 5 and 6 of that act amended the Consolidated Judicial Retirement System by adding G.S. 135-75.1A Forfeiture of retirement benefits for certain felonies related to employment or office holding, and G.S. 135-56(j). G.S. 135-56(j) provides that if a member [of the Consolidated Judicial Retirement System] is in service and has not vested on December 1, 2012, and is convicted of an offense for acts committed after December 1, 2012, then the member must forfeit all benefits under the System, except for a return of member contributions plus interest. If a member has vested on December 1, 2012, and is convicted of an offense for acts committed after December 1, 2012, then the member is not entitled to any creditable service that accrued after December 1, 2012.

¹ Pursuant to Article IV, Section 17(a), the General Assembly may remove a judge for mental or physical disability by joint resolution of two-thirds of all the members of each house.

² G.S. 123-13.



Senate Bill 117

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S.L. 2007-179 provided that elected officials who are members of the Legislative Retirement System (LRS), the Local Governmental Employees' System (LGERs), or the Consolidated Judicial Retirement System (CJRS) forfeit their pensions upon conviction of a State or federal offense involving public corruption or a felony violation of election laws. (Specific offenses are listed in the law.) The federal or State offense must be committed while serving as an elected government official and the conduct on which the offense is based must be directly related to the member's service as an elected official. If a member who is an elected official has not vested on July 1, 2007, and is convicted of a specified offense for acts committed after July 1, 2007, then the member forfeits all benefits except for a return of member contributions plus interest. If the member has vested on July 1, 2007, is convicted of a specified offense for acts committed after July 1, 2007, then the member is not entitled to any creditable service accrued after July 1, 2007. No member forfeits benefits or creditable service earned from a position not as an elected official. The act became effective July 1, 2007, and applied to offenses committed on or after that date.

Theresa Matula, Legislative Analyst substantially contributed to this summary.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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3

SENATE BILL 117*

Judiciary Committee Substitute Adopted 3/7/17

Appropriations on Pensions, Compensation, and Benefits Committee Substitute Adopted
4/6/17

Short Title: Forfeiture of Retirement Benefits/Judges.

(Public)

Sponsors:

Referred to:

February 22, 2017

A BILL TO BE ENTITLED

AN ACT PROHIBITING THE RECEIPT OF BENEFITS FROM THE CONSOLIDATED
JUDICIAL RETIREMENT SYSTEM FOR JUDGES WHO HAVE BEEN IMPEACHED
AND CONVICTED OR REMOVED FROM OFFICE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 4 of Chapter 135 of the General Statutes is amended by
adding a new section to read:

**"§ 135-75.1B. Forfeiture of retirement benefits for conviction on impeachment or
removal from office.**

(a) Except as provided in G.S. 135-56(k), the Board of Trustees shall not pay any
retirement benefits or allowances, except for a return of member contributions plus interest, to
any justice or judge of the General Court of Justice for whom the following apply:

(1) The justice or judge of the General Court of Justice is convicted on
impeachment under Article IV of the North Carolina Constitution and
Chapter 123 of the General Statutes for reasons other than physical and
mental incapacity.

(2) The justice or judge of the General Court of Justice is removed from office
under G.S. 7A-376(b).

(b) If a justice or judge of the General Court of Justice or former justice or judge of the
General Court of Justice whose benefits under the System were forfeited under this section,
except for the return of member contributions plus interest, subsequently has the conviction on
impeachment or removal from office vacated or set aside for any reason, then the member or
former member may seek a reversal of the benefit forfeiture by presenting sufficient evidence
to the State Treasurer. If the State Treasurer determines a reversal of the benefit forfeiture is
appropriate, then all benefits will be restored upon repayment of all accumulated contributions
plus interest. Repayment of all accumulated contributions that have been received by the
individual under the forfeiture provisions of this section must be made in a total lump-sum
payment with interest compounded annually at a rate of six and one-half percent (6.5%) for
each calendar year from the year of forfeiture to the year of repayment. An individual receiving
a reversal of benefit forfeiture must receive reinstatement of the service credit forfeited."

SECTION 2. G.S. 135-56 is amended by adding a new subsection to read:

"(k) If a justice or judge of the General Court of Justice who is in service and has not
vested in this System on December 1, 2017, is convicted on impeachment or removed from
office for acts committed after December 1, 2017, then that member shall forfeit all benefits





1 under this System, except for a return of member contributions plus interest. If a member who
2 is in service and has vested in this System on December 1, 2017, is convicted on impeachment
3 or removed from office for acts committed after December 1, 2017, then that member is not
4 entitled to any creditable service that accrued after December 1, 2017."

5 **SECTION 3.** G.S. 7A-376(b) reads as rewritten:

6 "(b) Upon recommendation of the Commission, the Supreme Court may issue a public
7 reprimand, censure, suspend, or remove any judge for willful misconduct in office, willful and
8 persistent failure to perform the judge's duties, habitual intemperance, conviction of a crime
9 involving moral turpitude, or conduct prejudicial to the administration of justice that brings the
10 judicial office into disrepute. A judge who is suspended for any of the foregoing reasons shall
11 receive no compensation during the period of that suspension. A judge who is removed for any
12 of the foregoing reasons shall receive no retirement ~~compensation~~ compensation, except for a
13 return of member contributions plus interest as provided in G.S. 135-56(k), and is disqualified
14 from holding further judicial office."

15 **SECTION 4.** The General Assembly and the Supreme Court shall notify the State
16 Treasurer and the Board of Trustees of the conviction on impeachment or removal from office
17 of a justice or judge of the General Court of Justice.

18 **SECTION 5.** This act becomes effective December 1, 2017, and applies to
19 offenses committed on or after that date.



GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2017

Legislative Retirement Note

BILL NUMBER: Senate Bill 117 (Second Edition)

SHORT TITLE: Forfeiture of Retirement Benefits/Judges.

SPONSOR(S): Senators Pate and Tucker

FUNDS AFFECTED: State General Fund

SYSTEM OR PROGRAM AFFECTED: Consolidated Judicial Retirement System (CJRS)

BILL SUMMARY: Senate Bill 117 (Second Edition) prohibits the payment of any retirement benefits or allowances, except for a return of member contributions plus interest, to any judge who is impeached and convicted for reasons other than a physical or mental incapacity interfering with the performance of the judge's duties. Also prohibits paying retirement benefits or allowances, except for a return of member contributions plus interest, to any judge removed from office under G.S. 7A-376(b), which allows the Supreme Court to remove any judge for willful misconduct in office, willful and persistent failure to perform the judge's duties, habitual intemperance, conviction of a crime involving moral turpitude, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

EFFECTIVE DATE: The bill is effective when it becomes law.

ESTIMATED IMPACT ON STATE: Both Conduent, the System's Actuary, and Hartman & Associates, the actuary for the General Assembly, estimate that the bill will cause no material reduction in the contribution rates or liabilities of CJRS.

ASSUMPTIONS AND METHODOLOGY:

The cost estimates of the System's Actuary are based on the employee data, actuarial assumptions and actuarial methods used to prepare the December 31, 2015 actuarial valuations. Significant membership and financial statistics, assumptions, and methods are shown in the following tables:

Membership Statistics (as of 12/31/2015 unless otherwise noted, M = millions)	
	CJRS
Active Members	
Count	561
General Fund Compensation	\$70M
Valuation Compensation (Total)	\$70M
Average Age	55
Average Service	12.9
Inactive Members	
Count	45



Retired Members	
Count	647
Annual Benefits	\$40M
Average Age	72
New Retirees During 2016	20

Financial Statistics (as of 12/31/2015 unless otherwise noted, M = millions)	
	<u>CJRS</u>
Accrued Liability (AL)	\$616M
Actuarial Value of Assets (AVA)	\$550M
Market Value of Assets (MVA)	\$521M
Unfunded Accrued Liability (AL - AVA)	\$66M
Funded Status (AVA / AL)	89%
Required Employer Contribution for FY 2017-18 (as % of pay)	30.23%
Salary Increase Assumption (includes 3.50% inflation and productivity)	3.50% - 5.50%
Assumed Rate of Investment Return: 7.25%	
Cost Method: Entry Age Normal	
Amortization: 12 year, closed, flat dollar	
Demographic assumptions based on 2010-2014 experience, RP-2014 mortality, and projection of future mortality improvement with scale MP-2015	

Benefit Provisions	
	<u>CJRS</u>
Formula	3.02% to 4.02% x Service x Final Pay
Unreduced retirement age/service	50/24; 65/5
Employee contribution (as % of pay)	6%

Further detailed information concerning these assumptions and methods is shown in the actuary's report, which is available upon request from David Vanderweide.

SOURCES OF DATA:

Conduent, "Forfeiture of Retirement Benefits/Judges – House Bill 160 / Senate Bill 117", March 6, 2017, original of which is on file in the General Assembly's Fiscal Research Division.

Hartman & Associates, LLC, "House Bill 160/Senate Bill 117: An Act Prohibiting Receipt of Benefits From the CJRS for Judges Who Have Been Impeached or Removed From Office", February 28, 2017, original of which is on file in the General Assembly's Fiscal Research Division.

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION: (919) 733-4910.



The above information is provided in accordance with North Carolina General Statute 120-114 and applicable rules of the North Carolina Senate and House of Representatives.

PREPARED BY: David Vanderweide

APPROVED BY:
Mark Trogdon, Director
Fiscal Research Division

DATE: March 8, 2017



Signed Copy Located in the NCGA Principal Clerk's Offices





SENATE BILL 344: Combine Adult Correction & Juvenile Justice.

2017-2018 General Assembly

Committee: House Judiciary I
Introduced by: Sen. Randleman
Analysis of: First Edition

Date: May 10, 2017
Prepared by: Jennifer H. Bedford
Committee Counsel

OVERVIEW: *Senate Bill 344 would amend the statutes that govern the powers and duties of the Division of Adult Correction and the Division of Juvenile Justice to reflect the fact that those divisions have been operating as a single Division of Adult Correction and Juvenile Justice.*

BACKGROUND: In September of 2013, the Department of Public Safety issued a press release announcing that the Department was integrating the Division of Juvenile Justice and the Division of Adult Correction into a single new division to be called the Division of Adult Correction and Juvenile Justice, and the integrated division has been operating ever since. The General Statutes, however, have never been updated to reflect the fact that the two divisions were combined into a single division.

BILL ANALYSIS: **Senate Bill 344**, as recommended by the **Joint Legislative Oversight Committee on Justice and Public Safety**, would ensure that the General Statutes accurately reflect the way that the Department of Public Safety is operating without making any substantive or policy changes.

Section 1(a) would statutorily establish the Division of Adult Correction and Juvenile Justice, and give that division the power and duty to implement those portions of Article 13 of Chapter 143B related to adult correction and juvenile justice.

Sections 1(b) through 1(n) would amend the main statutory article that governs the Department of Public Safety's duties with respect to adult correction to reflect the fact that the Division previously called the Division of Adult Correction is now called the Division of Adult Correction and Juvenile Justice.

Section 1(p) would amend the statute that created the Division of Juvenile Justice so that it instead would create a Section of Juvenile Justice within the Division of Adult Correction and Juvenile Justice.

Sections 1(q) through t(11) would amend the main statutory article that governs the Department of Public Safety's duties with respect to juvenile justice to reflect the fact that what was previously the Division of Juvenile Justice is now a section within the Division of Adult Correction and Juvenile Justice.

Section 2 would make conforming changes throughout the General Statutes.

Section 3(a) and (b) would instruct the Revisor of Statutes to make any additional changes that are needed in order to ensure that the General Statutes correctly refer to the Division of Adult Correction and Juvenile Justice and the Section of Juvenile Justice.

EFFECTIVE DATE: This act is retroactively effective to July 1, 2013.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

S

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SENATE BILL 344

Short Title: Combine Adult Correction & Juvenile Justice. (Public)

Sponsors: Senators Randleman (Primary Sponsor); Daniel, Krawiec, and Sanderson.

Referred to: Rules and Operations of the Senate

March 22, 2017

A BILL TO BE ENTITLED
AN ACT TO CONSOLIDATE THE DIVISION OF ADULT CORRECTION AND THE
DIVISION OF JUVENILE JUSTICE INTO A SINGLE DIVISION WITHIN THE
DEPARTMENT OF PUBLIC SAFETY, AS RECOMMENDED BY THE JOINT
LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY.

The General Assembly of North Carolina enacts:

**PART I. CONSOLIDATION OF DIVISION OF ADULT CORRECTION AND THE
DIVISION OF JUVENILE JUSTICE**

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

"Part 1A. Division of Adult Correction and Juvenile Justice.

"§ 143B-630. Creation of Division of Adult Correction and Juvenile Justice; powers.

There is hereby created and established a division to be known as the Division of Adult
Correction and Juvenile Justice of the Department of Public Safety. The Division shall have the
power and duty to implement Parts 2 and 3 of this Article and shall have such other powers and
duties as are set forth in this Chapter and are prescribed by the Secretary of the Department of
Public Safety."

SECTION 1.(b) The title of Part 2 of Article 13 of Chapter 143B of the General
Statutes reads as rewritten:

"Part 2. ~~Division of Adult Correction.~~"

SECTION 1.(c) G.S. 143B-700 is repealed.

SECTION 1.(d) G.S. 143B-701 reads as rewritten:

**"§ 143B-701. Division of Adult Correction and Juvenile Justice of the Department of
Public Safety – duties.**

It shall be the duty of the Division to provide the necessary custody, supervision, and
treatment to control and rehabilitate criminal offenders and thereby to reduce the rate and cost
of crime and delinquency."

SECTION 1.(e) G.S. 143B-702 reads as rewritten:

**"§ 143B-702. Division of Adult Correction and Juvenile Justice of the Department of
Public Safety – rules and regulations.**

The Division of Adult Correction and Juvenile Justice of the Department of Public Safety
shall adopt rules and regulations related to the conduct, supervision, rights and privileges of
persons in its custody or under its supervision. Such rules and regulations shall be filed with
and published by the office of the Attorney General and shall be made available by the Division
for public inspection. The rules and regulations shall include a description of the organization



of the Division. A description or copy of all forms and instructions used by the Division, except those relating solely to matters of internal management, shall also be filed with the office of the Attorney General."

SECTION 1.(f) G.S. 143B-703(a) reads as rewritten:

"(a) The Secretary of Public Safety may adopt rules governing repair or replacement of personal property items excluding private passenger vehicles that belong to employees of State facilities within the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and that are damaged or stolen by inmates of the State facilities provided that the item is determined by the Secretary to be damaged or stolen on or off facility grounds during the performance of employment and necessary for the employee to have in his possession to perform his assigned duty."

SECTION 1.(g) G.S. 143B-704 reads as rewritten:

"§ 143B-704. Division of Adult Correction and Juvenile Justice of the Department of Public Safety – ~~functions~~functions with respect to adults.

(a) The functions of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall ~~comprise, except as otherwise expressly provided by the Executive Organization Act of 1973 or by the Constitution of North Carolina,~~include all functions of the executive branch of the State in relation to corrections and the rehabilitation of adult offenders, including detention, parole, and aftercare supervision, and further including those prescribed powers, duties, and functions enumerated in ~~Article 14 of Chapter 143A of the General Statutes and other~~the laws of this State.

(b) All such functions, powers, duties, and obligations heretofore vested in the Department of Social Rehabilitation and Control and any agency enumerated in Article 14 of Chapter 143A of the General Statutes and laws of this State are hereby transferred to and vested in the Division of Adult Correction and Juvenile Justice of the Department of Public Safety except as otherwise provided by the Executive Organization Act of 1973. They shall include, by way of extension and not of limitation, the functions of:

- (1) The State Department of Correction and Commission of Correction,
- (2) Repealed by Session Laws 1999-423, s. 8, effective July 1, 1999.
- (3) The State Probation Commission,
- (4) The State Board of Paroles,
- (5) The Interstate Agreement on Detainers, and
- (6) The Uniform Act for Out-of-State Parolee Supervision.

...."

SECTION 1.(h) G.S. 143B-705 reads as rewritten:

"§ 143B-705. Division of Adult Correction and Juvenile Justice of the Department of Public Safety – Alcoholism and Chemical Dependency Treatment Program.

(b) A Section Chief for the Alcoholism and Chemical Dependency Treatment Program shall be employed and shall report directly to a deputy director for the Division of Adult Correction and Juvenile Justice as designated by the ~~Chief Deputy Secretary~~Deputy Commissioner for the Division of Adult ~~Correction~~Correction and Juvenile Justice. The duties of the Section Chief and staff shall include the following:

- (1) Administer and coordinate all substance abuse programs, grants, contracts, and related functions in the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.
- (2) Develop and maintain working relationships and agreements with agencies and organizations that will assist in developing and operating alcoholism and chemical dependency treatment and recovery programs in the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

(3) Develop and coordinate the use of volunteers in the Substance Abuse Program.

...

(7) Supervise directly the facility and district program managers, other specialized personnel, and programs that exist or may be developed in the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

(8) Repealed by Session Laws 2012-83, s. 10, effective June 26, 2012.

(c) In each prison that houses an alcoholism and chemical dependency program, there shall be a unit superintendent under the Section of Prisons of the Division of Adult Correction and Juvenile Justice and other custodial, administrative, and support staff as required to maintain the proper custody level at the facility. The unit superintendent shall be responsible for all matters pertaining to custody and administration of the unit. The Section Chief of the Alcoholism and Chemical Dependency Treatment Program shall designate and direct employees to manage treatment programs at each location. Duties of unit treatment program managers shall include program development and implementation, supervision of personnel assigned to treatment programs, adherence to all pertinent policy and procedural requirements of the Department, and other duties as assigned.

...."

SECTION 1.(i) G.S. 143B-706 reads as rewritten:

"§ 143B-706. Pilot program on sexual assault.

(a) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall establish pilot programs on sexual assault for inmates at three units of the State prison system. The Division shall select units with greater than average levels of inmate violence for participation in these pilot programs.

(b) Each pilot program shall operate as follows:

(1) The Division shall provide, as part of every inmate's orientation, a program on sexual assault, with a goal to complete that program within seven days of commitment to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. The program shall provide inmates with at least the following information:

- a. An accurate presentation pertaining to sexual assault violence;
- b. Information on preventing and reducing the risk of sexual assault;
- c. Information on available counseling for victims of sexual assault; and
- d. The procedure for victims of sexual assault to request counseling.

(2) The division shall provide sexual assault counseling on-site at the prison unit to any prisoner requesting it. Counselors shall be granted reasonable access to Division of Adult Correction and Juvenile Justice of the Department of Public Safety institutions and prisoners for the purpose of providing confidential sexual assault counseling.

(3) Unless the Director of the Section of Prisons of the Division of Adult Correction and Juvenile Justice finds a particular item to be unsuitable, the Division shall allow the distribution of materials on sexual assault and rape trauma syndrome developed or sponsored by community rape crisis centers or nonprofit organizations with expertise in sexual assault. Any such material provided to a correctional institution shall be made available to inmates in places where they may make use of them privately and without attracting undue attention, such as in the library, law library, medical clinic, recreation hall, mental health offices, and educational lobby areas.

...."

SECTION 1.(j) G.S. 143B-707 reads as rewritten:

"§ 143B-707. Reports to the General Assembly.

The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall report by March 1 of each year to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees in Justice and Public Safety on their efforts to provide effective treatment to offenders with substance abuse problems. The report shall include:

- ...
- (6) Statistical information on the number of current inmates with substance abuse problems that require treatment, the number of treatment slots, the number who have completed treatment, and a comparison of available treatment slots to actual utilization rates. The report shall include this information for each ~~DOC~~-funded program.
 - (7) Evaluation of each substance abuse treatment program funded by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. Evaluation measures shall include reduction in alcohol and drug dependency, improvements in disciplinary and infraction rates, recidivism (defined as return-to-prison rates), and other measures of the programs' success."

SECTION 1.(k) G.S. 143B-708 reads as rewritten:

"§ 143B-708. Community service program.

(a) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety may conduct a community service program. The program shall provide oversight of offenders placed under the supervision of the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice and ordered to perform community service hours for criminal violations, including driving while impaired violations under G.S. 20-138.1. This program shall assign offenders, either on supervised or on unsupervised probation, to perform service to the local community in an effort to promote the offender's rehabilitation and to provide services that help restore or improve the community. The program shall provide appropriate work site placement for offenders ordered to perform community service hours. The Division may adopt rules to conduct the program. Each offender shall be required to comply with the rules adopted for the program.

...

(e) The community service staff shall report to the court in which the community service was ordered, a significant violation of the terms of the probation, deferred prosecution, or conditional discharge related to community service, including a willful failure to pay any moneys due the State under any court order or payment schedule adopted by the Section of Community Corrections of the Division of Adult ~~Correction~~.Correction and Juvenile Justice. The community service staff shall give notice of the hearing to determine if there is a willful failure to comply to the person who was ordered to perform the community service. This notice shall be given by either personal delivery to the person to be notified or by depositing the notice in the United States mail in an envelope with postage prepaid, addressed to the person at the last known address available to the preparer of the notice and reasonably believed to provide actual notice to the person. The notice shall be mailed at least 10 days prior to any hearing and shall state the basis of the alleged willful failure to comply. The court shall then conduct a hearing, even if the person ordered to perform the community service fails to appear, to determine if there is a willful failure to complete the work as ordered by the community service staff within the applicable time limits. The hearing may be held in the county in which the order requiring the performance of community service was imposed, the county in which the violation occurred, or the county of residence of the person. If the court determines there is a willful failure to comply, it shall revoke any drivers license issued to the person and notify the

1 Division of Motor Vehicles to revoke any drivers license issued to the person until the
2 community service requirement has been met. In addition, if the person is present, the court
3 may take any further action authorized by Article 82 of Chapter 15A of the General Statutes for
4 violation of a condition of probation."

5 **SECTION 1.(l)** G.S. 143B-709 reads as rewritten:

6 **"§ 143B-709. Security Staffing.**

7 (a) The Division of Adult Correction and Juvenile Justice of the Department of Public
8 Safety shall conduct:

- 9 (1) On-site postaudits of every prison at least once every three years;
10 (2) Regular audits of postaudit charts through the automated postaudit system;
11 and
12 (3) Other staffing audits as necessary.

13 (b) The Division of Adult Correction and Juvenile Justice of the Department of Public
14 Safety shall update the security staffing relief formula at least every three years. Each update
15 shall include a review of all annual training requirements for security staff to determine which
16 of these requirements should be mandatory and the appropriate frequency of the training. The
17 Division shall survey other states to determine which states use a vacancy factor in their
18 staffing relief formulas."

19 **SECTION 1.(m)** G.S. 143B-711 reads as rewritten:

20 **"§ 143B-711. Division of Adult Correction and Juvenile Justice of the Department of**
21 **Public Safety – organization.**

22 The Division of Adult Correction and Juvenile Justice of the Department of Public Safety
23 shall be organized initially to include the Post-Release Supervision and Parole Commission, the
24 Section of Prisons of the Division of Adult Correction, the Section of Community Corrections,
25 the Section of Alcoholism and Chemical Dependency Treatment Programs, and such other
26 divisions as may be established under Part 3 of this Article and under the other provisions of
27 the Executive Organization Act of 1973."

28 **SECTION 1.(n)** G.S. 143B-720 reads as rewritten:

29 **"§ 143B-720. Post-Release Supervision and Parole Commission – creation, powers and**
30 **duties.**

31 (a) There is hereby created a Post-Release Supervision and Parole Commission of the
32 Division of Adult Correction and Juvenile Justice of the Department of Public Safety with the
33 authority to grant paroles, including both regular and temporary paroles, to persons held by
34 virtue of any final order or judgment of any court of this State as provided in Chapter 148 of
35 the General Statutes and laws of the State of North Carolina, except that persons sentenced
36 under Article 81B of Chapter 15A of the General Statutes are not eligible for parole but may be
37 conditionally released into the custody and control of United States Immigration and Customs
38 Enforcement pursuant to G.S. 148-64.1. The Commission shall also have authority to revoke,
39 terminate, and suspend paroles of such persons (including persons placed on parole on or
40 before the effective date of the Executive Organization Act of 1973) and to assist the Governor
41 in exercising his authority in granting reprieves, commutations, and pardons, and shall perform
42 such other services as may be required by the Governor in exercising his powers of executive
43 clemency. The Commission shall also have authority to revoke and terminate persons on
44 post-release supervision, as provided in Article 84A of Chapter 15A of the General Statutes.
45 The Commission shall also have the authority to punish for criminal contempt for willful
46 refusal to accept post-release supervision or to comply with the terms of post-release
47 supervision by a prisoner whose offense requiring post-release supervision is a reportable
48 conviction subject to the registration requirement of Article 27A of Chapter 14 of the General
49 Statutes. Any contempt proceeding conducted by the Commission shall be in accordance with
50 G.S. 5A-15 as if the Commission were a judicial official.

51 ...

(c) The Commission is authorized and empowered to adopt such rules and regulations, not inconsistent with the laws of this State, in accordance with which prisoners eligible for parole consideration may have their cases reviewed and investigated and by which such proceedings may be initiated and considered. All rules and regulations heretofore adopted by the Board of Paroles shall remain in full force and effect unless and until repealed or superseded by action of the Post-Release Supervision and Parole Commission. All rules and regulations adopted by the Commission shall be enforced by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

...."

SECTION 1.(o) The title of Part 3 of Article 13 of Chapter 143B of the General Statutes reads as rewritten:

"Part 3. ~~Division of Juvenile Justice.~~ Juvenile Justice Section."

SECTION 1.(p) G.S. 143B-800 reads as rewritten:

"§ 143B-800. Creation of Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

There is hereby created and constituted a ~~division-section~~ to be known as the "~~Division of Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety~~", with the organization, powers, and duties ~~defined in Article 1 of this Chapter, except as modified in this Part as set forth in this Article or as prescribed by the Director of the Division of Adult Correction and Juvenile Justice.~~"

SECTION 1.(q) G.S. 143B-801 reads as rewritten:

"§ 143B-801. Transfer of Office of Juvenile Justice authority to the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

(a) All (i) statutory authority, powers, duties, and functions, including directives of S.L. 1998-202, rule making, budgeting, and purchasing, (ii) records, (iii) personnel, personnel positions, and salaries, (iv) property, and (v) unexpended balances of appropriations, allocations, reserves, support costs, and other funds of the Office of Juvenile Justice under the Office of the Governor are transferred to and vested in the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. This transfer has all of the elements of a Type I transfer as defined in G.S. 143A-6.

(b) The ~~Division-Section~~ shall be considered a continuation of the Office of Juvenile Justice for the purpose of succession to all rights, powers, duties, and obligations of the Office and of those rights, powers, duties, and obligations exercised by the Office of the Governor on behalf of the Office of Juvenile Justice. Where the Office of Juvenile Justice or the Division of Juvenile Justice of the Department of Public Safety is referred to by law, contract, or other document, that reference shall apply to the ~~Division-Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice.~~ Where the Office of the Governor is referred to by contract or other document, where the Office of the Governor is acting on behalf of the Office of Juvenile Justice, that reference shall apply to the ~~Division-Section.~~

(c) All institutions previously operated by the Office of Juvenile Justice and the present central office of the Office of Juvenile Justice, including land, buildings, equipment, supplies, personnel, or other properties rented or controlled by the Office or by the Office of the Governor for the Office of Juvenile Justice, shall be administered by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety."

SECTION 1.(r) G.S. 143B-805 reads as rewritten:

"§ 143B-805. Definitions.

In this Part, unless the context clearly requires otherwise, the following words have the listed meanings:

(1) Chief court counselor. – The person responsible for administration and supervision of juvenile intake, probation, and post-release supervision in each judicial district, operating under the supervision of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

...
(10) ~~Division. – The Division of Juvenile Justice of the Department of Public Safety.~~

...
(19a) Section. – The Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

...."

SECTION 1.(s) G.S. 143B-806 reads as rewritten:

"§ 143B-806. Duties and powers of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

...
(b) ~~The Secretary~~ In addition to its other duties, the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice shall have the following powers and duties and may delegate those powers and duties to the appropriate deputy secretary, commissioner, or director within the Department of Public Safety:duties:

...
(c) ~~Except as otherwise specifically provided in this Part and in Article 1 of this Chapter, the Secretary of Public Safety shall prescribe the functions, powers, duties, and obligations of every agency or section in the Division.~~

...."

SECTION 1.(s1) G.S. 143B-807 reads as rewritten:

"§ 143B-807. Authority to contract with other entities.

(a) ~~The Division~~ Section may contract with any governmental agency, person, or association for the accomplishment of its duties and responsibilities. The expenditure of funds under these contracts shall be for the purposes for which the funds were appropriated and not otherwise prohibited by law.

(b) ~~The Division~~ Section may enter into contracts with, and act as intermediary between, any federal government agency and any county of this State for the purpose of assisting the county to recover monies expended by a county-funded financial assistance program. As a condition of assistance, the county shall agree to hold and save harmless the ~~Division~~ Section against any claims, loss, or expense which the ~~Division~~ Section might incur under the contracts by reason of any erroneous, unlawful, or tortious act or omission of the county or its officials, agents, or employees.

(c) ~~The Division~~ Section and any other appropriate State or local agency may purchase services from public or private agencies providing delinquency prevention programs or juvenile court services, including parenting responsibility classes. The programs shall meet State standards. As institutional populations are reduced, the ~~Division~~ Section may divert State funds appropriated for institutional programs to purchase the services under the ~~Executive Budget Act~~ State Budget Act.

(d) Each programmatic, residential, and service contract or agreement entered into by the ~~Division~~ Section shall include a cooperation clause to ensure compliance with the ~~Division's~~ Section's quality assurance requirements and cost-accounting requirements."

SECTION 1.(s2) G.S. 143B-808 reads as rewritten:

"§ 143B-808. Authority to assist private nonprofit foundations.

The ~~Division~~ Section may provide appropriate services or allow employees of the ~~Division~~ Section to assist any private nonprofit foundation that works directly with the ~~Division's~~

1 Section's services or programs and whose sole purpose is to support these services and
2 programs. A ~~Division-Section~~ employee shall be allowed to work with a foundation no more
3 than 20 hours in any one month. These services are not subject to Chapter 150B of the General
4 Statutes.

5 The board of directors of each private, nonprofit foundation shall secure and pay for the
6 services of the Department of State Auditor or employ a certified public accountant to conduct
7 an annual audit of the financial accounts of the foundation. The board of directors shall transmit
8 to the ~~Division-Section~~ a copy of the annual financial audit report of the private nonprofit
9 foundation."

10 **SECTION 1.(t) G.S. 143B-809 reads as rewritten:**

11 **"§ 143B-809. Teen court programs.**

12 (a) All teen court programs administered by the Juvenile Justice Section of the Division
13 of Adult Correction and Juvenile Justice of the Department of Public Safety shall operate as
14 community resources for the diversion of juveniles pursuant to G.S. 7B-1706(c). A juvenile
15 diverted to a teen court program shall be tried by a jury of other juveniles, and, if the jury finds
16 the juvenile has committed the delinquent act, the jury may assign the juvenile to a
17 rehabilitative measure or sanction, including counseling, restitution, curfews, and community
18 service.

19 Teen court programs may also operate as resources to the local school administrative units
20 to handle problems that develop at school but that have not been turned over to the juvenile
21 authorities.

22 (b) Every teen court program that receives funds from Juvenile Crime Prevention
23 Councils shall comply with rules and reporting requirements of the Juvenile Justice Section of
24 the Division of Adult Correction and Juvenile Justice of the Department of Public Safety."

25 **SECTION 1.(t1) G.S. 143B-815 reads as rewritten:**

26 **"§ 143B-815. Juvenile facilities.**

27 In order to provide any juvenile in a juvenile facility with appropriate treatment according
28 to that juvenile's need, the ~~Division-Section~~ shall be responsible for the administration of
29 statewide educational, clinical, psychological, psychiatric, social, medical, vocational, and
30 recreational services or programs."

31 **SECTION 1.(t2) G.S. 143B-816 reads as rewritten:**

32 **"§ 143B-816. Authority to provide necessary medical or surgical care.**

33 The ~~Division-Section~~ may provide any medical and surgical treatment necessary to preserve
34 the life and health of juveniles committed to the custody of the ~~Division;Section;~~ however, no
35 surgical operation may be performed except as authorized in G.S. 148-22.2."

36 **SECTION 1.(t3) G.S. 143B-817 reads as rewritten:**

37 **"§ 143B-817. Compensation to juveniles in care.**

38 A juvenile who has been committed to the ~~Division-Section~~ may be compensated for work
39 or participation in training programs at rates approved by the Secretary within available funds.
40 The Secretary may provide for a reasonable allowance to the juvenile for incidental personal
41 expenses, and any balance of the juvenile's earnings remaining at the time the juvenile is
42 released shall be paid to the juvenile or the juvenile's parent or guardian. The ~~Division-Section~~
43 may accept grants or funds from any source to compensate juveniles under this section."

44 **SECTION 1.(t4) G.S. 143B-818 reads as rewritten:**

45 **"§ 143B-818. Visits and community activities.**

46 (a) The ~~Division-Section~~ shall encourage visits by parents or guardians and responsible
47 relatives of juveniles committed to the custody of the ~~Division-Section~~.

48 (b) The ~~Division-Section~~ shall develop a program of home visits for juveniles in the
49 custody of the ~~Division-Section~~. The visits shall begin after the juvenile has been in the custody
50 of the ~~Division-Section~~ for a period of at least six months. In developing the program, the

1 ~~Division-Section~~ shall adopt criteria that promote the protection of the public and the best
2 interests of the juvenile."

3 **SECTION 1.(t5)** G.S. 143B-819 reads as rewritten:

4 **"§ 143B-819. Regional detention services.**

5 The ~~Division-Section~~ is responsible for juvenile detention services, including the
6 development of a statewide plan for regional juvenile detention services that offer juvenile
7 detention care of sufficient quality to meet State standards to any juvenile requiring juvenile
8 detention care within the State in a detention facility as follows:

- 9 (1) The ~~Division-Section~~ shall plan with the counties operating a county
10 detention facility to provide regional juvenile detention services to
11 surrounding counties. The ~~Division-Section~~ has discretion in defining the
12 geographical boundaries of the regions based on negotiations with affected
13 counties, distances, availability of juvenile detention care that meets State
14 standards, and other appropriate factors.
- 15 (2) The ~~Division-Section~~ may plan with any county that has space within its
16 county jail system to use the existing space for a county detention facility
17 when needed, if the space meets the State standards for a detention facility
18 and meets all of the requirements of G.S. 153A-221. The use of space within
19 the county jail system shall be constructed to ensure that juveniles are not
20 able to converse with, see, or be seen by the adult population, and juveniles
21 housed in a space within a county jail shall be supervised closely.
- 22 (3) The ~~Division-Section~~ shall plan for and administer regional detention
23 facilities. The ~~Division-Section~~ shall carefully plan the location, architectural
24 design, construction, and administration of a program to meet the needs of
25 juveniles in juvenile detention care. The physical facility of a regional
26 detention facility shall comply with all applicable State and federal
27 standards. The programs of a regional detention facility shall comply with
28 the standards established by the ~~Division-Section~~."

29 **SECTION 1.(t6)** G.S. 143B-820 reads as rewritten:

30 **"§ 143B-820. State subsidy to county detention facilities.**

31 The ~~Division-Section~~ shall administer a State subsidy program to pay a county that provides
32 juvenile detention services and meets State standards a certain per diem per juvenile. In
33 general, this per diem should be fifty percent (50%) of the total cost of caring for a juvenile
34 from within the county and one hundred percent (100%) of the total cost of caring for a
35 juvenile from another county. Any county placing a juvenile in a detention facility in another
36 county shall pay fifty percent (50%) of the total cost of caring for the juvenile to the
37 ~~Division-Section~~. The ~~Division-Section~~ may vary the exact funding formulas to operate within
38 existing State appropriations or other funds that may be available to pay for juvenile detention
39 care."

40 **SECTION 1.(t7)** G.S. 143B-821 reads as rewritten:

41 **"§ 143B-821. Authority for implementation.**

42 In order to allow for effective implementation of a statewide regional approach to juvenile
43 detention, the ~~Division-Section~~ may:

- 44 (1) Release or transfer a juvenile from one detention facility to another when
45 necessary to administer the juvenile's detention appropriately.
- 46 (2) Plan with counties that operate county detention facilities to provide regional
47 services and to upgrade physical facilities to contract with counties for
48 services and care, and to pay State subsidies to counties providing regional
49 juvenile detention services that meet State standards.

- (3) Allow the State to reimburse law enforcement officers or other appropriate employees of local government for the costs of transportation of a juvenile to and from any juvenile detention facility.
- (4) Seek funding for juvenile detention services from federal sources, and accept gifts of funds from public or private sources."

SECTION 1.(t8) G.S. 143B-830 reads as rewritten:

"§ 143B-830. Duties and powers of chief court counselors.

The chief court counselor in each district appointed under G.S. 143B-806(b)(15) may:

- (1) Appoint juvenile court counselors, secretaries, and other personnel authorized by the ~~Division~~ Section in accordance with the personnel policies adopted by the ~~Division~~ Section.
- (2) Supervise and direct the program of juvenile intake, protective supervision, probation, and post-release supervision within the district.
- (3) Provide in-service training for staff as required by the ~~Division~~ Section.
- (4) Keep any records and make any reports requested by the Secretary in order to provide statewide data and information about juvenile needs and services.
- (5) Delegate to a juvenile court counselor or supervisor the authority to carry out specified responsibilities of the chief court counselor to facilitate the effective operation of the district.
- (6) Designate a juvenile court counselor in the district as acting chief court counselor, to act during the absence or disability of the chief court counselor."

SECTION 1.(t9) G.S. 143B-831 reads as rewritten:

"§ 143B-831. Duties and powers of juvenile court counselors.

As the court or the chief court counselor may direct or require, all juvenile court counselors shall have the following powers and duties:

- ...
- (14) Provide supervision for a juvenile transferred to the counselor's supervision from another court or another state, and provide supervision for any juvenile released from an institution operated by the ~~Division~~ Section when requested by the ~~Division~~ Section to do so.
- ...
- (19) Have any other duties as the ~~Division~~ Section may direct."

SECTION 1.(t10) G.S. 143B-840 reads as rewritten:

"Subpart E. Comprehensive Juvenile Delinquency and Substance Abuse Prevention Plan.

"§ 143B-840. Comprehensive Juvenile Delinquency and Substance Abuse Prevention Plan.

(a) The ~~Division~~ Section shall develop and implement a comprehensive juvenile delinquency and substance abuse prevention plan and shall coordinate with County Councils for implementation of a continuum of services and programs at the community level.

The ~~Division~~ Section shall ensure that localities are informed about best practices in juvenile delinquency and substance abuse prevention.

(b) The plan shall contain the following:

- (1) Identification of the risk factors at the developmental stages of a juvenile's life that may result in delinquent behavior.
- (2) Identification of the protective factors that families, schools, communities, and the State must support to reduce the risk of juvenile delinquency.
- (3) Programmatic concepts that are effective in preventing juvenile delinquency and substance abuse and that should be made available as basic services in the communities, including:
- a. Early intervention programs and services.

- b. In-home training and community-based family counseling and parent training.
- c. Adolescent and family substance abuse prevention services, including alcohol abuse prevention services, and substance abuse education.
- d. Programs and activities offered before and after school hours.
- e. Life and social skills training programs.
- f. Classes or seminars that teach conflict resolution, problem solving, and anger management.
- g. Services that provide personal advocacy, including mentoring relationships, tutors, or other caring adult programs.

(c) The ~~Division-Section~~ shall cooperate with all other affected State agencies and entities in implementing this section."

SECTION 1.(t11) G.S. 143B-851 reads as rewritten:

"§ 143B-851. Powers and duties.

(a) Each County Council shall review annually the needs of juveniles in the county who are at risk of delinquency or who have been adjudicated undisciplined or delinquent and the resources available to address those needs. In particular, each County Council shall assess the needs of juveniles in the county who are at risk or who have been associated with gangs or gang activity, and the local resources that are established to address those needs. The Council shall develop and advertise a request for proposal process and submit a written plan of action for the expenditure of juvenile sanction and prevention funds to the board of county commissioners for its approval. Upon the county's authorization, the plan shall be submitted to the ~~Division-Section~~ for final approval and subsequent implementation.

(b) Each County Council shall ensure that appropriate intermediate dispositional options are available and shall prioritize funding for dispositions of intermediate and community-level sanctions for court-adjudicated juveniles under minimum standards adopted by the ~~Division-Section~~.

(c) On an ongoing basis, each County Council shall:

- (1) Assess the needs of juveniles in the community, evaluate the adequacy of resources available to meet those needs, and develop or propose ways to address unmet needs.
- (2) Evaluate the performance of juvenile services and programs in the community. The Council shall evaluate each funded program as a condition of continued funding.
- (3) Increase public awareness of the causes of delinquency and of strategies to reduce the problem.
- (4) Develop strategies to intervene and appropriately respond to and treat the needs of juveniles at risk of delinquency through appropriate risk assessment instruments.
- (5) Provide funds for services for treatment, counseling, or rehabilitation for juveniles and their families. These services may include court-ordered parenting responsibility classes.
- (6) Plan for the establishment of a permanent funding stream for delinquency prevention services.
- (7) Develop strategies to intervene and appropriately respond to the needs of juveniles who have been associated with gang activity or who are at risk of becoming associated with gang activity.

(d) The Councils may examine the benefits of joint program development between counties within the same judicial district."

PART II. CONFORMING CHANGES**SECTION 2.(a)** G.S. 1-110(b) reads as rewritten:

"(b) Whenever a motion to proceed as an indigent is filed pro se by an inmate in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, the motion to proceed as an indigent and the proposed complaint shall be presented to any superior court judge of the judicial district. This judge shall determine whether the complaint is frivolous. In the discretion of the court, a frivolous case may be dismissed by order. The clerk of superior court shall serve a copy of the order of dismissal upon the prison inmate. If the judge determines that the inmate may proceed as an indigent, service of process upon the defendant shall issue without further order of the court."

SECTION 2.(b) G.S. 7A-109.3 reads as rewritten:**"§ 7A-109.3. Delivery of commitment order.**

(a) Whenever the district court sentences a person to imprisonment and commitment to the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety pursuant to G.S. 15A-1352, the clerk of superior court shall furnish the sheriff with the signed order of commitment within 48 hours of the issuance of the sentence.

(b) Whenever the superior court sentences a person to imprisonment and commitment to the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety pursuant to G.S. 15A-1352, the clerk of superior court shall furnish the sheriff with the signed order of commitment within 72 hours of the issuance of the sentence."

SECTION 2.(c) G.S. 7A-302 reads as rewritten:**"§ 7A-302. Counties and municipalities responsible for physical facilities.**

In each county in which a district court has been established, courtrooms, office space for juvenile court counselors and support staff as assigned by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, and related judicial facilities (including furniture), as defined in this Subchapter, shall be provided by the county, except that courtrooms and related judicial facilities may, with the approval of the administrative Officer of the Courts, after consultation with county and municipal authorities, be provided by a municipality in the county. To assist a county or municipality in meeting the expense of providing courtrooms and related judicial facilities, a part of the costs of court, known as the "facilities fee," collected for the State by the clerk of superior court, shall be remitted to the county or municipality providing the facilities."

SECTION 2.(d) G.S. 7A-313 reads as rewritten:**"§ 7A-313. Uniform jail fees.**

Persons who are lawfully confined in jail awaiting trial shall be liable to the county or municipality maintaining the jail in the sum of ten dollars (\$10.00) for each 24 hours' confinement, or fraction thereof, except that a person so confined shall not be liable for this fee if the case or proceeding against him is dismissed, or if acquitted, or if judgment is arrested, or if probable cause is not found, or if the grand jury fails to return a true bill.

Persons who are ordered to pay jail fees pursuant to a probationary sentence shall be liable to the county or municipality maintaining the jail at the same per diem rate paid by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety to local jails for maintaining a prisoner, as set by the General Assembly in its appropriations acts."

SECTION 2.(e) G.S. 7A-343.1(a) reads as rewritten:

"(a) The Administrative Officer of the Courts shall, at the State's expense distribute such number of copies of the appellate division reports to federal, State departments and agencies, and to educational institutions of instruction, as follows:

...

Adult Correction and Juvenile Justice, Division of

...

Each justice of the Supreme Court and judge of the Court of Appeals shall receive for private use, one complete and up-to-date set of the appellate division reports. The copies of reports furnished each justice or judge as set out in the table above may be retained personally to enable the justice or judge to keep up-to-date the personal set of reports."

SECTION 2.(f) G.S. 7A-451(e1) reads as rewritten:

"(e1) When the Supreme Court of North Carolina files an opinion affirming or reversing the judgment of the trial court in a case in which the defendant was sentenced to death, or files an opinion or decision with regard to such a defendant's postconviction petition for relief from a sentence of death, or when any federal court files or issues an opinion or decision in such circumstances, the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall, on the day the opinion or decision is filed or issued, permit counsel for the defendant to visit the defendant at the institution at which the defendant is confined. The visit shall be permitted during regular business hours for not less than one hour, unless a visit outside regular business hours is agreed to by both the institution's administrator and counsel for the defendant. This section shall not be construed to abridge the adequate and reasonable opportunity for attorneys to consult with clients sentenced to death generally and shall not be construed to mandate an attorney visit during an emergency at the institution at which a defendant is confined."

SECTION 2.(g) G.S. 7A-474.3(c) reads as rewritten:

"(c) Limitations. No funds appropriated under this Article shall be used for any of the following purposes:

- ...
- (4) To provide legal assistance to any prisoner within the Division of Adult Correction and Juvenile Justice of the Department of Public Safety with regard to the terms of that person's incarceration; or

...."

SECTION 2.(h) G.S. 7A-474.18(c) reads as rewritten:

"(c) Limitations. – No funds appropriated under this Article shall be used for any of the following purposes:

- (1) To provide legal assistance with respect to any criminal proceeding; or
- (2) To provide legal assistance to any prisoner within the Division of Adult Correction and Juvenile Justice of the Department of Public Safety with regard to the terms of that person's incarceration."

SECTION 2.(i) G.S. 7A-498.3(a) reads as rewritten:

"(a) The Office of Indigent Defense Services shall be responsible for establishing, supervising, and maintaining a system for providing legal representation and related services in the following cases:

- (1) Cases in which an indigent person is subject to a deprivation of liberty or other constitutionally protected interest and is entitled by law to legal representation;
- (2) Cases in which an indigent person is entitled to legal representation under G.S. 7A-451 and G.S. 7A-451.1;
- (2a) Cases in which the State is legally obligated to provide legal assistance and access to the courts to inmates in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety; and
- (3) Any other cases in which the Office of Indigent Defense Services is designated by statute as responsible for providing legal representation."

SECTION 2.(j) G.S. 7B-1501 reads as rewritten:

"§ 7B-1501. Definitions.

In this Subchapter, unless the context clearly requires otherwise, the following words have the listed meanings. The singular includes the plural, unless otherwise specified.

(1) Chief court counselor. – The person responsible for administration and supervision of juvenile intake, probation, and post-release supervision in each judicial district, operating under the supervision of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

...
(10a) Division. – The Division of Adult Correction and Juvenile Justice of the Department of Public Safety created under Article 12 of Chapter 143B of the General Statutes.

...."

SECTION 2.(k) G.S. 7B-2204 reads as rewritten:

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

Once the order of transfer has been entered, the juvenile has the right to pretrial release as provided in G.S. 15A-533 and ~~G.S. 15A-534~~. G.S. 15A-534. The release order shall specify the person or persons to whom the juvenile may be released. Pending release, the court shall order that the juvenile be detained in a detention facility while awaiting trial. The court may order the juvenile to be held in a holdover facility at any time the presence of the juvenile is required in court for pretrial hearings or trial, if the court finds that it would be inconvenient to return the juvenile to the detention facility.

Should the juvenile be found guilty, or enter a plea of guilty or no contest to a criminal offense in superior court and receive an active sentence, then immediate transfer to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall be ordered. Until such time as the juvenile is transferred to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, the juvenile may be detained in a holdover facility. The juvenile may not be detained in a detention facility pending transfer to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

The juvenile may be kept by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety as a safekeeper until the juvenile is placed in an appropriate correctional program."

SECTION 2.(l) G.S. 7B-2517 reads as rewritten:

"§ 7B-2517. Transfer authority of Governor.

The Governor may order transfer of any person less than 18 years of age from any jail or penal facility of the State to one of the residential facilities operated by the Division in appropriate circumstances, provided the Governor shall consult with the Division concerning the feasibility of the transfer in terms of available space, staff, and suitability of program.

When an inmate, committed to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, is transferred by the Governor to a residential program operated by the Division, the Division may release the juvenile based on the needs of the juvenile and the best interests of the State. Transfer shall not divest the probation or parole officer of the officer's responsibility to supervise the inmate on release."

SECTION 2.(m) G.S. 7B-3000 reads as rewritten:

"§ 7B-3000. Juvenile court records.

(a) The clerk shall maintain a complete record of all juvenile cases filed in the clerk's office to be known as the juvenile record. The record shall include the summons and petition, any secure or nonsecure custody order, any electronic or mechanical recording of hearings, and any written motions, orders, or papers filed in the proceeding.

(b) All juvenile records shall be withheld from public inspection and, except as provided in this subsection, may be examined only by order of the court. Except as provided in subsection (c) of this section, the following persons may examine the juvenile's record and obtain copies of written parts of the record without an order of the court:

(1) The juvenile or the juvenile's attorney;

- (2) The juvenile's parent, guardian, or custodian, or the authorized representative of the juvenile's parent, guardian, or custodian;
- (3) The prosecutor;
- (4) Court counselors; and
- (5) Probation officers in the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, as provided in subsection (e1) of this section and in G.S. 15A-1341(e).

Except as provided in subsection (c) of this section, the prosecutor may, in the prosecutor's discretion, share information obtained from a juvenile's record with magistrates and law enforcement officers sworn in this State, but may not allow a magistrate or law enforcement officer to photocopy any part of the record.

(c) The court may direct the clerk to "seal" any portion of a juvenile's record. The clerk shall secure any sealed portion of a juvenile's record in an envelope clearly marked "SEALED: MAY BE EXAMINED ONLY BY ORDER OF THE COURT", or with similar notice, and shall permit examination or copying of sealed portions of a juvenile's record only pursuant to a court order specifically authorizing inspection or copying.

(d) Any portion of a juvenile's record consisting of an electronic or mechanical recording of a hearing shall be transcribed only when notice of appeal has been timely given and shall be copied electronically or mechanically, only by order of the court. After the time for appeal has expired with no appeal having been filed, the court may enter a written order directing the clerk to destroy the recording of the hearing.

(e) Notwithstanding any other provision of law, if the defendant in a criminal proceeding involving a Class A1 misdemeanor or a felony was less than 21 years of age at the time of the offense, information obtained pursuant to subsection (b) of this section regarding the juvenile's record of an adjudication of delinquency for an offense that would be a Class A1 misdemeanor or a felony if committed by an adult, where the adjudication occurred after the defendant reached 13 years of age, may be used by law enforcement, the magistrate, the courts, and the prosecutor for pretrial release, plea negotiating decisions, and plea acceptance decisions. Information obtained regarding any juvenile record shall remain confidential and shall not be placed in any public record.

(e1) When a person is subject to probation supervision under Article 82 of Chapter 15A of the General Statutes, for an offense that was committed while the person was less than 25 years of age, that person's juvenile record of an adjudication of delinquency for an offense that would be a felony if committed by an adult may be examined without a court order by the probation officer in the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice assigned to supervise the person for the purpose of assessing risk related to supervision.

Each judicial district manager in the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice shall designate a staff person in each county to obtain from the clerk, at the request of the probation officer assigned to supervise the person, any juvenile records authorized to be examined under this subsection. The judicial district manager shall inform the clerk in each county, in writing, of the designated staff person in the county. The designated staff person shall transfer any juvenile records obtained to the probation officer assigned to supervise the person.

Any copies of juvenile records obtained pursuant to this subsection shall continue to be withheld from public inspection and shall not become part of the public record in any criminal proceeding. Any copies of juvenile records shall be destroyed within 30 days of termination of the person's period of probation supervision. Any other information in the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice records, relating to a person's juvenile record, shall remain confidential and shall be maintained or destroyed pursuant to guidelines established by the Department of Natural and Cultural

Resources for the maintenance and destruction of Section of Community Corrections of the Division of Adult Correction and Juvenile Justice records.

(f) The juvenile's record of an adjudication of delinquency for an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult may be used in a subsequent criminal proceeding against the juvenile either under G.S. 8C-1, Rule 404(b), or to prove an aggravating factor at sentencing under G.S. 15A-1340.4(a), 15A-1340.16(d), or 15A-2000(e). The record may be so used only by order of the court in the subsequent criminal proceeding, upon motion of the prosecutor, after an in camera hearing to determine whether the record in question is admissible.

(g) Except as provided in subsection (d) of this section, a juvenile's record shall be destroyed only as authorized by G.S. 7B-3200 or by rules adopted by the Administrative Office of the Courts."

SECTION 2.(n) G.S. 7B-3001(d) reads as rewritten:

"(d) When the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety is authorized to access a juvenile record pursuant to G.S. 7B-3000(e1), the Division may, at the request of the Section of Community Corrections of the Division of Adult ~~Correction~~, Correction and Juvenile Justice, notify the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice that there is a juvenile record of an adjudication of delinquency for an offense that would be a felony if committed by an adult for a person subject to probation supervision under Article 82 of Chapter 15A of the General Statutes and may notify the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice of the county or counties where the adjudication of delinquency occurred."

SECTION 2.(o) G.S. 7B-3100(a) reads as rewritten:

"(a) The Division, after consultation with the Conference of Chief District Court Judges, shall adopt rules designating certain local agencies that are authorized to share information concerning juveniles in accordance with the provisions of this section. Agencies so designated shall share with one another, upon request and to the extent permitted by federal law and regulations, information that is in their possession that is relevant to any assessment of a report of child abuse, neglect, or dependency or the provision or arrangement of protective services in a child abuse, neglect, or dependency case by a local department of social services pursuant to the authority granted under Chapter 7B of the General Statutes or to any case in which a petition is filed alleging that a juvenile is abused, neglected, dependent, undisciplined, or delinquent and shall continue to do so until the protective services case is closed by the local department of social services, or if a petition is filed when the juvenile is no longer subject to the jurisdiction of juvenile court. Agencies that may be designated as "agencies authorized to share information" include local mental health facilities, local health departments, local departments of social services, local law enforcement agencies, local school administrative units, the district's district attorney's office, the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, and the Office of Guardian ad Litem Services of the Administrative Office of the Courts, and, pursuant to the provisions of G.S. 7B-3000(e1), the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. Any information shared among agencies pursuant to this section shall remain confidential, shall be withheld from public inspection, and shall be used only for the protection of the juvenile and others or to improve the educational opportunities of the juvenile, and shall be released in accordance with the provisions of the Family Educational and Privacy Rights Act as set forth in 20 U.S.C. § 1232g. Nothing in this section or any other provision of law shall preclude any other necessary sharing of information among agencies. Nothing herein shall be deemed to require the disclosure or release of any information in the possession of a district attorney."

SECTION 2.(p) G.S. 14-202(m) reads as rewritten:

"(m) The provisions of subsections (a), (a1), (c), (e), (g), (h), and (k) of this section do not apply to:

- (1) Law enforcement officers while discharging or attempting to discharge their official duties; or
- (2) Personnel of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, ~~the Division of Juvenile Justice of the Department of Public Safety,~~ Safety or of a local confinement facility for security purposes or during investigation of alleged misconduct by a person in the custody of the Division or the local confinement facility."

SECTION 2.(q) G.S. 14-208.6(2) reads as rewritten:

"(2) "Penal institution" means:

- a. A detention facility operated under the jurisdiction of the Section of Prisons of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety;
- b. A detention facility operated under the jurisdiction of another state or the federal government; or
- c. A detention facility operated by a local government in this State or another state."

SECTION 2.(r) G.S. 14-208.20(b) reads as rewritten:

"(b) Prior to sentencing a person as a sexually violent predator, the court shall order a presentence investigation in accordance with G.S. 15A-1332(c). However, the study of the defendant and whether the defendant is a sexually violent predator shall be conducted by a board of experts selected by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. The board of experts shall be composed of at least four people. Two of the board members shall be experts in the field of the behavior and treatment of sexual offenders, one of whom shall be selected from a panel of experts in those fields provided by the North Carolina Medical Society and not employed with the Division of Adult Correction and Juvenile Justice of the Department of Public Safety or employed on a full-time basis with any other State agency. One of the board members shall be a victims' rights advocate, and one of the board members shall be a representative of law enforcement agencies."

SECTION 2.(s) G.S. 14-208.22(c) reads as rewritten:

"(c) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall also obtain the additional information set out in subsection (a) of this section and shall include this information in the prerelease notice forwarded to the sheriff or other appropriate law enforcement agency."

SECTION 2.(t) G.S. 14-208.40 reads as rewritten:

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

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

- (1) Any offender who is convicted of a reportable conviction as defined by G.S. 14-208.6(4) and who is required to register under Part 3 of Article 27A of Chapter 14 of the General Statutes because the defendant is classified as a sexually violent predator, is a recidivist, or was convicted of an aggravated offense as those terms are defined in G.S. 14-208.6.
- (2) Any offender who satisfies all of the following criteria: (i) is convicted of a reportable conviction as defined by G.S. 14-208.6(4), (ii) is required to register under Part 2 of Article 27A of Chapter 14 of the General Statutes, (iii) has committed an offense involving the physical, mental, or sexual abuse of a minor, and (iv) based on the Division of Adult

~~Correction's~~Correction and Juvenile Justice's risk assessment program requires the highest possible level of supervision and monitoring.

- (3) Any offender who is convicted of G.S. 14-27.23 or G.S. 14-27.48, who shall be enrolled in the satellite-based monitoring program for the offender's natural life upon termination of the offender's active punishment.

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

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

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

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

SECTION 2.(u) G.S. 14-208.40A reads as rewritten:

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

...

(d) If the court finds that the offender committed an offense that involved the physical, mental, or sexual abuse of a minor, that the offense is not an aggravated offense or a violation of G.S. 14-27.23 or G.S. 14-27.48 and the offender is not a recidivist, the court shall order that the Division of Adult Correction do a risk assessment of the offender. The Division of Adult Correction and Juvenile Justice shall have a minimum of 30 days, but not more than 60 days, to complete the risk assessment of the offender and report the results to the court.

(e) Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile Justice pursuant to subsection (d) of this section, the court shall determine whether, based on the Division of Adult ~~Correction's~~Correction and Juvenile Justice's risk assessment, the offender requires the highest possible level of supervision and monitoring. If the court determines that the offender does require the highest possible level of supervision and monitoring, the court shall order the offender to enroll in a satellite-based monitoring program for a period of time to be specified by the court."

SECTION 2.(v) G.S. 14-208.40B reads as rewritten:

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

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

(b) If the Division of Adult Correction and Juvenile Justice determines that the offender falls into one of the categories described in G.S. 14-208.40(a), the district attorney, representing

1 the Division of Adult ~~Correction~~, Correction and Juvenile Justice, shall schedule a hearing in
2 superior court for the county in which the offender resides. The Division of Adult Correction
3 and Juvenile Justice shall notify the offender of the Division of Adult ~~Correction's~~ Correction
4 and Juvenile Justice's determination and the date of the scheduled hearing by certified mail sent
5 to the address provided by the offender pursuant to G.S. 14-208.7. The hearing shall be
6 scheduled no sooner than 15 days from the date the notification is mailed. Receipt of
7 notification shall be presumed to be the date indicated by the certified mail receipt. Upon the
8 court's determination that the offender is indigent and entitled to counsel, the court shall assign
9 counsel to represent the offender at the hearing pursuant to rules adopted by the Office of
10 Indigent Defense Services.

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

14 If the court finds that (i) the offender has been classified as a sexually violent predator
15 pursuant to G.S. 14-208.20, (ii) the offender is a recidivist, (iii) the conviction offense was an
16 aggravated offense, or (iv) the conviction offense was a violation of G.S. 14-27.23 or
17 G.S. 14-27.48, the court shall order the offender to enroll in satellite-based monitoring for life.

18 If the court finds that the offender committed an offense that involved the physical, mental,
19 or sexual abuse of a minor, that the offense is not an aggravated offense or a violation of
20 G.S. 14-27.23 or G.S. 14-27.48, and the offender is not a recidivist, the court shall order that
21 the Division of Adult Correction and Juvenile Justice do a risk assessment of the offender. The
22 Division of Adult Correction and Juvenile Justice shall have a minimum of 30 days, but not
23 more than 60 days, to complete the risk assessment of the offender and report the results to the
24 court. The Division of Adult Correction and Juvenile Justice may use a risk assessment of the
25 offender done within six months of the date of the hearing.

26 Upon receipt of a risk assessment from the Division of Adult ~~Correction~~, Correction and
27 Juvenile Justice, the court shall determine whether, based on the Division of Adult
28 ~~Correction's~~ Correction and Juvenile Justice's risk assessment, the offender requires the highest
29 possible level of supervision and monitoring. If the court determines that the offender does
30 require the highest possible level of supervision and monitoring, the court shall order the
31 offender to enroll in a satellite-based monitoring program for a period of time to be specified by
32 the court."

33 **SECTION 2.(w)** G.S. 14-208.40C reads as rewritten:

34 **"§ 14-208.40C. Requirements of enrollment.**

35 (a) Any offender required to enroll in satellite-based monitoring pursuant to
36 G.S. 14-208.40A or G.S. 14-208.40B who receives an active sentence shall be enrolled and
37 receive the appropriate equipment immediately upon the offender's release from the Section of
38 Prisons of the Division of Adult ~~Correction~~, Correction and Juvenile Justice.

39 (b) Any offender required to enroll in satellite-based monitoring pursuant to
40 G.S. 14-208.40A or G.S. 14-208.40B who receives an intermediate punishment shall,
41 immediately upon sentencing, report to the Section of Community Corrections of the Division
42 of Adult Correction and Juvenile Justice for enrollment in the satellite-based monitoring
43 program, and, if necessary, shall return at any time designated by that Division to receive the
44 appropriate equipment. If the intermediate sentence includes a required period of
45 imprisonment, the offender shall not be required to be enrolled in the satellite-based monitoring
46 program during the period of imprisonment.

47 (c) Any offender required to enroll in satellite-based monitoring pursuant to
48 G.S. 14-208.40A or G.S. 14-208.40B who receives a community punishment shall,
49 immediately upon sentencing, report to the Section of Community Corrections of the Division
50 of Adult Correction and Juvenile Justice for enrollment in the satellite-based monitoring

1 program, and, if necessary, shall return at any time designated by that Section to receive the
2 appropriate equipment."

3 **SECTION 2.(x)** G.S. 14-208.41 reads as rewritten:

4 **"§ 14-208.41. Enrollment in satellite-based monitoring programs mandatory; length of**
5 **enrollment.**

6 (a) Any person described by G.S. 14-208.40(a)(1) shall enroll in a satellite-based
7 monitoring program with the Section of Community Corrections of the Division of Adult
8 Correction and Juvenile Justice office in the county where the person resides. The person shall
9 remain enrolled in the satellite-based monitoring program for the registration period imposed
10 under G.S. 14-208.23 which is the person's life, unless the requirement to enroll in the
11 satellite-based monitoring program is terminated pursuant to G.S. 14-208.43.

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

17 (c) Any person described by G.S. 14-208.40(a)(3), upon completion of active
18 punishment, shall enroll in a satellite-based monitoring program with the Section of
19 Community Corrections of the Division of Adult Correction and Juvenile Justice office in the
20 county where the person resides. The person shall enroll in the satellite-based monitoring
21 program for the entire period of post-release supervision and shall remain enrolled in the
22 satellite-based monitoring program for the person's life, unless the requirement to enroll in the
23 satellite-based monitoring program is terminated pursuant to G.S. 14-208.43."

24 **SECTION 2.(y)** G.S. 14-208.42 reads as rewritten:

25 **"§ 14-208.42. Offenders required to submit to satellite-based monitoring required to**
26 **cooperate with Division of Adult Correction and Juvenile Justice upon**
27 **completion of sentence.**

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

35 The Division of Adult Correction and Juvenile Justice shall have the authority to have
36 contact with the offender at the offender's residence or to require the offender to appear at a
37 specific location as needed for the purpose of enrollment, to receive monitoring equipment, to
38 have equipment examined or maintained, and for any other purpose necessary to complete the
39 requirements of the satellite-based monitoring program. The offender shall cooperate with the
40 Division of Adult Correction and Juvenile Justice and the requirements of the satellite-based
41 monitoring program until the offender's requirement to enroll is terminated and the offender has
42 returned all monitoring equipment to the Division of Adult ~~Correction~~ Correction and Juvenile
43 Justice."

44 **SECTION 2.(z)** G.S. 14-208.43(d1) reads as rewritten:

45 "(d1) Notwithstanding the provisions of this section, if the Commission is notified by the
46 Division of Adult Correction and Juvenile Justice of the Department of Public Safety that the
47 offender has been released, pursuant to G.S. 14-208.12A, from the requirement to register
48 under Part 2 of Article 27A of this Chapter, upon request of the offender, the Commission shall
49 order the termination of the monitoring requirement."

50 **SECTION 2.(aa)** G.S. 14-208.44 reads as rewritten:

51 **"§ 14-208.44. Failure to enroll; tampering with device.**

(a) Any person required to enroll in a satellite-based monitoring program who fails to enroll shall be guilty of a Class F felony.

(b) Any person who intentionally tampers with, removes, vandalizes, or otherwise interferes with the proper functioning of a device issued pursuant to a satellite-based monitoring program to a person duly enrolled in the program shall be guilty of a Class E felony.

(c) Any person required to enroll in a satellite-based monitoring program who fails to provide necessary information to the Division of Adult ~~Correction~~, Correction and Juvenile Justice or fails to cooperate with the Division of Adult ~~Correction's~~ Correction and Juvenile Justice's guidelines and regulations for the program shall be guilty of a Class I misdemeanor.

(d) For purposes of this section, "enroll" shall include appearing, as directed by the Division of Adult ~~Correction~~, Correction and Juvenile Justice to receive the necessary equipment."

SECTION 2.(bb) G.S. 14-208.45 reads as rewritten:

"§ 14-208.45. Fees.

(a) Except as provided in subsections (b) and (b1) of this section, each person required to enroll pursuant to this Part shall pay a one-time fee of ninety dollars (\$90.00). The fee shall be payable to the clerk of superior court, and the fees shall be remitted quarterly to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. This fee is intended to offset only the costs associated with the time-correlated tracking of the geographic location of subjects using the location tracking crime correlation system.

(b) When a court determines a person is required to enroll pursuant to G.S. 14-208.40A or G.S. 14-208.40B, the court may exempt a person from paying the fee required by subsection (a) of this section only for good cause and upon motion of the person required to enroll in satellite-based monitoring. The court may require that the fee be paid in advance or in a lump sum or sums, and a probation officer may require payment by those methods.

(c) When a person is required to enroll based on a determination by the Division of Adult Correction and Juvenile Justice pursuant to G.S. 14-208.40B, the Division of Adult Correction and Juvenile Justice shall have the authority to exempt the person from paying the fee only for good cause and upon request of the person required to enroll in satellite-based monitoring. The Division of Adult Correction and Juvenile Justice may require that the fee be paid in advance or in a lump sum or sums, and a probation officer may require payment by those methods."

SECTION 2.(cc) G.S. 14-239 reads as rewritten:

"§ 14-239. Allowing prisoners to escape; punishment.

If any sheriff, deputy sheriff, jailer, or other custodial personnel shall willfully or wantonly allow the escape of any person committed to that person's custody who is (i) a person charged with a crime, (ii) a person sentenced by the court upon conviction of any offense, or (iii) committed to the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, that person shall be guilty of a Class I misdemeanor. No prosecution shall be brought against any such officer pursuant to this section by reason of a prisoner being allowed to participate pursuant to court order in any work release, work study, community service, or other lawful program, or by reason of any such prisoner failing to return from participation in any such program."

SECTION 2.(dd) G.S. 14-258.1 reads as rewritten:

"§ 14-258.1. Furnishing poison, controlled substances, deadly weapons, cartridges, ammunition or alcoholic beverages to inmates of charitable, mental or penal institutions or local confinement facilities; furnishing tobacco products including vapor products; or furnishing mobile phones to inmates or delinquent juveniles.

...

(c) Any person who knowingly gives or sells any tobacco products, including vapor products, as defined in G.S. 148-23.1, to an inmate in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and on the premises of a correctional facility or to an inmate in the custody of a local confinement facility, or any person who knowingly gives or sells any tobacco products, including vapor products, to a person who is not an inmate for delivery to an inmate in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and on the premises of a correctional facility or to an inmate in the custody of a local confinement facility, other than for authorized religious purposes, is guilty of a Class 1 misdemeanor.

(d) Any person who knowingly gives or sells a mobile telephone or other wireless communications device, or a component of one of those devices, to an inmate in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, to a delinquent juvenile in the custody of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, or to an inmate in the custody of a local confinement facility, or any person who knowingly gives or sells any such device or component to a person who is not an inmate or delinquent juvenile for delivery to an inmate or delinquent juvenile, is guilty of a Class H felony.

For purposes of this subsection, a delinquent juvenile in the custody of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall mean a juvenile confined in a youth development center or a detention facility as defined in G.S. 7B-1501, and shall include transportation of a juvenile to or from confinement.

...."

SECTION 2.(ee) G.S. 14-258.2(b) reads as rewritten:

"(b) A person is guilty of a Class H felony if he assists a prisoner in the custody of the Section of Prisons of the Division of Adult Correction and Juvenile Justice or of any local confinement facility as defined in G.S. 153A-217 in escaping or attempting to escape and:

(1) In the perpetration of the escape or attempted escape he commits an assault with a deadly weapon and inflicts bodily injury; or

(2) By the use of a deadly weapon he effects the escape of the prisoner."

SECTION 2.(ff) G.S. 14-258.3 reads as rewritten:

"§ 14-258.3. Taking of hostage, etc., by prisoner.

Any prisoner in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, including persons in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety pending trial or appellate review or for presentence diagnostic evaluation, or any prisoner in the custody of any local confinement facility (as defined in G.S. 153A-217), or any person in the custody of any local confinement facility (as defined in G.S. 153A-217) pending trial or appellate review or for any lawful purpose, who by threats, coercion, intimidation or physical force takes, holds, or carries away any person, as hostage or otherwise, shall be punished as a Class F felon. The provisions of this section apply to: (i) violations committed by any prisoner in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, whether inside or outside of the facilities of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety; (ii) violations committed by any prisoner or by any other person lawfully under the custody of any local confinement facility (as defined in G.S. 153A-217), whether inside or outside the local confinement facilities (as defined in G.S. 153A-217)."

SECTION 2.(gg) G.S. 14-258.4(a) reads as rewritten:

"(a) Any person in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, including the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, any law enforcement officer, or any local confinement facility (as defined in G.S. 153A-217, or G.S. 153A-230.1), including persons pending trial, appellate review, or presentence diagnostic evaluation, who

1 knowingly and willfully throws, emits, or causes to be used as a projectile, bodily fluids or
2 excrement at a person who is an employee of the State or a local government while the
3 employee is in the performance of the employee's duties is guilty of a Class F felony. The
4 provisions of this section apply to violations committed inside or outside of the prison, jail,
5 detention center, or other confinement facility."

6 **SECTION 2.(hh)** G.S. 14-269(b)(9) reads as rewritten:

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

8 ...

9 (9) State correctional officers, when off-duty, provided that an officer does not
10 carry a concealed weapon while consuming alcohol or an unlawful
11 controlled substance or while alcohol or an unlawful controlled substance
12 remains in the officer's body. If the concealed weapon is a handgun, the
13 correctional officer must meet the firearms training standards of the Division
14 of Adult Correction and Juvenile Justice of the Department of Public
15 Safety."

16 **SECTION 2.(ii)** G.S. 14-316.1 reads as rewritten:

17 **"§ 14-316.1. Contributing to delinquency and neglect by parents and others.**

18 Any person who is at least 16 years old who knowingly or willfully causes, encourages, or
19 aids any juvenile within the jurisdiction of the court to be in a place or condition, or to commit
20 an act whereby the juvenile could be adjudicated delinquent, undisciplined, abused, or
21 neglected as defined by G.S. 7B-101 and G.S. 7B-1501 shall be guilty of a Class 1
22 misdemeanor.

23 It is not necessary for the district court exercising juvenile jurisdiction to make an
24 adjudication that any juvenile is delinquent, undisciplined, abused, or neglected in order to
25 prosecute a parent or any person, including an employee of the Juvenile Justice Section of the
26 Division of Adult Correction and Juvenile Justice of the Department of Public Safety under this
27 section. An adjudication that a juvenile is delinquent, undisciplined, abused, or neglected shall
28 not preclude a subsequent prosecution of a parent or any other person including an employee of
29 the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the
30 Department of Public Safety, who contributes to the delinquent, undisciplined, abused, or
31 neglected condition of any juvenile."

32 **SECTION 2.(jj)** G.S. 14-415.10 reads as rewritten:

33 **"§ 14-415.10. Definitions.**

34 The following definitions apply to this Article:

35 ...

36 (4b) Qualified retired probation or parole certified officer. – An individual who
37 retired from service as a State probation or parole certified officer, other than
38 for reasons of mental disability, who has been retired as a probation or
39 parole certified officer two years or less from the date of the permit
40 application and who meets all of the following criteria:

- 41 a. Immediately before retirement, the individual met firearms training
42 standards of the Division of Adult Correction and Juvenile Justice of
43 the Department of Public Safety and was authorized by the Division
44 of Adult Correction and Juvenile Justice of the Department of Public
45 Safety to carry a handgun in the course of duty.
- 46 b. The individual retired in good standing and was never a subject of a
47 disciplinary action by the Division of Adult Correction and Juvenile
48 Justice of the Department of Public Safety that would have prevented
49 the individual from carrying a handgun.

- 1 c. The individual has a vested right to benefits under the Teachers' and
2 State Employees' Retirement System of North Carolina established
3 under Article I of Chapter 135 of the General Statutes.
4 d. The individual is not prohibited by State or federal law from
5 receiving a firearm.

6"

7 **SECTION 2.(kk)** G.S. 15-6.1 reads as rewritten:

8 **"§ 15-6.1. Changing place of confinement of prisoner committing offense.**

9 In all cases where a defendant has been convicted in a court inferior to the superior court
10 and sentenced to a term in the county jail or to serve in some county institution other than under
11 the supervision of the State Division of Adult Correction and Juvenile Justice of the
12 Department of Public Safety, and such defendant is subsequently brought before such court for
13 an offense committed prior to the expiration of the term to be served in such county institution,
14 upon conviction, plea of guilty or nolo contendere, the judge shall have the power and authority
15 to change the place of confinement of the prisoner and commit such defendant to work under
16 the supervision of the Division of Adult Correction and Juvenile Justice of the Department of
17 Public Safety. This provision shall apply whether or not the terms of the new sentence are to
18 run concurrently with or consecutive to the remaining portion of the old sentence."

19 **SECTION 2.(ll)** G.S. 15-10.1 reads as rewritten:

20 **"§ 15-10.1. Detainer; purpose; manner of use.**

21 Any person confined in the State prison system of North Carolina, subject to the authority
22 and control of the Division of Adult Correction and Juvenile Justice of the Department of
23 Public Safety, or any person confined in any other prison of North Carolina, may be held to
24 account for any other charge pending against him only upon a written order from the clerk or
25 judge of the court in which the charge originated upon a case regularly docketed, directing that
26 such person be held to answer the charge pending in such court; and in no event shall the prison
27 authorities hold any person to answer any charge upon a warrant or notice when the charge has
28 not been regularly docketed in the court in which the warrant or charge has been issued:
29 Provided, that this section shall not apply to any State agency exercising supervision over such
30 person or prisoner by virtue of a judgment, order of court or statutory authority."

31 **SECTION 2.(mm)** G.S. 15-194(a) reads as rewritten:

32 "(a) In sentencing a capital defendant to a death sentence pursuant to G.S. 15A-2000(b),
33 the sentencing judge need not specify the date and time the execution is to be carried out by the
34 Division of Adult Correction and Juvenile Justice of the Department of Public Safety. The
35 Attorney General of North Carolina shall provide written notification to the Secretary of the
36 Department of Public Safety of the occurrence of any of the following not more than 90 days
37 from that occurrence:

38"

39 **SECTION 2.(nn)** G.S. 15-196.3 reads as rewritten:

40 **"§ 15-196.3. Effect of credit.**

41 Time creditable under this section shall reduce the minimum and maximum term of a
42 sentence; and, irrespective of sentence, shall reduce the time required to attain privileges made
43 available to inmates in the custody of the Division of Adult Correction and Juvenile Justice of
44 the Department of Public Safety which are dependent, in whole or in part, upon the passage of
45 a specific length of time in custody, including parole or post-release supervision consideration
46 by the Post-Release Supervision and Parole Commission. However, nothing in this section shall
47 be construed as requiring an automatic award of privileges by virtue of the passage of time."

48 **SECTION 2.(oo)** G.S. 15-206 reads as rewritten:

49 **"§ 15-206. Cooperation with Division of Adult Correction and Juvenile Justice of the**
50 **Department of Public Safety and officials of local units.**

1 It is hereby made the duty of every city, county, or State official or department to render all
2 assistance and cooperation within the official's or the Department's fundamental power which
3 may further the objects of this Article. The Division of Adult Correction and Juvenile Justice of
4 the Department of Public Safety, the Secretary of Public Safety, and the probation officers are
5 authorized to seek the cooperation of such officials and departments, and especially of the
6 county superintendents of social services and of the Department of Health and Human
7 Services."

8 **SECTION 2.(pp)** G.S. 15-209 reads as rewritten:

9 **"§ 15-209. Accommodations for probation offices.**

10 (a) The county commissioners in each county in which a probation office exists shall
11 provide, in or near the courthouse, suitable office space for those probation officers assigned to
12 the county who have probationary caseloads and their administrative support. This requirement
13 does not include management staff of the Division of Adult Correction and Juvenile Justice of
14 the Department of Public Safety, nonprobation staff, or other Division of Adult Correction and
15 Juvenile Justice of the Department of Public Safety employees.

16 (b) If a county is unable to provide the space required under subsection (a) of this
17 section for any reason, it may elect to request that the Division of Adult Correction and
18 Juvenile Justice of the Department of Public Safety lease space for the probation office and
19 receive reimbursement from the county for the leased space. If a county fails to reimburse the
20 Division for such leased space, the Secretary of Public Safety may request that the
21 Administrative Office of the Courts transfer the unpaid amount to the Division from the
22 county's court and jail facility fee remittances."

23 **SECTION 2.(qq)** G.S. 15A-145(c) reads as rewritten:

24 "(c) The court shall also order that the misdemeanor conviction, or a civil revocation of a
25 drivers license as the result of a criminal charge, be expunged from the records of the court.
26 The court shall direct all law-enforcement agencies, the Division of Adult Correction and
27 Juvenile Justice of the Department of Public Safety, the Division of Motor Vehicles, and any
28 other State or local government agencies identified by the petitioner as bearing record of the
29 same to expunge their records of the petitioner's conviction or a civil revocation of a drivers
30 license as the result of a criminal charge. This subsection does not apply to civil or criminal
31 charges based upon the civil revocation, or to civil revocations under G.S. 20-16.2. The clerk
32 shall notify State and local agencies of the court's order as provided in G.S. 15A-150. The clerk
33 shall forward a certified copy of the order to the Division of Motor Vehicles for the expunction
34 of a civil revocation provided the underlying criminal charge is also expunged. The civil
35 revocation of a drivers license shall not be expunged prior to a final disposition of any pending
36 civil or criminal charge based upon the civil revocation."

37 **SECTION 2.(rr)** G.S. 15A-145.1(b) reads as rewritten:

38 "(b) If the court, after hearing, finds that (i) the petitioner was dismissed and the
39 proceedings against the petitioner discharged pursuant to G.S. 14-50.29 and that the person had
40 not yet attained 18 years of age at the time of the offense or (ii) the petitioner has remained of
41 good behavior and been free of conviction of any felony or misdemeanor other than a traffic
42 violation for two years from the date of conviction of the offense in question, the petitioner has
43 no outstanding restitution orders or civil judgments representing amounts ordered for restitution
44 entered against the petitioner, and the petitioner had not attained the age of 18 years at the time
45 of the offense in question, it shall order that such person be restored, in the contemplation of
46 the law, to the status occupied by the petitioner before such arrest or indictment or information,
47 and that the record be expunged from the records of the court. No person as to whom such
48 order has been entered shall be held thereafter under any provision of any laws to be guilty of
49 perjury or otherwise giving a false statement by reason of the person's failure to recite or
50 acknowledge such arrest, or indictment or information, or trial, or response to any inquiry made
51 of the person for any purpose. The court shall also direct all law enforcement agencies, the

1 Division of Adult Correction and Juvenile Justice of the Department of Public Safety, the
2 Division of Motor Vehicles, and any other State or local government agencies identified by the
3 petitioner as bearing record of the same to expunge their records of the petitioner's criminal
4 charge and any conviction resulting from the charge. The clerk shall notify State and local
5 agencies of the court's order as provided in G.S. 15A-150."

6 **SECTION 2.(ss)** G.S. 15A-145.2(a) reads as rewritten:

7 "(a) Whenever a person is discharged, and the proceedings against the person dismissed,
8 pursuant to G.S. 90-96(a) or (a1), and the person was not over 21 years of age at the time of the
9 offense, the person may apply to the court for an order to expunge from all official records,
10 other than the confidential files retained under G.S. 15A-151, all recordation relating to the
11 person's arrest, indictment or information, trial, finding of guilty, and dismissal and discharge
12 pursuant to this section. The applicant shall attach to the application the following:

13 (1) An affidavit by the petitioner that he or she has been of good behavior
14 during the period of probation since the decision to defer further proceedings
15 on the offense in question and has not been convicted of any felony or
16 misdemeanor other than a traffic violation under the laws of the United
17 States or the laws of this State or any other state;

18 (2) Verified affidavits by two persons who are not related to the petitioner or to
19 each other by blood or marriage, that they know the character and reputation
20 of the petitioner in the community in which he or she lives, and that the
21 petitioner's character and reputation are good;

22 (3) Repealed by Session Laws 2010-174, s. 5, effective October 1, 2010, and
23 applicable to petitions for expunctions filed on or after that date.

24 (3a) An application on a form approved by the Administrative Office of the
25 Courts requesting and authorizing a name-based State and national criminal
26 record check by the Department of Justice using any information required by
27 the Administrative Office of the Courts to identify the individual and a
28 search of the confidential record of expunctions maintained by the
29 Administrative Office of the Courts. The application shall be forwarded to
30 the Department of Justice and to the Administrative Office of the Courts,
31 which shall conduct the searches and report their findings to the court.

32 The judge to whom the petition is presented is authorized to call upon a probation officer
33 for any additional investigation or verification of the petitioner's conduct during the
34 probationary period deemed desirable.

35 If the court determines, after hearing, that such person was discharged and the proceedings
36 against him or her dismissed and that the person was not over 21 years of age at the time of the
37 offense, it shall enter such order. The effect of such order shall be to restore such person in the
38 contemplation of the law to the status the person occupied before such arrest or indictment or
39 information. No person as to whom such order was entered shall be held thereafter under any
40 provision of any law to be guilty of perjury or otherwise giving a false statement by reason of
41 the person's failures to recite or acknowledge such arrest, or indictment or information, or trial
42 in response to any inquiry made of him or her for any purpose.

43 The court shall also order that all records of the proceeding be expunged from the records
44 of the court and direct all law enforcement agencies, the Division of Adult
45 ~~Correction~~, Correction and Juvenile Justice, the Division of Motor Vehicles, and any other State
46 and local government agencies identified by the petitioner as bearing records of the same to
47 expunge their records of the proceeding. The clerk shall notify State and local agencies of the
48 court's order as provided in G.S. 15A-150."

49 **SECTION 2.(tt)** G.S. 15A-146(b) reads as rewritten:

50 "(b) The court may also order that the said entries, including civil revocations of drivers
51 licenses as a result of the underlying charge, shall be expunged from the records of the court,

1 and direct all law-enforcement agencies, the Division of Adult Correction and Juvenile Justice
2 of the Department of Public Safety, the Division of Motor Vehicles, and any other State or
3 local government agencies identified by the petitioner as bearing record of the same to expunge
4 their records of the entries, including civil revocations of drivers licenses as a result of the
5 underlying charge being expunged. This subsection does not apply to civil or criminal charges
6 based upon the civil revocation, or to civil revocations under G.S. 20-16.2. The clerk shall
7 notify State and local agencies of the court's order as provided in G.S. 15A-150. The clerk shall
8 forward a certified copy of the order to the Division of Motor Vehicles for the expunction of a
9 civil revocation provided the underlying criminal charge is also expunged. The civil revocation
10 of a drivers license shall not be expunged prior to a final disposition of any pending civil or
11 criminal charge based upon the civil revocation. The costs of expunging the records, as
12 required under G.S. 15A-150, shall not be taxed against the petitioner."

13 **SECTION 2.(uu)** G.S. 15A-147 reads as rewritten:

14 **"§ 15A-147. Expunction of records when charges are dismissed or there are findings of**
15 **not guilty as a result of identity theft.**

16 ...

17 (c) The court shall also order that the said entries shall be expunged from the records of
18 the court and direct all law enforcement agencies, the Division of Adult Correction and
19 Juvenile Justice of the Department of Public Safety, the Division of Motor Vehicles, or any
20 other State or local government agencies identified by the petitioner, or the person eligible for
21 automatic expungement under subsection (a1) of this section, as bearing record of the same to
22 expunge their records of the entries. The clerk shall notify State and local agencies of the
23 court's order as provided in G.S. 15A-150. The costs of expunging the records, as required
24 under G.S. 15A-150, shall not be taxed against the petitioner.

25 ...

26 (e) The Division of Adult Correction and Juvenile Justice of the Department of Public
27 Safety and any other applicable State or local government agency shall expunge its records as
28 provided in G.S. 15A-150. The agency shall also reverse any administrative actions taken
29 against a person whose record is expunged under this section as a result of the charges or
30 convictions expunged. Notwithstanding any other provision of law, the normal fee for any
31 reinstatement of a license or privilege resulting under this section shall be waived.

32"

33 **SECTION 2.(vv)** G.S. 15A-149(b) reads as rewritten:

34 "(b) The order of expunction shall include an instruction that any entries relating to the
35 person's apprehension, charge, or trial shall be expunged from the records of the court and
36 direct all law enforcement agencies, the Division of Adult Correction and Juvenile Justice of
37 the Department of Public Safety, the Division of Motor Vehicles, or any other State or local
38 government agencies identified by the petitioner as bearing record of the same to expunge their
39 records of the entries. The clerk shall notify State and local agencies of the court's order as
40 provided in G.S. 15A-150. The costs of expunging the records, as required under
41 G.S. 15A-150, shall not be taxed against the petitioner."

42 **SECTION 2.(ww)** G.S. 15A-534(a) reads as rewritten:

43 "(a) In determining conditions of pretrial release a judicial official must impose at least
44 one of the following conditions:

- 45 (1) Release the defendant on his written promise to appear.
- 46 (2) Release the defendant upon his execution of an unsecured appearance bond
47 in an amount specified by the judicial official.
- 48 (3) Place the defendant in the custody of a designated person or organization
49 agreeing to supervise him.

- (4) Require the execution of an appearance bond in a specified amount secured by a cash deposit of the full amount of the bond, by a mortgage pursuant to G.S. 58-74-5, or by at least one solvent surety.
- (5) House arrest with electronic monitoring.

If condition (5) is imposed, the defendant must execute a secured appearance bond under subdivision (4) of this subsection. If condition (3) is imposed, however, the defendant may elect to execute an appearance bond under subdivision (4). If the defendant is required to provide fingerprints pursuant to G.S. 15A-502(a1), (a2), (a4), or (a6), or a DNA sample pursuant to G.S. 15A-266.3A or G.S. 15A-266.4, and (i) the fingerprints or DNA sample have not yet been taken or (ii) the defendant has refused to provide the fingerprints or DNA sample, the judicial official shall make the collection of the fingerprints or DNA sample a condition of pretrial release. The judicial official may also place restrictions on the travel, associations, conduct, or place of abode of the defendant as conditions of pretrial release. The judicial official may include as a condition of pretrial release that the defendant abstain from alcohol consumption, as verified by the use of a continuous alcohol monitoring system, of a type approved by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, and that any violation of this condition be reported by the monitoring provider to the district attorney."

SECTION 2.(xx) G.S. 15A-534.1(a) reads as rewritten:

"(a) In all cases in which the defendant is charged with assault on, stalking, communicating a threat to, or committing a felony provided in Articles 7A, 8, 10, or 15 of Chapter 14 of the General Statutes upon a spouse or former spouse, a person with whom the defendant lives or has lived as if married, or a person with whom the defendant is or has been in a dating relationship as defined in G.S. 50B-1(b)(6), with domestic criminal trespass, or with violation of an order entered pursuant to Chapter 50B, Domestic Violence, of the General Statutes, the judicial official who determines the conditions of pretrial release shall be a judge. The judge shall direct a law enforcement officer or a district attorney to provide a criminal history report for the defendant and shall consider the criminal history when setting conditions of release. After setting conditions of release, the judge shall return the report to the providing agency or department. No judge shall unreasonably delay the determination of conditions of pretrial release for the purpose of reviewing the defendant's criminal history report. The following provisions shall apply in addition to the provisions of G.S. 15A-534:

- (1) Upon a determination by the judge that the immediate release of the defendant will pose a danger of injury to the alleged victim or to any other person or is likely to result in intimidation of the alleged victim and upon a determination that the execution of an appearance bond as required by G.S. 15A-534 will not reasonably assure that such injury or intimidation will not occur, a judge may retain the defendant in custody for a reasonable period of time while determining the conditions of pretrial release.
- (2) A judge may impose the following conditions on pretrial release:
 - a. That the defendant stay away from the home, school, business or place of employment of the alleged victim.
 - b. That the defendant refrain from assaulting, beating, molesting, or wounding the alleged victim.
 - c. That the defendant refrain from removing, damaging or injuring specifically identified property.
 - d. That the defendant may visit his or her child or children at times and places provided by the terms of any existing order entered by a judge.
 - e. That the defendant abstain from alcohol consumption, as verified by the use of a continuous alcohol monitoring system, of a type

approved by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, and that any violation of this condition be reported by the monitoring provider to the district attorney.

The conditions set forth above may be imposed in addition to requiring that the defendant execute a secured appearance bond.

- (3) Should the defendant be mentally ill and dangerous to himself or others or a substance abuser and dangerous to himself or others, the provisions of Article 5 of Chapter 122C of the General Statutes shall apply."

SECTION 2.(yy) G.S. 15A-544.3(b) reads as rewritten:

"(b) The forfeiture shall contain the following information:

...

- (9) The following notice: "TO THE DEFENDANT AND EACH SURETY NAMED ABOVE: The defendant named above has failed to appear as required before the court in the case identified above. A forfeiture for the amount of the bail bond shown above was entered in favor of the State against the defendant and each surety named above on the date of forfeiture shown above. This forfeiture will be set aside if, on or before the final judgment date shown above, satisfactory evidence is presented to the court that one of the following events has occurred: (i) the defendant's failure to appear has been stricken by the court in which the defendant was required to appear and any order for arrest that was issued for that failure to appear is recalled, (ii) all charges for which the defendant was bonded to appear have been finally disposed by the court other than by the State's taking a voluntary dismissal with leave, (iii) the defendant has been surrendered by a surety or bail agent to a sheriff of this State as provided by law, (iv) the defendant has been served with an Order for Arrest for the Failure to Appear on the criminal charge in the case in question as evidenced by a copy of an official court record, including an electronic record, (v) the defendant died before or within the period between the forfeiture and the final judgment as demonstrated by the presentation of a death certificate, (vi) the defendant was incarcerated in a unit of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and is serving a sentence or in a unit of the Federal Bureau of Prisons located within the borders of the State at the time of the failure to appear as evidenced by a copy of an official court record or a copy of a document from the Division of Adult Correction and Juvenile Justice of the Department of Public Safety or Federal Bureau of Prisons, or (vii) the defendant was incarcerated in a local, state, or federal detention center, jail, or prison located anywhere within the borders of the United States at the time of the failure to appear, and the district attorney for the county in which the charges are pending was notified of the defendant's incarceration while the defendant was still incarcerated and the defendant remains incarcerated for a period of 10 days following the district attorney's receipt of notice, as evidenced by a copy of the written notice served on the district attorney via hand delivery or certified mail and written documentation of date upon which the defendant was released from incarceration, if the defendant was released prior to the time the motion to set aside was filed. The forfeiture will not be set aside for any other reason. If this forfeiture is not set aside on or before the final judgment date shown above, and if no motion to set it aside is pending on that date, the forfeiture will become a final judgment on that date. The final judgment will be

enforceable by execution against the defendant and any accommodation bondsman and professional bondsman on the bond. The final judgment will also be reported to the Department of Insurance. Further, no surety will be allowed to execute any bail bond in the above county until the final judgment is satisfied in full."

SECTION 2.(zz) G.S. 15A-544.5(b) reads as rewritten:

"(b) Reasons for Set Aside. – Except as provided by subsection (f) of this section, a forfeiture shall be set aside for any one of the following reasons, and none other:

...

(6) The defendant was incarcerated in a unit of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and is serving a sentence or in a unit of the Federal Bureau of Prisons located within the borders of the State at the time of the failure to appear as evidenced by a copy of an official court record or a copy of a document from the Division of Adult Correction and Juvenile Justice of the Department of Public Safety or Federal Bureau of Prisons, including an electronic record."

SECTION 2.(aaa) G.S. 15A-615(c) reads as rewritten:

"(c) If the defendant is in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, the defendant shall be tested by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. If the defendant is not in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, the defendant shall be tested by the local health department. The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall inform the local health director of all test results. The local health director shall ensure that the victim is informed of the results of the tests and counseled appropriately. The agency conducting the tests shall inform the defendant of the results of the tests and ensure that the defendant is counseled appropriately. The results of the tests shall not be admissible as evidence in any criminal proceeding."

SECTION 2.(bbb) G.S. 15A-821(a) reads as rewritten:

"(a) If a judge of a court of general jurisdiction in any other state, which by its laws has made provision for commanding a prisoner within that state to attend and testify in this State, certifies under the seal of that court that there is a criminal prosecution pending in the court or that a grand jury investigation has commenced, and that a person confined in an institution under the control of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety of North Carolina, other than a person confined as criminally insane, is a material witness in the prosecution or investigation and that his presence is required for a specified number of days, upon presentment of the certificate to a superior court judge in the superior court district or set of districts as defined in G.S. 7A-41.1 where the person is confined, upon notice to the Attorney General, the judge must fix a time and place for a hearing and order the person having custody of the prisoner to produce him at the hearing."

SECTION 2.(ccc) G.S. 15A-830(a) reads as rewritten:

"(a) The following definitions apply in this Article:

...

(3) Custodial agency. – The agency that has legal custody of an accused or defendant arising from a charge or conviction of a crime covered by this Article including, but not limited to, local jails or detention facilities, regional jails or detention facilities, facilities designated under G.S. 122C-252 for the custody and treatment of involuntary clients, or the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

...."

1 **SECTION 2.(ddd)** G.S. 15A-832(g) reads as rewritten:

2 "(g) At the sentencing hearing, the prosecuting attorney shall submit to the court a copy
3 of a form containing the identifying information set forth in G.S. 15A-831(c) about any victim's
4 electing to receive further notices under this Article. The clerk of superior court shall include
5 the form with the final judgment and commitment, or judgment suspending sentence,
6 transmitted to the Division of Adult Correction and Juvenile Justice of the Department of
7 Public Safety or other agency receiving custody of the defendant and shall be maintained by the
8 custodial agency as a confidential file."

9 **SECTION 2.(eee)** G.S. 15A-837 reads as rewritten:

10 **"§ 15A-837. Responsibilities of Section of Community Corrections of the Division of**
11 **Adult Correction-Correction and Juvenile Justice.**

12 (a) The Section of Community Corrections of the Division of Adult Correction and
13 Juvenile Justice shall notify the victim of:

14 "

15 **SECTION 2.(fff)** G.S. 15A-1332(c) reads as rewritten:

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

36 **SECTION 2.(ggg)** G.S. 15A-1340.13(d) reads as rewritten:

37 "(d) Service of Minimum Required; Earned Time Authorization. – An offender
38 sentenced to an active punishment shall serve the minimum term imposed, except as provided
39 in G.S. 15A-1340.18. The maximum term may be reduced to, but not below, the minimum term
40 by earned time credits awarded to an offender by the Division of Adult Correction and Juvenile
41 Justice of the Department of Public Safety or the custodian of the local confinement facility,
42 pursuant to rules adopted in accordance with law."

43 **SECTION 2.(hhh)** G.S. 15A-1340.16(d) reads as rewritten:

44 "(d) Aggravating Factors. – The following are aggravating factors:

45 ...

46 (6) The offense was committed against or proximately caused serious injury to a
47 present or former law enforcement officer, employee of the Division of
48 Adult Correction and Juvenile Justice of the Department of Public Safety,
49 jailer, fireman, emergency medical technician, ambulance attendant, social
50 worker, justice or judge, clerk or assistant or deputy clerk of court,
51 magistrate, prosecutor, juror, or witness against the defendant, while

engaged in the performance of that person's official duties or because of the exercise of that person's official duties.

...."

SECTION 2.(iii) G.S. 15A-1340.18(b) reads as rewritten:

"(b) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety is authorized to create risk reduction incentives consisting of treatment, education, and rehabilitative programs. The incentives shall be designed to reduce the likelihood that the prisoner who receives the incentive will reoffend."

SECTION 2.(jjj) G.S. 15A-1340.20(d) reads as rewritten:

"(d) Earned Time Authorization. – An offender sentenced to a term of imprisonment that is activated is eligible to receive earned time credit for misdemeanor offenders awarded by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety or the custodian of a local confinement facility, pursuant to rules adopted in accordance with law and pursuant to G.S. 162-60. These rules and statute combined shall not award misdemeanor offenders more than four days of earned time credit per month of incarceration."

SECTION 2.(kkk) G.S. 15A-1342(a1) reads as rewritten:

"(a1) Supervision of Defendants on Deferred Prosecution or Conditional Discharge. – The Section of Community Corrections of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety may be ordered by the court to supervise an offender's compliance with the terms of a conditional discharge or deferred prosecution agreement. Violations of the terms of the agreement or conditional discharge shall be reported to the court as provided in this Article and to the district attorney in the district in which the agreement was entered."

SECTION 2.(III) G.S. 15A-1343 reads as rewritten:

"§ 15A-1343. Conditions of probation.

...

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

...

(16) Supply a breath, urine, or blood specimen for analysis of the possible presence of prohibited drugs or alcohol when instructed by the defendant's probation officer for purposes directly related to the probation supervision. If the results of the analysis are positive, the probationer may be required to reimburse the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for the actual costs of drug or alcohol screening and testing.

...

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

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

Defendants placed on unsupervised probation are subject to the provisions of this subsection, except that defendants placed on unsupervised probation are not subject to the

regular conditions contained in subdivisions (2), (3), (6), (8), (13), (14), (15), (16), and (17) of this subsection.

(b1) Special Conditions. – In addition to the regular conditions of probation specified in subsection (b), the court may, as a condition of probation, require that during the probation the defendant comply with one or more of the following special conditions:

...

(6) Perform community or reparation service under the supervision of the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice and pay the fee required by G.S. 143B-708.

...

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

...

(8) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the defendant is in the category described by G.S. 14-208.40(a)(2), and the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, based on the Division's risk assessment program, recommends that the defendant submit to the highest possible level of supervision and monitoring.

(9) Submit at reasonable times to warrantless searches by a probation officer of the probationer's person and of the probationer's vehicle and premises while the probationer is present, for purposes specified by the court and reasonably related to the probation supervision, but the probationer may not be required to submit to any other search that would otherwise be unlawful. For purposes of this subdivision, warrantless searches of the probationer's computer or other electronic mechanism which may contain electronic data shall be considered reasonably related to the probation supervision. Whenever the warrantless search consists of testing for the presence of illegal drugs, the probationer may also be required to reimburse the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for the actual cost of drug screening and drug testing, if the results are positive.

Defendants subject to the provisions of this subsection shall not be placed on unsupervised probation.

(b3) Screening and Assessing for Chemical Dependency. – A defendant ordered to submit to a period of residential treatment in the Drug Alcohol Recovery Treatment program (DART) or the Black Mountain Substance Abuse Treatment Center for Women operated by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety must undergo a screening to determine chemical dependency. If the screening indicates the defendant is chemically dependent, the court shall order an assessment to determine the appropriate level of treatment. The assessment may be conducted either before or after the court imposes the condition, but participation in the program shall be based on the results of the assessment.

(b4) Intermediate Conditions. – The following conditions of probation apply to each defendant subject to intermediate punishment:

(1) If required in the discretion of the defendant's probation officer, perform community service under the supervision of the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice and pay the fee required by G.S. 143B-708.

- 1 (2) Not use, possess, or control alcohol.
2 (3) Remain within the county of residence unless granted written permission to
3 leave by the court or the defendant's probation officer.
4 (4) Participate in any evaluation, counseling, treatment, or educational program
5 as directed by the probation officer, keeping all appointments and abiding by
6 the rules, regulations, and direction of each program.

7 These conditions apply to each defendant subject to intermediate punishment unless the
8 court specifically exempts the defendant from one or more of the conditions in its judgment or
9 order. It is not necessary for the presiding judge to state each of these conditions in open court,
10 but the conditions must be set forth in the judgment or order of the court.

11"

12 **SECTION 2.(mmm)** G.S. 15A-1343.2 reads as rewritten:

13 **"§ 15A-1343.2. Special probation rules for persons sentenced under Article 81B.**

14 ...

15 (b) Purposes of Probation for Community and Intermediate Punishments. – The
16 Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall
17 develop a plan to handle offenders sentenced to community and intermediate punishments. The
18 probation program designed to handle these offenders shall have the following principal
19 purposes: to hold offenders accountable for making restitution, to ensure compliance with the
20 court's judgment, to effectively rehabilitate offenders by directing them to specialized treatment
21 or education programs, and to protect the public safety.

22 (b1) Departmental Risk Assessment by Validated Instrument Required. – As part of the
23 probation program developed by the Division of Adult Correction and Juvenile Justice of the
24 Department of Public Safety pursuant to subsection (b) of this section, the Division of Adult
25 Correction and Juvenile Justice of the Department of Public Safety shall use a validated
26 instrument to assess each probationer for risk of reoffending and shall place a probationer in a
27 supervision level based on the probationer's risk of reoffending and criminogenic needs.

28 ...

29 (e) Delegation to Probation Officer in Community Punishment. – Unless the presiding
30 judge specifically finds in the judgment of the court that delegation is not appropriate, the
31 Section of Community Corrections of the Division of Adult Correction and Juvenile Justice of
32 the Department of Public Safety may require an offender sentenced to community punishment
33 to do any of the following:

34 ...

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

40"

41 **SECTION 2.(nnn)** G.S. 15A-1343.3 reads as rewritten:

42 **"§ 15A-1343.3. Division of Adult Correction and Juvenile Justice of the Department of**
43 **Public Safety to establish regulations for continuous alcohol monitoring**
44 **systems; payment of fees; authority to terminate monitoring.**

45 (a) The Division of Adult Correction and Juvenile Justice of the Department of Public
46 Safety shall establish regulations for continuous alcohol monitoring systems that are authorized
47 for use by the courts as evidence that an offender on probation has abstained from the use of
48 alcohol for a specified period of time. A "continuous alcohol monitoring system" is a device
49 that is worn by a person that can detect, monitor, record, and report the amount of alcohol
50 within the wearer's system over a continuous 24-hour daily basis. The regulations shall include
51 the procedures for supervision of the offender, collection and monitoring of the results, and the

1 transmission of the data to the court for consideration by the court. All courts, including those
2 using continuous alcohol monitoring systems prior to July 4, 2007, shall comply with the
3 regulations established by the Division pursuant to this section.

4 The Secretary, or the Secretary's designee, shall approve continuous alcohol monitoring
5 systems for use by the courts prior to their use by a court as evidence of alcohol abstinence, or
6 their use as a condition of probation. The Secretary shall not unreasonably withhold approval of
7 a continuous alcohol monitoring system and shall consult with the Division of Purchase and
8 Contract in the Department of Administration to ensure that potential vendors are not
9 discriminated against.

10"

11 **SECTION 2.(ooo) G.S. 15A-1344 reads as rewritten:**

12 **"§ 15A-1344. Response to violations; alteration and revocation.**

13 ...

14 (c) Procedure on Altering or Revoking Probation; Returning Probationer to District
15 Where Sentenced. – When a judge reduces, terminates, extends, modifies, or revokes probation
16 outside the county where the judgment was entered, the clerk must send a copy of the order and
17 any other records to the court where probation was originally imposed. A court on its own
18 motion may return the probationer to the district court district as defined in G.S. 7A-133 or
19 superior court district or set of districts as defined in G.S. 7A-41.1, as the case may be, where
20 probation was imposed or where the probationer resides for reduction, termination,
21 continuation, extension, modification, or revocation of probation. In cases where the probation
22 is revoked in a county other than the county of original conviction the clerk in that county must
23 issue a commitment order and must file the order revoking probation and the commitment
24 order, which will constitute sufficient permanent record of the proceeding in that court, and
25 must send a certified copy of the order revoking probation, the commitment order, and all other
26 records pertaining thereto to the county of original conviction to be filed with the original
27 records. The clerk in the county other than the county of original conviction must issue the
28 formal commitment to the Division of Adult Correction and Juvenile Justice of the Department
29 of Public Safety.

30 ...

31 (e) Special Probation in Response to Violation. – When a defendant has violated a
32 condition of probation, the court may modify the probation to place the defendant on special
33 probation as provided in this subsection. In placing the defendant on special probation, the
34 court may continue or modify the conditions of probation and in addition require that the
35 defendant submit to a period or periods of imprisonment, either continuous or noncontinuous,
36 at whatever time or intervals within the period of probation the court determines. In addition to
37 any other conditions of probation which the court may impose, the court shall impose, when
38 imposing a period or periods of imprisonment as a condition of special probation, the condition
39 that the defendant obey the rules and regulations of the Division of Adult Correction and
40 Juvenile Justice of the Department of Public Safety governing conduct of inmates, and this
41 condition shall apply to the defendant whether or not the court imposes it as a part of the
42 written order. If imprisonment is for continuous periods, the confinement may be in either the
43 custody of the Division of Adult Correction and Juvenile Justice of the Department of Public
44 Safety or a local confinement facility. Noncontinuous periods of imprisonment under special
45 probation may only be served in a designated local confinement or treatment facility. Except
46 for probationary sentences for impaired driving under G.S. 20-138.1, the total of all periods of
47 confinement imposed as an incident of special probation, but not including an activated
48 suspended sentence, may not exceed one-fourth the maximum sentence of imprisonment
49 imposed for the offense. For probationary sentences for impaired driving under G.S. 20-138.1,
50 the total of all periods of confinement imposed as an incident of special probation, but not
51 including an activated suspended sentence, shall not exceed one-fourth the maximum penalty

1 allowed by law. No confinement other than an activated suspended sentence may be required
2 beyond the period of probation or beyond two years of the time the special probation is
3 imposed, whichever comes first.

4 (e1) Criminal Contempt in Response to Violation. – If a defendant willfully violates a
5 condition of probation, the court may hold the defendant in criminal contempt as provided in
6 Article 1 of Chapter 5A of the General Statutes. A finding of criminal contempt by the court
7 shall not revoke the probation. If the offender serves a sentence for contempt in a local
8 confinement facility, the Division of Adult Correction and Juvenile Justice of the Department
9 of Public Safety shall pay for the confinement at the standard rate set by the General Assembly
10 pursuant to G.S. 148-32.1(a) regardless of whether the offender would be eligible under the
11 terms of that subsection.

12"

13 **SECTION 2.(ppp)** G.S. 15A-1351(a) reads as rewritten:

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

1 **SECTION 2.(qqq)** G.S. 15A-1352 reads as rewritten:

2 **"§ 15A-1352. Commitment to Division of Adult Correction of the Department of Public**
3 **Safety and Juvenile Justice or local confinement facility.**

4 ...

5 (b) A person sentenced to imprisonment for a felony under this Article or for
6 nonpayment of a fine for conviction of a felony under Article 84 of this Chapter shall be
7 committed for the term designated by the court to the custody of the Division of Adult
8 Correction and Juvenile Justice of the Department of Public Safety.

9 "

10 **SECTION 2.(rrr)** G.S. 15A-1353(f) reads as rewritten:

11 "(f) When the sentencing court, with the consent of the person sentenced, orders that a
12 person convicted of a misdemeanor be granted work release, the following provisions must be
13 included in the commitment, or in a separate order referred to in the commitment:

- 14 (1) The date work release is to begin;
- 15 (2) The prison or local confinement facility to which the offender is to be
16 committed;
- 17 (3) A provision that work release terminates the date the offender loses his job
18 or violates the conditions of the work-release plan established by the
19 Division of Adult Correction and Juvenile Justice of the Department of
20 Public Safety; and
- 21 (4) A determination whether the earnings of the offender are to be disbursed by
22 the Division of Adult Correction and Juvenile Justice of the Department of
23 Public Safety or the clerk of the sentencing court in the manner that the court
24 in its order directs."

25 **SECTION 2.(sss)** G.S. 15A-1354(b) reads as rewritten:

26 "(b) Effect of Consecutive Terms. – In determining the effect of consecutive sentences
27 imposed under authority of this Article and the manner in which they will be served, the
28 Division of Adult Correction and Juvenile Justice of the Department of Public Safety must treat
29 the defendant as though he has been committed for a single term with the following incidents:

- 30 (1) The maximum prison sentence consists of the total of the maximum terms of
31 the consecutive sentences, less 12 months for each of the second and
32 subsequent sentences imposed for Class B through Class E felonies, or less
33 60 months for each second or subsequent Class B1 through E felony for
34 which the sentence was established pursuant to G.S. 15A-1340.17(f), and
35 less nine months for each of the second and subsequent sentences imposed
36 for Class F through Class I felonies; and
- 37 (2) The minimum term consists of the total of the minimum terms of the
38 consecutive sentences."

39 **SECTION 2.(ttt)** G.S. 15A-1355 reads as rewritten:

40 **"§ 15A-1355. Calculation of terms of imprisonment.**

41 (a) Commencement of Sentence. – The commencement date of a sentence of
42 imprisonment under authority of this Article is as provided in G.S. 15A-1353(a), except when
43 the sentence is a consecutive sentence. When it is a consecutive sentence, it commences to run
44 when the State has custody of the defendant following completion of the prior sentence.

45 (b) Repealed by Session Laws 1977, 2nd Sess., c. 1147, s. 19.

46 (c) Earned Time; Credit for Good Behavior for Impaired Drivers. – Persons convicted
47 of felonies or misdemeanors under Article 81B of this Chapter may, consistent with rules of the
48 Division of Adult Correction and Juvenile Justice of the Department of Public Safety, earn
49 credit which may be used to reduce their maximum terms of imprisonment as provided in
50 G.S. 15A-1340.13(d) for felony sentences and in G.S. 15A-1340.20(d) for misdemeanor
51 sentences.

1 For sentences of imprisonment imposed for convictions of impaired driving under
2 G.S. 20-138.1, the Division of Adult Correction and Juvenile Justice of the Department of
3 Public Safety may give credit toward service of the maximum term and any minimum term of
4 imprisonment and toward eligibility for parole for allowances of time as provided in rules and
5 regulations made under G.S. 148-11 and 148-13.

6 (d) Earned Time Credit for Medically and Physically Unfit Inmates. – Inmates in the
7 custody of the Division of Adult Correction and Juvenile Justice of the Department of Public
8 Safety who suffer from medical conditions or physical disabilities that prevent their assignment
9 to work release or other rehabilitative activities may, consistent with rules of the Division of
10 Adult Correction and Juvenile Justice of the Department of Public Safety, earn credit based
11 upon good behavior or other criteria determined by the Division that may be used to reduce
12 their maximum term of imprisonment as provided in G.S. 15A-1340.13(d) for felony sentences
13 and in G.S. 15A-1340.20(d) for misdemeanor sentences."

14 **SECTION 2.(uuu)** G.S. 15A-1368 reads as rewritten:

15 **"§ 15A-1368. Definitions and administration.**

16 (a) The following words have the listed meaning in this Article:

17 ...

18 (2) Supervisee. – A person released from incarceration and in the custody of the
19 Division of Adult Correction and Juvenile Justice of the Department of
20 Public Safety and Post-Release Supervision and Parole Commission on
21 post-release supervision.

22"

23 **SECTION 2.(vvv)** G.S. 15A-1368.2 reads as rewritten:

24 **"§ 15A-1368.2. Post-release supervision eligibility and procedure.**

25 (a) Except as otherwise provided in this subsection, a prisoner to whom this Article
26 applies shall be released from prison for post-release supervision on the date equivalent to his
27 maximum imposed prison term less 12 months in the case of Class B1 through E felons and
28 less nine months in the case of Class F through I felons, less any earned time awarded by the
29 Division of Adult Correction and Juvenile Justice of the Department of Public Safety or the
30 custodian of a local confinement facility under G.S. 15A-1340.13(d). A prisoner whose
31 maximum sentence is established pursuant to G.S. 15A-1340.17(f) shall be released from
32 prison for post-release supervision on the date equivalent to his or her maximum imposed
33 prison term less 60 months, less any earned time awarded by the Division of Adult Correction
34 and Juvenile Justice of the Department of Public Safety or the custodian of a local confinement
35 facility under G.S. 15A-1340.13(d). If a prisoner has not been awarded any earned time, the
36 prisoner shall be released for post-release supervision on the date equivalent to his maximum
37 prison term less 12 months for Class B1 through E felons and less nine months for Class F
38 through I felons.

39 ...

40 (d) A supervisee's period of post-release supervision may be reduced while the
41 supervisee is under supervision by earned time awarded by the Division of Adult Correction
42 and Juvenile Justice of the Department of Public Safety, pursuant to rules adopted in
43 accordance with law. A supervisee is eligible to receive earned time credit toward the period of
44 supervision for compliance with reintegrative conditions described in G.S. 15A-1368.5.

45"

46 **SECTION 2.(www)** G.S. 15A-1368.3(c) reads as rewritten:

47 "(c) Effect of Violation. – If the supervisee violates a condition, described in
48 G.S. 15A-1368.4, at any time before the termination of the supervision period, the Commission
49 may continue the supervisee on the existing supervision, with or without modifying the
50 conditions, or if continuation or modification is not appropriate, may revoke post-release

supervision as provided in G.S. 15A-1368.6 and reimprison the supervisee for a term consistent with the following requirements:

- ...
- (3) Pursuant to Article 19A of Chapter 15, the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall award a prisoner credit against any term of reimprisonment for all time spent in custody as a result of revocation proceedings under G.S. 15A-1368.6.

...."

SECTION 2.(xxx) G.S. 15A-1368.4 reads as rewritten:

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

...

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

- ...
- (8) Submit at reasonable times to warrantless searches by a post-release supervision officer of the supervisee's person and of the supervisee's vehicle and premises while the supervisee is present, for purposes reasonably related to the post-release supervision, but the supervisee may not be required to submit to any other search that would otherwise be unlawful. For purposes of this subdivision, warrantless searches of the supervisee's computer or other electronic mechanism which may contain electronic data shall be considered reasonably related to the post-release supervision. Whenever the warrantless search consists of testing for the presence of illegal drugs, the supervisee may also be required to reimburse the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for the actual cost of drug screening and drug testing, if the results are positive.

(c) Discretionary Conditions. – The Commission, in consultation with the Section of Community Corrections of the Division of Adult ~~Correction~~, Correction and Juvenile Justice, may impose conditions on a supervisee it believes reasonably necessary to ensure that the supervisee will lead a law-abiding life or to assist the supervisee to do so. The Commission may also impose a condition of community service on a supervisee who was a Class F through I felon and who has failed to fully satisfy any order for restitution, reparation, or costs imposed against the supervisee as part of the supervisee's sentence; however, the Commission shall not impose such a condition of community service if the Commission determines, upon inquiry, that the supervisee has the financial resources to satisfy the order.

...

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

- ...
- (10) Submit at reasonable times to searches of the supervisee's person by a post-release supervision officer for purposes reasonably related to the post-release supervision. The Commission shall not require as a condition of post-release supervision that the supervisee submit to any other searches that would otherwise be unlawful. Whenever the search consists of testing for the presence of illegal drugs, the supervisee may also be required to reimburse the Division of Adult Correction and Juvenile Justice of the Department of

Public Safety for the actual cost of drug testing and drug screening, if the results are positive.

...."

SECTION 2.(yyy) G.S. 15A-1368.6 reads as rewritten:

"§ 15A-1368.6. Arrest and hearing on post-release supervision violation.

...

(c) Officers to Conduct Preliminary Hearing. – The preliminary hearing on post-release supervision violation shall be conducted by a judicial official, or by a hearing officer designated by the Commission. A person employed by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall not serve as a hearing officer at a hearing provided by this section unless that person is a member of the Commission, or is employed solely as a hearing officer.

(d) Procedure for Preliminary Hearing. – The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall give the supervisee notice of the preliminary hearing and its purpose, including a statement of the violations alleged. At the hearing, the supervisee may appear and speak in the supervisee's own behalf, may present relevant information, and may, on request, personally question witnesses and adverse informants, unless the hearing officer finds good cause for not allowing confrontation. If the person holding the hearing determines there is probable cause to believe the supervisee violated conditions of supervision, the hearing officer shall summarize the reasons for the determination and the evidence relied on. Formal rules of evidence do not apply at the hearing. If probable cause is found, the supervisee may be held in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety to serve the appropriate term of imprisonment, subject to the outcome of a revocation hearing under subsection (e) of this section.

...."

SECTION 2.(zzz) G.S. 15A-1369 reads as rewritten:

"§ 15A-1369. Definitions.

For purposes of this Article, the term:

...

(2) "Division" means the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

...

(4) "Inmate" means any person sentenced to the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

...."

SECTION 2.(aaaa) G.S. 15A-1369.4(a) reads as rewritten:

"(a) The Commission shall set reasonable conditions upon an inmate's medical release that shall apply through the date upon which the inmate's sentence would have expired. These conditions shall include:

...

(3) That the released inmate shall be subject to supervision by the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice and shall permit officers from the Division to visit the inmate at reasonable times at the inmate's home or elsewhere;

...."

SECTION 2.(bbbb) G.S. 15A-1371(h) reads as rewritten:

"(h) Community Service Parole. – Notwithstanding the provisions of any other subsection herein, prisoners serving sentences for impaired driving shall be eligible for community service parole after serving the minimum sentence required by G.S. 20-179, in the discretion of the Post-Release Supervision and Parole Commission.

Community service parole is early parole for the purpose of participation in community service under the supervision of the Section of Community Corrections of the Division of Adult ~~Correction~~Correction and Juvenile Justice. A parolee who is paroled under this subsection must perform as a condition of parole community service in an amount and over a period of time to be determined by the Post-Release Supervision and Parole Commission. However, the total amount of community service shall not exceed an amount equal to 32 hours for each month of active service remaining in his minimum sentence. The Post-Release Supervision and Parole Commission may grant early parole under this section without requiring the performance of community service if it determines that such performance is inappropriate to a particular case.

The probation/parole officer and the judicial services coordinator shall develop a program of community service for the parolee. The coordinator shall report any willful failure to perform community service work to the probation/parole officer. Parole may be revoked for any parolee who willfully fails to perform community service work as directed by the Section of Community Corrections of the Division of Adult ~~Correction~~Correction and Juvenile Justice. The provisions of G.S. 15A-1376 shall apply to this violation of a condition of parole.

Community service parole eligibility shall be available to a prisoner:

- (1) Who is serving an active sentence the term of which exceeds six months; and
- (2) Who, in the opinion of the Post-Release Supervision and Parole Commission, is unlikely to engage in further criminal conduct; and
- (3) Who agrees to complete service of his sentence as herein specified; and
- (4) Who has served one-half of his minimum sentence, at least 10 days if sentenced to Level One punishment or at least seven days if sentenced to Level Two punishment, whichever is longer.

In computing the service requirements of subdivision (4) of this subsection, credit shall be given for good time and gain time credit earned pursuant to G.S. 148-13 but only after a person has served at least 10 days if sentenced to Level One punishment or at least seven days if sentenced to Level Two punishment. Nothing herein is intended to create or shall be construed to create a right or entitlement to community service parole in any prisoner."

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

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

...

- (8b) Remain alcohol free, and prove such abstinence through evaluation by a continuous alcohol monitoring system of a type approved by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

...

- (11) Submit at reasonable times to warrantless searches by a parole officer of the parolee's person and of the parolee's vehicle and premises while the parolee is present, for purposes reasonably related to the parole supervision. The Commission may not require as a condition of parole that the parolee submit to any other searches that would otherwise be unlawful. If the parolee has been convicted of an offense which is a reportable conviction as defined in G.S. 14-208.6(4), or which involves the physical, mental, or sexual abuse of a minor, warrantless searches of the parolee's computer or other electronic mechanism which may contain electronic data shall be considered reasonably related to the parole supervision. Whenever the search consists of testing for the presence of illegal drugs, the parolee may also be required to reimburse the Division of Adult Correction and Juvenile Justice of the

Department of Public Safety for the actual cost of drug testing and drug screening, if the results are positive.

...."

SECTION 2.(dddd) G.S. 15A-1376 reads as rewritten:

"§ 15A-1376. Arrest and hearing on parole violation.

...

(c) Officers to Conduct Hearing. – The preliminary hearing on parole violation must be conducted by a judicial official, or by a hearing officer designated by the Post-Release Supervision and Parole Commission. No person employed by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety may serve as a hearing officer at a hearing provided in this section unless he is a member of the Post-Release Supervision and Parole Commission or is employed solely as a hearing officer.

(d) Procedure for Preliminary Hearing on Parole Violation. – The Division of Adult Correction and Juvenile Justice of the Department of Public Safety must give the parolee notice of the preliminary hearing and its purpose, including a statement of the violations alleged. At the hearing, the parolee may appear and speak in his own behalf, may present relevant information, and may, on request, personally question witnesses and adverse informants, unless the hearing officer finds good cause for not allowing confrontation. If the person holding the hearing determines there is probable cause to believe the parolee violated his parole, he must summarize the reasons for his determination and the evidence he relied on. Formal rules of evidence do not apply at the hearing. If probable cause is found, the parolee may be held in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety to serve the appropriate term of imprisonment, subject to the outcome of a revocation hearing under subsection (e).

...."

SECTION 2.(eeee) G.S. 15A-2000(e) reads as rewritten:

"(e) Aggravating Circumstances. – Aggravating circumstances which may be considered shall be limited to the following:

...

(8) The capital felony was committed against a law-enforcement officer, employee of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, jailer, fireman, judge or justice, former judge or justice, prosecutor or former prosecutor, juror or former juror, or witness or former witness against the defendant, while engaged in the performance of his official duties or because of the exercise of his official duty.

...."

SECTION 2.(ffff) G.S. 15B-21 reads as rewritten:

"§ 15B-21. Annual report.

The Commission shall, by March 15 each year, prepare and transmit to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and to the chairs of the House and Senate Appropriations Committees on Justice and Public Safety a report of its activities in the prior fiscal year and the current fiscal year to date. The report shall include:

...

(8) The amount of funds received in the prior fiscal year from the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and from the compensation fund established pursuant to the Victims Crime Act of 1984, 42 U.S.C. § 10601, et seq.; and

(9) The amount of funds expected to be received in the current fiscal year, as well as the amount actually received in the current fiscal year on the date of the report, from the Division of Adult Correction and Juvenile Justice of the

Department of Public Safety and from the compensation fund established pursuant to the Victims Crime Act of 1984, 42 U.S.C. § 10601, et seq.

...."

SECTION 2.(gggg) G.S. 15B-31 reads as rewritten:

"§ 15B-31. Definitions.

The following definitions apply in this Article:

...

- (7) Funds of an offender. – All funds and property received from any source by an offender, excluding child support and earned income, where the offender:
- a. Is an inmate serving a sentence with the Division of Adult Correction and Juvenile Justice of the Department of Public Safety or a prisoner confined at a local correctional facility or federal correctional institute, and includes funds that a superintendent, sheriff, or municipal official receives on behalf of an inmate or prisoner and deposits in an inmate account to the credit of the inmate or deposits in a prisoner account to the credit of the prisoner; or
 - b. Is not an inmate or prisoner but who is serving a sentence of probation, conditional discharge, or post-release supervision.

...."

SECTION 2.(hhhh) G.S. 15B-32(a) reads as rewritten:

"(a) Notice to Commission. –

...

- (2) Whenever the payment or obligation to pay involves funds of an offender that a superintendent, sheriff, or municipal officer (i) receives or will receive on behalf of an inmate serving a sentence with the Division of Adult Correction and Juvenile Justice of the Department of Public Safety or a prisoner confined at a local correctional facility, (ii) deposits or will deposit in an inmate account to the credit of an inmate or prisoner, and (iii) the value of such funds exceeds or will exceed ten thousand dollars (\$10,000), the State or subdivision of the State shall also give written notice to the Commission.

...."

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

"(a) There is established the North Carolina Criminal Justice Education and Training Standards Commission, hereinafter called "the Commission." The Commission shall be composed of 31 members as follows:

...

- (6) Adult Correction and Juvenile Justice. – Four correctional officers in management positions employed by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall be appointed, two from the Section of Community Corrections upon the recommendation of the Speaker of the House of Representatives and two from the Section of Prisons upon the recommendation of the President Pro Tempore of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-122. Appointments by the General Assembly shall serve two-year terms to conclude on June 30th in odd-numbered years or until the appointee no longer serves in a management position with the Division of Adult Correction, Correction and Juvenile Justice, whichever occurs first. The Governor shall appoint one correctional officer employed by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and assigned to the Office of Staff Development and Training,

1 and one juvenile justice officer employed by the ~~Section of Juvenile~~
2 ~~Justice~~ Justice Section of the Division of Adult Correction and Juvenile
3 Justice. The Governor's appointments shall serve three-year terms or until
4 the appointee is no longer assigned to the Office of Staff Development and
5 Training or is no longer a juvenile justice officer, whichever occurs first."

6 **SECTION 2.(jjjj)** G.S. 20-19(e2) reads as rewritten:

7 "(e2) Notwithstanding subsection (e) of this section, the Division may conditionally
8 restore the license of a person to whom subsection (e) applies after it has been revoked for at
9 least 24 months under G.S. 20-17(a)(2) if the person provides the Division with satisfactory
10 proof of all of the following:

- 11 (1) The person has not consumed any alcohol for the 12 months preceding the
12 restoration while being monitored by a continuous alcohol monitoring
13 device of a type approved by the Division of Adult Correction and Juvenile
14 Justice of the Department of Public Safety.

15"

16 **SECTION 2.(kkkk)** G.S. 20-28(a1) reads as rewritten:

17 "(a1) Driving While License Revoked for Impaired Driving. – Any person whose drivers
18 license has been revoked for an impaired driving revocation as defined in G.S. 20-28.2(a) and
19 who drives any motor vehicle upon the highways of the State is guilty of a Class 1
20 misdemeanor. Upon conviction, the person's license shall be revoked for an additional period of
21 one year for the first offense, two years for the second offense, and permanently for a third or
22 subsequent offense.

23 If the person's license was originally revoked for an impaired driving revocation, the court
24 may order as a condition of probation that the offender abstain from alcohol consumption and
25 verify compliance by use of a continuous alcohol monitoring system, of a type approved by the
26 Division of Adult Correction and Juvenile Justice of the Department of Public Safety, for a
27 minimum period of 90 days.

28 The restoree of a revoked drivers license who operates a motor vehicle upon the highways
29 of the State without maintaining financial responsibility as provided by law shall be punished
30 as for driving without a license."

31 **SECTION 2.(llll)** G.S. 20-79.4(a3) reads as rewritten:

32 "(a3) The Division shall develop, in consultation with the State Highway Patrol and the
33 Division of Adult ~~Correction~~ Correction and Juvenile Justice, a standardized format for special
34 license plates. The format shall allow for the name of the State and the license plate number to
35 be reflective and to contrast with the background so it may be easily read by the human eye and
36 by cameras installed along roadways as part of tolling and speed enforcement. A designated
37 segment of the plate shall be set aside for unique design representing various groups and
38 interests. Nothing in this subsection shall be construed to require the recall of existing special
39 license plates."

40 **SECTION 2.(mmmm)** G.S. 20-81.12(b38) reads as rewritten:

41 "(b38) Stock Car Racing Theme. – The Division may issue any plate in this series without
42 a minimum number of applications if the person providing the State with the license to use the
43 words, logos, trademarks, or designs associated with the plate produces the plate for the State
44 without a minimum order quantity.

45 The cost of the Stock Car Racing Theme plate shall include all costs to produce blank plates
46 for issuance by the Division. Notwithstanding G.S. 66-58(b), the Division or the Division of
47 Adult Correction of the Department of Public Safety may contract for the production of the
48 blank plates in this series to be issued by the Division, provided the plates meet or exceed the
49 State's specifications including durability and retroreflectivity, and provided the plates are
50 manufactured using high-quality embossable aluminum. The cost of the blank plates to the
51 State shall be substantially equivalent to the price paid to the Division of Adult Correction and

1 Juvenile Justice of the Department of Public Safety for license tags, as provided in
2 G.S. 66-58(b)(15).

3 The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction
4 Plate Account derived from the sale of Stock Car Racing Theme plates to the North Carolina
5 Motorsports Foundation, Inc.; except that the Division shall transfer quarterly the money in the
6 Collegiate and Cultural Attraction Plate Account derived from the sale of Charlotte Motor
7 Speedway plates to Speedway Children's Charities."

8 **SECTION 2.(nnnn)** G.S. 20-179 reads as rewritten:

9 **"§ 20-179. Sentencing hearing after conviction for impaired driving; determination of**
10 **grossly aggravating and aggravating and mitigating factors; punishments.**

11 ...

12 (e) Mitigating Factors to Be Weighed. – The judge shall also determine before
13 sentencing under subsection (f) whether any of the mitigating factors listed below apply to the
14 defendant. The judge shall weigh the degree of mitigation of each factor in light of the
15 particular circumstances of the case. The factors are:

16 ...

17 (6a) Completion of a substance abuse assessment, compliance with its
18 recommendations, and simultaneously maintaining 60 days of continuous
19 abstinence from alcohol consumption, as proven by a continuous alcohol
20 monitoring system. The continuous alcohol monitoring system shall be of a
21 type approved by the Division of Adult Correction and Juvenile Justice of
22 the Department of Public Safety.

23 (7) Any other factor that mitigates the seriousness of the offense.

24 Except for the factors in subdivisions (4), (6), (6a), and (7), the conduct constituting the
25 mitigating factor shall occur during the same transaction or occurrence as the impaired driving
26 offense.

27 ...

28 (f3) Aggravated Level One Punishment. – A defendant subject to Aggravated Level One
29 punishment may be fined up to ten thousand dollars (\$10,000) and shall be sentenced to a term
30 of imprisonment that includes a minimum term of not less than 12 months and a maximum
31 term of not more than 36 months. Notwithstanding G.S. 15A-1371, a defendant sentenced to a
32 term of imprisonment pursuant to this subsection shall not be eligible for parole. However, the
33 defendant shall be released from the Statewide Misdemeanant Confinement Program on the
34 date equivalent to the defendant's maximum imposed term of imprisonment less four months
35 and shall be supervised by the Section of Community Supervision of the Division of Adult
36 Correction and Juvenile Justice under and subject to the provisions of Article 84A of Chapter
37 15A of the General Statutes and shall also be required to abstain from alcohol consumption for
38 the four-month period of supervision as verified by a continuous alcohol monitoring system.
39 For purposes of revocation, violation of the requirement to abstain from alcohol or comply with
40 the use of a continuous alcohol monitoring system shall be deemed a controlling condition
41 under G.S. 15A-1368.4.

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

50 (g) Level One Punishment. – A defendant subject to Level One punishment may be
51 fined up to four thousand dollars (\$4,000) and shall be sentenced to a term of imprisonment

1 that includes a minimum term of not less than 30 days and a maximum term of not more than
2 24 months. The term of imprisonment may be suspended only if a condition of special
3 probation is imposed to require the defendant to serve a term of imprisonment of at least 30
4 days. A judge may reduce the minimum term of imprisonment required to a term of not less
5 than 10 days if a condition of special probation is imposed to require that a defendant abstain
6 from alcohol consumption and be monitored by a continuous alcohol monitoring system, of a
7 type approved by the Division of Adult Correction and Juvenile Justice of the Department of
8 Public Safety, for a period of not less than 120 days. If the defendant is monitored on an
9 approved continuous alcohol monitoring system during the pretrial period, up to 60 days of
10 pretrial monitoring may be credited against the 120-day monitoring requirement for probation.
11 If the defendant is placed on probation, the judge shall impose a requirement that the defendant
12 obtain a substance abuse assessment and the education or treatment required by G.S. 20-17.6
13 for the restoration of a drivers license and as a condition of probation. The judge may impose
14 any other lawful condition of probation.

15 (h) Level Two Punishment. – A defendant subject to Level Two punishment may be
16 fined up to two thousand dollars (\$2,000) and shall be sentenced to a term of imprisonment that
17 includes a minimum term of not less than seven days and a maximum term of not more than 12
18 months. The term of imprisonment may be suspended only if a condition of special probation is
19 imposed to require the defendant to serve a term of imprisonment of at least seven days or to
20 abstain from consuming alcohol for at least 90 consecutive days, as verified by a continuous
21 alcohol monitoring system, of a type approved by the Division of Adult Correction and
22 Juvenile Justice of the Department of Public Safety. If the defendant is subject to Level Two
23 punishment based on a finding that the grossly aggravating factor in subdivision (1) or (2) of
24 subsection (c) of this section applies, the conviction for a prior offense involving impaired
25 driving occurred within five years before the date of the offense for which the defendant is
26 being sentenced and the judge suspends all active terms of imprisonment and imposes
27 abstention from alcohol as verified by a continuous alcohol monitoring system, then the judge
28 must also impose as an additional condition of special probation that the defendant must
29 complete 240 hours of community service. If the defendant is monitored on an approved
30 continuous alcohol monitoring system during the pretrial period, up to 60 days of pretrial
31 monitoring may be credited against the 90-day monitoring requirement for probation. If the
32 defendant is placed on probation, the judge shall impose a requirement that the defendant
33 obtain a substance abuse assessment and the education or treatment required by G.S. 20-17.6
34 for the restoration of a drivers license and as a condition of probation. The judge may impose
35 any other lawful condition of probation.

36 (h1) The judge may impose, as a condition of probation for defendants subject to Level
37 One or Level Two punishments, that the defendant abstain from alcohol consumption for a
38 minimum of 30 days, to a maximum of the term of probation, as verified by a continuous
39 alcohol monitoring system. The defendant's abstinence from alcohol shall be verified by a
40 continuous alcohol monitoring system of a type approved by the Division of Adult Correction
41 and Juvenile Justice of the Department of Public Safety.

42 ...
43 (k2) Probationary Requirement for Abstinence and Use of Continuous Alcohol
44 Monitoring. – The judge may order that as a condition of special probation for any level of
45 offense under G.S. 20-179 the defendant abstain from alcohol consumption, as verified by a
46 continuous alcohol monitoring system, of a type approved by the Division of Adult Correction
47 and Juvenile Justice of the Department of Public Safety.

48"

49 **SECTION 2.(oooo) G.S. 20-179.3(j1) reads as rewritten:**

50 "(j1) Effect of Violation of Community Service Requirement. – Section of Community
51 Corrections of the Division of Adult Correction and Juvenile Justice staff shall report

1 significant violations of the terms of a probation judgment related to community service to the
2 court that ordered the community service. The court shall then conduct a hearing to determine
3 if there was a willful failure to comply. The hearing may be held in the district where the
4 requirement was imposed, where the alleged violation occurred, or where the probationer
5 resides. If the court determines that there was a willful failure to pay the prescribed fee or to
6 complete the work as ordered within the applicable time limits, the court shall revoke any
7 limited driving privilege issued in the impaired driving case until community service
8 requirements have been met. In addition, the court may take any further action authorized by
9 Article 82 of Chapter 15A of the General Statutes for violation of a condition of probation."

10 **SECTION 2.(pppp)** G.S. 50-13.2(b2) reads as rewritten:

11 "(b2) Any order for custody, including visitation, may, as a condition of such custody or
12 visitation, require either or both parents, or any other person seeking custody or visitation, to
13 abstain from consuming alcohol and may require submission to a continuous alcohol
14 monitoring system, of a type approved by the Division of Adult Correction and Juvenile Justice
15 of the Department of Public Safety, to verify compliance with this condition of custody or
16 visitation. Any order pursuant to this subsection shall include an order to the monitoring
17 provider to report any violation of the order to the court and each party to the action. Failure to
18 comply with this condition shall be grounds for civil or criminal contempt."

19 **SECTION 2.(qqqq)** G.S. 65-4 reads as rewritten:

20 **"§ 65-4. State Division of Adult Correction of the Department of Public Safety to furnish**
21 **labor.**

22 The Division of Adult Correction and Juvenile Justice of the Department of Public Safety is
23 hereby authorized and directed to furnish at such time, or times, as may be convenient, such
24 prisoner's labor as may be available, to properly care for the Confederate Cemetery situated in
25 the City of Raleigh, such services to be rendered by the State's prisoners without
26 compensation."

27 **SECTION 2.(rrrr)** G.S. 66-25(b) reads as rewritten:

28 "(b) Electrical devices, appliances, or equipment used by the Division of Adult
29 Correction and Juvenile Justice of the Department of Public Safety in institutional kitchens and
30 manufacturing equipment used by Correction Enterprises are exempt from the evaluation
31 requirement of subsection (a) of this section."

32 **SECTION 2.(ssss)** G.S. 66-58 reads as rewritten:

33 **"§ 66-58. Sale of merchandise or services by governmental units.**

34 (a) Except as may be provided in this section, it shall be unlawful for any unit,
35 department or agency of the State government, or any division or subdivision of the unit,
36 department or agency, or any individual employee or employees of the unit, department or
37 agency in his, or her, or their capacity as employee or employees thereof, to engage directly or
38 indirectly in the sale of goods, wares or merchandise in competition with citizens of the State,
39 or to engage in the operation of restaurants, cafeterias or other eating places in any building
40 owned by or leased in the name of the State, or to maintain service establishments for the
41 rendering of services to the public ordinarily and customarily rendered by private enterprises,
42 or to provide transportation services, or to contract with any person, firm or corporation for the
43 operation or rendering of the businesses or services on behalf of the unit, department or agency,
44 or to purchase for or sell to any person, firm or corporation any article of merchandise in
45 competition with private enterprise. The leasing or subleasing of space in any building owned,
46 leased or operated by any unit, department or agency or division or subdivision thereof of the
47 State for the purpose of operating or rendering of any of the businesses or services herein
48 referred to is hereby prohibited.

49 (b) The provisions of subsection (a) of this section shall not apply to:

50 ...

(6a) The Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

...
(15) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety is authorized to purchase and install automobile license tag plant equipment for the purpose of manufacturing license tags for the State and local governments and for such other purposes as the Division may direct.

The Commissioner of Motor Vehicles, or such other authority as may exercise the authority to purchase automobile license tags is hereby directed to purchase from, and to contract with, the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for the State automobile license tag requirements from year to year.

The price to be paid to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for the tags shall be fixed and agreed upon by the Governor, the ~~State~~ Division of Adult Correction and Juvenile Justice of the Department of Public Safety, and the Motor Vehicle Commissioner, or such authority as may be authorized to purchase the supplies.

(16) Laundry services performed by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety may be provided only for agencies and instrumentalities of the State which are supported by State funds and for county or municipally controlled and supported hospitals presently being served by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, or for which services have been contracted or applied for in writing, as of May 22, 1973. In addition to the prior sentence, laundry services performed by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety may be provided for VA Medical Centers of the United States Department of Veterans Affairs, the Governor Morehead School, and the North Carolina School for the Deaf.

The services shall be limited to wet-washing, drying and ironing of flatwear or flat goods such as towels, sheets and bedding, linens and those uniforms prescribed for wear by the institutions and further limited to only flat goods or apparel owned, distributed or controlled entirely by the institutions and shall not include processing by any dry-cleaning methods; provided, however, those garments and items presently being serviced by wet-washing, drying and ironing may in the future, at the election of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, be processed by a dry-cleaning method.

...
(25) The gift or sale of any craft items made by inmates in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety as part of a program or initiative established by the Section of Prisons of the Division of Adult ~~Correction~~ Correction and Juvenile Justice.

...
(c) The provisions of subsection (a) shall not prohibit:

...
(7) The operation by penal, correctional or facilities operated by the Department of Health and Human Services, the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety,

or by the Department of Agriculture and Consumer Services, of dining rooms for the inmates or clients or members of the staff while on duty and for the accommodation of persons visiting the inmates or clients, and other bona fide visitors.

- ...
- (13) The operation by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety of forestry management programs on State-owned lands, including the sale on the open market of timber cut as a part of the management program.
- (14) The operation by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety of facilities to manufacture and produce traffic and street name signs for use on the public streets and highways of the State.
- (15) The operation by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety of facilities to manufacture and produce paint for use on the public streets and highways of the State.

...

(f) Notwithstanding the provisions of G.S. 66-58(a), the operation by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety of facilities for the manufacture of any product or the providing of any service pursuant to Article 14 of Chapter 148 of the General Statutes not regulated by the provisions of subsection (c) of this section shall be subject to the prior approval of the Governor, with biennial review by the General Assembly, at the beginning of each fiscal year commencing after October 1, 1975. The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall file with the Director of the Budget quarterly reports detailing prison enterprise operations in such a format as shall be required by the Director of the Budget.

...."

SECTION 2.(tttt) G.S. 97-13(c) reads as rewritten:

"(c) Prisoners. – This Article shall not apply to prisoners being worked by the State or any subdivision thereof, except to the following extent: Whenever any prisoner assigned to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall suffer accidental injury or accidental death arising out of and in the course of the employment to which he had been assigned, if there be death or if the results of such injury continue until after the date of the lawful discharge of such prisoner to such an extent as to amount to a disability as defined in this Article, then such discharged prisoner or the dependents or next of kin of such discharged prisoner may have the benefit of this Article by applying to the Industrial Commission as any other employee; provided, such application is made within 12 months from the date of the discharge; and provided further that the maximum compensation to any prisoner or to the dependents or next of kin of any deceased prisoner shall not exceed thirty dollars (\$30.00) per week and the period of compensation shall relate to the date of his discharge rather than the date of the accident. If any person who has been awarded compensation under the provisions of this subsection shall be recommitted to prison upon conviction of an offense committed subsequent to the award, such compensation shall immediately cease. Any awards made under the terms of this subsection shall be paid by the Department of Public Safety from the funds available for the operation of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. The provisions of G.S. 97-10.1 and 97-10.2 shall apply to prisoners and discharged prisoners entitled to compensation under this subsection and to the State in the same manner as said section applies to employees and employers."

SECTION 2.(uuuu) G.S. 105-259(b) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person except as provided in this subsection. Standards used or to be used for the selection of returns for examination and data used or to be used for determining the standards may not be disclosed for any purpose. All other tax information may be disclosed only if the disclosure is made for one of the following purposes:

...

(15) To exchange information concerning a tax imposed by Articles 2A, 2C, or 2D of this Chapter with one of the following agencies when the information is needed to fulfill a duty imposed on the Department or the agency:

- a. The North Carolina Alcoholic Beverage Control Commission.
- b. The Alcohol Law Enforcement Branch of the Department of Public Safety.
- c. The Bureau of Alcohol, Tobacco, and Firearms of the United States Department of Justice.
- d. Law enforcement agencies.
- e. The Section of Community Corrections of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

...."

SECTION 2.(vvvv) G.S. 108A-14(a) reads as rewritten:

"(a) The director of social services shall have the following duties and responsibilities:

...

(9) To assist and cooperate with the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and their representatives;

...."

SECTION 2.(www) G.S. 114-12.1(b) reads as rewritten:

"(b) The Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall ensure that all juvenile court counselors and other Division personnel receive the minority sensitivity training specified in subsection (a) of this section."

SECTION 2.(xxxx) G.S. 115C-46.2 reads as rewritten:

"§ 115C-46.2. Probation officer visits at school; limitations.

(a) Except as provided in this section, probation officers are not authorized to visit students during school hours on school property.

(b) Probation officers of the Section of Community Corrections of the Division of Adult ~~Corrections~~, Correction and Juvenile Justice, when working as a part of the Section's School Partnership Program, may visit students during school hours on school property with prior authorization by school administrators. For purposes of this section, "authorization" includes requests for assistance from guidance counselors or school resource officers.

(c) Each local board of education shall develop policies and guidelines for coordinating with probation officers of the Section of Community Corrections of the Division of Adult ~~Corrections~~ Correction and Juvenile Justice in the planning and scheduling of school visits as provided in this section, utilizing existing administrative capacity to manage scheduling. Visits shall be conducted in a private area designated for such use and located away from contact with the general student population. The probation officer shall not initiate direct contact with a student while the student is in class or between classes. Initial contact with the student shall be made by a school administrator or other designated school employee, who shall direct the student to a private area to meet with the probation officer."

SECTION 2.(yyyy) G.S. 115C-106.3 reads as rewritten:

"§ 115C-106.3. Definitions.

The following definitions apply in this Article:

- ...
- (11) "Local educational agency" includes any of the following that provides special education and related services to children with disabilities:
- A local school administrative unit.
 - A charter school.
 - The Department of Health and Human Services.
 - The Division of Adult Correction and Juvenile Justice of the Department of Public Safety.
 - ~~The Division of Juvenile Justice of the Department of Public Safety.~~
 - Any other State agency or unit of local government.

...."

SECTION 2.(zzzz) G.S. 115C-107.6 reads as rewritten:

"§ 115C-107.6. Duties of local educational agencies.

(a) Each local educational agency, in providing for the education of children with disabilities within its jurisdiction, must comply with IDEA and the rules adopted by the State Board under this Article. In addition, each local educational agency shall have in effect policies, procedures, and programs that are consistent with this Article, IDEA, and rules adopted by the State Board.

(b) No child with disabilities shall be prevented from attending the public schools of the local educational agency in which the child resides or from which the child receives services or from attending any other public program of free appropriate public education based solely on the fact that the child has a disability. If it appears the child should receive a program of free appropriate public education in a program operated by or under the supervision of the Department of Health and Human Services or the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, the local school administrative unit shall confer with the appropriate Department of Health and Human Services or Division of Adult Correction and Juvenile Justice of the Department of Public Safety staff for their participation and determination of the appropriateness of placement in that program and development of the child's individualized education program.

(c) No matriculation or tuition fees or other fees or charges shall be required or asked of children with disabilities or their parents except those fees or charges that are required uniformly of all public school pupils. The provision of a free appropriate public education within the facilities of the Department of Health and Human Services and the Division of Adult Correction and Juvenile Justice of the Department of Public Safety may not prevent that Department from charging for other services or treatment.

(d) Each child with a disability shall be educated in accordance with that child's IEP and in the least restrictive environment for that child.

(e) Each local educational agency may use the forms developed under G.S. 115C-107.2(d)."

SECTION 2.(aaaaa) G.S. 115C-108.1 reads as rewritten:

"§ 115C-108.1. State Board lead agency.

(a) The Board shall cause all local educational agencies to provide special education and related services to children with disabilities in their care, custody, management, jurisdiction, control, or programs.

(b) The jurisdiction of the Board with respect to the design and content of special education programs or related services for children with disabilities extends to and over the Department of Health and Human Services, and the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, ~~and the Division of Adult Correction of the Department of Public Safety.~~

(c) All provisions of this Article that are specifically applicable to local school administrative units also are applicable to the Department of Health and Human Services, and

1 the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, ~~and~~
2 ~~the Division of Adult Correction of the Department of Public Safety,~~ and their divisions and
3 agencies; all duties, responsibilities, rights, and privileges specifically imposed on or granted to
4 local school administrative units by this Article also are imposed on or granted to the
5 Department of Health and Human Services, and the Division of Adult Correction and Juvenile
6 Justice of the Department of Public Safety, ~~and the Division of Adult Correction of the~~
7 ~~Department of Public Safety,~~ and their divisions and agencies. However, with respect to
8 children with disabilities who are residents or patients of any State-operated or State-supported
9 residential treatment facility, including a school for the deaf, school for the blind, mental
10 hospital or center, mental retardation center, or in a facility operated by the Division of Adult
11 Correction and Juvenile Justice of the Department of Public Safety, ~~the Division of Adult~~
12 ~~Correction of the Department of Public Safety,~~ or any of their divisions and agencies, the Board
13 may contract with the Department of Health and Human Services, and the Division of Adult
14 Correction and Juvenile Justice of the Department of Public Safety, ~~and the Division of Adult~~
15 ~~Correction of the Department of Public Safety~~ for the provision of special education and related
16 services and the power to review, revise, and approve any plans for special education and
17 related services to those residents.

18 (d) ~~The Departments~~Department of Health and Human ~~Services, Correction, and~~
19 ~~Juvenile Justice and Delinquency Prevention~~Services and the Department of Public Safety shall
20 submit to the Board their plans for the education of children with disabilities in their care,
21 custody, or control. The Board may grant specific exemptions for programs administered by the
22 Department of Health and Human ~~Services,~~Services or the Division of Adult Correction and
23 Juvenile Justice of the Department of Public Safety, ~~or the Division of Adult Correction of the~~
24 ~~Department of Public Safety~~ when compliance by them with the Board's standards would, in
25 the Board's judgment, impose undue hardship on that department or division and when other
26 procedural due process requirements, substantially equivalent to those required under this
27 Article and IDEA, are assured in programs of special education and related services furnished
28 to children with disabilities served by that department. Further, the Board shall recognize that
29 inpatient and residential special education programs within the Departments of Health and
30 Human ~~Services,~~Services or the Division of Adult Correction and Juvenile Justice of the
31 Department of Public Safety, ~~or the Division of Adult Correction of the Department of Public~~
32 ~~Safety~~ may require more program resources than those necessary for optimal operation of these
33 programs in local school administrative units.

34 (e) The Board shall support and encourage joint and collaborative special education
35 planning and programming at local levels to include local school administrative units and the
36 programs and agencies of the Departments of Health and Human ~~Services,~~Services or the
37 Division of Adult Correction and Juvenile Justice of the Department of Public Safety, ~~or the~~
38 ~~Division of Adult Correction of the Department of Public Safety."~~

39 **SECTION 2.(bbbb) G.S. 115C-108.2 reads as rewritten:**

40 **"§ 115C-108.2. Interlocal cooperation.**

41 The Board, any two or more local educational agencies, and any other agency and any State
42 department, agency, or division having responsibility for the education, treatment, or
43 habilitation of children with disabilities may enter into interlocal cooperative undertakings
44 under Part 1 of Article 20 of Chapter 160A of the General Statutes or into undertakings with a
45 State agency such as the Departments of Public Instruction, Health and Human Services,
46 ~~Juvenile Justice and Delinquency Prevention, or Correction, or Public Safety,~~ or their divisions,
47 agencies, or units, for the purpose of providing for the special education and related services,
48 treatment, or habilitation of these children within the jurisdiction of the agency or unit, and
49 shall do so when it is unable to provide the appropriate public special education or related
50 services for these children. In entering into such undertakings, the local agency and State
51 department, agency, or division shall also contract to provide the special education or related

1 services that are educationally appropriate to the children with disabilities for whose benefit the
2 undertaking is made and provide these services by or in the local agency unit or State
3 department, agency, or division located in the place most convenient to these children."

4 **SECTION 2.(ccccc)** G.S. 115C-250(a) reads as rewritten:

5 "(a) The State Board of Education and local boards of education may expend public
6 funds for transportation of children with disabilities who are unable because of their disability
7 to ride the regular school buses and who have been placed in programs by a local school board
8 as a part of its duty to provide these children with a free appropriate education under Article 9
9 of this Chapter. At the option of the local board of education with the concurrence of the State
10 Board of Education, funds appropriated to the State Board of Education for contract
11 transportation of children with disabilities may be used to purchase buses and minibuses as well
12 as for the purposes authorized in the budget. The State Board of Education shall adopt rules
13 concerning the construction and equipment of these buses and minibuses.

14 The Departments of Health and Human ~~Services, Juvenile Justice and Delinquency~~
15 ~~Prevention, and Correction~~ Services and Public Safety may also expend public funds for
16 transportation of children with disabilities who are unable because of their disability to ride the
17 regular school buses and who have been placed in programs by one of these agencies as a part
18 of that agency's duty to provide these children with a free appropriate public education under
19 Article 9 of this Chapter.

20 If a local area mental health center places a child with a disability in an educational
21 program, the local area mental health center shall pay for the transportation of the child who is
22 unable due to the disability to ride the regular school buses to the program."

23 **SECTION 2.(ddddd)** G.S. 115C-296.2(b) reads as rewritten:

24 "(b) Definitions. – As used in this subsection:

- 25 (1) A "North Carolina public school" is a school operated by a local board of
26 education, the Department of Health and Human Services, the Division of
27 Adult Correction of the Department of Public Safety, the Division of Adult
28 Correction and Juvenile Justice of the Department of Public Safety or The
29 University of North Carolina; a school affiliated with The University of
30 North Carolina; or a charter school approved by the State Board of
31 Education.

32"

33 **SECTION 2.(eeee)** G.S. 115C-325(p) reads as rewritten:

34 "(p) Section Applicable to Certain Institutions. – Notwithstanding any law or regulation
35 to the contrary, this section shall apply to all persons employed in teaching and related
36 educational classes in the schools and institutions of the Departments of Health and Human
37 ~~Services and Public Instruction and the Divisions of Juvenile Justice and Adult Correction of~~
38 ~~the Department of Public Safety~~ Services, Public Instruction, and Public Safety regardless of the
39 age of the students."

40 **SECTION 2.(ffff)** G.S. 115C-325.10 reads as rewritten:

41 **"§ 115C-325.10. Application to certain institutions.**

42 Notwithstanding any law or regulation to the contrary, this Part shall apply to all persons
43 employed in teaching and related educational classes in the schools and institutions of the
44 Departments of Health and Human Services and Public Instruction and the ~~Divisions of~~
45 ~~Juvenile Justice and Adult Correction~~ Division of Adult Correction and Juvenile Justice of the
46 Department of Public Safety, regardless of the age of the students."

47 **SECTION 2.(ggggg)** G.S. 115D-1 reads as rewritten:

48 **"§ 115D-1. Statement of purpose.**

49 The purposes of this Chapter are to provide for the establishment, organization, and
50 administration of a system of educational institutions throughout the State offering courses of
51 instruction in one or more of the general areas of two-year college parallel, technical,

1 vocational, and adult education programs, to serve as a legislative charter for such institutions,
2 and to authorize the levying of local taxes and the issuing of local bonds for the support thereof.
3 The major purpose of each and every institution operating under the provisions of this Chapter
4 shall be and shall continue to be the offering of vocational and technical education and training,
5 and of basic, high school level, academic education needed in order to profit from vocational
6 and technical education, for students who are high school graduates or who are beyond the
7 compulsory age limit of the public school system and who have left the public schools,
8 provided, juveniles of any age committed to the Juvenile Justice Section of the Division of
9 Adult Correction and Juvenile Justice of the Department of Public Safety by a court of
10 competent jurisdiction may, if approved by the director of the youth development center to
11 which they are assigned, take courses offered by institutions of the system if they are otherwise
12 qualified for admission.

13 The Community Colleges System Office is designated as the primary lead agency for
14 delivering workforce development training, adult literacy training, and adult education
15 programs in the State."

16 **SECTION 2.(hhhhh)** G.S. 115D-5(b) reads as rewritten:

17 "(b) In order to make instruction as accessible as possible to all citizens, the teaching of
18 curricular courses and of noncurricular extension courses at convenient locations away from
19 institution campuses as well as on campuses is authorized and shall be encouraged. A pro rata
20 portion of the established regular tuition rate charged a full-time student shall be charged a
21 part-time student taking any curriculum course. In lieu of any tuition charge, the State Board of
22 Community Colleges shall establish a uniform registration fee, or a schedule of uniform
23 registration fees, to be charged students enrolling in extension courses for which instruction is
24 financed primarily from State funds. The State Board of Community Colleges may provide by
25 general and uniform regulations for waiver of tuition and registration fees for the following:

26 ...

27 (2) Courses requested by the following entities that support the organizations'
28 training needs and are on a specialized course list approved by the State
29 Board of Community Colleges:

30 ...

31 g. The Division of Adult Correction and Juvenile Justice of the
32 Department of Public Safety for the training of full-time custodial
33 employees and employees of the ~~Division's Section of Community~~
34 ~~Corrections~~Division required to be certified under Chapter 17C of
35 the General Statutes and the rules of the Criminal Justice and
36 Training Standards Commission.

37 h. ~~The Division of Juvenile Justice of the Department of Public Safety~~
38 ~~for the training of employees required to be certified under Chapter~~
39 ~~17C of the General Statutes and the rules of the Criminal Justice and~~
40 ~~Training Standards Commission.~~

41"

42 **SECTION 2.(iiii)** G.S. 120-70.94 reads as rewritten:

43 **"§ 120-70.94. Purpose and powers of Committee.**

44 (a) The Joint Legislative Oversight Committee on Justice and Public Safety shall
45 examine, on a continuing basis, the correctional, law enforcement, and juvenile justice systems
46 in North Carolina, in order to make ongoing recommendations to the General Assembly on
47 ways to improve those systems and to assist those systems in realizing their objectives of
48 protecting the public and of punishing and rehabilitating offenders. In this examination, the
49 Committee shall:

50 ...

(2) Examine the effectiveness of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety in implementing the public policy stated in G.S. 148-26 of providing work assignments and employment for inmates as a means of reducing the cost of maintaining the inmate population while enabling inmates to acquire or retain skills and work habits needed to secure honest employment after their release.

...
(2b) Examine the effectiveness of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety in implementing the duties and responsibilities charged to the Division in Part 3 of Article 13 of Chapter 143B of the General Statutes and the overall effectiveness and efficiency of the juvenile justice system in the State.

...
(10) Study the needs of juveniles. This study may include, but is not limited to:
a. Determining the adequacy and appropriateness of services:
1. To children and youth receiving child welfare services;
2. To children and youth in the juvenile court system;
3. Provided by the Division of Social Services of the Department of Health and Human Services and the Division of Adult Correction and Juvenile Justice of the Department of Public Safety;

...."

SECTION 2.(jjjjj) G.S. 122C-22(a) reads as rewritten:

"(a) All of the following are excluded from the provisions of this Article and are not required to obtain licensure under this Article:

...
(10) Inpatient chemical dependency or substance abuse facilities that provide services exclusively to inmates of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, as described in G.S. 148-19.1.

...."

SECTION 2.(kkkkk) G.S. 122C-55(c) reads as rewritten:

"(c) A facility may furnish confidential information in its possession to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety when requested by that department regarding any client of that facility when the inmate has been determined by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety to be in need of treatment for mental illness, developmental disabilities, or substance abuse. The Division of Adult Correction and Juvenile Justice of the Department of Public Safety may furnish to a facility confidential information in its possession about treatment for mental illness, developmental disabilities, or substance abuse that the Division of Adult Correction and Juvenile Justice of the Department of Public Safety has provided to any present or former inmate if the inmate is presently seeking treatment from the requesting facility or if the inmate has been involuntarily committed to the requesting facility for inpatient or outpatient treatment. Under the circumstances described in this subsection, the consent of the client or inmate shall not be required in order for this information to be furnished and the information shall be furnished despite objection by the client or inmate. Confidential information disclosed pursuant to this subsection is restricted from further disclosure."

SECTION 2.(lllll) G.S. 122C-62(b) reads as rewritten:

"(b) Except as provided in subsections (e) and (h) of this section, each adult client who is receiving treatment or habilitation in a 24-hour facility at all times keeps the right to:

...

(4) Make visits outside the custody of the facility unless:

- a. Commitment proceedings were initiated as the result of the client's being charged with a violent crime, including a crime involving an assault with a deadly weapon, and the respondent was found not guilty by reason of insanity or incapable of proceeding;
- b. The client was voluntarily admitted or committed to the facility while under order of commitment to a correctional facility of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety; or
- c. The client is being held to determine capacity to proceed pursuant to G.S. 15A-1002;

A court order may expressly authorize visits otherwise prohibited by the existence of the conditions prescribed by this subdivision;

...."

SECTION 2.(mmmmm) G.S. 122C-113(b1) reads as rewritten:

"(b1) The Secretary shall cooperate with the State Board of Education and the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety in coordinating the responsibilities of the Department of Health and Human Services, the State Board of Education, the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, and the Department of Public Instruction for adolescent substance abuse programs. The Department of Health and Human Services, through its Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, in cooperation with the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, shall be responsible for intervention and treatment in non-school based programs. The State Board of Education and the Department of Public Instruction, in consultation with the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, shall have primary responsibility for in-school education, identification, and intervention services, including student assistance programs."

SECTION 2.(nnnnn) G.S. 122C-115.4(g) reads as rewritten:

"(g) The Commission shall adopt rules to ensure that the needs of members of the active and reserve components of the Armed Forces of the United States, veterans, and their family members are met by requiring:

- (1) Each LME to have at least one trained care coordination person on staff to serve as the point of contact for TRICARE, the North Carolina National Guard's Integrated Behavioral Health System, the Army Reserve Department of Psychological Health, the United States Department of Veterans Affairs, the Juvenile Justice Section of the Division of Adult Correction, Correction and Juvenile Justice, and related organizations to ensure that members of the active and reserve components of the Armed Forces of the United States, veterans, and their family members have access to State-funded services when they are not eligible for federally funded mental health or substance abuse services.

...."

SECTION 2.(ooooo) G.S. 122C-117 reads as rewritten:**"§ 122C-117. Powers and duties of the area authority.**

- (a) The area authority shall do all of the following:

...

- (2) Ensure the provision of services to clients in the catchment area, including clients committed to the custody of the Juvenile Justice Section of the

1 Division of Adult Correction and Juvenile Justice of the Department of
2 Public Safety.

- 3 (3) Determine the needs of the area authority's clients and coordinate with the
4 Secretary and with the Juvenile Justice Section of the Division of Adult
5 Correction and Juvenile Justice of the Department of Public Safety the
6 provision of services to clients through area and State facilities.

7"

8 **SECTION 2.(ppppp)** Part 10 of Article 5 of Chapter 122C of the General Statutes
9 reads as rewritten:

10 "Part 10. Voluntary Admissions, Involuntary Commitments and Discharges, Inmates and
11 Parolees, Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

12 ...

13 **"§ 122C-312. Voluntary admissions and discharges of inmates of the Division of Adult**
14 **Correction and Juvenile Justice of the Department of Public Safety.**

15 Inmates in the custody of the Division of Adult Correction and Juvenile Justice of the
16 Department of Public Safety may seek voluntary admission to State facilities for the mentally
17 ill or substance abusers. The provisions of Part 2 of this Article shall apply except that an
18 admission may be accomplished only when the Secretary and the Secretary of Public Safety
19 jointly agree to the inmate's request. When an inmate is admitted he shall be discharged in
20 accordance with the provisions of Part 2 of this Article except that an inmate who is ready for
21 discharge, but still under a term of incarceration, shall be discharged only to an official of the
22 Division of Adult Correction and Juvenile Justice of the Department of Public Safety. The
23 Division of Adult Correction and Juvenile Justice of the Department of Public Safety is
24 responsible for the security and cost of transporting inmates to and from facilities under the
25 provisions of this section.

26 **"§ 122C-313. Inmate becoming mentally ill and dangerous to himself or others.**

27 (a) An inmate who becomes mentally ill and dangerous to himself or others after
28 incarceration in any facility operated by the Division of Adult Correction and Juvenile Justice
29 of the Department of Public Safety in the State is processed in accordance with Part 7 of this
30 Article, as modified by this section, except when the provisions of Part 7 are manifestly
31 inappropriate. A staff psychiatrist or eligible psychologist of the correctional facility shall
32 execute the affidavit required by G.S. 122C-261 and send it to the clerk of superior court of the
33 county in which the correctional facility is located. Upon receipt of the affidavit, the clerk shall
34 calendar a district court hearing and notify the respondent and his counsel as required by
35 G.S. 122C-284(a). The hearing is conducted in a district courtroom. If the judge finds by clear,
36 cogent, and convincing evidence that the respondent is mentally ill and dangerous to himself or
37 others, he shall order him transferred for treatment to a State facility designated by the
38 Secretary. The judge shall not order outpatient commitment for an inmate-respondent.

39 ...

40 (c) If the sentence of an inmate-respondent has not expired, and if in the opinion of the
41 attending physician of the State facility an inmate-respondent ceases to be mentally ill and
42 dangerous to himself or others, he shall notify the Division of Adult Correction and Juvenile
43 Justice of the Department of Public Safety which shall arrange for the inmate-respondent's
44 return to a correctional facility.

45 ...

46 (e) The Division of Adult Correction and Juvenile Justice of the Department of Public
47 Safety is responsible for the security and cost of transporting inmates to and from State
48 facilities under the provisions of this section."

49 **SECTION 2.(qqqqq)** G.S. 122C-402 reads as rewritten:

50 **"§ 122C-402. Application of State highway and motor vehicle laws at State institutions on**
51 **Camp Butner reservation.**

1 The provisions of Chapter 20 of the General Statutes relating to the use of the highways of
2 the State and the operation of motor vehicles thereon are made applicable to the streets, alleys,
3 and driveways on the Camp Butner reservation that are on the grounds of any State facility or
4 any State institution operated by the Department or by the Division of Adult Correction and
5 Juvenile Justice of the Department of Public Safety. Any person violating any of the provisions
6 of Chapter 20 of the General Statutes in or on these streets, alleys, or driveways shall upon
7 conviction be punished as prescribed in that Chapter. This section does not interfere with the
8 ownership and control of the streets, alleys, and driveways on the grounds as is now vested by
9 law in the Department."

10 **SECTION 2.(rrrrr)** G.S. 122C-421(b) reads as rewritten:

11 "(b) These special police officers may exercise any and all of the powers enumerated in
12 this Part upon or in pursuit from the property formerly occupied by the Black Mountain Center
13 and transferred to the Division of Adult Correction and Juvenile Justice of the Department of
14 Public Safety by Senate Bill 388 and House Bill 709 of the 1985 Session of the General
15 Assembly. These special police officers shall exercise said powers upon the property
16 transferred to the Division of Adult Correction and Juvenile Justice of the Department of Public
17 Safety only by agreement of the Division of Adult Correction and Juvenile Justice of the
18 Department of Public Safety and the Department of Health and Human Services."

19 **SECTION 2.(sssss)** G.S. 126-5(c3) reads as rewritten:

20 "(c3) Except as to the policies, rules, and plans established by the Commission pursuant
21 to G.S. 126-4(5) and the provisions of Article 6 of this Chapter, the provisions of this Chapter
22 shall not apply to: Teaching and related educational classes of employees of the Division of
23 Adult Correction and Juvenile Justice of the Department of Public Safety, the Department of
24 Health and Human Services, and any other State department, agency or institution, whose
25 salaries shall be set in the same manner as set for corresponding public school employees in
26 accordance with Chapter 115C of the General Statutes."

27 **SECTION 2.(ttttt)** G.S. 126-23 reads as rewritten:

28 **"§ 126-23. Certain records to be kept by State agencies open to inspection.**

29 ...

30 (d) Notwithstanding any other provision of this section, persons in the custody of, or
31 under the supervision of, the Division of Adult Correction and Juvenile Justice and persons in
32 the custody of local confinement facilities are not entitled to access to the records made public
33 under this section and are prohibited from obtaining those records, absent a court order
34 authorizing access to, or custody, or possession.

35 (e) An attorney investigating allegations of unlawful misconduct or abuse by a Division
36 of Adult Correction and Juvenile Justice employee may request, and shall be provided with,
37 information sufficient to identify the full name or names of the employee alleged to be involved
38 in the misconduct or abuse in the current position of the employee within the Division; or, the
39 last position held by the employee and the last date of employment by the Division. The
40 attorney may not give the offender copies of departmental records or official documents absent
41 a court order authorizing access to, or custody, or possession."

42 **SECTION 2.(uuuuu)** G.S. 127A-54(c) reads as rewritten:

43 "(c) Any defendant whose sentence by a military court includes confinement shall be
44 placed into the custody of the Division of Adult Correction and Juvenile Justice of the
45 Department of Public Safety. The Division of Adult Correction of the Department of Public
46 Safety is authorized to transfer physical custody of the defendant to a local confinement
47 facility."

48 **SECTION 2.(vvvvv)** G.S. 130A-25(b) reads as rewritten:

49 "(b) A person convicted under this section for violation of G.S. 130A-144(f) or
50 G.S. 130A-145 shall not be sentenced under Article 81B of Chapter 15A of the General
51 Statutes but shall instead be sentenced to a term of imprisonment of no more than two years

1 and shall serve any prison sentence in McCain Hospital, Section of Prisons of the Division of
2 Adult Correction, McCain, North Carolina; the North Carolina Correctional Center for Women,
3 Section of Prisons of the Division of Adult ~~Correction~~, Correction and Juvenile Justice, Raleigh,
4 North Carolina; or any other confinement facility designated for this purpose by the Secretary
5 of Public Safety after consultation with the State Health Director. The Secretary of Public
6 Safety shall consult with the State Health Director concerning the medical management of
7 these persons."

8 **SECTION 2.(wwwww)** G.S. 131E-98 reads as rewritten:

9 **"§ 131E-98. Inmate medical records.**

10 Notwithstanding any other provision of law, a hospital does not breach patient
11 confidentiality by providing the Division of Adult Correction and Juvenile Justice of the
12 Department of Public Safety with the medical records of inmates who receive medical
13 treatment at the hospital while in the custody of the Division. A hospital complying with a
14 request from the Division of Adult Correction and Juvenile Justice of the Department of Public
15 Safety or its agent for a copy of the medical records of an inmate who received medical
16 services while in custody shall be immune from liability in any civil action for the release of
17 the inmate's medical record."

18 **SECTION 2.(xxxxx)** G.S. 131E-184(d) reads as rewritten:

19 "(d) In accordance with, and subject to the limitations of G.S. 148-19.1, the Department
20 shall exempt from certificate of need review the construction and operation of a new chemical
21 dependency or substance abuse facility for the purpose of providing inpatient chemical
22 dependency or substance abuse services solely to inmates of the Division of Adult Correction
23 and Juvenile Justice of the Department of Public Safety. If an inpatient chemical dependency or
24 substance abuse facility provides services both to inmates of the Division of Adult Correction
25 and Juvenile Justice of the Department of Public Safety and to members of the general public,
26 only the portion of the facility that serves inmates shall be exempt from certificate of need
27 review."

28 **SECTION 2.(yyyyy)** G.S. 131E-214.1 reads as rewritten:

29 **"§ 131E-214.1. Definitions.**

30 As used in this Article:

31 ...

32 (3) "Hospital" means a facility licensed under Article 5 of this Chapter or
33 Article 2 of Chapter 122C of the General Statutes, but does not include the
34 following:

- 35 a. A facility with all of its beds designated for medical type "LTC"
36 (long-term care).
- 37 b. A facility with the majority of its beds designated for medical type
38 "PSY-3" (mental retardation).
- 39 c. A facility operated by the Division of Adult Correction and Juvenile
40 Justice of the Department of Public Safety.

41"

42 **SECTION 2.(zzzzz)** G.S. 143-63.1(d) reads as rewritten:

43 "(d) Notwithstanding the provisions of this section, but subject to the provisions of
44 G.S. 20-187.2, the North Carolina State Highway Patrol, the North Carolina Division of Adult
45 Correction and Juvenile Justice of the Department of Public Safety, and the North Carolina
46 State Bureau of Investigation may sell, trade, or otherwise dispose of any or all surplus
47 weapons they possess to any federally licensed firearm dealers. The sale, trade, or disposal of
48 these weapons shall be in a manner prescribed by the Department of Administration. Any
49 moneys or property obtained from the sale, trade, or disposal shall go to the general fund."

50 **SECTION 2.(aaaaaa)** G.S. 143-138(g) reads as rewritten:

"(g) Publication and Distribution of Code. – The Building Code Council shall cause to be printed, after adoption by the Council, the North Carolina State Building Code and each amendment thereto. It shall, at the State's expense, distribute copies of the Code and each amendment to State and local governmental officials, departments, agencies, and educational institutions, as is set out in the table below. (Those marked by an asterisk will receive copies only on written request to the Council.)

OFFICIAL OR AGENCY

NUMBER OF COPIES

State Departments and Officials

Governor	1
Lieutenant Governor	1
Auditor	1
Treasurer	1
Secretary of State	1
Superintendent of Public Instruction.....	1
Attorney General (Library)	1
Commissioner of Agriculture.....	1
Commissioner of Labor.....	1
Commissioner of Insurance	1
Department of Environmental Quality.....	1
Department of Health and Human Services.....	1
Division of <u>Adult Correction and Juvenile Justice</u> of the	
Department of Public Safety	1
Board of Transportation	1
Utilities Commission.....	1
Department of Administration	1
Clerk of the Supreme Court	1
Clerk of the Court of Appeals	1
Department of Natural and Cultural Resources [State Library]	1
Supreme Court Library	1
Legislative Library	1
Office of Administrative Hearings.....	1
Rules Review Commission	1

Schools

All state-supported colleges and universities	
in the State of North Carolina.....	*1 each

Local Officials

Clerks of the Superior Courts.....	1 each
Chief Building Inspector of each incorporated	
municipality or county	1

In addition, the Building Code Council shall make additional copies available at such price as it shall deem reasonable to members of the general public. The proceeds from sales of the Building Code shall be credited to the Insurance Regulatory Fund under G.S. 58-6-25."

SECTION 2.(bbbbbb) G.S. 143-166.2(d) reads as rewritten:

"(d) The term "law-enforcement officer", "officer", or "firefighter" shall mean a sheriff and all law-enforcement officers employed full-time, permanent part-time, or temporarily by a sheriff, the State of North Carolina or any county or municipality thereof, whether paid or unpaid; and all full-time custodial employees and probation and parole officers of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety; and all full time institutional and full-time, permanent part-time, and temporary detention employees of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and full-time, permanent part-time, and temporary detention

1 officers employed by any sheriff, county or municipality, whether paid or unpaid. The term
2 "firemen" shall mean both firefighter or firemen as defined in G.S. 58-84-5(3a), or "eligible
3 firemen" as defined in Article 86 of Chapter 58 of the General Statutes, notwithstanding any
4 age requirements set out in that Article, and all full-time, permanent part-time and temporary
5 employees of the North Carolina Forest Service of the Department of Agriculture and
6 Consumer Services during the time they are actively engaged in firefighting activities; or
7 engaged in emergency response activities pursuant to G.S. 166A-19.77; and shall mean all
8 full-time employees of the North Carolina Department of Insurance during the time they are
9 actively engaged in firefighting activities, during the time they are training firefighters or
10 rescue squad workers, and during the time they are engaged in activities as members of the
11 State Emergency Response Team, when the Team has been activated; and shall mean all
12 otherwise eligible persons who, while actively engaged as firefighters or rescue squad workers,
13 are acting in the capacity of a fire or rescue instructor outside their own department or squad.
14 The term "rescue squad worker" shall mean a person who is dedicated to the purpose of
15 alleviating human suffering and assisting anyone who is in difficulty or who is injured or
16 becomes suddenly ill by providing the proper and efficient care or emergency medical services.
17 In addition, this person must belong to an organized rescue squad which is eligible for
18 membership in the North Carolina Association of Rescue and Emergency Medical Services,
19 Inc., and the person must have attended a minimum of 36 hours of training in the last calendar
20 year. Each rescue squad belonging to the North Carolina Association of Rescue and Emergency
21 Medical Services, Inc., must file a roster of those members meeting the above requirements
22 with the State Treasurer on or about January 31 of each year, and this roster must be certified to
23 by the secretary of said association. In addition, the term "rescue squad worker" shall mean a
24 member of an ambulance service certified by the Department of Health and Human Services
25 pursuant to Article 7 of Chapter 131E of the General Statutes. The Department of Health and
26 Human Services shall furnish a list of ambulance service members to the State Treasurer on or
27 about January 31 of each year. The term "Civil Air Patrol members" shall mean those senior
28 members of the North Carolina Wing-Civil Air Patrol 18 years of age or older and currently
29 certified pursuant to G.S. 143B-1031. The term "firefighter" shall also mean county fire
30 marshals when engaged in the performance of their county duties. The term "rescue squad
31 worker" shall also mean county emergency services coordinators when engaged in the
32 performance of their county duties."

33 **SECTION 2.(cccccc)** G.S. 143-166.13 reads as rewritten:

34 **"§ 143-166.13. Persons entitled to benefits under Article.**

35 (a) The following persons who are subject to the Criminal Justice Training and
36 Standards Act are entitled to benefits under this Article:

- 37 (1) State Government Security Officers, Department of Administration;
- 38 (2) State Correctional Officers, Division of Adult Correction and Juvenile
39 Justice of the Department of Public Safety;
- 40 (3) State Probation and Parole Officers, Division of Adult Correction and
41 Juvenile Justice of the Department of Public Safety;
- 42 (4) Sworn State Law-Enforcement Officers with the power of arrest, Division of
43 Adult Correction and Juvenile Justice of the Department of Public Safety;
- 44 (5) Sworn Law Enforcement Officers in the Medicaid Fraud Unit of the
45 Department of Justice;
- 46 (6) State Highway Patrol Officers, Department of Public Safety;
- 47 (7) General Assembly Special Police, General Assembly;
- 48 (8) Sworn State Law-Enforcement Officers with the power of arrest,
49 Department of Health and Human Services;
- 50 (9) Juvenile Justice Officers, Juvenile Justice Section of the Division of Adult
51 Correction and Juvenile Justice of the Department of Public Safety;

- (10) Insurance Investigators, Department of Insurance;
- (11) State Bureau of Investigation Officers and Alcohol Law Enforcement Agents, Department of Public Safety;
- (12) Director and Assistant Director, License and Theft Enforcement Section, Division of Motor Vehicles, Department of Transportation;
- (13) Members of License and Theft Enforcement Section, Division of Motor Vehicles, Department of Transportation, designated by the Commissioner of Motor Vehicles as either "inspectors" or uniformed weigh station personnel;
- (14) Utilities Commission Transportation Inspectors and Special Investigators;
- (15) North Carolina Ports Authority Police, Department of Transportation;
- (16) Sworn State Law-Enforcement Officers with the power of arrest, Department of Environmental Quality;
- (17) Sworn State Law-Enforcement Officers with the power of arrest, Department of Public Safety.
- (18) Sworn State Law-Enforcement Officers with the power of arrest, Department of Revenue.
- (19) Sworn State Law-Enforcement Officers with the power of arrest, University System.
- (20) Sworn State Law-Enforcement Officers with the power of arrest, Department of Agriculture and Consumer Services.
- (b) The following persons are entitled to benefits under this Article regardless of whether they are subject to the Criminal Justice Training and Standards Act:
- (1) Driver License Examiners injured by accident arising out of and in the course of giving a road test, Division of Motor Vehicles, Department of Transportation;
- (2) Employees of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety injured by a direct and deliberate act of an offender supervised by the Division or while performing supervisory duties over offenders which place the employees at risk of such injury.

...."

SECTION 2.(ddddd) G.S. 143-300.7 reads as rewritten:

"§ 143-300.7. Defense of medical contractors.

Notwithstanding any other provisions of this Article, any person or professional association who at the request of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety provides medical and dental services to inmates in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and who is sued pursuant to the Federal Civil Rights Act of 1871 may be defended by the Attorney General and shall be protected from liability for violations of civil rights in accordance with the provisions of this Article."

SECTION 2.(eeeeee) G.S. 143-599 reads as rewritten:

"§ 143-599. Exemptions.

All of the following facilities shall be exempt from the provisions of this Article:

...

- (9) State correctional facilities operated by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

...."

SECTION 2.(fffff) G.S. 143B-1391(b) reads as rewritten:

"(b) The Board shall consist of 21 members, appointed as follows:

- (1) Five members appointed by the Governor, including one member who is a director or employee of a State correction agency for a term to begin September 1, 1996 and to expire on June 30, 1997, one member who is an

employee of the North Carolina Department of Public Safety for a term beginning September 1, 1996 and to expire on June 30, 1997, one member selected from the North Carolina Association of Chiefs of Police for a term to begin September 1, 1996 and to expire on June 30, 1999, one member who is an employee of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, and one member who represents the Division of Motor Vehicles.

...."

SECTION 2.(gggggg) G.S. 143B-152.14 reads as rewritten:

"§ 143B-152.14. Cooperation of State and local agencies.

All agencies of the State and local government, including the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, departments of social services, health departments, local mental health, mental retardation, and substance abuse authorities, court personnel, law enforcement agencies, The University of North Carolina, the community college system, and cities and counties, shall cooperate with the Department of Health and Human Services, and local nonprofit corporations that receive grants in coordinating the program at the State level and in implementing the program at the local level. The Secretary of Health and Human Services, after consultation with the Superintendent of Public Instruction, shall develop a plan for ensuring the cooperation of State agencies and local agencies and encouraging the cooperation of private entities, especially those receiving State funds, in the coordination and implementation of the program."

SECTION 2.(hhhhhh) G.S. 143B-153(2) reads as rewritten:

"(2) The Social Services Commission shall have the power and duty to establish standards and adopt rules and regulations:

...

c. For the placement and supervision of dependent juveniles and of delinquent juveniles who are placed in the custody of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, and payment of necessary costs of foster home care for needy and homeless children as provided by G.S. 108A-48;

...."

SECTION 2.(iiiiii) G.S. 143B-179(a) reads as rewritten:

"(a) The Council on Developmental Disabilities of the Department of Health and Human Services shall consist of 32 members appointed by the Governor. The composition of the Council shall be as follows:

(1) Eleven members from the General Assembly and State government agencies as follows: One person who is a member of the Senate, one person who is a member of the House of Representatives, one representative of the Department of Public Instruction, one representative of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, and seven representatives of the Department of Health and Human Services to include the Secretary or his designee.

...."

SECTION 2.(jjjjjj) G.S. 143B-935 reads as rewritten:

"§ 143B-935. Criminal history record checks of employees of and applicants for employment with the Department of Health and Human Services, and the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

(a) Definitions. – As used in this section, the term:

(1) "Covered person" means any of the following:

- 1 a. An applicant for employment or a current employee in a position in
2 the Juvenile Justice Section of the Division of Adult Correction and
3 Juvenile Justice of the Department of Public Safety who provides
4 direct care for a client, patient, student, resident or ward of the
5 Division.
6 b. A person who supervises positions in the Juvenile Justice Section of
7 the Division of Adult Correction and Juvenile Justice of the
8 Department of Public Safety providing direct care for a client,
9 patient, student, resident or ward of the Division.
10 ...
11 f. An independent contractor or an employee of an independent
12 contractor who has contracted with the Juvenile Justice Section of the
13 Division of Adult Correction and Juvenile Justice of the Department
14 of Public Safety to provide direct care for a client, patient, student,
15 resident, or ward of the Division.
16 g. A person who has been approved to perform volunteer services in or
17 for the Juvenile Justice Section of the Division of Adult Correction
18 and Juvenile Justice of the Department of Public Safety to provide
19 direct care for a client, patient, student, resident, or ward of the
20 Division.

21 ...

22 (b) When requested by the Department of Health and Human Services or the Juvenile
23 Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of
24 Public Safety, the North Carolina Department of Public Safety may provide to the requesting
25 department or division a covered person's criminal history from the State Repository of
26 Criminal Histories. Such requests shall not be due to a person's age, sex, race, color, national
27 origin, religion, creed, political affiliation, or handicapping condition as defined by
28 G.S. 168A-3. For requests for a State criminal history record check only, the requesting
29 department or division shall provide to the Department of Public Safety a form consenting to
30 the check signed by the covered person to be checked and any additional information required
31 by the Department of Public Safety. National criminal record checks are authorized for covered
32 applicants who have not resided in the State of North Carolina during the past five years. For
33 national checks the Department of Health and Human Services or the Juvenile Justice Section
34 of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety
35 shall provide to the North Carolina Department of Public Safety the fingerprints of the covered
36 person to be checked, any additional information required by the Department of Public Safety,
37 and a form signed by the covered person to be checked consenting to the check of the criminal
38 record and to the use of fingerprints and other identifying information required by the State or
39 National Repositories. The fingerprints of the individual shall be forwarded to the State Bureau
40 of Investigation for a search of the State criminal history record file and the State Bureau of
41 Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a
42 national criminal history record check. The Department of Health and Human Services and the
43 Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the
44 Department of Public Safety shall keep all information pursuant to this section confidential.
45 The Department of Public Safety shall charge a reasonable fee for conducting the checks of the
46 criminal history records authorized by this section.

47 (c) All releases of criminal history information to the Department of Health and Human
48 Services or the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice
49 of the Department of Public Safety shall be subject to, and in compliance with, rules governing
50 the dissemination of criminal history record checks as adopted by the North Carolina
51 Department of Public Safety. All of the information either department receives through the

checking of the criminal history is privileged information and for the exclusive use of that department.

(d) If the covered person's verified criminal history record check reveals one or more convictions covered under subsection (a) of this section, then the conviction shall constitute just cause for not selecting the person for employment, or for dismissing the person from current employment with the Department of Health and Human Services or the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. The conviction shall not automatically prohibit employment; however, the following factors shall be considered by the Department of Health and Human Services or the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety in determining whether employment shall be denied:

- (1) The level and seriousness of the crime;
- (2) The date of the crime;
- (3) The age of the person at the time of the conviction;
- (4) The circumstances surrounding the commission of the crime, if known;
- (5) The nexus between the criminal conduct of the person and job duties of the person;
- (6) The prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed; and
- (7) The subsequent commission by the person of a crime listed in subsection (a) of this section.

(e) The Department of Health and Human Services and the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety may deny employment to or dismiss a covered person who refuses to consent to a criminal history record check or use of fingerprints or other identifying information required by the State or National Repositories of Criminal Histories. Any such refusal shall constitute just cause for the employment denial or the dismissal from employment.

(f) The Department of Health and Human Services and the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety may extend a conditional offer of employment pending the results of a criminal history record check authorized by this section."

SECTION 2.(kkkkkk) G.S. 143B-1100 reads as rewritten:

"§ 143B-1100. Governor's Crime Commission – creation; composition; terms; meetings, etc.

(a) There is hereby created the Governor's Crime Commission of the Department of Public Safety. The Commission shall consist of 37 voting members and five nonvoting members. The composition of the Commission shall be as follows:

- ...
- (2) The nonvoting members shall be the Director of the State Bureau of Investigation, the ~~Deputy Director~~Deputy Chief of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety who is responsible for Intervention/Prevention programs, the ~~Deputy Director~~Deputy Chief of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety who is responsible for Youth Development programs, the Section Chief of the Section of Prisons of the Division of Adult Correction and Juvenile Justice and the Section Chief of the Section of Community Corrections of the Division of Adult ~~Correction~~Correction and Juvenile Justice.

(b) The membership of the Commission shall be selected as follows:

(1) The following members shall serve by virtue of their office: the Governor, the Chief Justice of the Supreme Court, the Attorney General, the Director of the Administrative Office of the Courts, the Secretary of the Department of Health and Human Services, the Secretary of Public Safety, the Director of the State Bureau of Investigation, the Section Chief of the Section of Prisons of the Division of Adult ~~Correction~~, Correction and Juvenile Justice, the Section Chief of the Section of Community Corrections of the Division of Adult ~~Correction~~, Correction and Juvenile Justice, the ~~Deputy Director~~ Deputy Chief who is responsible for Intervention/Prevention of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, the ~~Deputy Director~~ Deputy Chief who is responsible for Youth Development of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, and the Superintendent of Public Instruction. Should the Chief Justice of the Supreme Court choose not to serve, his alternate shall be selected by the Governor from a list submitted by the Chief Justice which list must contain no less than three nominees from the membership of the Supreme Court.

...."

SECTION 2.(IIIIII) G.S. 143B-1104(c) reads as rewritten:

"(c) The Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall report to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety no later than March 1, 2006, and annually thereafter, on the results of the alternatives to commitment demonstration programs funded by Section 16.7 of S.L. 2004-124. The 2007 report and all annual reports thereafter shall also include projects funded by Section 16.11 of S.L. 2005-276 for the 2005-2006 fiscal year. Specifically, the report shall provide a detailed description of each of the demonstration programs, including the numbers of juveniles served, their adjudication status at the time of service, the services/treatments provided, the length of service, the total cost per juvenile, and the six- and 12-month recidivism rates for the juveniles after the termination of program services."

SECTION 2.(mmmmmm) G.S. 143B-1152 reads as rewritten:

"§ 143B-1152. Definitions.

The following definitions apply in this Subpart:

...

(2) Division. – The Division of Adult ~~Correction~~, Correction and Juvenile Justice.

...

(6a) Section. – The Section of Community Corrections of the Division of Adult ~~Correction~~, Correction and Juvenile Justice.

...."

SECTION 2.(nnnnnn) G.S. 143B-1154(b) reads as rewritten:

"(b) The priority populations for programs funded under this Subpart shall be as follows:

- (1) Offenders convicted of a felony or offenders sentenced under G.S. 90-96 conditional discharge for a felony offense.
- (2) Offenders identified by the Division of Adult Correction and Juvenile Justice using a validated risk assessment instrument to have a high likelihood of reoffending and a moderate to high need for substance abuse treatment."

SECTION 2.(oooooo) G.S. 143B-1155 reads as rewritten:

"§ 143B-1155. Duties of Division of Adult ~~Correction~~, Correction and Juvenile Justice.

1 (a) In addition to those otherwise provided by law, the Division of Adult Correction and
2 Juvenile Justice shall have the following duties:

- 3 (1) To enter into contractual agreements with eligible entities for the operation
4 of community-based corrections programs and monitor compliance with
5 those agreements.
- 6 (2) To develop the minimum program standards, policies, and rules for
7 community-based corrections programs and to consult with the Department
8 of Health and Human Services on those standards, policies, and rules that are
9 applicable to licensed and credentialed substance abuse services.
- 10 (3) To monitor, oversee, and evaluate contracted service providers.
- 11 (4) To act as an information clearinghouse regarding community-based
12 corrections programs.
- 13 (5) To collaborate with the Department of Health and Human Services on
14 focusing treatment resources on high-risk and moderate to high need
15 offenders on probation, parole, and post-release supervision.

16 (b) The Section of Community Corrections of the Division of Adult Correction and
17 Juvenile Justice shall develop and publish a recidivism reduction plan for the State that
18 accomplishes the following:

- 19 (1) Articulates a goal of reducing revocations among people on probation and
20 post-release supervision by twenty percent (20%) from the rate in the
21 2009-2010 fiscal year.
- 22 (2) Identifies the number of people on probation and post-release supervision in
23 each county that are in the priority population and have a likely need for
24 substance abuse and/or mental health treatment, employment, education,
25 and/or housing.
- 26 (3) Identifies the program models that research has shown to be effective at
27 reducing recidivism for the target population and ranks those programs
28 based on their cost-effectiveness.
- 29 (4) Propose a plan to fund the provision of the most cost-effective programs and
30 services across the State. The plan shall describe the number and types of
31 programs and/or services to be funded in each region of the State and how
32 that program capacity compares with the needs of the target population in
33 that region.

34 (c) The Department of Public Safety, Community Corrections Section, shall report by
35 March 1 of each year to the Chairs of the Senate and House of Representatives Appropriations
36 Subcommittees on Justice and Public Safety and the Joint Legislative Oversight Committee on
37 Justice and Public Safety on the status of the programs funded through the Treatment for
38 Effective Community Supervision Program. The report shall include the following information
39 from each of the following components:

- 40 (1) Recidivism Reduction Services:
 - 41 a. The method by which offenders are referred to the program.
 - 42 b. The target population.
 - 43 c. The amount of services contracted for and the amount of funding
44 expended in each fiscal year.
 - 45 d. The supervision type.
 - 46 e. The risk level of the offenders served.
 - 47 f. The number of successful and unsuccessful core service exits with a
48 breakdown of reasons for unsuccessful exits.
 - 49 g. The demographics of the population served.
 - 50 h. The number and kind of mandatory and optional services received by
51 offenders in this program.

- i. Employment status at entry and exit.
- j. Supervision outcomes, including completion, revocation, and termination.
- (2) Community Intervention Centers (CIC):
 - a. The target population.
 - b. The amount of funds contracted for and expended each fiscal year.
 - c. The supervision type.
 - d. The risk level of the offenders served.
 - e. The number of successful and unsuccessful core service exits with a breakdown of reasons for unsuccessful exits.
 - f. The demographics of the population served.
 - g. Supervision outcomes, including completion, revocation, and termination.
- (3) Transitional and Temporary Housing:
 - a. The target population.
 - b. The amount of funds contracted for and expended each fiscal year.
 - c. The supervision type.
 - d. The risk level of the offenders served.
 - e. The number of successful and unsuccessful core service exits with a breakdown of reasons for unsuccessful exits.
 - f. The demographics of the population served.
 - g. The employment status at entry and exit.
 - h. Supervision outcomes, including completion, revocation, and termination.
- (4) Local Reentry Councils (LRC):
 - a. The target population.
 - b. The amount of funds contracted for and expended each fiscal year.
 - c. The supervision type.
 - d. The risk level of the offenders served.
 - e. The number of successful and unsuccessful core service exits with a breakdown of reasons for unsuccessful exits.
 - f. The demographics of the population served.
 - g. The employment status at entry and exit including, wherever possible, the average wage received at entry and exit.
 - h. Supervision outcomes, including completion, revocation, and termination.
- (5) Intensive Outpatient Services. – If the Department enters into a contract for Intensive Outpatient Services, the Department of Public Safety shall report in the next fiscal year on this service including the following:
 - a. The target population.
 - b. The amount of funds contracted for and expended each fiscal year.
 - c. The supervision type.
 - d. The risk level of the offenders served.
 - e. The number of successful and unsuccessful core service exits with a breakdown of reasons for unsuccessful exits.
 - f. The demographics of the population served.
 - g. Supervision outcomes, including completion, revocation, and termination."

SECTION 2.(pppppp) G.S. 143B-1156 reads as rewritten:

"§ 143B-1156. Contract for services.

(a) The Division of Adult Correction and Juvenile Justice shall contract with service providers through a competitive procurement process to provide community-based services to offenders on probation, parole, or post-release supervision.

...

(c) The Division of Adult ~~Correction~~, Correction and Juvenile Justice, in partnership with the Department of Health and Human Services, shall develop standard service definitions and performance measures for substance abuse and aftercare support services for inclusion in the contracts.

...."

SECTION 2.(qqqqqq) G.S. 143B-1391(b)(1) reads as rewritten:

"(b) The Board shall consist of 21 members, appointed as follows:

- (1) Five members appointed by the Governor, including one member who is a director or employee of a State correction agency for a term to begin September 1, 1996 and to expire on June 30, 1997, one member who is an employee of the North Carolina Department of Public Safety for a term beginning September 1, 1996 and to expire on June 30, 1997, one member selected from the North Carolina Association of Chiefs of Police for a term to begin September 1, 1996 and to expire on June 30, 1999, one member who is an employee of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, and one member who represents the Division of Motor Vehicles."

SECTION 2.(rrrrrr) G.S. 146-33 reads as rewritten:

"§ 146-33. State agencies to locate and mark boundaries of lands.

Every State agency shall locate and identify, and shall mark and keep marked, the boundaries of all lands allocated to that agency or under its control. The Department of Administration shall locate and identify, and mark and keep marked, the boundaries of all State lands not allocated to or under the control of any other State agency. The chief administrative officer of every State agency is authorized to contract with the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for the furnishing, upon such conditions as may be agreed upon from time to time between the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and the chief administrative officer of that agency, of prison labor for use where feasible in the performance of these duties."

SECTION 2.(ssssss) G.S. 147-12(b) reads as rewritten:

"(b) The Department of Transportation, the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, the State Highway Patrol, the Wildlife Resources Commission, the Division of Parks and Recreation in the Department of Environment and Natural Resources, and the Division of Marine Fisheries in the Department of Environment and Natural Resources shall deliver to the Governor by February 1 of each year detailed information on the agency's litter enforcement, litter prevention, and litter removal efforts. The Administrative Office of the Courts shall deliver to the Governor, by February 1 of each year, detailed information on the enforcement of the littering laws of the State, including the number of charges and convictions under the littering laws of the State. The Governor shall gather the information submitted by the respective agencies and deliver a consolidated annual report, on or before March 1 of each year, to the Environmental Review Commission, the Joint Legislative Transportation Oversight Committee, and the House of Representatives and the Senate Appropriations Subcommittees on Natural and Economic Resources."

SECTION 2.(tttttt) G.S. 148-2 reads as rewritten:

"§ 148-2. Prison moneys and earnings.

(a) Persons authorized to collect or receive the moneys and earnings of the State prison system shall enter into bonds payable to the State of North Carolina in penal sums and with security approved by the Division of Adult Correction and Juvenile Justice of the Department

of Public Safety, conditioned upon the faithful performance by these persons of their duties in collecting, receiving, and paying over prison moneys and earnings to the State Treasurer. Only corporate security with sureties licensed to do business in North Carolina shall be accepted.

(b) Repealed by Session Laws 2007-280, s. 2, effective August 1, 2007.

(c) Notwithstanding G.S. 147-77, Article 6A of Chapter 147 of the General Statutes, or any other provision of law, the Division of Adult Correction and Juvenile Justice of the Department of Public Safety may deposit revenue from prison canteens in local banks. The profits from prison canteens shall be deposited with the State Treasurer on a monthly basis in a fund denominated as the Correction Inmate Welfare Fund. Once the operating budget for the Correction Inmate Welfare Fund has been met, an amount equal to the funds allocated to each prison unit on a per inmate per year basis shall be credited to the Crime Victims Compensation Fund established in ~~G.S. 15B-23~~ G.S. 15B-23G as soon as practicable after the total amount paid to each unit per inmate per year has been determined."

SECTION 2.(uuuuuu) G.S. 148-3 reads as rewritten:

"§ 148-3. Prison property.

(a) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall subject to the provisions of G.S. 143-341, have control and custody of all unexpended surplus highway funds previously allocated for prison purposes and all property of every kind and description now used by or considered a part of units of the State prison system, except vehicles used on a rental basis. The property coming within the provisions of this section shall be identified and agreed upon by the executive heads of the highway and prison systems, or by their duly authorized representatives. The Governor shall have final authority to decide whether or not particular property shall be transferred to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety in event the executive heads of the two systems are unable to agree.

(b) Property, both real and personal, deemed by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety to be necessary or convenient in the operation of the State prison system may, subject to the provisions of G.S. 143-341, be acquired by gift, devise, purchase, or lease. The Division of Adult Correction and Juvenile Justice of the Department of Public Safety may, subject to the provisions of G.S. 143-341, dispose of any prison property, either real or personal, or any interest or estate therein."

SECTION 2.(vvvvvv) G.S. 148-4 reads as rewritten:

"§ 148-4. Control and custody of prisoners; authorizing prisoner to leave place of confinement.

The Secretary of Public Safety shall have control and custody of all prisoners serving sentence in the State prison system, and such prisoners shall be subject to all the rules and regulations legally adopted for the government thereof. Any sentence to imprisonment in any unit of the State prison system, or to jail to be assigned to work under the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, shall be construed as a commitment, for such terms of imprisonment as the court may direct, to the custody of the Secretary of Public Safety or his authorized representative, who shall designate the places of confinement within the State prison system where the sentences of all such persons shall be served. The authorized agents of the Secretary shall have all the authority of peace officers for the purpose of transferring prisoners from place to place in the State as their duties might require and for apprehending, arresting, and returning to prison escaped prisoners, and may be commissioned by the Governor, either generally or specially, as special officers for returning escaped prisoners or other fugitives from justice from outside the State, when such persons have been extradited or voluntarily surrendered. Employees of departments, institutions, agencies, and political subdivisions of the State hiring prisoners to perform work outside prison confines may be designated as the authorized agents of the Secretary of Public Safety for the purpose of maintaining control and custody of prisoners who may be placed under the

1 supervision and control of such employees, including guarding and transferring such prisoners
2 from place to place in the State as their duties might require, and apprehending and arresting
3 escaped prisoners and returning them to prison. The governing authorities of the State prison
4 system are authorized to determine by rules and regulations the manner of designating these
5 agents and placing prisoners under their supervision and control, which rules and regulations
6 shall be established in the same manner as other rules and regulations for the government of the
7 State prison system.

8 The Secretary of Public Safety may extend the limits of the place of confinement of a
9 prisoner, as to whom there is reasonable cause to believe he will honor his trust, by authorizing
10 him, under prescribed conditions, to leave the confines of that place unaccompanied by a
11 custodial agent for a prescribed period of time to

12"

13 **SECTION 2.(wwwww) G.S. 148-4.1 reads as rewritten:**

14 **"§ 148-4.1. Release of inmates.**

15 (a) Whenever the Secretary of Public Safety determines from data compiled by the
16 Division of Adult Correction and Juvenile Justice of the Department of Public Safety that it is
17 necessary to reduce the prison population to a more manageable level or to meet the State's
18 obligations under law, he shall direct the Post-Release Supervision and Parole Commission to
19 release on parole over a reasonable period of time a number of prisoners sufficient to that
20 purpose. From the time the Secretary directs the Post-Release Supervision and Parole
21 Commission until the prison population has been reduced to a more manageable level, the
22 Secretary may not accept any inmates ordered transferred from local confinement facilities to
23 the State prison system under G.S. 148-32.1(b). Further, the Secretary may return any inmate
24 housed in the State prison system under an order entered pursuant to G.S. 148-32.1(b) to the
25 local confinement facility from which the inmate was transferred. In order to meet the
26 requirements of this section, the Parole Commission shall not parole any person convicted
27 under Article 7A of Chapter 14 of a sex offense, under G.S. 14-39, 14-41, or 14-43.3, under
28 G.S. 90-95(h) of a drug trafficking offense, or under G.S. 14-17, or any other violent felon as
29 defined in subsection (a1) of this section. The Parole Commission may continue to consider the
30 suitability for release of such persons in accordance with the criteria set forth in Articles 85 and
31 85A of Chapter 15A.

32 (a1) Notwithstanding any other provision of this section, the Division of Adult
33 Correction and Juvenile Justice of the Department of Public Safety shall at all times secure the
34 necessary prison space to house any violent felon or habitual felon for the full active sentence
35 imposed by the court. For purposes of this subsection, the term "violent felon" means any
36 person convicted of the following felony offenses: first or second degree murder, voluntary
37 manslaughter, first or second degree rape, first or second degree sexual offense, any sexual
38 offense involving a minor, robbery, kidnapping, or assault, or attempting, soliciting, or
39 conspiring to commit any of those offenses.

40"

41 **SECTION 2.(xxxxxx) G.S. 148-6 reads as rewritten:**

42 **"§ 148-6. Custody, employment and hiring out of convicts.**

43 The Division of Adult Correction and Juvenile Justice of the Department of Public Safety
44 shall provide for receiving, and keeping in custody until discharged by law, all such convicts as
45 may be now confined in the prison and such as may be hereafter sentenced to imprisonment
46 therein by the several courts of this State. The Division shall have full power and authority to
47 provide for employment of such convicts, either in the prison or on farms leased or owned by
48 the State of North Carolina, or elsewhere, or otherwise; and may contract for the hire or
49 employment of any able-bodied convicts upon such terms as may be just and fair, but such
50 convicts so hired, or employed, shall remain under the actual management, control and care of
51 the Division."

1 **SECTION 2.(yyyyyy)** G.S. 148-10 reads as rewritten:

2 **"§ 148-10. Department of Environment and Natural Resources to supervise sanitary and**
3 **health conditions of prisoners.**

4 The Department of Environmental Quality shall have general supervision over the sanitary
5 and health conditions of the central prison, over the prison camps, or other places of
6 confinement of prisoners under the jurisdiction of the Division of Adult Correction and
7 Juvenile Justice of the Department of Public Safety, and shall make periodic examinations of
8 the same and report to the Division of Adult Correction and Juvenile Justice of the Department
9 of Public Safety the conditions found there with respect to the sanitary and hygienic care of
10 such prisoners."

11 **SECTION 2.(zzzzzz)** G.S. 148-10.1 reads as rewritten:

12 **"§ 148-10.1. Employment of clinical chaplains for inmates.**

13 The Division of Adult Correction and Juvenile Justice of the Department of Public Safety is
14 authorized and directed to employ clinical chaplains to provide moral, spiritual and social
15 counselling and ministerial services to inmates in the custody of the Secretary of Public Safety.
16 The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall
17 seek to employ a diversity of qualified persons having differing faiths which are to the extent
18 practicable reflective of the professed religious composition of the inmate population."

19 **SECTION 2.(aaaaaaa)** G.S. 148-10.2 reads as rewritten:

20 **"§ 148-10.2. Policy: Certain inmates not to contact family members of victims.**

21 (a) It shall be the policy of the Division of Adult Correction and Juvenile Justice of the
22 Department of Public Safety to prohibit death row inmates from contacting the surviving
23 family members of the victims without the written consent of the family members being
24 contacted. For purposes of this subsection, the term "contact" includes arranging for a third
25 party to forward communications from the inmate to the surviving family members of the
26 victim.

27 (b) At the request of the victim or a family member of the victim, the Division of Adult
28 Correction and Juvenile Justice of the Department of Public Safety shall prohibit an inmate
29 convicted of an offense listed in G.S. 15A-830(a)(7) from contacting the requesting party. For
30 purposes of this subsection, the term "contact" includes arranging for a third party to forward
31 communications from the inmate to the victim or family member.

32 (c) The Division of Adult Correction and Juvenile Justice of the Department of Public
33 Safety shall develop and impose sanctions against any inmate who violates the provisions of
34 this section."

35 **SECTION 2.(bbbbbbb)** G.S. 148-10.3 reads as rewritten:

36 **"§ 148-10.3. Electronic monitoring costs.**

37 Personnel, equipment, and other costs of providing electronic monitoring of pretrial or
38 sentenced offenders shall be reimbursed to the Division of Adult Correction and Juvenile
39 Justice of the Department of Public Safety by the State or local agency requesting the service in
40 an amount not exceeding the actual costs."

41 **SECTION 2.(ccccccc)** G.S. 148-10.4 reads as rewritten:

42 **"§ 148-10.4. Statewide Misdemeanant Confinement Fund.**

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

44 (1) Division. – Division of Adult Correction and Juvenile Justice of the
45 Department of Public Safety.

46 ...

47 (c) Statewide Misdemeanant Confinement Fund established. – There is created within
48 the Division of Adult Correction and Juvenile Justice a special nonreverting fund called the
49 Statewide Misdemeanant Confinement Fund.

50 (d) Fund Uses. – Moneys in the Fund may be used for the following:

- (1) Reimbursements by the Sheriffs' Association to counties for the costs of housing misdemeanants under the Program, including the care, supervision, and transportation of those misdemeanants.
- (2) Reimbursements to the Division of Adult Correction and Juvenile Justice for the cost of housing misdemeanants transferred to the Division pursuant to G.S. 148-32.1(b3), including the care, supervision, and transportation of those misdemeanants.
- (3) To pay the Sheriffs' Association for administrative and operating expenses pursuant to subsection (e) of this section.
- (4) To pay the Division of Adult Correction and Juvenile Justice for administrative and operating expenses pursuant to subsection (e) of this section.

...."

SECTION 2.(ddddd) G.S. 148-10.5 reads as rewritten:

"§ 148-10.5. Facilitation of reentry.

In order to facilitate successful reentry and improve judicial efficiency, the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall work with law enforcement, the district attorneys' offices, and the courts to develop a process by which, both at intake and before release, effort is made, for each inmate in custody, to identify all outstanding warrants on the inmate. The plan should seek to resolve inmates' outstanding warrants while in custody, whenever feasible. In the course of resolving an outstanding warrant while in custody, an inmate shall be notified of the outstanding warrant and his or her right to counsel if such a right exists."

SECTION 2.(eeeeee) G.S. 148-11(b) reads as rewritten:

"(b) The Secretary of Public Safety has sole authority to designate the uniforms worn by inmates confined in the Section of Prisons of the Division of Adult ~~Correction~~ Correction and Juvenile Justice."

SECTION 2.(fffff) G.S. 148-12(a) reads as rewritten:

"(a) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall, as soon as practicable, establish diagnostic centers to make social, medical, and psychological studies of persons committed to the Division. Full diagnostic studies shall be made before initial classification in cases where such studies have not been made."

SECTION 2.(gggggg) G.S. 148-18(a) reads as rewritten:

"(a) Prisoners employed by Correction Enterprises shall be compensated as set forth in Article 14 of this Chapter. Prisoners participating in work assignments established by the Section of Prisons of the Division of Adult Correction and Juvenile Justice shall be compensated at rates fixed by the Division of Adult Correction of the Department of Public Safety's rules and regulations; provided, that no prisoner so paid shall receive more than one dollar (\$1.00) per day, unless the Secretary determines that the work assignment requires special skills or training. Upon approval of the Secretary, inmates working in job assignments requiring special skills or training may be paid up to three dollars (\$3.00) per day. The Correction Enterprises Fund shall be the source of wages and allowances provided to inmates who are employed by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety in work assignments established by the Section of Prisons of the Division of Adult Correction."

SECTION 2.(hhhhhh) G.S. 148-18.1 reads as rewritten:

"§ 148-18.1. Confiscation of unauthorized articles.

Any item of personal property which a prisoner in any correctional facility is prohibited from possessing by State law or which is not authorized by rules adopted by the Secretary of Public Safety shall, when found in the possession of a prisoner, be confiscated and destroyed or otherwise disposed of as the Secretary may direct. Any unauthorized funds confiscated under

1 this section or funds from the sale of confiscated property shall be deposited to Inmate Welfare
2 Fund maintained by the Division of Adult Correction and Juvenile Justice of the Department of
3 Public Safety."

4 **SECTION 2.(iiiiii) G.S. 148-19 reads as rewritten:**

5 **"§ 148-19. Health services.**

6 (a) The general policies, rules and regulations of the Division of Adult Correction and
7 Juvenile Justice of the Department of Public Safety shall prescribe standards for health services
8 to prisoners, which shall include preventive, diagnostic, and therapeutic measures on both an
9 outpatient and a hospital basis, for all types of patients. A prisoner may be taken, when
10 necessary, to a medical facility outside the State prison system. The Division of Adult
11 Correction and Juvenile Justice of the Department of Public Safety shall seek the cooperation
12 of public and private agencies, institutions, officials and individuals in the development of
13 adequate health services to prisoners.

14 (b) Upon request of the Secretary of Public Safety, the Secretary of Health and Human
15 Services may detail personnel employed by the Department of Health and Human Services to
16 the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for
17 the purpose of supervising and furnishing medical, psychiatric, psychological, dental, and other
18 technical and scientific services to the Division of Adult Correction and Juvenile Justice of the
19 Department of Public Safety. The compensation, allowances, and expenses of the personnel
20 detailed under this section may be paid from applicable appropriations to the Department of
21 Health and Human Services, and reimbursed from applicable appropriations to the Division of
22 Adult Correction and Juvenile Justice of the Department of Public Safety. The Secretary of
23 Public Safety may make similar arrangements with any other agency of State government able
24 and willing to aid the Division of Adult Correction and Juvenile Justice of the Department of
25 Public Safety to meet the needs of prisoners for health services.

26 (c) Each prisoner committed to the Division of Adult Correction and Juvenile Justice of
27 the Department of Public Safety shall receive a physical and mental examination by a health
28 care professional authorized by the North Carolina Medical Board to perform such
29 examinations as soon as practicable after admission and before being assigned to work. The
30 prisoner's work and other assignments shall be made with due regard for the prisoner's physical
31 and mental condition.

32 (d) The Commission for Mental Health, Developmental Disabilities, and Substance
33 Abuse Services shall adopt standards for the delivery of mental health and mental retardation
34 services to inmates in the custody of the Division of Adult Correction and Juvenile Justice of
35 the Department of Public Safety. The Commission for Mental Health, Developmental
36 Disabilities, and Substance Abuse Services shall give the Secretary of Public Safety an
37 opportunity to review and comment on proposed standards prior to promulgation of such
38 standards; however, final authority to determine such standards remains with the Commission.
39 The Secretary of the Department of Health and Human Services shall designate an agency or
40 agencies within the Department of Health and Human Services to monitor the implementation
41 by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety of
42 these standards and of substance abuse standards adopted by the Division of Adult Correction
43 and Juvenile Justice of the Department of Public Safety."

44 **SECTION 2.(jjjjjj) G.S.148-19.1 reads as rewritten:**

45 **"§ 148-19.1. Exemption from licensure and certificate of need.**

46 (a) Inpatient chemical dependency or substance abuse facilities that provide services
47 exclusively to inmates of the Division of Adult Correction and Juvenile Justice of the
48 Department of Public Safety shall be exempt from licensure by the Department of Health and
49 Human Services under Chapter 122C of the General Statutes. If an inpatient chemical
50 dependency or substance abuse facility provides services both to inmates of the Division of

1 Adult Correction and Juvenile Justice of the Department of Public Safety and to members of
2 the general public, the portion of the facility that serves inmates shall be exempt from licensure.

3 (b) Any person who contracts to provide inpatient chemical dependency or substance
4 abuse services to inmates of the Division of Adult Correction and Juvenile Justice of the
5 Department of Public Safety may construct and operate a new chemical dependency or
6 substance abuse facility for that purpose without first obtaining a certificate of need from the
7 Department of Health and Human Services pursuant to Article 9 of Chapter 131E of the
8 General Statutes. However, a new facility or addition developed for that purpose without a
9 certificate of need shall not be licensed pursuant to Chapter 122C of the General Statutes and
10 shall not admit anyone other than inmates unless the owner or operator first obtains a certificate
11 of need."

12 **SECTION 2.(kkkkkkk) G.S. 148-19.2 reads as rewritten:**

13 **"§ 148-19.2. Mandatory HIV testing.**

14 Each person sentenced to imprisonment and committed to the custody of the Division of
15 Adult Correction and Juvenile Justice of the Department of Public Safety shall be tested to
16 determine whether the person is HIV positive.

17 Each inmate who has not previously tested positive for HIV shall also be tested:

- 18 (1) Not less than once every four years from the date of that inmate's initial
19 testing.
20 (2) Prior to the inmate's release from the custody of the Division of Adult
21 ~~Correction, Correction~~ and Juvenile Justice, except that testing is not
22 mandatory prior to the release of an inmate who has been tested within one
23 year of the inmate's release date.

24 In each case, the results of the test shall be reported to the inmate. If an inmate tests positive
25 for HIV, that inmate shall be referred to public health officials for counseling."

26 **SECTION 2.(lllllll) G.S. 148-22 reads as rewritten:**

27 **"§ 148-22. Treatment programs.**

28 (a) The general policies, rules and regulations of the Division of Adult Correction and
29 Juvenile Justice of the Department of Public Safety shall provide for humane treatment of
30 prisoners and for programs to effect their correction and return to the community as promptly
31 as practicable. Visits and correspondence between prisoners and approved friends shall be
32 authorized under reasonable conditions, and family members shall be permitted and encouraged
33 to maintain close contact with the prisoners unless such contacts prove to be hurtful. Casework,
34 counseling, and psychotherapy services provided to prisoners may be extended to include
35 members of the prisoner's family if practicable and necessary to achieve the purposes of such
36 programs. Education, library, recreation, and vocational training programs shall be developed
37 so as to coordinate with corresponding services and opportunities which will be available to the
38 prisoner when he is released. Programs may be established for the treatment and training of
39 mentally retarded prisoners and other special groups. These programs may be operated in
40 segregated sections of facilities housing other prisoners or in separate facilities.

41 (b) The Division of Adult Correction and Juvenile Justice of the Department of Public
42 Safety may cooperate with and seek the cooperation of public and private agencies, institutions,
43 officials, and individuals in the development and conduct of programs designed to give persons
44 committed to the Division opportunities for physical, mental and moral improvement. The
45 Division may enter into agreements with other agencies of federal, State or local government
46 and with private agencies to promote the most effective use of available resources.

47 Specifically the Secretary of Public Safety may enter into contracts or agreements with
48 appropriate public or private agencies offering needed services including health, mental health,
49 mental retardation, substance abuse, rehabilitative or training services for such inmates of the
50 Division of Adult Correction and Juvenile Justice of the Department of Public Safety as the
51 Secretary may deem eligible. These agencies shall be reimbursed from applicable

1 appropriations to the Division of Adult Correction and Juvenile Justice of the Department of
2 Public Safety for services rendered at a rate not to exceed that which such agencies normally
3 receive for serving their regular clients.

4 The Secretary may contract for the housing of work-release inmates at county jails and
5 local confinement facilities. Inmates may be placed in the care of such agencies but shall
6 remain the responsibility of the Division and shall be subject to the complete supervision of the
7 Division. The Division may reimburse such agencies for the support of such inmates at a rate
8 not in excess of the average daily cost of inmate care in the corrections unit to which the inmate
9 would otherwise be assigned."

10 **SECTION 2.(mmmmmmm)** G.S. 148-22.1 reads as rewritten:

11 **"§ 148-22.1. Educational facilities and programs for selected inmates.**

12 (a) The Division of Adult Correction and Juvenile Justice of the Department of Public
13 Safety is authorized to take advantage of aid available from any source in establishing facilities
14 and developing programs to provide inmates of the State prison system with such academic and
15 vocational and technical education as seems most likely to facilitate the rehabilitation of these
16 inmates and their return to free society with attitudes, knowledge, and skills that will improve
17 their prospects of becoming law-abiding and self-supporting citizens. The State Department of
18 Public Instruction is authorized to cooperate with the Division of Adult Correction and Juvenile
19 Justice of the Department of Public Safety in planning academic and vocational and technical
20 education of prison system inmates, but the State Department of Public Instruction is not
21 authorized to expend any funds in this connection.

22 (b) In expending funds that may be made available for facilities and programs to
23 provide inmates of the State prison system with academic and vocational and technical
24 education, the Division of Adult Correction and Juvenile Justice of the Department of Public
25 Safety shall give priority to meeting the needs of inmates who are less than 21 years of age
26 when received in the prison system with a sentence or sentences under which they will be held
27 for not less than six months nor more than five years before becoming eligible to be considered
28 for a parole or unconditional release. These inmates shall be given appropriate tests to
29 determine their educational needs and aptitudes. When the necessary arrangements can be
30 made, they shall receive such instruction as may be deemed practical and advisable for them.

31"

32 **SECTION 2.(nnnnnnn)** G.S. 148-23 reads as rewritten:

33 **"§ 148-23. Prison employees not to use intoxicants, narcotic drugs or profanity.**

34 No one addicted to the use of alcoholic beverages, or narcotic drugs, shall be employed as
35 superintendent, warden, guard, or in any other position connected with the Division of Adult
36 Correction and Juvenile Justice of the Department of Public Safety, where such position
37 requires the incumbent to have any charge or direction of the prisoners; and anyone holding
38 such position, or anyone who may be employed in any other capacity in the State prison
39 system, who shall come under the influence of alcoholic beverages during hours of
40 employment, or reports for duty under the effect of intoxicants, or narcotic drugs, or who shall
41 become intoxicated, or uses narcotic drugs, under circumstances that bring discredit on the
42 Division of Adult Correction and Juvenile Justice of the Department of Public Safety, shall be
43 subject to immediate dismissal from employment by any of the institutions and shall not be
44 eligible for reinstatement to such position or be employed in any other position in any of the
45 institutions. Any superintendent, warden, correctional officer, supervisor, or other person
46 holding any position in the Division of Adult Correction and Juvenile Justice of the Department
47 of Public Safety who curses a prisoner under his charge shall be subject to immediate dismissal
48 from employment and shall not be eligible for reinstatement."

49 **SECTION 2.(ooooooo)** G.S. 148-23.1 reads as rewritten:

50 **"§ 148-23.1. Tobacco products prohibited on State correctional facilities premises.**

(a) The General Assembly finds that in order to protect the health, welfare, and comfort of inmates in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and to reduce the costs of inmate health care, it is necessary to prohibit inmates from using tobacco products on the premises of State correctional facilities and to ensure that employees and visitors do not use tobacco products on the premises of those facilities.

(b) No person may use tobacco products on the premises of a State correctional facility, except for authorized religious purposes. Notwithstanding any other provision of law, inmates in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and persons facilitating religious observances may use and possess tobacco products for religious purposes consistent with the policies of the Division.

(b1) Except as provided in subsection (b) of this section, no person may possess tobacco products on the premises of a State correctional facility. Notwithstanding the provisions of this subsection, an employee or visitor may possess tobacco products within the confines of a motor vehicle located in a designated parking area of a correctional facility's premises if the tobacco product remains in the vehicle and the vehicle is locked when the employee or visitor has exited the vehicle.

(c) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety may adopt rules to implement the provisions of this section. Inmates in violation of this section are subject to disciplinary measures to be determined by the Division, including the potential loss of sentence credits earned prior to that violation. Employees in violation of this section are subject to disciplinary action by the Division. Visitors in violation of this section are subject to removal from the facility and loss of visitation privileges.

(d) As used in this section, the following terms mean:

- (1) State correctional facility. – All buildings and grounds of a State correctional institution operated by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.
- (2) Tobacco products. – Cigars, cigarettes, snuff, loose tobacco, or similar goods made with any part of the tobacco plant that are prepared or used for smoking, chewing, dipping, or other personal use.
- (3) Vapor products. – Nonlighted, noncombustible products that employ a mechanical heating element, battery, or electronic circuit regardless of shape or size and that can be used to heat a liquid nicotine solution contained in a vapor cartridge. The term includes electronic cigarettes, electronic cigars, electronic cigarillos, and electronic pipes. The term does not include any product regulated by the United States Food and Drug Administration under Chapter V of the federal Food, Drug, and Cosmetic Act."

SECTION 2.(ppppppp) G.S. 148-23.2 reads as rewritten:

"§ 148-23.2. Mobile phones prohibited on State correctional facilities premises.

Except as authorized by Division of Adult Correction and Juvenile Justice of the Department of Public Safety policy, no person shall possess a mobile telephone or other wireless communications device on the premises of a State correctional facility. Notwithstanding the provisions of this section, an employee or visitor may possess a mobile telephone or other wireless communications device within the confines of a motor vehicle located in a designated parking area of a correctional facility's premises if the mobile telephone or other wireless communications device remains in the vehicle and the vehicle is locked when the employee or visitor has exited the vehicle."

SECTION 2.(qqqqqqq) G.S. 148-24 reads as rewritten:

"§ 148-24. Religious services.

The general policies, rules and regulations of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall provide for religious services to be held in all

1 units of the State prison system on Sunday and at such other times as may be deemed
2 appropriate. Attendance of prisoners at religious services shall be voluntary. The Secretary of
3 Public Safety shall if possible secure the visits of some minister at the prison hospitals to
4 administer to the spiritual wants of the sick."

5 **SECTION 2.(rrrrrrr) G.S. 148-26 reads as rewritten:**

6 **"§ 148-26. State policy on employment of prisoners.**

7 ...

8 (b) As many minimum custody prisoners as are available and fit for road work, who
9 cannot appropriately be placed on work release, study release, or other full-time programs, and
10 as many medium custody prisoners as are available, fit for road work and can be adequately
11 guarded during such work without reducing security levels at prison units, shall be employed in
12 the maintenance and construction of public roads of the State. The number and location of
13 prisoners to be kept available for work on the public roads shall be agreed upon by the
14 governing authorities of the Department of Transportation and the Division of Adult Correction
15 and Juvenile Justice of the Department of Public Safety far enough in advance of each budget
16 to permit proper provisions to be made in the request for appropriations submitted by the
17 Department of Transportation. Any dispute between the Departments will be resolved by the
18 Governor. Prisoners so employed shall be compensated, at rates fixed by the Division of Adult
19 Correction and Juvenile Justice of the Department of Public Safety's rules and regulations for
20 work performed; provided, that no prisoner working on the public roads under the provisions of
21 this section shall be paid more than one dollar (\$1.00) per day from funds provided by the
22 Department of Transportation to the Division of Adult Correction and Juvenile Justice of the
23 Department of Public Safety for this purpose. The Division of Adult Correction and Juvenile
24 Justice of the Department of Public Safety and the Department of Transportation shall develop
25 a program to be implemented no later than July 1, 1982, to the extent money is herein
26 appropriated, which shall include:

27 (1) The use of portable toilets for inmate road crews.

28 (c) As many of the male prisoners available and fit for forestry work shall be employed
29 in the development and improvement of state-owned forests as can be used for this purpose by
30 the agencies controlling these forests.

31 (d) The remainder of the able-bodied inmates of the State prison system shall be
32 employed so far as practicable in prison industries and agriculture, giving preference to the
33 production of food supplies and other articles needed by state-supported institutions or
34 activities.

35 (e) The Division of Adult Correction and Juvenile Justice of the Department of Public
36 Safety may make such contracts with departments, institutions, agencies, and political
37 subdivisions of the State for the hire of prisoners to perform other appropriate work as will help
38 to make the prisons as nearly self-supporting as is consistent with the purposes of their creation.
39 The Division of Adult Correction and Juvenile Justice of the Department of Public Safety may
40 contract with any person or any group of persons for the hire of prisoners for forestry work, soil
41 erosion control, water conservation, hurricane damage prevention, or any similar work certified
42 by the Secretary of Environment and Natural Resources as beneficial in the conservation of the
43 natural resources of this State. All contracts for the employment of prisoners shall provide that
44 they shall be fed, clothed, quartered, guarded, and otherwise cared for by the Division of Adult
45 Correction and Juvenile Justice of the Department of Public Safety. Such work may include but
46 is not limited to work with State or local government agencies in cleaning, construction,
47 landscaping and maintenance of roads, parks, nature trails, bikeways, cemeteries, landfills or
48 other government-owned or operated facilities.

49 (e1) The Division of Adult Correction and Juvenile Justice of the Department of Public
50 Safety may establish work assignments for inmates or allow inmates to volunteer in service
51 projects that benefit units of State or local government or 501(c)(3) entities that serve the

citizens of this State. The work assignments may include the use of inmate labor and the use of Division of Adult Correction and Juvenile Justice of the Department of Public Safety resources in the production of finished goods. Any products made pursuant to this section shall not be subject to the provisions of Article 3A of Chapter 143 of the General Statutes and may be donated to the government unit or 501(c)(3) organization at no cost.

(f) Adult inmates of the State prison system shall be prohibited from working at or being on the premises of any schools or institutions operated or administered by the Youth Development Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety unless a complete sight and sound barrier is erected and maintained during the course of the labor performed by the adult inmates.

(g) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall establish rules, standards, and procedures for establishing inmate labor services contracts with any county or municipality expressing interest in contracting for inmate labor."

SECTION 2.(ssssss) G.S. 148-26.5 reads as rewritten:

"§ 148-26.5. Pay and time allowances for work.

The provisions of G.S. 148-18 and 148-13 shall be applicable to inmate work on local or State public work projects contracted for by the Secretary of Public Safety as provided by G.S. 148-26 through 148-26.4. Travel, cost of inmate wages and custodial supervision expenses incurred by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and arising out of a local or State public work project shall be reimbursed on a cost basis to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety by the local or State contracting agency."

SECTION 2.(tttttt) G.S. 148-28 reads as rewritten:

"§ 148-28. Sentencing prisoners to Central Prison; youthful offenders.

When a sentenced offender is to be taken to the Central Prison at Raleigh, a sheriff or other appropriate officer of the county shall cause such prisoner to be delivered with the proper commitment papers to the warden of the Central Prison. A person under 16 years of age convicted of a felony shall not be imprisoned in the Central Prison at Raleigh unless:

(1) The person was convicted of a capital felony; or

(2) He has previously been imprisoned in a county jail or under the authority of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety upon conviction of a felony.

This provision shall not limit the authority of the Secretary of Public Safety from transferring a person under 16 years of age to Central Prison when in the Secretary's determination this person would not benefit from confinement in separate facilities for youthful offenders or when it has been determined that his presence would be detrimental to the implementation of programs designed for the benefit of other youthful offenders. Nor shall this provision limit the authority of the judges of the superior courts of this State or the Secretary of Public Safety from committing or transferring a person under 16 years of age to Central Prison for medical or psychiatric treatment."

SECTION 2.(uuuuuu) G.S. 148-29 reads as rewritten:

"§ 148-29. Transportation of convicts to prison; reimbursement to counties; sheriff's expense affidavit.

(a) The sheriff having in charge any prisoner to be taken to the State prison system shall send the prisoner to the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety after sentencing and the disposal of all pending charges against the prisoner, if no appeal has been taken. Beginning on the day after the Section of Prisons of the Division of Adult Correction and Juvenile Justice has been notified by the sheriff that a prisoner is ready for transfer and the Division has informed the sheriff that bedspace is not available for that prisoner, and continuing through the day the prisoner is received by the Section of Prisons of the Division of Adult ~~Correction~~, Correction and Juvenile Justice, the

Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall pay the county:

- (1) A standard sum set by the General Assembly in its appropriations acts for the cost of providing food, clothing, personal items, supervision, and necessary ordinary medical services to the prisoner awaiting transfer to the State prison system; and
- (2) Extraordinary medical costs, as defined in G.S. 148-32.1(a), incurred by prisoners awaiting transfer to the State prison system.

If the Section of Prisons of the Division of Adult Correction and Juvenile Justice determines that bedspace is not available for a prisoner after the sheriff has notified the Division that the prisoner is ready for transfer, reimbursement under this subsection shall be made beginning on the day after the sheriff gave the notification.

(b) The sheriff having in charge any parolee or post-release supervisee to be taken to the State prison system shall send the prisoner to the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety after preliminary hearing held under G.S. 15A-1368.6(b) or G.S. 15A-1376(b). Beginning on the day after the Section of Prisons of the Division of Adult Correction and Juvenile Justice has been notified by the sheriff that a prisoner is ready for transfer and the Division has informed the sheriff that bedspace is not available for that prisoner, and continuing through the day the prisoner is received by the Section of Prisons of the Division of Adult ~~Correction~~, Correction and Juvenile Justice, the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall pay the county:

- (1) A standard sum set by the General Assembly in its appropriations acts for the cost of providing food, clothing, personal items, supervision, and necessary ordinary medical services to the parolee or post-release supervisee awaiting transfer to the State prison system; and
- (2) Extraordinary medical costs, as defined in G.S. 148-32.1(a), incurred by parolees or post-release supervisees awaiting transfer to the State prison system.

If the Section of Prisons of the Division of Adult Correction and Juvenile Justice determines that bedspace is not available for a prisoner after the sheriff has notified the Division that the prisoner is ready for transfer, reimbursement under this subsection shall be made beginning on the day after the sheriff gave the notification.

(c) The sheriff shall file with the board of commissioners of his county a copy of his affidavit as to necessary guard, together with a copy of his itemized account of expenses, both certified to by him as true copies of those on file in his office."

SECTION 2.(vvvvvvv) G.S. 148-32.1 reads as rewritten:

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

(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 and Juvenile Justice of the Department of Public Safety as designated by the Division of Adult ~~Correction~~ Correction and Juvenile Justice. 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~~ Correction and Juvenile Justice.

(b1) It is the intent of the General Assembly to authorize the Division of Adult Correction and Juvenile Justice to enter into voluntary agreements with counties to provide housing for misdemeanants serving periods of confinement of more than 90 days and for all sentences imposed for impaired driving under G.S. 20-138.1, regardless of length. It is further the intent of the General Assembly that the Division of Adult ~~Correction~~ Correction and Juvenile Justice, 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 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 and Juvenile Justice 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 appropriated for the Statewide Misdemeanant Confinement Program 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 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 and Juvenile Justice to do so.

(b3) The custodian of a local confinement facility may request a judicial order to transfer a misdemeanor housed pursuant to the Statewide Misdemeanant Confinement Program to a facility operated by the Division of Adult Correction and Juvenile Justice by certifying in writing to the clerk of the superior court in the county in which the local confinement facility is located that:

- (1) The misdemeanor poses a security risk because the misdemeanor:
 - a. Poses a serious escape risk;

- b. Exhibits violently aggressive behavior that cannot be contained and warrants a higher level of supervision;
- c. Needs to be protected from other inmates, and the county jail facility cannot provide such protection;
- d. Is a female or a person 18 years of age or younger, and the county jail facility does not have adequate housing for such prisoners;
- e. Is in custody at a time when a fire or other catastrophic event has caused the county jail facility to cease or curtail operations; or
- f. Otherwise poses an imminent danger to the staff of the county jail facility or to other prisoners in the facility.
- (2) The misdemeanor requires medical or mental health treatment that the county decides can best be provided by the Division of Adult ~~Correction~~Correction and Juvenile Justice.
- (3) The local confinement facility that would be required to house the prisoner (i) 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, and (ii) no other local confinement facility is available.

Upon receiving such request and certification in writing, any superior or district court judge for the district in which the local confinement facility is located may, after ascertaining that the request meets the criteria set forth in subdivision (1), (2), or (3) of this subsection, order the misdemeanor transferred to a unit of the State prison system designated by the Secretary of Public Safety or the Secretary's authorized representative. The Division of Adult Correction and Juvenile Justice shall be reimbursed from the Statewide Misdemeanant Confinement Fund for the costs of housing the misdemeanor, including the care, supervision, and transportation of the misdemeanor.

(b4) A misdemeanor housed under the Statewide Misdemeanant Confinement Program established pursuant to subsection (b2) of this section may be transferred to a facility operated by the Division of Adult Correction and Juvenile Justice if the North Carolina Sheriffs' Association, Inc., determines that the local confinement facilities available for housing misdemeanants under the Program are filled to capacity. The Division of Adult Correction and Juvenile Justice shall be reimbursed from the Statewide Misdemeanant Confinement Fund for the costs of housing the misdemeanor, including the care, supervision, and transportation of the misdemeanor.

(c) Repealed by Session Laws 2015-40, s. 6.

(d) When a prisoner serving a sentence of 30 days or more in a local confinement facility is placed on work release pursuant to a recommendation of the sentencing court, the custodian of the facility shall forward the prisoner's work-release earnings to the Division of Adult ~~Correction~~Correction and Juvenile Justice, which shall disburse the earnings as determined under G.S. 148-33.1(f). When a prisoner serving a sentence of 30 days or more in a local confinement facility is placed on work release pursuant to an order of the sentencing court, the custodian of the facility shall forward the prisoner's work-release earnings to the clerk of the court that sentenced the prisoner or to the Division of Adult ~~Correction~~Correction and Juvenile Justice, as provided in the prisoner's commitment order. The clerk or the Division, as appropriate, shall disburse the earnings as provided in the prisoner's commitment order. Upon agreement between the Division of Adult Correction and Juvenile Justice and the custodian of the local confinement facility, however, the clerk may disburse to the local confinement facility the amount of the earnings to be paid for the cost of the prisoner's keep, and that amount shall be set off against the reimbursement to be paid by the Department to the local confinement facility pursuant to G.S. 148-32.1(a).

(e) Upon entry of a prisoner serving a sentence of imprisonment for impaired driving under G.S. 20-138.1 into a local confinement facility pursuant to this section, the custodian of the local confinement facility shall forward to the Post-Release Supervision and Parole Commission information pertaining to the prisoner so as to make him eligible for parole consideration pursuant to G.S. 15A-1371. Such information shall include date of incarceration, jail credit, and such other information as may be required by the Post-Release Supervision and Parole Commission. The Post-Release Supervision and Parole Commission shall approve a form upon which the custodian shall furnish this information, which form will be provided to the custodian by the Division of Adult ~~Correction~~Correction and Juvenile Justice."

SECTION 2.(wwwwwww) G.S. 148-32.2 reads as rewritten:

"§ 148-32.2. Community work crew fee.

The Division of Adult ~~Correction~~Correction and Juvenile Justice of the Department of Public Safety may charge a fee to any unit of local government to which it provides, upon request, a community work crew. The amount of the fee shall be no more than the cost to the Division to provide the crew to the unit of local government."

SECTION 2.(xxxxxxx) G.S. 148-33 reads as rewritten:

"§ 148-33. Prison labor furnished other State agencies.

The Division of Adult ~~Correction~~Correction and Juvenile Justice of the Department of Public Safety may furnish to any of the other State departments, State institutions, or agencies, upon such conditions as may be agreed upon from time to time between the Division and the governing authorities of such Department, institution or agency, prison labor for carrying on any work where it is practical and desirable to use prison labor in the furtherance of the purposes of any State department, institution or agency, and such other employment as is now provided by law for inmates of the State's prison under the provisions of G.S. 148-6: Provided that such prisoners shall at all times be under the custody of and controlled by the duly authorized agent of such Division. Provided, further, that notwithstanding any provisions of law contained in this Article or in this Chapter, no prisoner or group of prisoners may be assigned to work in any building utilized by any State department, agency, or institution unless a duly designated custodial agent of the Secretary of Public Safety is assigned to the building to maintain supervision and control of the prisoner or prisoners working there."

SECTION 2.(yyyyyyy) G.S. 148-33.1 reads as rewritten:

"§ 148-33.1. Sentencing, quartering, and control of prisoners with work-release privileges.

...

(c) The Division of Adult ~~Correction~~Correction and Juvenile Justice of the Department of Public Safety shall from time to time, as the need becomes evident, designate and adapt facilities in the State prison system for quartering prisoners with work-release privileges. No State or county prisoner shall be granted work-release privileges by the Director of Prisons or the custodian of a local confinement facility until suitable facilities for quartering him have been provided in the area where the prisoner has employment or the offer of employment.

...

(f) A prisoner who is convicted of a felony and who is granted work-release privileges shall give his work-release earnings, less standard payroll deductions required by law, to the Division of Adult ~~Correction~~Correction and Juvenile Justice of the Department of Public Safety. A prisoner who is convicted of a misdemeanor, is committed to a local confinement facility, and is granted work-release privileges by order of the sentencing court shall give his work-release earnings, less standard payroll deductions required by law, to the custodian of the local confinement facility. Other misdemeanants granted work-release privileges shall give their work-release earnings, less standard payroll deductions required by law, to the Division of Adult ~~Correction~~Correction and Juvenile Justice of the Department of Public Safety. The Division of Adult ~~Correction~~Correction and Juvenile Justice of the Department of Public Safety or the sentencing

1 court, as appropriate, shall determine the amount to be deducted from a prisoner's work-release
2 earnings to pay for the cost of the prisoner's keep and to accumulate a reasonable sum to be
3 paid the prisoner when he is paroled or discharged from prison. The Division or sentencing
4 court shall also determine the amount to be disbursed by the Division or clerk of court, as
5 appropriate, for each of the following:

- 6 (1) To pay travel and other expenses of the prisoner made necessary by his
7 employment;
- 8 (2) To provide a reasonable allowance to the prisoner for his incidental personal
9 expenses;
- 10 (3) To make payments for the support of the prisoner's dependents in
11 accordance with an order of a court of competent jurisdiction, or in the
12 absence of a court order, in accordance with a determination of dependency
13 status and need made by the local department of social services in the county
14 of North Carolina in which such dependents reside;
- 15 (3a) To make restitution or reparation as provided in G.S. 148-33.2.
- 16 (4) To comply with an order from any court of competent jurisdiction regarding
17 the payment of an obligation of the prisoner in connection with any
18 judgment rendered by the court.
- 19 (5) To comply with a written request by the prisoner to withhold an amount,
20 when the request has been granted by the Division or the sentencing court, as
21 appropriate.

22 Any balance of his earnings remaining at the time the prisoner is released from prison shall
23 be paid to him. The Social Services Commission is authorized to promulgate uniform rules and
24 regulations governing the duties of county social services departments under this section.

25"

26 **SECTION 2.(ZZZZZZ)** G.S. 148-36 reads as rewritten:

27 **"§ 148-36. Secretary of Public Safety to control classification and operation of prison**
28 **facilities.**

29 All facilities established or acquired by the Division of Adult Correction and Juvenile
30 Justice of the Department of Public Safety shall be under the administrative control and
31 direction of the Secretary of Public Safety, and operated under rules and regulations proposed
32 by the Secretary and adopted by the Division of Adult Correction and Juvenile Justice of the
33 Department of Public Safety as provided in G.S. 148-11. Subject to such rules and regulations,
34 the Secretary shall classify the facilities of the State prison system and develop a variety of
35 programs so as to permit proper segregation and treatment of prisoners according to the nature
36 of the offenses committed, the character and mental condition of the prisoners, and such other
37 factors as should be considered in providing an individualized system of discipline, care, and
38 correctional treatment of persons committed to the Division. The Secretary of Public Safety, or
39 his authorized representative, shall designate the places of confinement where sentences to
40 imprisonment in the State's prison system shall be served. The Secretary or his representative
41 may designate any available facility appropriate for the individual in view of custodial and
42 correctional considerations."

43 **SECTION 2.(aaaaaaa)** G.S. 148-37 reads as rewritten:

44 **"§ 148-37. Additional facilities authorized; contractual arrangements.**

45 (a) Subject to the provisions of G.S. 143-341, the Division of Adult Correction and
46 Juvenile Justice of the Department of Public Safety may establish additional facilities for use
47 by the Division, such facilities to be either of a permanent type of construction or of a
48 temporary or movable type as the Division may find most advantageous to the particular needs,
49 to the end that the prisoners under its supervision may be so distributed throughout the State as
50 to facilitate individualization of treatment designed to prepare them for lawful living in the
51 community where they are most likely to reside after their release from prison. For this

1 purpose, the Division may purchase or lease sites and suitable lands adjacent thereto and erect
2 necessary buildings thereon, or purchase or lease existing facilities, all within the limits of
3 allotments as approved by the Department of Administration.

4 (b) The Secretary of Public Safety may contract with the proper official of the United
5 States or of any county or city of this State for the confinement of federal prisoners after they
6 have been sentenced, county, or city prisoners in facilities of the State prison system or for the
7 confinement of State prisoners in any county or any city facility located in North Carolina, or
8 any facility of the United States Bureau of Prisons, when to do so would most economically
9 and effectively promote the purposes served by the Division of Adult Correction and Juvenile
10 Justice of the Department of Public Safety. Except as otherwise provided, any contract made
11 under the authority of this subsection shall be for a period of not more than two years, and shall
12 be renewable from time to time for a period not to exceed two years. Contracts made under the
13 authority of this subsection for the confinement of State prisoners in local or district
14 confinement facilities may be for a period of not more than 10 years and renewable from time
15 to time for a period not to exceed 10 years, and shall be subject to the approval of the Council
16 of State and the Department of Administration after consultation with the Joint Legislative
17 Commission on Governmental Operations. Contracts for receiving federal, county and city
18 prisoners shall provide for reimbursing the State in full for all costs involved. The financial
19 provisions shall have the approval of the Department of Administration before the contract is
20 executed. Payments received under such contracts shall be deposited in the State treasury for
21 the use of the Division of Adult Correction and Juvenile Justice of the Department of Public
22 Safety. Such payments are hereby appropriated to the Division of Adult Correction and
23 Juvenile Justice of the Department of Public Safety as a supplementary fund to compensate for
24 the additional care and maintenance of such prisoners as are received under such contracts.

25 (b1) Recodified as G.S. 148-37.2 by Session Laws 2001-84, s. 1, effective May 17, 2001.

26 (c) In addition to the authority contained in subsections (a) and (b) of this section, and
27 in addition to the contracts ratified by subsection (f) of this section, the Secretary of Public
28 Safety may enter into contracts with any public entity or any private nonprofit or for-profit
29 firms for the confinement and care of State prisoners in any out-of-state correctional facility
30 when to do so would most economically and effectively promote the purposes served by the
31 Division of Adult Correction and Juvenile Justice of the Department of Public Safety. Contracts
32 entered into under the authority of this subsection shall be for a period not to exceed two years
33 and shall be renewable from time to time for a period not to exceed two years. Prisoners may
34 be sent to out-of-state correctional facilities only when there are no available facilities in this
35 State within the State prison system to appropriately house those prisoners. Any contract made
36 under the authority of this subsection shall be approved by the Department of Administration
37 before the contract is executed. Before expending more than the amount specifically
38 appropriated by the General Assembly for the out-of-state housing of inmates, the Division
39 shall obtain the approval of the Joint Legislative Commission on Governmental Operations and
40 shall report such expenditures to the Chairs of the Senate and House Appropriations
41 Committees, the Chairs of the Senate and House Appropriations Subcommittees on Justice and
42 Public Safety, and the Chairs of the Joint Legislative Oversight Committee on Justice and
43 Public Safety.

44 (d) Prisoners confined in out-of-state correctional facilities pursuant to subsection (c) of
45 this section shall remain subject to the rules adopted for the conduct of persons committed to
46 the State prison system. The rules regarding good time and gain time, discipline, classification,
47 extension of the limits of confinement, transfers, housing arrangements, and eligibility for
48 parole shall apply to inmates housed in those out-of-state correctional facilities. The operators
49 of those out-of-state correctional facilities may promulgate any other rules as may be necessary
50 for the operation of those facilities with the written approval of the Secretary of Public Safety.
51 Custodial officials employed by an out-of-state correctional facility are agents of the Secretary

1 of Public Safety and may use those procedures for use of force authorized by the Secretary of
2 Public Safety not inconsistent with the laws of the State of situs of the facility to defend
3 themselves, to enforce the observance of discipline in compliance with correctional facility
4 rules, to secure the person of a prisoner, and to prevent escape. Prisoners confined to
5 out-of-state correctional facilities may be required to perform reasonable work assignments
6 within those facilities. Private firms under subsection (c) of this section shall employ inmate
7 disciplinary and grievance policies of the Division of Adult Correction and Juvenile Justice of
8 the Department of Public Safety.

9 (e) Repealed by Session Laws 1995, c. 324, s. 19.10.

10 (f) Any contracts entered into by the Division of Adult Correction and Juvenile Justice
11 of the Department of Public Safety with public contractors prior to March 25, 1994, for the
12 out-of-state housing of inmates are ratified.

13 (g) The Secretary of Public Safety may contract with private for-profit or nonprofit
14 firms for the provision and operation of four or more confinement facilities totaling up to 2,000
15 beds in the State to house State prisoners when to do so would most economically and
16 effectively promote the purposes served by the Division of Adult Correction and Juvenile
17 Justice of the Department of Public Safety. This 2,000-bed limitation shall not apply to the 500
18 beds in private substance abuse treatment centers authorized by the General Assembly prior to
19 July 1, 1995. Whenever the Division of Adult Correction and Juvenile Justice of the
20 Department of Public Safety determines that new prison facilities are required in addition to
21 existing and planned facilities, the Division may contract for any remaining beds authorized by
22 this section before constructing State-operated facilities.

23 Contracts entered under the authority of this subsection shall be for a period not to exceed
24 10 years, shall be renewable from time to time for a period not to exceed 10 years. The
25 Secretary of Public Safety shall enter contracts under this subsection only if funds are
26 appropriated for this purpose by the General Assembly. Contracts entered under the authority
27 of this subsection may be subject to any requirements for the location of the confinement
28 facilities set forth by the General Assembly in appropriating those funds.

29 Once the Division has made a determination to contract for additional private prison beds, it
30 shall issue a request for proposals within 30 days of the decision. The request for proposals
31 shall require bids to be submitted within two months, and the Division shall award contracts at
32 the earliest practicable date after the submission of bids. The Secretary of Public Safety, in
33 consultation with the Chairs of the Joint Legislative Oversight Committee on Justice and Public
34 Safety and the Chairs of the House and Senate Appropriations Subcommittees on Justice and
35 Public Safety, shall make recommendations to the State Purchasing Officer on the final award
36 decision. The State Purchasing Officer shall make the final award decision, and the contract
37 shall then be subject to the approval of the Council of State after consultation with the Joint
38 Legislative Commission on Governmental Operations.

39 Contracts made under the authority of this subsection may provide the State with an option
40 to purchase the confinement facility or may provide for the purchase of the confinement facility
41 by the State. Contracts made under the authority of this subsection shall state that plans and
42 specifications for private confinement facilities shall be furnished to and reviewed by the
43 Office of State Construction. The Office of State Construction shall inspect and review each
44 project during construction to ensure that the project is suitable for habitation and to determine
45 whether the project would be suitable for future acquisition by the State. All contracts for the
46 housing of State prisoners in private confinement facilities shall require a minimum of ten
47 million dollars (\$10,000,000) of occurrence-based liability insurance and shall hold the State
48 harmless and provide reimbursement for all liability arising out of actions caused by operations
49 and employees of the private confinement facility.

50 Prisoners housed in private confinement facilities pursuant to this subsection shall remain
51 subject to the rules adopted for the conduct of persons committed to the State prison system.

1 The Secretary of Public Safety may review and approve the design and construction of private
2 confinement facilities before housing State prisoners in these facilities. The rules regarding
3 good time, gain time, and earned credits, discipline, classification, extension of the limits of
4 confinement, transfers, housing arrangements, and eligibility for parole shall apply to inmates
5 housed in private confinement facilities pursuant to this subsection. The operators of private
6 confinement facilities may adopt any other rules as may be necessary for the operation of those
7 facilities with the written approval of the Secretary of Public Safety. Custodial officials
8 employed by a private confinement facility are agents of the Secretary of Public Safety and
9 may use those procedures for use of force authorized by the Secretary of Public Safety to
10 defend themselves, to enforce the observance of discipline in compliance with confinement
11 facility rules, to secure the person of a prisoner, and to prevent escape. Private firms under this
12 subsection shall employ inmate disciplinary and grievance policies of the Division of Adult
13 Correction and Juvenile Justice of the Department of Public Safety.

14 (h) Private confinement facilities under this section shall be designed, built, and
15 operated in accordance with applicable State laws, court orders, fire safety codes, and local
16 regulations.

17 (i) The Division of Adult Correction and Juvenile Justice of the Department of Public
18 Safety shall make a written report no later than March 1 of every year, beginning in 1997, on
19 the substance of all outstanding contracts for the housing of State prisoners entered into under
20 the authority of this section. The report shall be submitted to the Joint Legislative Oversight
21 Committee on Justice and Public Safety."

22 **SECTION 2.(bbbbbbb)** G.S. 148-37.3(a) reads as rewritten:

23 "(a) Correctional officers and security supervisors employed at private correctional
24 facilities pursuant to a contract between their employer and the Federal Bureau of Prisons may,
25 in the course of their employment as correctional officers or security supervisors, use necessary
26 force and make arrests consistent with the laws applicable to the Division of Adult Correction
27 and Juvenile Justice of the Department of Public Safety, which force shall not exceed that
28 authorized to Division of Adult Correction and Juvenile Justice of the Department of Public
29 Safety officers, provided that the employment policies of such private corporations meet the
30 same minimum standards and practices followed by the Division of Adult Correction and
31 Juvenile Justice of the Department of Public Safety in employing its correctional personnel, and
32 if:

- 33 (1) Those correctional officers and security supervisors have been certified as
34 correctional officers as provided under Chapter 17C of the General Statutes;
35 or
36 (2) Those correctional officers and security supervisors employed by the private
37 corporation at the facility have completed a training curriculum that meets or
38 exceeds the standards required by the North Carolina Criminal Justice
39 Education and Training Standards Commission for correctional personnel."

40 **SECTION 2.(ccccccc)** G.S. 148-40 reads as rewritten:

41 **"§ 148-40. Recapture of escaped prisoners.**

42 The rules and regulations for the government of the State prison system may provide for the
43 recapture of convicts that may escape, or any convicts that may have escaped from the State's
44 prison or prison camps, or county road camps of this State, and the Division of Adult
45 Correction and Juvenile Justice of the Department of Public Safety may pay to any person
46 recapturing an escaped convict such reward or expense of recapture as the regulations may
47 provide. Any citizen of North Carolina shall have authority to apprehend any convict who may
48 escape before the expiration of his term of imprisonment whether he be guilty of a felony or
49 misdemeanor, and retain him in custody and deliver him to the Division of Adult Correction
50 and Juvenile Justice of the Department of Public Safety."

51 **SECTION 2.(ddddddd)** G.S. 148-41 reads as rewritten:

"§ 148-41. Recapture of escaping prisoners; reward.

The Secretary of Public Safety shall use every means possible to recapture, regardless of expense, any prisoners escaping from or leaving without permission any of the State prisons, camps, or farms. When any person who has been confined or placed to work escapes from the State prison system, the Secretary shall immediately notify the Governor, and accompany the notice with a full description of the escaped prisoner, together with such information as will aid in the recapture. The Governor may offer such rewards as he may deem desirable and necessary for the recapture and return to the State prison system of any person who may escape or who heretofore has escaped therefrom. Such reward earned shall be paid by warrant of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and accounted for as a part of the expense of maintaining the State's prisons."

SECTION 2.(eeeeeeee) G.S. 148-45 reads as rewritten:

"§ 148-45. Escaping or attempting escape from State prison system; failure of conditionally and temporarily released prisoners and certain youthful offenders to return to custody of Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

(a) Any person in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety in any of the classifications hereinafter set forth who shall escape from the State prison system, shall for the first such offense, except as provided in subsection (g) of this section, be guilty of a Class 1 misdemeanor:

- (1) A prisoner serving a sentence imposed upon conviction of a misdemeanor;
- (2) A person who has been charged with a misdemeanor and who has been committed to the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety under the provisions of G.S. 162-39;
- (3) Repealed by Session Laws 1985, c. 226, s. 4.
- (4) A person who shall have been convicted of a misdemeanor and who shall have been committed to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for presentence diagnostic study under the provisions of G.S. 15A-1332(c).

(b) Any person in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, in any of the classifications hereinafter set forth, who shall escape from the State prison system, shall, except as provided in subsection (g) of this section, be punished as a Class H felon.

- (1) A prisoner serving a sentence imposed upon conviction of a felony;
- (2) A person who has been charged with a felony and who has been committed to the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety under the provisions of G.S. 162-39;
- (3) Repealed by Session Laws 1985, c. 226, s. 5.
- (4) A person who shall have been convicted of a felony and who shall have been committed to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for presentence diagnostic study under the provisions of G.S. 15A-1332(c); or
- (5) Any person previously convicted of escaping or attempting to escape from the State prison system.

(c) Repealed by Session Laws 1979, c. 760, s. 5.

(d) Any person who aids or assists other persons to escape or attempt to escape from the State prison system shall be guilty of a Class 1 misdemeanor.

(e) Repealed by Session Laws 1983, c. 465, s. 5.

(f) Any person convicted of an escape or attempt to escape classified as a felony by this section shall be immediately classified and treated as a convicted felon even if such person has

time remaining to be served in the State prison system on a sentence or sentences imposed upon conviction of a misdemeanor or misdemeanors.

(g) (1) Any person convicted and in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and ordered or otherwise assigned to work under the work-release program, G.S. 148-33.1, or any convicted person in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and temporarily allowed to leave a place of confinement by the Secretary of Public Safety or his designee or other authority of law, who shall fail to return to the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, shall be guilty of the crime of escape and subject to the applicable provisions of this section and shall be deemed an escapee. For the purpose of this subsection, escape is defined to include, but is not restricted to, willful failure to return to an appointed place and at an appointed time as ordered.

(2) If a person, who would otherwise be guilty of a first violation of G.S. 148-45(g)(1), voluntarily returns to his place of confinement within 24 hours of the time at which he was ordered to return, such person shall not be charged with an escape as provided in this section but shall be subject to such administrative action as may be deemed appropriate for an escapee by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety; said escapee shall not be allowed to be placed on work release for a four-month period or for the balance of his term if less than four months; provided, however, that if such person commits a subsequent violation of this section then such person shall be charged with that offense and, if convicted, punished under the provisions of this section."

SECTION 2.(ffffff) G.S. 148-46.1 reads as rewritten:

"§ 148-46.1. Inflicting or assisting in infliction of self injury to prisoner resulting in incapacity to perform assigned duties.

Any person serving a sentence or sentences within the State prison system who, during the term of such imprisonment, willfully and intentionally inflicts upon himself any injury resulting in a permanent or temporary incapacity to perform work or duties assigned to him by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, or any prisoner who aids or abets any other prisoner in the commission of such offense, shall be punished as a Class H felon."

SECTION 2.(gggggggg) G.S. 148-53 reads as rewritten:

"§ 148-53. Investigators and investigations of cases of prisoners.

For the purpose of investigating the cases of prisoners, the Division of Adult Correction and Juvenile Justice of the Department of Public Safety is hereby authorized and empowered to appoint an adequate staff of competent investigators, particularly qualified for such work, with such reasonable clerical assistance as may be required, who shall, under the rules and regulations duly adopted by the Post-Release Supervision and Parole Commission, investigate all cases designated by it, investigate cases of prisoners eligible for post-release supervision, and otherwise aid the Commission in passing upon the question of the parole and post-release supervision of prisoners, to the end that every prisoner in the custodial care of the State may receive full, fair, and just consideration."

SECTION 2.(hhhhhhhh) G.S. 148-54 reads as rewritten:

"§ 148-54. Parole and post-release supervision supervisors provided for; duties.

The Division of Adult Correction and Juvenile Justice of the Department of Public Safety is hereby authorized to appoint a sufficient number of competent parole and post-release supervision supervisors, who shall be particularly qualified for and adapted for the work

1 required of them, and who shall under the direction of the Division of Adult Correction and
2 Juvenile Justice of the Department of Public Safety, and under regulations prescribed by the
3 Division of Adult Correction and Juvenile Justice of the Department of Public Safety after
4 consultation with the Commission, exercise supervision and authority over paroled prisoners
5 and persons on post-release supervision, assist paroled prisoners and persons on post-release
6 supervision, and those who are to be paroled or released for post-release supervision in finding
7 and retaining self-supporting employment, and to promote rehabilitation work with paroled and
8 post-release supervised prisoners, to the end that they may become law-abiding citizens. The
9 supervisors shall also, under the direction of the Division of Adult Correction and Juvenile
10 Justice of the Department of Public Safety, maintain frequent contact with paroled and
11 post-release supervised prisoners and find out whether or not they are observing the conditions
12 of their paroles or post-release supervision, and assist them in every possible way toward
13 compliance with the conditions, and they shall perform such other duties in connection with
14 paroled prisoners as the Division of Adult Correction and Juvenile Justice of the Department of
15 Public Safety may require. The number of supervisors may be increased by the Division of
16 Adult Correction and Juvenile Justice of the Department of Public Safety as and when the
17 number of paroled and post-release supervised prisoners to be supervised requires or justifies
18 such increase."

19 **SECTION 2.(iiiiiii) G.S. 148-59 reads as rewritten:**

20 **"§ 148-59. Duties of clerks of superior courts as to commitments; statements filed with**
21 **Division of Adult Correction and Juvenile Justice of the Department of Public**
22 **Safety.**

23 The several clerks of the superior courts shall attach to the commitment of each prisoner
24 sentenced in such courts a statement furnishing such information as the Post-Release
25 Supervision and Parole Commission shall by regulations prescribe, which information shall
26 contain, among other things, the following:

- 27 (1) The court in which the prisoner was tried;
- 28 (2) The name of the prisoner and of all codefendants;
- 29 (3) The date or session when the prisoner was tried;
- 30 (4) The offense with which the prisoner was charged and the offense for which
31 convicted;
- 32 (5) The judgment of the court and the date of the beginning of the sentence;
- 33 (6) The name and address of the presiding judge;
- 34 (7) The name and address of the prosecuting solicitor;
- 35 (8) The name and address of private prosecuting attorney, if any;
- 36 (9) The name and address of the arresting officer;
- 37 (10) All available information of the previous criminal record of the prisoner; and
- 38 (11) For all Class G or more serious felonies, the names and addresses of the
39 following persons, where the presiding judge makes a finding of such facts:
 - 40 a. Any victims of the offense for which the prisoner was convicted;
 - 41 b. The parent or legal guardian of any minor victims of the offense for
42 which the prisoner was convicted; and
 - 43 c. The next of kin of any homicide victims of the offense for which the
44 prisoner was convicted.

45 The prison authorities receiving the prisoner for the beginning of the service of sentence
46 shall detach from the commitment the statement furnishing such information and forward it to
47 the Division of Adult Correction and Juvenile Justice of the Department of Public Safety,
48 together with any additional information in the possession of such prison authorities relating to
49 the previous criminal record of such prisoner, and the information thus furnished shall
50 constitute the foundation and file of the prisoner's case. Forms for furnishing the information

required by this section shall, upon request, be furnished to the said clerks by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety without charge."

SECTION 2.(jjjjjjj) G.S. 148-64 reads as rewritten:

"§ 148-64. Cooperation of prison and parole officials and employees.

The officials and employees of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and the Post-Release Supervision and Parole Commission shall at all times cooperate with and furnish each other such information and assistance as will promote the purposes of this Chapter and the purposes for which these agencies were established. The Commission shall have free access to all prisoners."

SECTION 2.(kkkkkkkk) G.S. 148-64.1 reads as rewritten:

"§ 148-64.1. Early conditional release of inmates subject to a removal order; revocation of release.

(a) Eligibility for Early Release. – Notwithstanding any other provision of law, the Post-Release Supervision and Parole Commission may conditionally release an inmate into the custody and control of United States Immigration and Customs Enforcement if all of the following requirements are satisfied:

(1) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety has received a final order of removal for the inmate from United States Immigration and Customs Enforcement.

...

(c) Return of Inmates. – In the event that the United States Immigration and Customs Enforcement is unable to or does not deport the inmate, the inmate shall be returned to the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety to serve the remainder of the original sentence.

...."

SECTION 2.(llllllll) G.S. 148-65.6(a) reads as rewritten:

"(a) The North Carolina State Council for Interstate Adult Offender Supervision shall be established, consisting of 14 members. North Carolina's Commissioner to the Interstate Compact Commission is a member of the State Council and serves as chair of the State Council. The remaining members of the State Council shall consist of the following:

...

(7) Four members representing the Section of Community Corrections of the Division of Adult ~~Correction~~Correction and Juvenile Justice, to be appointed by the Director of the Section of Community Corrections of the Division of Adult ~~Correction~~Correction and Juvenile Justice;

...."

SECTION 2.(mmmmmmm) G.S. 148-65.7(a) reads as rewritten:

"(a) Persons convicted in this State who make a request for transfer to another state pursuant to the compact shall pay a transfer application of two hundred fifty dollars (\$250.00) for each transfer application submitted. The transfer application fee shall be paid to the Compact Commissioner upon submission of the transfer application. The Commissioner or the Commissioner's designee may waive the application fee if either the Commissioner or the Commissioner's designee finds that payment of the fee will constitute an undue economic burden on the offender.

All fees collected pursuant to this section shall be deposited in the Interstate Compact Fund and shall be used only to support administration of the Interstate Compact.

The Interstate Compact Fund is established within the Division of Adult Correction and Juvenile Justice of the Department of Public Safety as a nonreverting, interest-bearing special revenue account. Accordingly, revenue in the Fund at the end of a fiscal year does not revert, and interest and other investment income earned by the Fund shall be credited to it. All moneys collected by the Division of Adult Correction and Juvenile Justice of the Department of Public

1 Safety pursuant to this subsection shall be remitted to the State Treasurer to be deposited and
2 held in this Fund. Moneys in the Fund shall be used to supplement funds otherwise available to
3 the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for
4 the administration of the Interstate Compact."

5 **SECTION 2.(nnnnnnnn) G.S. 148-66 reads as rewritten:**

6 **"§ 148-66. Cities and towns and Department of Agriculture and Consumer Services may**
7 **contract for prison labor.**

8 The corporate authorities of any city or town may contract in writing with the Division of
9 Adult Correction and Juvenile Justice of the Department of Public Safety for the employment
10 of convicts upon the highways or streets of such city or town, and such contracts when so
11 exercised shall be valid and enforceable against such city or town, and the Attorney General
12 may prosecute an action in the Superior Court of Wake County in the name of the State for
13 their enforcement.

14 The Department of Agriculture and Consumer Services is hereby authorized and
15 empowered to contract, in writing, with the Division of Adult Correction and Juvenile Justice
16 of the Department of Public Safety for the employment and use of convicts under its
17 supervision to be worked on the State test farms and/or State experimental stations."

18 **SECTION 2.(oooooooo) G.S. 148-67 reads as rewritten:**

19 **"§ 148-67. Hiring to cities and towns and State Department of Agriculture and Consumer**
20 **Services.**

21 The Division of Adult Correction and Juvenile Justice of the Department of Public Safety
22 shall in their discretion, upon application to them, hire to the corporate authorities of any city or
23 town for the purposes specified in G.S. 148-66, such convicts as are mentally and physically
24 capable of performing the work or labor contemplated and are not at the time of such
25 application hired or otherwise engaged in labor under the direction of the Division; but the
26 convicts so hired for services shall be fed, clothed and quartered while so employed by the
27 Division.

28 Upon application to it, it shall be the duty of the Division of Adult Correction and Juvenile
29 Justice of the Department of Public Safety, in its discretion, to hire to the Department of
30 Agriculture and Consumer Services for the purposes of working on the State test farms and/or
31 State experimental stations, such convicts as may be mentally and physically capable of
32 performing the work or labor contemplated; but the convicts so hired for services under this
33 paragraph shall be fed, clothed and quartered while so employed by the Division of Adult
34 Correction and Juvenile Justice of the Department of Public Safety."

35 **SECTION 2.(pppppppp) G.S. 148-70 reads as rewritten:**

36 **"§ 148-70. Management and care of inmates.**

37 The Division of Adult Correction and Juvenile Justice of the Department of Public Safety in
38 all contracts for labor shall provide for feeding and clothing the inmates and shall maintain,
39 control and guard the quarters in which the inmates live during the time of the contracts; and
40 the Division shall provide for the guarding and working of such inmates under its sole
41 supervision and control. The Division may make such contracts for the hire of the inmates
42 confined in the State prison as may in its discretion be proper."

43 **SECTION 2.(qqqqqqqq) G.S. 148-74 reads as rewritten:**

44 **"§ 148-74. Records Section.**

45 Case records and related materials compiled for the use of the Secretary of Public Safety
46 and the Parole Commission shall be maintained in a single central file system designed to
47 minimize duplication and maximize effective use of such records and materials. When an
48 individual is committed to the State prison system after a period on probation, the probation
49 files on that individual shall be made a part of the combined files used by the Division of Adult
50 Correction and Juvenile Justice of the Department of Public Safety and the Parole Commission.

1 The administration of the Records Section shall be under the control and direction of the
2 Secretary of Public Safety."

3 **SECTION 2.(rrrrrrrr)** G.S. 148-78 reads as rewritten:

4 **"§ 148-78. Reports.**

5 The Secretary of Public Safety may prepare and release reports on the work of the Division
6 of Adult Correction and Juvenile Justice of the Department of Public Safety, including statistics
7 and other data, accounts of research, and recommendations for legislation."

8 **SECTION 2.(ssssssss)** G.S. 148-118.1 reads as rewritten:

9 **"§ 148-118.1. Authority.**

10 The Division of Adult Correction and Juvenile Justice of the Department of Public Safety
11 shall adopt an Administrative Remedy Procedure in compliance with 42 U.S.C. 1997, the
12 "Civil Rights of Institutionalized Persons Act". The Administrative Remedy Procedure and any
13 amendments or changes thereto shall be adopted only after prior consultation with the
14 Grievance Resolution Board."

15 **SECTION 2.(tttttttt)** G.S. 148-118.2(a) reads as rewritten:

16 "(a) Upon approval of the Administrative Remedy Procedure by a federal court as
17 authorized and required by 42 U.S.C. 1997(e)(a), and the implementation of the procedure, this
18 procedure shall constitute the administrative remedies available to a prisoner for the purpose of
19 preserving any cause of action under the purview of the Administrative Remedy Procedure,
20 which a prisoner may claim to have against the State of North Carolina, the Division of Adult
21 Correction and Juvenile Justice of the Department of Public Safety, or its employees."

22 **SECTION 2.(uuuuuuuu)** G.S. 148-118.4 reads as rewritten:

23 **"§ 148-118.4. Definitions.**

24 For purposes of this Article, "prisoner" shall refer to all prisoners in the physical custody of
25 the Division of Adult Correction and Juvenile Justice of the Department of Public Safety."

26 **SECTION 2.(vvvvvvvv)** G.S. 148-118.5 reads as rewritten:

27 **"§ 148-118.5. Records confidentiality.**

28 All reports, investigations, and like supporting documents prepared by the Division for
29 purposes of responding to the prisoner's request for an administrative remedy shall be deemed
30 to be confidential. All formal written responses to the prisoner's request shall be furnished to
31 the prisoner as a matter of course as required by the procedure. The Grievance Resolution
32 Board shall have access to all relevant records developed by the Division of Adult Correction
33 and Juvenile Justice of the Department of Public Safety."

34 **SECTION 2.(wwwwwww)** G.S. 148-118.6 reads as rewritten:

35 **"§ 148-118.6. Grievance Resolution Board.**

36 The Grievance Resolution Board is established as a separate agency within the Division of
37 Adult Correction and Juvenile Justice of the Department of Public Safety. It shall consist of
38 five members appointed by the Governor to serve four-year terms. Of the members so
39 appointed, three shall be attorneys selected from a list of 10 persons recommended by the
40 Council of the North Carolina State Bar. The remaining two members shall be persons of
41 knowledge and experience in one or more fields under the jurisdiction of the Secretary of
42 Public Safety. In the event a vacancy occurs on the Board prior to the expiration of a member's
43 term, the Governor shall appoint a new Board member to serve the unexpired term. If the
44 vacancy occurs in one of the positions designated for an attorney, the Governor shall select
45 another attorney from a list of five persons recommended by the Council of the North Carolina
46 State Bar. The Board shall perform those functions assigned to it by the Governor and shall
47 review the grievance procedure. The Grievance Resolution Board shall meet not less than
48 quarterly to review summaries of grievances. All members of the Inmate Grievance
49 Commission, appointed by the Governor pursuant to G.S. 148-101, may complete their terms
50 as members of the Board. Each member of the Board shall receive per diem and travel
51 expenses as authorized for members of State commissions and boards under G.S. 138-5."

1 **SECTION 2.(xxxxxxx)** G.S. 148-118.8(a) reads as rewritten:

2 "(a) The Grievance Resolution Board, in consultation with the Secretary of Public
3 Safety, shall provide the Governor with at least three nominees, and the Governor shall appoint
4 an Executive Director from those nominees. The Grievance Resolution Board shall appoint
5 grievance examiners. The Executive Director shall manage the staff and perform such other
6 functions as are assigned to the Director by the Grievance Resolution Board. The Executive
7 Director shall serve at the pleasure of the Governor. The grievance examiners shall serve at the
8 pleasure of the Grievance Resolution Board. The grievance examiners shall be subject to
9 Article 2 of Chapter 126 of the North Carolina General Statutes for purposes of salary and
10 leave. Support staff, equipment, and facilities for the Board shall be provided by the Division of
11 Adult Correction and Juvenile Justice of the Department of Public Safety."

12 **SECTION 2.(yyyyyyy)** G.S. 148-128 reads as rewritten:

13 **"§ 148-128. Authorization for Correction Enterprises.**

14 The Section of Correction Enterprises of the Division of Adult Correction and Juvenile
15 Justice is established as a division of the Division of Adult Correction of the Department of
16 Public Safety. The Section of Correction Enterprises of the Division of Adult Correction and
17 Juvenile Justice may develop and operate industrial, agricultural, and service enterprises that
18 employ incarcerated offenders in an effort to provide them with meaningful work experiences
19 and rehabilitative opportunities that will increase their employability upon release from prison.
20 Enterprises operated under this Article shall be known as "Correction Enterprises.""

21 **SECTION 2.(zzzzzzz)** G.S. 148-130 reads as rewritten:

22 **"§ 148-130. Correction Enterprises Fund.**

23 (a) All revenues from the sale of articles and commodities manufactured or produced
24 by Correction Enterprises shall be deposited with the State Treasurer to be kept and maintained
25 as a special revolving working-capital fund designated "Correction Enterprises Fund."

26 (b) Revenue in the Correction Enterprises Fund shall be applied first to capital and
27 operating expenditures, including salaries and wages of personnel necessary to develop and
28 operate Correction Enterprises and incentive wages for inmates employed by Correction
29 Enterprises or participating in work assignments established by the Section of Prisons of the
30 Division of Adult ~~Correction~~ Correction and Juvenile Justice. Of the remaining revenue in the
31 Fund, five percent (5%) of the net proceeds, before expansion costs, shall be credited to the
32 Crime Victims Compensation Fund established in G.S. 15B-23 as soon as practicable after net
33 proceeds have been determined for the previous year. At the direction of the Governor, the
34 remainder shall be used for other purposes within the State prison system or shall be transferred
35 to the General Fund.

36 (c) The Correction Enterprises Fund shall be the source of all incentive wages and
37 allowances paid to inmates employed by Correction Enterprises and inmates participating in
38 work assignments established by the Section of Prisons of the Division of Adult
39 ~~Correction~~ Correction and Juvenile Justice."

40 **SECTION 2.(aaaaaaaaa)** G.S. 148-131 reads as rewritten:

41 **"§ 148-131. Powers and responsibilities.**

42 In order to fulfill the purposes set forth in G.S. 148-129, the Section of Correction
43 Enterprises of the Division of Adult Correction and Juvenile Justice is authorized and
44 empowered to take all actions necessary in the operation of its enterprises, including any of the
45 following actions to:

46 "

47 **SECTION 2.(bbbbbbbbbb)** G.S. 148-132 reads as rewritten:

48 **"§ 148-132. Distribution of products and services.**

49 The Section of Correction Enterprises of the Division of Adult Correction and Juvenile
50 Justice is empowered and authorized to market and sell products and services produced by
51 Correction Enterprises to any of the following entities:

...."

SECTION 2.(ccccccccc) G.S. 148-134 reads as rewritten:

"§ 148-134. Preference for Division of Adult Correction and Juvenile Justice of the Department of Public Safety products.

All departments, institutions, and agencies of this State that are supported in whole or in part by the State shall give preference to Correction Enterprises products in purchasing articles, products, and commodities that these departments, institutions, and agencies require and that are manufactured or produced within the State prison system and offered for sale to them by Correction Enterprises. No article or commodity available from Correction Enterprises shall be purchased by any State department, institution, or agency from any other source unless the prison product does not meet the standard specifications and the reasonable requirements of the department, institution, or agency as determined by the Secretary of Administration or the requisition cannot be complied with because of an insufficient supply of the articles or commodities required. The provisions of Article 3 of Chapter 143 of the General Statutes respecting contracting for the purchase of all supplies, materials, and equipment required by the State government or any of its departments, institutions, or agencies under competitive bidding shall not apply to articles or commodities available from Correction Enterprises. The Section of Correction Enterprises of the Division of Adult Correction and Juvenile Justice shall be required to keep the price of such articles or commodities substantially in accord with that paid by governmental agencies for similar articles and commodities of equivalent quality."

SECTION 2.(ddddddddd) G.S. 150B-1 reads as rewritten:

§ 150B-1. Policy and scope.

...

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

...

(6) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety, with respect to matters relating solely to persons in its custody or under its supervision, including prisoners, probationers, and parolees.

...

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

...

(7) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

...."

SECTION 2.(eeeeeeeee) G.S. 153A-221(b) reads as rewritten:

"(b) In developing the standards and any amendments thereto, the Secretary shall consult with organizations representing local government and local law enforcement, including the North Carolina Association of County Commissioners, the North Carolina League of Municipalities, the North Carolina Sheriffs' Association, and the North Carolina Police Executives' Association. The Secretary shall also consult with interested State departments and agencies, including the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, the Department of Health and Human Services, the Department of Insurance, and the North Carolina Criminal Justice Education and Training Standards Commission, and the North Carolina Sheriffs' Education and Training Standards Commission."

SECTION 2.(fffffffff) G.S. 153A-221.1 reads as rewritten:

"§ 153A-221.1. Standards and inspections.

The legal responsibility of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for State services to county juvenile

detention homes under this Article is hereby confirmed and shall include the following: development of State standards under the prescribed procedures; inspection; consultation; technical assistance; and training.

The Secretary of Health and Human Services, in consultation with the Secretary of Public Safety, shall also develop standards under which a local jail may be approved as a holdover facility for not more than five calendar days pending placement in a juvenile detention home which meets State standards, providing the local jail is so arranged that any child placed in the holdover facility cannot converse with, see, or be seen by the adult population of the jail while in the holdover facility. The personnel responsible for the administration of a jail with an approved holdover facility shall provide close supervision of any child placed in the holdover facility for the protection of the child."

SECTION 2.(ggggggggg) G.S. 153A-230.1(2) reads as rewritten:

"(2) "Satellite Jail/Work Release Unit" means a building or designated portion of a building primarily designed, staffed, and used for the housing of misdemeanants participating in a work release program. These units shall house misdemeanants only, except that, if he so chooses, the Sheriff may accept responsibility from the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for the housing of felons who do not present security risks, who have achieved work release status, and who will be employed on work release, or for felons committed directly to his custody pursuant to G.S. 15A-1352(b). These units shall be operated on a full time basis, i.e., seven days/nights a week."

SECTION 2.(hhhhhhhhh) G.S. 153A-230.2(b) reads as rewritten:

"(b) A county or group of counties is eligible for a grant under this section if it agrees to abide by the basic requirements for satellite jail/work release units established in G.S. 153A-230.3. In order to receive a grant under this section, there must be a written agreement to abide by the basic requirements for satellite jail/work release units set forth in G.S. 153A-230.3. The written agreement shall be signed by the Chairman of the Board of County Commissioners, with approval of the Board of County Commissioners and after consultation with the Sheriff, and a representative of the Office of State Budget and Management. If a group of counties applies for the grant, then the agreement must be signed by the Chairman of the Board of County Commissioners of each county. Any variation from, including termination of, the original signed agreement must be approved by both the Office of State Budget and Management and by a vote of the Board of County Commissioners of the county or counties.

When the county or group of counties receives a grant under this section, the county or group of counties accepts ownership of the satellite jail/work release unit and full financial responsibility for maintaining and operating the unit, and for the upkeep of its occupants who comply with the eligibility criteria in G.S. 153A-230.3(a)(1). The county shall receive from the Division of Adult Correction and Juvenile Justice of the Department of Public Safety the amount paid to local confinement facilities under G.S. 148-32.1 for prisoners which are in the unit, but do not meet the eligibility of requirements under G.S. 153A-230.3(a)(1)."

SECTION 2.(iiiiiii) G.S. 153A-230.3 reads as rewritten:

"§ 153A-230.3. Basic requirements for satellite jail/work release units.

(a) Eligibility for Unit. – The following rules shall govern which misdemeanants are housed in a satellite jail/work release unit:

...

(5) The Sheriff may accept work release misdemeanants or felons from the Division of Adult Correction and Juvenile Justice of the Department of Public Safety provided that those inmates agree to pay for their upkeep, that

space is available, and that the Sheriff is willing to accept responsibility for the prisoner after screening.

...
(b) Operation of Satellite Jail/Work Release Unit. – A county or group of counties operating a satellite jail/work release unit shall comply with the following requirements concerning operation of the unit:

...
(2) The county shall require the occupants to give their earnings, less standard payroll deduction required by law and premiums for group health insurance coverage, to the Sheriff. The county may charge a per day charge from those occupants who are employed or otherwise able to pay from other resources available to the occupants. The per day charge shall be calculated based on the following formula: The charge shall be either the amount that the Division of Adult Correction and Juvenile Justice of the Department of Public Safety deducts from a prisoner's work-release earnings to pay for the cost of the prisoner's keep or fifty percent (50%) of the occupant's net weekly income, whichever is greater, but in no event may the per day charge exceed an amount that is twice the amount that the Division of Adult Correction and Juvenile Justice of the Department of Public Safety pays each local confinement facility for the cost of providing food, clothing, personal items, supervision, and necessary ordinary medical expenses. The per day charge may be adjusted on an individual basis where restitution and/or child support has been ordered, or where the occupant's salary or resources are insufficient to pay the charge.

The county also shall accumulate a reasonable sum from the earnings of the occupant to be returned to him when he is released from the unit. The county also shall follow the guidelines established for the Division of Adult Correction and Juvenile Justice of the Department of Public Safety in G.S. 148-33.1(f) for determining the amount and order of disbursements from the occupant's earnings.

...
(4) The unit shall be operated on a full-time basis, i.e., seven days/nights a week, but weekend leave may be granted by the Sheriff. In granting weekend leave, the Sheriff shall follow the policies and procedures of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for granting weekend leave for Level 3 minimum custody inmates.

...."

SECTION 2.(jjjjjjjj) G.S. 153A-230.5(b) reads as rewritten:

"(b) If a county operates a non-State funded satellite jail/work release unit that does not comply with the basic requirements listed in G.S. 153A-230.2 and G.S. 153A-230.3, then the satellite jail shall be subject to the standards, rules, and regulations to be promulgated by the Secretary of Health and Human Services pursuant to Part 2 of Article 10 of Chapter 153A. If a county is reimbursed for the cost of a prisoner's keep from an inmate's work release earnings in an amount equal to or greater than that paid by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety to local confinement facilities under G.S. 148-32.1, the county may not receive additional payments from the Division for the cost of a prisoner's keep. However, if reimbursement to the county for the cost of a prisoner's keep is less than the amount allowed under G.S. 148-32.1, the county may receive from the Division of Adult Correction and Juvenile Justice of the Department of Public Safety the difference in the amount

received from work release earnings and the amount paid by the Division to local confinement facilities. The Division may promulgate rules regarding such payment arrangements."

SECTION 2.(kkkkkkkkk) G.S. 162-39 reads as rewritten:

"§ 162-39. Transfer of prisoners when necessary for safety and security; application of section to municipalities.

...

(c) The sheriff of the county from which the prisoner is removed shall be responsible for conveying the prisoner to the jail or prison unit where he is to be held, and for returning him to the common jail of the county from which he was transferred. The return shall be made at the expiration of the time designated in the court order directing the transfer unless the judge, by appropriate order, shall direct otherwise. The sheriff or keeper of the jail of the county designated in the court order, or the officer in charge of the prison unit designated by the Secretary of Public Safety, shall receive and release custody of the prisoner in accordance with the terms of the court order. If a prisoner is transferred to a unit of the State prison system, the county from which the prisoner is transferred shall pay the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for maintaining the prisoner for the time designated by the court at the per day, per inmate rate at which the Division of Adult Correction and Juvenile Justice of the Department of Public Safety pays a local jail for maintaining a prisoner. The county shall also pay the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for the costs of extraordinary medical care incurred while the prisoner was in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, defined as follows:

- (1) Medical expenses incurred as a result of providing health care to a prisoner as an inpatient (hospitalized);
- (2) Other medical expenses when the total cost exceeds thirty-five dollars (\$35.00) per occurrence or illness as a result of providing health care to a prisoner as an outpatient (nonhospitalized); and
- (3) Cost of replacement of eyeglasses and dental prosthetic devices if those eyeglasses or devices are broken while the prisoner is incarcerated, provided the prisoner was using the eyeglasses or devices at the time of his commitment and then only if prior written consent of the county is obtained by the Division.

If the prisoner is transferred to a jail in some other county, the county from which the prisoner is transferred shall pay to the county receiving the prisoner in its jail the actual cost of maintaining the prisoner for the time designated by the court. Counties are hereby authorized to enter into contractual agreements with other counties to provide jail facilities to which prisoners may be transferred as deemed necessary under this section.

Whenever prisoners are arrested in such numbers that county jail facilities are insufficient and inadequate for the safekeeping of such prisoners, the resident judge of the superior court or any superior or district court judge holding court in the district may order the prisoners transferred to a unit of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety designated by the Secretary of Public Safety or his authorized representative, where the prisoners may be held for such length of time as the judge may direct, such detention to be in cell separate from that used for imprisonment of persons already convicted of crimes, except when admission to an inpatient prison medical or mental health unit is required to provide services deemed necessary by a prison health care clinician. The sheriff of the county from which the prisoners are removed shall be responsible for conveying the prisoners to the prison unit or units where they are to be held, and for returning them to the common jail of the county from which they were transferred. However, if due to the number of prisoners to be conveyed the sheriff is unable to provide adequate transportation, he may request the assistance of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety,

1 and the Division of Adult Correction and Juvenile Justice of the Department of Public Safety is
2 hereby authorized and directed to cooperate with the sheriff and provide whatever assistance is
3 available, both in vehicles and manpower, to accomplish the conveying of the prisoners to and
4 from the county to the designated prison unit or units. The officer in charge of the prison unit
5 designated by the Secretary of Public Safety or his authorized representative shall receive and
6 release the custody of the prisoners in accordance with the terms of the court order. The county
7 from which the prisoners are transferred shall pay to the Division of Adult Correction and
8 Juvenile Justice of the Department of Public Safety the actual cost of transporting the prisoners
9 and the cost of maintaining the prisoners at the per day, per inmate rate at which the Division of
10 Adult Correction and Juvenile Justice of the Department of Public Safety pays a local jail for
11 maintaining a prisoner, provided, however, that a county is not required to reimburse the State
12 for transporting or maintaining a prisoner who was a resident of another state or county at the
13 time he was arrested. However, if the county commissioners shall certify to the Governor that
14 the county is unable to pay the bill submitted by the Division of Adult Correction and Juvenile
15 Justice of the Department of Public Safety to the county for the services rendered, either in
16 whole or in part, the Governor may recommend to the Council of State that the State of North
17 Carolina assume and pay, in whole or in part, the obligation of the county to the Division of
18 Adult Correction and Juvenile Justice of the Department of Public Safety, and upon approval of
19 the Council of State the amount so approved shall be paid from Contingency and Emergency
20 Fund to the Division of Adult Correction and Juvenile Justice of the Department of Public
21 Safety.

22 When, due to an emergency, it is not feasible to obtain from a judge of the superior or
23 district court a prior order of transfer, the sheriff of the county and the Division of Adult
24 Correction and Juvenile Justice of the Department of Public Safety may exercise the authority
25 hereinafter conferred; provided, however, that the sheriff shall, as soon as possible after the
26 emergency, obtain an order from the judge authorizing the prisoners to be held in the
27 designated place of confinement for such period as the judge may direct. All provisions of this
28 subsection shall be applicable to municipalities whenever prisoners are arrested in such
29 numbers that the municipal jail facilities and the county jail facilities are insufficient and
30 inadequate for the safekeeping of the prisoners. The chief of police is hereby authorized to
31 exercise the authority herein conferred upon the sheriff, and the municipality shall be liable for
32 the cost of transporting and maintaining the prisoners to the same extent as a county would be
33 unless action is taken by the Governor and Council of State as herein provided for counties
34 which are unable to pay such costs.

35 (d) Whenever a prisoner held in a county jail requires medical or mental health
36 treatment that the county decides can best be provided by the Division of Adult Correction and
37 Juvenile Justice of the Department of Public Safety, the resident judge of the superior court or
38 any judge holding superior court in the district or any district court judge may order the
39 prisoner transferred to a unit of the State prison system designated by the Secretary of Public
40 Safety or his authorized representative. The sheriff of the county from which the prisoner is
41 removed shall be responsible for conveying the prisoner to the prison unit where he is to be
42 held, and for returning him to the jail of the county from which he was transferred. The
43 prisoner shall be returned when the attending medical or mental health professional determines
44 that the prisoner may be returned safely. The officer in charge of the prison unit designated by
45 the Secretary of Public Safety shall receive custody of the prisoner in accordance with the
46 terms of the order and shall release custody of the prisoner in accordance with the instructions
47 of the attending medical or mental health professional. The county from which the prisoner is
48 transferred shall pay the Division of Adult Correction and Juvenile Justice of the Department of
49 Public Safety for maintaining the prisoner for the period of treatment at the per day, per inmate
50 rate at which the Division of Adult Correction and Juvenile Justice of the Department of Public

1 Safety pays a local jail for maintaining a prisoner, and for extraordinary medical expenses as
2 set forth in subsection (c) of this section.

3"

4 **SECTION 2.(IIIIIIII) G.S. 163-82.20A reads as rewritten:**

5 **"§ 163-82.20A. Voter registration upon restoration of citizenship.**

6 The State Board of Elections, the Division of Adult Correction and Juvenile Justice of the
7 Department of Public Safety, and the Administrative Office of the Courts shall jointly develop
8 and implement educational programs and procedures for persons to apply to register to vote at
9 the time they are restored to citizenship and all filings required have been completed under
10 Chapter 13 of the General Statutes. Those procedures shall be designed to do both of the
11 following:

12"

13 **SECTION 2.(mmmmmmmmmm) G.S. 164-40 reads as rewritten:**

14 **"§ 164-40. Correction population simulation model; Juvenile Justice Section of the
15 Division of Adult Correction and Juvenile Justice of the Department of Public
16 Safety facilities population simulation model.**

17 (a) The Commission shall develop a correctional population simulation model, and
18 shall have first priority to apply the model to a given fact situation, or theoretical change in the
19 sentencing laws, when requested to do so by the Chairman, the Executive Director, or the
20 Commission as a whole.

21 The Executive Director or the Chairman shall make the model available to respond to
22 inquiries by any State legislator, or by the Secretary of Public Safety, in second priority to the
23 work of the Commission.

24 (b) The Commission shall develop a Juvenile Justice Section of the Division of Adult
25 Correction and Juvenile Justice of the Department of Public Safety facilities population
26 simulation model, and shall have first priority to apply the model to a given fact situation, or
27 theoretical change in the dispositional laws set forth in Chapter 7B of the General Statutes,
28 when requested to do so by the Chairman, the Executive Director, or the Commission as a
29 whole.

30 The Executive Director or the Chairman shall make the model available to respond to
31 inquiries by any State legislator, or by the Juvenile Justice Section of the Division of Adult
32 Correction and Juvenile Justice of the Department of Public Safety, in second priority to the
33 work of the Commission."

34 **SECTION 2.(nnnnnnnnnn) G.S. 164-42 reads as rewritten:**

35 **"§ 164-42. Sentencing structures.**

36 ...

37 (b) The sentencing structures shall be consistent with the goals, policies, and purposes
38 of the criminal justice and corrections systems, as set forth in Sections 2 and 3 of the
39 Sentencing and Policy Advisory Commission Act of 1990. As part of its work, the Commission
40 shall offer recommendations for the incorporation of those sections into the sentencing laws of
41 North Carolina. In formulating structures, the Commission also shall consider:

- 42 (1) The nature and characteristics of the offense;
- 43 (2) The severity of the offense in relation to other offenses;
- 44 (3) The characteristics of the defendant that mitigate or aggravate the
45 seriousness of his criminal conduct and the punishment deserved therefor;
- 46 (4) The defendant's number of prior convictions;
- 47 (5) The available resources and constitutional capacity of the Division of Adult
48 ~~Correction~~, Correction and Juvenile Justice, local confinement facilities, and
49 community-based sanctions;
- 50 (6) The rights of the victims;

(7) That felony offenders sentenced to an active term of imprisonment, or whose suspended sentence to imprisonment is activated, should serve a designated minimum percentage of their sentences before they are eligible for parole; and

(8) That misdemeanor offenders sentenced to an active term of imprisonment, or whose suspended sentence to imprisonment is activated, should serve a designated minimum percentage of their sentence before they are eligible for parole.

(c) The Commission shall also consider the policy issues set forth in G.S. 164-42.1 in developing its sentencing structures.

(d) The Commission shall include with each set of sentencing structures a statement of its estimate of the effect of the sentencing structures on the Division of Adult Correction and Juvenile Justice and local facilities, both in terms of fiscal impact and on inmate population. If the Commission finds that the proposed sentencing structures will result in inmate populations in the Division of Adult Correction and Juvenile Justice and local confinement facilities that exceed the standard operating capacity, then the Commission shall present an additional set of structures that are consistent with that capacity. For purposes of this subsection, "standard operating capacity" means the total capacity expected to be available in both local confinement facilities and in the Division of Adult Correction and Juvenile Justice once all the proceeds of bonds authorized by Chapter 933 of the 1989 Session Laws and Chapter 935 of the 1989 Session Laws have been expended for the construction of prison facilities."

SECTION 2.(oooooooo) G.S. 164-43 reads as rewritten:

"§ 164-43. Priority of duties; reports; continuing duties.

...

(d) Once the primary duties of the Commission have been accomplished, it shall have the continuing duty to monitor and review the criminal justice and corrections systems and the juvenile justice system in this State to ensure that sentences and dispositions remain uniform and consistent, and that the goals and policies established by the State are being implemented by sentencing and dispositional practices, and it shall recommend methods by which this ongoing work may be accomplished and by which the correctional population simulation model and the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety facilities population simulation model developed under G.S. 164-40 shall continue to be used by the State.

...

(h) The Commission or its successor shall meet within 10 days after the last day for filing general bills in the General Assembly for the purpose of reviewing bills as described in subsections (e), (f), and (g). The Commission or its successor shall include in its report on a bill an analysis based on an application of the correctional population simulation model or the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety facilities population simulation model to the provisions of the bill."

SECTION 2.(ppppppppp) G.S. 164-47 reads as rewritten:

"§ 164-47. Biennial Report on Recidivism.

The Judicial Department, through the North Carolina Sentencing and Policy Advisory Commission, and the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall jointly conduct ongoing evaluations of community corrections programs and in-prison treatment programs and make a biennial report to the General Assembly. The report shall include composite measures of program effectiveness based on recidivism rates, other outcome measures, and costs of the programs.

During the 1998-99 fiscal year, the Sentencing and Policy Advisory Commission shall coordinate the collection of all data necessary to create an expanded database containing

1 offender information on prior convictions, current conviction and sentence, program
2 participation, and outcome measures. Each program to be evaluated shall assist the
3 Commission in the development of systems and collection of data necessary to complete the
4 evaluation process. The first evaluation report shall be presented to the Chairs of the Senate and
5 House Appropriations Committees and the Chairs of the Senate and House Appropriations
6 Subcommittees on Justice and Public Safety by April 15, 2000, and future reports shall be
7 made by April 15 of each even-numbered year."

8 **SECTION 2.(qqqqqqqqq)** G.S. 164-50 reads as rewritten:

9 **"§ 164-50. Annual report on implementation of Justice Reinvestment Project.**

10 The Judicial Department, through the North Carolina Sentencing and Policy Advisory
11 Commission, and the Division of Adult Correction and Juvenile Justice shall jointly conduct
12 ongoing evaluations regarding the implementation of the Justice Reinvestment Act of 2011.
13 The Commission shall present the first evaluation report to the Joint Legislative Correction,
14 Crime Control, and Juvenile Justice Oversight Committee and to the Chairs of the Senate and
15 House of Representatives Appropriations Subcommittees on Justice and Public Safety by April
16 15, 2012, and future reports shall be made annually by April 15 of each year."
17

18 **PART III. INSTRUCTIONS TO REVISOR AND EFFECTIVE DATE**

19 **SECTION 3.(a)** The Revisor of Statutes shall change any additional references in
20 the General Statutes to the "Division of Adult Correction" to the "Division of Adult Correction
21 and Juvenile Justice".

22 **SECTION 3.(b)** The Revisor of Statutes shall change any additional references in
23 the General Statutes to the "Division of Juvenile Justice" to the "Juvenile Justice Section of the
24 Division of Adult Correction and Juvenile Justice".

25 **SECTION 3.(c)** This act is effective retroactively to July 1, 2013, and any acts
26 committed by an employee of the Division of Adult Correction of the Department of Public
27 Safety or the Division of Juvenile Justice of the Department of Public Safety after that date
28 shall be deemed to have been committed by an employee of the Division of Adult Correction
29 and Juvenile Justice of the Department of Public Safety.





SENATE BILL 547: Restitution Remission/Notice and Hearing Req.

2017-2018 General Assembly

Committee:	House Judiciary I	Date:	May 10, 2017
Introduced by:	Sens. Randleman, Daniel	Prepared by:	Jennifer H. Bedford
Analysis of:	First Edition		Committee Counsel

OVERVIEW: *Senate Bill 547 would require notice and the opportunity for the district attorney and victim to be heard before a judge may order restitution to be remitted.*

CURRENT LAW: Courts are required to determine whether a criminal defendant should be required to make restitution to any person directly and proximately harmed as a result of the defendant's commission of the criminal offense and may order restitution to be paid to victim, victim's estate, or organization, corporation or association that provided assistance to the victim following the commission of the offense. The General Statutes do not currently provide explicit authorization for a court to remit a prior order of restitution.

BILL ANALYSIS: *Senate Bill 547 would require notice and a hearing before a court could remit all or part of an order of restitution. At least 15 days prior to the hearing, the court would be required to provide notice to the district attorney and the victim, or victim's estate, of:*

- The date and time of the hearing.
- The right to be heard.
- The right to object to the remission of restitution.

Notice to the victim, victim's estate, or other entity would be required to be made by first-class mail to the address provided for receipt of funds paid pursuant to the order of restitution.

Senate Bill 547 would explicitly provide for courts to remit previously entered orders of restitution following a hearing provided:

- The court finds that remission of the order is warranted.
- The remission serves the interests of justice.

Senate Bill 547 would provide that a remission of an order of restitution would not limit a victim's right to bring a civil action against the defendant for damages.

EFFECTIVE DATE: This act would become effective December 1, 2017 and would apply to orders for remission entered on or after that date.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 547

Short Title: Restitution Remission/Notice and Hearing Req. (Public)

Sponsors: Senators Randleman and Daniel (Primary Sponsors).

Referred to: Rules and Operations of the Senate

April 3, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE NOTICE AND HEARING BEFORE REMISSION OF AN ORDER
3 OF RESTITUTION.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Article 81C of Chapter 15A of the General Statutes is amended by
6 adding a new section to read:

7 "**§ 15A-1340.39. Remission of restitution, notice, and hearing required.**

8 (a) Notice and Hearing Required. – No court may remit all or part of an order of
9 restitution entered pursuant to G.S. 15A-1340.34 without providing notice and an opportunity
10 to be heard to the district attorney and the victim, victim's estate, or any other entity to which
11 the order directs restitution to be paid. The court shall provide notice to the district attorney and
12 the victim, the victim's estate, or other entity of (i) the date and time of the hearing and (ii) the
13 right to be heard and make an objection to the remission of all or part of the order of restitution,
14 at least 15 days prior to hearing. Notice shall be made to the victim, victim's estate, or other
15 entity by first-class mail to the address provided for receipt of funds paid pursuant to the order
16 of restitution.

17 (b) Ruling; Criteria. – If the court finds that the remission of the order is warranted and
18 serves the interests of justice, the court may remit the order of restitution.

19 (c) Civil Action not Abridged. – The remission of an order of restitution, pursuant to
20 this section, does not abridge the right of a victim or the victim's estate to bring a civil action
21 against the defendant for damages arising out of the offense committed by the defendant."

22 **SECTION 2.** This act becomes effective December 1, 2017, and applies to orders
23 for remission entered on or after that date.



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HOUSE BILL 280: Juvenile Justice Reinvestment Act.

2017-2018 General Assembly

Committee:	House Judiciary I. If favorable, re-refer to Appropriations	Date:	May 8, 2017
Introduced by:	Reps. McGrady, Lewis, Duane Hall, S. Martin	Prepared by:	Tawanda N. Foster Staff Attorney
Analysis of:	PCS to First Edition H280-CSTV-4		

OVERVIEW: *The PCS to House Bill 280 would:*

- 1) *raise the age of juvenile jurisdiction to include 16 and 17 year olds, except in the case of A-E felonies;*
- 2) *provide a victim an opportunity to request review of a decision not to file a juvenile petition;*
- 3) *increase the information available on juveniles to law enforcement and for court proceedings;*
- 4) *authorize school-justice partnerships statewide to reduce school based referrals to the juvenile court system;*
- 5) *require regular juvenile justice training for law enforcement officers; and*
- 6) *establish the Juvenile Jurisdiction Advisory Committee.*

BILL ANALYSIS:

PART I. INCREASE THE AGE OF JUVENILE JURISDICTION, EXCEPT FOR CERTAIN FELONIES

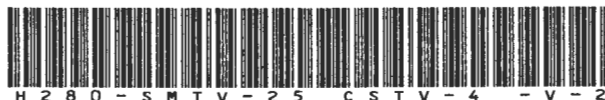
Section 1.1 modifies the definition of delinquent juvenile in G.S. 7B-1501 to add juveniles ages 16-18 years old who commit a crime, infraction, indirect contempt, or violate State law, or local ordinances.

- Violations of motor vehicle law are excluded from juvenile jurisdiction for juveniles ages 16-18.
- Adds a definition for victim as it relates to crimes or violations committed by a juvenile.

Section 1.2 amends G.S. 7B-1601 to include original jurisdiction over juveniles under age 18 at the time of the alleged offense and provides jurisdictional limitations for 16 and 17 year olds. The specific limits are as follows:

- If the juvenile is less than 16 years old, the jurisdiction will continue until terminated by the court or the juvenile reaches age 18.
- If the juvenile is more than 16, but less than 17 years old, the jurisdiction will continue until terminated by the court or until the juvenile reaches age 19.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House PCS 280

Page 2

- If the juvenile is at least 17 years old, the jurisdiction will continue until terminated by the court or until the juvenile reaches age 20.
- When delinquency proceedings for a juvenile who was at least 16 years old when the alleged delinquent act occurred cannot be concluded prior to the juvenile reaching 18 years of age the court retains jurisdiction for the sole purposes of probable cause and transfer hearings, transferring the case to superior court for trial as an adult, or dismissing the petition.
- When delinquency proceedings for a juvenile who was 16-17 years old when the alleged delinquent act occurred cannot be concluded prior to the juvenile reaching 19 years of age the court retains jurisdiction for the sole purposes of probable cause and transfer hearings, transferring the case to superior court for trial as an adult, or dismissing the petition.
- When delinquency proceedings for a juvenile who was at least 17 years old when the alleged delinquent act occurred cannot be concluded prior to the juvenile reaching 20 years of age the court retains jurisdiction for the sole purposes of probable cause and transfer hearings, transferring the case to superior court for trial as an adult, or dismissing the petition.
- When a court has not obtained jurisdiction over a juvenile before he reaches the age of 18 for felony acts and related misdemeanors committed between the ages of 13-16, the court has jurisdiction for the sole purposes of probable cause and transfer hearings, transferring the case to superior court for trial as an adult, or dismissing the petition.
- When a court has not obtained jurisdiction over a juvenile before he reaches the age of 19 for felony acts and related misdemeanors committed between the ages of 16-17, the court has jurisdiction for the sole purposes of probable cause and transfer hearings, transferring the case to superior court for trial as an adult, or dismissing the petition.
- When a court has not obtained jurisdiction over a juvenile before he reaches the age of 20 for felony acts and related misdemeanors committed between the ages of 17-18, the court has jurisdiction for the sole purposes of probable cause and transfer hearings, transferring the case to superior court for trial as an adult, or dismissing the petition.
- The Court also has jurisdiction over the following:
 - Delinquent juveniles in the custody of the Division of Juvenile Justice of the Department of Public Safety and over proceedings to determine if a juvenile has violated the terms of post-release supervision.
 - Persons 18 years of age or older who are under extended jurisdiction of the court.
 - The parent, guardian, or custodian of a juvenile who is under the jurisdiction of the court.

Section 1.3 amends G.S. 7B-1604 to increase juvenile court jurisdiction to the date a juvenile reaches the age of 18 even if the juvenile is already under the jurisdiction of the juvenile court. Emancipated juveniles are prosecuted as adults for criminal offenses.

Section 1.4 amends G.S. 7B-2200 to make conforming changes to the conditions for transfer of jurisdiction of a juvenile between the ages of 13-16 who is alleged to have committed a felony.

Section 1.5 adds a new section, G.S. 7B-2200.5 providing the conditions for transfer of jurisdiction of a juvenile at least 16 years of age.

- Jurisdiction will automatically be transferred for juveniles at least 16 years of age who are alleged to have committed a Class A-Class E felony upon a finding of probable cause or an indictment being obtained by the District Attorney.

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- Jurisdiction may be transferred for a juvenile 16 years or older who is alleged to have committed a Class F-I felony by motion of the prosecutor, motion of the juvenile's attorney, or motion of the court.

Section 1.6 amends G.S. 7B-2202 to make conforming changes to the probable cause hearing requirements.

Section 1.7 makes conforming changes to the dispositional alternatives for delinquent juveniles in G.S. 7B-2506 to reflect the increased age of juvenile court jurisdiction.

Section 1.8 amends G.S. 7B-2507 to provide points for prior convictions in adult court when determining delinquency history levels.

Section 1.9 amends G.S. 7B-2513 to make conforming changes to commitment terms of delinquent juveniles committed to the Division of Juvenile Justice.

Section 1.10 makes changes to the notice requirements for extended commitment or treatment plans in G.S. 7B-2515.

Section 1.11 amends G.S. 7B-2603 which requires a juvenile be considered for pretrial release and requires that any detention of a juvenile pending release must be conducted in accordance with the requirements of pretrial release or detention in G.S. 7B-2204.

Section 1.12 makes a conforming change to G.S. 7B-3101 requiring the juvenile court counselor to provide notice to the principal of the school the juvenile attends when the court transfers jurisdiction to superior court.

Section 1.13 makes a conforming change to G.S. 5A-31 on contempt by a juvenile to include juveniles up to 18 years of age.

Section 1.14 makes a conforming change to G.S. 5A-34 on criminal and civil contempt as it applies to minors.

Section 1.15 makes a conforming change to G.S. 14-208.6B requiring sex offender registration for juveniles convicted of a sexually violent offense or offense against a minor.

Section 1.16 makes conforming changes to G.S. 14-316.1, the criminal offense of contributing to delinquency or neglect of a minor to apply to persons over age 18.

Section 1.17 makes a conforming change to G.S. 115C-404, to the confidentiality requirements of juvenile court information when used by schools.

Section 1.18 amends the definition of delinquent juvenile in G.S. 143B-805 governing the Division of Juvenile Justice to include juveniles under age 18.

Section 1.19 amends G.S. 143B-806 to require the Division of Juvenile Justice to provide transportation to and from any State or local juvenile facility for persons under the juvenile courts' jurisdiction.

PART II. VICTIM REQUEST/REVIEW OF DECISION NOT TO FILE A PETITION

Section 2.1 amends G.S. 7B-1703 to require juvenile court counselors notify the victim, if the complainant is not the victim, of a decision not to file a juvenile petition and clarifies the information that must be shared with the complainant and the victim.

Section 2.2 amends G.S. 7B-1704 to add the victim, if the complainant is not the victim, to persons who can request review by the prosecutor of the juvenile court counselor's decision not to file a petition.

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Section 2.3 makes conforming changes to G.S. 7B-1705 which provides for the prosecutor's review of a decision not to file a petition.

Section 2.4 amends G.S. 143B-806 to require the Division of Juvenile Justice to develop and administer a system to provide status information and results of pending juvenile complaints to complainants and victims.

PART III. INCREASE INFORMATION AVAILABLE ON JUVENILES TO LAW ENFORCEMENT AND FOR COURT PROCEEDINGS

Section 3.1 amends G.S. 7B-3001 to require juvenile court counselors' records on juveniles include the juvenile's delinquency record and consultations with law enforcement that did not result in the filing of a complaint and to require juvenile court counselors to share their record with law enforcement officers investigating an incident that could result in the filing of a complaint.

Section 3.2(a) requires the Administrative Office of Courts (AOC) to expand access to the automated electronic information management system (JWise) to include access to juvenile delinquency information by prosecutors and attorneys representing juveniles.

Section 3.2(b) requires AOC to develop statewide inquiry access for JWise users with access to juvenile court records.

PART IV. SCHOOL-JUSTICE PARTNERSHIPS TO REDUCE SCHOOL-BASED REFERRALS TO JUVENILE COURTS

Section 4 amends the duties of the Director of AOC to include prescribing policies and procedures for chief district court judges to establish school-justice partnerships with the goal of reducing in-school arrests, out-of-school suspensions, and expulsions.

PART V. JUVENILE JUSTICE TRAINING FOR LAW ENFORCEMENT OFFICERS

Section 5(a) requires the North Carolina Criminal Justice Education and Training Standards Commission to require all law enforcement officers receive education and training on juvenile justice issues as a minimum standard for entry level employment and in-service training.

Section 5(b) requires under the North Carolina Sheriff's Education and Training Standards Commission to require all law enforcement officers receive education and training on juvenile justice issues as a minimum standard for entry level employment and in-service training.

Section 5(c) requires the North Carolina Criminal Justice Education and Training Standards Commission, the North Carolina Sheriffs' Education and Training Standards Commission and the Division of Adult Correction and Juvenile Justice of the Department of Public Safety work together to develop and implement the education and training required by this section.

PART VI. ESTABLISH JUVENILE JURISDICTION ADVISORY COMMITTEE

Section 6 establishes the advisory committee within the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. The Division must provide clerical and professional staff, supplies, and meeting space.

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Page 5

This section also requires the Committee to develop a specific plan for the implementation of any changes in the juvenile justice system that would be required in order to extend jurisdiction in delinquency matters and proceedings to include 16- and 17- year- old persons within the juvenile justice system.

The Advisory Committee must report as follows:

- Must submit an interim report by April 1, 2018 to the General Assembly with copies to the Joint Legislative Oversight Committee on Justice and Public Safety and to the Appropriations Committees on Justice and Public Safety of both houses.
- Additional interim reports must be submitted annually by January 15th of each year.
- The Committee must submit a final report by January 15, 2023 and must terminate on February 1, 2023 or upon the filing of its final report, whichever occurs earlier.

EFFECTIVE DATE:

- Part I which raises the age of juvenile court jurisdiction becomes effective December 1, 2019, and applies to offenses committed on or after that date.
- Part II which relates to victim and law enforcement access to information and Section 3.1 become effective July 1, 2017, and Part II applies to all complaints filed on or after that date.
- Except as otherwise provided in this act, the remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 280
PROPOSED COMMITTEE SUBSTITUTE H280-CSTV-4 [v.4]
05/09/2017 3:55:43 PM

Short Title: Juvenile Justice Reinvestment Act.

(Public)

Sponsors:

Referred to:

March 9, 2017

1
2 A BILL TO BE ENTITLED
3 AN ACT TO RAISE THE AGE OF JUVENILE JURISDICTION TO INCLUDE
4 SIXTEEN- AND SEVENTEEN-YEAR-OLDS, EXCEPT IN THE CASE OF CERTAIN
5 FELONIES; TO PROVIDE A VICTIM THE OPPORTUNITY TO REQUEST REVIEW
6 OF DECISION NOT TO FILE A PETITION; TO INCREASE THE INFORMATION
7 AVAILABLE ON JUVENILES TO LAW ENFORCEMENT AND FOR COURT
8 PROCEEDINGS; TO AUTHORIZE SCHOOL-JUSTICE PARTNERSHIPS STATEWIDE
9 TO REDUCE SCHOOL-BASED REFERRALS TO THE JUVENILE COURT SYSTEM;
10 TO REQUIRE REGULAR JUVENILE JUSTICE TRAINING FOR LAW
11 ENFORCEMENT OFFICERS; AND TO ESTABLISH THE JUVENILE JURISDICTION
12 ADVISORY COMMITTEE.

13 The General Assembly of North Carolina enacts:

14
15 PART I. INCREASE THE AGE OF JUVENILE JURISDICTION, EXCEPT FOR
16 CERTAIN FELONIES

17 SECTION 1.1. G.S. 7B-1501 reads as rewritten:

18 "§ 7B-1501. Definitions.

19 In this Subchapter, unless the context clearly requires otherwise, the following words have
20 the listed meanings. The singular includes the plural, unless otherwise specified.

21 ...

22 (7) Delinquent juvenile. –

23 a. Any juvenile who, while less than 16 years of age but at least 6 years
24 of age, commits a crime or infraction under State law or under an
25 ordinance of local government, including violation of the motor
26 vehicle laws, or who commits indirect contempt by a juvenile as
27 defined in G.S. 5A-31.

28 b. Any juvenile who, while less than 18 years of age but at least 16
29 years of age, commits a crime or infraction under State law or under
30 an ordinance of local government, excluding violation of the motor
31 vehicle laws, or who commits indirect contempt by a juvenile as
32 defined in G.S. 5A-31.

33 ...

34 (27a) Victim. – Any individual or entity against whom a crime or infraction is
35 alleged to have been committed by a juvenile based on reasonable grounds
36 that the alleged facts are true. For purposes of Article 17 of this Chapter, the



term may also include a parent, guardian, or custodian of a victim under the age of 18 years of age.

...."

SECTION 1.2. G.S. 7B-1601 reads as rewritten:

"§ 7B-1601. Jurisdiction over delinquent juveniles.

(a) The court has exclusive, original jurisdiction over any case involving a juvenile who is alleged to be delinquent. For purposes of determining jurisdiction, the age of the juvenile at the time of the alleged offense governs.

(b) When the court obtains jurisdiction over a juvenile alleged to be delinquent, ~~delinquent for an offense committed prior to the juvenile reaching the age of 16 years,~~ jurisdiction shall continue until terminated by order of the court or until the juvenile reaches the age of 18 years, except as provided otherwise in this Article.

(b1) When the court obtains jurisdiction over a juvenile alleged to be delinquent for an offense committed while the juvenile was at least 16 years of age but less than 17 years of age, jurisdiction shall continue until terminated by order of the court or until the juvenile reaches the age of 19 years. If the offense was committed while the juvenile was at least 17 years of age, jurisdiction shall continue until terminated by order of the court or until the juvenile reaches the age of 20 years.

(c) When delinquency proceedings ~~for a juvenile alleged to be delinquent for an offense committed prior to the juvenile reaching the age of 16 years cannot be concluded before the juvenile reaches the age of 18 years,~~ the court retains jurisdiction for the sole purpose of conducting proceedings pursuant to Article 22 of this Chapter and either transferring the case to superior court for trial as an adult or dismissing the petition.

(c1) When delinquency proceedings for a juvenile alleged to be delinquent for an offense committed while the juvenile was at least 16 years of age but less than 17 years of age cannot be concluded before the juvenile reaches the age of 19 years, the court retains jurisdiction for the sole purpose of conducting proceedings pursuant to Article 22 of this Chapter and either transferring the case to superior court for trial as an adult or dismissing the petition. When delinquency proceedings for a juvenile alleged to be delinquent for an offense committed while the juvenile was at least 17 years of age cannot be concluded before the juvenile reaches the age of 20 years, the court retains jurisdiction for the sole purpose of conducting proceedings pursuant to Article 22 of this Chapter and either transferring the case to superior court for trial as an adult or dismissing the petition.

(d) When the court has not obtained jurisdiction over a juvenile before the juvenile reaches the age of 18, for a felony and any related misdemeanors the juvenile allegedly committed on or after the juvenile's thirteenth birthday and prior to the juvenile's sixteenth birthday, the court has jurisdiction for the sole purpose of conducting proceedings pursuant to Article 22 of this Chapter and either transferring the case to superior court for trial as an adult or dismissing the petition.

(d1) When the court has not obtained jurisdiction over a juvenile before the juvenile reaches the age of 19, for a felony and related misdemeanors the juvenile allegedly committed while the juvenile was at least 16 years of age but less than 17 years of age, the court has jurisdiction for the sole purpose of conducting proceedings pursuant to Article 22 of this Chapter and either transferring the case to superior court for trial as an adult or dismissing the petition. When the court has not obtained jurisdiction over a juvenile before the juvenile reaches the age of 20, for a felony and related misdemeanors the juvenile allegedly committed while the juvenile was at least 17 years of age but less than 18 years of age, the court has jurisdiction for the sole purpose of conducting proceedings pursuant to Article 22 of this Chapter and either transferring the case to superior court for trial as an adult or dismissing the petition.

(e) The court has jurisdiction over delinquent juveniles in the custody of the Division and over proceedings to determine whether a juvenile who is under the post-release supervision of the juvenile court counselor has violated the terms of the juvenile's post-release supervision.

(f) The court has jurisdiction over persons 18 years of age or older who are under the extended jurisdiction of the juvenile court.

(g) The court has jurisdiction over the parent, guardian, or custodian of a juvenile who is under the jurisdiction of the court pursuant to this section if the parent, guardian, or custodian has been served with a summons pursuant to G.S. 7B-1805."

SECTION 1.3. G.S. 7B-1604(a) reads as rewritten:

"(a) Any juvenile, including a juvenile who is under the jurisdiction of the court, who commits a criminal offense on or after the ~~juvenile's sixteenth birthday~~ date the juvenile has reached the age of 18 years is subject to prosecution as an adult. A juvenile who is emancipated shall be prosecuted as an adult for the commission of a criminal offense."

SECTION 1.4. G.S. 7B-2200 reads as rewritten:

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

~~After~~Except as otherwise provided in G.S. 7B-2200.5, after notice, hearing, and a finding of probable cause the court may, upon motion of the prosecutor or the juvenile's attorney or upon its own motion, transfer jurisdiction over a juvenile to superior court if the juvenile was at least 13 years of age or older but less than 16 years of age at the time the juvenile allegedly committed an offense that would be a felony if committed by an adult. If the alleged felony constitutes a Class A felony and the court finds probable cause, the court shall transfer the case to the superior court for trial as in the case of adults."

SECTION 1.5. Article 22 of Chapter 7B of the General Statutes is amended by adding a new section to read:

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

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

(1) Notice to the juvenile and a finding by the court that a bill of indictment has been returned against the juvenile charging the commission of an offense that constitutes a Class A, B1, B2, C, D, or E felony if committed by an adult.

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

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

SECTION 1.6. G.S. 7B-2202 reads as rewritten:

"§ 7B-2202. Probable cause hearing.

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

...

(e) If probable cause is found and transfer to superior court is not required by ~~G.S. 7B-2200~~, G.S. 7B-2200 or G.S. 7B-2200.5, upon motion of the prosecutor or the juvenile's attorney or upon its own motion, the court shall either proceed to a transfer hearing or set a date for that hearing. If the juvenile has not received notice of the intention to seek transfer at least five days prior to the probable cause hearing, the court, at the request of the juvenile, shall continue the transfer hearing.

...."

SECTION 1.7. G.S. 7B-2506 reads as rewritten:

"§ 7B-2506. Dispositional alternatives for delinquent juveniles.

The court exercising jurisdiction over a juvenile who has been adjudicated delinquent may use the following alternatives in accordance with the dispositional structure set forth in G.S. 7B-2508:

- (1) In the case of any juvenile under the age of 18 years who needs more adequate care or supervision or who needs placement, the judge may:
 - a. Require that a juvenile be supervised in the juvenile's own home by the department of social services in the juvenile's county, a juvenile court counselor, or other personnel as may be available to the court, subject to conditions applicable to the parent, guardian, or custodian or the juvenile as the judge may specify; or
 - b. Place the juvenile in the custody of a parent, guardian, custodian, relative, private agency offering placement services, or some other suitable person; or
 - c. If the director of the county department of social services has received notice and an opportunity to be heard, place the juvenile in the custody of the department of social services in the county of his residence, or in the case of a juvenile who has legal residence outside the State, in the physical custody of a department of social services in the county where the juvenile is found so that agency may return the juvenile to the responsible authorities in the juvenile's home state. An order placing a juvenile in the custody or placement responsibility of a county department of social services shall contain a finding that the juvenile's continuation in the juvenile's own home would be contrary to the juvenile's best interest. This placement shall be reviewed in accordance with G.S. 7B-906.1. The director may, unless otherwise ordered by the judge, arrange for, provide, or consent to, needed routine or emergency medical or surgical care or treatment. In the case where the parent is unknown, unavailable, or unable to act on behalf of the juvenile or juveniles, the director may, unless otherwise ordered by the judge, arrange for, provide, or consent to any psychiatric, psychological, educational, or other remedial evaluations or treatment for the juvenile placed by a judge or his designee in the custody or physical custody of a county department of social services under the authority of this or any other Chapter of the General Statutes. Prior to exercising this authority, the director shall make reasonable efforts to obtain consent from a parent, guardian, or custodian of the affected juvenile. If the director cannot obtain consent, the director shall promptly notify the parent, guardian, or custodian that care or treatment has been provided and shall give the parent, guardian, or custodian frequent status reports on the circumstances of the juvenile. Upon request of a parent, guardian, or custodian of the affected juvenile, the results or records of the

1 aforementioned evaluations, findings, or treatment shall be made
2 available to the parent, guardian, or custodian by the director unless
3 prohibited by G.S. 122C-53(d).

4 (2) Excuse ~~the~~ juvenile under the age of 16 years from compliance with the
5 compulsory school attendance law when the court finds that suitable
6 alternative plans can be arranged by the family through other community
7 resources for one of the following:

- 8 a. An education related to the needs or abilities of the juvenile
9 including vocational education or special education;
10 b. A suitable plan of supervision or placement; or
11 c. Some other plan that the court finds to be in the best interests of the
12 juvenile.

13 "

14 **SECTION 1.8.** G.S. 7B-2507 reads as rewritten:

15 **"§ 7B-2507. Delinquency history levels.**

16 (a) Generally. – The delinquency history level for a delinquent juvenile is determined
17 by calculating the sum of the points assigned to each of the juvenile's prior adjudications or
18 convictions and to the juvenile's probation status, if any, that the court finds to have been
19 proved in accordance with this section. For the purposes of this section, a prior adjudication is
20 an adjudication of an offense that occurs before the adjudication of the offense before the court.

21 (b) Points. – Points are assigned as follows:

22 (1) For each prior adjudication of a Class A through E felony offense, 4 points.

23 (2) For each prior adjudication of a Class F through I felony offense or Class A1
24 misdemeanor offense, 2 points.

25 (2a) For each prior conviction of a Class A through E felony offense, 4 points.

26 (2b) For each prior conviction of a Class F through I felony or Class A1
27 misdemeanor offense, excluding conviction of the motor vehicle laws, 2
28 points.

29 (2c) For each prior misdemeanor conviction of impaired driving (G.S. 20-138.1),
30 impaired driving in a commercial vehicle (G.S. 20-138.2), and misdemeanor
31 death by vehicle (G.S. 20-141.4(a2)), 2 points.

32 (3) For each prior adjudication of a Class 1, 2, or 3 misdemeanor offense, 1
33 point.

34 (3a) For each prior conviction of a Class 1, 2, or 3 misdemeanor offense,
35 excluding conviction for violation of the motor vehicle laws, 1 point.

36 (4) If the juvenile was on probation at the time of offense, 2 points.

37 No points shall be assigned for a prior adjudication that a juvenile is in direct contempt of
38 court or indirect contempt of court.

39 (c) Delinquency History Levels. – The delinquency history levels are:

40 (1) Low – No more than 1 point.

41 (2) Medium – At least 2, but not more than 3 points.

42 (3) High – At least 4 points.

43 In determining the delinquency history level, the classification of a prior offense is the
44 classification assigned to that offense at the time the juvenile committed the offense for which
45 disposition is being ordered.

46 (d) Multiple Prior Adjudications or Convictions Obtained in One Court Session. – For
47 purposes of determining the delinquency history level, if a juvenile is adjudicated delinquent or
48 convicted for more than one offense in a single session of district ~~court~~, court or more than one
49 offense in a single superior court during one calendar week, only the adjudication or conviction
50 for the offense with the highest point total is used.

(e) Classification of Prior Adjudications or Convictions From Other Jurisdictions. -- Except as otherwise provided in this subsection, an adjudication or conviction occurring in a jurisdiction other than North Carolina is classified as a Class I felony if the jurisdiction in which the offense occurred classifies the offense as a felony, or is classified as a Class 3 misdemeanor if the jurisdiction in which the offense occurred classifies the offense as a misdemeanor. If the juvenile proves by the preponderance of the evidence that an offense classified as a felony in the other jurisdiction is substantially similar to an offense that is a misdemeanor in North Carolina, the adjudication or conviction is treated as that class of misdemeanor for assigning delinquency history level points. If the State proves by the preponderance of the evidence that an offense classified as either a misdemeanor or a felony in the other jurisdiction is substantially similar to an offense in North Carolina that is classified as a Class I felony or higher, the adjudication or conviction is treated as that class of felony for assigning delinquency history level points. If the State proves by the preponderance of the evidence that an offense classified as a misdemeanor in the other jurisdiction is substantially similar to an offense classified as a Class A1 misdemeanor in North Carolina, the adjudication or conviction is treated as a Class A1 misdemeanor for assigning delinquency history level points.

(f) Proof of Prior Adjudications-Adjudications or Convictions. -- A prior adjudication or conviction shall be proved by any of the following methods:

- (1) Stipulation of the parties.
- (2) An original or copy of the court record of the prior ~~adjudication~~ adjudication or conviction.
- (3) A copy of records maintained by the Department of Public Safety or by the Division.
- (4) Any other method found by the court to be reliable.

The State bears the burden of proving, by a preponderance of the evidence, that a prior adjudication or conviction exists and that the juvenile before the court is the same person as the juvenile named in the prior ~~adjudication~~ adjudication or conviction. The original or a copy of the court records or a copy of the records maintained by the Department of Public Safety or of the Division, bearing the same name as that by which the juvenile is charged, is prima facie evidence that the juvenile named is the same person as the juvenile before the court, and that the facts set out in the record are true. For purposes of this subsection, "a copy" includes a paper writing containing a reproduction of a record maintained electronically on a computer or other data processing equipment, and a document produced by a facsimile machine. The prosecutor shall make all feasible efforts to obtain and present to the court the juvenile's full record. Evidence presented by either party at trial may be utilized to prove prior ~~adjudications~~ adjudications or convictions. If asked by the juvenile, the prosecutor shall furnish the juvenile's prior adjudications or convictions to the juvenile within a reasonable time sufficient to allow the juvenile to determine if the record available to the prosecutor is accurate."

SECTION 1.9. G.S. 7B-2513(a) reads as rewritten:

"(a) Pursuant to G.S. 7B-2506 and G.S. 7B-2508, the court may commit a delinquent juvenile who is at least 10 years of age to the Division for placement in a youth development center. Commitment shall be for an indefinite term of at least six months.

(a1) In no event shall For an offense the juvenile committed prior to reaching the age of 16 years, the term shall not exceed:

- (1) The twenty-first birthday of the juvenile if the juvenile has been committed to the Division for an offense that would be first-degree murder pursuant to G.S. 14-17, first-degree forcible rape pursuant to G.S. 14-27.21, first-degree statutory rape pursuant to G.S. 14-27.24, first-degree forcible sexual offense

- 1 pursuant to G.S. 14-27.26, or first-degree statutory sexual offense pursuant
2 to G.S. 14-27.29 if committed by an adult;
- 3 (2) The nineteenth birthday of the juvenile if the juvenile has been committed to
4 the Division for an offense that would be a Class B1, B2, C, D, or E felony if
5 committed by an adult, other than an offense set forth in subdivision (1) of
6 this subsection; or
- 7 (3) The eighteenth birthday of the juvenile if the juvenile has been committed to
8 the Division for an offense other than an offense that would be a Class A,
9 B1, B2, C, D, or E felony if committed by an adult.

10 (a2) For an offense the juvenile committed while the juvenile was at least 16 years of age
11 but less than 17 years of age, the term shall not exceed the juvenile's nineteenth birthday.

12 (a3) For an offense the juvenile committed while the juvenile was at least 17 years of
13 age, the term shall not exceed the juvenile's twentieth birthday.

14 (a4) No juvenile shall be committed to a youth development center beyond the minimum
15 six-month commitment for a period of time in excess of the maximum term of imprisonment
16 for which an adult in prior record level VI for felonies or in prior conviction level III for
17 misdemeanors could be sentenced for the same offense, except when the Division pursuant to
18 G.S. 7B-2515 determines that the juvenile's commitment needs to be continued for an
19 additional period of time to continue care or treatment under the plan of care or treatment
20 developed under subsection (f) of this section. At the time of commitment to a youth
21 development center, the court shall determine the maximum period of time the juvenile may
22 remain committed before a determination must be made by the Division pursuant to
23 G.S. 7B-2515 and shall notify the juvenile of that determination."

24 **SECTION 1.10.** G.S. 7B-2515 reads as rewritten:

25 **"§ 7B-2515. Notification of extended commitment; plan of treatment.**

26 (a) In determining whether a juvenile who was committed to the Division for an offense
27 that was committed prior to the juvenile reaching the age of 16 years should be released before
28 the juvenile's 18th birthday, the Division shall consider the protection of the public and the
29 likelihood that continued placement will lead to further rehabilitation. If the Division does not
30 intend to release the juvenile prior to the juvenile's eighteenth birthday, or if the Division
31 determines that the juvenile's commitment should be continued beyond the maximum
32 commitment period as set forth in ~~G.S. 7B-2513(a)~~, G.S. 7B-2513(a4), the Division shall notify
33 the juvenile and the juvenile's parent, guardian, or custodian in writing at least 30 days in
34 advance of the juvenile's eighteenth birthday or the end of the maximum commitment period,
35 of the additional specific commitment period proposed by the Division, the basis for extending
36 the commitment period, and the plan for future care or treatment.

37 (a1) In determining whether a juvenile who was committed to the Division for an offense
38 that was committed while the juvenile was at least 16 years of age but less than 17 years of age
39 should be released before the juvenile's 19th birthday, the Division shall consider the protection
40 of the public and the likelihood that continued placement will lead to further rehabilitation. If
41 the Division does not intend to release the juvenile prior to the juvenile's nineteenth birthday, or
42 if the Division determines that the juvenile's commitment should be continued beyond the
43 maximum commitment period as set forth in G.S. 7B-2513(a4), the Division shall notify the
44 juvenile and the juvenile's parent, guardian, or custodian in writing at least 30 days in advance
45 of the juvenile's nineteenth birthday or the end of the maximum commitment period, of the
46 additional specific commitment period proposed by the Division, the basis for extending the
47 commitment period, and the plan for future care or treatment.

48 (a2) In determining whether a juvenile who was committed to the Division for an offense
49 that was committed while the juvenile was at least 17 years of age but less than 18 years of age
50 should be released before the juvenile's 20th birthday, the Division shall consider the protection
51 of the public and the likelihood that continued placement will lead to further rehabilitation. If

1 the Division does not intend to release the juvenile prior to the juvenile's twentieth birthday, or
2 if the Division determines that the juvenile's commitment should be continued beyond the
3 maximum commitment period as set forth in G.S. 7B-2513(a4), the Division shall notify the
4 juvenile and the juvenile's parent, guardian, or custodian in writing at least 30 days in advance
5 of the juvenile's twentieth birthday or the end of the maximum commitment period, of the
6 additional specific commitment period proposed by the Division, the basis for extending the
7 commitment period, and the plan for future care or treatment.

8 (b) The Division shall modify the plan of care or treatment developed pursuant to G.S.
9 7B-2513(f) to specify (i) the specific goals and outcomes that require additional time for care or
10 treatment of the juvenile; (ii) the specific course of treatment or care that will be implemented
11 to achieve the established goals and outcomes; and (iii) the efforts that will be taken to assist
12 the juvenile's family in creating an environment that will increase the likelihood that the efforts
13 to treat and rehabilitate the juvenile will be successful upon release. If appropriate, the Division
14 may place the juvenile in a setting other than a youth development center.

15 (c) The juvenile and the juvenile's parent, guardian, or custodian may request a review
16 by the court of the Division's decision to extend the juvenile's commitment ~~beyond the~~
17 ~~juvenile's eighteenth birthday or maximum commitment period,~~ pursuant to this section, in
18 which case the court shall conduct a review hearing. The court may modify the Division's
19 decision and the juvenile's maximum commitment period. If the juvenile or the juvenile's
20 parent, guardian, or custodian does not request a review of the Division's decision, the
21 Division's decision shall become the juvenile's new maximum commitment period."

22 **SECTION 1.11.** G.S. 7B-2603(b) reads as rewritten:

23 "(b) Once an order of transfer has been entered by the district court, the juvenile has the
24 right to be considered for pretrial release as provided in G.S. 15A-533 and G.S. 15A-534. ~~The~~
25 ~~release order shall specify the person or persons to whom the juvenile may be released. Pending~~
26 ~~release, the court shall order that the juvenile be detained in a detention facility while awaiting~~
27 ~~trial. The court may order the juvenile to be held in a holdover facility as defined by G.S.~~
28 ~~7B-1501 at any time the presence of the juvenile is required in court for pretrial hearings or~~
29 ~~trial, if the court finds that it would be inconvenient to return the juvenile to the detention~~
30 ~~facility. Any detention of the juvenile pending release shall be in accordance with~~
31 G.S. 7B-2204."

32 **SECTION 1.12.** G.S. 7B-3101(a)(2) reads as rewritten:

33 "(2) The court transfers jurisdiction over a juvenile to superior court under
34 G.S. 7B-2200.5 or G.S. 7B-2200,"

35 **SECTION 1.13.** G.S. 5A-31(a) reads as rewritten:

36 "(a) Each of the following, when done by an unemancipated minor who (i) is at least six
37 years of age, (ii) is not yet ~~16~~18 years of age, and (iii) has not been convicted of any crime in
38 superior court, is contempt by a juvenile:

39 "...."

40 **SECTION 1.14.** G.S. 5A-34(b) reads as rewritten:

41 "(b) The provisions of Article 1 and Article 2 of this Chapter apply to acts or omissions
42 by a minor who:

- 43 (1) ~~Is 16 years of age or older;~~
44 (2) Is married or otherwise emancipated; or
45 (3) Before the act or omission, was convicted in superior court of any criminal
46 offense."

47 **SECTION 1.15.** G.S. 14-208.6B reads as rewritten:

48 "**§ 14-208.6B. Registration requirements for juveniles transferred to and convicted in**
49 **superior court.**

50 A juvenile transferred to superior court pursuant to G.S. 7B-2200 or G.S. 7B-2200.5 who is
51 convicted of a sexually violent offense or an offense against a minor as defined in

1 G.S. 14-208.6 shall register in person in accordance with this Article just as an adult convicted
2 of the same offense must register."

3 **SECTION 1.16.** G.S. 14-316.1 reads as rewritten:

4 **"§ 14-316.1. Contributing to delinquency and neglect by parents and others.**

5 Any person who is at least ~~16~~18 years old who knowingly or willfully causes, encourages,
6 or aids any juvenile within the jurisdiction of the court to be in a place or condition, or to
7 commit an act whereby the juvenile could be adjudicated delinquent, undisciplined, abused, or
8 neglected as defined by G.S. 7B-101 and G.S. 7B-1501 shall be guilty of a Class 1
9 misdemeanor.

10 It is not necessary for the district court exercising juvenile jurisdiction to make an
11 adjudication that any juvenile is delinquent, undisciplined, abused, or neglected in order to
12 prosecute a parent or any person, including an employee of the Division of Juvenile Justice of
13 the Department of Public Safety under this section. An adjudication that a juvenile is
14 delinquent, undisciplined, abused, or neglected shall not preclude a subsequent prosecution of a
15 parent or any other person including an employee of the Division of Juvenile Justice of the
16 Department of Public Safety, who contributes to the delinquent, undisciplined, abused, or
17 neglected condition of any juvenile."

18 **SECTION 1.17.** G.S. 115C-404(a) reads as rewritten:

19 "(a) Written notifications received in accordance with G.S. 7B-3101 and information
20 gained from examination of juvenile records in accordance with G.S. 7B-3100 are confidential
21 records, are not public records as defined under G.S. 132-1, and shall not be made part of the
22 student's official record under G.S. 115C-402. Immediately upon receipt, the principal shall
23 maintain these documents in a safe, locked record storage that is separate from the student's
24 other school records. The principal shall shred, burn, or otherwise destroy documents received
25 in accordance with G.S. 7B-3100 to protect the confidentiality of the information when the
26 principal receives notification that the court dismissed the petition under G.S. 7B-2411, the
27 court transferred jurisdiction over the student to superior court under G.S. 7B-2200.5 or
28 G.S. 7B-2200, or the court granted the student's petition for expunction of the records. The
29 principal shall shred, burn, or otherwise destroy all information gained from examination of
30 juvenile records in accordance with G.S. 7B-3100 when the principal finds that the school no
31 longer needs the information to protect the safety of or to improve the educational opportunities
32 for the student or others. In no case shall the principal make a copy of these documents."

33 **SECTION 1.18.** G.S. 143B-805(6) reads as rewritten:

34 "(6) Delinquent juvenile. –

35 a. Any juvenile who, while less than 16 years of age but at least 6 years
36 of age, commits a crime or infraction under State law or under an
37 ordinance of local government, including violation of the motor
38 vehicle laws, laws, or who commits indirect contempt by a juvenile
39 as defined in G.S. 5A-31.

40 b. Any juvenile who, while less than 18 years of age but at least 16
41 years of age, commits a misdemeanor or infraction under State law or
42 under an ordinance of local government, excluding violation of the
43 motor vehicle laws, or who commits indirect contempt by a juvenile
44 as defined in G.S. 5A-31."

45 **SECTION 1.19.** G.S. 143B-806(b) is amended by adding a new subdivision to
46 read:

47 "(20) Provide for the transportation to and from any State or local juvenile facility
48 of any person under the jurisdiction of the juvenile court for any purpose
49 required by Chapter 7B of the General Statutes or upon order of the court."

50
51 **PART II. VICTIM REQUEST/REVIEW OF DECISION NOT TO FILE A PETITION**

1 **SECTION 2.1.** G.S. 7B-1703(c) reads as rewritten:

2 "(c) If the juvenile court counselor determines that a petition should not be filed, the
3 juvenile court counselor shall notify the complainant and the victim, if the complainant is not
4 the victim, immediately in writing with specific reasons for the decision, whether or
5 not legal sufficiency was found, and whether the matter was closed or diverted and retained,
6 and shall include notice of the complainant's and victim's right to have the decision reviewed by
7 the prosecutor. The juvenile court counselor shall sign the complaint after indicating on it:

- 8 (1) The date of the determination;
9 (2) The words "Not Approved for Filing"; and
10 (3) Whether the matter is "Closed" or "Diverted and Retained".

11 Except as provided in G.S. 7B-1706, any complaint not approved for filing as a juvenile
12 petition shall be destroyed by the juvenile court counselor after holding the complaint for a
13 temporary period to allow review as provided in G.S. 7B-1705."

14 **SECTION 2.2.** G.S. 7B-1704 reads as rewritten:

15 **"§ 7B-1704. Request for review by prosecutor.**

16 The complainant ~~has~~ and the victim have five calendar days, from receipt of the juvenile
17 court counselor's decision not to approve the filing of a petition, to request review by the
18 prosecutor. The juvenile court counselor shall notify the prosecutor immediately of such
19 request and shall transmit to the prosecutor a copy of the complaint. The prosecutor shall notify
20 ~~the complainant~~ complainant, the victim, and the juvenile court counselor of the time and place
21 for the review."

22 **SECTION 2.3.** G.S. 7B-1705 reads as rewritten:

23 **"§ 7B-1705. Review of determination that petition should not be filed.**

24 No later than 20 days after the complainant ~~is~~ and the victim are notified, the prosecutor
25 shall review the juvenile court counselor's determination that a juvenile petition should not be
26 filed. Review shall include conferences with the ~~complainant~~ complainant, the victim, and the
27 juvenile court counselor. At the conclusion of the review, the prosecutor shall: (i) affirm the
28 decision of the juvenile court counselor or direct the filing of a petition and (ii) notify the
29 complainant and the victim of the prosecutor's action."

30 **SECTION 2.4.** G.S. 143B-806(b) is amended by adding a new subdivision to read:

31 "(14a) Develop and administer a system to provide information to victims and
32 complainants regarding the status of pending complaints and the right of a
33 complainant and victim to request review under G.S. 7B-1704 of a decision
34 to not file a petition."
35

36 **PART III. INCREASE INFORMATION AVAILABLE ON JUVENILES TO LAW**
37 **ENFORCEMENT AND FOR COURT PROCEEDINGS**

38 **SECTION 3.1.** G.S. 7B-3001 reads as rewritten:

39 **"§ 7B-3001. Other records relating to juveniles.**

40 (a) The chief court counselor shall maintain a record of all cases of juveniles under
41 supervision of juvenile court counselors, to be known as the juvenile court counselor's record.
42 The juvenile court counselor's record shall include the juvenile's delinquency record;
43 consultations with law enforcement that did not result in the filing of a complaint; family
44 background information; reports of social, medical, psychiatric, or psychological information
45 concerning a juvenile or the juvenile's family; probation reports; interviews with the juvenile's
46 family; or other information the court finds should be protected from public inspection in the
47 best interests of the juvenile.

48 (a1) To assist at the time of investigation of an incident that could result in the filing of a
49 complaint, upon request, a juvenile court counselor shall share with a law enforcement officer
50 sworn in this State information from the juvenile court counselor's record related to a juvenile's
51 delinquency record or prior consultations with law enforcement. A law enforcement officer

1 may not obtain copies of any part of the record, and all information shared pursuant to this
2 subsection shall be withheld from public inspection as provided in subsection (b) of this
3 section.

4 (b) Unless jurisdiction of the juvenile has been transferred to superior court, all law
5 enforcement records and files concerning a juvenile shall be kept separate from the records and
6 files of adults and shall be withheld from public inspection. The following persons may
7 examine and obtain copies of law enforcement records and files concerning a juvenile without
8 an order of the court:

- 9 (1) The juvenile or the juvenile's attorney;
- 10 (2) The juvenile's parent, guardian, custodian, or the authorized representative of
11 the juvenile's parent, guardian, or custodian;
- 12 (3) The prosecutor;
- 13 (4) Juvenile court counselors; and
- 14 (5) Law enforcement officers sworn in this State.

15 Otherwise, the records and files may be examined or copied only by order of the court.

16 (c) All records and files maintained by the Division pursuant to this Chapter shall be
17 withheld from public inspection. The following persons may examine and obtain copies of the
18 Division records and files concerning a juvenile without an order of the court:

- 19 (1) The juvenile and the juvenile's attorney;
- 20 (2) The juvenile's parent, guardian, custodian, or the authorized representative of
21 the juvenile's parent, guardian, or custodian;
- 22 (3) Professionals in the agency who are directly involved in the juvenile's case;
23 and
- 24 (4) Juvenile court counselors.

25 Otherwise, the records and files may be examined or copied only by order of the court. The
26 court may inspect and order the release of records maintained by the Division.

27 (d) When the Section of Community Corrections of the Division of Adult Correction of
28 the Department of Public Safety is authorized to access a juvenile record pursuant to
29 G.S. 7B-3000(e1), the Division may, at the request of the Section of Community Corrections of
30 the Division of Adult Correction, notify the Section of Community Corrections of the Division
31 of Adult Correction that there is a juvenile record of an adjudication of delinquency for an
32 offense that would be a felony if committed by an adult for a person subject to probation
33 supervision under Article 82 of Chapter 15A of the General Statutes and may notify the Section
34 of Community Corrections of the Division of Adult Correction of the county or counties where
35 the adjudication of delinquency occurred."

36 **SECTION 3.2.(a)** By July 1, 2018, the Administrative Office of the Courts shall
37 expand access to its automated electronic information management system for juvenile courts,
38 JWisE, to include prosecutors and attorneys representing juveniles in juvenile court
39 proceedings. Access shall be limited to examining electronic records related to juvenile
40 delinquency information. Other information contained in JWisE, such as any records pertaining
41 to abuse, neglect, and dependency or termination of parental rights, shall not be made available
42 to a prosecutor or juvenile's attorney through JWisE.

43 **SECTION 3.2.(b)** Due to the increased mobility of North Carolina citizens across
44 counties, the Administrative Office of the Courts shall develop statewide inquiry access for
45 JWisE users that corresponds to access to juvenile court records as authorized under Chapter 7B
46 of the General Statutes by July 1, 2018.

47 48 **PART IV. SCHOOL-JUSTICE PARTNERSHIPS TO REDUCE SCHOOL-BASED** 49 **REFERRALS TO JUVENILE COURTS**

50 **SECTION 4.** G.S. 7A-343 reads as rewritten:

51 **"§ 7A-343. Duties of Director.**

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

- ...
- (9g) Prescribe policies and procedures for chief district court judges to establish school-justice partnerships with local law enforcement agencies, local boards of education, and local school administrative units with the goal of reducing in-school arrests, out-of-school suspensions, and expulsions.
-"

PART V. JUVENILE JUSTICE TRAINING FOR LAW ENFORCEMENT OFFICERS

SECTION 5.(a) G.S. 17C-6(a) reads as rewritten:

"§ 17C-6. Powers of Commission.

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

- ...
- (2) Establish minimum educational and training standards that must be met in order to qualify for entry level employment and retention as a criminal justice officer in temporary or probationary status or in a permanent position. The standards for entry level employment shall include all of the following:
- a. Education~~education~~ and training in response to, and investigation of, domestic violence cases, as well as training in investigation for evidence-based prosecutions.
- b. Education and training on juvenile justice issues, including (i) the handling and processing of juvenile matters for referrals, diversion, arrests, and detention; (ii) best practices for handling incidents involving juveniles; (iii) adolescent development and psychology; and (iv) promoting relationship building with youth as a key to delinquency prevention.
- ...
- (14) Establish minimum standards for in-service training for criminal justice officers. In-service training standards shall include all of the following:
- a. Training~~training~~ in response to, and investigation of, domestic violence cases, as well as training investigation for evidence-based prosecutions.
- b. Training on juvenile justice issues, including (i) the handling and processing of juvenile matters for referrals, diversion, arrests, and detention; (ii) best practices for handling incidents involving juveniles; (iii) adolescent development and psychology; and (iv) promoting relationship building with youth as a key to delinquency prevention.
- (15) Establish minimum standards and levels of training for certification of instructors for the domestic violence training and juvenile justice training required by subdivisions (2) and (14) of this subsection.

...."

SECTION 5.(b) G.S. 17E-4(a) reads as rewritten:

"§ 17E-4. Powers and duties of the Commission.

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

...

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

a. ~~Training—training~~ in response to, and investigation of, domestic violence cases, as well as training in investigation for evidence-based prosecutions. For purposes of the domestic violence training requirement, the term "officers" shall include justice officers as defined in G.S. 17E-2(3)a., except that the term shall not include "special deputy sheriffs" as defined in ~~G.S. 17E-2(3)a.;~~ G.S. 17E-2(3)a.

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

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

a. ~~Training—training~~ in response to, and investigation of, domestic violence cases, as well as training in investigation for evidence-based prosecutions. For purposes of the domestic violence training requirement, the term "justice officer" shall include those defined in G.S. 17E-2(3)a., except that the term shall not include "special deputy sheriffs" as defined in ~~G.S. 17E-2(3)a.;~~ G.S. 17E-2(3)a.

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

(12) Establish minimum standards and levels of training for certification of instructors for the domestic violence training and juvenile justice training required by subdivisions (2) and (11) of this subsection.

The Commission may certify, and no additional certification shall be required from it, programs, courses and teachers certified by the North Carolina Criminal Justice Education and Training Standards Commission. Where the Commission determines that a program, course, instructor or teacher is required for an area which is unique to the office of sheriff, the Commission may certify such program, course, instructor, or teacher under such standards and procedures as it may establish."

SECTION 5.(c) In developing and implementing the education and training required by subsections (a) and (b) of this section, the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission shall work with the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

PART VI. ESTABLISH JUVENILE JURISDICTION ADVISORY COMMITTEE

SECTION 6.(a) Advisory Committee Established. – There is established within the Division of Adult Correction and Juvenile Justice of the Department of Public Safety the Juvenile Jurisdiction Advisory Committee. The Division of Adult Correction and Juvenile

Justice shall provide professional and clerical staff and other services and supplies, including meeting space, as needed for the Advisory Committee to carry out its duties in an effective manner.

SECTION 6.(b) Membership. – The Advisory Committee shall consist of 21 members. The following members or their designees shall serve as ex officio members:

- (1) The Deputy Commissioner for Juvenile Justice of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.
- (2) The Director of the Administrative Office of the Courts.
- (3) The Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services.
- (4) The Superintendent of Public Instruction
- (5) The Juvenile Defender in the Office of Indigent Defense
- (6) The Executive Director of the North Carolina Sentencing and Policy Advisory Commission.
- (7) One representative from the Juvenile Justice Planning Committee of the Governor's Crime Commission.

The remaining members shall be appointed as follows:

- (8) Two chief court counselors appointed by the Governor, one to be from a rural county and one from an urban county.
- (9) One chief district court judge and one superior court judge appointed by the Chief Justice of the North Carolina Supreme Court.
- (10) One police chief appointed by the President Pro Tempore of the Senate.
- (11) One sheriff appointed by the Speaker of the House of Representatives.
- (12) One clerk of superior court appointed by the President Pro Tempore of the Senate.
- (13) One district attorney appointed by the Speaker of the House of Representatives.
- (14) One assistant district attorney who handles juvenile matters appointed by the Conference of District Attorneys.
- (15) One assistant public defender who handles juvenile matters appointed by the North Carolina Association of Public Defenders.
- (16) Two representatives from the juvenile advocacy community, one appointed by the President Pro Tempore of the Senate and one appointed by the Speaker of the House of Representatives.
- (17) Two representatives from the victim advocacy community, one appointed by the President Pro Tempore of the Senate and one appointed by the Speaker of the House of Representatives.

Appointments to the Advisory Committee shall be made no later than October 1, 2017. A vacancy in the Advisory Committee or a vacancy as chair of the Advisory Committee resulting from the resignation of a member or otherwise shall be filled in the same manner in which the original appointment was made.

SECTION 6.(c) Chair; Meetings. – The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate one member to serve as cochair of the Advisory Committee.

The cochairs shall call the initial meeting of the Advisory Committee on or before November 1, 2017. The Advisory Committee shall subsequently meet upon such notice and in such manner as its members determine. A majority of the members of the Advisory Committee shall constitute a quorum.

1 **SECTION 6.(d)** Cooperation by Government Agencies. – The Advisory
2 Committee may call upon any department, agency, institution, or officer of the State or any
3 political subdivision thereof for facilities, data, or other assistance.

4 **SECTION 6.(e)** Duties of Advisory Committee. – The Advisory Committee shall
5 develop a specific plan for the implementation of any changes in the juvenile justice system
6 that would be required in order to extend jurisdiction in delinquency matters and proceedings to
7 include 16- and 17-year-old persons within the juvenile justice system. The plan shall include
8 cost estimates for each portion of the plan, including capital costs, operating costs, and staffing
9 costs. As the expansion of the jurisdiction of the Division of Juvenile Justice to include persons
10 16 and 17 years of age who commit crimes or infractions becomes effective pursuant to this
11 act, the Advisory Committee shall monitor and review the implementation of the expansion and
12 shall make additional recommendations to the General Assembly as necessary.

13 **SECTION 6.(f)** Consultation. – The Advisory Committee shall consult with
14 appropriate State departments, agencies, and board representatives on issues related to juvenile
15 justice administration.

16 **SECTION 6.(g)** Report. – The Advisory Committee shall submit an interim report
17 containing the specific plan and the cost estimates for capital, operating, and staffing costs for
18 implementation of this act, and including legislative, administrative, and funding
19 recommendations necessary to implement the increase in juvenile jurisdiction to include
20 16- and 17-year-old persons by April 1, 2018, to the General Assembly with copies to the Joint
21 Legislative Oversight Committee on Justice and Public Safety and to the Appropriations
22 Committees on Justice and Public Safety of both houses. The Advisory Committee shall submit
23 additional interim reports with updates on the planning steps completed towards
24 implementation, including any legislative, administrative, and funding recommendations,
25 annually by January 15 of each year. The Advisory Committee shall submit a final report on
26 the implementation of this act, and its findings and recommendations, including legislative,
27 administrative, and funding recommendations, by January 15, 2023, to the General Assembly
28 and the Governor. The Advisory Committee shall terminate on February 1, 2023, or upon the
29 filing of its final report, whichever occurs earlier.

30 **SECTION 6.(h)** Funding. – The Advisory Committee may apply for, receive, and
31 accept grants of non-State funds or other contributions as appropriate to assist in the
32 performance of its duties.

33 34 **PART VII. EFFECTIVE DATE**

35 **SECTION 7.** Part I of this act becomes effective December 1, 2019, and applies to
36 offenses committed on or after that date. Part II and Section 3.1 of this act become effective
37 July 1, 2017, and Part II applies to all complaints filed on or after that date. Except as otherwise
38 provided in this act, the remainder of this act is effective when it becomes law. Prosecutions or
39 delinquency proceedings initiated for offenses committed before any particular section of this
40 act becomes effective are not abated or affected by this act, and the statutes that are in effect on
41 the dates the offenses are committed remain applicable to those prosecutions.



**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 280**

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H280-ATV-3 [v.6]

Page 1 of 3

Amends Title [NO]
H280-CSTV-4

Date _____ .2017

Representative _____

1 moves to amend the bill on page 13, lines 47-48, by inserting the following between those
2 lines:

3
4 **"PART V.A JUVENILE GANG SUPPRESSION**

5 **SECTION 5.1.(a)** G.S. 7B-1702 reads as rewritten:

6 **"§ 7B-1702. Evaluation.**

7 Upon a finding of legal sufficiency, except in cases involving nondivertible offenses set out
8 in G.S. 7B-1701, the juvenile court counselor shall determine whether a complaint should be
9 filed as a petition, the juvenile diverted pursuant to G.S. 7B-1706, or the case resolved without
10 further action. In making the decision, the counselor shall consider criteria provided by the
11 Department and shall conduct a gang assessment. The intake process shall include the
12 following steps if practicable:

- 13 (1) Interviews with the complainant and the victim if someone other than the
14 complainant;
15 (2) Interviews with the juvenile and the juvenile's parent, guardian, or custodian;
16 (3) Interviews with persons known to have relevant information about the
17 juvenile or the juvenile's family.

18 Interviews required by this section shall be conducted in person unless it is necessary to
19 conduct them by telephone."

20 **SECTION 5.1.(b)** The Division of Adult Correction and Juvenile Justice of the
21 Department of Public Safety shall develop a gang assessment instrument to be used in Section
22 5.1(a). The form shall be developed in consultation with the administrator of the GangNET
23 database maintained by the North Carolina State Highway Patrol and the Division may also
24 consult with other entities that might provide information relevant to the development of an
25 effective assessment tool.

26 **SECTION 5.2.(a)** G.S. 7B-2508 is amended by adding a new subsection to read:

27 "(g1) Notwithstanding subsection (f) of this section, if a juvenile is adjudicated for an
28 offense that the court finds was committed as part of criminal gang activity as defined in
29 G.S. 7B-2508.1, the juvenile shall receive a disposition one level higher than would otherwise
30 be provided for the class of offense and delinquency history level."

31 **SECTION 5.2.(b)** Article 25 of Chapter 7B is amended by adding a new section to
32 read:



* H 2 8 0 - A T V - 3 - V - 6 *

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Principal Clerk)

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"§ 7B-2508.1. Criminal gang activity.

Definitions. – The following definitions apply in this Article:

- (1) Criminal gang. – Any ongoing organization, association, or group of three or more persons, whether formal or informal, that (i) has as one of its primary activities the commission of criminal or delinquent acts and (ii) shares a common name, identification, signs, symbols, tattoos, graffiti, attire, or other distinguishing characteristics, including common activities, customs, or behaviors. The term shall not include three or more persons associated in fact, whether formal or informal, who are not engaged in criminal gang activity.
- (2) Criminal gang activity. – The commission of, attempted commission of, or solicitation, coercion, or intimidation of another person to commit (i) any offense under Article 5 of Chapter 90 of the General Statutes or (ii) any offense under Chapter 14 of the General Statutes except Article 9, 22A, 40, 46, or 59 thereof, and further excepting G.S. 14-82, 14-145, 14-183, 14-184, 14-186, 14-190.9, 14-247, 14-248, or 14-313 thereof, and either of the following conditions is met:

 - a. The offense is committed with the intent to benefit, promote, or further the interests of a criminal gang or for the purposes of increasing a person's own standing or position within a criminal gang.
 - b. The participants in the offense are identified as criminal gang members acting individually or collectively to further any criminal purpose of a criminal gang.
- (3) Criminal gang member. – Any person who meets three or more of the following criteria:

 - a. The person admits to being a member of a criminal gang.
 - b. The person is identified as a criminal gang member by a reliable source, including a parent or a guardian.
 - c. The person has been previously involved in criminal gang activity.
 - d. The person has adopted symbols, hand signs, or graffiti associated with a criminal gang.
 - e. The person has adopted the display of colors or the style of dress associated with a criminal gang.
 - f. The person is in possession of or linked to a criminal gang by physical evidence, including photographs, ledgers, rosters, written or electronic communications, or membership documents.
 - g. The person has tattoos or markings associated with a criminal gang.
 - h. The person has adopted language or terminology associated with a criminal gang.
 - i. The person appears in any form of social media to promote a criminal gang."

SECTION 5.3. G.S. 7B-3001(a) reads as rewritten:

NORTH CAROLINA GENERAL ASSEMBLY
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AMENDMENT NO. _____
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Page 3 of 3

1 "(a) The chief court counselor shall maintain a record of all cases of juveniles under
2 supervision of juvenile court counselors, to be known as the juvenile court counselor's record.
3 The juvenile court counselor's record shall include family background information; reports of
4 social, medical, psychiatric, or psychological information concerning a juvenile or the
5 juvenile's family; probation reports; interviews with the juvenile's family; the results of the
6 gang assessment; or other information the court finds should be protected from public
7 inspection in the best interests of the juvenile."

8 **SECTION 5.4.** Subsection (b) of Section 5.1 is effective when it becomes law.
9 The remainder of this Part becomes effective December 1, 2019 and applies to offenses
10 committed on or after that date".
11

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017**

H

1

HOUSE BILL 280

Short Title: Juvenile Justice Reinvestment Act.

(Public)

Sponsors: Representatives McGrady, Lewis, Duane Hall, and S. Martin (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I, if favorable, Appropriations

March 9, 2017

A BILL TO BE ENTITLED

AN ACT TO RAISE THE AGE OF JUVENILE JURISDICTION TO INCLUDE SIXTEEN- AND SEVENTEEN-YEAR-OLDS, EXCEPT IN THE CASE OF CERTAIN FELONIES; TO PROVIDE A VICTIM THE OPPORTUNITY TO REQUEST REVIEW OF DECISION NOT TO FILE A PETITION; TO INCREASE THE INFORMATION AVAILABLE ON JUVENILES TO LAW ENFORCEMENT AND FOR COURT PROCEEDINGS; TO AUTHORIZE SCHOOL-JUSTICE PARTNERSHIPS STATEWIDE TO REDUCE SCHOOL-BASED REFERRALS TO THE JUVENILE COURT SYSTEM; TO REQUIRE REGULAR JUVENILE JUSTICE TRAINING FOR LAW ENFORCEMENT OFFICERS; AND TO ESTABLISH THE JUVENILE JURISDICTION ADVISORY COMMITTEE.

The General Assembly of North Carolina enacts:

PART I. INCREASE THE AGE OF JUVENILE JURISDICTION, EXCEPT FOR CERTAIN FELONIES

SECTION 1.1. G.S. 7B-1501 reads as rewritten:

"§ 7B-1501. Definitions.

In this Subchapter, unless the context clearly requires otherwise, the following words have the listed meanings. The singular includes the plural, unless otherwise specified.

...
(7) Delinquent juvenile. –

a. Any juvenile who, while less than 16 years of age but at least 6 years of age, commits a crime or infraction under State law or under an ordinance of local government, including violation of the motor vehicle laws, or who commits indirect contempt by a juvenile as defined in G.S. 5A-31.

b. Any juvenile who, while less than 18 years of age but at least 16 years of age, commits a crime or infraction under State law or under an ordinance of local government, excluding violation of the motor vehicle laws, or who commits indirect contempt by a juvenile as defined in G.S. 5A-31.

...
(27a) Victim. – Any individual or entity against whom a crime or infraction is alleged to have been committed by a juvenile based on reasonable grounds that the



alleged facts are true. For purposes of Article 17 of this Chapter, the term may also include a parent, guardian, or custodian of a victim under the age of 18 years of age.

...."

SECTION 1.2. G.S. 7B-1601 reads as rewritten:

"§ 7B-1601. Jurisdiction over delinquent juveniles.

(a) The court has exclusive, original jurisdiction over any case involving a juvenile who is alleged to be delinquent. For purposes of determining jurisdiction, the age of the juvenile at the time of the alleged offense governs.

(b) When the court obtains jurisdiction over a juvenile alleged to be ~~delinquent, delinquent~~ for an offense committed prior to the juvenile reaching the age of 16 years, jurisdiction shall continue until terminated by order of the court or until the juvenile reaches the age of 18 years, except as provided otherwise in this Article.

(b1) When the court obtains jurisdiction over a juvenile alleged to be delinquent for an offense committed while the juvenile was at least 16 years of age but less than 17 years of age, jurisdiction shall continue until terminated by order of the court or until the juvenile reaches the age of 19 years. If the offense was committed while the juvenile was at least 17 years of age, jurisdiction shall continue until terminated by order of the court or until the juvenile reaches the age of 20 years.

(c) When delinquency proceedings for a juvenile alleged to be delinquent for an offense committed prior to the juvenile reaching the age of 16 years cannot be concluded before the juvenile reaches the age of 18 years, the court retains jurisdiction for the sole purpose of conducting proceedings pursuant to Article 22 of this Chapter and either transferring the case to superior court for trial as an adult or dismissing the petition.

(c1) When delinquency proceedings for a juvenile alleged to be delinquent for an offense committed while the juvenile was at least 16 years of age but less than 17 years of age cannot be concluded before the juvenile reaches the age of 19 years, the court retains jurisdiction for the sole purpose of conducting proceedings pursuant to Article 22 of this Chapter and either transferring the case to superior court for trial as an adult or dismissing the petition. When delinquency proceedings for a juvenile alleged to be delinquent for an offense committed while the juvenile was at least 17 years of age cannot be concluded before the juvenile reaches the age of 20 years, the court retains jurisdiction for the sole purpose of conducting proceedings pursuant to Article 22 of this Chapter and either transferring the case to superior court for trial as an adult or dismissing the petition.

(d) When the court has not obtained jurisdiction over a juvenile before the juvenile reaches the age of 18, for a felony and any related misdemeanors the juvenile allegedly committed on or after the juvenile's thirteenth birthday and prior to the juvenile's ~~sixteenth~~ eighteenth birthday, the court has jurisdiction for the sole purpose of conducting proceedings pursuant to Article 22 of this Chapter and either transferring the case to superior court for trial as an adult or dismissing the petition.

(e) The court has jurisdiction over delinquent juveniles in the custody of the Division and over proceedings to determine whether a juvenile who is under the post-release supervision of the juvenile court counselor has violated the terms of the juvenile's post-release supervision.

(f) The court has jurisdiction over persons 18 years of age or older who are under the extended jurisdiction of the juvenile court.

(g) The court has jurisdiction over the parent, guardian, or custodian of a juvenile who is under the jurisdiction of the court pursuant to this section if the parent, guardian, or custodian has been served with a summons pursuant to G.S. 7B-1805."

SECTION 1.3. G.S. 7B-1604(a) reads as rewritten:

"(a) Any juvenile, including a juvenile who is under the jurisdiction of the court, who commits a criminal offense on or after the juvenile's ~~sixteenth birthday~~ date the juvenile has

reached the age of 18 years is subject to prosecution as an adult. A juvenile who is emancipated shall be prosecuted as an adult for the commission of a criminal offense."

SECTION 1.4. G.S. 7B-2200 reads as rewritten:

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

~~After~~Except as otherwise provided in G.S. 7B-2200.5, after notice, hearing, and a finding of probable cause the court may, upon motion of the prosecutor or the juvenile's attorney or upon its own motion, transfer jurisdiction over a juvenile to superior court if the juvenile was at least 13 years of age or older but less than 16 years of age at the time the juvenile allegedly committed an offense that would be a felony if committed by an adult. If the alleged felony constitutes a Class A felony and the court finds probable cause, the court shall transfer the case to the superior court for trial as in the case of adults."

SECTION 1.5. Article 22 of Chapter 7B of the General Statutes is amended by adding a new section to read:

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

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

(1) Notice to the juvenile and a finding by the court that a bill of indictment has been returned against the juvenile charging the commission of an offense that constitutes a Class A, B1, B2, C, D, or E felony.

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

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

SECTION 1.6. G.S. 7B-2202 reads as rewritten:

"§ 7B-2202. **Probable cause hearing.**

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

...

(e) If probable cause is found and transfer to superior court is not required by ~~G.S. 7B-2200~~, G.S. 7B-2200 or G.S. 7B-2200.5, upon motion of the prosecutor or the juvenile's attorney or upon its own motion, the court shall either proceed to a transfer hearing or set a date for that hearing. If the juvenile has not received notice of the intention to seek transfer at least five days prior to the probable cause hearing, the court, at the request of the juvenile, shall continue the transfer hearing.

...."

SECTION 1.7. G.S. 7B-2506 reads as rewritten:

"§ 7B-2506. **Dispositional alternatives for delinquent juveniles.**

The court exercising jurisdiction over a juvenile who has been adjudicated delinquent may use the following alternatives in accordance with the dispositional structure set forth in G.S. 7B-2508:

(1) In the case of any juvenile under the age of 18 years who needs more adequate care or supervision or who needs placement, the judge may:

a. Require that a juvenile be supervised in the juvenile's own home by the department of social services in the juvenile's county, a juvenile court counselor, or other personnel as may be available to the court, subject to

- 1 conditions applicable to the parent, guardian, or custodian or the
2 juvenile as the judge may specify; or
3 b. Place the juvenile in the custody of a parent, guardian, custodian,
4 relative, private agency offering placement services, or some other
5 suitable person; or
6 c. If the director of the county department of social services has received
7 notice and an opportunity to be heard, place the juvenile in the custody
8 of the department of social services in the county of his residence, or in
9 the case of a juvenile who has legal residence outside the State, in the
10 physical custody of a department of social services in the county where
11 the juvenile is found so that agency may return the juvenile to the
12 responsible authorities in the juvenile's home state. An order placing a
13 juvenile in the custody or placement responsibility of a county
14 department of social services shall contain a finding that the juvenile's
15 continuation in the juvenile's own home would be contrary to the
16 juvenile's best interest. This placement shall be reviewed in accordance
17 with G.S. 7B-906.1. The director may, unless otherwise ordered by the
18 judge, arrange for, provide, or consent to, needed routine or emergency
19 medical or surgical care or treatment. In the case where the parent is
20 unknown, unavailable, or unable to act on behalf of the juvenile or
21 juveniles, the director may, unless otherwise ordered by the judge,
22 arrange for, provide, or consent to any psychiatric, psychological,
23 educational, or other remedial evaluations or treatment for the juvenile
24 placed by a judge or his designee in the custody or physical custody of a
25 county department of social services under the authority of this or any
26 other Chapter of the General Statutes. Prior to exercising this authority,
27 the director shall make reasonable efforts to obtain consent from a
28 parent, guardian, or custodian of the affected juvenile. If the director
29 cannot obtain consent, the director shall promptly notify the parent,
30 guardian, or custodian that care or treatment has been provided and shall
31 give the parent, guardian, or custodian frequent status reports on the
32 circumstances of the juvenile. Upon request of a parent, guardian, or
33 custodian of the affected juvenile, the results or records of the
34 aforementioned evaluations, findings, or treatment shall be made
35 available to the parent, guardian, or custodian by the director unless
36 prohibited by G.S. 122C-53(d).

- 37 (2) Excuse ~~the~~ juvenile under the age of 16 years from compliance with the
38 compulsory school attendance law when the court finds that suitable alternative
39 plans can be arranged by the family through other community resources for one
40 of the following:

- 41 a. An education related to the needs or abilities of the juvenile including
42 vocational education or special education;
43 b. A suitable plan of supervision or placement; or
44 c. Some other plan that the court finds to be in the best interests of the
45 juvenile.

46"

47 **SECTION 1.8.** G.S. 7B-2507 reads as rewritten:

48 **"§ 7B-2507. Delinquency history levels.**

- 49 (a) Generally. – The delinquency history level for a delinquent juvenile is determined by
50 calculating the sum of the points assigned to each of the juvenile's prior adjudications or
51 convictions and to the juvenile's probation status, if any, that the court finds to have been proved

in accordance with this section. For the purposes of this section, a prior adjudication is an adjudication of an offense that occurs before the adjudication of the offense before the court.

(b) Points. – Points are assigned as follows:

(1) For each prior adjudication of a Class A through E felony offense, 4 points.

(2) For each prior adjudication of a Class F through I felony offense or Class A1 misdemeanor offense, 2 points.

(2a) For each prior conviction of a Class A through E felony offense, 4 points.

(2b) For each prior conviction of a Class F through I felony or Class A1 misdemeanor offense, excluding conviction of the motor vehicle laws, 2 points.

(2c) For each prior misdemeanor conviction of impaired driving (G.S. 20-138.1), impaired driving in a commercial vehicle (G.S. 20-138.2), and misdemeanor death by vehicle (G.S. 20-141.4(a2)), 2 points.

(3) For each prior adjudication of a Class 1, 2, or 3 misdemeanor offense, 1 point.

(3a) For each prior conviction of a Class 1, 2, or 3 misdemeanor offense, excluding conviction for violation of the motor vehicle laws, 1 point.

(4) If the juvenile was on probation at the time of offense, 2 points.

No points shall be assigned for a prior adjudication that a juvenile is in direct contempt of court or indirect contempt of court.

(c) Delinquency History Levels. – The delinquency history levels are:

(1) Low – No more than 1 point.

(2) Medium – At least 2, but not more than 3 points.

(3) High – At least 4 points.

In determining the delinquency history level, the classification of a prior offense is the classification assigned to that offense at the time the juvenile committed the offense for which disposition is being ordered.

(d) Multiple Prior Adjudications or Convictions Obtained in One Court Session. – For purposes of determining the delinquency history level, if a juvenile is adjudicated delinquent or convicted for more than one offense in a single session of district court, only the adjudication or conviction for the offense with the highest point total is used.

(e) Classification of Prior Adjudications or Convictions From Other Jurisdictions. – Except as otherwise provided in this subsection, an adjudication or conviction occurring in a jurisdiction other than North Carolina is classified as a Class I felony if the jurisdiction in which the offense occurred classifies the offense as a felony, or is classified as a Class 3 misdemeanor if the jurisdiction in which the offense occurred classifies the offense as a misdemeanor. If the juvenile proves by the preponderance of the evidence that an offense classified as a felony in the other jurisdiction is substantially similar to an offense that is a misdemeanor in North Carolina, the adjudication or conviction is treated as that class of misdemeanor for assigning delinquency history level points. If the State proves by the preponderance of the evidence that an offense classified as either a misdemeanor or a felony in the other jurisdiction is substantially similar to an offense in North Carolina that is classified as a Class I felony or higher, the adjudication or conviction is treated as that class of felony for assigning delinquency history level points. If the State proves by the preponderance of the evidence that an offense classified as a misdemeanor in the other jurisdiction is substantially similar to an offense classified as a Class A1 misdemeanor in North Carolina, the adjudication or conviction is treated as a Class A1 misdemeanor for assigning delinquency history level points.

(f) ~~Proof of Prior Adjudications~~ Adjudications or Convictions. – A prior adjudication or conviction shall be proved by any of the following methods:

(1) Stipulation of the parties.

(2) An original or copy of the court record of the prior ~~adjudication~~ adjudication or conviction.

(3) A copy of records maintained by the Department of Public Safety or by the Division.

(4) Any other method found by the court to be reliable.

The State bears the burden of proving, by a preponderance of the evidence, that a prior adjudication or conviction exists and that the juvenile before the court is the same person as the juvenile named in the prior ~~adjudication~~ adjudication or conviction. The original or a copy of the court records or a copy of the records maintained by the Department of Public Safety or of the Division, bearing the same name as that by which the juvenile is charged, is prima facie evidence that the juvenile named is the same person as the juvenile before the court, and that the facts set out in the record are true. For purposes of this subsection, "a copy" includes a paper writing containing a reproduction of a record maintained electronically on a computer or other data processing equipment, and a document produced by a facsimile machine. The prosecutor shall make all feasible efforts to obtain and present to the court the juvenile's full record. Evidence presented by either party at trial may be utilized to prove prior ~~adjudications~~ adjudications or convictions. If asked by the juvenile, the prosecutor shall furnish the juvenile's prior adjudications or convictions to the juvenile within a reasonable time sufficient to allow the juvenile to determine if the record available to the prosecutor is accurate."

SECTION 1.9. G.S. 7B-2513(a) reads as rewritten:

"(a) Pursuant to G.S. 7B-2506 and G.S. 7B-2508, the court may commit a delinquent juvenile who is at least 10 years of age to the Division for placement in a youth development center. Commitment shall be for an indefinite term of at least six months.

(a1) In no event shall For an offense the juvenile committed prior to reaching the age of 16 years, the term shall not exceed:

(1) The twenty-first birthday of the juvenile if the juvenile has been committed to the Division for an offense that would be first-degree murder pursuant to G.S. 14-17, first-degree forcible rape pursuant to G.S. 14-27.21, first-degree statutory rape pursuant to G.S. 14-27.24, first-degree forcible sexual offense pursuant to G.S. 14-27.26, or first-degree statutory sexual offense pursuant to G.S. 14-27.29 if committed by an adult;

(2) The nineteenth birthday of the juvenile if the juvenile has been committed to the Division for an offense that would be a Class B1, B2, C, D, or E felony if committed by an adult, other than an offense set forth in subdivision (1) of this subsection; or

(3) The eighteenth birthday of the juvenile if the juvenile has been committed to the Division for an offense other than an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult.

(a2) For an offense the juvenile committed while the juvenile was at least 16 years of age but less than 17 years of age, the term shall not exceed the juvenile's nineteenth birthday.

(a3) For an offense the juvenile committed while the juvenile was at least 17 years of age, the term shall not exceed the juvenile's twentieth birthday.

(a4) No juvenile shall be committed to a youth development center beyond the minimum six-month commitment for a period of time in excess of the maximum term of imprisonment for which an adult in prior record level VI for felonies or in prior conviction level III for misdemeanors could be sentenced for the same offense, except when the Division pursuant to G.S. 7B-2515 determines that the juvenile's commitment needs to be continued for an additional period of time to continue care or treatment under the plan of care or treatment developed under subsection (f) of this section. At the time of commitment to a youth development center, the court shall determine the maximum period of time the juvenile may remain committed before a determination must be made by the Division pursuant to G.S. 7B-2515 and shall notify the juvenile of that determination."

SECTION 1.10. G.S. 7B-2515(a) reads as rewritten:

"(a) In determining whether a juvenile who was committed prior to the juvenile reaching the age of 16 years should be released before the juvenile's 18th birthday, the Division shall consider the protection of the public and the likelihood that continued placement will lead to further rehabilitation. If the Division does not intend to release the juvenile who was committed prior to the juvenile reaching the age of 16 years prior to the juvenile's eighteenth birthday, or if the Division determines that the juvenile's commitment should be continued beyond the maximum commitment period as set forth in ~~G.S. 7B-2513(a)~~, G.S. 7B-2513(a1), the Division shall notify the juvenile and the juvenile's parent, guardian, or custodian in writing at least 30 days in advance of the juvenile's eighteenth birthday or the end of the maximum commitment period, of the additional specific commitment period proposed by the Division, the basis for extending the commitment period, and the plan for future care or treatment."

SECTION 1.11. G.S. 7B-2603(b) reads as rewritten:

"(b) Once an order of transfer has been entered by the district court, the juvenile has the right to be considered for pretrial release as provided in G.S. 15A-533 and G.S. 15A-534. ~~The release order shall specify the person or persons to whom the juvenile may be released. Pending release, the court shall order that the juvenile be detained in a detention facility while awaiting trial. The court may order the juvenile to be held in a holdover facility as defined by G.S. 7B-1501 at any time the presence of the juvenile is required in court for pretrial hearings or trial, if the court finds that it would be inconvenient to return the juvenile to the detention facility. Any detention of the juvenile pending release shall be in accordance with G.S. 7B-2204.~~"

SECTION 1.12. G.S. 7B-3101(a)(2) reads as rewritten:

"(2) The court transfers jurisdiction over a juvenile to superior court under G.S. 7B-2200.5 or G.S. 7B-2200;"

SECTION 1.13. G.S. 5A-31(a) reads as rewritten:

"(a) Each of the following, when done by an unemancipated minor who (i) is at least six years of age, (ii) is not yet ~~46~~18 years of age, and (iii) has not been convicted of any crime in superior court, is contempt by a juvenile:

...."

SECTION 1.14. G.S. 5A-34(b) reads as rewritten:

"(b) The provisions of Article 1 and Article 2 of this Chapter apply to acts or omissions by a minor who:

- (1) ~~Is 16 years of age or older;~~
- (2) Is married or otherwise emancipated; or
- (3) Before the act or omission, was convicted in superior court of any criminal offense."

SECTION 1.15. G.S. 14-208.6B reads as rewritten:

"§ 14-208.6B. Registration requirements for juveniles transferred to and convicted in superior court.

A juvenile transferred to superior court pursuant to G.S. 7B-2200 or G.S. 7B-2200.5 who is convicted of a sexually violent offense or an offense against a minor as defined in G.S. 14-208.6 shall register in person in accordance with this Article just as an adult convicted of the same offense must register."

SECTION 1.16. G.S. 14-316.1 reads as rewritten:

"§ 14-316.1. Contributing to delinquency and neglect by parents and others.

Any person who is at least ~~46~~18 years old who knowingly or willfully causes, encourages, or aids any juvenile within the jurisdiction of the court to be in a place or condition, or to commit an act whereby the juvenile could be adjudicated delinquent, undisciplined, abused, or neglected as defined by G.S. 7B-101 and G.S. 7B-1501 shall be guilty of a Class 1 misdemeanor.

It is not necessary for the district court exercising juvenile jurisdiction to make an adjudication that any juvenile is delinquent, undisciplined, abused, or neglected in order to prosecute a parent or any person, including an employee of the Division of Juvenile Justice of the Department of

Public Safety under this section. An adjudication that a juvenile is delinquent, undisciplined, abused, or neglected shall not preclude a subsequent prosecution of a parent or any other person including an employee of the Division of Juvenile Justice of the Department of Public Safety, who contributes to the delinquent, undisciplined, abused, or neglected condition of any juvenile."

SECTION 1.17. G.S. 115C-404(a) reads as rewritten:

"(a) Written notifications received in accordance with G.S. 7B-3101 and information gained from examination of juvenile records in accordance with G.S. 7B-3100 are confidential records, are not public records as defined under G.S. 132-1, and shall not be made part of the student's official record under G.S. 115C-402. Immediately upon receipt, the principal shall maintain these documents in a safe, locked record storage that is separate from the student's other school records. The principal shall shred, burn, or otherwise destroy documents received in accordance with G.S. 7B-3100 to protect the confidentiality of the information when the principal receives notification that the court dismissed the petition under G.S. 7B-2411, the court transferred jurisdiction over the student to superior court under G.S. 7B-2200.5 or G.S. 7B-2200, or the court granted the student's petition for expunction of the records. The principal shall shred, burn, or otherwise destroy all information gained from examination of juvenile records in accordance with G.S. 7B-3100 when the principal finds that the school no longer needs the information to protect the safety of or to improve the educational opportunities for the student or others. In no case shall the principal make a copy of these documents."

SECTION 1.18. G.S. 143B-805(6) reads as rewritten:

"(6) Delinquent juvenile. –

- a. Any juvenile who, while less than 16 years of age but at least 6 years of age, commits a crime or infraction under State law or under an ordinance of local government, including violation of the motor vehicle laws.
- b. Any juvenile who, while less than 18 years of age but at least 16 years of age, commits a misdemeanor or infraction under State law or under an ordinance of local government, excluding violation of the motor vehicle laws.

SECTION 1.19. G.S. 143B-806(b) is amended by adding a new subdivision to read:

"(20) Provide for the transportation to and from any State or local juvenile facility of any person under the jurisdiction of the juvenile court for any purpose required by Chapter 7B of the General Statutes or upon order of the court."

PART II. VICTIM REQUEST/REVIEW OF DECISION NOT TO FILE A PETITION

SECTION 2.1. G.S. 7B-1703(c) reads as rewritten:

"(c) If the juvenile court counselor determines that a petition should not be filed, the juvenile court counselor shall notify the complainant and the victim, if the complainant is not the victim, immediately in writing with specific reasons for the decision, whether or not legal sufficiency was found, and whether the matter was closed or diverted and retained, and shall include notice of the complainant's and victim's right to have the decision reviewed by the prosecutor. The juvenile court counselor shall sign the complaint after indicating on it:

- (1) The date of the determination;
- (2) The words "Not Approved for Filing"; and
- (3) Whether the matter is "Closed" or "Diverted and Retained".

Except as provided in G.S. 7B-1706, any complaint not approved for filing as a juvenile petition shall be destroyed by the juvenile court counselor after holding the complaint for a temporary period to allow review as provided in G.S. 7B-1705."

SECTION 2.2. G.S. 7B-1704 reads as rewritten:

"§ 7B-1704. Request for review by prosecutor.

1 The complainant ~~has~~ and the victim have five calendar days, from receipt of the juvenile court
2 counselor's decision not to approve the filing of a petition, to request review by the prosecutor.
3 The juvenile court counselor shall notify the prosecutor immediately of such request and shall
4 transmit to the prosecutor a copy of the complaint. The prosecutor shall notify the
5 ~~complainant~~ complainant, the victim, and the juvenile court counselor of the time and place for the
6 review."

7 **SECTION 2.3.** G.S. 7B-1705 reads as rewritten:

8 **"§ 7B-1705. Review of determination that petition should not be filed.**

9 No later than 20 days after the complainant ~~is~~ and the victim are notified, the prosecutor shall
10 review the juvenile court counselor's determination that a juvenile petition should not be filed.
11 Review shall include conferences with the ~~complainant~~ complainant, the victim, and the juvenile
12 court counselor. At the conclusion of the review, the prosecutor shall: (i) affirm the decision of the
13 juvenile court counselor or direct the filing of a petition and (ii) notify the complainant ~~and the~~
14 ~~victim~~ of the prosecutor's action."

15 **SECTION 2.4.** G.S. 143B-806(b) is amended by adding a new subdivision to read:

16 "(14a) Develop and administer a system to provide information to victims and
17 complainants regarding the status of pending complaints and the right of a
18 complainant and victim to request review under G.S. 7B-1704 of a decision to
19 not file a petition."

20
21 **PART III. INCREASE INFORMATION AVAILABLE ON JUVENILES TO LAW**
22 **ENFORCEMENT AND FOR COURT PROCEEDINGS**

23 **SECTION 3.1.** G.S. 7B-3001 reads as rewritten:

24 **"§ 7B-3001. Other records relating to juveniles.**

25 (a) The chief court counselor shall maintain a record of all cases of juveniles under
26 supervision of juvenile court counselors, to be known as the juvenile court counselor's record. The
27 juvenile court counselor's record shall include the juvenile's delinquency record; consultations
28 with law enforcement that did not result in the filing of a complaint; family background
29 information; reports of social, medical, psychiatric, or psychological information concerning a
30 juvenile or the juvenile's family; probation reports; interviews with the juvenile's family; or other
31 information the court finds should be protected from public inspection in the best interests of the
32 juvenile.

33 (a1) To assist at the time of investigation of an incident that could result in the filing of a
34 complaint, upon request, a juvenile court counselor shall share with a law enforcement officer
35 sworn in this State information from the juvenile court counselor's record related to a juvenile's
36 delinquency record or prior consultations with law enforcement. A law enforcement officer may
37 not obtain copies of any part of the record, and all information shared pursuant to this subsection
38 shall be withheld from public inspection as provided in subsection (b) of this section.

39 (b) Unless jurisdiction of the juvenile has been transferred to superior court, all law
40 enforcement records and files concerning a juvenile shall be kept separate from the records and
41 files of adults and shall be withheld from public inspection. The following persons may examine
42 and obtain copies of law enforcement records and files concerning a juvenile without an order of
43 the court:

- 44 (1) The juvenile or the juvenile's attorney;
- 45 (2) The juvenile's parent, guardian, custodian, or the authorized representative of
46 the juvenile's parent, guardian, or custodian;
- 47 (3) The prosecutor;
- 48 (4) Juvenile court counselors; and
- 49 (5) Law enforcement officers sworn in this State.

50 Otherwise, the records and files may be examined or copied only by order of the court.

(c) All records and files maintained by the Division pursuant to this Chapter shall be withheld from public inspection. The following persons may examine and obtain copies of the Division records and files concerning a juvenile without an order of the court:

- (1) The juvenile and the juvenile's attorney;
- (2) The juvenile's parent, guardian, custodian, or the authorized representative of the juvenile's parent, guardian, or custodian;
- (3) Professionals in the agency who are directly involved in the juvenile's case; and
- (4) Juvenile court counselors.

Otherwise, the records and files may be examined or copied only by order of the court. The court may inspect and order the release of records maintained by the Division.

(d) When the Section of Community Corrections of the Division of Adult Correction of the Department of Public Safety is authorized to access a juvenile record pursuant to G.S. 7B-3000(e1), the Division may, at the request of the Section of Community Corrections of the Division of Adult Correction, notify the Section of Community Corrections of the Division of Adult Correction that there is a juvenile record of an adjudication of delinquency for an offense that would be a felony if committed by an adult for a person subject to probation supervision under Article 82 of Chapter 15A of the General Statutes and may notify the Section of Community Corrections of the Division of Adult Correction of the county or counties where the adjudication of delinquency occurred."

SECTION 3.2.(a) By July 1, 2018, the Administrative Office of the Courts shall expand access to its automated electronic information management system for juvenile courts, JWisE, to include prosecutors and attorneys representing juveniles in juvenile court proceedings. Access shall be limited to examining electronic records related to juvenile delinquency information. Other information contained in JWisE, such as any records pertaining to abuse, neglect, and dependency or termination of parental rights, shall not be made available to a prosecutor or juvenile's attorney through JWisE.

SECTION 3.2.(b) Due to the increased mobility of North Carolina citizens across counties, the Administrative Office of the Courts shall develop statewide inquiry access for JWisE users that corresponds to access to juvenile court records as authorized under Chapter 7B of the General Statutes by July 1, 2018.

PART IV. SCHOOL-JUSTICE PARTNERSHIPS TO REDUCE SCHOOL-BASED REFERRALS TO JUVENILE COURTS

SECTION 4. 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:

- ...
- (9g) Prescribe policies and procedures for chief district court judges to establish school-justice partnerships with local law enforcement agencies, local boards of education, and local school administrative units with the goal of reducing in-school arrests, out-of-school suspensions, and expulsions.

...."

PART V. JUVENILE JUSTICE TRAINING FOR LAW ENFORCEMENT OFFICERS

SECTION 5.(a) G.S. 17C-6(a) reads as rewritten:

"§ 17C-6. Powers of Commission.

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

...

- (2) Establish minimum educational and training standards that must be met in order to qualify for entry level employment and retention as a criminal justice officer in temporary or probationary status or in a permanent position. The standards for entry level employment shall include all of the following:
- a. Education~~education~~ and training in response to, and investigation of, domestic violence cases, as well as training in investigation for evidence-based prosecutions.
 - b. Education and training on juvenile justice issues, including (i) the handling and processing of juvenile matters for referrals, diversion, arrests, and detention; (ii) best practices for handling incidents involving juveniles; (iii) adolescent development and psychology; and (iv) promoting relationship building with youth as a key to delinquency prevention.
- ...
- (14) Establish minimum standards for in-service training for criminal justice officers. In-service training standards shall include all of the following:
- a. Training~~training~~ in response to, and investigation of, domestic violence cases, as well as training investigation for evidence-based prosecutions.
 - b. Training on juvenile justice issues, including (i) the handling and processing of juvenile matters for referrals, diversion, arrests, and detention; (ii) best practices for handling incidents involving juveniles; (iii) adolescent development and psychology; and (iv) promoting relationship building with youth as a key to delinquency prevention.
- (15) Establish minimum standards and levels of training for certification of instructors for the domestic violence training and juvenile justice training required by subdivisions (2) and (14) of this subsection.

...."

SECTION 5.(b) G.S. 17E-4(a) reads as rewritten:

"§ 17E-4. Powers and duties of the Commission.

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

...

- (2) Establish minimum educational and training standards that may be met in order to qualify for entry level employment as an officer in temporary or probationary status or in a permanent position. The standards for entry level employment of officers shall include all of the following:
- a. Training~~training~~ in response to, and investigation of, domestic violence cases, as well as training in investigation for evidence-based prosecutions. For purposes of the domestic violence training requirement, the term "officers" shall include justice officers as defined in G.S. 17E-2(3)a., except that the term shall not include "special deputy sheriffs" as defined in ~~G.S. 17E-2(3)a.;~~ G.S. 17E-2(3)a.
 - b. Training on juvenile justice issues, including (i) the handling and processing of juvenile matters for referrals, diversion, arrests, and detention; (ii) best practices for handling incidents involving juveniles; (iii) adolescent development and psychology; and (iv) promoting relationship building with youth as a key to delinquency prevention.
- ...
- (11) Establish minimum standards for in-service training for justice officers. In-service training standards shall include all of the following:

- 1 a. ~~Training~~ training in response to, and investigation of, domestic violence
2 cases, as well as training in investigation for evidence-based
3 prosecutions. For purposes of the domestic violence training
4 requirement, the term "justice officer" shall include those defined in
5 G.S. 17E-2(3)a., except that the term shall not include "special deputy
6 sheriffs" as defined in ~~G.S. 17E-2(3)a.;~~ G.S. 17E-2(3)a.
- 7 b. Training on juvenile justice issues, including (i) the handling and
8 processing of juvenile matters for referrals, diversion, arrests, and
9 detention; (ii) best practices for handling incidents involving juveniles;
10 (iii) adolescent development and psychology; and (iv) promoting
11 relationship building with youth as a key to delinquency prevention.
- 12 (12) Establish minimum standards and levels of training for certification of
13 instructors for the domestic violence training and juvenile justice training
14 required by subdivisions (2) and (11) of this subsection.

15 The Commission may certify, and no additional certification shall be required from it,
16 programs, courses and teachers certified by the North Carolina Criminal Justice Education and
17 Training Standards Commission. Where the Commission determines that a program, course,
18 instructor or teacher is required for an area which is unique to the office of sheriff, the
19 Commission may certify such program, course, instructor, or teacher under such standards and
20 procedures as it may establish."

21 **SECTION 5.(c)** In developing and implementing the education and training required
22 by subsections (a) and (b) of this section, the North Carolina Criminal Justice Education and
23 Training Standards Commission and the North Carolina Sheriffs' Education and Training
24 Standards Commission shall work with the Division of Adult Correction and Juvenile Justice of
25 the Department of Public Safety.

26 27 **PART VI. ESTABLISH JUVENILE JURISDICTION ADVISORY COMMITTEE**

28 **SECTION 6.(a)** Advisory Committee Established. – There is established within the
29 Division of Adult Correction and Juvenile Justice of the Department of Public Safety the Juvenile
30 Jurisdiction Advisory Committee. The Division of Adult Correction and Juvenile Justice shall
31 provide professional and clerical staff and other services and supplies, including meeting space, as
32 needed for the Advisory Committee to carry out its duties in an effective manner.

33 **SECTION 6.(b)** Membership. – The Advisory Committee shall consist of 21
34 members. The following members or their designees shall serve as ex officio members:

- 35 (1) The Deputy Commissioner for Juvenile Justice of the Division of Adult
36 Correction and Juvenile Justice of the Department of Public Safety.
- 37 (2) The Director of the Administrative Office of the Courts.
- 38 (3) The Director of the Division of Mental Health, Developmental Disabilities, and
39 Substance Abuse Services of the Department of Health and Human Services.
- 40 (4) The Superintendent of Public Instruction
- 41 (5) The Juvenile Defender in the Office of Indigent Defense
- 42 (6) The Executive Director of the North Carolina Sentencing and Policy Advisory
43 Commission.
- 44 (7) One representative from the Juvenile Justice Planning Committee of the
45 Governor's Crime Commission.

46 The remaining members shall be appointed as follows:

- 47 (8) Two chief court counselors appointed by the Governor, one to be from a rural
48 county and one from an urban county.
- 49 (9) One chief district court judge and one superior court judge appointed by the
50 Chief Justice of the North Carolina Supreme Court.
- 51 (10) One police chief appointed by the President Pro Tempore of the Senate.

- (11) One sheriff appointed by the Speaker of the House of Representatives.
- (12) One clerk of superior court appointed by the President Pro Tempore of the Senate.
- (13) One district attorney appointed by the Speaker of the House of Representatives.
- (14) One assistant district attorney who handles juvenile matters appointed by the Conference of District Attorneys.
- (15) One assistant public defender who handles juvenile matters appointed by the North Carolina Association of Public Defenders.
- (16) Two representatives from the juvenile advocacy community, one appointed by the President Pro Tempore of the Senate and one appointed by the Speaker of the House of Representatives.
- (17) Two representatives from the victim advocacy community, one appointed by the President Pro Tempore of the Senate and one appointed by the Speaker of the House of Representatives.

Appointments to the Advisory Committee shall be made no later than October 1, 2017.

A vacancy in the Advisory Committee or a vacancy as chair of the Advisory Committee resulting from the resignation of a member or otherwise shall be filled in the same manner in which the original appointment was made.

SECTION 6.(c) Chair; Meetings. – The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate one member to serve as cochair of the Advisory Committee.

The cochairs shall call the initial meeting of the Advisory Committee on or before November 1, 2017. The Advisory Committee shall subsequently meet upon such notice and in such manner as its members determine. A majority of the members of the Advisory Committee shall constitute a quorum.

SECTION 6.(d) Cooperation by Government Agencies. – The Advisory Committee may call upon any department, agency, institution, or officer of the State or any political subdivision thereof for facilities, data, or other assistance.

SECTION 6.(e) Duties of Advisory Committee. – The Advisory Committee shall develop a specific plan for the implementation of any changes in the juvenile justice system that would be required in order to extend jurisdiction in delinquency matters and proceedings to include 16- and 17-year-old persons within the juvenile justice system. The plan shall include cost estimates for each portion of the plan, including capital costs, operating costs, and staffing costs. As the expansion of the jurisdiction of the Division of Juvenile Justice to include persons 16 and 17 years of age who commit crimes or infractions becomes effective pursuant to this act, the Advisory Committee shall monitor and review the implementation of the expansion and shall make additional recommendations to the General Assembly as necessary.

SECTION 6.(f) Consultation. – The Advisory Committee shall consult with appropriate State departments, agencies, and board representatives on issues related to juvenile justice administration.

SECTION 6.(g) Report. – The Advisory Committee shall submit an interim report containing the specific plan and the cost estimates for capital, operating, and staffing costs for implementation of this act, and including legislative, administrative, and funding recommendations necessary to implement the increase in juvenile jurisdiction to include 16- and 17-year-old persons by April 1, 2018, to the General Assembly with copies to the Joint Legislative Oversight Committee on Justice and Public Safety and to the Appropriations Committees on Justice and Public Safety of both houses. The Advisory Committee shall submit additional interim reports with updates on the planning steps completed towards implementation, including any legislative, administrative, and funding recommendations, annually by January 15 of each year. The Advisory Committee shall submit a final report on the implementation of this act, and its findings and recommendations, including legislative, administrative, and funding

1 recommendations, by January 15, 2023, to the General Assembly and the Governor. The Advisory
2 Committee shall terminate on February 1, 2023, or upon the filing of its final report, whichever
3 occurs earlier.

4 **SECTION 6.(h) Funding.** – The Advisory Committee may apply for, receive, and
5 accept grants of non-State funds or other contributions as appropriate to assist in the performance
6 of its duties.
7

8 **PART VII. EFFECTIVE DATE**

9 **SECTION 7.** Part I of this act becomes effective December 1, 2019, and applies to
10 offenses committed on or after that date. Part II and Section 3.1 of this act become effective July
11 1, 2017, and Part II applies to all complaints filed on or after that date. Except as otherwise
12 provided in this act, the remainder of this act is effective when it becomes law. Prosecutions or
13 delinquency proceedings initiated for offenses committed before any particular section of this act
14 becomes effective are not abated or affected by this act, and the statutes that are in effect on the
15 dates the offenses are committed remain applicable to those prosecutions.





**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 280**

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H280-ATV-3 [v.6]

Page 1 of 3

Amends Title [NO]
H280-CSTV-4

Date 5-10-17, 2017

Representative

McNeill

moves to amend the bill on page 13, lines 47-48, by inserting the following between those lines:

"PART V.A JUVENILE GANG SUPPRESSION

SECTION 5.1.(a) G.S. 7B-1702 reads as rewritten:

"§ 7B-1702. Evaluation.

Upon a finding of legal sufficiency, except in cases involving nondivertible offenses set out in G.S. 7B-1701, the juvenile court counselor shall determine whether a complaint should be filed as a petition, the juvenile diverted pursuant to G.S. 7B-1706, or the case resolved without further action. In making the decision, the counselor shall consider criteria provided by the Department and shall conduct a gang assessment. The intake process shall include the following steps if practicable:

- (1) Interviews with the complainant and the victim if someone other than the complainant;
- (2) Interviews with the juvenile and the juvenile's parent, guardian, or custodian;
- (3) Interviews with persons known to have relevant information about the juvenile or the juvenile's family.

Interviews required by this section shall be conducted in person unless it is necessary to conduct them by telephone."

SECTION 5.1.(b) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall develop a gang assessment instrument to be used in Section 5.1(a). The form shall be developed in consultation with the administrator of the GangNET database maintained by the North Carolina State Highway Patrol and the Division may also consult with other entities that might provide information relevant to the development of an effective assessment tool.

SECTION 5.2.(a) G.S. 7B-2508 is amended by adding a new subsection to read:

"(g1) Notwithstanding subsection (f) of this section, if a juvenile is adjudicated for an offense that the court finds was committed as part of criminal gang activity as defined in G.S. 7B-2508.1, the juvenile shall receive a disposition one level higher than would otherwise be provided for the class of offense and delinquency history level."

SECTION 5.2.(b) Article 25 of Chapter 7B is amended by adding a new section to read:



* H 2 8 0 - A T V - 3 - V - 6 *

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
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AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H280-ATV-3 [v.6]

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"§ 7B-2508.1. Criminal gang activity.

Definitions. – The following definitions apply in this Article:

- (1) Criminal gang. – Any ongoing organization, association, or group of three or more persons, whether formal or informal, that (i) has as one of its primary activities the commission of criminal or delinquent acts and (ii) shares a common name, identification, signs, symbols, tattoos, graffiti, attire, or other distinguishing characteristics, including common activities, customs, or behaviors. The term shall not include three or more persons associated in fact, whether formal or informal, who are not engaged in criminal gang activity.
- (2) Criminal gang activity. – The commission of, attempted commission of, or solicitation, coercion, or intimidation of another person to commit (i) any offense under Article 5 of Chapter 90 of the General Statutes or (ii) any offense under Chapter 14 of the General Statutes except Article 9, 22A, 40, 46, or 59 thereof, and further excepting G.S. 14-82, 14-145, 14-183, 14-184, 14-186, 14-190.9, 14-247, 14-248, or 14-313 thereof, and either of the following conditions is met:

 - a. The offense is committed with the intent to benefit, promote, or further the interests of a criminal gang or for the purposes of increasing a person's own standing or position within a criminal gang.
 - b. The participants in the offense are identified as criminal gang members acting individually or collectively to further any criminal purpose of a criminal gang.
- (3) Criminal gang member. – Any person who meets three or more of the following criteria:

 - a. The person admits to being a member of a criminal gang.
 - b. The person is identified as a criminal gang member by a reliable source, including a parent or a guardian.
 - c. The person has been previously involved in criminal gang activity.
 - d. The person has adopted symbols, hand signs, or graffiti associated with a criminal gang.
 - e. The person has adopted the display of colors or the style of dress associated with a criminal gang.
 - f. The person is in possession of or linked to a criminal gang by physical evidence, including photographs, ledgers, rosters, written or electronic communications, or membership documents.
 - g. The person has tattoos or markings associated with a criminal gang.
 - h. The person has adopted language or terminology associated with a criminal gang.
 - i. The person appears in any form of social media to promote a criminal gang."

SECTION 5.3. G.S. 7B-3001(a) reads as rewritten:

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 280

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

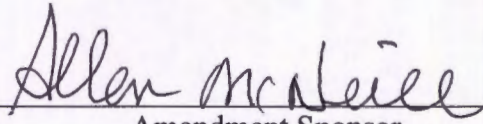
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1 "(a) The chief court counselor shall maintain a record of all cases of juveniles under
2 supervision of juvenile court counselors, to be known as the juvenile court counselor's record.
3 The juvenile court counselor's record shall include family background information; reports of
4 social, medical, psychiatric, or psychological information concerning a juvenile or the
5 juvenile's family; probation reports; interviews with the juvenile's family; the results of the
6 gang assessment; or other information the court finds should be protected from public
7 inspection in the best interests of the juvenile."

8 **SECTION 5.4.** Subsection (b) of Section 5.1 is effective when it becomes law.
9 The remainder of this Part becomes effective December 1, 2019 and applies to offenses
10 committed on or after that date."
11

SIGNED


Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED

FAILED

TABLED

Judiciary I
Comm- 5/10/17

COMMENTS FOR PUBLIC HEARING ON RISING THE JUVENILE AGE

415 State Legislative Office Building

May 10, 2017

Honorable Committee members:

The following comments have not been solicited; however, they are offered by a retired NC state employee who worked in this juvenile justice system. Before leaving the North Carolina system, I was elected to a leadership role in the American Correctional Association (ACA), eventually serving as President (2004-2006). After having visited and reviewed many juvenile and adult systems across the country, I found no empirical data to defend the benefit of maintaining North Carolina's juvenile age at 16.

Following is a summary of my observations:

1. North Carolina's largest city, Charlotte metropolitan area, ranks only 22nd in the country. North Carolina is not reputed to be nor has it ever been an extremely high juvenile crime state compared to other states across the country. How do we justify maintaining a lower juvenile age? By keeping the age at 16, are we suggesting that NC juveniles are the worst in the country and must be detained at an earlier age in the adult correctional system?
2. On-going brain research suggests that 16 and 17 year olds frequently lack the developmental maturity and judgment to fully understand and accept responsibility for their behaviors.
3. Few resources have been provided to support and intervene in high-risk communities and schools. These juveniles and their families are not easy to work with, and they do not respond well to traditional modalities. Primary prevention and intervention are woefully inadequate.
4. Raising the jurisdictional juvenile age is the right thing to do at this time. Many 16 and 17 year olds can be more responsive to rehabilitative services in a juvenile setting because it lacks the notoriety that characterizes the adult system.

Note: Founded in 1870, the American Correctional Association (ACA) is the oldest association developed specifically for practitioners in the correctional profession in this country. ACA develops operational and leadership standards that are based on valid, reliable research, and exemplary correctional practice. ACA also provides professional development and accreditation processes that incorporate these standards and practices.

Submitted by:

Gwendolyn Chunn, RETIRED

Director, Juvenile Justice Institute, North Carolina Central University; Director, NC Division of Youth Services, DHHS; Past President, American Correction Association (2004-2006); Review Panelist, Prison Rape Elimination Act, appointed by Attorney General, US Department of Justice



COMMENTS FOR PUBLIC HEARING ON RISING THE JUVENILE AGE

415 State Legislative Office Building

May 10, 2017

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JUDICIARY 1 PRESENTATION
RAISE THE AGE

GOOD AFTERNOON. MR. CHAIRMAN, MEMBERS OF THE COMMITTEE.

I SUPPORT PASSAGE OF H280 AND IMPLEMENTATION AS SOON AS IS PRACTICAL. THE TIME IS NOW. I'M SPECIFICALLY HERE TO TALK ABOUT PART IV OF H280, SCHOOL-JUSTICE PARTNERSHIPS TO REDUCE SCHOOL-BASED REFERRALS TO JUVENILE COURTS.

THE SECTION IS SHORT AND STRAIGHTFORWARD. I'VE BEEN ASKED TO SHARE WITH YOU HOW IT LOOKS IN PRACTICE AND THE GOOD THAT THESE PARTNERSHIPS CAN DO.

I MET WITH MY SUPERINTENDENT OF SCHOOLS JUST OVER 4 YEARS AGO AND SHARED AN IDEA FOR A PARTNERSHIP, A COLLABORATION, THAT I LEARNED WAS HAVING TREMENDOUS SUCCESS IN CLAYTON COUNTY, GEORGIA, WAS SPREADING TO OTHER AREAS OF THE COUNTRY, AND THAT I WANTED TO BRING TO NEW HANOVER COUNTY. WE EACH AGREED THAT OUR RESPECTIVE SYSTEMS WERE NOT SERVING OUR YOUTH WHO GOT IN TROUBLE PARTICULARLY WELL, ESPECIALLY OUR 16 AND 17 YEAR OLDS.

MY DISTRICT ATTORNEY, BEN DAVID, WHO IS HERE WITH ME, AND WHO SUPPORTS THIS LEGISLATION, MY SHERIFF, MY SCHOOL BOARD CHAIR, MY CHIEF OF POLICE, MY COUNTY ADMINISTRATION, MY CHIEF COURT COUNSELOR AND OTHERS JOINED US IN THIS COLLABORATION, AND ON NOVEMBER 2, 2015 WE SIGNED OUR INTERAGENCY AGREEMENT ON THE HANDLING OF SCHOOL OFFENSES, OUR SCHOOL-JUSTICE PARTNERSHIP. DIRECTOR WARREN JOINED US FOR THE SIGNING.

WE AGREED THAT SCHOOLS, LAW ENFORCEMENT AND COURTS SHARE RESPONSIBILITY FOR SAFETY IN SCHOOLS AND MUST COLLABORATE.

WE AGREED THAT WE MUST DEVELOP A CONSISTENT RESPONSE TO BEHAVIOR, WHEN AND WHERE IT HAPPENS INSTEAD OF AUTOMATICALLY PUSHING THE BEHAVIOR OUT OF SCHOOL.



WE AGREED TO CLARIFY THE ROLE OF LAW ENFORCEMENT IN SCHOOL DISCIPLINE.

WE AGREED TO EFFICIENTLY UTILIZE ALTERNATIVE SUPPORT SERVICES AND TO DEVELOP OTHER RESPONSES TO MEET THE NEEDS OF THESE YOUNG PEOPLE AND CHANGE BEHAVIOR.

WE AGREED TO REDUCE LAW ENFORCEMENT AND COURT INVOLVEMENT FOR MISCONDUCT AT SCHOOL AND SCHOOL RELATED EVENTS.

WE AGREED ON DISCIPLINE FACTORS TO BE CONSIDERED BEFORE IMPOSING DISCIPLINE, MANY OF WHICH ARE FACTORS THAT PARENTS WOULD CONSIDER BEFORE IMPOSING DISCIPLINE.

WE AGREED ON A LIST OF 9 FOCUSED ACTS, ACTS THAT ARE MINOR VIOLATIONS OF CRIMINAL LAWS, AND AGREED THAT STUDENTS WOULD NOT AUTOMATICALLY BE CHARGED OR SENT TO JUVENILE COURT FOR THE FIRST OR SECOND OF THESE FOCUSED ACTS IN A SCHOOL YEAR.

WE AGREED ON A GRADUATED RESPONSE MODEL TO THE BEHAVIORS BUILT ON THE PBIS MODEL.

WE AGREED THAT KEEPING KIDS IN SCHOOL AND OUT OF COURT AND OFF THE STREET IS A GOOD THING.

WE HAVE A PROGRESS MONITORING TEAM THAT COLLECTS DATA: FIRST YEAR:
REFERRALS TO JUVENILE COURT (COMPLAINTS) FROM SRO'S: DOWN 47%
JUVENILE PETITIONS APPROVED FOR FILING FROM SRO'S: DOWN 56%
CONTEXT FOR THIS: 42% OF ALL DJJ CASES IN NC COME FROM SCHOOLS.

WE'RE SEEING MINDSET CHANGES, WE'RE SEEING A RETURN TO DISCIPLINE INSTEAD OF PUNISHMENT. WE'RE SEEING THE VALUE OF COLLABORATION.

I'VE MET WITH DIRECTOR WARREN, TOM MURRY, AND BILLY LASSITER. WE'RE READY TO GET TO WORK TO SPREAD THIS WORK ACROSS THE STATE. IT'S RIGHT

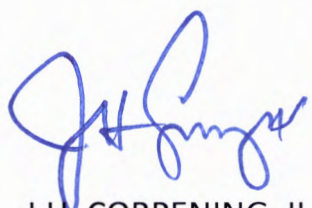


FOR CHILDREN, AND IT CAN POSITIVELY IMPACT THE COST OF JUVENILE JUSTICE REINVESTMENT.

IF I CAN OFFER A BIT OF PERSPECTIVE FROM MY 25 YEARS ON THE BENCH, OTHER THAN MY CALL FROM THE CHIEF JUSTICE WHEN HE WAS GENERAL COUNSEL TO GOVERNOR MARTIN OFFERING ME THIS JOB IN 1991, I'VE JUST SPENT THE MOST IMPORTANT 3 MINUTES OF MY CAREER.

THANK YOU FOR THE OPPORTUNITY TO BE HERE.

RESPECTFULLY SUBMITTED, THIS THE 10TH DAY OF MAY, 2017.



J.H. CORPENING, II
CHIEF DISTRICT COURT JUDGE
5TH JUDICIAL DISTRICT





North Carolina
Federation of
Young Republicans

RESOLUTION TO SUPPORT House Bill 280 and Criminal Justice Reform in NC

WHEREAS, The purpose of the American criminal justice system is to make our communities safer while honoring the principles of liberty and justice for all and to function cost-effectively;

WHEREAS, State prisons confine 1.3 million offenders which result in 2.7 million children having a parent incarcerated, and the expectation is that more than 90 percent of these offenders will eventually exit prison and return to their communities;

WHEREAS, Corrections expenditures are the second fastest growing budget item for states, and taxpayer dollars spent just on prisons and jails now exceed \$80 billion annually;

WHEREAS, 16 and 17-year olds are arrested and face the possibility of prosecution as adults in criminal court each year – the vast majority for minor crimes ;

WHEREAS, Studies have found that young people transferred to the adult criminal justice system are 34% more likely to be re-arrested for violent and other crimes than youth retained in the youth justice system;

WHEREAS, Only 3% of the crimes for which 16- and 17-year-olds in North Carolina were convicted last year would've made it to adult court in other states;

WHEREAS, Raise the are efforts in North Carolina are supported by Senator Thom Tillis, Supreme Court Chief Justice Mark Martin, and North Carolina State Superintendent Mark Johnson; therefore

BE IT RESOLVED, The North Carolina Federation of Young Republicans (NCFYR) supports effective criminal justice reforms for nonviolent offenders at the state and federal level that protect our communities, respect crime victims, restore families, safely reduce prison populations;

BE IT FUTHER RESOLVED, The NCFYR urges our state legislators work together to support and pass House Bill 280;



BE IT FUTHER RESOLVED, The NCFYR urges our state legislators to coordinate with families, civic organizations, and faith-based communities, to find solutions to Substance abuse, Mental Health Issues, emphasize work and education, that are all factor that contribute to crime, and implement policies that cut costs while obtaining better outcomes;





Table 28-1

QUESTION 20:

There is a proposal to change the law in North Carolina, so that 16 and 17-year-olds would no longer be tried as adults in the state justice system, but rather as juveniles. This would not apply to violent crimes, however. This would be determined by the charges actually filed against the person, not the crime committed. Do you support or oppose North Carolina raising the age to be tried as an adult to 18 years of age for non-violent crimes?

BANNER 1

	KEY REGIONS							GENDER		AGE				GENDER/AGE						PARTY REG			RACE	
	TOTAL (A)	TRI- ANGLE (B)	SOUTH -EAST (C)	NORTH -EAST NC (D)	PIED- MONT TRIAD (E)	CHAR- LOTTE (F)	WEST- ERN NC (G)	MEN (H)	WOMEN (I)	18-40 (J)	41-55 (K)	56-65 (L)	66+ (M)	MEN 18-44 (N)	MEN 45-64 (O)	MEN 65+ (P)	WOMEN 18-44 (Q)	WOMEN 45-64 (R)	WOMEN 65+ (S)	GOP (T)	DEM (U)	IND (V)	AF. AMER. (W)	WHITE (X)
BASE=TOTAL SAMPLE	600 100%	118 20%	101 17%	62 10%	113 19%	132 22%	73 12%	288 48%	312 52%	72 12%	168 28%	138 23%	210 35%	52 9%	127 21%	104 17%	45 8%	136 23%	123 21%	204 34%	252 42%	144 24%	138 23%	420 70%
**D/S (SUPPORT - OPPOSE)	274 46%	53 45%	53 52% F	24 38%	56 49% F	46 35%	43 59% bDF	92 32%	181 58% H	26 36%	95 56% jM	75 54% jM	77 36%	16 31%	46 36%	29 28%	33 74% NOPS	89 66% NOPS	59 48% oP	65 32%	131 52% T	78 54% T	66 48%	185 44%
TOTAL SUPPORT -----	419 70%	80 68%	74 73%	42 67%	81 71%	84 64%	58 79% F	181 63%	238 76% H	45 62%	127 76% M	105 76% M	135 64%	30 58%	85 67%	63 60%	39 87% NOPS	109 80% nOPS	87 70% p	128 63%	183 73% t	108 75% T	95 69%	292 70%
TOTAL OPPOSE -----	145 24%	27 23%	21 21%	18 29%	25 22%	39 29%	15 20%	88 31% I	57 18%	19 26%	33 20%	30 22%	59 28% k	14 27%	35 31% QR	34 33% QRs	6 13%	20 15%	28 22%	63 31% Uv	52 21%	30 21%	29 21%	108 26%
STRONGLY SUPPORT	291 49%	66 56% d	49 48%	25 40%	55 49%	59 45%	37 50%	123 43%	168 54% H	28 38%	95 57% jM	71 52%	93 44%	14 27%	59 46% n	47 46% n	32 71% NOPS	78 57% Nps	57 46% n	81 40%	140 56% T	70 48%	74 54%	194 46%
SOMEWHAT SUPPORT	128 21%	14 12%	25 25% b	17 27% B	25 22% b	25 19%	21 29% B	58 20%	70 22%	17 24%	32 19%	34 25%	42 20%	16 31%	26 20%	15 15%	7 16%	32 23%	30 24% p	47 23%	43 17%	38 26% u	21 15%	98 23% w
SOMEWHAT OPPOSE	46 8%	12 10%	6 6%	3 6%	5 5%	13 10%	6 8%	28 10%	18 6%	5 8%	10 6%	11 8%	19 9%	4 8%	12 10%	11 11%	1 3%	8 6%	8 6%	18 9%	16 7%	11 8%	7 5%	35 8%
STRONGLY OPPOSE	99 17%	15 13%	15 15%	15 24%	20 17%	26 20%	9 12%	61 21% I	39 12%	13 19%	23 14%	20 14%	40 19%	10 19%	27 21% R	23 22% R	5 10%	12 9%	20 16% r	45 22% uv	36 14%	18 13%	22 16%	72 17%
DON'T KNOW/NEED MORE INFORMATION	34 6%	10 8% G	6 6%	2 4%	7 6% g	8 6% g	1 1%	19 7%	15 5%	8 11%	7 4%	3 2%	15 7% L	8 16% q	3 2%	7 7% Q	- -	5 4% Q	8 7% Q	12 6%	15 6%	7 5%	14 10%	17 4%
REFUSED	2 -	1 1%	- -	- -	1 -	- -	- -	- -	2 1%	- -	1 1%	- -	1 1%	- -	- -	- -	- -	1 1%	1 1%	- -	2 1%	- -	- -	2 1%

Significance Z-testing shown at 95% in UPPERCASE and 90% in lowercase in the groupings: B/C/D/E/F/G H/I J/K/L/M N/O/P/Q/R/S T/U/V W/X
N A T I O N A L R E S E A R C H I N C



79



NORTH CAROLINA CAN AFFORD TO RAISE THE AGE IN 2017

Raising the age means including 16- and 17-year-olds in the juvenile justice system if they are accused of misdemeanors and low-level felonies. North Carolina is the only remaining state that exclude all 16- and 17-year-olds from the juvenile justice system, even for the most minor offenses. Raising the age is a common-sense reform that improves public safety, saves taxpayer money, strengthens the workforce, and treats families fairly. North Carolina can't afford to keep pushing kids unnecessarily into the criminal justice system. But it can afford to raise the age. Here's why.

North Carolina Can Substantially Fund Raise the Age by Reinvesting Costs Savings Already Realized by the Juvenile Justice System

- From FY 2008-2009 to FY 2015-2016, the juvenile system's budget shrank by \$44,740,774. These funds can be reinvested to fund raise the age.
- NC's juvenile delinquency rates have been steadily dropping. A lower juvenile delinquency rate means we've realized cost savings that can be used to fund raise the age.
- Commitments to NC's Youth Development Centers (YDC) have been dropping – in the last 16 years they've been reduced by over 70%! At a cost of about \$125,000/year, every youth kept out of a YDC frees up money to help fund raise the age.
- Due to declining commitments, NC has closed YDC facilities, generating millions in cost savings that can be used to fund raise the age.
- NC's juvenile pretrial detention center admissions have fallen dramatically as we've moved to less expensive options for low-risk youth, freeing up money to help fund raise the age.
- Study after study has found that raising the age will benefit NC and its citizens economically.

Other States Have Overestimated Juvenile Justice Costs and Underestimated Savings

- Seven states raised the age in the last 10 years – Connecticut, Illinois, Louisiana, Massachusetts, Mississippi, New Hampshire, and South Carolina. Each spent either no new dollars or significantly less than predicted.
- States have overestimated costs in part because they overestimated the number of teens who would come into the juvenile system after raising the age. In fact, states that have implemented RTA have seen drastic drops in juvenile arrests following the reform, referred to as "the RTA effect." Following the enactment of RTA, juvenile arrests declined by 28% in Connecticut and 32% in Illinois.

Raising the Age Will Yield Economic Benefit for North Carolina & Its Citizens

- Two separate studies authorized by the NC General Assembly show that North Carolina would see millions of dollars in net economic benefits from raising the age.
- Much of the estimated benefits comes from (1) the reduced rate of recidivism that can be obtained when juveniles are processed in the juvenile versus the adult system and (2) the dramatically increased future earnings for youth who are not saddled with adult criminal records.





SENATE BILL 148: Juror Excused by Clerk/Int'l Ed. Spec. Judge.

2017-2018 General Assembly

Committee: House Judiciary I
Introduced by: Sens. Britt, Randleman
Analysis of: PCS to Second Edition
S148-CSTG-20

Date: May 9, 2017
Prepared by: Bill Patterson
Committee Co-Counsel

OVERVIEW: *The Proposed Committee Substitute for Senate Bill 148 would:*

- *Allow the chief district court judge to delegate authority to the clerk of court to excuse a person from jury service.*
- *Provide for the nomination and appointment of an emergency special superior court judge to direct International Judicial Programs to be housed at Campbell University School of Law.*

CURRENT LAW: Currently, the responsibility for promulgating procedures to process applications for excuses from jury duty rests with the chief district court judge, or a district court judge designated by the chief, and may also be delegated to the trial court administrator in those counties having one. Requests to be excused from jury service are filed with the chief district court judge, the designated district court judge, or the trial court administrator.

Pursuant to G.S. 7A-45.2, any justice or judge of the appellate division of the General Court of Justice who: 1) retires under the Consolidated Judicial Retirement Act or is eligible to receive a retirement allowance under that Act, 2) has not yet reached the mandatory retirement age, 3) has served at least five years as a superior court judge or as a justice or judge of the appellate division, and 4) whose judicial service ended within the preceding 10 years, can apply to the Governor to become an emergency special superior court judge. Once commissioned, the judge can be assigned by the Chief Justice of the North Carolina Supreme Court to hold special sessions of superior court, and cannot engage in the practice of law during any period for which the judgeship is commissioned.

G.S. 128-1.1(a) permits a person holding an appointive office in State or local government concurrently to hold one other appointive office either in State or local government, but not in federal government.

BILL ANALYSIS:

Section 1 of the PCS would allow the chief district court judge to delegate authority to establish procedures for processing jury service excusal applications to the clerk of superior court, with the consent of the clerk.

Section 2 would allow the chief district court judge to delegate authority to approve jury service excusal requests to the clerk of superior court.

Section 3 (added by the PCS) would authorize the Chief Justice to provide the Governor with the name of an attorney nominated to serve as an emergency special superior court judge authorized to direct International Judicial Programs at Campbell University School of Law for jurists, arbitrators, mediators and judicial system professionals from around the world.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

Senate PCS 148

Page 2

To be qualified for appointment the nominee must meet the following qualifications:

- Have been a licensed North Carolina attorney for at least 20 years.
- Have taught full-time or as an adjunct professor at an ABA-accredited law school.
- Hold a law degree awarded by a foreign university.
- Hold a Juris Doctor or equivalent law degree awarded by an ABA-accredited law school.

If satisfied that the nominee meets these qualifications and is able to perform the duties of a superior court judge, the Governor would issue a commission appointing the nominee as an emergency special superior court judge.

The appointee would be eligible to serve in the same way as other judges appointed as emergency special superior court judges, except that he or she would be permitted to practice law while holding the commission. The appointee would not be permitted to appear as attorney of record for any party in superior court, and would hold office until reaching mandatory retirement age for judges.

The appointee would not, by virtue of the appointment, be deemed to be a State employee or eligible for judicial retirement benefits. He or she would be paid expenses and compensation of \$400 per day of actual service holding court as an emergency judge; however, for any days in which the appointee is otherwise compensated for work by the State, he or she would receive only actual expenses for service as a judge.

The appointee would be permitted concurrently to hold another appointive office either in State or local government or in federal government.

EFFECTIVE DATE: This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

S

D

SENATE BILL 148
Judiciary Committee Substitute Adopted 3/14/17
PROPOSED HOUSE COMMITTEE SUBSTITUTE S148-CSTG-20 [v.1]

05/09/2017 4:22:36 PM

Short Title: Juror Excused by Clerk/Int'l Ed. Spec. Judge.

(Public)

Sponsors:

Referred to:

March 1, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE THAT THE CHIEF DISTRICT COURT JUDGE MAY DELEGATE
3 AUTHORITY TO THE CLERK OF COURT TO EXCUSE A PERSON FROM JURY
4 DUTY AND TO AUTHORIZE APPOINTMENT OF AN EMERGENCY SPECIAL
5 SUPERIOR COURT JUDGE FOR THE INTERNATIONAL EDUCATION AND
6 TRAINING OF JUDICIAL OFFICIALS.

7 The General Assembly of North Carolina enacts:

8 SECTION 1. G.S. 9-6(b) reads as rewritten:

9 "§ 9-6. Jury service a public duty; excuses to be allowed in exceptional cases; procedure.

10 ...
11 (b) Pursuant to the foregoing policy, each chief district court judge shall promulgate
12 procedures whereby he or any district court judge of his district court district designated by
13 him, prior to the date that a jury session (or sessions) of superior or district court convenes,
14 shall receive, hear, and pass on applications for excuses from jury duty. The procedures shall
15 provide for the time and place, publicly announced, at which applications for excuses will be
16 heard, and prospective jurors who have been summoned for service shall be so informed. The
17 chief district court judge, after consultation with and consent of the clerk, may also delegate
18 this authority to the clerk of superior court. In counties located in a district or set of districts as
19 defined in G.S. 7A-41.1(a) which have a trial court administrator, the chief district judge may
20 assign the duty of passing on applications for excuses from jury service to the administrator. In
21 all cases concerning excuses, the clerk of court or the trial court administrator shall notify
22 prospective jurors of the disposition of their excuses."

23 SECTION 2. G.S. 9-6.1 reads as rewritten:

24 "§ 9-6.1. Requests to be excused.

25 (a) Any person summoned as a juror who is a full-time student and who wishes to be
26 excused pursuant to G.S. 9-6.1(b1) [G.S. 9-6(b1)] or who is 72 years or older and who wishes
27 to be excused, deferred, or exempted, may make the request without appearing in person by
28 filing a signed statement of the ground of the request with the chief district court judge of that
29 district, or the district court judge-judge, the clerk of superior court if so delegated by the chief
30 district court judge, or a trial court administrator designated by the chief district court judge
31 pursuant to G.S. 9-6(b), at any time five business days before the date upon which the person is
32 summoned to appear.

33 (b) Any person summoned as a juror who has a disability that could interfere with the
34 person's ability to serve as a juror and who wishes to be excused, deferred, or exempted may
35 make the request without appearing in person by filing a signed statement of the ground of the



request, including a brief explanation of the disability that interferes with the person's ability to serve as a juror, with the chief district court judge of that district, or the district court judge or judge, the clerk of superior court if so delegated by the chief district court judge, or a trial court administrator designated by the chief district court judge pursuant to G.S. 9-6(b), at any time five business days before the date upon which the person is summoned to appear. Upon request of the court, medical documentation of any disability may be submitted. Any privileged medical information or protected health information described in this section shall be confidential and shall be exempt from the provisions of Chapter 132 of the General Statutes or any other provision requiring information and records held by State agencies to be made public or accessible to the public.

(c) A person may request either a temporary or permanent exemption under this section, and the judge-judge, clerk of superior court if so delegated by the chief district court judge, or trial court administrator may accept or reject either in the exercise of discretion conferred by G.S. 9-6(b), including the substitution of a temporary exemption for a requested permanent exemption. In the case of supplemental jurors summoned under G.S. 9-11, notice may be given when summoned. In case the chief district court judge, or the judge-judge, clerk of superior court if so delegated by the chief district court judge, or trial court administrator designated by the chief district court judge pursuant to G.S. 9-6(b), rejects the request for exemption, the prospective juror shall be immediately notified by the trial court administrator or the clerk of court by telephone, letter, or personally."

SECTION 3(a). Article 7 of Chapter 7A of the General Statutes is amended by adding a section to read:

"§ 7A-45.6. International Education and Training for Judicial Officials; Appointment of Emergency Special Superior Court Judge.

(a) The Chief Justice, after consultation with the Chief Judge of the North Carolina Business Court, shall submit a nomination to the Governor of an attorney who meets the requirements set forth in subsection (b) of this section to serve as an emergency special superior court judge to direct International Judicial Programs to be housed at Campbell University School of Law for jurists, arbitrators, mediators, and judicial system professionals from around the world. If the Governor is satisfied that the nominee meets the requirements of this section and is physically and mentally able to perform the duties of a superior court judge, the Governor shall, within fourteen days of receiving the nomination from the Chief Justice, issue a commission appointing the nominee as an emergency special superior court judge. Except as provided herein, the commission issued pursuant to this section shall be the same as that of an emergency special superior court judge appointed pursuant to G.S. 7A-45.2, and an emergency special superior court judge appointed pursuant to this section shall take the same oath of office, and serve in the same way and manner, subject to the same requirements, powers, rights, and obligations of emergency special superior court judges appointed pursuant to G.S. 7A-45.2, except that there is no requirement that an emergency special superior court judge appointed pursuant to this section have any prior judicial service or have retired under the Consolidated Judicial Retirement System, and an emergency special superior court judge appointed under this section may practice law, as defined by G.S. 84-2.1, while holding a commission issued pursuant to this section, provided however that no person holding a commission as an emergency special superior court judge shall appear as an attorney of record for any party before the superior court division of the General Court of Justice.

(b) A nominee under this section shall meet all of the following requirements:

- (1) Have been admitted to the North Carolina bar for not less than 20 years.
- (2) Have taught full-time or adjunct at a law school accredited by the American Bar Association.
- (3) Hold a foreign law degree awarded by a foreign university.

1 (4) Hold a Juris Doctor or equivalent law degree awarded by a law school that
2 was accredited by the American Bar Association at the time the degree was
3 conferred.

4 (c) An emergency special superior court judge appointed under this section shall hold
5 the office until the retirement age for judges set forth in G.S. 7A-4.20. Nothing herein shall
6 make an appointee, solely by virtue of an appointment under this section, a State employee; nor
7 shall any appointment pursuant to this section make an appointee eligible for retirement
8 benefits under the Consolidated Judicial Retirement Fund. An emergency special superior court
9 judge appointed pursuant to this section shall be paid expenses plus compensation as provided
10 in G.S. 7A-52 only for days of actual service holding court as an emergency superior court
11 judge, except that on days when he or she is otherwise compensated for work by the State of
12 North Carolina, he or she shall only receive his or her actual expenses for service as a judge. To
13 facilitate international outreach, the emergency special superior court judge appointed under
14 this section may hold concurrently one other appointive office, place of trust or profit either in
15 State or local government or, notwithstanding G.S. 128-1.1(a), in federal government."

16 **SECTION 3(b).** The Chief Justice shall submit the nomination pursuant to Section
17 3(a) of this act to the Governor within 30 days of this act becoming law.

18 **SECTION 4.** This act is effective when it becomes law.



NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

JUDICIARY I COMMITTEE REPORT
Representative Ted Davis, Jr., Chair

FAVORABLE

SB 344 Combine Adult Correction & Juvenile Justice.
Draft Number: None
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: R. Turner

SB 547 Restitution Remission/Notice and Hearing Req.
Draft Number: None
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: R. Turner

FAVORABLE AND RE-REFERRED

SB 117 (CS#2) Forfeiture of Retirement Benefits/Judges.
Draft Number: None
Serial Referral: PENSIONS AND RETIREMENT
Recommended Referral: None
Long Title Amended: No
Floor Manager: Davis

TOTAL REPORTED: 3



* C M R 4 O 2 - V - 1 *



**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

**JUDICIARY I COMMITTEE REPORT
Representative Ted Davis, Jr., Chair**

FAVORABLE HOUSE COM SUB, UNFAVORABLE SENATE COM SUB

SB 53 (CS#1) Law Enforcement Authority/Custody of Child.
Draft Number: S53-PCS45430-TT-24
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: Davis

FAVORABLE HOUSE COM SUB, UNFAVORABLE SENATE COM SUB AND RE-REFERRED

SB 148 (CS#1) Juror Excused by Clerk of Sup. Ct.
Draft Number: S148-PCS45429-TG-20
Serial Referral: **RULES, CALENDAR, AND
OPERATIONS OF THE HOUSE**
Recommended Referral: None
Long Title Amended: Yes
Floor Manager: Lewis

TOTAL REPORTED: 2



* C M R 4 0 9 - V - 1 *



**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

**JUDICIARY I COMMITTEE REPORT
Representative Ted Davis, Jr., Chair**

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB 280

Juvenile Justice Reinvestment Act.

Draft Number: H280-PCS10348-TV-6

Serial Referral: **APPROPRIATIONS**

Recommended Referral: None

Long Title Amended: No

Floor Manager: McGrady

TOTAL REPORTED: 1



* C M R 4 . 1 2 - V - 1 *



VISITOR REGISTRATION SHEET

House Judiciary I

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Kay Castillo	NASW-NC
Carl Gilmore	Common Cause NC
Jane Plaseky	NCCLER
Sam Currin	CLS
Starnes	DST
KM Anderson	ACLH
Holly Borich	DA 30th Jud dist. ID
Peg Bauer	Court of DAs
Maureen Amega	DA - PID
Hona Kwa	Sec. Comm.
Carlye Wittek	Perkinson Law Firm



VISITOR REGISTRATION SHEET

House Judiciary I

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Melissa Boughton	NC Policy Watch
SAM WATTS	NC DST
MARY JENNINGS	SPEAKERS OFFICE
	office of the Juvenile Defender
Marcus Thompson	
PETER ROMARY	CAMPBELL HIGH SCHOOL
THOM GOSLEY	GOLDY GAIT RELATIONS
Kimberly Quintus	NC DPS, Juvenile Justice
CATHERINE L ANDERSON	NC DPS - JUV JUS
Dawn Blagrove	Carolina Justice Policy Center
Matthew Herr	DR NC
Kris Paulis	DR NC



VISITOR REGISTRATION SHEET

House Judiciary I

Name of Committee

Date _____

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME _____

FIRM OR AGENCY AND ADDRESS

Christina Sandidge

Associated Press

ASHLEY WELCH

DIA - 30th District



SPEAKER REGISTRATION SHEET

House J1

1:00

5-10-17

Name of Committee

Date

SPEAKERS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

HB 289 ✓ Gwendolyn Chunn

Retiree/citizen
1707 Southgate Dr., RAE. NC

HB 280 (dm) Judge Corpening + Ben David

New Hanover / Pender

HB 286 ✓ ADAM SOTAK

NC Child, Raleigh, NC

HB 280 ✓ Rick Watson
Watson

Youth Justice Project, Durham, NC

H 280 * Marilyn Avila

NCGA

H 280 * Brandy B. Dawson

Caroline Justice Policy Center

H 280 ✓ Karen Simon

Citizens

Maureen Krueger

Moore DA

Ashley Welch

Haywood DA

Brenda Howerton

~~Retiree~~ NC Assn.
County Commissioners



VISITOR REGISTRATION SHEET

House J1

1:00

5-10-17

(Committee Name)

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY</u>
Kay Castillo	NASW-NC
Corey Williams	Everyone's NC
AMES SIMMONS	EQUALITY NC
Michelle Frazier	SML
Kari Travis	Carolina Journal
Adam Sotak	NC Child
Marcus Thompson	Office of the Juvenile Defender
Bradford Snodden	NCDOJ
Jasmine McGhee	NCDOJ
Dick Taylor	NCA
Wendy Jacobs	Durham County Government
Ellen Reckhow	Durham County Commissioner
Justin Clayton	Governor
Lara Cole	DPS
Scott Sugar	LSO
Samantha Dooies	Office of District Atty. Ben David - 5
Stephan Davis	



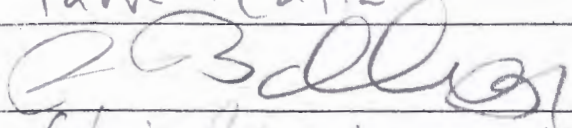
VISITOR REGISTRATION SHEET

House Judiciary 1
(Committee Name)

1:00

10 MAY 2017
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY</u>
Tom Munn	NC Judicial Panel
John Madler	NC Sentencing Commission
Ginny Hevener	" " "
Michelle Hall	" " "
Connor Bullard	House Intern
Tarrah Callahan	CCSR
	BCI
Chris Broughton	MWC
Eddie Caldwell	NC Sheriffs' Assn.
Emily Partner	NCLAJ
Jim Fannon	FFIT
Dana Sipes	SIA



Sgt-at-arms 1:00

TOMAS CHERRY

Bill Riles

Bill MOORE

~~BEAR MOORE~~

~~Farmer - Buttsfield~~

~~STEVENS~~

~~Costal~~

~~Steinberg~~

~~COGINS~~

Mokey

Chuck McHardy

Quanne Hall

Susan Madson

**House Pages
Assignments
Wednesday, May 10, 2017
Session: 3:00 PM**

Committee	Room	Time	Staff	Comments	Member
State and Local Government	544	10:00 AM	Marc-Alain Bertoni		Rep. Debra Conrad
			Joshua Cartret		Rep. Brenden Jones
Health	544	11:00 AM	Daniel Ma		Rep. Nelson Dollar
			Mary Beth Rhyne		Rep. Rena Turner
Regulatory Reform	1228/1327	11:00 AM	Trey Blackwood		Rep. Hugh Blackwell
Judiciary I	415	12:00 PM	Marc-Alain Bertoni		Rep. Debra Conrad
			Mary Beth Rhyne		Rep. Rena Turner
Energy Policy Commission, Jt. Leg.	544	1:00 PM	Daniel Ma		Rep. Nelson Dollar
Judiciary I	415	1:00 PM	Trey Blackwood		Rep. Hugh Blackwell
			Joshua Cartret		Rep. Brenden Jones



**House Pages
Assignments
Wednesday, May 10, 2017
Session: 3:00 PM**

Committee	Room	Time	Staff	Comments	Member
State and Local Government	544	10:00 AM	Marc-Alain Bertoni		Rep. Debra Conrad
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			Mary Beth Rhyne		Rep. Rena Turner
Regulatory Reform	1228/1327	11:00 AM	Trey Blackwood		Rep. Hugh Blackwell
Judiciary I	415	12:00 PM	Marc-Alain Bertoni		Rep. Debra Conrad
			Mary Beth Rhyne		Rep. Rena Turner
Energy Policy Commission, Jt. Leg.	544	1:00 PM	Daniel Ma		Rep. Nelson Dollar
Judiciary I	415	1:00 PM	Trey Blackwood		Rep. Hugh Blackwell
			Joshua Cartret		Rep. Brenden Jones



**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Wednesday, June 14, 2017

TIME: 1:00 PM

LOCATION: 415 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 182</u>	Leadership Term Limits.	Representative Warren Representative Hardister Representative Blust
<u>HB 566</u>	Private Protective Services Changes.	Representative Hardister Representative Burr Representative Faircloth Representative McNeill
<u>HB 827</u>	Use of Passing Lane/Increased Penalty.	Representative Duane Hall Representative Bradford Representative Hardister Representative Murphy

Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 2:57 PM on Monday, June 12, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Judy Lowe (Committee Assistant)



House Committee on Judiciary I
Wednesday, June 14, 2017, 1:00 PM
415 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 182	Leadership Term Limits.	Representative Warren Representative Hardister Representative Blust
HB 566	Private Protective Services Changes.	Representative Hardister Representative Burr Representative Faircloth Representative McNeill
HB 827	Use of Passing Lane/Increased Penalty.	Representative Duane Hall Representative Bradford Representative Hardister Representative Murphy

Adjournment



House Committee on Judiciary I
Wednesday, June 14, 2017 at 1:00 PM
Room 415 of the Legislative Office Building

MINUTES

The House Committee on Judiciary I met at 1:05 PM on June 14, 2017 in Room 415 of the Legislative Office Building. Representatives Davis, Hall, Jackson, Stevens, Turner, Farmer-Butterfield, Howard, Martin, McNeill, Meyer, and Rogers attended. Staff members Bill Patterson, Jenifer Bedford and Jason Moran-Bates and Judy Lowe, Committee Assistant were also present.

Representative Ted Davis, Jr. presided. He introduced the Sergeants-at-Arms Bill Moore, Bill Riley and Bear Moore and the pages Kimber Blackburn, Ryan Awtrey, Alex Bradley and Jarrod Turner and thanked all for their assistant to the Committee.

The following bills were considered:

HB 182 Leadership Term Limits. Representatives Warren, Hardister, Blust. Representative Warren explained that **HB182** would allow voters to determine if the Speaker of the House of Representatives and the President Pro Tempore of the Senate should be subject to four consecutive two-year term limitations. Representative Martin had concerns about taking the power down. Representative Warren stated that the leadership positions are a two year contract and could turn over anytime with a new Session. Representative Hall asked why this bill is eligible and Ms. Bedford explained that a Constitutional amendment is within the narrow band of bills eligible after crossover. Representative Martin said he will support the bill; Representative Warren said it was a good bill and he appreciates the support. Representative Blust indicated it allows the power to too few. Representative Meyer inquired as to whether other states have term limits. Representative Warren thought so but did not know which ones. Representative Stevens moved for a favorable report with a re-referral to Rules, Calendar, and Operations of the House.

HB 566 Private Protective Services Changes. Representatives Hardister, Burr, Faircloth, McNeill. Representative Hardister stated that the PCS for the bill would make some changes to the laws regulating the private protective services profession including authorizing certain late fees, and creating a firearms training exemption. Representative McNeill explained his amendment to the bill. The Chairman called for the vote on the amendment and it passed unanimously. Jeff Gray, lawyer, said the amendment brings the bill into compliance. Representative Martin inquired about the initial training on firearms. Representative Hardister noted that refresher training would still be required though bill only refers to initial training. Representative Martin moved for favorable report on the proposed committee substitute, unfavorable to the original bill and re-referred to Finance. The motion passed unanimously.

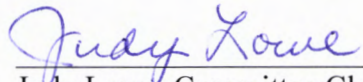
HB 827 Use of Passing Lane/Increased Penalty. Representatives Duane Hall, Bradford, Hardister, Murphy. Representative Hall explained the bill would make it an infraction, punishable by a \$200 fine, to operate a motor vehicle in the left lane of a controlled-access



highway or partially controlled-access highway in a manner the driver knows or should know will result in the vehicle being overtaken by another vehicle driving at a higher rate of speed. There was discussion about the merits of the bill and also the drawbacks. Representative Rogers noted there is no left lane legislation. Representative Hall indicated that it is a public safety issue. In response to Representative Steinburg's query about whether insurance companies have weighed in Representative Bradford stated that most insurance companies have articles on this for safety. Representative Martin said that passing from the right lane is a safety hazard. The comment was made that if it became necessary to pass from the right lane by exceeding the speed limit, it was against the law. Representative Martin moved for a favorable report and the motion passed.

The meeting adjourned at 1:45 PM.

Representative Ted Davis, Jr., Presiding Chair



Judy Lowe, Committee Clerk





HOUSE BILL 182: Leadership Term Limits.

2017-2018 General Assembly

Committee:	House Judiciary I. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	June 14, 2017
Introduced by:	Reps. Warren, Hardister, Blust	Prepared by:	Jennifer H. Bedford
Analysis of:	First Edition		Legislative Analyst

OVERVIEW: *House Bill 182 would allow voters to determine if the Speaker of the House of Representatives and the President Pro Tempore of the Senate should be subject to four consecutive two-year term limitations.*

CURRENT LAW: There are no term limitations for officers elected by the General Assembly.

BILL ANALYSIS: **House Bill 182** would place a constitutional amendment on the November 2018 ballot to restrict the Speaker of the North Carolina House of Representatives and the President Pro Tempore of the North Carolina Senate to four consecutive two-year terms in the same office.

EFFECTIVE DATE: This act is effective when it becomes law, and would be submitted to voters in the November 2018 election. Subject to voter approval, term limitations would be calculated considering service in 2019 and subsequent regular session of the General Assembly.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 182

Short Title: Leadership Term Limits.

(Public)

Sponsors: Representatives Warren, Hardister, and Blust (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I, if favorable, Rules, Calendar, and Operations of the House

February 23, 2017

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO LIMIT THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT PRO TEMPORE OF THE SENATE TO SERVE FOR FOUR CONSECUTIVE TWO-YEAR TERMS IN THOSE OFFICES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 15 of Article II of the North Carolina Constitution reads as rewritten:

"Sec. 15. Officers of the House of Representatives.

(1) The House of Representatives shall elect its Speaker and other officers.

(2) No person may serve as Speaker in more than four consecutive General Assemblies. Service as Speaker in any part of a two-year term of the General Assembly constitutes serving as Speaker in that General Assembly for the purpose of calculating the limitation of four consecutive terms. Service as Speaker in the 2019 and subsequent regular sessions of the General Assembly shall be considered in applying the limit established by this subsection.

SECTION 2. Section 14 of Article II of the North Carolina Constitution reads as rewritten:

"Sec. 14. Other officers of the Senate.

(1) President Pro Tempore – succession to presidency. The Senate shall elect from its membership a President Pro Tempore, who shall become President of the Senate upon the failure of the Lieutenant Governor-elect to qualify, or upon succession by the Lieutenant Governor to the office of Governor, or upon the death, resignation, or removal from office of the President of the Senate, and who shall serve until the expiration of his term of office as Senator.

(1a) No person may serve as President Pro Tempore in more than four consecutive General Assemblies. Service as President Pro Tempore in any part of a two-year term of the General Assembly constitutes serving as President Pro Tempore in that General Assembly for the purpose of calculating the limitation of four consecutive terms. Service as President Pro Tempore in the 2019 and subsequent regular sessions of the General Assembly shall be considered in applying the limit established by this subsection.

(2) President Pro Tempore – temporary succession. During the physical or mental incapacity of the President of the Senate to perform the duties of his office, or during the absence of the President of the Senate, the President Pro Tempore shall preside over the Senate.

(3) Other officers. The Senate shall elect its other officers."

SECTION 3. The amendments set out in Sections 1 and 2 of this act shall be submitted to the qualified voters of the State at the general election on November 6, 2018, which





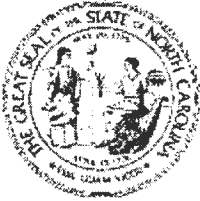
1 election shall be conducted under the laws then governing elections in the State. Ballots, voting
2 systems, or both may be used in accordance with Chapter 163 of the General Statutes. The
3 question to be used in the voting systems and ballots shall be:

4 "[] FOR [] AGAINST

5 Constitutional amendments providing that no person shall serve as Speaker of the
6 House of Representatives for more than four consecutive terms in that office and no person shall
7 serve as President Pro Tempore of the Senate for more than four consecutive terms in that office."

8 **SECTION 4.** If a majority of the votes cast on the question are in favor of the
9 amendments set out in Sections 1 and 2 of this act, the State Board of Elections shall certify the
10 amendments to the Secretary of State, and the amendments become effective upon certification.
11 The Secretary of State shall enroll the amendments so certified among the permanent records of
12 that office.

13 **SECTION 5.** This act is effective when it becomes law.



HOUSE BILL 566: Private Protective Services Changes.

2017-2018 General Assembly

Committee:	House Judiciary I. If favorable, re-refer to Finance	Date:	June 13, 2017
Introduced by:	Reps. Hardister, Burr, Faircloth, McNeill	Prepared by:	Jennifer H. Bedford
Analysis of:	PCS to First Edition H566-CSTT-30		Committee Counsel

OVERVIEW: *The PCS for House Bill 299 would make a number of changes to the laws regulating the private protective services profession including authorizing certain late fees, and creating a firearms training exemption.*

*As introduced, this bill was identical to S634, as introduced by Sen. Daniel, which is currently in Senate Rules and Operations of the Senate.

CURRENT LAW: Under Chapter 74C, the Private Protective Services Board ("Board") regulates professions of security guards, private investigators, guard dog service, electronic countermeasures, detection of deception examiners, courier service, armored car, and special limited guards.

BILL ANALYSIS:

Section 1 of the PCS would include listening equipment in the definition of "electronic countermeasure profession", and expand the defined private protection services profession to include "close personal protection."

Section 2 of the PCS would empower the Board to:

- Issue cease and desist letters (with the concurrence of the Secretary of Public Safety).
- Deal with real property in the same manner as a private person (subject to executive approval).
- Adopt rules for the use of firearms or other weapons.
- Adopt and publish a code of professional conduct.

Section 3 of the PCS would expand the power of the Secretary of Public Safety to investigate complaints to include individuals not yet licensed or not currently licensed.

Section 4 of the PCS would:

- Extend the time a business has to replace a qualifying agent to 90 days (currently 30 days).
- Reduce the additional time that the Board may grant a business that has not found a qualifying agent in the allotted time, to 30 days (currently up to an additional three months).
- Authorize the Board to **impose a late fee** for (i) failure to obtain a new qualifying agent; (ii) failure to pay the initial license fee; or (iii) failing to contribute to the Private Protective Services Education Fund ("Fund").

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House PCS 566

Page 2

Section 5 of the PCS would expand the firearm registration permit fee to include all applicants and licensees under G.S. 74C-13, and authorize a late fee for certain applicants and businesses (not to exceed \$100.00).

Sections 6 of the PCS would extend the liability insurance requirement to include a trainee supervised by a licensee.

Section 7 of the PCS would extend the Board's denial, suspension, and revocation powers to include trainees seeking certification. **This section would also make a violation of any State or federal firearms law, or a violation of the code of professional conduct grounds for denial, suspension, or revocation.**

Section 8 of the PCS would extend the requirement of a Board-issued firearm registration permit to a propriety security organization that employs an armed security guard.

Section 9 of the PCS would provide a **firearms training exemption** for:

- Basic Law Enforcement Training (BLET) graduates who have completed one year of employment.
- Retired sworn law enforcement officers who have retired within three years of the application.
- Honorably discharged Military Police, and military Criminal Investigations' personnel.
- Specific nuclear power plant employees.

Section 10 of the PCS would authorize the Board to charge costs and attorney fees for proceedings related to this article.

Section 11 of the PCS would limit the time that a new owner of a transferred business licensed under this Chapter has to provide the Director of the Board any changes in the list of a registrants and licensees affected by the transfer.

Section 12 of the PCS would expand the exceptions to the restriction on carrying weapons into assemblies and establishments where alcohol is sold and consumed.

EFFECTIVE DATE: Section 12 of this act would become effective December 1, 2017. The remainder of this act would become effective July 1, 2017.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

D

HOUSE BILL 566
PROPOSED COMMITTEE SUBSTITUTE H566-CSTT-30 [v.3]

06/13/2017 3:07:02 PM

Short Title: Private Protective Services Changes.

(Public)

Sponsors: Representatives Hardister, Burr, Faircloth, and McNeill (Primary Sponsors).

Referred to:

April 6, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES TO THE PRIVATE PROTECTIVE SERVICES
3 ACT TO CREATE CERTAIN FEES.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 74C-3 reads as rewritten:

6 "§ 74C-3. Private protective services profession defined.

7 (a) As used in this Chapter, the term "private protective services profession" means and
8 includes the following:

9 ...
10 (5a) Electronic countermeasures profession. – Any person, firm, association, or
11 corporation which for a fee or other valuable consideration discovers,
12 locates, or disengages by electronic, electrical, or mechanical means any
13 listening of the following:

14 a. Listening or other monitoring equipment surreptitiously placed to
15 gather information concerning any individual, firm, association, or
16 corporation.

17 b. Any device intended to block the transmission of any electronic
18 signal.

19 ...
20 (10) Close personal protection. – Any individual, firm, association, or corporation
21 that, for a fee or other valuable consideration, provides or offers to provide
22 security measures to ensure the safety of a business executive, elected or
23 appointed public official, celebrity, or other individual who may be exposed
24 to elevated personal risk due to employment, status, wealth, association, or
25 geographical location.

26 (b) "Private protective services" shall not include any of the following:

27 ...
28 (18) A person under contract or employed by an occupational licensing board as
29 defined by G.S. 93B-1, while performing an investigation solely for that
30 board."

31 SECTION 2. G.S. 74C-5 reads as rewritten:

32 "§ 74C-5. Powers of the Board.

33 In addition to the powers conferred upon the Board elsewhere in this Chapter, the Board
34 shall have the power to do all of the following:

35 ...



(13) With the concurrence of the Secretary of Public Safety, issue, cease, and desist letters regarding unlicensed activity.

(14) Subject to approval of the Governor and the Council of State, acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation. Any collateral pledged by the Board for encumbrance is limited to the assets, income, and revenue of the Board.

(15) Adopt rules establishing standards for the use of firearms or other weapons approved by the Board.

(16) Adopt and publish a code of professional conduct for licensees, registrants, certificate holders, and permit holders."

SECTION 3. G.S. 74C-7 reads as rewritten:

"§ 74C-7. Investigative powers of the Secretary of Public Safety:

The Secretary of Public Safety for the State of North Carolina shall have the power to investigate or cause to be investigated any complaints, allegations, or suspicions of wrongdoing or violations of this Chapter involving ~~individuals licensed, or to be licensed, unlicensed individuals, licensed individuals, or individuals to be licensed~~ under this Chapter. Any investigation conducted pursuant to this section is confidential and is not subject to review under G.S. 132-1 until the investigation is complete and a report is presented to the Board. However, the report may be released to the licensee after the investigation is complete but before the report is presented to the Board. The Secretary shall retain the authority to enforce the provisions of this Chapter and impose any penalty authorized by G.S. 74C-12(a) and G.S. 74C-17 against any individual or entity who is under investigation for or charged with a violation of this Chapter, including individuals and entities with lapsed or surrendered licenses or registrations."

SECTION 4. G.S. 74C-8 reads as rewritten:

"§ 74C-8. License requirements.

...
(c) Qualifying Agent. – A business entity, other than a sole proprietorship, that engages in private protective services is subject to all of the requirements listed in this subsection with respect to a qualifying agent. For purposes of this Chapter, a "qualifying agent" is an individual in a management position who is licensed under this Chapter and whose name and address have been registered with the Director. The requirements are:

...
(3) In the event that the qualifying agent upon whom the business entity relies in order to do business ceases to perform his duties as qualifying agent, the business entity shall notify the Director within 10 working days. The business entity must obtain a substitute qualifying agent within ~~30-90~~ days after the original qualifying agent ceases to serve as qualifying agent unless the Board, in its discretion, extends ~~this the 90-day~~ period, for good cause, ~~for a period of time not to exceed three months an additional 30 days upon~~ the filing of a petition by the business entity and upon a hearing by the Board. The Board may require the payment of a late fee for a business entity failing to obtain a substitute qualifying agent pursuant to the requirements of this subdivision.

...
(f) Issuance. – Upon a finding that the application is in proper form, the completion of the background investigation, and the completion of an examination required by the Board, the Director shall submit to the Board the application and the Director's recommendations. Upon completion of the background investigation, the Director may issue a temporary license pending approval of the application by the Board at the next regularly scheduled meeting. The

Board shall determine whether to approve or deny the application for a license. Upon approval by the Board, a license will be issued to the applicant upon payment by the applicant of the initial license fee and the required contribution to the Private Protective Services Education Fund, and the filing of a certificate of liability insurance with the Board. The applicant shall pay the initial license fee and make the required contribution to the Fund within 90 days from the date the applicant receives notice of pending licensure approval unless the Board, in its discretion and for good cause, extends the 90-day period for an additional 30 days upon the filing of a petition by the applicant and a hearing by the Board. The Board may require the payment of a late fee for an applicant failing to pay the initial license fee or for failing to make the contribution to the Fund pursuant to this subsection.

...."

SECTION 5. G.S. 74C-9 reads as rewritten:

"§ 74C-9. Form of license; term; renewal; posting; branch offices; not assignable; late renewal fee.

...

(e) The Board is authorized to charge reasonable application and license fees as follows:

...

(7) An application fee for a firearm registration permit for all applicants and for licensees subject to G.S. 74C-13 not to exceed fifty dollars (\$50.00).

(8) A new, renewal, replacement, or reissuance fee for a firearm registration permit for all applicants and for licensees subject to G.S. 74C-13 not to exceed thirty dollars (\$30.00).

...

(16) A late fee for a business entity subject to G.S. 74C-8(c)(3) or an applicant for licensure under G.S. 74C-8(f), not to exceed one hundred dollars (\$100.00).

Except as provided in G.S. 74C-13(k), all fees collected pursuant to this section shall be expended, under the direction of the Board, for the purpose of defraying the expenses of administering this Chapter.

(f) A license or trainee permit granted under the provisions of this Chapter may be renewed by the Private Protective Services Board upon notification by the licensee or permit holder to the Director of intended renewal, the payment of the proper fee, and evidence of a ~~policy of liability insurance~~ policy as prescribed in G.S. 74C-10(e).

The renewal shall be finalized before the expiration date of the license. In no event will renewal be granted more than three months after the date of expiration of a license or trainee permit.

...."

SECTION 6. G.S. 74C-10 reads as rewritten:

"§ 74C-10. Certificate of liability insurance required; form and approval; suspension for noncompliance.

...

(e) No security guard and patrol, armored car, or special limited guard and patrol license shall be issued under this Chapter unless the applicant files with the Board evidence of a ~~policy of liability insurance~~ insurance policy. The policy must provide for the following minimum coverage: fifty thousand dollars (\$50,000) because of bodily injury or death of one person as a result of the negligent act or acts of the principal insured or his agents operating in the course and scope of his employment; subject to said limit for one person, one hundred thousand dollars (\$100,000) because of bodily injury or death of two or more persons as the result of the negligent act or acts of the principal insured or his agents operating in the course and scope of his or her agency; twenty thousand dollars (\$20,000) because of injury to or

1 destruction of property of others as the result of the negligent act or acts of the principal insured
2 or his agents operating in the course and scope of his or her agency. If ~~the licensee, a licensee or~~
3 a trainee supervised by a licensee, other than a security guard and patrol, armored car, or
4 special limited guard and patrol licensee, carries a firearm while engaged in private protective
5 services activities, the licensee or trainee shall obtain a ~~policy of liability insurance~~ policy with
6 a minimum coverage as specified above. A licensee or trainee is deemed to be "carrying a
7 firearm" for purposes of this section while engaged in private protective services if the licensee
8 or trainee has a firearm on the licensee's or trainee's person or in the automobile the licensee or
9 trainee is using to perform private protective services. A licensee may provide liability
10 insurance coverage for a trainee under the licensee's supervision; however, failure of the
11 licensee to provide coverage shall not exempt the trainee from the requirements of this section.

12 (e1) The Board shall approve the form, execution, and terms of the liability insurance
13 policy required pursuant to this section.

14 (f) An insurance carrier shall have the right to cancel ~~such policy of a~~ liability insurance
15 policy upon giving a 30-day notice to the Board. ~~Provided, however, that such Board, if~~
16 ~~cancellation shall does not affect any previously accrued liability on the policy which accrued~~
17 ~~prior thereto, policy. The policy of liability shall be approved by the Board as to form,~~
18 ~~execution, and terms thereon.~~

19 (g) ~~The holder of any trainee permit and persons~~ Persons registered pursuant to
20 G.S. 74C-11 shall not be required to obtain a certificate of liability insurance.

21

22 SECTION 7. G.S. 74C-12 reads as rewritten:

23 "§ 74C-12. Denial, suspension, or revocation of license, ~~registration, certification,~~
24 registration, or permit; duty to report criminal arrests.

25 (a) The Board may, after compliance with Chapter 150B of the General Statutes, deny,
26 suspend or revoke a license, certification, registration, or permit issued under this Chapter if it
27 is determined that the applicant, licensee, trainee, registrant, or permit holder has done any of
28 the following acts:

29 (1) Made any false statement or given any false information in connection with
30 any application for a license, certification, registration, ~~or permit~~ permit, or
31 for the renewal or reinstatement of a license, certification, registration, or
32 permit.

33 ...

34 (6) Engaged in or permitted any employee to engage in a private protective
35 services profession when not lawfully in possession of a valid license or
36 registration issued under the provisions of this Chapter.

37 ...

38 (9) Committed an unlawful breaking or entering, assault, battery, ~~or~~
39 ~~kidnapping~~ kidnapping, or violated any State or federal firearms law.

40 ...

41 (24) Fraudulently held himself or herself out as employed by or licensed by the
42 ~~State Bureau of Investigation~~ Department of Public Safety, or any other
43 governmental authority.

44 ...

45 (33) Violated the code of professional conduct for licensees, registrants,
46 certificate holders, and permit holders adopted by the Board.

47

48 SECTION 8. G.S. 74C-13 reads as rewritten:

49 "§ 74C-13. Armed licensee or registered employee required to have firearm registration
50 permit; firearms training.

(a) It shall be unlawful for any person performing private protective services duties to carry a firearm in the performance of those duties without first having met the qualifications of this section and having been issued a firearm registration permit by the Board. A licensee or proprietary employer described in G.S. 74C-3(b)(13) shall register any individual carrying a firearm within 30 days of employment. Before engaging in any private protective services activity, the individual shall receive any required training prescribed by the ~~Board~~Board, unless specifically exempted from training pursuant to G.S. 74C-13.1.

...
(d2) A proprietary security organization that employs an armed security guard shall submit to the Board an application for license on a form provided by the Board for that purpose. A proprietary security organization shall renew its license every two years.

...
(h) The Board and the Secretary of Public Safety shall establish a firearms training program for licensees and registered employees to be conducted by agencies and institutions approved by the Board and the Secretary of Public Safety. The Board and the Secretary of Public Safety may approve training programs conducted by a contract security company and the security department of a proprietary security organization, if the contract security company or security department of a proprietary security organization offers the courses listed in subdivision (1) of this subsection and if the instructors of the training program are certified trainers approved by the Board and the Secretary of Public Safety:

- (1) The basic training course approved by the Board and the Secretary of Public Safety shall consist of a minimum of four hours of classroom training which shall include all of the following:
 - a. Legal limitations on the use of ~~hand-guns~~firearms and on the powers and authority of an armed security guard.
 - b. Familiarity with this section.
 - c. Range firing and procedure and ~~hand-gun~~firearm safety and maintenance.

...."

SECTION 9. Article 1 of Chapter 74C of the General Statutes is amended by adding a new section to read:

"§ 74C-13.1. Firearms training exemptions.

(a) The following persons shall be exempt from the firearms training requirements of G.S. 74C-13(b):

- (1) Persons who have successfully completed the North Carolina Basic Law Enforcement Training and have successfully completed the first year of probationary employment.
- (2) Persons who have retired either by years of service or by medical disability; or separated in good standing as a sworn law enforcement officer from a federal, State, county, or municipal law enforcement agency that included in the agency's duty the use and qualification of a firearm. Retirement or separation must have occurred within three years of application pursuant to this Chapter.
- (3) Military personnel who have been honorably discharged within three years of application pursuant to this Chapter and who have a military occupation specialty code which includes Military Police or Criminal Investigative Division.
- (4) Employees of a nuclear power plant that are required to comply with 10 C.F.R. § 73.55 Appendix B, "General Criteria for Security Personnel," as supplemented by Regulatory Guide 5.75.

(b) An applicant claiming one of the exemptions in subsection (a) of this section from the 20-hour course of armed guard instruction must provide the Board the following documentation, as appropriate:

- (1) A copy of a North Carolina Basic Law Enforcement Training certificate and a letter from the applicant's department verifying that the probationary employment period has been completed.
- (2) Retirement documentation verifying sworn status or the Retired Law Enforcement Officer Qualification Certification issued by the North Carolina Criminal Justice Training & Standards Division authorizing concealed carry under the "Law Enforcement Officers' Safety Act," Public Law 108-277, as amended.
- (3) Documentation from a DD Form 214 noting a Military Police or Criminal Investigations Division military occupational specialty.
- (4) Documentation of retirement or separation from a federal law enforcement agency with an Office of Personnel Management job series of 1811 for Criminal Investigation.
- (5) Documentation of current, direct employment with a nuclear power plant located in this State.

(c) The Board shall deny an exemption sought pursuant to this section if the applicant fails to provide the documentation, as applicable, provided in subsection (b) of this section.

(d) When utilizing this exemption, the applicant must qualify within the first three attempts on the required firearm qualification course. If the applicant fails to qualify on both of required courses of fire, the applicant shall be required to undergo the entire 20-hour course of instruction.

(e) When utilizing this exemption, the applicant must complete the legal block of instruction required by G.S. 74C-13(h)(1) and the Board's administrative rules."

SECTION 10. G.S. 74C-17 reads as rewritten:

"§ 74C-17. Enforcement.

...

(c) In lieu of revocation or suspension of a license or permit under G.S. 74C-12, a civil penalty of not more than two thousand dollars (\$2,000) per violation may be assessed by the Board against any person or business who violates any provision of this Chapter or any rule of the Board adopted pursuant to this Chapter. In determining the amount of any penalty, the Board shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties provided for in this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

...

(e) The Board shall be entitled to charge costs including reasonable attorneys' fees, for any proceeding governed by Chapter 150B of the General Statutes or authorized by this section."

SECTION 11. G.S. 74C-23 reads as rewritten:

"§ 74C-23. Acquisition or change of ownership or control of licensed firm, association, or corporation.

In the event a company, firm, or corporation licensed under this Chapter transfers ownership, control, or a majority of assets to another person, firm, association, or corporation, the person, firm, association, or corporation acquiring control or ownership shall have the following responsibilities:

- ...
- (4) Provide to the Director ~~within 60~~ within 10 calendar days ~~from prior to the~~ effective date of the transaction the following:

a. ~~A transaction, a list of all registrants or and~~ licensees affected by the transaction.

b. ~~Written confirmation of completion of any changes necessary for the acquiring party to comply with the requirements of this Chapter or any applicable rules adopted by the Board on a form approved by the Director.~~

(5) Provide to the Director within 60 calendar days from the effective date of the transaction, on a form provided by the Director, written confirmation of completion of any changes necessary for the acquiring party to comply with the requirements of this Chapter or any applicable rules adopted by the Board."

SECTION 12. G.S. 14-269.3 reads as rewritten:

"§ 14-269.3. Carrying weapons into assemblies and establishments where alcoholic beverages are sold and consumed.

...
(b) This section shall not apply to any of the following:

...
(4) A person registered or hired as a security guard-guard, as described in G.S. 74C-3(b)(13) who is hired by the owner, lessee, or person or organization sponsoring the event-event or a person employed by an entity licensed pursuant to G.S. 74C-2 who is hired by the owner, lessee, or person or organization sponsoring the event.

...."

SECTION 13. Section 12 of this act becomes effective December 1, 2017. The remainder of this act becomes effective July 1, 2017.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

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HOUSE BILL 566

Short Title: Private Protective Services Changes. (Public)

Sponsors: Representatives Hardister, Burr, Faircloth, and McNeill (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I, if favorable, Finance

April 6, 2017

A BILL TO BE ENTITLED
AN ACT TO MAKE VARIOUS CHANGES TO THE PRIVATE PROTECTIVE SERVICES
ACT AND THE ALARM SYSTEMS LICENSING ACT AND TO CREATE CERTAIN
FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 74C-3 reads as rewritten:

"§ 74C-3. Private protective services profession defined.

(a) As used in this Chapter, the term "private protective services profession" means and includes the following:

...
(5a) Electronic countermeasures profession. – Any person, firm, association, or corporation which for a fee or other valuable consideration discovers, locates, or disengages by electronic, electrical, or mechanical means any listening of the following:

a. Listening or other monitoring equipment surreptitiously placed to gather information concerning any individual, firm, association, or corporation.

b. Any device intended to block the transmission of any electronic signal.

...
(10) Close personal protection. – Any individual, firm, association, or corporation that, for a fee or other valuable consideration, provides or offers to provide security measures to ensure the safety of a business executive, elected or appointed public official, celebrity, or other individuals who may be exposed to elevated personal risk due to employment, status, wealth, associations, or geographical location.

(b) "Private protective services" shall not include any of the following:

...
(18) A person under contract or employed by an occupational licensing board as defined by G.S. 93B-1, while performing an investigation solely for that board.

SECTION 2. G.S. 74C-5 reads as rewritten:

"§ 74C-5. Powers of the Board.

In addition to the powers conferred upon the Board elsewhere in this Chapter, the Board shall have the power to do all of the following:



- ...
- (13) With the concurrence of the Secretary of Public Safety, issue, cease, and desist letters regarding unlicensed activity.
- (14) Subject to approval of the Governor and the Council of State, acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation. Any collateral pledged by the Board for encumbrance is limited to the assets, income, and revenue of the Board.
- (15) Adopt rules establishing standards for the use of firearms or other weapons approved by the Board.
- (16) Adopt and publish a code of professional conduct for licensees, registrants, certificate holders, and permit holders."

SECTION 3. G.S. 74C-7 reads as rewritten:

"§ 74C-7. Investigative powers of the Secretary of Public Safety.

The Secretary of Public Safety for the State of North Carolina shall have the power to investigate or cause to be investigated any complaints, allegations, or suspicions of wrongdoing or violations of this Chapter involving individuals licensed, unlicensed individuals, licensed individuals, or individuals to be licensed, licensed under this Chapter. Any investigation conducted pursuant to this section is confidential and is not subject to review under G.S. 132-1 until the investigation is complete and a report is presented to the Board. However, the report may be released to the licensee after the investigation is complete but before the report is presented to the Board. The Secretary shall retain the authority to enforce the provisions of this Chapter and impose any penalty authorized by G.S. 74C-12(a) and G.S. 74C-17 against any individual or entity who is under investigation for or charged with a violation of this Chapter, including individuals and entities with lapsed or surrendered licenses or registrations."

SECTION 4. G.S. 74C-8 reads as rewritten:

"§ 74C-8. License requirements.

...

(c) Qualifying Agent. – A business entity, other than a sole proprietorship, that engages in private protective services is subject to all of the requirements listed in this subsection with respect to a qualifying agent. For purposes of this Chapter, a "qualifying agent" is an individual in a management position who is licensed under this Chapter and whose name and address have been registered with the Director. The requirements are:

- ...
- (3) In the event that the qualifying agent upon whom the business entity relies in order to do business ceases to perform his duties as qualifying agent, the business entity shall notify the Director within 10 working days. The business entity must obtain a substitute qualifying agent within 30-90 days after the original qualifying agent ceases to serve as qualifying agent unless the Board, in its discretion, extends this the 90-day period, for good cause, for a period of time not to exceed three months an additional 30 days upon the filing of a petition by the business entity and upon a hearing by the Board. The Board may require the payment of a late fee for a business entity failing to obtain a substitute qualifying agent pursuant to the requirements of this subdivision.

...

(f) Issuance. – Upon a finding that the application is in proper form, the completion of the background investigation, and the completion of an examination required by the Board, the Director shall submit to the Board the application and the Director's recommendations. Upon completion of the background investigation, the Director may issue a temporary license pending approval of the application by the Board at the next regularly scheduled meeting. The

Board shall determine whether to approve or deny the application for a license. Upon approval by the Board, a license will be issued to the applicant upon payment by the applicant of the initial license fee and the required contribution to the Private Protective Services Education Fund, and the filing of a certificate of liability insurance with the Board. The applicant shall pay the initial license fee and make the required contribution to the Fund within 90 days from the date the applicant receives notice of pending licensure approval unless the Board, in its discretion and for good cause, extends the 90-day period for an additional 30 days upon the filing of a petition by the applicant and a hearing by the Board. The Board may require the payment of a late fee for an applicant failing to pay the initial license fee or for failing to make the contribution to the Fund pursuant to this subsection.

...."

SECTION 5. G.S. 74C-9 reads as rewritten:

"§ 74C-9. **Form of license; term; renewal; posting; branch offices; not assignable; late renewal fee.**

...

(e) The Board is authorized to charge reasonable application and license fees as follows:

...

(7) An application fee for a firearm registration permit for all applicants and for licensees subject to G.S. 74C-13 not to exceed fifty dollars (\$50.00).

(8) A new, renewal, replacement, or reissuance fee for a firearm registration permit for all applicants and for licensees subject to G.S. 74C-13 not to exceed thirty dollars (\$30.00).

...

(16) A late fee for a business entity subject to G.S. 74C-8(c)(3) or an applicant for licensure under G.S. 74C-8(f) not to exceed one hundred dollars (\$100.00).

Except as provided in G.S. 74C-13(k), all fees collected pursuant to this section shall be expended, under the direction of the Board, for the purpose of defraying the expenses of administering this Chapter.

(f) A license or trainee permit granted under the provisions of this Chapter may be renewed by the Private Protective Services Board upon notification by the licensee or permit holder to the Director of intended renewal, the payment of the proper fee, and evidence of a policy of liability insurance ~~policy~~ as prescribed in G.S. 74C-10(e).

The renewal shall be finalized before the expiration date of the license. In no event will renewal be granted more than three months after the date of expiration of a license or trainee permit.

...."

SECTION 6. G.S. 74C-10 reads as rewritten:

"§ 74C-10. **Certificate of liability insurance required; form and approval; suspension for noncompliance.**

...

(e) No security guard and patrol, armored car, or special limited guard and patrol license shall be issued under this Chapter unless the applicant files with the Board evidence of a policy of liability insurance ~~insurance~~ policy. The policy must provide for the following minimum coverage: fifty thousand dollars (\$50,000) because of bodily injury or death of one person as a result of the negligent act or acts of the principal insured or his agents operating in the course and scope of his employment; subject to said limit for one person, one hundred thousand dollars (\$100,000) because of bodily injury or death of two or more persons as the result of the negligent act or acts of the principal insured or his agents operating in the course and scope of his or her agency; twenty thousand dollars (\$20,000) because of injury to or

1 destruction of property of others as the result of the negligent act or acts of the principal insured
2 or his agents operating in the course and scope of his or her agency. If ~~the licensee, a licensee or~~
3 a trainee supervised by a licensee, other than a security guard and patrol, armored car, or
4 special limited guard and patrol licensee, carries a firearm while engaged in private protective
5 services activities, the licensee ~~or trainee~~ shall obtain a ~~policy of liability insurance~~ policy with
6 a minimum coverage as specified above. A licensee ~~or trainee~~ is deemed to be "carrying a
7 firearm" for purposes of this section while engaged in private protective services if the licensee
8 ~~or trainee~~ has a firearm on the licensee's ~~or trainee's~~ person or in the automobile the licensee ~~or~~
9 trainee is using to perform private protective services. A licensee may provide liability
10 insurance coverage for a trainee under the licensee's supervision; however, failure of the
11 licensee to provide coverage shall not exempt the trainee from the requirements of this section.

12 (e1) The Board shall approve the form, execution, and terms of the liability insurance
13 policy required pursuant to this section.

14 (f) An insurance carrier shall have the right to cancel ~~such policy of a~~ liability insurance
15 policy upon giving a 30-day notice to the Board. Provided, however, that ~~such the~~ cancellation
16 shall not affect any liability on the policy ~~which that~~ accrued prior thereto. ~~The policy of~~
17 ~~liability shall be approved by the Board as to form, execution, and terms thereon.~~

18 (g) ~~The holder of any trainee permit and persons~~ Persons registered pursuant to
19 G.S. 74C-11 shall not be required to obtain a certificate of liability insurance.

20

21 SECTION 7. G.S. 74C-12 reads as rewritten:

22 "§ 74C-12. Denial, suspension, or revocation of license, registration, or permit; duty to
23 report criminal arrests.

24 (a) The Board may, after compliance with Chapter 150B of the General Statutes, deny,
25 suspend or revoke a license, certification, registration, or permit issued under this Chapter if it
26 is determined that the applicant, licensee, trainee, registrant, or permit holder has done any of
27 the following acts:

28 (1) Made any false statement or given any false information in connection with
29 any application for a license, certification, registration, or permit or for the
30 renewal or reinstatement of a license, certification, registration, or permit.

31 ...
32 (6) Engaged in or permitted any employee to engage in a private protective
33 services profession when not lawfully in possession of a valid license or
34 registration issued under the provisions of this Chapter.

35 ...
36 (9) Committed an unlawful breaking or entering, assault, battery, or
37 ~~kidnapping~~ kidnapping, or violated any State or federal firearms law.

38 ...
39 (24) Fraudulently held himself or herself out as employed by or licensed by the
40 ~~State Bureau of Investigation~~ Department of Public Safety or any other
41 governmental authority.

42 ...
43 (33) Violated the code of professional conduct for licensees, registrants,
44 certificate holders, and permit holders adopted by the Board.

45

46 SECTION 8. G.S. 74C-13 reads as rewritten:

47 "§ 74C-13. Armed licensee or registered employee required to have firearm registration
48 permit; firearms training.

49 (a) It shall be unlawful for any person performing private protective services duties to
50 carry a firearm in the performance of those duties without first having met the qualifications of
51 this section and having been issued a firearm registration permit by the Board. A licensee or

proprietary employer described in G.S. 74C-3(b)(13) shall register any individual carrying a firearm within 30 days of employment. Before engaging in any private protective services activity, the individual shall receive any required training prescribed by the ~~Board~~ Board, unless specifically exempted from training pursuant to G.S. 74C-13.1.

...
(d2) A proprietary security organization that employs an armed security guard shall submit to the Board an application for license on a form provided by the Board for that purpose. A proprietary security organization shall renew its license every two years.

...
(h) The Board and the Secretary of Public Safety shall establish a firearms training program for licensees and registered employees to be conducted by agencies and institutions approved by the Board and the Secretary of Public Safety. The Board and the Secretary of Public Safety may approve training programs conducted by a contract security company and the security department of a proprietary security organization, if the contract security company or security department of a proprietary security organization offers the courses listed in subdivision (1) of this subsection and if the instructors of the training program are certified trainers approved by the Board and the Secretary of Public Safety:

(1) The basic training course approved by the Board and the Secretary of Public Safety shall consist of a minimum of four hours of classroom training which shall include all of the following:

- a. Legal limitations on the use of ~~hand guns~~ firearms and on the powers and authority of an armed security guard.
- b. Familiarity with this section.
- c. Range firing and procedure and ~~hand gun~~ firearm safety and maintenance.

...."
SECTION 9. Article 1 of Chapter 74C of the General Statutes is amended by adding a new section to read:

"§ 74C-13.1. Firearm training exemptions.

(a) The following persons shall be exempt from the firearms training requirements of G.S. 74C-13(b):

(1) Persons who have successfully completed the North Carolina Basic Law Enforcement Training and have successfully completed the first year of probationary employment.

(2) Persons who have retired either by years of service or by medical disability, or separated in good standing as a sworn law enforcement officer from a federal, State, county, or municipal law enforcement agency that included in their duty the use and qualification of a firearm. Retirement or separation must have occurred within three years of application pursuant to this Chapter.

(3) Military personnel who have been honorably discharged within three years of application pursuant to this Chapter and who have a military occupation specialty code which includes Military Police or Criminal Investigative Division.

(4) Employees of a nuclear power plant that are required to comply with 10 C.F.R. § 73.55 Appendix B, "General Criteria for Security Personnel," as supplemented by Regulatory Guide 5.75.

(b) An applicant claiming one of the exemptions in subsection (a) of this section from the 20-hour course of armed guard instruction must provide the Board the following documentation, as appropriate:

- (1) A copy of a North Carolina Basic Law Enforcement Training certificate and a letter from the applicant's department verifying that the probationary employment period has been completed.
- (2) Retirement documentation verifying sworn status or the card issued by the North Carolina Criminal Justice Training & Standards Division authorizing concealed carry under the "Law Enforcement Officers' Safety Act," Public Law 108-277, as amended.
- (3) Documentation from a DD Form 214 noting a Military Police or Criminal Investigations Division military occupational specialty.
- (4) Documentation of retirement or separation from a federal law enforcement agency with an Office of Personnel Management job series of 1811 for Criminal Investigation.
- (5) Documentation of current, direct employment with a nuclear power plant located in this State.

(c) The Board shall deny an exemption sought pursuant to this section if the applicant fails to provide the documentation, as applicable, provided in subsection (b) of this section.

(d) When utilizing this exemption, the applicant must qualify within the first three attempts on the required firearm qualification course. If the applicant fails to qualify on both of required courses of fire, the applicant shall be required to undergo the entire 20-hour course of instruction.

(e) When utilizing this exemption, the applicant must complete the legal block of instruction required by G.S. 74C-13(h)(1) and the Board's administrative rules."

SECTION 10. G.S. 74C-17 reads as rewritten:

"§ 74C-17. Enforcement.

...

(c) In lieu of revocation or suspension of a license or permit under G.S. 74C-12, a civil penalty of not more than two thousand dollars (\$2,000) per violation may be assessed by the Board against any person or business who violates any provision of this Chapter or any rule of the Board adopted pursuant to this Chapter. In determining the amount of any penalty, the Board shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties provided for in this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

...

(e) The Board shall be entitled to charge costs, including reasonable attorneys' fees, for any proceeding governed by Chapter 150B of the General Statutes or authorized by this section."

SECTION 11. G.S. 74C-23 reads as rewritten:

"§ 74C-23. Acquisition or change of ownership or control of licensed firm, association, or corporation.

In the event a company, firm, or corporation licensed under this Chapter transfers ownership, control, or a majority of assets to another person, firm, association, or corporation, the person, firm, association, or corporation acquiring control or ownership shall have the following responsibilities:

...

- (4) Provide to the Director ~~within 60 10~~ calendar days ~~from prior to~~ the effective date of the transaction the following:

- a. ~~A~~ list of all registrants ~~or~~ and licensees affected by the transaction.
- b. ~~Written confirmation of completion of any changes necessary for the acquiring party to comply with the requirements of this Chapter or any applicable rules adopted by the Board on a form approved by the~~ Director.

(5) Provide to the Director within 60 calendar days from the effective date of the transaction, on a form provided by the Director, written confirmation of completion of any changes necessary for the acquiring party to comply with the requirements of this Chapter or any applicable rules adopted by the Board."

SECTION 12. G.S. 14-269.3 reads as rewritten:

"§ 14-269.3. Carrying weapons into assemblies and establishments where alcoholic beverages are sold and consumed.

...
(b) This section shall not apply to any of the following:

(4) A person registered ~~or hired~~ as a security ~~guard~~ guard, as described in G.S. 74C-3(b)(13) who is hired by the owner, lessee, or person or organization sponsoring the ~~event~~ event or a person employed by an entity licensed pursuant to G.S. 74C-2 who is hired by the owner, lessee, or person or organization sponsoring the event.

...."

SECTION 13. Section 12 of this act becomes effective December 1, 2017. The remainder of this act becomes effective July 1, 2017.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 566

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H566-ATT-32 [v.4]

Page 1 of 1

Amends Title [NO]
First Edition

Date _____, 2017

Representative _____

1 moves to amend the PCS on page 5, lines 48-50, by rewriting the lines to read:

2 "(4) Proprietary employees providing security duties at a nuclear power plant
3 who have been trained and qualified pursuant to federal regulation."

SIGNED _____

Allen McLean

Amendment Sponsor

SIGNED _____

Committee Chair if Senate Committee Amendment

ADOPTED _____

FAILED _____

TABLED _____



* H 5 6 6 - A T T - 3 2 - V - 4 *



HOUSE BILL 827: Use of Passing Lane/Increased Penalty.

2017-2018 General Assembly

Committee:	House Judiciary I	Date:	June 14, 2017
Introduced by:	Reps. Duane Hall, Bradford, Hardister, Murphy	Prepared by:	Jason Moran-Bates Committee Co-Counsel
Analysis of:	Second Edition		

OVERVIEW: *House Bill 827 would make it an infraction, punishable by a \$200 fine, to operate a motor vehicle in the left lane of a controlled-access highway or partially controlled-access highway in a manner the driver knows or reasonably should know will result in the vehicle being overtaken by another vehicle driving at a higher rate of speed.*

[As introduced, this bill was identical to S303, as introduced by Sens. Tarte, McInnis, J. Davis, which is currently in Senate Transportation.]

CURRENT LAW: Currently G.S. 20-146(b) requires all vehicles traveling at less than the speed limit to be in the rightmost lane except when overtaking another vehicle or preparing to turn left. G.S. 20-146(e) prohibits any vehicle from traveling in the left lane of a highway at a speed less than the speed limit if a sign such as "Slower Traffic Keep Right" has been posted and the vehicle impedes the steady flow of traffic.

BILL ANALYSIS:

Section 1 of House Bill 827 would amend G.S. 20-146(b) to make it an infraction, punishable by a \$200 fine, for an individual to travel in the left lane of a highway in a manner that impedes the steady flow of traffic, unless the individual is overtaking another vehicle or preparing to turn left. "Impeding the steady flow of traffic" means traveling at a speed that an individual knows or reasonably should know will result in the individual being overtaken from the rear by a vehicle traveling at a higher rate of speed. Section 1 would also strike the entirety of G.S. 20-146(e).

Section 2 would appropriate \$50,000 in non-recurring funds for the 2017-18 fiscal year from the Highway Fund to the Division of Motor Vehicles of the Department of Transportation to educate the public on the changes to G.S. 20-146.

Section 3 would require G.S. 20-146(b), as amended, to be enforced by warning ticket only until November 30, 2018.

EFFECTIVE DATE: The bill would become effective December 1, 2017, and apply to offenses committed on or after that date.

Howard Marsilio of the Legislative Analysis Division substantially contributed to this summary.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

2

HOUSE BILL 827*
Committee Substitute Favorable 4/24/17

Short Title: Use of Passing Lane/Increased Penalty.

(Public)

Sponsors:

Referred to:

April 13, 2017

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE PROHIBITION ON OPERATING A MOTOR VEHICLE IN THE LEFTMOST TRAVEL LANE OF A CONTROLLED-ACCESS OR PARTIALLY CONTROLLED-ACCESS HIGHWAY AT LESS THAN THE SPEED LIMIT OR WHEN IMPEDING THE STEADY FLOW OF TRAFFIC AND TO INCREASE THE MONETARY PENALTY FOR COMMITTING A VIOLATION OF THAT PROHIBITION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-146 reads as rewritten:

"§ 20-146. Drive on right side of highway; exceptions.

...

(b) Upon all ~~highways-controlled-access and partially controlled-access highways~~, any vehicle ~~proceeding at less than the legal maximum speed limit impeding the steady flow of traffic~~ shall be driven in the right hand lane then available for thru traffic, or as close as practicable to the right hand curb or edge of the highway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. a lane other than the inside lane next to the centerline or median of a multilane highway then available for thru traffic, except when overtaking and passing another vehicle proceeding in the same direction or when making a left turn. A person who violates this subsection is guilty of an infraction punishable by a fine of two hundred dollars (\$200.00). For purposes of this subsection, a person is "impeding the steady flow of traffic" if the person knows or reasonably should know that he or she is being overtaken from the rear by a vehicle traveling at a higher rate of speed.

...

(e) ~~Notwithstanding any other provisions of this section, when appropriate signs have been posted, it shall be unlawful for any person to operate a motor vehicle over and upon the inside lane, next to the median of any dual lane highway at a speed less than the posted speed limit when the operation of said motor vehicle over and upon said inside lane shall impede the steady flow of traffic except when preparing for a left turn. "Appropriate signs" as used herein shall be construed as including "Slower Traffic Keep Right" or designations of similar import."~~

SECTION 2. Notwithstanding G.S. 143C-5-2, there is appropriated from the Highway Fund to the Division of Motor Vehicles of the Department of Transportation the sum of fifty thousand dollars (\$50,000) in nonrecurring funds for the 2017-2018 fiscal year to be used to provide education to the public on compliance with G.S. 20-146, as amended by Section 1 of this act.



* H 8 2 7 - V - 2 *

1 **SECTION 3.** G.S. 20-146(b), as amended by Section 1 of this act, shall be
2 enforced by warning ticket only until November 30, 2018.

3 **SECTION 4.** This act becomes effective December 1, 2017, and applies to
4 offenses committed on or after that date.

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**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

**JUDICIARY I COMMITTEE REPORT
Representative Ted Davis, Jr., Chair**

FAVORABLE

HB 827 (CS#1) Use of Passing Lane/Increased Penalty.
Draft Number: None
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: Duane Hall

FAVORABLE AND RE-REFERRED

HB 182 Leadership Term Limits.
Draft Number: None
Serial Referral: RULES, CALENDAR, AND
OPERATIONS OF THE HOUSE
Recommended Referral: None
Long Title Amended: No
Floor Manager: Warren

TOTAL REPORTED: 2



* C M R 5 0 7 - V - 1 *



NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

JUDICIARY I COMMITTEE REPORT
Representative Ted Davis, Jr., Chair

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB 566

Private Protective Services Changes.

Draft Number: H566-PCS40606-TTf-34

Serial Referral: FINANCE

Recommended Referral: None

Long Title Amended: No

Floor Manager: Hardister

TOTAL REPORTED: 1



* C M R 5 1 9 - V - 1 *

VISITOR REGISTRATION SHEET

Judiciary I

Appropriations Committee on Justice and Public Safety

Date: 5/6/14/17

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Tony Moore	NC Driving School 2590 Church St Wadesville
Dustin Harrison	NC DTSEA
Tony McEwen	City of Wilmington
Sarah Wolfe	MNC
Wayne Woodat	DPS
"Buck" Vincent Cesena	NCPPSB
William MacRae	NC Private Protective Services Board
ERIC M. WEAVER, SR.	NCPPSB
Andy Brandon	NC DPS
William Little	VNC SOB
Greg Lindeman	Rep Hall
Schuyler Weisel	Office of Gov. Cooper
Rachel Nixon	Smith Anderson
Anna Holloman	Rep. Meyer
Dunwoody	WS
Dan Collins	SEANC
Michael Williamson	Intern



VISITOR REGISTRATION SHEET

Judiciary I

~~Appropriations Committee on Justice and Public Safety~~

Date:

6/14/17

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
<i>Ty Ehlman</i>	<i>Meyer</i>
<i>Lauren Skenes</i>	<i>Intern - Hardister</i>
<i>Mark Brown</i>	<i>Don</i>



Corrected #2: Meeting time changed to 10:00AM-12:00PM

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Wednesday, June 21, 2017

TIME: 10:00 AM

LOCATION: 415 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 451</u>	Regulate Massage & Bodywork Therapy Estmts.	Representative McNeill Representative Bert Jones Representative R. Turner Representative Hurley
<u>SB 124</u>	LEO Managed CBD Oil Drop Box.	Senator D. Davis Senator Hise
<u>SB 567</u>	Reform/Correct/Wills and Trusts.	Senator Barringer Senator Randleman Senator Daniel
<u>SB 593</u>	Arbitration and Mediation for Business Court.	Senator Barringer Senator Lee Senator Newton
<u>SB 621</u>	Business Contracts/Choice of Law and Forum.	Senator Barringer
<u>SB 104</u>	Require Criminal BGC/Pharmacist Licensure.	Senator Tillman
<u>SB 388</u>	Incapacity to Proceed.	Senator Randleman
<u>SB 566</u>	Postpone Assumed Name Revisions.	Senator Barringer Senator Tarte Senator Alexander

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Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 6:41 PM on Tuesday, June 20, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Judy Lowe (Committee Assistant)

10

11

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13

Judy Lowe (Rep. Ted Davis)

From: Judy Lowe (Rep. Ted Davis)
Sent: Monday, June 19, 2017 4:59 PM
To: Rep. Pat Hurley; Rep. Bert Jones; Rep. Allen McNeill; Rep. Rena Turner; Sen. Don Davis; Sen. Ralph Hise; Sen. Warren Daniel; Sen. Tamara Barringer; Sen. Shirley B. Randleman; Sen. Michael Lee; Sen. Paul Newton; Sen. Jerry W. Tillman; Sen. Jeff Tarte; Sen. John Alexander
Cc: Deborah Holder (Rep. Pat Hurley); Brenda Olls (Rep. Bert Jones); Laura Sullivan (Rep. Allen McNeill); Barbara Gaiser (Rep. Rena Turner); Blinda Edwards (Sen. Don Davis); Susan Fanning (Sen. Ralph Hise); Andy Perrigo (Sen. Warren Daniel); Gloria Whitehead (Sen. Tamara Barringer); Carol Wilson (Sen. Shirley B. Randleman); Jeb Kelly (Sen. Shirley B. Randleman); Emily Barnes (Sen. Michael Lee); Carlyle Weaver (Sen. Paul Newton); Suzanne Castleberry (Sen. Jerry Tillman); Michael Hannah (Sen. Jerry Tillman); Jan Copeland (Sen. Jeff Tarte); Perry Wester (Sen. John Alexander)
Subject: <NCGA> House Judiciary I Committee Meeting Notice for Wednesday, June 21, 2017 at 12:00 PM - CORRECTED #1
Attachments: Add Meeting to Calendar_LINC_ics

Corrected #1: Note Time Change and addition of three bills

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Wednesday, June 21, 2017
TIME: 12:00 PM
LOCATION: 415 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 451</u>	Regulate Massage & Bodywork Therapy Estmts.	Representative McNeill Representative Bert Jones Representative R. Turner Representative Hurley
<u>SB 124</u>	LEO Managed CBD Oil Drop Box.	Senator D. Davis Senator Hise
<u>SB 567</u>	Reform/Correct/Wills and Trusts.	Senator Barringer Senator Randleman Senator Daniel



<u>SB 593</u>	Arbitration and Mediation for Business Court.	Senator Barringer Senator Lee Senator Newton
<u>SB 621</u>	Business Contracts/Choice of Law and Forum.	Senator Barringer
<u>SB 104</u>	Require Criminal BGC/Pharmacist Licensure.	Senator Tillman
<u>SB 388</u>	Incapacity to Proceed.	Senator Randleman
<u>SB 566</u>	Postpone Assumed Name Revisions.	Senator Barringer Senator Tarte Senator Alexander

Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 4:58 PM on Monday, June 19, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Judy Lowe (Committee Assistant)



**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Wednesday, June 21, 2017
TIME: 1:00 PM
LOCATION: 415 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 451</u>	Regulate Massage & Bodywork Therapy Estmts.	Representative McNeill Representative Bert Jones Representative R. Turner Representative Hurley
<u>SB 124</u>	LEO Managed CBD Oil Drop Box.	Senator D. Davis Senator Hise
<u>SB 567</u>	Reform/Correct/Wills and Trusts.	Senator Barringer Senator Randleman Senator Daniel
<u>SB 593</u>	Arbitration and Mediation for Business Court.	Senator Barringer Senator Lee Senator Newton
<u>SB 621</u>	Business Contracts/Choice of Law and Forum.	Senator Barringer

Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 4:43 PM on Thursday, June 15, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Judy Lowe (Committee Assistant)



House Committee on Judiciary I
Wednesday, June 21, 2017, 10:00 AM
415 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 451	Regulate Massage & Bodywork Therapy Estmts.	Representative McNeill Representative Bert Jones Representative R. Turner Representative Hurley
SB 124	LEO Managed CBD Oil Drop Box.	Senator D. Davis Senator Hise
SB 567	Reform/Correct/Wills and Trusts.	Senator Barringer Senator Randleman Senator Daniel
SB 593	Arbitration and Mediation for Business Court.	Senator Barringer Senator Lee Senator Newton
SB 621	Business Contracts/Choice of Law and Forum.	Senator Barringer
SB 104	Require Criminal BGC/Pharmacist Licensure.	Senator Tillman
SB 388	Incapacity to Proceed.	Senator Randleman
SB 566	Postpone Assumed Name Revisions.	Senator Barringer Senator Tarte Senator Alexander

Adjournment



House Committee on Judiciary I
Wednesday, June 21, 2017 at 10:00 AM
Room 415 of the Legislative Office Building

MINUTES

The House Committee on Judiciary I met at 10:10 AM on June 21, 2017 in Room 415 of the Legislative Office Building. Representatives Davis, Turner, Arp, Farmer-Butterfield, Howard, McNeill, Meyer, and Steinburg attended. Staff members Bill Patterson, Jennifer Bedford, and Jason Moran-Bates and Committee Clerk, Judy Lowe were also in attendance.

Representative Ted Davis, Jr. presided. After calling the meeting to order he introduced the Sergeants-at-Arms Bear Moore, Bill Riley and William Moore and the pages Reid Barber, Lexy DeVaney and James Hodges and thanked all for their service to the committee.

The following bills were considered:

SB 567 Reform/Correct/Wills and Trusts. Senators Barringer, Randleman, Daniel. Senator Barringer explained that the bill would allow courts to reform the terms of a will (1) to conform to the testator's intent if the original terms were affected by a mistake of law or fact, or (2) to achieve the testator's tax objectives if the modifications are not contrary to the testator's intent. The bill would also make several clarifying changes to the statute allowing for modification of a trust by the court. Rep. Arp commented on the level of scrutiny. Jim McLaughlin, Trust Drafting Committee, noted changes depended on who would benefit. Representative McNeill moved for a favorable report and the motion carried. Representative Turner will be carrying the bill on the House floor.

SB 593 Arbitration and Mediation for Business Court. Senators Barringer, Lee, Newton. Senator Barringer explained that the bill would direct the Director of the Administrative Office of the Courts (AOC) to submit a report recommending whether arbitration and mediation program should be established in the North Carolina Business Court. Representative McNeill indicated the AOC should study and make recommendations. Representative Farmer-Butterfield moved for a favorable report; the motion carried. Representative Davis will carry the bill on the House Floor.

SB 621 Business Contracts/Choice of Law and Forum. Senator Barringer. Senator Newton explained that the bill would permit a business contract to provide that (1) North Carolina law will govern the parties' rights and duties under the contract in whole or in part (2) any action brought to resolve a dispute arising out of the contract may be brought in the courts of this state and (3) if the business contract contains both of the foregoing provisions, then the contract can also provide that any contract dispute is required to be litigated only in one or more counties of this State specified in the contract. There was no discussion. Representative Steinburg moved for a favorable report and the motion carried unanimously. The House floor manager will be Representative Jordan.



SB 388 Incapacity to Proceed. Senator Randleman. Senator Randleman explained that the PCS would require reports ordered by courts of a criminal defendant's capacity to proceed to be released to clinicians at the program where the defendant is receiving capacity restoration and to clinicians designated by the Secretary of Health and Human Services; and create a workgroup to evaluate the process and impact of capacity determination. Representative Howard moved for a favorable house committee substitute, unfavorable to the original bill. The motion carried and Representative Turner will be the House floor manager.

SB 104 Require Criminal BGC/Pharmacist Licensure. Senator Tillman. Senator Tillman stated that the bill would make a number of technical changes to G.S. 90-85.15, which governs applications and requirements for licensure as a pharmacist, and mandates that the Board of Pharmacy require applicants for a pharmacy license to provide the Board with a criminal history report, at the applicant's expense, from a reporting service designated by the Board. Representative Arp moved for a favorable report and the motion carried. Representative McNeill will carry the bill on the House floor.

SB 124 LEO Managed CBD Oil Drop Box. Senators D. Davis, Hise. Senator Don Davis said this bill would require that all residual oil from the hemp extract that is lawfully possessed by a caregiver for treatment of a patient diagnosed with intractable epilepsy must be disposed of at a secure collection box that is managed by law enforcement. Representative Arp spoke in favor of the bill. Representative Farmer-Butterfield moved for a favorable report and re-referral to Rules, Calendar, and Operations of the House. There was a unanimous vote for approval. Representative Farmer-Butterfield will be the House floor manager.

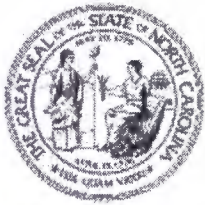
HB 451 Regulate Massage & Bodywork Therapy Estmts. Representatives McNeill, Bert Jones, R. Turner, Hurley. Representative McNeill explained that the PCS would require massage and bodywork therapy establishments to be licensed by the NC Board of Massage and Bodywork Therapy and would make it a Class I misdemeanor to employ a person who is not licensed to provide massage and bodywork therapy services. Representative Turner moved for a favorable report to the proposed committee substitute, unfavorable to the original bill. The motion carried.

The meeting adjourned at 10:47 AM.

Representative Ted Davis, Jr., Presiding Chair


Judy Lowe, Committee ClerkP





SENATE BILL 567: Reform/Correct/Wills and Trusts.

2017-2018 General Assembly

Committee: House Judiciary I
Introduced by: Sens. Barringer, Randleman, Daniel
Analysis of: First Edition

Date: June 21, 2017
Prepared by: Jason Moran-Bates
Committee Co-Counsel

OVERVIEW: *Senate Bill 567 would allow courts to reform the terms of a will (1) to conform to the testator's intent if the original terms were affected by a mistake of law or fact, or (2) to achieve the testator's tax objectives if the modifications are not contrary to the testator's intent. Senate Bill 567 would also make several clarifying changes to the statute allowing for modification of a trust by the court. The Proposed Committee Substitute (PCS) adds sections 7 through 11 to Senate Bill 567 and would clarify that the surviving spouse may not take a life estate in the decedent's real property if the spouse is not legally permitted to do so, or has waived the right to do so. The PCS would also prohibit the property in which the surviving spouse takes a life estate from being used to pay the debts of the estate unless the debt is secured by a deed of trust used to finance the purchase price of the property. The PCS would permit a mortgage or deed of trust securing a loan used to purchase real property to be effective against the purchaser's spouse, regardless of whether the lender is the seller or a third party. It would also allow the issue of a beneficiary spouse to be included in a spendthrift trust. The PCS would amend House Bill 630, if that bill becomes law, by changing the effective date of several sections and by allowing direct appeal to the Court of Appeals in juvenile matters eliminating reunification. Finally, the PCS would allow trustees to adjust trust amounts set aside for charitable purposes if there are no adverse tax consequences, clarify the notice that may be given when property held as tenancy by the entirety is conveyed into a trust, and make other clarifying changes.*

CURRENT LAW: Currently, there is no statutory provision allowing courts to reform the terms of a will to conform to the testator's intent; reformation of a will is governed solely by case law. Under G.S. 29-30, a surviving spouse may take a life estate in a decedent's real property in lieu of an elective or intestate share. There are no requirements for providing notice that property held as tenants by the entirety that is conveyed into a trust may be exempt from the claims of separate creditors.

BILL ANALYSIS:

Section 1 of Senate Bill 567 would add a new Article 10 to Chapter 31 of the General Statutes. This new Article would:

- Allow a court to reform the terms of a will to conform to the testator's intent if that intent can be demonstrated by clear and convincing evidence and the original terms were affected by mistake of law or fact.
- Allow a court to modify the terms of a will to conform to the testator's tax objectives, so long as the modification does not contradict the testator's probable intent.
- Establish a process to petition for reformation or modification and provide that an individual who files for reformation or modification is prohibited from filing a caveat to the will.

Section 2 would make clarifying changes to G.S. 28A-2-4.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

Senate Bill 567

Page 2

Section 3 would prohibit the clerk of court from having jurisdiction over actions for reformation or modifications of wills under Article 10 of Chapter 31.

Section 4 would amend G.S. 36C-4-415 to allow a court to reform the terms of a trust, but only if those terms are ambiguous.

Section 5 would require the Revisor of Statutes, as the Revisor deems appropriate, to print all the explanatory comments of the drafters of Section 4.

Section 6 is summarized in the "Effective Date" section.

Section 7(a) would amend G.S. 29-30, which allows a surviving spouse to take a life estate in one-third of the value of the deceased spouse's real property instead of an intestate share or the elective share under G.S. 30-3.1. The amendments would specifically recognize two additional forms used for one spouse to waive interests in the other's property, require that if there is no estate administration pending, a notice of the surviving spouse's election be recorded in every county where affected real property is located, and clarify that the protection of life estates under this section against the deceased spouse's creditors does not extend to real property that is subject to a purchase-money mortgage given by a lender, regardless of whether the lender is the seller or a third party, and also that this protection against creditors does not apply to real property not included in the life estate.

Section 7(b) would amend G.S. 39-13 to clarify that a purchase-money mortgage or deed of trust is good against the purchaser's spouse, regardless of whether the lender is the seller or a third party.

Section 8 would amend G.S. 36C-5-505(c)(1)c. According to the NC Bar Association's Estate Planning and Fiduciary Law Section, current law allows a spouse to establish a trust for the other spouse, and to set it up so that when the beneficiary spouse dies, the trust benefits the settlor spouse and the settlor spouse's children. This kind of trust is not subject to claims by creditors of the settlor spouse. The change would allow the children of the beneficiary spouse (stepchildren of the settlor spouse) to also be beneficiaries if the settlor spouse chooses to include them when the trust is drafted.

Section 9 would amend G.S. 37A-1-104(c) to clarify that a trustee cannot adjust the amount set aside for charitable purposes in a trust, unless both income and principal are set aside or the adjustment would not cause adverse tax consequences.

Section 10 would amend G.S. 39-13.7 to clarify the process by which notice may be given and requested when property held as tenants by the entirety is conveyed into a trust and is still exempt from the claims of separate creditors.

Section 11 would repeal G.S. 39-33 and G.S. 39-34 and recodify G.S. 39-35 and G.S. 39-36. It would also amend G.S. 39-35, recodified as G.S. 31D-5-505, to remove references to "limitation" of a power of appointment. This language is no longer needed in the statute.

Section 12 would require the Revisor of Statutes, as the Revisor deems appropriate, to print all the explanatory comments of the drafters of Sections 8, 9, and 11.

Section 13 would make Sections 3.1(b), 4.2, 4.2, 4.3, and 4.4 of House Bill 630, of the 2017 Regular Session, effective when House Bill 630 becomes law. Section 13.(c) would re-write section 8(a) of House Bill 630, of the 2017 Regular Session, to allow direct appeal to the Court of Appeals in juvenile matters eliminating reunification under certain circumstances.

EFFECTIVE DATE: Sections 7 through 13.(b) would be effective when the bill becomes law. Sections 1-4 would be effective January 1, 2018. Sections 1 and 3 of the bill would apply to estates of decedents dying on or after that date. Section 4 would apply to actions for reformations of trusts filed on or after that date. If House Bill 630 becomes law, Section 13.(c) would become effective January 1,

Senate Bill 567

Page 3

2019, and apply to appeals filed on or after that date. The remainder of the bill would become effective when it becomes law.

Amy Darden of the Legislative Analysis Division substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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1

SENATE BILL 567

Short Title: Reform/Correct/Wills and Trusts. (Public)

Sponsors: Senators Barringer, Randleman, and Daniel (Primary Sponsors).

Referred to: Rules and Operations of the Senate

April 3, 2017

A BILL TO BE ENTITLED
AN ACT TO PROVIDE FOR THE JUDICIAL REFORMATION OF WILLS TO CORRECT
MISTAKES AND THE JUDICIAL MODIFICATION OF WILLS TO ACHIEVE THE
TESTATOR'S TAX OBJECTIVES AND TO REVISE THE NORTH CAROLINA
UNIFORM TRUST CODE TO ACHIEVE CONSISTENCY IN THE REFORMATION OF
TRUSTS WITH THE REFORMATION OF WILLS, AS RECOMMENDED BY THE
GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 31 of the General Statutes is amended by adding a new
Article to read:

"Article 10.

"Reformation or Modification of Wills.

"§ 31-61. Reformation of will to correct mistakes.

The court may reform the terms of a will, if the terms of the will are ambiguous, to conform
the terms to the testator's intent if it is proved by clear and convincing evidence what the
testator's intent was and that the terms of the will were affected by a mistake of fact or law,
whether in expression or inducement.

"§ 31-62. Modification of will to achieve testator's tax objectives.

To achieve a testator's tax objectives, the court may modify the terms of a will in a manner
that is not contrary to the testator's probable intent. The court may provide that the modification
has retroactive effect.

"§ 31-63. Filing of action for reformation or modification of will; bar to caveat.

(a) An action for reformation or modification of a will shall be filed in the superior
court division of the General Court of Justice under Article 26 of Chapter 1 of the General
Statutes.

(b) The personal representative is a necessary party to an action for reformation or
modification of a will.

(c) If a person interested in the estate files an action for reformation or modification of
a will, that person is barred from thereafter filing a caveat to the will under Article 6 of this
Chapter."

SECTION 2.(a) G.S. 28A-2-4 reads as rewritten:

**"§ 28A-2-4. Subject matter jurisdiction of the clerk of superior court in estate
proceedings.**

(a) The clerks of superior court of this State, as ex officio judges of probate, shall have
original jurisdiction of estate proceedings. Except as provided in subdivision (4) of this



subsection, the jurisdiction of the clerk of superior court is exclusive. Estate proceedings include, but are not limited to, the following:

- (1) Probate of wills.
- (2) Granting and revoking of letters testamentary and letters of administration, or other proper letters of authority for the administration of estates.
- (3) Determination of the elective share for a surviving spouse as provided in G.S. 30-3.
- (4) Proceedings to ascertain heirs or devisees, to approve settlement agreements pursuant to G.S. 28A-2-10, to determine questions of construction of wills, to determine priority among creditors, to determine whether a person is in possession of property belonging to an estate, to order the recovery of property of the estate in possession of third parties, and to determine the existence or nonexistence of any immunity, power, privilege, duty, or right. Any party or the clerk of superior court may file a notice of transfer of a proceeding pursuant to this subdivision to the Superior Court Division of the General Court of Justice as provided in G.S. 28A-2-6(h). In the absence of a transfer to superior court, Article 26 of Chapter 1 of the General Statutes shall apply to ~~a trust~~ an estate proceeding pending before the clerk of superior court to the extent consistent with this Article.

(b) Nothing in this section shall affect the right of a person to file an action in the Superior Court Division of the General Court of Justice for declaratory relief under Article 26 of Chapter 1 of the General Statutes. In the event that either the petitioner or the respondent in an estate proceeding requests declaratory relief under Article 26 of Chapter 1 of the General Statutes, either party may move for a transfer of the proceeding to the Superior Court Division of the General Court of Justice as provided in Article 21 of Chapter 7A of the General Statutes. In the absence of a removal to superior court, Article 26 of Chapter 1 of the General Statutes shall apply to an estate proceeding to the extent consistent with this Article.

(c) Without otherwise limiting the jurisdiction of the Superior Court Division of the General Court of Justice, the clerk of superior court shall not have jurisdiction under subsection (a) or ~~(e)-(b)~~ of this section or G.S. 28A-2-5 of the following:

- (1) Actions by or against creditors or debtors of an estate, except as provided in Article 19 of this Chapter.
- (2) Actions involving claims for monetary damages, including claims for breach of fiduciary duty, fraud, and negligence.
- (3) Caveats, except as provided under G.S. 31-36.
- (4) Proceeding to determine proper county of venue as provided in G.S. 28A-3-2.
- (5) Recovery of property transferred or conveyed by a decedent with intent to hinder, delay, or defraud creditors, pursuant to G.S. 28A-15-10(b)."

SECTION 2.(b) This section is effective when this act becomes law.

SECTION 3. G.S. 28A-2-4(c), as amended by Section 2 of this act, reads as rewritten:

"(c) Without otherwise limiting the jurisdiction of the Superior Court Division of the General Court of Justice, the clerk of superior court shall not have jurisdiction under subsection (a) or (b) of this section or G.S. 28A-2-5 of the following:

- (1) Actions by or against creditors or debtors of an estate, except as provided in Article 19 of this Chapter.
- (2) Actions involving claims for monetary damages, including claims for breach of fiduciary duty, fraud, and negligence.
- (3) Caveats, except as provided under G.S. 31-36.

(4) Proceeding to determine proper county of venue as provided in G.S. 28A-3-2.

(5) Recovery of property transferred or conveyed by a decedent with intent to hinder, delay, or defraud creditors, pursuant to G.S. 28A-15-10(b).

(6) Actions for reformation or modification of wills under Article 10 of Chapter 31 of the General Statutes."

SECTION 4. G.S. 36C-4-415 reads as rewritten:

"§ 36C-4-415. Reformation to correct mistakes.

The court may reform the terms of a ~~trust, even if unambiguous, trust,~~ if the terms of the ~~trust are ambiguous,~~ to conform the terms to the settlor's ~~intention-intent~~ if it is proved by clear and convincing evidence ~~that both what~~ the settlor's intent was and that the terms of the trust were affected by a mistake of fact or law, whether in expression or inducement. ~~Jurisdiction of a proceeding brought under this section shall be as provided in G.S. 36C-2-203."~~

SECTION 5. The Revisor of Statutes shall cause to be printed all explanatory comments of the drafters of Section 4 of this act, as the Revisor may deem appropriate.

SECTION 6. Except as otherwise provided in this act, this act becomes effective January 1, 2018. Sections 1 and 3 of this act apply to estates of decedents dying before, on, or after that date. Section 4 of this act applies to actions for the reformation of trusts filed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 567
PROPOSED HOUSE COMMITTEE SUBSTITUTE S567-CSMN-3 [v.4]

06/20/2017 05:07:13 PM

Short Title: Reform/Correct/Wills and Trusts.

(Public)

Sponsors:

Referred to:

April 3, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR THE JUDICIAL REFORMATION OF WILLS TO CORRECT
3 MISTAKES AND THE JUDICIAL MODIFICATION OF WILLS TO ACHIEVE THE
4 TESTATOR'S TAX OBJECTIVES AND TO REVISE THE NORTH CAROLINA
5 UNIFORM TRUST CODE TO ACHIEVE CONSISTENCY IN THE REFORMATION OF
6 TRUSTS WITH THE REFORMATION OF WILLS, AS RECOMMENDED BY THE
7 GENERAL STATUTES COMMISSION, TO MAKE VARIOUS CHANGES TO THE
8 TRUSTS, ESTATES, AND REAL PROPERTY STATUTES, AND TO MAKE TWO
9 TECHNICAL CORRECTIONS TO A RATIFIED HOUSE BILL (RYLAN'S
10 LAW/FAMILY/CHILD PROTECT. & ACC. ACT).

11 The General Assembly of North Carolina enacts:

12
13 **PART I. PROVIDE CONSISTENCY IN JUDICIAL REFORMATION AND**
14 **CORRECTION OF WILLS AND TRUSTS, AS RECOMMENDED BY THE GENERAL**
15 **STATUTES COMMISSION**

16
17 **SECTION 1.** Chapter 31 of the General Statutes is amended by adding a new
18 Article to read:

19 "Article 10.

20 "Reformation or Modification of Wills.

21 "**§ 31-61. Reformation of will to correct mistakes.**

22 The court may reform the terms of a will, if the terms of the will are ambiguous, to conform
23 the terms to the testator's intent if it is proved by clear and convincing evidence what the
24 testator's intent was and that the terms of the will were affected by a mistake of fact or law,
25 whether in expression or inducement.

26 "**§ 31-62. Modification of will to achieve testator's tax objectives.**

27 To achieve a testator's tax objectives, the court may modify the terms of a will in a manner
28 that is not contrary to the testator's probable intent. The court may provide that the modification
29 has retroactive effect.

30 "**§ 31-63. Filing of action for reformation or modification of will; bar to caveat.**

31 (a) An action for reformation or modification of a will shall be filed in the superior
32 court division of the General Court of Justice under Article 26 of Chapter 1 of the General
33 Statutes.

34 (b) The personal representative is a necessary party to an action for reformation or
35 modification of a will.



(c) If a person interested in the estate files an action for reformation or modification of a will, that person is barred from thereafter filing a caveat to the will under Article 6 of this Chapter."

SECTION 2.(a) G.S. 28A-2-4 reads as rewritten:

"§ 28A-2-4. Subject matter jurisdiction of the clerk of superior court in estate proceedings.

(a) The clerks of superior court of this State, as ex officio judges of probate, shall have original jurisdiction of estate proceedings. Except as provided in subdivision (4) of this subsection, the jurisdiction of the clerk of superior court is exclusive. Estate proceedings include, but are not limited to, the following:

- (1) Probate of wills.
- (2) Granting and revoking of letters testamentary and letters of administration, or other proper letters of authority for the administration of estates.
- (3) Determination of the elective share for a surviving spouse as provided in G.S. 30-3.
- (4) Proceedings to ascertain heirs or devisees, to approve settlement agreements pursuant to G.S. 28A-2-10, to determine questions of construction of wills, to determine priority among creditors, to determine whether a person is in possession of property belonging to an estate, to order the recovery of property of the estate in possession of third parties, and to determine the existence or nonexistence of any immunity, power, privilege, duty, or right. Any party or the clerk of superior court may file a notice of transfer of a proceeding pursuant to this subdivision to the Superior Court Division of the General Court of Justice as provided in G.S. 28A-2-6(h). In the absence of a transfer to superior court, Article 26 of Chapter 1 of the General Statutes shall apply to ~~a trust~~ an estate proceeding pending before the clerk of superior court to the extent consistent with this Article.

(b) Nothing in this section shall affect the right of a person to file an action in the Superior Court Division of the General Court of Justice for declaratory relief under Article 26 of Chapter 1 of the General Statutes. In the event that either the petitioner or the respondent in an estate proceeding requests declaratory relief under Article 26 of Chapter 1 of the General Statutes, either party may move for a transfer of the proceeding to the Superior Court Division of the General Court of Justice as provided in Article 21 of Chapter 7A of the General Statutes. In the absence of a removal to superior court, Article 26 of Chapter 1 of the General Statutes shall apply to an estate proceeding to the extent consistent with this Article.

(c) Without otherwise limiting the jurisdiction of the Superior Court Division of the General Court of Justice, the clerk of superior court shall not have jurisdiction under subsection (a) or ~~(e)~~ (b) of this section or G.S. 28A-2-5 of the following:

- (1) Actions by or against creditors or debtors of an estate, except as provided in Article 19 of this Chapter.
- (2) Actions involving claims for monetary damages, including claims for breach of fiduciary duty, fraud, and negligence.
- (3) Caveats, except as provided under G.S. 31-36.
- (4) Proceeding to determine proper county of venue as provided in G.S. 28A-3-2.
- (5) Recovery of property transferred or conveyed by a decedent with intent to hinder, delay, or defraud creditors, pursuant to G.S. 28A-15-10(b)."

SECTION 2.(b) This section is effective when this act becomes law.

SECTION 3. G.S. 28A-2-4(c), as amended by Section 2 of this act, reads as rewritten:

"(c) Without otherwise limiting the jurisdiction of the Superior Court Division of the General Court of Justice, the clerk of superior court shall not have jurisdiction under subsection (a) or (b) of this section or G.S. 28A-2-5 of the following:

- (1) Actions by or against creditors or debtors of an estate, except as provided in Article 19 of this Chapter.
- (2) Actions involving claims for monetary damages, including claims for breach of fiduciary duty, fraud, and negligence.
- (3) Caveats, except as provided under G.S. 31-36.
- (4) Proceeding to determine proper county of venue as provided in G.S. 28A-3-2.
- (5) Recovery of property transferred or conveyed by a decedent with intent to hinder, delay, or defraud creditors, pursuant to G.S. 28A-15-10(b).
- (6) Actions for reformation or modification of wills under Article 10 of Chapter 31 of the General Statutes."

SECTION 4. G.S. 36C-4-415 reads as rewritten:

"§ 36C-4-415. Reformation to correct mistakes.

The court may reform the terms of a ~~trust, even if unambiguous, trust,~~ if the terms of the trust are ambiguous, to conform the terms to the settlor's ~~intention~~ intent if it is proved by clear and convincing evidence ~~that both what the settlor's intent was and that the terms of the trust were affected by a mistake of fact or law, whether in expression or inducement. Jurisdiction of a proceeding brought under this section shall be as provided in G.S. 36C-2-203."~~

SECTION 5. The Revisor of Statutes shall cause to be printed all explanatory comments of the drafters of Section 4 of this act, as the Revisor may deem appropriate.

SECTION 6. Except as otherwise provided in this Part, this Part becomes effective January 1, 2018. Sections 1 and 3 of this Part apply to estates of decedents dying before, on, or after that date. Section 4 of this Part applies to actions for the reformation of trusts filed on or after that date.

PART II. MAKE VARIOUS OTHER CHANGES

SECTION 7.(a) G.S. 29-30 reads as rewritten:

"§ 29-30. Election of surviving spouse to take life interest in lieu of intestate share provided.

(a) In lieu of the intestate share provided in G.S. 29-14 or G.S. 29-21, or of the elective share provided in G.S. 30-3.1, the surviving spouse of an intestate or the surviving spouse who has petitioned for an elective share shall be entitled to take as the surviving spouse's intestate share or elective share a life estate in one third in value of all the real estate of which the deceased spouse was seised and possessed of an estate of inheritance at any time during ~~coverture, except that real estate as to which the surviving spouse;coverture. This subsection does not apply if the surviving spouse is otherwise not legally entitled to the election provided in this section. This subsection also does not apply to real estate as to which the surviving spouse:~~

- (1) Has waived the surviving spouse's rights by joining with the other spouse in a conveyance ~~thereof, or thereof.~~
- (1a) Has waived the right to take a life estate in lieu of an intestate or elective share by an express written waiver thereof.
- (2) ~~Has released or quitclaimed~~ Has waived, released, or conveyed the surviving spouse's interest therein in accordance with ~~G.S. 52-10, or G.S. 52-10.~~
- (3) Was not required by law to join in conveyance thereof in order to bar the elective life ~~estate, or estate.~~

(3a) Has executed a written declaration permitting the deceased spouse to convey or encumber the property without the consent or joinder of the surviving spouse.

(4) ~~Is otherwise not legally entitled to the election provided in this section.~~

...

(c) The election provided for in subsection (a) shall be made by (i) the filing of a petition in accordance with Article 2 of Chapter 28A of the General Statutes with the clerk of the superior court of the county in which the administration of the estate is pending, ~~or, or~~ (ii) if no administration is pending, then with the clerk of the superior court of any county in which the administration of the estate could be ~~commenced~~, commenced, together with the recording of a notice indicating the county and file number of the clerk's filing with the register of deeds in every county where real property to be claimed under the filing is located. The election shall be made prior to the shorter of the following applicable periods:

...

(g) Neither the household furnishings in the dwelling house nor the life estates taken by election under this section shall be subject to the payment of debts due from the estate of the deceased spouse, except those debts secured by such property as follows:

(1) By a mortgage or deed of trust in which the surviving spouse has waived the surviving spouse's rights by joining with the other spouse in the making ~~thereof; or~~ thereof.

(2) By a ~~purchase-money~~ mortgage or deed of ~~trust~~, trust given by the deceased spouse to secure a loan, the proceeds of which were used to pay all or a portion of the purchase price of the encumbered real property, regardless of whether the secured party is the seller of the real property or a third-party lender, or by a conditional sales contract of personal property in which title is retained by the vendor, made prior to or during the ~~marriage; or~~ marriage.

(3) By a mortgage or deed of trust made prior to the ~~marriage; or~~ marriage.

(4) By a mortgage or deed of trust constituting a lien on the property at the time of its acquisition by the deceased spouse either before or during the marriage.

(5) By a mortgage or deed of trust on property with respect to which the elective life estate provided for in this section does not apply as provided in subsection (a) of this section.

...."

SECTION 7.(b) G.S. 39-13 reads as rewritten:

"§ 39-13. Spouse need not join in purchase-money mortgage.

~~The purchaser of real estate who does not pay the whole of the purchase money at the time when he or she takes a deed for title may make a mortgage or deed of trust for securing the payment of such purchase money, or such part thereof as may remain unpaid, which~~ A mortgage or deed of trust given by the purchaser of real property to secure a loan, the proceeds of which were used to pay all or a portion of the purchase price of the encumbered real property, regardless of whether the secured party is the seller of the real property or a third-party lender, shall be good and effectual against his or her the purchaser's spouse as well as the purchaser, without requiring the spouse to join in the execution of such the mortgage or deed of trust."

SECTION 8. G.S. 36C-5-505 reads as rewritten:

"§ 36C-5-505. Creditor's claim against settlor.

...

(c) Subject to the Uniform Voidable Transactions Act, Article 3A of Chapter 39 of the General Statutes, for purposes of this section, property contributed to the following trusts is not

considered to have been contributed by the settlor and a person who would otherwise be treated as a settlor or a deemed settlor of the following trusts may not be treated as a settlor:

- (1) If the settlor is a beneficiary after the death of the settlor's spouse:
 - a. An irrevocable inter vivos marital trust that is treated as a general power of appointment trust described in section 2523(e) of the Internal Revenue Code.
 - b. An irrevocable inter vivos marital trust that is treated as a qualified terminable interest trust under section 2523(f) of the Internal Revenue Code.
 - c. An irrevocable inter vivos trust of which the settlor's spouse is a beneficiary during the spouse's lifetime but which does not qualify for the federal gift tax marital deduction, and during the lifetime of the settlor's spouse (i) the settlor's spouse is the only beneficiary or (ii) the settlor's spouse and ~~the settlor's issue~~ any issue of the settlor or the settlor's spouse, or both, are the only beneficiaries.
 - d. Another trust, to the extent that the property of the other trust is attributable to property passing from a trust described in sub-subdivisions a., b., and c. of this subdivision.

For purposes of this subdivision, notwithstanding the provisions of G.S. 36C-1-103(3), the settlor is a beneficiary whether so named under the initial trust instrument or through the exercise of a limited or general power of appointment.

- (2) An irrevocable inter vivos trust for the benefit of a person if the settlor is the person's spouse, regardless of whether or when that person was a settlor of an irrevocable inter vivos trust for the benefit of the person's spouse.

For purposes of this subsection, the "settlor's spouse" refers to the person to whom the settlor was married at the time the irrevocable inter vivos trust was created, notwithstanding a subsequent dissolution of the marriage."

SECTION 9. G.S. 37A-1-104(c) reads as rewritten:

"(c) A trustee shall not make an adjustment:

- (1) That diminishes the income interest in a trust that requires all of the income to be paid at least annually to a spouse and for which an estate tax or gift tax marital deduction would be allowed, in whole or in part, if the trustee did not have the power to make the adjustment;
- (2) That reduces the actuarial value of the income interest in a trust to which a person transfers property with the intent to qualify for a gift tax exclusion;
- (3) That changes the amount payable to a beneficiary as a fixed annuity or a fixed fraction of the value of the trust assets;
- (4) From any amount that is permanently set aside for charitable purposes under a will or the terms of a trust ~~unless both unless:~~
 - a. Both income and principal are so set aside; aside, or
 - b. The adjustment would not cause adverse tax consequences under applicable tax laws and regulations;
- (5) If possessing or exercising the power to make an adjustment causes an individual to be treated as the owner of all or part of the trust for income tax purposes and the individual would not be treated as the owner if the trustee did not possess the power to make an adjustment;
- (6) If possessing or exercising the power to make an adjustment causes all or part of the trust assets to be included for estate tax purposes in the estate of an individual who has the power to remove a trustee or appoint a trustee, or

both, and the assets would not be included in the estate of the individual if the trustee did not possess the power to make an adjustment;

(7) If the trustee is a beneficiary of the trust;

(8) If the trustee is not a beneficiary but the adjustment would benefit the trustee directly or indirectly, except that a trustee may make an adjustment that also benefits a beneficiary even if the terms of the trust provide for trustee compensation as a percentage of the trust's income; or

(9) If the trust has been converted to, and is then operating as, a unitrust under Part 2 of this Article."

SECTION 10. G.S. 39-13.7 is amended by adding two new subsections to read:

"(f) Notice that the real property held in trust receives immunity from the claims of separate creditors may be given in a statement in the conveyance of the tenancy by the entireties real property to the trust that the real property is held under this section and that as of the date of the conveyance, the requirements of subsection (b) of this section are met.

(g) A person entering a transaction involving real property held in trust under this section may request confirmation from the trustee whether the requirements of this section providing immunity from the claims of separate creditors are met at the time of the transaction."

SECTION 11.(a) G.S. 39-33 and G.S. 39-34 are repealed.

SECTION 11.(b) G.S. 39-35 is recodified as G.S. 31D-5-505.

SECTION 11.(c) G.S. 39-36 is recodified as G.S. 31D-4-403.1.

SECTION 11.(d) G.S. 31D-5-505, as recodified by subsection (b) of this section, reads as rewritten:

"§ 31D-5-505. Requisites of release ~~or limitation~~ as against creditors and purchasers for value.

No release ~~or limitation~~ of a power of appointment after March 8, 1943, which is made by the owner of the legal title to real property in this State shall be valid as against creditors and purchasers for a valuable consideration until an instrument in writing setting forth the release ~~or limitation~~ is executed and acknowledged in the manner required for a deed and recorded in the county where the real property is."

SECTION 12. The Revisor of Statutes shall cause to be printed all explanatory comments of the drafters of Sections 8, 9, and 11, as the Revisor may deem appropriate.

SECTION 13.(a) If House Bill 630, 2017 Regular Session, becomes law, Section 3.1(b) of that act reads as rewritten:

"SECTION 3.1.(b) This section ~~becomes effective upon ratification~~ is effective when it becomes law and applies to written agreements required pursuant to G.S. 108A-74(a1) for fiscal years 2018-2019 and 2019-2020."

SECTION 13.(b) If House Bill 630, 2017 Regular Session, becomes law, Section 4.6 of that act reads as rewritten:

"SECTION 4.6. Sections 4.1, 4.2, 4.3, and 4.4 become effective March 1, 2019. Section 4.5 ~~becomes effective upon ratification~~ is effective when it becomes law."

SECTION 13.(c) If House Bill 630, 2017 Regular Session, becomes law, G.S. 7B-1001(a), as amended by Section 8(a) of that act and by Section 4 of S.L. 2017-7, reads as rewritten:

"(a) In a juvenile matter under this Subchapter, appeal of a final order of the court shall be made directly to the Court of Appeals, unless otherwise specified. Only the following juvenile matters may be appealed:

...

(5) An order under G.S. 7B-906.2(b) eliminating reunification, as defined by G.S. 7B-101(18b), as a permanent plan by either of the following:

a. A parent who is a party and:

1. Has preserved the right to appeal the order in writing within 30 days after entry and service of the order.
2. A termination of parental rights petition or motion has not been filed within 65 days of entry and service of the order.
3. A notice of appeal of the order eliminating reunification is filed within 30 days after ~~entry and service of~~ the expiration of the 65 days.
- b. A party who is a guardian or custodian with whom reunification is not a permanent plan.
(6) ~~shall be made directly to the Supreme Court."~~

SECTION 13.(d) If House Bill 630, 2017 Regular Session, becomes law, subsection (c) of this section becomes effective January 1, 2019, and applies to appeals filed on or after that date.

PART III. EFFECTIVE DATE

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





SENATE BILL 593: Arbitration and Mediation for Business Court.

2017-2018 General Assembly

Committee: House Judiciary I
Introduced by: Sens. Barringer, Lee, Newton
Analysis of: Second Edition

Date: June 21, 2017
Prepared by: Jason Moran-Bates
Committee Co-Counsel

OVERVIEW: *Senate Bill 593 would direct the Director of the Administrative Office of the Courts (AOC) to submit a report recommending whether arbitration and mediation programs should be established in the North Carolina Business Court.*

CURRENT LAW: The Chief Justice of Supreme Court designates special superior court judges to hear and decide complex business cases in the Business Court. There are currently no arbitration or mediation programs in the Business Court.

BILL ANALYSIS: The bill would require the Director of the AOC, in consultation with the Chief Justice of the Supreme Court, to submit to the Speaker of the House of Representatives and the President Pro Tempore of the Senate a report recommending whether and how to establish an arbitration program within the Business Court. The report should include the following:

- How parties qualify for the program.
- The required qualifications and training for arbitrators.
- The required qualifications for those representing parties in arbitration proceedings.
- The form of appeal for nonbinding arbitration cases decided under the program.

The bill would also permit the Director of the AOC to make recommendations for establishing a mediation program within the Business Court. This report should include the following:

- How parties qualify for the program.
- The required qualifications for mediators.
- The required qualifications for those representing parties in mediation proceedings.

EFFECTIVE DATE: This act is effective when it becomes law.

Amy Darden of the Legislative Analysis Division substantially contributed to this summary.

Karen Cochrane-Brown
Director



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Legislative Analysis
Division
919-733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 593
Judiciary Committee Substitute Adopted 4/25/17

Short Title: Arbitration and Mediation for Business Court. (Public)

Sponsors:

Referred to:

April 5, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF AN ARBITRATION AND
3 MEDIATION PROGRAM FOR THE NORTH CAROLINA BUSINESS COURT.
4 The General Assembly of North Carolina enacts:
5 **SECTION 1.** In order to make North Carolina a leading jurisdiction for the
6 resolution of business, commercial, financial, and other legal disputes, the Director of the
7 Administrative Office of the Courts, in consultation with the Chief Justice of the Supreme
8 Court, shall submit to the Speaker of the House of Representatives and the President Pro
9 Tempore a report recommending whether and how to establish an arbitration program within
10 the North Carolina Business Court, including how parties may make themselves subject to the
11 jurisdiction of said program, required qualifications and trainings for arbitrators, and
12 requirements for persons who may represent parties in arbitration proceedings before the
13 Business Court. Such recommendations may include suggestions on the form of appeal for both
14 binding and nonbinding arbitrations in cases arbitrated under such a proposal. The Director of
15 the Administrative Office of the Courts or through the North Carolina Dispute Resolution
16 Commission may also include recommendations for establishing a mediation program operated
17 by the Business Court, including suggestions as to how parties may make themselves subject to
18 the jurisdiction of said program, required qualifications for mediators, and for persons who may
19 represent parties in mediation proceedings.
20 **SECTION 2.** This act is effective when it becomes law.





SENATE BILL 621: Business Contracts/Choice of Law and Forum.

2017-2018 General Assembly

Committee: House Judiciary I
Introduced by: Sen. Barringer
Analysis of: Second Edition

Date: June 19, 2017
Prepared by: Bill Patterson
Committee Co-Counsel

OVERVIEW: *Senate Bill 621 would permit a business contract to provide that:*

- *North Carolina law will govern the parties' rights and duties under the contract in whole or in part, regardless of whether the parties, contract, or related transaction bear a reasonable relation to the State, and regardless of whether a provision in the contract may conflict with a fundamental policy under the law of another jurisdiction that would apply if the parties had not chosen North Carolina law.*
- *Any action brought to resolve a dispute arising out of the contract may be brought in the courts of this State.*
- *If the business contract contains both of the foregoing provisions, then the contract can also provide that any contract dispute is required to be litigated only in one or more counties of this State specified in the contract.*

CURRENT LAW: Courts will generally enforce the choice of law agreed to by parties to a contract if there is a reasonable basis for the choice and no provision in the contract is contrary to a fundamental policy of the state that would have jurisdiction in the absence of the choice of law agreement. For contracts governed by G.S. 25-1-301 of the Uniform Commercial Code, a choice of law agreement will be upheld if the transaction between the parties bears a reasonable relation to the state whose law is chosen to govern their rights and duties under the contract.

"Venue" refers to the county where a civil action is brought. The proper venue for various types of actions is set forth by statute in Article 7 of Chapter 1 of the General Statutes. Pursuant to G.S. 1-83, an action can be transferred from the county in which it was originally brought to another county in the following cases:

- (1) When the county designated for that purpose is not the proper one.
- (2) When the convenience of witnesses and the ends of justice would be promoted by the change.
- (3) When the judge has, at any time, been interested as party or counsel.
- (4) When motion is made by the plaintiff and the action is for divorce and the defendant has not been personally served with summons.

A contract may also contain a "forum selection clause" in which the parties agree on the place where any action to resolve a dispute arising under the contract must be brought. However, such an agreement will not be enforced if the selected county is not a proper venue under governing statutory law.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

Senate Bill 621

Page 2

BILL ANALYSIS:

Section 1 would enact a new Chapter 1G of the General Statutes, entitled "North Carolina Choice of Law and Forum in Business Contracts Act."

Chapter 1G would apply to "business contracts," defined as contracts "entered into primarily for business or commercial purposes." It would not apply to contracts entered into "by an individual primarily for the individual's personal, family or household purposes" ("consumer contracts") or to contracts "between an individual and another party to provide labor or personal services by that individual to the other party, whether the relationship is in the nature of employer-employee or principal-independent contractor" ("employment contract").

New **G.S. 1G-3** would provide that parties to a business contract could agree that their rights and duties under the contract will be governed by North Carolina law without regard to whether the parties, their contract, or the transactions that are the subject of the contract bear a reasonable relation to the State, or whether any provision in the contract is contrary to the fundamental policy of a jurisdiction whose law would apply if the parties had not chosen North Carolina law.

New **G.S. 1G-4(a)** would provide that a party to a business contract may bring an action in North Carolina courts to resolve a dispute arising under the contract if the parties to the contract have agreed that North Carolina law shall govern the parties' rights and duties in whole or in part and have also agreed to litigate a dispute under the contract in the courts of this State.

A party to a contract meeting the foregoing conditions would also be deemed to have consented to personal jurisdiction of North Carolina courts in any action for a dispute arising under the contract, and if the parties designated one or more specific counties in the State as the proper venue, then that agreement would be enforced and the venue could not be changed to another county except when:

- The convenience of witnesses and the ends of justice would be promoted by the change (G.S. 1-83(2)).
- The judge has, at any time, been interested as party or counsel (G.S. 1-83(3)).
- There are probable grounds to believe that a fair and impartial trial cannot be obtained in the county in which the action is pending (G.S. 1-84).

G.S. 1G-5 would provide that nothing in Chapter 1G affects the enforcement of a choice of law or choice of forum provision in a contract that is not a business contract, affects a court's subject matter jurisdiction, or affects whether or not a case is designated as a mandatory complex business case.

Section 2 would amend G.S. 25-1-301 to affirm the parties' right to choose North Carolina law as governing their rights and duties under the contract, except as otherwise required under specified sections of the UCC.

EFFECTIVE DATE: The act is effective when it becomes law and applies to business contracts entered into before, on, or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 621
Judiciary Committee Substitute Adopted 4/24/17

Short Title: Business Contracts/Choice of Law and Forum.

(Public)

Sponsors:

Referred to:

April 5, 2017

A BILL TO BE ENTITLED
AN ACT TO VALIDATE CHOICE OF NORTH CAROLINA LAW AND FORUM
PROVISIONS IN BUSINESS CONTRACTS.

The General Assembly of North Carolina enacts:

SECTION 1. The General Statutes are amended by adding a new Chapter to read:

"Chapter 1G.

"North Carolina Choice of Law and Forum in Business Contracts Act.

"§ 1G-1. Short title.

This Chapter may be cited as the North Carolina Choice of Law and Forum in Business
Contracts Act.

"§ 1G-2. Definitions.

The following definitions apply in this Chapter:

- (1) Business contract. – A contract or undertaking, contingent or otherwise,
entered into primarily for business or commercial purposes. The term does
not include a consumer contract or an employment contract.
- (2) Consumer contract. – A contract or undertaking, contingent or otherwise,
entered into by an individual primarily for the individual's personal, family,
or household purposes.
- (3) Employment contract. – A contract or undertaking, contingent or otherwise,
between an individual and another party to provide labor or personal
services by that individual to the other party, whether the relationship is in
the nature of employer-employee or principal-independent contractor.

"§ 1G-3. Choice of North Carolina law in business contracts.

(a) Choice of Law. – The parties to a business contract may agree in the business
contract that North Carolina law shall govern their rights and duties in whole or in part,
whether or not any of the following statements are true:

- (1) The parties, the business contract, or the transaction that is the subject of the
business contract bear a reasonable relation to this State.
- (2) A provision of the business contract is contrary to the fundamental policy of
the jurisdiction whose law would apply in the absence of the parties' choice
of North Carolina law.

(b) Controlling Law. – To the extent this section conflicts with G.S. 25-1-301(c),
G.S. 25-1-301(c) controls.

"§ 1G-4. Choice of North Carolina forum in business contracts.



(a) Choice of Forum. – Notwithstanding any other provision of law, a party to a business contract may bring an action in the courts of this State for a dispute arising from the business contract if the business contract contains both of the following provisions:

(1) A provision where the parties agree that North Carolina law shall govern their rights and duties in whole or in part, pursuant to G.S. 1G-3.

(2) A provision where the parties agree to litigate a dispute arising from the business contract in the courts of this State.

(b) Personal Jurisdiction and Forum Non Conveniens. – A party that enters into a business contract that satisfies the requirements of subsection (a) of this section consents to the personal jurisdiction of the courts of this State in an action for a dispute arising from the business contract. A court shall not stay or dismiss the action pursuant to G.S. 1-75.12 or the doctrine of forum non conveniens.

(c) Choice of Venue. – Notwithstanding any other provision of law, the parties to a business contract that satisfies the requirements of subsection (a) of this section may designate in the business contract one or more counties in this State as the proper venue for a dispute arising from the business contract. If the parties do not designate a county in the business contract, a party may bring an action for a dispute arising from the business contract in any county in this State.

(d) Change of Venue. – In an action that is brought in a county in this State permitted by subsection (c) of this section, a court may change the place of trial to another county in this State pursuant to G.S. 1-83(2), 1-83(3), or 1-84 only. Nothing in this subsection allows a court to change the place of trial to another state.

"§ 1G-5. Effect of provisions.

Nothing in this Chapter does any of the following:

(1) Validates, invalidates, or otherwise affects the enforcement of a choice of law provision or a choice of forum provision in a contract that is not a business contract.

(2) Confers subject matter jurisdiction upon a court that would otherwise lack subject matter jurisdiction.

(3) Affects the designation of an action as a mandatory complex business case pursuant to G.S. 7A-45.4."

SECTION 2. G.S. 25-1-301 reads as rewritten:

"§ 25-1-301. Territorial applicability; parties' power to choose applicable law.

(a) Except as otherwise provided in this section, when a transaction bears a reasonable relation to this State and also to another state or nation the parties may agree that the law either of this State or of ~~such the~~ other state or nation shall govern their rights and duties. Except as otherwise provided in subsection (c) of this section, the parties to a business contract as defined in G.S. 1G-2(1) may agree in the business contract that North Carolina law shall govern their rights and duties in whole or in part, pursuant to G.S. 1G-3.

(b) In the absence of an agreement effective under subsection (a) of this section, and except as provided in subsection (c) of this section, this Chapter applies to transactions bearing an appropriate relation to this State.

(c) If one of the following provisions of this Chapter specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the ~~law~~ so specified; specified law:

(1) G.S. 25-2-402;

(2) G.S. 25-2A-105 and G.S. 25-2A-106;

(3) G.S. 25-4-102;

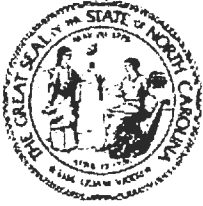
(4) G.S. 25-4A-507;

(5) G.S. 25-5-116;

(6) G.S. 25-8-110;

- 1 (7) G.S. 25-9-301 through G.S. 25-9-307."
- 2 **SECTION 3.** This act is effective when it becomes law and applies to business
- 3 contracts entered into before, on, or after that date.





SENATE BILL 388: Incapacity to Proceed.

2017-2018 General Assembly

Committee: House Judiciary I
Introduced by: Sen. Randleman
Analysis of: PCS to First Edition
S388-CSTT-36

Date: June 20, 2017
Prepared by: Jennifer H. Bedford
Committee Counsel

OVERVIEW: *The PCS for Senate Bill 388 would require reports ordered by courts of a criminal defendant's capacity to proceed to be released to clinicians at the program where the defendant is receiving capacity restoration and to clinicians designated by the Secretary of Health and Human Services; and create a workgroup to evaluate the process and impact of capacity determination.*

CURRENT LAW: The question of a criminal defendant's capacity to proceed may be raised at any time on motion of the prosecutor, defendant, defense counsel, or the court. In the event the issue is raised, the court must hold a hearing to determine the defendant's capacity to proceed and the court may appoint one or more impartial medical experts or a State facility to examine the defendant and generate a report that is admissible at the hearing. In ordering an examination, the judge must also order the release of relevant confidential information to the examiner, including the warrant or indictment, criminal record, jail records, any prior medical and mental health records of the defendant and any school records of the defendant after providing the defendant with reasonable notice and an opportunity to be heard and then determining that the information is relevant and necessary to the hearing of the matter before the court and unavailable from any other source.

Any report made to the court must be forwarded to the clerk of superior court in a sealed envelope to the attention of a presiding judge and a covering statement to the clerk of the fact of the examination of the defendant and any conclusion as to whether or not the defendant has capacity to proceed. If the defendant is being held in the custody of the sheriff, the clerk must send a copy of the covering statement to the sheriff, who must maintain the covering statement as a confidential record. A copy of the full report must be sent to the defendant or his counsel, and if the question of the defendant's capacity to proceed is raised at any time, the full report must be forwarded to the district attorney. The contents of the full report must be kept under such conditions as directed by the court and may not be revealed except as directed by the court. The report is not a public record unless introduced into evidence.

BILL ANALYSIS: The PCS for Senate Bill 388 would require the report and relevant confidential information the judge ordered released to the examiner in the preparation of the report to be released to: clinicians at the program where the defendant is receiving capacity restoration; and to clinicians designated by the Secretary of Health and Human Services.

The PCS would also create a workgroup of stakeholders to evaluate the process and impact of the lacks capacity to proceed determination.

EFFECTIVE DATE: This act would be effective when it becomes law.

Karen Cochran-Brown
Director



Legislative Analysis
Division
919-733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 388
PROPOSED HOUSE COMMITTEE SUBSTITUTE S388-CSTT-36 [v.2]
06/20/2017 4:51:44 PM

Short Title: Incapacity to Proceed.

(Public)

Sponsors: Senator Randleman (Primary Sponsor).

Referred to:

March 27, 2017

A BILL TO BE ENTITLED
AN ACT TO ALLOW REPORTS RECEIVED BY THE COURT ON THE LACK OF
CAPACITY TO PROCEED TO BE SHARED WITH TREATMENT PROVIDERS; AND
TO STUDY THE LACK OF CAPACITY TO PROCEED PROCESS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-1002(d) reads as rewritten:

"(d) Any report made to the court pursuant to this section shall be forwarded to the clerk of superior court in a sealed envelope addressed to the attention of a presiding judge, with a covering statement to the clerk of the fact of the examination of the defendant and any conclusion as to whether the defendant has or lacks capacity to proceed. If the defendant is being held in the custody of the sheriff, the clerk shall send a copy of the covering statement to the sheriff. The sheriff and any persons employed by the sheriff shall maintain the copy of the covering statement as a confidential record. A copy of the full report shall be forwarded to defense counsel or to the defendant if he is not represented by counsel. If the question of the defendant's capacity to proceed is raised at any time, a copy of the full report must be forwarded to the district attorney, as provided in G.S. 122C-54(b). Until such report becomes a public record, the full report to the court shall be kept under such conditions as are directed by the court, and its contents shall not be revealed except the report and the relevant confidential information previously ordered released under subdivision (b)(4) of this section shall be released as follows: (i) to clinicians at the program where the defendant is receiving capacity restoration; (ii) to clinicians designated by the Secretary of Health and Human Services, and (iii) as directed by the court. Any report made to the court pursuant to this section shall not be a public record unless introduced into evidence."

SECTION 2. The Department of Health and Human Services shall convene a workgroup to evaluate the laws governing the lack of capacity to proceed process, including the impact of the laws on the limited resources of the community mental health system, hospitals, state psychiatric hospitals, local law enforcement, court system, jails, crime victims, and criminal defendants. The workgroup shall be comprised of criminal justice and mental health experts who work directly with individuals who have been determined to lack the capacity to proceed and shall include at least one representative from each of the following groups, agencies, or organizations:

- (1) The Attorney General or his designee;
- (2) The Director of the Administrative Office of the Courts or his designee;
- (3) The President of the Conference of District Attorneys or his designee;
- (4) The President of the Association of Defense Attorneys or his designee;
- (5) The President of the Sheriff's Association or his designee;



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- (6) The President of the District Court Judges Association or his designee;
- (7) The President of the Superior Court Judges Association or his designee;
- (8) A forensic expert from a State Psychiatric Hospital; and
- (9) An advocate for individuals who have been determined to lack the capacity to proceed.

SECTION 3(a). Preliminary report. The Department of Health and Human Services shall present preliminary findings of the work group to the following stakeholder organizations:

- (1) North Carolina Sheriff's Association
- (2) North Carolina Psychiatric Association
- (3) North Carolina Council of Community Programs
- (4) North Carolina Conference of District Attorneys
- (5) North Carolina Hospital Association
- (6) North Carolina Association of County Commissioners
- (7) National Alliance on Mental Illness
- (8) North Carolina Indigent Defense Services

SECTION 3(b). Final report. After consultation with these stakeholder organizations, the workgroup shall finalize recommendations for improvements to the system, including any legislative proposals and the Department of Health and Human Services shall report to the Joint Legislative Oversight Committees on Health and Human Services and on Justice and Public Safety by February 1, 2018. The report shall include findings and recommendations on the following:

- (1) Issues within the system that impact an individual who lacks capacity to proceed to trial, and the process to determine capacity.
- (2) Issues that create barriers within the system that negatively impact service providers, including jails, courts, hospitals, and law enforcement agencies, in their efforts to serve an individual who lacks the capacity to proceed.
- (3) Solutions to reduce the number of persons who lack the capacity to proceed; the number of persons who are referred to the State psychiatric hospitals; and reduce the number of stays in the hospitals beyond the clinical needs of the person who lacks the capacity to proceed.

SECTION 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 388

Short Title: Incapacity to Proceed. (Public)

Sponsors: Senator Randleman (Primary Sponsor).

Referred to: Rules and Operations of the Senate

March 27, 2017

A BILL TO BE ENTITLED
AN ACT TO ALLOW REPORTS RECEIVED BY THE COURT ON INCAPACITY TO
PROCEED TO BE SHARED WITH TREATMENT PROVIDERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-1002(d) reads as rewritten:

"(d) Any report made to the court pursuant to this section shall be forwarded to the clerk of superior court in a sealed envelope addressed to the attention of a presiding judge, with a covering statement to the clerk of the fact of the examination of the defendant and any conclusion as to whether the defendant has or lacks capacity to proceed. If the defendant is being held in the custody of the sheriff, the clerk shall send a copy of the covering statement to the sheriff. The sheriff and any persons employed by the sheriff shall maintain the copy of the covering statement as a confidential record. A copy of the full report shall be forwarded to defense counsel, or to the defendant if he is not represented by counsel. If the question of the defendant's capacity to proceed is raised at any time, a copy of the full report must be forwarded to the district attorney, as provided in G.S. 122C-54(b). Until such report becomes a public record, the full report to the court shall be kept under such conditions as are directed by the court, and its contents shall not be revealed except the report and the relevant confidential information previously ordered released under subdivision (b)(4) of this section shall be released as follows: (i) to clinicians at the program where the defendant is receiving capacity restoration; (ii) to clinicians designated by the Secretary of Health and Human Services, and (iii) as directed by the court. Any report made to the court pursuant to this section shall not be a public record unless introduced into evidence."

SECTION 2. This act is effective when it becomes law.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 388
PROPOSED HOUSE COMMITTEE SUBSTITUTE S388-CSTT-36 [v.2]
06/20/2017 4:51:44 PM

Short Title: Incapacity to Proceed.

(Public)

Sponsors: Senator Randleman (Primary Sponsor).

Referred to:

March 27, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW REPORTS RECEIVED BY THE COURT ON THE LACK OF
3 CAPACITY TO PROCEED TO BE SHARED WITH TREATMENT PROVIDERS; AND
4 TO STUDY THE LACK OF CAPACITY TO PROCEED PROCESS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 15A-1002(d) reads as rewritten:

7 "(d) Any report made to the court pursuant to this section shall be forwarded to the clerk
8 of superior court in a sealed envelope addressed to the attention of a presiding judge, with a
9 covering statement to the clerk of the fact of the examination of the defendant and any
10 conclusion as to whether the defendant has or lacks capacity to proceed. If the defendant is
11 being held in the custody of the sheriff, the clerk shall send a copy of the covering statement to
12 the sheriff. The sheriff and any persons employed by the sheriff shall maintain the copy of the
13 covering statement as a confidential record. A copy of the full report shall be forwarded to
14 defense counsel or to the defendant if he is not represented by counsel. If the question of the
15 defendant's capacity to proceed is raised at any time, a copy of the full report must be
16 forwarded to the district attorney, as provided in G.S. 122C-54(b). Until such report becomes a
17 public record, the full report to the court shall be kept under such conditions as are directed by
18 the court, and its contents shall not be revealed except the report and the relevant confidential
19 information previously ordered released under subdivision (b)(4) of this section shall be
20 released as follows: (i) to clinicians at the program where the defendant is receiving capacity
21 restoration; (ii) to clinicians designated by the Secretary of Health and Human Services, and
22 (iii) as directed by the court. Any report made to the court pursuant to this section shall not be a
23 public record unless introduced into evidence."

24 SECTION 2. The Department of Health and Human Services shall convene a
25 workgroup to evaluate the laws governing the lack of capacity to proceed process, including the
26 impact of the laws on the limited resources of the community mental health system, hospitals,
27 state psychiatric hospitals, local law enforcement, court system, jails, crime victims, and
28 criminal defendants. The workgroup shall be comprised of criminal justice and mental health
29 experts who work directly with individuals who have been determined to lack the capacity to
30 proceed and shall include at least one representative from each of the following groups,
31 agencies, or organizations:

- 32 (1) The Attorney General or his designee;
33 (2) The Director of the Administrative Office of the Courts or his designee;
34 (3) The President of the Conference of District Attorneys or his designee;
35 (4) The President of the Association of Defense Attorneys or his designee;
36 (5) The President of the Sheriff's Association or his designee;





- (6) The President of the District Court Judges Association or his designee;
- (7) The President of the Superior Court Judges Association or his designee;
- (8) A forensic expert from a State Psychiatric Hospital; and
- (9) An advocate for individuals who have been determined to lack the capacity to proceed.

SECTION 3(a). Preliminary report. The Department of Health and Human Services shall present preliminary findings of the work group to the following stakeholder organizations:

- (1) North Carolina Sheriff's Association
- (2) North Carolina Psychiatric Association
- (3) North Carolina Council of Community Programs
- (4) North Carolina Conference of District Attorneys
- (5) North Carolina Hospital Association
- (6) North Carolina Association of County Commissioners
- (7) National Alliance on Mental Illness
- (8) North Carolina Indigent Defense Services

SECTION 3(b). Final report. After consultation with these stakeholder organizations, the workgroup shall finalize recommendations for improvements to the system, including any legislative proposals and the Department of Health and Human Services shall report to the Joint Legislative Oversight Committees on Health and Human Services and on Justice and Public Safety by February 1, 2018. The report shall include findings and recommendations on the following:

- (1) Issues within the system that impact an individual who lacks capacity to proceed to trial, and the process to determine capacity.
- (2) Issues that create barriers within the system that negatively impact service providers, including jails, courts, hospitals, and law enforcement agencies, in their efforts to serve an individual who lacks the capacity to proceed.
- (3) Solutions to reduce the number of persons who lack the capacity to proceed; the number of persons who are referred to the State psychiatric hospitals; and reduce the number of stays in the hospitals beyond the clinical needs of the person who lacks the capacity to proceed.

SECTION 4. This act is effective when it becomes law.





SENATE BILL 104: Require Criminal BGC/Pharmacist Licensure.

2017-2018 General Assembly

Committee:	House Judiciary I	Date:	June 21, 2017
Introduced by:	Sen. Tillman	Prepared by:	*Jennifer H. Bedford
Analysis of:	First Edition		Committee Counsel

OVERVIEW: *Senate Bill 104 would make a number of technical changes to G.S. 90-85.15, which governs applications and requirements for licensure as a pharmacist, and mandate that the Board of Pharmacy require applicants for a pharmacy license to provide the Board with a criminal history report, at the applicant's expense, from a reporting service designated by the Board.*

CURRENT LAW: G.S. 90-85.15(c) allows the Department of Public Safety (DPS) to provide a criminal record check to the Board of Pharmacy for applicants for a pharmacy license. Currently, the Board is not required to request a background check, but if it does, it must submit a request that includes the fingerprints of the applicant and any additional information required by DPS. DPS then must send the applicant's fingerprints to the State and Federal Bureaus of Investigation for criminal history checks. The Board must keep any information pursuant to this law privileged and confidential, in accordance with applicable State law and the Board may charge each applicant a fee for conducting the criminal history check.

BILL ANALYSIS: Senate Bill 104 would make a number of technical changes to G.S. 90-85.15 and mandate that the Board of Pharmacy require applicants for a pharmacy license to provide the Board with a criminal record report from a reporting system that would be designated by the Board. Information from these reports would remain privileged and confidential in accordance with State law and federal guidelines, and applicants would be required to pay the designated reporting service for the cost of the report.

EFFECTIVE DATE: This act would become effective January 1, 2018.

*Gus Willis, Staff Attorney, substantially contributed to this document.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 104

Short Title: Require Criminal BGC/Pharmacist Licensure. (Public)
Sponsors: Senators Tillman (Primary Sponsor); and Rabin.
Referred to: Rules and Operations of the Senate

February 20, 2017

A BILL TO BE ENTITLED
AN ACT REQUIRING CRIMINAL BACKGROUND CHECKS FOR APPLICANTS FOR
PHARMACIST LICENSURE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-85.15 reads as rewritten:

"§ 90-85.15. ~~Application and examination~~Application, qualifications, and criminal record
check for licensure as a pharmacist; prerequisites.

(a) ~~Any person who desires to be licensed~~Each applicant for licensure under this Article as
a pharmacist shall file an application with the Executive Director on the form furnished by the
Board, verified under oath, setting forth ~~the~~all of the following:

(1) ~~The applicant's name, age, the~~The applicant's name.

(2) ~~The applicant's age.~~

(3) ~~The place at which and the time that he the applicant has spent in the study of~~
pharmacy, and his pharmacy.

(4) ~~The applicant's experience in compounding and dispensing prescriptions under~~
the supervision of a pharmacist.

~~The applicant shall also appear at a time and place designated by the Board and submit to an~~
~~examination as to his qualifications for being licensed. The applicant must demonstrate to the~~
~~Board his physical and mental competency to practice pharmacy.~~

(b) ~~On or after July 1, 1982, all applicants shall have received~~The Board shall license an
applicant to practice pharmacy if, in addition to completing an application as specified in
subsections (a) of this section, the applicant meets all of the following qualifications:

(1) ~~Holds an undergraduate degree from a school of pharmacy approved by the~~
Board. Applicants shall be required to have had

(2) ~~Has had up to one year of experience, approved by the Board, under the~~
supervision of a pharmacist and shall pass pharmacist.

(3) ~~Has passed the required examination offered by the Board. Upon completing~~
~~these requirements and upon paying the required fee, the applicant shall be~~
~~licensed.~~

(4) ~~Has appeared at a time and place designated by the Board and submitted to an~~
examination as to the applicant's qualifications for being licensed. The applicant
must demonstrate to the Board the physical and mental competency to practice
pharmacy.

(c) ~~The Department of Public Safety may provide a criminal record check to the Board for~~
~~a person who has applied for a license through the Board. The Board shall provide to the~~
~~Department of Public Safety, along with the request, the fingerprints of the applicant, any~~



1 additional information required by the Department of Public Safety, and a form signed by the
2 applicant consenting to the check of the criminal record and to the use of the fingerprints and other
3 identifying information required by the State or national repositories. The applicant's fingerprints
4 shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history
5 record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the
6 Federal Bureau of Investigation for a national criminal history check. The Board shall keep all
7 information pursuant to this subsection privileged, in accordance with applicable State law and
8 federal guidelines, and the information shall be confidential and shall not be a public record under
9 Chapter 132 of the General Statutes.

10 The Department of Public Safety may charge each applicant a fee for conducting the checks of
11 criminal history records authorized by this subsection. The Board shall require each applicant to
12 provide the Board with a criminal record report. All applicants shall obtain criminal record reports
13 from one or more reporting services designated by the Board to provide criminal record reports.
14 The Board shall keep all information obtained pursuant to this subsection privileged, in
15 accordance with applicable State law and federal guidelines, and the information shall be
16 confidential and shall not be a public record under Chapter 132 of the General Statutes. Applicants
17 are required to pay the designated reporting service for the cost of these reports."

18 **SECTION 2.** This act becomes effective January 1, 2018.





SENATE BILL 124: LEO Managed CBD Oil Drop Box.

2017-2018 General Assembly

Committee:	House Judiciary I. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	June 19, 2017
Introduced by:	Sens. D. Davis, Hise	Prepared by:	Bill Patterson
Analysis of:	Second Edition		Committee Co-Counsel

OVERVIEW: *Senate Bill 124 would require that all residual oil from hemp extract that is lawfully possessed by a caregiver for treatment of a patient diagnosed with intractable epilepsy must be disposed of at a secure collection box that is managed by law enforcement.*

CURRENT LAW: The North Carolina Controlled Substances Act (CSA) establishes criminal penalties for the possession of cannabis as a Schedule VI drug.¹ Possession of cannabis in the form of hemp extract is punishable as a Class 3 misdemeanor or higher.²

Under an exemption from the CSA, however, a caregiver may lawfully possess and use hemp extract to treat a patient for a patient diagnosed with intractable epilepsy³ in accordance with requirements set forth in the Epilepsy Alternative Treatment Act (EATA).⁴

Under the EATA, a neurologist may lawfully approve the dispensation of hemp extract to a caregiver for a patient diagnosed with intractable epilepsy who is registered by the Department of Health and Human Services.

BILL ANALYSIS:

Section 1 of the Senate Bill 124 would require caregivers possessing or using hemp extract to dispose of all residual oil from the extract at a secure collection box managed by a law enforcement agency. No criminal penalty would result from a violation of this disposal requirement.

Section 2 would require a neurologist who approves of dispensation of hemp extract to a registered caregiver to inform the caregiver of the requirement that all residual oil must be disposed of at a secure collection box managed by law enforcement.

EFFECTIVE DATE: This act would become effective December 1, 2017.

¹ G.S. 90-94.

² G.S. 90-95(d)(4).

³ "Intractable epilepsy" is defined as a seizure disorder, as determined by a neurologist, that does not respond to three or more treatment options. G.S. 90-113.101(6).

⁴ Article 5 of Chapter 90 of the General Statutes.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 124
Rules and Operations of the Senate Committee Substitute Adopted 3/9/17

Short Title: LEO Managed CBD Oil Drop Box. (Public)

Sponsors:

Referred to:

February 23, 2017

A BILL TO BE ENTITLED
AN ACT TO REQUIRE RESIDUAL OIL FROM HEMP EXTRACT TO BE DISPOSED AT
ESTABLISHED SPECIFIC SECURE COLLECTION BOXES MANAGED BY LAW
ENFORCEMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-94.1 reads as rewritten:

"§ 90-94.1. Exemption for use or possession of hemp extract.

(a) As used in this section, "hemp extract" means an extract from a cannabis plant, or a mixture or preparation containing cannabis plant material, that has all of the following characteristics:

- (1) Is composed of less than nine-tenths of one percent (0.9%) tetrahydrocannabinol by weight.
- (2) Is composed of at least five percent (5%) cannabidiol by weight.
- (3) Contains no other psychoactive substance.

(b) Notwithstanding any other provision of this Chapter, an individual may possess or use hemp extract, and is not subject to the penalties described in this Chapter, if the individual satisfies all of the following criteria:

- (1) Possesses or uses the hemp extract only to treat intractable epilepsy, as defined in G.S. 90-113.101.
- (2) Possesses, in close proximity to the hemp extract, a certificate of analysis that indicates the hemp extract's ingredients, including its percentages of tetrahydrocannabinol and cannabidiol by weight.
- (3) Is a caregiver, as defined in G.S. 90-113.101.

(c) Notwithstanding any other provision of this Chapter, an individual who possesses hemp extract lawfully under this section may administer hemp extract to another person under the individual's care and is not subject to the penalties described in this Chapter for administering the hemp extract to the person if the individual is the person's caregiver, as defined in G.S. 90-113.101.

(d) Any individual who possesses or uses hemp extract, as defined under this section, shall dispose of all residual oil from the extract at a secure collection box managed by a law enforcement agency. No criminal penalty shall attach for any violation of this subsection."

SECTION 2. G.S. 90-113.105 reads as rewritten:

"§ 90-113.105. Immunity for neurologists; confidentiality.

(a) On a case-by-case basis, neurologists may approve of dispensation to a registered caregiver, as approved by this Article, hemp extract acquired from another jurisdiction.



1 (a1) Neurologists who approve of dispensation of hemp extract to a registered caregiver, as
2 approved by this Article, shall inform the registered caregiver of the requirement that disposal
3 must be done at a secure collection box pursuant to G.S. 90-94.1.

4 (b) A neurologist shall not be subject to arrest or prosecution, penalized or disciplined in
5 any manner, or denied any right or privilege for approving or recommending the use of hemp
6 extract or providing a written statement for the use of hemp extract pursuant to this Article.

7 (c) Repealed by Session Laws 2015-154, s. 7, effective July 16, 2015.

8 (d) The identities of the caregivers, patients, and neurologists reported to the Department
9 pursuant to this Article are confidential and are not matters of public record. However, this
10 information may be provided to law enforcement agencies pursuant to G.S. 9-113.102."

11 **SECTION 3.** This act becomes effective December 1, 2017.





HOUSE BILL 451: Regulate Massage & Bodywork Therapy Estmts.

2017-2018 General Assembly

Committee:	House Judiciary I	Date:	June 19, 2017
Introduced by:	Reps. McNeill, Bert Jones, R. Turner, Hurley	Prepared by:	Bill Patterson
Analysis of:	PCS to First Edition H451-CSTG-32		Committee Co-Counsel

OVERVIEW: *The Proposed Committee Substitute for House Bill 451 would require massage and bodywork therapy establishments to be licensed by the NC Board of Massage and Bodywork Therapy and would make it a Class 1 misdemeanor to employ a person who is not licensed to provide massage and bodywork therapy services. The new establishment license has a fee schedule. The PCS modifies the effective date for the new criminal offense, excludes massage businesses from the definition of "adult establishment," requires massage and bodywork therapists to obtain a statewide privilege license, and makes other technical and conforming changes to the bill.*

CURRENT LAW: Pursuant to Article 36 of Chapter 90 of the General Statutes the NC Board of Massage and Bodywork Therapy licenses and regulates individual therapists. Establishments where the massage and bodywork therapy services are provided are not subject to regulation by the Board.

BILL ANALYSIS:

Sections 1 through 12 of the PCS would make a number of changes to Article 36 of Chapter 90 to expand the authority of the NC Board of Massage and Bodywork Therapy to regulate and license establishments where massage and bodywork therapists work.

Obtaining a license to operate a massage and bodywork therapy establishment would require:

- Proof of property damage and bodily injury liability insurance coverage.
- Fingerprint cards and consent to a criminal history record check.
- Proof of good moral character.
- Self-evaluation inspection report demonstrating compliance with governing law.
- Proof that the establishment employs or plans to employ only massage and bodywork therapists who hold a current license.

Massage and bodywork therapy establishments would be required to pay the following fees relating to licensure: application for license: \$20; initial license fee, \$150; license renewal, \$100; late renewal penalty, \$75; duplicate license, \$25; and inspection of establishment, \$150. This fee schedule would be identical to the fee schedule applicable to massage and bodywork therapists, except for the \$150 establishment inspection fee. Sexual activity or solicitation of sexual activity in these establishments would be prohibited.

The PCS would make it a criminal offense punishable as a Class 1 misdemeanor to aid, employ or otherwise contract with a person who is not licensed or exempt from licensure to practice of massage

Karen Cochrane-Brown
Director



Legislative Analysis
Division
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House PCS 451

Page 2

and bodywork therapy, or to advertise the services of an unlicensed person as a massage and bodywork therapist.

Section 13 would exclude massage businesses from the definition of "adult establishment" in Article 26A of Chapter 14 ("Adult Establishments") and would make other related conforming changes in Article 26A.

Section 14 would require massage and bodywork therapists to obtain a statewide privilege license from the Secretary of State and would exempt them from privilege taxes levied by cities and counties.

EFFECTIVE DATE: The new criminal offense would be effective December 1, 2017 and apply to offenses occurring on or after that date. The remaining provisions would be effective October 1, 2017.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2017

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D

HOUSE BILL 451

PROPOSED COMMITTEE SUBSTITUTE H451-CSTGx-32 [v.6]

06/20/2017 5:59:19 PM

Short Title: Regulate Massage & Bodywork Therapy Estmts.

(Public)

Sponsors:

Referred to:

March 23, 2017

1 A BILL TO BE ENTITLED
2 AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF MASSAGE AND
3 BODYWORK THERAPY TO REGULATE MASSAGE AND BODYWORK THERAPY
4 ESTABLISHMENTS AND REQUIRING MASSAGE AND BODYWORK THERAPISTS
5 TO OBTAIN A STATEWIDE PRIVILEGE LICENSE.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. G.S. 90-621 reads as rewritten:

8 "§ 90-621. Declaration of purpose.

9 The purpose of this Article is to ensure the protection of the health, safety, and welfare of
10 the citizens of this State receiving massage and bodywork therapy services. This purpose is
11 achieved by establishing by:

12 (1) Establishing education and testing standards that ensure competency in the
13 practice of massage and bodywork therapy. Mandatory licensure of those
14 engaged in the practice of massage and bodywork therapy assures the public
15 that each individual has satisfactorily met the standards of the profession and
16 continues to meet both the ethical and competency goals of the profession.

17 (2) Establishing standards for establishments that provide massage and
18 bodywork therapy services. Mandatory licensure of those who own or
19 operate massage and bodywork therapy establishments assures the public
20 that these establishments provide legal, professional services and employ
21 licensed massage and bodywork therapists who have satisfactorily met the
22 standards of the profession and continue to meet both the ethical and
23 competency goals of the profession."

24 SECTION 2. G.S. 90-622 reads as rewritten:

25 "§ 90-622. Definitions.

26 The following definitions apply in this Article:

27 (1) Accreditation. – Status granted to a postsecondary institution of higher
28 learning that has met standards set by an accrediting agency recognized by
29 the Secretary of the United States Department of Education. The
30 accreditation for massage and bodywork schools may be institutional or
31 programmatic in nature.

32 (1a) Board. – The North Carolina Board of Massage and Bodywork Therapy.

33 (2) Board-approved school. – Any massage and bodywork therapy school or
34 training program in this State or another state that is not otherwise exempt
35 from Board approval, that has met the standards set forth in this Article, and
36 been granted approval by the Board.



1 (2a) Business name. – The name under which the owner applies for the
2 establishment license to provide massage therapy, if different from the name
3 of the owner.

4 (2a)(2b) Criminal history record check. – A report resulting from a request made
5 by the Board to the North Carolina Department of Public Safety for a history
6 of conviction of a crime, whether a misdemeanor or felony, that bears on an
7 applicant's fitness for licensure to practice massage and bodywork therapy.

8 (3) Massage and bodywork therapy. – Systems of activity applied to the soft
9 tissues of the human body for therapeutic, educational, or relaxation
10 purposes. The application may include:

11 a. Pressure, friction, stroking, rocking, kneading, percussion, or passive
12 or active stretching within the normal anatomical range of
13 movement.

14 b. Complementary methods, including the external application of water,
15 heat, cold, lubricants, and other topical preparations.

16 c. The use of mechanical devices that mimic or enhance actions that
17 may possibly be done by the hands.

18 (3a) Massage and bodywork therapy establishment. – Any duly licensed site or
19 premises in which massage and bodywork therapy is practiced. This term
20 does not include any of the following:

21 a. On-site massage performed at the location of the customer.

22 b. Stand-alone devices, such as chairs, that are operated by the
23 customer.

24 c. Establishments located within the confines of a hospital, nursing
25 home, or other similar establishment or facility licensed or otherwise
26 regulated by the Department of Health and Human Services.

27 d. Massage and bodywork therapy provided by a sole practitioner.

28 e. A student clinic operated by a Board-approved school or a massage
29 and bodywork therapy program offered by community colleges in
30 North Carolina that are accredited by the Southern Association of
31 Colleges and Schools, or massage and bodywork therapy programs
32 offered by a degree or diploma granting college or university
33 accredited by any accrediting agency that is recognized by the United
34 States Department of Education and licensed by the North Carolina
35 Community College System or The University of North Carolina
36 Board of Governors or exempt from such licensure pursuant to
37 G.S. 116-15(c).

38 (3a)(3b) Massage and bodywork therapy school. – Any educational institution
39 that conducts a training program or curriculum for a tuition charge, which is
40 intended to teach adults the knowledge, skills, and abilities necessary for the
41 safe, effective, and ethical practice of massage and bodywork therapy.

42 (4) Massage and bodywork therapist. – A person licensed under this Article.

43 (4a) Owner. – The person, sole proprietor, partnership, limited partnership, or
44 corporation that operates the massage and bodywork therapy establishment.

45 (5) Practice of massage and bodywork therapy. – The application of massage
46 and bodywork therapy to any person for a fee or other consideration.

47 (6) Sole practitioner. – A single licensed massage and bodywork therapist
48 offering massage or bodywork therapy services from a space the licensed
49 massage and bodywork therapist controls and from which only the licensed
50 massage and bodywork therapist offers and provides the services."

51 SECTION 3. The catch line of G.S. 90-623 reads as rewritten:

1 "§ 90-623. License to practice required."

2 SECTION 4. The catch line of G.S. 90-624 reads as rewritten:

3 "§ 90-624. Exemptions-Activities not requiring a license to practice."

4 SECTION 5. Subdivision (9) of G.S. 90-626 reads as rewritten:

5 "(9) Adopt, amend, or repeal any rules of the following rules:

6 a. Rules necessary to carry out the purposes of this Article and Article.

7 b. Rules necessary to carry out the duties and responsibilities of the
8 Board, including rules the following:

9 1. Rules related to the approval of massage and bodywork
10 therapy schools, continuing education providers,
11 examinations for licensure, and the practice of advanced
12 techniques or specialties, and massage and bodywork therapy
13 establishments, specialties. Any rules adopted or amended
14 shall take into account the educational standards of national
15 bodywork and massage therapy associations and professional
16 organizations.

17 2. Rules related to massage and bodywork therapy
18 establishments."

19 SECTION 6. G.S. 90-628(b) reads as rewritten:

20 "(b) The Board may impose the following fees up to the amounts listed below:below for
21 a license to practice massage and bodywork therapy:

22 (1) Application for license\$20.00
23 (2) Initial license fee150.00
24 (3) License renewal100.00
25 (4) Late renewal penalty75.00
26 (5) Repealed by Session Laws 2008-224, s. 8, effective August 17, 2008.
27 (6) Duplicate license25.00
28 (7) Repealed by Session Laws 2008-224, s. 8, effective August 17, 2008."

29 SECTION 7. G.S. 90-629 reads as rewritten:

30 "§ 90-629. Requirements for licensure-licensure to practice.

31 Upon application to the Board and the payment of the required fees, an applicant may be
32 licensed as a massage and bodywork therapist if the applicant meets all of the following
33 qualifications:

- 34 (1) Has obtained a high school diploma or equivalent.
35 (2) Is 18 years of age or older.
36 (3) Is of good moral character as determined by the Board.
37 (4) Has successfully completed a training program consisting of a minimum of
38 500 in-class hours of supervised instruction at a Board-approved school.
39 (5) Has passed a competency assessment examination that meets generally
40 accepted psychometric principles and standards and is approved by the
41 Board.
42 (6) Has submitted fingerprint cards in a form acceptable to the Board at the time
43 the license application is filed and consented to a criminal history record
44 check by the North Carolina Department of Public Safety.
45 (7) Demonstrates satisfactory proof of proficiency in the English language."

46 SECTION 8. G.S. 90-629.1 reads as rewritten:

47 "§ 90-629.1. Criminal history record checks of applicants for licensure-licensure to
48 practice and for ownership or operation of an establishment.

49 (a) All applicants for licensure to practice massage and bodywork therapy or to operate
50 a massage and bodywork therapy establishment shall consent to a criminal history record
51 check. Refusal to consent to a criminal history record check may constitute grounds for the

Board to deny licensure to an applicant. 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 Public Safety the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories, and any additional information required by the Department of Public Safety. The Board shall keep all information obtained pursuant to this section confidential.

...."

SECTION 9. The catch line of G.S. 90-630.1 reads as rewritten:

"§ 90-630.1. Licensure to practice by endorsement."

SECTION 10. G.S. 90-632 is recodified as G.S. 90-630.5 and reads as rewritten:

"§ 90-630.5. ~~Licene renewal and~~Renewal of license to practice and license to operate massage and bodywork therapy establishment; continuing education.

(a) The license to practice ~~and the license to operate a massage and bodywork therapy establishment~~ under this Article shall be renewed every two years.

(b) The continuing education requirement for the ~~renewal of an~~ initial license ~~renewal to practice~~ is as follows:

(1) If the licensure period is two years or more, each licensee shall submit to the Board evidence of the successful completion of at least 24 hours of study, as approved by the Board, since the initial licensure application date in the practice of massage and bodywork therapy.

(2) If the licensure period is less than two years, but more than one year, each licensee shall submit to the Board evidence of the successful completion of at least 12 hours of study, as approved by the Board, since the initial licensure application date in the practice of massage and bodywork therapy.

(c) For subsequent ~~renewals of a license renewals to practice~~, each licensee shall submit to the Board evidence of the successful completion of at least 24 hours of study, as approved by the Board, since the previous licensure renewal submission date in the practice of massage and bodywork therapy."

SECTION 11. Article 36 of Chapter 90 of the General Statutes is amended by adding new sections to read:

"§ 90-632.10. Massage and bodywork therapy establishment license required.

The Board shall license massage and bodywork therapy establishments in this State for the purpose of protecting the health, safety, and welfare of the public. Unless otherwise exempt from the Board licensure process, no individual, association, partnership, corporation, or other entity shall open, operate, or advertise a massage and bodywork therapy establishment in this State unless it has first been licensed by the Board. The Board shall maintain a list of licensed massage and bodywork therapy establishments operating pursuant to this Article.

"§ 90-632.11. Requirements for massage and bodywork therapy establishment licensure.

(a) Any person who wishes to operate a massage and bodywork therapy establishment shall obtain a license from the Board by submitting a massage and bodywork therapy establishment licensure application accompanied by all of the following:

(1) The applicable fee set forth in G.S. 90-632.14.

(2) Proof of property damage and bodily injury liability insurance coverage in the name of the owner or, if the establishment is operated under a business name, in the name of both the owner and the business.

(3) Prior licensure and disciplinary history, including verifications from all North Carolina licensing boards from which the owner holds or has held any health related professional license.

- (4) Fingerprint cards submitted in accordance with G.S. 90-629.1 at the time the license application is filed and consented to a criminal history record check by the Department of Public Safety.
- (5) Ownership information, including at least all of the following:
- a. Type of ownership.
 - b. Name of owner.
 - c. Name of authorized representative.
 - d. Address of establishment.
 - e. Social Security number or federal tax identification number.
 - f. E-mail address.
 - g. Current phone number.
 - h. Hours of operation.
- (6) Proof of good moral character as determined by the Board.
- (7) Signature of all owners or authorized corporate representatives or both.
- (8) A successfully completed self-evaluation inspection report demonstrating compliance with this section and any rules adopted pursuant to G.S. 90-632.13.
- (9) Proof that the establishment employs, hires, or plans to employ or hire one or more massage and bodywork therapists who hold a current license from the Board.

(b) The application for licensure shall be submitted in the name of the owner or owners of the establishment. If the owner is a corporation, the application shall be submitted in the name of the corporation and shall be signed by a corporate representative.

"§ 90-632.12. Operation of a massage and bodywork therapy establishment under a name different than the owner; advertisement.

(a) An owner may operate a licensed massage and bodywork therapy establishment under a name other than the name of the owner, provided such name is submitted to the Board on the application for licensure.

(b) Any advertisement by the massage and bodywork therapy establishment shall include the establishment's business name and shall comply with 21 NCAC 30 .0404.

"§ 90-632.13. Rules for massage and bodywork therapy establishment license.

The Board shall establish rules for the licensure of massage and bodywork therapy establishments. These rules shall include at least all of the following:

- (1) Requirements for adequate, safe, and sanitary facilities.
- (2) Requirements for compliance with local building code requirements, State fire safety codes, and State health inspection codes necessary to ensure the safe and effective practice of massage and bodywork therapy.
- (3) Requirements for retention of client and ownership records.
- (4) A description of the process used by the Board to approve massage and bodywork therapy establishment licenses.
- (5) Requirements for initial and periodic inspections of massage and bodywork therapy establishments.
- (6) Requirements for transfer of a massage and bodywork therapy establishment license.

"§ 90-632.14. Fees for massage and bodywork therapy establishment license.

(a) The Board may impose the following fees up to the amounts listed below for massage and bodywork therapy establishment licensure:

- | | | |
|-----|--------------------------------------|----------------|
| (1) | <u>Application for license</u> | <u>\$20.00</u> |
| (2) | <u>Initial license fee</u> | <u>150.00</u> |
| (3) | <u>License renewal</u> | <u>100.00</u> |
| (4) | <u>Late renewal penalty</u> | <u>75.00</u> |

- 1 (5) Duplicate license25.00
2 (6) Inspection of
3 establishment.....150.00

4 (b) All fees listed in subsection (a) of this section shall be paid in the form of a cashier's
5 check, certified check, or money order made payable to the North Carolina Board of Massage
6 and Bodywork Therapy and shall be nonrefundable.

7 **"§ 90-632.15. Grounds for suspension, revocation, or refusal of massage and bodywork**
8 **therapy establishment license; notice and hearing; judicial review.**

9 (a) The Board may deny, suspend, revoke, discipline, or refuse to approve a massage
10 and bodywork therapy establishment for any of the following reasons:

- 11 (1) The employment of fraud, deceit, or misrepresentation in obtaining or
12 attempting to obtain a massage and bodywork therapy establishment license.
13 (2) Engaging in any act or practice in violation of any of the provisions of this
14 Article or of any of the rules adopted by the Board, or aiding, abetting, or
15 assisting any other person in the violation of the provisions of this Article or
16 rules adopted by the Board.
17 (3) Failure to require that its employees or independent contractors be currently
18 licensed by the Board.
19 (4) Operating a massage and bodywork therapy establishment without a license
20 from this Board.
21 (5) Engaging in conduct that could result in harm or injury to the public.
22 (6) The employment of fraud, deceit, or misrepresentation when communicating
23 with the general public, health care professionals, or other business
24 professionals.
25 (7) Falsely holding out a massage and bodywork therapy establishment as
26 licensed by this Board.
27 (8) Failure to allow authorized representatives of the Board to conduct
28 inspections of the massage and bodywork therapy establishment or refusing
29 to make available to the Board, following written notice to the massage and
30 bodywork therapy establishment, the requested information pertaining to the
31 requirements for approval set forth in this Article.
32 (9) Failure to notify the Board in writing within 30 days of any notification it
33 receives from any state, local or federal court or agency of a show cause
34 action, probation action, or denial of licensure or approval.
35 (10) The applicant for or holder of a massage and bodywork therapy
36 establishment license has pleaded guilty, entered a plea of nolo contendere,
37 or has been found guilty of a crime involving moral turpitude by a judge or
38 jury in any state or federal court.

39 (b) A refusal to issue, refusal to renew, or suspension or revocation of a massage and
40 bodywork therapy establishment license under this section shall be made in accordance with
41 Chapter 150B of the General Statutes.

42 **"§ 90-632.16. Unlicensed massage and bodywork therapy prohibited at massage and**
43 **bodywork therapy establishments.**

44 A massage and bodywork therapy establishment shall not employ or contract with any
45 person in this State to provide massage and bodywork therapy unless that person holds a
46 current license to practice massage and bodywork therapy issued pursuant to this Article.

47 **"§ 90-632.17. Sexual activity prohibited.**

48 (a) Sexual activity or solicitation of sexual activity by any person or persons in any
49 massage and bodywork therapy establishment is unlawful and prohibited.

50 (b) No owner shall engage in or permit any person or persons to engage in sexual
51 activity in the owner's massage and bodywork therapy establishment. No owner shall engage in

1 or permit any person or persons to use the owner's massage and bodywork therapy
2 establishment to make arrangements to engage in sexual activity in any other place.

3 **"§ 90-632.18. Enforcement; injunctive relief against massage and bodywork therapy**
4 **establishments.**

5 The Board may utilize the enforcement and injunctive relief set forth in G.S.90-634 and
6 assess civil penalties and disciplinary costs as provided in G.S. 90-634.1 to address violations
7 of G.S. 90-632.10 through G.S. 90-632.17, any rules adopted pursuant to G.S. 90-632.13, or
8 any other laws or rules applicable to the operation of a a massage and bodywork therapy
9 establishment."

10 **SECTION 12.** G.S. 90-634 reads as rewritten:

11 **"§ 90-634. Enforcement; injunctive relief.**

12 (a) It is unlawful for a person not licensed or exempted under this Article to engage in
13 any of the following:

- 14 (1) Practice of massage and bodywork therapy.
- 15 (2) Advertise, represent, or hold out himself or herself to others to be a massage
16 and bodywork therapist.
- 17 (3) Use any title descriptive of any branch of massage and bodywork therapy, as
18 provided in G.S. 90-623, to describe his or her practice.

19 (b) A person who violates subsection (a) of this section shall be guilty of a Class 1
20 misdemeanor.

21 (b1) Unless exempt from the approval process, it is unlawful for an individual,
22 association, partnership, corporation, or other entity to open, operate, or advertise a massage
23 and bodywork therapy school without first having obtained the approval required by
24 G.S. 90-631.1.

25 (b2) An individual, association, partnership, corporation, or other entity that violates
26 subsection (b1) of this section shall be guilty of a Class 3 misdemeanor.

27 (b3) It is unlawful for a person, individual, association, partnership, corporation, or other
28 entity to do any of the following:

- 29 (1) Employ, hire, engage, or otherwise contract with a person who is not
30 licensed or exempted under this Article to provide massage and bodywork
31 therapy services to the public.
- 32 (2) Aid and abet any person not licensed or exempted under this Article in the
33 practice of massage and bodywork therapy.
- 34 (3) Advertise, represent, or hold out any person not licensed or exempted under
35 this Article to others as a massage and bodywork therapist.
- 36 (4) Describe the practice of any person not licensed or exempted under this
37 Article, or use any title descriptive of any branch of massage and bodywork
38 therapy to reference any such person in violation of G.S. 90-623.

39 (b4) A person who violates subsection (b3) of this section shall be guilty of a Class 1
40 misdemeanor.

41 (c) The Board may make application to superior court for an order enjoining a violation
42 of this Article. Upon a showing by the Board that a person, association, partnership,
43 corporation, or other entity has violated or is about to violate this Article, the court may grant
44 an injunction, restraining order, or take other appropriate action."

45 **SECTION 13.(a)** G.S. 14-202.10(2) reads as rewritten:

46 "(2) "Adult establishment" means an adult bookstore, adult motion picture
47 theatre, adult mini motion picture theatre, or adult live entertainment
48 business, or massage-business as defined in this section."

49 **SECTION 13.(b)** G.S. 14-202.10(7) and G.S. 14-202.10(8) are repealed.

50 **SECTION 13.(c)** G.S. 14-202.11 is amended by adding a new subsection to read as
51 follows:

1 "(a1) No person shall permit the practice of massage and bodywork therapy, as
2 defined in Article 36 of Chapter 90 of the General Statutes, in an adult establishment."

3 **SECTION 14.** G.S. 105-41(a) reads as rewritten:

4 **"§ 105-41. Attorneys-at-law and other professionals.**

5 (a) Every individual in this State who practices a profession or engages in a business
6 and is included in the list below must obtain from the Secretary a statewide license for the
7 privilege of practicing the profession or engaging in the business. A license required by this
8 section is not transferable to another person. The tax for each license is fifty dollars (\$50.00).

9 ...

10 (2) A physician, a veterinarian, a surgeon, an osteopath, a chiropractor, a
11 chiropractist, a dentist, an ophthalmologist, an optician, an optometrist, a
12 massage and bodywork therapist, or another person who practices a
13 professional art of healing.

14 "

15 **SECTION 15.** Sections 1 through 11 and Section 13 of this act become effective
16 October 1, 2017. Section 12 of this act becomes effective December 1, 2017, and applies to
17 offenses committed on or after that date. Section 14 of this act is effective when it becomes
18 law and applies to taxable years beginning on or after July 1, 2018. The remainder of this act is
19 effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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1

HOUSE BILL 451

Short Title: Regulate Massage & Bodywork Therapy Estmts. (Public)

Sponsors: Representatives McNeill, Bert Jones, R. Turner, and Hurley (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Regulatory Reform, if favorable, Finance, if favorable, Judiciary I

March 23, 2017

A BILL TO BE ENTITLED
AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF MASSAGE AND
BODYWORK THERAPY TO REGULATE MASSAGE AND BODYWORK THERAPY
ESTABLISHMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-621 reads as rewritten:

"§ 90-621. Declaration of purpose.

The purpose of this Article is to ensure the protection of the health, safety, and welfare of the citizens of this State receiving massage and bodywork therapy services. This purpose is achieved by establishing by:

- (1) Establishing education and testing standards that ensure competency in the practice of massage and bodywork therapy. Mandatory licensure of those engaged in the practice of massage and bodywork therapy assures the public that each individual has satisfactorily met the standards of the profession and continues to meet both the ethical and competency goals of the profession.
- (2) Establishing standards for establishments that provide massage and bodywork therapy services. Mandatory licensure of those who own or operate massage and bodywork therapy establishments assures the public that these establishments provide legal, professional services and employ licensed massage and bodywork therapists who have satisfactorily met the standards of the profession and continue to meet both the ethical and competency goals of the profession."

SECTION 2. G.S. 90-622 reads as rewritten:

"§ 90-622. Definitions.

The following definitions apply in this Article:

- (1) Accreditation. – Status granted to a postsecondary institution of higher learning that has met standards set by an accrediting agency recognized by the Secretary of the United States Department of Education. The accreditation for massage and bodywork schools may be institutional or programmatic in nature.
- (1a) Board. – The North Carolina Board of Massage and Bodywork Therapy.
- (2) Board-approved school. – Any massage and bodywork therapy school or training program in this State or another state that is not otherwise exempt from Board approval, that has met the standards set forth in this Article, and been granted approval by the Board.



- (2a) Business name. – The name under which the owner applies for the establishment license to provide massage therapy, if different from the name of the owner.
- (2a)(2b) Criminal history record check. – A report resulting from a request made by the Board to the North Carolina Department of Public Safety for a history of conviction of a crime, whether a misdemeanor or felony, that bears on an applicant's fitness for licensure to practice massage and bodywork therapy.
- (3) Massage and bodywork therapy. – Systems of activity applied to the soft tissues of the human body for therapeutic, educational, or relaxation purposes. The application may include:
- a. Pressure, friction, stroking, rocking, kneading, percussion, or passive or active stretching within the normal anatomical range of movement.
 - b. Complementary methods, including the external application of water, heat, cold, lubricants, and other topical preparations.
 - c. The use of mechanical devices that mimic or enhance actions that may possibly be done by the hands.
- (3a) Massage and bodywork therapy establishment. – Any duly licensed site or premises in which massage and bodywork therapy is practiced. This term does not include any of the following:
- a. On-site massage performed at the location of the customer.
 - b. Stand-alone devices, such as chairs, that are operated by the customer.
 - c. Establishments located within the confines of a hospital, nursing home, or other similar establishment or facility licensed or otherwise regulated by the Department of Health and Human Services.
 - d. Massage and bodywork therapy provided by a sole practitioner.
 - e. A student clinic operated by a Board-approved school or a massage and bodywork therapy program offered by community colleges in North Carolina that are accredited by the Southern Association of Colleges and Schools, or massage and bodywork therapy programs offered by a degree or diploma granting college or university accredited by any accrediting agency that is recognized by the United States Department of Education and licensed by the North Carolina Community College System or The University of North Carolina Board of Governors.
- (3a)(3b) Massage and bodywork therapy school. – Any educational institution that conducts a training program or curriculum for a tuition charge, which is intended to teach adults the knowledge, skills, and abilities necessary for the safe, effective, and ethical practice of massage and bodywork therapy.
- (4) Massage and bodywork therapist. – A person licensed under this Article.
- (4a) Owner. – The person, sole proprietor, partnership, limited partnership, or corporation that operates the massage and bodywork therapy establishment.
- (5) Practice of massage and bodywork therapy. – The application of massage and bodywork therapy to any person for a fee or other consideration.
- (6) Sole practitioner. – A single licensed massage and bodywork therapist offering massage or bodywork therapy services from a space the licensed massage and bodywork therapist controls and from which only the licensed massage and bodywork therapist offers and provides the services."

SECTION 3. The catch line of G.S. 90-623 reads as rewritten:

"§ 90-623. License to practice required."

SECTION 4. The catch line of G.S. 90-624 reads as rewritten:

"§ 90-624. ~~Exemptions.~~ Activities not requiring a license to practice."

SECTION 5. Subdivision (9) of G.S. 90-626 reads as rewritten:

"(9) Adopt, amend, or repeal any ~~rules of the following rules:~~

a. Rules necessary to carry out the purposes of this Article and Article.

b. Rules necessary to carry out the duties and responsibilities of the Board, including rules the following:

1. Rules related to the approval of massage and bodywork therapy schools, continuing education providers, examinations for licensure, and the practice of advanced techniques or specialties, and massage and bodywork therapy establishments. Any rules adopted or amended shall take into account the educational standards of national bodywork and massage therapy associations and professional organizations.

2. Rules related to massage and bodywork therapy establishments."

SECTION 6. G.S. 90-628(b) reads as rewritten:

"(b) The Board may impose the following fees up to the amounts listed ~~below:~~ below for a license to practice massage and bodywork therapy:

(1) Application for license\$20.00

(2) Initial license fee150.00

(3) License renewal100.00

(4) Late renewal penalty75.00

(5) Repealed by Session Laws 2008-224, s. 8, effective August 17, 2008.

(6) Duplicate license25.00

(7) Repealed by Session Laws 2008-224, s. 8, effective August 17, 2008."

SECTION 7. G.S. 90-629 reads as rewritten:

"§ 90-629. ~~Requirements for licensure.~~ licensure to practice.

Upon application to the Board and the payment of the required fees, an applicant may be licensed as a massage and bodywork therapist if the applicant meets all of the following qualifications:

(1) Has obtained a high school diploma or equivalent.

(2) Is 18 years of age or older.

(3) Is of good moral character as determined by the Board.

(4) Has successfully completed a training program consisting of a minimum of 500 in-class hours of supervised instruction at a Board-approved school.

(5) Has passed a competency assessment examination that meets generally accepted psychometric principles and standards and is approved by the Board.

(6) Has submitted fingerprint cards in a form acceptable to the Board at the time the license application is filed and consented to a criminal history record check by the North Carolina Department of Public Safety.

(7) Demonstrates satisfactory proof of proficiency in the English language."

SECTION 8. G.S. 90-629.1 reads as rewritten:

"§ 90-629.1. ~~Criminal history record checks of applicants for licensure.~~ licensure to practice and for ownership or operation of an establishment.

(a) All applicants for licensure to practice massage and bodywork therapy or to operate a massage and bodywork therapy establishment shall 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. The Board shall ensure that the State and national

1 criminal history of an applicant is checked. The Board shall be responsible for providing to the
2 North Carolina Department of Public Safety the fingerprints of the applicant to be checked, a
3 form signed by the applicant consenting to the criminal record check and the use of fingerprints
4 and other identifying information required by the State or National Repositories, and any
5 additional information required by the Department of Public Safety. The Board shall keep all
6 information obtained pursuant to this section confidential.

7"

8 **SECTION 9.** The catch line of G.S. 90-630.1 reads as rewritten:

9 **"§ 90-630.1. Licensure to practice by endorsement."**

10 **SECTION 10.** G.S. 90-632 is recodified as G.S. 90-630.5 and reads as rewritten:

11 **"§ 90-630.5. ~~License renewal and~~ Renewal of license to practice and license to operate**
12 **massage and bodywork therapy establishment; continuing education.**

13 (a) The license to practice and the license to operate a massage and bodywork therapy
14 establishment under this Article shall be renewed every two years.

15 (b) The continuing education requirement for the renewal of an initial license renewal
16 to practice is as follows:

17 (1) If the licensure period is two years or more, each licensee shall submit to the
18 Board evidence of the successful completion of at least 24 hours of study, as
19 approved by the Board, since the initial licensure application date in the
20 practice of massage and bodywork therapy.

21 (2) If the licensure period is less than two years, but more than one year, each
22 licensee shall submit to the Board evidence of the successful completion of
23 at least 12 hours of study, as approved by the Board, since the initial
24 licensure application date in the practice of massage and bodywork therapy.

25 (c) For subsequent renewals of a license renewals to practice, each licensee shall submit
26 to the Board evidence of the successful completion of at least 24 hours of study, as approved by
27 the Board, since the previous licensure renewal submission date in the practice of massage and
28 bodywork therapy."

29 **SECTION 11.** Article 36 of Chapter 90 of the General Statutes is amended by
30 adding new sections to read:

31 **"§ 90-632.10. Massage and bodywork therapy establishment license required.**

32 The Board shall license massage and bodywork therapy establishments in this State for the
33 purpose of protecting the health, safety, and welfare of the public. Unless otherwise exempt
34 from the Board licensure process, no individual, association, partnership, corporation, or other
35 entity shall open, operate, or advertise a massage and bodywork therapy establishment in this
36 State unless it has first been licensed by the Board. The Board shall maintain a list of licensed
37 massage and bodywork therapy establishments operating pursuant to this Article.

38 **"§ 90-632.11. Requirements for massage and bodywork therapy establishment licensure.**

39 (a) Any person who wishes to operate a massage and bodywork therapy establishment
40 shall obtain a license from the Board by submitting a massage and bodywork therapy
41 establishment licensure application accompanied by all of the following:

42 (1) The applicable fee set forth in G.S. 90-632.14.

43 (2) Proof of property damage and bodily injury liability insurance coverage in
44 the name of the owner or, if the establishment is operated under a business
45 name, in the name of both the owner and the business.

46 (3) Prior licensure and disciplinary history, including verifications from all
47 North Carolina licensing boards from which the owner holds or has held any
48 health related professional license.

49 (4) Fingerprint cards submitted in accordance with G.S. 90-629.1 at the time the
50 license application is filed and consented to a criminal history record check
51 by the Department of Public Safety.

(5) Ownership information, including at least all of the following:

- a. Type of ownership.
- b. Name of owner.
- c. Name of authorized representative.
- d. Address of establishment.
- e. Social Security number or federal tax identification number.
- f. E-mail address.
- g. Current phone number.
- h. Hours of operation.

(6) Proof of good moral character as determined by the Board.

(7) Signature of all owners or authorized corporate representatives or both.

(8) A successfully completed self-evaluation inspection report demonstrating compliance with this section and any rules adopted pursuant to G.S. 90-632.13.

(9) Proof that the establishment employs, hires, or plans to employ or hire one or more massage and bodywork therapists who hold a current license from the Board.

(b) The application for licensure shall be submitted in the name of the owner or owners of the establishment. If the owner is a corporation, the application shall be submitted in the name of the corporation and shall be signed by a corporate representative.

"§ 90-632.12. Operation of a massage and bodywork therapy establishment under a name different than the owner; advertisement.

(a) An owner may operate a licensed massage and bodywork therapy establishment under a name other than the name of the owner, provided such name is submitted to the Board on the application for licensure.

(b) Any advertisement by the massage and bodywork therapy establishment shall include the establishment's business name and shall comply with 21 NCAC 30 .0404.

"§ 90-632.13. Rules for massage and bodywork therapy establishment license.

The Board shall establish rules for the licensure of massage and bodywork therapy establishments. These rules shall include at least all of the following:

- (1) Requirements for adequate, safe, and sanitary facilities.
- (2) Requirements for compliance with local building code requirements, State fire safety codes, and State health inspection codes necessary to ensure the safe and effective practice of massage and bodywork therapy.
- (3) Requirements for retention of client and ownership records.
- (4) A description of the process used by the Board to approve massage and bodywork therapy establishment licenses.
- (5) Requirements for initial and periodic inspections of massage and bodywork therapy establishments.
- (6) Requirements for transfer of a massage and bodywork therapy establishment license.

"§ 90-632.14. Fees for massage and bodywork therapy establishment license.

(a) The Board may impose the following fees up to the amounts listed below for massage and bodywork therapy establishment licensure:

(1)	<u>Application for license</u>	<u>\$20.00</u>
(2)	<u>Initial license fee</u>	<u>150.00</u>
(3)	<u>License renewal</u>	<u>100.00</u>
(4)	<u>Late renewal penalty</u>	<u>75.00</u>
(5)	<u>Duplicate license</u>	<u>25.00</u>
(6)	<u>Inspection</u>	<u>of</u>
	<u>establishment.....</u>	<u>150.00</u>

(b) All fees listed in subsection (a) of this section shall be paid in the form of a cashier's check, certified check, or money order made payable to the North Carolina Board of Massage and Bodywork Therapy and shall be nonrefundable.

"§ 90-632.15. Grounds for suspension, revocation, or refusal of massage and bodywork therapy license; notice and hearing; judicial review.

(a) The Board may deny, suspend, revoke, discipline, or refuse to approve a massage and bodywork therapy establishment for any of the following reasons:

- (1) The employment of fraud, deceit, or misrepresentation in obtaining or attempting to obtain a massage and bodywork therapy establishment license.
- (2) Engaging in any act or practice in violation of any of the provisions of this Article or of any of the rules adopted by the Board, or aiding, abetting, or assisting any other person in the violation of the provisions of this Article or rules adopted by the Board.
- (3) Failure to require that its employees or independent contractors be currently licensed by the Board.
- (4) Operating a massage and bodywork therapy establishment without a license from this Board.
- (5) Engaging in conduct that could result in harm or injury to the public.
- (6) The employment of fraud, deceit, or misrepresentation when communicating with the general public, health care professionals, or other business professionals.
- (7) Falsely holding out a massage and bodywork therapy establishment as licensed by this Board.
- (8) Failure to allow authorized representatives of the Board to conduct inspections of the massage and bodywork therapy establishment or refusing to make available to the Board, following written notice to the massage and bodywork therapy establishment, the requested information pertaining to the requirements for approval set forth in this Article.
- (9) Failure to notify the Board in writing within 30 days of any notification it receives from any state, local or federal court or agency of a show cause action, probation action, or denial of licensure or approval.
- (10) The applicant for or holder of a massage and bodywork therapy license has pleaded guilty, entered a plea of nolo contendere, or has been found guilty of a crime involving moral turpitude by a judge or jury in any state or federal court.

(b) A refusal to issue, refusal to renew, or suspension or revocation of a massage and bodywork therapy establishment license under this section shall be made in accordance with Chapter 150B of the General Statutes.

"§ 90-632.16. Unlicensed massage and bodywork therapy prohibited at massage and bodywork therapy establishments.

A massage and bodywork therapy establishment shall not employ or contract with any person in this State to provide massage and bodywork therapy unless that person holds a current license to practice massage and bodywork therapy issued pursuant to this Article.

"§ 90-632.17. Sexual activity prohibited.

(a) Sexual activity by any person or persons in any massage and bodywork therapy establishment is unlawful and prohibited.

(b) No owner shall engage in or permit any person or persons to engage in sexual activity in the owner's massage and bodywork therapy establishment. No owner shall engage in or permit any person or persons to use the owner's massage and bodywork therapy establishment to make arrangements to engage in sexual activity in any other place.

1 **"§ 90-632.18. Enforcement; injunctive relief against massage and bodywork therapy**
2 **establishments.**

3 The Board may utilize the enforcement and injunctive relief set forth in G.S.90-634 and
4 assess civil penalties and disciplinary costs as provided in G.S. 90-634.1 to address violations
5 of G.S. 90-632.10 through G.S. 90-632.17, any rules adopted pursuant to G.S. 90-632.13, or
6 any other laws or rules applicable to the operation of a a massage and bodywork therapy
7 establishment."

8 **SECTION 12.** G.S. 90-634 reads as rewritten:

9 **"§ 90-634. Enforcement; injunctive relief.**

10 (a) It is unlawful for a person not licensed or exempted under this Article to engage in
11 any of the following:

- 12 (1) Practice of massage and bodywork therapy.
13 (2) Advertise, represent, or hold out himself or herself to others to be a massage
14 and bodywork therapist.
15 (3) Use any title descriptive of any branch of massage and bodywork therapy, as
16 provided in G.S. 90-623, to describe his or her practice.

17 (b) A person who violates subsection (a) of this section shall be guilty of a Class 1
18 misdemeanor.

19 (b1) Unless exempt from the approval process, it is unlawful for an individual,
20 association, partnership, corporation, or other entity to open, operate, or advertise a massage
21 and bodywork therapy school without first having obtained the approval required by
22 G.S. 90-631.1.

23 (b2) An individual, association, partnership, corporation, or other entity that violates
24 subsection (b1) of this section shall be guilty of a Class 3 misdemeanor.

25 (b3) It is unlawful for a person, individual, association, partnership, corporation, or other
26 entity to do any of the following:

- 27 (1) Employ, hire, engage, or otherwise contract with a person who is not
28 licensed or exempted under this Article to provide massage and bodywork
29 therapy services to the public.
30 (2) Aid and abet any person not licensed or exempted under this Article in the
31 practice of massage and bodywork therapy.
32 (3) Advertise, represent, or hold out any person not licensed or exempted under
33 this Article to others as a massage and bodywork therapist.
34 (4) Describe the practice of any person not licensed or exempted under this
35 Article, or use any title descriptive of any branch of massage and bodywork
36 therapy to reference any such person in violation of G.S. 90-623.

37 (b4) A person who violates subsection (b3) of this section shall be guilty of a Class 1
38 misdemeanor.

39 (c) The Board may make application to superior court for an order enjoining a violation
40 of this Article. Upon a showing by the Board that a person, association, partnership,
41 corporation, or other entity has violated or is about to violate this Article, the court may grant
42 an injunction, restraining order, or take other appropriate action."

43 **SECTION 13.** This act becomes effective October 1, 2017.

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NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

JUDICIARY I COMMITTEE REPORT
Representative Ted Davis, Jr., Chair

FAVORABLE

SB 104	Require Criminal BGC/Pharmacist Licensure.
	Draft Number: None
	Serial Referral: None
	Recommended Referral: None
	Long Title Amended: No
	Floor Manager: McNeill
SB 567	Reform/Correct/Wills and Trusts.
	Draft Number: None
	Serial Referral: None
	Recommended Referral: None
	Long Title Amended: No
	Floor Manager: R. Turner
SB 593 (CS#1)	Arbitration and Mediation for Business Court.
	Draft Number: None
	Serial Referral: None
	Recommended Referral: None
	Long Title Amended: No
	Floor Manager: Davis
SB 621 (CS#1)	Business Contracts/Choice of Law and Forum.
	Draft Number: None
	Serial Referral: None
	Recommended Referral: None
	Long Title Amended: No
	Floor Manager: Jordan

FAVORABLE AND RE-REFERRED

SB 124 (CS#1)	LEO Managed CBD Oil Drop Box.
	Draft Number: None
	Serial Referral: RULES, CALENDAR, AND OPERATIONS OF THE HOUSE
	Recommended Referral: None
	Long Title Amended: No
	Floor Manager: Farmer-Butterfield

TOTAL REPORTED: 5



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**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

**JUDICIARY I COMMITTEE REPORT
Representative Ted Davis, Jr., Chair**

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL

HB 451 Regulate Massage & Bodywork Therapy Estmts.
Draft Number: H451-PCS10386-TGx-32
Serial Referral: None
Recommended Referral: None
Long Title Amended: Yes
Floor Manager: McNeill

FAVORABLE HOUSE COM SUB, UNFAVORABLE ORIGINAL BILL

SB 388 Incapacity to Proceed.
Draft Number: S388-PCS15228-TT-36
Serial Referral: None
Recommended Referral: None
Long Title Amended: Yes
Floor Manager: R. Turner

TOTAL REPORTED: 2



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VISITOR REGISTRATION SHEET

House Judiciary I

Name of Committee

June 21, 2017

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

M. K. James	ACP
Julia Lancaster	NCBMBT
Floyd Lewis	General Statutes Commission
Jim McLaughlin	Trans. Drafting Committee
Chris Broughton	MWC
Linda Johnson	NCBA
Michelle Frazier	SML
Josh Lavin	SML
Kenny Greene	Carruthers & R. M. PA NCBA
Tony Adams	Adams and Associates
Jamie Lassiter	Conf of Clerks



VISITOR REGISTRATION SHEET

House Judiciary I

Name of Committee

June 21, 2017

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Lilhe Rhodes	Conf. of Clerks
Rachel Nixon	Smith Audewon
Charles Wilkins	NCBMBT / BWS & Thompson
Sue Ann Forrest	NLMS
Brian Shan	NLMS
Elizabeth Kirk	NCBMBT
Skye David	newframe
Chip Bygott	NLMS
Tracy Ginn	DSOHF / DHHS
James Mc	Fetzer
Tom West	NCICA



**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Monday, June 26, 2017
TIME: 4:00 PM
LOCATION: 415 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 717</u>	Revise Certain Superior Court Districts.	Representative Burr Representative Stone Representative Destin Hall Representative Millis
<u>SB 489</u>	Clarify Workers' Comp. Policy Cancellation.	Senator Bishop Senator Daniel Senator Clark
<u>SB 569</u>	Uniform Power of Attorney Act.	Senator Daniel Senator Newton

Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 2:58 PM on Thursday, June 22, 2017.

____ Principal Clerk
____ Reading Clerk – House Chamber

Judy Lowe (Committee Assistant)



House Committee on Judiciary I
Monday, June 26, 2017, 4:00 pm
415 LOB

AGENDA

Welcome and Opening Remarks

Representative Ted Davis, Jr., Chair

Introduction of Pages and Sergeant-At-Arms

BILL NO.	SHORT TITLE	SPONSOR
HB 717	Revise Certain Superior Court Districts	Representative Burr Representative Stone Representative Destin Hall Representative Millis
SB 489	Clarify Workers' Comp. Policy Cancellation	Senator Bishop Senator Daniel Senator Clark
SB569	Uniform Power of Attorney Act.	Senator Daniel Senator Newton

Adjournment



House Committee on Judiciary I
Monday, June 26, 2017 at 4:00pm
Room 415 LOB

MINUTES

The House Committee on Judiciary I met on Monday, June 26, 2017 at 4:00pm in Room 415 of the Legislative Office Building. Representatives Ted Davis, Jr., Duane Hall, Jackson, Stevens, R. Turner, Arp, Farmer-Butterfield, Howard, Martin, McNeill, Meyer, Rogers, and Steinburg.

Representative Ted Davis, Jr. presided and called the meeting to order at 4:02pm. He introduced the Sergeant at Arms staff and the pages. Chairman Davis explained that there were 2 Senate bills they would be hearing first and then HB 717. He would also allow an extra hour for this bill.

Chairman Davis announced there was a PCS and seeing no objection, recognized Senator Daniel to explain SB569 Uniform Power of Attorney Act. Senator Daniel then asked Janice Davies from the NC Bar Association to speak. Ms. Davies was recognized by the chair and spoke on the bill. Representative Stevens then moved for a favorable report to the PCS, unfavorable to the original bill. The motion passed.

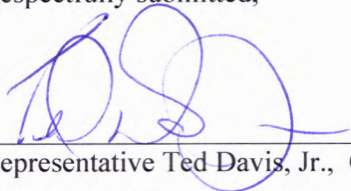
Chairman Davis announced there was a PCS and seeing no objection, recognized Senator Bishop to explain SB 489 Clarify Workers' Comp. Policy Cancellations. There was no discussion and Rep. Arp made a motion for unfavorable to the original bill, favorable to the PCS. The motion passed.

The next bill before the committee was HB 717 Revise Certain Superior Court Districts. Chairman Davis announced there was a PCS and seeing no objection, Representative Burr was recognized to explain the bill. There was some discussion on the bill and then Representative Farmer-Butterfield was recognized to present her amendment (see attachment 1). She explained the amendment and there was some discussion. Chairman Davis asked for a vote of hands. The amendment failed. Representative Stevens was recognized to present her amendment (see attachment 2). She explained her amendment and there was some discussion. Chairman Davis called for a vote of hands. The amendment passed. After the amendments, Chairman Davis asked for questions or comments on the bill as amended. There was discussion between the committee members and Representative Burr. Chairman Davis also asked for public comment. Superior Court Judge Wayland Sermons and Superior Court Judge Anna Mills Waggener spoke against the bill. District Attorney Kristy Newton-Hoke, Scotland Counties-also spoke against the bill. Susan McClanahan and Jennifer Bremer from the Citizen League of Women Voters spoke against the bill. Melissa Price Kromm with the NC Voters for Clean Elections spoke against the bill, too. Representative Marcia Morey also spoke against the bill. Kim Crouch with NC Advocates for Justice spoke against the bill. Representative Jackson was recognized for a comment and he asked if AOC was in the audience to speak on this bill. There was no one present and Chairman Davis then called for a motion which was made by Representative Stevens. Chairman Davis advised the committee he would like a show of hands. The motion passed.



There ~~was no one present and~~ being no further business, Chairman Davis adjourned the meeting at 5:34pm.

Respectfully submitted,



Representative Ted Davis, Jr., Chair



Laura Sullivan, Committee Clerk



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 717
PROPOSED COMMITTEE SUBSTITUTE H717-PCS40632-ST-37

Short Title: Revise Judicial Districts.

(Public)

Sponsors:

Referred to:

April 11, 2017

A BILL TO BE ENTITLED
AN ACT TO REVISE JUDICIAL DISTRICTS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 7A-41 is repealed.

SECTION 1.(b) Article 7 of Chapter 7A of the General Statutes is amended by adding a new section to read:

"§ 7A-40.5. Judicial divisions and superior court districts; number of judges.

(a) The counties of the State are organized into judicial divisions as follows:

Division 1: Beaufort County, Bertie County, Camden County, Chowan County, Currituck County, Dare County, Durham County, Edgecombe County, Franklin County, Gates County, Granville County, Halifax County, Hertford County, Hyde County, Martin County, Nash County, Northampton County, Pasquotank County, Perquimans County, Person County, Pitt County, Tyrrell County, Vance County, Warren County, Washington County, Wilson County.

Division 2: Bladen County, Brunswick County, Carteret County, Columbus County, Craven County, Duplin County, Greene County, Jones County, Lenoir County, New Hanover County, Onslow County, Pamlico County, Pender County, Robeson County, Sampson County, Scotland County, Wayne County.

Division 3: Anson County, Chatham County, Cumberland County, Harnett County, Hoke County, Johnston County, Lee County, Montgomery County, Moore County, Randolph County, Richmond County, Stanly County, Union County, Wake County.

Division 4: Alamance County, Alexander County, Alleghany County, Ashe County, Cabarrus County, Caswell County, Davidson County, Davie County, Forsyth County, Guilford County, Iredell County, Orange County, Rockingham County, Rowan County, Stokes County, Surry County, Wilkes County, Yadkin County.

Division 5: Avery County, Buncombe County, Burke County, Caldwell County, Catawba County, Cherokee County, Clay County, Cleveland County, Gaston County, Graham County, Haywood County, Henderson County, Jackson County, Lincoln County, Macon County, Madison County, McDowell County, Mecklenburg County, Mitchell County, Polk County, Rutherford County, Swain County, Transylvania County, Watauga County, Yancey County.

(b) For superior court, the composition of the district and the number of judges is as follows:

District 1: Camden County, Chowan County, Currituck County, Dare County, Gates County, Pasquotank County, Perquimans County. It has two superior court judges.



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District 2: Beaufort County, Hyde County, Martin County, Tyrrell County, Washington County. It has one superior court judge.

District 3: Carteret County, Craven County, Pamlico County. It has three superior court judges.

District 4A: Onslow County. It has one superior court judge.

District 4B: Duplin County, Sampson County. It has one superior court judge.

District 5A: Wayne County. It has one superior court judge.

District 5B: Greene County, Jones County, Lenoir County. It has one superior court judge.

District 6A: Pitt County: VTD 0101, VTD 0301, VTD 0401, VTD 0701, VTD 0800A, VTD 0800B, VTD 0901, VTD 1501, VTD 1503, VTD 1504, VTD 1505A, VTD 1505B, VTD 1506, VTD 1507, VTD 1507B, VTD 1508A, VTD 1508B, VTD 1509, VTD 1512A, VTD 1512B. It has one superior court judge.

District 6B: Pitt County: VTD 0200A, VTD 0200B, VTD 0501, VTD 0601, VTD 1001, VTD 1101, VTD 1102A, VTD 1102B, VTD 1201, VTD 1301, VTD 1402A, VTD 1402B, VTD 1403A, VTD 1403B, VTD 1510A, VTD 1510B, VTD 1511A, VTD 1511B. It has one superior court judge.

District 7: Edgecombe County, Nash County, Wilson County. It has two superior court judges.

District 8: Bertie County, Halifax County, Hertford County, Northampton County. It has one superior court judge.

District 9: Franklin County, Granville County, Person County, Vance County, Warren County. It has two superior court judges.

District 10A: Wake County: VTD 01-01, VTD 01-02, VTD 01-06, VTD 01-07, VTD 01-14, VTD 01-16, VTD 01-23, VTD 01-29, VTD 01-31, VTD 01-32, VTD 01-33, VTD 01-41, VTD 01-48, VTD 01-49, VTD 04-01, VTD 04-02, VTD 04-03, VTD 04-04, VTD 04-06, VTD 04-07, VTD 04-10, VTD 04-11, VTD 04-12, VTD 04-13, VTD 04-14, VTD 04-15, VTD 04-16, VTD 04-19, VTD 04-20, VTD 04-21, VTD 11-02, VTD 18-01, VTD 18-04, VTD 18-06, VTD 18-08. It has one superior court judge.

District 10B: Wake County: VTD 01-12, VTD 01-13, VTD 01-18, VTD 01-19, VTD 01-20, VTD 01-21, VTD 01-22, VTD 01-25, VTD 01-26, VTD 01-27, VTD 01-34, VTD 01-35, VTD 01-38, VTD 01-40, VTD 01-46, VTD 01-50, VTD 13-01: Block(s) 1830527043000, 1830527043023, 1830527043024, 1830540081000, 1830540081001, 1830540081002, 1830540081003, 1830540081004, 1830540081005, 1830540081006, 1830540081007, 1830540081008, 1830540081009, 1830540081010, 1830540081011, 1830540081012, 1830540081013, 1830540081014, 1830540081015, 1830540082000, 1830540082001, 1830540082002, 1830540082003, 1830540082004, 1830540082005, 1830540082006, 1830540082007, 1830540082008, 1830540082009, 1830540082010, 1830540082011, 1830540082012, 1830540082013, 1830540082014, 1830540082015, 1830540082016, 1830540083000, 1830540083001, 1830540083002, 1830540083003, 1830540083004, 1830540083005, 1830540083006, 1830540083007, 1830540083008, 1830540083009, 1830540084000, 1830540084001, 1830540084002, 1830540181012, 1830540181013, 1830540181014, 1830540181015, 1830540181016, 1830540181017, 1830540181018, 1830540181027, 1830540181033, 1830540181034, 1830541041022, 1830541041023, 1830541041024, 1830541041025, 1830541041026, 1830541041028, 1830541041030, 1830541041031, 1830541041032, 1830541041033, 1830541041039, 1830541041040, 1830541041041, 1830541041042, 1830541041043, 1830541041044, 1830541041045, 1830541041046, 1830541041047, 1830541041048, 1830541041049, 1830541041050, 1830541042000, 1830541042002, 1830541042010, 1830541042023, 1830541042024, 1830541042025, 1830541042026, 1830541042027, 1830541042029, 1830541042030, 1830541043014, 1830541043015, 1830541043016, 1830541043017, 1830541043018, 1830541043019, 1830541043045; VTD 13-05, VTD 13-07, VTD 16-02, VTD 16-03, VTD 16-06, VTD 16-08, VTD 17-06, VTD 17-07, VTD 17-08, VTD 17-09, VTD 17-10, VTD 17-11. It has one superior court judge.

District 10C: Wake County: VTD 02-01, VTD 02-02, VTD 02-03, VTD 02-04, VTD 02-05, VTD 02-06, VTD 07-02, VTD 07-06, VTD 07-07, VTD 07-11, VTD 07-12, VTD 08-02, VTD 08-03, VTD 08-04, VTD 08-05, VTD 08-06, VTD 08-07, VTD 08-08, VTD 08-09, VTD 08-10, VTD 08-11, VTD 13-10, VTD 13-11, VTD 14-01, VTD 14-02, VTD 19-03, VTD 19-04, VTD 19-05, VTD 19-06, VTD 19-07, VTD 19-09, VTD 19-10, VTD 19-11, VTD 19-12. It has one superior court judge.

District 10D: Wake County: VTD 01-03, VTD 01-04, VTD 01-05, VTD 01-09, VTD 01-10, VTD 01-11, VTD 01-15, VTD 01-17, VTD 01-30, VTD 01-36, VTD 01-37, VTD 01-39, VTD 01-43, VTD 01-45, VTD 01-51, VTD 04-05, VTD 04-08, VTD 04-09, VTD 04-17, VTD 04-18, VTD 05-01, VTD 05-03, VTD 05-04, VTD 05-05, VTD 05-06, VTD 07-01, VTD 07-03, VTD 07-04, VTD 07-05, VTD 07-09, VTD 07-10, VTD 07-13, VTD 11-01, VTD 20-02, VTD 20-04, VTD 20-10. It has one superior court judge.

District 10E: Wake County: VTD 01-28, VTD 01-42, VTD 01-44, VTD 01-47, VTD 09-01, VTD 09-02, VTD 09-03, VTD 10-01, VTD 10-02, VTD 10-03, VTD 10-04, VTD 13-01; Block(s) 1830541041000, 1830541041001, 1830541041002, 1830541041003, 1830541041004, 1830541041005, 1830541041006, 1830541041007, 1830541041008, 1830541041009, 1830541041010, 1830541041011, 1830541041012, 1830541041013, 1830541041014, 1830541041015, 1830541041016, 1830541041017, 1830541041018, 1830541041019, 1830541041020, 1830541041021, 1830541042028; VTD 13-02, VTD 13-06, VTD 13-08, VTD 13-09, VTD 15-01, VTD 15-03, VTD 15-04, VTD 16-01, VTD 16-04, VTD 16-05, VTD 16-07, VTD 16-09, VTD 17-01, VTD 17-02, VTD 17-03, VTD 17-04, VTD 17-05, VTD 19-16, VTD 19-17. It has one superior court judge.

District 10F: Wake County: VTD 03-00, VTD 06-01, VTD 06-04, VTD 06-05, VTD 06-06, VTD 06-07, VTD 12-01, VTD 12-02, VTD 12-04, VTD 12-05, VTD 12-06, VTD 12-07, VTD 12-08, VTD 12-09, VTD 15-02, VTD 18-02, VTD 18-03, VTD 18-05, VTD 18-07, VTD 20-01, VTD 20-03, VTD 20-05, VTD 20-06, VTD 20-08, VTD 20-09, VTD 20-11, VTD 20-12. It has one superior court judge.

District 11: Johnston County. It has two superior court judges.

District 12A: New Hanover County: VTD CF01, VTD CF02, VTD CF03, VTD H01, VTD W25, VTD W27; Pender County. It has one superior court judge.

District 12B: New Hanover County: VTD H02, VTD H03, VTD H04, VTD H05, VTD H06, VTD H07, VTD H08, VTD H09, VTD M02, VTD M05, VTD W13, VTD W18, VTD W24, VTD W28, VTD WB. It has one superior court judge.

District 12C: New Hanover County: VTD FP01, VTD FP02, VTD FP03, VTD FP04, VTD FP05, VTD M03, VTD M04, VTD W03, VTD W08, VTD W12, VTD W15, VTD W16, VTD W17, VTD W21, VTD W26, VTD W29, VTD W30, VTD W31. It has one superior court judge.

District 13A: Bladen County, Columbus County. It has one superior court judge.

District 13B: Brunswick County. It has one superior court judge.

District 14: Robeson County, Scotland County. It has two superior court judges.

District 15A: Cumberland County: VTD AH49, VTD CC01, VTD CC03, VTD CC04, VTD CC05, VTD CC06, VTD CC07, VTD CC08, VTD CC10, VTD CC13, VTD CC16, VTD CC17, VTD CC19, VTD CC21, VTD CC24, VTD CC25, VTD CC26, VTD CC27, VTD CC29, VTD CC31, VTD CC32, VTD CC33, VTD CL57, VTD G1; Block(s) 0510014001000, 0510014001001, 0510014001002, 0510014001003, 0510014001004, 0510014001005, 0510014001006, 0510014001007, 0510014001008, 0510014001009, 0510014001010, 0510014001011, 0510014001012, 0510014001013, 0510014001014, 0510014001015, 0510014001016, 0510014001017, 0510014001018, 0510014001019, 0510014001020, 0510014001021, 0510014001022, 0510014001023, 0510014001024, 0510014001025, 0510014001026, 0510014001027, 0510014001028, 0510014001029, 0510014001030, 0510014001031, 0510014001032, 0510014001033, 0510014001034,

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46 VTD MR02. It has two superior court judges.
47 **District 15B: Cumberland County: VTD AL51, VTD CC12, VTD CC14, VTD CC15, VTD**
48 **CC18, VTD CC34, VTD CU02, VTD EO61-1, VTD EO61-2, VTD G1: Block(s)**
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48 LI65, VTD SH77. It has two superior court judges.
49 **District 16:** Hoke County, Moore County. It has one superior court judge.
50 **District 17:** Harnett County, Lee County. It has two superior court judges.

District 18A: Durham County: VTD 03, VTD 04, VTD 05, VTD 06, VTD 19, VTD 22, VTD 23, VTD 24, VTD 25, VTD 26, VTD 28, VTD 29, VTD 30-1, VTD 30-2, VTD 31: Block(s) 0630010013034, 0630010013038, 0630010013039, 0630010013040, 0630010013043, 0630018071037, 0630018071038, 0630018091000, 0630018091001, 0630018091002, 0630018091003, 0630018091004, 0630018091005, 0630018091006, 0630018091007, 0630018091008, 0630018091009, 0630018091010, 0630018091011, 0630018091012, 0630018091013, 0630018091014, 0630018091015, 0630018091016, 0630018091017, 0630018091018, 0630018091019, 0630018091020, 0630018091021, 0630018091022, 0630018091023, 0630018091024, 0630018091025, 0630018091026, 0630018091027, 0630018091028, 0630018091029, 0630018091030, 0630018091031, 0630018091032, 0630018091033, 0630018091034, 0630018091035, 0630018091036, 0630018091037, 0630018091038, 0630018091041, 0630018091042, 0630018091043, 0630018091044, 0630018091045, 0630018091046, 0630018091062, 0630018091063, 0630018091064, 0630018091065, 0630018091066, 0630018091067, 0630018091071, 0630018091072, 0630018091073, 0630018091074, 0630018091077, 0630018091079, 0630018091080, 0630018092000, 0630018092001, 0630018092002, 0630018092003, 0630018092004, 0630018092005, 0630018092006, 0630018092007, 0630018092008, 0630018092009, 0630018092010, 0630018092011, 0630018092012, 0630018092013, 0630018092014, 0630018092015, 0630018092016, 0630018092017, 0630018092018, 0630018092019, 0630018092020, 0630018092021, 0630018092022, 0630018092023, 0630018092024, 0630018092027, 0630018092028, 0630018092029, 0630018092030, 0630018092031, 0630018092032, 0630018092033, 0630020271000, 0630020271001, 0630020271002, 0630020271003, 0630020271004, 0630020271005, 0630020271006, 0630020271007, 0630020271008, 0630020271009, 0630020271010, 0630020271011, 0630020271012, 0630020271013, 0630020271014, 0630020271015, 0630020271016, 0630020271017, 0630020271018, 0630020271019, 0630020271020, 0630020271021, 0630020271022, 0630020271023, 0630020271024, 0630020271025, 0630020271054, 0630020271055, 0630020271063, 0630020271064, 0630020271065, 0630020271067, 0630020271070, 0630020271071, 0639801001012, 0639801001013; VTD 32, VTD 33, VTD 37, VTD 43, VTD 44, VTD 45, VTD 46, VTD 50, VTD 52. It has two superior court judges.

District 18B: Durham County: VTD 01, VTD 02, VTD 07, VTD 08, VTD 09, VTD 10, VTD 12, VTD 13, VTD 14, VTD 15, VTD 16, VTD 17, VTD 18, VTD 20, VTD 21, VTD 27, VTD 31: Block(s) 0630010013033, 0630018024009; VTD 34, VTD 35, VTD 36, VTD 38, VTD 39, VTD 40, VTD 41, VTD 42, VTD 47, VTD 48, VTD 51, VTD 53-1, VTD 53-2, VTD 54, VTD 55. It has two superior court judges.

District 19: Orange County. It has one superior court judge.

District 20: Alamance County. It has two superior court judges.

District 21: Caswell County, Rockingham County. It has two superior court judges.

District 22A: Guilford County: VTD CG1, VTD CG2, VTD CG3A, VTD CG3B, VTD FEN1, VTD FEN2, VTD FR3, VTD FR4, VTD FR5, VTD G11, VTD G12, VTD G13, VTD G17, VTD G18, VTD G19, VTD G20, VTD G21, VTD G22, VTD G23, VTD G24, VTD G25, VTD G27, VTD G28, VTD G29, VTD G30, VTD G31, VTD G32, VTD G40A1, VTD G40A2, VTD G40B, VTD G65, VTD G66, VTD GIB, VTD GR, VTD H04, VTD H06, VTD H13, VTD H14, VTD H15, VTD H16, VTD H21, VTD H22, VTD H23, VTD H24, VTD H25, VTD H26, VTD H27, VTD JAM1, VTD JAM2, VTD JAM3, VTD JAM4, VTD JAM5, VTD JEF1, VTD JEF2, VTD JEF3, VTD JEF4, VTD MON3, VTD NCGR1, VTD NCGR2, VTD NCLAY1, VTD NCLAY2, VTD NDRI, VTD NMAD, VTD NWASH, VTD OR1, VTD OR2, VTD PG1, VTD PG2, VTD RC1, VTD RC2, VTD SCLAY, VTD SDRI, VTD SF1, VTD SF2, VTD SF3, VTD SF4, VTD SMAD, VTD STOK, VTD SUM1, VTD SUM2, VTD SUM3, VTD SUM4, VTD SWASH. It has three superior court judges.

District 22B: Guilford County: VTD FR1, VTD FR2, VTD G01, VTD G02, VTD G03, VTD G04, VTD G05, VTD G06, VTD G07, VTD G08, VTD G09, VTD G10, VTD G14, VTD G15, VTD G16, VTD G26, VTD G33, VTD G34, VTD G35, VTD G36, VTD G37, VTD G38, VTD G39, VTD G41, VTD G42, VTD G43, VTD G44, VTD G45, VTD G46, VTD G47, VTD G48, VTD G49, VTD G50, VTD G51, VTD G52, VTD G53, VTD G54, VTD G55, VTD G56, VTD G57, VTD G58, VTD G59, VTD G60, VTD G61, VTD G62, VTD G63, VTD G64, VTD G67, VTD G68, VTD G69, VTD G70, VTD G71, VTD G72, VTD G73, VTD G74, VTD G75, VTD H01, VTD H02, VTD H03, VTD H05, VTD H07, VTD H08, VTD H09, VTD H10, VTD H11, VTD H12, VTD H17, VTD H18, VTD H19A, VTD H19B, VTD H20A, VTD H20B, VTD HP, VTD MON1, VTD MON2. It has three superior court judges.

District 23: Chatham County, Randolph County. It has two superior court judges.

District 24: Anson County, Richmond County, Union County. It has three superior court judges.

District 25A: Mecklenburg County: VTD 001, VTD 007, VTD 008, VTD 018, VTD 019, VTD 032, VTD 035, VTD 036, VTD 047, VTD 048, VTD 049, VTD 051, VTD 057, VTD 058, VTD 065, VTD 066, VTD 067, VTD 068, VTD 069, VTD 070, VTD 071, VTD 072, VTD 073, VTD 074, VTD 075, VTD 076, VTD 085, VTD 086, VTD 087, VTD 088, VTD 090, VTD 091, VTD 092, VTD 093, VTD 096, VTD 097, VTD 100, VTD 101, VTD 103, VTD 106, VTD 110, VTD 111, VTD 112, VTD 113, VTD 114, VTD 118, VTD 119, VTD 120, VTD 121, VTD 122, VTD 127, VTD 129, VTD 131, VTD 133, VTD 134, VTD 136, VTD 137, VTD 139.1, VTD 140, VTD 142, VTD 143, VTD 144, VTD 145, VTD 148, VTD 201, VTD 202, VTD 203, VTD 204.1, VTD 205, VTD 206, VTD 207, VTD 208, VTD 209, VTD 212, VTD 215, VTD 216, VTD 217, VTD 218, VTD 219, VTD 220, VTD 221, VTD 223.1, VTD 225, VTD 226, VTD 227, VTD 229, VTD 231, VTD 232, VTD 233, VTD 234, VTD 235, VTD 236, VTD 237, VTD 240, VTD 241, VTD 242, VTD 243. It has four superior court judges.

District 25B: Mecklenburg County: VTD 002, VTD 003, VTD 004, VTD 005, VTD 006, VTD 009, VTD 010, VTD 011, VTD 012, VTD 013, VTD 014, VTD 015, VTD 016, VTD 017, VTD 020, VTD 021, VTD 022, VTD 023, VTD 024, VTD 025, VTD 026, VTD 027, VTD 028, VTD 029, VTD 030, VTD 031, VTD 033, VTD 034, VTD 037, VTD 038, VTD 039, VTD 040, VTD 041, VTD 042, VTD 043, VTD 044, VTD 045, VTD 046, VTD 050, VTD 052, VTD 053, VTD 054, VTD 055, VTD 056, VTD 059, VTD 060, VTD 061, VTD 062, VTD 063, VTD 064, VTD 077, VTD 078.1, VTD 079, VTD 080, VTD 081, VTD 082, VTD 083, VTD 084, VTD 089, VTD 094, VTD 095, VTD 098, VTD 099, VTD 102, VTD 104, VTD 105, VTD 107.1, VTD 108, VTD 109, VTD 115, VTD 116, VTD 117, VTD 123, VTD 124, VTD 125, VTD 126, VTD 128, VTD 130, VTD 132, VTD 135, VTD 138, VTD 141, VTD 146, VTD 147, VTD 149, VTD 150, VTD 151, VTD 200, VTD 210, VTD 211, VTD 213, VTD 214, VTD 222, VTD 224, VTD 228, VTD 230, VTD 238.1, VTD 239. It has four superior court judges.

District 26: Cabarrus County. It has two superior court judges.

District 27: Rowan County. It has one superior court judge.

District 28: Montgomery County, Stanly County. It has one superior court judge.

District 29: Davidson County, Davie County. It has two superior court judges.

District 30A: Forsyth County: VTD 031, VTD 032, VTD 033, VTD 034, VTD 071, VTD 074, VTD 075, VTD 081, VTD 083, VTD 091, VTD 092, VTD 101, VTD 111, VTD 131, VTD 132, VTD 133, VTD 207, VTD 801, VTD 809, VTD 904, VTD 905, VTD 906, VTD 907, VTD 908, VTD 909. It has one superior court judge.

District 30B: Forsyth County: VTD 051, VTD 052, VTD 053, VTD 054, VTD 055, VTD 072, VTD 073, VTD 122, VTD 123, VTD 607, VTD 701, VTD 702, VTD 703, VTD 704, VTD

1 705, VTD 706, VTD 707, VTD 708, VTD 709, VTD 802, VTD 803, VTD 804, VTD 805,
2 VTD 806, VTD 807, VTD 808, VTD 903. It has one superior court judge.
3 **District 30C:** Forsyth County: VTD 201, VTD 203, VTD 204, VTD 205, VTD 206, VTD 301,
4 VTD 302, VTD 303, VTD 304, VTD 305, VTD 306, VTD 402, VTD 403, VTD 404, VTD
5 405, VTD 501, VTD 502, VTD 503, VTD 504, VTD 505, VTD 506, VTD 601, VTD 602,
6 VTD 603, VTD 604, VTD 605, VTD 606, VTD 901, VTD 902. It has one superior court
7 judge.
8 **District 30D:** Forsyth County: VTD 011, VTD 012, VTD 013, VTD 014, VTD 015, VTD 021,
9 VTD 042, VTD 043, VTD 061, VTD 062, VTD 063, VTD 064, VTD 065, VTD 066, VTD
10 067, VTD 068, VTD 082, VTD 112, VTD 401, VTD 507. It has one superior court judge.
11 **District 31:** Stokes County, Surry County. It has two superior court judges.
12 **District 32:** Alexander County, Iredell County. It has two superior court judges.
13 **District 33:** Gaston County. It has two superior court judges.
14 **District 34:** Cleveland County, Lincoln County. It has two superior court judges.
15 **District 35A:** Catawba County. It has two superior court judges.
16 **District 35B:** Burke County, Caldwell County. It has two superior court judges.
17 **District 36:** Alleghany County, Ashe County, Wilkes County, Yadkin County. It has one
18 superior court judge.
19 **District 37:** Avery County, Madison County, Mitchell County, Watauga County, Yancey
20 County. It has two superior court judges.
21 **District 38:** McDowell County, Rutherford County. It has one superior court judge.
22 **District 39A:** Buncombe County: VTD 101.1, VTD 102.1, VTD 107.1, VTD 19.1, VTD 24.1,
23 VTD 30.1, VTD 37.1, VTD 38.2, VTD 38.3, VTD 39.1, VTD 41.1, VTD 44.1, VTD 45.1,
24 VTD 46.1, VTD 47.1, VTD 48.1, VTD 49.1, VTD 52.1, VTD 53.1, VTD 55.1, VTD 57.1,
25 VTD 58.1, VTD 63.1, VTD 67.1, VTD 68.1, VTD 69.1, VTD 70.1, VTD 71.1. It has one
26 superior court judge.
27 **District 39B:** Buncombe County: VTD 01.1, VTD 02.1, VTD 03.1, VTD 04.1, VTD 05.1,
28 VTD 06.1, VTD 07.1, VTD 09.1, VTD 10.1, VTD 100.1, VTD 103.1, VTD 104.1, VTD
29 105.1, VTD 106.1, VTD 11.1, VTD 12.1, VTD 13.1, VTD 14.2, VTD 15.1, VTD 17.1, VTD
30 20.1, VTD 25.1, VTD 26.1, VTD 28.1, VTD 31.1, VTD 32.1, VTD 33.2, VTD 33.3, VTD
31 34.1, VTD 35.1, VTD 36.1, VTD 50.1, VTD 59.1, VTD 60.2, VTD 61.1, VTD 62.1, VTD
32 64.1, VTD 65.1, VTD 66.1. It has one superior court judge.
33 **District 40:** Henderson County, Polk County, Transylvania County. It has one superior court
34 judge.
35 **District 41A:** Haywood County, Jackson County. It has one superior court judge.
36 **District 41B:** Cherokee County, Clay County, Graham County, Macon County, Swain County.
37 It has one superior court judge.
38 (c) In subsections (a) and (b) of this section, the names and boundaries of voting
39 tabulation districts, tracts, block groups, and blocks specified in this section are as shown on the
40 2010 Census Redistricting TIGER/Line Shapefiles. If any voting tabulation district boundary is
41 changed, that change shall not alter the boundary of a judicial district, which shall remain the
42 same as it is depicted by the 2010 Census Redistricting TIGER/Line Shapefiles.
43 (d) The Legislative Services Officer shall certify a true copy of the block assignment
44 file associated with any mapping software used to generate the language in subsections (a) and
45 (b) of this section. The certified true copy of the block assignment file shall be delivered by the
46 Legislative Services Officer to the Principal Clerk of the Senate and the Principal Clerk of the
47 House of Representatives. If any area within North Carolina is not assigned to a specific district
48 by subsections (a) and (b) of this section, the certified true copy of the block assignment file
49 delivered to the Principal Clerk of the Senate and the Principal Clerk of the House of
50 Representatives shall control.

(e) In order to implement the division of the State into a number of judicial divisions and a convenient number of Superior Court Districts without ending the term of office of any Superior Court Judge elected by the people of this State on or before January 1, 2017, the following shall apply:

(1) Judges in the following districts, as set out in this section, shall take office on January 1, 2019, with elections in 2018 to be held accordingly:

- a. District 1 – two judges.
- b. District 2 – one judge.
- c. District 3 – two judges.
- d. District 7 – two judges.
- e. District 9 – two judges.
- f. District 11 – one judge.
- g. District 12A – one judge.
- h. District 12C – one judge.
- i. District 13B – one judge.
- j. District 15A – two judges.
- k. District 15B – one judge.
- l. District 18A – two judges.
- m. District 18B – one judge.
- n. District 20 – one judge.
- o. District 22A – two judges.
- p. District 22B – one judge.
- q. District 23 – one judge.
- r. District 24 – one judge.
- s. District 25A – two judges.
- t. District 27 – one judge.
- u. District 31 – one judge.
- v. District 34 – one judge.
- w. District 35A – one judge.
- x. District 35B – one judge.
- y. District 37 – one judge.
- x. District 39A – one judge.
- aa. District 39B – one judge.
- bb. District 41A – one judge.

(2) Judges in the following districts, as set out in this section, shall take office on January 1, 2021, with elections in 2020 to be held accordingly:

- a. District 4B – one judge.
- b. District 8 – one judge.
- c. District 10B – one judge.
- d. District 10D – one judge.
- e. District 10E – one judge.
- f. District 14 – one judge.
- g. District 15B – one judge.
- h. District 17 – two judges.
- i. District 18B – one judge.
- j. District 22A – one judge.
- k. District 25A – two judges.
- l. District 25B – one judge.
- m. District 30A – one judge.
- n. District 30C – one judge.
- o. District 32 – one judge.

- 1 p. District 33 – one judge.
2 q. District 38 – one judge.
3 (3) Judges in the following districts, as set out in this section, shall take office
4 on January 1, 2023, with elections in 2022 to be held accordingly:
5 a. District 6A – one judge.
6 b. District 10A – one judge.
7 c. District 11 – one judge.
8 d. District 19 – one judge.
9 e. District 20 – one judge.
10 f. District 21 – two judges.
11 g. District 22B – two judges.
12 h. District 23 – one judge.
13 i. District 25B – three judges.
14 j. District 26 – one judge.
15 k. District 29 – one judge.
16 l. District 30B – one judge.
17 m. District 33 – one judge.
18 n. District 35A – one judge.
19 o. District 35B – one judge.
20 p. District 36 – one judge.
21 (4) Judges in the following districts, as set out in this section, shall take office
22 on January 1, 2025, with elections in 2024 to be held accordingly:
23 a. District 3 – one judge.
24 b. District 5A – one judge.
25 c. District 5B – one judge.
26 d. District 6B – one judge.
27 e. District 10C – one judge.
28 f. District 10F – one judge.
29 g. District 12B – one judge.
30 h. District 13A – one judge.
31 i. District 14 – one judge.
32 j. District 16 – one judge.
33 k. District 24 – two judges.
34 l. District 28 – one judge.
35 m. District 29 – one judge.
36 n. District 30D – one judge.
37 o. District 31 – one judge.
38 p. District 32 – one judge.
39 q. District 34 – one judge.
40 r. District 37 – one judge.
41 (5) The Chief Justice of the Supreme Court, acting in accordance with rules of
42 the Supreme Court, may make assignments of any Judge of the Superior
43 Court from one district to another for temporary duty that may extend for the
44 duration of an elected term beginning on or before January 1, 2017. In
45 making such assignments, the Chief Justice of the Supreme Court may
46 consider the districts, and the number of Superior Court judges per district,
47 as set forth in this section.
48 (6) The principle of rotating Superior Court Judges among the various districts
49 of a division is a salutary one and shall be observed.
50 (7) In filling any vacancy in accordance with Article IV, Sec. 19 of the
51 Constitution, the vacancy shall be filled, and any election shall be conducted

in accordance with the districts as set forth in this section. If a vacancy is created in a district with an insufficient number of judges allocated to that district to allow all elected judges to continue to serve and fill the vacancy, the vacancy shall not be filled."

SECTION 2.(a) G.S. 7A-133(a) is repealed.

SECTION 2.(b) G.S. 7A-133(b) is repealed.

SECTION 2.(c) G.S. 7A-133(b1) is repealed.

SECTION 2.(d) G.S. 7A-133(b2) is repealed.

SECTION 2.(e) G.S. 7A-133(b3) is repealed.

SECTION 2.(f) G.S. 7A-133(b4) is repealed.

SECTION 2.(g) The catch line of G.S. 7A-133 reads as rewritten:

"§ 7A-133. Numbers of judges by districts; numbers of magistrates and additional seats of court, by counties."

SECTION 2.(h) Article 13 of Chapter 7A of the General Statutes is amended by adding a new section to read:

"§ 7A-133.5. District court judges; numbers and districts."

(a) For district court, the composition of the district and the number of judges is as follows:

District 1: Camden County, Chowan County, Currituck County, Dare County, Gates County, Pasquotank County, Perquimans County. It has five district court judges.

District 2: Beaufort County, Hyde County, Martin County, Tyrrell County, Washington County. It has four district court judges.

District 3: Carteret County, Craven County, Pamlico County. It has six district court judges.

District 4: Duplin County, Onslow County, Sampson County. It has eight district court judges.

District 5: Greene County, Jones County, Lenoir County, Wayne County. It has six district court judges.

District 6A: Pitt County: VTD 0101, VTD 0301, VTD 0401, VTD 0701, VTD 0800A, VTD 0800B, VTD 0901, VTD 1501, VTD 1503, VTD 1504, VTD 1505A, VTD 1505B, VTD 1506, VTD 1507, VTD 1507B, VTD 1508A, VTD 1508B, VTD 1509, VTD 1512A, VTD 1512B. It has two district court judges.

District 6B: Pitt County: VTD 0200A, VTD 0200B, VTD 0501, VTD 0601, VTD 1001, VTD 1101, VTD 1102A, VTD 1102B, VTD 1201, VTD 1301, VTD 1402A, VTD 1402B, VTD 1403A, VTD 1403B, VTD 1510A, VTD 1510B, VTD 1511A, VTD 1511B. It has three district court judges.

District 7: Edgecombe County, Nash County, Wilson County. It has seven district court judges.

District 8: Bertie County, Halifax County, Hertford County, Northampton County. It has four district court judges.

District 9: Franklin County, Granville County, Person County, Vance County, Warren County. It has six district court judges.

District 10AE: Wake County: VTD 01-01, VTD 01-02, VTD 01-06, VTD 01-07, VTD 01-14, VTD 01-16, VTD 01-23, VTD 01-28, VTD 01-29, VTD 01-31, VTD 01-32, VTD 01-33, VTD 01-41, VTD 01-42, VTD 01-44, VTD 01-47, VTD 01-48, VTD 01-49, VTD 04-01, VTD 04-02, VTD 04-03, VTD 04-04, VTD 04-06, VTD 04-07, VTD 04-10, VTD 04-11, VTD 04-12, VTD 04-13, VTD 04-14, VTD 04-15, VTD 04-16, VTD 04-19, VTD 04-20, VTD 04-21, VTD 09-01, VTD 09-02, VTD 09-03, VTD 10-01, VTD 10-02, VTD 10-03, VTD 10-04, VTD 11-02, VTD 13-01: Block(s) 1830541041000, 1830541041001, 1830541041002, 1830541041003, 1830541041004, 1830541041005, 1830541041006, 1830541041007, 1830541041008, 1830541041009, 1830541041010, 1830541041011, 1830541041012, 1830541041013, 1830541041014, 1830541041015, 1830541041016, 1830541041017, 1830541041018, 1830541041019, 1830541041020, 1830541041021,

1830541042028; VTD 13-02, VTD 13-06, VTD 13-08, VTD 13-09, VTD 15-01, VTD 15-03, VTD 15-04, VTD 16-01, VTD 16-04, VTD 16-05, VTD 16-07, VTD 16-09, VTD 17-01, VTD 17-02, VTD 17-03, VTD 17-04, VTD 17-05, VTD 18-01, VTD 18-04, VTD 18-06, VTD 18-08, VTD 19-16, VTD 19-17. It has six district court judges.

District 10BD: Wake County: VTD 01-03, VTD 01-04, VTD 01-05, VTD 01-09, VTD 01-10, VTD 01-11, VTD 01-12, VTD 01-13, VTD 01-15, VTD 01-17, VTD 01-18, VTD 01-19, VTD 01-20, VTD 01-21, VTD 01-22, VTD 01-25, VTD 01-26, VTD 01-27, VTD 01-30, VTD 01-34, VTD 01-35, VTD 01-36, VTD 01-37, VTD 01-38, VTD 01-39, VTD 01-40, VTD 01-43, VTD 01-45, VTD 01-46, VTD 01-50, VTD 01-51, VTD 04-05, VTD 04-08, VTD 04-09, VTD 04-17, VTD 04-18, VTD 05-01, VTD 05-03, VTD 05-04, VTD 05-05, VTD 05-06, VTD 07-01, VTD 07-03, VTD 07-04, VTD 07-05, VTD 07-09, VTD 07-10, VTD 07-13, VTD 11-01, VTD 13-01: Block(s) 1830527043000, 1830527043023, 1830527043024, 1830540081000, 1830540081001, 1830540081002, 1830540081003, 1830540081004, 1830540081005, 1830540081006, 1830540081007, 1830540081008, 1830540081009, 1830540081010, 1830540081011, 1830540081012, 1830540081013, 1830540081014, 1830540081015, 1830540082000, 1830540082001, 1830540082002, 1830540082003, 1830540082004, 1830540082005, 1830540082006, 1830540082007, 1830540082008, 1830540082009, 1830540082010, 1830540082011, 1830540082012, 1830540082013, 1830540082014, 1830540082015, 1830540082016, 1830540083000, 1830540083001, 1830540083002, 1830540083003, 1830540083004, 1830540083005, 1830540083006, 1830540083007, 1830540083008, 1830540083009, 1830540084000, 1830540084001, 1830540084002, 1830540181012, 1830540181013, 1830540181014, 1830540181015, 1830540181016, 1830540181017, 1830540181018, 1830540181027, 1830540181033, 1830540181034, 1830541041022, 1830541041023, 1830541041024, 1830541041025, 1830541041026, 1830541041028, 1830541041030, 1830541041031, 1830541041032, 1830541041033, 1830541041039, 1830541041040, 1830541041041, 1830541041042, 1830541041043, 1830541041044, 1830541041045, 1830541041046, 1830541041047, 1830541041048, 1830541041049, 1830541041050, 1830541042000, 1830541042002, 1830541042010, 1830541042023, 1830541042024, 1830541042025, 1830541042026, 1830541042027, 1830541042029, 1830541042030, 1830541043014, 1830541043015, 1830541043016, 1830541043017, 1830541043018, 1830541043019, 1830541043045; VTD 13-05, VTD 13-07, VTD 16-02, VTD 16-03, VTD 16-06, VTD 16-08, VTD 17-06, VTD 17-07, VTD 17-08, VTD 17-09, VTD 17-10, VTD 17-11, VTD 20-02, VTD 20-04, VTD 20-10. It has six district court judges.

District 10C: Wake County: VTD 02-01, VTD 02-02, VTD 02-03, VTD 02-04, VTD 02-05, VTD 02-06, VTD 07-02, VTD 07-06, VTD 07-07, VTD 07-11, VTD 07-12, VTD 08-02, VTD 08-03, VTD 08-04, VTD 08-05, VTD 08-06, VTD 08-07, VTD 08-08, VTD 08-09, VTD 08-10, VTD 08-11, VTD 13-10, VTD 13-11, VTD 14-01, VTD 14-02, VTD 19-03, VTD 19-04, VTD 19-05, VTD 19-06, VTD 19-07, VTD 19-09, VTD 19-10, VTD 19-11, VTD 19-12. It has four district court judges.

District 10F: Wake County: VTD 03-00, VTD 06-01, VTD 06-04, VTD 06-05, VTD 06-06, VTD 06-07, VTD 12-01, VTD 12-02, VTD 12-04, VTD 12-05, VTD 12-06, VTD 12-07, VTD 12-08, VTD 12-09, VTD 15-02, VTD 18-02, VTD 18-03, VTD 18-05, VTD 18-07, VTD 20-01, VTD 20-03, VTD 20-05, VTD 20-06, VTD 20-08, VTD 20-09, VTD 20-11, VTD 20-12. It has four district court judges.

District 11: Johnston County. It has six district court judges.

District 12A: New Hanover County: VTD CF01, VTD CF02, VTD CF03, VTD H01, VTD W25, VTD W27; Pender County. It has three district court judges.

District 12B: New Hanover County: VTD H02, VTD H03, VTD H04, VTD H05, VTD H06, VTD H07, VTD H08, VTD H09, VTD M02, VTD M05, VTD W13, VTD W18, VTD W24, VTD W28, VTD WB. It has three district court judges.

District 12C: New Hanover County: VTD FP01, VTD FP02, VTD FP03, VTD FP04, VTD FP05, VTD M03, VTD M04, VTD W03, VTD W08, VTD W12, VTD W15, VTD W16, VTD W17, VTD W21, VTD W26, VTD W29, VTD W30, VTD W31. It has three district court judges.

District 13: Bladen County, Brunswick County, Columbus County. It has six district court judges.

District 14: Robeson County, Scotland County. It has six district court judges.

District 15A: Cumberland County: VTD AH49, VTD CC01, VTD CC03, VTD CC04, VTD CC05, VTD CC06, VTD CC07, VTD CC08, VTD CC10, VTD CC13, VTD CC16, VTD CC17, VTD CC19, VTD CC21, VTD CC24, VTD CC25, VTD CC26, VTD CC27, VTD CC29, VTD CC31, VTD CC32, VTD CC33, VTD CL57, VTD G1: Block(s) 0510014001000, 0510014001001, 0510014001002, 0510014001003, 0510014001004, 0510014001005, 0510014001006, 0510014001007, 0510014001008, 0510014001009, 0510014001010, 0510014001011, 0510014001012, 0510014001013, 0510014001014, 0510014001015, 0510014001016, 0510014001017, 0510014001018, 0510014001019, 0510014001020, 0510014001021, 0510014001022, 0510014001023, 0510014001024, 0510014001025, 0510014001026, 0510014001027, 0510014001028, 0510014001029, 0510014001030, 0510014001031, 0510014001032, 0510014001033, 0510014001034, 0510014001035, 0510014001036, 0510014001037, 0510014001038, 0510014001039, 0510014001040, 0510014001041, 0510014001042, 0510014001043, 0510014001044, 0510014002000, 0510014002001, 0510014002002, 0510014002003, 0510014002004, 0510014002005, 0510014002006, 0510014002007, 0510014002009, 0510014002022, 0510014002023, 0510014002024, 0510014002025, 0510014002026, 0510014002031, 0510014002032, 0510014002033, 0510014002034, 0510014002035, 0510014002036, 0510014002037, 0510014002038, 0510014002039, 0510014002040, 0510014002041, 0510014002042, 0510014002043, 0510014002044, 0510014002045, 0510014002046, 0510014002047, 0510014002048, 0510014002049, 0510014002050, 0510014002051, 0510014002052, 0510014002053, 0510014002054, 0510014002055, 0510014002056, 0510014002057, 0510014002058, 0510014002059, 0510014002060, 0510014002061, 0510014002062, 0510014002063, 0510014002064, 0510014002065, 0510014002066, 0510014002067, 0510014002068, 0510014002069, 0510014003021, 0510014003022, 0510014003023, 0510014003025, 0510014003026, 0510014003033, 0510014003034, 0510014003037, 0510014004002, 0510014004003, 0510014004004, 0510014004005, 0510014004015, 0510014004016, 0510014004017, 0510014004018, 0510014004019, 0510014004020, 0510014004021, 0510014004030, 0510014004031, 0510014004032, 0510014004033, 0510014004034, 0510014004035, 0510014004036, 0510014004037, 0510014004038, 0510014004039, 0510014004040, 0510014004041, 0510014004042, 0510014004043, 0510014004044, 0510014004049, 0510014004050, 0510014004052, 0510014004053, 0510014005014, 0510014005015, 0510014005016, 0510014005017, 0510014005018, 0510014005019, 0510014005020, 0510014005021, 0510014005022, 0510014005023, 0510014005024, 0510014005025, 0510014005026, 0510014005027, 0510014005028, 0510014005029, 0510014005030, 0510014005034, 0510014005035, 0510014005036, 0510014005037, 0510014005038, 0510014005039, 0510014005041, 0510014005046, 0510026002092, 0510026002098, 0510026002099, 0510026002100, 0510026002101, 0510026002102, 0510026002103, 0510026002113; VTD G11, VTD G3: Block(s) 0510002003046, 0510002003056, 0510002003057, 0510002003058, 0510002003059, 0510002003061, 0510002003062, 0510002003063, 0510002003064, 0510002003065, 0510002003075, 0510002003076, 0510002003077, 0510002003078, 0510002003079, 0510002003080, 0510002003081, 0510002003082, 0510002003083, 0510002003084, 0510002003085, 0510005001000, 0510005001001, 0510005001002, 0510005001003, 0510005001004, 0510005001005, 0510005001006, 0510005001007,

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2	<u>0510005001013, 0510005001014, 0510005001015, 0510005001016, 0510005001017,</u>
3	<u>0510005001018, 0510005001019, 0510005001020, 0510005001021, 0510005001022,</u>
4	<u>0510005001023, 0510005001024, 0510005001025, 0510005001026, 0510005001027,</u>
5	<u>0510005001028, 0510005001029, 0510005001030, 0510005001031, 0510005001032,</u>
6	<u>0510005001033, 0510005001034, 0510005001035, 0510005001036, 0510005001037,</u>
7	<u>0510005001038, 0510005001039, 0510005001040, 0510005001041, 0510005002000,</u>
8	<u>0510005002001, 0510005002002, 0510005002003, 0510005002004, 0510005002005,</u>
9	<u>0510005002006, 0510005002007, 0510005002008, 0510005002009, 0510005002010,</u>
10	<u>0510005002011, 0510005002012, 0510005002013, 0510005002014, 0510005002015,</u>
11	<u>0510005002016, 0510005002017, 0510005002018, 0510005002019, 0510005002020,</u>
12	<u>0510005002021, 0510005002022, 0510005002023, 0510005002024, 0510005002025,</u>
13	<u>0510005002026, 0510005002027, 0510005002028, 0510005002029, 0510005002030,</u>
14	<u>0510005002031, 0510005002032, 0510005002033, 0510005002034, 0510005002035,</u>
15	<u>0510005002036, 0510005002037, 0510005002038, 0510005002039, 0510005002040,</u>
16	<u>0510005002041, 0510005002042, 0510005002043, 0510005002044, 0510005002045,</u>
17	<u>0510005002046, 0510005002047, 0510005002048, 0510005002049, 0510005002050,</u>
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19	<u>0510005002056, 0510005002057, 0510005002058, 0510005002059, 0510005003001,</u>
20	<u>0510005003002, 0510005003003, 0510005003004, 0510005003005, 0510005003006,</u>
21	<u>0510005003007, 0510005003008, 0510005003009, 0510005003010, 0510005003011,</u>
22	<u>0510005003012, 0510005003013, 0510005003014, 0510005003015, 0510005003016,</u>
23	<u>0510005003017, 0510005003018, 0510005003019, 0510005003020, 0510005003021,</u>
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25	<u>0510005003027, 0510005003028, 0510005003029, 0510005003030, 0510005003031,</u>
26	<u>0510005003032, 0510005003033, 0510005003034, 0510005003035, 0510005003036,</u>
27	<u>0510005003037, 0510005003038, 0510005003039, 0510005003040, 0510005003041,</u>
28	<u>0510015001000, 0510015001001, 0510015001002, 0510015001003, 0510015001004,</u>
29	<u>0510015001005, 0510015001007, 0510015001008, 0510015001088, 0510015001089,</u>
30	<u>0510015001090, 0510015001091, 0510015001092, 0510015001093, 0510015001094,</u>
31	<u>0510015001096, 0510015001097, 0510015001099, 0510015001123, 0510015001133,</u>
32	<u>0510016031000, 0510016031001, 0510016031002, 0510016031003, 0510016031004,</u>
33	<u>0510016031005, 0510016031006, 0510016031007, 0510016031008, 0510016031009,</u>
34	<u>0510016031010, 0510016031011, 0510016031012, 0510016031013, 0510016031014,</u>
35	<u>0510016031015, 0510016031016, 0510016031017, 0510016031018, 0510016031019,</u>
36	<u>0510016031020, 0510016031021, 0510016031022, 0510016031023, 0510016031024,</u>
37	<u>0510016031025, 0510016031026, 0510016031027, 0510016031028, 0510016031029,</u>
38	<u>0510016032000, 0510016032001, 0510016032002, 0510016032003, 0510016032005,</u>
39	<u>0510016032006, 0510016032007, 0510016032008, 0510016032009, 0510016032010,</u>
40	<u>0510016032011, 0510016032012, 0510016032013, 0510016032014, 0510016032015,</u>
41	<u>0510016032021, 0510016032024, 0510016032034, 0510016032045, 0510016032046,</u>
42	<u>0510016032047, 0510016032048, 0510016041000, 0510016041001, 0510016041002,</u>
43	<u>0510016041003, 0510016041004, 0510016041005, 0510016041006, 0510016041007,</u>
44	<u>0510016041008, 0510016041009, 0510016041010, 0510016041011, 0510016041012,</u>
45	<u>0510016041013, 0510016041014, 0510016041015, 0510016041016, 0510016041017,</u>
46	<u>0510016041018, 0510016041019, 0510016041020, 0510016041021, 0510016041022,</u>
47	<u>0510016041023, 0510016042000, 0510016042001, 0510016042002, 0510016042003,</u>
48	<u>0510016042004, 0510016042005, 0510016042006, 0510016042007, 0510016042008,</u>
49	<u>0510016042009, 0510016042010, 0510016042011, 0510016042012, 0510016042013,</u>
50	<u>0510016042014, 0510016042015, 0510016042016, 0510016042017, 0510016042018,</u>
51	<u>0510016042019, 0510016042020, 0510016042021, 0510016042022, 0510016043000,</u>

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0510038003051, 0510038003052, 0510038003053, 0510038003054, 0510038003056,
0510038003057, 0510038003058, 0510038003059; VTD G5, VTD LR63, VTD MB62,
VTD MR02. It has five district court judges.

District 15B: Cumberland County: VTD AL51, VTD CC12, VTD CC14, VTD CC15, VTD
CC18, VTD CC34, VTD CU02, VTD EO61-1, VTD EO61-2, VTD G1: Block(s)
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VTD G3: Block(s) 0510002003045, 0510002003053, 0510002003054, 0510002003055,
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0510015002033, 0510015002034, 0510015002035, 0510015002036, 0510015002037,
0510015002039, 0510015002040; VTD G4, VTD G6, VTD G7, VTD G8, VTD G9, VTD
LI65, VTD SH77. It has five district court judges.

District 16: Hoke County, Moore County. It has four district court judges.

District 17: Harnett County, Lee County. It has five district court judges.

District 18A: Durham County: VTD 03, VTD 04, VTD 05, VTD 06, VTD 19, VTD 22, VTD
23, VTD 24, VTD 25, VTD 26, VTD 28, VTD 29, VTD 30-1, VTD 30-2, VTD 31: Block(s)
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0630020271063, 0630020271064, 0630020271065, 0630020271067, 0630020271070,
0630020271071, 0639801001012, 0639801001013; VTD 32, VTD 33, VTD 37, VTD 43,
VTD 44, VTD 45, VTD 46, VTD 50, VTD 52. It has three district court judges.

District 18B: Durham County: VTD 01, VTD 02, VTD 07, VTD 08, VTD 09, VTD 10, VTD
12, VTD 13, VTD 14, VTD 15, VTD 16, VTD 17, VTD 18, VTD 20, VTD 21, VTD 27,
VTD 31: Block(s) 0630010013033, 0630018024009; VTD 34, VTD 35, VTD 36, VTD 38,

VTD 39, VTD 40, VTD 41, VTD 42, VTD 47, VTD 48, VTD 51, VTD 53-1, VTD 53-2, VTD 54, VTD 55. It has four district court judges.

District 19: Orange County. It has four district court judges.

District 20: Alamance County. It has four district court judges.

District 21: Caswell County, Rockingham County. It has four district court judges.

District 22A: Guilford County: VTD CG1, VTD CG2, VTD CG3A, VTD CG3B, VTD FEN1, VTD FEN2, VTD FR3, VTD FR4, VTD FR5, VTD G11, VTD G12, VTD G13, VTD G17, VTD G18, VTD G19, VTD G20, VTD G21, VTD G22, VTD G23, VTD G24, VTD G25, VTD G27, VTD G28, VTD G29, VTD G30, VTD G31, VTD G32, VTD G40A1, VTD G40A2, VTD G40B, VTD G65, VTD G66, VTD GIB, VTD GR, VTD H04, VTD H06, VTD H13, VTD H14, VTD H15, VTD H16, VTD H21, VTD H22, VTD H23, VTD H24, VTD H25, VTD H26, VTD H27, VTD JAM1, VTD JAM2, VTD JAM3, VTD JAM4, VTD JAM5, VTD JEF1, VTD JEF2, VTD JEF3, VTD JEF4, VTD MON3, VTD NCGR1, VTD NCGR2, VTD NCLAY1, VTD NCLAY2, VTD NDRI, VTD NMAD, VTD NWASH, VTD OR1, VTD OR2, VTD PG1, VTD PG2, VTD RC1, VTD RC2, VTD SCLAY, VTD SDRI, VTD SF1, VTD SF2, VTD SF3, VTD SF4, VTD SMAD, VTD STOK, VTD SUM1, VTD SUM2, VTD SUM3, VTD SUM4, VTD SWASH. It has seven district court judges.

District 22B: Guilford County: VTD FR1, VTD FR2, VTD G01, VTD G02, VTD G03, VTD G04, VTD G05, VTD G06, VTD G07, VTD G08, VTD G09, VTD G10, VTD G14, VTD G15, VTD G16, VTD G26, VTD G33, VTD G34, VTD G35, VTD G36, VTD G37, VTD G38, VTD G39, VTD G41, VTD G42, VTD G43, VTD G44, VTD G45, VTD G46, VTD G47, VTD G48, VTD G49, VTD G50, VTD G51, VTD G52, VTD G53, VTD G54, VTD G55, VTD G56, VTD G57, VTD G58, VTD G59, VTD G60, VTD G61, VTD G62, VTD G63, VTD G64, VTD G67, VTD G68, VTD G69, VTD G70, VTD G71, VTD G72, VTD G73, VTD G74, VTD G75, VTD H01, VTD H02, VTD H03, VTD H05, VTD H07, VTD H08, VTD H09, VTD H10, VTD H11, VTD H12, VTD H17, VTD H18, VTD H19A, VTD H19B, VTD H20A, VTD H20B, VTD HP, VTD MON1, VTD MON2. It has seven district court judges.

District 23: Chatham County, Randolph County. It has five district court judges.

District 24: Anson County, Richmond County, Union County. It has seven district court judges.

District 25A: Mecklenburg County: VTD 001, VTD 007, VTD 008, VTD 018, VTD 019, VTD 032, VTD 035, VTD 036, VTD 047, VTD 048, VTD 049, VTD 051, VTD 057, VTD 058, VTD 065, VTD 066, VTD 067, VTD 068, VTD 069, VTD 070, VTD 071, VTD 072, VTD 073, VTD 074, VTD 075, VTD 076, VTD 085, VTD 086, VTD 087, VTD 088, VTD 090, VTD 091, VTD 092, VTD 093, VTD 096, VTD 097, VTD 100, VTD 101, VTD 103, VTD 106, VTD 110, VTD 111, VTD 112, VTD 113, VTD 114, VTD 118, VTD 119, VTD 120, VTD 121, VTD 122, VTD 127, VTD 129, VTD 131, VTD 133, VTD 134, VTD 136, VTD 137, VTD 139.1, VTD 140, VTD 142, VTD 143, VTD 144, VTD 145, VTD 148, VTD 201, VTD 202, VTD 203, VTD 204.1, VTD 205, VTD 206, VTD 207, VTD 208, VTD 209, VTD 212, VTD 215, VTD 216, VTD 217, VTD 218, VTD 219, VTD 220, VTD 221, VTD 223.1, VTD 225, VTD 226, VTD 227, VTD 229, VTD 231, VTD 232, VTD 233, VTD 234, VTD 235, VTD 236, VTD 237, VTD 240, VTD 241, VTD 242, VTD 243. It has 11 district court judges.

District 25B: Mecklenburg County: VTD 002, VTD 003, VTD 004, VTD 005, VTD 006, VTD 009, VTD 010, VTD 011, VTD 012, VTD 013, VTD 014, VTD 015, VTD 016, VTD 017, VTD 020, VTD 021, VTD 022, VTD 023, VTD 024, VTD 025, VTD 026, VTD 027, VTD 028, VTD 029, VTD 030, VTD 031, VTD 033, VTD 034, VTD 037, VTD 038, VTD 039, VTD 040, VTD 041, VTD 042, VTD 043, VTD 044, VTD 045, VTD 046, VTD 050, VTD 052, VTD 053, VTD 054, VTD 055, VTD 056, VTD 059, VTD 060, VTD 061, VTD 062, VTD 063, VTD 064, VTD 077, VTD 078.1, VTD 079, VTD 080, VTD 081, VTD 082,

VTD 083, VTD 084, VTD 089, VTD 094, VTD 095, VTD 098, VTD 099, VTD 102, VTD 104, VTD 105, VTD 107.1, VTD 108, VTD 109, VTD 115, VTD 116, VTD 117, VTD 123, VTD 124, VTD 125, VTD 126, VTD 128, VTD 130, VTD 132, VTD 135, VTD 138, VTD 141, VTD 146, VTD 147, VTD 149, VTD 150, VTD 151, VTD 200, VTD 210, VTD 211, VTD 213, VTD 214, VTD 222, VTD 224, VTD 228, VTD 230, VTD 238.1, VTD 239. It has 10 district court judges.

District 26: Cabarrus County. It has five district court judges.

District 27: Rowan County. It has five district court judges.

District 28: Montgomery County, Stanly County. It has three district court judges.

District 29: Davidson County, Davie County. It has six district court judges.

District 30A: Forsyth County: VTD 031, VTD 032, VTD 033, VTD 034, VTD 071, VTD 074, VTD 075, VTD 081, VTD 083, VTD 091, VTD 092, VTD 101, VTD 111, VTD 131, VTD 132, VTD 133, VTD 207, VTD 801, VTD 809, VTD 904, VTD 905, VTD 906, VTD 907, VTD 908, VTD 909. It has three district court judges.

District 30B: Forsyth County: VTD 051, VTD 052, VTD 053, VTD 054, VTD 055, VTD 072, VTD 073, VTD 122, VTD 123, VTD 607, VTD 701, VTD 702, VTD 703, VTD 704, VTD 705, VTD 706, VTD 707, VTD 708, VTD 709, VTD 802, VTD 803, VTD 804, VTD 805, VTD 806, VTD 807, VTD 808, VTD 903. It has two district court judges.

District 30C: Forsyth County: VTD 201, VTD 203, VTD 204, VTD 205, VTD 206, VTD 301, VTD 302, VTD 303, VTD 304, VTD 305, VTD 306, VTD 402, VTD 403, VTD 404, VTD 405, VTD 501, VTD 502, VTD 503, VTD 504, VTD 505, VTD 506, VTD 601, VTD 602, VTD 603, VTD 604, VTD 605, VTD 606, VTD 901, VTD 902. It has three district court judges.

District 30D: Forsyth County: VTD 011, VTD 012, VTD 013, VTD 014, VTD 015, VTD 021, VTD 042, VTD 043, VTD 061, VTD 062, VTD 063, VTD 064, VTD 065, VTD 066, VTD 067, VTD 068, VTD 082, VTD 112, VTD 401, VTD 507. It has three district court judges.

District 31: Stokes County, Surry County. It has four district court judges.

District 32: Alexander County, Iredell County. It has five district court judges.

District 33: Gaston County. It has seven district court judges.

District 34: Cleveland County, Lincoln County. It has six district court judges.

District 35: Burke County, Caldwell County, Catawba County. It has nine district court judges.

District 36: Alleghany County, Ashe County, Wilkes County, Yadkin County. It has four district court judges.

District 37: Avery County, Madison County, Mitchell County, Watauga County, Yancey County. It has four district court judges.

District 38: McDowell County, Rutherford County. It has three district court judges.

District 39A: Buncombe County: VTD 101.1, VTD 102.1, VTD 107.1, VTD 19.1, VTD 24.1, VTD 30.1, VTD 37.1, VTD 38.2, VTD 38.3, VTD 39.1, VTD 41.1, VTD 44.1, VTD 45.1, VTD 46.1, VTD 47.1, VTD 48.1, VTD 49.1, VTD 52.1, VTD 53.1, VTD 55.1, VTD 57.1, VTD 58.1, VTD 63.1, VTD 67.1, VTD 68.1, VTD 69.1, VTD 70.1, VTD 71.1. It has four district court judges.

District 39B: Buncombe County: VTD 01.1, VTD 02.1, VTD 03.1, VTD 04.1, VTD 05.1, VTD 06.1, VTD 07.1, VTD 09.1, VTD 10.1, VTD 100.1, VTD 103.1, VTD 104.1, VTD 105.1, VTD 106.1, VTD 11.1, VTD 12.1, VTD 13.1, VTD 14.2, VTD 15.1, VTD 17.1, VTD 20.1, VTD 25.1, VTD 26.1, VTD 28.1, VTD 31.1, VTD 32.1, VTD 33.2, VTD 33.3, VTD 34.1, VTD 35.1, VTD 36.1, VTD 50.1, VTD 59.1, VTD 60.2, VTD 61.1, VTD 62.1, VTD 64.1, VTD 65.1, VTD 66.1. It has three district court judges.

District 40: Henderson County, Polk County, Transylvania County. It has four district court judges.

District 41: Cherokee County, Clay County, Graham County, Haywood County, Jackson County, Macon County, Swain County. It has six district court judges.

(b) The qualified voters of District 28 shall elect all judges established for District 28 in subsection (a) of this section, but only persons who reside in Stanly County may be candidates for two of the judgeships and only persons who reside in Montgomery County may be candidates for the remaining judgeship.

(c) In subsection (b) of this section, the names and boundaries of voting tabulation districts, tracts, block groups, and blocks specified in this section are as shown on the 2010 Census Redistricting TIGER/Line Shapefiles. If any voting tabulation district boundary is changed, that change shall not alter the boundary of a judicial district, which shall remain the same as it is depicted by the 2010 Census Redistricting TIGER/Line Shapefiles.

(d) The Legislative Services Officer shall certify a true copy of the block assignment file associated with any mapping software used to generate the language in subsection (a) of this section. The certified true copy of the block assignment file shall be delivered by the Legislative Services Officer to the Principal Clerk of the Senate and the Principal Clerk of the House of Representatives. If any area within North Carolina is not assigned to a specific district by subsection (a) of this section, the certified true copy of the block assignment file delivered to the Principal Clerk of the Senate and the Principal Clerk of the House of Representatives shall control.

(e) In order to implement the division of the State into a convenient number of District Court Districts without ending the term of office of any District Court Judge elected by the people of this State on or before January 1, 2017, the following shall apply:

(1) Judges in the following districts, as set out in this section, shall take office on January 1, 2019, with elections in 2018 to be held accordingly:

- a. District 1 – three judges.
- b. District 2 – two judges.
- c. District 4 – two judges.
- d. District 5 – one judge.
- e. District 6A – one judge.
- f. District 6B – one judge.
- g. District 7 – two judges.
- h. District 9 – one judge.
- i. District 10AE – two judges.
- j. District 10BD – two judges.
- k. District 10C – two judges.
- l. District 10F – two judges.
- m. District 11 – one judge.
- n. District 12A – two judges.
- o. District 12B – one judge.
- p. District 12C – one judge.
- q. District 13 – two judges.
- r. District 14 – four judges.
- s. District 15A – four judges.
- t. District 15B – three judges.
- u. District 16 – two judges.
- v. District 17 – two judges.
- w. District 18A – three judges.
- x. District 18B – three judges.
- y. District 19 – one judge.
- z. District 20 – one judge.
- aa. District 21 – two judges.
- bb. District 22A – two judges.
- cc. District 23 – two judges.

- 1 dd. District 24 – one judge.
- 2 ee. District 25A – three judges.
- 3 ff. District 25B – six judges.
- 4 gg. District 26 – four judges.
- 5 hh. District 27 – four judges.
- 6 ii. District 28 – three judges.
- 7 jj. District 29 – six judges.
- 8 kk. District 30A – one judge.
- 9 ll. District 30B – one judge.
- 10 mm. District 30C – one judge.
- 11 nn. District 30D – one judge.
- 12 oo. District 31 – three judges.
- 13 pp. District 32 – one judge.
- 14 qq. District 33 – two judges.
- 15 rr. District 34 – one judge.
- 16 ss. District 35 – seven judges.
- 17 tt. District 36 – three judges.
- 18 uu. District 37 – one judge.
- 19 vv. District 38 – three judges.
- 20 ww. District 39A –three judges.
- 21 xx. District 39B – two judges.
- 22 yy. District 41 – three judges.
- 23 (2) Judges in the following districts, as set out in this section, shall take office
- 24 on January 1, 2021, with elections in 2020 to be held accordingly:
- 25 a. District 1 – two judges.
- 26 b. District 2 – two judges.
- 27 c. District 3 – six judges.
- 28 d. District 4 – six judges.
- 29 e. District 5 – five judges.
- 30 f. District 6A – one judge.
- 31 g. District 6B – two judges.
- 32 h. District 7 – five judges.
- 33 i. District 8 – four judges.
- 34 j. District 9 – five judges.
- 35 k. District 10AE – two judges.
- 36 l. District 10BD – four judges.
- 37 m. District 10C – four judges.
- 38 n. District 10F – two judges.
- 39 o. District 11 – five judges.
- 40 p. District 12A – one judge.
- 41 q. District 12B – two judges.
- 42 r. District 12C – two judges.
- 43 s. District 13 – four judges.
- 44 t. District 14 – two judges.
- 45 u. District 15A – one judge.
- 46 v. District 15B – two judges.
- 47 w. District 16 – two judges.
- 48 x. District 17 – three judges.
- 49 y. District 18A – one judge.
- 50 z. District 19 – three judges.
- 51 aa. District 20 – three judges.

- bb. District 21 – two judges.
cc. District 22A – five judges.
dd. District 22B – seven judges.
ee. District 23 – three judges. (Randolph)
ff. District 24 – six judges.
gg. District 25A – eight judges.
hh. District 25B – four judges.
ii. District 27 – one judge.
jj. District 30A – two judges.
kk. District 30B – one judge.
ll. District 30C – two judges.
mm. District 30D – two judges.
nn. District 31 – one judge.
oo. District 32 – four judges.
pp. District 33 – five judges.
qq. District 34 – four judges.
rr. District 35 – two judges.
ss. District 36 – one judge.
tt. District 37 – three judges.
uu. District 39A – one judge.
vv. District 39B – one judge.
ww. District 40 – four judges.
xx. District 41 – three judges.

(3) The Chief Justice of the Supreme Court, acting in accordance with rules of the Supreme Court, may make assignments of any Judge of the District Court from one district to another for temporary duty that may extend for the duration of an elected term beginning on or before January 1, 2017. In making such assignments, the Chief Justice of the Supreme Court may consider the districts, and the number of District Court judges per district, as set forth in this section.

(4) In filling a vacancy, the Governor shall fill the vacancy in accordance with the districts, and the number of District Court judges per district, as set forth in this section. If a vacancy is created in a district with an insufficient number of judges allocated to that district to allow all elected judges to continue to serve and fill the vacancy, the vacancy shall not be filled."

SECTION 3.(a) G.S. 7A-60 is repealed.

SECTION 3.(b) Article 9 of Chapter 7A of the General Statutes is amended by adding a new section to read:

"§ 7A-60.5. District attorneys and prosecutorial districts.

(a) The counties of the State are organized into prosecutorial districts, for which one district attorney shall be elected who shall be a resident of the prosecutorial district for which elected. Each prosecutorial district has the counties and the number full-time assistant district attorneys set forth as follows:

District 1: Camden County, Chowan County, Currituck County, Dare County, Gates County, Pasquotank County, Perquimans County. It has 11 assistant district attorneys.

District 2: Beaufort County, Hyde County, Martin County, Tyrrell County, Washington County. It has eight assistant district attorneys.

District 3: Carteret County, Craven County, Pamlico County. It has 13 assistant district attorneys.

District 4: Duplin County, Onslow County, Sampson County. It has 19 assistant district attorneys.

District 5: Greene County, Jones County, Lenoir County, Wayne County. It has 14 assistant district attorneys.

District 6: Pitt County. It has 12 assistant district attorneys.

District 7: Edgecombe County, Nash County, Wilson County. It has 19 assistant district attorneys.

District 8: Bertie County, Halifax County, Hertford County, Northampton County. It has 11 assistant district attorneys.

District 9: Franklin County, Granville County, Person County, Vance County, Warren County. It has 13 assistant district attorneys.

District 10: Wake County. It has 42 assistant district attorneys.

District 11: Johnston County. It has 10 assistant district attorneys.

District 12: New Hanover County, Pender County. It has 19 assistant district attorneys.

District 13: Bladen County, Brunswick County, Columbus County. It has 14 assistant district attorneys.

District 14: Robeson County, Scotland County. It has 15 assistant district attorneys.

District 15: Cumberland County. It has 25 assistant district attorneys.

District 16: Hoke County, Moore County. It has eight assistant district attorneys.

District 17: Harnett County, Lee County. It has 11 assistant district attorneys.

District 18: Durham County. It has 18 assistant district attorneys.

District 19: Orange County. It has seven assistant district attorneys.

District 20: Alamance County. It has 12 assistant district attorneys.

District 21: Caswell County, Rockingham County. It has 10 assistant district attorneys.

District 22: Guilford County. It has 34 assistant district attorneys.

District 23: Chatham County, Randolph County. It has 13 assistant district attorneys.

District 24: Anson County, Richmond County, Union County. It has 17 assistant district attorneys.

District 25: Mecklenburg County. It has 58 assistant district attorneys.

District 26: Cabarrus County. It has nine assistant district attorneys.

District 27: Rowan County. It has nine assistant district attorneys.

District 28: Montgomery County, Stanly County. It has six assistant district attorneys.

District 29: Davidson County, Davie County. It has 12 assistant district attorneys.

District 30: Forsyth County. It has 27 assistant district attorneys.

District 31: Stokes County, Surry County. It has eight assistant district attorneys.

District 32: Alexander County, Iredell County. It has 12 assistant district attorneys.

District 33: Gaston County. It has 15 assistant district attorneys.

District 34: Cleveland County, Lincoln County. It has 12 assistant district attorneys.

District 35: Burke County, Caldwell County, Catawba County. It has 19 assistant district attorneys.

District 36: Alleghany County, Ashe County, Wilkes County, Yadkin County. It has nine assistant district attorneys.

District 37: Avery County, Madison County, Mitchell County, Watauga County, Yancey County. It has eight assistant district attorneys.

District 38: McDowell County, Rutherford County. It has eight assistant district attorneys.

District 39: Buncombe County. It has 14 assistant district attorneys.

District 40: Henderson County, Polk County, Transylvania County. It has nine assistant district attorneys.

District 41: Cherokee County, Clay County, Graham County, Haywood County, Jackson County, Macon County, Swain County. It has 12 assistant district attorneys.

(b) In subsection (a) of this section, the names and boundaries of counties specified in this section are as shown on the 2010 Census Redistricting TIGER/Line Shapefiles. If any county boundary is changed, that change shall alter the boundary of a judicial district.

(c) The Legislative Services Officer shall certify a true copy of the block assignment file associated with any mapping software used to generate the language in subsection (a) of this section. The certified true copy of the block assignment file shall be delivered by the Legislative Services Officer to the Principal Clerk of the Senate and the Principal Clerk of the House of Representatives. If any area within North Carolina is not assigned to a specific district by subsection (a) of this section, the certified true copy of the block assignment file delivered to the Principal Clerk of the Senate and the Principal Clerk of the House of Representatives shall control.

(e) In order to implement the division of the State into a convenient number of prosecutorial districts without ending the term of office for any District Attorney elected by the people of this State, the office and term of any District Attorney beginning on or before January 1, 2017, shall continue until the expiration of the current elected term without transfer of any assistant district attorneys assigned. Upon expiration, any election shall be in accordance with the districts as set forth in this section, and any open investigations or pending cases shall be transferred accordingly, along with any assistant district attorney positions upon the newly elected district attorney taking the oath of office.

(f) A vacancy in the office of district attorney shall be filled as provided in Section 19 of Article IV of the North Carolina Constitution."

SECTION 3.(c) 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, ~~such number to be developed by the General Assembly after consulting the workload formula established through the National Center for State Courts, Subchapter~~ to be appointed by the district attorney, to serve at the district attorney's 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. The district attorney shall devote full time to the duties of the office and shall not engage in the private practice of law during his or her term."

SECTION 3.(d) Notwithstanding G.S. 7A-60 and G.S. 7A-60.5, as enacted by this section, if a vacancy occurs in the office of district attorney that began on or before January 1, 2017, and the district to which that district attorney was elected no longer exists under G.S. 7A-60.5, as enacted by this section, the vacancy shall not be filled in order to implement the districts as set out in this section.

SECTION 4. The Administrative Office of the Courts, the Courts Commission, and the Legislative Services Commission shall study and determine quantifiable workload assessments, by county, for prosecutorial, district, and superior courts to assist the General Assembly in dividing the State into a convenient number of districts and divisions for the administration of the judicial branch. The Court Commission shall make a report to the 2019 Regular Session of the General Assembly on or before December 15, 2018, with any recommendations of the study.

SECTION 5. If Senate Bill 257, 2017 Regular Session, becomes law, Section 18B.9 of that act is repealed.

SECTION 6. This act becomes effective January 1, 2019, and elections in 2018 and thereafter shall be held accordingly.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. H717-CSSI-37

H. B. No. 717

DATE _____

S. B. No. _____

Amendment No. _____

COMMITTEE SUBSTITUTE ☒

(to be filled in by
Principal Clerk)

Rep.) Farmer - Butterfield
Sen.) _____

1 moves to amend the bill on page 2, lines 8-15

2 () WHICH CHANGES THE TITLE

3 by rewriting those lines to read:

4 _____

5 "District 6: Pitt County. It has two superior
6 court judges."

7 _____

8 _____

9 and on page 10; lines 41-48, by rewriting
10 those lines to read:

11 _____

12 "District 6: Pitt County. It has five district
13 court judges."

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

SIGNED

Jan Farmer Butterfield

ADOPTED _____ FAILED ☒ TABLED _____





Attachment 2
Passed

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 717

H717-AST-62 [v.5]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 1 of 7

Amends Title [NO]
H717-CSST-37

Date _____, 2017

Representative

moves to amend the bill on page 10, lines 1-18, by rewriting those lines to read:

"(e) In order to implement the division of the State into a number of judicial divisions and a convenient number of Superior Court Districts without ending the term of office of any Superior Court Judge elected by the people of this State on or before January 1, 2017, the following shall apply:

(1) Judges in the following districts, as set out in this section, shall take office on January 1, 2019, with elections in 2018 to be held accordingly:

- a. District 1 – two judges.
- b. District 2 – one judge.
- c. District 3 – two judges.
- d. District 7 – two judges.
- e. District 9 – two judges.
- f. District 11 – one judge.
- g. District 12A – one judge.
- h. District 12C – one judge.
- i. District 13B – one judge.
- j. District 15A – two judges.
- k. District 15B – one judge.
- l. District 18A – two judges.
- m. District 18B – one judge.
- n. District 20 – one judge.
- o. District 22A – two judges.
- p. District 22B – one judge.
- q. District 23 – one judge.
- r. District 24 – one judge.
- s. District 25A – two judges.
- t. District 27 – one judge.
- u. District 31 – one judge.
- v. District 34 – one judge.
- w. District 35A – one judge.
- x. District 35B – one judge.



* H 7 1 7 - A S T - 6 2 - V - 5 *

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 717

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(to be filled in by
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- 1 y. District 37 – one judge.
2 x. District 39A – one judge.
3 aa. District 39B – one judge.
4 bb. District 41A – one judge.
5 (2) Judges in the following districts, as set out in this section, shall take office
6 on January 1, 2021, with elections in 2020 to be held accordingly:
7 a. District 4B – one judge.
8 b. District 8 – one judge.
9 c. District 10B – one judge.
10 d. District 10D – one judge.
11 e. District 10E – one judge.
12 f. District 14 – one judge.
13 g. District 15B – one judge.
14 h. District 17 – two judges.
15 i. District 18B – one judge.
16 j. District 22A – one judge.
17 k. District 25A – two judges.
18 l. District 25B – one judge.
19 m. District 30A – one judge.
20 n. District 30C – one judge.
21 o. District 32 – one judge.
22 p. District 33 – one judge.
23 q. District 38 – one judge.
24 (3) Judges in the following districts, as set out in this section, shall take office
25 on January 1, 2023, with elections in 2022 to be held accordingly:
26 a. District 6A – one judge.
27 b. District 10A – one judge.
28 c. District 11 – one judge.
29 d. District 19 – one judge.
30 e. District 20 – one judge.
31 f. District 21 – two judges.
32 g. District 22B – two judges.
33 h. District 23 – one judge.
34 i. District 25B – three judges.
35 j. District 26 – one judge.
36 k. District 29 – one judge.
37 l. District 30B – one judge.
38 m. District 33 – one judge.
39 n. District 35A – one judge.
40 o. District 35B – one judge.
41 p. District 36 – one judge.
42 (4) Judges in the following districts, as set out in this section, shall take office
43 on January 1, 2025, with elections in 2024 to be held accordingly:

**NORTH CAROLINA GENERAL ASSEMBLY
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- 1 a. District 3 – one judge.
2 b. District 5A – one judge.
3 c. District 5B – one judge.
4 d. District 6B – one judge.
5 e. District 10C – one judge.
6 f. District 10F – one judge.
7 g. District 12B – one judge.
8 h. District 13A – one judge.
9 i. District 14 – one judge.
10 j. District 16 – one judge.
11 k. District 24 – two judges.
12 l. District 28 – one judge.
13 m. District 29 – one judge.
14 n. District 30D – one judge.
15 o. District 31 – one judge.
16 p. District 32 – one judge.
17 q. District 34 – one judge.
18 r. District 37 – one judge.
19 (5) The Chief Justice of the Supreme Court, acting in accordance with rules of
20 the Supreme Court, may make assignments of any Judge of the Superior
21 Court from one district to another for temporary duty that may extend for the
22 duration of an elected term beginning on or before January 1, 2017. In
23 making such assignments, the Chief Justice of the Supreme Court may
24 consider the districts, and the number of Superior Court judges per district,
25 as set forth in this section.
26 (6) The principle of rotating Superior Court Judges among the various districts
27 of a division is a salutary one and shall be observed.
28 (7) In filling any vacancy in accordance with Article IV, Sec. 19 of the
29 Constitution, the vacancy shall be filled, and any election shall be conducted
30 in accordance with the districts as set forth in this section. If a vacancy is
31 created in a district with an insufficient number of judges allocated to that
32 district to allow all elected judges to continue to serve and fill the vacancy,
33 the vacancy shall not be filled."";
34
35
36
37

38 and on page 18, lines 33-45, by rewriting those lines to read:
39

40 "(e) In order to implement the division of the State into a convenient number of District
41 Court Districts without ending the term of office of any District Court Judge elected by the
42 people of this State on or before January 1, 2017, the following shall apply:

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- (1) Judges in the following districts, as set out in this section, shall take office on January 1, 2019, with elections in 2018 to be held accordingly:
- a. District 1 – three judges.
 - b. District 2 – two judges.
 - c. District 4 – two judges.
 - d. District 5 – one judge.
 - e. District 6A – one judge.
 - f. District 6B – one judge.
 - g. District 7 – two judges.
 - h. District 9 – one judge.
 - i. District 10AE – two judges.
 - j. District 10BD – two judges.
 - k. District 10C – two judges.
 - l. District 10F – two judges.
 - m. District 11 – one judge.
 - n. District 12A – two judges.
 - o. District 12B – one judge.
 - p. District 12C – one judge.
 - q. District 13 – two judges.
 - r. District 14 – four judges.
 - s. District 15A – four judges.
 - t. District 15B – three judges.
 - u. District 16 – two judges.
 - v. District 17 – two judges.
 - w. District 18A – three judges.
 - x. District 18B – three judges.
 - y. District 19 – one judge.
 - z. District 20 – one judge.
 - aa. District 21 – two judges.
 - bb. District 22A – two judges.
 - cc. District 23 – two judges.
 - dd. District 24 – one judge.
 - ee. District 25A – three judges.
 - ff. District 25B – six judges.
 - gg. District 26 – four judges.
 - hh. District 27 – four judges.
 - ii. District 28 – three judges.
 - jj. District 29 – six judges.
 - kk. District 30A – one judge.
 - ll. District 30B – one judge.
 - mm. District 30C – one judge.
 - nn. District 30D – one judge.
 - oo. District 31 – three judges.

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- 1 pp. District 32 – one judge.
2 qq. District 33 – two judges.
3 rr. District 34 – one judge.
4 ss. District 35 – seven judges.
5 tt. District 36 – three judges.
6 uu. District 37 – one judge.
7 vv. District 38 – three judges.
8 ww. District 39A –three judges.
9 xx. District 39B – two judges.
10 yy. District 41 – three judges.
11 (2) Judges in the following districts, as set out in this section, shall take office
12 on January 1, 2021, with elections in 2020 to be held accordingly:
13 a. District 1 – two judges.
14 b. District 2 – two judges.
15 c. District 3 – six judges.
16 d. District 4 – six judges.
17 e. District 5 – five judges.
18 f. District 6A – one judge.
19 g. District 6B – two judges.
20 h. District 7 – five judges.
21 i. District 8 – four judges.
22 j. District 9 – five judges.
23 k. District 10AE – two judges.
24 l. District 10BD – four judges.
25 m. District 10C – four judges.
26 n. District 10F – two judges.
27 o. District 11 – five judges.
28 p. District 12A – one judge.
29 q. District 12B – two judges.
30 r. District 12C – two judges.
31 s. District 13 – four judges.
32 t. District 14 – two judges.
33 u. District 15A – one judge.
34 v. District 15B – two judges.
35 w. District 16 – two judges.
36 x. District 17 – three judges.
37 y. District 18A – one judge.
38 z. District 19 – three judges.
39 aa. District 20 – three judges.
40 bb. District 21 – two judges.
41 cc. District 22A – five judges.
42 dd. District 22B – seven judges.
43 ee. District 23 – three judges. (Randolph)

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ff. District 24 – six judges.
gg. District 25A – eight judges.
hh. District 25B – four judges.
ii. District 27 – one judge.
jj. District 30A – two judges.
kk. District 30B – one judge.
ll. District 30C – two judges.
mm. District 30D – two judges.
nn. District 31 – one judge.
oo. District 32 – four judges.
pp. District 33 – five judges.
qq. District 34 – four judges.
rr. District 35 – two judges.
ss. District 36 – one judge.
tt. District 37 – three judges.
uu. District 39A – one judge.
vv. District 39B – one judge.
ww. District 40 – four judges.
xx. District 41 – three judges.

(3) The Chief Justice of the Supreme Court, acting in accordance with rules of the Supreme Court, may make assignments of any Judge of the District Court from one district to another for temporary duty that may extend for the duration of an elected term beginning on or before January 1, 2017. In making such assignments, the Chief Justice of the Supreme Court may consider the districts, and the number of District Court judges per district, as set forth in this section.

(4) In filling a vacancy, the Governor shall fill the vacancy in accordance with the districts, and the number of District Court judges per district, as set forth in this section. If a vacancy is created in a district with an insufficient number of judges allocated to that district to allow all elected judges to continue to serve and fill the vacancy, the vacancy shall not be filled"";

and on page 20, lines 20-25, by rewriting those lines to read:

"(e) In order to implement the division of the State into a convenient number of prosecutorial districts without ending the term of office for any District Attorney elected by the people of this State, the office and term of any District Attorney beginning on or before January 1, 2017, shall continue until the expiration of the current elected term without transfer of any

**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 717**

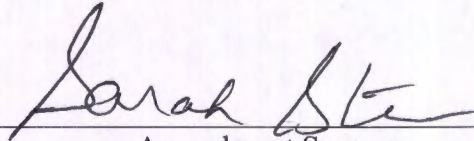
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- 1 assistant district attorneys assigned. Upon expiration, any election shall be in accordance with
2 the districts as set forth in this section, and any open investigations or pending cases shall be
3 transferred accordingly, along with any assistant district attorney positions upon the newly
4 elected district attorney taking the oath of office."

SIGNED _____


Amendment Sponsor

SIGNED _____

Committee Chair if Senate Committee Amendment

ADOPTED _____



FAILED _____

TABLED _____

2017 COUNTY DEVELOPMENT TIER RANKINGS (§ 143B-437.08)

ECONOMIC INDICATORS									TIER ADJUSTMENT						
	Adj. Prop. Tax Base Per Capita FY 2016-2017		Population Growth July 12-July 15		Median Household Income 2014		Unemployment 12 Mth Avg Oct 15-Sept 16		County Rank Sum (Lowest = most distressed)	ECONOMIC DISTRESS RANK (#1 = most distressed)	2017 Tier Prior to Any Adjustments	Performs Better than All Statewide Benchmarks	Pop <50,000: Tier 1 or Tier 2	Pop <12,000: auto Tier 1	Pop >12,000: auto Tier 2
COUNTY	Value	Rank	% Change	Rank	Income	Rank	Rate	Rank							
Statewide	\$99,592	-	3.05%	-	\$47,884	-	5.21%	-							
ALAMANCE	\$76,032	36	2.93%	78	\$41,296	49	4.90%	81	244	67	2				
ALEXANDER	\$70,309	24	1.24%	57	\$43,043	59	4.55%	92	232	61	2		X		
ALLEGHANY	\$144,801	88	1.97%	65	\$35,266	22	5.63%	43	218	57	2		X	X	
ANSON	\$70,063	23	-2.68%	4	\$32,508	7	5.97%	32	66	11	1		X		
ASHE	\$141,923	86	-0.18%	35	\$36,488	27	5.11%	68	216	55	2		X		
AVERY	\$237,109	98	0.95%	53	\$37,131	32	5.39%	58	241	66	2		X		
BEAUFORT	\$116,749	73	-0.10%	38	\$40,357	47	5.95%	33	191	46	2		X		
BERTIE	\$66,182	10	-2.94%	3	\$31,217	3	6.88%	18	34	3	1		X		
BLADEN	\$78,641	45	-0.05%	39	\$33,521	12	7.12%	14	110	15	1		X		
BRUNSWICK	\$192,721	93	9.63%	100	\$47,387	80	6.47%	28	301	82	3				
BUNCOMBE	\$117,604	74	3.91%	85	\$47,296	79	3.95%	100	338	94	3				
BURKE	\$71,728	27	-0.26%	31	\$39,275	44	5.20%	65	167	36	1				
CABARRUS	\$101,676	59	6.58%	96	\$55,250	93	4.69%	88	336	93	3	X			
CALDWELL	\$77,580	37	-0.01%	41	\$38,653	40	5.51%	49	167	36	1				
CAMDEN	\$99,984	58	2.22%	69	\$61,730	98	5.50%	50	275	76	2		X	X	
CARTERET	\$209,477	95	2.11%	67	\$48,824	84	5.37%	59	305	83	3				
CASWELL	\$69,724	21	0.06%	44	\$42,730	57	5.72%	37	159	33	1		X		
CATAWBA	\$104,698	62	0.20%	48	\$45,080	70	4.99%	75	255	72	2				
CHATHAM	\$126,154	80	8.14%	99	\$56,797	94	4.36%	98	371	99	3	X			
CHEROKEE	\$107,046	66	1.44%	59	\$34,620	19	5.86%	34	178	42	2		X		
CHOWAN	\$95,888	54	-1.22%	17	\$38,887	41	6.75%	22	134	25	1		X		
CLAY	\$146,396	90	2.87%	77	\$37,072	31	5.56%	47	245	68	2		X	X	
CLEVELAND	\$78,640	44	0.20%	47	\$39,444	45	5.74%	36	172	40	1				
COLUMBUS	\$66,813	12	-2.01%	9	\$34,321	18	6.68%	25	64	9	1				
CRAVEN	\$87,684	50	-1.50%	15	\$43,972	63	5.44%	56	184	43	2				
CUMBERLAND	\$67,263	14	-0.42%	30	\$42,582	56	6.58%	26	126	22	1				
CURRITUCK	\$239,348	99	6.27%	94	\$58,024	95	5.45%	54	342	95	3		X		
DARE	\$378,627	100	3.35%	81	\$54,642	92	6.86%	20	293	80	2		X		
DAVIDSON	\$77,844	40	1.13%	56	\$43,346	61	4.98%	76	233	62	2				
DAVIE	\$98,120	56	0.97%	54	\$47,592	81	4.67%	90	281	77	2		X		
DUPLIN	\$69,761	22	0.65%	52	\$34,109	17	5.50%	52	143	28	1				
DURHAM	\$104,754	63	5.67%	91	\$50,745	89	4.62%	91	334	91	3	X			
EDGECOMBE	\$56,372	4	-2.37%	7	\$31,615	4	8.78%	4	19	1	1				
FORSYTH	\$88,437	51	2.48%	75	\$45,944	75	5.03%	73	274	75	2				
FRANKLIN	\$70,342	25	3.87%	84	\$48,166	82	5.27%	62	253	70	2				

2017 COUNTY DEVELOPMENT TIER RANKINGS (§ 143B-437.08)

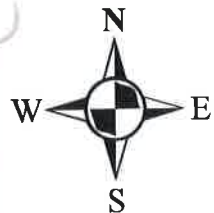
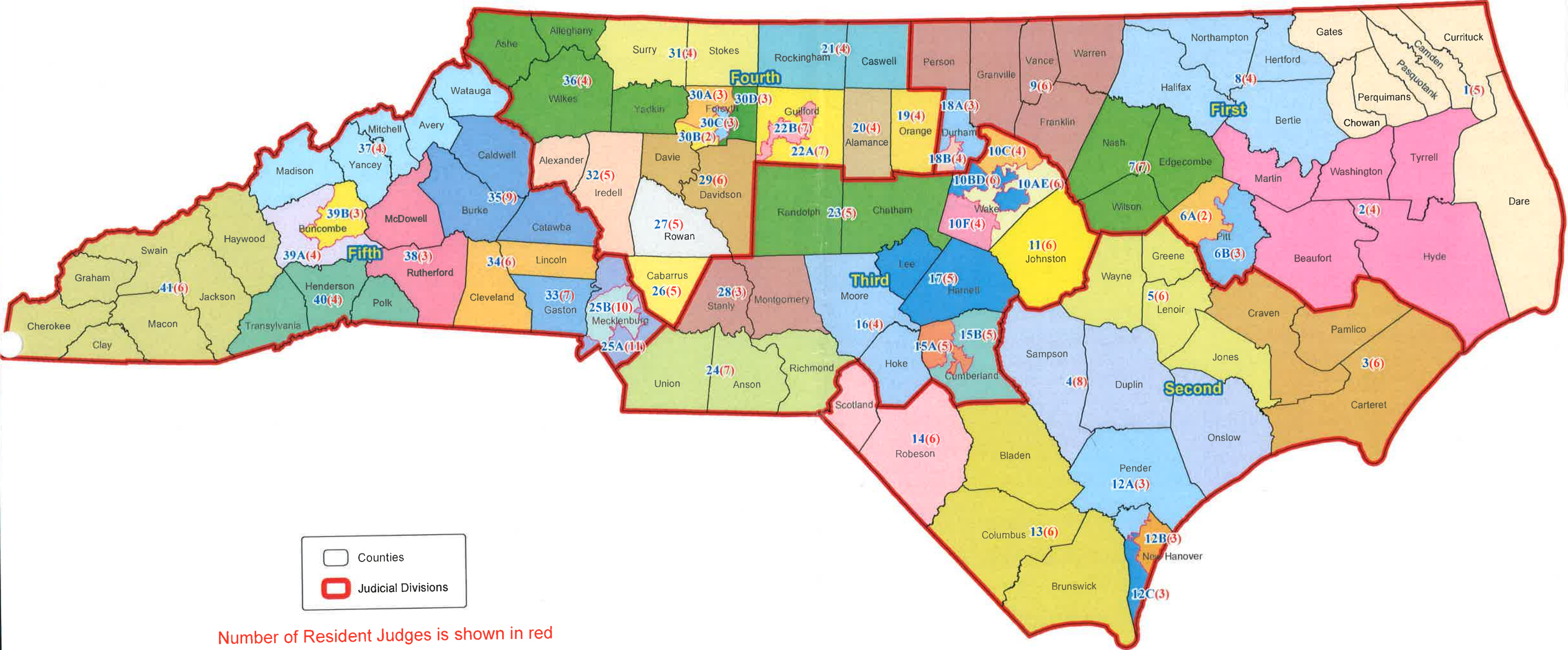
COUNTY	ECONOMIC INDICATORS								TIER ADJUSTMENTS						
	Adj. Prop. Tax Base Per Capita FY 2016-2017		Population Growth July 12-July 15		Median Household Income 2014		Unemployment 12 Mth Avg Oct 15-Sept 16		County Rank Sum (Lowest = most)	ECONOMIC DISTRESS RANK (#1 = most)	2017 Tier Prior to Any	Performs Better than All Statewide	Pop <50,000: Tier 1 or	Pop <12,000:	Pop <50,000: pop >1
	Value	Rank	% Change	Rank	Income	Rank	Rate	Rank							
GASTON	\$68,031	15	1.97%	66	\$42,056	55	5.40%	57	193	48	2				
GATES	\$69,004	19	-3.15%	2	\$48,413	83	5.20%	66	170	39	1		X	X	
GRAHAM	\$143,640	87	-1.07%	18	\$33,824	14	9.72%	1	120	19	1		X	X	
GRANVILLE	\$72,963	28	1.49%	60	\$49,342	85	4.52%	93	266	74	2				
GREENE	\$55,026	3	-2.14%	8	\$37,263	33	5.09%	70	114	16	1		X		
GUILFORD	\$90,957	52	3.05%	80	\$44,828	67	5.34%	60	259	73	2				
HALIFAX	\$70,485	26	-3.17%	1	\$31,674	5	8.29%	7	39	4	1				
HARNETT	\$59,763	5	4.85%	89	\$45,380	71	5.97%	31	196	49	2				
HAYWOOD	\$117,651	75	2.31%	71	\$42,812	58	4.70%	87	291	79	2				
HENDERSON	\$110,441	69	4.11%	86	\$47,286	78	4.36%	97	330	90	3				
HERTFORD	\$62,603	7	-0.22%	34	\$30,056	1	6.74%	23	65	10	1		X		
HOKE	\$64,286	9	3.49%	83	\$44,175	64	6.87%	19	175	41	2				
HYDE	\$210,124	96	-2.37%	6	\$36,891	30	9.30%	3	135	26	1		X	X	
IREDELL	\$122,084	78	4.44%	88	\$54,026	91	4.93%	77	334	91	3	X			
JACKSON	\$209,333	94	2.34%	72	\$38,130	37	5.61%	44	247	69	2		X		
JOHNSTON	\$78,078	41	5.68%	92	\$50,055	88	4.71%	86	307	84	3				
JONES	\$77,671	39	-1.78%	10	\$38,928	42	5.25%	64	155	31	1		X	X	
LEE	\$86,848	49	0.05%	42	\$46,073	76	6.26%	30	197	50	2				
LENOIR	\$68,608	17	-1.70%	12	\$35,991	26	5.64%	42	97	14	1				
LINCOLN	\$102,543	60	2.98%	79	\$49,676	86	4.86%	82	307	84	3				
MACON	\$218,921	97	2.37%	73	\$37,884	35	5.54%	48	253	70	2		X		
MADISON	\$104,418	61	2.13%	68	\$38,445	38	5.14%	67	234	63	2		X		
MARTIN	\$77,649	38	-0.93%	19	\$35,930	24	7.08%	15	96	13	1		X		
MCDOWELL	\$79,830	46	0.59%	51	\$37,881	34	4.93%	78	209	54	2		X		
MECKLENBURG	\$115,399	72	7.58%	98	\$59,049	96	4.85%	83	349	98	3	X			
MITCHELL	\$113,759	70	-0.49%	28	\$36,795	28	6.41%	29	155	31	1		X		
MONTGOMERY	\$105,894	64	-0.25%	33	\$38,530	39	5.27%	61	197	50	2		X		
MOORE	\$126,671	81	4.19%	87	\$51,650	90	5.25%	63	321	88	3				
NASH	\$75,838	35	-0.63%	23	\$43,348	62	6.76%	21	141	27	1				
NEW HANOVER	\$139,871	85	4.91%	90	\$49,905	87	4.91%	80	342	95	3	X			
NORTHAMPTON	\$96,079	55	-2.40%	5	\$32,063	6	7.47%	11	77	12	1		X		
ONSLOW	\$68,853	18	1.71%	63	\$47,201	77	5.69%	39	197	50	2				
ORANGE	\$114,918	71	1.49%	61	\$60,304	97	4.36%	96	325	89	3				
PAMLICO	\$139,604	84	0.06%	43	\$43,097	60	5.47%	53	240	65	2		X		
PASQUOTANK	\$75,447	34	-0.81%	21	\$44,596	66	6.69%	24	145	29	1		X		
PENDER	\$109,732	68	6.99%	97	\$45,453	72	5.56%	46	283	78	2				

2017 COUNTY DEVELOPMENT TIER RANKINGS (§ 143B-437.08)

COUNTY	ECONOMIC INDICATORS								TIER ADJUSTMENT						
	Adj. Prop. Tax Base Per Capita FY 2016-2017		Population Growth July 12-July 15		Median Household Income 2014		Unemployment 12 Mth Avg Oct 15-Sept 16		County Rank Sum (Lowest = most)	ECONOMIC DISTRESS RANK (#1 = most)	2017 Tier Prior to Any	Performs Better than All Statewide	Pop <50,000: Tier 1 or	Pop <12,000:	P <50, po >1
	Value	Rank	% Change	Rank	Income	Rank	Rate	Rank							
PERQUIMANS	\$130,643	82	-0.26%	32	\$41,328	50	6.54%	27	191	46	2		X		
PERSON	\$109,178	67	1.13%	55	\$45,841	74	5.71%	38	234	63	2		X		
PITT	\$66,765	11	1.76%	64	\$41,765	51	5.66%	41	167	36	1				
POLK	\$132,793	83	2.52%	76	\$45,464	73	4.80%	85	317	87	3		X		
RANDOLPH	\$73,656	30	0.37%	49	\$41,770	52	5.04%	72	203	53	2				
RICHMOND	\$68,193	16	-1.73%	11	\$34,665	20	7.30%	13	60	8	1		X		
ROBESON	\$46,493	1	-0.51%	27	\$30,414	2	7.48%	10	40	5	1				
ROCKINGHAM	\$74,721	32	-0.81%	20	\$39,606	46	5.80%	35	133	24	1				
ROWAN	\$81,541	48	1.51%	62	\$44,973	68	5.60%	45	223	59	2				
RUTHERFORD	\$91,034	53	-0.46%	29	\$35,629	23	7.06%	16	121	20	1				
SAMPSON	\$67,056	13	-0.16%	36	\$33,876	16	5.50%	51	116	17	1				
SCOTLAND	\$60,140	6	-1.64%	14	\$32,782	9	9.50%	2	31	2	1		X		
STANLY	\$74,834	33	1.38%	58	\$41,921	53	4.85%	84	228	60	2				
STOKES	\$78,283	43	-0.55%	25	\$45,065	69	4.92%	79	216	55	2		X		
SURRY	\$74,227	31	-0.63%	24	\$37,915	36	5.00%	74	165	34	1				
SWAIN	\$106,506	65	3.43%	82	\$34,788	21	6.93%	17	185	44	2		X		
TRANSYLVANIA	\$176,148	92	2.25%	70	\$44,490	65	5.09%	69	296	81	3		X		
TYRRELL	\$124,302	79	-0.55%	26	\$32,773	8	8.59%	5	118	18	1		X	X	
UNION	\$99,469	57	5.90%	93	\$64,381	99	4.46%	95	344	97	3				
VANCE	\$52,321	2	-0.77%	22	\$33,609	13	7.51%	9	46	6	1		X		
WAKE	\$119,336	77	6.57%	95	\$66,950	100	4.30%	99	371	99	3	X			
WARREN	\$118,440	76	0.14%	45	\$33,869	15	7.45%	12	148	30	1		X		
WASHINGTON	\$69,593	20	-1.67%	13	\$32,867	10	7.91%	8	51	7	1		X		
WATAUGA	\$165,541	91	2.48%	74	\$41,942	54	4.68%	89	308	86	3				
WAYNE	\$63,691	8	0.18%	46	\$36,890	29	5.68%	40	123	21	1				
WILKES	\$80,786	47	-0.13%	37	\$33,398	11	5.08%	71	166	35	1				
WILSON	\$78,217	42	-0.02%	40	\$39,268	43	8.47%	6	131	23	1				
YADKIN	\$73,323	29	-1.40%	16	\$40,801	48	4.49%	94	187	45	2		X		
YANCEY	\$145,314	89	0.51%	50	\$35,974	25	5.45%	55	219	58	2		X		



HB 717 – Proposed District Court Districts



Total Population by Race and Ethnicity: HB 717 – Proposed District Court Districts

		Total Population by Race																Total Population by Ethnicity					
District	Total	White	% White	Black	% Black	NA	% NA	A/PI	% A/PI	Other	% Other	MR	% MR	MR Black	% MR Black	Total Black	% Total Black	Hisp	% Hisp	Non Hisp	% Non Hisp	White Non Hisp	% White Non Hisp
1	148,551	110,469	74.36%	31,327	21.09%	555	0.37%	1,134	0.76%	2,340	1.58%	2,726	1.84%	1,363	0.92%	32,690	22.01%	5,697	3.84%	142,854	96.16%	107,741	72.53%
2	95,709	57,775	60.37%	32,980	34.46%	350	0.37%	402	0.42%	3,063	3.20%	1,139	1.19%	672	0.70%	33,652	35.16%	5,052	5.28%	90,657	94.72%	56,279	58.80%
3	183,118	141,819	77.45%	29,866	16.31%	897	0.49%	2,942	1.61%	3,336	1.82%	4,258	2.33%	2,025	1.11%	31,891	17.42%	8,925	4.87%	174,193	95.13%	137,354	75.01%
4	299,708	201,024	67.07%	59,573	19.88%	2,802	0.93%	4,376	1.46%	21,965	7.33%	9,968	3.33%	4,711	1.57%	64,284	21.45%	40,395	13.48%	259,313	86.52%	187,271	62.48%
5	213,633	121,138	56.70%	73,873	34.58%	914	0.43%	1,917	0.90%	11,680	5.47%	4,111	1.92%	2,151	1.01%	76,024	35.59%	19,531	9.14%	194,102	90.86%	114,963	53.81%
6A	87,499	42,757	48.87%	38,421	43.91%	294	0.34%	1,500	1.71%	2,615	2.99%	1,912	2.19%	1,146	1.31%	39,567	45.22%	4,707	5.38%	82,792	94.62%	41,278	47.18%
6B	80,649	56,318	69.83%	18,836	23.36%	288	0.36%	1,210	1.50%	2,521	3.13%	1,476	1.83%	814	1.01%	19,650	24.36%	4,495	5.57%	76,154	94.43%	54,760	67.90%
7	233,626	117,676	50.37%	99,771	42.71%	1,064	0.46%	1,587	0.68%	10,125	4.33%	3,403	1.46%	2,043	0.87%	101,814	43.58%	15,843	6.78%	217,783	93.22%	113,287	48.49%
8	122,741	46,832	38.16%	70,233	57.22%	2,542	2.07%	667	0.54%	1,093	0.89%	1,374	1.12%	940	0.77%	71,173	57.99%	2,368	1.93%	120,373	98.07%	46,037	37.51%
9	226,393	131,362	58.02%	80,125	35.39%	2,130	0.94%	1,043	0.46%	8,039	3.55%	3,694	1.63%	2,162	0.95%	82,287	36.35%	14,594	6.45%	211,799	93.55%	126,454	55.86%
10AE	297,165	196,466	66.11%	62,478	21.02%	1,675	0.56%	13,943	4.69%	14,789	4.98%	7,814	2.63%	3,662	1.23%	66,140	22.26%	30,699	10.33%	266,466	89.67%	184,260	62.01%
10BD	297,275	154,364	51.93%	90,998	30.61%	1,531	0.52%	23,320	7.84%	18,961	6.38%	8,101	2.73%	4,154	1.40%	95,152	32.01%	37,367	12.57%	259,908	87.43%	140,229	47.17%
10C	154,854	125,884	81.29%	16,868	10.89%	445	0.29%	5,894	3.81%	2,525	1.63%	3,238	2.09%	1,360	0.88%	18,228	11.77%	7,786	5.03%	147,068	94.97%	121,438	78.42%
10F	151,699	120,832	79.65%	16,166	10.66%	852	0.56%	5,783	3.81%	4,653	3.07%	3,413	2.25%	1,392	0.92%	17,558	11.57%	12,070	7.96%	139,629	92.04%	114,609	75.55%
11	168,878	125,349	74.22%	25,546	15.13%	939	0.56%	1,072	0.63%	12,653	7.49%	3,319	1.97%	1,459	0.86%	27,005	15.99%	21,814	12.92%	147,064	87.08%	117,869	69.80%
12A	81,380	59,643	73.29%	16,820	20.67%	493	0.61%	482	0.59%	2,431	2.99%	1,511	1.86%	716	0.88%	17,536	21.55%	4,723	5.80%	76,657	94.20%	57,797	71.02%
12B	86,776	75,071	86.51%	6,388	7.36%	366	0.42%	1,253	1.44%	2,103	2.42%	1,595	1.84%	594	0.68%	6,982	8.05%	4,963	5.72%	81,813	94.28%	72,744	83.83%
12C	86,728	65,340	75.34%	15,968	18.41%	437	0.50%	1,030	1.19%	2,060	2.38%	1,893	2.18%	934	1.08%	16,902	19.49%	4,224	4.87%	82,504	95.13%	63,658	73.40%
13	200,719	144,734	72.11%	42,272	21.06%	3,355	1.67%	873	0.43%	6,158	3.07%	3,327	1.66%	1,611	0.80%	43,883	21.86%	10,713	5.34%	190,006	94.66%	141,128	70.31%
14	170,325	55,699	32.70%	46,580	27.35%	55,436	32.55%	1,363	0.80%	7,057	4.14%	4,190	2.46%	1,684	0.99%	48,264	28.34%	11,686	6.86%	158,639	93.14%	52,765	30.98%
15A	166,466	70,240	42.19%	74,453	44.73%	2,098	1.26%	4,774	2.87%	6,199	3.72%	8,702	5.23%	5,315	3.19%	79,768	47.92%	18,605	11.18%	147,861	88.82%	62,349	37.45%
15B	152,965	93,824	61.34%	42,664	27.89%	3,042	1.99%	3,541	2.31%	3,744	2.45%	6,150	4.02%	3,188	2.08%	45,852	29.98%	11,585	7.57%	141,380	92.43%	88,400	57.79%
16	135,199	92,185	68.18%	27,555	20.38%	5,244	3.88%	1,419	1.05%	5,169	3.82%	3,627	2.68%	1,795	1.33%	29,350	21.71%	11,084	8.20%	124,115	91.80%	87,629	64.81%
17	172,544	116,988	67.80%	35,538	20.60%	1,799	1.04%	1,677	0.97%	11,558	6.70%	4,984	2.89%	2,468	1.43%	38,006	22.03%	22,935	13.29%	149,609	86.71%	108,028	62.61%
18A	139,461	69,386	49.75%	49,140	35.24%	677	0.49%	6,413	4.60%	10,458	7.50%	3,387	2.43%	1,766	1.27%	50,906	36.50%	17,519	12.56%	121,942	87.44%	64,076	45.95%
18B	128,126	54,888	42.84%	52,437	40.93%	662	0.52%	6,037	4.71%	10,636	8.30%	3,466	2.71%	1,799	1.40%	54,236	42.33%	18,558	14.48%	109,568	85.52%	48,621	37.95%
19	133,801	99,495	74.36%	15,928	11.90%	570	0.43%	9,064	6.77%	5,341	3.99%	3,403	2.54%	1,217	0.91%	17,145	12.81%	11,017	8.23%	122,784	91.77%	94,671	70.76%
20	151,131	107,420	71.08%	28,369	18.77%	1,020	0.67%	1,895	1.25%	9,291	6.15%	3,136	2.08%	1,658	1.10%	30,027	19.87%	16,639	11.01%	134,492	88.99%	101,718	67.30%
21	117,362	85,694	73.02%	25,675	21.88%	430	0.37%	554	0.47%	2,958	2.52%	2,051	1.75%	1,155	0.98%	26,830	22.86%	5,903	5.03%	111,459	94.97%	83,257	70.94%
22A	242,617	183,962	75.82%	39,478	16.27%	1,069	0.44%	8,525	3.51%	4,916	2.03%	4,667	1.92%	2,408	0.99%	41,886	17.26%	11,595	4.78%	231,022	95.22%	178,389	73.53%
22B	245,789	94,563	38.47%	119,421	48.59%	1,525	0.62%	10,886	4.43%	12,759	5.19%	6,635	2.7.										

Total Population by Race and Ethnicity: HB 717 – Proposed District Court Districts

District	Total	Total Population by Race																Total Population by Ethnicity					
		White	% White	Black	% Black	NA	% NA	A/PI	% A/PI	Other	% Other	MR	% MR	MR Black	% MR Black	Total Black	% Total Black	Hisp	% Hisp	Non Hisp	% Non Hisp	White Non Hisp	% White Non Hisp
39A	123,239	112,425	91.23%	3,368	2.73%	512	0.42%	1,464	1.19%	3,308	2.68%	2,162	1.75%	879	0.71%	4,247	3.45%	7,444	6.04%	115,795	93.96%	108,766	88.26%
39B	115,079	95,767	83.22%	11,843	10.29%	436	0.38%	1,242	1.08%	2,958	2.57%	2,833	2.46%	1,355	1.18%	13,198	11.47%	6,810	5.92%	108,269	94.08%	92,475	80.36%
40	160,340	144,124	89.89%	5,434	3.39%	616	0.38%	1,422	0.89%	5,877	3.67%	2,867	1.79%	1,103	0.69%	6,537	4.08%	12,510	7.80%	147,830	92.20%	138,280	86.24%
41	194,102	174,955	90.14%	2,323	1.20%	9,008	4.64%	1,077	0.55%	3,373	1.74%	3,366	1.73%	677	0.35%	3,000	1.55%	7,947	4.09%	186,155	95.91%	171,293	88.25%
Totals:	9,535,483	6,528,950	68.47%	2,048,628	21.48%	122,110	1.28%	215,566	2.26%	414,030	4.34%	206,199	2.16%	102,828	1.08%	2,151,456	22.56%	800,120	8.39%	8,735,363	91.61%	6,223,995	65.27%

Voting Age Population by Race and Ethnicity: HB 717 – Proposed District Court Districts

		Voting Age Population by Race																Voting Age Population by Ethnicity					
District	Total	White	% White	Black	% Black	NA	% NA	A/PI	% A/PI	Other	% Other	MR	% MR	MR Black	% MR Black	Total Black	% Total Black	Hisp	% Hisp	Non Hisp	% Non Hisp	White Non Hisp	% White Non Hisp
1	115,423	87,402	75.72%	23,878	20.69%	453	0.39%	867	0.75%	1,558	1.35%	1,265	1.10%	421	0.36%	24,299	21.05%	3,674	3.18%	111,749	96.82%	85,638	74.19%
2	74,833	47,024	62.84%	24,864	33.23%	250	0.33%	314	0.42%	1,831	2.45%	550	0.73%	252	0.34%	25,116	33.56%	2,982	3.98%	71,851	96.02%	46,141	61.66%
3	143,986	114,847	79.76%	22,129	15.37%	701	0.49%	2,157	1.50%	2,256	1.57%	1,896	1.32%	658	0.46%	22,787	15.83%	5,698	3.96%	138,288	96.04%	111,947	77.75%
4	223,623	155,644	69.60%	44,007	19.68%	2,128	0.95%	3,554	1.59%	13,809	6.18%	4,481	2.00%	1,654	0.74%	45,661	20.42%	24,998	11.18%	198,625	88.82%	146,835	65.66%
5	161,657	95,924	59.34%	54,484	33.70%	703	0.43%	1,523	0.94%	7,077	4.38%	1,946	1.20%	818	0.51%	55,302	34.21%	11,746	7.27%	149,911	92.73%	92,197	57.03%
6A	68,938	36,913	53.55%	27,846	40.39%	244	0.35%	1,239	1.80%	1,680	2.44%	1,016	1.47%	498	0.72%	28,344	41.12%	3,022	4.38%	65,916	95.62%	35,916	52.10%
6B	61,412	44,530	72.51%	13,588	22.13%	200	0.33%	904	1.47%	1,535	2.50%	655	1.07%	262	0.43%	13,850	22.55%	2,736	4.46%	58,676	95.54%	43,568	70.94%
7	176,760	94,021	53.19%	73,057	41.33%	781	0.44%	1,162	0.66%	6,107	3.45%	1,632	0.92%	840	0.48%	73,897	41.81%	9,506	5.38%	167,254	94.62%	91,366	51.69%
8	95,890	38,680	40.34%	53,357	55.64%	1,907	1.99%	488	0.51%	682	0.71%	776	0.81%	472	0.49%	53,829	56.14%	1,585	1.65%	94,305	98.35%	38,090	39.72%
9	173,285	103,621	59.80%	60,662	35.01%	1,582	0.91%	809	0.47%	4,858	2.80%	1,753	1.01%	843	0.49%	61,505	35.49%	8,796	5.08%	164,489	94.92%	100,636	58.08%
10AE	230,511	159,998	69.41%	44,703	19.39%	1,140	0.49%	11,062	4.80%	9,409	4.08%	4,199	1.82%	1,655	0.72%	46,358	20.11%	19,500	8.46%	211,011	91.54%	151,984	65.93%
10BD	218,913	120,598	55.09%	65,021	29.70%	1,038	0.47%	16,205	7.40%	11,999	5.48%	4,052	1.85%	1,891	0.86%	66,912	30.57%	23,656	10.81%	195,257	89.19%	111,377	50.88%
10C	111,920	92,251	82.43%	12,049	10.77%	310	0.28%	4,271	3.82%	1,615	1.44%	1,424	1.27%	505	0.45%	12,554	11.22%	4,977	4.45%	106,943	95.55%	89,356	79.84%
10F	105,036	84,928	80.86%	11,423	10.88%	567	0.54%	3,976	3.79%	2,770	2.64%	1,372	1.31%	484	0.46%	11,907	11.34%	7,029	6.69%	98,007	93.31%	81,291	77.39%
11	121,908	93,328	76.56%	18,142	14.88%	659	0.54%	755	0.62%	7,616	6.25%	1,408	1.15%	432	0.35%	18,574	15.24%	12,835	10.53%	109,073	89.47%	89,010	73.01%
12A	63,646	47,727	74.99%	12,881	20.24%	367	0.58%	362	0.57%	1,538	2.42%	771	1.21%	266	0.42%	13,147	20.66%	2,963	4.66%	60,683	95.34%	46,548	73.14%
12B	70,100	61,676	87.98%	4,819	6.87%	292	0.42%	973	1.39%	1,448	2.07%	892	1.27%	253	0.36%	5,072	7.24%	3,376	4.82%	66,724	95.18%	60,101	85.74%
12C	68,836	54,120	78.62%	11,276	16.38%	332	0.48%	782	1.14%	1,367	1.99%	959	1.39%	374	0.54%	11,650	16.92%	2,750	4.00%	66,086	96.00%	52,985	76.97%
13	158,909	118,578	74.62%	31,872	20.06%	2,456	1.55%	685	0.43%	3,770	2.37%	1,548	0.97%	573	0.36%	32,445	20.42%	6,513	4.10%	152,396	95.90%	116,320	73.20%
14	125,325	45,184	36.05%	33,620	26.83%	39,133	31.23%	1,030	0.82%	4,380	3.49%	1,978	1.58%	544	0.43%	34,164	27.26%	7,101	5.67%	118,224	94.33%	43,381	34.61%
15A	121,500	54,620	44.95%	53,156	43.75%	1,593	1.31%	3,895	3.21%	4,229	3.48%	4,007	3.30%	2,121	1.75%	55,277	45.50%	11,679	9.61%	109,821	90.39%	49,418	40.67%
15B	112,390	71,985	64.05%	30,343	27.00%	2,235	1.99%	2,686	2.39%	2,493	2.22%	2,648	2.36%	1,120	1.00%	31,463	27.99%	7,098	6.32%	105,292	93.68%	68,532	60.98%
16	101,865	72,628	71.30%	19,902	19.54%	3,553	3.49%	1,087	1.07%	3,154	3.10%	1,541	1.51%	603	0.59%	20,505	20.13%	6,458	6.34%	95,407	93.66%	69,951	68.67%
17	125,857	89,146	70.83%	25,171	20.00%	1,209	0.96%	1,268	1.01%	6,969	5.54%	2,094	1.66%	768	0.61%	25,939	20.61%	13,357	10.61%	112,500	89.39%	83,925	66.68%
18A	107,122	57,501	53.68%	35,265	32.92%	479	0.45%	5,439	5.08%	6,573	6.14%	1,865	1.74%	836	0.78%	36,101	33.70%	11,230	10.48%	95,892	89.52%	53,922	50.34%
18B	100,144	45,552	45.49%	40,175	40.12%	482	0.48%	5,018	5.01%	6,951	6.94%	1,966	1.96%	969	0.97%	41,144	41.08%	12,299	12.28%	87,845	87.72%	41,188	41.13%
19	105,832	80,877	76.42%	12,463	11.78%	428	0.40%	6,798	6.42%	3,481	3.29%	1,785	1.69%	568	0.54%	13,031	12.31%	7,213	6.82%	98,619	93.18%	77,634	73.36%
20	115,688	85,440	73.85%	21,249	18.37%	693	0.60%	1,402	1.21%	5,487	4.74%	1,417	1.22%	556	0.48%	21,805	18.85%	9,692	8.38%	105,996	91.62%	82,088	70.96%
21	91,684	68,193	74.38%	20,034	21.85%	326	0.36%	393	0.43%	1,851	2.02%	887	0.97%	357	0.39%	20,391	22.24%	3,524	3.84%	88,160	96.16%	66,783	72.84%
22A	184,764	144,520	78.22%	28,456	15.40%	773	0.42%	5,901	3.19%	2,979	1.61%	2,135	1.16%	924	0.50%	29,380	15.90%	7,011	3.79%	177,753	96.21%	141,086	76.36%
22B	189,159	80,334	42.47%	88,392	46.73%	1,116	0.59%	7,797	4.12%	8,022	4.24%	3,498	1.85%	2,081	1.10%	90,473	47.83%	14,663	7.75%	174,496	92.25%	75,296	39.81%
23	15																						

Voting Age Population by Race and Ethnicity: HB 717 – Proposed District Court Districts

		Voting Age Population by Race																Voting Age Population by Ethnicity					
District	Total	White	% White	Black	% Black	NA	% NA	A/PI	% A/PI	Other	% Other	MR	% MR	MR Black	% MR Black	Total Black	% Total Black	Hisp	% Hisp	Non Hisp	% Non Hisp	White Non Hisp	% White Non Hisp
39A	95,909	88,933	92.73%	2,430	2.53%	410	0.43%	1,053	1.10%	2,026	2.11%	1,057	1.10%	275	0.29%	2,705	2.82%	4,464	4.65%	91,445	95.35%	86,732	90.43%
39B	93,569	80,111	85.62%	8,786	9.39%	347	0.37%	916	0.98%	1,916	2.05%	1,493	1.60%	487	0.52%	9,273	9.91%	4,444	4.75%	89,125	95.25%	77,920	83.28%
40	128,611	118,022	91.77%	4,057	3.15%	453	0.35%	1,043	0.81%	3,634	2.83%	1,402	1.09%	319	0.25%	4,376	3.40%	7,670	5.96%	120,941	94.04%	114,420	88.97%
41	156,458	143,449	91.69%	1,906	1.22%	6,111	3.91%	811	0.52%	2,174	1.39%	2,007	1.28%	246	0.16%	2,152	1.38%	4,936	3.15%	151,522	96.85%	141,130	90.20%
Totals:	7,253,848	5,155,756	71.08%	1,497,453	20.64%	87,111	1.20%	158,730	2.19%	256,529	3.54%	98,269	1.35%	38,780	0.53%	1,536,233	21.18%	492,330	6.79%	6,761,518	93.21%	4,964,325	68.44%

Voter Registration by Party and Race: HB 717 – Proposed District Court Districts

District	Total	Registration by Party																Registration by Race Without Regard to Party			
		% D	Racial %s among D's				% R	Racial %s among R's				% U	Racial %s among U's				% L	% White	% Black	% NA	% Other
			White % of D	Black % of D	NA % of D	Other % of D		White % of R	Black % of R	NA % of R	Other % of R		White % of U	Black % of U	NA % of U	Other % of U					
																		76.65%	19.51%	0.18%	3.67%
1	112,634	38.31%	54.54%	42.37%	0.14%	2.95%	27.23%	95.38%	2.06%	0.18%	2.39%	33.94%	86.38%	7.91%	0.22%	5.50%	0.52%	62.61%	33.81%	0.14%	3.44%
2	64,248	52.08%	40.47%	57.17%	0.13%	2.23%	24.55%	94.24%	3.39%	0.08%	2.29%	23.10%	78.81%	13.69%	0.23%	7.27%	0.28%	79.38%	15.49%	0.23%	4.90%
3	133,713	31.49%	55.64%	39.91%	0.21%	4.25%	37.21%	95.11%	1.30%	0.18%	3.40%	30.85%	84.58%	7.82%	0.29%	7.31%	0.45%	68.08%	23.17%	0.57%	8.19%
4	170,081	35.10%	39.08%	52.69%	0.69%	7.54%	34.48%	91.40%	2.50%	0.43%	5.68%	29.87%	75.06%	12.57%	0.60%	11.77%	0.55%	57.34%	36.73%	0.18%	5.76%
5	133,831	48.97%	31.69%	63.71%	0.15%	4.45%	28.16%	92.78%	3.26%	0.17%	3.78%	22.56%	68.55%	20.25%	0.24%	10.96%	0.31%	47.14%	45.76%	0.21%	6.89%
6A	59,998	54.06%	24.38%	70.65%	0.19%	4.78%	19.48%	89.61%	6.13%	0.13%	4.13%	25.91%	62.25%	24.18%	0.32%	13.24%	0.55%	70.76%	24.14%	0.20%	4.90%
6B	55,793	40.00%	45.70%	49.70%	0.19%	4.41%	32.53%	95.53%	1.87%	0.15%	2.45%	26.98%	77.86%	13.37%	0.29%	8.49%	0.49%	49.82%	45.45%	0.29%	4.44%
7	160,492	56.78%	25.83%	70.50%	0.30%	3.38%	24.13%	92.84%	4.69%	0.16%	2.31%	18.86%	66.72%	22.56%	0.44%	10.29%	0.24%	37.73%	57.26%	1.57%	3.45%
8	81,140	70.20%	23.36%	72.36%	1.83%	2.44%	11.08%	85.49%	11.37%	0.73%	2.41%	18.54%	63.39%	27.73%	1.05%	7.83%	0.18%	59.10%	35.69%	0.64%	4.56%
9	149,752	52.38%	36.24%	59.74%	0.88%	3.15%	23.19%	93.60%	3.11%	0.28%	3.00%	24.10%	75.33%	15.12%	0.47%	9.07%	0.34%	65.33%	20.93%	0.27%	13.47%
10AE	219,170	40.41%	47.90%	40.46%	0.28%	11.35%	24.52%	90.80%	1.93%	0.17%	7.10%	34.44%	67.42%	11.80%	0.32%	20.46%	0.63%	52.90%	30.08%	0.28%	16.73%
10BD	225,007	45.14%	33.94%	52.69%	0.30%	13.07%	19.84%	87.91%	3.04%	0.22%	8.83%	34.46%	57.27%	16.35%	0.31%	26.07%	0.55%	78.24%	11.02%	0.19%	10.54%
10C	128,534	29.97%	60.64%	28.25%	0.25%	10.85%	35.11%	92.87%	0.81%	0.13%	6.19%	34.33%	78.55%	6.53%	0.20%	14.71%	0.58%	79.63%	10.02%	0.23%	10.12%
10F	124,951	28.39%	61.36%	27.41%	0.30%	10.92%	35.14%	93.38%	0.85%	0.17%	5.60%	35.84%	80.53%	5.37%	0.22%	13.88%	0.62%	76.99%	16.15%	0.30%	6.58%
11	120,294	31.94%	52.89%	40.25%	0.34%	6.52%	38.34%	95.37%	1.36%	0.21%	3.07%	29.22%	79.10%	9.32%	0.36%	11.22%	0.50%	75.49%	19.10%	0.26%	5.14%
12A	62,574	35.68%	50.58%	44.77%	0.21%	4.44%	32.80%	95.23%	1.55%	0.26%	2.96%	30.92%	83.08%	8.38%	0.31%	8.23%	0.59%	86.30%	6.31%	0.21%	7.19%
12B	72,877	26.59%	75.28%	18.00%	0.20%	6.52%	35.96%	95.71%	0.50%	0.16%	3.63%	36.72%	84.97%	3.62%	0.26%	11.15%	0.73%	76.26%	16.73%	0.25%	6.75%
12C	72,645	35.67%	57.22%	36.95%	0.26%	5.57%	29.36%	94.42%	1.63%	0.17%	3.78%	34.36%	80.31%	8.87%	0.32%	10.50%	0.61%	76.48%	18.74%	1.12%	3.67%
13	153,786	40.19%	55.90%	39.45%	1.81%	2.83%	29.44%	95.22%	1.61%	0.45%	2.72%	30.10%	85.55%	7.96%	0.84%	5.66%	0.28%	34.88%	31.43%	28.79%	4.90%
14	96,866	64.91%	24.15%	41.54%	31.08%	3.23%	13.40%	68.63%	5.06%	21.95%	4.36%	21.46%	46.07%	17.45%	26.26%	10.22%	0.22%	31.99%	52.56%	0.81%	14.64%
15A	101,115	53.22%	14.11%	76.02%	0.69%	9.18%	16.36%	76.80%	9.55%	1.05%	12.60%	29.92%	38.80%	34.87%	0.88%	25.46%	0.50%	57.09%	30.67%	1.34%	10.91%
15B	108,381	41.01%	33.21%	57.75%	1.29%	7.75%	29.27%	88.02%	3.19%	1.20%	7.59%	29.28%	59.39%	20.50%	1.54%	18.56%	0.43%	70.77%	21.08%	2.65%	5.51%
16	97,591	32.89%	39.71%	51.33%	4.39%	4.58%	34.52%	93.65%	1.63%	1.15%	3.56%	32.07%	77.81%	11.21%	2.46%	8.52%	0.52%	68.76%	22.25%	0.58%	8.42%
17	108,684	38.66%	45.43%	46.75%	0.64%	7.18%	32.79%	92.54%	1.85%	0.45%	5.16%	27.99%	72.97%	12.58%	0.62%	13.83%	0.57%	52.95%	35.09%	0.26%	11.70%
18A	114,933	54.00%	37.70%	53.80%	0.24%	8.26%	16.07%	90.43%	3.71%	0.15%	5.71%	29.49%	60.22%	18.25%	0.35%	21.18%	0.44%	45.88%	41.19%	0.29%	12.64%
18B	109,164	59.17%	34.12%	57.14%	0.31%	8.44%	9.63%	84.93%	7.36%	0.22%	7.50%	30.74%	56.02%	21.47%	0.27%	22.25%	0.47%	73.84%	11.52%	0.26%	14.38%
19	113,593	46.75%	69.97%	19.73%	0.25%	10.04%	14.96%	92.64%	1.32%	0.20%	5.83%	37.70%	71.06%	5.50%	0.28%	23.15%	0.59%	71.68%	20.48%	0.27%	7.56%
20	100,489	39.08%	47.68%	44.49%	0.30%	7.53%	32.81%	95.56%	1.35%	0.22%	2.87%	27.68%	77.17%	9.47%	0.29%	13.07%	0.44%	73.12%	22.88%	0.19%	3.81%
21	76,098	42.06%	49.55%	47.42%	0.15%	2.89%	31.90%	95.81%	1.74%	0.19%	2.25%	25.74%	83.37%	9.16%	0.25%	7.23%	0.30%	75.84%	17.39%	0.25%	6.53%
22A	187,555	34.32%	52.14%	41.04%	0.29%	6.52%	37.14%	96.00%	1.10%	0.16%	2.74%	28.06%	78.04%	10.18%	0.32%	11.46%	0.47%	36.72%	53.31%	0.32%	9.64%
22B	170,672	59.21%	20.09%	73.30%	0.31%	6.30%	14.73%	86.20%	7.38%	0.33%	6.09%	25.63%	46.31%	33.94%	0.37%	19.38%	0.43%	85.22%	8.55%	0.28%	5.96%
23	143,498	28.21%	67.73%	24.87%	0.30%	7.10%	41.30%	96.52%	0.64%	0.22%	2.62%	30.06%	86.10%	4.17%	0.32%	9.41%	0.43%	74.12%	18.28%	0.42%	7.18%
24	197,494	34.74%	47.51%	44.24%	0.44%	7.82%	36.07%	94.75%	1.33%	0.31%	3.61%	28.83%	80.28%	8.36%	0.55%	10.81%	0.36%	73.95%	16.09%	0.26%	9.70%
25A	372,236	32.17%	50.24%	38.88%	0.31%	10.57%	33.92%	94.40%	1.19%	0.18%	4.24%	33.39%	75.93%	9.40%	0.29%	14.38%	0.52%	36.44%	51.43%	0.32%	11.81%
25B	337,316	58.23%	18.46%	72.62%	0.30%	8.62%	13.66%	84.23%	7.96%	0.27%	7.54%	27.53%	50.24%	28.80%	0.37%	20.58%	0.58%	74.70%	17.44%	0.26%	7.59%
26	131,242	31.21%	47.59%	44.01%	0.26%	8.14%	37.27%	95.19%	1.31%	0.20%	3.31%	31.01%	77.30%	10.22%	0.34%	12.13%	0.51%	77.92%	17.59%	0.19%	4.29%
27	94,188	30.54%	48.87%	46.33%	0.22%	4.58%	40.53%	96.26%	1.30%	0.15%	2.30%	28.58%	82.91%	10.10%	0.23%	6.76%	0.35%	81.49%	13.74%	0.22%	4.55%
28	56,830	33.09%	60.08%	35.61%	0.14%	4.17%	39.86%	96.21%	0.79%	0.21%	2.79%	26.76%	86.12%	6.02%	0.32%	7.55%	0.29%	87.04%	8.83%	0.23%	3.91%
29	135,081	24.70%	65.20%	29.43%	0.26%	5.11%	47.67%	97.28%	0.56%	0.18%	1.98%	27.25%	88.92%	4.65%	0.27%	6.15%	0.38%	73.64%	19.43%	0.18%	6.75%
30A	63,288	36.20%	49.20%	44.07%	0.18%	6.55%	35.56%	95.61%	1.15%	0.15%	3.10%	27.81%	77.27%	10.92%	0.23%	11.59%	0.43%	77.92%	14.78%	0.15%	7.15%
30B	66,767	34.67%	59.25%	33.56%	0.17%	7.02%	35.39%	95.78%	0.97%	0.11%	3.15%	29.48%	78.35%	9.40%	0.19%	12.06%	0.46%	32.76%	57.42%	0.24%	9.57%
30C	59,604	63.22%	17.75%	75.40%	0.19%	6.66%	11.56%	83.10%	10.71%	0.32%	5.88%	24.76%	46.99%	34.04%	0.36%	18.60%	0.45%	73.26%	19.61%	0.25%	6.88%
30D	59,647	33.13%	44.19%	48.44%	0.20%	7.18%	38.27%	95.13%	1.20%	0.21%	3.46%	28.15%	77.65%	10.90%	0.35%	11.10%	0.45%	91.82%	4.09%	0.17%	3.92%
31	77,104	29.58%	84.18%	11.80%	0.20%	3.83%	44.30%	97.08%	0.25%	0.13%	2.55%	25.77%	91.57%	1.90%	0.22%	6.31%	0.36%	84.56%	10.47%	0.18%	4.79%
32	141,801	26.54%	62.57%	31.72%	0.18%	5.53%	41.93%	96.59%	0.80%	0.14%	2.47%	31.13%	87.12%	5.43%	0.24%	7.20%	0.40%	77.36%	16.49%	0.26%	5.90%
33	142,338	32.40%	52.55%	41.22%	0.24%	5.99%	38.18%	96.13%	1.01%	0.19%	2.67%	29.00%	80.29%	9.39%	0.35%	9.97%	0.42%	81.59%	14.34%	0.15%	3.91%
34	118,426	34.66%	60.69%	35.69%	0.15%	3.46%	37.32%	96.61%	0.92%	0.13%	2.35%	27.66%	87.45%	5.82%	0.18%	6.55%	0.35%	87.61%	7.31%	0.13%	4.94%
35	216,494	28.31%	72.94%	20.93%	0.15%	5.98%	41.34%	96.99%	0.59%	0.09%	2.32%	29.90%	88.51%	3.78%	0.17%	7.55%	0.45%	94.24%	2.88%	0.11%	2.77%
36	92,181	24.64%	87.53%	8.96%	0.12%	3.39%	49.30%	98.06%	0.33%	0.06%	1.55%	25.76%	93.41%	1.93%	0.21%	4.45%	0.30%				

District plan definition file: 'Merged District Court 6_23_17 v2 QC.asc', modified 06/23/2017 05:51:39 PM. H717-CSST-37

Data Source: North Carolina State Board of Elections. Voter registration snapshot as of November 12, 2016. Note that voter records that could not be associated with a geographic location were excluded.

D = Democratic, R = Republican, L = Libertarian, NA = Native American. In this chart, the 'Other' race categories also include multi-race voters and those voters for whom a race indicator was not present in the source data.

Voter Registration by Party and Race: HB 717 – Proposed District Court Districts

		Registration by Party															Registration by Race Without Regard to Party				
District	Total	% D	Racial %s among D's				% R	Racial %s among R's				% U	Racial %s among U's				% L				
			White % of D	Black % of D	NA % of D	Other % of D		White % of R	Black % of R	NA % of R	Other % of R		White % of U	Black % of U	NA % of U	Other % of U		% White	% Black	% NA	% Other
		37	97,364	27.45%	93.12%	2.73%	0.15%	3.99%	37.24%	97.88%	0.17%	0.12%	1.82%	34.62%	92.45%	1.50%	0.18%	5.87%	0.69%	94.64%	1.34%
38	71,158	33.30%	78.20%	18.49%	0.15%	3.16%	36.77%	96.62%	0.88%	0.10%	2.40%	29.51%	91.36%	3.71%	0.16%	4.77%	0.42%	88.90%	7.60%	0.13%	3.36%
39A	98,115	33.48%	88.51%	5.94%	0.20%	5.35%	30.98%	95.70%	0.41%	0.16%	3.74%	34.98%	89.66%	1.82%	0.27%	8.25%	0.57%	91.13%	2.76%	0.22%	5.89%
39B	97,398	45.35%	78.02%	15.50%	0.19%	6.29%	17.38%	94.36%	1.34%	0.17%	4.14%	36.56%	84.56%	4.18%	0.30%	10.96%	0.72%	83.31%	8.81%	0.23%	7.65%
40	121,825	24.14%	84.66%	10.12%	0.20%	5.01%	36.56%	97.16%	0.32%	0.11%	2.40%	38.83%	92.06%	1.87%	0.21%	5.86%	0.47%	92.13%	3.29%	0.17%	4.40%
41	144,162	33.57%	92.40%	2.36%	2.56%	2.68%	33.80%	96.43%	0.17%	1.33%	2.06%	32.18%	90.80%	0.88%	3.11%	5.21%	0.45%	93.25%	1.14%	2.32%	3.30%
Totals:	6,822,218	39.52%	46.08%	46.13%	1.19%	6.60%	30.24%	94.05%	1.80%	0.40%	3.75%	29.77%	75.43%	11.39%	0.72%	12.47%	0.46%	69.48%	22.21%	0.81%	7.51%

District plan definition file: 'Merged District Court 6_23_17 v2 QC.asc', modified 06/23/2017 05:51:39 PM. H717-CSST-37
Data Source: North Carolina State Board of Elections. Voter registration snapshot as of November 12, 2016. Note that voter records that could not be associated with a geographic location were excluded.
D = Democratic, R = Republican, L = Libertarian, NA = Native American. In this chart, the 'Other' race categories also include multi-race voters and those voters for whom a race indicator was not present in the source data.

Voter Registration by Gender, Age, and Ethnicity: HB 717 – Proposed District Court Districts

		Voter Registration by Gender						Voter Registration by Age								Voter Registration by Ethnicity					
District	Total	Male	% Male	Female	% Female	Undesig.	% Undesig.	18-25	% 18-25	26-40	% 26-40	41-65	% 41-65	66+	% 66+	Hispanic	% Hisp	Non-Hisp	% Non-Hisp	Undesig.	% Undesig.
1	112,634	52,076	46.23%	58,905	52.30%	1,653	1.47%	10,726	9.52%	24,908	22.11%	50,692	45.01%	26,308	23.36%	720	0.64%	60,919	54.09%	50,995	45.27%
2	64,248	28,746	44.74%	34,432	53.59%	1,070	1.67%	6,165	9.60%	12,572	19.57%	27,965	43.53%	17,546	27.31%	489	0.76%	50,750	78.99%	13,009	20.25%
3	133,713	60,599	45.32%	70,671	52.85%	2,443	1.83%	12,970	9.70%	29,240	21.87%	56,626	42.35%	34,877	26.08%	1,934	1.45%	109,960	82.24%	21,819	16.32%
4	170,081	75,105	44.16%	91,888	54.03%	3,088	1.82%	21,356	12.56%	48,254	28.37%	69,600	40.92%	30,871	18.15%	7,211	4.24%	137,849	81.05%	25,021	14.71%
5	133,831	59,148	44.20%	71,880	53.71%	2,803	2.09%	15,676	11.71%	30,829	23.04%	58,581	43.77%	28,745	21.48%	2,785	2.08%	102,690	76.73%	28,356	21.19%
6A	59,998	25,174	41.96%	32,644	54.41%	2,180	3.63%	12,875	21.46%	18,691	31.15%	20,298	33.83%	8,134	13.56%	1,113	1.86%	51,976	86.63%	6,909	11.52%
6B	55,793	24,966	44.75%	29,845	53.49%	982	1.76%	7,547	13.53%	14,916	26.73%	23,876	42.79%	9,454	16.94%	861	1.54%	50,379	90.30%	4,553	8.16%
7	160,492	70,973	44.22%	87,463	54.50%	2,056	1.28%	18,869	11.76%	36,604	22.81%	70,977	44.22%	34,042	21.21%	2,269	1.41%	130,913	81.57%	27,310	17.02%
8	81,140	35,376	43.60%	44,434	54.76%	1,330	1.64%	8,512	10.49%	17,641	21.74%	35,279	43.48%	19,708	24.29%	348	0.43%	65,033	80.15%	15,759	19.42%
9	149,752	67,218	44.89%	78,953	52.72%	3,581	2.39%	16,353	10.92%	32,592	21.76%	68,785	45.93%	32,022	21.38%	2,100	1.40%	117,349	78.36%	30,303	20.24%
10AE	219,170	97,774	44.61%	111,345	50.80%	10,051	4.59%	33,698	15.38%	64,855	29.59%	88,663	40.45%	31,954	14.58%	7,265	3.31%	155,193	70.81%	56,712	25.88%
10BD	225,007	98,226	43.65%	116,222	51.65%	10,559	4.69%	30,552	13.58%	71,354	31.71%	95,493	42.44%	27,608	12.27%	7,826	3.48%	151,081	67.15%	66,100	29.38%
10C	128,534	58,213	45.29%	66,149	51.46%	4,172	3.25%	14,556	11.32%	31,859	24.79%	62,126	48.33%	19,993	15.55%	2,913	2.27%	100,216	77.97%	25,405	19.77%
10F	124,951	57,781	46.24%	63,681	50.96%	3,489	2.79%	14,154	11.33%	32,230	25.79%	61,489	49.21%	17,078	13.67%	3,259	2.61%	90,008	72.03%	31,684	25.36%
11	120,294	54,983	45.71%	63,483	52.77%	1,828	1.52%	14,007	11.64%	29,244	24.31%	56,541	47.00%	20,502	17.04%	3,685	3.06%	92,331	76.75%	24,278	20.18%
12A	62,574	28,649	45.78%	32,394	51.77%	1,531	2.45%	6,379	10.19%	15,367	24.56%	27,907	44.60%	12,921	20.65%	956	1.53%	48,225	77.07%	13,393	21.40%
12B	72,877	32,382	44.43%	37,048	50.84%	3,447	4.73%	11,972	16.43%	18,459	25.33%	27,699	38.01%	14,747	20.24%	1,255	1.72%	56,081	76.95%	15,541	21.32%
12C	72,645	31,262	43.03%	38,427	52.90%	2,956	4.07%	8,013	11.03%	19,757	27.20%	29,800	41.02%	15,075	20.75%	1,080	1.49%	50,713	69.81%	20,852	28.70%
13	153,786	69,997	45.52%	81,559	53.03%	2,230	1.45%	12,367	8.04%	28,576	18.58%	65,469	42.57%	47,374	30.81%	1,491	0.97%	114,346	74.35%	37,949	24.68%
14	96,866	41,982	43.34%	54,082	55.83%	802	0.83%	12,104	12.50%	23,523	24.28%	41,814	43.17%	19,425	20.05%	1,248	1.29%	85,909	88.69%	9,709	10.02%
15A	101,115	41,713	41.25%	53,362	52.77%	6,040	5.97%	15,795	15.62%	32,079	31.73%	38,514	38.09%	14,727	14.56%	5,942	5.88%	65,941	65.21%	29,232	28.91%
15B	108,381	47,252	43.60%	56,597	52.22%	4,532	4.18%	13,994	12.91%	28,284	26.10%	48,244	44.51%	17,859	16.48%	4,493	4.15%	76,886	70.94%	27,002	24.91%
16	97,591	44,381	45.48%	53,094	54.40%	116	0.12%	9,481	9.72%	23,769	24.36%	40,391	41.39%	23,950	24.54%	2,606	2.67%	87,671	89.84%	7,314	7.49%
17	108,684	48,526	44.65%	58,280	53.62%	1,878	1.73%	13,161	12.11%	28,326	26.06%	47,079	43.32%	20,118	18.51%	4,732	4.35%	81,885	75.34%	22,067	20.30%
18A	114,933	49,069	42.69%	62,069	54.00%	3,795	3.30%	14,397	12.53%	36,075	31.39%	45,496	39.58%	18,965	16.50%	3,758	3.27%	80,812	70.31%	30,363	26.42%
18B	109,164	46,470	42.57%	58,486	53.58%	4,208	3.85%	16,448	15.07%	39,749	36.41%	38,285	35.07%	14,682	13.45%	3,389	3.10%	72,985	66.86%	32,790	30.04%
19	113,593	49,202	43.31%	59,143	52.07%	5,248	4.62%	25,071	22.07%	31,269	27.53%	41,167	36.24%	16,086	14.16%	3,397	2.99%	86,013	75.72%	24,183	21.29%
20	100,489	43,862	43.65%	54,125	53.86%	2,502	2.49%	11,749	11.69%	22,610	22.50%	44,206	43.99%	21,924	21.82%	2,743	2.73%	76,505	76.13%	21,241	21.14%
21	76,098	34,799	45.73%	41,015	53.90%	284	0.37%	7,525	9.89%	15,070	19.80%	34,980	45.97%	18,523	24.34%	828	1.09%	63,214	83.07%	12,056	15.84%
22A	187,555	85,788	45.74%	100,286	53.47%	1,481	0.79%	20,232	10.79%	42,800	22.82%	86,005	45.86%	38,518	20.54%	3,320	1.77%	163,541	87.20%	20,694	11.03%
22B	170,672	72,289	42.36%	95,058	55.70%	3,325	1.95%	32,734	19.18%	47,582	27.88%	62,659	36.71%	27,697	16.23%	4,501	2.64%	134,886	79.03%	31,285	18.33%
23	143,498	65,460	45.62%	74,733	52.08%	3,305	2.30%	14,588	10.17%	29,560	20.60%	64,311	44.82%	35,039	24.42%	3,585	2.50%	112,912	78.69%	27,001	18.82%
24	197,494	90,836	45.99%	102,426	51.86%	4,232	2.14%	24,862	12.59%	44,031	22.29%	94,781	47.99%	33,820	17.12%	5,341	2.70%	163,908	82.99%	28,245	14.30%
25A	372,236	167,214	44.92%	198,249	53.26%	6,773	1.82%	41,825	11.24%	101,862	27.36%	168,954	45.39%	59,595	16.01%	12,328	3.31%	303,058	81.42%	56,850	15.27%
25B	337,316	146,875	43.54%	181,287	53.74%	9,154	2.71%	52,125	15.45%	117,231	34.75%	129,578	38.41%	38,382	11.38%	14,931	4.43%	245,090	72.66%	77,295	22.91%
26	131,242	58,946	44.91%	69,616	53.04%	2,680	2.04%	15,110	11.51%	33,060	25.19%	60,987	46.47%	22,085	16.83%	3,822	2.91%	100,655	76.69%	26,765	20.39%
27	94,188	43,500	46.18%	49,677	52.74%	1,011	1.07%	11,092	11.78%	21,202	22.51%	41,377	43.93%	20,517	21.78%	1,519	1.61%	79,487	84.39%	13,182	14.00%
28	56,830	26,205	46.11%	29,768	52.38%	857	1.51%	6,091	10.72%	12,130	21.34%	25,040	44.06%	13,569	23.88%	649	1.14%	48,313	85.01%	7,868	13.84%
29	135,081	62,668	46.39%	71,388	52.85%	1,025	0.76%	14,155	10.48%	27,607	20.44%	62,622	46.36%	30,697	22.72%	1,862	1.38%	111,683	82.68%	21,536	15.94%
30A	63,288	28,276	44.68%	33,547	53.01%	1,465	2.31%	7,216	11.40%	14,104	22.29%	28,645	45.26%	13,323	21.05%	1,546	2.44%	48,869	77.22%	12,873	20.34%
30B	66,767	29,089	43.57%	36,304	54.37%	1,374	2.06%	6,939	10.39%	16,759	25.10%	28,156	42.17%	14,913	22.34%	1,764	2.64%	52,271	78.29%	12,732	19.07%
30C	59,604	25,082	42.08%	32,201	54.02%	2,321	3.89%	9,169	15.38%	17,285	29.00%	23,269	39.04%	9,881	16.58%	2,326	3.90%	39,631	66.49%	17,647	29.61%
30D	59,647	26,658	44.69%	31,571	52.93%	1,418	2.38%	6,512	10.92%	13,893	23.29%	27,339	45.83%	11,903	19.96%	1,817	3.05%	45,509	76.30%	12,321	20.66%
31	77,104	35,458	45.99%	40,911	53.06%	735	0.95%	7,583	9.83%	14,989	19.44%	35,482	46.02%	19,050	24.71%	1,204	1.56%	64,670	83.87%	11,230	14.56%
32	141,801	66,520	46.91%	73,737	52.00%	1,544	1.09%	15,564	10.98%	31,369	22.12%	66,351	46.79%	28,517	20.11%	2,696	1.90%	121,816	85.91%	17,289	12.19%
33	142,338	63,376	44.53%	76,006	53.40%	2,956	2.08%	15,328	10.77%	34,000	23.89%	64,730	45.48%	28,280	19.87%	2,920	2.05%	114,412	80.38%	25,006	17.57%
34	118,426	54,265	45.82%	62,471	52.75%	1,690	1.43%	12,078	10.20%	24,615	20.79%	55,144	46.56%	26,589	22.45%	1,691	1.43%	99,024	83.62%	17,711	14.96%
35	216,494	100,726	46.53%	113,948	52.63%	1,820	0.84%	22,414	10.35%	45,705	21.11%	97,833	45.19%	50,542	23.35%	3,592	1.66%	184,714	85.32%	28,188	13.02%
36	92,181	43,043	46.69%	48,051	52.13%	1,087	1.18%	8,669	9.40%	17,348	18.82%	41,319	44.82%	24,845	26.95%	1,438	1.56%	80,342	87.16%	10,401	11.28%
37	97,364	45,729	46.97%	50,310	51.67%	1,325	1.36%	20,425	20.98%	20,707	21.27%	34,942	35.89%	21,290	21.87%	1,205	1.24%	76,616	78.69%	19,543	20.07%
38	71,158	32,749	46.02%	37,482	52.67%	927	1.30%	7,156	10.06%	14,698	20.66%	31,788	44.67%	17,516	24.62%	744	1.05%	60,719	85.33%	9,695	13.62%
39A	98,115	44,384	45.24%	51,579	52.57%	2,152	2.19%	9,469	9.65%	23,394	23.84%	42,780	43.60%	22,472	22.90%	1,370	1.40%	71,667	73.04%	25,078	25.56

Voter Registration by Gender, Age, and Ethnicity: HB 717 – Proposed District Court Districts

		Voter Registration by Gender						Voter Registration by Age								Voter Registration by Ethnicity					
District	Total	Male	% Male	Female	% Female	Undesig.	% Undesig.	18-25	% 18-25	26-40	% 26-40	41-65	% 41-65	66+	% 66+	Hispanic	% Hisp	Non-Hisp	% Non-Hisp	Undesig.	% Undesig.
39B	97,398	43,187	44.34%	51,427	52.80%	2,784	2.86%	10,933	11.23%	28,938	29.71%	37,815	38.83%	19,712	20.24%	1,608	1.65%	67,820	69.63%	27,970	28.72%
40	121,825	55,320	45.41%	64,861	53.24%	1,644	1.35%	10,421	8.55%	23,009	18.89%	49,324	40.49%	39,071	32.07%	1,949	1.60%	94,116	77.26%	25,760	21.15%
41	144,162	66,320	46.00%	75,944	52.68%	1,898	1.32%	15,270	10.59%	28,233	19.58%	59,341	41.16%	41,318	28.66%	1,239	0.86%	123,879	85.93%	19,044	13.21%
Totals:	6,822,218	3,055,867	44.79%	3,614,514	52.98%	151,837	2.23%	834,432	12.23%	1,704,813	24.99%	2,938,614	43.07%	1,344,359	19.71%	163,663	2.40%	5,323,441	78.03%	1,335,114	19.57%

2016 General Election - PR, USS, and GV: HB 717 – Proposed District Court Districts

District	US President: Trump-Clinton-Johnson-Write-in								US Senate: Burr-Ross-Haugh						Governor: Cooper-McCrory-Cecil					
	Rep	Rep %	Dem	Dem %	Lib	Lib %	WI	WI %	Rep	Rep %	Dem	Dem %	Lib	Lib %	Dem	Dem %	Rep	Rep %	Lib	Lib %
1	43,201	58.66%	27,589	37.46%	2,169	2.95%	687	0.93%	42,588	59.07%	27,487	38.13%	2,017	2.80%	28,928	39.93%	41,948	57.90%	1,568	2.16%
2	25,252	54.82%	19,774	42.93%	726	1.58%	312	0.68%	24,844	54.66%	19,121	42.07%	1,488	3.27%	19,710	43.08%	25,522	55.79%	516	1.13%
3	58,542	63.89%	30,012	32.76%	2,242	2.45%	829	0.90%	58,109	64.13%	28,994	32.00%	3,512	3.88%	30,960	34.02%	58,265	64.02%	1,788	1.96%
4	64,180	61.76%	36,342	34.97%	2,579	2.48%	819	0.79%	63,007	61.59%	35,309	34.52%	3,978	3.89%	36,736	35.74%	63,891	62.17%	2,147	2.09%
5	48,379	53.65%	39,636	43.96%	1,506	1.67%	647	0.72%	48,116	54.01%	38,690	43.43%	2,280	2.56%	39,546	44.14%	48,952	54.64%	1,085	1.21%
6A	13,089	33.15%	24,868	62.98%	1,104	2.80%	424	1.07%	13,901	35.66%	23,848	61.17%	1,237	3.17%	24,604	62.88%	13,810	35.29%	716	1.83%
6B	22,558	55.15%	16,860	41.22%	1,056	2.58%	426	1.04%	23,205	57.27%	16,121	39.78%	1,195	2.95%	17,221	42.34%	22,848	56.17%	606	1.49%
7	49,111	44.37%	59,122	53.41%	1,701	1.54%	752	0.68%	49,444	44.95%	58,375	53.07%	2,172	1.97%	61,279	55.49%	48,036	43.50%	1,112	1.01%
8	19,044	35.26%	34,185	63.29%	574	1.06%	208	0.39%	18,938	35.52%	33,559	62.94%	822	1.54%	33,901	63.31%	19,254	35.96%	390	0.73%
9	51,691	48.24%	52,264	48.77%	2,233	2.08%	975	0.91%	51,513	48.48%	51,801	48.75%	2,953	2.78%	54,518	51.07%	50,578	47.38%	1,647	1.54%
10AE	57,628	35.14%	97,435	59.42%	6,095	3.72%	2,823	1.72%	63,038	38.67%	94,541	58.00%	5,429	3.33%	101,854	62.23%	58,061	35.47%	3,759	2.30%
10BD	44,747	27.43%	110,380	67.66%	5,346	3.28%	2,674	1.64%	51,574	31.80%	105,977	65.34%	4,632	2.86%	112,749	69.32%	46,516	28.60%	3,393	2.09%
10C	46,656	45.68%	49,575	48.54%	3,825	3.75%	2,076	2.03%	51,792	50.94%	46,834	46.07%	3,038	2.99%	52,544	51.48%	47,420	46.46%	2,097	2.05%
10F	47,051	47.83%	45,346	46.10%	4,194	4.26%	1,773	1.80%	51,385	52.57%	42,934	43.92%	3,435	3.51%	48,408	49.30%	47,359	48.24%	2,415	2.46%
11	54,372	63.29%	28,362	33.01%	2,347	2.73%	828	0.96%	53,977	63.32%	28,279	33.17%	2,988	3.51%	31,182	36.40%	52,921	61.77%	1,567	1.83%
12A	24,046	56.18%	17,114	39.99%	1,206	2.82%	435	1.02%	23,492	55.83%	16,701	39.69%	1,887	4.48%	18,522	43.89%	22,514	53.35%	1,164	2.76%
12B	26,956	53.42%	20,787	41.20%	1,971	3.91%	745	1.48%	27,876	55.99%	19,748	39.67%	2,161	4.34%	23,507	47.00%	25,083	50.15%	1,426	2.85%
12C	21,962	47.25%	22,405	48.20%	1,455	3.13%	661	1.42%	21,948	47.99%	21,608	47.25%	2,178	4.76%	24,501	53.33%	20,116	43.78%	1,326	2.89%
13	65,542	60.70%	39,400	36.49%	2,235	2.07%	800	0.74%	63,991	60.27%	38,209	35.90%	3,968	3.74%	41,862	39.23%	62,777	58.83%	2,074	1.94%
14	26,894	49.39%	26,136	48.00%	1,049	1.93%	369	0.68%	25,790	48.75%	26,023	49.19%	1,085	2.05%	25,699	48.00%	27,268	50.93%	568	1.06%
15A	15,388	26.89%	39,769	69.50%	1,482	2.59%	582	1.02%	15,875	28.11%	38,643	68.43%	1,952	3.46%	38,587	68.31%	16,474	29.17%	1,423	2.52%
15B	35,877	51.05%	31,836	45.30%	1,891	2.69%	681	0.97%	36,027	51.89%	31,090	44.78%	2,314	3.33%	31,862	45.76%	36,288	52.11%	1,486	2.13%
16	38,249	57.16%	26,054	38.93%	1,932	2.89%	685	1.02%	38,391	57.91%	25,619	38.65%	2,279	3.44%	27,479	41.35%	37,488	56.42%	1,481	2.23%
17	41,326	58.08%	27,206	38.24%	1,936	2.72%	681	0.96%	40,840	57.88%	27,213	38.57%	2,503	3.55%	29,035	41.03%	40,139	56.73%	1,585	2.24%
18A	19,659	23.97%	58,860	71.76%	2,177	2.65%	1,326	1.62%	22,246	27.29%	57,211	70.17%	2,073	2.54%	59,432	72.73%	20,855	25.52%	1,433	1.75%
18B	8,610	11.73%	61,787	84.17%	1,810	2.47%	1,204	1.64%	11,368	15.57%	60,114	82.32%	1,547	2.12%	62,124	85.00%	9,784	13.39%	1,176	1.61%
19	18,557	22.54%	59,923	72.78%	2,404	2.92%	1,456	1.77%	21,884	26.75%	57,877	70.74%	2,055	2.51%	61,344	74.82%	19,153	23.36%	1,492	1.82%
20	38,815	54.55%	29,833	41.93%	1,795	2.52%	714	1.00%	39,380	55.76%	28,873	40.88%	2,368	3.35%	32,032	45.23%	37,501	52.96%	1,283	1.81%
21	32,857	61.59%	19,020	35.65%	1,085	2.03%	387	0.73%	32,149	60.86%	18,864	35.71%	1,813	3.43%	21,369	40.34%	30,594	57.76%	1,006	1.90%
22A	73,010	51.20%	63,489	44.53%	4,176	2.93%	1,915	1.34%	76,472	53.99%	60,767	42.90%	4,415	3.12%	69,068	48.63%	69,927	49.23%	3,033	2.14%
22B	24,809	21.75%	85,280	74.77%	2,555	2.24%	1,412	1.24%	26,629	23.66%	82,690	73.48%	3,221	2.86%	86,126	76.35%	24,330	21.57%	2,343	2.08%
23	66,536	63.72%	34,258	32.81%	2,533	2.43%	1,097	1.05%	66,097	63.75%	33,738	32.54%	3,854	3.72%	38,470	36.97%	63,422	60.94%	2,179	2.09%
24	81,588	60.18%	48,704	35.92%	3,791	2.80%	1,501	1.11%	82,001	61.34%	46,346	34.67%	5,340	3.99%	50,726	37.68%	81,089	60.23%	2,811	2.09%
25A	115,026	43.68%	134,229	50.97%	9,607	3.65%	4,477	1.70%	127,886	48.99%	123,501	47.31%	9,675	3.71%	138,403	52.78%	117,076	44.65%	6,734	2.57%
25B	38,852	19.31%	153,850	76.45%	5,763	2.86%	2,769	1.38%	43,655	22.01%	147,399	74.31%	7,315	3.69%	152,501	76.53%	41,680	20.92%	5,083	2.55%
26	53,818	57.69%	35,522	38.08%	2,786	2.99%	1,163	1.25%	53,722	58.16%	34,268	37.10%	4,383	4.74%	37,919	40.82%	52,531	56.55%	2,441	2.63%
27	42,810	66.51%	19,400	30.14%	1,517	2.36%	642	1.00%	41,230	64.75%	19,227	30.19%	3,222	5.06%	21,631	33.76%	40,812	63.70%	1,630	2.54%
28	29,094	70.18%	11,244	27.12%	867	2.09%	252	0.61%	27,669	67.34%	11,461	27.90%	1,956	4.76%	12,821	31.04%	27,710	67.08%	776	1.88%
29	69,919	72.37%	23,379	24.20%	2,490	2.58%	824	0.85%	69,103	72.16%	22,870	23.88%	3,792	3.96%	28,383	29.52%	65,581	68.21%	2,184	2.27%
30A	22,616	48.34%	21,929	46.88%	1,504	3.21%	732	1.56%	24,442	52.44%	20,665	44.34%	1,501	3.22%	23,713	50.82%	21,903	46.94%	1,044	2.24%
30B	22,870	45.01%	25,213	49.62%	1,796	3.53%	936	1.84%	25,938	51.22%	23,169	45.76%	1,529	3.02%	26,918	53.15%	22,629	44.68%	1,096	2.16%
30C	5,900	15.69%	30,472	81.02%	835	2.22%	403	1.07%	6,761	18.19%	29,475	79.29%	938	2.52%	30,365	81.69%	6,035	16.24%	772	2.08%
30D	24,605	57.06%	16,838	39.05%	1,240	2.88%	436	1.01%	24,878	58.12%	16,350	38.20%	1,575	3.68%	18,680	43.58%	23,103	53.90%	1,078	2.52%
31	40,635	74.48%	12,127	22.23%	1,303	2.39%	496	0.91%	39,703	73.41%	12,253	22.66%	2,126	3.93%	15,758	29.05%	37,312	68.79%	1,171	2.16%
32	68,647	68.08%	28,501	28.26%	2,622	2.60%	1,068	1.06%	66,396	66.63%	28,083	28.18%	5,177	5.19%	33,233	33.16%	64,171	64.04%	2,806	2.80%
33	61,798	64.09%	31,177	32.33%	2,445	2.54%	1,011	1.05%	60,298	63.29%	30,582	32.10%	4,388	4.61%	33,708	35.16%	60,006	62.60%	2,146	2.24%
34	57,283	67.64%	24,861	29.35%	1,821	2.15%	729	0.86%	55,359	66.14%	24,823	29.66%	3,518	4.20%	27,445	32.58%	55,105	65.41%	1,699	2.02%
35	101,166	68.56%	40,879	27.70%	3,810	2.58%	1,706	1.16%	97,915	67.19%	40,744	27.96%	7,080	4.86%	47,181	32.16%	95,895	65.37%	3,618	2.47%
36	50,860	75.17%	14,606	21.59%	1,506	2.23%	691	1.02%	49,537	73.84%	14,824	22.10%	2,726	4.06%	18,259	27.06%	47,864	70.92%	1,363	2.02%
37	39,445	58.39%	24,545	36.33%	2,236	3.31%	1,333	1.97%	38,520	57.92%	25,094	37.73%	2,896	4.35%	28,352	42.24%	36,813	54.84%	1,963	2.92%
38	36,439	72.61%	12,179	24.27%	1,020	2.03%	544	1.08%	34,037	69.05%	13,141	26.66%	2,112	4.28%	15,534	31.35%	32,721	66.03%	1,300	2.62%
39A	36,362	51.57%	30,321	43.00%	2,264	3.21%	1,559	2.21%	36,322	52.04%	30,577	43.81%	2,900	4.15%	34,092	48.65%	33,818	48.26%	2,169	3.10%
39B	19,353	28.28%	45,128	65.94%	2,022	2.95%	1,935	2.83%	19,767	29.19%	45,314	66.92%	2,633	3.89%	47,780	70.30%	18,058	26.57%	2,125	3.13%

2016 General Election - PR, USS, and GV: HB 717 – Proposed District Court Districts

District	US President: Trump-Clinton-Johnson-Write-in								US Senate: Burr-Ross-Haugh						Governor: Cooper-McCrory-Cecil					
	Rep	Rep %	Dem	Dem %	Lib	Lib %	WI	WI %	Rep	Rep %	Dem	Dem %	Lib	Lib %	Dem	Dem %	Rep	Rep %	Lib	Lib %
40	53,097	61.05%	30,120	34.63%	2,387	2.74%	1,375	1.58%	52,069	60.62%	30,512	35.53%	3,307	3.85%	34,359	39.90%	49,373	57.34%	2,377	2.76%
41	62,972	64.60%	30,185	30.97%	2,908	2.98%	1,412	1.45%	59,345	61.97%	32,160	33.59%	4,252	4.44%	37,461	38.95%	55,660	57.87%	3,059	3.18%
Totals:	2,359,749	49.90%	2,180,316	46.10%	129,929	2.75%	59,397	1.26%	2,392,439	51.13%	2,119,696	45.30%	167,190	3.57%	2,300,381	48.95%	2,296,039	48.86%	102,729	2.19%

2016 General Election - LG, AG, AD, CA, and CI: HB 717 – Proposed District Court Districts

	Lieutenant Governor: Forest-Coleman-Cole						Attorney General: Stein-Newton				Auditor: Wood-Stuber				Comm. of Agriculture: Troxler-Smith				Comm. of Insurance: Causey-Goodwin			
District	Rep	Rep %	Dem	Dem %	Lib	Lib %	Dem	Dem %	Rep	Rep %	Dem	Dem %	Rep	Rep %	Rep	Rep %	Dem	Dem %	Rep	Rep %	Dem	Dem %
1	41,383	58.08%	27,791	39.01%	2,074	2.91%	29,267	41.81%	40,740	58.19%	30,263	43.76%	38,889	56.24%	41,606	59.70%	28,090	40.30%	38,804	55.93%	30,571	44.07%
2	24,324	54.32%	19,611	43.79%	847	1.89%	20,901	47.15%	23,428	52.85%	21,492	49.39%	22,020	50.61%	25,285	57.03%	19,053	42.97%	22,697	51.91%	21,024	48.09%
3	57,464	64.37%	29,461	33.00%	2,347	2.63%	31,586	35.67%	56,959	64.33%	33,826	38.88%	53,171	61.12%	58,287	66.47%	29,406	33.53%	55,299	63.57%	31,694	36.43%
4	61,736	61.56%	35,528	35.43%	3,020	3.01%	38,653	39.00%	60,469	61.00%	39,817	40.90%	57,532	59.10%	62,077	63.00%	36,454	37.00%	59,680	61.05%	38,075	38.95%
5	47,673	54.22%	38,686	44.00%	1,562	1.78%	41,377	47.52%	45,695	52.48%	43,100	50.03%	43,055	49.97%	48,376	55.57%	38,684	44.43%	44,096	51.27%	41,912	48.73%
6A	13,455	35.12%	23,808	62.15%	1,046	2.73%	24,864	65.35%	13,184	34.65%	25,145	66.96%	12,410	33.04%	14,106	37.44%	23,574	62.56%	12,983	34.64%	24,497	65.36%
6B	22,925	57.33%	16,118	40.31%	943	2.36%	17,471	44.08%	22,165	55.92%	18,282	46.67%	20,889	53.33%	23,578	59.84%	15,826	40.16%	22,014	56.27%	17,107	43.73%
7	49,142	45.09%	58,179	53.39%	1,659	1.52%	60,866	55.90%	48,021	44.10%	63,801	59.42%	43,577	40.58%	51,602	47.62%	56,752	52.38%	45,453	42.28%	62,062	57.72%
8	18,347	34.85%	33,674	63.96%	629	1.19%	34,708	66.48%	17,501	33.52%	35,581	68.95%	16,025	31.05%	18,820	36.04%	33,393	63.96%	16,415	31.74%	35,307	68.26%
9	51,294	48.92%	51,437	49.06%	2,116	2.02%	55,988	53.92%	47,844	46.08%	57,608	56.24%	44,832	43.76%	54,774	52.69%	49,180	47.31%	46,229	45.09%	56,289	54.91%
10AE	63,097	39.28%	92,086	57.33%	5,431	3.38%	100,497	63.13%	58,703	36.87%	95,861	61.10%	61,036	38.90%	76,128	48.16%	81,937	51.84%	58,559	37.55%	97,411	62.45%
10BD	51,044	31.95%	103,775	64.95%	4,966	3.11%	111,241	70.19%	47,243	29.81%	105,880	67.77%	50,347	32.23%	62,201	39.63%	94,755	60.37%	47,665	30.67%	107,759	69.33%
10C	52,490	52.31%	44,964	44.81%	2,884	2.87%	50,536	50.95%	48,648	49.05%	47,966	49.09%	49,739	50.91%	59,173	60.21%	39,098	39.79%	48,470	49.92%	48,624	50.08%
10F	51,144	53.26%	41,727	43.46%	3,148	3.28%	46,341	48.72%	48,782	51.28%	44,207	47.23%	49,401	52.77%	57,781	61.31%	36,456	38.69%	48,605	52.26%	44,394	47.74%
11	54,748	65.02%	27,276	32.40%	2,173	2.58%	31,485	37.74%	51,938	62.26%	33,429	40.71%	48,676	59.29%	58,348	70.02%	24,983	29.98%	50,287	61.24%	31,824	38.76%
12A	23,688	57.20%	16,330	39.43%	1,392	3.36%	18,587	45.30%	22,446	54.70%	17,953	44.32%	22,553	55.68%	24,024	59.16%	16,587	40.84%	23,385	57.68%	17,160	42.32%
12B	27,571	56.81%	19,023	39.20%	1,938	3.99%	22,146	46.00%	25,996	54.00%	20,591	43.77%	26,454	56.23%	28,531	60.61%	18,540	39.39%	27,397	58.43%	19,492	41.57%
12C	22,007	49.08%	21,097	47.05%	1,731	3.86%	23,974	53.93%	20,479	46.07%	22,637	51.99%	20,904	48.01%	22,666	52.00%	20,923	48.00%	21,752	49.97%	21,778	50.03%
13	63,418	60.76%	38,567	36.95%	2,384	2.28%	44,654	43.18%	58,755	56.82%	42,631	41.89%	59,147	58.11%	63,287	61.97%	38,838	38.03%	61,111	60.04%	40,673	39.96%
14	23,450	45.42%	27,052	52.40%	1,126	2.18%	28,635	56.04%	22,461	43.96%	29,602	58.76%	20,778	41.24%	22,647	44.35%	28,412	55.65%	21,590	42.52%	29,186	57.48%
15A	15,379	27.65%	38,293	68.84%	1,951	3.51%	39,913	72.16%	15,402	27.84%	40,086	72.92%	14,885	27.08%	16,408	29.84%	38,570	70.16%	15,105	27.55%	39,714	72.45%
15B	35,354	51.72%	30,831	45.10%	2,169	3.17%	33,460	49.22%	34,515	50.78%	33,904	50.29%	33,507	49.71%	36,877	54.54%	30,740	45.46%	33,892	50.41%	33,338	49.59%
16	38,165	58.56%	25,129	38.56%	1,878	2.88%	27,405	42.45%	37,153	57.55%	27,561	43.57%	35,703	56.43%	40,554	63.48%	23,331	36.52%	36,213	57.22%	27,078	42.78%
17	41,071	58.83%	26,874	38.50%	1,866	2.67%	30,078	43.52%	39,035	56.48%	31,281	45.83%	36,980	54.17%	43,486	63.00%	25,535	37.00%	38,310	56.13%	29,937	43.87%
18A	22,154	27.54%	56,163	69.82%	2,120	2.64%	59,223	74.06%	20,738	25.94%	57,165	72.56%	21,622	27.44%	25,449	32.10%	53,832	67.90%	20,653	26.27%	57,979	73.73%
18B	11,067	15.35%	59,206	82.13%	1,818	2.52%	61,567	85.81%	10,182	14.19%	58,681	82.89%	12,112	17.11%	13,980	19.69%	57,025	80.31%	10,595	15.00%	60,030	85.00%
19	21,581	26.88%	56,358	70.19%	2,351	2.93%	59,666	74.74%	20,162	25.26%	55,690	71.13%	22,605	28.87%	25,795	32.73%	53,010	67.27%	20,782	26.61%	57,319	73.39%
20	39,400	56.52%	28,247	40.52%	2,061	2.96%	31,692	45.78%	37,542	54.22%	31,142	45.56%	37,215	54.44%	42,993	62.08%	26,264	37.92%	37,795	55.24%	30,620	44.76%
21	31,623	60.90%	19,145	36.87%	1,162	2.24%	21,186	41.06%	30,407	58.94%	21,260	42.02%	29,338	57.98%	34,716	66.78%	17,271	33.22%	29,964	58.88%	20,923	41.12%
22A	75,709	54.33%	59,773	42.89%	3,880	2.78%	66,137	47.72%	72,454	52.28%	63,157	46.27%	73,352	53.73%	86,242	62.38%	52,012	37.62%	74,300	54.55%	61,8	

2016 General Election - LG, AG, AD, CA, and CI: HB 717 – Proposed District Court Districts

District	Lieutenant Governor: Forest-Coleman-Cole						Attorney General: Stein-Newton				Auditor: Wood-Stuber				Comm. of Agriculture: Troxler-Smith				Comm. of Insurance: Causey-Goodwin			
	Rep	Rep %	Dem	Dem %	Lib	Lib %	Dem	Dem %	Rep	Rep %	Dem	Dem %	Rep	Rep %	Rep	Rep %	Dem	Dem %	Rep	Rep %	Dem	Dem %
39B	19,120	28.69%	44,568	66.87%	2,959	4.44%	47,244	71.47%	18,855	28.53%	45,814	70.41%	19,249	29.59%	21,722	33.31%	43,486	66.69%	19,124	29.57%	45,548	70.43%
40	52,730	62.18%	29,507	34.79%	2,569	3.03%	32,269	38.37%	51,823	61.63%	31,912	38.30%	51,405	61.70%	55,217	66.19%	28,208	33.81%	51,610	62.48%	30,989	37.52%
41	59,029	62.59%	31,893	33.82%	3,390	3.59%	35,488	38.03%	57,825	61.97%	35,766	38.92%	56,130	61.08%	60,877	65.85%	31,575	34.15%	56,627	61.82%	34,973	38.18%
Totals:	2,390,619	51.88%	2,084,975	45.25%	132,360	2.87%	2,294,855	50.20%	2,276,276	49.80%	2,250,664	50.00%	2,250,696	50.00%	2,521,477	55.64%	2,010,452	44.36%	2,268,142	50.47%	2,226,295	49.53%

2016 General Election - CL, SS, SPI, TR, and SC: HB 717 – Proposed District Court Districts

	Commissioner of Labor: Berry-Meeker-Write-in						Secretary of State: Marshall-LaPaglia				Sup. of Public Instruc.: Johnson-Atkinson				Treasurer: Folwell-Blue				Supreme Court Justice: Morgan-Edmunds			
District	Rep	Rep %	Dem	Dem %	Wi	Wi %	Dem	Dem %	Rep	Rep %	Rep	Rep %	Dem	Dem %	Rep	Rep %	Dem	Dem %	Morgan	Morgan %	Edmunds	Edmunds %
1	42,490	61.23%	26,844	38.68%	64	0.09%	31,310	45.03%	38,216	54.97%	39,741	57.20%	29,736	42.80%	41,173	59.68%	27,820	40.32%	32,790	55.52%	26,271	44.48%
2	24,378	55.59%	19,425	44.30%	48	0.11%	22,707	51.70%	21,212	48.30%	22,608	51.56%	21,243	48.44%	23,660	54.28%	19,929	45.72%	20,571	52.40%	18,683	47.60%
3	58,965	67.47%	28,332	32.42%	99	0.11%	34,005	38.82%	53,588	61.18%	54,798	62.86%	32,378	37.14%	56,998	65.61%	29,870	34.39%	39,494	51.58%	37,077	48.42%
4	62,244	63.53%	35,604	36.34%	131	0.13%	41,868	42.64%	56,320	57.36%	58,729	60.02%	39,119	39.98%	60,739	62.40%	36,603	37.60%	47,045	56.13%	36,766	43.87%
5	47,627	55.07%	38,775	44.83%	85	0.10%	44,970	52.01%	41,495	47.99%	43,717	50.64%	42,613	49.36%	45,672	53.16%	40,250	46.84%	41,657	56.86%	31,599	43.14%
6A	14,464	38.37%	23,145	61.40%	88	0.23%	25,538	67.73%	12,165	32.27%	12,991	34.55%	24,614	65.45%	13,487	36.00%	23,972	64.00%	19,192	58.46%	13,640	41.54%
6B	23,771	60.41%	15,535	39.48%	43	0.11%	18,690	47.55%	20,619	52.45%	21,789	55.46%	17,497	44.54%	22,478	57.49%	16,620	42.51%	16,811	48.44%	17,897	51.56%
7	49,259	45.68%	58,478	54.23%	100	0.09%	65,556	60.83%	42,209	39.17%	44,702	41.47%	63,080	58.53%	47,814	44.51%	59,614	55.49%	55,140	56.20%	42,978	43.80%
8	17,972	34.69%	33,777	65.19%	61	0.12%	36,365	70.10%	15,509	29.90%	16,431	31.67%	35,448	68.33%	17,621	34.10%	34,049	65.90%	29,092	63.85%	16,470	36.15%
9	51,221	49.55%	52,023	50.33%	123	0.12%	60,456	58.66%	42,609	41.34%	45,292	43.95%	57,764	56.05%	49,045	47.83%	53,490	52.17%	51,272	55.45%	41,194	44.55%
10AE	67,868	42.87%	90,214	56.98%	230	0.15%	102,007	64.75%	55,526	35.25%	58,202	37.07%	98,800	62.93%	63,844	40.74%	92,886	59.26%	79,313	56.49%	61,091	43.51%
10BD	55,886	35.49%	101,381	64.38%	214	0.14%	111,986	71.30%	45,085	28.70%	47,662	30.49%	108,675	69.51%	52,563	33.66%	103,599	66.34%	84,235	60.50%	54,992	39.50%
10C	54,029	54.84%	44,405	45.07%	94	0.10%	51,427	52.37%	46,774	47.63%	48,304	49.41%	49,458	50.59%	52,375	53.70%	45,160	46.30%	41,916	48.37%	44,734	51.63%
10F	54,423	57.69%	39,796	42.18%	118	0.13%	47,162	50.12%	46,931	49.88%	48,256	51.44%	45,550	48.56%	52,180	55.91%	41,145	44.09%	39,146	47.62%	43,056	52.38%
11	54,745	66.09%	28,001	33.81%	82	0.10%	35,708	43.16%	47,018	56.84%	50,068	60.54%	32,634	39.46%	53,153	64.71%	28,983	35.29%	34,702	47.17%	38,870	52.83%
12A	24,505	60.40%	16,031	39.51%	38	0.09%	18,736	46.10%	21,905	53.90%	22,794	56.40%	17,620	43.60%	23,572	58.52%	16,711	41.48%	19,682	56.04%	15,439	43.96%
12B	29,900	63.19%	17,370	36.71%	44	0.09%	21,850	46.17%	25,474	53.83%	26,635	56.79%	20,262	43.21%	27,868	59.77%	18,761	40.23%	21,906	55.74%	17,396	44.26%
12C	23,588	54.00%	20,034	45.87%	58	0.13%	23,610	53.93%	20,173	46.07%	21,029	48.37%	22,450	51.63%	22,004	50.84%	21,274	49.16%	21,597	58.78%	15,143	41.22%
13	63,199	62.11%	38,459	37.80%	89	0.09%	45,218	44.30%	56,860	55.70%	60,027	59.18%	41,408	40.82%	61,906	61.19%	39,257	38.81%	48,296	53.45%	42,067	46.55%
14	24,444	47.92%	26,476	51.91%	88	0.17%	30,884	60.90%	19,829	39.10%	22,093	43.43%	28,775	56.57%	21,420	42.32%	29,190	57.68%	26,225	59.29%	18,004	40.71%
15A	17,217	31.30%	37,709	68.54%	89	0.16%	40,668	73.78%	14,453	26.22%	15,160	27.59%	39,782	72.41%	15,864	28.93%	38,963	71.07%	29,147	59.23%	20,064	40.77%
15B	37,346	55.21%	30,231	44.69%	68	0.10%	35,220	52.12%	32,359	47.88%	33,641	49.88%	33,802	50.12%	35,342	52.62%	31,828	47.38%	32,017	53.70%	27,603	46.30%
16	38,987	61.27%	24,587	38.64%	59	0.09%	28,501	44.67%	35,305	55.33%	36,080	56.76%	27,485	43.24%	37,348	59.02%	25,932	40.98%	25,915	47.00%	29,224	53.00%
17	41,736	60.72%	26,900	39.14%	100	0.15%	34,068	49.36%	34,953	50.64%	37,696	54.90%	30,970	45.10%	39,843	58.38%	28,405	41.62%	29,219	47.94%	31,733	52.06%
18A	24,495	30.92%	54,652	68.98%	85	0.11%	59,709	75.32%	19,560	24.68%	20,570	26.02%	58,487	73.98%	22,318	28.27%	56,628	71.73%	49,522	69.90%	21,320	30.10%
18B	13,809	19.39%	57,301	80.48%	92	0.13%	61,499	86.30%	9,764	13.70%	10,546	14.84%	60,499	85.16%	11,775	16.61%	59,129	83.39%	49,678	76.60%	15,180	23.40%
19	24,675	31.27%	54,133	68.61%	94	0.12%	59,532	75.47%	19,353	24.53%	20,415	25.95%	58,243	74.05%	22,457	28.65%	55,929	71.35%	48,664	69.51%	21,343	30.49%
20	42,703	61.91%	26,199	37.98%	76	0.11%	32,948	48.07%	35,595	51.93%	38,131	55.67%	30,362	44.33%	38,726	56.81%	29,438	43.19%	32,024	53.73%	27,582	46.27%
21	33,218	64.67%	18,097	35.23%	54	0.11%	22,655	44.41%	28,363	55.59%	30,912	60.51%	20,175	39.49%	31,007	61.13%	19,713	38.87%	24,377	53.50%	21,191	46.50%
22A	85,020	61.76%	52,534	38.16%	108	0.08%	66,674	48.76%	70,054	51.24%	74,567	54.73%	61,672	45.27%	76,649	56.50%	59,017	43.50%	57,578	50.06%	57,442	49.94%
22B	32,555	29.67%	77,068	70.23%	112	0.10%	85,790	78.28%	23,798	21.72%	26,011	23.85%	83,070	76.15%	26,983	24.79%	81,852	75.21%	58,728	62.44%	35,320	37.56%
23	68,896	68.24																				

2016 General Election - CL, SS, SPI, TR, and SC: HB 717 – Proposed District Court Districts

District	Commissioner of Labor: Berry-Meeker-Write-in						Secretary of State: Marshall-LaPaglia				Sup. of Public Instruc.: Johnson-Atkinson				Treasurer: Folwell-Blue				Supreme Court Justice: Morgan-Edmunds			
	Rep	Rep %	Dem	Dem %	Wi	Wi %	Dem	Dem %	Rep	Rep %	Rep	Rep %	Dem	Dem %	Rep	Rep %	Dem	Dem %	Morgan	Morgan %	Edmunds	Edmunds %
39B	22,070	33.86%	43,020	65.99%	99	0.15%	47,318	72.34%	18,092	27.66%	19,152	29.53%	45,709	70.47%	20,150	31.15%	44,532	68.85%	38,610	67.53%	18,561	32.47%
40	54,182	65.30%	28,732	34.63%	54	0.07%	33,419	40.18%	49,751	59.82%	51,608	62.16%	31,410	37.84%	53,084	64.37%	29,382	35.63%	36,904	50.85%	35,664	49.15%
41	60,051	65.32%	31,788	34.58%	97	0.11%	37,898	41.19%	54,112	58.81%	57,424	62.41%	34,587	37.59%	58,401	64.11%	32,687	35.89%	45,892	56.42%	35,451	43.58%
Totals:	2,502,542	55.26%	2,020,865	44.63%	5,050	0.11%	2,359,430	52.20%	2,160,618	47.80%	2,283,041	50.66%	2,223,370	49.34%	2,370,201	52.77%	2,121,283	47.23%	2,152,022	54.46%	1,799,735	45.54%

2016 General Election - Court of Appeals: HB 717 – Proposed District Court Districts

Dietz Seat: Dietz-Rozier				Geer Seat: Murphy-Eagles-Buie						Hunter Seat: Hunter-Jones				Stephens Seat: Berger-Stephens				Zachary Seat: Zachary-Mitchell				
District	Rep	Rep %	Dem	Dem %	Rep	Rep %	Dem	Dem %	Una	Una %	Rep	Rep %	Dem	Dem %	Rep	Rep %	Dem	Dem %	Rep	Rep %	Dem	Dem %
1	40,601	60.13%	26,918	39.87%	37,715	55.60%	26,534	39.11%	3,588	5.29%	41,476	61.11%	26,395	38.89%	38,591	56.72%	29,445	43.28%	40,793	60.57%	26,561	39.43%
2	23,508	55.34%	18,975	44.66%	22,259	51.95%	18,801	43.88%	1,785	4.17%	24,349	56.80%	18,516	43.20%	22,665	52.88%	20,197	47.12%	23,387	55.19%	18,985	44.81%
3	56,245	66.47%	28,368	33.53%	52,927	61.96%	28,109	32.90%	4,390	5.14%	57,225	67.15%	27,993	32.85%	54,191	63.41%	31,272	36.59%	56,290	66.88%	27,873	33.12%
4	58,784	62.18%	35,761	37.82%	55,554	58.07%	34,301	35.86%	5,806	6.07%	60,453	63.47%	34,794	36.53%	57,717	60.17%	38,202	39.83%	59,472	63.19%	34,644	36.81%
5	44,914	53.87%	38,456	46.13%	42,950	51.03%	37,788	44.90%	3,428	4.07%	46,361	55.19%	37,645	44.81%	43,554	52.16%	39,953	47.84%	45,282	54.67%	37,550	45.33%
6A	13,274	36.17%	23,423	63.83%	12,375	33.40%	22,574	60.93%	2,098	5.66%	13,625	36.96%	23,244	63.04%	12,587	34.21%	24,211	65.79%	13,420	36.71%	23,135	63.29%
6B	22,709	58.98%	15,797	41.02%	21,537	55.52%	15,465	39.87%	1,791	4.62%	23,147	59.82%	15,545	40.18%	21,511	55.99%	16,907	44.01%	22,804	59.43%	15,564	40.57%
7	47,842	45.50%	57,300	54.50%	44,710	42.40%	57,393	54.43%	3,334	3.16%	49,189	46.47%	56,659	53.53%	45,872	43.29%	60,097	56.71%	48,087	45.82%	56,868	54.18%
8	17,239	34.46%	32,781	65.54%	16,361	32.37%	32,879	65.05%	1,306	2.58%	17,950	35.56%	32,530	64.44%	16,500	32.65%	34,034	67.35%	17,274	34.58%	32,682	65.42%
9	49,382	49.15%	51,092	50.85%	45,421	44.82%	51,202	50.53%	4,713	4.65%	50,871	50.32%	50,228	49.68%	47,116	46.06%	55,176	53.94%	49,532	49.48%	50,573	50.52%
10AE	62,537	40.94%	90,225	59.06%	55,573	36.03%	89,136	57.79%	9,525	6.18%	64,376	41.94%	89,112	58.06%	57,770	37.27%	97,253	62.73%	64,334	42.38%	87,471	57.62%
10BD	51,402	33.73%	100,989	66.27%	44,867	29.18%	100,209	65.17%	8,681	5.65%	53,261	34.81%	99,764	65.19%	46,624	30.17%	107,915	69.83%	53,030	34.98%	98,555	65.02%
10C	51,555	54.23%	43,506	45.77%	46,726	48.67%	44,422	46.27%	4,852	5.05%	52,544	54.99%	43,016	45.01%	48,187	49.86%	48,456	50.14%	52,698	55.71%	41,902	44.29%
10F	50,994	55.96%	40,133	44.04%	46,448	50.47%	40,490	44.00%	5,092	5.53%	52,036	56.89%	39,425	43.11%	47,832	51.67%	44,737	48.33%	52,289	57.63%	38,449	42.37%
11	51,384	64.77%	27,951	35.23%	48,543	60.52%	26,978	33.64%	4,684	5.84%	53,292	66.78%	26,508	33.22%	49,443	61.17%	31,386	38.83%	52,675	66.69%	26,308	33.31%
12A	23,008	58.43%	16,369	41.57%	21,438	54.12%	15,584	39.34%	2,587	6.53%	23,387	59.34%	16,025	40.66%	22,202	56.05%	17,409	43.95%	23,354	59.54%	15,867	40.46%
12B	27,022	59.82%	18,153	40.18%	24,487	53.79%	17,391	38.20%	3,648	8.01%	27,452	60.78%	17,713	39.22%	25,409	55.58%	20,311	44.42%	27,416	61.20%	17,384	38.80%
12C	21,541	51.19%	20,536	48.81%	19,461	45.96%	19,591	46.27%	3,289	7.77%	21,884	52.03%	20,179	47.97%	20,275	47.72%	22,215	52.28%	21,873	52.37%	19,897	47.63%
13	59,758	60.16%	39,570	39.84%	57,035	57.22%	37,391	37.51%	5,258	5.27%	62,263	62.68%	37,073	37.32%	58,447	58.64%	41,232	41.36%	61,016	61.95%	37,484	38.05%
14	21,423	43.64%	27,670	56.36%	20,753	42.09%	25,640	52.00%	2,915	5.91%	22,939	46.44%	26,457	53.56%	21,280	42.92%	28,299	57.08%	21,557	44.08%	27,345	55.92%
15A	15,470	28.68%	38,464	71.32%	13,686	25.30%	37,119	68.63%	3,281	6.07%	15,956	29.55%	38,043	70.45%	14,518	26.76%	39,728	73.24%	16,013	29.75%	37,821	70.25%
15B	34,861	52.75%	31,232	47.25%	31,890	48.15%	30,011	45.31%	4,331	6.54%	35,844	54.20%	30,287	45.80%	33,289	50.06%	33,205	49.94%	35,504	53.81%	30,471	46.19%
16	37,837	61.39%	23,801	38.61%	34,680	55.65%	23,840	38.25%	3,800	6.10%	38,316	61.83%	23,652	38.17%	36,071	57.50%	26,658	42.50%	38,050	62.06%	23,266	37.94%
17	39,008	59.23%	26,851	40.77%	35,641	53.71%	25,862	38.98%	4,851	7.31%	39,970	60.50%	26,091	39.50%	36,810	55.25%	29,809	44.75%	39,553	60.23%	26,114	39.77%
18A	22,393	28.79%	55,396	71.21%	19,745	25.26%	54,643	69.89%	3,793	4.85%	22,910	29.39%	55,029	70.61%	20,558	26.13%	58,126	73.87%	22,970	29.60%	54,635	70.40%
18B	11,734	16.76%	58,283	83.24%	9,509	13.51%	57,632	81.91%	3,220	4.58%	12,220	17.42%	57,931	82.58%	10,217	14.45%	60,477	85.55%	12,237	17.51%	57,645	82.49%
19	22,015	28.57%	55,033	71.43%	18,907	24.35%	54,315	69.94%	4,433	5.71%	22,884	29.61%	54,408	70.39%	20,181	25.83%	57,938	74.17%	22,615	29.45%	54,176	70.55%
20	38,881	58.09%	28,052	41.91%	35,777	53.25%	27,874	41.49%	3,531	5.26%	39,579	58.99%	27,519	41.01%	37,431	55.30%	30,260	44.70%	39,008	58.42%	27,769	41.58%
21	31,165	62.30%	18,860	37.70%	29,014	57.61%	18,664	37.06%	2,686	5.33%	31,655	62.95%	18,634	37.05%	30,412	59.21%	20,951	40.79%	31,227	62.47%	18,758	37.53%
22A	76,362	57.68%	56,024	42.32%	68,666	51.53%	58,131	43.62%	6,466	4.85%	78,174	58.72%	54,950	41.28%	71,943	53.35%	62,914	46.65%	76,376	57.78%	55,807	42.22%
22B	26,693	25.04%	79,910	74.96%	23,084	21.52%	78,770	73.45%	5,389	5.03%	28,227	26.37%	78,826	73.63%	24,738	22.94%	83,089	77.06%	26,899	25.27%	79,553	74.73%
23	65,120	66.63%	32,619	33.37%	60,918	61.74%	32,233	32.67%	5,514	5.59%	66,270	67.30%	32,194	32.70%	63,519	63.99%	35,747	36.01%	65,462	66.99%	32,260	33.01%
24	80,120	64.24%	44,605	35.76%	74,650	59.31%	44,181	35.10%	7,028	5.58%	81,355	64.94%	43,928	35.06%	77,641	61.57%	48,467	38.43%	79,922	64.26%	44,449	35.74%
25A	131,276	54.30%	110,469	45.70%	116,318	47.84%	113,365	46.63%	13,457	5.53%	133,898	55.24%	108,501	44.76%	119,494	49.19%	123,412	50.81%	128,496	53.29%	112,636	46.71%
25B	45,251	24.21%	141,670	75.79%	38,391	20.42%	138,216	73.52%	11,385	6.06%	46,347	24.70%	141,259	75.30%	40,689	21.68%	147,031	78.32%	44,901	23.94%	142,639	76.06%
26	54,355	62.12%	33,143	37.88%	49,461	56.21%	32,338	36.75%	6,198	7.04%	55,092	62.73%	32,729	37.27%	51,803	58.74%	36,381	41.26%	54,645	62.53%	32,748	37.47%
27	41,541	68.70%	18,922	31.30%	38,380	63.02%	18,811	30.89%	3,707	6.09%	42,138	69.37%	18,606	30.63%	40,009	65.86%	20,740	34.14%	41,485	68.86%	18,763	31.14%
28	26,898	70.63%	11,187	29.37%	25,163	65.56%	11,011	28.69%	2,208	5.75%	27,421	71.70%	10,822	28.30%	26,095	67.99%	12,287	32.01%	26,926	70.27%	11,392	29.73%
29	68,515	75.68%	22,014	24.32%	63,251	69.59%	22,244	24.47%	5,397	5.94%	69,176	76.19%	21,617	23.81%	66,847	73.06%	24,647	26.94%	68,332	75.66%	21,985	24.34%
30A	24,568	56.11%	19,218	43.89%	21,606	49.16%	19,525	44.42%	2,820	6.42%	24,518	55.96%	19,299	44.04%	22,760	51.59%	21,356	48.41%	24,532	56.35%	19,002	43.65%
30B	26,233	55.65%	20,909	44.35%	22,372	47.32%	21,814	46.14%	3,091	6.54%	26,056	55.28%	21,079	44.72%	23,446	49.31%	24,099	50.69%	26,061	55.57%	20,838	44.43%
30C	6,759	19.20%	28,435	80.80%	5,515	15.54%	27,939	78.75%	2,024	5.70%	6,753	19.16%	28,488	80.84%	6,046	17.02%	29,479	82.98%	6,859	19.56%	28,201	80.44%
30D	24,781	61.40%	15,576	38.60%	22,593	55.66%	15,315	37.73%	2,686	6.62%	24,850	61.42%	15,612	38.58%	23,844	58.46%	16,944	41.54%	24,846	61.83%	15,341	38.17%
31	38,406	75.24%	12,638	24.76%	35,867	69.93%	12,167	23.72%	3,255	6.35%	39,291	76.57%	12,024	23.43%	37,397	72.18%	14,414	27.82%	38,366	75.36%	12,546	24.64%
32	65,907	71.08%	26,816	28.92%	60,749	64.89%	26,487	28.29%	6,379	6.81%	66,527	71.35%	26,711	28.65%	63,007	67.44%	30,413	32.56%	65,690	71.07%	26,745	28.93%
33	59,508	66.90%	29,442	33.10%	55,460	61.77%	29,167	32.49%	5,156	5.74%	60,089	67.25%	29,264	32.75%	57,118	63.56%	32,743	36.44%	59,024	66.70%	29,473	33.30%
34	54,885	69.55%	24,033	30.45%	51,057	64.10%	24,152	30.32%	4,444	5.58%	55,426	69.83%	23,946	30.17%	52,754	66.27%	26,846	33.73%	54,278	69.04%	24,339	30.96%
35	98,781	71.49%	39,394	28.51%	90,859	65.41%	39,423	28.38%	8,629	6.21%	99,069	71.53%	39,436	28.47%	93,003	67.03%	45,748	32.97%	97,259	70.65%	40,405	29.35%
36	47,581	76.17%	14,882	23.83%	44,340	70.48%	14,283	22.70%	4,287	6.81%	48,403	77.07%	14,398	22.93%	46,150	73.10%	16,983	26.90%	48,052	76.65%	14,636	23.35%
37	36,685	60.68%	23,774	39.32%	34,076	55.6																

2016 General Election - Court of Appeals: HB 717 – Proposed District Court Districts

District	Dietz Seat: Dietz-Rozier				Geer Seat: Murphy-Eagles-Buie						Hunter Seat: Hunter-Jones				Stephens Seat: Berger-Stephens				Zachary Seat: Zachary-Mitchell			
	Rep	Rep %	Dem	Dem %	Rep	Rep %	Dem	Dem %	Una	Una %	Rep	Rep %	Dem	Dem %	Rep	Rep %	Dem	Dem %	Rep	Rep %	Dem	Dem %
39B	20,226	31.72%	43,536	68.28%	17,737	27.67%	42,081	65.64%	4,290	6.69%	21,858	34.18%	42,101	65.82%	18,409	28.76%	45,611	71.24%	20,237	31.88%	43,243	68.12%
40	52,821	65.06%	28,366	34.94%	49,220	60.24%	28,186	34.50%	4,297	5.26%	53,147	65.31%	28,229	34.69%	49,947	61.35%	31,470	38.65%	52,599	64.88%	28,470	35.12%
41	58,674	65.46%	30,953	34.54%	56,141	61.96%	28,963	31.96%	5,511	6.08%	59,025	65.64%	30,897	34.36%	55,367	61.44%	34,742	38.56%	57,780	64.69%	31,539	35.31%
Totals:	2,350,800	53.54%	2,040,100	46.46%	2,156,688	48.77%	2,013,586	45.53%	252,225	5.70%	2,400,169	54.44%	2,008,351	45.56%	2,231,049	50.31%	2,203,187	49.69%	2,358,465	53.88%	2,018,808	46.12%



SENATE BILL 489: Clarify Workers' Comp. Policy Cancellation.

2017-2018 General Assembly

Committee:	House Judiciary I. If favorable, re-refer to Insurance	Date:	June 22, 2017
Introduced by:	Sens. Bishop, Daniel, Clark	Prepared by:	Bill Patterson
Analysis of:	PCS to Second Edition S489-CSTG-34		Staff Attorney

OVERVIEW: *The PCS for Senate 489 would provide that an insurer's delivery of a notice of cancellation of a workers' compensation insurance policy will be deemed to have been completed within three days of having been sent if the insurer also sends it on the same day by first-class mail and by electronic means to the insured and any other person designated in the policy to receive notice. The PCS deletes a provision in Section 1 of the Second Edition of the bill that would have required notice of cancellation also to be given by first-class mail to any person to whom the insurer provided a certificate of insurance, and adds a new Section 3 authorizing another deputy commissioner or member of the Industrial Commission to be assigned to decide a case and issue an award if the deputy commissioner or member who conducted the hearing is unable to do so.*

CURRENT LAW:

In order to cancel a workers' compensation policy, the insured must be given written notice of the insurer's intent to cancel at least 15 days before the proposed effective cancellation date.¹ The required notice can be sent by registered or certified mail, return receipt requested, or by any method for service permitted under Rule 4 of the North Carolina Rules of Civil Procedure. If the insurer sends the notice by registered or certified mail, return receipt requested, the cancellation is not effective until that method of delivery is employed and completed.

Except for cancellation, termination, or nonrenewal of workers' compensation policies, when any State insurance law requires that a communication be provided to a party in writing, signed by a party, provided by means of a specific delivery method, or retained by an insurer, the requirement is satisfied if the insurer complies with the Uniform Electronic Transactions Act.²

Disputed workers' compensation claims may be heard by the Industrial Commission, any Commission member, or a deputy commissioner. When a claim is assigned for hearing to a deputy commissioner, G.S. 97-84 provides "said deputy shall proceed to a complete determination of the matters in dispute . . . and cause to be issued an award pursuant to such determination." This provision has been construed to require that a disputed workers' compensation claim must be handled by the same deputy commissioner, from the hearing to the issuance of an award.³

ANALYSIS: Section 1 would provide that a notice of intent to cancel a workers' compensation policy sent by registered or certified mail, return receipt requested, is conclusively presumed completed three days after the notice is sent if, on the same day the notice is sent by registered or certified mail, return receipt requested,

¹ G.S. 58-36-105(b).

² G.S. 58-2-255(b).

³ *Bentley v. Jonathan Piner Constr.*, 790 S.E.2d 379, 381 (2016).

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the insurer also sends the notice by first-class mail and by electronic means⁴ to the insured and any other person designated in the policy to receive notice. Delivery of the supplemental notice by electronic means would be effective for the limited purpose of establishing this conclusive presumption.

Section 2 would provide that when any State insurance law requires that a communication involving cancellation, termination, or non-renewal of a workers' compensation policy be provided to a party in writing, signed by a party, provided by means of a specific delivery method, or retained by an insurer, the requirement is satisfied if the insurer complies with the Uniform Electronic Transactions Act.

Section 3 would provide that in the event that the deputy commissioner or Commission member who heard the parties and their representatives and witnesses is unable to determine the matters in dispute and issue an award, the Commission may assign another member or deputy commissioner to do so.

EFFECTIVE DATE: This act is effective when it becomes law. Sections 1 and 2 apply to notices of cancellation of workers' compensation policy sent on or after that date. Section 3 applies to claims pending on or after that date.

⁴ Under G.S. 58-2-255(a) "delivered by electronic means" includes any of the following:

- Delivery to an electronic mail address or an electronic account at which a party has consented to receive electronic communications.
- Displaying information, or a link to information, as an essential step to completing the transaction to which such information relates.
- Providing notice to a party at the electronic mail address or an electronic account at which the party has consented to receive notice of the posting of a communication on an electronic network or site.

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SENATE BILL 489
Judiciary Committee Substitute Adopted 4/25/17
PROPOSED HOUSE COMMITTEE SUBSTITUTE S489-PCS15234-TG-34

Short Title: Clarify Workers' Comp. Policy Cancellation.

(Public)

Sponsors:

Referred to:

March 30, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY WHEN NOTICES OF CANCELLATION OF WORKERS'
3 COMPENSATION POLICIES ARE PRESUMED EFFECTIVE AND COMPLETE AND
4 TO PROVIDE THE PROCEDURE TO BE FOLLOWED WHEN THE DEPUTY OR
5 MEMBER OF THE COMMISSION THAT HEARD THE PARTIES AT ISSUE AND
6 THEIR REPRESENTATIVES AND WITNESSES IS UNABLE TO DECIDE THE CASE
7 AND ISSUE AN AWARD.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. G.S. 58-36-105(b) reads as rewritten:

10 "(b) Any cancellation permitted by subsection (a) of this section is not effective unless
11 written notice of cancellation has been given to the insured not less than 15 days before the
12 proposed effective date of cancellation. The notice may be given by registered or certified mail,
13 return receipt requested, to the insured and any other person designated in the policy to receive
14 notice of cancellation at their addresses shown in the policy or, if not indicated in the policy, at
15 their last known addresses. The notice shall state the precise reason for cancellation. Whenever
16 notice of intention to cancel is given by registered or certified mail, no cancellation by the
17 insurer shall be effective unless and until such method is employed and completed. Notice of
18 intent to cancel given by registered or certified mail shall be conclusively presumed completed
19 three days after the notice is sent if, on the same day that the notice is sent by registered or
20 certified mail, the insurer also provides notice by first-class mail and by electronic means if
21 available as defined in G.S. 58-2-255(a) to the insured and any other person designated in the
22 policy to receive notice. Any such supplemental notice given by electronic means shall be
23 effective for the limited purpose of establishing this conclusive presumption. Notice of
24 cancellation, termination, or nonrenewal may also be given by any method permitted for
25 service of process pursuant to Rule 4 of the North Carolina Rules of Civil Procedure. Failure to
26 send this notice, as provided in this section, to any other person designated in the policy to
27 receive notice of cancellation invalidates the cancellation only as to that other person's
28 interest."

29 SECTION 2. G.S. 58-2-255(b) reads as rewritten:

30 "(b) When any insurance law of this State, ~~except for cancellation, termination, or~~
31 ~~nonrenewal of workers' compensation policies pursuant to G.S. 58-36-105(b),~~ State requires a
32 communication to be provided to a party in writing, signed by a party, provided by means of a
33 specific delivery method, or retained by an insurer, those requirements are satisfied if the
34 insurer complies with Article 40 of Chapter 66 of the General Statutes."
35



1 **SECTION 3.** G.S. 97-84 reads as rewritten:

2 "**§ 97-84. Determination of disputes by Commission or deputy.**

3 The Commission or any of its members or deputies shall hear the parties at issue and their
4 representatives and witnesses, and shall determine the dispute in a summary manner. The
5 ~~Commission shall decide the case shall be decided and issue findings of fact issued~~ based upon
6 the preponderance of the evidence in view of the entire record. The award, together with a
7 statement of the findings of fact, rulings of law, and other matters pertinent to the questions at
8 issue shall be filed with the record of the proceedings, within 180 days of the close of the
9 hearing record unless time is extended for good cause by the Commission, and a copy of the
10 award shall immediately be sent to the parties in dispute. ~~The parties may be heard by a deputy,~~
11 ~~in which event the hearing shall be conducted in the same way and manner prescribed for~~
12 ~~hearings which are conducted by a member of the Industrial Commission, and said deputy shall~~
13 ~~proceed to a complete determination of the matters in dispute, file his written opinion within~~
14 ~~180 days of the close of the hearing record unless time is extended for good cause by the~~
15 ~~Commission, and the deputy shall cause to be issued an award pursuant to such determination.~~
16 If the deputy or member of the Commission that heard the parties at issue and their
17 representatives and witnesses is unable to determine the matters in dispute and issue an award,
18 the Commission may assign another deputy or member to decide the case and issue an award."

19 **SECTION 4.** Notwithstanding G.S. 97-31.1, Section 3 of this act is effective when
20 it becomes law and applies to claims pending on or after the effective date of this act. The
21 remainder of this act is effective when it becomes law and applies to notices of cancellation of
22 workers' compensation policies sent on or after that date.

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SENATE BILL 489
Judiciary Committee Substitute Adopted 4/25/17
PROPOSED HOUSE COMMITTEE SUBSTITUTE S489-CSTG-34 [v.3]
06/23/2017 1:23:26 PM

Short Title: Clarify Workers' Comp. Policy Cancellation.

(Public)

Sponsors: Senators Bishop, Daniel, and Clark (Primary Sponsors).

Referred to:

March 30, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY WHEN NOTICES OF CANCELLATION OF WORKERS'
3 COMPENSATION POLICIES ARE PRESUMED EFFECTIVE AND COMPLETE AND
4 TO PROVIDE THE PROCEDURE TO BE FOLLOWED WHEN THE DEPUTY OR
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15 their last known addresses. The notice shall state the precise reason for cancellation. Whenever
16 notice of intention to cancel is given by registered or certified mail, no cancellation by the
17 insurer shall be effective unless and until such method is employed and completed. Notice of
18 intent to cancel given by registered or certified mail shall be conclusively presumed completed
19 three days after the notice is sent if, on the same day that the notice is sent by registered or
20 certified mail, the insurer also provides notice by first-class mail and by electronic means if
21 available as defined in G.S. 58-2-255(a) to the insured and any other person designated in the
22 policy to receive notice. Any such supplemental notice given by electronic means shall be
23 effective for the limited purpose of establishing this conclusive presumption. Notice of
24 cancellation, termination, or nonrenewal may also be given by any method permitted for
25 service of process pursuant to Rule 4 of the North Carolina Rules of Civil Procedure. Failure to
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32 communication to be provided to a party in writing, signed by a party, provided by means of a
33 specific delivery method, or retained by an insurer, those requirements are satisfied if the
34 insurer complies with Article 40 of Chapter 66 of the General Statutes."
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22 workers' compensation policies sent on or after that date.



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SENATE BILL 489
Judiciary Committee Substitute Adopted 4/25/17

Short Title: Clarify Workers' Comp. Policy Cancellation. (Public)

Sponsors:

Referred to:

March 30, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY WHEN NOTICES OF CANCELLATION OF WORKERS'
3 COMPENSATION POLICIES ARE PRESUMED EFFECTIVE AND COMPLETE.
4 The General Assembly of North Carolina enacts:
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15 three days after the notice is sent if, on the same day that the notice is sent by registered or
16 certified mail, the insurer also provides notice by first-class mail and by electronic means if
17 available as defined in G.S. 58-2-255(a) to the insured and any other person designated in the
18 policy to receive notice. Any such supplemental notice given by electronic means shall be
19 effective for the limited purpose of establishing this conclusive presumption, notwithstanding
20 G.S. 58-2-255(b). Within three (3) business days of cancellation, the insurer shall provide
21 notice by first-class mail to any person to whom the insurer has provided a certificate of
22 insurance pursuant to G.S. 97-19. Notice of cancellation, termination, or nonrenewal may also
23 be given by any method permitted for service of process pursuant to Rule 4 of the North
24 Carolina Rules of Civil Procedure. Failure to send this notice, as provided in this section, to any
25 other person designated in the policy to receive notice of cancellation invalidates the
26 cancellation only as to that other person's interest."
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29 ~~nonrenewal of workers' compensation policies pursuant to G.S. 58-36-105(b).~~ State requires a
30 communication to be provided to a party in writing, signed by a party, provided by means of a
31 specific delivery method, or retained by an insurer, those requirements are satisfied if the
32 insurer complies with Article 40 of Chapter 66 of the General Statutes."
33 SECTION 3. This act is effective when it becomes law and applies to notices of
34 cancellation of workers' compensation policies sent on or after that date.







SENATE BILL 569: Uniform Power of Attorney Act.

2017-2018 General Assembly

Committee: House Judiciary I
Introduced by: Sens. Daniel, Newton
Analysis of: PCS to Third Edition
S569-CSTG-35

Date: June 23, 2017
Prepared by: Bill Patterson
Committee Co-Counsel

OVERVIEW: *The PCS for Senate Bill 569 would adopt the North Carolina Uniform Power of Attorney Act which, except for specifically exempted powers (including powers to make health care decisions) would replace current law governing the creation, interpretation, and application of powers of attorney (POAs) executed on or after the act's effective date, and would apply to POAs executed before the effective date that do not contain unless they contain a clear indication of contrary intent or application of the act would substantially impair the rights of a party. The bill also makes conforming changes to related statutory provisions and repeals the existing provisions that it would replace.*

The PCS would require an agent who knows of a breach or imminent breach of fiduciary duty by another agent to notify the principal and, if the principal is incapacitated, take appropriate action to safeguard the principal's best interest, require financial institutions to honor a POA's requirements that coagents act jointly, and modify statutory forms to provide additional information to the principal and agent. The PCS also deletes redundant provisions and makes other technical, conforming, and clarifying changes to the bill.

CURRENT LAW: A power of attorney is a written document by which one person can appoint another person to act as his or her agent. Statutory provisions governing powers of attorney are set forth in the following Articles of Chapter 32A of the General Statutes:

- Article 1, Statutory Short Form Power of Attorney
- Article 2, Durable Power of Attorney
- Article 2A, Authority of Attorney-In-Fact to Make Gifts and to Renounce
- Article 2B, Gifts Authorized by Court Order
- Article 3, Health Care Powers of Attorney
- Article 4, Consent to Health Care for Minor
- Article 5, Enforcement of Power of Attorney

BILL ANALYSIS: Section 1 of the bill would enact new Chapter 32C, the "North Carolina Power of Attorney Act" (NCUPOAA). Chapter 32C would govern all aspect of the creation, interpretation, and application of powers of attorney, but would not apply to:

- Health care powers of attorney under Article 3 of Chapter 32A.
- Authorizations to provide health care to a minor under Article 4 of Chapter 32A.
- A power of attorney to the extent it is coupled with an interest in the subject of the power.
- A proxy to exercise voting or management rights with respect to an entity.
- A power created by a government-prescribed form for a governmental purpose.

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New Chapter 32C would comprise four articles:

- Article 1, "Definitions and General Provisions," would set forth general provisions governing the creation and use of a power of attorney, including the definition of terms used in the NCPOAA. These provisions would generally apply in the absence of contrary terms contained in the power of attorney, except for certain mandatory provisions intended to protect the principal, agent, and persons asked to rely on the agent's authority.
- Article 2, "Authority," sets forth provisions governing the construction of powers of attorney and would specify things an agent can do on behalf of a principal only if the power of attorney expressly grants that authority. In addition Article 2 contains provisions governing an agent's authority to act with respect to real property, tangible personal property, stocks and bonds, commodities and options, banks and other financial institutions, the operation of an entity, insurance and annuities, estates and trusts, claims and litigation, government or military service benefits, retirement plans, taxes, gifts, certain acts authorized by the court, and digital assets.
- Article 3, "Statutory Forms" would set forth forms to be used in creating a power of attorney with the meaning and effect prescribed by the NCPOAA.
- Article 4, "Miscellaneous Provisions," would provide, among other things, that Chapter 32C applies to powers of attorney created before, on, or after the effective date of the act, in the absence of a clear indication of contrary intent in the terms of the power of attorney or unless applying a particular provision of the new law would substantially impair the rights of a party.

Section 2 of the bill would repeal the articles of the General Statutes being superseded by new Chapter 32C and would make conforming changes to provisions in the following chapters of the General Statutes: Chapter 30 (surviving spouses); Chapter 47 (probate and registration); Chapter 50 (divorce and alimony); Chapter 90 (informed consent and right to natural death); and Chapter 122C (mental health clients advance instructions).

EFFECTIVE DATE: This act becomes effective January 1, 2018.

BACKGROUND: Senate Bill 569 is the product of several years of work by members of the North Carolina Bar Association's Estate Planning and Fiduciary Law Committee. New Chapter 32C is a revised version of the Uniform Power of Attorneys Act approved in 2006 by the Uniform Laws Commission, a non-profit unincorporated association with the stated goal of improving state laws by drafting uniform state laws on subjects where uniformity is desirable and practicable.

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SENATE BILL 569
Judiciary Committee Substitute Adopted 4/19/17
Third Edition Engrossed 4/25/17
PROPOSED HOUSE COMMITTEE SUBSTITUTE S569-PCS45467-TG-35

Short Title: Uniform Power of Attorney Act.

(Public)

Sponsors:

Referred to:

April 3, 2017

A BILL TO BE ENTITLED
AN ACT TO ADOPT THE UNIFORM POWER OF ATTORNEY ACT IN THIS STATE.
The General Assembly of North Carolina enacts:

PART I. REVISED VERSION OF THE UNIFORM POWER OF ATTORNEY ACT

SECTION 1. The General Statutes are amended by adding a new Chapter to read:

"Chapter 32C.

"North Carolina Uniform Power of Attorney Act.

"Article 1.

"Definitions and General Provisions.

"§ 32C-1-101. Short title.

This Chapter may be cited as the North Carolina Uniform Power of Attorney Act.

"§ 32C-1-102. Definitions.

The following definitions apply in this Chapter:

- (1) Agent. – A person granted authority to act for a principal under a power of attorney, whether denominated an agent, attorney-in-fact, or otherwise. The term includes an original agent, coagent, successor agent, and a person to which an agent's authority is delegated.
- (2) Durable. – With respect to a power of attorney, the incapacity of the principal does not terminate the power of attorney.
- (3) Electronic. – Relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- (4) Entity. – A sole proprietorship, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or any other legal or commercial entity whether or not organized for business purposes.
- (5) Good faith. – Honesty in fact.
- (6) Incapacity. – The inability of an individual to manage property or business affairs because the individual has any of the following statuses:
 - a. An impairment in the ability to receive and evaluate information or make or communicate decisions even with the use of technological assistance.
 - b. Is missing, detained, including incarcerated in a penal system, or outside the United States and unable to return.



- (7) Internal Revenue Code. – The Internal Revenue Code of 1986, as amended from time to time. Each reference to a provision of the Internal Revenue Code shall include any successor to that provision.
- (8) Person. – An individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
- (9) Power of attorney. – A writing or other record that grants authority to an agent to act in the place of the principal, whether or not the term power of attorney is used.
- (10) Reserved.
- (11) Principal. – An individual who grants authority to an agent in a power of attorney.
- (12) Property. – Anything that may be the subject of ownership, whether real or personal, or legal or equitable, or any interest or right therein.
- (13) Record. – Information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- (14) Sign. – With the present intent to authenticate or adopt a record, (i) to execute or adopt a tangible symbol or (ii) to attach to or logically associate with the record an electronic sound, symbol, or process.
- (15) State. – A state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
- (16) Stocks and bonds. – Stocks, bonds, mutual funds, and all other types of securities and financial instruments, whether held directly, indirectly, or in any other manner. The term does not include commodity futures contracts and call or put options on stocks or stock indexes.

"§ 32C-1-103. Applicability.

This Chapter applies to all powers of attorney except the following:

- (1) A power to the extent it is coupled with an interest in the subject of the power, including a power given to or for the benefit of a creditor in connection with a credit transaction.
- (2) A power to make health care decisions.
- (3) A proxy or other delegation to exercise voting rights or management rights with respect to an entity.
- (4) A power created on a form prescribed by a government or governmental subdivision, agency, or instrumentality for a governmental purpose.

"§ 32C-1-104. Power of attorney; durability.

A power of attorney created pursuant to this Chapter is durable unless the instrument expressly provides that it is terminated by the incapacity of the principal.

"§ 32C-1-105. Execution of power of attorney.

A power of attorney must be (i) signed by the principal or in the principal's conscious presence by another individual directed by the principal to sign the principal's name on the power of attorney and (ii) acknowledged. A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgements.

"§ 32C-1-106. Validity of power of attorney.

(a) A power of attorney executed in this State on or after the effective date of this Chapter is valid if its execution complies with G.S. 32C-1-105.

(b) A power of attorney executed in this State before the effective date of this Chapter is valid if its execution complied with the law of this State as it existed at the time of execution.

1 (c) A power of attorney executed other than in this State is valid in this State if, when
2 the power of attorney was executed, the execution complied with any of the following:

3 (1) The law of the jurisdiction that determines the meaning and effect of the
4 power of attorney pursuant to G.S. 32C-1-107.

5 (2) The requirements for a military power of attorney pursuant to 10 U.S.C. §
6 1044b, as amended.

7 (d) Except as otherwise provided by statute other than this Chapter, a photocopy or
8 electronically transmitted copy of an original power of attorney has the same effect as the
9 original.

10 **"§ 32C-1-107. Meaning and effect of power of attorney.**

11 The meaning and effect of a power of attorney is determined by the law of the jurisdiction
12 indicated in the power of attorney and, in the absence of an indication of jurisdiction, by the
13 law of the jurisdiction in which the power of attorney was executed.

14 **"§ 32C-1-108. Nomination of guardian; relation of agent to court-appointed fiduciary.**

15 (a) In a power of attorney, a principal may nominate a guardian of the principal's estate,
16 or guardian of the principal's person, or general guardian for consideration by the clerk of
17 superior court if protective proceedings for the principal's estate or person are begun after the
18 principal executes the power of attorney. Except for good cause shown or disqualification, the
19 clerk of superior court shall make its appointment in accordance with the principal's most
20 recent nomination. If a guardian of the principal's person is nominated in a health care power of
21 attorney, that nomination shall control over the nomination, if any, in a power of attorney.

22 (b) If, after a principal executes a power of attorney, the clerk of superior court appoints
23 a guardian of the principal's estate, or general guardian or other fiduciary charged with the
24 management of some or all of the principal's property, the agent is accountable to the guardian
25 or the fiduciary as well as to the principal. The power of attorney is not terminated and the
26 agent's authority continues unless limited, suspended, or terminated by the court in accordance
27 with this Chapter.

28 **"§ 32C-1-109. When power of attorney effective.**

29 (a) A power of attorney is effective when executed unless the principal provides in the
30 power of attorney that it becomes effective at a future date or upon the occurrence of a future
31 event or contingency.

32 (b) If a power of attorney becomes effective upon the occurrence of a future event or
33 contingency, the principal, in the power of attorney, may authorize one or more persons to
34 determine in a writing or other record that the event or contingency has occurred.

35 (c) If a power of attorney becomes effective upon the principal's incapacity and the
36 principal has not authorized a person to determine whether the principal is incapacitated, or the
37 person authorized is unable or unwilling to make the determination, the power of attorney
38 becomes effective upon a determination in a writing or other record in one of the following
39 manners:

40 (1) After a personal examination of the principal, by two individuals who are
41 either a physician, a licensed psychologist, or both, that the principal is
42 incapacitated within the meaning of G.S. 32C-1-102(5)a.

43 (2) By an attorney-at-law, a judge, or an appropriate governmental official that
44 the principal is incapacitated within the meaning of G.S. 32C-1-102(5)b.

45 Notwithstanding the subsequent capacity of the principal to manage property or business
46 affairs, a power of attorney which becomes effective under this subsection shall remain
47 effective until its termination pursuant to G.S. 32C-1-110(a) or the agent's authority terminates
48 pursuant to G.S. 32C-1-110(b).

49 (d) A person authorized by the principal in the power of attorney to determine that the
50 principal is incapacitated may act as the principal's personal representative pursuant to the
51 Health Insurance Portability and Accountability Act, §§ 1171 through 1179 of the Social

1 Security Act, 42 U.S.C. § 1320d, as amended, and applicable regulations, to obtain access to
2 the principal's health care information and communicate with the principal's health care
3 provider.

4 **"§ 32C-1-110. Termination of power of attorney.**

5 (a) A power of attorney terminates when any of the following occur:

6 (1) The principal dies.

7 (2) If the power of attorney is not durable, the principal becomes incapacitated.

8 (3) The principal revokes the power of attorney.

9 (4) The power of attorney provides that it terminates.

10 (5) The purpose of the power of attorney is accomplished.

11 (6) The principal revokes the agent's authority or the agent dies, becomes
12 incapacitated, or resigns, and the power of attorney does not provide for
13 another agent to act under the power of attorney.

14 (7) A guardian of the principal's estate or general guardian terminates it.

15 (b) An agent's authority terminates when any of the following occur:

16 (1) The principal revokes the authority in writing.

17 (2) The agent dies, becomes incapacitated, resigns, or is removed.

18 (3) The court enters a decree of divorce between the principal and the agent,
19 unless the power of attorney otherwise provides.

20 (4) The power of attorney terminates.

21 (5) A guardian of the principal's estate or general guardian terminates the
22 authority.

23 (c) Unless the power of attorney otherwise provides, an agent's authority is exercisable
24 until the authority terminates under subsection (b) of this section, notwithstanding a lapse of
25 time since the execution of the power of attorney.

26 (d) Termination of an agent's authority or of a power of attorney is not effective as to
27 the agent or another person that, without actual knowledge of the termination, acts in good faith
28 under the power of attorney. An act so performed, unless otherwise invalid or unenforceable,
29 binds the principal and the principal's successors in interest.

30 (e) Incapacity of the principal of a power of attorney that is not durable does not revoke
31 or terminate the power of attorney as to an agent or other person that, without actual knowledge
32 of the incapacity, acts in good faith under the power of attorney. An act so performed, unless
33 otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.

34 (f) The execution of a power of attorney does not revoke a power of attorney
35 previously executed by the principal unless the subsequent power of attorney provides that the
36 previous power of attorney is revoked or that all other powers of attorney are revoked.

37 (g) A principal may revoke a power of attorney in one of the following manners:

38 (1) If the power of attorney has been registered in an office of the register of
39 deeds in this State, it shall be revoked by registration in that office by an
40 instrument of revocation executed and acknowledged by the principal while
41 the principal is not incapacitated with proof of service on the agent in the
42 manner prescribed for service under Rule 5 of the North Carolina Rules of
43 Civil Procedure.

44 (2) If the power of attorney has not been registered in an office of the register of
45 deeds in this State, it may be revoked by one of the following methods:

46 a. A subsequent written revocatory document executed and
47 acknowledged while not incapacitated.

48 b. Being burnt, torn, canceled, obliterated, or destroyed, with the intent
49 and for the purpose of revoking it, by the principal or by another
50 person in the principal's presence and at the principal's direction,
51 while the principal is not incapacitated.

1 (h) A guardian of the principal's estate or general guardian terminates a power of
2 attorney that has been registered in an office of the register of deeds in this State by registering
3 in that office an instrument of revocation executed and acknowledged by such guardian and
4 with proof of service on the agent in the manner prescribed for service under Rule 5 of the
5 North Carolina Rules of Civil Procedure.

6 **"§ 32C-1-111. Coagents and successor agents.**

7 (a) A principal may designate two or more persons to act as coagents. A principal may
8 expressly require in the power of attorney that coagents act jointly. If a principal does not
9 expressly require that coagents act jointly, each coagent may exercise the coagents' authority
10 independently without the knowledge, consent, or joinder of any other coagent or coagents.
11 Unless the power of attorney otherwise provides and if any one or more coagents resigns, dies,
12 becomes incapacitated, or otherwise fails to act, the remaining agent or coagents may continue
13 to act.

14 (b) A principal may designate one or more successor agents to act if an agent resigns,
15 dies, becomes incapacitated, is not qualified to serve, or declines to serve. A principal may
16 grant authority to designate one or more successor agents to an agent or other person
17 designated by name, office, or function. Unless the power of attorney otherwise provides, a
18 successor agent shall have the following powers and limitations:

19 (1) The successor agent has the same authority as that granted to the original
20 agent.

21 (2) The successor agent may not act until all predecessor agents have resigned,
22 died, become incapacitated, are no longer qualified to serve, or have
23 declined to serve.

24 (c) Except as otherwise provided in the power of attorney, an agent that does not
25 participate in or conceal a breach of fiduciary duty committed by another agent, including a
26 predecessor agent, is not liable for the actions of the other agent.

27 (d) An agent that has actual knowledge of a breach or imminent breach of fiduciary
28 duty by another agent shall notify the principal and, if the principal is incapacitated, take any
29 action reasonably appropriate in the circumstances to safeguard the principal's best interest. An
30 agent that fails to notify the principal or take action as required by this subsection is liable for
31 the reasonably foreseeable damages that could have been avoided if the agent had notified the
32 principal or taken such action.

33 **"§ 32C-1-112. Reimbursement and compensation of agent.**

34 (a) If the terms of the power of attorney specify the amount or the way the
35 compensation is to be determined, the agent is entitled to the compensation as specified.

36 (b) If the terms of the power of attorney do not specify the amount or the way the
37 compensation is to be determined, and the principal thereafter becomes incapacitated, then
38 subsequent to the principal's incapacity the agent is entitled to receive reasonable compensation
39 as determined by the clerk of superior court in accordance with G.S. 32-59.

40 (c) Unless the power of attorney otherwise provides, an agent is entitled to be
41 reimbursed for expenses properly incurred on behalf of the principal.

42 **"§ 32C-1-113. Agent's acceptance.**

43 Except as otherwise provided in the power of attorney, a person accepts appointment as an
44 agent under a power of attorney by exercising authority or performing duties as an agent or by
45 any other assertion or conduct indicating acceptance.

46 **"§ 32C-1-114. Agent's duties.**

47 (a) Notwithstanding provisions in the power of attorney, an agent that has accepted
48 appointment, when exercising a power under the power of attorney shall do all of the
49 following:

50 (1) Act in accordance with the principal's reasonable expectations to the extent
51 actually known by the agent and, otherwise, in the principal's best interest.

- 1 (2) Act in good faith.
- 2 (3) Act only within the scope of authority granted in the power of attorney.
- 3 (b) Except as otherwise provided in the power of attorney, an agent that has accepted
4 appointment has no affirmative duty to exercise the powers or to continue to exercise the
5 powers granted to the agent by the power of attorney, but if the agent exercises any of the
6 granted powers, the agent shall, in the exercise of such powers, do all of the following:
- 7 (1) Act loyally for the principal's benefit.
- 8 (2) Act so as not to create a conflict of interest that impairs the agent's ability to
9 act impartially in the principal's best interest.
- 10 (3) Act with the care, competence, and diligence ordinarily exercised by agents
11 in similar circumstances.
- 12 (4) Keep a record of all receipts, disbursements, and transactions made on
13 behalf of the principal.
- 14 (5) Cooperate with a person that has authority to make health care decisions for
15 the principal to carry out the principal's reasonable expectations to the extent
16 actually known by the agent and, otherwise, act in the principal's best
17 interest.
- 18 (6) Attempt to preserve the principal's estate plan, to the extent actually known
19 by the agent, if preserving the plan is consistent with the principal's best
20 interest based on all relevant factors, including the following:
- 21 a. The value and nature of the principal's property.
- 22 b. The principal's foreseeable obligations and need for maintenance.
- 23 c. Minimization of taxes, including income, estate, inheritance,
24 generation-skipping transfer, and gift taxes.
- 25 d. Eligibility for a benefit, a program, or assistance under a statute or
26 regulation.
- 27 (7) Account to the principal or a person designated by the principal in the power
28 of attorney.
- 29 (c) When exercising a power under the power of attorney, an agent that acts in good
30 faith is not liable to any beneficiary of the principal's estate plan for failure to preserve the plan.
- 31 (d) When exercising a power under the power of attorney, an act by an agent that is in
32 good faith for the best interest of the principal is not voidable and the agent is not liable solely
33 because the agent also benefits from the act or has an individual or conflicting interest in
34 relation to the property or affairs of the principal.
- 35 (e) Reserved.
- 36 (f) Absent a breach of duty to the principal, an agent is not liable if the value of the
37 principal's property declines.
- 38 (g) An agent that exercises authority to delegate to another person the authority granted
39 by the principal or that engages another person on behalf of the principal is not liable for an act,
40 error of judgment, or default of that person if the agent exercises care, competence, and
41 diligence in selecting and monitoring the person.
- 42 (h) Except as otherwise provided in the power of attorney, an agent is not required to
43 disclose receipts, disbursements, or transactions conducted on behalf of the principal unless
44 ordered by a court or requested by the principal, a guardian of the estate, general guardian, or,
45 upon the death of the principal, by the personal representative or successor in interest of the
46 principal's estate.
- 47 **"§ 32C-1-115. Exoneration of agent.**
- 48 A provision in a power of attorney relieving an agent of liability for breach of duty is
49 binding on the principal and the principal's successors in interest except to the extent the
50 provision relieves the agent of liability for breach of duty committed (i) in bad faith or (ii) with

reckless indifference to the purposes of the power of attorney or the best interest of the principal.

"§ 32C-1-116. Judicial relief.

(a) The clerks of superior court of this State shall have original jurisdiction of proceedings under this Chapter. Except as provided in subdivision (4) of this subsection, the clerk of superior court's jurisdiction is exclusive. The following proceedings are included:

- (1) To compel an accounting by the agent, including the power to compel the production of evidence substantiating any expenditure made by the agent from the principal's assets.
- (2) To terminate a power of attorney or to limit, suspend, or terminate the authority of an agent where a guardian of the estate or a general guardian has been appointed.
- (3) To determine compensation for an agent under G.S. 32C-1-112(b).
- (4) To determine an agent's authority and powers, to construe the terms of a power of attorney created or governed by this Chapter, and to determine any question arising in the performance by an agent of the agent's powers and authority under a power of attorney governed by this Chapter, including, but not limited to, the following proceedings:
 - a. To determine whether and to what extent an agent holds a specific grant of authority under G.S. 32C-2-201.
 - b. To approve an agent's ability to make a gift on behalf of the principal where the gift is governed by G.S. 32C-2-217 because the power of attorney grants the agent only general authority with respect to gifts.
 - c. To authorize the agent to make a gift of the principal's property under G.S. 32C-2-218.
 - d. To authorize the agent to do an act described in G.S. 32C-2-201(a), other than the act to make a gift, under G.S. 32C-2-219.
 - e. To determine whether and to what extent acceptance of a power of attorney shall be mandated under G.S. 32C-1-120(f).

Any party may file a notice of transfer of a proceeding pursuant to this subdivision to the superior court division of the General Court of Justice as provided in G.S. 28A-2-6(h). In the absence of a removal to superior court, Article 26 of Chapter 1 of the General Statutes shall apply to a proceeding commenced under this Chapter to the extent consistent with this subsection.

(b) Without otherwise limiting the jurisdiction of the superior court division of the General Court of Justice, the clerk of superior court shall not have jurisdiction under this subsection over the following actions:

- (1) To modify or amend a power of attorney instrument.
- (2) By or against creditors or debtors of an agent or principal.
- (3) Involving claims for monetary damages, including claims for breach of fiduciary duty, fraud, and negligence.
- (4) To set aside a power of attorney based on undue influence or lack of capacity.
- (5) For the recovery of property transferred or conveyed by an agent on behalf of a principal with intent to hinder, delay, or defraud the principal's creditors.

(c) Proceedings brought under the provisions of subsection (a) of this section shall be commenced as prescribed for in estate proceedings under G.S. 28A-2-6 and may be brought by the following persons:

- (1) The principal or the agent.
- (2) A general guardian, guardian of the principal's estate, or guardian of the principal's person.

- 1 (3) The personal representative of the estate of a deceased principal.
2 (4) A person authorized to make health care decisions for the principal.
3 (5) Any other interested person, including a person asked to accept a power of
4 attorney.
5 (d) Venue of any proceeding brought under subsection (a) of this section, is proper in
6 any of the following:
7 (1) The county in which the principal resides or domiciled.
8 (2) Any county in which an agent resides.
9 (3) Any county in which property of the principal is located.
10 (e) Nothing in this section shall affect the right of a person to file an action in the
11 Superior Court Division of the General Court of Justice for declaratory relief under Article 26
12 of Chapter 1 of the General Statutes.
13 (f) Upon motion by the principal, the clerk of superior court shall dismiss a petition
14 filed under subsection (a) of this section, unless the clerk of superior court determines the
15 principal is incapacitated within the meaning of G.S. 32C-1-102(5).
16 (g) Any party adversely affected by an order of the clerk of superior court in a
17 proceeding commenced under subsection (a) of this section may appeal the clerk's order as
18 provided in G.S. 1-301.3.
19 **"§ 32C-1-117. Agent's liability.**
20 (a) A violation by an agent of this Chapter is a breach of fiduciary duty.
21 (b) To remedy a breach of fiduciary duty that has occurred or may occur involving a
22 power of attorney, the court may do the following:
23 (1) Enjoin an agent from committing a breach of fiduciary duty.
24 (2) Compel an agent to redress a breach of fiduciary duty by paying money,
25 restoring property, or other means.
26 (3) Order an agent to account.
27 (4) Appoint a special fiduciary to take possession of the property subject to the
28 power of attorney and administer that property.
29 (5) Suspend an agent.
30 (6) Remove an agent.
31 (7) Reduce or deny compensation to or reimbursement of an agent.
32 (8) Subject to G.S. 32C-1-119 and other laws governing the rights of third
33 persons dealing in good faith with an agent, void an act of an agent, impose
34 a lien or a constructive trust on property subject to the power of attorney, or
35 trace property wrongfully disposed by an agent and recover the property or
36 its proceeds.
37 (9) Order any other appropriate relief.
38 (c) The court may, for good cause shown, relieve an agent from liability for any breach
39 of fiduciary duty under a power of attorney, or wholly or partly excuse an agent who has acted
40 honestly and reasonably from liability for a breach of fiduciary duty under a power of attorney.
41 (d) An agent who commits a breach of fiduciary duty under a power of attorney is liable
42 for the following:
43 (1) The amount required to restore the value of the property subject to the power
44 of attorney and distributions from that property to what they would have
45 been had the breach not occurred; and
46 (2) The profit the agent made by reason of the breach.
47 (e) Except as otherwise provided in this subsection, if more than one agent is liable for
48 a breach of fiduciary duty under a power of attorney, an agent is entitled to contribution from
49 the other agent or agents. An agent is not entitled to contribution if the agent was substantially
50 more at fault than another agent or if the agent committed the breach of fiduciary duty in bad
51 faith or with reckless indifference to the purposes of the power of attorney or the best interests

1 of the principal. An agent who received a benefit from the breach of fiduciary duty is not
2 entitled to contribution from another agent to the extent of the benefit received.

3 (f) An agent is liable for any profit made by the agent arising from dealings with
4 property subject to the power of attorney, even absent a breach of fiduciary duty. Nothing in
5 this section limits an agent's right to compensation under G.S. 32C-1-112.

6 (g) Absent a breach of fiduciary duty under a power of attorney, an agent is not liable
7 for a loss or depreciation in the value of property subject to the power of attorney or for not
8 having made a profit.

9 (h) In a judicial proceeding involving a claim for breach of fiduciary duty under a
10 power of attorney, the court may award costs and expenses, including reasonable attorneys'
11 fees, as provided in G.S. 6-21(2).

12 **"§ 32C-1-118. Agent's resignation; notice.**

13 Unless the power of attorney provides a different method for an agent's resignation, an
14 agent may resign by giving written notice of resignation to the following:

15 (1) To the principal if the principal is not incapacitated.

16 (2) If the principal is incapacitated, to (i) the guardian of the principal's estate,
17 the guardian of the principal's person, or general guardian, if one has been
18 appointed, and (ii) any coagent or, if none, the successor agent next
19 designated.

20 **"§ 32C-1-119. Acceptance of and reliance upon power of attorney.**

21 (a) For purposes of this section and G.S. 32C-1-120, the term "acknowledged" means
22 purportedly verified before a notary public or other individual authorized to take
23 acknowledgements.

24 (b) A person that in good faith accepts an acknowledged power of attorney without
25 actual knowledge that the signature is not genuine may rely upon the presumption under
26 G.S. 32C-1-105 that the signature is genuine.

27 (c) A person that in good faith accepts a power of attorney without actual knowledge
28 that the power of attorney is void, invalid, or terminated, that the purported agent's authority is
29 void, invalid, or terminated, or that the agent is exceeding or improperly exercising the agent's
30 authority (i) may rely upon the power of attorney as if the power of attorney were genuine,
31 valid and still in effect, the agent's authority were genuine, valid and still in effect, and the
32 agent had not exceeded and had properly exercised the authority and (ii) shall not be held
33 responsible for any breach of fiduciary duty by the agent, including any breach of loyalty, any
34 act of self-dealing, or any misapplication of money or other property paid or transferred as
35 directed by the agent. This subsection applies without regard to whether or not the person
36 dealing with the agent demands or receives a certification under subsection (d) of this section.

37 (d) A person that is asked to accept a power of attorney may request, and rely upon,
38 without further investigation, any one or more of the following:

39 (1) A certification executed by the agent to the effect that the agent did not have
40 actual knowledge at the time of the presentation of the power of attorney to
41 the person (i) that the power of attorney is void, invalid, or terminated; (ii)
42 that the agent's authority is void, invalid, or terminated; or (iii) of facts that
43 would cause the agent to question the authenticity or validity of the power of
44 attorney. A certification meeting the requirements of this subdivision shall
45 be sufficient proof to the requesting person that (i) the power of attorney is
46 authentic and valid and has not been terminated, (ii) the agent's authority is
47 valid and has not been terminated, and (iii) other factual matters stated in the
48 certification regarding the principal, agent, or power of attorney are true. If
49 the exercise of the power of attorney requires execution and delivery of an
50 instrument that is recordable, the person accepting the certification may
51 require that the certification be prepared and executed so as to be recordable.

- 1 A certification in the form described in G.S. 32C-3-302 shall be deemed to
2 meet the requirements of this subsection but shall not be the sole means of
3 meeting those requirements.
- 4 (2) An English translation of the power of attorney if the power of attorney
5 contains, in whole or in part, language other than English.
- 6 (3) An opinion of counsel as to any matter of law concerning the power of
7 attorney if the person making the request provides in a writing or other
8 record the reason for the request.
- 9 (e) An English translation or an opinion of counsel requested under this section must be
10 provided at the principal's expense unless the request is made more than seven business days
11 after the power of attorney is presented for acceptance.
- 12 (f) For purposes of this section and G.S. 32C-1-120, a person that conducts activities
13 through employees is without actual knowledge of a fact relating to a power of attorney, a
14 principal, or an agent if the employee conducting the transaction involving the power of
15 attorney is without actual knowledge of the fact.
- 16 (g) This section does not affect any provision in a power of attorney for its termination
17 by expiration of time or occurrence of an event other than an express revocation or a change in
18 the principal's capacity.
- 19 **"§ 32C-1-120. Liability for refusal to accept acknowledged power of attorney.**
- 20 (a) A person is not required to accept, and is not liable for refusing to accept, a power
21 of attorney that has not been duly acknowledged.
- 22 (b) Except as otherwise provided in this section:
- 23 (1) No later than seven business days after presentation of an acknowledged
24 power of attorney for acceptance, a person shall (i) accept the power of
25 attorney; (ii) refuse to accept the power of attorney pursuant to subsections
26 (c) and (d) of this section; or (iii) request a certification, a translation, or an
27 opinion of counsel pursuant to G.S. 32C-1-119(d).
- 28 (2) If a person requests a certification, a translation, or an opinion of counsel
29 pursuant to G.S. 32C-1-119(d), then within five business days after receipt
30 of the requested items in reasonably satisfactory form, the person shall either
31 (i) accept the power of attorney or (ii) refuse to accept the power of attorney
32 pursuant to subsections (c) and (d) of this section.
- 33 (3) A person may not require an additional or different form of power of
34 attorney if the power of attorney presented reasonably appears to authorize
35 the agent to conduct the business the agent desires to conduct.
- 36 (c) A person is not required to accept an acknowledged power of attorney if any of the
37 following circumstances exist:
- 38 (1) The person is not otherwise required to engage in a transaction with the
39 principal in the same circumstances.
- 40 (2) Engaging in a transaction with the agent or the principal in the same
41 circumstances would be inconsistent with applicable federal law.
- 42 (3) The person has actual knowledge of the termination of the agent's authority
43 or of the power of attorney before exercise of the power.
- 44 (4) A request for a certification, a translation, or an opinion of counsel pursuant
45 to G.S. 32C-1-119(d) is refused.
- 46 (5) The person requesting a certification, a translation, or an opinion of counsel
47 pursuant to G.S. 32C-1-119(d) does not receive the requested items in
48 reasonably satisfactory form within a reasonable period of time.
- 49 (6) The person in good faith believes that the power is not valid or that the agent
50 does not have the authority to perform the act requested, whether or not a

- 1 certification, a translation, or an opinion of counsel pursuant to
2 G.S. 32C-1-119(d) has been requested or provided.
- 3 (7) The person has reasonable cause to question the authenticity or validity of
4 the power of attorney or the appropriateness of its exercise by the agent.
- 5 (8) The agent or principal has previously breached any agreement with the
6 person, whether in an individual or fiduciary capacity.
- 7 (9) The person makes, or has actual knowledge that another person has made, a
8 report to the local adult protective services office or law enforcement stating
9 a good faith belief that the principal may be subject to physical or financial
10 abuse, neglect, exploitation, or abandonment by the agent or a person acting
11 for or with the agent.
- 12 (d) Without limiting the generality of subsection (c) of this section, nothing in this
13 Chapter requires a person to do any of the following:
- 14 (1) Open an account for a principal at the request of an agent if the principal is
15 not currently a customer of the person.
- 16 (2) Make a loan to the principal at the request of the agent.
- 17 (3) Permit an agent to conduct business not authorized by the terms of the power
18 of attorney, or otherwise not permitted by applicable statute or regulation.
- 19 (e) A person that refuses in violation of this section to accept an acknowledged power
20 of attorney is subject to all of the following:
- 21 (1) A court order mandating acceptance of the power of attorney.
- 22 (2) Liability for reasonable attorney's fees and costs incurred in any action or
23 proceeding that mandates acceptance of the power of attorney.
- 24 (3) Any other remedy available under applicable law.
- 25 (f) The principal, the agent, or a person presented with a power of attorney may initiate
26 a proceeding to determine whether and to what extent acceptance of a power of attorney shall
27 be mandated. The court may award costs and expenses, including reasonable attorneys' fees in
28 its discretion, but may award attorneys' fees to the agent only where the proceeding has
29 substantial merit.
- 30 (g) Nothing in this Chapter amends or modifies the rights of banks and other depository
31 institutions to terminate any deposit account in accordance with applicable law.
- 32 (h) A person who is presented with a power of attorney shall not be deemed to have
33 unreasonably refused to accept the power of attorney solely on the basis of failure to accept the
34 power of attorney within seven business days.
- 35 (i) A person who promptly requests a certification, a translation, or an opinion of
36 counsel pursuant to G.S. 32C-1-119(d) is not deemed to have unreasonably refused to accept a
37 power of attorney prior to receipt of the requested items in reasonably acceptable form.
- 38 **"§ 32C-1-121. Principles of law and equity.**
- 39 The common law, including the common law of agency, and principles of equity
40 supplement this Chapter, except to the extent modified by this Chapter or another provision of
41 the General Statutes.
- 42 **"§ 32C-1-122. Laws applicable to financial institutions and other entities.**
- 43 This Chapter does not supersede any other law applicable to financial institutions or other
44 entities, and the other law controls if inconsistent with the provisions of this Chapter.
- 45 **"§ 32C-1-123. Remedies under other law.**
- 46 The remedies under this Chapter are not exclusive and do not abrogate any right or remedy
47 under the law of this State, other than this Chapter.
- 48 "Article 2.
49 "Authority.
- 50 **"§ 32C-2-201. Authority requiring specific grant; grant of general authority.**

(a) Unless the exercise of the authority by an agent under a power of attorney is not otherwise prohibited by another agreement or instrument to which the authority or property is subject, then the following apply:

(1) An agent may do the following on behalf of the principal or with the principal's property only if the power of attorney expressly grants the agent that authority:

- a. Make a gift.
- b. Create or change rights of survivorship.
- c. Create or change a beneficiary designation.
- d. Delegate authority granted under the power of attorney.
- e. Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan.
- f. Exercise fiduciary powers that the principal has authority to delegate.
- g. Renounce or disclaim property, including a power of appointment.
- h. Exercise authority over the content of electronic communication, as defined in 18 U.S.C. § 2510(12), sent or received by the principal.

(2) An agent may do the following only if the power of attorney or terms of the trust expressly grants the agent that authority:

- a. Exercise the powers of the principal as settlor of a revocable trust in accordance with G.S. 36C-6-602.1.
- b. Exercise the powers of the principal as settlor of an irrevocable trust to consent to the trust's modification or termination in accordance with G.S. 36C-4-411(a).

(b) Notwithstanding a grant of authority to do an act described in subsection (a) of this section, an agent may exercise such authority only as the agent determines is consistent with the principal's objectives if actually known by the agent and, if unknown, as the agent determines is consistent with the principal's best interest based on all relevant factors, which may include the following:

- (1) The value and nature of the principal's property.
- (2) The principal's foreseeable obligations and need for maintenance.
- (3) Minimization of taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes.
- (4) Eligibility for a benefit, a program, or assistance under a statute or regulation.
- (5) The principal's personal history of making or joining in making gifts.
- (6) The principal's existing estate plan.

(c) Notwithstanding a grant of authority to do an act described in subsection (a) of this section, unless the power of attorney otherwise provides, an agent may not exercise authority under a power of attorney to create in the agent, or in an individual to whom the agent owes a legal obligation of support, an interest in the principal's property, whether by gift, right of survivorship, beneficiary designation, disclaimer, or otherwise.

(d) Subject to subsections (a), (b), (c), (e), and (f) of this section, if a power of attorney grants to an agent authority to do all acts that a principal could do, the agent has the general authority described in G.S. 32C-2-204 through G.S. 32C-2-216 and G.S. 32C-2-220.

(e) Unless the power of attorney otherwise provides, a grant of authority to make a gift is subject to subsections (b) and (c) of this section and G.S. 32C-2-217.

(f) Subject to subsections (a), (b), (c), and (e) of this section, if the subjects over which authority is granted in a power of attorney are similar or overlap, the broadest authority controls.

(g) Authority granted in a power of attorney is exercisable with respect to property that the principal has when the power of attorney is executed or acquires later, whether or not the

property is located in this State and whether or not the authority is exercised or the power of attorney is executed in this State.

(h) An act performed by an agent pursuant to a power of attorney has the same effect and inures to the benefit of and binds the principal and the principal's successors in interest as if the principal had performed the act.

"§ 32C-2-202. Incorporation of authority.

(a) An agent has authority described in this Chapter if the power of attorney refers to general authority with respect to the descriptive term for the subjects stated in G.S. 32C-2-204 through G.S. 32C-2-217 and G.S. 32C-2-220 or cites the section in which the authority is described.

(b) A reference in a power of attorney to general authority with respect to the descriptive term for a subject in G.S. 32C-2-204 through G.S. 32C-2-217 and G.S. 32C-2-220 or a citation to G.S. 32C-2-204 through G.S. 32C-2-217 and G.S. 32C-2-220 incorporates the entire section as if it were set out in full in the power of attorney.

(c) A principal may modify authority incorporated by reference.

"§ 32C-2-203. Construction of authority, generally.

Except as otherwise provided in the power of attorney, by executing a power of attorney that incorporates by reference a subject described in G.S. 32C-2-204 through G.S. 32C-2-217 and G.S. 32C-2-220 or that grants to an agent authority to do all acts that a principal could do pursuant to G.S. 32C-2-201(d), a principal authorizes the agent, with respect to that subject, to do all of the following:

- (1) Demand, receive, and obtain by litigation or otherwise, money or another thing of value to which the principal is, may become, or claims to be entitled, and conserve, invest, disburse, or use anything so received or obtained for the purposes intended.
- (2) Contract in any manner with any person, on terms agreeable to the agent, to accomplish a purpose of a transaction and perform, rescind, cancel, terminate, reform, restate, release, or modify the contract or another contract made by or on behalf of the principal.
- (3) Execute, acknowledge, seal, deliver, file, or record any instrument or communication the agent considers desirable to accomplish a purpose of a transaction, including creating at any time a schedule listing some or all of the principal's property and attaching it to the power of attorney.
- (4) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to a claim existing in favor of or against the principal or intervene in litigation relating to the claim.
- (5) Seek on the principal's behalf the assistance of a court or other governmental agency to carry out an act authorized in the power of attorney.
- (6) Engage, compensate, and discharge an attorney, accountant, discretionary investment manager, expert witness, or other advisor.
- (7) Prepare, execute, and file a record, report, or other document to safeguard or promote the principal's interest under a statute or regulation.
- (8) Communicate with any representative or employee of a government or governmental subdivision, agency, or instrumentality, on behalf of the principal.
- (9) Access communications intended for, and communicate on behalf of the principal, whether by mail, electronic transmission, telephone, or other means.
- (10) Do any lawful act with respect to the subject and all property related to the subject.

"§ 32C-2-204. Real property.

1 Unless the power of attorney otherwise provides, language in a power of attorney granting
2 general authority with respect to real property authorizes the agent to do all of the following:

- 3 (1) Demand, buy, lease, receive, accept as a gift or as security for an extension
4 of credit, or otherwise acquire or reject an interest in real property or a right
5 incident to real property.
- 6 (2) Sell; exchange; convey with or without covenants, representations, or
7 warranties; quitclaim; release; surrender; retain title for security; encumber;
8 partition; consent to partitioning; subject to an easement or covenant;
9 subdivide; apply for zoning or other governmental permits; plat or consent to
10 platting; develop; grant an option concerning; lease; sublease; contribute to
11 an entity in exchange for an interest in that entity; or otherwise grant or
12 dispose of an interest in real property or a right incident to real property.
- 13 (3) Pledge or encumber an interest in real property or right incident to real
14 property as security for the principal or any entity in which the principal has
15 an ownership interest to borrow money or to pay, renew, or extend the time
16 of payment of (i) a debt of the principal, (ii) or a debt guaranteed by the
17 principal, (iii) a debt of any entity in which the principal has an ownership
18 interest, or (iv) a debt guaranteed by any entity in which the principal has an
19 ownership interest.
- 20 (4) Release, assign, satisfy, or enforce by litigation or otherwise a mortgage,
21 deed of trust, conditional sale contract, encumbrance, lien, or other claim to
22 real property which exists or is asserted.
- 23 (5) Manage or conserve an interest in real property or a right incident to real
24 property owned or claimed to be owned by the principal or to be acquired by
25 the principal, including all of the following:
 - 26 a. Insuring against liability or casualty or other loss.
 - 27 b. Obtaining or regaining possession of or protecting the interest or
28 right by litigation or otherwise.
 - 29 c. Paying, assessing, compromising, or contesting taxes or assessments
30 or applying for and receiving refunds in connection with them.
 - 31 d. Purchasing supplies, hiring assistance or labor, and making repairs or
32 alterations to the real property.
 - 33 e. Obtaining title insurance for the benefit of the principal and/or any
34 lender that has or will obtain a mortgage or deed of trust
35 encumbering the real property.
- 36 (6) Use, develop, alter, replace, remove, erect, or install structures or other
37 improvements upon real property in or incident to which the principal has, or
38 claims to have, an interest or right.
- 39 (7) Participate in a reorganization with respect to real property or an entity that
40 owns an interest in or right incident to real property and receive, hold, and
41 act with respect to stocks and bonds or other property received in a plan of
42 reorganization, including all of the following:
 - 43 a. Selling or otherwise disposing of them.
 - 44 b. Exercising or selling an option, right of conversion, or similar right
45 with respect to them.
 - 46 c. Exercising any voting rights in person or by proxy.
- 47 (8) Change the form of title of an interest in or right incident to real property.
- 48 (9) Dedicate to public use, with or without consideration, easements or other
49 real property in which the principal has, or claims to have, an interest.
- 50 (10) With respect to any real property owned or claimed to be owned by the
51 principal's spouse and in which the principal's only interest is a marital

1 interest, waive, release, or subordinate the principal's inchoate right pursuant
2 to G.S. 29-30 to claim an elective life estate in the real property, regardless
3 of whether the waiver, release, or subordination will benefit the agent or a
4 person to whom the agent owes an obligation of support.

5 **"§ 32C-2-205. Tangible personal property.**

6 Unless the power of attorney otherwise provides, language in a power of attorney granting
7 general authority with respect to tangible personal property authorizes the agent to do all of the
8 following:

- 9 (1) Demand, buy, receive, accept as a gift or as security for an extension of
10 credit, or otherwise acquire or reject ownership or possession of tangible
11 personal property or an interest in tangible personal property.
- 12 (2) Sell; exchange; convey with or without covenants, representations, or
13 warranties; quitclaim; release; surrender; create a security interest in; grant
14 options concerning; lease; sublease; or, otherwise dispose of tangible
15 personal property or an interest in tangible personal property.
- 16 (3) Grant a security interest in tangible personal property or an interest in
17 tangible personal property as security for the principal or any entity in which
18 the principal has an ownership interest to borrow money or to pay, renew, or
19 extend the time of payment of (i) a debt of the principal, (ii) a debt
20 guaranteed by the principal, (iii) a debt of any entity in which the principal
21 has an ownership interest, or (iv) a debt guaranteed by any entity in which
22 the principal has an ownership interest.
- 23 (4) Release, assign, satisfy, or enforce by litigation or otherwise, a security
24 interest, lien, or other claim on behalf of the principal, with respect to
25 tangible personal property or an interest in tangible personal property.
- 26 (5) Manage or conserve tangible personal property or an interest in tangible
27 personal property on behalf of the principal, including all of the following:
28 a. Insuring against liability or casualty or other loss.
29 b. Obtaining or regaining possession of or protecting the property or
30 interest, by litigation or otherwise.
31 c. Paying, assessing, compromising, or contesting taxes or assessments
32 or applying for and receiving refunds in connection with taxes or
33 assessments.
34 d. Moving the property from place to place.
35 e. Storing the property for hire or on a gratuitous bailment.
36 f. Using and making repairs, alterations, or improvements to the
37 property.
- 38 (6) Change the form of title of an interest in tangible personal property.

39 **"§ 32C-2-206. Stocks and bonds.**

40 Unless the power of attorney otherwise provides, language in a power of attorney granting
41 general authority with respect to stocks and bonds authorizes the agent to do all of the
42 following:

- 43 (1) Buy, sell, and exchange stocks and bonds.
- 44 (2) Establish, continue, modify, or terminate an account with respect to stocks
45 and bonds.
- 46 (3) Pledge stocks and bonds as security for the principal or any entity in which
47 the principal has an ownership interest to borrow money, or to pay, renew, or
48 extend the time of payment of (i) a debt of the principal, (ii) a debt
49 guaranteed by the principal, (iii) a debt of any entity in which the principal
50 has an ownership interest, or (iv) a debt guaranteed by any entity in which
51 the principal has an ownership interest.

(4) Receive certificates and other evidences of ownership with respect to stocks and bonds.

(5) Exercise voting rights with respect to stocks and bonds in person or by proxy, enter into voting trusts, and consent to limitations on the right to vote.

"§ 32C-2-207. Commodities and options.

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to commodities and options authorizes the agent to do all of the following:

(1) Buy, sell, exchange, assign, settle, and exercise commodity futures contracts and call or put options on stocks or stock indexes traded on a regulated option exchange.

(2) Establish, continue, modify, and terminate option accounts.

"§ 32C-2-208. Banks and other financial institutions.

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to banks and other financial institutions authorizes the agent to do all of the following:

(1) Continue, modify, and terminate an account or other banking arrangement made by or on behalf of the principal.

(2) Establish, modify, and terminate an account or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm, or other financial institution selected by the agent.

(3) Contract for services available from a financial institution, including renting a safe deposit box or space in a vault, and continue, modify, and terminate any such services.

(4) Withdraw, by check, order, electronic funds transfer, or otherwise, money or property of the principal deposited with or left in the custody of a financial institution.

(5) Receive statements of account, vouchers, notices, and similar documents from a financial institution and act with respect to them.

(6) Enter a safe deposit box or vault and withdraw or add to the contents.

(7) Borrow money and pledge as security personal property of the principal necessary to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal.

(7a) Guarantee any obligation necessary for any entity in which the principal has an ownership interest to borrow money or to pay, renew, or extend the time of payment of a debt.

(7b) Pledge as security personal property of the principal necessary for any entity in which the principal has an ownership interest to borrow money or to pay, renew, or extend the time of payment of a debt.

(8) Make, assign, draw, endorse, discount, guarantee, and negotiate promissory notes, checks, drafts, and other negotiable or nonnegotiable paper of the principal or payable to the principal or the principal's order, transfer money, receive the cash or other proceeds of those transactions, and accept a draft drawn by a person upon the principal and pay it when due.

(9) Receive for the principal and act upon a sight draft, warehouse receipt, or other document of title, whether tangible or electronic, or other negotiable or nonnegotiable instrument.

(10) Apply for, receive, and use letters of credit, credit and debit cards, electronic transaction authorizations, and traveler's checks from a financial institution and give an indemnity or other agreement in connection with letters of credit.

- (11) Consent to an extension of the time of payment with respect to commercial paper or a financial transaction with a financial institution.
- (12) Establish, modify, and terminate an ABLE account as defined under section 529A of the Internal Revenue Code with any State or financial institution selected by the agent and have the same authority over the ABLE account as the agent has with regard to any other account with a bank or other financial institution.

"§ 32C-2-209. Operation of entity.

Subject to the terms of a document or an agreement governing an entity or an entity ownership interest, and unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to operation of an entity authorizes the agent to do all of the following:

- (1) Operate, buy, sell, enlarge, reduce, or terminate an ownership interest.
- (2) Perform a duty or discharge a liability and exercise in person or by proxy a right, power, privilege, or option that the principal has, may have, or claims to have.
- (3) Enforce the terms of an ownership agreement.
- (4) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party because of an ownership interest.
- (5) Exercise in person or by proxy, or enforce by litigation or otherwise, a right, power, privilege, or option the principal has or claims to have as the holder of stocks and bonds.
- (6) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party concerning stocks and bonds.
- (7) With respect to an entity owned solely by the principal:
- a. Continue, modify, renegotiate, extend, and terminate a contract made by or on behalf of the principal with respect to the entity before execution of the power of attorney.
- b. Determine all of the following:
1. The location of its operation.
2. The nature and extent of its business.
3. The methods of manufacturing, selling, merchandising, financing, accounting, and advertising employed in its operation.
4. The amount and types of insurance carried.
5. The mode of engaging, compensating, and dealing with its employees and accountants, attorneys, or other advisors.
- c. Change the name or form of organization under which the entity is operated and enter into an ownership agreement with other persons to take over all or part of the operation of the entity.
- d. Demand and receive money due or claimed by the principal or on the principal's behalf in the operation of the entity and control and disburse the money in the operation of the entity.
- (8) Put additional capital into an entity in which the principal has an interest.
- (9) Join in a plan of reorganization, consolidation, conversion, domestication, or merger of the entity.
- (10) Sell or liquidate all or part of an entity.
- (11) Establish the value of an entity under a buyout agreement to which the principal is a party.

- (12) Prepare, sign, file, and deliver reports, compilations of information, returns, or other papers with respect to an entity and make related payments.
- (13) Pay, compromise, or contest taxes, assessments, fines, or penalties and perform any other act to protect the principal from illegal or unnecessary taxation, assessments, fines, or penalties, with respect to an entity, including attempts to recover, in any manner permitted by law, money paid before or after the execution of the power of attorney.

"§ 32C-2-210. Insurance and annuities.

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to insurance and annuities authorizes the agent to do all of the following:

- (1) Continue, pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract procured by or on behalf of the principal which insures or provides an annuity to either the principal or another person, whether or not the principal is a beneficiary under the contract.
- (2) Procure new, different, and additional contracts of insurance and annuities for the principal and the principal's spouse, children, and other dependents, and select the amount, type of insurance or annuity, and mode of payment.
- (3) Pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract of insurance or annuity procured by the agent.
- (4) Apply for and receive a loan secured by a contract of insurance or annuity.
- (5) Surrender and receive the cash surrender value on a contract of insurance or annuity.
- (6) Exercise an election.
- (7) Exercise investment powers available under a contract of insurance or annuity.
- (8) Change the manner of paying premiums on a contract of insurance or annuity.
- (9) Change or convert the type of insurance or annuity with respect to which the principal has or claims to have authority described in this section.
- (10) Apply for and procure a benefit or assistance under a statute or regulation to guarantee or pay premiums of a contract of insurance on the life of the principal.
- (11) Collect, sell, assign, hypothecate, borrow against, or pledge the interest of the principal in a contract of insurance or annuity.
- (12) Select the form and timing of the payment of proceeds from a contract of insurance or annuity.
- (13) Pay, from proceeds or otherwise, compromise or contest, and apply for refunds in connection with a tax or assessment levied by a taxing authority with respect to a contract of insurance or annuity or its proceeds or liability accruing by reason of the tax or assessment.
- (14) Change the beneficiary to a state or other government entity to qualify the principal for medical assistance or other benefits notwithstanding G.S. 32C-2-201(a)(4) requiring an express grant of authority to change a beneficiary.

"§ 32C-2-211. Estates, trusts, and other beneficial interests.

(a) In this section, the term "estate, trust, or other beneficial interest" means a trust, probate estate, guardianship, conservatorship, escrow, or custodianship or a fund from which the principal is, may become, or claims to be, entitled to a share or payment.

(b) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to estates, trusts, and other beneficial interests authorizes the agent to do all of the following:

- (1) Accept, receive, receipt for, sell, assign, pledge, or exchange a share in or payment from an estate, trust, or other beneficial interest.
- (2) Demand or obtain money or another thing of value to which the principal is, may become, or claims to be, entitled by reason of an estate, trust, or other beneficial interest, by litigation or otherwise.
- (3) Exercise for the benefit of the principal a presently exercisable general power of appointment held by the principal.
- (4) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to ascertain the meaning, validity, or effect of a deed, will, declaration of trust, or other instrument or transaction affecting the interest of the principal.
- (5) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to remove, substitute, or surcharge a fiduciary.
- (6) Conserve, invest, disburse, or use anything received for an authorized purpose.
- (7) Transfer an interest of the principal in real property, stocks and bonds, accounts with financial institutions or securities intermediaries, insurance, annuities, and other property to the trustee of a revocable trust created by the principal as settlor.

"§ 32C-2-212. Claims and litigation.

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to claims and litigation authorizes the agent to do all of the following:

- (1) Assert and maintain before a court or administrative agency a claim, claim for relief, cause of action, counterclaim, offset, recoupment, or defense, including an action to recover property or other thing of value, recover damages sustained by the principal, eliminate or modify tax liability, or seek an injunction, specific performance, or other relief.
- (2) Bring an action to determine adverse claims or intervene or otherwise participate in litigation.
- (3) Seek an attachment, garnishment, order of arrest, or other preliminary, provisional, or intermediate relief and use an available procedure to effect or satisfy a judgment, order, or decree.
- (4) Make or accept a tender, offer of judgment, or admission of facts, submit a controversy on an agreed statement of facts, consent to examination, and bind the principal in litigation.
- (5) Submit to alternative dispute resolution, settle, and propose or accept a compromise.
- (6) Waive the issuance and service of process upon the principal, accept service of process, appear for the principal, designate persons upon which process directed to the principal may be served, execute and file or deliver stipulations on the principal's behalf, verify pleadings, seek appellate review, procure and give surety and indemnity bonds, contract and pay for the preparation and printing of records and briefs, receive, execute, and file or deliver a consent, waiver, release, confession of judgment, satisfaction of judgment, notice, agreement, or other instrument in connection with the prosecution, settlement, or defense of a claim or litigation.

- (7) Act for the principal with respect to bankruptcy or insolvency, whether voluntary or involuntary, concerning the principal or some other person, or with respect to a reorganization, receivership, or application for the appointment of a receiver or trustee which affects an interest of the principal in property or other thing of value.
- (8) Pay a judgment, award, or order against the principal or a settlement made in connection with a claim or litigation.
- (9) Receive money or other thing of value paid in settlement of or as proceeds of a claim or litigation.

"§ 32C-2-213. Personal and family maintenance.

(a) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to personal and family maintenance authorizes the agent to do all of the following:

- (1) Perform the acts necessary to maintain the customary standard of living of the principal, the principal's spouse, and the following individuals, whether living when the power of attorney is executed or later born:
- a. The principal's children who are legally entitled to be supported by the principal.
- b. Other individuals legally entitled to be supported by the principal.
- c. The individuals whom the principal has customarily supported or indicated the intent to support.
- (2) Make periodic payments of child support and other family maintenance required by a court or governmental agency or an agreement to which the principal is a party.
- (3) Provide living quarters for the individuals described in subdivision (1) of this subsection by the following means:
- a. Purchase, lease, or other contract.
- b. Paying the operating costs, including interest, amortization payments, repairs, improvements, and taxes, for premises owned by the principal or occupied by those individuals.
- (4) Provide normal domestic help, usual vacations and travel expenses, and funds for shelter, clothing, food, appropriate education, including postsecondary and vocational education, and other current living costs for the individuals described in subdivision (1) of this subsection.
- (5) Pay expenses for necessary health care and custodial care on behalf of the individuals described in subdivision (1) of this subsection.
- (6) Act as the principal's personal representative pursuant to the Health Insurance Portability and Accountability Act, §§ 1171 through 1179 of the Social Security Act, 42 U.S.C. § 1320d, as amended, and applicable regulations, in making decisions related to the past, present, or future payment for the provision of health care consented to by the principal or anyone authorized under the law of this state to consent to health care on behalf of the principal.
- (7) Continue any provision made by the principal for automobiles or other means of transportation, including registering, licensing, insuring, and replacing them, for the individuals described in subdivision (1) of this subsection.
- (8) Maintain credit and debit accounts for the convenience of the individuals described in subdivision (1) of this subsection and open new accounts.

(9) Continue payments incidental to the membership or affiliation of the principal in a religious institution, club, society, order, or other organization or to continue contributions to those organizations.

(b) Authority with respect to personal and family maintenance is neither dependent upon, nor limited by, authority that an agent may or may not have with respect to gifts under this Chapter.

"§ 32C-2-214. Benefits from governmental programs or civil or military service.

(a) In this section, the term "benefits from governmental programs or civil or military service" means any benefit, program, or assistance provided under a statute or regulation including Social Security, Medicare, and Medicaid.

(b) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to benefits from governmental programs or civil or military service authorizes the agent to do all of the following:

(1) Execute vouchers in the name of the principal for allowances and reimbursements payable by the United States or a foreign government or by a state or subdivision of a state to the principal, including allowances and reimbursements for transportation of the individuals described in G.S. 32C-2-213(a)(1), and for shipment of their household effects.

(2) Take possession and order the removal and shipment of property of the principal from a post, warehouse, depot, dock, or other place of storage or safekeeping, either governmental or private, and execute and deliver a release, voucher, receipt, bill of lading, shipping ticket, certificate, or other instrument for that purpose.

(3) Enroll in, apply for, select, reject, change, amend, or discontinue, on the principal's behalf, a benefit or program.

(4) Prepare, file, and maintain a claim of the principal for a benefit or assistance, financial or otherwise, to which the principal may be entitled under a statute or regulation.

(5) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation concerning any benefit or assistance the principal may be entitled to receive under a statute or regulation.

(6) Receive the financial proceeds of a claim described in subdivision (4) of this subsection and conserve, invest, disburse, or use for a lawful purpose anything so received.

(7) Make elections under the Survivor Benefit Plan as defined under Subchapter II of Title 10 of the United States Code, as amended, including the authority to elect that benefits be paid to a supplemental or special needs trust for a disabled child.

"§ 32C-2-215. Retirement plans.

(a) In this section, the term "retirement plan" means a plan or account created by an employer, the principal, or another individual to provide retirement benefits or deferred compensation of which the principal is a participant, beneficiary, or owner, including a plan or account under the following sections of the Internal Revenue Code:

(1) An individual retirement account under section 408 of the Internal Revenue Code.

(2) A Roth individual retirement account under section 408A of the Internal Revenue Code.

(3) A deemed individual retirement account under section 408(q) of the Internal Revenue Code.

(4) An annuity or mutual fund custodial account under section 403(b) of the Internal Revenue Code.

(5) A pension, profit sharing, stock bonus, or other retirement plan qualified under section 401(a) of the Internal Revenue Code.

(6) A plan under sections 457(b) and (f) of the Internal Revenue Code.

(7) A nonqualified deferred compensation plan under section 409A of the Internal Revenue Code.

(b) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to retirement plans authorizes the agent to do all of the following:

(1) Select the form and timing of payments under a retirement plan and withdraw benefits from a plan.

(2) Make a rollover, including a direct trustee-to-trustee rollover, of benefits from one retirement plan to another.

(3) Establish a retirement plan in the principal's name.

(4) Make contributions to a retirement plan.

(5) Exercise investment powers available under a retirement plan.

(6) Borrow from, sell assets to, or purchase assets from a retirement plan.

"§ 32C-2-216. Taxes.

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to taxes authorizes the agent to do all of the following:

(1) Prepare, sign, and file federal, State, local, and foreign income, gift, payroll, property, Federal Insurance Contributions Act, and other tax returns, claims for refunds, requests for extension of time, petitions regarding tax matters, and any other tax-related documents, including receipts, offers, waivers, consents, including consents and agreements under section 2032A of the Internal Revenue Code, closing agreements, and any power of attorney required by the Internal Revenue Service or other taxing authority with respect to a tax year upon which the statute of limitations has not run and the following 25 tax years.

(2) Pay taxes due, collect refunds, post bonds, receive confidential information, and contest deficiencies determined by the Internal Revenue Service or other taxing authority.

(3) Exercise any election available to the principal under federal, State, local, or foreign tax law.

(4) Act for the principal in all tax matters for all periods before the Internal Revenue Service, or other taxing authority.

"§ 32C-2-217. Gifts authorized by general authority.

(a) In this section, a gift "for the benefit of" an individual includes a gift to a trust, an account under the Uniform Transfers to Minors Act, a tuition savings account or prepaid tuition plan as defined under section 529 of the Internal Revenue Code, and an ABLE account as defined under section 529A of the Internal Revenue Code.

(b) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to gifts authorizes the agent only to do the following:

(1) Make a gift of any of the principal's property, including by the exercise of a presently exercisable general power of appointment held by the principal for the following purposes:

a. To or for the benefit of an individual so long as the value of the gift does not exceed the greater of (i) the amount determined to be in accordance with the principal's history of making or joining in the making of gifts or (ii) the annual dollar limit of the federal gift tax

1 exclusion under section 2503(b) of the Internal Revenue Code
2 without regard to whether the federal gift tax exclusion applies to the
3 gift, or if the principal's spouse agrees to consent to the split gift
4 pursuant to section 2513 of the Internal Revenue Code in an amount
5 per donee not to exceed twice the annual federal gift tax exclusion
6 limit.

7 b. To any organization described in sections 170(c) and 2522(a) of the
8 Internal Revenue Code in accordance with the principal's history of
9 making or joining in the making of gifts.

10 (2) Consent, pursuant to section 2513 of the Internal Revenue Code to the
11 splitting of a gift made by the principal's spouse with respect to gifts
12 described in subdivision (1) of this subsection.

13 **"§ 32C-2-218. Gifts authorized by court order.**

14 An agent may petition the court for an order authorizing the agent to make a gift of the
15 principal's property that is reasonable under the circumstances, including a gift that is in
16 addition to, or that otherwise differs from, the gifts authorized by the power of attorney.

17 **"§ 32C-2-219. Certain acts authorized by the court.**

18 (a) Except as provided in subsection (b) of this section, an agent under a power of
19 attorney that does not expressly grant the agent the authority to do an act described in
20 G.S. 32C-2-201(a) may petition the court for authority to do the act described in
21 G.S. 32C-2-201(a) that is reasonable under the circumstances.

22 (b) This section shall not apply to the authority of an agent to make a gift pursuant to
23 G.S. 32C-2-218.

24 "Article 3.

25 "Statutory Forms.

26 **"§ 32C-3-301. Statutory form power of attorney.**

27 As a nonexclusive method to grant a power of attorney, a document substantially in the
28 following form may be used to create a statutory form power of attorney that has the meaning
29 and effect prescribed by this Chapter:

30
31 "NORTH CAROLINA

32 STATUTORY SHORT FORM POWER OF ATTORNEY

33
34 NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND
35 SWEEPING. THEY ARE DEFINED IN CHAPTER 32C OF THE NORTH CAROLINA
36 GENERAL STATUTES, WHICH EXPRESSLY PERMITS THE USE OF ANY OTHER OR
37 DIFFERENT FORM OF POWER OF ATTORNEY DESIRED BY THE PARTIES
38 CONCERNED.

39
40 IMPORTANT INFORMATION

41
42 This power of attorney authorizes another person (your agent) to make decisions concerning
43 your property for you (the principal). Your agent will be able to make decisions and act with
44 respect to your property (including your money) whether or not you are able to act for yourself.
45 The meaning of authority over subjects listed on this form is explained in the North Carolina
46 Uniform Power of Attorney Act.

47
48 This power of attorney does not authorize the agent to make health care decisions for you.
49

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.

Your agent is entitled to reasonable compensation unless you state otherwise in the Additional Provisions and Exclusions.

This form provides for designation of one agent, successor agent, and second successor agent. If you wish to name more than one agent, successor agent, and second successor agent, you may name a coagent, successor coagent, or second successor coagent in the Additional Provisions and Exclusions. Coagents, successor coagents, or second successor coagents are not required to act together unless you include that requirement in the Additional Provisions and Exclusions.

If your agent is unable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.

This power of attorney becomes effective immediately.

If you have questions about the power of attorney or the authority you are granting to your agent, you should seek legal advice before signing this form.

DESIGNATION OF AGENT

I, _____, name the following person as my agent:

(Name of Principal).

Name of Agent:

DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of Successor Agent:

If my successor agent is unable or unwilling to act for me, I name as my second successor agent:

Name of Second Successor Agent:

INITIAL below if you want to give an agent the power to name a successor agent.

() I give to my acting agent the full power to appoint another to act as my agent, and full power to revoke such appointment, if no agent named by me above is willing or able to act.

GRANT OF GENERAL AUTHORITY

1 I grant my agent and any successor agent general authority to act for me with respect to the
2 following subjects as defined in the North Carolina Uniform Power of Attorney Act, Chapter
3 32C of the General Statutes:

4
5 (INITIAL each subject you want to include in the agent's general authority. If you wish to grant
6 general authority over all of the subjects you may initial "All Preceding Subjects" instead of
7 initialing each subject.)

8
9 () Real Property

10 () Tangible Personal Property

11 () Stocks and Bonds

12 () Commodities and Options

13 () Banks and Other Financial Institutions

14 () Operation of Entity or Business

15 () Insurance and Annuities

16 () Estates, Trusts, and Other Beneficial Interests

17 () Claims and Litigation

18 () Personal and Family Maintenance

19 () Benefits from Governmental Programs or Civil or Military Service

20 () Retirement Plans

21 () Taxes

22 () All Preceding Subjects

23
24
25 GRANT OF SPECIFIC AUTHORITY
26 (OPTIONAL)

27
28 My agent MAY NOT do any of the following specific acts for me UNLESS I have INITIALED
29 the specific authority listed below:

30
31 (CAUTION: Granting any of the following will give your agent the authority to take
32 actions that could significantly reduce your property or change how your property is distributed
33 at your death. INITIAL ONLY the specific authority you WANT to give your agent.)

34
35 () Make a gift, subject to the limitations provided in G.S. 32C-2-217

36 () Create or change rights of survivorship

37 () Create or change a beneficiary designation

38 () Authorize another person to exercise the authority granted under this power of attorney

39 () Waive my right to be a beneficiary of a joint and survivor annuity, including a survivor
40 benefit under a retirement plan

41 () Exercise fiduciary powers that I have authority to delegate

42 () Disclaim or refuse an interest in property, including a power of appointment

43 () Access the content of electronic communications.

44
45
46 EXERCISE OF SPECIFIC AUTHORITY IN FAVOR OF AGENT
47 (OPTIONAL)

48
49 () UNLESS INITIALED, an agent MAY NOT exercise any of the grants of specific
50 authority initialed above in favor of the agent or an individual to whom the agent owes a legal
51 obligation of support.

1
2 ADDITIONAL PROVISIONS AND EXCLUSIONS
3 (OPTIONAL)
4

5 () _____
6
7 _____
8

9 EFFECTIVE DATE

10
11 This power of attorney is effective immediately.
12

13
14 NOMINATION OF GUARDIAN
15 (OPTIONAL)
16

17 INITIAL below ONLY if you WANT your acting agent to be your Guardian.
18

19 () If it becomes necessary for a court to appoint a guardian of my estate or a general
20 guardian, I nominate my agent acting under this power of attorney to be the guardian to serve
21 without bond or other security.
22

23
24 RELIANCE ON THIS POWER OF ATTORNEY
25

26 Any person, including my agent, may rely upon the validity of this power of attorney or a copy
27 of it unless that person knows it has terminated or is invalid.
28

29
30 MEANING AND EFFECT
31

32 The meaning and effect of this power of attorney shall for all purposes be determined by the
33 law of the State of North Carolina.
34

35
36 SIGNATURE AND ACKNOWLEDGMENT
37

38
39 _____
40 Your Signature

_____ Date

41
42 _____
43 Your Name Printed
44

45
46 State of _____ , County of _____
47

48 I certify that the following person personally appeared before me this day, acknowledging to
49 me that he or she signed the foregoing document: _____
50
51

Date: _____

Signature of Notary Public(Official Seal)_____, Notary Public
Printed or typed name

My commission expires: _____"

IMPORTANT INFORMATION FOR AGENTAgent's Duties

When you accept the authority granted under this power of attorney, a special legal relationship is created between you and the principal. This relationship imposes upon you legal duties that continue until you resign or your authority is terminated or the power of attorney is terminated or revoked. You must:

- (1) Do what you know the principal reasonably expects you to do with the principal's property or, if you do not know the principal's expectations, act in the principal's best interest;
- (2) Act in good faith;
- (3) Do nothing beyond the authority granted in this power of attorney; and
- (4) Disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and signing your own name as "agent" in the following manner: (Principal's Name) by (Your Signature) as Agent.

Unless the Additional Provisions and Exclusions in this power of attorney state otherwise, you must also:

- (1) Act loyally for the principal's benefit;
- (2) Avoid conflicts that would impair your ability to act in the principal's best interest;
- (3) Act with care, competence, and diligence;
- (4) Keep a record of all receipts, disbursements, and transactions made on behalf of the principal;
- (5) Cooperate with any person that has authority to make health care decisions for the principal to do what you know the principal reasonably expects, or if you do not know the principal's expectations, to act in the principal's best interest;
- (6) Attempt to preserve the principal's estate plan if you know the plan and preserving the plan is consistent with the principal's best interest; and
- (7) Account to the principal (or a person designated by the principal (if any)) in the Additional Provisions and Exclusions.

Termination of Agent's Authority

You must stop acting on behalf of the principal if you learn of any event that terminated or revoked this power of attorney or your authority under this power of attorney. Events that terminate a power of attorney or your authority to act under a power of attorney include:

- (1) Death of a principal;
- (2) The principal's revocation of the power of attorney or the termination of your authority;
- (3) The occurrence of a termination event stated in the power of attorney;
- (4) The purpose of the power of attorney is fully accomplished; or
- (5) If you are married to the principal, your divorce from the principal, unless the Additional Provisions and Exclusions in this power of attorney state that your divorce from the principal will not terminate your authority.

Liability of Agent

The meaning of the authority granted to you is defined in the North Carolina Uniform Power of Attorney Act. If you violate the North Carolina Uniform Power of Attorney Act or act outside the authority granted, you may be liable for any damages caused by your violation.

If there is anything about this document or your duties that you do not understand, you should seek legal advice."

"§ 32C-3-302. Agent's certification.

The following optional form may be used by an agent to certify facts concerning a power of attorney:

"AGENT'S CERTIFICATION AS TO THE VALIDITY OF
POWER OF ATTORNEY AND AGENT'S AUTHORITY
(G.S. 32C-3-302)

I, _____ (Name of Agent), do hereby state and affirm the following under penalty of perjury:

(1) _____ (Name of Principal) granted me authority as an agent or successor agent in a power of attorney dated _____.

(2) The powers and authority granted to me in the power of attorney are currently exercisable by me.

(3) I have no actual knowledge of any of the following:

- (a) The principal is deceased.
- (b) The power of attorney or my authority as agent under the power of attorney has been revoked or terminated, partially or otherwise.
- (c) The principal lacked the understanding and capacity to make and communicate decisions regarding his estate and person at the time the power of attorney was executed.
- (d) The power of attorney was not properly executed and is not a legal, valid power of attorney.
- (e) (Insert other relevant statements)

(4) I agree not to exercise any powers granted under the power of attorney if I become aware that the principal is deceased, that the power of attorney has been revoked or terminated, or that my authority as agent under the power of attorney has been revoked or terminated.

SIGNATURE AND ACKNOWLEDGMENT

Agent's Signature

Date

Agent's Name Printed

Agent's Address

Agent's Telephone Number

COUNTY OF _____, STATE OF _____.

Sworn to or affirmed and subscribed before me this day by:

Date: _____

Signature of Notary Public

(Official Seal)

_____, Notary Public

Printed or typed name

My commission expires: _____"

"§ 32C-3-303. Limited power of attorney for real property.

While no particular phrasing is required for a limited power of attorney for transactions involving the purchase, sale, or financing of real property or tangible personal property related to real property, the following form may be used to create a limited power of attorney for transactions involving the purchase, sale, or financing of designated real property or tangible personal property related to the designated real property. The following form has as the meaning and effect prescribed by this Chapter:

"Return to:

NORTH CAROLINA
LIMITED POWER OF ATTORNEY FOR REAL PROPERTY

I, _____, name the following person as my agent:
(Name of Principal)

Name of Agent: _____

For purposes of this power of attorney, the "Property" is all of that real property located in _____ County, North Carolina, and known or identified as follows:

GRANT OF AUTHORITY

I grant my agent general authority to act for me with respect to the Property, all tangible personal property related to the Property, and all financial transactions relating to the Property. The authority granted to my agent pursuant to this power of attorney expressly includes the following:

- (1) The authority to act with respect to real property as set forth in Section 32C-2-204 of the North Carolina General Statutes;
- (2) The authority to act with respect to tangible personal property as set forth in Section 32C-2-205 of the North Carolina General Statutes; and
- (3) The authority to act with respect to banks and other financial institutions as set forth in Section 32C-2-208 of the North Carolina General Statutes.

The authority granted to my agent pursuant to this power of attorney may be exercised by my agent even though the exercise of that authority may benefit the agent or a person to whom the agent owes an obligation of support.

EFFECTIVE DATE; AUTOMATIC EXPIRATION

This power of attorney is effective immediately. The authority of my agent to act on my behalf pursuant to this power of attorney will automatically expire on _____ (or, if no date is specified, one year from the date of this power of attorney). Actions taken by my agent on my behalf pursuant to this power of attorney while this power of attorney remains in effect shall continue to bind me even after my agent's authority expires.

RELIANCE ON THIS POWER OF ATTORNEY

Any person, including my agent, may rely upon the validity of this power of attorney or a copy of it unless that person knows it has terminated or is invalid.

MEANING AND EFFECT

The meaning and effect of this power of attorney shall for all purposes be determined by the law of the State of North Carolina.

SIGNATURE AND ACKNOWLEDGMENTYour SignatureDateYour Name Printed

State of _____, County of _____.

I certify that the following person personally appeared before me this day, acknowledging to me that he or she signed the foregoing document: _____.

Date: _____

Signature of Notary Public(Official Seal)

_____, Notary Public

Printed or typed name"Article 4."Miscellaneous Provisions."§ 32C-4-401. Uniformity of application and construction.

In applying and construing this Chapter, consideration may be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact it.

"§ 32C-4-402. Relation to Electronic Signatures in Global and National Commerce Act.

The provisions of this Chapter governing the legal effect, validity, or enforceability of electronic records or electronic signatures, and of contracts formed or performed with the use of those records or signatures, conform to the requirements of Section 102 of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. § 7002) and supersede, modify, and limit the requirements of the Electronic Signatures in Global and National Commerce Act.

"§ 32C-4-403. Effect on existing powers of attorney.

(a) Except as otherwise provided in this Chapter, the following apply on the effective date of this Chapter:

- (1) This Chapter applies to a power of attorney created before, on, or after the effective date of this Chapter unless there is clear indication of a contrary intent in the terms of a power of attorney or unless application of a particular provision of this Chapter would substantially impair rights of a party.
- (2) This Chapter applies to a judicial proceeding concerning a power of attorney commenced on or after the effective date of this Chapter.
- (3) This Chapter applies to a judicial proceeding concerning a power of attorney commenced before the effective date of this Chapter unless the court finds that application of a provision of this Chapter would substantially interfere with the effective conduct of the judicial proceeding or prejudice the rights

of a party, in which case that the particular provision of this Chapter does not apply and the superseded law applies.

- (4) A rule of construction or presumption provided by this Chapter applies to powers of attorney executed before the effective date of this Chapter unless there is a clear indication of a contrary intent in the terms of a power of attorney or unless the application of the rule of construction or presumption would substantially impair rights of a party created under North Carolina law in effect prior to the effective date of this Chapter in which case the rule of construction or presumption does not apply and the superseded rule of construction or presumption applies.

(b) If a right is acquired, extinguished, or banned upon the expiration of a prescribed period that commenced under law of this State other than this Chapter before the effective date of this Chapter, that statute continues to apply to the right even if it has been repealed or superseded.

(c) References to prior statutes and powers of attorney, whether executed on or after the adoption of this Chapter shall be deemed to refer to the corresponding provisions this Chapter unless application of the rule of construction would substantially impair substantial rights of a party.

(d) Notwithstanding the provisions of this Chapter, the powers conferred by former G.S. 32A-2 shall apply to a Statutory Short Form Power of Attorney that was created in accordance with former G.S. 32A-1 prior to January 1, 2018."

PART II. CONFORMING CHANGES TO THE GENERAL STATUTES

SECTION 2.1. G.S. 30-3.4 reads as rewritten:

"§ 30-3.4. Procedure for determining the elective share.

(a) Exercisable Only During Lifetime. – The right of the surviving spouse to file a claim for an elective share must be exercised during the lifetime of the surviving spouse, by the surviving spouse, by the surviving spouse's ~~attorney-in-fact-agent~~ if the surviving spouse's power of attorney expressly authorizes the ~~attorney-in-fact-agent~~ to do so or to generally engage in ~~estate transactions, estate, trusts, and other beneficial interests, or~~, with approval of court, by the guardian of the surviving spouse's estate or general guardian. If a surviving spouse dies before the claim for an elective share has been settled, the surviving spouse's personal representative shall succeed to the surviving spouse's rights to an elective share.

...."

SECTION 2.2. G.S. 47-28 reads as rewritten:

"§ 47-28. Powers of attorney.

(a) Recording required for powers of attorney affecting real property:

- (1) Before any transfer of real property executed by an ~~attorney-in-fact-agent~~ empowered by a power of attorney governed by ~~Article 1, Article 2, or Article 2A of Chapter 32A–32C~~ of the General Statutes, the power of attorney or a certified copy of the power of attorney shall be registered in the office of the register of deeds of the county in which the principal is domiciled or where the real property lies. If the principal is not a resident of North Carolina, the power of attorney or a certified copy of the power of attorney may be recorded in any county in the State wherein the principal owns real property or has a significant business reason for registering in the county.

...

- (3) Any instrument subject to the provisions of G.S. 47-17.2, 47-18, or 47-20 and signed by an ~~attorney-in-fact-agent~~ and recorded in a county other than the county where a power of attorney is recorded in this State shall include

the recording information, including book, page, and county for the power of attorney.

...

(b) If the instrument of conveyance is recorded prior to the registration of the power of attorney or a certified copy of the power of attorney pursuant to subsection (a) of this section, the power of attorney or a certified copy of the power of attorney may be registered in the office of the register of deeds as provided in subsection (a) of this section thereafter provided that the ~~attorney-in-fact~~agent was empowered at the time of the original conveyance. Notwithstanding the provisions of subsection (a) of this section, no conveyance shall be rendered invalid by the recordation of the power of attorney or a certified copy of the power of attorney after the instrument of conveyance, and the registration shall relate back to the date and time of registration of the instrument of conveyance.

...."

SECTION 2.3. G.S. 47-43.1 reads as rewritten:

"§ 47-43.1. Execution and acknowledgment of instruments by attorneys or attorneys-in-fact.

When an instrument purports to be executed by parties acting through another by virtue of a power of attorney, it shall be sufficient if the attorney or ~~attorney-in-fact~~agent signs such instrument either in the name of the principal by the attorney or ~~attorney-in-fact~~agent or signs as attorney or ~~attorney-in-fact~~agent for the principal; and if such instrument purports to be under seal, the seal of the ~~attorney-in-fact~~agent shall be sufficient. ~~For such instrument to be executed under seal, the power of attorney must have been executed under seal."~~

SECTION 2.4. G.S. 50-22 reads as rewritten:

"§ 50-22. Action on behalf of an incompetent.

A duly appointed ~~attorney-in-fact~~agent who has the power to sue and defend civil actions on behalf of an incompetent spouse and who has been appointed pursuant to a durable power of attorney executed in accordance with Chapter ~~32A-32C~~ of the General Statutes, a guardian appointed in accordance with Chapter 35A of the General Statutes, or a guardian ad litem appointed in accordance with G.S. 1A-1, Rules 17 and 25(b), may commence, defend, maintain, arbitrate, mediate, or settle any action authorized by this Chapter on behalf of an incompetent spouse. However, only a competent spouse may commence an action for absolute divorce."

SECTION 2.5. G.S. 90-21.13 reads as rewritten:

"§ 90-21.13. Informed consent to health care treatment or procedure.

...

(c) The following persons, in the order indicated, are authorized to consent to medical treatment on behalf of a patient who is comatose or otherwise lacks capacity to make or communicate health care decisions:

- (1) A guardian of the patient's person, or a general guardian with powers over the patient's person, appointed by a court of competent jurisdiction pursuant to Article 5 of Chapter 35A of the General Statutes; provided that, if the patient has a health care agent appointed pursuant to a valid health care power of attorney, the health care agent shall have the right to exercise the authority to the extent granted in the health care power of attorney and to the extent provided in G.S. 32A-19(a) unless the Clerk has suspended the authority of that health care agent in accordance with ~~G.S. 35A-1208(a);~~G.S. 35A-1208(a).
- (2) A health care agent appointed pursuant to a valid health care power of attorney, to the extent of the authority ~~granted;~~granted.
- (3) An ~~attorney-in-fact~~agent, with powers to make health care decisions for the patient, appointed by the patient pursuant to ~~Article 1 or Article 2 of Chapter~~

32A—32C of the General Statutes, to the extent of the authority
~~granted; granted.~~

(4) The patient's ~~spouse; spouse.~~

(5) A majority of the patient's reasonably available parents and children who are
at least 18 years of ~~age; age.~~

(6) A majority of the patient's reasonably available siblings who are at least 18
years of ~~age; or age.~~

(7) An individual who has an established relationship with the patient, who is
acting in good faith on behalf of the patient, and who can reliably convey the
patient's wishes.

...."

SECTION 2.6. G.S. 90-322 reads as rewritten:

"§ 90-322. Procedures for natural death in the absence of a declaration.

...

(b) If a person's condition has been determined to meet the conditions set forth in
subsection (a) of this section and no instrument has been executed as provided in G.S. 90-321,
then life-prolonging measures may be withheld or discontinued upon the direction and under
the supervision of the attending physician with the concurrence of the following persons, in the
order indicated:

(1) A guardian of the patient's person, or a general guardian with powers over
the patient's person, appointed by a court of competent jurisdiction pursuant
to Article 5 of Chapter 35A of the General Statutes; provided that, if the
patient has a health care agent appointed pursuant to a valid health care
power of attorney, the health care agent shall have the right to exercise the
authority to the extent granted in the health care power of attorney and to the
extent provided in G.S. 32A-19(b) unless the Clerk has suspended the
authority of that health care agent in accordance with ~~G.S.~~
~~35A-1208(a); G.S. 35A-1208(a).~~

(2) A health care agent appointed pursuant to a valid health care power of
attorney, to the extent of the authority ~~granted; granted.~~

(3) An ~~attorney-in-fact, agent,~~ with powers to make health care decisions for the
patient, appointed by the patient pursuant to ~~Article 1 or Article 2 of Chapter~~
~~32A—32C~~ of the General Statutes, to the extent of the authority
~~granted; granted.~~

(4) The patient's ~~spouse; spouse.~~

(5) A majority of the patient's reasonably available parents and children who are
at least 18 years of ~~age; age.~~

(6) A majority of the patient's reasonably available siblings who are at least 18
years of ~~age; or age.~~

(7) An individual who has an established relationship with the patient, who is
acting in good faith on behalf of the patient, and who can reliably convey the
patient's wishes.

If none of the above is reasonably available then at the discretion of the attending physician
the life-prolonging measures may be withheld or discontinued upon the direction and under the
supervision of the attending physician.

...."

SECTION 2.7. G.S. 122C-73 reads as rewritten:

"§ 122C-73. Scope, use, and authority of advance instruction for mental health treatment.

...

(f) An advance instruction for mental health treatment may be combined with a health
care power of attorney or general power of attorney that is executed in accordance with the

1 requirements of Chapter 32A or Chapter 32C of the General Statutes so long as each form shall
2 be executed in accordance with its own statute."

3 **SECTION 2.8.** Articles 1, 2, 2A, 2B, and 5 of Chapter 32A of the General Statutes
4 are repealed.

5
6 **PART III. EFFECTIVE DATE AND AUTHORIZATION FOR THE PRINTING OF**
7 **OFFICIAL AND DRAFTERS' COMMENTS**

8 **SECTION 3.** This act becomes effective January 1, 2018. The Revisor of Statutes
9 shall cause to be printed, as annotations to the published General Statutes, all relevant portions
10 of the Official Comments to the Uniform Power of Attorney Act (2006) and all explanatory
11 comments of the drafters of this act as the Revisor may deem appropriate.

NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

JUDICIARY I COMMITTEE REPORT
Representative Ted Davis, Jr., Chair

FAVORABLE COM SUB, UNFAVORABLE ORIGINAL BILL

HB 717 Revise Certain Superior Court Districts.
Draft Number: H717-PCS40632-ST-37
Serial Referral: None
Recommended Referral: None
Long Title Amended: Yes
Floor Manager: Burr

FAVORABLE HOUSE COM SUB, UNFAVORABLE SENATE COM SUB

SB 569 (CS#1) Uniform Power of Attorney Act.
Draft Number: S569-PCS45467-TG-35
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: Stevens

FAVORABLE HOUSE COM SUB, UNFAVORABLE SENATE COM SUB AND RE-REFERRED

SB 489 (CS#1) Clarify Workers' Comp. Policy Cancellation.
Draft Number: S489-PCS15234-TG-34
Serial Referral: **INSURANCE**
Recommended Referral: None
Long Title Amended: Yes
Floor Manager: Davis

TOTAL REPORTED: 3



* C M R 6 O 2 - V - 1 *



VISITOR REGISTRATION SHEET

Judiciary I
Appropriations Committee on Justice and Public Safety

Date:

6/26/17

Speakers

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

	<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
✓	Wayland Sermons	Sup Ct Judge
✓	Anna Mills Waggoner	Sup Ct Judge
✓	Maureen Krueger	Moore District Atty
✓	Susan B. McCleanham	Citizen League of Voters
✓	Jennifer Bremer	League of Women Voters
out ✓	Melissa Pricio Kromm	NC Voters for Clean Electre
✓	Dudge	
✓	Kim Crouch	NC Advocates for Justice



HOUSE JUDICIARY I COMMITTEE

2017-2018 SESSION

REPRESENTATIVE TED DAVIS, JR., CHAIRMAN

ANDREW BOWERS, COMMITTEE ASSISTANT



HOUSE COMMITTEE ON JUDICIARY I
2017-2018 SESSION

Clerk: Judy Lowe



Rep. Ted Davis, Jr. Chair



**Rep. Duane Hall,
Vice-Chair**



**Rep. Darren Jackson,
Vice-Chair**



**Rep. Sarah Stevens,
Vice-Chair**



**Rep. Rena Turner,
Vice-Chair**



Rep. Dean Arp



Rep. Jean Farmer-Butterfield



Rep. Julia Howard



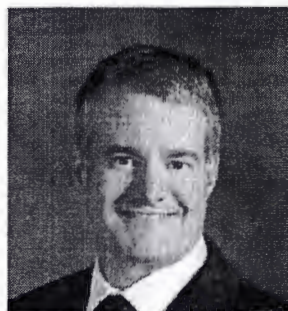
Rep. Grier Martin



Rep. Allen McNeill



Rep. Graig Meyer



Rep. David Rogers



Rep. Bob Steinburg



HOUSE COMMITTEE ON JUDICIARY I

<u>MEMBER</u>	<u>ASSISTANT</u>	<u>PHONE</u>	<u>OFFICE</u>	<u>SEAT</u>
<u>Chairman</u>				
Rep. Ted Davis, Jr.	Andrew Bowers	733-5786	417B	27
<u>Vice-Chairs</u>				
Rep. Duane Hall	Florence Hall	733-5755	1004	58
Rep. Darren Jackson	Angela McMillan	733-5974	506	57
Rep. Sarah Stevens	Lisa Brown	715-1883	419	7
Rep. Rena Turner	Barbara Gaiser	733-5661	606	52
<u>Members</u>				
Rep. Dean Arp	Wendy Miller	715-3007	529	66
Rep. Jean Farmer-Butterfield	Portia Bright	733-5898	1220	33
Rep. Julia Howard	Cody Huneycutt	733-5904	302	1
Rep. Grier Martin	Christopher Hailey	733-5773	1023	94
Rep. Allen McNeill	Laura Sullivan	715-4946	418B	55
Rep. Graig Meyer	Daphne Quinn	715-3019	1426	105
Rep. David Rogers	Baxter Knight	733-5749	418C	78
Rep. Bob Steinburg	Diana London	733-0010	301B	43
<u>Staff</u>				
Bill Patterson		733-2578		
Jennifer Bedford				
Jason Moran-Bates				
<u>Committee Assistant</u>				
Andrew Bowers		733-5786		



(Name of Committee)

[illegible]



Andrew Bowers (Rep. Ted Davis)

From: Andrew Bowers (Rep. Ted Davis)
Sent: Tuesday, May 22, 2018 12:36 PM
To: Sen. Tamara Barringer; Sen. Jeff Tarte; Sen. John Alexander; Rep. Jamie Boles, Jr; Rep. Ted Davis
Cc: Devon Karst (Sen. Tamara Barringer); Jan Copeland (Sen. Jeff Tarte); Jessica Daigler-Walls (Sen. John Alexander); Kerry Guice (Rep. Jamie Boles); Andrew Bowers (Rep. Ted Davis)
Subject: <NCGA> House Judiciary I Committee Meeting Notice for Wednesday, May 23, 2018 at 1:00 PM
Attachments: Add Meeting to Calendar_LINC_.ics

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Wednesday, May 23, 2018
TIME: 1:00 PM
LOCATION: 415 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>SB 566</u>	Postpone Assumed Name Revisions.	Senator Barringer Senator Tarte Senator Alexander
<u>HB 969</u>	Enhance Prison Security.	Representative Davis Representative Boles



Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 12:34 PM on Tuesday, May 22, 2018.

☐ Principal Clerk
☐ Reading Clerk – House Chamber

Andrew Bowers (Committee Assistant)



Andrew Bowers (Rep. Ted Davis)

From: Andrew Bowers (Rep. Ted Davis)
Sent: Wednesday, May 23, 2018 11:18 AM
To: Sen. Tamara Barringer; Sen. Jeff Tarte; Sen. John Alexander
Cc: Devon Karst (Sen. Tamara Barringer); Jan Copeland (Sen. Jeff Tarte); Jessica Daigler-Walls (Sen. John Alexander)
Subject: <NCGA> House Judiciary I Committee Meeting Notice for Wednesday, May 23, 2018 at 1:00 PM - UPDATED #1
Attachments: Add Meeting to Calendar_LINC_.ics

Updated #1: HB 969 has been removed from the agenda

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Wednesday, May 23, 2018
TIME: 1:00 PM
LOCATION: 415 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>SB 566</u>	Postpone Assumed Name Revisions.	Senator Barringer Senator Tarte Senator Alexander

Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 11:15 AM on Wednesday, May 23, 2018.

____ Principal Clerk
____ Reading Clerk – House Chamber

Andrew Bowers (Committee Assistant)



**House Committee on Judiciary I
Wednesday, May 23, 2018, 1:00 PM
415 Legislative Office Building**

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 566	Postpone Assumed Name Revisions.	Senator Barringer Senator Tarte Senator Alexander

Presentations

Other Business

Adjournment



House Committee on Judiciary I
Wednesday, May 23 at 1:00 PM
Room 415 LOB

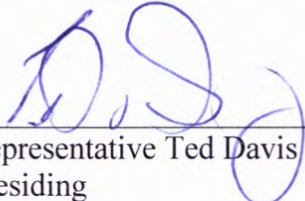
MINUTES

The House Committee on Judiciary I met at 1:00 PM on May 23, 2018 in Room 415. Representatives Arp, Davis, Howard, Martin, McNeill, Meyer, Rogers, Stevens, and Turner attended.

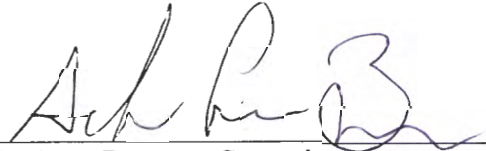
Representative Ted Davis presided. He welcomed the members of the Committee and thanked the House Sergeant at Arms, Pages, and guests for attending. Representative Davis explained why House Bill 969 was withdrawn from the meeting's agenda. He also explained that a PCS for SB 566 would be heard in committee. The Committee heard this bill in 2017 but was not reported out of the committee for the purpose of further amending.

Representative Davis relinquished the chair to Representative Stevens. Representative Stevens recognized Representative Davis to present **SB 566 Wrightsville Beach/Wilmington Deannex-Annex**. There was discussion about the bill, and Representative Arp motioned for unfavorable to the original bill, favorable to the PCS. The motion passed.

The meeting adjourned at 1:30 PM.



Representative Ted Davis Jr.
Presiding



Andrew Bowers, Committee Clerk





SENATE BILL 566: Wrightsville Beach/Wilmington Deannex-Annex.

2017-2018 General Assembly

Committee:	House Judiciary I	Date:	May 22, 2018
Introduced by:	Sens. Barringer, Tarte, Alexander	Prepared by:	Bill Patterson
Analysis of:	PCS to Second Edition S566-CSTG-38		Committee Co-Counsel

BILL ANALYSIS:

The PCS for Senate Bill 566 replaces the original contents of the bill with provisions that would:

- Remove the real property described in Section 1 from the corporate limits of the Town of Wrightsville Beach and include it within the corporate limits of the City of Wilmington.
- Remove the real property described in Section 2 from the corporate limits of the City of Wilmington and include it within the corporate limits of the Town of Wrightsville Beach.

EFFECTIVE DATE: This act becomes effective June 30, 2018. For taxable years beginning on or after July 1, 2018, the property being deannexed will be subject to taxes imposed by the municipality into which it is being annexed, and will no longer be subject to taxes imposed by the municipality from which it is being deannexed.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.



**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017**

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**SENATE BILL 566
Judiciary Committee Substitute Adopted 4/19/17
PROPOSED HOUSE COMMITTEE SUBSTITUTE S566-CSTG-38 [v.1]**

Short Title: Wrightsville Beach/Wilmington Deannex-Annex.

(Public)

Sponsors:

Referred to:

April 3, 2017

A BILL TO BE ENTITLED

AN ACT TO REMOVE DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE TOWN OF WRIGHTSVILLE BEACH AND TO ANNEX THAT PROPERTY TO THE CORPORATE LIMITS OF THE CITY OF WILMINGTON AND TO REMOVE DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE CITY OF WILMINGTON AND TO ANNEX THAT PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF WRIGHTSVILLE BEACH.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The following described property is removed from the corporate limits of the Town of Wrightsville Beach and added to the corporate limits of the City of Wilmington:

All of that certain tract or parcel of land being situate in New Hanover County, North Carolina and more particularly described as all of Lot 1 according to the map recorded in Map Book 40, at page 194 of the New Hanover County Registry.

SECTION 1.(b) This section becomes effective June 30, 2018. Property in the territory described in this section as of January 1, 2018, is no longer subject to municipal taxes for taxes imposed for taxable years beginning on or after July 1, 2018, by the Town of Wrightsville Beach. Property in the territory described by this section as of January 1, 2018, is subject to municipal taxes for taxes imposed for taxable years beginning on or after July 1, 2018, by the City of Wilmington.

SECTION 2.(a) The following described property is removed from the corporate limits of the City of Wilmington and added to the corporate limits of the Town of Wrightsville Beach:

All of that certain parcel of real property located in the City of Wilmington, New Hanover County, North Carolina containing 0.72 acres more or less, more particularly described as follows:

Commencing at an existing iron rod control point located in the southern right of way line of Wrightsville Avenue, a 100' wide public right of way, said point of beginning located in the north east corner of the tract of land described in the Deed recorded in Deed Book 6063, at Page 2703, said point being located the following two courses and distances from NCGS Monument "Pilgrim" located at N 173498.7430, E 2355050.5180: South 48° 58'42" East 354.63 feet to a control point in the southern right of way line of Wrightsville Avenue; South 88° 03'39" East 637.99 feet along said southern boundary of Wrightsville Avenue, the point of BEGINNING; running thence from said point of BEGINNING, South 25° 14' 23" West 231.91 feet along and with the boundary of that certain tract of land conveyed by



* S 5 6 6 - C S T G - 3 8 *

1 and described in the deed recorded in Deed Book 6063, at Page 2703 to an iron pipe found in a
2 corner of said boundary; thence leaving said boundary North 88°03'38" West 102.08 feet to an
3 iron pipe set; thence North 01°56' 21" East 213.00 feet to a point in the southern right of way
4 line of Wrightsville Avenue; thence along and with said right of way line of Wrightsville
5 Avenue, South 88° 03'39" East 193.81 feet to the place and point of BEGINNING.

6 **SECTION 2.(b)** This section becomes effective June 30, 2018. Property in the
7 territory described in this section as of January 1, 2018, is no longer subject to municipal taxes
8 for taxes imposed for taxable years beginning on or after July 1, 2018, by the City of
9 Wilmington. Property in the territory described by this section as of January 1, 2018, is subject
10 to municipal taxes for taxes imposed for taxable years beginning on or after July 1, 2018, by
11 the Town of Wrightsville Beach.

12 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes
13 law.

Committee Bill Action Sheet

Date: 5/23/2018

Committee: Judiciary I

Chair: Rep Ted Davis + Rep Sarah Stevens

Bill #: S 566

PCS: _____

Motion made before the committee by: _____

Rep. Davis explained the bill.

Discussion on the Bill YES or NO

Rep Arp motioned for:

_____ Favorable Report

_____ Adoption

_____ Unfavorable Report

✓ Unfavorable to original bill, fav to PCS

_____ No vote

Amendments: : _____

If Senate Bill who is floor manager: Davis

Serial referral to: _____

Speakers:

Handouts:



**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

**JUDICIARY I COMMITTEE REPORT
Representative Ted Davis, Jr., Chair**

FAVORABLE HOUSE COM SUB, UNFAVORABLE SENATE COM SUB

SB 566 (CS#1)

Postpone Assumed Name Revisions.

Draft Number: S566-PCS45536-TG-38

Serial Referral: None

Recommended Referral: None

Long Title Amended: Yes

Floor Manager: Davis

TOTAL REPORTED: 1



★ C M R 6 7 2 - V - 1 ★



Andrew Bowers (Rep. Ted Davis)

From: Andrew Bowers (Rep. Ted Davis)
Sent: Friday, June 01, 2018 12:46 PM
To: Rep. Jamie Boles, Jr; Rep. Ted Davis; Rep. Marvin Lucas; Rep. Craig Horn; Rep. George Cleveland; Rep. Jimmy Dixon; Rep. Phil Shepard; Rep. Susan Fisher; Rep. Pricey Harrison; Rep. Carla Cunningham; Rep. Bobbie Richardson; Rep. Pat Hurley; Rep. Rena Turner
Cc: Kerry Guice (Rep. Jamie Boles); Andrew Bowers (Rep. Ted Davis); Thelma Utley (Rep. Marvin Lucas); Erin Wilson (Rep. Craig Horn); Pamela Ahlin (Rep. George Cleveland); Michael Wiggins (Rep. Jimmy Dixon); Pamela Pate (Rep. Phil Shepard); Cindy Garrison (Rep. Susan Fisher); Rita Harris (Rep. Pricey Harrison); Sherrie Burnette (Rep. Carla Cunningham); Anna Meadows (Rep. Bobbie Richardson); Deborah Holder (Rep. Pat Hurley); Barbara Gaiser (Rep. Rena Turner)
Subject: <NCGA> House Judiciary I Committee Meeting Notice for Wednesday, June 06, 2018 at 1:00 PM
Attachments: Add Meeting to Calendar_LINC_.ics

NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2017-2018 SESSION

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Wednesday, June 6, 2018
TIME: 1:00 PM
LOCATION: 415 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 969</u>	Enhance Prison Security.	Representative Davis
		Representative Boles
<u>HB 1025</u>	GSC Technical Corrections 2018.	Representative Davis
<u>HB 1036</u>	PED Lottery Recommendations.	Representative Horn
		Representative Lucas
<u>HB 1037</u>	Superior Court District 4.	Representative Dixon
		Representative Cleveland
		Representative Shepard
<u>HB 1038</u>	Healthy Mother & Child/Shackling Prohibition.	Representative B. Richardson
		Representative Cunningham
		Representative Harrison
		Representative Fisher



HB 1041

VIPER - Survey/Outreach/In-Kind
Contributions.

Representative Hurley
Representative R. Turner
Representative Lucas

Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 12:45 PM on Friday,
June 01, 2018.

____ Principal Clerk
____ Reading Clerk – House Chamber

Andrew Bowers (Committee Assistant)



Andrew Bowers (Rep. Ted Davis)

From: Andrew Bowers (Rep. Ted Davis)
Sent: Monday, June 04, 2018 01:21 PM
To: Rep. Jamie Boles, Jr; Rep. Ted Davis; Rep. Marvin Lucas; Rep. Craig Horn
Cc: Kerry Guice (Rep. Jamie Boles); Andrew Bowers (Rep. Ted Davis); Thelma Utley (Rep. Marvin Lucas); Erin Wilson (Rep. Craig Horn)
Subject: <NCGA> House Judiciary I Committee Meeting Notice for Wednesday, June 06, 2018 at 1:00 PM - UPDATED #1
Attachments: Add Meeting to Calendar_LINC_ics

Updated #1: House Bills 1037, 1038, and 1041 were removed. House Bill 1022 was added.

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Wednesday, June 6, 2018
TIME: 1:00 PM
LOCATION: 415 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 969</u>	Enhance Prison Security.	Representative Davis
		Representative Boles
<u>HB 1022</u>	Collaborative Law.	Representative Davis
<u>HB 1025</u>	GSC Technical Corrections 2018.	Representative Davis
<u>HB 1036</u>	PED Lottery Recommendations.	Representative Horn
		Representative Lucas



Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 1:18 PM on Monday, June 04, 2018.

___ Principal Clerk

___ Reading Clerk – House Chamber

Andrew Bowers (Committee Assistant)



**House Committee on Judiciary I
Wednesday, June 6, 2018, 1:00 PM
415 Legislative Office Building**

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 969	Enhance Prison Security.	Representative Davis
		Representative Boles
HB 1022	Collaborative Law.	Representative Davis
HB 1025	GSC Technical Corrections 2018.	Representative Davis
HB 1036	PED Lottery Recommendations.	Representative Horn
		Representative Lucas

Presentations

Other Business

Adjournment



House Committee on Judiciary I
Wednesday, June 6, 2018 at 1:35 PM
Room 415 of the Legislative Office Building

MINUTES

The House Committee on Judiciary I met at 1:35 PM on June 6, 2018 in Room 415 of the Legislative Office Building. Representatives Davis, Stevens, R. Turner, Farmer-Butterfield, Howard, G. Martin, McNeill, Meyer, Rogers, and Steinburg attended.

Representative Sarah Stevens presided.

The following bills were considered:

HB 1036 PED Lottery Recommendations. (Representatives Horn, Lucas). Representative Stevens called Representative Craig Horn to present HB 1036. Representative Horn explained the bill. There was no discussion. Representative Graig Meyer made a motion for a favorable report to the original bill with a serial referral to the Committee on Education K-12. The motion carried.

HB 969 Enhance Prison Security. (Representatives Davis, Boles). HB 969 was removed from the agenda.


HB 1022 Collaborative Law. (Representative Davis). Representative Stevens called Representative Ted Davis to present HB 1022. Representative Davis asked Floyd Lewis from Bill Drafting to explain the bill. There was no discussion. Representative Graig Meyer motioned for a favorable report to the original bill. The motion carried.

HB 1025 GSC Technical Corrections 2018. (Representative Davis). Representative Stevens called Representative Ted Davis to present HB 1025. Representative Davis asked Bly Hall from Bill Drafting to explain the bill. There was no discussion. Representative Graig Meyer made a motion for a favorable report to the original bill with a serial referral to the Committee for Rules, Calendar, and Operations of the House. The motion carried.

The meeting adjourned at 1:50 PM.



Representative Sarah Stevens
Presiding



Andrew Bowers, Committee Clerk





HOUSE BILL 1036: PED Lottery Recommendations.

2017-2018 General Assembly

Committee:	House Judiciary I. If favorable, re-refer to Education - K-12	Date:	June 4, 2018
Introduced by:	Reps. Horn, Lucas	Prepared by:	Jason Moran-Bates
Analysis of:	First Edition		Staff Attorney

OVERVIEW: *House Bill 1036 would require the Lottery Commission to establish targets for growing retailer participation in the lottery, methods to achieve those targets, and advertising techniques that maximize revenue and minimize expenses. In addition, the Commission would be directed to study and report on advertising effectiveness and methods to increase sales revenue.*

[As introduced, this bill was identical to S790, as introduced by Sens. Waddell, Fitch, Tarte, which is currently in Senate Rules and Operations of the Senate.]

CURRENT LAW: Currently, the Lottery Commission is not required to target optimal growth of retailer participation or report on efforts to measure the effectiveness of advertising.

BILL ANALYSIS:

Section 1.1 of the bill would amend G.S. 18C-114 to give the Lottery Commission the power to establish targets and implement strategies to achieve optimal retailer growth and participation in the lottery.

Section 1.2 of the bill would require the Lottery Commission to submit an annual report to the Joint Legislative Oversight Committee on the North Carolina State Lottery and the Fiscal Research Division on the results of all efforts undertaken to grow retailer participation and a summary of advertising effectiveness for the lottery.

Section 2 of the bill would require the Lottery Commission to study and report on methods to increase sales revenue and funds transferred to the Education Lottery Fund. This study must include at least:

- Methods to expand retail outlets.
- An evaluation of the incentives and compensation paid to lottery retailers.
- The impact of changing incentives for retailers with the goal of placing North Carolina in the top ten states for lottery retailers per capita.
- The cost to retailers of participation in the lottery.
- All of the above factors in comparison with other states.

Section 3 of the bill would amend G.S. 18C-130 to require the Lottery Commission to use advertising methods that maximize revenue generation while minimizing expenses.

EFFECTIVE DATE: This act would be effective when it becomes law.

Matthew Meinig of Bill Drafting substantially contributed to this summary.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 1036*

Short Title: PED Lottery Recommendations. (Public)

Sponsors: Representatives Horn and Lucas (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I, if favorable, Education - K-12

May 31, 2018

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES TO THE NORTH CAROLINA STATE
3 LOTTERY, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM
4 EVALUATION OVERSIGHT COMMITTEE.

5 The General Assembly of North Carolina enacts:

6 SECTION 1.1. G.S. 18C-114 reads as rewritten:

7 "§ 18C-114. Powers and duties of the Commission.

8 (a) The Commission shall have the following powers and duties:

9 ...

10 (9) To specify the manner of distribution, dissemination, or sale of lottery tickets
11 or shares to lottery game retailers or directly to the public.

12 (10) To determine the incentives, if any, for any lottery employees, lottery retailers,
13 lottery contractors, or electronic computer terminal operators.

14 (10a) To establish targets and implement strategies for optimal growth and density
15 of lottery retailer participation.

16"

17 SECTION 1.2. G.S. 18C-115 is amended by adding a new subsection to read:

18 "(c) Annual Reporting. – The Commission shall submit an annual report on or before
19 December 1 to the Joint Legislative Oversight Committee on the North Carolina State Lottery
20 and the Fiscal Research Division. The report shall include all of the following:

21 (1) A detailed summary of the targets and efforts to grow lottery retailer
22 participation pursuant to G.S. 18C-114(a)(10a) and the amount of growth
23 attained during the previous year.

24 (2) A detailed summary of all efforts undertaken to measure the effectiveness of
25 proposed and utilized advertising upon the sales and revenue realized by the
26 lottery."

27 SECTION 2.1.(a) The Legislative Research Commission (LRC) shall study methods
28 to increase sales revenue and funds transferred to the Education Lottery Fund. The study shall
29 include at least all of the following:

30 (1) Methods to expand the number of lottery outlets and retailers.

31 (2) An evaluation of the amount of incentives and compensation paid to lottery
32 retailers and a comparison to incentives and compensation paid by other state
33 lottery programs.

34 (3) The potential impact of changing the structure of retailer incentives and
35 compensation upon the ability of the North Carolina State Lottery



Commission to expand the number of lottery retailers and outlets, per capita, to the level of the lotteries of the top 10 states.

(4) The cost to lottery retailers for participation in the North Carolina State Lottery, including, but not limited to, cash payout of prizes, technology, security, labor costs, the cost of prepayment for tickets, and the impact on the costs of lottery retailers in the sale of other products.

(5) A comparison of the North Carolina State Lottery to other state lotteries since 2005 with respect to the number of lottery retailers and outlets, incentives and compensation paid to retailers, and costs to retailers for participation in the lottery.

SECTION 2.1.(b) The LRC shall report its findings, together with any proposed legislation on or before December 1, 2018, to the 2019 Regular Session of the 2019 General Assembly upon its convening.

SECTION 3.1. G.S. 18C-130 reads as rewritten:

"§ 18C-130. Types of lottery games; lottery games and lottery advertising; certain disclosures and information to be provided.

...

(e) Lottery advertising shall be tastefully designed and presented in a manner to minimize the appeal of lottery games to minors. The use of cartoon characters or of false, misleading, or deceptive information in lottery advertising is prohibited. All advertising promoting the sale of lottery tickets or shares for a particular game shall include the actual or estimated overall odds of winning the game.

(e1) The Commission shall select advertising methods that maximize revenue generation while minimizing the expenses of the lottery by utilizing data to assess the impact of different advertising strategies and forms of advertisement upon the amount of lottery sales.

...."

SECTION 4.1. This act is effective when it becomes law.

Committee Bill Action Sheet

Date: 9/6/2018

Committee: Judiciary I

Chair: Rep Sarah Stevens

Bill #: H 1036

PCS: _____

Motion made before the committee by: _____

Rep. Horn explained the bill.

Discussion on the Bill YES or NO

Rep Meyer motioned for:

☒ Favorable Report

_____ Adoption

_____ Unfavorable Report

_____ Unfavorable to original bill, fav to PCS

_____ No vote

Amendments: : _____

If Senate Bill who is floor manager: _____

Serial referral to: Ed K-12

Speakers:

Handouts:





General Statutes Commission

300 N. Salisbury Street, Suite 401
Raleigh, NC 27603-5925
Tel. 919-733-6660 Fax 919-715-5459

Floyd M. Lewis
Revisor of Statutes

P. Bly Hall
Assistant Revisor of Statutes

MEMORANDUM

To: House Judiciary I
From: General Statutes Commission
Re: HB 1022 (Collaborative Law)
Date: June 4, 2018

General Comments

Collaborative law is a voluntary alternative dispute resolution process in which parties make a good faith effort to resolve their dispute without the intervention of a court or other tribunal. A person is not required to participate in a collaborative law process, and any party can terminate the process at any time with or without cause. A distinctive feature of collaborative law is that the parties sign a collaborative law participation agreement, are represented by their lawyers (termed "collaborative lawyers") during the process, and agree at the beginning of the process that if they fail to negotiate a resolution of their dispute, they will each be required to retain new lawyers for any subsequent litigation relating to the collaborative matter. Collaborative law adds an additional arrow to the quiver of alternative dispute resolution procedures recognized in this State.

This bill is a modified version of the Uniform Collaborative Law Act as approved in 2009, and amended in 2010, by the Uniform Law Commission. To date, sixteen states and the District of Columbia have adopted the Act, by statute or court rule, and this year two states have introduced the Act and a third has proposed adoption of the Act by court rule.

Collaborative law is not new to this State. In 2003, the General Assembly authorized collaborative law procedures for the resolution of divorce and family law disputes as set forth in Article 4 of Chapter 50 of the General Statutes, G.S. 50-70 through 50-79. This bill leaves in place the collaborative law procedures for family law disputes but extends the availability of collaborative law to other areas of the law, beyond family law matters.

The bill establishes a statutory framework for the collaborative law process, with the following key features:

- Requires a lawyer to provide specified information to a client to assure that the client makes an informed decision as to whether to enter into the collaborative law process.
- Establishes minimum requirements for a collaborative law participation agreement.
- Defines when a collaborative law process begins and ends.
- Provides that the filing of a notice of a collaborative law process operates as a stay of any pending proceeding and precludes a court or other tribunal from dismissing the proceeding without giving the collaborative lawyers an opportunity to be heard.
- Allows a court or other tribunal, during a collaborative law process, to issue emergency orders to protect the health, safety, welfare, or interest of a party or otherwise preserve the status quo.
- Disqualifies a collaborative lawyer and a lawyer in an associated law firm from appearing before a court or other tribunal in a proceeding related to the collaborative matter, subject to certain exceptions.

- Encourages candor by the parties by providing for the confidentiality of collaborative law communications and privileges against their disclosure in later legal proceedings.

The Collaborative Law Committee of the Dispute Resolution Section of the North Carolina Bar Association participated in the drafting of this bill. A draft of the bill was widely circulated to individuals and groups believed to be interested in the topic, including other sections of the North Carolina Bar Association. The General Statutes Commission is not aware of any opposition to the bill.

Specific Comments

Section 1 adds a modified version of the Uniform Collaborative Law Act as new Article 53 of Chapter 1 of the General Statutes, consisting of §§ 1-641 through 1-663:

§ 1-641 provides that the Article may be cited as the Uniform Collaborative Law Act.

§ 1-642 defines key terms used in the Article, including “collaborative law process,” “collaborative matter,” and “collaborative law participation agreement.”

§ 1-643 provides that the Article, with certain exceptions, applies to a collaborative law participation agreement that meets the requirements of § 1-644 and is signed on or after the Article’s effective date. The Article does not apply to any claim or proceeding arising under Chapters 35A (Incompetency and Guardianship), 35B (Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act), or 50 (Divorce and Alimony) of the General Statutes. Family law matters will continue to be governed by the collaborative law procedures under Article 4 of Chapter 50 of the General Statutes. Individuals who cannot give informed consent are prohibited from being parties to a collaborative law process.

§ 1-644 establishes minimum requirements for a collaborative law participation agreement and allows the parties to agree to include in the agreement additional terms that are not inconsistent with the Article.

§ 1-645 specifies that participation in a collaborative law process is voluntary, specifies when and how the process begins and how it is concluded or terminated, and provides for the tolling of applicable statutes of limitations and other time limitations during the process. In general, a collaborative law process begins with the signing of a collaborative law participation agreement and concludes upon resolution of the collaborative matter or upon termination of the process.

§ 1-646 allows persons in a proceeding pending before a court or other tribunal to enter into a collaborative law process to attempt to resolve a collaborative matter related to the proceeding. The filing of a notice of the collaborative law process with the tribunal operates as a stay of the pending proceeding. The stay is qualified by § 1-647, which authorizes a tribunal to issue emergency orders notwithstanding the stay, and by § 1-648, which authorizes a tribunal to approve an agreement resulting from a collaborative law process.

The court or other tribunal may require the parties and their lawyers to provide a status report on the collaborative law process while the stay is in effect. The tribunal must provide the parties notice and an opportunity to be heard before dismissing the proceeding based on delay or failure to prosecute.

§ 1-647 allows a court or other tribunal to issue emergency orders to protect the health, safety, welfare, or interests of a party or otherwise preserve the status quo during the collaborative law process.

§ 1-648 allows a court or other tribunal to approve an agreement resulting from a collaborative law process.

§ 1-649 disqualifies a collaborative lawyer and a lawyer in the same law firm from appearing before a tribunal to represent a party in a proceeding related to the collaborative matter, subject to certain exceptions in this section and in §§ 1-647, 1-650, and 1-651. The disqualification does not apply if the lawyer represents a party (i) to seek the tribunal's approval of an agreement resulting from the collaborative law process or (ii) to seek or defend an emergency order to protect the health, safety, welfare, or interest of a party or otherwise preserve the status quo.

§ 1-650 limits the lawyer disqualification requirement to the individual collaborative lawyer so that another lawyer in the same law firm may represent a low-income party in the collaborative matter or a matter related to the collaborative matter after the conclusion of the collaborative law process if (i) the party qualifies for free legal representation under criteria established by the law firm, (ii) the collaborative law participation agreement so provides, and (iii) the collaborative lawyer is isolated from further participation in the matter.

§ 1-651 additionally limits the lawyer disqualification requirement by allowing another lawyer in the same law firm to represent a governmental entity in the collaborative matter or a related matter after the conclusion of the collaborative law process if (i) the collaborative law participation agreement so provides and (ii) the collaborative lawyer is isolated from further participation in the matter.

§ 1-652 requires parties to disclose relevant information during the collaborative law process without formal discovery requests and to update information previously disclosed that has materially changed. The parties may define the scope and terms of the disclosure during the collaborative law process.

§ 1-653 provides that the Article does not affect the professional responsibility obligations and standards applicable to a lawyer or other licensed professional.

§ 1-654 requires a prospective collaborative lawyer to obtain the informed consent of a prospective party to participate in a collaborative law process by requiring the lawyer to:

- Assess with the prospective party whether a collaborative law process is appropriate for the prospective party's matter.
- Provide the prospective party with information that the lawyer reasonably believes is sufficient for the party to make an informed decision about the material benefits and risks of a collaborative law process as compared to other forms of dispute resolution.
- Inform the prospective party about (i) the voluntary nature of the collaborative law process and the right of any party to terminate it with or without cause, (ii) what terminates a collaborative law process, and (iii) the lawyer disqualification requirements.

§ 1-655 provides that a person incurs no liability for the person's decision to participate or not to participate in a collaborative law process.

§ 1-656 provides that collaborative law communications generally may not be disclosed to anyone other than a party, a party's collaborative lawyer, or a nonparty participant (such as an expert), except to the extent agreed by the parties in a signed record or as otherwise required by law.

§ 1-657 provides that collaborative law communications of a party or a nonparty participant are privileged, are not subject to discovery, and are not admissible in evidence, subject to the waiver and preclusion of privilege under § 1-658 and the limits of privilege under § 1-659. However, evidence or information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely because of its disclosure or use in a collaborative law process.

§ 1-658 (i) provides for the express waiver of the privilege under § 1-657 and (ii) prevents assertion of that privilege by a person that reveals a collaborative law communication which prejudices another person in a proceeding, but only to the extent necessary for the person prejudiced to respond to the disclosure.

§ 1-659 provides specific exceptions to the privilege for collaborative law communications under § 1-657 based on important countervailing public policies such as the prevention of bodily injury or a crime.

§ 1-660 allows a court or other tribunal to enforce an agreement resulting from a collaborative law process despite the failure of a lawyer to draft a valid collaborative law participation agreement or to obtain the client's informed consent to participate in the collaborative law process. The tribunal must find that the parties signed a document or other record indicating an intention to enter into a collaborative law participation agreement and reasonably believed they were participating in a collaborative law process. If the tribunal makes these findings and the interests of justice require, the tribunal may enforce the agreement that resulted from the process and may apply the lawyer disqualification requirement and the privilege against disclosure of collaborative law communications.

§ 1-661 allows parties to a collaborative law process to agree to use other nonadversarial forms of alternative dispute resolution to settle a collaborative matter and allows the parties' collaborative lawyers to serve as counsel for those forms of alternative dispute resolution.

§ 1-662 and § 1-663 are standard uniform act provisions relating to uniformity of application and construction and to the federal Electronic Signatures in Global and National Commerce (ESIGN) Act, respectively.

Section 2 is a severability provision, and **Section 3** authorizes the printing of official and drafters' comments.

Section 4 provides that the act becomes effective October 1, 2018.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 1022

Short Title: Collaborative Law.

(Public)

Sponsors: Representative Davis.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I

May 28, 2018

A BILL TO BE ENTITLED
AN ACT TO ENACT THE UNIFORM COLLABORATIVE LAW ACT, AS
RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 1 of the General Statutes is amended by adding a new Article
to read:

"Article 53.

"Uniform Collaborative Law Act.

"§ 1-641. Short title.

This Article may be cited as the Uniform Collaborative Law Act.

"§ 1-642. Definitions.

The following definitions apply in this Article:

- (1) Collaborative law communication. – A statement, whether oral or in a record, or verbal or nonverbal, that does all of the following:
 - a. Is made to conduct, participate in, continue, or reconvene a collaborative law process.
 - b. Occurs after the parties sign a collaborative law participation agreement and before the collaborative law process is concluded.
- (2) Collaborative law participation agreement. – An agreement by persons to participate in a collaborative law process under this Article.
- (3) Collaborative law process. – A procedure intended to resolve a collaborative matter without intervention by a tribunal in which persons do all of the following:
 - a. Sign a collaborative law participation agreement.
 - b. Are represented by collaborative lawyers.
- (4) Collaborative lawyer. – A lawyer who represents a party in a collaborative law process.
- (5) Collaborative matter. – A dispute, transaction, claim, problem, or issue for resolution, including a dispute, claim, or issue in a proceeding, which is described in a collaborative law participation agreement.
- (6) Law firm. – Any of the following:
 - a. Lawyers who practice law together in a partnership, professional corporation, sole proprietorship, limited liability company, or association.



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- 1 b. Lawyers employed in a legal services organization, or the legal
2 department of a corporation or other organization, or the legal
3 department of a government or governmental subdivision, agency, or
4 instrumentality.
- 5 (7) Nonparty participant. – A person, other than a party and the party's
6 collaborative lawyer, that participates in a collaborative law process.
- 7 (8) Party. – A person that signs a collaborative law participation agreement and
8 whose consent is necessary to resolve a collaborative matter.
- 9 (9) Person. – An individual, corporation, business trust, estate, trust, partnership,
10 limited liability company, association, joint venture, public corporation,
11 government or governmental subdivision, agency, or instrumentality, or any
12 other legal or commercial entity.
- 13 (10) Proceeding. – Any of the following:
- 14 a. A judicial, administrative, arbitral, or other adjudicative process
15 before a tribunal, including related prehearing and post-hearing
16 motions, conferences, and discovery.
- 17 b. A legislative hearing or similar process.
- 18 (11) Prospective party. – A person that discusses with a prospective collaborative
19 lawyer the possibility of signing a collaborative law participation agreement.
- 20 (12) Record. – Information that is inscribed on a tangible medium or that is stored
21 in an electronic or other medium and is retrievable in perceivable form.
- 22 (13) Related to the collaborative matter. – Involving the same transaction or
23 occurrence, nucleus of operative fact, dispute, claim, or issue as the
24 collaborative matter.
- 25 (14) Sign. – With present intent to authenticate or adopt a record to do any of the
26 following:
- 27 a. Execute or adopt a tangible symbol.
- 28 b. Attach to or logically associate with the record an electronic symbol,
29 sound, or process.
- 30 (15) Tribunal. – Any of the following:
- 31 a. A court, arbitrator, administrative agency, or other body acting in an
32 adjudicative capacity which, after presentation of evidence or legal
33 argument, has jurisdiction to render a decision affecting a party's
34 interests in a matter.
- 35 b. A legislative body conducting a hearing or similar process.

36 **"§ 1-643. Applicability; restrictions.**

37 (a) Except as provided in subsection (b) of this section, this Article applies to a
38 collaborative law participation agreement that meets the requirements of G.S. 1-644 signed on
39 or after the effective date of this act.

40 (b) This Article does not apply to any claim or proceeding arising under Chapter 35A,
41 35B, or 50 of the General Statutes.

42 (c) Minors, unborn individuals, and individuals who are incompetent shall not be parties
43 to a collaborative law process.

44 **"§ 1-644. Collaborative law participation agreement; requirements.**

45 (a) A collaborative law participation agreement must meet all of the following
46 requirements:

- 47 (1) Be in a record.
- 48 (2) Be signed by the parties and their collaborative lawyers.
- 49 (3) State the parties' intention to resolve a collaborative matter through a
50 collaborative law process under this Article.
- 51 (4) Describe the nature and scope of the collaborative matter.

- (5) Identify the collaborative lawyer who represents each party in the collaborative law process.
- (6) Contain a statement by each collaborative lawyer confirming the collaborative lawyer's representation of a party in the collaborative law process.
- (7) State that the collaborative lawyers are disqualified from representing their respective parties in a proceeding before a tribunal related to the collaborative matter, except as provided in G.S. 1-647, 1-649(c), 1-650, or 1-651.
- (8) Provide an address for each party where any notice required under this Article may be sent.
- (b) Parties may agree to include in a collaborative law participation agreement additional provisions not inconsistent with this Article.
- "§ 1-645. Beginning and concluding collaborative law process; tolling of time periods.**
- (a) Participation in a collaborative law process is voluntary. A collaborative law process begins when the parties sign a collaborative law participation agreement.
- (b) A tribunal shall not order a person to participate in a collaborative law process over that person's objection.
- (c) A collaborative law process is concluded by any of the following:
- (1) Resolution of a collaborative matter as evidenced by a signed record.
- (2) Resolution of a part of the collaborative matter, evidenced by a signed record, in which the parties agree that the remaining parts of the collaborative matter will not be resolved in the collaborative law process.
- (3) Termination of the process.
- (d) A collaborative law process terminates upon the occurrence of any of the following:
- (1) When a party or collaborative lawyer gives notice to all other parties in a record that the collaborative law process is ended.
- (2) When a party does any of the following:
- a. Begins a proceeding related to the collaborative matter without the agreement of all parties, except as provided in G.S. 1-647.
- b. In a pending proceeding related to the collaborative matter, does any of the following:
1. Without the agreement of all parties, initiates a pleading, motion, order to show cause, or request for a conference with the tribunal, except as provided in G.S. 1-647.
2. Requests that the proceeding be put on the tribunal's active calendar.
- (3) Except as otherwise provided in subsection (g) of this section, when a party discharges a collaborative lawyer or a collaborative lawyer withdraws from further representation of a party.
- (e) A party's collaborative lawyer shall give prompt notice to all other parties in a record of a discharge or withdrawal.
- (f) A party may terminate a collaborative law process with or without cause.
- (g) Notwithstanding the discharge or withdrawal of a collaborative lawyer, a collaborative law process continues, if not later than 30 days after the date that the notice of the discharge or withdrawal of a collaborative lawyer required by subsection (e) of this section is sent to the parties, all of the following occur:
- (1) The unrepresented party engages a successor collaborative lawyer.
- (2) In a signed record, all of the following occur:
- a. The parties consent to continue the collaborative law process by reaffirming the collaborative law participation agreement.
- b. The collaborative law participation agreement is amended to identify the successor collaborative lawyer.

c. The successor collaborative lawyer confirms the lawyer's representation of a party in the collaborative law process and adherence to the collaborative law participation agreement.

(h) A collaborative law process does not conclude if, with the consent of the parties, a party requests a tribunal to approve a resolution of the collaborative matter or any part thereof as evidenced by a signed record.

(i) A collaborative law participation agreement may provide additional methods of concluding a collaborative law process.

(j) A collaborative law participation agreement tolls all legal time periods applicable to legal rights and issues under law between the parties from the time the parties sign a collaborative law participation agreement until terminated as set forth in this subsection. This subsection applies to any applicable statutes of limitations, statutes of repose, filing deadlines, or other time limitations imposed by law, court rule, or court order. The tolling period continues until terminated by any party delivering notice to all other parties of an intent to terminate the tolling period. The notice shall be delivered by hand delivery or by certified mail, return receipt requested, to all other parties, and the tolling period terminates 30 days after receipt by the last party to receive the notice.

"§ 1-646. Proceedings pending before tribunal; status report.

(a) Persons in a proceeding pending before a tribunal may sign a collaborative law participation agreement to seek to resolve a collaborative matter related to the proceeding. The parties shall file promptly with the tribunal a notice of the collaborative law participation agreement after it is signed. Subject to subsection (c) of this section and G.S. 1-647 and G.S. 1-648, the filing operates as a stay of the proceeding as to the parties in the collaborative law process as long as the parties are in that process.

(b) The parties shall file promptly with the tribunal notice in a record when a collaborative law process concludes. The stay of the proceeding under subsection (a) of this section is lifted when the notice is filed. The notice shall not specify any reason for termination of the collaborative law process.

(c) A tribunal in which a proceeding is stayed under subsection (a) of this section may require the parties and collaborative lawyers to provide a status report on the collaborative law process and the proceeding. A status report may include only information on whether the collaborative law process is ongoing or concluded. It shall not include a report, assessment, evaluation, recommendation, finding, or other communication regarding a collaborative law process or collaborative matter.

(d) A tribunal shall not consider a communication made in violation of subsection (c) of this section.

(e) A tribunal shall provide parties notice and an opportunity to be heard before dismissing a proceeding in which a notice of collaborative law process is filed based on delay or failure to prosecute.

"§ 1-647. Emergency order.

During a collaborative law process, a party may begin a proceeding and a tribunal may issue emergency orders upon motion of a party in that or an already pending proceeding to protect the health, safety, welfare, or interest of a party or otherwise preserve the status quo.

"§ 1-648. Approval of agreement by tribunal.

A tribunal may approve an agreement resulting from a collaborative law process.

"§ 1-649. Disqualification of collaborative lawyer and lawyers in associated law firm.

(a) Except as otherwise provided in subsection (c) of this section and G.S. 1-647, a collaborative lawyer is disqualified from appearing before a tribunal to represent a party in a proceeding related to the collaborative matter.

(b) Except as otherwise provided in subsection (c) of this section and G.S. 1-647, 1-650, and 1-651, a lawyer in a law firm with which the collaborative lawyer is associated is disqualified

1 from appearing before a tribunal to represent a party in a proceeding related to the collaborative
2 matter if the collaborative lawyer is disqualified from doing so under subsection (a) of this
3 section.

4 (c) A collaborative lawyer or a lawyer in a law firm with which the collaborative lawyer
5 is associated may represent a party to do any of the following:

6 (1) To ask a tribunal to approve an agreement resulting from the collaborative law
7 process.

8 (2) To seek or defend an emergency order in either a pending or newly filed
9 proceeding to protect the health, safety, welfare, or interest of a party, or
10 otherwise preserve the status quo.

11 (d) If subdivision (c)(2) of this section applies, a collaborative lawyer, or lawyer in a law
12 firm with which the collaborative lawyer is associated, may continue to represent a party:

13 (1) Until the party is represented by a successor lawyer or for no more than 30
14 days after the date any action is taken under subdivision (c)(2) of this section,
15 whichever occurs first; or

16 (2) If the parties consent to continue the collaborative law process subject to any
17 emergency order which may have been entered, in which event, any
18 proceeding as referenced in subdivision (c)(2) of this section shall be stayed
19 as provided in G.S. 1-646.

20 **"§ 1-650. Low-income parties.**

21 (a) The disqualification under G.S. 1-649(a) applies to a collaborative lawyer
22 representing a party with or without fee.

23 (b) After a collaborative law process concludes, another lawyer in a law firm with which
24 a collaborative lawyer disqualified under G.S. 1-649(a) is associated may represent a party
25 without fee in the collaborative matter or a matter related to the collaborative matter if all of the
26 following apply:

27 (1) The party has an annual income that qualifies the party for free legal
28 representation under the criteria established by the law firm for free legal
29 representation.

30 (2) The collaborative law participation agreement so provides.

31 (3) The collaborative lawyer is isolated from any participation in the collaborative
32 matter or a matter related to the collaborative matter through procedures
33 within the law firm which are reasonably calculated to isolate the collaborative
34 lawyer from such participation.

35 **"§ 1-651. Governmental entity as party.**

36 (a) The disqualification under G.S. 1-649(a) applies to a collaborative lawyer
37 representing a party that is a government or governmental subdivision, agency, or
38 instrumentality.

39 (b) After a collaborative law process concludes, another lawyer in a law firm with which
40 the collaborative lawyer is associated may represent a government or governmental subdivision,
41 agency, or instrumentality in the collaborative matter or a matter related to the collaborative
42 matter if all of the following apply:

43 (1) The collaborative law participation agreement so provides.

44 (2) The collaborative lawyer is isolated from any participation in the collaborative
45 matter or a matter related to the collaborative matter through procedures
46 within the law firm which are reasonably calculated to isolate the collaborative
47 lawyer from such participation.

48 **"§ 1-652. Disclosure of information.**

49 (a) Except as provided by subsection (b) of this section or by law other than this Article,
50 during the collaborative law process, on the request of another party, a party shall make timely,
51 full, candid, and informal disclosure of all relevant information related to the collaborative matter

without formal discovery. A party also shall update promptly previously disclosed information that has materially changed.

(b) The parties may define the scope and terms of the disclosure during the collaborative law process.

"§ 1-653. Standards of professional responsibility not affected.

This Article does not affect the professional responsibility, obligations, and standards applicable to a lawyer or other licensed professional, including rules governing the confidentiality of information acquired by a lawyer during the professional relationship with a client.

"§ 1-654. Informed consent.

Before a prospective party signs a collaborative law participation agreement, a prospective collaborative lawyer shall do all of the following:

- (1) Assess with the prospective party factors the lawyer reasonably believes relate to whether a collaborative law process is appropriate for the prospective party's matter.
- (2) Provide the prospective party with information that the lawyer reasonably believes is sufficient for the prospective party to make an informed decision about the material benefits and risks of a collaborative law process as compared to the material benefits and risks of other reasonably available alternatives for resolving the proposed collaborative matter, such as litigation, mediation, arbitration, or expert evaluation. The information provided shall include the respective rules regarding privilege and confidentiality that apply to each of the alternative means of resolving disputes.
- (3) Advise the prospective party that:
 - a. After signing a collaborative law participation agreement, if a party initiates a proceeding or seeks tribunal intervention in a pending proceeding related to the collaborative matter, the collaborative law process terminates, except as provided in G.S. 1-647.
 - b. Participation in a collaborative law process is voluntary and any party has the right to terminate unilaterally a collaborative law process with or without cause.
 - c. The collaborative lawyer and any lawyer in a law firm with which the collaborative lawyer is associated shall not appear before a tribunal to represent a party in a proceeding related to the collaborative matter, except as authorized by G.S. 1-647, 1-649(c), 1-650(b), or 1-651(b).

"§ 1-655. No liability for decision to participate.

No person incurs liability, either individually or in any fiduciary, official, or other capacity, with regard to the person's decision to participate or not to participate in a collaborative law process.

"§ 1-656. Confidentiality of collaborative law communication.

A collaborative law communication shall not be disclosed to anyone other than a party, a party's collaborative lawyer, or a nonparty participant except to the extent agreed by the parties in a signed record or as provided by law of this State other than this Article.

"§ 1-657. Privilege against disclosure for collaborative law communication; admissibility; discovery.

(a) Subject to G.S. 1-658 and G.S. 1-659, a collaborative law communication is privileged under subsection (b) of this section, is not subject to discovery, and is not admissible in evidence.

(b) In a proceeding, the following privileges apply:

- (1) A party may refuse to disclose, and may prevent any other person from disclosing, a collaborative law communication.

1 (2) A nonparty participant may refuse to disclose, and may prevent any other
2 person from disclosing, a collaborative law communication of the nonparty
3 participant.

4 (c) Evidence or information that is otherwise admissible or subject to discovery does not
5 become inadmissible or protected from discovery solely because of its disclosure or use in a
6 collaborative law process.

7 **"§ 1-658. Waiver and preclusion of privilege.**

8 (a) A privilege under G.S. 1-657 may be waived in a record or orally during a proceeding
9 if it is expressly waived by all parties and, in the case of the privilege of a nonparty participant,
10 it is also expressly waived by the nonparty participant.

11 (b) A person that makes a disclosure or representation about a collaborative law
12 communication which prejudices another person in a proceeding shall not assert a privilege under
13 G.S. 1-657, but this preclusion applies only to the extent necessary for the person prejudiced to
14 respond to the disclosure or representation.

15 **"§ 1-659. Limits of privilege.**

16 (a) There is no privilege under G.S. 1-657 for a collaborative law communication that is
17 any of the following:

18 (1) Available to the public under Chapter 132 of the General Statutes or made
19 during a session of a collaborative law process that is open, or is required by
20 law to be open, to the public.

21 (2) A threat or statement of a plan to inflict bodily injury or commit a crime of
22 violence.

23 (3) Intentionally used to plan a crime, commit or attempt to commit a crime, or
24 conceal an ongoing crime or ongoing criminal activity.

25 (4) In an agreement resulting from the collaborative law process, evidenced by a
26 record signed by all parties to the agreement.

27 (b) The privileges under G.S. 1-657 for a collaborative law communication do not apply
28 to the extent that a collaborative law communication is sought or offered to prove or disprove a
29 claim or complaint of professional misconduct or malpractice arising from or related to a
30 collaborative law process.

31 (c) There is no privilege under G.S. 1-657 if a tribunal finds, after a hearing in camera,
32 that the party seeking discovery or the proponent of the evidence has shown the evidence is not
33 otherwise available, the need for the evidence substantially outweighs the interest in protecting
34 confidentiality, and the collaborative law communication is sought or offered in any of the
35 following:

36 (1) A criminal action involving the prosecution of a felony.

37 (2) A proceeding seeking rescission or reformation of a contract arising out of the
38 collaborative law process or in which a defense to avoid liability on the
39 contract is asserted.

40 (d) If a collaborative law communication is subject to an exception under subsection (b)
41 or (c) of this section, only the part of the collaborative law communication necessary for the
42 application of the exception may be disclosed or admitted.

43 (e) Disclosure or admission of evidence excepted from the privilege under subsection (b)
44 or (c) of this section does not make the evidence or any other collaborative law communication
45 discoverable or admissible for any other purpose.

46 (f) The privileges under G.S. 1-657 do not apply if the parties agree in advance in a
47 signed record or, if a record of a proceeding reflects agreement by the parties, that all or part of
48 a collaborative law process is not privileged. This subsection does not apply to a collaborative
49 law communication made by a person that did not receive actual notice of the agreement before
50 the collaborative law communication was made.

51 **"§ 1-660. Authority of tribunal in case of noncompliance.**

(a) If an agreement fails to meet the requirements of G.S. 1-644 or a lawyer fails to comply with G.S. 1-654, a tribunal may nonetheless find that the parties intended to enter into a collaborative law participation agreement if they did both of the following:

(1) Signed a record indicating an intention to enter into a collaborative law participation agreement.

(2) Reasonably believed they were participating in a collaborative law process.

(b) If a tribunal makes the findings specified in subsection (a) of this section and the interests of justice require, the tribunal may do all of the following:

(1) Enforce an agreement evidenced by a record resulting from the collaborative law process in which the parties participated.

(2) Apply the disqualification provisions in G.S. 1-645, 1-646, 1-647, 1-649, 1-650, and 1-651.

(3) Apply a privilege under G.S. 1-657.

"§ 1-661. Alternative dispute resolution permitted.

Nothing in this Article prohibits the parties from using, by mutual agreement, other forms of nonadversarial alternate dispute resolution, including mediation, to reach a settlement on any of the issues included in the collaborative law participation agreement. The parties' collaborative lawyers may also serve as counsel for any form of nonadversarial alternate dispute resolution pursued as part of the collaborative law participation agreement so long as it is not a proceeding as that term is defined in G.S. 1-642(10).

"§ 1-662. Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

"§ 1-663. Relation to Electronic Signatures in Global and National Commerce Act.

This Article modifies, limits, or supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001, et seq., but does not modify, limit, or supersede Section 101(c) of that Act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that Act, 15 U.S.C. § 7003(b)."

SECTION 2. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and, to this end, the provisions of this act are severable.

SECTION 3. The Revisor of Statutes shall cause to be printed, as annotations to the published General Statutes, all relevant portions of the Official Comments to the Uniform Collaborative Law Act and all explanatory comments of the drafters of this act as the Revisor may deem appropriate.

SECTION 4. This act becomes effective October 1, 2018.

Committee Bill Action Sheet

Date: _____

Committee: Judiciary I

Chair: Rep Sarah Stevens

Bill #: H1022

PCS: _____

Motion made before the committee by: _____

Rep. Davis explained the bill.

Discussion on the Bill YES or NO

Rep Meyer motioned for:

☒ Favorable Report

_____ Adoption

_____ Unfavorable Report

_____ Unfavorable to original bill, fav to PCS

_____ No vote

Amendments: : _____

If Senate Bill who is floor manager: _____

Serial referral to: _____

Speakers:

Handouts:





General Statutes Commission

300 N. Salisbury Street, Suite 401
Raleigh, NC 27603-5925
Tel. 919-733-6660 Fax 919-715-5459

Floyd M. Lewis
Revisor of Statutes

P. Bly Hall
Assistant Revisor of Statutes

MEMORANDUM

To: House Judiciary I
From: General Statutes Commission
Re: HB 1025 (GSC Technical Corrections 2018)
Date: June 5, 2018

General Comments

Part I of this proposed committee substitute (PCS) contains corrections of a technical nature to the General Statutes and session laws, and Part II of this PCS contains corrections of a technical nature to the North Carolina Uniform Power of Attorney Act (Chapter 32C of the General Statutes), enacted by S.L. 2017-153, and conforming changes. Both parts are recommended by the General Statutes Commission.

These amendments (i) correct typographical, redlining, citation, spelling, and other obvious drafting errors, (ii) make conforming changes, (iii) make stylistic and formatting updates, (iv) alphabetize definitions, (v) replace legalese with plain English, (vi) make language gender neutral, (vii) add language to introduce lists, (viii) delete an extraneous definition, (ix) update references to the "Research Division" and "Bill Drafting Division" with the current names of the Legislative Analysis and Legislative Drafting Divisions, (x) modernize the numbering of a definition, (xi) repeal an obsolete article, and (xii) resolve an internal conflict in a statute.

Specific Comments

Part I consists of Sections 1 through 26.

Section 1 amends G.S. 14-50.41 to conform to a change in the title of Article 13B of Chapter 14 of the General Statutes by S.L. 2017-194, s. 14.

Section 2(a) amends G.S. 14-151 primarily to add language that is missing from subsection (e) because of a redlining error in S.L. 2013-88, s. 1. It also replaces legalese with plain English, makes language gender neutral, and updates the use of commas. **Section 2(b)** provides that this section applies prospectively.

Section 3(a) amends G.S. 20-9 by replacing legalese with plain English, making language gender neutral, fixing drafting errors, adding language to introduce a list, and making conforming changes, including changes to conform to the amendments to G.S. 20-37.7 by **Section 3(b)**. That subsection amends G.S. 20-37.7 primarily to remove "garbage language" in subdivision (d)(3) that was caused by a redlining error in S.L. 2013-381, s. 3.1. It also replaces legalese with plain English and adds language to introduce a list.

Section 4 updates G.S. 20-79.3A(c) and (d), 90-414.5(b), 120-30.49(a), 120-32.01, 120-36.6, Article 7B of Chapter 120 of the General Statutes, and G.S. 120-233(a) to reflect the current names of the Legislative Analysis and Legislative Drafting Divisions. It also adds the word "than" which is missing from G.S. 20-79.3A(d), replaces legalese with plain English in G.S. 90-414.5(b),

120-32.01 and 120-36.6, modernizes the format of a list in G.S. 120-30.49(a), makes "data base" one word in G.S. 120-32.01, and updates the use of commas in G.S. 120-36.6.

Section 5(a) repeals 1989, c. 168, s. 4, which would have amended G.S. 20-111 to change a reference to "G.S. 130A-290(4)" but instead quoted from G.S. 20-118(c)(10). The amendment thus was not codified. **Section 5(b)** resolves this issue by replacing "G.S. 130A-290(4)" with the correct reference "G.S. 130A-290(a)(8)" in G.S. 20-118(c)(10). It also alphabetizes a definitions list, replaces legalese with plain English, makes language gender neutral, fixes drafting errors, and updates the use of commas in G.S. 20-118.

Section 6(a) amends G.S. 24-10(c) primarily to change a reference to "G.S. 24-1.1(1)" to conform to the current numbering structure of G.S. 24-1.1. It also replaces legalese with plain English.

Section 6(b) amends G.S. 24-10(g) primarily to delete a reference to G.S. 24-1.2, which was repealed by S.L. 1998-119, s. 2, with no successor provision. It also replaces legalese with plain English and adds a missing comma. **Section 6(c)** amends G.S. 53-141 to delete another reference to G.S. 24-1.2.

Section 7(a) amends G.S. 39-23.1 primarily to delete the extraneous definition "voidable transaction" for Article 3A of Chapter 39 of the General Statutes, entitled the "Uniform Voidable Transactions Act." The term "voidable transaction" only appears in the title of the article. This subsection also updates the format of three lists.

Section 7(b) amends G.S. 39-23.8(b), (d), and (e) to add the word "from" that was mistakenly deleted from subsection (e) and to update the format of three lists.

Section 8(a) amends G.S. 44A-11.2 primarily to replace the incorrect word "affect" with "effect" in subsection (v). It also replaces legalese with plain English and fixes drafting errors. **Section 8(b)** provides that the amendments to G.S. 44A-11.2(v) become effective October 1, 2018, the postponed effective date of G.S. 44A-11.2(v). It also provides that the remainder of this section is effective when it becomes law.

Section 9 amends G.S. 48-3-303(g) to correct a typographical error by changing "replacement assessment" to "preplacement assessment."

Section 10(a) amends G.S. 53-208.45 primarily to conform to Article 14A of Chapter 66 of the General Statutes, entitled the "Assumed Business Name Act," which was enacted by S.L. 2016-100 and S.L. 2017-23. It also adds the word "the" which is missing from subdivision (a)(4), modernizes the format of two lists, fixes a drafting error, and replaces legalese with plain English.

Section 10(b) amends G.S. 53-208.56 to fix a citation error and to modernize the format of two lists.

Section 10(c) amends G.S. 53-208.62 to fix a typographical error in the phrase "or other person" in subsection (b) and to replace legalese with plain English.

Section 11 amends G.S. 59-32 primarily to modernize the numbering and format of the definitions. This section also fixes a drafting error and deletes an extraneous Roman numeral and comma.

Section 12 amends G.S. 89F-20(a), 89G-5, and 106-1041 to correct the misspelling "General Statues."

Section 13(a) amends G.S. 96-35, 143B-431.01(d)(1), 143B-431.01(f), 143B-434.2(d), 143B-435.1(d), 143B-437.02(k), 143B-437.012(m), 143B-438.10(a)(7a), 143B-438.10(a)(8), 143B-438.14(d), 143B-472.35(l), and 143B-1285(3) to delete an extraneous "the" that was added by Section 14.1(q), (r), and (s) of S.L. 2017-57.

Section 13(b) amends G.S. 115D-11.6 to substitute a list of legislative committees for the term "legislature." S.L. 2017-57, s. 14.1(o), made this substitution in G.S. 94-2, but G.S. 94-2 was repealed and replaced with G.S. 115D-11.6 by S.L. 2017-57, s. 15.13(b) and (c).

Section 13(c) amends G.S. 143B-434.01 primarily to delete duplicative references to legislative committees in subsection (l). It also modernizes the format of two lists, fixes a drafting error, adds the word "following" to improve intelligibility, and adds language to introduce a list.

Section 14 amends G.S. 106-702(b) to reflect that the plaintiff of a private nuisance action can be an entity and amends G.S. 106-702(c) to replace legalese with plain English.

Section 15 amends G.S. 113A-134.12 primarily to remove "garbage language" that was caused by conflicting amendment to this statute by S.L. 2015-241, s. 14.30(u), and S.L. 2017-10, s. 4.9. It also replaces "handicapped access" with "access for individuals with a disability" in subdivision (a)(10).

Section 16 amends G.S. 115C-296.2(b) to delete a duplicative reference to "the Division of Adult Correction and Juvenile Justice of the Department of Public Safety."

Section 17 recodifies G.S. 130A-26A as G.S. 130A-26.4, because G.S. 130A-26A is an invalid number under the General Statutes numbering system. It also modernizes punctuation in two lists and updates the use of commas.

Section 18 repeals Article 18A of Chapter 136 of the General Statutes, which consists of a compact that establishes the South Carolina and North Carolina Interstate Freight Rail Compact Commission. According to the Rail Division of the North Carolina Department of Transportation, this Article is obsolete because there is no longer a need for this Commission.

Section 19 amends G.S. 143-157.1(a) to delete the extraneous word "or" that was left in by S.L. 2007-167 and to replace legalese with plain English. It also amends G.S. 143-157.1(b) to fix a drafting error.

Section 20 amends G.S. 143-723 primarily to correct a citation to the article on open meetings law. It also replaces legalese with plain English.

Section 21 amends G.S. 150B-1(d)(6) to remove "garbage language" that was caused by two conflicting amendments to this subdivision by S.L. 2015-198, s. 3, and S.L. 2017-186, s. 2(dddddddd).

Section 22 amends G.S. 150B-21.11 to remove "garbage language" that was caused by two conflicting amendments to this statute by S.L. 2011-291, s. 2.59, and S.L. 2011-398, s. 7.

Section 23 makes two conforming changes that were missed last year when the substance of the Second Edition of House Bill 280 was transferred to S.L. 2017-57 (2017 budget bill) as

Section 16D.4. **Section 23(a)** amends Section 16D.4(dd) by replacing a reference to "subsections (a) and (b) of this section" with the correct reference to "subsections (bb) and (cc) of this section." **Section 23(b)** amends Section 16D.4(tt) by replacing two references to "this act" with correct references to "this section" and replacing a reference to "any particular section of this section" with the correct reference to "any particular subsection of this section."

Section 24(a) makes a date change in Section 36.7(b) of S.L. 2017-57 (2017 budget bill), which is applicable to the current fiscal biennium. S.L. 2017-206, s. 7(b), made the same date change in a parallel provision in S.L. 2015-241 (2015 budget bill), but that provision applied only during the 2015-2017 fiscal biennium. **Section 24(b)** repeals S.L. 2017-206, s. 7(b).

Section 25 amends Section 2(b) and 2(c) of S.L. 2017-137 to fix citations to other parts of the session law.

Section 26(a) amends Section 2 of S.L. 2017-174 to fix a citation error. **Section 26(b)** provides that this section is effective July 21, 2017, which matches the effective date of S.L. 2017-174.

Part II consists of Sections 27 through 36, which contain technical corrections to the North Carolina Uniform Power of Attorney Act (Chapter 32C of the General Statutes) and conforming changes.

Section 27(a) amends G.S. 32C-1-108(b) to remove a reference to the clerks of court "limit[ing]" a power of attorney, because G.S. 32C-1-116(b) expressly states that the clerks do not have jurisdiction to modify or amend a power of attorney. It also adds language to reference a guardian of the principal's estate and general guardian's power to terminate a power of attorney under G.S. 32C-1-110(a)(7) and power to terminate an agent's authority under G.S. 32C-1-110(b)(5).

Section 27(b) amends G.S. 32C-116 as follows:

- In subsection (a), this section removes a reference to the clerks of court "limit[ing]" a power of attorney, because G.S. 32C-1-116(b) expressly states that the clerks do not have jurisdiction to modify or amend a power of attorney.
- In subsection (c), this section clarifies that once proceedings relating to a power of attorney are commenced before the clerk of court using the procedures for estate proceedings under G.S. 28A-2-6, the proceeding continues to be conducted under the procedures for estate proceedings.
- In subsection (e), this section makes a technical correction to a verb.

Section 28(a) and (b) amends G.S. 32C-1-109(c) and G.S. 32C-1-116(f) to correct a citation error that appears in both statutes. In an earlier draft of the bill that was enacted as S.L. 2017-153, the definition of "incapacity" was located at subdivision (5) of G.S. 32C-1-102, but in the final version, that definition had been moved to subdivision (6). The reference to that definition in G.S. 32C-1-109(c) and G.S. 32C-1-116(f) were not corrected at that time.

Section 29 amends G.S. 32C-1-112 to conform a request for reimbursement by an agent under a power of attorney to the requirements of G.S. 32-59, which governs such requests by a fiduciary other than a trustee.

Section 30(a) amends G.S. 32C-1-114 to resolve an internal conflict in that statute. G.S. 32C-1-114(b) contains a list of default duties imposed on an agent in the exercise of a power granted to the agent in a power of attorney; these duties do not need to be included in a power of attorney but will apply unless the power of attorney expressly waives them. Subsection (b) was amended during the act's process through the General Assembly to add subdivision (7), a duty to account to the principal or a person designated by the principal in the power of attorney. However, the addition of subdivision (7) to the list of default duties conflicts with the provisions of subsection (h) of G.S. 32C-1-114, which provides in essence that the agent has no duty to account unless the power of attorney includes this duty or unless the agent is ordered to do so by a court or requested by a guardian of the estate of the principal or an executor or administrator of the estate of a deceased principal. This section resolves this conflict by deleting subdivision (b)(7) but including the principal or a person designated by the principal in subsection (h)'s list of persons who can obtain an accounting on request.

Section 30(b) amends G.S. 32C-3-301, which contains the statutory short form power of attorney, to conform to the amendment to G.S. 32C-1-114 in Section 30(a).

Section 31(a), (b), and (c) amend G.S. 32C-2-201, 32C-2-202, and 32C-2-203 to delete references to G.S. 32C-2-220, a statute that had been included in an earlier draft of the bill that was enacted as S.L. 2017-153, but was not included in the final version.

Section 32 amends G.S. 32C-3-303 to add a line that is missing from the statutory short form limited power of attorney for real property, specifically the line to indicate when the notary's commission expires.

Section 33 amends G.S. 32C-4-403(a)(4) to make it clear that when G.S. 32C-4-403(a)(1) states that Chapter 32C of the General Statutes applies to already-existing powers of attorney, that includes G.S. 32C-1-104, which reverses the prior law and provides that a power of attorney is durable unless it does not so state. The amendment also clarifies that G.S. 32C-1-104 is a rule of construction or presumption.

This section amends G.S. 32C-4-403(c) to correct an obvious drafting error. "References to prior statutes *and* powers of attorney" should have been "References to prior statutes *in* powers of attorney," and this section corrects that error.

Section 34 amends G.S. 47-43 to replace references to "attorney in fact" with "agent" to conform to new Chapter 32C of the General Statutes. It also replaces legalese with plain English and makes language gender-neutral.

Section 35(a) and (b) correct essentially the same error in G.S. 90-21.13(c) and G.S. 90-322(b), respectively, by removing a reference to new Chapter 32C of the General Statutes.

G.S. 90-21.13(c) contains a list of persons who are statutorily authorized to consent to medical care on behalf of a person who is comatose or lacks capacity to make his or her own decisions. G.S. 90-322(b) similarly contains a list of persons who may agree to the discontinuance of life-prolonging measures in the absence of a declaration of a desire for a natural death. Before the enactment of S.L. 2017-153 (which enacted Chapter 32C), each list included an entry for an attorney in fact under former Articles 1 or 2 of Chapter 32A of the General Statutes if the attorney in fact had the power to make health care decisions for the patient. S.L. 2017-153, ss. 2.6 and 2.7, made conforming amendments to those provisions by substituting the new term "agent" for

"attorney in fact" and updating the statutory references. However, new Chapter 32C prohibits a power of attorney governed by that Chapter from including the power to make health care decisions, so the conforming amendments were incorrect. Because some powers of attorney under the former statutes did have this power and remain valid, the proposed amendment simply removes the statutory reference.

Section 36 authorizes the Revisor of Statutes to include drafters' comments to the amendments in this Part.

The **final section** provides that except as otherwise provided, the act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

D

HOUSE BILL 1025
PROPOSED COMMITTEE SUBSTITUTE H1025-CSMN-4 [v.3]

06/04/2018 03:32:04 PM

Short Title: GSC Technical Corrections 2018.

(Public)

Sponsors:

Referred to:

May 30, 2018

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE GENERAL STATUTES, AS
3 RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

4 The General Assembly of North Carolina enacts:

5
6 **PART I. GENERAL TECHNICAL CORRECTIONS**

7 **SECTION 1.** G.S. 14-50.41 reads as rewritten:

8 **"§ 14-50.41. Short title.**

9 This Article shall be known and may be cited as the "~~North Carolina Street Gang Nuisance~~
10 ~~Abatement Act [North Carolina Criminal Gang Nuisance Abatement Act].~~" "North Carolina
11 Criminal Gang Nuisance Abatement Act."

12 **SECTION 2.(a)** G.S. 14-151 reads as rewritten:

13 **"§ 14-151. Interfering with gas, ~~electric~~ electric, and steam appliances or meters; penalties.**

14 (a) It ~~shall be~~ is unlawful for any person to willfully, with intent to injure or defraud,
15 commit any of the following acts:

16 (1) Connect a tube, pipe, ~~wire-wire~~, or other instrument or contrivance with a pipe
17 or wire used for conducting or supplying illuminating gas, fuel, natural ~~gas~~
18 gas, or electricity in such a manner as to supply ~~such the~~ the gas or electricity to
19 any burner, orifice, ~~lamp-lamp~~, or motor where the ~~same gas or electricity~~ is
20 or can be burned or used without passing through the meter or other instrument
21 provided for registering the quantity consumed.

22 (2) Obstruct, alter, bypass, tamper with, ~~injure-injure~~, or prevent the action of a
23 meter or other instrument used to measure or register the quantity of
24 illuminating fuel, natural gas, water, or electricity passing through ~~such the~~
25 meter by a person other than an employee of the company owning or
26 supplying any gas, water, or electric meter, who willfully ~~shall detach or~~
27 ~~disconnect-detaches or disconnects~~ such the meter, or ~~make or report makes~~
28 or reports any test of, or ~~examine-examines~~ for the purpose of testing any
29 meter so detached or disconnected.

30 (3) In any manner whatever change, ~~extend-extend~~, or alter any service or other
31 pipe, ~~wire-wire~~, or attachment of any kind, connecting with or through which
32 natural or artificial gas or electricity is furnished from the gas mains or pipes
33 of any person, without first procuring from ~~said the~~ the person written permission
34 to make ~~such the~~ the change, ~~extension-extension~~, or alterations.

35 (4) Make any connection or reconnection with the gas mains, water pipes, service
36 ~~pipes-pipes~~, or wires of any person, furnishing to consumers natural or



- artificial gas, water, or electricity, or turn on or off or in any manner interfere with any valve or stopcock or other appliance belonging to ~~such that~~ person, and connected with ~~his the~~ person's service or other pipes or wires, or enlarge the orifices of mixers, or use natural gas for heating purposes except through mixers, or electricity for any purpose without first procuring from ~~such the~~ person a written permit to turn on or off ~~such the~~ stopcock or valve, or to make ~~such the~~ connection or reconnections, or to enlarge the orifice of mixers, or to use for heating purposes without mixers, or to interfere with the valves, stopcocks, ~~wires wires~~, or other appliances of ~~such them~~, as the case may be.
- (5) Retain possession of or refuse to deliver any mixer, meter, ~~lamp lamp~~, or other appliance which may be leased or rented by any person, for the purpose of furnishing gas, water, ~~electricity electricity~~, or power through the ~~same~~, ~~appliance~~, or sell, ~~lend lend~~, or in any other manner dispose of the ~~same appliance~~ to any person other than ~~such the~~ person entitled to the possession of the ~~same appliance~~.
- (6) Set on fire any gas escaping from wells, broken or leaking mains, pipes, ~~valves valves~~, or other appliances used by any person in conveying gas to consumers, or interfere in any manner with the wells, pipes, mains, gateboxes, valves, stopcocks, wires, cables, ~~conduits conduits~~, or any other appliances, ~~machinery machinery~~, or property of any person engaged in furnishing gas to consumers unless employed by or acting under the authority and direction of ~~such that~~ person.
- (7) Open or cause to be opened, or reconnect or cause to be reconnected any valve lawfully closed or disconnected by a district steam corporation.
- (8) Turn on steam or cause it to be turned on or to reenter any premises when the ~~same steam~~ has been lawfully stopped from entering ~~such the~~ premises.
- (9) Reconnect electricity, gas, or water connections or otherwise turn back on one or more of those utilities when they have been lawfully disconnected or turned off by the provider of the utility.
- (10) Alter, bypass, interfere with, or cut off any load management device, equipment, or system which has been installed by the electricity supplier for the purpose of limiting the use of electricity at peak-load ~~periods, provided, however, if periods. However, if~~ there has been a written request to remove the load management device, equipment, or system to the electric supplier and the electric supplier has not removed the device within two working days, there ~~shall be~~ is no violation of this section.
- (b) Any meter or service entrance facility found to have been altered, tampered with, or bypassed in a manner that would cause ~~such the~~ meter to inaccurately measure and register the electricity, gas, or water consumed or which would cause the electricity, gas, or water to be diverted from the recording apparatus of the meter ~~shall be~~ is prima facie evidence of intent to violate and of the violation of this section by the person in whose name ~~such the~~ meter is installed or the person or persons so using or receiving the benefits of ~~such the~~ unmetered, unregistered, or diverted electricity, gas, or water.
- (c) For the purposes of this section, the term "gas" ~~shall mean means~~ all types and forms of gas, including, but not limited to, natural gas.
- (d) Criminal violations of this section ~~shall be~~ are punishable as follows:
- (1) A violation of this section is a Class 1 misdemeanor.
 - (2) A second or subsequent violation of this section is a Class H felony.
 - (3) A violation of this section that results in significant property damage or public endangerment is a Class F felony.

(4) Unless the conduct is covered under some other provision of law providing greater punishment, a violation that results in the death of another is a Class D felony.

(e) ~~[Whoever is found in a civil action to have violated any provision]~~ Whoever is found in a civil action to have violated any provision of this section ~~[shall be liable to the electric, gas or water supplier in triple the amount of losses and damages sustained or five]~~ is liable to the electric, gas, or water supplier in triple the amount of losses and damages sustained or five thousand ~~[dollars]~~ dollars (\$5,000), ~~[whichever is greater]~~ whichever is greater.

(f) Nothing in this section ~~shall be construed to apply~~ applies to licensed contractors while performing usual and ordinary services in accordance with recognized customs and standards."

SECTION 2.(b) This section applies to violations committed on or after the effective date of this act.

SECTION 3.(a) G.S. 20-9 reads as rewritten:

"§ 20-9. What persons shall not be licensed.

(a) To obtain a regular drivers license, a person must have reached the minimum age set in the following table for the class of license sought:

Class of Regular License	Minimum Age
Class A	18
Class B	18
Class C	16

G.S. 20-37.13 sets the age qualifications for a commercial drivers license.

(b) The Division shall not issue a ~~driver's~~ drivers license to any person whose license has been suspended or revoked during the period for which the license was suspended or revoked.

(b1) The Division shall not issue a drivers license to any person whose permit or license has been suspended or revoked under G.S. 20-13.2(c1) during the suspension or revocation period, unless the Division has restored the person's permit or license under G.S. 20-13.2(c1).

(c) The Division shall not issue a ~~driver's~~ drivers license to any person who is an habitual drunkard or is an habitual user of narcotic drugs or barbiturates, whether or not ~~such the use be~~ is in accordance with the prescription of a physician.

(d) Repealed by Session Laws 2012-194, s. 8, effective July 17, 2012.

(e) The Division shall not issue a ~~driver's~~ drivers license to any person when in the opinion of the Division the person is unable to exercise reasonable and ordinary control over a motor vehicle while operating the vehicle upon the highways, nor shall a license be issued to any person who is unable to understand highway warnings or direction signs.

(f) The Division shall not issue a ~~driver's~~ drivers license to any person whose license or driving privilege is in a state of cancellation, ~~suspension~~ suspension, or revocation in any jurisdiction, if the acts or things upon which the cancellation, ~~suspension~~ suspension, or revocation in ~~such the~~ other jurisdiction was based would constitute lawful grounds for cancellation, ~~suspension~~ suspension, or revocation in this State had those acts or things been done or committed in this State; ~~provided, however, State. However,~~ any such cancellation shall not prohibit issuance for a period in excess of 18 months.

(g) The Division may issue a restricted or unrestricted ~~driver's~~ drivers license under the following conditions to an otherwise eligible applicant suffering from a physical or mental disability or disease that affects his or her ability to exercise reasonable and ordinary control of a motor vehicle:

(1) The applicant submits to the Division a certificate in the form prescribed in subdivision ~~(2)-(2)~~ of this subsection. The Division may request the certificate at the applicant's initial application, at any time following the issuance of the license, or at the initial application and any time following the issuance of the license. Until a license issued under this subdivision expires, is cancelled, or

is revoked, the license continues in force as long as the licensee presents to the Division a certificate in the form prescribed in subdivision (2) of this subsection at the intervals determined by the Division to be in the best interests of public safety.

...

(3) The Commissioner is not bound by the recommendation of the examining health care provider but shall give fair consideration to ~~such~~the recommendation in exercising his or her discretion in making licensing decisions, the criterion being whether or not, upon all the evidence, it appears that it is safe to permit the applicant or licensee to operate a motor vehicle. The burden of proof of ~~such~~this fact is upon the applicant or licensee. In deciding whether to issue, restrict, cancel, or deny a license, the Commissioner may be guided by the opinion of experts in the field of diagnosing and treating the specific physical or mental disability or disease suffered by an applicant or licensee and the experts may be compensated for their services on an equitable basis. The Commissioner may also take into consideration any other factors which bear on the issue of public safety.

(4) Whenever a license is restricted, cancelled, or denied by the Commissioner on the basis of a physical or mental disability or disease, the action may be reviewed by a reviewing board upon written request of the applicant or licensee filed with the Division within 10 days after receipt of notice given in accordance with G.S. 20-48 of the action taken. The reviewing board shall consist of the Commissioner or ~~his~~the Commissioner's authorized representative and at least two medical professionals selected by the Commissioner and duly licensed to practice medicine by the appropriate licensing authority in the State. The medical professionals selected by the Commissioner may be compensated for their services on an equitable basis, including reimbursement for ordinary and necessary travel expenses. The Commissioner or ~~his~~the Commissioner's authorized representative, plus any two medical professionals selected by the Commissioner, shall constitute a quorum. The procedure for hearings authorized by this section shall be as follows:

a. Applicants shall be afforded an opportunity for hearing, after reasonable notice of not less than 10 days, before the review board established by this subdivision. The notice shall be in writing and shall be delivered to the applicant in person or sent by certified mail, with return receipt requested. The notice shall state the time, place, and subject of the hearing. If a hearing is requested under this subdivision to contest a restriction placed on a license under subdivision (3) of this subsection, the restriction shall be stayed unless the Division determines there is an imminent threat to public safety if continued unrestricted driving is permitted. No stay shall be granted if a hearing is requested under this subdivision to contest a denial or cancellation of a license under subdivision (3) of this subsection. Nothing in this sub-subdivision ~~shall be construed as authorizing~~authorizes the stay of a restriction placed on a license pursuant to another provision of law.

b. The review board may compel the attendance of witnesses and the production of such books, ~~records~~records, and papers as it desires at a hearing authorized by ~~the~~this section. Upon request of an applicant or licensee, a subpoena to compel the attendance of any witness or a

1 subpoena duces tecum to compel the production of any books, records,
2 or papers shall be issued by the board. Subpoenas shall be directed to
3 the sheriff of the county where the witness resides or is found and shall
4 be served and returned in the same manner as a subpoena in a criminal
5 case. Fees of the sheriff and witnesses shall be the same as that allowed
6 in the district court in cases before that court and shall be paid in the
7 same manner as other expenses of the Division of Motor Vehicles are
8 paid. In any case of disobedience or neglect of any subpoena served
9 on any person, or the refusal of any witness to testify to any matters
10 regarding which ~~he the witness~~ may be lawfully interrogated, the
11 district court or superior court where ~~such the~~ disobedience, ~~neglect~~
12 ~~neglect~~, or refusal occurs, or any judge thereof, on application by the
13 board, shall compel obedience or punish as for contempt.

14 c. A hearing may be continued upon motion of the applicant or licensee
15 for good cause shown with approval of the board or upon order of the
16 board.

17 d. The board shall pass upon the admissibility of evidence at a hearing
18 but the applicant or licensee affected may at the time object to the
19 board's ruling, and, if evidence offered by an applicant or licensee is
20 ~~rejected-rejected~~, the party may proffer the evidence, and ~~such the~~
21 proffer shall be made a part of the record. The board shall not be bound
22 by common law or statutory rules of evidence which prevail in courts
23 of law or equity and may admit and give probative value to evidence
24 which possesses probative value commonly accepted by reasonably
25 prudent persons in the conduct of their affairs. ~~They~~ It may exclude
26 incompetent, immaterial, ~~irrelevant-irrelevant~~, and unduly repetitious
27 evidence. Uncontested facts may be stipulated by agreement between
28 an applicant or licensee and the ~~board-board~~, and evidence relating
29 ~~thereto to stipulated facts~~ may be excluded. All evidence, including
30 records and documents in the possession of the Division of Motor
31 Vehicles or the board, of which the board desires to avail itself shall
32 be made a part of the record. Documentary evidence may be received
33 in the form of copies or excerpts, or by incorporation by reference. The
34 board shall prepare an official record, which shall include testimony
35 and exhibits. A record of the testimony and other evidence submitted
36 shall be taken, but it shall not be necessary to transcribe shorthand
37 notes or electronic recordings unless requested for purposes of court
38 review.

39 ...
40 h. All records and evidence collected and compiled by the Division and
41 the reviewing board shall not be considered public records within the
42 meaning of Chapter 132 of the General Statutes of North Carolina and
43 may be made available to the public only upon an order of a court of
44 competent jurisdiction. An applicant or licensee may obtain, without a
45 court order, a copy of records and evidence collected and compiled
46 under this subdivision about the applicant or licensee by submitting a
47 written request to the Division, signing any release forms required by
48 the Division, and remitting the required fee set by the Division. All
49 information furnished by, about, or on behalf of an applicant or
50 licensee under this section shall be without prejudice and shall be for
51 the use of the Division, the reviewing ~~board-board~~, or the court in

administering this section and shall not be used in any manner as evidence, or for any other purposes in any trial, civil or criminal. The prohibition on release and use under this sub-subdivision applies without regard to who authored or produced the information collected, compiled, and used by the Division under this subdivision.

(h) The Division shall not issue a drivers license to an applicant who currently holds a license to drive issued by another state unless the applicant surrenders the license.

(i) The Division shall not issue a drivers license to an applicant who has resided in this State for less than 12 months until the Division has searched the National Sex Offender Public Registry to determine if the person is currently registered as a sex offender in another state. The following applies in this subsection:

...

(4) Any person denied a license or whose license has been revoked by the Division pursuant to this subsection ~~shall have~~ has a right to file a petition within 30 days thereafter for a hearing in the matter in the superior court of the county ~~wherein such person shall reside,~~ where the person resides, or to petition the resident judge of the district or judge holding the court of that district, or special or emergency judge holding a court in ~~such the~~ the district, and ~~such the~~ the court or judge is hereby vested with jurisdiction, ~~and it shall be its or his duty to~~ jurisdiction. The court or judge shall set the matter for hearing upon 30 days' written notice to the Division, ~~and thereupon to~~ Division. ~~At the hearing,~~ the court or judge shall take testimony and examine ~~into~~ the facts of the case and ~~to shall~~ shall determine whether the petitioner is entitled to a license under ~~the provisions of~~ this subsection and whether the petitioner is in violation of G.S. 20-30."

SECTION 3.(b) G.S. 20-37.7 reads as rewritten:

"§ 20-37.7. Special identification card.

...

(b1) Search National Sex Offender Public Registry. – The Division shall not issue a special identification card to an applicant who has resided in this State for less than 12 months until the Division has searched the National Sex Offender Public Registry to determine if the person is currently registered as a sex offender in another state. The following applies in this subsection:

...

(4) Any person denied a special identification card by the Division pursuant to this subsection ~~shall have~~ has a right to file a petition within 30 days thereafter for a hearing in the matter in the superior court of the county ~~wherein such person shall reside,~~ where the person resides, or to petition the resident judge of the district or judge holding the court of that district, or special or emergency judge holding a court in ~~such the~~ the district, and ~~such the~~ the court or judge is hereby vested with jurisdiction, ~~and it shall be its or his duty to~~ jurisdiction. The court or judge shall set the matter for hearing upon 30 days' written notice to the Division, ~~and thereupon to~~ Division. ~~At the hearing,~~ the court or judge shall take testimony and examine ~~into~~ the facts of the case and ~~to shall~~ shall determine whether the petitioner is entitled to a special identification card under ~~the provisions of~~ this subsection and whether the petitioner is in violation of G.S. 20-37.8.

(c) Format. – A special identification card shall include a color photograph of the special identification card holder and shall be similar in size, shape, and design to a drivers license, but shall clearly state that it does not entitle the person to whom it is issued to operate a motor vehicle. A special identification card issued to an applicant must have the same background color that a drivers license issued to the applicant would have.

(d) Expiration and Fee. – A special identification card issued to a person for the first time under this section expires when a drivers license issued on the same day to that person would expire. A special identification card renewed under this section expires when a drivers license renewed by the card holder on the same day would expire.

The fee for a special identification card is the same as the fee set in G.S. 20-14 for a duplicate license. The fee does not apply to a special identification card issued to a resident of this State as follows:

- ...
- (3) The applicant ~~or who~~ has been issued a drivers license but the drivers license is cancelled under G.S. 20-15, in accordance with G.S. 20-9(e) and (g), as a result of a physical or mental disability or disease.

...."

SECTION 4.(a) G.S. 20-79.3A(c) and (d) read as rewritten:

"(c) Report to General Assembly. – On or before March 15 of each year, the Division shall submit to the Chairs of the House and Senate Transportation Committees, the Chairs of the House and Senate Finance Committees, and the ~~Research-Legislative Analysis~~ Division of the General Assembly a report that identifies each applicant that has applied for a special registration plate to be authorized in the legislative session being held that year and indicates whether the applicant met the requirements of this section. If an applicant meets the requirements of this section, then a bill may be considered during the legislative session being held that year to authorize a special registration plate for the applicant that submitted the application.

(d) Legislative Approval. – If a special registration plate requested under this section is approved by law, the applicant must submit all of the following items to the Division ~~no~~ later than 60 days after the act approving the plate becomes law. If the applicant fails to timely submit the items required under this subsection, the authorization for the special registration plate shall expire in accordance with G.S. 20-79.8(a1). The items to be submitted are:

...."

SECTION 4.(b) G.S. 90-414.5(b) reads as rewritten:

"(b) At the written request of the Director of the Fiscal Research, ~~Bill-Legislative~~ Drafting, ~~Research-Legislative Analysis~~, or Program Evaluation Division of the General Assembly for an aggregate analysis of the data and information disclosed through the HIE Network, the Authority shall provide the professional staff of these Divisions with ~~such-the~~ aggregated analysis responsive to the Director's request. Prior to providing the Director or General Assembly's staff with any aggregate data or information submitted through the HIE Network or with any analysis of this aggregate data or information, the Authority shall redact any personal identifying information in a manner consistent with the standards specified for de-identification of health information under the HIPAA Privacy Rule, 45 C.F.R. § 164.514, as amended."

SECTION 4.(c) G.S. 120-30.49(a) reads as rewritten:

"(a) The Fiscal Research Division shall, in consultation with the appropriate staff of the ~~Research-Legislative Analysis~~ and ~~Bill-Legislative~~ Drafting Divisions, make an annual report to the General Assembly pertaining to the fiscal effect of federal mandates on, or federal law on which is conditioned the receipt of federal funds by the State and units of local government. The annual report on federal mandates shall include ~~all of~~ the following:

- (1) A listing of federal laws that require the State and any unit of local government, including a county, city, school administrative unit, or other local entity funded by or through a unit of local government to carry out additional or modified ~~responsibilities; responsibilities.~~
- (2) An estimate of the amount of any increase or decrease in the costs to the State and units of local government in providing or delivering public services required by federal law that are funded in whole or in part by the State or units of local ~~government; and government.~~

- (3) A listing of any other federal actions directly affecting the expenditures or revenues of the State and units of local government."

SECTION 4.(d) G.S. 120-32.01 reads as rewritten:

"§ 120-32.01. Information to be supplied.

(a) Every State department, State agency, or State institution shall furnish the Legislative Services Office and the ~~Research, Legislative Analysis, Fiscal Research, Program Evaluation, and Bill-Legislative Drafting~~ Divisions any information or records requested by them and access to any facilities and personnel requested by them. Except when accessibility is prohibited by a federal statute, federal regulation, or State statute, every State department, State agency, or State institution shall give the Legislative Services Office and these divisions access to any ~~data base~~ database or stored information maintained by computer, telecommunications, or other electronic data processing equipment, whether stored on tape, disk, or otherwise, and regardless of the medium for storage or transmission.

(b) Notwithstanding subsection (a) of this section, access to the BEACON/HR payroll system by the ~~Research-Legislative Analysis and Bill-Legislative~~ Drafting Divisions shall only be through the Fiscal Research Division and access to the system by the Program Evaluation Division shall only be through the Division Director and two employees of the Division designated by the Division Director.

(c) Consistent with subsection (a) of this section and notwithstanding any other law relating to privacy of personnel records, the Retirement Systems Division of the Department of State Treasurer shall furnish the Fiscal Research Division direct online read-only access to active and retired member information or records maintained by the Retirement Systems Division in online information systems. Direct online read-only access shall not include access to medical records of individual members or to tax records and other tax-related documents of members and beneficiaries. Nothing in this subsection ~~shall limit~~ limits the provisions of subsection (a) of this section.

(d) For the purpose of ensuring financial transparency, accountability, and efficient operation of the Medicaid program finances by the Department of Health and Human Services, employees of the Fiscal Research Division designated by the Director of Fiscal Research shall have access to all records related to the Medicaid program. The Department of Health and Human Services shall cooperate fully with the designated employees of the Fiscal Research Division to facilitate (i) the evaluation of all financial and policy components of the Medicaid program, including financial projections, (ii) the evaluation of the budgetary construction and management of the Medicaid program, and (iii) the identification of unusual financial events. The Department shall also provide the Fiscal Research Division with electronic access to any departmental data for assessing or predicting Medicaid financial outcomes, and to any modeling software used for assessing or predicting Medicaid program financial outcomes. Employees of the Department shall not impede, delay, or restrict the provision of information or limit access to any departmental personnel necessary for the Fiscal Research Division to perform its monitoring and analysis of the Medicaid program.

Nothing in this subsection ~~shall be construed to grant grants~~ Fiscal Research Division employees access to medical records of individuals or other information protected under the Health Information Portability and Accountability Act (HIPAA).

Nothing in this subsection ~~shall limit~~ limits the provisions of subsection (a) of this section.

(e) The Department of Health and Human Services shall provide its annual financial projection of Medicaid program expenditures and requirements for any future fiscal years to the Chairs of the House Appropriations Committee and to the Chairs of the Senate Appropriations/Base Budget Committee no later than the date the Governor presents budget recommendations in accordance with G.S. 143C-3-5. Prior to providing this projection, the Secretary shall cooperatively engage designated employees of the Fiscal Research Division in ongoing bilateral analytical discussions about historical, current, and unanticipated factors that

1 may impact projected Medicaid program financial outcomes that may affect the formulation of
2 an official departmental annual financial projection.

3 Nothing in this subsection ~~shall limit~~ limits the provisions of subsection (a) of this section."

4 **SECTION 4.(e)** G.S. 120-36.6 reads as rewritten:

5 **"§ 120-36.6. Legislative Fiscal Research staff participation.**

6 The Legislative Services Officer shall designate a member of the Fiscal Research ~~staff~~, staff
7 and a member of the ~~General Research or Bill~~ Legislative Analysis or Legislative Drafting staff
8 who may attend all meetings of the Council of State, unless the Council has voted to exclude
9 them from the specific meeting, provided that no final action may be taken while they are so
10 excluded. The Legislative Services Officer and the Director of Fiscal Research shall be notified
11 of all ~~such~~ meetings, ~~hearings~~ hearings, and trips in the same manner and at the same time as
12 notice is given to members of the Council. The Legislative Services Officer and the Director of
13 Fiscal Research shall be provided with a copy of all reports, memoranda, and other informational
14 material which are distributed to the members of the Council; these reports, ~~memoranda~~
15 memoranda, and materials shall be delivered to the Legislative Services Officer and the Director
16 of Fiscal Research at the same time that they are distributed to the members of the Council."

17 **SECTION 4.(f)** Article 7B of Chapter 120 of the General Statutes reads as rewritten:

18 "Article 7B.

19 ~~"Research~~ Legislative Analysis Division.

20 **"§ 120-36.8. Certification of legislation required by federal law.**

21 (a) Every bill and resolution introduced in the General Assembly proposing any change
22 in the law which purports to implement federal law or to be required or necessary for compliance
23 with federal law, or on which is conditioned the receipt of federal funds shall have attached to it
24 at the time of its consideration by the General Assembly a certification prepared by the
25 ~~Research~~ Legislative Analysis Division, in consultation with the ~~Bill~~ Legislative Drafting and
26 Fiscal Research Divisions, identifying the federal law requiring passage of the bill or resolution.
27 The certification shall contain a statement setting forth the reasons why the bill or resolution is
28 required by federal law. If the bill or resolution is not required by federal law or exceeds the
29 requirements of federal law, then the certification shall state the reasons for that opinion. No
30 comment or opinion shall be included in the certification with regard to the merits of the measure
31 for which the certification is prepared. However, technical and mechanical defects may be noted.

32 (b) The sponsor of each bill or resolution to which this section applies shall present a
33 copy of the bill or resolution with the request for certification to the ~~Research~~ Legislative
34 Analysis Division. Upon receipt of the request and the copy of the bill or resolution, the ~~Research~~
35 Legislative Analysis Division shall consult with the ~~Bill~~ Legislative Drafting and Fiscal Research
36 Divisions, and may consult with the Office of State Budget and Management or any State agency
37 on preparation of the certification as promptly as possible. The ~~Research~~ Legislative Analysis
38 Division shall prepare the certification and transmit it to the sponsor within two weeks after the
39 request is made, unless the sponsor agrees to an extension of time.

40 (c) This certification shall be attached to the original of each proposed bill or resolution
41 that is reported favorably by any committee of the General Assembly, but shall be separate from
42 the bill or resolution and shall be clearly designated as a certification. A certification attached to
43 a bill or resolution pursuant to this section is not a part of the bill or resolution and is not an
44 expression of legislative intent proposed by the bill or resolution.

45 (d) If a committee of the General Assembly reports favorably a proposed bill or resolution
46 with an amendment proposing any change in the law which purports to implement federal law or
47 to be required or necessary for compliance with federal law, the chair of the committee shall
48 obtain from the ~~Research~~ Legislative Analysis Division and attach to the amended bill or
49 resolution a certification as provided in this section."

50 **SECTION 4.(g)** G.S. 120-233(a) reads as rewritten:

"(a) The Committee may contract for consulting services as provided by G.S. 120-32.02. Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to assist in the work of the Committee. The professional staff shall include the appropriate staff from the Fiscal Research, ~~Research~~, Legislative Analysis, Legislative Drafting, and Information Systems Divisions of the Legislative Services Office of the General Assembly. Clerical staff shall be furnished to the Committee through the offices of the Senate and the House of Representatives Supervisors of Clerks. The expenses of employment of the clerical staff shall be borne by the Committee. The Committee may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission."

SECTION 5.(a) Section 4 of Chapter 168 of the 1989 Session Laws is repealed.

SECTION 5.(b) G.S. 20-118 reads as rewritten:

"§ 20-118. Weight of vehicles and load.

(a) For the purposes of this section, the following definitions shall apply:

- (1) ~~Single axle weight. — The gross weight transmitted by all wheels whose centers may be included between two parallel transverse vertical planes 40 inches apart, extending across the full width of the vehicle.~~
- (2) ~~Tandem axle weight. — The gross weight transmitted to the road by two or more consecutive axles whose centers may be included between parallel vertical planes spaced more than 40 inches and not more than 96 inches apart, extending across the full width of the vehicle.~~
- (3) Axle group. — Any two or more consecutive axles on a vehicle or combination of vehicles.
- (4) Gross weight. — The weight of any single axle, tandem axle, or axle group of a vehicle or combination of vehicles plus the weight of any load thereon.
- (5) Light-traffic roads. — Any highway on the State Highway System, excepting routes designated I, U.S. or N.C., posted by the Department of Transportation to limit the axle weight below the statutory limits.
- (6) Single axle weight. — The gross weight transmitted by all wheels whose centers may be included between two parallel transverse vertical planes 40 inches apart, extending across the full width of the vehicle.
- (7) Tandem axle weight. — The gross weight transmitted to the road by two or more consecutive axles whose centers may be included between parallel vertical planes spaced more than 40 inches and not more than 96 inches apart, extending across the full width of the vehicle.

(b) The following weight limitations shall apply to vehicles operating on the highways of the State:

- (1) The single-axle weight of a vehicle or combination of vehicles shall not exceed 20,000 pounds.
- (2) The tandem-axle weight of a vehicle or combination of vehicles shall not exceed 38,000 pounds.
- (3) The gross weight imposed upon the highway by any axle group of a vehicle or combination of vehicles shall not exceed the maximum weight given for the respective distance between the first and last axle of the group of axles measured longitudinally to the nearest foot as set forth in the following table:

Distance Between Axles*	Maximum Weight in Pounds for any Group of Two or More Consecutive Axles					
	2 Axles	3 Axles	4 Axles	5 Axles	6 Axles	7 Axles
4	38000					
...						
57			80000			

* Distance in Feet Between the Extremes of any Group of Two or More Consecutive Axles.

** See exception in ~~G.S. 20-118(e)(1)~~ subdivision (c)(1) of this section.

- (4) The Department of Transportation may establish light-traffic roads and further restrict the axle weight limit on such light-traffic roads lower than the statutory limits. The Department of Transportation ~~shall have~~ has the authority to designate any highway on the State Highway System, excluding routes designated by I, U.S. and N.C., as a light-traffic road when in the opinion of the Department of Transportation, ~~such the~~ road is inadequate to carry and will be injuriously affected by vehicles using the ~~said~~ road carrying the maximum axle weight. All such roads so designated shall be conspicuously posted as light-traffic roads and the maximum axle weight authorized shall be displayed on proper signs erected thereon.

(c) Exceptions. – The following exceptions apply to ~~G.S. 20-118(b) and 20-118(e)~~ subsections (b) and (e) of this section:

- ...
- (2) When a vehicle is operated in violation of ~~G.S. 20-118(b)(1), 20-118(b)(2), or 20-118(b)(3)~~ subdivision (b)(1), (b)(2), or (b)(3) of this section, but the gross weight of the vehicle or combination of vehicles does not exceed that permitted by ~~G.S. 20-118(b)(3)~~ subdivision (b)(3) of this section, the owner of the vehicle shall be permitted to shift the load within the vehicle, without penalty, from one axle to another to comply with the weight limits in the following cases:

- a. Where the single-axle load exceeds the statutory limits, but does not exceed 21,000 pounds.
- b. Where the vehicle or combination of vehicles has tandem axles, but the tandem-axle weight does not exceed 40,000 pounds.

- (3) When a vehicle is operated in violation of ~~G.S. 20-118(b)(4)~~ subdivision (b)(4) of this section, the owner of the vehicle shall be permitted, without penalty, to shift the load within the vehicle from one axle to another to comply with the weight limits where the single-axle weight does not exceed the posted limit by 2,500 pounds.

- (4) A truck or other motor vehicle shall be exempt from ~~such the~~ light-traffic road limitations provided for pursuant to ~~G.S. 20-118(b)(4)~~ subdivision (b)(4) of this section, when transporting supplies, ~~material-material~~, or equipment necessary to carry out a farming operation engaged in the production of meats and agricultural crops and livestock or poultry by-products or a business engaged in the harvest or processing of seafood when the destination of ~~such the~~ vehicle and load is located solely upon ~~said a~~ light-traffic road.

- ...
- (6) A truck or other motor vehicle shall be exempt from ~~such the~~ light-traffic road limitations provided by ~~G.S. 20-118(b)(4)~~ subdivision (b)(4) of this section when ~~such the~~ motor vehicles are owned, operated by or under contract to a public utility, electric or telephone membership corporation or municipality and ~~such motor vehicles~~ are used in connection with installation, ~~restoration~~ restoration, or emergency maintenance of utility services.

- (7) A wrecker may tow any disabled truck or other motor vehicle or combination of vehicles to a place for repairs, parking, or storage within 50 miles from the point that the vehicle was disabled and may tow a truck, tractor, or other replacement vehicle to the site of the disabled vehicle without being in violation of ~~G.S. 20-118~~ this section provided that the wrecker and towed

- 1 vehicle or combination of vehicles otherwise meet all requirements of this
2 section.
- 3 (8) A firefighting vehicle operated by any member of a municipal or rural fire
4 department in the performance of ~~his~~the member's duties, regardless of
5 whether members of that fire department are paid or ~~voluntary~~voluntary, and
6 any vehicle of a voluntary lifesaving organization, when operated by a
7 member of that organization while answering an official ~~call~~call, shall be
8 exempt from ~~such~~the light-traffic road limitations provided by
9 G.S. 20-118(b)(4)-subdivision (b)(4) of this section.
- 10 (9) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 12.
- 11 (10) Fully enclosed motor vehicles designed specifically for collecting,
12 ~~compacting~~compacting, and hauling garbage from ~~residences~~residences or
13 from garbage dumpsters shall, when operating for those purposes, be allowed
14 a single axle weight not to exceed 23,500 pounds on the steering axle on
15 vehicles equipped with a boom, or on the rear axle on vehicles loaded from
16 the rear. This exemption ~~shall~~does not apply to vehicles operating on
17 interstate highways, vehicles transporting hazardous waste as defined in
18 G.S. 130A-290(4), G.S. 130A-290(a)(8), spent nuclear fuel regulated under
19 G.S. 20-167.1, low-level radioactive waste as defined in G.S. 104E-5(9a), or
20 radioactive material as defined in G.S. 104E-5(14).
- 21 ...
- 22 (16) Subsections (b) and (e) of this section do not apply to a vehicle or vehicle
23 combination that meets all of the conditions below, but all other enforcement
24 provisions of this Article remain applicable:
- 25 ...
- 26 For purposes of this subdivision, no additional weight allowances ~~as found~~in
27 this section ~~shall~~apply for the gross weight, single-axle weight, and
28 tandem-axle weight, and the tolerance allowed by subsection (h) of this
29 section ~~shall~~does not apply.
- 30 ...
- 31 (19) Any additional weight allowance authorized by 23 U.S.C. § 127, and
32 applicable to all interstate highways, ~~shall also apply~~also applies to all State
33 roads, unless the road is a posted road or posted bridge, or unless specifically
34 prohibited by State law or a Department ordinance applicable to a specific
35 road.
- 36 (d) The Department of Transportation is authorized to abrogate certain exceptions. The
37 exceptions provided for in G.S. 20-118(e)(4) and 20-118(e)(5)-subdivisions (c)(4) and (c)(5) of
38 this section as applied to any light-traffic road may be abrogated by the Department of
39 Transportation upon a determination of the Department of Transportation that undue damage to
40 ~~such~~the light-traffic road is resulting from ~~such~~vehicles exempted by G.S. 20-118(e)(4) and
41 20-118(e)(5)-subdivisions (c)(4) and (c)(5) of this section. In those cases where the exemption
42 to the light-traffic roads are abrogated by the Department of Transportation, the Department shall
43 post the road to indicate no exemptions.
- 44 (e) Penalties. –
- 45 ...
- 46 (3) If an axle-group weight of a vehicle exceeds the weight limit set in subdivision
47 (b)(3) of this section plus any tolerance allowed in subsection (h) of this
48 section or axle-group weights or gross weights authorized by special permit
49 under G.S. 20-119(a), the Department of Public Safety shall assess a civil
50 penalty against the owner or registrant of the motor vehicle. The penalty shall
51 be assessed on the number of pounds by which the axle-group weight exceeds

the limit set in subdivision (b)(3) of this section, or by a special permit issued pursuant to G.S. 20-119, as follows: for the first 2,000 pounds or any part thereof, two cents (2¢) per pound; for the next 3,000 pounds or any part thereof, four cents (4¢) per pound; for each pound in excess of 5,000 pounds, ten cents (10¢) per pound. Tolerance pounds in excess of the limit set in subdivision (b)(3) of this section are subject to the penalty if the vehicle exceeds the tolerance allowed in subsection (h) of this section. These penalties apply separately to each axle-group weight limit violated. Notwithstanding any provision to the contrary, a vehicle with a special permit that is subject to additional penalties under this subsection based on a violation of any of the permit restrictions set out in G.S. 20-119(d1) shall be assessed a civil penalty, not to exceed ten thousand dollars (\$10,000), based on the number of pounds by which the axle-group weight exceeds the limit set in subdivision (b)(3) of this section.

...
(g) ~~General Statutes 20-118 shall not be construed to~~ This section does not permit the gross weight of any vehicle or combination in excess of the safe load carrying capacity established by the Department of Transportation on any bridge pursuant to G.S. 136-72.

...
(k) A vehicle which is equipped with a self-loading bed and which is designed and used exclusively to transport compressed seed cotton from the farm to a cotton gin, or sage to market, may operate on the highways of the State, except interstate highways, with a tandem-axle weight not exceeding 50,000 pounds. Such vehicles ~~shall be~~ are exempt from light-traffic road limitations only from point of origin on the light-traffic road to the nearest State-maintained road which is not posted to prohibit the transportation of statutory load limits. This exemption does not apply to restricted, posted bridge structures."

SECTION 6.(a) G.S. 24-10(c) reads as rewritten:

"(c) "Construction loan" means a loan which is obtained for the purpose of financing fully, or in part, the cost of constructing buildings or other improvements upon real property and the proceeds of which, under the terms of a written contract between a lender and a borrower, are to be disbursed periodically as ~~such the construction work progresses; and such progresses.~~ A construction loan shall be payable in full not later than 18 months in case of a loan made under the provisions of ~~G.S. 24-1.1(1)~~ G.S. 24-1.1(a)(1) or 36 months in case of any other construction loan made after the execution of the note by the borrower. A construction loan may include advances for the purchase price of the property upon which ~~such the~~ improvements are to be constructed."

SECTION 6.(b) G.S. 24-10(g) reads as rewritten:

"(g) Notwithstanding the limitations contained in subsection (a) of this section, a lender described in G.S. 24-1.1A(a)(2) may charge or receive from any ~~borrower~~ borrower, or any agent for a borrower, fees or discounts which in the aggregate do not exceed two percent (2%) on loans made under G.S. 24-1.1 ~~or G.S. 24-1.2(2)~~ when ~~such the~~ loans are secured by a second or junior lien on real property. The fees or discounts are fully earned when the loan is made and are not a prepayment penalty under this Chapter or any other law of this State."

SECTION 6.(c) G.S. 53-141 reads as rewritten:

"§ 53-141. Powers.

Industrial banks shall have perpetual duration and succession in their corporate name unless a limited period of duration is stated in their certificate of incorporation. They shall have the powers conferred by subdivisions (1), (2), and (3) of subsection (a) of G.S. 55-3-02, and subdivision (3) of G.S. 53-43, such additional powers as may be necessary or incidental for the carrying out of their corporate purposes, and in addition thereto the following powers:

- (2) To make loans and charge and receive interest at rates not exceeding the rates of interest provided in ~~G.S. 24-1.1 and G.S. 24-1.2.~~ G.S. 24-1.1.
...."

SECTION 7.(a) G.S. 39-23.1 reads as rewritten:

"§ 39-23.1. Definitions.

In this Article, the following definitions apply:

...

- (7) Insider. – Includes any of the following:

- a. If the debtor is an ~~individual~~; individual, any of the following:
 1. A relative of the debtor or of a general partner of the ~~debtor~~; debtor.
 2. A partnership in which the debtor is a general ~~partner~~; partner.
 3. A general partner in a partnership in which the debtor is a general ~~partner~~; or partner.
 4. A corporation of which the debtor is a director, officer, or person in control.
- b. If the debtor is a ~~corporation~~; corporation, any of the following:
 1. A director of the ~~debtor~~; debtor.
 2. An officer of the ~~debtor~~; debtor.
 3. A person in control of the ~~debtor~~; debtor.
 4. A partnership in which the debtor is a general ~~partner~~; partner.
 5. A general partner in a partnership in which the debtor is a general ~~partner~~; or partner.
 6. A relative of a general partner, director, officer, or person in control of the debtor.
- c. If the debtor is a ~~partnership~~; partnership, any of the following:
 1. A general partner in the ~~debtor~~; debtor.
 2. A relative of a general partner in, a general partner of, or a person in control of the ~~debtor~~; debtor.
 3. Another partnership in which the debtor is a general ~~partner~~; partner.
 4. A general partner in a partnership in which the debtor is a general ~~partner~~; or partner.
 5. A person in control of the debtor.
- d. An affiliate, or an insider of an affiliate as if the affiliate were the debtor.
- e. A managing agent of the debtor.

...

- (14) ~~Voidable transaction. — The term does not include payment to the State or a political subdivision of the State of taxes, debts, fines, penalties, or other obligations or amounts."~~

SECTION 7.(b) G.S. 39-23.8(b), (d), and (e) read as rewritten:

"(b) To the extent a transfer is avoidable in an action by a creditor under G.S. 39-23.7(a)(1), the following rules apply:

- (1) Except as otherwise provided in this section, the creditor may recover judgment for the value of the asset transferred, as adjusted under subsection (c) of this section, or the amount necessary to satisfy the creditor's claim, whichever is less. The judgment may be entered ~~against~~; against any of the following:
 - a. The first transferee of the asset or the person for whose benefit the transfer was ~~made~~; or made.

- 1 b. An immediate or mediate transferee of the first transferee, other
2 ~~than~~than any of the following:
3 1. A good-faith transferee that took for ~~value; or value.~~
4 2. An immediate or mediate good-faith transferee of a person
5 described in sub-sub-subdivision 1. of this sub-subdivision.
6 (2) Recovery pursuant to G.S. 39-23.7(a)(1) or G.S. 39-23.7(b) of or from the
7 asset transferred or its proceeds, by levy or otherwise, is available only against
8 a person described in sub-subdivision a. or b. of subdivision (1) of this
9 subsection.
10 ...
11 (d) Notwithstanding voidability of a transfer or an obligation under this Article, a
12 good-faith transferee or obligee is entitled, to the extent of the value given the debtor for the
13 transfer or obligation, ~~to~~to any of the following:
14 (1) A lien on or a right to retain an interest in the asset ~~transferred; transferred.~~
15 (2) Enforcement of an obligation ~~incurred; or incurred.~~
16 (3) A reduction in the amount of the liability on the judgment.
17 (e) A transfer is not voidable under G.S. 39-23.4(a)(2) or G.S. 39-23.5 if the transfer
18 results from one or more of the following:
19 (1) Termination of a lease upon default by the debtor when the termination is
20 pursuant to the lease and applicable law.
21 (2) Enforcement of a security interest in compliance with Article 9 of Chapter 25
22 of the General Statutes, the Uniform Commercial Code, other than acceptance
23 of collateral in full or partial satisfaction of the obligation it secures.
24 (3) The payment of taxes, debts, fines, penalties, or other obligations or amounts
25 to the State or to any political subdivision of the State."

26 **SECTION 8.(a)** G.S. 44A-11.2 reads as rewritten:

27 **"§ 44A-11.2. Identification of lien agent; notice to lien agent; effect of notice.**

28 (a) As used in this section, the term "contact information" ~~shall mean~~means the name,
29 physical and mailing address, telephone number, facsimile number, and electronic mail address
30 of the lien agent designated by the owner pursuant to G.S. 44A-11.1.

- 31 ...
32 (b1) A potential lien claimant making a request pursuant to subsection (b) of this section
33 who did not receive the lien agent contact information pursuant to subsection (c) of this section,
34 and who has not furnished labor, materials, rental equipment, or professional design or surveying
35 services at the site of the improvements, or who last furnished labor, materials, rental equipment,
36 or professional design or surveying services at the site of the improvements prior to the posting
37 of the contact information for the lien agent pursuant to subsection (d) or (e) of this section, ~~shall~~
38 ~~have~~has no obligation to give notice to the lien agent under this section until the potential lien
39 claimant has received the contact information from the owner.
40 (c) A contractor or subcontractor for improvements to real property subject to
41 G.S. 44A-11.1 shall, within three business days of contracting with a lower-tier subcontractor
42 who is not required to furnish labor, materials, rental equipment, or professional design or
43 surveying services at the site of the improvements, provide the lower-tier subcontractor with a
44 written notice containing the contact information for the lien agent designated by the owner. This
45 notice shall be given pursuant to subsection (f) of this section or may be given by including the
46 lien agent contact information in a written subcontract entered into by, or a written purchase order
47 issued to, the lower-tier subcontractor entitled to the notice required by this subsection. Any
48 contractor or subcontractor who has previously received notice of the lien agent contact
49 information, whether from the building permit, the inspections office, a notice from the owner,
50 contractor, or subcontractor, or by any other means, and who fails to provide the lien agent
51 contact information to the lower-tier subcontractor in the time required under this subsection,

1 ~~shall be~~ is liable to the lower-tier subcontractor for any actual damages incurred by the lower-tier
2 subcontractor as a result of the failure to give notice.

3 ...

4 (f) In complying with any requirement for written notice pursuant to this section, the
5 notice shall be addressed to the person required to be provided with the notice and shall be
6 delivered by any of the following methods:

7 ...

8 (3) Physical delivery and obtaining a delivery receipt from the lien agent.

9 ...

10 (6) Electronic mail, with delivery receipt.

11 (7) Utilizing an Internet Web site approved for such use by the designated lien
12 agent to transmit to the designated lien agent, with delivery receipt, all
13 information required to notify the lien agent of its designation pursuant to
14 G.S. 44A-11.1 or to provide a notice to the designated lien agent pursuant to
15 this section.

16 As used in this subsection, "delivery receipt" includes an electronic or facsimile confirmation. A
17 return receipt or other receipt showing delivery of the notice to the addressee or written evidence
18 that ~~such the~~ notice was delivered by the postal service or other carrier to but not accepted by the
19 addressee ~~shall be~~ is prima facie evidence of receipt.

20 (g) For purposes of this subsection, "custom contractor" means a contractor duly licensed
21 as a general contractor pursuant to Article 1 of Chapter 87 of the General Statutes who has
22 contracted with an owner who is not an affiliate, relative, or insider of the contractor to build a
23 single-family residence on the owner's property to be occupied by the owner as a residence. A
24 custom contractor ~~will~~ shall be deemed to have met the requirement of notice under subsections
25 (l) and (m) of this section on the date of the lien agent's receipt of notice of its designation as lien
26 agent delivered to it by the custom contractor in accordance with this section if, at the time of the
27 lien agent's receipt of the notice, all of the following conditions are met:

28 ...

29 After receiving a notice of its designation from a custom contractor pursuant to this
30 subsection, the designated lien agent shall include the custom contractor's name and contact
31 information in responding to any request for information pursuant to G.S. 58-26-45(b)(7).

32 (h) When a lien agent is not identified in a contract for improvements to real property
33 subject to G.S. 44A-11.1 entered into between an owner and a design professional, the design
34 professional ~~will~~ shall be deemed to have met the requirement of notice under subsections (l) and
35 (m) of this section on the date of the lien agent's receipt of the owner's designation of the lien
36 agent. The owner shall provide written notice to the lien agent containing the information
37 pertaining to the design professional required in a notice to lien agent pursuant to subdivisions
38 (1) through (3) of subsection (i) of this section, by any method of delivery authorized in
39 subsection (f) of this section. The lien agent shall include the design professional's name and
40 address in its response to any persons requesting information relating to persons who have given
41 notice to the lien agent pursuant to this section. For purposes of this subsection, the term "design
42 professional" ~~shall mean means~~ any architects, engineers, land surveyors, and landscape
43 architects registered under Chapter 83A, 89A, or 89C of the General Statutes.

44 ...

45 (k) The notice to lien agent shall not be filed with the clerk of superior court. An
46 inaccuracy in the description of the improved real property provided in the notice ~~shall does~~
47 bar a person from claiming a lien under this Article or otherwise perfecting or enforcing a claim
48 of lien as provided in this Article, if the improved real property can otherwise reasonably be
49 identified from the information contained in the notice.

(l) Except as otherwise provided in this section, for any improvement to real property subject to G.S. 44A-11.1, a potential lien claimant may perfect a claim of lien on real property only if at least one of the following conditions is met:

...

(2) Any of the following conditions is met:

- a. The lien agent identified in accordance with this section has received a Notice to Lien Agent from the potential lien claimant prior to the date of recordation of a conveyance of the property interest in the real property to a bona fide purchaser for value protected under G.S. 47-18 who is not an affiliate, relative, or insider of the owner.
- b. The potential lien claimant has perfected its claim of lien on real property pursuant to G.S. 44A-11 prior to the recordation of a conveyance of the property interest in the real property to a bona fide purchaser for value protected under G.S. 47-18 who is not an affiliate, relative, or insider of the owner.

As used in this subdivision, the terms "affiliate," "relative," and "insider" ~~shall~~ have the meanings as set forth in G.S. 39-23.1.

(m) Except as otherwise provided in this section, for any improvement to real property subject to G.S. 44A-11.1, the claim of lien on real property of a potential lien claimant that is not perfected pursuant to G.S. 44A-11 prior to the recordation of any mortgage or deed of trust for the benefit of one who is not an affiliate, relative, or insider of the owner ~~shall be~~ is subordinate to the previously recorded mortgage or deed of trust unless at least one of the following conditions is met:

...

(n) For any improvement to real property subject to G.S. 44A-11.1, a potential lien claimant ~~shall not be~~ is not required to comply with this section if the lien agent contact information is neither contained in the building permit or attachment thereto or sign posted on the improved property pursuant to subsection (d) or (e) of this section at the time when the potential lien claimant was furnishing labor, materials, rental equipment, or professional design or surveying services at the site of the improvements, nor timely provided by the owner in response to a written request by the potential lien claimant made pursuant to subsection (b) of this section. The lien rights of a potential lien claimant who is given erroneous information by the owner regarding the identity of the lien agent ~~will not be~~ are not extinguished under subsection (l) of this section nor subordinated under subsection (m) of this section.

(o) Except as provided in subsections (l) and (m) of this section, nothing contained in this section ~~shall affect~~ affects a claim of lien upon funds pursuant to G.S. 44A-18.

...

(v) **(Effective October 1, 2018)** Cancellation or expiration of a Notice to Lien Agent pursuant to this section has no ~~affect~~ effect upon the validity of a previously filed claim of lien or upon the priority of lien rights."

SECTION 8.(b) The amendments to G.S. 44A-11.2(v) in subsection (a) of this section become effective October 1, 2018. The remainder of this section is effective when it becomes law.

SECTION 9. G.S. 48-3-303(g) reads as rewritten:

"(g) If the agency determines that the individual is not suitable to be an adoptive parent, the ~~replacement~~ preplacement assessment shall state the specific concerns which support that determination. A specific concern is one that reasonably indicates that placement of any minor, or a particular minor, in the home of the individual would pose a significant risk of harm to the well-being of the minor."

SECTION 10.(a) G.S. 53-208.45 reads as rewritten:

"§ 53-208.45. License application.

(a) Applications under this Article shall be filed through the NMLS in a form acceptable to the Commissioner. To be considered complete, all applications shall be verified by oath or affirmation of the applicant or a designee thereof and shall ~~contain~~contain all of the following:

(1) The legal name, along with any ~~assumed names or trade names,~~ assumed business names, principal address, contact information, and social security number or taxpayer identification number of the applicant.

...

(4) A certificate of authority from the North Carolina Secretary of State to conduct business in this State, if required by the North Carolina Business Corporations Act, Chapter 55 of the General Statutes, or other evidence of the applicant's registration or qualification to do business in this State.

...

(13) If the applicant seeks to engage in money transmission in this State through authorized ~~delegates;~~delegates, all of the following:

a. A list identifying the proposed authorized delegates, including the name, mailing address, and other contact information of a representative of the authorized delegate and associated branch ~~locations;~~locations.

b. A sample authorized delegate contract.

...

(15) A copy of the applicant's most recent audited financial statement, including the balance sheet, statement of income or loss, statement of changes in shareholder equity, if applicable, and statement of changes in financial position and the applicant's audited financial statements for the immediately preceding two-year period. However, if the applicant is a wholly owned subsidiary of another corporation, the applicant may submit either the parent corporation's consolidated audited financial statements for the current year and for the immediately preceding two-year period or the parent corporation's Form 10K reports filed with the United States Securities and Exchange Commission for the prior three years in lieu of the applicant's financial statements. If the applicant is a wholly owned subsidiary of a corporation having its principal place of business outside the United States, similar documentation filed with the parent corporation's non-United States regulator may be submitted to satisfy this ~~provision~~subdivision.

...

(b) Upon request by the Commissioner or the Commissioner's designee, the applicant shall furnish any additional information necessary to enable the Commissioner to evaluate the application as required by G.S. 53-208.50.

(c) The Commissioner ~~is authorized, may,~~ for good cause shown, ~~to~~ waive any requirements of this section with respect to any application or ~~to~~ permit any applicant to submit equivalent information in lieu of the information required by this section."

SECTION 10.(b) G.S. 53-208.56 reads as rewritten:

"§ 53-208.56. Licensure authority.

The Commissioner may by order, deny, suspend, revoke, or refuse to issue a license under this Article, or may restrict or limit the manner in which a licensee or applicant engages in the business of money transmission, if the Commissioner finds both of the following:

(1) That the order is in the public ~~interest;~~ and interest.

(2) Any of the following circumstances apply:

a. Any fact or condition exists that, if it had existed at the time of application, would have been grounds for ~~denial;~~ denial.

- b. The licensee or applicant has filed any application, report, or other document with the Commissioner containing statements that, in light of the circumstances in which they were made, were false or misleading with respect to a material ~~fact~~; fact.
- c. The licensee or applicant fails at any time to meet the requirements of G.S. 53-208.46, 53-208.47, or ~~53-208.48~~; 53-208.48.
- d. A controlling person or key management personnel of the licensee or applicant has been convicted ~~of~~; of any of the following:
1. A misdemeanor in the last 10 years involving fraud, money laundering, theft or wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or conspiracy to commit any of these offenses or involving any financial service or financial service-related ~~business~~; or business.
 2. Any felony in the last seven years.
- e. The licensee or applicant has violated or failed to comply with any provision of this Article, rule issued pursuant to this Article, or order of the ~~Commissioner~~; Commissioner.
- f. The licensee has conducted its business in an unsafe or unsound ~~manner~~; manner.
- g. The licensee or applicant is insolvent, has suspended payment of its obligations, has made an assignment for the benefit of its creditors, or has admitted in writing its inability to pay its debts as they become ~~due~~; due.
- h. The licensee fails to respond to and cooperate fully with notices from the Commissioner or the Commissioner's designee related to the scheduling and conducting of an examination or investigation pursuant to ~~§ 53-208.55~~; G.S. 53-208.55.
- i. The licensee or applicant fails to respond to inquiries from the Commissioner or the Commissioner's designee regarding any complaints filed, which allege or involve violation of this ~~Article~~; Article.
- j. The licensee fails to make any report required by this ~~Article~~; Article.
- k. The licensee or applicant is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the money transmission ~~business~~; or business.
- l. The licensee or applicant is the subject of an order entered within the past five years by the authority of any state or federal agency with jurisdiction over the business of money transmission."

SECTION 10.(c) G.S. 53-208.62 reads as rewritten:

"§ 53-208.62. Commissioner's participation in nationwide registry.

(a) The Commissioner may require all persons subject to this Article to be licensed through the NMLS, and upon issuing ~~such~~ this requirement, the Commissioner shall establish a reasonable transition period. In order to carry out these requirements, the Commissioner is ~~authorized to~~ may participate in the NMLS.

(b) The Commissioner ~~is authorized to~~ may establish relationships or contracts with the NMLS or other entities designated by the NMLS to collect and maintain records and process transaction fees or other fees related to licensees or other ~~person~~ persons subject to this Article.

(c) For the purpose of participating in the NMLS, the Commissioner ~~is authorized to~~ may waive or modify, in whole or in part, any or all of the requirements as reasonably necessary to participate in the NMLS."

SECTION 11. G.S. 59-32 reads as rewritten:

"§ 59-32. Definition of terms.

As used in this Chapter, except as otherwise defined in Article 5 of this Chapter for purposes of that Article, ~~unless the context otherwise requires:~~ the following definitions apply:

- (01)(1) ~~"Act" means the Act.~~ – The North Carolina Uniform Partnership Act and refers to all provisions therein.
- (1)(1a) ~~"Bankrupt" means bankrupt~~ Bankrupt. – Bankrupt under the Federal Bankruptcy Act or insolvent under any State insolvent act.
- (2) ~~"Business" means every~~ Business. – Every trade, occupation, or profession.
- (3) ~~"Conveyance" means every~~ Conveyance. – Every assignment, lease, mortgage, or encumbrance.
- (4) ~~"Court" means every~~ Court. – Every court and judge having jurisdiction in the case.
- (4a) ~~"Domestic corporation" has~~ Domestic corporation. – Has the same meaning as in G.S. 55-1-40.
- (4b) ~~"Domestic limited liability company" has~~ Domestic limited liability company. – Has the same meaning as the term "LLC" in G.S. 57D-1-03.
- (4c) ~~"Domestic limited partnership" has~~ Domestic limited partnership. – Has the same meaning as in G.S. 59-102.
- (4d) ~~"Domestic nonprofit corporation" means a~~ Domestic nonprofit corporation. – A corporation as defined in G.S. 55A-1-40.
- (4e) ~~"Foreign corporation" has~~ Foreign corporation. – Has the same meaning as in G.S. 55-1-40.
- (4f) ~~"Foreign limited liability company" has~~ Foreign limited liability company. – Has the same meaning as the term "foreign LLC" in G.S. 57D-1-03.
- (4g) ~~"Foreign limited liability partnership" means a~~ Foreign limited liability partnership. – A partnership that (i) is formed under laws other than the laws of this State, State and has the status of a limited liability partnership or registered limited liability partnership under those laws.
- (4h) ~~"Foreign limited partnership" has~~ Foreign limited partnership. – Has the same meaning as in G.S. 59-102.
- (4i) ~~"Foreign nonprofit corporation" means a~~ Foreign nonprofit corporation. – A foreign corporation as defined in G.S. 55A-1-40.
- (5) ~~"Person" means individuals,~~ Person. – Individuals, partnerships, corporations, limited liability companies, and other associations.
- (5a) ~~"Principal office" means the~~ Principal office. – The office (in or out of this State) where the principal executive offices of a registered limited liability partnership or a foreign limited liability partnership are located, as designated in its most recent annual report filed with the Secretary of State or, if no annual report has yet been filed, in its application for registration as a registered limited liability partnership or foreign limited liability partnership.
- (6) ~~"Real property" means land~~ Real property. – Land and any interest or estate in land.
- (7) ~~"Registered limited liability partnership" means a~~ Registered limited liability partnership. – A partnership that is registered under G.S. 59-84.2 and complies with G.S. 59-84.3.
- (8) ~~"Service-disabled veteran" means a~~ Service-disabled veteran. – A veteran with a disability that was incurred or aggravated during the veteran's service in the Armed Forces of the United States.

- (9) ~~"Service-disabled veteran-owned small business" means a Service-disabled veteran-owned small business. – A business that satisfies both of all of the following requirements:~~
- a. The business's net annual receipts do not exceed one million dollars (\$1,000,000).
 - b. One or more service-disabled veterans own more than fifty percent (50%) of the business.
- (10) ~~"Veteran" means an Veteran. – An individual entitled to any benefits or rights under the laws of the United States by reason of service in the Armed Forces of the United States.~~
- (11) ~~"Veteran-owned small business" means a Veteran-owned small business. – A business that satisfies both of all of the following requirements:~~
- a. The business's net annual receipts do not exceed one million dollars (\$1,000,000).
 - b. One or more veterans own more than fifty percent (50%) of the business."

SECTION 12.(a) G.S. 89F-20(a) reads as rewritten:

"(a) The Board may, consistent with the provisions of Chapter 150B of the General Statutes, refuse to grant or to renew, suspend, or revoke the license of any person licensed under this Chapter who:

...."

SECTION 12.(b) G.S. 89G-5 reads as rewritten:

"§ 89G-5. Powers and duties.

The Board shall have the following powers and duties:

...

- (8) To conduct administrative hearings in accordance with Chapter 150B of the General Statutes.

...."

SECTION 12.(c) G.S. 106-1041 reads as rewritten:

"§ 106-1041. Statement of purpose and authorization.

The North Carolina Department of Agriculture and Consumer Services is authorized to aid and assist agricultural operations and landowners in the preparedness for, response to, and recovery from agricultural emergencies. This authorization is given separate and apart from the authorities authorized by Chapter 166A of the General Statutes and shall not require declaration of a state of emergency pursuant to G.S. 166A-19.20 for its implementation. In the event of a state of emergency declaration and where this Article is inconsistent with the provisions of Chapter 166A of the General Statutes, the provisions of Chapter 166A of the General Statutes shall control as to the areas covered under the declaration. The Board of Agriculture may adopt rules necessary for the implementation and administration of this Article."

SECTION 13.(a) The following statutes are amended by deleting the phrase "the the chairs" wherever it appears and substituting the phrase "the chairs": G.S. 96-35, 143B-431.01(d)(1), 143B-431.01(f), 143B-434.2(d), 143B-435.1(d), 143B-437.02(k), 143B-437.012(m), 143B-438.10(a)(7a), 143B-438.10(a)(8), 143B-438.14(d), 143B-472.35(l), and 143B-1285(3).

SECTION 13.(b) G.S. 115D-11.6 reads as rewritten:

"§ 115D-11.6. Apprenticeship Council.

The State Board of Community Colleges shall appoint an Apprenticeship Council composed of four representatives each from employer and employee organizations respectively and three representatives from the public at large. One State official designated by the Department of Public Instruction and one State official designated by the Department of Commerce shall be a member ex officio of the council, without vote. The terms of office of the members of the

Apprenticeship Council shall be designated by the State Board. Any member appointed to fill a vacancy occurring prior to the expiration of the term of his or her predecessor shall be appointed for the remainder of the term. Each member of the Council not otherwise compensated by public moneys, shall be reimbursed for transportation and shall receive such per diem compensation as is provided generally for boards and commissions under the biennial maintenance appropriation acts for each day spent in attendance at meetings of the Apprenticeship Council. The State Board of Community Colleges shall annually appoint one member of the Council to act as its chair.

The Apprenticeship Council shall meet at the call of the State Board of Community Colleges and shall aid the State Board and the Community Colleges System Office in formulating policies for the effective administration of this Article. The Apprenticeship Council shall establish standards for apprentice agreements which in no case shall be lower than those prescribed by this Article, shall recommend rules and regulations to the State Board of Community Colleges as may be necessary to carry out the intent and purposes of this Article, and shall perform other functions as the State Board of Community Colleges may direct. Not less than once a year the Apprenticeship Council shall make a report through the Community Colleges System Office of its activities and findings ~~to the legislature and to the public, to the public and to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the chairs of the Senate Appropriations Committee on Agriculture, Natural, and Economic Resources, and the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources.~~

SECTION 13.(c) G.S. 143B-434.01 reads as rewritten:

"§ 143B-434.01. Comprehensive Strategic Economic Development Plan.

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

...

(b) Plan. – The Secretary shall review and update the existing Plan on or before April 1 of each year. The Plan shall cover a period of four years and each annual update shall extend the time frame by one year so that a four-year plan is always in effect. The Secretary shall provide copies of the Plan and each annual update to the Governor and the Joint Legislative Commission on Governmental Operations. The Plan shall encompass all of the components set out in this section.

(c) Purpose. – The purpose of this section is to require the Secretary to apply strategic planning principles to its economic development efforts. This requirement is expected to result ~~in~~ in all of the following:

...

(d) ~~(1)~~ Public and Private Input. –

(1) At each stage as it develops and updates the Plan, the Secretary shall solicit input from all parties involved in economic development in North Carolina, including:

...

(2) The Secretary shall also hold hearings in each of the Regions to solicit public input on economic development before the initial Plan is completed. The purposes of the public hearings are ~~to~~ to do all of the following:

...

The Secretary shall hold additional hearings from time to time to solicit public input regarding economic development activities.

...

(e) Environmental Scan. – The first step in developing the Plan shall be to develop an environmental scan based on the input from economic development parties and the public and on information about the economic environment in North Carolina. To prepare the scan, the Secretary shall gather the information required in this subsection and ensure that the information is updated periodically. The updated information may be provided in whatever format and

1 through whatever means is most efficient. The information required to prepare the scan includes
2 all of the following:

- 3 ...
4 (2) Compilation of the latest data on the strength of the business environment by
5 State, Region, and county with emphasis on the following dynamics of job
6 creation: start-ups, expansions, locations, contractions, and failures. Special
7 assessments are to be made of rural, small, and minority business components
8 of overall activity.

9 ...
10 (f) Repealed by Session Laws 2012-142, s. 13.4(a), effective July 1, 2012.

11 ...
12 (k) Annual Evaluation. – The Secretary shall annually evaluate the State's economic
13 performance based upon the statistics listed in this subsection and upon the Secretary's stated
14 goals and objectives in its Plan. The statistics upon which the evaluation is made should be
15 available to policymakers. The information may be provided in whatever format and through
16 whatever means is most efficient. The statistics are as follows:

17 ...
18 (l) Accountability. – The Secretary shall make all data, plans, and reports available to
19 ~~the the chairs of the Senate Appropriations Committee on Agriculture, Natural, and Economic~~
20 ~~Resources, the chairs of the House of Representatives Appropriations Committee on Agriculture~~
21 ~~and Natural and Economic Resources, and the Joint Legislative Economic Development and~~
22 ~~Global Engagement Oversight Committee, the Joint Legislative Economic Development and~~
23 ~~Global Engagement Oversight Committee, the chairs of the Senate Appropriations Committee~~
24 ~~on Agriculture, Natural, and Economic Resources, and the chairs of the House of Representatives~~
25 ~~Appropriations Committee on Agriculture and Natural and Economic Resources at appropriate~~
26 ~~times and upon request. The Secretary shall prepare and make available on an annual basis public~~
27 ~~reports on each of the major sections of the Plan and the Annual Report indicating the degree of~~
28 ~~success in attaining each development objective."~~

29 **SECTION 14.** G.S. 106-702(b) and (c) read as rewritten:

30 "(b) If any plaintiff or plaintiff's successor in interest brings a subsequent private nuisance
31 action against any agricultural or forestry operation, the combined recovery from all such actions
32 shall not exceed the fair market value of ~~his or her property, the property at issue.~~ This limitation
33 applies regardless of whether the subsequent action or actions were brought against a different
34 defendant than the preceding action or actions.

35 (c) This Article ~~shall apply~~ applies to any private nuisance claim brought against any
36 party based on that party's contractual or business relationship with an agricultural or forestry
37 operation."

38 **SECTION 15.** G.S. 113A-134.12 reads as rewritten:

39 **"§ 113A-134.12. Multiyear beach management and restoration strategy and plan.**

40 (a) The Department of Environmental Quality shall develop a multiyear beach
41 management and restoration strategy and plan that does all of the following:

- 42 ...
43 (10) Provides for and requires adequate public beach access, including
44 ~~handicapped access~~ access for individuals with a disability.

45 ...
46 (b) Each plan shall be as complete as resources and available information allow.
47 **Environmental Quality"**

48 **SECTION 16.** G.S. 115C-296.2(b) reads as rewritten:

49 "(b) Definitions. – As used in this subsection:

- 50 (1) A "North Carolina public school" is a school operated by a local board of
51 education, the Department of Health and Human Services, the Division of

Adult Correction and Juvenile Justice of the Department of Public Safety, ~~the Division of Adult Correction and Juvenile Justice of the Department of Public Safety~~ or The University of North Carolina; a school affiliated with The University of North Carolina; or a charter school approved by the State Board of Education.

...."

SECTION 17. G.S. 130A-26A is recodified as G.S. 130A-26.4 and reads as rewritten:

"§ 130A-26.4. Violations of Article 4.

(a) A person who commits any of the following acts shall be guilty of a Class 1 misdemeanor:

- (1) Willfully and knowingly makes any false statement in a certificate, record, or report required by Article 4 of this ~~Chapter~~; Chapter.
- (2) Removes or permits the removal of a dead body of a human being without authorization provided in Article 4 of this ~~Chapter~~; Chapter.
- (3) Refuses or fails to furnish correctly any information in the person's possession or furnishes false information affecting a certificate or record required by Article 4 of this ~~Chapter~~; Chapter.
- (4) Fails, neglects, or refuses to perform any act or duty required by Article 4 of this Chapter or by the instructions of the State Registrar prepared under authority of the Article.
- (5) Charges a fee for performing any act or duty required by Article 4 of this Chapter or by the State Registrar pursuant to Article 4 of this Chapter, other than fees specifically authorized by law.

(b) A person who commits any of the following acts shall be guilty of a Class I felony:

- (1) Willfully and knowingly makes any false statement in an application for a certified copy of a vital record, or who willfully and knowingly supplies false information intending that the information be used in the obtaining of any copy of a vital ~~record~~; record.
- (2) Without lawful authority and with the intent to deceive makes, counterfeits, alters, amends, or mutilates a certificate, record, or report required by Article 4 of this Chapter or a certified copy of the certificate, record, or ~~report~~; report.
- (3) Willfully and knowingly obtains, possesses, sells, furnishes, uses, or attempts to use for any purpose of deception, a certificate, record, or report required by Article 4 of this Chapter or a certified copy of the certificate, record, or report, which is counterfeited, altered, amended, or mutilated, or which is false in whole or in part or which relates to the birth of another person, whether living or ~~deceased~~; deceased.
- (4) When employed by the Vital Records Section of the Department or designated under Article 4 of this Chapter, willfully and knowingly furnishes or processes a certificate of birth, death, marriage, or divorce, or certified copy of a certificate of birth, death, marriage, or divorce with the knowledge or intention that it be used for the purposes of ~~deception~~; deception.
- (5) Without lawful authority possesses a certificate, record, or report required by Article 4 of this Chapter or a certified copy of the certificate, record, or report knowing that it was stolen or otherwise unlawfully ~~obtained~~; obtained.
- (6) Willfully alters, except as provided by G.S. 130A-118, or falsifies a certificate or record required by Article 4 of this Chapter; or willfully alters, falsifies, or changes a photocopy, certified copy, extract copy, or any document containing information obtained from an original or copy of a certificate or record required by Article 4 of this Chapter; or willfully makes, creates, or uses any

- 1 altered, ~~falsified~~ falsified, or changed record, reproduction, ~~copy~~ copy, or
2 document for the purpose of attempting to prove or establish for any purpose
3 whatsoever any matter purported to be shown on ~~it~~ it.
- 4 (7) Without lawful authority, manufactures or possesses the seal of: (i) the Vital
5 Records Section, (ii) a county register of deeds, or (iii) a county health
6 department, or without lawful authority, manufactures or possesses a
7 reproduction or a counterfeit copy of the ~~seal~~ seal.
- 8 (8) Without lawful authority prepares or issues any certificate which purports to
9 be an official certified copy of a vital ~~record~~ record.
- 10 (9) Without lawful authority, manufactures or possesses Vital Records Section,
11 county register of deeds, or county health department vital records forms or
12 safety paper used to certify births, deaths, marriages, and divorces, or
13 reproductions or counterfeit copies of the forms or safety ~~paper~~ paper.
- 14 (10) Willfully and knowingly furnishes a certificate of birth or certified copy of a
15 record of birth with the intention that it be used by an unauthorized person or
16 for an unauthorized purpose."

17 **SECTION 18.** Article 18A of Chapter 136 of the General Statutes is repealed.

18 **SECTION 19.** G.S. 143-157.1(a) and (b) read as rewritten:

19 "(a) Appointments. – In appointing members to public bodies set forth in subsections (c)
20 and (d) of this section, the appointing authority should select, from among the most qualified
21 persons, those persons whose appointment would promote membership on the body that
22 accurately reflects the proportion that each gender represents in the population of the State as a
23 whole or, in the case of a local body, in the population of the area represented by the ~~or~~ body, as
24 determined pursuant to the most recent federal decennial census, unless the law regulating ~~such~~
25 the appointment requires otherwise. If there are multiple appointing authorities for the body, they
26 may consult with each other to accomplish the purposes of this section.

27 (b) Reports Generally. – Each appointing authority described in subsection (a) of this
28 section shall submit a report to the Secretary of State annually which discloses the number of
29 appointments made during the preceding year and the number of appointments of each gender
30 made, expressed both in numerical terms and as a percentage of the total membership of the body.
31 In addition, each appointing authority shall designate a person responsible for retaining all
32 applications for appointment, who shall ensure that information describing each applicant's
33 gender and qualifications is available for public inspection during reasonable hours. Nothing in
34 this section requires disclosure of an applicant's identity or of any other information made
35 confidential by law. The Secretary of State shall prescribe the form used to report these
36 appointments and may accept these reports by electronic means. Reports by appointing
37 authorities shall be due in the Department of the Secretary of State on or before September 1.
38 From these reports, the Secretary of State shall generate an annual composite report that shall be
39 published by December 1. Copies of the report shall be submitted to the Governor, the Speaker
40 of the House of Representatives, and the President Pro Tempore of the Senate."

41 **SECTION 20.** G.S. 143-723 reads as rewritten:

42 **"§ 143-723. Open meetings; public records; audit.**

43 The Open Meetings Law (~~Article 33~~ Article 33C of Chapter 143 of the General Statutes)
44 and the Public Records Act (Chapter 132 of the General Statutes) ~~shall~~ shall apply to the Fund and the
45 Commission, and the Fund and the Commission ~~shall be~~ are subject to audit by the State Auditor
46 as provided by law. The Commission shall reimburse the State Auditor for the actual cost of the
47 audit."

48 **SECTION 21.** G.S. 150B-1(d) reads as rewritten:

49 "(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the
50 following:
51 ...

(6) ~~and Juvenile Justice~~ The Department of Public Safety, with respect to matters relating to executions under Article 19 of Chapter 15 of the General Statutes and matters relating solely to persons in its custody or under its supervision, including prisoners, probationers, and parolees.

...."

SECTION 22. G.S. 150B-21.11 reads as rewritten:

"§ 150B-21.11. Procedure when Commission approves permanent rule.

When the Commission approves a permanent rule, it must notify the agency that adopted the rule of the Commission's approval, and deliver the approved rule to the Codifier of Rules.~~Regulatory Reform~~

If the approved rule will increase or decrease expenditures or revenues of a unit of local government, the Commission must also notify the Governor of the Commission's approval of the rule and deliver a copy of the approved rule to the Governor by the end of the month in which the Commission approved the rule."

SECTION 23.(a) Section 16D.4(dd) of S.L. 2017-57 reads as rewritten:

"SECTION 16D.4.(dd) In developing and implementing the education and training required by subsections ~~(a) and (b)~~ (bb) and (cc) of this section, the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission shall work with the Division of Adult Correction and Juvenile Justice of the Department of Public Safety."

SECTION 23.(b) Section 16D.4(tt) of S.L. 2017-57 reads as rewritten:

"SECTION 16D.4.(tt) Sections 16D.4(a) through 16D.4(s) of this act become effective December 1, 2019, and apply to offenses committed on or after that date. Sections 16D.4(t) through 16D.4(x) of this act become effective October 1, 2017, and Sections 16D.4(t) through 16D.4(w) apply to all complaints filed on or after that date. Except as otherwise provided in this ~~act, section,~~ the remainder of this ~~act-section~~ is effective when it becomes law. Prosecutions or delinquency proceedings initiated for offenses committed before any particular ~~section~~ subsection of this section becomes effective are not abated or affected by this act, and the statutes that are in effect on the dates the offenses are committed remain applicable to those prosecutions."

SECTION 24.(a) Section 36.7(b) of S.L. 2017-57 reads as rewritten:

"SECTION 36.7.(b) Reporting. – The following reports are required:

- (1) By ~~October 1, 2017,~~ October 15, 2017, and every six months thereafter, each State agency shall report on the status of agency capital projects to the Joint Legislative Commission on Governmental Operations.
- (2) By ~~October 1, 2017,~~ October 15, 2017, and quarterly thereafter, each State agency shall report on the status of agency capital projects to the Fiscal Research Division of the General Assembly and to the Office of State Budget and Management."

SECTION 24.(b) Section 7(b) of S.L. 2017-206 is repealed.

SECTION 25. Subsections (b) and (c) of Section 2 of S.L. 2017-137 read as rewritten:

"SECTION 2.(b) Pilot Program to Reduce Inventory of DOT Residue Property. – No later than January 1, 2018, the Department shall establish a pilot program for disposing of residue property in accordance with ~~Section 1(a)~~ Section 2(a) of this act. In implementing this pilot program, the Department shall prepare a request for proposals to select three real estate brokers and three real estate auctioneers or real estate auction firms to dispose of a representative sample of residue properties, selected by the Department, consisting of at least 15 Class A properties, 30 Class B properties, and 45 Class C properties distributed throughout the State. If the quantity of residue property in each class is insufficient to satisfy this minimum, the Department may set a minimum based on the quantity of residue properties available. The term for the initial contracts

1 awarded shall be 180 days. The Department shall repeat the request for proposals process to
2 award contracts for a subsequent 180-day term. The Department shall review the progress of
3 residue property disposition pursuant to each contract awarded through the pilot program. The
4 pilot program shall terminate on January 1, 2019.

5 "SECTION 2.(c) No later than March 1, 2018, and by March 1, 2019, the Department shall
6 report to the Joint Legislative Transportation Oversight Committee on the classification and sale
7 of residue properties pursuant to the pilot program established pursuant to ~~Section 1(b)~~ Section
8 2(b) of this act. At a minimum, this report shall include information on the following:

- 9 (1) The number and type of properties classified and offered as part of each
10 request for proposal.
- 11 (2) The details of each request for proposal and award of contract pursuant to each
12 request for proposal.
- 13 (3) The number and type of properties sold, including information about the
14 manner of sale, the identity of the purchaser, and the average ratio of sale price
15 to residue property value of the properties sold."

16 SECTION 26.(a) Section 2 of S.L. 2017-174 reads as rewritten:

17 "SECTION 2. This act is effective when it becomes law and applies to any licensee or
18 prospective applicant who seeks to make specified types of alterations or additions to its hospital
19 facilities or to construct new hospital facilities and who submits plans and specifications to the
20 Department of Health and Human Services pursuant to Article 5 of ~~Chapter 113E~~ Chapter 131E
21 of the General Statutes on or after January 1, 2016."

22 SECTION 26.(b) This section becomes effective July 21, 2017.

23 24 PART II. TECHNICAL CORRECTIONS TO THE NORTH CAROLINA UNIFORM 25 POWER OF ATTORNEY ACT

26 SECTION 27.(a) G.S. 32C-1-108(b) reads as rewritten:

27 "(b) If, after a principal executes a power of attorney, the clerk of superior court appoints
28 a guardian of the principal's estate, or general guardian or other fiduciary charged with the
29 management of some or all of the principal's property, the agent is accountable to the guardian
30 or the fiduciary as well as to the principal. The power of attorney is not terminated and the agent's
31 authority continues unless ~~limited, suspended, suspended~~ or terminated by the clerk of superior
32 court in accordance with this Chapter, pursuant to G.S. 32C-1-116(a)(2) or terminated by the
33 guardian of the principal's estate or general guardian pursuant to G.S. 32C-1-110(a)(7) or
34 G.S. 32C-1-110(b)(5)."

35 SECTION 27.(b) G.S. 32C-1-116 reads as rewritten:

36 "§ 32C-1-116. Judicial relief.

37 (a) The clerks of superior court of this State shall have original jurisdiction of
38 proceedings under this Chapter. Except as provided in subdivision (4) of this subsection, the clerk
39 of superior court's jurisdiction is exclusive. The following proceedings are included:

- 40 ...
- 41 (2) To terminate a power of attorney or to ~~limit, suspend, suspend~~ or terminate
42 the authority of an agent where a guardian of the estate or a general guardian
43 has been appointed.

44 ...

45 (b) Without otherwise limiting the jurisdiction of the superior court division of the
46 General Court of Justice, the clerk of superior court shall not have jurisdiction under this
47 subsection over the following actions:

- 48 (1) To modify or amend a power of attorney instrument.
- 49 (2) By or against creditors or debtors of an agent or principal.
- 50 (3) Involving claims for monetary damages, including claims for breach of
51 fiduciary duty, fraud, and negligence.

- (4) To set aside a power of attorney based on undue influence or lack of capacity.
- (5) For the recovery of property transferred or conveyed by an agent on behalf of a principal with intent to hinder, delay, or defraud the principal's creditors.

(c) Proceedings brought under the provisions of subsection (a) of this section shall be commenced as prescribed for ~~in in, and shall be conducted in accordance with,~~ estate proceedings under G.S. 28A-2-6 and may be brought by the following persons:

- (1) The principal or the agent.
- (2) A general guardian, guardian of the principal's estate, or guardian of the principal's person.
- (3) The personal representative of the estate of a deceased principal.
- (4) A person authorized to make health care decisions for the principal.
- (5) Any other interested person, including a person asked to accept a power of attorney.

...

(e) Nothing in this section ~~shall affect~~ affects the right of a person to file an action in the Superior Court Division of the General Court of Justice for declaratory relief under Article 26 of Chapter 1 of the General Statutes.

...."

SECTION 28.(a) G.S. 32C-1-109(c) reads as rewritten:

"(c) If a power of attorney becomes effective upon the principal's incapacity and the principal has not authorized a person to determine whether the principal is incapacitated, or the person authorized is unable or unwilling to make the determination, the power of attorney becomes effective upon a determination in a writing or other record in one of the following manners:

- (1) After a personal examination of the principal, by two individuals who are either a physician, a licensed psychologist, or both, that the principal is incapacitated within the meaning of ~~G.S. 32C-1-102(5)a~~ G.S. 32C-1-102(6)a.
- (2) By an attorney-at-law, a judge, or an appropriate governmental official that the principal is incapacitated within the meaning of ~~G.S. 32C-1-102(5)b~~ G.S. 32C-1-102(6)b.

Notwithstanding the subsequent capacity of the principal to manage property or business affairs, a power of attorney which becomes effective under this subsection shall remain effective until its termination pursuant to G.S. 32C-1-110(a) or the agent's authority terminates pursuant to G.S. 32C-1-110(b)."

SECTION 28.(b) G.S. 32C-1-116(f) reads as rewritten:

"(f) Upon motion by the principal, the clerk of superior court shall dismiss a petition filed under subsection (a) of this section, unless the clerk of superior court determines the principal is incapacitated within the meaning of ~~G.S. 32C-1-102(5)~~ G.S. 32C-1-102(6)."

SECTION 29. G.S. 32C-1-112 reads as rewritten:

"§ 32C-1-112. Reimbursement and compensation of agent.

(a) If the terms of the power of attorney specify the amount or the way the compensation is to be determined, the agent is entitled to the compensation as specified.

(b) If the terms of the power of attorney do not specify the amount or the way the compensation is to be determined, and the principal thereafter becomes incapacitated, then subsequent to the principal's incapacity the agent is entitled to receive reasonable compensation as determined by the clerk of superior court in accordance with G.S. 32-59.

(c) Unless the power of attorney otherwise provides, an agent is entitled upon request to the clerk of superior court pursuant to G.S. 32-59 to be reimbursed for expenses properly incurred on behalf of the principal."

SECTION 30.(a) G.S. 32C-1-114 reads as rewritten:

"§ 32C-1-114. Agent's duties.

1 ...
2 (b) Except as otherwise provided in the power of attorney, an agent that has accepted
3 appointment has no affirmative duty to exercise the powers or to continue to exercise the powers
4 granted to the agent by the power of attorney, but if the agent exercises any of the granted powers,
5 the agent shall, in the exercise of such powers, do all of the following:

6 (1) Act loyally for the principal's benefit.

7 ...

8 ~~(7) Account to the principal or a person designated by the principal in the power~~
9 ~~of attorney.~~

10 ...
11 (h) Except as otherwise provided in the power of attorney, an agent is not required to
12 disclose receipts, disbursements, or transactions conducted on behalf of the principal unless
13 ordered by a court or requested by the ~~principal, principal or a person designated by the principal~~
14 in the power of attorney, a guardian of the estate, general guardian, or, upon the death of the
15 principal, by the personal representative or successor in interest of the principal's estate."

16 **SECTION 30.(b)** G.S. 32C-3-301 reads as rewritten:

17 **"§ 32C-3-301. Statutory form power of attorney.**

18 As a nonexclusive method to grant a power of attorney, a document substantially in the
19 following form may be used to create a statutory form power of attorney that has the meaning
20 and effect prescribed by this Chapter:

21 "NORTH CAROLINA

22 STATUTORY SHORT FORM POWER OF ATTORNEY

23 NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND
24 SWEEPING. THEY ARE DEFINED IN CHAPTER 32C OF THE NORTH CAROLINA
25 GENERAL STATUTES, WHICH EXPRESSLY PERMITS THE USE OF ANY OTHER OR
26 DIFFERENT FORM OF POWER OF ATTORNEY DESIRED BY THE PARTIES
27 CONCERNED.

28
29 IMPORTANT INFORMATION

30
31 This power of attorney authorizes another person (your agent) to make decisions concerning your
32 property for you (the principal). Your agent will be able to make decisions and act with respect
33 to your property (including your money) whether or not you are able to act for yourself. The
34 meaning of authority over subjects listed on this form is explained in the North Carolina Uniform
35 Power of Attorney Act.

36
37 This power of attorney does not authorize the agent to make health care decisions for you.

38
39 ...

40
41 "IMPORTANT INFORMATION FOR AGENT

42
43 Agent's Duties

44
45 ...

46
47 Unless the Additional Provisions and Exclusions in this power of attorney state otherwise, you
48 must also:

49
50 (1) Act loyally for the principal's benefit;

51 ...

(5) Cooperate with any person that has authority to make health care decisions for the principal to do what you know the principal reasonably expects, or if you do not know the principal's expectations, to act in the principal's best ~~interest;~~interest;
and

(6) Attempt to preserve the principal's estate plan if you know the plan and preserving the plan is consistent with the principal's best ~~interest; and~~interest.

(7) ~~Account to the principal (or a person designated by the principal (if any)) in the Additional Provisions and Exclusions.~~

...."

SECTION 31.(a) G.S. 32C-2-201 reads as rewritten:

"§ 32C-2-201. Authority requiring specific grant; grant of general authority.

(a) Unless the exercise of the authority by an agent under a power of attorney is ~~not~~ otherwise prohibited by another agreement or instrument to which the authority or property is subject, then the following apply:

...
(d) Subject to subsections (a), (b), (c), (e), and (f) of this section, if a power of attorney grants to an agent authority to do all acts that a principal could do, the agent has the general authority described in G.S. 32C-2-204 through G.S. ~~32C-2-216 and G.S. 32C-2-220.~~32C-2-216.

...."

SECTION 31.(b) G.S. 32C-2-202 reads as rewritten:

"§ 32C-2-202. Incorporation of authority.

(a) An agent has authority described in this Chapter if the power of attorney refers to general authority with respect to the descriptive term for the subjects stated in G.S. 32C-2-204 through G.S. 32C-2-217 ~~and G.S. 32C-2-220~~ or cites the section in which the authority is described.

(b) A reference in a power of attorney to general authority with respect to the descriptive term for a subject in G.S. 32C-2-204 through G.S. 32C-2-217 ~~and G.S. 32C-2-220~~ or a citation to G.S. 32C-2-204 through G.S. 32C-2-217 ~~and G.S. 32C-2-220~~ incorporates the entire section as if it were set out in full in the power of attorney.

(c) A principal may modify authority incorporated by reference."

SECTION 31.(c) G.S. 32C-2-203 reads as rewritten:

"§ 32C-2-203. Construction of authority, generally.

Except as otherwise provided in the power of attorney, by executing a power of attorney that incorporates by reference a subject described in G.S. 32C-2-204 through G.S. 32C-2-217 ~~and G.S. 32C-2-220~~ or that grants to an agent authority to do all acts that a principal could do pursuant to G.S. 32C-2-201(d), a principal authorizes the agent, with respect to that subject, to do all of the following:

...."

SECTION 32. G.S. 32C-3-303 reads as rewritten:

"§ 32C-3-303. Limited power of attorney for real property.

...

SIGNATURE AND ACKNOWLEDGMENT

Your Signature

Date

Your Name Printed

State of _____, County of _____.

I certify that the following person personally appeared before me this day, acknowledging to me that he or she signed the foregoing document: _____.

Date: _____

Signature of Notary Public

(Official Seal)

_____, Notary Public
Printed or typed name"

My commission expires: _____"

SECTION 33. G.S. 32C-4-403 reads as rewritten:

"§ 32C-4-403. Effect on existing powers of attorney.

(a) Except as otherwise provided in this Chapter, the following apply on January 1, 2018.

(1) This Chapter applies to a power of attorney created before, on, or after January 1, 2018, unless there is clear indication of a contrary intent in the terms of a power of attorney or unless application of a particular provision of this Chapter would substantially impair rights of a party.

...

(4) A rule of construction or presumption provided by this ~~Chapter~~ Chapter, including the rule of G.S. 32C-1-104 regarding durability of a power of attorney, applies to powers of attorney executed before January 1, 2018, unless there is a clear indication of a contrary intent in the terms of a power of attorney or unless the application of the rule of construction or presumption would substantially impair rights of a party created under North Carolina law in effect prior to January 1, 2018, in which case the rule of construction or presumption does not apply and the superseded rule of construction or presumption applies.

...

(c) References to prior statutes ~~and in~~ powers of attorney, whether executed on or after the adoption of this Chapter shall be deemed to refer to the corresponding provisions this Chapter unless application of the rule of construction would substantially impair substantial rights of a party.

(d) Notwithstanding the provisions of this Chapter, the powers conferred by former G.S. 32A-2 shall apply to a Statutory Short Form Power of Attorney that was created in accordance with former G.S. 32A-1 prior to January 1, 2018."

SECTION 34. G.S. 47-43 reads as rewritten:

"§ 47-43. Form of certificate of acknowledgment of instrument executed by ~~attorney-in-fact~~ agent.

When an instrument purports to be signed by parties acting through another by virtue of the execution of a power of attorney, the following form of certificate ~~shall be deemed is~~ sufficient, but ~~shall does~~ not exclude other forms ~~which would be deemed sufficient in law:~~ forms:
North Carolina, _____ County.

I (here give name of the official and ~~his official~~ the official's title), do hereby certify that (here give name of ~~attorney in fact~~, ~~attorney in fact~~ agent) (the "Agent"), agent for (here give names of parties who executed the instrument through ~~attorney in fact~~, the Agent) (the "Principal").

personally appeared before me this day, and being by me duly sworn, says that ~~he the Agent~~ executed the foregoing and annexed instrument for and ~~in on~~ behalf of ~~(here give names of parties who executed the instrument through attorney in fact),~~ the Principal, and that ~~his the Agent's~~ authority to execute and acknowledge ~~said the~~ instrument is contained in an instrument duly executed, acknowledged, and recorded in the office of (here insert name of official in whose office power of attorney is recorded, and the county and state of recordation), on the (day of month, month, and year of recordation), and that this instrument was executed under and by virtue of the authority given by ~~said the~~ instrument granting ~~him the Agent~~ power of attorney; that the ~~said (here give name of attorney in fact) Agent~~ acknowledged the due execution of the foregoing and annexed instrument for the purposes therein expressed for and in behalf of the ~~said (here give names of parties who executed the instrument through attorney in fact) Principal.~~

WITNESS my hand and official seal, this _____ day of _____, (year) _____
(Official seal.)

Signature of Officer"

SECTION 35.(a) G.S. 90-21.13(c) reads as rewritten:

"(c) The following persons, in the order indicated, are authorized to consent to medical treatment on behalf of a patient who is comatose or otherwise lacks capacity to make or communicate health care decisions:

...

(2) A health care agent appointed pursuant to a valid health care power of attorney, to the extent of the authority granted.

(3) An agent, with powers to make health care decisions for the patient, appointed by the ~~patient pursuant to Chapter 32C of the General Statutes,~~ patient, to the extent of the authority granted.

...."

SECTION 35.(b) G.S. 90-322(b) reads as rewritten:

"(b) If a person's condition has been determined to meet the conditions set forth in subsection (a) of this section and no instrument has been executed as provided in G.S. 90-321, then life-prolonging measures may be withheld or discontinued upon the direction and under the supervision of the attending physician with the concurrence of the following persons, in the order indicated:

...

(2) A health care agent appointed pursuant to a valid health care power of attorney, to the extent of the authority granted.

(3) An agent, with powers to make health care decisions for the patient, appointed by the ~~patient pursuant to Chapter 32C of the General Statutes,~~ patient, to the extent of the authority granted.

...

If none of the above is reasonably available then at the discretion of the attending physician the life-prolonging measures may be withheld or discontinued upon the direction and under the supervision of the attending physician."

SECTION 36. The Revisor of Statutes shall cause to be printed, as annotations to the published General Statutes, all explanatory comments of the drafters of this Part as the Revisor may deem appropriate.

PART III. EFFECTIVE DATE

SECTION 37. Except as otherwise provided, this act is effective when it becomes law.

Committee Bill Action Sheet

Date: 6/6/2018

Committee: Judiciary I

Chair: Rep. Sarah Stevens

Bill #: H1025

PCS: _____

Motion made before the committee by: _____

Rep. Davis explained the bill.

Discussion on the Bill YES or NO

Rep Mayer motioned for:

☒ Favorable Report

_____ Adoption

_____ Unfavorable Report

_____ Unfavorable to original bill, fav to PCS

_____ No vote

Amendments: : _____

If Senate Bill who is floor manager: _____

Serial referral to: Rules

Speakers:

Handouts:



NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

JUDICIARY I COMMITTEE REPORT
Representative Ted Davis, Jr., Chair

FAVORABLE

HB 1022

Collaborative Law.

Draft Number: None
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: Davis

FAVORABLE AND RE-REFERRED

HB 1025

GSC Technical Corrections 2018.

Draft Number: None
**Serial Referral: RULES, CALENDAR, AND
OPERATIONS OF THE HOUSE**
Recommended Referral: None
Long Title Amended: No
Floor Manager: Davis

HB 1036

PED Lottery Recommendations.

Draft Number: None
Serial Referral: EDUCATION - K-12
Recommended Referral: None
Long Title Amended: No
Floor Manager: Horn

TOTAL REPORTED: 3



* C M R 7 2 3 - V - 1 *



Andrew Bowers (Rep. Ted Davis)

From: Andrew Bowers (Rep. Ted Davis)
Sent: Tuesday, June 05, 2018 03:56 PM
To: Rep. Ted Davis; Sen. Shirley B. Randleman
Cc: Andrew Bowers (Rep. Ted Davis); Jeb Kelly (Sen. Shirley B. Randleman)
Subject: <NCGA> House Judiciary I Committee Meeting Notice for Thursday, June 07, 2018 at 15 Minutes After Session
Attachments: Add Meeting to Calendar_LINC_.ics

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Thursday, June 7, 2018
TIME: 15 Minutes After Session
LOCATION: 423 LOB
COMMENTS: Senate Bill 616 may be added to the agenda.

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 1021</u>	People First Language 2018.	Representative Davis
<u>SB 168</u>	Subsidy Recipients to Cooperate/Child Support.	Senator Randleman

Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 3:34 PM on Tuesday, June 05, 2018.

____ Principal Clerk
____ Reading Clerk – House Chamber

Andrew Bowers (Committee Assistant)



Andrew Bowers (Rep. Ted Davis)

From: Andrew Bowers (Rep. Ted Davis)
Sent: Wednesday, June 06, 2018 11:37 AM
To: Rep. Ted Davis; Sen. Shirley B. Randleman; Sen. Jim Davis
Cc: Andrew Bowers (Rep. Ted Davis); Jeb Kelly (Sen. Shirley B. Randleman); Johnny Bravo (Sen. Jim Davis)
Subject: <NCGA> House Judiciary I Committee Meeting Notice for Thursday, June 07, 2018 at 15 Minutes After Session - UPDATED #1
Attachments: Add Meeting to Calendar_LINC_.ics

Updated #1: Senate Bill 616 has been added to the agenda.

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Thursday, June 7, 2018
TIME: 15 Minutes After Session
LOCATION: 423 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 1021</u>	People First Language 2018.	Representative Davis
<u>SB 168</u>	Subsidy Recipients to Cooperate/Child Support.	Senator Randleman
<u>SB 616</u>	Heroin & Opioid Prevention & Enforcement Act.	Senator J. Davis



Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 11:36 AM on Wednesday, June 06, 2018.

____ Principal Clerk
____ Reading Clerk – House Chamber

Andrew Bowers (Committee Assistant)



Andrew Bowers (Rep. Ted Davis)

From: Andrew Bowers (Rep. Ted Davis)
Sent: Wednesday, June 06, 2018 03:19 PM
To: Rep. Ted Davis; Sen. Shirley B. Randleman; Sen. Jim Davis; Rep. Jamie Boles, Jr
Cc: Andrew Bowers (Rep. Ted Davis); Jeb Kelly (Sen. Shirley B. Randleman); Johnny Bravo (Sen. Jim Davis); Kerry Guice (Rep. Jamie Boles)
Subject: <NCGA> House Judiciary I Committee Meeting Notice for Thursday, June 07, 2018 at 15 Minutes After Session - UPDATED #2
Attachments: Add Meeting to Calendar_LINC_.ics

Updated #2: House Bill 969 has been added to the agenda.

NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2017-2018 SESSION

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Thursday, June 7, 2018
TIME: **15 Minutes After Session**
LOCATION: **423 LOB**

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 1021</u>	People First Language 2018.	Representative Davis
<u>SB 168</u>	Subsidy Recipients to Cooperate/Child Support.	Senator Randleman
<u>SB 616</u>	Heroin & Opioid Prevention & Enforcement Act.	Senator J. Davis
<u>HB 969</u>	Enhance Prison Security.	Representative Davis Representative Boles



Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 3:18 PM on Wednesday, June 06, 2018.

___ Principal Clerk
___ Reading Clerk – House Chamber

Andrew Bowers (Committee Assistant)



House Committee on Judiciary I
Thursday, June 7, 2018, 15 Minutes After Session
423 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Approval of Minutes

- May 23, 2018 Minutes
- June 6, 2018 Minutes

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 1021	People First Language 2018.	Representative Davis
SB 168	Subsidy Recipients to Cooperate/Child Support.	Senator Randleman
SB 616	Heroin & Opioid Prevention & Enforcement Act.	Senator J. Davis
HB 969	Enhance Prison Security.	Representative Davis Representative Boles

Presentations

Other Business

Adjournment



House Committee on Judiciary I
Thursday, June 7, 2018 at 15 Minutes After Session
Room 423 of the Legislative Office Building

MINUTES

The House Committee on Judiciary I met at 1:25 on June 7, 2018 in Room 423 of the Legislative Office Building. Representatives Davis, Hall, Jackson, Stevens, Turner, Arp, Farmer-Butterfield, Howard, Martin, McNeill, Meyer, Rogers, and Steinburg attended.

Representative Ted Davis, Jr., Chair, presided. Representative Davis thanked all in attendance to the meeting, the Sergeant at arms, and the pages for their service to the General Assembly.

The following bills were considered:

SB 168 AOC Omnibus Changes. (Senator Randleman). Representative Davis recognized Representative Sarah Stevens to speak on the bill. There was discussion. Representative Allen McNeill motioned for an unfavorable report to the original bill, favorable to the Proposed Committee Substitute. The motion passed.

Representative Davis relinquished the chair to Representative Stevens. Representative Stevens recognized Representative Davis to present **HB 1021 People First Language 2018. (Representative Davis).** There was discussion. Representative Jean Farmer-Butterfield motioned for an unfavorable report to the original bill, favorable to the Proposed Committee Substitute. The motion passed.

HB 969 Enhance Prison Security. (Representatives Davis, Boles). Representative Stevens recognized Representatives Davis and Jamie Boles to present the bill. There was discussion. Representative Davis introduced an amendment requested by the State Bureau of Investigation. There was discussion on the amendment. The amendment passed. Representative Allen McNeill offered an amendment. Representative McNeill made a motion to approve the amendment. The amendment passed. There was further discussion on the bill. Representative Graig Meyer offered an amendment. There was discussion on the amendment. Representative Stevens called for a roll-call vote on the approval of the amendment. The amendment passed 7 votes to 6. There was further discussion on the bill. Representative Dean Arp offered an amendment to the bill. There was discussion on the amendment. Representative Arp motioned for approval of the amendment. The amendment failed. There was further discussion on the bill. Representative David Rogers offered an amendment to the bill. There was discussion on the amendment. Representative Stevens called for a roll-call vote on the approval of the amendment. The amendment failed. There was further discussion on the bill. Representative Davis motioned for an unfavorable report to the



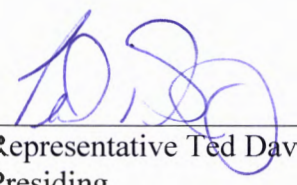
.



original bill, favorable to the Proposed Committee Substitute, as amended by the committee. Representative Stevens asked for a roll call vote. The motion passed.

SB 616 Heroin & Opioid Prevention & Enforcement Act. (Senator J. Davis). Representative Stevens relinquished the chair back to Representative Davis, and he recognized Representative Craig Horn to present the bill. Representative Julia Howard offered an amendment to the bill. There was discussion on the amendment. The amendment passed. There was further discussion on the bill. Representative Farmer-Butterfield motioned for an unfavorable report to the original bill, favorable to the Proposed Committee Substitute. The motion passed.

The meeting adjourned at 3:50 PM.

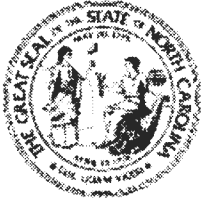
A handwritten signature in blue ink, appearing to read "T. Davis", written over a horizontal line.

Representative Ted Davis, Jr., Chair
Presiding

A handwritten signature in blue ink, appearing to read "Andrew Bowers", written over a horizontal line.

Andrew Bowers, Committee Clerk





SENATE BILL 168: AOC Omnibus Changes.

2017-2018 General Assembly

Committee: House Judiciary I
Introduced by: Sen. Randleman
Analysis of: PCS to First Edition
S168-CSTGf-42

Date: June 6, 2018
Prepared by: Bill Patterson
Staff Attorney

OVERVIEW: *The Proposed Committee Substitute for Senate Bill 168 rewrites the original bill in its entirety to make a number of changes to the laws governing the administration of justice.*

CURRENT LAW AND BILL ANALYSIS

Section 1 of the PCS would reduce the distribution of free copies of appellate reporter advance sheets by repealing the current requirement that the Administrative Office of the Courts ("AOC") to furnish one copy of the advance sheets of appellate decisions to each justice and judge of the General Court of Justice, each superior court district attorney, each superior court clerk, each district court prosecutor, each special counsel at regional psychiatric facilities, and to the Supreme Court library.

Effective January 1, 2019, **Section 2** would increase from \$25,000 to \$50,000 the amount of funds payable to a minor that must be paid to the public guardian or the clerk of the superior court in the county where the minor is domiciled to be preserved until the minor reaches the age of majority.

Section 3 would clarify that power of attorney proceedings are subject to the costs authorized to be assessed in the estates proceedings.

Effective July 1, 2018, **Section 4** would authorize the clerk of court to collect a fee of \$300 from cities and counties for in rem foreclosures to collect delinquent taxes, to be remitted to the State for the support of the General Court of Justice.

Section 5 would reduce the number of governmental entities and officials receiving free hard copies of appellate division reports from the AOC and would reduce the number of copies distributed to some recipients.

Section 6 would require the Office of Indigent Services to develop a model plan by July 1, 2019 establishing minimum qualifications for appointment of private counsel for adoption by each judicial district. The model plan would become effective in any district that has not adopted the plan's minimum qualification standards by January 2, 2021.

Effective October 1, 2018, **Section 7** would amend G.S. 15A-304(b) governing the issuance of citizen-initiated and law enforcement-initiated arrest warrants. This section would restore some of the provisions deleted by Section 5.(a) of S.L. 2017-176, and would delete some of the provisions added by Section 5.(a) of S.L. 2017-176.

Effective January 1, 2019, **Section 8** would increase from \$1,500 to \$5,000 the maximum total value of a devise of personal property to a minor that the personal representative can distribute to the minor's parent or guardian, with approval of the clerk of court who issued the letters testamentary or of administration.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

Senate PCS 168

Page 2

Section 9 would increase from \$30,000 to \$60,000 the allowance out of the deceased spouse's personal property for the surviving spouse's support for one year after the death of the deceased spouse, effective January 1, 2019, and applicable to allowance applications made on or after that date.

Section 10 would delete duplicative language in the statute governing the procedure for appointing an interim guardian.

Section 11 would establish procedures governing foreclosure sales to ensure that clerks receive proper notice of postponements or cancellations, effective July 1, 2018, and applicable to foreclosure sales noticed on or after that date.

Section 12 would clarify that the Special Proceedings Index is not required to be sealed when a decree of adoption becomes final, and would require orders of dismissal of an adoption petition to be sent to the Division of Social Services of the Department of Health and Human Services.

Section 13 would authorize the AOC or clerks of the superior court to keep confidential personally identifiable information collected for the purpose of a court proceeding notification system, and would permit the use of an automatic dialing and recorded message player to make unsolicited telephone calls generated from a court proceeding notification system established by the AOC.

EFFECTIVE DATE: Except as otherwise provided, this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

S

D

SENATE BILL 168
PROPOSED HOUSE COMMITTEE SUBSTITUTE S168-CSTGf-42 [v.7]
06/06/2018 07:33:33 PM

Short Title: AOC Omnibus Changes.

(Public)

Sponsors:

Referred to:

March 2, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES TO THE LAW GOVERNING THE
3 ADMINISTRATION OF JUSTICE.

4 The General Assembly of North Carolina enacts:

5
6 **PART I. REDUCE DISTRIBUTION OF APPELLATE REPORTER ADVANCE SHEETS**

7 **SECTION 1.** G.S. 7A-6(c) is repealed.

8
9 **PART II. INCREASE MAXIMUM INSURANCE BENEFICIARY DISTRIBUTIONS**

10 **SECTION 2.1** G.S. 7A-111 reads as rewritten:

11 **"§ 7A-111. Receipt and disbursement of insurance and other moneys for minors and**
12 **incapacitated adults.**

13 (a) When a minor under 18 years of age is named beneficiary in a policy or policies of
14 insurance, and the insured dies prior to the majority of such minor, and the proceeds of each
15 individual policy do not exceed ~~twenty-five thousand dollars (\$25,000)~~ fifty thousand dollars
16 (\$50,000) such proceeds may be paid to and, if paid, shall be received by the public guardian or
17 clerk of the superior court of the county wherein the beneficiary is domiciled. The receipt of the
18 public guardian or clerk shall be a full and complete discharge of the insurer issuing the policy
19 or policies to the extent of the amount paid to such public guardian or clerk.

20 Any person having in his possession ~~twenty-five thousand dollars (\$25,000)~~ fifty thousand
21 dollars (\$50,000) or less for any minor under 18 years of age for whom there is no guardian, may
22 pay such moneys into the office of the public guardian, if any, or the office of the clerk of superior
23 court of the county of the recipient's domicile. The receipt of the public guardian or clerk shall
24 constitute a valid release of the payor's obligation to the extent of the sum delivered to the clerk.

25"

26
27 **PART III. CLARIFY FEES FOR POWER OF ATTORNEY PROCEEDINGS BEFORE**
28 **A CLERK**

29 **SECTION 3.** G.S. 7A-307 reads as rewritten:

30 **"§ 7A-307. Costs in administration of estates.**

31 (a) In the administration of the estates of decedents, minors, incompetents, of missing
32 persons, ~~and in the administration of trusts under wills and under powers of attorney, in trust~~
33 ~~proceedings under G.S. 36C-2-203, in estate proceedings under G.S. 28A-2-4, in power of~~
34 attorney proceedings under G.S. 32C-1-116(a), and in collections of personal property by
35 affidavit, the following costs shall be assessed:

36"



PART IV. UNIFORM FEES IN FORECLOSURE PROCEEDINGS**SECTION 4.1** G.S. 7A-308 reads as rewritten:**"§ 7A-308. Miscellaneous fees and commissions.**

(a) The following miscellaneous fees and commissions shall be collected by the clerk of superior court and remitted to the State for the support of the General Court of Justice:

(1) Foreclosure under power of sale in deed of trust or mortgage..... \$300.00

If the property is sold under the power of sale, an additional amount will be charged, determined by the following formula: forty-five cents (.45) per one hundred dollars (\$100.00), or major fraction thereof, of the final sale price. If the amount determined by the formula is less than ten dollars (\$10.00), a minimum ten dollar (\$10.00) fee will be collected. If the amount determined by the formula is more than five hundred dollars (\$500.00), a maximum five hundred-dollar (\$500.00) fee will be collected.

(2) In rem foreclosures conducted in accordance with G.S. 105-375..... \$300.00

...."

SECTION 4.2 This section becomes effective July 1, 2018.**PART V. REDUCE HARD COPY APPELLATE DIVISION REPORT EXPENDITURES****SECTION 5.** G.S. 7A-343.1 reads as rewritten:**"§ 7A-343.1. Distribution of copies of the appellate division reports.**

(a) The Administrative Officer of the Courts shall, upon request and at the State's ~~expense~~ expense, distribute such number of copies of the appellate division reports to federal, State departments and agencies, and to educational institutions of instruction, as follows:

Governor, Office of the	1
Lieutenant Governor, Office of the	1
Secretary of State, Department of the	2
State Auditor, Department of the	1
Treasurer, Department of the State	1
Superintendent of Public Instruction	1
Office of the Attorney General	115
State Bureau of Investigation	1
Agriculture and Consumer Services, Department of	1
Labor, Department of	1
Insurance, Department of	1
Budget Bureau, Department of Administration	1
Property Control, Department of Administration	1
State Planning, Department of Administration	1
Environmental Quality, Department of	1
Revenue, Department of	1
Health and Human Services, Department of	1
Adult Correction and Juvenile Justice, Division of	1
Commission for the Blind	1
Transportation, Department of	1
Motor Vehicles, Division of	1
Utilities Commission	81
Industrial Commission	111
State Human Resources Commission	1
Office of State Human Resources	1
Office of Administrative Hearings	2
Community Colleges, Department of	38

1	Department of Commerce	1
2	Commission of Correction	1
3	Parole Commission	1
4	Archives and History, Division of	1
5	Public Safety, Department of	2
6	Natural and Cultural Resources, Department of	3
7	Legislative Building Library	2
8	Justices of the Supreme Court	1 ea.
9	Judges of the Court of Appeals	1 ea.
10	Judges of the Superior Court	1 ea.
11	Clerks of the Superior Court	1 ea.
12	District Attorneys	1 ea.
13	Emergency and Special Judges of the Superior Court	1 ea.
14	Supreme Court of North Carolina Library	AS MANY AS
15		REQUESTED
16	Appellate Division Reporter	1
17	University of North Carolina, Chapel Hill <u>Carolina School of Law</u>	7 <u>15</u>
18	University of North Carolina, Charlotte	1
19	University of North Carolina, Greensboro	1
20	University of North Carolina, Asheville	1
21	North Carolina State University, Raleigh	1
22	Appalachian State University	1
23	East Carolina University	1
24	Fayetteville State University	1
25	North Carolina Central University <u>School of Law</u>	17 <u>5</u>
26	Western Carolina University	1
27	Duke University <u>School of Law</u>	17 <u>5</u>
28	Davidson College	2
29	Wake Forest University <u>School of Law</u>	25 <u>5</u>
30	Lenoir Rhyne College	1
31	Elon College <u>University School of Law</u>	15 <u>5</u>
32	Campbell University <u>School of Law</u>	25 <u>5</u>
33	Federal, Out of State and Foreign Secretary of State	1
34	Secretary of Defense	1
35	Secretary of Health, Education and Welfare	1
36	Secretary of Housing and Urban Development	1
37	Secretary of Transportation	1
38	Attorney General	1
39	<u>United States</u> Department of Justice	1
40	<u>Internal Revenue Service</u>	1
41	<u>Veterans' Administration</u>	1
42	Library of Congress	5 <u>1</u>
43	Federal Judges resident in North Carolina	1 ea.
44	<u>Marshal of the United States Librarian, Supreme Court of the United States</u>	1
45	<u>Federal District United States Attorneys</u> resident in North Carolina	1 ea.
46	<u>Federal Clerks of Court</u> resident in North Carolina	1 ea.
47	Supreme Court Library exchange list	1
48	Cherokee Supreme Court, Eastern Band of	
49	Cherokee Indians	13
50	Each justice of the Supreme Court and judge of the Court of Appeals shall receive for private	
51	use, one complete and up to date set of the appellate division reports. The copies of reports	

furnished to each justice of the Supreme Court and ~~or judge of the Court of Appeals~~ as set out in the table above may be retained personally ~~to enable the justice or judge to keep up to date the personal set of reports by the justice or judge.~~

...."

PART VI. INDIGENT SERVICES APPOINTMENT PLANS

SECTION 6. G.S. 7A-498.3 reads as rewritten:

"§ 7A-498.3. Responsibilities of Office of Indigent Defense Services.

...

(b1) The Office of Indigent Defense Services shall develop a model appointment plan with minimum qualification standards for appointed private counsel by July 1, 2019 for adoption and promulgation by each judicial district. Judicial districts may request modifications to the model plan and qualification standards. If a judicial district has not adopted an appointment plan with the Indigent Defense Services' minimum qualification standards by January 2, 2021, the model plan and qualification standards developed by Indigent Defense Services will become effective on that date in that judicial district. Indigent Defense Services shall review the model plan and qualification standards every five years and, in the event it modifies the model plan and/or qualification standards, shall notify the judicial districts of the change. Judicial districts will have 18 months from the date Indigent Defense Services gives notice of a change to seek modifications to the revised model plan or to the qualification standards.

...."

PART VII. ARREST WARRANT MODIFICATIONS

SECTION 7.1 G.S. 15A-304(b) reads as rewritten:

"(b) When Issued. –

- (1) Generally. – A warrant for arrest may be issued, instead of or subsequent to a criminal summons, when it appears to the judicial official that the person named should be taken into custody. Circumstances to be considered in determining whether the person should be taken into custody may include, but are not limited to, failure to appear when previously summoned, facts making it apparent that a person summoned will fail to appear, danger that the person accused will escape, danger that there may be injury to person or property, or the seriousness of the offense.
- (2) ~~Upon a finding of probable cause pursuant to subsection (d) of this section, the issuing official shall issue a criminal summons instead of a warrant, unless the official finds that the accused should be taken into custody. Circumstances to be considered in determining whether the accused should be taken into custody may include, but are not limited to, any of the following:~~
 - a. ~~The accused has a history of failure to appear before the court as required, or there is other evidence that the person is unlikely to appear in response to a summons for the current proceeding.~~
 - b. ~~There is evidence that the accused is likely to escape or otherwise flee the State in order to avoid prosecution for the offense alleged.~~
 - e. ~~There is evidence of imminent danger of harm to persons or property if the accused is not taken into custody.~~
 - d. ~~The location of the accused is not readily discoverable, such that a criminal summons would be unlikely to be served before any court date assigned at the time of issue.~~
 - e. ~~A relevant statute provides that arrest is mandatory for an offense charged.~~

f. ~~The seriousness of the offense. However, the fact that the offense charged is a felony shall not, by itself, constitute grounds for the issuance of a warrant.~~

(3) When Citizen-initiated. – ~~Notwithstanding subsection (d) of this section, an official shall only find probable cause based solely on information provided by a person who is not a sworn law enforcement officer if the information is provided by written affidavit.~~ If the finding of probable cause pursuant to subsection (d) of this section is based solely upon the written an affidavit or oral testimony under oath or affirmation of a person who is not a sworn law enforcement officer, the issuing official shall not issue a warrant for arrest and instead shall issue a criminal summons, unless one of the following circumstances exists:

- a. There is corroborating testimony of the facts establishing probable cause from a sworn law enforcement officer or at least one disinterested witness.
- b. The official finds that obtaining investigation of the alleged offense by a law enforcement agency would constitute a substantial burden for the complainant.
- c. The official finds substantial evidence of one or more of the grounds circumstances listed in subdivision ~~(2)~~(1) of this subsection."

SECTION 7.2 This section becomes effective October 1, 2018, and applies to warrants issued on or after that date.

Part VIII. INCREASE MAXIMUM ESTATE DISTRIBUTION TO MINOR

SECTION 8.1 G.S. 28A-22-7 reads as rewritten:

"§ 28A-22-7. Distribution to parent or guardian of a minor.

(a) If a devise of personal property to a person under the age of 18 has a total value of less than ~~one thousand five hundred dollars (\$1,500)~~, five thousand dollars (\$5,000), and the devisee is residing in the same household with a parent or a guardian appointed prior to the decedent's death, the personal representative may distribute to the parent or guardian the devise. However, such distribution shall only be made with the prior approval of the clerk of court who issued the letters testamentary or of administration.

...

(d) This section may also be applied to several devises of personal property to a single devisee having a combined total value of less than ~~one thousand five hundred dollars (\$1,500)~~, five thousand dollars (\$5,000)."

SECTION 8.2 This section becomes effective January 1, 2019.

PART IX. INCREASE IN SPOUSAL YEARLY ALLOWANCE

SECTION 9.1 G.S. 30-15 reads as rewritten:

"§ 30-15. When spouse entitled to allowance.

Every surviving spouse of an intestate or of a testator, whether or not the surviving spouse has petitioned for an elective share, shall, unless the surviving spouse has forfeited the surviving spouse's right thereto, as provided by law, be entitled, out of the personal property of the deceased spouse, to an allowance of the value of ~~thirty-sixty thousand dollars (\$30,000)(\$60,000)~~ for the surviving spouse's support for one year after the death of the deceased spouse. Such allowance shall be exempt from any lien, by judgment or execution, acquired against the property of the deceased spouse, and shall, in cases of testacy, be charged against the share of the surviving spouse."

SECTION 9.2 This section is effective January 1, 2019 and applies to allowance applications made on or after that date.

PART X. STRIKE DUPLICATIVE PROVISION**SECTION 10.** G.S. 35A-1114 reads as rewritten:**"§ 35A-1114. Appointment of interim guardian.**

(a) At the time of or subsequent to the filing of a petition under this Article, the petitioner or guardian ad litem may also file a verified motion with the clerk seeking the appointment of an interim guardian.

(b) The motion filed by the petitioner or guardian ad litem shall set forth facts tending to show:

(1) That there is reasonable cause to believe that the respondent is incompetent, and

(2) One or both of the following:

a. That the respondent is in a condition that constitutes or reasonably appears to constitute an imminent or foreseeable risk of harm to his physical well-being and that requires immediate intervention;

b. That there is or reasonably appears to be an imminent or foreseeable risk of harm to the respondent's estate that requires immediate intervention in order to protect the respondent's interest, and

(3) That the respondent needs an interim guardian to be appointed immediately to intervene on his behalf prior to the adjudication hearing.

(c) Upon filing of the motion for appointment of an interim guardian by the petitioner or the guardian ad litem, the clerk shall immediately set a date, time, and place for a hearing on the motion. ~~The motion and a notice setting the date, time, and place for the hearing shall be served promptly on the respondent and on his counsel or guardian ad litem and other persons the clerk may designate. The hearing shall be held as soon as possible but no later than 15 days after the motion has been served on the respondent.~~

(c1) The motion and notice setting the date, time, and place for the hearing shall be served promptly on the petitioner, the respondent and on his counsel or guardian ad litem, and other persons the clerk may designate. The hearing shall be held as soon as possible but not later than 15 days after the motion has been served on the respondent.

(d) If at the hearing the clerk finds that there is reasonable cause to believe that the respondent is incompetent, and:

(1) That the respondent is in a condition that constitutes or reasonably appears to constitute an imminent or foreseeable risk of harm to his physical well-being, and that there is immediate need for a guardian to provide consent or take other steps to protect the respondent, or

(2) That there is or reasonably appears to be an imminent or foreseeable risk of harm to the respondent's estate, and that immediate intervention is required in order to protect the respondent's interest,

the clerk shall immediately enter an order appointing an interim guardian.

(e) The clerk's order appointing an interim guardian shall include specific findings of fact to support the clerk's conclusions, and shall set forth the interim guardian's powers and duties. Such powers and duties shall be limited and shall extend only so far and so long as necessary to meet the conditions necessitating the appointment of an interim guardian. In any event, the interim guardianship shall terminate on the earliest of the following: the date specified in the clerk's order; 45 days after entry of the clerk's order unless the clerk, for good cause shown, extends that period for up to 45 additional days; when any guardians are appointed following an adjudication of incompetence; or when the petition is dismissed by the court. An interim guardian whose authority relates only to the person of the respondent shall not be required to post a bond. If the interim guardian has authority related to the respondent's estate, the interim guardian shall post a bond in an amount determined by the clerk, with any conditions the clerk may impose, and shall render an account as directed by the clerk.

(f) When a motion for appointment of an interim guardian has been made, the petitioner may voluntarily dismiss the petition for adjudication of incompetence only prior to the hearing on the motion for appointment of an interim guardian."

PART XI. NOTICE OF FORECLOSURE SALE CANCELLATIONS

SECTION 11.1 G.S. 45-21.21 reads as rewritten:

"§ 45-21.21. Postponement of ~~sale~~; notice of cancellation.

(a) Any person exercising a power of sale may postpone the sale to a day certain not later than 90 days, exclusive of Sunday, after the original date for the sale –

(1) When there are no bidders, or

(2) When, in his judgment, the number of prospective bidders at the sale is substantially decreased by inclement weather or by any casualty, or

(3) When there are so many other sales advertised to be held at the same time and place as to make it inexpedient and impracticable, in his judgment, to hold the sale on that day, or

(4) When he is unable to hold the sale because of illness or for other good reason, or

(5) When other good cause exists.

The person exercising a power of sale may postpone the sale more than once whenever any of the above conditions are met, so long as the sale is held not later than 90 days after the original date for the sale.

(b) Upon postponement of a sale, the person exercising the power of sale shall personally, or through his agent or attorney –

(1) At the time and place advertised for the sale, publicly announce the postponement thereof;

(2) On the same day, attach to or enter on the original notice of sale or a copy thereof, posted at the courthouse door, as provided by G.S. 45-21.17, a notice of the postponement; and

(3) Give written or oral notice of postponement to each party entitled to notice of sale under G.S. 45-21.17.

(c) The posted notice of postponement shall –

(1) State that the sale is postponed,

(2) State the hour and date to which the sale is postponed,

(3) State the reason for the postponement, and

(4) Be signed by the person authorized to hold the sale, or by his agent or attorney.

(d) If a sale is not held at the time fixed therefor and is not postponed as provided by this section, or if a postponed sale is not held at the time fixed therefor or within 90 days of the date originally fixed for the sale, then prior to such sale taking place the provisions of G.S. 45-21.16 need not be complied with but the provisions of G.S. 45-21.16A, 45-21.17, and 45-21.17A shall be again complied with, or if on appeal, the appellate court orders the sale to be held, as to such sale so authorized the provisions of G.S. 45-21.16 need not be complied with again but those of G.S. 45-21.16A, 45-21.17, and 45-21.17A shall be.

(e) A sale may be postponed more than once provided the final postponed sale date is not later than 90 days, exclusive of Sunday and legal holidays when the courthouse is closed for transactions, after the original date for the sale.

(f) A sale shall begin at the time designated in the notice of sale or as soon thereafter as practicable, but not later than one hour after the time fixed therefor unless it is delayed by other sales held at the same place. The sale shall be held between the hours of 10:00 A.M. and 4:00 P.M. on any day on which the Clerk's office is normally open for transactions.

(g) If it is determined that the sale cannot be held in accordance with this section or is postponed pursuant to this section then the person exercising the power of sale shall, immediately

upon determining that the sale will not occur and prior to the scheduled time of the sale, deliver a written notice to the Clerk of Superior Court that is to include all of the following:

- (1) The case number assigned by the Clerk.
- (2) The mortgagor(s) and record owner(s) name(s).
- (3) The US Postal Service address of the property or, if no address has been assigned, a brief description of the location of the property.
- (4) The originally-scheduled date and time for the sale.
- (5) A statement that the foreclosure sale has been withdrawn, rescheduled for a specific date and time, or postponed with no date yet set, as appropriate.

(h) If the notice required by subsection (b) of this section is not received by the Clerk prior to the scheduled time of the sale, then the person exercising the power of sale shall personally, or through his agent or attorney, do all of the following:

- (1) At the time and place advertised for the sale, publicly announce the cancellation thereof;
- (2) On the same day, attach to or enter on the original notice of sale or a copy thereof, posted at the courthouse door, as provided by G.S. 45-21.17, a notice of the cancellation;
- (3) Give written or oral notice of cancellation to each party entitled to notice of sale under G.S. 45-21.17; and
- (4) Hand-deliver the written notice required under subdivision (2) of this subsection to the Clerk's office.

(i) So that the notices required by subsection (b) of this section may be delivered in the timeframe required therein, the Clerk's office shall, upon request, provide to the person exercising the power of sale an email address and/or fax telephone number to use for delivery of said notices.

(j) Should the Clerk's office be unexpectedly closed on the day of the sale, the requirements of this subsection shall be delayed until the next day the Clerk's office is open for transactions.

(k) All notices of a scheduled foreclosure sale, withdrawal of a scheduled sale, or postponement of a scheduled sale shall, on the day of receipt by the Clerk, be posted by the person exercising the power of sale in the location at the county courthouse normally used for the posting of public notices. If a scheduled sale has been withdrawn, that notice shall remain in that location for no less than 30 days. If the sale has been postponed, that notice shall remain in that location until it is replaced by a notice of a rescheduled sale or of a withdrawn sale.

(l) The delivery of notices required by this section in no way removes any responsibility of any party to file documents with the Clerk as required elsewhere by law.

(m) A clerk of superior court may report habitual noncompliance with this subsection to the Administrative Office of the Courts."

SECTION 11.2 This section becomes effective July 1, 2018 and applies to foreclosure sales noticed on or after that date.

PART XII. ADOPTION RECORD MODIFICATIONS

SECTION 12. G.S. 48-9-102 reads as rewritten:

"§ 48-9-102. Records confidential and sealed.

...

(c) When a decree of adoption becomes final, all records and all indices of ~~records~~ records, except for the Special Proceedings Index, on file with the court, an agency, or this State shall be retained permanently and sealed. Sealed records shall not be open to inspection by any person except as otherwise provided in this Article.

(d) All records filed in connection with an adoption, including a copy of the petition giving the date of the filing of the original petition, the original of each consent and relinquishment, additional documents filed pursuant to G.S. 48-2-305, any report to the court,

1 any additional documents submitted and orders ~~entered~~ entered, any orders of dismissal, and a
2 copy of the final decree, shall be sent by the clerk of superior court to the Division within 10 days
3 after the appeal period for a decree of adoption is entered ~~has expired~~ or 10 days following the
4 final disposition of an appeal pursuant to G.S. 48-2-607(b). The original petition and final decree
5 or order of dismissal shall be retained by the clerk.

6"

7
8 **PART XIII. AUTOMATED COURT PROCEEDING NOTIFICATION SYSTEM**
9 **RECORDS**

10 **SECTION 13.1** G.S. 132-1.10 reads as rewritten:

11 **"§ 132-1.10. Social security numbers and other personal identifying information.**

12 ...

13 (f2) The Administrative Office of the Courts or a clerk of superior court may keep
14 confidential the names, phone numbers, and email addresses collected for the purpose of a court
15 proceeding notification system.

16"

17 **SECTION 13.2** G.S. 75-104 reads as rewritten:

18 **"§ 75-104. Restrictions on use of automatic dialing and recorded message players.**

19 (a) Except as provided in this section, no person may use an automatic dialing and
20 recorded message player to make an unsolicited telephone call.

21 (b) Notwithstanding subsection (a) of this section, a person may use an automatic dialing
22 and recorded message player to make an unsolicited telephone call only under one or more of the
23 following circumstances:

24 ...

25 (8) The call is generated from a court proceeding notification system
26 established by the Administrative Office of the Courts."

27
28 **PART XIV. SEVERABILITY CLAUSE**

29 **SECTION 14.** If any section or provision of this act is declared unconstitutional or
30 invalid by the courts, it does not affect the validity of this act as a whole or any part other than
31 the part so declared to be unconstitutional or invalid.

32
33 **PART XV. EFFECTIVE DATE**

34 **SECTION 15.** Except where otherwise provided, this act is effective when it
35 becomes law.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



Committee Bill Action Sheet

Date: 6/7/2018

Committee: Judiciary I

Chair: Rep Ted Davis

Bill #: S 168

PCS: _____

Motion made before the committee by: McNeill

Rep. Stevens explained the bill.

Discussion on the Bill YES or NO

Rep McNeill motioned for:

_____ Favorable Report

_____ Adoption

_____ Unfavorable Report

/ Unfavorable to original bill, fav to PCS

_____ No vote

Amendments: : _____

If Senate Bill who is floor manager: _____

Serial referral to: _____

Speakers:

Handouts:





General Statutes Commission

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Floyd M. Lewis
Revisor of Statutes

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Assistant Revisor of Statutes

MEMORANDUM

To: House Judiciary I
From: General Statutes Commission
Re: HB 1021 (People First Language 2018)
Date: June 6, 2018

General Comments

People First drafting refers to a person with a disability as a person first, does not equate a person with the person's disability, and seeks to avoid derogatory language when describing a person's disability. This bill changes "mental retardation" to "intellectual disability" and "the mentally retarded" to "individuals with an intellectual disability" and makes similar changes in certain sections of the General Statutes.¹ This bill also makes other People First drafting changes and technical amendments in the affected sections.

The technical amendments consist of (i) stylistic updates, (ii) replacing legalese with plain English, (iii) rephrasing unclear language, (iv) making language gender neutral, (v) modernizing the format of definitions and other lists, (vi) correcting the format of citations, (vii) making conforming changes, (viii) correcting a typographical error, and (ix) providing consistency to a list by making every item in the list singular.

Background

Advocates for people with disabilities across the nation have been recommending the use of People First language for decades. In S.L. 2009-264, the General Assembly directed the General Statutes Commission to study this issue and recommend any People First drafting changes; the Commission recommended such a bill, which was enacted as S.L. 2011-29. In 2010, the U.S. Congress enacted a law to replace "mental retardation" with "intellectual disability" or "intellectual disabilities" in the U.S. Code. Rosa's Law, Pub. L. No. 111-256. Later, in 2013, the American Psychiatric Association published the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, (DSM-5), which also replaced "mental retardation" with "intellectual disability."

Specific Comments

Section 1 of the bill amends statutes relating to guardianship by (i) replacing "mentally ill or mentally retarded ward" and a nearly identical term with "ward with a mental illness or intellectual disability" wherever the terms appear in G.S. 1-301.2, 35A-1241, 35A-1245, and the catchline of G.S. 90-275, (ii) replacing "mental retardation" with "intellectual disability" and modernizing the format of definitions in G.S. 35A-1101 and G.S. 35A-1202, (iii) deleting the archaic term "lunacy" from the definition of "mental illness" in G.S. 35A-1101, and (iv) making technical amendments in most of these statutes.

¹ The General Statutes Commission plans to recommend for introduction in 2019 another bill to amend the remaining sections that use the term "mental retardation" or "mentally retarded."

Section 2 replaces "mental retardation" with "intellectual disability" and makes technical amendments in G.S. 7B-1111.

Section 3 does the following: (i) replaces "witnesses with developmental disabilities or mental retardation" with "witnesses with an intellectual or developmental disability" in the catchlines of G.S. 8C-1, Rule 616, and G.S. 15A-1225.2 and (ii) replaces "person with a developmental disability or a person with mental retardation" with "individual with an intellectual or developmental disability" and makes technical amendments in the text of G.S. 8C-1, Rule 616, and G.S. 15A-1225.2.

Section 4 does the following: (i) changes "mental retardation" to "intellectual disability" in G.S. 14-27.20 and G.S. 14-32.1, (ii) changes the definitional term "mentally disabled" to "person who has a mental disability" in G.S. 14-27.20 and makes conforming changes in G.S. 14-27.22, 14-27.27, 14-27.33, 14-205.1, 14-205.2, 14-205.3, 14-208.6, 15-144.1, 15-144.2, 15A-290, and 115C-270.35, including changing "severely or profoundly mentally disabled" to "has a severe or profound mental disability" in some of these statutes, (iii) changes "handicapped person" and "handicapped persons" to "individual with a disability" and "individuals with a disability" in G.S. 14-32.1 and makes conforming changes in G.S. 15A-266.3A and G.S. 15A-266.4, (iv) modernizes the format of definitions in G.S. 14-27.20 and G.S. 14-208.6, (v) adds a missing subsection catchline in G.S. 115C-270.35(a), and (vi) makes technical amendments in most of these statutes.

Section 5 replaces "mental retardation" with "intellectual disability" and makes technical amendments in G.S. 15A-2000.

Section 6 replaces "mental retardation" with "developmental disabilities" in G.S. 58-32-10, 62-289.3, 143B-152.14, and 153A-247, which are statutes that refer to "mental health, mental retardation, and substance abuse" authorities or programs. This replacement conforms to the name change of these authorities and programs by Chapter 625 of the 1989 Session Laws. This section also modernizes the format of definitions in G.S. 62-289.3 and makes technical amendments in most of these statutes.

Section 7 does the following: (i) replaces "mentally retarded or physically handicapped children" and a nearly identical term with "children with an intellectual or physical disability" wherever the terms appear in the catchlines of G.S. 58-51-25 and G.S. 58-51-35, shortens the catchline of G.S. 58-51-25, and makes conforming changes in the text of G.S. 58-65-2 and G.S. 58-67-171, (ii) replaces "mental retardation or physical handicap" and "physical handicap or mental retardation" with "intellectual or physical disability" in G.S. 58-51-25 and G.S. 58-51-35, (iii) replaces "mental retardation" with "intellectual disability" in G.S. 58-51-40, (iv) amends G.S. 58-65-65 by deleting as superfluous a reference to the Commissioner of Insurance, deleting as obsolete two applicability phrases, deleting as unnecessary a list of items illustrating "charges made for medical care" that includes a reference to "charges for medical care of . . . mental retardation," and shortening the phrase "[t]he restrictions and requirements of this section" to "[t]his section," and (v) makes technical amendments in all these statutes.

Section 8 replaces "child . . . who is mentally ill or mentally retarded" with "child . . . who has a mental illness or intellectual disability" and makes technical amendments in G.S. 110-20.1.

Section 9 replaces "mental retardation" with "intellectual disability," replaces "children who are not disabled" with "children who do not have disabilities," modernizes the format of definitions, and makes other technical amendments in G.S. 115C-106.3.

Section 10 replaces "the sick, mentally ill or mentally retarded" with "individuals with a sickness, mental illness, or intellectual disability" in G.S. 130A-399, updates the name of "The Arc of North Carolina, Inc." in G.S. 130A-415, and makes technical amendments in both statutes.

Section 11 amends G.S. 143-282 by replacing the sentence "It shall make a similar study of the problem of the care of the feebleminded, with especial attention to the custodial care of intellectually handicapped persons not teachable or trainable" with "It shall make a similar study of the problem of the care of individuals with an intellectual disability, with special attention to those requiring custodial care." This section further amends G.S. 143-282 by replacing "the physically handicapped" with "individuals with a physical disability," replacing "physical handicap" with "physical disability," and making technical amendments.

Section 12 amends G.S. 159-40 by replacing "mentally retarded and developmentally disabled" with "individuals with an intellectual or developmental disability," tabulating a list in subsection (d), and making technical amendments.

Section 13 replaces "mental retardation" with "intellectual disability," modernizes the format of definitions, and updates the use of commas in G.S. 168-21.

Section 14 replaces "mental retardation" with "intellectual disabilities," modernizes the format of definitions, and makes other technical amendments in G.S. 168A-3.

Section 15 provides that this act does not affect the coverage, eligibility, rights, responsibilities, or provision of State or federal services or benefits for individuals who have been diagnosed with mental retardation and whose diagnosis has not been changed to a diagnosis of intellectual disability.

Section 16 provides effective date and applicability provisions for the bill.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

D

HOUSE BILL 1021
PROPOSED COMMITTEE SUBSTITUTE H1021-CSMU-9 [v.1]

06/04/2018 05:24:32 PM

Short Title: People First Language 2018.

(Public)

Sponsors:

Referred to:

May 28, 2018

1 A BILL TO BE ENTITLED
2 AN ACT TO UPDATE THE GENERAL STATUTES OF NORTH CAROLINA WITH
3 PEOPLE FIRST LANGUAGE BY CHANGING THE PHRASE "MENTAL
4 RETARDATION" TO "INTELLECTUAL DISABILITY" IN CERTAIN SECTIONS AND
5 TO MAKE OTHER PEOPLE FIRST LANGUAGE AMENDMENTS AND TECHNICAL
6 AMENDMENTS IN THOSE SECTIONS, AS RECOMMENDED BY THE GENERAL
7 STATUTES COMMISSION.

8 The General Assembly of North Carolina enacts:

9 SECTION 1.(a) G.S. 1-301.2 reads as rewritten:

10 "§ 1-301.2. Transfer or appeal of special proceedings; exceptions.

11 ...
12 (g) Exception for Incompetency and Foreclosure Proceedings and Proceedings to Permit
13 Sterilization for Medical Necessity. –

14 (1) Proceedings for adjudication of incompetency or restoration of competency
15 under Chapter 35A of the General Statutes, or proceedings to determine
16 whether a guardian may consent to the sterilization of a ~~mentally ill or~~
17 ~~mentally retarded ward~~ ward with a mental illness or intellectual disability
18 under G.S. 35A-1245, shall not be transferred even if an issue of fact, an
19 equitable defense, or a request for equitable relief is raised. Appeals from
20 orders entered in these proceedings are governed by Chapter 35A of the
21 General Statutes to the extent that the provisions of that Chapter conflict with
22 this section.

23 (2) Foreclosure proceedings under Article 2A of Chapter 45 of the General
24 Statutes shall not be transferred even if an issue of fact, an equitable defense,
25 or a request for equitable relief is raised. Equitable issues may be raised only
26 as provided in G.S. 45-21.34. Appeals from orders entered in these
27 proceedings are governed by Article 2A of Chapter 45 of the General Statutes
28 to the extent that the provisions of that Article conflict with this section.

29"

30 SECTION 1.(b) G.S. 35A-1101 reads as rewritten:

31 "§ 35A-1101. Definitions.

32 ~~When used in this Subchapter:~~ The following definitions apply in this Subchapter:

33 (1) ~~"Autism" means a~~ "Autism" – A physical disorder of the brain which causes
34 disturbances in the developmental rate of physical, social, and language skills;
35 abnormal responses to sensations; absence of or delay in speech or language;
36 or abnormal ways of relating to people, objects, and events. Autism occurs



- 1 sometimes by itself and sometimes in conjunction with other
2 brain-functioning disorders.
- 3 (2) ~~"Cerebral palsy" means a Cerebral palsy.~~ – A muscle dysfunction,
4 characterized by impairment of movement, often combined with speech
5 impairment, and caused by abnormality of or damage to the brain.
- 6 (3) ~~"Clerk" means the Clerk.~~ – The clerk of superior court.
- 7 (4) ~~"Designated agency" means the Designated agency.~~ – The State or local
8 human services agency designated by the clerk in the clerk's order to prepare,
9 cause to be prepared, or assemble a multidisciplinary evaluation and to
10 perform other functions as the clerk may order. A designated agency includes,
11 without limitation, State, local, regional, or area mental health, ~~mental~~
12 ~~retardation, intellectual disability,~~ vocational rehabilitation, public health,
13 social service, and developmental disabilities agencies, and diagnostic
14 evaluation centers.
- 15 (5) ~~"Epilepsy" means a Epilepsy.~~ – A group of neurological conditions
16 characterized by abnormal electrical-chemical discharge in the brain. This
17 discharge is manifested in various forms of physical activity called seizures,
18 which range from momentary lapses of consciousness to convulsive
19 movements.
- 20 (6) ~~"Guardian ad litem" means a Guardian ad litem.~~ – A guardian appointed
21 pursuant to G.S. 1A-1, Rule 17, Rules of Civil Procedure.
- 22 (7) ~~"Incompetent adult" means an Incompetent adult.~~ – An adult or emancipated
23 minor who lacks sufficient capacity to manage the adult's own affairs or to
24 make or communicate important decisions concerning the adult's person,
25 family, or property whether the lack of capacity is due to mental illness,
26 ~~mental retardation, intellectual disability,~~ epilepsy, cerebral palsy, autism,
27 inebriety, senility, disease, injury, or similar cause or condition.
- 28 (8) ~~"Incompetent child" means a Incompetent child.~~ – A minor who is at least 17
29 1/2 years of age and who, other than by reason of minority, lacks sufficient
30 capacity to make or communicate important decisions concerning the child's
31 person, family, or property whether the lack of capacity is due to mental
32 illness, ~~mental retardation, intellectual disability,~~ epilepsy, cerebral palsy,
33 autism, inebriety, disease, injury, or similar cause or condition.
- 34 (9) ~~"Indigent" means unable Indigent.~~ – Unable to pay for legal representation
35 and other necessary expenses of a proceeding brought under this Subchapter.
- 36 (10) ~~"Inebriety" means the Inebriety.~~ – The habitual use of alcohol or drugs
37 rendering a person incompetent to transact ordinary business concerning the
38 person's estate, dangerous to person or property, cruel and intolerable to
39 family, or unable to provide for family.
- 40 (10a) Intellectual disability. – Significantly subaverage general intellectual
41 functioning existing concurrently with deficits in adaptive behavior and
42 manifested before age 22.
- 43 (11) ~~"Interim guardian" means a Interim guardian.~~ – A guardian, appointed prior
44 to adjudication of incompetence and for a temporary period, for a person who
45 requires immediate intervention to address conditions that constitute
46 imminent or foreseeable risk of harm to the person's physical well-being or to
47 the person's estate.
- 48 (12) ~~"Mental illness" means an Mental illness.~~ – An illness that so lessens the
49 capacity of a person to use self-control, judgment, and discretion in the
50 conduct of the person's affairs and social relations as to make it necessary or
51 advisable for the person to be under treatment, care, supervision, guidance, or

- 1 control. The term "mental illness" encompasses "mental disease", "mental
2 disorder", "~~lunacy~~", "unsoundness of mind", and "insanity".
- 3 (13) ~~"Mental retardation" means significantly subaverage general intellectual~~
4 ~~functioning existing concurrently with deficits in adaptive behavior and~~
5 ~~manifested before age 22.~~
- 6 (14) ~~"Multidisciplinary evaluation" means an~~ Multidisciplinary evaluation. – An
7 evaluation that contains current medical, psychological, and social work
8 evaluations as directed by the clerk and that may include current evaluations
9 by professionals in other disciplines, including without limitation education,
10 vocational rehabilitation, occupational therapy, vocational therapy,
11 psychiatry, speech-and-hearing, and communications disorders. The
12 evaluation is current if made not more than one year from the date on which
13 it is presented to or considered by the court. The evaluation shall set forth the
14 nature and extent of the disability and recommend a guardianship plan and
15 program.
- 16 (15) ~~"Respondent" means a~~ Respondent. – A person who is alleged to be
17 incompetent in a proceeding under this Subchapter.
- 18 (16) ~~"Treatment facility" has the~~ Treatment facility. – Has the same meaning as
19 "facility" in G.S. 122C-3(14), and includes group homes, halfway houses, and
20 other community-based residential facilities.
- 21 (17) ~~"Ward" means a~~ Ward. – A person who has been adjudicated incompetent or
22 an adult or minor for whom a guardian has been appointed by a court of
23 competent jurisdiction."

24 SECTION 1.(c) G.S. 35A-1202 reads as rewritten:

25 "§ 35A-1202. Definitions.

26 ~~When used in this Subchapter, unless a contrary intent is indicated or the context requires~~
27 ~~otherwise:~~ The following definitions apply in this Subchapter:

- 28 (1) ~~"Accounting" means the~~ Accounting. – The financial or status reports filed
29 with the clerk, designated agency, respondent, or other person or party with
30 whom ~~such~~ the reports are required to be filed.
- 31 (2) ~~"Clerk" means the~~ Clerk. – The clerk of superior court.
- 32 (3) ~~"Designated agency" means the~~ Designated agency. – The State or local
33 human services agency designated by the clerk in an order to prepare, cause
34 to be prepared, or assemble a multidisciplinary evaluation and to perform
35 other functions as the clerk may order. A designated agency includes, without
36 limitation, State, local, ~~regional~~ regional, or area mental health, ~~mental~~
37 ~~retardation~~, intellectual disability, vocational rehabilitation, public health,
38 social service, and developmental disabilities agencies, and diagnostic
39 evaluation centers.
- 40 (4) ~~"Disinterested public agent" means the~~ Disinterested public agent. – The
41 director or assistant directors of a county department of social services. Except
42 as provided in G.S. 35A-1213(f), the fact that a disinterested public agent
43 provides financial assistance, services, or treatment to a ward does not
44 disqualify that person from being appointed as guardian.
- 45 (5) ~~"Estate" means any~~ Estate. – Any interest in real property, choses in action,
46 intangible personal property, and tangible personal property, and includes any
47 interest in joint accounts or jointly held property.
- 48 (6) ~~"Financial report" means the~~ Financial report. – The report filed by the
49 guardian concerning all financial transactions, including receipts and
50 expenditures of the ward's money, sale of the ward's property, or other
51 transactions involving the ward's property.

- (7) ~~"General guardian" means a General guardian.~~ – A guardian of both the estate and the person.
- (8) ~~"Guardian ad litem" means a Guardian ad litem.~~ – A guardian appointed pursuant to G.S. 1A-1, Rule 17, Rules of Civil Procedure.
- (9) ~~"Guardian of the estate" means a Guardian of the estate.~~ – A guardian appointed solely for the purpose of managing the property, estate, and business affairs of a ward.
- (10) ~~"Guardian of the person" means a Guardian of the person.~~ – A guardian appointed solely for the purpose of performing duties relating to the care, custody, and control of a ward.
- (11) ~~"Incompetent person" means a Incompetent person.~~ – A person who has been adjudicated to be an "incompetent adult" or "incompetent child" as defined in G.S. 35A-1101(7) or (8).
- (12) ~~"Minor" means a Minor.~~ – A person who is under the age of 18, is not married, and has not been legally emancipated.
- (13) ~~"Multidisciplinary evaluation" means an Multidisciplinary evaluation.~~ – An evaluation that contains current medical, psychological, and social work evaluations as directed by the clerk and that may contain current evaluations by professionals in other disciplines, including without limitation education, vocational rehabilitation, occupational therapy, vocational therapy, psychiatry, speech-and-hearing, and communications disorders. The evaluation is current if made not more than one year from the date on which it is presented to or considered by the court. The evaluation shall set forth the nature and extent of the disability and recommend a guardianship plan and program.
- (14) ~~"Status report" means the Status report.~~ – The report required by G.S. 35A-1242 to be filed by the general guardian or guardian of the person.
- (15) ~~"Ward" means a Ward.~~ – A person who has been adjudicated incompetent or an adult or minor for whom a guardian has been appointed by a court of competent jurisdiction."

SECTION 1.(d) G.S. 35A-1241 reads as rewritten:

"§ 35A-1241. Powers and duties of guardian of the person.

(a) To the extent that it is not inconsistent with the terms of any order of the clerk or any other court of competent jurisdiction, a guardian of the person has the following powers and duties:

- (1) The guardian of the person is entitled to custody of the person of the guardian's ward and shall make provision for the ward's care, comfort, and maintenance, and shall, as appropriate to the ward's needs, arrange for the ward's training, education, employment, ~~rehabilitation-rehabilitation~~, or habilitation. The guardian of the person shall take reasonable care of the ward's clothing, furniture, vehicles, and other personal effects that are with the ward.
- (2) The guardian of the person may establish the ward's place of abode ~~within or without~~ inside or outside this State. In arranging for a place of abode, the guardian of the person shall give preference to places ~~within~~ inside this State over places ~~not in~~ outside this State if in-State and out-of-State places are substantially equivalent. The guardian also shall give preference to places that are not treatment facilities. If the only available and appropriate places of domicile are treatment facilities, the guardian shall give preference to community-based treatment facilities, such as group homes or nursing homes, over treatment facilities that are not community-based.

(3) The guardian of the person may give any consent or approval that may be necessary to enable the ward to receive medical, legal, psychological, or other professional care, counsel, treatment, or ~~service; provided that, if service.~~ If the patient has a health care agent appointed pursuant to a valid health care power of attorney, the health care agent shall have the right to exercise the authority granted in the health care power of attorney unless the Clerk has suspended the authority of that health care agent in accordance with G.S. 35A-1208. The guardian shall not, however, consent to the sterilization of a ~~mentally ill or mentally retarded ward~~ ward with a mental illness or intellectual disability unless the guardian obtains an order from the clerk in accordance with G.S. 35A-1245. The guardian of the person may give any other consent or approval on the ward's behalf that may be required or in the ward's best interest. The guardian may petition the clerk for the clerk's concurrence in the consent or approval.

(b) A guardian of the person is entitled to be reimbursed out of the ward's estate for reasonable and proper expenditures incurred in the performance of ~~his~~ the guardian's duties as guardian of the ward's person.

(c) A guardian of the ~~person, if he~~ person who has acted within the limits imposed on ~~him~~ by this Article or the order of appointment or ~~both~~, shall not be both is not liable for damages to the ward or the ward's estate, merely by reason of the guardian's:

- (1) Authorizing or giving any consent or approval necessary to enable the ward to receive legal, psychological, or other professional care, counsel, treatment, or service, in a situation where the damages result from the negligence or other acts of a third person; or
- (2) Authorizing medical treatment or surgery for ~~his~~ the ward, if the guardian acted in good faith and was not negligent."

SECTION 1.(e) G.S. 35A-1245 reads as rewritten:

"§ 35A-1245. Procedure to permit the sterilization of a ~~mentally ill or a mentally retarded ward~~ ward with a mental illness or intellectual disability in the case of medical necessity.

(a) A guardian of the person shall not consent to the sterilization of a ~~mentally ill or mentally retarded ward~~ ward with a mental illness or intellectual disability unless an order from the clerk has been obtained in accordance with this section.

(b) If a ~~mentally ill or mentally retarded ward~~ ward with a mental illness or intellectual disability needs to undergo a medical procedure that would result in sterilization, the ward's guardian shall petition the clerk for an order to permit the guardian to consent to the procedure. The petition shall contain all of the following:

- (1) A sworn statement from a physician licensed in this State who has examined the ward that the proposed procedure is medically necessary and not for the sole purpose of sterilization or for the purpose of hygiene or convenience.
- (2) The name and address of the physician who will perform the procedure.
- (3) A sworn statement from a psychiatrist or psychologist licensed in this State who has examined the ward as to whether the ~~mentally ill or mentally retarded ward~~ ward with a mental illness or intellectual disability is able to comprehend the nature of the proposed procedure and its consequences and provide an informed consent to the procedure.
- (4) If the ward is able to comprehend the nature of the proposed procedure and its consequences, the sworn consent of the ward to the procedure.

(c) A copy of the petition shall be served on the ward personally. If the ward is unable to comprehend the nature of the proposed procedure and its consequences and is unable to provide

1 an informed consent, the clerk shall appoint an attorney to represent the ward in accordance with
2 rules adopted by the Office of Indigent Defense Services.

3 (d) Should the ward or the ward's attorney request a hearing, a hearing shall be held.
4 Otherwise, the clerk may enter an order without the appearance of witnesses. If a hearing is held,
5 the guardian and the ward may present evidence.

6 (e) If the clerk finds all of the following, the clerk shall enter an order permitting the
7 guardian to consent to the proposed procedure:

8 (1) The ward is capable of comprehending the procedure and its consequences
9 and has consented to the procedure, or the ward is unable to comprehend the
10 procedure and its consequences.

11 (2) The procedure is medically necessary and is not solely for the purpose of
12 sterilization or for hygiene or convenience.

13 (f) The guardian or the ward, the ward's attorney, or any other interested party may
14 appeal the clerk's order to the superior court in accordance with G.S. 1-301.2(e)."

15 **SECTION 1.(f)** G.S. 90-275 reads as rewritten:

16 "**§ 90-275. Article does not affect duty of guardian to obtain order permitting guardian to**
17 **consent to sterilization of a ~~mentally ill or mentally retarded ward~~ ward with a**
18 **mental illness or intellectual disability.**

19 Nothing in this Article ~~shall be deemed to affect~~ affects the provisions of G.S. 35A-1245."

20 **SECTION 2.** G.S. 7B-1111 reads as rewritten:

21 "**§ 7B-1111. Grounds for terminating parental rights.**

22 (a) The court may terminate the parental rights upon a finding of one or more of the
23 following:

24 (1) The parent has abused or neglected the juvenile. The juvenile shall be deemed
25 to be abused or neglected if the court finds the juvenile to be an abused
26 juvenile within the meaning of G.S. 7B-101 or a neglected juvenile within the
27 meaning of G.S. 7B-101.

28 (2) The parent has willfully left the juvenile in foster care or placement outside
29 the home for more than 12 months without showing to the satisfaction of the
30 court that reasonable progress under the circumstances has been made in
31 correcting those conditions which led to the removal of the juvenile. ~~Provided,~~
32 ~~however, that no parental rights~~ No parental rights, however, shall be
33 terminated for the sole reason that the parents are unable to care for the
34 juvenile on account of their poverty.

35 (3) The juvenile has been placed in the custody of a county department of social
36 services, a licensed child-placing agency, a child-caring institution, or a foster
37 home, and the ~~parent, for a continuous period of six months next preceding~~
38 ~~the filing of the petition or motion, parent has~~ for a continuous period of six
39 months immediately preceding the filing of the petition or motion willfully
40 failed for such period to pay a reasonable portion of the cost of care for the
41 juvenile although physically and financially able to do so.

42 (4) One parent has been awarded custody of the juvenile by judicial decree or has
43 custody by agreement of the parents, and the other parent whose parental
44 rights are sought to be terminated has for a period of one year or more next
45 preceding the filing of the petition or motion willfully failed without
46 justification to pay for the care, support, and education of the juvenile, as
47 required by ~~said~~ the decree or custody agreement.

48 (5) The father of a juvenile born out of wedlock has not, prior to the filing of a
49 petition or motion to terminate parental rights, done any of the following:

50 a. Filed an affidavit of paternity in a central registry maintained by the
51 Department of Health and Human ~~Services; provided, the Services.~~

1 The petitioner or movant shall inquire of the Department of Health and
2 Human Services as to whether such an affidavit has been so filed and
3 the Department's certified reply shall be submitted to and considered
4 by the court.

5 b. Legitimated the juvenile pursuant to provisions of G.S. 49-10,
6 G.S. 49-12.1, or filed a petition for this specific purpose.

7 c. Legitimated the juvenile by marriage to the mother of the juvenile.

8 d. Provided substantial financial support or consistent care with respect
9 to the juvenile and mother.

10 e. Established paternity through G.S. 49-14, 110-132, 130A-101,
11 130A-118, or other judicial proceeding.

12 (6) That the parent is incapable of providing for the proper care and supervision
13 of the juvenile, such that the juvenile is a dependent juvenile within the
14 meaning of G.S. 7B-101, and that there is a reasonable probability that ~~such~~
15 the incapability will continue for the foreseeable future. Incapability under
16 this subdivision may be the result of substance abuse, ~~mental retardation,~~
17 intellectual disability, mental illness, organic brain syndrome, or any other
18 cause or condition that renders the parent unable or unavailable to parent the
19 juvenile and the parent lacks an appropriate alternative child care
20 arrangement.

21 ...

22 (b) The burden in ~~such these~~ proceedings ~~shall be upon~~ is on the petitioner or movant to
23 prove the facts justifying ~~such the~~ termination by clear and convincing evidence."

24 SECTION 3.(a) G.S. 8C-1, Rule 616, reads as rewritten:

25 "Rule 616. Alternative testimony of witnesses with ~~developmental disabilities or mental~~
26 ~~retardation~~ an intellectual or developmental disability in civil cases and special
27 proceedings.

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

29 (1) The definitions set out in G.S. 122C-3.

30 (2) ~~"Remote testimony" means a Remote testimony.~~ – A method by which a
31 witness testifies outside of an open forum and outside of the physical presence
32 of a party or parties.

33 (b) Remote Testimony Authorized. – ~~A person with a developmental disability or a~~
34 ~~person with mental retardation~~ An individual with an intellectual or developmental disability
35 who is competent to testify may testify by remote testimony in a civil proceeding or special
36 proceeding if the court determines by clear and convincing evidence that the witness would suffer
37 serious emotional distress from testifying in the presence of a named party or parties or from
38 testifying in an open forum and that the ability of the witness to communicate with the trier of
39 fact would be impaired by testifying in the presence of a named party or parties or from testifying
40 in an open forum.

41 ...

42 (f) Nonexclusive Procedure and Standard. – Nothing in this section ~~shall prohibit~~
43 ~~prohibits~~ the use or application of any other method or procedure authorized or required by law
44 for the introduction into evidence of statements or testimony of ~~a person with a developmental~~
45 ~~disability or a person with mental retardation~~ an individual with an intellectual or developmental
46 disability."

47 SECTION 3.(b) G.S. 15A-1225.2 reads as rewritten:

48 "§ 15A-1225.2. Witnesses with ~~developmental disabilities or mental retardation; an~~
49 intellectual or developmental disability; remote testimony.

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

51 (1) The definitions set out in G.S. 122C-3.

(2) ~~"Remote testimony" means a Remote testimony.~~ – A method by which a witness testifies outside of an open forum and outside of the physical presence of a party or parties.

(b) Remote Testimony Authorized. – ~~A person with a developmental disability or a person with mental retardation~~ An individual with an intellectual or developmental disability who is competent to testify may testify by remote testimony in a prosecution of a person charged with violating a criminal law of this State and in any hearing or proceeding conducted under Subchapter II of Chapter 7B of the General Statutes where a juvenile is alleged to have committed an offense that would be a criminal offense if committed by an adult if the court determines by clear and convincing evidence that the witness would suffer serious emotional distress from testifying in the presence of the defendant and that the ability of the witness to communicate with the trier of fact would be impaired by testifying in the presence of the defendant.

...

(e) Testimony. – The method of remote testimony shall allow the trier of fact and all parties to observe the demeanor of the witness as the witness testifies in a similar manner as if the witness were testifying in the open forum. The court shall ensure that the counsel for all parties, except a pro se defendant, is physically present where the witness testifies and has a full and fair opportunity for examination and cross-examination of the witness. The court shall ensure that the defendant or juvenile respondent has the ability to communicate privately with defense counsel during the remote testimony. A party may waive the right to have counsel physically present where the witness testifies. Nothing in this section ~~shall be construed to limit~~ limits the provisions of G.S. 15A-1225.

(f) Nonexclusive Procedure and Standard. – Nothing in this section ~~shall prohibit~~ prohibits the use or application of any other method or procedure authorized or required by law for the introduction into evidence of statements or testimony of ~~a person with a developmental disability or a person with mental retardation~~ an individual with an intellectual or developmental disability.

SECTION 4.(a) G.S. 14-27.20 reads as rewritten:

"§ 14-27.20. Definitions.

~~As used in this Article, unless the context requires otherwise:~~ The following definitions apply in this Article:

(1) ~~"Mentally disabled" means (i) a victim who suffers from mental retardation, or (ii) a victim who suffers from a mental disorder, either of which temporarily or permanently renders the victim substantially incapable of appraising the nature of his or her conduct, or of resisting the act of vaginal intercourse or a sexual act, or of communicating unwillingness to submit to the act of vaginal intercourse or a sexual act.~~

(2) ~~"Mentally incapacitated" means a Mentally incapacitated.~~ – A victim who due to any act committed upon the victim is rendered substantially incapable of either appraising the nature of his or her conduct, or resisting the act of vaginal intercourse or a sexual act.

(2a) Person who has a mental disability. – A victim who has an intellectual disability or a mental disorder that temporarily or permanently renders the victim substantially incapable of appraising the nature of his or her conduct, or of resisting the act of vaginal intercourse or a sexual act, or of communicating unwillingness to submit to the act of vaginal intercourse or a sexual act.

(3) ~~"Physically helpless" means (i) a victim who is unconscious; or (ii) a Physically helpless.~~ – Any of the following:

a. A victim who is unconscious.

b. A victim who is physically unable to resist an act of vaginal intercourse or a sexual act or communicate unwillingness to submit to an act of vaginal intercourse or a sexual act.

(4) ~~"Sexual act" means cunnilingus.~~ Sexual act. – Cunnilingus, fellatio, analingus, or anal intercourse, but does not include vaginal intercourse. Sexual act also means the penetration, however slight, by any object into the genital or anal opening of another person's body: ~~provided, that it shall be~~ body. It is an affirmative defense that the penetration was for accepted medical purposes.

(5) ~~"Sexual contact" means~~ Sexual contact. – Any of the following:

a. ~~(i) touching~~ Touching the sexual organ, anus, breast, groin, or buttocks of any person, person.

b. ~~(ii) a~~ A person touching another person with their own sexual organ, anus, breast, groin, or ~~buttocks, or~~ buttocks.

c. ~~(iii) a~~ A person ejaculating, emitting, or placing semen, urine, or feces upon any part of another person.

(6) ~~"Touching" as~~ Touching. – As used in subdivision (5) of this section, means physical contact with another person, whether accomplished directly, through the clothing of the person committing the offense, or through the clothing of the victim."

SECTION 4.(b) G.S. 14-27.22 reads as rewritten:

"§ 14-27.22. Second-degree forcible rape.

(a) A person is guilty of second-degree forcible rape if the person engages in vaginal intercourse with another person:

(1) By force and against the will of the other person; or

(2) ~~Who is mentally disabled, mentally incapacitated, Who has a mental disability or who is mentally incapacitated~~ or physically helpless, and the person performing the act knows or should reasonably know the other person is ~~mentally disabled, mentally incapacitated, has a mental disability or is mentally incapacitated~~ or physically helpless.

(b) Any person who commits the offense defined in this section is guilty of a Class C felony.

(c) Upon conviction, a person convicted under this section has no rights to custody of or rights of inheritance from any child conceived during the commission of the rape, nor ~~shall~~ does the person have any rights related to the child under Chapter 48 of the General Statutes or Subchapter 4-I of Chapter 7B of the General Statutes."

SECTION 4.(c) G.S. 14-27.27 reads as rewritten:

"§ 14-27.27. Second-degree forcible sexual offense.

(a) A person is guilty of second degree forcible sexual offense if the person engages in a sexual act with another person:

(1) By force and against the will of the other person; or

(2) ~~Who is mentally disabled, mentally incapacitated, Who has a mental disability or who is mentally incapacitated~~ or physically helpless, and the person performing the act knows or should reasonably know that the other person is ~~mentally disabled, mentally incapacitated, has a mental disability or is mentally incapacitated~~ or physically helpless.

(b) Any person who commits the offense defined in this section is guilty of a Class C felony."

SECTION 4.(d) G.S. 14-27.33 reads as rewritten:

"§ 14-27.33. Sexual battery.

(a) A person is guilty of sexual battery if the person, for the purpose of sexual arousal, sexual gratification, or sexual abuse, engages in sexual contact with another person:

- (1) By force and against the will of the other person; or
- (2) ~~Who is mentally disabled, mentally incapacitated, Who has a mental disability or who is mentally incapacitated~~ or physically helpless, and the person performing the act knows or should reasonably know that the other person is ~~mentally disabled, mentally incapacitated, has a mental disability or is mentally incapacitated~~ or physically helpless.

(b) Any person who commits the offense defined in this section is guilty of a Class A1 misdemeanor."

SECTION 4.(e) G.S. 14-205.1 reads as rewritten:

"§ 14-205.1. Solicitation of prostitution.

(a) Except as otherwise provided in this section, any person who solicits another for the purpose of prostitution is guilty of a Class 1 misdemeanor for a first offense and a Class H felony for a second or subsequent offense. Any person 18 years of age or older who willfully solicits a minor for the purpose of prostitution is guilty of a Class G felony. Any person who willfully solicits a person who is ~~severely or profoundly mentally disabled~~ has a severe or profound mental disability for the purpose of prostitution is guilty of a Class E felony. Punishment under this section may include participation in a program devised for the education and prevention of sexual exploitation (i.e. "John School"), where available. A person who violates this subsection ~~shall not be~~ is not eligible for a disposition of prayer for judgment continued under any circumstances.

(b) Immunity From Prosecution for Minors. – Notwithstanding any other provision of this section, if it is determined, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of this section is a minor who is soliciting as a prostitute, that person shall be immune from prosecution under this section and instead shall be taken into temporary protective custody as an undisciplined juvenile pursuant to Article 19 of Chapter 7B of the General Statutes. Pursuant to ~~the provisions of~~ G.S. 7B-301, a law enforcement officer who takes a minor into custody under this section shall immediately report an allegation of a violation of G.S. 14-43.11 and G.S. 14-43.13 to the director of the department of social services in the county where the minor resides or is found, as appropriate, which shall commence an initial investigation into child abuse or child neglect within 24 hours pursuant to G.S. 7B-301 and G.S. 7B-302."

SECTION 4.(f) G.S. 14-205.2 reads as rewritten:

"§ 14-205.2. Patronizing a prostitute.

(a) Any person who willfully performs any of the following acts with a person not his or her spouse commits the offense of patronizing a prostitute:

- (1) Engages in vaginal intercourse, any sexual act as defined in G.S. 14-27.20, or any sexual contact as defined in G.S. 14-27.20, for the purpose of sexual arousal or gratification with a prostitute.
- (2) Enters or remains in a place of prostitution with intent to engage in vaginal intercourse, any sexual act as defined in G.S. 14-27.20, or any sexual contact as defined in G.S. 14-27.20, for the purpose of sexual arousal or gratification.

(b) Except as provided in subsections (c) and (d) of this section, a first violation of this section is a Class A1 misdemeanor. Unless a higher penalty applies, a second or subsequent violation of this section is a Class G felony.

(c) A violation of this section is a Class F felony if the defendant is 18 years of age or older and the prostitute is a minor.

(d) A violation of this section is a Class D felony if the prostitute is ~~a severely or profoundly mentally disabled person~~ has a severe or profound mental disability."

SECTION 4.(g) G.S. 14-205.3 reads as rewritten:

"§ 14-205.3. Promoting prostitution.

...

(b) Any person who willfully performs any of the following acts commits the offense of promoting prostitution of a minor or ~~mentally disabled person~~; person who has a mental disability:

- (1) Advances prostitution as defined in G.S. 14-203, where a minor or ~~severely or profoundly mentally disabled person~~ person who has a severe or profound mental disability engaged in prostitution, or any person engaged in prostitution in the place of prostitution is a minor or ~~is severely or profoundly mentally disabled~~ has a severe or profound mental disability at the time of the offense.
- (2) Profits from prostitution by any means where the prostitute is a minor or ~~is severely or profoundly mentally disabled~~ has a severe or profound mental disability at the time of the offense.
- (3) Confines a minor or a ~~severely or profoundly mentally disabled person~~ person who has a severe or profound mental disability against the person's will by the infliction or threat of imminent infliction of great bodily harm, permanent disability, or disfigurement or by administering to the minor or ~~severely or profoundly mentally disabled person~~ person who has a severe or profound mental disability, without the person's consent or by threat or deception and for other than medical purposes, any alcoholic intoxicant or a drug as defined in Article 5 of Chapter 90 of the General Statutes (North Carolina Controlled Substances Act) and does any of the following:
 - a. Compels the minor or ~~severely or profoundly mentally disabled person~~ person who has a severe or profound mental disability to engage in prostitution.
 - b. Arranges a situation in which the minor or ~~severely or profoundly mentally disabled person~~ person who has a severe or profound mental disability may practice prostitution.
 - c. Profits from prostitution by the minor or ~~severely or profoundly mentally disabled person~~ person who has a severe or profound mental disability.

For purposes of this subsection, administering drugs or an alcoholic intoxicant to a minor or a ~~severely or profoundly mentally disabled person~~ person who has a severe or profound mental disability, as described in subdivision (3) of this subsection, shall be deemed to be without consent if the administering is done without the consent of the parents or legal guardian or if the administering is performed or permitted by the parents or legal guardian for other than medical purposes. Mistake of age is not a defense to a prosecution under this subsection.

...."

SECTION 4.(h) G.S. 14-208.6 reads as rewritten:

"§ 14-208.6. Definitions.

The following definitions apply in this Article:

- (1a) ~~"Aggravated offense" means any Aggravated offense.~~ – Any criminal offense that includes either of the following: (i) engaging in a sexual act involving vaginal, anal, or oral penetration with a victim of any age through the use of force or the threat of serious violence; or (ii) engaging in a sexual act involving vaginal, anal, or oral penetration with a victim who is less than 12 years old.
- (1b) ~~"County registry" means the County registry.~~ – The information compiled by the sheriff of a county in compliance with this Article.
- (1c) ~~"Department" means the Department.~~ – The Department of Public Safety.
- (1d) ~~"Electronic mail" means the Electronic mail.~~ – The transmission of information or communication by the use of the Internet, a computer, a facsimile machine, a pager, a cellular telephone, a video recorder, or other

- 1 electronic means sent to a person identified by a unique address or address
2 number and received by that person.
- 3 (1e) ~~"Employed" includes~~ Employed. – Includes employment that is full-time or
4 part-time for a period of time exceeding 14 days or for an aggregate period of
5 time exceeding 30 days during any calendar year, whether financially
6 compensated, volunteered, or for the purpose of government or educational
7 benefit.
- 8 (1f) ~~"Entity" means a~~ Entity. – A business or organization that provides Internet
9 service, electronic communications service, remote computing service, online
10 service, electronic mail service, or electronic instant message or chat services
11 whether the business or organization is ~~within~~ inside or outside the State.
- 12 (1g) ~~"Instant Message" means a~~ Instant message. – A form of real-time text
13 communication between two or more people. The communication is conveyed
14 via computers connected over a network such as the Internet.
- 15 (1h) ~~"Institution of higher education" means any~~ Institution of higher education. –
16 Any postsecondary public or private educational institution, including any
17 trade or professional institution, college, or university.
- 18 (1i) ~~"Internet" means the~~ Internet. – The global information system that is logically
19 linked together by a globally unique address space based on the Internet
20 Protocol or its subsequent extensions; that is able to support communications
21 using the Transmission Control Protocol/Internet Protocol suite, its
22 subsequent extensions, or other Internet Protocol compatible protocols; and
23 that provides, uses, or makes accessible, either publicly or privately,
24 high-level services layered on the communications and related infrastructure
25 described in this subdivision.
- 26 (1j) ~~"Mental abnormality" means a~~ Mental abnormality. – A congenital or
27 acquired condition of a person that affects the emotional or volitional capacity
28 of the person in a manner that predisposes that person to the commission of
29 criminal sexual acts to a degree that makes the person a menace to the health
30 and safety of others.
- 31 (1k) ~~"Nonresident student" means a~~ Nonresident student. – A person who is not a
32 resident of North Carolina but who is enrolled in any type of school in the
33 State on a part-time or full-time basis.
- 34 (1l) ~~"Nonresident worker" means a~~ Nonresident worker. – A person who is not a
35 resident of North Carolina but who has employment or carries on a vocation
36 in the State, on a part-time or full-time basis, with or without compensation or
37 government or educational benefit, for more than 14 days, or for an aggregate
38 period exceeding 30 days in a calendar year.
- 39 (1m) ~~"Offense against a minor" means any~~ Offense against a minor. – Any of the
40 following offenses if the offense is committed against a minor, and the person
41 committing the offense is not the minor's parent: G.S. 14-39 (kidnapping),
42 G.S. 14-41 (abduction of children), and G.S. 14-43.3 (felonious restraint). The
43 term also includes the following if the person convicted of the following is not
44 the minor's parent: a solicitation or conspiracy to commit any of these
45 offenses; aiding and abetting any of these offenses.
- 46 (1n) ~~"Online identifier" means electronic~~ Online identifier. – Electronic mail
47 address, instant message screen name, user ID, chat or other Internet
48 communication name, but it does not mean social security number, date of
49 birth, or pin number.
- 50 (2) ~~"Penal institution" means~~ Penal institution. – Any of the following:

- 1 a. A detention facility operated under the jurisdiction of the Section of
2 Prisons of the Division of Adult Correction and Juvenile Justice of the
3 Department of Public ~~Safety~~; Safety.
- 4 b. A detention facility operated under the jurisdiction of another state or
5 the federal ~~government~~; or government.
- 6 c. A detention facility operated by a local government in this State or
7 another state.
- 8 (2a) ~~"Personality disorder" means an~~ Personality disorder. – An enduring pattern
9 of inner experience and behavior that deviates markedly from the expectations
10 of the individual's culture, is pervasive and inflexible, has an onset in
11 adolescence or early adulthood, is stable over time, and leads to distress or
12 impairment.
- 13 (2b) ~~"Recidivist" means a~~ Recidivist. – A person who has a prior conviction for an
14 offense that is described in G.S. 14-208.6(4).
- 15 (3) ~~"Release" means discharged~~ Release. – Discharged or paroled.
- 16 (4) ~~"Reportable conviction" means~~ Reportable conviction. – Any of the
17 following:
- 18 a. A final conviction for an offense against a minor, a sexually violent
19 offense, or an attempt to commit any of those offenses unless the
20 conviction is for aiding and abetting. A final conviction for aiding and
21 abetting is a reportable conviction only if the court sentencing the
22 individual finds that the registration of that individual under this
23 Article furthers the purposes of this Article as stated in G.S. 14-208.5.
- 24 b. A final conviction in another state of an offense, which if committed
25 in this State, is substantially similar to an offense against a minor or a
26 sexually violent offense as defined by this section, or a final conviction
27 in another state of an offense that requires registration under the sex
28 offender registration statutes of that state.
- 29 c. A final conviction in a federal jurisdiction (including a court martial)
30 of an offense, which is substantially similar to an offense against a
31 minor or a sexually violent offense as defined by this section.
- 32 d. A final conviction for a violation of G.S. 14-202(d), (e), (f), (g), or (h),
33 or a second or subsequent conviction for a violation of G.S. 14-202(a),
34 (a1), or (c), only if the court sentencing the individual issues an order
35 pursuant to G.S. 14-202(l) requiring the individual to register.
- 36 e. A final conviction for a violation of G.S. 14-43.14, only if the court
37 sentencing the individual issues an order pursuant to G.S. 14-43.14(e)
38 requiring the individual to register.
- 39 (5) ~~"Sexually violent offense" means a~~ Sexually violent offense. – A violation of
40 former G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.21
41 (first-degree forcible rape), G.S. 14-27.22 (second-degree forcible rape),
42 G.S. 14-27.23 (statutory rape of a child by an adult), G.S. 14-27.24
43 (first-degree statutory rape), G.S. 14-27.25(a) (statutory rape of a person who
44 is 15 years of age or younger and where the defendant is at least six years
45 older), G.S. 14-27.26 (first-degree forcible sexual offense), G.S. 14-27.27
46 (second-degree forcible sexual offense), G.S. 14-27.28 (statutory sexual
47 offense with a child by an adult), G.S. 14-27.29 (first-degree statutory sexual
48 offense), G.S. 14-27.30(a) (statutory sexual offense with a person who is 15
49 years of age or younger and where the defendant is at least six years older),
50 G.S. 14-27.31 (sexual activity by a substitute parent or custodian),
51 G.S. 14-27.32 (sexual activity with a student), G.S. 14-27.33 (sexual battery),

G.S. 14-43.11 (human trafficking) if (i) the offense is committed against a minor who is less than 18 years of age or (ii) the offense is committed against any person with the intent that they be held in sexual servitude, G.S. 14-43.13 (subjecting or maintaining a person for sexual servitude), G.S. 14-178 (incest between near relatives), G.S. 14-190.6 (employing or permitting minor to assist in offenses against public morality and decency), G.S. 14-190.9(a1) (felonious indecent exposure), G.S. 14-190.16 (first degree sexual exploitation of a minor), G.S. 14-190.17 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third degree sexual exploitation of a minor), G.S. 14-202.1 (taking indecent liberties with children), G.S. 14-202.3 (Solicitation of child by computer or certain other electronic devices to commit an unlawful sex act), G.S. 14-202.4(a) (taking indecent liberties with a student), G.S. 14-205.2(c) or (d) (patronizing a prostitute who is a minor or ~~a mentally disabled person~~), has a mental disability, G.S. 14-205.3(b) (promoting prostitution of a minor or ~~a mentally disabled person~~), person who has a mental disability, G.S. 14-318.4(a1) (parent or caretaker commit or permit act of prostitution with or by a juvenile), or G.S. 14-318.4(a2) (commission or allowing of sexual act upon a juvenile by parent or guardian). The term also includes the following: a solicitation or conspiracy to commit any of these offenses; aiding and abetting any of these offenses.

- (6) ~~"Sexually violent predator" means a Sexually violent predator.~~ – A person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in sexually violent offenses directed at strangers or at a person with whom a relationship has been established or promoted for the primary purpose of victimization.
- (7) ~~"Sheriff" means the Sheriff.~~ – The sheriff of a county in this State.
- (8) ~~"Statewide registry" means the Statewide registry.~~ – The central registry compiled by the Department in accordance with G.S. 14-208.14.
- (9) ~~"Student" means a Student.~~ – A person who is enrolled on a full-time or part-time basis, in any postsecondary public or private educational institution, including any trade or professional institution, or other institution of higher education."

SECTION 4.(i) G.S. 15-144.1 reads as rewritten:

"§ 15-144.1. Essentials of bill for rape.

(a) In indictments for rape it is not necessary to allege every matter required to be proved on the trial; but in the body of the indictment, after naming the person accused, the date of the offense, the county in which the offense of rape was allegedly committed, and the averment "with force and arms," ~~as is now usual~~, it is sufficient in describing rape to allege that the accused person unlawfully, willfully, and feloniously did ravish and carnally know the victim, naming her, by force and against her will and concluding as ~~is now~~ required by law. Any bill of indictment containing the averments and allegations ~~herein named in this section shall be~~ is good and sufficient in law as an indictment for rape in the first degree and will support a verdict of guilty of rape in the first degree, rape in the second degree, attempted ~~rape-rape~~, or assault on a female.

(b) If the victim is a female child under the age of 13 ~~years-years~~, it is sufficient to allege that the accused unlawfully, willfully, and feloniously did carnally know and abuse a child under 13, naming her, and concluding as ~~aforsaid~~ required by law. Any bill of indictment containing the averments and allegations ~~herein named in this section shall be~~ is good and sufficient in law as an indictment for the rape of a female child under the age of 13 years and all lesser included offenses.

(c) If the victim is a person who ~~is mentally disabled, mentally incapacitated, has a mental disability or who is mentally incapacitated~~ or physically ~~helpless-helpless~~, it is sufficient to allege that the defendant unlawfully, willfully, and feloniously did carnally know and abuse a person who ~~was mentally disabled, had a mental disability or who was mentally incapacitated or physically helpless~~, naming ~~such-the~~ victim, and concluding as ~~aforesaid, required by law~~. Any bill of indictment containing the averments and allegations ~~herein-named in this section shall be~~ is good and sufficient in law for the rape of a ~~mentally disabled, mentally incapacitated or physically helpless person-person~~ who has a mental disability or who is mentally incapacitated or physically helpless and all lesser included offenses."

SECTION 4.(j) G.S. 15-144.2 reads as rewritten:

"§ 15-144.2. Essentials of bill for sex offense.

(a) In indictments for sex offense it is not necessary to allege every matter required to be proved on the trial; but in the body of the indictment, after naming the person accused, the date of the offense, the county in which the sex offense was allegedly committed, and the averment "with force and arms," ~~as is now usual~~, it is sufficient in describing a sex offense to allege that the accused person unlawfully, willfully, and feloniously did engage in a sex offense with the victim, naming the victim, by force and against the will of ~~such-the~~ victim and concluding as ~~is now-required by law~~. Any bill of indictment containing the averments and allegations ~~herein-named in this section shall be~~ is good and sufficient in law as an indictment for a first degree sex offense and will support a verdict of guilty of a sex offense in the first degree, a sex offense in the second degree, an attempt to commit a sex ~~offense-offense~~, or an assault.

(b) If the victim is a person under the age of 13 years, it is sufficient to allege that the defendant unlawfully, willfully, and feloniously did engage in a sex offense with a child under the age of 13 years, naming the child, and concluding as ~~aforesaid, required by law~~. Any bill of indictment containing the averments and allegations ~~herein-named in this section shall be~~ is good and sufficient in law as an indictment for a sex offense against a child under the age of 13 years and all lesser included offenses.

(c) If the victim is a person who ~~is mentally disabled, mentally incapacitated, has a mental disability or who is mentally incapacitated~~ or physically ~~helpless-helpless~~, it is sufficient to allege that the defendant unlawfully, willfully, and feloniously did engage in a sex offense with a person who ~~was mentally disabled, had a mental disability or who was mentally incapacitated or physically helpless~~, naming ~~such-the~~ victim, and concluding as ~~aforesaid, required by law~~. Any bill of indictment containing the averments and allegations ~~herein-named in this section shall be~~ is good and sufficient in law for a sex offense against a ~~mentally disabled, mentally incapacitated or physically helpless person-person~~ who has a mental disability or who is mentally incapacitated or physically helpless and all lesser included offenses."

SECTION 4.(k) G.S. 15A-290 reads as rewritten:

"§ 15A-290. Offenses for which orders for electronic surveillance may be granted.

(a) Orders authorizing or approving the interception of wire, oral, or electronic communications may be granted, subject to the provisions of this Article and Chapter 119 of Title 18 of the United States Code, when the ~~interception:interception~~ does any of the following:

- (1) May provide or has provided evidence of the commission of, or any conspiracy to ~~commit-commit~~, any of the following:
 - a. Any of the drug-trafficking violations listed in ~~G.S. 90-95(h); or G.S. 90-95(h).~~
 - b. A continuing criminal enterprise in violation of G.S. 90-95.1.
- (2) May expedite the apprehension of persons indicted for the commission of, or any conspiracy to commit, an offense listed in subdivision (1) of this subsection.

(b) Orders authorizing or approving the interception of wire, oral, or electronic communications may be granted, subject to the provisions of this Article and Chapter 119 of

1 Title 18 of the United States Code, when the interception may provide, or has provided, evidence
2 of any offense that involves the commission of, or any conspiracy to commit, murder,
3 kidnapping, hostage taking, robbery, extortion, bribery, rape, or any sexual offense, or when the
4 interception may expedite the apprehension of persons indicted for the commission of these
5 offenses.

6 (c) Orders authorizing or approving the interception of wire, oral, or electronic
7 communications may be granted, subject to the provisions of this Article and Chapter 119 of
8 Title 18 of the United States Code, when the interception may provide, or has provided, evidence
9 of any of the following offenses, or any conspiracy to commit these offenses, or when the
10 interception may expedite the apprehension of persons indicted for the commission of these
11 offenses:

- 12 (1) Any felony offense against a minor, including any violation of G.S. 14-27.31
13 (Sexual activity by a substitute parent or custodian), G.S. 14-27.32 (Sexual
14 activity with a student), G.S. 14-41 (Abduction of children), G.S. 14-43.11
15 (Human trafficking), G.S. 14-43.12 (Involuntary servitude), G.S. 14-43.13
16 (Sexual servitude), G.S. 14-190.16 (First degree sexual exploitation of a
17 minor), G.S. 14-190.17 (Second degree sexual exploitation of a minor),
18 G.S. 14-202.1 (Taking indecent liberties with children), G.S. 14-205.2(c) or
19 (d)(Patronizing a prostitute who is a minor or ~~a mentally disabled person~~), has
20 a mental disability), or G.S. 14-205.3(b) (Promoting prostitution of a minor or
21 ~~a mentally disabled person~~); person who has a mental disability).

22 ...

23 (d) When an investigative or law enforcement officer, while engaged in intercepting wire,
24 oral, or electronic communications in the manner authorized, intercepts wire, electronic, or oral
25 communications relating to offenses other than those specified in the order of authorization or
26 approval, the contents ~~thereof, and evidence derived therefrom, of the communications and~~
27 evidence derived from the communications may be disclosed or used as provided in
28 G.S. 15A-294(a) and (b). ~~Such~~ The contents of the communications and any evidence derived
29 ~~therefrom from the communications~~ may be used in accordance with G.S. 15A-294(c) when
30 authorized or approved by a judicial review panel where the panel finds, on subsequent
31 application made as soon as practicable, that the contents were otherwise intercepted in
32 accordance with this Article or Chapter 119 of Title 18 of the United States Code.

33 (e) No otherwise privileged wire, oral, or electronic communication intercepted in
34 accordance with, or in violation of, the provisions of this Article or Chapter 119 of Title 18 of
35 the United States Code, shall lose its privileged character."

36 SECTION 4.(f) G.S. 115C-270.35 reads as rewritten:

37 "§ 115C-270.35. License suspension and revocation.

38 (a) Rules. – The State Board shall adopt rules to establish the reasons and procedures for
39 the suspension and revocation of licenses, subject to the requirements of this section.

40 (b) Automatic Revocation With No Hearing. – The State Board shall automatically
41 revoke the license of a professional educator without the right to a hearing upon receiving
42 verification of the identity of the professional educator together with a certified copy of a criminal
43 record showing that the professional educator has entered a plea of guilty or nolo contendere to
44 or has been finally convicted of any of the following crimes:

45 ...

- 46 (21) Patronizing a prostitute who is a minor or ~~a mentally disabled person~~, has a
47 mental disability, G.S. 14-205.2(c) or (d).
48 (22) Promoting prostitution of a minor or ~~a mentally disabled person~~, person who
49 has a mental disability, G.S. 14-205.3(b).
50 (23) Child abuse under G.S. 14-318.4.

1 The State Board shall mail notice of its intent to act pursuant to this subsection by certified
2 mail, return receipt requested, directed to the professional educator's last known address. The
3 notice shall inform the professional educator that it will revoke the person's license unless the
4 professional educator notifies the State Board in writing within 10 days after receipt of the notice
5 that the defendant identified in the criminal record is not the same person as the professional
6 educator. If the professional educator provides this written notice to the State Board, the State
7 Board shall not revoke the license unless it can establish as a fact that the defendant and the
8 professional educator are the same person.

9 ...

10 (e) Subpoena Power. – The State Board may issue subpoenas for the purpose of obtaining
11 documents or the testimony of witnesses in connection with proceedings to suspend or revoke
12 licenses. In addition, the Board ~~shall have the authority to~~ may contract with individuals who are
13 qualified to conduct investigations in order to obtain all information needed to assist the Board
14 in the proper disposition of allegations of misconduct by licensed persons."

15 **SECTION 4.(m)** G.S. 14-32.1 reads as rewritten:

16 **"§ 14-32.1. Assaults on ~~handicapped persons; individuals with a disability; punishments.~~**

17 (a) For purposes of this section, a ~~"handicapped person" is a person an "individual with~~
18 a disability" is an individual who has:has one or more of the following that would substantially
19 impair the ability to defend oneself:

20 (1) A physical or mental disability, such as a decreased use of arms or legs,
21 blindness, deafness, ~~mental retardation~~ intellectual disability, or mental
22 illness; or illness.

23 (2) ~~Infirmity~~ An infirmity.

24 ~~which would substantially impair that person's ability to defend himself.~~

25 (b) through (d) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 767, s. 31, effective
26 October 1, 1994.

27 (e) Unless ~~his~~ the conduct is covered under some other provision of law providing greater
28 punishment, any person who commits any aggravated assault or assault and battery on a
29 ~~handicapped person an individual with a disability~~ is guilty of a Class F felony. A person commits
30 an aggravated assault or assault and battery upon a ~~handicapped person an individual with a~~
31 disability if, in the course of the assault or assault and battery, that ~~person; person~~ does any of the
32 following:

33 (1) Uses a deadly weapon or other means of force likely to inflict serious injury
34 or serious damage to ~~a handicapped person; or an individual with a disability.~~

35 (2) Inflicts serious injury or serious damage to ~~a handicapped person; or an~~
36 individual with a disability.

37 (3) Intends to kill a handicapped person an individual with a disability.

38 (f) Any person who commits a simple assault or battery upon a ~~handicapped person an~~
39 individual with a disability is guilty of a Class A1 misdemeanor."

40 **SECTION 4.(n)** G.S. 15A-266.3A reads as rewritten:

41 **"§ 15A-266.3A. DNA sample required for DNA analysis upon arrest for certain offenses.**

42 (a) Unless a DNA sample has previously been obtained by lawful process and the DNA
43 record stored in the State DNA Database, and that record and sample has not been expunged
44 pursuant to any provision of law, a DNA sample for DNA analysis and testing shall be obtained
45 from any person who is arrested for committing an offense described in subsection (f) or (g) of
46 this section.

47 ...

48 (f) This section ~~shall apply~~ applies to a person arrested for violating any one of the
49 following offenses in Chapter 14 of the General Statutes:

50 ...

(4) G.S. 14-28, Malicious castration; G.S. 14-29, Castration or other maiming without malice aforethought; G.S. 14-30, Malicious maiming; G.S. 14-30.1, Malicious throwing of corrosive acid or alkali; G.S. 14-31, Maliciously assaulting in a secret manner; G.S. 14-32, Felonious assault with deadly weapon with intent to kill or inflicting serious injury; G.S. 14-32.1(e), Aggravated assault or assault and battery on ~~handicapped person; an individual with a disability~~; G.S. 14-32.2(a) when punishable pursuant to G.S. 14-32.2(b)(1), Patient abuse and neglect, intentional conduct proximately causes death; G.S. 14-32.3(a), Domestic abuse of disabled or elder adults resulting in injury; G.S. 14-32.4, Assault inflicting serious bodily injury or injury by strangulation; G.S. 14-33.2, Habitual misdemeanor assault; G.S. 14-34.1, Discharging certain barreled weapons or a firearm into occupied property; G.S. 14-34.2, Assault with a firearm or other deadly weapon upon governmental officers or employees, company police officers, or campus police officers; G.S. 14-34.4, Adulterated or misbranded food, drugs, etc.; intent to cause serious injury or death; intent to extort; G.S. 14-34.5, Assault with a firearm on a law enforcement, probation, or parole officer or on a person employed at a State or local detention facility; G.S. 14-34.6, Assault or affray on a firefighter, an emergency medical technician, medical responder, emergency department nurse, or emergency department physician; G.S. 14-34.7, Assault inflicting serious injury on a law enforcement, probation, or parole officer or on a person employed at a State or local detention facility; G.S. 14-34.9, Discharging a firearm from within an enclosure; and G.S. 14-34.10, Discharge firearm within enclosure to incite fear.

...

(g) This section ~~shall also apply~~ also applies to a person arrested for attempting, solicitation of another to commit, conspiracy to commit, or aiding and abetting another to commit, any of the violations included in subsection (f) of this section.

...

(j) Prior to June 1, 2012, within 30 days of the receipt of the form required by subsection (i) of this section or the occurrence of one of the events in sub-subdivision a., b., or c. of subdivision (1) of subsection (h) of this section; and on or after June 1, 2012, within 30 days of the occurrence of one of the events in subdivision (1) of subsection (h) of this section, the prosecuting district attorney shall determine if a DNA sample was taken pursuant to this section, and if so, ~~shall~~ shall do all of the following:

- (1) Verify and indicate the facts of the qualifying event on a verification form promulgated by the Administrative Office of the Courts.
- (2) Include the last known address of the defendant, as reflected in the court files, on the verification form.
- (3) Sign the verification form or, if the defendant was acquitted or the charges were dismissed by the court, obtain the signature of a judge.
- (4) Transmit the verification form to the Crime Laboratory.

(k) Within 90 days of receipt of the verification form, the Crime Laboratory ~~shall~~ shall do all of the following:

- (1) Determine whether the requirement of subdivision (2) of subsection (h) of this section has been met.
- (2) If the requirement has been met, remove the defendant's DNA record and samples as required by subsection (h) of this section.
- (3) Mail to the defendant, at the address specified in the verification form, a notice doing either of the following:

- a. Documenting expunction of the DNA record and destruction of the DNA sample.
- b. Notifying the defendant that the DNA record and sample do not qualify for expunction pursuant to subsection (h) of this section.

...."

SECTION 4.(o) G.S. 15A-266.4 reads as rewritten:

"§ 15A-266.4. DNA sample required for DNA analysis upon conviction or finding of not guilty by reason of insanity.

...

(b) Crimes covered by this Article include all of the following:

- (1) All felonies.
- (2) G.S. 14-32.1 – Assaults on ~~handicapped persons~~ individuals with a disability.
- (3) Former G.S. 14-277.3 – Stalking.
- (4) Repealed by Session Laws 2010-94, s. 5, effective February 1, 2011.
- (5) All offenses described in G.S. 15A-266.3A."

SECTION 5. G.S. 15A-2000 reads as rewritten:

"§ 15A-2000. Sentence of death or life imprisonment for capital felonies; further proceedings to determine sentence.

(a) Separate Proceedings on Issue of Penalty. –

- (1) Except as provided in G.S. 15A-2004, upon conviction or adjudication of guilt of a defendant of a capital felony in which the State has given notice of its intent to seek the death penalty, the court shall conduct a separate sentencing proceeding to determine whether the defendant should be sentenced to death or life imprisonment. A capital felony is one which may be punishable by death.
- (2) The proceeding shall be conducted by the trial judge before the trial jury as soon as practicable after the guilty verdict is returned. If prior to the time that the trial jury begins its deliberations on the issue of penalty, any juror dies, becomes incapacitated or disqualified, or is discharged for any reason, an alternate juror shall become a part of the jury and serve in all respects as those selected on the regular trial panel. An alternate juror shall become a part of the jury in the order in which ~~he~~ the alternate juror was selected. If the trial jury is unable to reconvene for a hearing on the issue of penalty after having determined the guilt of the accused, the trial judge shall impanel a new jury to determine the issue of the punishment. If the defendant pleads guilty, the sentencing proceeding shall be conducted before a jury impaneled for that purpose. A jury selected for the purpose of determining punishment in a capital case shall be selected in the same manner as juries are selected for the trial of capital cases.

...

(b) Sentence Recommendation by the Jury. – Instructions determined by the trial judge to be warranted by the evidence shall be given by the court in its charge to the jury prior to its deliberation in determining sentence. The court shall give appropriate instructions in those cases in which evidence of the defendant's ~~mental retardation~~ intellectual disability requires the consideration by the jury of the provisions of G.S. 15A-2005. In all cases in which the death penalty may be authorized, the judge shall include in ~~his~~ the judge's instructions to the jury that it must consider any aggravating circumstance or circumstances or mitigating circumstance or circumstances from the lists provided in subsections (e) and (f) of this section which may be supported by the evidence, and shall furnish to the jury a written list of issues relating to such aggravating or mitigating circumstance or circumstances.

After hearing the evidence, argument of counsel, and instructions of the court, the jury shall deliberate and render a sentence recommendation to the court, based upon all of the following matters:

- (1) Whether any sufficient aggravating circumstance or circumstances as enumerated in subsection (e) ~~exist; of this section exist.~~
- (2) Whether any sufficient mitigating circumstance or circumstances as enumerated in subsection ~~(f), (f) of this section,~~ which outweigh the aggravating circumstance or circumstances found, ~~exist; and exist.~~
- (3) Based on these considerations, whether the defendant should be sentenced to death or to imprisonment in the State's prison for life.

The sentence recommendation must be agreed upon by a unanimous vote of the 12 jurors. Upon delivery of the sentence recommendation by the foreman of the jury, the jury shall be individually polled to establish whether each juror concurs and agrees to the sentence recommendation returned.

If the jury cannot, within a reasonable time, unanimously agree to its sentence recommendation, the judge shall impose a sentence of life imprisonment; ~~provided, however, that the imprisonment. The~~ judge shall in no instance impose the death penalty when the jury cannot agree unanimously to its sentence recommendation.

(c) Findings in Support of Sentence of Death. – When the jury recommends a sentence of death, the foreman of the jury shall sign a writing on behalf of the jury ~~which writing shall show; that shows all of the following:~~

- (1) The statutory aggravating circumstance or circumstances which the jury finds beyond a reasonable ~~doubt; and doubt.~~
- (2) That the statutory aggravating circumstance or circumstances found by the jury are sufficiently substantial to call for the imposition of the death ~~penalty; and, penalty.~~
- (3) That the mitigating circumstance or circumstances are insufficient to outweigh the aggravating circumstance or circumstances found.

(d) Review of Judgment and Sentence. –

- ...
- (2) The sentence of death shall be overturned and a sentence of life imprisonment imposed in lieu thereof by the Supreme Court upon a finding that the record does not support the jury's findings of any aggravating circumstance or circumstances upon which the sentencing court based its sentence of death, or upon a finding that the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor, or upon a finding that the sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant. The Supreme Court may suspend consideration of death penalty cases until such time as the court determines it is prepared to make the comparisons required under ~~the provisions of this section.~~

...

(e) Aggravating Circumstances. – Aggravating circumstances which may be considered ~~shall be~~ are limited to the following:

...

(f) Mitigating Circumstances. – Mitigating circumstances which may be considered ~~shall~~ include, but ~~not be~~ are not limited to, the following:

- ...
- (4) The defendant was an accomplice in or accessory to the capital felony committed by another person and ~~his~~ the defendant's participation was relatively minor.

- (5) The defendant acted under duress or under the domination of another person.
- (6) The capacity of the defendant to appreciate the criminality of ~~his~~ the defendant's conduct or to conform ~~his~~ that conduct to the requirements of law was impaired.
- (7) The age of the defendant at the time of the crime.
- (8) The defendant aided in the apprehension of another capital felon or testified truthfully on behalf of the prosecution in another prosecution of a felony.
- (9) Any other circumstance arising from the evidence which the jury deems to have mitigating value."

SECTION 6.(a) G.S. 58-32-10 reads as rewritten:

"§ 58-32-10. Powers and duties of Commission.

The Commission may acquire from an insurance company or insurance companies a group plan of professional liability insurance covering the law-enforcement officers and/or public officers and employees of any political subdivision of the State. The Commission ~~shall have~~ has full authority to negotiate with insurance companies submitting bids or proposals and shall award its group plan master contract on the basis of the company or companies found by it to offer maximum coverage at the most reasonable premium. The Commission ~~is authorized to may~~ enter into a master policy contract of ~~such any term as that~~ it finds to be in the best interests of the law-enforcement officers and/or public officers and employees of the political subdivisions of the State, not to exceed five years. The Commission, in negotiating for ~~such the~~ contract, is not authorized to pledge or offer the credit of the State of North Carolina. The insurance premiums shall be paid by the political subdivisions whose employees are covered by the professional liability insurance. Any political subdivision may elect coverage for any or all of its employees on a departmental basis; ~~provided all basis. All~~ employees in a department must be covered if coverage is elected for that department. Nothing ~~contained herein shall be construed to require~~ in this section requires any political subdivision to participate in any group plan of professional liability insurance.

The Commission may, in its discretion, employ professional and clerical staff whose salaries shall be as established by the State Human Resources Commission.

~~Should~~ If the Commission ~~determine~~ determines that reasonable coverage is not available at a reasonable cost, the Commission may undertake ~~such any~~ studies and inquiries into the situation and alternatives, including ~~self insurance~~ self-insurance and ~~State administered~~ State-administered funds, ~~as that~~ the Commission deems appropriate. The Commission shall then bring before the General Assembly ~~such any~~ recommendations ~~as that~~ it deems appropriate.

The Commission may acquire information regarding loss ratios, loss factors, loss ~~experience~~ experience, and other such facts and figures from any agency or company issuing professional liability insurance covering public officers, ~~employees~~ employees, or law-enforcement officers in ~~the State of North Carolina~~ this State. ~~Such This~~ information ~~shall not be deemed~~ is not a public record within the meaning of Chapter 132 of the General Statutes where it names the company divulging ~~such the~~ information, but the Commission may make public ~~such the~~ information to show aggregate statistics in respect to the experience of the State as a whole. The information shall be provided to the Commission upon its written demand and shall be submitted to the Commission by ~~such the~~ company or companies upon sworn affidavit. If any agency or company ~~shall fail~~ fails or ~~refuse~~ refuses to supply ~~such the~~ information to the Commission within a reasonable time following receipt of the demand, the Commission may apply to the Superior Court sitting in Wake County for appropriate orders to enforce the demand.

For purposes of this section, the term "political subdivision" includes any county, city, town, incorporated village, sanitary district, metropolitan water district, county water and sewer district, water and sewer authority, hospital authority, parking authority, local ABC ~~boards~~ board, special airport district, airport authority, soil and water conservation district created pursuant to G.S. 139-5, fire district, volunteer or paid fire department, rescue ~~squads~~ squad, city or county

1 parks and recreation ~~commissions, commission,~~ area mental health ~~boards, board,~~ area mental
2 health, ~~mental retardation developmental disabilities,~~ and substance abuse authority as described
3 in G.S. 122C-117, domiciliary home community advisory ~~committees, committee,~~ county ~~and or~~
4 district ~~boards board~~ of health, nursing home advisory ~~committees, committee,~~ county ~~boards~~
5 ~~board~~ of social services, local school administrative ~~units, unit,~~ local ~~boards board~~ of education,
6 community ~~colleges, college,~~ and all other persons, bodies, or agencies authorized or regulated
7 by Chapters 108A, 115C, 115D, 118, 122C, 130A, 131A, 131D, 131E, 153A, 160A, and 160B
8 of the General Statutes."

9 **SECTION 6.(b)** G.S. 62-289.3 reads as rewritten:

10 **"§ 62-289.3. Definitions.**

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

- 12 (1) ~~"Human service agency" means any~~ Human service agency. – Any charitable
13 or governmental agency including, but not limited to: county departments of
14 social services, area mental health, ~~mental retardation or developmental~~
15 ~~disabilities,~~ and substance abuse authorities, local health departments,
16 councils on aging, community action agencies, sheltered workshops, group
17 ~~homes-homes,~~ and State residential institutions.
- 18 (2) ~~"Human service transportation" means motor~~ Human service transportation. –
19 Motor vehicle transportation provided on a nonprofit basis by a human service
20 agency for the purpose of transporting clients or recipients in connection with
21 programs sponsored by the agency. "Human service transportation" ~~shall also~~
22 ~~mean also means~~ motor vehicle transportation provided by for-profit persons
23 under exclusive contract with a human service agency for the transportation
24 of clients or recipients, and such provider shall also qualify as a human service
25 agency for the purpose of motor vehicle registration during the term of the
26 contract. The motor vehicle may be owned, leased, borrowed, or contracted
27 for use by or from the human service agency.
- 28 (3) ~~"Nonprofit" as Nonprofit.~~ – As applied to human service ~~transportation~~
29 ~~transportation,~~ means motor vehicle transportation provided at cost.
- 30 (4) ~~"Person" means an~~ Person. – An individual, corporation, company,
31 association, ~~partnership partnership,~~ or other legal entity.
- 32 (5) ~~"Volunteer transportation" means motor~~ Volunteer transportation. – Motor
33 vehicle transportation provided by any person under the direction,
34 sponsorship, or supervision of a human service agency. The person may
35 receive an allowance to defray the actual cost of operating the vehicle but shall
36 not receive any other compensation."

37 **SECTION 6.(c)** G.S. 143B-152.14 reads as rewritten:

38 **"§ 143B-152.14. Cooperation of State and local agencies.**

39 All agencies of the State and local government, including the Juvenile Justice Section of the
40 Division of Adult Correction and Juvenile Justice of the Department of Public Safety,
41 departments of social services, health departments, local mental health, ~~mental retardation,~~
42 ~~developmental disabilities,~~ and substance abuse authorities, court personnel, law enforcement
43 agencies, The University of North Carolina, the community college system, and cities and
44 counties, shall cooperate with the Department of Health and Human Services, and local nonprofit
45 corporations that receive grants in coordinating the program at the State level and in
46 implementing the program at the local level. The Secretary of Health and Human Services, after
47 consultation with the Superintendent of Public Instruction, shall develop a plan for ensuring the
48 cooperation of State agencies and local agencies and encouraging the cooperation of private
49 entities, especially those receiving State funds, in the coordination and implementation of the
50 program."

51 **SECTION 6.(d)** G.S. 153A-247 reads as rewritten:

1 **"§ 153A-247. Provision for public health and mental health.**

2 A county may provide for and regulate the public health pursuant to Chapter 130A of the
3 General Statutes and any other law authorizing local public health activities and may provide
4 ~~mental health[,] mental retardation, mental health, developmental disabilities,~~ and substance
5 abuse programs pursuant to Chapter 122C of the General Statutes."

6 **SECTION 7.(a)** G.S. 58-51-25 reads as rewritten:

7 **"§ 58-51-25. Policy coverage to continue as to ~~mentally retarded or physically handicapped~~**
8 **~~children; children with an intellectual or physical disability; coverage of or~~**
9 **~~dependent students on medically necessary leave of absence.~~**

10 (a) An individual or group accident and health insurance policy, hospital service plan
11 policy, or medical service plan policy that provides that coverage of a dependent child shall
12 terminate upon attainment of the limiting age for dependent children specified in the policy or
13 contract, shall also provide in substance that attainment of ~~such the~~ limiting age shall not operate
14 or terminate the coverage of ~~such the~~ child while the child is and continues to be (i) incapable of
15 self-sustaining employment by reason of ~~mental retardation or physical handicap; an intellectual~~
16 ~~or physical disability;~~ and (ii) chiefly dependent upon the policyholder or subscriber for support
17 and ~~maintenance. Provided, maintenance.~~ The proof of such incapacity and dependency ~~is shall~~
18 ~~be~~ furnished to the insurer, hospital service plan corporation, or medical service plan corporation
19 by the policyholder or subscriber within 31 days of the child's attainment of the limiting age and
20 subsequently as may be required by the insurer or corporation, but not more frequently than
21 annually after the child's attainment of the limiting age.

22 (b) All health benefit plans, as defined in G.S. 58-3-167, that provide that coverage of a
23 dependent child shall terminate upon a change in enrollment of the child in a postsecondary
24 educational institution shall provide for the continued eligibility of the dependent child during a
25 medically necessary leave of absence from the postsecondary educational institution in
26 accordance with all applicable requirements of Public Law 110-381, known as Michelle's Law."

27 **SECTION 7.(b)** G.S. 58-51-35 reads as rewritten:

28 **"§ 58-51-35. Insurers and others to afford coverage to ~~mentally retarded and physically~~**
29 **~~handicapped children; children with an intellectual or physical disability.~~**

30 (a) No insurance company licensed in this State pursuant to the provisions of Articles 1
31 through 64 of this Chapter and no corporation governed by the provisions of Articles 65 and 66
32 of this Chapter shall refuse to issue or deliver any individual or group accident and health
33 insurance policy ~~of or~~ hospital or medical service plan policy in this State which it is currently
34 issuing for delivery in this State and which affords benefits or coverage for minor children of the
35 applicant, by reason of ~~the physical handicap or mental retardation an intellectual or physical~~
36 ~~disability~~ of any minor children of the applicant; nor shall any such policy issued and delivered
37 in this State carry a higher premium rate or charge or restrict or exclude coverage or benefits by
38 reason of ~~said mental retardation or physical handicap. Provided, however, such policy the~~
39 ~~intellectual or physical disability.~~ The policy, however, may exclude benefits, otherwise payable
40 for disability, hospitalization, or medical or other therapeutic expense directly and solely
41 attributable to ~~such mental retardation or such physical handicap; the intellectual or physical~~
42 ~~disability.~~

43 ...

44 (c) The provisions of this section ~~shall~~ apply to corporations governed by the provisions
45 of Articles 65 and 66 of this Chapter."

46 **SECTION 7.(c)** G.S. 58-51-40 reads as rewritten:

47 **"§ 58-51-40. Insurers and others to afford coverage for active medical treatment in**
48 **tax-supported institutions.**

49 (a) Whenever any policy of insurance governed by Articles 1 through 64 of this Chapter
50 provides for benefits for charges of hospitals or physicians, the policy shall provide for payments
51 of benefits for charges made for medical care rendered in or by duly licensed State tax-supported

institutions, including charges for medical care of cerebral palsy, other orthopedic and crippling disabilities, mental and nervous diseases or disorders, ~~mental retardation, intellectual disability,~~ alcoholism and drug or chemical dependency, and respiratory illness, on a basis no less favorable than the basis which would apply had the medical care been rendered in or by any other public or private institution or provider. The term "State tax-supported institutions" ~~shall include~~ includes community mental health centers and other health clinics which are certified as Medicaid providers.

...

(c) The restrictions and regulations of this section ~~shall do~~ not apply to any policy which is individually underwritten or provided for a specific individual and the members of ~~his~~ the individual's family as a nongroup policy but ~~shall~~ apply to any group policy of insurance governed by Articles 1 through 64 of this Chapter."

SECTION 7.(d) G.S. 58-65-2 reads as rewritten:

"§ 58-65-2. Other laws applicable to service corporations.

The following provisions of this Chapter are applicable to service corporations that are subject to this Article:

...

G.S. 58-51-17

Portability for accident and health insurance.

G.S. 58-51-25.

Policy coverage to continue as to ~~mentally retarded or physically handicapped children-children with an intellectual or physical disability or dependent students on medically necessary leave of absence.~~

G.S. 58-51-95(h),(i),(j).

Approval by Commissioner of forms, classification and rates; hearings; exceptions."

SECTION 7.(e) G.S. 58-65-65 reads as rewritten:

"§ 58-65-65. Coverage for active medical treatment in tax-supported institutions.

(a) No hospital or medical or dental service plan, ~~contract~~ contract, or certificate governed by ~~the provisions of this Article and Article 66 of this Chapter shall be delivered, issued, executed~~ executed, or renewed in this State, or approved for issuance or renewal in this State ~~by the Commissioner of Insurance, after May 21, 1975, State, unless such plan, contract or certificate it provides for the payment of benefits for charges made for medical care rendered in or by duly licensed state~~ State tax-supported institutions, ~~including charges for medical care of cerebral palsy, other orthopedic and crippling disabilities, mental and nervous diseases and disorders, mental retardation, alcoholism and drug or chemical dependency, and respiratory illness, institutions on a basis no less favorable than the basis which that would apply had the medical care been rendered in or by any other public or private institution or provider. The term "state"~~ State tax-supported institutions" ~~shall include~~ includes community mental health centers and other health clinics which are certified as Medicaid providers.

(b) No plan, contract, or certificate shall exclude payment for charges of a duly licensed ~~state~~ State tax-supported institution because of its being a specialty facility for one particular type of illness nor because it does not have an operating room and related equipment for the performance of surgery, but it is not required that benefits be payable for domiciliary or custodial care, rehabilitation, training, schooling, or occupational therapy.

(c) ~~The restrictions and requirements of this~~ This section shall does not apply to any plan, contract, or certificate ~~which that~~ is individually underwritten or provided for a specific individual and the members of ~~his~~ the individual's family as a nongroup policy, ~~but shall apply only to those hospital service and medical service subscriber plans, contracts, or certificates delivered, issued for delivery, reissued or renewed in this State on and after July 1, 1975-policy."~~

SECTION 7.(f) G.S. 58-67-171 reads as rewritten:

"§ 58-67-171. Other laws applicable to HMOs.

The following provisions of this Chapter are applicable to HMOs that are subject to this Article:

...	
G.S. 58-51-17	Portability for accident and health insurance.
G.S. 58-51-25.	Policy coverage to continue as to mentally retarded or physically handicapped children. <u>children with an intellectual or physical disability or dependent students on medically necessary leave of absence.</u>
G.S. 58-51-35.	Insurers and others to afford coverage to mentally retarded and physically handicapped children. <u>children with an intellectual or physical disability.</u>
G.S. 58-51-45.	Policies to be issued to any person possessing the sickle-cell trait or hemoglobin C trait."

SECTION 8. G.S. 110-20.1 reads as rewritten:

"§ 110-20.1. Exhibition of certain children prohibited.

(a) Except to the extent otherwise provided in subsection (d) of this section, it is unlawful to exhibit publicly for any purpose, or to exhibit privately for the purpose of entertainment, or solely or primarily for the satisfaction of the curiosity of any observer, any child under the age of 18 years who ~~is mentally ill or mentally retarded~~ has a mental illness or intellectual disability or who presents the appearance of having any deformity or unnatural physical formation or development, whether or not the exhibiting of the child is in return for a monetary or other consideration.

(b) It is unlawful to employ, use, have custody of, or in any way be associated with any child described in subsection (a) of this section for the purpose of an exhibition ~~forbidden therein, prohibited by subsection (a) of this section,~~ or for one who has the care, ~~eustody~~ custody, or control of the child as a parent, relative, guardian, ~~employer~~ employer, or otherwise, to neglect or refuse to restrain the child from participating in the exhibition.

(c) It is unlawful to procure or arrange for, or participate in procuring or arranging for, anything made unlawful by subsections (a) and ~~(b)~~ (b) of this section.

(d) This section does not apply to the transmission of an image by television by a duly licensed television station, or to any exhibition by a federal, State, ~~county~~ county, or municipal government, or political subdivision or agency thereof, or to any exhibition by any corporation, unincorporated association, or other organization organized and operated exclusively for religious, charitable, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(e) Any violation of this Article ~~shall be~~ is a Class 3 misdemeanor. Each day during which any violation of this Article continues after notice to the violator, from any county social services director, to cease and desist from any violation of this section ~~shall constitute~~ is a separate and distinct offense. Any act or omission ~~forbidden prohibited by this Article shall,~~ Article is, with respect to each ~~child described therein constitute child,~~ a separate and distinct offense."

SECTION 9. G.S. 115C-106.3 reads as rewritten:

"§ 115C-106.3. Definitions.

The following definitions apply in this Article:

- (1) ~~"Child with a disability"~~ means a Child with a disability. – A child with at least one disability who because of that disability requires special education and related services.
- (2) ~~"Disability"~~ includes mental retardation; Disability. – Includes intellectual disability; hearing impairment, including deafness; speech or language impairment; visual impairment, including blindness; serious emotional disturbance; orthopedic impairment; autism; traumatic brain injury; other health impairments, specific learning disability, or other disability as may be

- required to be included under IDEA. For a child ages three through seven, this term also includes developmental delay.
- (3) ~~"Dispute" means a Dispute.~~ – A disagreement between the parties.
- (3a) ~~"Educational services" means all Educational services.~~ – All of the following:
- a. The necessary instructional hours per week in the form and format as determined by the child's IEP team and consistent with federal and State law. The instruction shall be delivered by an appropriately qualified teacher to the extent required by federal and State law, which requires a free appropriate public education and the opportunity for a sound basic education.
 - b. Related services included in the child's IEP.
 - c. Behavior intervention services to the extent required by federal law.
- (4) ~~"Free appropriate public education" means special Free appropriate public education.~~ – Special education and related services that satisfy all of the following:
- a. Are provided at public expense, under public supervision and direction, and without ~~charge; charge.~~
 - b. Meet the standards of the State ~~Board; Board.~~
 - c. Include an appropriate preschool, elementary school, or secondary school education in the ~~State; and State.~~
 - d. Are provided in conformity with an individualized education program.
- (5) ~~"Hearing officers" include Hearing officers.~~ – Include administrative law judges as defined in G.S. 150B-2(1) and hearing review officers.
- (5a) ~~"Homebound instruction" means educational Homebound instruction.~~ – Educational services provided to a student outside the school setting.
- (6) ~~"IDEA" means IDEA.~~ – The Individuals with Disabilities Education Improvement Act, 20 U.S.C. § 1400, et seq., (2004), as amended, and federal regulations adopted under this act.
- (7) ~~"IEP Team" is as IEP Team.~~ – As defined in IDEA.
- (8) ~~"Individualized education program" or "IEP" means a Individualized education program (IEP).~~ – A written statement for each child with a disability that is developed, reviewed, implemented, and revised consistent with IDEA and State law.
- (9) ~~"Infant or toddler with a disability" is as Infant or toddler with a disability.~~ – As defined in IDEA.
- (10) ~~"Least restrictive environment" means to Least restrictive environment.~~ – To the maximum extent appropriate, children with disabilities are educated with children who are not disabled, do not have disabilities, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.
- (11) ~~"Local educational agency" includes Local educational agency.~~ – Includes any of the following that provides special education and related services to children with disabilities:
- a. A local school administrative unit.
 - b. A charter school.
 - c. The Department of Health and Human Services.
 - d. The Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

- 1 e. Repealed by Session Laws 2017-186, s. 2(yyyy), effective December
2 1, 2017.
- 3 f. Any other State agency or unit of local government.
- 4 (12) ~~"Mediation" means an~~ Mediation. – An informal process conducted by a
5 mediator with the objective of helping parties voluntarily settle their dispute.
- 6 (13) ~~"Mediator" means a~~ Mediator. – A neutral person who acts to encourage and
7 facilitate a resolution of a dispute.
- 8 (14) ~~"Parent" means:~~ Parent. – Any of the following:
9 a. A natural, adoptive, or foster ~~parent;~~ parent.
10 b. A guardian, but not the State if the child is a ward of the ~~State;~~ State.
11 c. An individual acting in the place of a natural or adoptive parent,
12 including a grandparent, stepparent, or other relative, and with whom
13 the child ~~lives;~~ lives.
- 14 d. An individual who is legally responsible for the child's ~~welfare;~~
15 ~~or~~ welfare.
- 16 e. A surrogate if one is appointed under G.S. 115C-109.2.
- 17 (15) ~~"Party" or "Parties" means the~~ Party or parties. – The local educational agency
18 or the parents, or both.
- 19 (16) ~~"Petition" means a~~ Petition. – A request for a due process hearing as provided
20 for under IDEA.
- 21 (17) ~~"Preschool child with a disability" means a~~ Preschool child with a disability.
22 – A child with one or more disabilities who meets all of the following criteria:
23 a. Has reached his or her third birthday and whose parents have requested
24 services from the public schools.
25 b. Is not eligible to enroll in public kindergarten.
26 c. Because of the disability, needs special education and related services
27 in order to prepare the child to benefit from the educational programs
28 provided by the public schools, beginning with kindergarten.
- 29 (18) ~~"Related services" is as~~ Related services. – As defined in IDEA.
- 30 (18a) ~~"Residence" or "reside" means the~~ Residence. – The place where a child with
31 a disability is entitled to be enrolled in a North Carolina public school under
32 G.S. 115C-366 except for the age requirements of that section. This definition
33 ~~shall does~~ not apply to children with disabilities who were (i) enrolled in a
34 particular local school administrative unit on the last day of school for the
35 2006-2007 school year, or (ii) enrolled in and attending a school in a particular
36 local school administrative unit on August 1, 2007, for the 2007-2008 school
37 year for as long as they live within and are continuously enrolled in that local
38 school administrative unit. "Reside" means to have a residence as defined in
39 this subdivision.
- 40 (19) ~~"Rules" includes~~ Rules. – Includes rules, policies, and procedures. Rules as
41 defined in G.S. 150B-2(8a) shall be adopted in accordance with Article 2A of
42 Chapter 150B of the General Statutes.
- 43 (20) ~~"Special education" means specially~~ Special education. – Specially designed
44 instruction, at no cost to parents, to meet the unique needs of a child with a
45 disability. The term includes instruction in physical education and instruction
46 conducted in a classroom, the home, a hospital or institution, and other
47 settings."

48 **SECTION 10.(a)** G.S. 130A-399 reads as rewritten:

49 **"§ 130A-399. Postmortem examination of inmates of certain public institutions.**

50 Upon the death of any inmate of an institution maintained by the State, or a city, ~~county~~
51 county, or other political subdivision of the State, for the care of ~~the sick, mentally ill or mentally~~

1 ~~retarded~~, individuals with a sickness, mental illness, or intellectual disability, the administrator
2 of the institution in which the death occurs ~~is empowered to~~ may authorize a postmortem
3 examination of the deceased person. The examination shall be of a scope and nature necessary
4 to promote knowledge of the human organism and its disorders."

5 **SECTION 10.(b)** G.S. 130A-415 reads as rewritten:

6 "**§ 130A-415. Unclaimed bodies; bodies claimed by the Lifeguardianship Council of the**
7 ~~**Association for Retarded Citizens of North Carolina; The Arc of North Carolina,**~~
8 **Inc.; disposition.**

9 (a) Any person, including officers, ~~employees-employees~~, and agents of the State or of
10 any unit of local government in the State, undertakers doing business within the State, hospitals,
11 nursing ~~homes-homes~~, or other institutions, having physical possession of a dead body shall make
12 reasonable efforts to contact relatives of the deceased or other persons who may wish to claim
13 the body for final disposition. If the body remains unclaimed for final disposition for 10 days,
14 the person having possession shall notify the Commission of Anatomy. Upon request of the
15 Commission of Anatomy, the person having possession shall deliver the dead body to the
16 Commission of Anatomy at a time and place specified by the Commission of Anatomy or shall
17 permit the Commission of Anatomy to take and remove the body.

18 (b) All dead bodies not claimed for final disposition within 10 days of the decedent's
19 death may be received and delivered by the Commission of Anatomy pursuant to the authority
20 contained in G.S. 130A-33.30 and this Part and in accordance with the rules of the Commission
21 of Anatomy. Upon receipt of a body by the Commission of Anatomy all interests in and rights to
22 the unclaimed dead body shall vest in the Commission of Anatomy. The recipient to which the
23 Commission of Anatomy delivers the body shall pay all expenses for the embalming and delivery
24 of the ~~body, and for body and~~ the reasonable expenses arising from efforts to notify relatives or
25 others.

26 ...

27 (e) Due caution shall be taken to shield the unclaimed body from public view.

28 (f) Notwithstanding ~~anything contained in this section~~, an unclaimed body ~~shall~~ does not
29 mean a dead body for which the deceased has made a gift pursuant to Part 3A of this Article.

30 (g) Nothing in this Part ~~shall require~~ requires the officers, ~~employees-employees~~, or
31 agents of a county to notify the Commission of Anatomy regarding the bodies of minors who
32 were in the custody of the county at the time of death and whose final disposition will be arranged
33 by the county. In the absence of notification, the expenses of the final disposition shall be a charge
34 upon the county having custody.

35 (h) ~~The provisions of this Part shall~~ This Part does not apply to bodies within the
36 jurisdiction of the medical examiner under G.S. 130A-383 or G.S. 130A-384.

37 (i) In addition to the other duties of the Commission of Anatomy, when the Commission
38 of Anatomy is notified by the Lifeguardianship Council of ~~the Association of Retarded Citizens~~
39 ~~of North Carolina, Inc., The Arc of North Carolina, Inc.,~~ that the Council intends to claim a body,
40 the Commission shall release the body to the Council. The Lifeguardianship Council shall notify
41 the Commission of Anatomy within 24 hours after death of its intent to claim a body for burial
42 or other humane and caring disposition."

43 **SECTION 11.** G.S. 143-282 reads as rewritten:

44 "**§ 143-282. Duties of Commission; recommendations.**

45 This Commission shall study the problems relating to the care of the aged with ~~especial~~
46 special reference to those failing mentally and shall inquire into the methods of meeting and
47 handling this problem in other states. It shall make a similar study of the problem of the care of
48 ~~the feeble-minded, individuals with an intellectual disability, with especial-special~~ attention to the
49 those requiring custodial care of intellectually handicapped persons not teachable or trainable.
50 care. It shall make a study of the problems relating to the care of ~~the physically handicapped~~
51 individuals with a physical disability with a special reference to those whose physical ~~handicap~~

1 disability renders them incapable of self-support and shall inquire into the methods of meeting
2 and handling this problem in other states.

3 It shall make recommendations to the Governor offering plans for dealing with the problem
4 of the care needed for this group, and means of clarification of the responsibility of the State and
5 respective counties."

6 **SECTION 12.** G.S. 159-40 reads as rewritten:

7 **"§ 159-40. Special regulations pertaining to nonprofit corporations receiving public funds.**

8 (a) If a city or county grants or appropriates one thousand dollars (\$1,000) or more in any
9 fiscal year to a nonprofit corporation or organization, the city or county may require that the
10 nonprofit corporation or organization have an audit performed for the fiscal year in which the
11 funds are received and may require that the nonprofit corporation or organization file a copy of
12 the audit report with the city or county.

13 (b) Any nonprofit corporation or organization which receives one thousand dollars
14 (\$1,000) or more in State funds shall, at the request of the State Auditor, submit to an audit by
15 the office of the State Auditor for the fiscal year in which ~~such~~ the funds were received.

16 (c) Every nonprofit corporation or organization which has an audit performed pursuant
17 to this section shall file a copy of the audit report with the office of the State Auditor.

18 (d) ~~The provisions of this section shall~~ This section does not apply to the following:

19 (1) ~~sheltered workshops or to~~ Sheltered workshops.

20 (2) ~~Adult Development Activity Programs or to~~ Adult development activity
21 programs.

22 (3) ~~private residential facilities for the mentally retarded and developmentally~~
23 ~~disabled or to~~ Private residential facilities for individuals with an intellectual
24 or developmental disability.

25 (4) ~~Developmental Day Care Centers or to~~ Developmental day care centers.

26 (5) ~~any~~ Any nonprofit corporation or organization whose sole use of public funds
27 is to provide hospital services or operate as a volunteer fire department, rescue
28 squad, or ambulance squad, or which operates as a junior college, ~~college~~
29 college, or university duly accredited by the southern regional accrediting
30 association.

31 (e) Repealed by Session Laws 1979, c. 905."

32 **SECTION 13.** G.S. 168-21 reads as rewritten:

33 **"§ 168-21. Definitions.**

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

35 (1) ~~"Family care home" means a~~ Family care home. – A home with support and
36 supervisory personnel that provides room and board, personal ~~care~~ care, and
37 habilitation services in a family environment for not more than six resident
38 persons with disabilities.

39 (2) ~~"Person with disabilities" means a~~ Person with disabilities. – A person with a
40 temporary or permanent physical, emotional, or mental disability including
41 but not limited to ~~mental retardation,~~ an intellectual disability, cerebral palsy,
42 epilepsy, autism, hearing and sight impairments, emotional disturbances and
43 orthopedic impairments but not including mentally ill persons who are
44 dangerous to others as defined in G.S. 122C-3(11)b."

45 **SECTION 14.** G.S. 168A-3 reads as rewritten:

46 **"§ 168A-3. Definitions.**

47 ~~As used in this Chapter, unless the context otherwise requires:~~ The following definitions apply
48 in this Chapter:

49 (1) ~~"Covered governmental entity" means any~~ Covered governmental entity. –
50 Any State department, institution, agency, or any political subdivision of the
51 State or any person that contracts with a State department, institution, agency,

or political subdivision of the State for the delivery of public services, including, but not limited to, education, health, social services, recreation, and rehabilitation.

(1a) ~~"Disabling condition" means any~~ Disabling condition. – Any condition or characteristic that renders a person a person with a disability.

(1b) ~~"Discriminatory practice" means any~~ Discriminatory practice. – Any practice prohibited by this Chapter.

(2) ~~"Employer" means any~~ Employer. – Any person employing 15 or more full-time employees within the State, but excluding a person whose only employees are hired to work as domestic or farm workers at that person's home or farm.

(3) ~~"Employment agency" means a~~ Employment agency. – A person regularly undertaking with or without compensation to procure for employees opportunities to work for an employer and includes an agent of such a person.

(4) Recodified as G.S. 168A-3(7a).

(4a) ~~"Information technology" has the same meaning as~~ Information technology. – As defined in G.S. 143B-1320. The term also specifically includes information transaction machines.

(5) Recodified as G.S. 168A-3(1).

(6) ~~"Labor organization" means an~~ Labor organization. – An organization of any kind, an agency or employee representation committee, a group association, or a plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment.

(7) ~~"Person" includes any~~ Person. – Any individual, partnership, association, corporation, labor organization, legal representative, trustee, receiver, and the State and its departments, agencies, and political subdivisions.

(7a) ~~"Person with a disability" means any~~ Person with a disability. – Any person who (i) has a physical or mental impairment which substantially limits one or more major life activities; (ii) has a record of such an impairment; or (iii) is regarded as having such an impairment. ~~As used in this subdivision, the term:~~ The following definitions apply in this subdivision:

a. ~~"Physical or mental impairment" means~~ Physical or mental impairment. – Any of the following:

1. ~~(i) any~~ Any physiological disorder or abnormal condition, cosmetic disfigurement, or anatomical loss, caused by bodily injury, birth ~~defect~~ defect, or illness, affecting a body system, including, but not limited to, neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and ~~endocrine; or~~ endocrine.

2. ~~(ii) any mental disorder, such as mental retardation, organic brain syndrome, mental illness, specific learning disabilities, and other developmental disabilities;~~ Any mental or psychological disorder such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disability.

~~but (iii)–~~ "Physical or mental impairment" excludes (A)–(i) sexual preferences; (B)–(ii) active alcoholism or drug addiction or abuse; and (C)–(iii) any disorder, condition, or disfigurement which is

- temporary in nature, lasting six months or fewer, and leaving no residual impairment. A disorder, condition, or disfigurement that is episodic or in remission is a physical or mental impairment if it would substantially limit a major life activity when active.
- b. ~~"Major life activities" means functions.~~ Major life activities. – Functions, including, but not limited to, caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, eating, sleeping, lifting, bending, standing, breathing, learning, reading, concentrating, thinking, communicating, and working. A major life activity also includes the operation of a major bodily function, including, but not limited to, functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.
- c. ~~"Has a record of such an impairment" means has~~ Has a record of such an impairment. – Has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits major life activities.
- d. ~~"Is regarded as having an impairment" means~~ Is regarded as having an impairment. – Any of the following:
1. ~~(i) has~~ Has a physical or mental impairment that does not substantially limit major life activities but that is treated as constituting such a ~~limitation;~~ limitation.
 2. ~~(ii) has~~ Has a physical or mental impairment that substantially limits major life activities because of the attitudes of ~~others;~~ others.
 3. ~~(iii) has~~ Has none of the impairments defined in ~~paragraph~~ sub-subdivision a. of this subdivision but is treated as having such an impairment.

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures, such as (i) medication, medical supplies, equipment, or appliances, low-vision devices, which do not include ordinary eyeglasses or contact lenses, prosthetics, including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies; (ii) use of assistive technology; (iii) reasonable accommodations or auxiliary aids or services; or (iv) learned behavioral or adaptive neurological modifications.

- (8) ~~"Place of public accommodations" includes,~~ Place of public accommodations. – Includes, but is not limited to, any place, facility, store, other establishment, hotel, or motel, which supplies goods or services on the premises to the public or which solicits or accepts the patronage or trade of any person.
- (9) ~~"Qualified person with a disability" means~~ Qualified person with a disability. – All of the following:
- a. With regard to employment, a person with a disability who can satisfactorily perform the duties of the job in question, with or without reasonable accommodation, (i) provided that the person with a disability shall not be held to standards of performance different from other employees similarly employed, and (ii) further provided that the disabling condition does not create an unreasonable risk to the safety or health of the person with a disability, other employees, the employer's customers, or the ~~public;~~ public.

b. With regard to places of public accommodation a person with a disability who can benefit from the goods or services provided by the place of public ~~accommodation; and accommodation.~~

c. With regard to public services and public transportation a person with a disability who meets prerequisites for participation that are uniformly applied to all participants, such as income or residence, and that do not have the effect of discriminating against persons with a disability.

(10) ~~"Reasonable accommodations" means:~~Reasonable accommodations. -- All of the following:

a. With regard to employment, making reasonable physical changes in the workplace, including, but not limited to, making facilities accessible, modifying equipment and providing mechanical aids to assist in operating equipment, or making reasonable changes in the duties of the job in question that would accommodate the known disabling conditions of the person with a disability seeking the job in question by enabling him or her to satisfactorily perform the duties of that job; ~~provided that "reasonable job. "Reasonable accommodation"~~ does not require that an ~~employer; employer~~ do any of the following:

1. Hire one or more employees, other than the person with a disability, for the purpose, in whole or in part, of enabling the person with a disability to be ~~employed; or employed.~~

2. Reassign duties of the job in question to other employees without assigning to the employee with a disability duties that would compensate for those ~~reassigned; or reassigned.~~

3. Reassign duties of the job in question to one or more other employees where ~~such the~~ reassignment would increase the skill, ~~effort effort,~~ or responsibility required of ~~such the~~ other employee or employees from that required prior to the change in ~~duties; or duties.~~

4. Alter, modify, ~~change change,~~ or deviate from bona fide seniority policies or ~~practices; or practices.~~

5. Provide accommodations of a personal nature, including, but not limited to, eyeglasses, hearing aids, or prostheses, except under the same terms and conditions as such items are provided to the employer's employees ~~generally; or generally.~~

6. Repealed by Session Laws 2002-163, s. 2, effective January 1, 2003.

7. Make any changes that would impose on the employer an undue hardship.

b. With regard to a place of public accommodations and a covered governmental entity, making reasonable efforts to accommodate the disabling conditions of a person with a disability, including, but not limited to, making facilities accessible to and usable by persons with a disability, redesigning equipment, providing auxiliary aids and services needed to make aurally and visually delivered materials available, as needed, to individuals with hearing or sight impairments, providing mechanical aids or other assistance, or using alternative accessible ~~locations, provided that reasonable locations.~~ Reasonable accommodations ~~does do~~ not require efforts which would impose an undue hardship on the entity involved.

(11) ~~"Undue hardship" means a~~ Undue hardship. – A significant difficulty or expense. The following factors shall be considered in determining whether an accommodation would impose an undue hardship:

...."

SECTION 15. This act does not affect the coverage, eligibility, rights, responsibilities, or provision of State or federal services or benefits for individuals who have been diagnosed with mental retardation and whose diagnosis has not been changed to a diagnosis of intellectual disability.

SECTION 16. Sections 1 and 2 become effective October 1, 2018, and apply to proceedings commenced on or after that date. Sections 3 and 5 become effective December 1, 2018, and apply to hearings or trials commenced on or after that date. Sections 4 and 8 become effective December 1, 2018, and apply to offenses committed on or after that date. The remainder of this act is effective when it becomes law.



Committee Bill Action Sheet

Date: 6/7/2018

Committee: Judiciary I

Chair: Rep. Sarah Stevens

Bill #: H 1021

PCS: _____

Motion made before the committee by: _____

Rep. Davis explained the bill.

Discussion on the Bill YES or NO

Rep. Farmee Butterfield motioned for:

_____ Favorable Report

_____ Adoption

_____ Unfavorable Report

✓ Unfavorable to original bill, fav to PCS

_____ No vote

Amendments: : _____

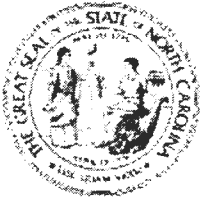
If Senate Bill who is floor manager: _____

Serial referral to: _____

Speakers:

Handouts:





HOUSE BILL 969: Enhance Prison Security.

2017-2018 General Assembly

Committee: House Judiciary I
Introduced by: Reps. Davis, Boles
Analysis of: PCS to First Edition
H969-CSTT-45

Date: June 6, 2018
Prepared by: Jennifer H. Bedford
Staff Attorney

OVERVIEW: House Bill 969 would expand the prisoner conduct classified as malicious; require that a sentence for malicious conduct by a prisoner run consecutively to any sentence being served by the prisoner; prohibit the possession of a tool for escape by a prisoner; and expand the investigative authority of the State Bureau of Investigation (SBI).

[As introduced, this bill was identical to S728, as introduced by Sens. Randleman, Sanderson, which is currently in an unknown committee.]

CURRENT LAW:

G. S. 14-258. Conveying messages and weapons to or trading with convicts and other prisoners.

It is a Class H felony to convey an instrument of escape to a prisoner; trade clothes or stolen goods with a prisoner; or sell contraband to a prisoner.

G. S. 14-258.2. Possession of dangerous weapon in prison.

It is a Class H felony for a prisoner to possess a weapon capable of inflicting serious bodily harm. If that dangerous weapon effects an escape, it is a Class F felony.

G. S. 14-258.4. Malicious conduct by prisoner.

It is a Class F felony for a prisoner to knowingly and willfully throw or emit bodily fluids or excrement at a person who is a state or local government employee while the employee is in the performance of an official duty.

G. S. 143B-919. Investigations of lynchings, election frauds, etc.; services subject to call of Governor; witness fees and mileage for employees.

The SBI is authorized to investigate specific criminal offenses at the request of the Governor, or the Attorney General. Certain criminal offenses such as arson, may be investigated by the SBI without the request of an external authority.

BILL ANALYSIS:

Section 1 of House Bill 969 would create a new statute, G. S. 14-254.5, to define "employee" and "prisoner".

Section 2 of House Bill 969 would amend G. S. 14-258.4 by:

- Adding exposing genitalia, masturbating, and the throwing of an "unknown substance" to the list of prisoner conduct classified as malicious.
- Requiring that a sentence for malicious conduct by a prisoner be served consecutively to the sentence being served by the inmate at the time of the offense.

Karen Cochrane-Brown
Director



H 9 6 9 - S M T T - 1 3 3 C S T T - 4 5 - V - 1

Legislative Analysis
Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

House PCS 969

Page 2

Section 3 of House Bill 969 would amend G. S. 14-258 to:

- Prohibit a prisoner from possessing a tool to escape.
- Specify that the prohibitions expand to conduct outside of the confinement facility.

Section 4 of House Bill 969 would authorize the SBI to:

- Initiate investigations into any threat to public schools and places of worship.

EFFECTIVE DATE:

Sections 2 and 3 of this bill would become effective December 1, 2018, and apply to offenses committed on or after that date. **The remainder** of this bill would be effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

D

HOUSE BILL 969
PROPOSED COMMITTEE SUBSTITUTE H969-CSTT-969 [v.1]

06/05/2018 02:09:53 PM

Short Title: Enhance Prison Security.

(Public)

Sponsors:

Referred to:

May 21, 2018

A BILL TO BE ENTITLED
AN ACT TO ENHANCE PRISON SECURITY AS RECOMMENDED BY THE JOINT
LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY.

The General Assembly of North Carolina enacts:

SECTION 1. Article 33 of Chapter 14 of the General Statutes is amended by
adding a new section to read:

"§ 14-254.5. Definitions.

The following definitions apply in this Article:

(1) Employee. – Any person who is hired or contracted to work for the State or a local
government.

(2) Prisoner. – Any person in the custody of (i) the Division of Adult Correction and
Juvenile Justice of the Department of Public Safety, (ii) any law enforcement officer, or (iii) any
local confinement facility as defined in G.S. 153A-217, or G.S. 153A-230.1, including persons
pending trial, appellate review, or presentence diagnostic evaluation."

SECTION 2. G.S. 14-258.4(a) reads as rewritten:

"§ 14-258.4. Malicious conduct by prisoner.

(a) ~~Any person in the custody of the Division of Adult Correction and Juvenile Justice of~~
~~the Department of Public Safety, including the Juvenile Justice Section of the Division of Adult~~
~~Correction and Juvenile Justice of the Department of Public Safety, any law enforcement officer,~~
~~or any local confinement facility (as defined in G.S. 153A-217, or G.S. 153A-230.1), including~~
~~persons pending trial, appellate review, or presentence diagnostic evaluation, prisoner who~~
knowingly and willfully (i) exposes genitalia to an employee; (ii) masturbates in front of an
employee; or (iii) throws, emits, or causes to be used as a projectile, any bodily fluids or
excrement fluids, excrement, or unknown substance at a person who is an employee of the State
or a local government employee, while the employee is in the performance of the employee's
duties, is guilty of a Class F felony. The provisions of this section apply to violations
committed inside or outside of the prison, jail, detention center, or other confinement facility.
Sentences imposed under this section shall run consecutively to and shall commence at the
expiration of any sentence being served by the person sentenced under this section."

SECTION 3. G.S. 14-258 reads as rewritten:

§ 14-258. ~~Conveying messages and weapons to or trading with convicts and other~~
prisoners. Providing forbidden articles or tools for escape; possessing tools for
escape.

If any person shall convey to or from any convict any letters or oral messages, or shall convey
to any convict or person imprisoned, charged with crime and awaiting trial any weapon or
instrument by which to effect an escape, or that will aid him in an assault or insurrection, or shall



trade with a convict for his clothing or stolen goods, or shall sell to him any article forbidden him by prison rules, he shall be guilty of a Class H felony: ~~Provided, that when a murder, an assault or an escape is effected with the means furnished, the person convicted of furnishing the means shall be punished as a Class F felon.~~

(a) Providing forbidden articles or tools for escape. – Any person who sells, trades, conveys, or provides any of the following to a prisoner is guilty of a Class H felony:

(1) An article forbidden by prison rules.

(2) A letter, oral message, weapon, tool, good, clothing, device, or instrument, to effect an escape, or aide in an assault or insurrection.

(b) Increased penalty. – Any violation of subsection (a)(2) of this section that does effect an escape, assault, or insurrection is a Class F felony.

(c) Possessing tools for escape. – Any prisoner who possesses a letter, weapon, tool, good, article of clothing, device, or instrument to do any of the following, is guilty of a Class H felony:

(1) To effect an escape.

(2) Aide in an assault or insurrection.

(d) Application. – The provisions of this section apply to violations committed inside or outside of the prison, jail, detention center, or other confinement facility.

SECTION 4. G.S. 143B-919 reads as rewritten:

"§ 143B-919. Investigations of lynchings, election frauds, etc.; Investigative services subject to call of Governor; investigative services without request; witness fees and mileage for employees.

(a) The Bureau shall, 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 no wise~~ not 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 officers and for the trial of causes. The services of employees of the Bureau may be required by the Governor in connection with the investigation of any crime committed anywhere in the State when called upon by the enforcement officers of the State, and when, in the judgment of the Governor, such services may be rendered with advantage to the enforcement of the criminal law. The State Bureau of Investigation is ~~hereby~~ authorized to ~~investigate without request~~ investigate, without request: the attempted arson of, or arson of, damage of, theft from, or theft of, or misuse of, any State-owned personal property, buildings, or other real ~~property or property;~~ any assault upon or threats against any legislative officer named in G.S. 147-2(1), (2), or (3), any executive officer named in G.S. 147-3(c), or any court officer as defined in ~~G.S. 14-16.10(1);~~ G.S. 14-16.10(1); and any threat to the safety of an educational property as defined in G.S. 14-269.2, an institution as defined in G.S. 116-143.1, or a place of worship as defined in G.S. 14-54.1.

SECTION 5. Section 4 of this act is effective when it becomes law. The remainder of this act becomes effective December 1, 2018, and applies to offenses committed on or after that date.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 969*

H969-ATT-68 [v.2]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 1 of 1

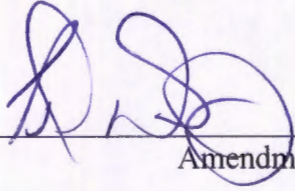
Amends Title [NO]
First Edition

Date June 7, 2018

Representative Davis

- 1 moves to amend the bill on page 2, lines 42-44, by rewriting the lines to read:
- 2 "~~officer as defined in G.S. 14-16.10(1).~~ G.S. 14-16.10(1); and any threat to the safety of any
- 3 individual associated with an educational property as defined in G.S. 14-269.2, or a place of
- 4 worship as defined in 43 G.S. 14-54.1."

SIGNED _____


Amendment Sponsor

SIGNED _____

Committee Chair if Senate Committee Amendment

ADOPTED ✓

FAILED _____

TABLED _____



* H 9 6 9 - A T T - 6 8 - V - 2 *



**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 969***

H969-ATT-68 [v.3]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 1 of 1

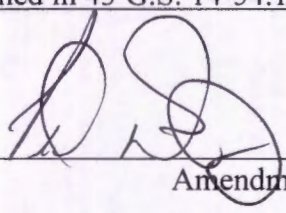
Amends Title [NO]
First Edition

Date _____, 2018

Representative Davis

- 1 moves to amend the bill on page 2, lines 42-44, by rewriting the lines to read:
- 2 "officer as defined in G.S. 14-16.10(1); G.S. 14-16.10(1); and any threat to the safety of any
- 3 individual associated with an educational property as defined in G.S. 14-269.2, or a place of
- 4 worship as defined in 43 G.S. 14-54.1."

SIGNED _____


Amendment Sponsor

SIGNED _____

Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



* H 9 6 9 - A T T - 6 8 - V - 3 *



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 969*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H969-ATT-63 [v.3]

Page 1 of 2

Amends Title [NO]
First Edition

Date June 7, 2018

Representative McNeill

1 moves to amend the bill on page 1, lines 14-15, by inserting between the lines the following new
2 section to read:

3 "SECTION 1.2. Article 33 of Chapter 14 of the General Statutes is amended by
4 adding a new section to read:

5 "§ 14-258.7. Annual reports of violations.

6 (a) The Department of Public Safety and Juvenile Justice shall report the following to the
7 Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by March 15
8 of each year:

9 (1) The number of incidents of any violation of this Article, G.S.14-34.5(b),
10 G.S. 14-34.7(b), or G.S.14-34.7(c)(2), involving an employee or contractor of
11 a detention facility operated by the State.

12 (2) The nature of the resolution of every incident of any violation of this Article,
13 G.S.14-34.5(b), G.S.14-34.7(b), or G.S.14-34.7(c)(2), involving an employee
14 or contractor of a detention facility operated by the State.

15 (b) The Conference of District Attorneys shall report the following to the Chairs of the Joint
16 Legislative Oversight Committee on Justice and Public Safety by March 15 of each year:

17 (1) The number of criminal charges pursuant to this Article, G.S.14-34.5(b),
18 G.S.14-34.7(b), or G.S.14-34.7(c)(2), that resulted in trial.

19 (2) The number of criminal charges pursuant to this Article, G.S.14-34.5(b),
20 G.S.14-34.7(b), or G.S.14-34.7(c)(2), that were resolved by a plea to a
21 lesser-included offense.

22 (3) The number of criminal charges pursuant to this Article, G.S.14-34.5(b),
23 G.S.14-34.7(b), or G.S.14-34.7(c)(2), that were resolved by a voluntary
24 dismissal or other discretionary action that effectively dismissed or reduced
25 the original charge.

26 (b) The Administrative Office of the Courts shall report the following to the Chairs of the
27 Joint Legislative Oversight Committee on Justice and Public Safety by March 15 of each year:

28 (1) The number of violations of this Article, G.S.14-34.5(b), G.S.14-34.7(b), and
29 G.S.14-34.7(c)(2) charged.

30 (2) The number of violations of this Article, G.S.14-34.5(b), G.S.14-34.7(b), and
31 G.S.14-34.7(c)(2) that ended in a conviction.



* H 9 6 9 - A T T - 6 3 - V - 3 *

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 969*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H969-ATT-63 [v.3]

Page 2 of 2

- 1 (3) The number of violations of this Article, G.S.14-34.5(b), G.S.14-34.7(b), and
2 G.S.14-34.7(c)(2), that were dismissed.";
3
4 and on page 2, line 45, by rewriting the line to read:
5 "SECTION 5. Sections 1.2, and 4 become effective when they become law. The
6 remainder of this act".

SIGNED

Allen McNeen

Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED

 /

FAILED

TABLED

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NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 969*

H969-ABC-36 [v.1]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 1 of 1

Amends Title [NO]
First Edition

Date 6/7/18, 2018

Representative Meyer

1 moves to amend the bill on page 1, lines 28-29 by deleting the lines;
2
3 and on page 1, lines 22-23 by rewriting the lines to read:
4 "knowingly and willfully (i) exposes genitalia to an employee or (ii) throws, emits, or causes to
5 be used as a projectile, any bodily"
6
7

SIGNED

Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED

/

FAILED

TABLED



* H 9 6 9 - A B C - 3 6 - V - 1 *

Meyer
Amendment

HB# _____
SB# _____

House Subcommittee on _____

[illegible]



NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 302

H. B. No. _____

DATE 6/7/18

S. B. No. _____

Amendment No. _____

COMMITTEE SUBSTITUTE H969-CSTT-969

(to be filled in by
Principal Clerk)

Rep.)

Sen.)

Arp

1 moves to amend the bill on page 2, line 5 43-44

2 () WHICH CHANGES THE TITLE

3 by deleting the words "G. S. 116-143.1, or a
4 place of worship as defined in G. S. 14-54.1" and
5 replacing those words with "G. S. 116-143.1".

6 _____

7 _____

8 _____

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

SIGNED 

ADOPTED _____ FAILED ✓ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)



NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____

S. B. No. _____

COMMITTEE SUBSTITUTE _____

DATE 6-7-18

Amendment No. _____
(to be filled in by
Principal Clerk)

Rep.) David Rogers
)
Sen.) _____

1 moves to amend the bill on page 1, lines 28-29

2 () WHICH CHANGES THE TITLE

3 by deleting the lines; and

4 _____
5 moves to amend the bill on page 1, lines 22-23
6 by rewriting the lines to read:

7 _____
8 " knowingly and willfully throws, emits, or causes to be
9 used as a projectile, any bodily fluid".

10 _____
11 _____
12 _____
13 _____
14 _____
15 _____
16 _____
17 _____
18 _____
19 _____

SIGNED DTR

ADOPTED _____ FAILED _____ TABLED _____





NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 969*

H969-ABC-37 [v.2]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Amends Title [NO]
First Edition

Date 6-7-18 Page 1 of 1
2018

Representative Rogers

- 1 moves to amend the bill on page 1, line 22-23 by rewriting the lines to read:
2 "knowingly and willfully throws, emits, or causes to be used as a projectile, any bodily"
3
4

SIGNED


Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED

FAILED

TABLED



* H 9 6 9 - A B C - 3 7 - V - 2 *

ROLL CALL VOTE 2017-2018 Session

YES NO = _____ (TOTAL)

HB# _____
SB# _____

HOUSE STANDING COMMITTEE ON Judiciary I

House Subcommittee on _____

[illegible]



Committee Bill Action Sheet

Date: 6/7/2018

Committee: Judiciary I

Chair: Rep. Ted Davis

Bill #: H 969

PCS: _____

Motion made before the committee by: _____

Rep. Davis & Belts explained the bill.

Discussion on the Bill YES or NO

Rep. _____ motioned for:

_____ Favorable Report

_____ Adoption

_____ Unfavorable Report

✓ Unfavorable to original bill, fav to PCS

_____ No vote

Amendments: : _____

If Senate Bill who is floor manager: _____

Serial referral to: _____

Speakers:

Handouts:



ROLL CALL VOTE

2017-2018 Session

$$\frac{\text{YES}}{\text{NO}} = \frac{\text{YES}}{\text{NO}} \text{ (TOTAL)}$$

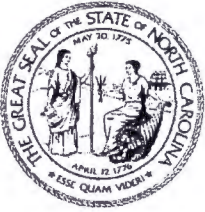
HB# 969
SB# _____

HOUSE STANDING COMMITTEE ON _____

House Subcommittee on _____

[illegible]





SENATE BILL 616: Heroin & Opioid Prevention & Enforcement Act.

2017-2018 General Assembly

Committee: House Judiciary I
Introduced by: Sen. J. Davis
Analysis of: Third Edition

Date: June 7, 2018
Prepared by: Jennifer H. Bedford*
Staff Attorney

OVERVIEW: *Senate Bill 616 amends the North Carolina Controlled Substances Act by creating the Heroin and Opioid Prevention and Enforcement (HOPE) Act of 2018.*

BILL ANALYSIS:

Part I. TITLE OF ACT

Section 1 sets forth the title of the act as the Heroin and Opioid Prevention and Enforcement (HOPE) Act of 2018.

Part II. AMENDMENTS TO THE NORTH CAROLINA CONTROLLED SUBSTANCES ACT

Sections 2, 3, and 6 make technical changes to the chemical names of two controlled substances.

Section 4 includes the immediate precursor chemical required for the manufacture of fentanyl as a Schedule II Controlled Substance under G.S. 90-90.

Section 5 adds the precursor chemical used in the manufacturing process of fentanyl to the list of immediate precursor chemicals.

Section 7 makes conforming changes to the way opioids are referenced in Chapter 90; expands the criminal offenses related to MDPV to include "any substituted cathinone" and consolidates the existing offenses in light of the expansion.

Section 8 adds a new section to Article 5 of Chapter 90 of the General Statutes that does the following:

- Creates the position of a "certified diversion investigator".
- Requires that a certified diversion investigator request and receive prescription information from pharmacies when required, and only when required, for an active investigation related to a controlled substance.
- Requires that a pharmacy provide the requested information, and protects the pharmacist from liability for sharing the confidential information.

Section 9 makes technical corrections, and creates the following criminal offenses:

- A Class 1 misdemeanor for aiding the diversion of a controlled substance.
- A Class I felony for intentionally aiding the diversion of a controlled substance.
- A Class E felony for a medical professional that intentionally dilutes or substitutes any controlled substance.

Aren Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

Senate Bill 616

Page 2

Part III. AMENDMENTS PERTAINING TO THE NORTH CAROLINA CONTROLLED SUBSTANCES REPORTING SYSTEM ACT

The Controlled Substances Reporting System (CSRS) is a database maintained by DHHS that tracks prescriptions for Schedule II through Schedule V controlled substances. Dispensers are required to report certain information on prescriptions they fill within close of the next business day after the prescription is delivered, but are encouraged to report such information within 24 hours of delivery. Such information is confidential and may only be accessed by certain persons for specific purposes set forth by statute. Current law allows DHHS to release CSRS data to persons authorized to prescribe controlled substances, special agents of the North Carolina SBI, as well as others.

Section 10 requires a lawful controlled substance dispenser to report the prescriber's national provider identification number, and creates a civil penalty for failure to report.

Section 11(a) authorizes access to the controlled substance reporting system to the Attorney General of North Carolina; expands access to the Tactical Diversion Squad in North Carolina; and creates the following criminal offenses:

- A Class I felony for accessing unauthorized prescription information in the controlled substance reporting system.
- A Class I felony for disclosing prescription information for an unauthorized purpose.
- A Class H felony for maliciously obtaining, disclosing, or disseminating prescription information for personal gain or to cause harm

Section 11(a) also does the following:

- Permanently bars an individual convicted of one of these criminal offenses from accessing the controlled substance reporting system.
- Expands the SBI's Diversion & Environmental Crimes Unit's jurisdiction to include suspected criminal use of the controlled substance reporting system.

Section 11(b) establishes the following conditions and requirements for the release of information from the controlled substance reporting system to law enforcement:

- Release is only authorized to a certified diversion investigator, working with a qualified law enforcement agency, related to illegal controlled substance activity, and the request for information has been approved by the SBI.
- The SBI is not liable for the disclosure of confidential information as requested by the certified diversion investigator.
- Documentation of the requested information and resulting investigations will be kept, and audited by the SBI.
- The information obtained by the certified diversion investigator may only be shared with law enforcement and prosecutors directly involved with the investigation and prosecution.
- The matter may be referred by local law enforcement to the SBI if appropriate.
- Information may not be requested or received from other states, using the controlled substance reporting system.
- Defines the new terms related to the parties authorized access to the reporting system.
- The Department of Health and Human Services (DHHS) is directed to enable specific access to the controlled substance reporting system.

Senate Bill 616

Page 3

- Direct DHHS to document the system's activity so that unauthorized access may be investigated by the SBI and prosecuted by the Office of the Attorney General.

Section 11(c) directs DHHS to begin developing ways to implement the data release provisions required.

Section 12 enables DHHS to temporarily suspend a reporting system user's access to the system in the event of a suspected unauthorized use of information; and relieves a party acting lawfully and in good faith from liability for accessing and disclosing confidential information.

Section 13 authorizes and describes the training and certification of diversion investigators.

Section 14 creates the minimum standards and levels of training for diversion investigators and diversion supervisors, and requires recertification at least every three years, and authorizes Training and Standards Commission to suspend, revoke, and deny certification.

Part IV. APPROPRIATIONS

Section 15 expresses the General Assembly's intent to appropriate additional funds in the future for community-based substance use disorder treatment and recovery services, the purchase of overdose medications, Operation Medicine Drop, and a special agent position within the SBI.

Part V. SEVERABILITY CLAUSE AND EFFECTIVE DATE

Section 16 makes any provisions of the bill held to be invalid by a court severable from the other provisions of the bill, which would remain in effect.

Section 17 Sections 8 and 11(b) would become effective July 1, 2019 and the remainder of the bill would become effective July 1, 2018.

* Theresa Matula, Jessica Boney, and Jason Moran-Bates contributed to this Bill Summary.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

S

D

SENATE BILL 616
Finance Committee Substitute Adopted 5/9/17
PROPOSED HOUSE COMMITTEE SUBSTITUTE S616-PCS35363-TTa-42

Short Title: Heroin & Opioid Prevention & Enforcement Act.

(Public)

Sponsors:

Referred to:

April 5, 2017

A BILL TO BE ENTITLED
AN ACT AMENDING LAWS PERTAINING TO THE NORTH CAROLINA CONTROLLED
SUBSTANCES ACT AND THE NORTH CAROLINA CONTROLLED SUBSTANCES
REPORTING SYSTEM ACT, INCLUDING THE REVISION AND ESTABLISHMENT
OF PENALTIES FOR CERTAIN VIOLATIONS, AND EXPRESSING THE INTENT TO
APPROPRIATE ADDITIONAL FUNDS IN THE FUTURE FOR COMMUNITY-BASED
SUBSTANCE USE DISORDER TREATMENT AND RECOVERY SERVICES, THE
PURCHASE OF OVERDOSE MEDICATIONS, OPERATION MEDICINE DROP, AND
A SPECIAL AGENT POSITION WITHIN THE STATE BUREAU OF INVESTIGATION.

The General Assembly of North Carolina enacts:

PART I. TITLE

SECTION 1. This act shall be known and may be cited as "The Heroin and Opioid
Prevention and Enforcement (HOPE) Act of 2018."

**PART II. AMENDMENTS TO THE NORTH CAROLINA CONTROLLED
SUBSTANCES ACT**

SECTION 2. G.S. 90-89(3)ee. reads as rewritten:

"ee.

~~5-Methoxy-n-diisopropyltryptamine.~~ 5-Methoxy-N,N-diisopropylt
ryptamine."

SECTION 3. For each NBOMe compound listed in G.S. 90-89(6)a. through l., the
Revisor of Statutes is authorized to replace the hyphen that appears after "NBOMe" and before
"2" with a space.

SECTION 4. G.S. 90-90(2) is amended by adding a new sub-subdivision to read:

"h1. Fentanyl immediate precursor chemical,
4-anilino-N-phenethyl-4-piperidine (ANPP)."

SECTION 5. G.S. 90-95(d2) is amended by adding a new subdivision to read:

"(29a) N-phenethyl-4-piperidinone (NPP)."

SECTION 6. G.S. 90-95(d2)(31) reads as rewritten:

"(31) Phenyl-2-propane-Phenyl-2-propanone."

SECTION 7. G.S. 90-95(h) reads as rewritten:

"(h) Notwithstanding any other provision of law, the following provisions apply except as
otherwise provided in this Article.





- ...
- (3d) Any person who sells, manufactures, delivers, transports, or possesses 28 grams or more of ~~MDPV~~any substituted cathinone or any mixture containing such substance shall be guilty of a felony, which felony shall be known as "trafficking in ~~MDPV~~"substituted cathinones," and if the quantity of such substance or mixture involved:
- a. Is 28 grams or more, but less than 200 grams, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of 93 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);
 - b. Is 200 grams or more, but less than 400 grams, such person shall be punished as a Class E felon and shall be sentenced to a minimum term of 90 months and a maximum term of 120 months in the State's prison and shall be fined not less than one hundred thousand dollars (\$100,000);
 - c. Is 400 grams or more, such person shall be punished as a Class C felon and shall be sentenced to a minimum term of 225 months and a maximum term of 282 months in the State's prison and shall be fined at least two hundred fifty thousand dollars (\$250,000).
- (3e) ~~Any person who sells, manufactures, delivers, transports, or possesses 28 grams or more of mephedrone or any mixture containing such substance shall be guilty of a felony, which felony shall be known as "trafficking in mephedrone," and if the quantity of such substance or mixture involved:~~
- ~~a. Is 28 grams or more, but less than 200 grams, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of 93 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);~~
 - ~~b. Is 200 grams or more, but less than 400 grams, such person shall be punished as a Class E felon and shall be sentenced to a minimum term of 90 months and a maximum term of 120 months in the State's prison and shall be fined not less than one hundred thousand dollars (\$100,000);~~
 - ~~c. Is 400 grams or more, such person shall be punished as a Class C felon and shall be sentenced to a minimum term of 225 months and a maximum term of 282 months in the State's prison and shall be fined at least two hundred fifty thousand dollars (\$250,000).~~
- (4) Any person who sells, manufactures, delivers, transports, or possesses four grams or more of ~~opium or opiate~~opium, opiate, or opioid or any salt, compound, derivative, or preparation of ~~opium or opiate~~opium, opiate, or opioid (except apomorphine, nalbuphine, analoxone and naltrexone and their respective salts), including heroin, or any mixture containing such substance, shall be guilty of a felony which felony shall be known as "trafficking in ~~opium~~opium, opiate, opioid, or heroin" and if the quantity of such controlled substance or mixture involved:
- a. Is four grams or more, but less than 14 grams, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of 93 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);
 - b. Is 14 grams or more, but less than 28 grams, such person shall be punished as a Class E felon and shall be sentenced to a minimum term of 90 months and a maximum term of 120 months in the State's prison



and shall be fined not less than one hundred thousand dollars (\$100,000);

- c. Is 28 grams or more, such person shall be punished as a Class C felon and shall be sentenced to a minimum term of 225 months and a maximum term of 282 months in the State's prison and shall be fined not less than five hundred thousand dollars (\$500,000).

...
(4b) Any person who sells, manufactures, delivers, transports, or possesses 100 or more tablets, capsules, or other dosage units, or 28 grams or more of 3,4-methylenedioxyamphetamine (MDA), including its salts, isomers, and salts of isomers, or 3,4-methylenedioxymethamphetamine (MDMA), including its salts, isomers, and salts of isomers, or any mixture containing such substances, shall be guilty of a felony, which felony shall be known as "trafficking in ~~MDA~~MDA."MDA/MDMA." If the quantity of the substance or mixture involved:

- a. Is 100 or more tablets, capsules, or other dosage units, but less than 500 tablets, capsules, or other dosage units, or 28 grams or more, but less than 200 grams, the person shall be punished as a Class G felon and shall be sentenced to a minimum term of 35 months and a maximum term of 51 months in the State's prison and shall be fined not less than twenty-five thousand dollars (\$25,000);
- b. Is 500 or more tablets, capsules, or other dosage units, but less than 1,000 tablets, capsules, or other dosage units, or 200 grams or more, but less than 400 grams, the person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of 93 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);
- c. Is 1,000 or more tablets, capsules, or other dosage units, or 400 grams or more, the person shall be punished as a Class D felon and shall be sentenced to a minimum term of 175 months and a maximum term of 222 months in the State's prison and shall be fined not less than two hundred fifty thousand dollars (\$250,000).

...."

SECTION 8. Article 5 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-107.1. Certified diversion investigator access to prescription records.

(a) A certified diversion investigator associated with a qualified law enforcement agency, as those terms are defined in G.S. 90-113.74(i), shall request and receive from a pharmacy copies of prescriptions and records related to prescriptions in connection with a bona fide active investigation related to the enforcement of laws governing licit or illicit drugs by providing in writing or electronically all of the following:

- (1) The certified diversion investigator's name and certification number.
- (2) The name of the qualified law enforcement agency for whom the investigator works.
- (3) The case number associated with the request.
- (4) A description of the nature and purpose of the request.
- (5) The first name, last name, and date of birth of each individual whose prescription and records related to the prescription the investigator seeks, including, when appropriate, any alternative name, spelling, or date of birth associated with each such individual.



(b) When a certified diversion investigator transmits such a request to a pharmacy, the certified diversion investigator shall also transmit a copy of the request to the North Carolina State Bureau of Investigation, Diversion and Environmental Crimes Unit. The North Carolina State Bureau of Investigation shall conduct periodic audits of a random sample of these requests.

(c) A pharmacy shall provide copies of requested prescriptions and records related to prescriptions as soon as practicable and no later than two business days after receipt of the request from the certified diversion investigator.

(d) No certified diversion investigator having knowledge by virtue of his office of any such prescription or record related to prescriptions shall divulge such knowledge other than to other law enforcement officials or agencies involved in the bona fide active investigation, except in connection with a prosecution or proceeding in court or before a licensing board or officer to which prosecution or proceeding the person to whom such prescriptions, orders, or records relate is a party, or as provided in G.S. 90-113.74 (i)(4), or as otherwise allowed by law.

(e) A pharmacy or pharmacist that in good faith complies with this section and provides copies of prescriptions and records related to prescriptions to a certified diversion investigator shall have no liability for improper use of information divulged to the certified diversion investigator."

SECTION 9. G.S. 90-108 reads as rewritten:

"§ 90-108. Prohibited acts; penalties.

(a) It shall be unlawful for any person:

- (1) Other than practitioners licensed under Articles 1, 2, 4, 6, 11, 12A of this Chapter to represent to any registrant or practitioner who manufactures, distributes, or dispenses a controlled substance under the provision of this Article that he or she is a licensed practitioner in order to secure or attempt to secure any controlled substance as defined in this Article or to in any way impersonate a practitioner for the purpose of securing or attempting to secure any drug requiring a prescription from a practitioner as listed above and who is licensed by this ~~State~~State.
- (2) Who is subject to the requirements of G.S. 90-101 or a practitioner to distribute or dispense a controlled substance in violation of G.S. 90-105 or ~~90-106~~G.S. 90-106.
- (3) Who is a registrant to manufacture, distribute, or dispense a controlled substance not authorized by his or her registration to another registrant or other authorized ~~person~~person.
- (4) To omit, remove, alter, or obliterate a symbol required by the Federal Controlled Substances Act or its ~~successor~~successor.
- (5) To refuse or fail to make, keep, or furnish any record, notification, order form, statement, invoice or information required under this ~~Article~~Article.
- (6) To refuse any entry into any premises or inspection authorized by this ~~Article~~Article.
- (7) To knowingly keep or maintain any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or any place whatever, which is resorted to by persons using controlled substances in violation of this Article for the purpose of using such substances, or which is used for the keeping or selling of the same in violation of this ~~Article~~Article.
- (8) Who is a registrant or a practitioner to distribute a controlled substance included in Schedule I or II of this Article in the course of his or her legitimate business, except pursuant to an order form as required by ~~G.S. 90-105~~G.S. 90-105.



- 1 (9) To use in the course of the manufacture or distribution of a controlled
2 substance a registration number which is fictitious, revoked, suspended, or
3 issued to another ~~person;~~person.
- 4 (10) To acquire or obtain possession of a controlled substance by
5 misrepresentation, fraud, forgery, deception, or ~~subterfuge;~~subterfuge.
- 6 (11) To furnish false or fraudulent material information in, or omit any material
7 information from, any application, report, or other document required to be
8 kept or filed under this Article, or any record required to be kept by this
9 ~~Article;~~Article.
- 10 (12) To make, distribute, or possess any punch, die, plate, stone, or other thing
11 designed to print, imprint, or reproduce the trademark, trade name, or other
12 identifying mark, imprint, or device of another or any likeness of any of the
13 foregoing upon any drug or container or labeling thereof so as to render such
14 drug a counterfeit controlled ~~substance;~~substance.
- 15 (13) To obtain controlled substances through the use of legal prescriptions which
16 have been obtained by the knowing and willful misrepresentation to or by the
17 intentional withholding of information from one or more
18 ~~practitioners;~~practitioners.
- 19 (14) Who is a registrant or practitioner or an employee of a registrant or practitioner
20 and who is authorized to possess controlled substances or has access to
21 controlled substances by virtue of his—employment, to embezzle or
22 fraudulently or knowingly and willfully misapply or divert to his or her own
23 use or other unauthorized or illegal use or to take, make away with or secrete,
24 with intent to embezzle or fraudulently or knowingly and willfully misapply
25 or divert to his or her own use or other unauthorized or illegal use any
26 controlled substance which shall have come into his or her possession or under
27 his or her care.
- 28 (15) Who is not a registrant or practitioner nor an employee of a registrant or
29 practitioner and who, by virtue of his or her occupation or profession,
30 administers or provides medical care, aid, emergency treatment, or any
31 combination of these to a person who is prescribed a controlled substance, to
32 embezzle or fraudulently or knowingly and willfully misapply or divert to his
33 or her own use or other unauthorized or illegal use or to take, make away with,
34 or secrete, with intent to embezzle or fraudulently or knowingly and willfully
35 misapply or divert to his or her own use or other unauthorized or illegal use
36 any controlled substance that is prescribed to another.
- 37 (b) Any person who violates this section shall be guilty of a Class 1 misdemeanor.
38 Provided, that if the criminal pleading alleges that the violation was committed intentionally, and
39 upon trial it is specifically found that the violation was committed intentionally, such violations
40 shall be a Class I felony unless one of the following applies:
- 41 (1) A person who violates subdivision (7) of subsection (a) of this section and
42 also fortifies the structure, with the intent to impede law enforcement entry,
43 (by barricading windows and doors) shall be punished as a Class I felon.
- 44 (2) A person who violates subdivision (14) or (15) of subsection (a) of this section
45 shall be punished as a Class G felon.
- 46 (3) A person who violates subdivision (14) or (15) of subsection (a) of this section
47 and intentionally diverts any controlled substance by means of dilution or
48 substitution or both shall be punished as a Class E felon. As used in this
49 subdivision, the following terms have the following meanings:
- 50 a. Dilution. – The act of diluting or the state of being diluted; the act of
51 reducing the concentration of a mixture or solution.



b. Substitution. – To take the place of or replace."

**PART III. AMENDMENTS PERTAINING TO THE NORTH CAROLINA
CONTROLLED SUBSTANCES REPORTING SYSTEM ACT**

SECTION 10. G.S. 90-113.73(b) reads as rewritten:

"(b) The Commission shall adopt rules requiring dispensers to report the following information. The Commission may modify these requirements as necessary to carry out the purposes of this Article. The dispenser shall report:

- (1) The dispenser's DEA number.
- (2) The name of the patient for whom the controlled substance is being dispensed, and the patient's:
 - a. Full address, including city, state, and zip ~~code~~code.
 - b. Telephone ~~number, and number~~.
 - c. Date of birth.
- (3) The date the prescription was written.
- (4) The date the prescription was filled.
- (5) The prescription number.
- (6) Whether the prescription is new or a refill.
- (7) Metric quantity of the dispensed drug.
- (8) Estimated days of supply of dispensed drug, if provided to the dispenser.
- (9) National Drug Code of dispensed drug.
- (10) Prescriber's DEA number.
- (10a) Prescriber's national provider identification number, for any prescriber that has a national provider identification number. A pharmacy shall not be subject to a civil penalty under subsection (e) of this section for failure to report the prescriber's national provider identification number when it is not received by the pharmacy.
- (11) Method of payment for the prescription."

SECTION 11.(a) G.S. 90-113.74 reads as rewritten:

"§ 90-113.74. Confidentiality.

...
(c) The Department shall release data in the controlled substances reporting system to the following persons only:

- (1) Persons authorized to prescribe or dispense controlled substances for the purpose of providing medical or pharmaceutical care for their patients. A person authorized to receive data pursuant to this paragraph may delegate the authority to receive the data to other persons working under his or her direction and supervision, provided the Department approves this delegation.

The administrator of a hospital emergency department or hospital acute care facility shall provide the Department with a list of prescribers who are authorized to prescribe controlled substances for the purpose of providing medical care for patients of the hospital emergency department or hospital acute care facility and a list of delegates who are authorized to receive data on behalf of the providers listed. The administrator acting under this paragraph shall submit the lists to the Department no later than December 1 of the calendar year preceding the year during which the delegates are to receive data and may provide updated lists at any time during the course of the year. Within one week of receiving the initial or updated lists described in this paragraph, the Department shall establish all of the delegate accounts necessary to enable each delegate listed by the administrator of the hospital emergency department or hospital acute care facility to receive data on behalf of the listed prescribers.



- 1 Delegations made pursuant to this paragraph are valid during the calendar year
2 for which submitted by the administrator.
- 3 (2) An individual who requests the individual's own controlled substances
4 reporting system information.
- 5 (3) Special agents of the North Carolina State Bureau of Investigation who are
6 assigned to the Diversion & Environmental Crimes Unit and whose primary
7 duties involve the investigation of diversion and illegal use of prescription
8 medication. SBI agents assigned to the Diversion & Environmental Crimes
9 Unit may then provide this information to other SBI agents who are engaged
10 in a bona fide specific investigation related to enforcement of laws governing
11 licit drugs. ~~The SBI shall notify the Office of the Attorney General of North~~
12 ~~Carolina of each request for inspection of records maintained by the~~
13 ~~Department. The Attorney General of North Carolina, or a designee who is a~~
14 ~~full-time employee in the North Carolina Department of Justice, shall have~~
15 ~~access to the system to monitor requests for inspection of records.~~
- 16 (4) Primary monitoring authorities for other states pursuant to a specific ongoing
17 investigation involving a designated person, if information concerns the
18 dispensing of a Schedule II through V controlled substance to an ultimate user
19 who resides in the other state or the dispensing of a Schedule II through V
20 controlled substance prescribed by a licensed health care practitioner whose
21 principal place of business is located in the other state.
- 22 (5) To a sheriff or designated deputy sheriff or a police chief or a designated
23 police investigator who is assigned to investigate the diversion and illegal use
24 of prescription medication or pharmaceutical products identified in Article 5
25 of this Chapter of the General Statutes as Schedule II through V controlled
26 substances and who is engaged in a bona fide specific investigation related to
27 the enforcement of laws governing licit drugs pursuant to a lawful court order
28 specifically issued for that purpose.
- 29 (6) The Division of Medical Assistance for purposes of administering the State
30 Medical Assistance Plan.
- 31 (7) Licensing boards with jurisdiction over health care disciplines pursuant to an
32 ongoing investigation by the licensing board of a specific individual licensed
33 by the board.
- 34 (8) Any county medical examiner appointed by the Chief Medical Examiner
35 pursuant to G.S. 130A-382 and the Chief Medical Examiner, for the purpose
36 of investigating the death of an individual.
- 37 (9) The federal Drug Enforcement Administration's Office of Diversion
38 ~~Control-Control or Tactical Diversion Squad in North Carolina.~~
- 39 (10) The North Carolina Health Information Exchange Authority (NC HIE
40 Authority), established under Article 29B of this Chapter, through
41 Web-service calls.

42 ...

43 (k) In addition to the civil penalties provided in G.S. 90-113.75(a) and any other
44 applicable civil or criminal penalties, the following criminal penalties apply to any individual
45 authorized to access data in the controlled substances reporting system when that access is
46 authorized by subdivisions (3) through (10) of subsection (c) of this section:

- 47 (1) An individual who knowingly and intentionally accesses prescription
48 information in the controlled substances reporting system for a purpose not
49 authorized by this section shall be guilty of a Class I felony.



(2) An individual who knowingly and intentionally discloses or disseminates prescription information from the system for a purpose not authorized by this section shall be guilty of a Class I felony.

(3) An individual who willfully and maliciously obtains, discloses, or disseminates prescription information for a purpose not authorized by this section and with the intent to use such information for commercial advantage or personal gain, or to maliciously harm any person, shall be guilty of a Class H felony.

Any person who is convicted of a criminal offense under this subsection is permanently barred from accessing the controlled substances reporting system.

(I) The State Bureau of Investigation, Diversion & Environmental Crimes Unit, may investigate suspected violations of this section and shall notify the Department of any charges or convictions pursuant to this section."

SECTION 11.(b) G.S. 90-113.74 reads as rewritten:

"§ 90-113.74. Confidentiality.

...

(c) The Department shall release data in the controlled substances reporting system to the following persons only:

...

~~(5) To a sheriff or designated deputy sheriff or a police chief or a designated police investigator who is assigned to investigate the diversion and illegal use of prescription medication or pharmaceutical products identified in Article 5 of this Chapter of the General Statutes as Schedule II through V controlled substances and who is engaged in a bona fide specific investigation related to the enforcement of laws governing licit drugs pursuant to a lawful court order specifically issued for that purpose.~~

(5a) Local law enforcement officers pursuant to subsection (i) of this section.

...

(i) Data released by the Department from the controlled substances reporting system to local law enforcement officers is subject to all of the following conditions and requirements:

(1) The Department shall release data in the controlled substances reporting system to a local law enforcement officer only if all of the following conditions are satisfied:

a. The local law enforcement officer is a certified diversion investigator.

b. The agency that supervises the investigator is a qualified law enforcement agency.

c. The request is reasonably related to a bona fide active investigation involving a specific violation of any State or federal law involving a monitored prescription drug.

d. The request has been reviewed and approved by the State Bureau of Investigation, Diversion & Environmental Crimes Unit.

(2) In the event a special agent of the State Bureau of Investigation, Diversion & Environmental Crimes Unit, takes action upon a request by a certified diversion investigator for access to data in the controlled substances reporting system, the special agent shall not incur criminal or civil liability for such action or for actions taken by the certified diversion investigator making the request.

(3) The conditions outlined in this subsection shall create an audit trail that may be used to investigate or prosecute violations of this section. The Department shall grant access to the system to the Attorney General of North Carolina or a designee and Special Agents of the State Bureau of Investigation who are



- 1 assigned to the Diversion & Environmental Crimes Unit for the purpose of
2 reviewing the audit trail. The State Bureau of Investigation shall conduct
3 periodic audits of a random sample of requests from certified diversion
4 investigators for access to data in the controlled substances reporting system.
- 5 (4) Data obtained by certified diversion investigators from the controlled
6 substances reporting system in the manner prescribed by this subsection may
7 be shared with other law enforcement personnel or prosecutorial officials (i)
8 only upon the direction of the certified diversion investigator who originally
9 requested the information and (ii) in the case of law enforcement personnel
10 from other law enforcement agencies, only with law enforcement personnel
11 who are directly participating in an official joint investigation or as provided
12 in subdivision (5) of this subsection.
- 13 (5) In the event the data provided to the local law enforcement officer indicates
14 transactions solely outside of that local law enforcement officer's jurisdiction,
15 the matter shall be referred to the State Bureau of Investigation, Diversion &
16 Environmental Crimes Unit, or to a certified diversion investigator employed
17 by a qualified law enforcement agency with jurisdiction over the transactions
18 at issue.
- 19 (6) Certified diversion investigators may not request or receive prescription data
20 from other states through PMP Interconnect or any other mechanism
21 established by the Department to facilitate interstate connectivity of the
22 controlled substances reporting system.
- 23 (7) As used in this subsection, the following terms have the following meanings:
- 24 a. Certified diversion investigator. – An officer affiliated with a qualified
25 law enforcement agency who is certified as a diversion investigator by
26 either the North Carolina Sheriffs' Education and Training Standards
27 Commission or the North Carolina Criminal Justice Education and
28 Training Standards Commission. If for any reason a certified diversion
29 investigator leaves a position involving diversion investigation, the
30 qualified law enforcement agency shall notify the North Carolina
31 Department of Health and Human Services Controlled Substance
32 Reporting System and the State Bureau of Investigation, Diversion &
33 Environmental Crimes Unit, within 72 hours after the effective date of
34 the change.
- 35 b. Certified diversion supervisor. – The head of a municipal police
36 department, a county police department, a sheriff's office, or the
37 designee of the agency head with supervisory authority over that
38 agency's diversion investigators who is certified as a diversion
39 supervisor by either the North Carolina Sheriffs' Education and
40 Training Standards Commission or the North Carolina Criminal
41 Justice Education and Training Standards Commission.
- 42 c. Qualified law enforcement agency. – Any of the following entities
43 whose head is a certified diversion investigator or that employs at least
44 one certified diversion investigator and at least one certified diversion
45 supervisor:
- 46 1. A municipal police department.
47 2. A county police department.
48 3. A sheriff's office.
- 49 d. Active investigation. – An investigation that is being conducted of one
50 or more specific persons and for which probable cause exists for the

- 1 release of the information, including a reasonable likelihood that it
2 could lead to the filing of criminal proceedings.
- 3 (j) The Department shall do all of the following:
- 4 (1) Enable each certified diversion investigator associated with a qualified law
5 enforcement agency to register with the controlled substances reporting
6 system by providing, at a minimum, all of the following information:
- 7 a. The investigator's name and certification number.
8 b. The name of the qualified law enforcement agency for whom the
9 investigator works.
- 10 c. The name and certification number of each certified diversion
11 supervisor with whom the investigator works.
- 12 (2) Enable each certified diversion investigator associated with a qualified law
13 enforcement agency to request and receive data in connection with a bona fide
14 active investigation involving a specific violation of any state or federal law
15 involving a monitored prescription by providing, at a minimum, all of the
16 following:
- 17 a. The case number associated with the request.
18 b. A description of the nature and purpose of the request.
19 c. The first name, last name, and date of birth of each individual whose
20 prescription data the investigator seeks, including, when appropriate,
21 any alternative name, spelling, or date of birth associated with each
22 such individual.
- 23 d. An acknowledgement that the certified diversion investigator is aware
24 of the penalties associated with improperly obtaining, disclosing, or
25 disseminating data from the controlled substances reporting system.
- 26 (3) Enable the State Bureau of Investigation, Diversion & Environmental Crimes
27 Unit to review each request for data from a certified diversion investigator
28 associated with a qualified law enforcement agency and, upon such review, to
29 determine if the request is approved, denied, or delayed pending further
30 review or investigation.
- 31 (4) Create an audit trail that may be used to investigate or prosecute violations of
32 this Part and ensure that the Attorney General of North Carolina or a designee
33 and Special Agents of the North Carolina State Bureau of Investigation who
34 are assigned to the Diversion & Environmental Crimes Unit have access to
35 the system to review the audit trail."

36 **SECTION 11.(c)** The Department of Health and Human Services shall begin
37 developing the capabilities necessary to implement Section 11(b) of this act.

38 **SECTION 12.** G.S. 90-113.75 reads as rewritten:

39 **"§ 90-113.75. Civil penalties; other remedies; immunity from liability.**

40 (a) A person who intentionally, knowingly, or negligently releases, obtains, or attempts
41 to obtain information from the system in violation of a provision of this Article or a rule adopted
42 pursuant to this Article shall be assessed a civil penalty by the Department not to exceed ten
43 thousand dollars (\$10,000) per ~~violation~~-violation and shall be temporarily barred from accessing
44 the system until further findings by the Department. The clear proceeds of penalties assessed
45 under this section shall be deposited to the Civil Penalty and Forfeiture Fund in accordance with
46 Article 31A of Chapter 115C of the General Statutes. The Commission shall adopt rules
47 establishing the factors to be considered in determining the amount of the penalty to be assessed."

48 (b) In addition to any other remedies available at law, an individual whose prescription
49 information has been disclosed in violation of this Article or a rule adopted pursuant to this
50 Article may bring an action against any person or entity who has intentionally, knowingly, or

negligently released confidential information or records concerning the individual for either or both of the following:

(1) Nominal damages of one thousand dollars (\$1,000). In order to recover damages under this subdivision, it shall not be necessary that the plaintiff suffered or was threatened with actual damages.

(2) The amount of actual damages, if any, sustained by the individual.

(c) ~~Notwithstanding the foregoing, G.S. 8-53, G.S. 75-65, or any other provision of international, federal, State, or local law, a practitioner as defined in G.S. 90-87, a dispenser, or other person or entity permitted access to data or required or permitted to submit or transmit reports or other records, data, or information, including, without limitation, any protected health information or any other individually identifying or personal information, under this Article that, in good faith, makes a report or transmits data submits or transmits such reports or other records, data, or information as required or allowed by this Article is immune from civil or criminal liability that might otherwise be incurred or imposed as a result of making the report or transmitting the data submitting or transmitting such reports or other records, data, or information, or as a result of any subsequent actual or attempted access to or use or disclosure of such reports or other records, data, or information, whether by the Department, any law enforcement officer or agency, or any other person or entity."~~

SECTION 13. Article 5E of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-113.74E. Certification of diversion investigators and diversion supervisors.

Pursuant to its authority under G.S. 17C-6 and G.S. 17E-4, the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission, in consultation with the Department of Justice, North Carolina Justice Academy, and State Bureau of Investigation, shall ensure that educational materials are created and that training programs are conducted for the certification of diversion investigators and diversion supervisors, as defined in G.S. 90-113.74(i)."

SECTION 14.(a) G.S. 17C-6(a) is amended by adding two new subdivisions to read:

"(18) Establish minimum standards and levels of training for certification of diversion investigators and diversion supervisors, as defined in G.S. 90-113.74(i). As part of these minimum standards, the Commission shall require that certified diversion investigators receive training in the following:

a. Definition of drug diversion.

b. Categories of drugs most subject to diversion and misuse.

c. Methods used to divert drugs.

d. Proper investigation of drug diversion cases.

e. Appropriate use of the controlled substances reporting system to investigate drug diversion cases.

f. Requests of prescriptions and records related to prescriptions pursuant to G.S. 90-107.1, including best practices for working with pharmacies in a manner that minimizes disruption of customer service and pharmacy operations.

g. Data privacy and security provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and other pertinent federal and State laws governing privacy and security of confidential data and records.

h. Proper handling of confidential data and records from any source.

i. Criminal and civil penalties under federal and State law for improperly accessing, handling, or disclosing confidential prescription data or other confidential data or records.

(19) Certify and recertify at least once every three years, suspend, revoke, or deny, pursuant to the standards that it has established for the purpose, persons as qualified to be employed at entry level and retained as diversion investigators and diversion supervisors, as defined in G.S. 90-113.74(i)."

SECTION 14.(b) G.S. 17E-4(a) is amended by adding two new subdivisions to read:

"(14) Establish minimum standards and levels of training for certification of diversion investigators and diversion supervisors, as defined in G.S. 90-113.74(i). As part of these minimum standards, the Commission shall require that certified diversion investigators receive training in the following:

- a. Definition of drug diversion.
- b. Categories of drugs most subject to diversion and misuse.
- c. Methods used to divert drugs.
- d. Proper investigation of drug diversion cases.
- e. Appropriate use of the controlled substances reporting system to investigate drug diversion cases.
- f. Requests of prescriptions and records related to prescriptions pursuant to G.S. 90-107.1, including best practices for working with pharmacies in a manner that minimizes disruption of customer service and pharmacy operations.
- g. Data privacy and security provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and other pertinent federal and State laws governing privacy and security of confidential data and records.
- h. Proper handling of confidential data and records from any source.
- i. Criminal and civil penalties under federal and State law for improperly accessing, handling, or disclosing confidential prescription data or other confidential data or records.

(15) Certify and recertify at least once every three years, suspend, revoke, or deny, pursuant to the standards that it has established for the purpose, persons as qualified to be employed at entry level and retained as diversion investigators and diversion supervisors, as defined in G.S. 90-113.74(i)."

PART IV. APPROPRIATIONS

SECTION 15.(a) It is the intent of the General Assembly to appropriate from the General Fund to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the sum of ten million dollars (\$10,000,000) in recurring funds for the 2019-2020 fiscal year. These funds shall not be used for any purpose other than to increase the availability of community-based treatment and recovery services for substance use disorders, including medication-assisted treatment. These funds shall not supplant existing funds for community-based treatment and recovery services for substance abuse disorders.

SECTION 15.(b) It is the intent of the General Assembly to appropriate from the General Fund to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the sum of one million dollars (\$1,000,000) in recurring funds for the 2019-2020 fiscal year to purchase opioid antagonists, as defined in G.S. 90-12.7, which shall be distributed at no charge to North Carolina law enforcement agencies for the reversal of opioid-related drug overdoses.

SECTION 15.(c) It is the intent of the General Assembly to appropriate from the General Fund to the State Bureau of Investigation the sum of one hundred sixty thousand dollars (\$160,000) in recurring funds for the 2019-2020 fiscal year to fund Operation Medicine Drop.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 616

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S616-ATT-73 [v.1]

Page 1 of 1

Amends Title [NO]
Third Edition

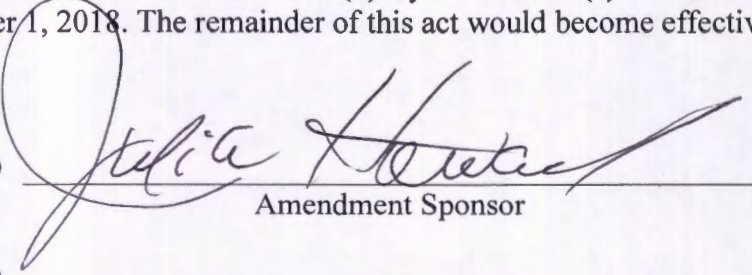
Date _____, 2018

Representative _____

1 moves to amend the bill on page 13, lines 15-16, by rewriting the lines to read:

2 "SECTION 17. Sections 8 and 11(b) of this act would become effective July 1, 2019.
3 Section 10 would become effective September 1, 2018. Section 9 of this act and the criminal
4 offenses created in G.S.90-113.74(k) by Section 11(a) of this act, would become effective
5 December 1, 2018. The remainder of this act would become effective July 1, 2018."
6
7
8

SIGNED


Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



* S 6 1 6 - A T T - 7 3 - V - 1 *

Committee Bill Action Sheet

Date: 6/7/2018

Committee: Judiciary I

Chair: Rep Ted Davis

Bill #: S 616

PCS: _____

Motion made before the committee by: _____

Rep. Horn explained the bill.

Discussion on the Bill YES or NO

Rep. Farmer Butterfield motioned for:

_____ Favorable Report

_____ Adoption

_____ Unfavorable Report

✓ Unfavorable to original bill, fav to PCS

_____ No vote

Amendments: : _____

If Senate Bill who is floor manager: _____

Serial referral to: _____

Speakers:

Handouts:



NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

JUDICIARY I COMMITTEE REPORT
Representative Ted Davis, Jr., Chair

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL

HB 969	Enhance Prison Security.	
	Draft Number:	H969-PCS40760-TT-46
	Serial Referral:	None
	Recommended Referral:	None
	Long Title Amended:	Yes
	Floor Manager:	Davis
HB 1021	People First Language 2018.	
	Draft Number:	H1021-PCS40758-MU-9
	Serial Referral:	None
	Recommended Referral:	None
	Long Title Amended:	No
	Floor Manager:	Davis

FAVORABLE HOUSE COM SUB, UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

SB 168	Subsidy Recipients to Cooperate/Child Support.	
	Draft Number:	S168-PCS35367-TGf-42
	Serial Referral:	None
	Recommended Referral:	FINANCE
	Long Title Amended:	Yes
	Floor Manager:	Stevens

FAVORABLE HOUSE COM SUB NO. 2, UNFAVORABLE HOUSE COM SUB NO. 1

SB 616 (HCS#1)	Heroin & Opioid Prevention & Enforcement Act.	
	Draft Number:	S616-PCS35368-TT-47
	Serial Referral:	None
	Recommended Referral:	None
	Long Title Amended:	No
	Floor Manager:	Horn

TOTAL REPORTED: 4





NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

JUDICIARY I COMMITTEE REPORT
Representative Ted Davis, Jr., Chair

FAVORABLE COM SUB, UNFAVORABLE ORIGINAL BILL

HB 969 Enhance Prison Security.
Draft Number: H969-PCS40760-TT-46
Serial Referral: None
Recommended Referral: None
Long Title Amended: Yes
Floor Manager: Davis

HB 1021 People First Language 2018.
Draft Number: H1021-PCS40758-MU-9
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: Davis

FAVORABLE HOUSE COM SUB, UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

SB 168 Subsidy Recipients to Cooperate/Child Support.
Draft Number: S168-PCS35367-TGf-42
Serial Referral: None
Recommended Referral: FINANCE
Long Title Amended: Yes
Floor Manager: Stevens

FAVORABLE HOUSE COM SUB NO. 2, UNFAVORABLE HOUSE COM SUB NO. 1

SB 616 (HCS#1) Heroin & Opioid Prevention & Enforcement Act.
Draft Number: S616-PCS35368-TT-47
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: Horn

TOTAL REPORTED: 4



* C M R 7 4 2 - V - 1 *



Committee Sergeants at Arms

NAME OF COMMITTEE House Committee on Judiciary I

DATE: 6/7/2018 Room: 423 LOB

House Sgt-At Arms:

1. Name: Jonas Cherry
2. Name: Rey Cooke
3. Name: David Linthicum
4. Name: Dean Marshbourne
5. Name: _____

Senate Sgt-At Arms:

1. Name: _____
2. Name: _____
3. Name: _____
4. Name: _____
5. Name: _____



VISITOR REGISTRATION SHEET

House Committee on Judiciary I

6/7/2018

Name of Committee

Date _____

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME _____

FIRM OR AGENCY AND ADDRESS

Cool Hand

McHA

Sarah Gillady

A CLU

1255 Wilkinson

Duke

Amber Harris

NCA

Elizabeth Adkins

• Governor's Office



VISITOR REGISTRATION SHEET

House Committee on Judiciary I

6/7/2018

Name of Committee

Date _____

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME _____

FIRM OR AGENCY AND ADDRESS

Bill Rowe

NC Justice Center

Eddie Caldwell

NC Sheriffs' Assn.

Rick Zechin

Williams M/Ler

Logan Martin

Benchmarks



VISITOR REGISTRATION SHEET

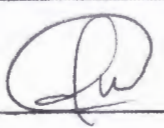
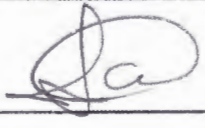
House Committee on Judiciary I

6/7/2018

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Joe Binns	GARNER Police Dept 912 7 th Ave GARNER 27529
BRANDON ZUIDEMA	NORTH CAROLINA ASSOCIATION OF CHIEFS OF POLICE 912 7 th Ave GARNER, NC 27529
Fred Baggett	NC Police Chief Assn
Wendy Lacey	North Carolina
Sara Coburn	SEANC
	
Malin Curry	NC DOJ
Wh Kim	NP
Bradford Sneedan	NC DOJ
Amanda Sin	NC DOJ
DICK 2014m	Law of PHE DILL



VISITOR REGISTRATION SHEET

House Committee on Judiciary I

6/7/2018

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Chris Droughton	NWC
Amber Luken Barwick	NC Conf. of DAs
Elizabeth Robinson	NORMA
Sue Ann Forest	NMS
Flint Benson	SEANC
Rashaan Ayesha	News 3 Observer
HIRAM N COBLE, JR	CARTERET CO SHERIFF'S OFFICE
Thom Mc	CGA
Tamara Callahan	CDJR
Pam Cashwell	BPS
TRAVIS FAIR	WRAL



VISITOR REGISTRATION SHEET

House Committee on Judiciary I

6/7/2018

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Demetrius Deloatch	TS
Bill Scuggin	TS
John Madler	NC Sentencing Commission
Becky Whitaker	NC Sentencing Commission
Meghan Boyd Ward	NC Sentencing Commission
Charles Lehmiller	NC Sentencing Comm
Steven Mange	NC DOJ
Jamie Sohn	605 Jones Ferry Rd Carrboro, NC
Kendall Bourdon	NCIC
Ann-R Wann	NCAOC
Ryan Boyce	NCAOC



VISITOR REGISTRATION SHEET

House Committee on Judiciary I

6/7/2018

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jonathan Harris	AOC
Brian Shipwash	Clerk of Superior Court Davidson
Dellana L. Baker	Clerk of Superior Court - Person
Jamie Lassiter	CCSC
Christopher Stoerk	CE SC
Kenneth Lassiter	NC DPS
Reuben Young	NC DPS
Andy Brandon	NC DPS
Suzanne Blaskey	SEANC
Patricia Moore	Correctional Officer
Linner Howe	SEANC



VISITOR REGISTRATION SHEET

House Committee on Judiciary I

6/7/2018

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Rian Menald	SBF
JARRET BURR	Bcc
Sisanna Davis	NC DPS
Carol Maranch	OFFICE OF GOVERNOR
Alicia Davis	NC DPS
MAH Cross	WHS
LT McCrimmon	DHHS
MIKE JAMES	BEP
Merisha Evans	DRNC
Asia A. Skyers	Office of Governor
Kris Parker	DRNC



Andrew Bowers (Rep. Ted Davis)

From: Andrew Bowers (Rep. Ted Davis)
Sent: Friday, June 08, 2018 10:44 AM
To: Andrew Bowers (Rep. Ted Davis)
Subject: <NCGA> House Judiciary I Committee Meeting Notice for Wednesday, June 13, 2018 at 1:00 PM
Attachments: Add Meeting to Calendar_LINC_.ics

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Wednesday, June 13, 2018
TIME: 1:00 PM
LOCATION: 415 LOB
COMMENTS: An agenda for this meeting is forthcoming.

Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 10:43 AM on Friday, June 08, 2018.

____ Principal Clerk
____ Reading Clerk – House Chamber

Andrew Bowers (Committee Assistant)



Andrew Bowers (Rep. Ted Davis)

From: Andrew Bowers (Rep. Ted Davis)
Sent: Tuesday, June 12, 2018 08:46 AM
To: Rep. Marvin Lucas; Rep. Pat Hurley; Rep. Craig Horn; Rep. Susan Fisher; Rep. John Ager; Rep. Brian Turner; Sen. Kathy Harrington; Sen. Tamara Barringer; Sen. Joyce Krawiec
Cc: Thelma Utley (Rep. Marvin Lucas); Deborah Holder (Rep. Pat Hurley); Erin Wilson (Rep. Craig Horn); Cindy Garrison (Rep. Susan Fisher); Meredith Graf (Rep. John Ager); Tristine Johnson (Rep. Brian Turner); Mary Marchman (Sen. Kathy Harrington); Chase Freeman (Sen. Kathy Harrington); Devon Karst (Sen. Tamara Barringer); Brian Mooney (Sen. Joyce Krawiec)
Subject: <NCGA> House Judiciary I Committee Meeting Notice for Wednesday, June 13, 2018 at 1:00 PM - UPDATED #1
Attachments: Add Meeting to Calendar_LINC_ics

Updated #1: Senate Bill 768 and House Bills 1031 and 1087 have been added to the agenda.

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Wednesday, June 13, 2018

TIME: 1:00 PM

LOCATION: 415 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 1031</u>	Local Ed. Funding Dispute Process.	Representative Horn Representative Hurley Representative Lucas
<u>HB 1087</u>	Asheville/Body-Worn Cameras.	Representative Fisher Representative Ager Representative B. Turner
<u>SB 768</u>	People First Language 2018.	Senator Barringer Senator Harrington Senator Krawiec



Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 8:07 AM on Tuesday, June 12, 2018.

____ Principal Clerk
____ Reading Clerk – House Chamber

Andrew Bowers (Committee Assistant)



Andrew Bowers (Rep. Ted Davis)

From: Andrew Bowers (Rep. Ted Davis)
Sent: Tuesday, June 12, 2018 11:37 AM
To: Rep. Marvin Lucas; Rep. Pat Hurley; Rep. Craig Horn; Rep. Susan Fisher; Rep. John Ager; Rep. Brian Turner; Sen. Kathy Harrington; Sen. Tamara Barringer; Sen. Joyce Krawiec; Rep. Dennis Riddell; Rep. John Bradford; Rep. Brenden Jones
Cc: Thelma Utley (Rep. Marvin Lucas); Deborah Holder (Rep. Pat Hurley); Erin Wilson (Rep. Craig Horn); Cindy Garrison (Rep. Susan Fisher); Meredith Graf (Rep. John Ager); Tristine Johnson (Rep. Brian Turner); Mary Marchman (Sen. Kathy Harrington); Chase Freeman (Sen. Kathy Harrington); Devon Karst (Sen. Tamara Barringer); Brian Mooney (Sen. Joyce Krawiec); Polly Riddell (Rep. Dennis Riddell); Anita Spence (Rep. John Bradford); Andrew Bailey (Rep. Brenden Jones)
Subject: <NCGA> House Judiciary I Committee Meeting Notice for Wednesday, June 13, 2018 at 1:00 PM - UPDATED #2
Attachments: Add Meeting to Calendar_LINC_.ics

Updated #2: HB 379 has been added to the agenda.

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Wednesday, June 13, 2018
TIME: 1:00 PM
LOCATION: 415 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 379</u>	Recodification Working Group.	Representative Riddell Representative Millis Representative Bradford Representative Brenden Jones
<u>HB 1031</u>	Local Ed. Funding Dispute Process.	Representative Horn Representative Hurley Representative Lucas
<u>HB 1087</u>	Asheville/Body-Worn Cameras.	Representative Fisher Representative Ager Representative B. Turner
<u>SB 768</u>	People First Language 2018.	Senator Barringer



Senator Harrington
Senator Krawiec

Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 10:53 AM on Tuesday, June 12, 2018.

____ Principal Clerk
____ Reading Clerk – House Chamber

Andrew Bowers (Committee Assistant)



Andrew Bowers (Rep. Ted Davis)

From: Andrew Bowers (Rep. Ted Davis)
Sent: Tuesday, June 12, 2018 05:04 PM
To: Rep. Dennis Riddell; Rep. John Bradford; Rep. Brenden Jones; Rep. Susan Fisher; Rep. John Ager; Rep. Brian Turner; Sen. Kathy Harrington; Sen. Tamara Barringer; Sen. Joyce Krawiec
Cc: Polly Riddell (Rep. Dennis Riddell); Anita Spence (Rep. John Bradford); Andrew Bailey (Rep. Brenden Jones); Cindy Garrison (Rep. Susan Fisher); Meredith Graf (Rep. John Ager); Tristine Johnson (Rep. Brian Turner); Mary Marchman (Sen. Kathy Harrington); Chase Freeman (Sen. Kathy Harrington); Devon Karst (Sen. Tamara Barringer); Brian Mooney (Sen. Joyce Krawiec)
Subject: <NCGA> House Judiciary I Committee Meeting Notice for Wednesday, June 13, 2018 at 1:00 PM - UPDATED #3
Attachments: Add Meeting to Calendar_LINC_ics

Updated #3: HB 1031 has been removed from the agenda.

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION**

You are hereby notified that the **House Committee on Judiciary I** will meet as follows:

DAY & DATE: Wednesday, June 13, 2018
TIME: 1:00 PM
LOCATION: 415 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 379</u>	Recodification Working Group.	Representative Riddell Representative Millis Representative Bradford Representative Brenden Jones
<u>HB 1087</u>	Asheville/Body-Worn Cameras.	Representative Fisher Representative Ager Representative B. Turner
<u>SB 768</u>	People First Language 2018.	Senator Barringer Senator Harrington Senator Krawiec



Respectfully,

Representative Ted Davis, Jr., Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 5:01 PM on Tuesday, June 12, 2018.

____ Principal Clerk
____ Reading Clerk – House Chamber

Andrew Bowers (Committee Assistant)



House Committee on Judiciary I
Wednesday, June 13, 2018, 1:00 PM
415 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 379	Recodification Working Group.	Representative Riddell Representative Millis Representative Bradford Representative Brenden Jones
HB 1031	Local Ed. Funding Dispute Process.	Representative Horn Representative Hurley Representative Lucas
HB 1087	Asheville/Body-Worn Cameras.	Representative Fisher Representative Ager Representative B. Turner
SB 768	People First Language 2018.	Senator Barringer Senator Harrington Senator Krawiec

Presentations

Other Business

Adjournment



House Committee on Judiciary I
Wednesday, June 13, 2018 at 1:00 PM
Room 415 of the Legislative Office Building

MINUTES

The House Committee on Judiciary I met at 1:00 PM on June 13, 2018 in Room 415 of the Legislative Office Building. Representatives Davis, D. Hall, Stevens, R. Turner, Arp, Farmer-Butterfield, Martin, McNeill, and Rogers attended.

Representative Ted Davis, Jr., Chair, presided. Representative Davis welcomed those in attendance and thanked the Sergeant at Arms and pages for their work for the Committee and General Assembly.


The following bills were considered:

HB 379 Recodification Working Group. (Representatives Riddell, Millis, Bradford, Brenden Jones). Representative Davis recognized Representative Dennis Riddell to speak on the bill. There was discussion. Representative Sarah Stevens motioned for a favorable report to the original bill. The motion passed.

SB 768 People First Language 2018. (Senators Barringer, Harrington, Krawiec). Representative Davis recognized Senator Tamara Barringer to speak on the bill. There was discussion. Representative Jean Farmer-Butterfield motioned for a favorable report to the Senate Committee Substitute. The motion passed.

HB 1087 Asheville/Body-Worn Cameras. (Representatives Fisher, Ager, B. Turner). Representative Davis recognized Representative Susan Fisher to explain the bill. There was discussion. Representative Grier Martin offered an amendment to the bill. The amendment failed. Representative Fisher asked that the bill be withdrawn from the committee. The bill was withdrawn without objection.

The meeting adjourned at 1:50 PM.

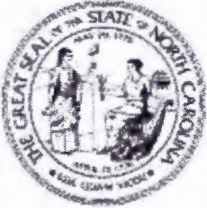


Representative Ted Davis, Jr., Chair
Presiding



Andrew Bowers, Committee Clerk





HOUSE BILL 379: Recodification Working Group.

2017-2018 General Assembly

Committee:	House Judiciary I	Date:	June 12, 2018
Introduced by:	Reps. Riddell, Millis, Bradford, Brenden Jones	Prepared by:	Bill Patterson
Analysis of:	Third Edition		Staff Attorney

OVERVIEW: *House Bill 379 would require certain state entities to compile and submit a list of crimes covered by the entity to the Joint Legislative Administrative Procedures Oversight Committee (APO Oversight) and the Joint Legislative Oversight Committee on Justice and Public Safety (JPS Oversight).*

BILL ANALYSIS:

Section 1 of the Bill would require all state agencies, boards, and commissions with rulemaking power to submit a list of the crimes covered or pending implementation by the entity to APO Oversight and JPS Oversight by December 1, 2018.

Section 2 of the Bill would authorize the Administrative Office of the Courts (AOC) to:

- Compile a list of all crimes defined at common law and in the General Statutes.
- Identify unnecessary crimes pursuant to factors listed in this section.
- Submit a list of unnecessary crimes to APO Oversight and JPS Oversight by February 1, 2019.

Section 3 of the Bill would require counties, towns, and metropolitan sewerage districts to submit a list of all misdemeanor ordinances to APO Oversight and JPS Oversight by December 1, 2018.

EFFECTIVE DATE: This bill would be effective when it becomes law.

Shawn Middlebrooks, counsel to Senate Judiciary, substantially contributed to this summary.

K. Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

3

HOUSE BILL 379
Committee Substitute Favorable 3/28/17
Senate Judiciary Committee Substitute Adopted 6/7/18

Short Title: Recodification Working Group.

(Public)

Sponsors:

Referred to:

March 16, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO ASSIST THE CRIMINAL LAW RECODIFICATION WORKING GROUP.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** All State agencies, boards, and commissions that have the power to
5 define conduct as a crime in the North Carolina Administrative Code shall create a list of all
6 crimes defined by the agency, board, or commission that are in effect or pending implementation.
7 Each agency, board, or commission shall submit the list to the Joint Legislative Administrative
8 Procedure Oversight Committee and the Joint Legislative Oversight Committee on Justice and
9 Public Safety no later than December 1, 2018.

10 **SECTION 2.** Using the felony and misdemeanor classification tables published by
11 the North Carolina Sentencing and Policy Advisory Commission, the Administrative Office of
12 the Courts (AOC) shall compile a list of North Carolina common law crimes and a list of crimes
13 defined in the North Carolina General Statutes, organized by chapter. AOC shall identify and list
14 any North Carolina criminal statutes that meet one or more of the following criteria:

- 15 (1) The statute is duplicative.
16 (2) The statute is inconsistent with other statutes, rarely charged, fails to state a
17 mens rea, or contains undefined terms.
18 (3) The statute appears to be obsolete.
19 (4) The statute has been held to be unconstitutional by an appellate court.

20 AOC shall submit the completed lists of common law crimes and criminal statutes,
21 along with any supplemental information, to the Joint Legislative Administrative Procedure
22 Oversight Committee and the Joint Legislative Oversight Committee on Justice and Public Safety
23 no later than February 1, 2019.

24 **SECTION 3.** Every county, city, town, or metropolitan sewerage district that has
25 enacted an ordinance punishable pursuant to G.S. 14-4(a) shall create a list of applicable
26 ordinances with a description of the conduct subject to criminal punishment in each ordinance.
27 Each county, city, town, or metropolitan sewerage district shall submit the list to the Joint
28 Legislative Administrative Procedure Oversight Committee and the Joint Legislative Oversight
29 Committee on Justice and Public Safety no later than December 1, 2018.

30 **SECTION 4.** This act is effective when it becomes law.





.



Committee Bill Action Sheet

Date: 6/8/2018

Committee: Judiciary I

Chair: Rep. Ted Davis

Bill #: 376

PCS: _____

Motion made before the committee by: No objection

Rep. Riddell explained the bill.

Discussion on the Bill YES or NO

Rep. Sarah Stevens motioned for:

☒ Favorable Report

☐ Adoption

☐ Unfavorable Report

☐ Unfavorable to original bill, fav to PCS

☐ No vote

Amendments: : _____

If Senate Bill who is floor manager: _____

Serial referral to: _____

Speakers:

Handouts:





General Statutes Commission

300 N. Salisbury Street, Suite 401
Raleigh, NC 27603-5925
Tel. 919-733-6660 Fax 919-715-5459

Floyd M. Lewis
Revisor of Statutes

P. Bly Hall
Assistant Revisor of Statutes

MEMORANDUM

To: House Judiciary I
From: General Statutes Commission
Re: SB 768 (People First Language 2018)
Date: June 12, 2018

General Comments

People First drafting refers to a person with a disability as a person first, does not equate a person with the person's disability, and seeks to avoid derogatory language when describing a person's disability. This bill changes "mental retardation" to "intellectual disability" and "the mentally retarded" to "individuals with an intellectual disability" and makes similar changes in certain sections of the General Statutes.¹ This bill also makes other People First drafting changes and technical amendments in the affected sections.

The technical amendments consist of (i) stylistic updates, (ii) replacing legalese with plain English, (iii) rephrasing unclear language, (iv) making language gender neutral, (v) modernizing the format of definitions and other lists, (vi) correcting the format of citations, (vii) making conforming changes, (viii) correcting a typographical error, and (ix) providing consistency to a list by making every item in the list singular.

Background

Advocates for people with disabilities across the nation have been recommending the use of People First language for decades. In S.L. 2009-264, the General Assembly directed the General Statutes Commission to study this issue and recommend any People First drafting changes; the Commission recommended such a bill, which was enacted as S.L. 2011-29. In 2010, the U.S. Congress enacted a law to replace "mental retardation" with "intellectual disability" or "intellectual disabilities" in the U.S. Code. Rosa's Law, Pub. L. No. 111-256. Later, in 2013, the American Psychiatric Association published the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, (DSM-5), which also replaced "mental retardation" with "intellectual disability."

Specific Comments

Section 1 of the bill amends statutes relating to guardianship by (i) replacing "mentally ill or mentally retarded ward" and a nearly identical term with "ward with a mental illness or intellectual disability" wherever the terms appear in G.S. 1-301.2, 35A-1241, 35A-1245, and the catchline of G.S. 90-275, (ii) replacing "mental retardation" with "intellectual disability" and modernizing the format of definitions in G.S. 35A-1101 and G.S. 35A-1202, (iii) deleting the archaic term "lunacy" from the definition of "mental illness" in G.S. 35A-1101, and (iv) making technical amendments in most of these statutes.

¹ The General Statutes Commission plans to recommend for introduction in 2019 another bill to amend the remaining sections that use the term "mental retardation" or "mentally retarded."

Section 2 replaces "mental retardation" with "intellectual disability" and makes technical amendments in G.S. 7B-1111.

Section 3 does the following: (i) replaces "witnesses with developmental disabilities or mental retardation" with "witnesses with an intellectual or developmental disability" in the catchlines of G.S. 8C-1, Rule 616, and G.S. 15A-1225.2 and (ii) replaces "person with a developmental disability or a person with mental retardation" with "individual with an intellectual or developmental disability" and makes technical amendments in the text of G.S. 8C-1, Rule 616, and G.S. 15A-1225.2.

Section 4 does the following: (i) changes "mental retardation" to "intellectual disability" in G.S. 14-27.20 and G.S. 14-32.1, (ii) changes the definitional term "mentally disabled" to "person who has a mental disability" in G.S. 14-27.20 and makes conforming changes in G.S. 14-27.22, 14-27.27, 14-27.33, 14-205.1, 14-205.2, 14-205.3, 14-208.6, 15-144.1, 15-144.2, 15A-290, and 115C-270.35, including changing "severely or profoundly mentally disabled" to "has a severe or profound mental disability" in some of these statutes, (iii) changes "handicapped person" and "handicapped persons" to "individual with a disability" and "individuals with a disability" in G.S. 14-32.1 and makes conforming changes in G.S. 15A-266.3A and G.S. 15A-266.4, (iv) modernizes the format of definitions in G.S. 14-27.20 and G.S. 14-208.6, (v) adds a missing subsection catchline in G.S. 115C-270.35(a), and (vi) makes technical amendments in most of these statutes.

Section 5 replaces "mental retardation" with "intellectual disability" and makes technical amendments in G.S. 15A-2000.

Section 6 replaces "mental retardation" with "developmental disabilities" in G.S. 58-32-10, 62-289.3, 143B-152.14, and 153A-247, which are statutes that refer to "mental health, mental retardation, and substance abuse" authorities or programs. This replacement conforms to the name change of these authorities and programs by Chapter 625 of the 1989 Session Laws. This section also modernizes the format of definitions in G.S. 62-289.3 and makes technical amendments in most of these statutes.

Section 7 does the following: (i) replaces "mentally retarded or physically handicapped children" and a nearly identical term with "children with an intellectual or physical disability" wherever the terms appear in the catchlines of G.S. 58-51-25 and G.S. 58-51-35, shortens the catchline of G.S. 58-51-25, and makes conforming changes in the text of G.S. 58-65-2 and G.S. 58-67-171, (ii) replaces "mental retardation or physical handicap" and "physical handicap or mental retardation" with "intellectual or physical disability" in G.S. 58-51-25 and G.S. 58-51-35, (iii) replaces "mental retardation" with "intellectual disability" in G.S. 58-51-40, (iv) amends G.S. 58-65-65 by deleting as superfluous a reference to the Commissioner of Insurance, deleting as obsolete two applicability phrases, deleting as unnecessary a list of items illustrating "charges made for medical care" that includes a reference to "charges for medical care of . . . mental retardation," and shortening the phrase "[t]he restrictions and requirements of this section" to "[t]his section," and (v) makes technical amendments in all these statutes.

Section 8 replaces "child . . . who is mentally ill or mentally retarded" with "child . . . who has a mental illness or intellectual disability" and makes technical amendments in G.S. 110-20.1.

Section 9 replaces "mental retardation" with "intellectual disability," replaces "children who are not disabled" with "children who do not have disabilities," modernizes the format of definitions, and makes other technical amendments in G.S. 115C-106.3.

Section 10 replaces "the sick, mentally ill or mentally retarded" with "individuals with a sickness, mental illness, or intellectual disability" in G.S. 130A-399, updates the name of "The Arc of North Carolina, Inc." in G.S. 130A-415, and makes technical amendments in both statutes.

Section 11 amends G.S. 143-282 by replacing the sentence "It shall make a similar study of the problem of the care of the feeble-minded, with especial attention to the custodial care of intellectually handicapped persons not teachable or trainable" with "It shall make a similar study of the problem of the care of individuals with an intellectual disability, with special attention to those requiring custodial care." This section further amends G.S. 143-282 by replacing "the physically handicapped" with "individuals with a physical disability," replacing "physical handicap" with "physical disability," and making technical amendments.

Section 12 amends G.S. 159-40 by replacing "mentally retarded and developmentally disabled" with "individuals with an intellectual or developmental disability," tabulating a list in subsection (d), and making technical amendments.

Section 13 replaces "mental retardation" with "intellectual disability," modernizes the format of definitions, and updates the use of commas in G.S. 168-21.

Section 14 replaces "mental retardation" with "intellectual disabilities," modernizes the format of definitions, and makes other technical amendments in G.S. 168A-3. The Senate Judiciary Committee adopted an amendment proposed on behalf of the General Statutes Commission that clarifies part of the definition of "physical or mental impairment" in sub-subdivision (7a)a.2. by tracking comparable language in a federal regulation adopted under the Americans with Disabilities Act (28 C.F.R. § 36.105(b)(1)(ii)). This language was offered for consideration by the Department of Health and Human Services.

Section 15 provides that this act does not affect the coverage, eligibility, rights, responsibilities, or provision of State or federal services or benefits for individuals who have been diagnosed with mental retardation and whose diagnosis has not been changed to a diagnosis of intellectual disability.

Section 16 provides effective date and applicability provisions for the bill.



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2017

S

2

SENATE BILL 768*

Judiciary Committee Substitute Adopted 6/5/18

Short Title: People First Language 2018.

(Public)

Sponsors:

Referred to:

May 30, 2018

1 A BILL TO BE ENTITLED
2 AN ACT TO UPDATE THE GENERAL STATUTES OF NORTH CAROLINA WITH
3 PEOPLE FIRST LANGUAGE BY CHANGING THE PHRASE "MENTAL
4 RETARDATION" TO "INTELLECTUAL DISABILITY" IN CERTAIN SECTIONS AND
5 TO MAKE OTHER PEOPLE FIRST LANGUAGE AMENDMENTS AND TECHNICAL
6 AMENDMENTS IN THOSE SECTIONS, AS RECOMMENDED BY THE GENERAL
7 STATUTES COMMISSION.

8 The General Assembly of North Carolina enacts:

9 SECTION 1.(a) G.S. 1-301.2 reads as rewritten:

10 "§ 1-301.2. Transfer or appeal of special proceedings; exceptions.

11 ...
12 (g) Exception for Incompetency and Foreclosure Proceedings and Proceedings to Permit
13 Sterilization for Medical Necessity. –

14 (1) Proceedings for adjudication of incompetency or restoration of competency
15 under Chapter 35A of the General Statutes, or proceedings to determine
16 whether a guardian may consent to the sterilization of a ~~mentally ill or~~
17 ~~mentally retarded ward~~ ward with a mental illness or intellectual disability
18 under G.S. 35A-1245, shall not be transferred even if an issue of fact, an
19 equitable defense, or a request for equitable relief is raised. Appeals from
20 orders entered in these proceedings are governed by Chapter 35A of the
21 General Statutes to the extent that the provisions of that Chapter conflict with
22 this section.

23 (2) Foreclosure proceedings under Article 2A of Chapter 45 of the General
24 Statutes shall not be transferred even if an issue of fact, an equitable defense,
25 or a request for equitable relief is raised. Equitable issues may be raised only
26 as provided in G.S. 45-21.34. Appeals from orders entered in these
27 proceedings are governed by Article 2A of Chapter 45 of the General Statutes
28 to the extent that the provisions of that Article conflict with this section.

29"

30 SECTION 1.(b) G.S. 35A-1101 reads as rewritten:

31 "§ 35A-1101. Definitions.

32 ~~When used in this Subchapter:~~ The following definitions apply in this Subchapter:

33 (1) ~~"Autism" means a~~ "Autism" – A physical disorder of the brain which causes
34 disturbances in the developmental rate of physical, social, and language skills;
35 abnormal responses to sensations; absence of or delay in speech or language;
36 or abnormal ways of relating to people, objects, and events. Autism occurs



- 1 sometimes by itself and sometimes in conjunction with other
2 brain-functioning disorders.
- 3 (2) ~~"Cerebral palsy" means a Cerebral palsy.~~ – A muscle dysfunction,
4 characterized by impairment of movement, often combined with speech
5 impairment, and caused by abnormality of or damage to the brain.
- 6 (3) ~~"Clerk" means the Clerk.~~ – The clerk of superior court.
- 7 (4) ~~"Designated agency" means the Designated agency.~~ – The State or local
8 human services agency designated by the clerk in the clerk's order to prepare,
9 cause to be prepared, or assemble a multidisciplinary evaluation and to
10 perform other functions as the clerk may order. A designated agency includes,
11 without limitation, State, local, regional, or area mental health, ~~mental~~
12 ~~retardation,~~ intellectual disability, vocational rehabilitation, public health,
13 social service, and developmental disabilities agencies, and diagnostic
14 evaluation centers.
- 15 (5) ~~"Epilepsy" means a Epilepsy.~~ – A group of neurological conditions
16 characterized by abnormal electrical-chemical discharge in the brain. This
17 discharge is manifested in various forms of physical activity called seizures,
18 which range from momentary lapses of consciousness to convulsive
19 movements.
- 20 (6) ~~"Guardian ad litem" means a Guardian ad litem.~~ – A guardian appointed
21 pursuant to G.S. 1A-1, Rule 17, Rules of Civil Procedure.
- 22 (7) ~~"Incompetent adult" means an Incompetent adult.~~ – An adult or emancipated
23 minor who lacks sufficient capacity to manage the adult's own affairs or to
24 make or communicate important decisions concerning the adult's person,
25 family, or property whether the lack of capacity is due to mental illness,
26 ~~mental retardation,~~ intellectual disability, epilepsy, cerebral palsy, autism,
27 inebriety, senility, disease, injury, or similar cause or condition.
- 28 (8) ~~"Incompetent child" means a Incompetent child.~~ – A minor who is at least 17
29 1/2 years of age and who, other than by reason of minority, lacks sufficient
30 capacity to make or communicate important decisions concerning the child's
31 person, family, or property whether the lack of capacity is due to mental
32 illness, ~~mental retardation,~~ intellectual disability, epilepsy, cerebral palsy,
33 autism, inebriety, disease, injury, or similar cause or condition.
- 34 (9) ~~"Indigent" means unable Indigent.~~ – Unable to pay for legal representation
35 and other necessary expenses of a proceeding brought under this Subchapter.
- 36 (10) ~~"Inebriety" means the Inebriety.~~ – The habitual use of alcohol or drugs
37 rendering a person incompetent to transact ordinary business concerning the
38 person's estate, dangerous to person or property, cruel and intolerable to
39 family, or unable to provide for family.
- 40 (10a) Intellectual disability. – Significantly subaverage general intellectual
41 functioning existing concurrently with deficits in adaptive behavior and
42 manifested before age 22.
- 43 (11) ~~"Interim guardian" means a Interim guardian.~~ – A guardian, appointed prior
44 to adjudication of incompetence and for a temporary period, for a person who
45 requires immediate intervention to address conditions that constitute
46 imminent or foreseeable risk of harm to the person's physical well-being or to
47 the person's estate.
- 48 (12) ~~"Mental illness" means an Mental illness.~~ – An illness that so lessens the
49 capacity of a person to use self-control, judgment, and discretion in the
50 conduct of the person's affairs and social relations as to make it necessary or
51 advisable for the person to be under treatment, care, supervision, guidance, or

- control. The term "mental illness" encompasses "mental disease", "mental disorder", "~~lunacy~~", "unsoundness of mind", and "insanity".
- (13) "~~Mental retardation~~" means ~~significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested before age 22.~~
- (14) "~~Multidisciplinary evaluation~~" means an Multidisciplinary evaluation. – An evaluation that contains current medical, psychological, and social work evaluations as directed by the clerk and that may include current evaluations by professionals in other disciplines, including without limitation education, vocational rehabilitation, occupational therapy, vocational therapy, psychiatry, speech-and-hearing, and communications disorders. The evaluation is current if made not more than one year from the date on which it is presented to or considered by the court. The evaluation shall set forth the nature and extent of the disability and recommend a guardianship plan and program.
- (15) "~~Respondent~~" means a Respondent. – A person who is alleged to be incompetent in a proceeding under this Subchapter.
- (16) "~~Treatment facility~~" has the Treatment facility. – Has the same meaning as "facility" in G.S. 122C-3(14), and includes group homes, halfway houses, and other community-based residential facilities.
- (17) "~~Ward~~" means a Ward. – A person who has been adjudicated incompetent or an adult or minor for whom a guardian has been appointed by a court of competent jurisdiction."

SECTION 1.(c) G.S. 35A-1202 reads as rewritten:

"§ 35A-1202. Definitions.

~~When used in this Subchapter, unless a contrary intent is indicated or the context requires otherwise:~~ The following definitions apply in this Subchapter:

- (1) "~~Accounting~~" means the Accounting. – The financial or status reports filed with the clerk, designated agency, respondent, or other person or party with whom ~~such~~ the reports are required to be filed.
- (2) "~~Clerk~~" means the Clerk. – The clerk of superior court.
- (3) "~~Designated agency~~" means the Designated agency. – The State or local human services agency designated by the clerk in an order to prepare, cause to be prepared, or assemble a multidisciplinary evaluation and to perform other functions as the clerk may order. A designated agency includes, without limitation, State, local, ~~regional~~ regional, or area mental health, ~~mental retardation~~, intellectual disability, vocational rehabilitation, public health, social service, and developmental disabilities agencies, and diagnostic evaluation centers.
- (4) "~~Disinterested public agent~~" means the Disinterested public agent. – The director or assistant directors of a county department of social services. Except as provided in G.S. 35A-1213(f), the fact that a disinterested public agent provides financial assistance, services, or treatment to a ward does not disqualify that person from being appointed as guardian.
- (5) "~~Estate~~" means any Estate. – Any interest in real property, choses in action, intangible personal property, and tangible personal property, and includes any interest in joint accounts or jointly held property.
- (6) "~~Financial report~~" means the Financial report. – The report filed by the guardian concerning all financial transactions, including receipts and expenditures of the ward's money, sale of the ward's property, or other transactions involving the ward's property.

- (7) ~~"General guardian" means a~~ General guardian. – A guardian of both the estate and the person.
- (8) ~~"Guardian ad litem" means a~~ Guardian ad litem. – A guardian appointed pursuant to G.S. 1A-1, Rule 17, Rules of Civil Procedure.
- (9) ~~"Guardian of the estate" means a~~ Guardian of the estate. – A guardian appointed solely for the purpose of managing the property, estate, and business affairs of a ward.
- (10) ~~"Guardian of the person" means a~~ Guardian of the person. – A guardian appointed solely for the purpose of performing duties relating to the care, custody, and control of a ward.
- (11) ~~"Incompetent person" means a~~ Incompetent person. – A person who has been adjudicated to be an "incompetent adult" or "incompetent child" as defined in G.S. 35A-1101(7) or (8).
- (12) ~~"Minor" means a~~ Minor. – A person who is under the age of 18, is not married, and has not been legally emancipated.
- (13) ~~"Multidisciplinary evaluation" means an~~ Multidisciplinary evaluation. – An evaluation that contains current medical, psychological, and social work evaluations as directed by the clerk and that may contain current evaluations by professionals in other disciplines, including without limitation education, vocational rehabilitation, occupational therapy, vocational therapy, psychiatry, speech-and-hearing, and communications disorders. The evaluation is current if made not more than one year from the date on which it is presented to or considered by the court. The evaluation shall set forth the nature and extent of the disability and recommend a guardianship plan and program.
- (14) ~~"Status report" means the~~ Status report. – The report required by G.S. 35A-1242 to be filed by the general guardian or guardian of the person.
- (15) ~~"Ward" means a~~ Ward. – A person who has been adjudicated incompetent or an adult or minor for whom a guardian has been appointed by a court of competent jurisdiction."

SECTION 1.(d) G.S. 35A-1241 reads as rewritten:

"§ 35A-1241. Powers and duties of guardian of the person.

(a) To the extent that it is not inconsistent with the terms of any order of the clerk or any other court of competent jurisdiction, a guardian of the person has the following powers and duties:

- (1) The guardian of the person is entitled to custody of the person of the guardian's ward and shall make provision for the ward's care, comfort, and maintenance, and shall, as appropriate to the ward's needs, arrange for the ward's training, education, employment, ~~rehabilitation~~ rehabilitation, or habilitation. The guardian of the person shall take reasonable care of the ward's clothing, furniture, vehicles, and other personal effects that are with the ward.
- (2) The guardian of the person may establish the ward's place of abode ~~within or without~~ inside or outside this State. In arranging for a place of abode, the guardian of the person shall give preference to places ~~within~~ inside this State over places ~~not in~~ outside this State if in-State and out-of-State places are substantially equivalent. The guardian also shall give preference to places that are not treatment facilities. If the only available and appropriate places of domicile are treatment facilities, the guardian shall give preference to community-based treatment facilities, such as group homes or nursing homes, over treatment facilities that are not community-based.

(3) The guardian of the person may give any consent or approval that may be necessary to enable the ward to receive medical, legal, psychological, or other professional care, counsel, treatment, or service; ~~provided that, if service. If~~ the patient has a health care agent appointed pursuant to a valid health care power of attorney, the health care agent shall have the right to exercise the authority granted in the health care power of attorney unless the Clerk has suspended the authority of that health care agent in accordance with G.S. 35A-1208. The guardian shall not, however, consent to the sterilization of a ~~mentally ill or mentally retarded ward~~ ward with a mental illness or intellectual disability unless the guardian obtains an order from the clerk in accordance with G.S. 35A-1245. The guardian of the person may give any other consent or approval on the ward's behalf that may be required or in the ward's best interest. The guardian may petition the clerk for the clerk's concurrence in the consent or approval.

(b) A guardian of the person is entitled to be reimbursed out of the ward's estate for reasonable and proper expenditures incurred in the performance of ~~his~~ the guardian's duties as guardian of the ward's person.

(c) A guardian of the ~~person, if he~~ person who has acted within the limits imposed ~~on him~~ by this Article or the order of appointment or ~~both, shall not be~~ both is not liable for damages to the ward or the ward's estate, merely by reason of the guardian's:

(1) Authorizing or giving any consent or approval necessary to enable the ward to receive legal, psychological, or other professional care, counsel, treatment, or service, in a situation where the damages result from the negligence or other acts of a third person; or

(2) Authorizing medical treatment or surgery for ~~his~~ the ward, if the guardian acted in good faith and was not negligent."

SECTION 1.(e) G.S. 35A-1245 reads as rewritten:

"§ 35A-1245. Procedure to permit the sterilization of a ~~mentally ill or a mentally retarded ward~~ ward with a mental illness or intellectual disability in the case of medical necessity.

(a) A guardian of the person shall not consent to the sterilization of a ~~mentally ill or mentally retarded ward~~ ward with a mental illness or intellectual disability unless an order from the clerk has been obtained in accordance with this section.

(b) If a ~~mentally ill or mentally retarded ward~~ ward with a mental illness or intellectual disability needs to undergo a medical procedure that would result in sterilization, the ward's guardian shall petition the clerk for an order to permit the guardian to consent to the procedure. The petition shall contain all of the following:

(1) A sworn statement from a physician licensed in this State who has examined the ward that the proposed procedure is medically necessary and not for the sole purpose of sterilization or for the purpose of hygiene or convenience.

(2) The name and address of the physician who will perform the procedure.

(3) A sworn statement from a psychiatrist or psychologist licensed in this State who has examined the ward as to whether the ~~mentally ill or mentally retarded ward~~ ward with a mental illness or intellectual disability is able to comprehend the nature of the proposed procedure and its consequences and provide an informed consent to the procedure.

(4) If the ward is able to comprehend the nature of the proposed procedure and its consequences, the sworn consent of the ward to the procedure.

(c) A copy of the petition shall be served on the ward personally. If the ward is unable to comprehend the nature of the proposed procedure and its consequences and is unable to provide

an informed consent, the clerk shall appoint an attorney to represent the ward in accordance with rules adopted by the Office of Indigent Defense Services.

(d) Should the ward or the ward's attorney request a hearing, a hearing shall be held. Otherwise, the clerk may enter an order without the appearance of witnesses. If a hearing is held, the guardian and the ward may present evidence.

(e) If the clerk finds all of the following, the clerk shall enter an order permitting the guardian to consent to the proposed procedure:

(1) The ward is capable of comprehending the procedure and its consequences and has consented to the procedure, or the ward is unable to comprehend the procedure and its consequences.

(2) The procedure is medically necessary and is not solely for the purpose of sterilization or for hygiene or convenience.

(f) The guardian or the ward, the ward's attorney, or any other interested party may appeal the clerk's order to the superior court in accordance with G.S. 1-301.2(e)."

SECTION 1.(f) G.S. 90-275 reads as rewritten:

"§ 90-275. Article does not affect duty of guardian to obtain order permitting guardian to consent to sterilization of a ~~mentally ill or mentally retarded ward.~~ ward with a mental illness or intellectual disability.

Nothing in this Article ~~shall be deemed to affect~~ affects the provisions of G.S. 35A-1245."

SECTION 2. G.S. 7B-1111 reads as rewritten:

"§ 7B-1111. Grounds for terminating parental rights.

(a) The court may terminate the parental rights upon a finding of one or more of the following:

(1) The parent has abused or neglected the juvenile. The juvenile shall be deemed to be abused or neglected if the court finds the juvenile to be an abused juvenile within the meaning of G.S. 7B-101 or a neglected juvenile within the meaning of G.S. 7B-101.

(2) The parent has willfully left the juvenile in foster care or placement outside the home for more than 12 months without showing to the satisfaction of the court that reasonable progress under the circumstances has been made in correcting those conditions which led to the removal of the juvenile. ~~Provided, however, that no parental rights~~ No parental rights, however, shall be terminated for the sole reason that the parents are unable to care for the juvenile on account of their poverty.

(3) The juvenile has been placed in the custody of a county department of social services, a licensed child-placing agency, a child-caring institution, or a foster home, and the parent, ~~for a continuous period of six months next preceding the filing of the petition or motion,~~ parent has for a continuous period of six months immediately preceding the filing of the petition or motion willfully failed ~~for such period~~ to pay a reasonable portion of the cost of care for the juvenile although physically and financially able to do so.

(4) One parent has been awarded custody of the juvenile by judicial decree or has custody by agreement of the parents, and the other parent whose parental rights are sought to be terminated has for a period of one year or more next preceding the filing of the petition or motion willfully failed without justification to pay for the care, support, and education of the juvenile, as required by ~~said the~~ decree or custody agreement.

(5) The father of a juvenile born out of wedlock has not, prior to the filing of a petition or motion to terminate parental rights, done any of the following:

a. Filed an affidavit of paternity in a central registry maintained by the Department of Health and Human ~~Services; provided, the~~ Services.

1 The petitioner or movant shall inquire of the Department of Health and
2 Human Services as to whether such an affidavit has been so filed and
3 the Department's certified reply shall be submitted to and considered
4 by the court.

5 b. Legitimated the juvenile pursuant to provisions of G.S. 49-10,
6 G.S. 49-12.1, or filed a petition for this specific purpose.

7 c. Legitimated the juvenile by marriage to the mother of the juvenile.

8 d. Provided substantial financial support or consistent care with respect
9 to the juvenile and mother.

10 e. Established paternity through G.S. 49-14, 110-132, 130A-101,
11 130A-118, or other judicial proceeding.

12 (6) That the parent is incapable of providing for the proper care and supervision
13 of the juvenile, such that the juvenile is a dependent juvenile within the
14 meaning of G.S. 7B-101, and that there is a reasonable probability that ~~such~~
15 the incapability will continue for the foreseeable future. Incapability under
16 this subdivision may be the result of substance abuse, ~~mental retardation,~~
17 intellectual disability, mental illness, organic brain syndrome, or any other
18 cause or condition that renders the parent unable or unavailable to parent the
19 juvenile and the parent lacks an appropriate alternative child care
20 arrangement.

21 ...

22 (b) The burden in ~~such these~~ proceedings ~~shall be upon~~ is on the petitioner or movant to
23 prove the facts justifying ~~such the~~ termination by clear and convincing evidence."

24 **SECTION 3.(a)** G.S. 8C-1, Rule 616, reads as rewritten:

25 **"Rule 616. Alternative testimony of witnesses with ~~developmental disabilities or mental~~**
26 **~~retardation~~ an intellectual or developmental disability in civil cases and special**
27 **proceedings.**

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

29 (1) The definitions set out in G.S. 122C-3.

30 (2) ~~"Remote testimony" means a~~ Remote testimony. – A method by which a
31 witness testifies outside of an open forum and outside of the physical presence
32 of a party or parties.

33 (b) Remote Testimony Authorized. – ~~A person with a developmental disability or a~~
34 ~~person with mental retardation~~ An individual with an intellectual or developmental disability
35 who is competent to testify may testify by remote testimony in a civil proceeding or special
36 proceeding if the court determines by clear and convincing evidence that the witness would suffer
37 serious emotional distress from testifying in the presence of a named party or parties or from
38 testifying in an open forum and that the ability of the witness to communicate with the trier of
39 fact would be impaired by testifying in the presence of a named party or parties or from testifying
40 in an open forum.

41 ...

42 (f) Nonexclusive Procedure and Standard. – Nothing in this section ~~shall prohibit~~
43 ~~prohibits~~ the use or application of any other method or procedure authorized or required by law
44 for the introduction into evidence of statements or testimony of ~~a person with a developmental~~
45 ~~disability or a person with mental retardation~~ an individual with an intellectual or developmental
46 disability."

47 **SECTION 3.(b)** G.S. 15A-1225.2 reads as rewritten:

48 **"§ 15A-1225.2. Witnesses with ~~developmental disabilities or mental retardation;~~ an**
49 **intellectual or developmental disability; remote testimony.**

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

51 (1) The definitions set out in G.S. 122C-3.

(2) ~~"Remote testimony" means a Remote testimony.~~ – A method by which a witness testifies outside of an open forum and outside of the physical presence of a party or parties.

(b) Remote Testimony Authorized. – ~~A person with a developmental disability or a person with mental retardation~~ An individual with an intellectual or developmental disability who is competent to testify may testify by remote testimony in a prosecution of a person charged with violating a criminal law of this State and in any hearing or proceeding conducted under Subchapter II of Chapter 7B of the General Statutes where a juvenile is alleged to have committed an offense that would be a criminal offense if committed by an adult if the court determines by clear and convincing evidence that the witness would suffer serious emotional distress from testifying in the presence of the defendant and that the ability of the witness to communicate with the trier of fact would be impaired by testifying in the presence of the defendant.

...
(e) Testimony. – The method of remote testimony shall allow the trier of fact and all parties to observe the demeanor of the witness as the witness testifies in a similar manner as if the witness were testifying in the open forum. The court shall ensure that the counsel for all parties, except a pro se defendant, is physically present where the witness testifies and has a full and fair opportunity for examination and cross-examination of the witness. The court shall ensure that the defendant or juvenile respondent has the ability to communicate privately with defense counsel during the remote testimony. A party may waive the right to have counsel physically present where the witness testifies. Nothing in this section ~~shall be construed to limit~~ limits the provisions of G.S. 15A-1225.

(f) Nonexclusive Procedure and Standard. – Nothing in this section ~~shall prohibit~~ prohibits the use or application of any other method or procedure authorized or required by law for the introduction into evidence of statements or testimony of ~~a person with a developmental disability or a person with mental retardation~~ an individual with an intellectual or developmental disability.

SECTION 4.(a) G.S. 14-27.20 reads as rewritten:

"§ 14-27.20. Definitions.

~~As used in this Article, unless the context requires otherwise:~~ The following definitions apply in this Article:

(1) ~~"Mentally disabled" means (i) a victim who suffers from mental retardation, or (ii) a victim who suffers from a mental disorder, either of which temporarily or permanently renders the victim substantially incapable of appraising the nature of his or her conduct, or of resisting the act of vaginal intercourse or a sexual act, or of communicating unwillingness to submit to the act of vaginal intercourse or a sexual act.~~

(2) ~~"Mentally incapacitated" means a~~ Mentally incapacitated. – A victim who due to any act committed upon the victim is rendered substantially incapable of either appraising the nature of his or her conduct, or resisting the act of vaginal intercourse or a sexual act.

(2a) Person who has a mental disability. – A victim who has an intellectual disability or a mental disorder that temporarily or permanently renders the victim substantially incapable of appraising the nature of his or her conduct, or of resisting the act of vaginal intercourse or a sexual act, or of communicating unwillingness to submit to the act of vaginal intercourse or a sexual act.

(3) ~~"Physically helpless" means (i) a victim who is unconscious; or (ii) a~~ Physically helpless. – Any of the following:

a. A victim who is unconscious.

- b. A victim who is physically unable to resist an act of vaginal intercourse or a sexual act or communicate unwillingness to submit to an act of vaginal intercourse or a sexual act.
- (4) ~~"Sexual act" means cunnilingus, Sexual act. – Cunnilingus, fellatio, analingus, or anal intercourse, but does not include vaginal intercourse. Sexual act also means the penetration, however slight, by any object into the genital or anal opening of another person's body: provided, that it shall be body. It is an affirmative defense that the penetration was for accepted medical purposes.~~
- (5) ~~"Sexual contact" means (i) touching Sexual contact. – Any of the following:~~
- a. Touching the sexual organ, anus, breast, groin, or buttocks of any person, (ii) a person.
- b. A person touching another person with their own sexual organ, anus, breast, groin, or buttocks, or (iii) a buttocks.
- c. A person ejaculating, emitting, or placing semen, urine, or feces upon any part of another person.
- (6) "Touching" as Touching. – As used in subdivision (5) of this section, means physical contact with another person, whether accomplished directly, through the clothing of the person committing the offense, or through the clothing of the victim."

SECTION 4.(b) G.S. 14-27.22 reads as rewritten:

"§ 14-27.22. Second-degree forcible rape.

(a) A person is guilty of second-degree forcible rape if the person engages in vaginal intercourse with another person:

- (1) By force and against the will of the other person; or
- (2) ~~Who is mentally disabled, mentally incapacitated, Who has a mental disability or who is mentally incapacitated or physically helpless, and the person performing the act knows or should reasonably know the other person is mentally disabled, mentally incapacitated, has a mental disability or is mentally incapacitated or physically helpless.~~

(b) Any person who commits the offense defined in this section is guilty of a Class C felony.

(c) Upon conviction, a person convicted under this section has no rights to custody of or rights of inheritance from any child conceived during the commission of the rape, nor ~~shall~~ does the person have any rights related to the child under Chapter 48 of the General Statutes or Subchapter 1-I of Chapter 7B of the General Statutes."

SECTION 4.(c) G.S. 14-27.27 reads as rewritten:

"§ 14-27.27. Second-degree forcible sexual offense.

(a) A person is guilty of second degree forcible sexual offense if the person engages in a sexual act with another person:

- (1) By force and against the will of the other person; or
- (2) ~~Who is mentally disabled, mentally incapacitated, Who has a mental disability or who is mentally incapacitated or physically helpless, and the person performing the act knows or should reasonably know that the other person is mentally disabled, mentally incapacitated, has a mental disability or is mentally incapacitated or physically helpless.~~

(b) Any person who commits the offense defined in this section is guilty of a Class C felony."

SECTION 4.(d) G.S. 14-27.33 reads as rewritten:

"§ 14-27.33. Sexual battery.

(a) A person is guilty of sexual battery if the person, for the purpose of sexual arousal, sexual gratification, or sexual abuse, engages in sexual contact with another person:

(1) By force and against the will of the other person; or
(2) ~~Who is mentally disabled, mentally incapacitated,~~ Who has a mental disability or who is mentally incapacitated or physically helpless, and the person performing the act knows or should reasonably know that the other person is ~~mentally disabled, mentally incapacitated,~~ has a mental disability or is mentally incapacitated or physically helpless.

(b) Any person who commits the offense defined in this section is guilty of a Class A1 misdemeanor."

SECTION 4.(e) G.S. 14-205.1 reads as rewritten:

"§ 14-205.1. Solicitation of prostitution.

(a) Except as otherwise provided in this section, any person who solicits another for the purpose of prostitution is guilty of a Class 1 misdemeanor for a first offense and a Class H felony for a second or subsequent offense. Any person 18 years of age or older who willfully solicits a minor for the purpose of prostitution is guilty of a Class G felony. Any person who willfully solicits a person who ~~is severely or profoundly mentally disabled~~ has a severe or profound mental disability for the purpose of prostitution is guilty of a Class E felony. Punishment under this section may include participation in a program devised for the education and prevention of sexual exploitation (i.e. "John School"), where available. A person who violates this subsection ~~shall not be~~ is not eligible for a disposition of prayer for judgment continued under any circumstances.

(b) Immunity From Prosecution for Minors. – Notwithstanding any other provision of this section, if it is determined, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of this section is a minor who is soliciting as a prostitute, that person shall be immune from prosecution under this section and instead shall be taken into temporary protective custody as an undisciplined juvenile pursuant to Article 19 of Chapter 7B of the General Statutes. Pursuant to ~~the provisions of~~ G.S. 7B-301, a law enforcement officer who takes a minor into custody under this section shall immediately report an allegation of a violation of G.S. 14-43.11 and G.S. 14-43.13 to the director of the department of social services in the county where the minor resides or is found, as appropriate, which shall commence an initial investigation into child abuse or child neglect within 24 hours pursuant to G.S. 7B-301 and G.S. 7B-302."

SECTION 4.(f) G.S. 14-205.2 reads as rewritten:

"§ 14-205.2. Patronizing a prostitute.

(a) Any person who willfully performs any of the following acts with a person not his or her spouse commits the offense of patronizing a prostitute:

- (1) Engages in vaginal intercourse, any sexual act as defined in G.S. 14-27.20, or any sexual contact as defined in G.S. 14-27.20, for the purpose of sexual arousal or gratification with a prostitute.
- (2) Enters or remains in a place of prostitution with intent to engage in vaginal intercourse, any sexual act as defined in G.S. 14-27.20, or any sexual contact as defined in G.S. 14-27.20, for the purpose of sexual arousal or gratification.

(b) Except as provided in subsections (c) and (d) of this section, a first violation of this section is a Class A1 misdemeanor. Unless a higher penalty applies, a second or subsequent violation of this section is a Class G felony.

(c) A violation of this section is a Class F felony if the defendant is 18 years of age or older and the prostitute is a minor.

(d) A violation of this section is a Class D felony if the prostitute ~~is a severely or profoundly mentally disabled person~~ has a severe or profound mental disability."

SECTION 4.(g) G.S. 14-205.3 reads as rewritten:

"§ 14-205.3. Promoting prostitution.

...

(b) Any person who willfully performs any of the following acts commits the offense of promoting prostitution of a minor or ~~mentally disabled person~~ person who has a mental disability:

- (1) Advances prostitution as defined in G.S. 14-203, where a minor or ~~severely or profoundly mentally disabled person~~ person who has a severe or profound mental disability engaged in prostitution, or any person engaged in prostitution in the place of prostitution is a minor or ~~is severely or profoundly mentally disabled~~ has a severe or profound mental disability at the time of the offense.
- (2) Profits from prostitution by any means where the prostitute is a minor or ~~is severely or profoundly mentally disabled~~ has a severe or profound mental disability at the time of the offense.
- (3) Confines a minor or a ~~severely or profoundly mentally disabled person~~ person who has a severe or profound mental disability against the person's will by the infliction or threat of imminent infliction of great bodily harm, permanent disability, or disfigurement or by administering to the minor or ~~severely or profoundly mentally disabled person~~ person who has a severe or profound mental disability, without the person's consent or by threat or deception and for other than medical purposes, any alcoholic intoxicant or a drug as defined in Article 5 of Chapter 90 of the General Statutes (North Carolina Controlled Substances Act) and does any of the following:
 - a. Compels the minor or ~~severely or profoundly mentally disabled person~~ person who has a severe or profound mental disability to engage in prostitution.
 - b. Arranges a situation in which the minor or ~~severely or profoundly mentally disabled person~~ person who has a severe or profound mental disability may practice prostitution.
 - c. Profits from prostitution by the minor or ~~severely or profoundly mentally disabled person~~ person who has a severe or profound mental disability.

For purposes of this subsection, administering drugs or an alcoholic intoxicant to a minor or a ~~severely or profoundly mentally disabled person~~ person who has a severe or profound mental disability, as described in subdivision (3) of this subsection, shall be deemed to be without consent if the administering is done without the consent of the parents or legal guardian or if the administering is performed or permitted by the parents or legal guardian for other than medical purposes. Mistake of age is not a defense to a prosecution under this subsection.

...."

SECTION 4.(h) G.S. 14-208.6 reads as rewritten:

"§ 14-208.6. Definitions.

The following definitions apply in this Article:

- (1a) ~~"Aggravated offense" means any~~ Aggravated offense. – Any criminal offense that includes either of the following: (i) engaging in a sexual act involving vaginal, anal, or oral penetration with a victim of any age through the use of force or the threat of serious violence; or (ii) engaging in a sexual act involving vaginal, anal, or oral penetration with a victim who is less than 12 years old.
- (1b) ~~"County registry" means the~~ County registry. – The information compiled by the sheriff of a county in compliance with this Article.
- (1c) ~~"Department" means the~~ Department. – The Department of Public Safety.
- (1d) ~~"Electronic mail" means the~~ Electronic mail. – The transmission of information or communication by the use of the Internet, a computer, a facsimile machine, a pager, a cellular telephone, a video recorder, or other

- 1 electronic means sent to a person identified by a unique address or address
2 number and received by that person.
- 3 (1e) ~~"Employed" includes~~ Employed. – Includes employment that is full-time or
4 part-time for a period of time exceeding 14 days or for an aggregate period of
5 time exceeding 30 days during any calendar year, whether financially
6 compensated, volunteered, or for the purpose of government or educational
7 benefit.
- 8 (1f) ~~"Entity" means a~~ Entity. – A business or organization that provides Internet
9 service, electronic communications service, remote computing service, online
10 service, electronic mail service, or electronic instant message or chat services
11 whether the business or organization is ~~within~~ inside or outside the State.
- 12 (1g) ~~"Instant Message" means a~~ Instant message. – A form of real-time text
13 communication between two or more people. The communication is conveyed
14 via computers connected over a network such as the Internet.
- 15 (1h) ~~"Institution of higher education" means any~~ Institution of higher education. –
16 Any postsecondary public or private educational institution, including any
17 trade or professional institution, college, or university.
- 18 (1i) ~~"Internet" means the~~ Internet. – The global information system that is logically
19 linked together by a globally unique address space based on the Internet
20 Protocol or its subsequent extensions; that is able to support communications
21 using the Transmission Control Protocol/Internet Protocol suite, its
22 subsequent extensions, or other Internet Protocol compatible protocols; and
23 that provides, uses, or makes accessible, either publicly or privately,
24 high-level services layered on the communications and related infrastructure
25 described in this subdivision.
- 26 (1j) ~~"Mental abnormality" means a~~ Mental abnormality. – A congenital or
27 acquired condition of a person that affects the emotional or volitional capacity
28 of the person in a manner that predisposes that person to the commission of
29 criminal sexual acts to a degree that makes the person a menace to the health
30 and safety of others.
- 31 (1k) ~~"Nonresident student" means a~~ Nonresident student. – A person who is not a
32 resident of North Carolina but who is enrolled in any type of school in the
33 State on a part-time or full-time basis.
- 34 (1l) ~~"Nonresident worker" means a~~ Nonresident worker. – A person who is not a
35 resident of North Carolina but who has employment or carries on a vocation
36 in the State, on a part-time or full-time basis, with or without compensation or
37 government or educational benefit, for more than 14 days, or for an aggregate
38 period exceeding 30 days in a calendar year.
- 39 (1m) ~~"Offense against a minor" means any~~ Offense against a minor. – Any of the
40 following offenses if the offense is committed against a minor, and the person
41 committing the offense is not the minor's parent: G.S. 14-39 (kidnapping),
42 G.S. 14-41 (abduction of children), and G.S. 14-43.3 (felonious restraint). The
43 term also includes the following if the person convicted of the following is not
44 the minor's parent: a solicitation or conspiracy to commit any of these
45 offenses; aiding and abetting any of these offenses.
- 46 (1n) ~~"Online identifier" means electronic~~ Online identifier. – Electronic mail
47 address, instant message screen name, user ID, chat or other Internet
48 communication name, but it does not mean social security number, date of
49 birth, or pin number.
- 50 (2) ~~"Penal institution" means~~ Penal institution. – Any of the following:

- 1 a. A detention facility operated under the jurisdiction of the Section of
2 Prisons of the Division of Adult Correction and Juvenile Justice of the
3 Department of Public ~~Safety~~; Safety.
- 4 b. A detention facility operated under the jurisdiction of another state or
5 the federal ~~government~~; or government.
- 6 c. A detention facility operated by a local government in this State or
7 another state.
- 8 (2a) ~~"Personality disorder" means an~~ Personality disorder. – An enduring pattern
9 of inner experience and behavior that deviates markedly from the expectations
10 of the individual's culture, is pervasive and inflexible, has an onset in
11 adolescence or early adulthood, is stable over time, and leads to distress or
12 impairment.
- 13 (2b) ~~"Recidivist" means a~~ Recidivist. – A person who has a prior conviction for an
14 offense that is described in G.S. 14-208.6(4).
- 15 (3) ~~"Release" means discharged~~ Release. – Discharged or paroled.
- 16 (4) ~~"Reportable conviction" means~~ Reportable conviction. – Any of the
17 following:
- 18 a. A final conviction for an offense against a minor, a sexually violent
19 offense, or an attempt to commit any of those offenses unless the
20 conviction is for aiding and abetting. A final conviction for aiding and
21 abetting is a reportable conviction only if the court sentencing the
22 individual finds that the registration of that individual under this
23 Article furthers the purposes of this Article as stated in G.S. 14-208.5.
- 24 b. A final conviction in another state of an offense, which if committed
25 in this State, is substantially similar to an offense against a minor or a
26 sexually violent offense as defined by this section, or a final conviction
27 in another state of an offense that requires registration under the sex
28 offender registration statutes of that state.
- 29 c. A final conviction in a federal jurisdiction (including a court martial)
30 of an offense, which is substantially similar to an offense against a
31 minor or a sexually violent offense as defined by this section.
- 32 d. A final conviction for a violation of G.S. 14-202(d), (e), (f), (g), or (h),
33 or a second or subsequent conviction for a violation of G.S. 14-202(a),
34 (a1), or (c), only if the court sentencing the individual issues an order
35 pursuant to G.S. 14-202(l) requiring the individual to register.
- 36 e. A final conviction for a violation of G.S. 14-43.14, only if the court
37 sentencing the individual issues an order pursuant to G.S. 14-43.14(e)
38 requiring the individual to register.
- 39 (5) ~~"Sexually violent offense" means a~~ Sexually violent offense. – A violation of
40 former G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.21
41 (first-degree forcible rape), G.S. 14-27.22 (second-degree forcible rape),
42 G.S. 14-27.23 (statutory rape of a child by an adult), G.S. 14-27.24
43 (first-degree statutory rape), G.S. 14-27.25(a) (statutory rape of a person who
44 is 15 years of age or younger and where the defendant is at least six years
45 older), G.S. 14-27.26 (first-degree forcible sexual offense), G.S. 14-27.27
46 (second-degree forcible sexual offense), G.S. 14-27.28 (statutory sexual
47 offense with a child by an adult), G.S. 14-27.29 (first-degree statutory sexual
48 offense), G.S. 14-27.30(a) (statutory sexual offense with a person who is 15
49 years of age or younger and where the defendant is at least six years older),
50 G.S. 14-27.31 (sexual activity by a substitute parent or custodian),
51 G.S. 14-27.32 (sexual activity with a student), G.S. 14-27.33 (sexual battery),

G.S. 14-43.11 (human trafficking) if (i) the offense is committed against a minor who is less than 18 years of age or (ii) the offense is committed against any person with the intent that they be held in sexual servitude, G.S. 14-43.13 (subjecting or maintaining a person for sexual servitude), G.S. 14-178 (incest between near relatives), G.S. 14-190.6 (employing or permitting minor to assist in offenses against public morality and decency), G.S. 14-190.9(a1) (felonious indecent exposure), G.S. 14-190.16 (first degree sexual exploitation of a minor), G.S. 14-190.17 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third degree sexual exploitation of a minor), G.S. 14-202.1 (taking indecent liberties with children), G.S. 14-202.3 (Solicitation of child by computer or certain other electronic devices to commit an unlawful sex act), G.S. 14-202.4(a) (taking indecent liberties with a student), G.S. 14-205.2(c) or (d) (patronizing a prostitute who is a minor or ~~a mentally disabled person~~), has a mental disability), G.S. 14-205.3(b) (promoting prostitution of a minor or a ~~mentally disabled person~~), person who has a mental disability), G.S. 14-318.4(a1) (parent or caretaker commit or permit act of prostitution with or by a juvenile), or G.S. 14-318.4(a2) (commission or allowing of sexual act upon a juvenile by parent or guardian). The term also includes the following: a solicitation or conspiracy to commit any of these offenses; aiding and abetting any of these offenses.

- (6) ~~"Sexually violent predator" means a Sexually violent predator. – A person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in sexually violent offenses directed at strangers or at a person with whom a relationship has been established or promoted for the primary purpose of victimization.~~
- (7) ~~"Sheriff" means the Sheriff. – The sheriff of a county in this State.~~
- (8) ~~"Statewide registry" means the Statewide registry. – The central registry compiled by the Department in accordance with G.S. 14-208.14.~~
- (9) ~~"Student" means a Student. – A person who is enrolled on a full-time or part-time basis, in any postsecondary public or private educational institution, including any trade or professional institution, or other institution of higher education."~~

SECTION 4.(i) G.S. 15-144.1 reads as rewritten:

"§ 15-144.1. Essentials of bill for rape.

(a) In indictments for rape it is not necessary to allege every matter required to be proved on the trial; but in the body of the indictment, after naming the person accused, the date of the offense, the county in which the offense of rape was allegedly committed, and the averment "with force and arms," ~~as is now usual~~, it is sufficient in describing rape to allege that the accused person unlawfully, willfully, and feloniously did ravish and carnally know the victim, naming her, by force and against her will and concluding as ~~is now required by law~~. Any bill of indictment containing the averments and allegations ~~herein named shall be in this section~~ is good and sufficient in law as an indictment for rape in the first degree and will support a verdict of guilty of rape in the first degree, rape in the second degree, attempted ~~rape~~ rape, or assault on a female.

(b) If the victim is a female child under the age of 13 ~~years~~ years, it is sufficient to allege that the accused unlawfully, willfully, and feloniously did carnally know and abuse a child under 13, naming her, and concluding as ~~aforsaid~~ required by law. Any bill of indictment containing the averments and allegations ~~herein named shall be in this section~~ is good and sufficient in law as an indictment for the rape of a female child under the age of 13 years and all lesser included offenses.

(c) If the victim is a person who ~~is mentally disabled, mentally incapacitated, has a mental disability or who is mentally incapacitated~~ or physically helpless, it is sufficient to allege that the defendant unlawfully, willfully, and feloniously did carnally know and abuse a person who ~~was mentally disabled, had a mental disability or who was mentally incapacitated or physically helpless~~, naming ~~such the~~ victim, and concluding as ~~aforesaid, required by law~~. Any bill of indictment containing the averments and allegations ~~herein named shall be in this section~~ is good and sufficient in law for the rape of a ~~mentally disabled, mentally incapacitated or physically helpless person~~ person who has a mental disability or who is mentally incapacitated or physically helpless and all lesser included offenses."

SECTION 4.(j) G.S. 15-144.2 reads as rewritten:

"§ 15-144.2. Essentials of bill for sex offense.

(a) In indictments for sex offense it is not necessary to allege every matter required to be proved on the trial; but in the body of the indictment, after naming the person accused, the date of the offense, the county in which the sex offense was allegedly committed, and the averment "with force and arms," ~~as is now usual~~, it is sufficient in describing a sex offense to allege that the accused person unlawfully, willfully, and feloniously did engage in a sex offense with the victim, naming the victim, by force and against the will of ~~such the~~ victim and concluding as ~~is now required by law~~. Any bill of indictment containing the averments and allegations ~~herein named shall be in this section~~ is good and sufficient in law as an indictment for a first degree sex offense and will support a verdict of guilty of a sex offense in the first degree, a sex offense in the second degree, an attempt to commit a sex ~~offense~~ offense, or an assault.

(b) If the victim is a person under the age of 13 years, it is sufficient to allege that the defendant unlawfully, willfully, and feloniously did engage in a sex offense with a child under the age of 13 years, naming the child, and concluding as ~~aforesaid, required by law~~. Any bill of indictment containing the averments and allegations ~~herein named shall be in this section~~ is good and sufficient in law as an indictment for a sex offense against a child under the age of 13 years and all lesser included offenses.

(c) If the victim is a person who ~~is mentally disabled, mentally incapacitated, has a mental disability or who is mentally incapacitated~~ or physically helpless, it is sufficient to allege that the defendant unlawfully, willfully, and feloniously did engage in a sex offense with a person who ~~was mentally disabled, had a mental disability or who was mentally incapacitated or physically helpless~~, naming ~~such the~~ victim, and concluding as ~~aforesaid, required by law~~. Any bill of indictment containing the averments and allegations ~~herein named shall be in this section~~ is good and sufficient in law for a sex offense against a ~~mentally disabled, mentally incapacitated or physically helpless person~~ person who has a mental disability or who is mentally incapacitated or physically helpless and all lesser included offenses."

SECTION 4.(k) G.S. 15A-290 reads as rewritten:

"§ 15A-290. Offenses for which orders for electronic surveillance may be granted.

(a) Orders authorizing or approving the interception of wire, oral, or electronic communications may be granted, subject to the provisions of this Article and Chapter 119 of Title 18 of the United States Code, when the ~~interception~~ interception ~~does any of the following:~~

- (1) May provide or has provided evidence of the commission of, or any conspiracy to ~~commit~~ commit, any of the following:
 - a. Any of the drug-trafficking violations listed in ~~G.S. 90-95(h); or~~ G.S. 90-95(h).
 - b. A continuing criminal enterprise in violation of G.S. 90-95.1.
- (2) May expedite the apprehension of persons indicted for the commission of, or any conspiracy to commit, an offense listed in subdivision (1) of this subsection.

(b) Orders authorizing or approving the interception of wire, oral, or electronic communications may be granted, subject to the provisions of this Article and Chapter 119 of

1 Title 18 of the United States Code, when the interception may provide, or has provided, evidence
2 of any offense that involves the commission of, or any conspiracy to commit, murder,
3 kidnapping, hostage taking, robbery, extortion, bribery, rape, or any sexual offense, or when the
4 interception may expedite the apprehension of persons indicted for the commission of these
5 offenses.

6 (c) Orders authorizing or approving the interception of wire, oral, or electronic
7 communications may be granted, subject to the provisions of this Article and Chapter 119 of
8 Title 18 of the United States Code, when the interception may provide, or has provided, evidence
9 of any of the following offenses, or any conspiracy to commit these offenses, or when the
10 interception may expedite the apprehension of persons indicted for the commission of these
11 offenses:

- 12 (1) Any felony offense against a minor, including any violation of G.S. 14-27.31
13 (Sexual activity by a substitute parent or custodian), G.S. 14-27.32 (Sexual
14 activity with a student), G.S. 14-41 (Abduction of children), G.S. 14-43.11
15 (Human trafficking), G.S. 14-43.12 (Involuntary servitude), G.S. 14-43.13
16 (Sexual servitude), G.S. 14-190.16 (First degree sexual exploitation of a
17 minor), G.S. 14-190.17 (Second degree sexual exploitation of a minor),
18 G.S. 14-202.1 (Taking indecent liberties with children), G.S. 14-205.2(c) or
19 (d)(Patronizing a prostitute who is a minor or ~~a mentally disabled person~~), has
20 a mental disability, or G.S. 14-205.3(b) (Promoting prostitution of a minor or
21 ~~a mentally disabled person~~), person who has a mental disability).

22 ...

23 (d) When an investigative or law enforcement officer, while engaged in intercepting wire,
24 oral, or electronic communications in the manner authorized, intercepts wire, electronic, or oral
25 communications relating to offenses other than those specified in the order of authorization or
26 approval, the contents ~~thereof, and evidence derived therefrom~~, of the communications and
27 evidence derived from the communications may be disclosed or used as provided in
28 G.S. 15A-294(a) and (b). ~~Such~~ The contents of the communications and any evidence derived
29 ~~therefrom from the communications~~ may be used in accordance with G.S. 15A-294(c) when
30 authorized or approved by a judicial review panel where the panel finds, on subsequent
31 application made as soon as practicable, that the contents were otherwise intercepted in
32 accordance with this Article or Chapter 119 of Title 18 of the United States Code.

33 (e) No otherwise privileged wire, oral, or electronic communication intercepted in
34 accordance with, or in violation of, the provisions of this Article or Chapter 119 of Title 18 of
35 the United States Code, shall lose its privileged character."

36 **SECTION 4.(f)** G.S. 115C-270.35 reads as rewritten:

37 **"§ 115C-270.35. License suspension and revocation.**

38 (a) Rules. – The State Board shall adopt rules to establish the reasons and procedures for
39 the suspension and revocation of licenses, subject to the requirements of this section.

40 (b) Automatic Revocation With No Hearing. – The State Board shall automatically
41 revoke the license of a professional educator without the right to a hearing upon receiving
42 verification of the identity of the professional educator together with a certified copy of a criminal
43 record showing that the professional educator has entered a plea of guilty or nolo contendere to
44 or has been finally convicted of any of the following crimes:

45 ...

- 46 (21) Patronizing a prostitute who is a minor or ~~a mentally disabled person~~, has a
47 mental disability, G.S. 14-205.2(c) or (d).
48 (22) Promoting prostitution of a minor or ~~a mentally disabled person~~, person who
49 has a mental disability, G.S. 14-205.3(b).
50 (23) Child abuse under G.S. 14-318.4.

1 The State Board shall mail notice of its intent to act pursuant to this subsection by certified
2 mail, return receipt requested, directed to the professional educator's last known address. The
3 notice shall inform the professional educator that it will revoke the person's license unless the
4 professional educator notifies the State Board in writing within 10 days after receipt of the notice
5 that the defendant identified in the criminal record is not the same person as the professional
6 educator. If the professional educator provides this written notice to the State Board, the State
7 Board shall not revoke the license unless it can establish as a fact that the defendant and the
8 professional educator are the same person.

9 ...

10 (e) Subpoena Power. – The State Board may issue subpoenas for the purpose of obtaining
11 documents or the testimony of witnesses in connection with proceedings to suspend or revoke
12 licenses. In addition, the Board ~~shall have the authority to~~ may contract with individuals who are
13 qualified to conduct investigations in order to obtain all information needed to assist the Board
14 in the proper disposition of allegations of misconduct by licensed persons."

15 **SECTION 4.(m)** G.S. 14-32.1 reads as rewritten:

16 **"§ 14-32.1. Assaults on ~~handicapped persons; individuals with a disability; punishments.~~**

17 (a) For purposes of this section, a ~~"handicapped person" is a person an "individual with~~
18 a disability" is an individual who has ~~has one or more of the following that would substantially~~
19 impair the ability to defend oneself:

20 (1) A physical or mental disability, such as a decreased use of arms or legs,
21 blindness, deafness, ~~mental retardation~~ intellectual disability, or mental
22 illness; or illness.

23 (2) ~~Infirmity~~ An infirmity.

24 ~~which would substantially impair that person's ability to defend himself.~~

25 (b) through (d) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 767, s. 31, effective
26 October 1, 1994.

27 (e) Unless ~~his~~ the conduct is covered under some other provision of law providing greater
28 punishment, any person who commits any aggravated assault or assault and battery on a
29 ~~handicapped person an individual with a disability~~ is guilty of a Class F felony. A person commits
30 an aggravated assault or assault and battery upon a ~~handicapped person an individual with a~~
31 disability if, in the course of the assault or assault and battery, that ~~person; person~~ does any of the
32 following:

33 (1) Uses a deadly weapon or other means of force likely to inflict serious injury
34 or serious damage to ~~a handicapped person; or an individual with a disability.~~

35 (2) Inflicts serious injury or serious damage to ~~a handicapped person; or an~~
36 individual with a disability.

37 (3) Intends to kill ~~a handicapped person an individual with a disability.~~

38 (f) Any person who commits a simple assault or battery upon a ~~handicapped person an~~
39 individual with a disability is guilty of a Class A1 misdemeanor."

40 **SECTION 4.(n)** G.S. 15A-266.3A reads as rewritten:

41 **"§ 15A-266.3A. DNA sample required for DNA analysis upon arrest for certain offenses.**

42 (a) Unless a DNA sample has previously been obtained by lawful process and the DNA
43 record stored in the State DNA Database, and that record and sample has not been expunged
44 pursuant to any provision of law, a DNA sample for DNA analysis and testing shall be obtained
45 from any person who is arrested for committing an offense described in subsection (f) or (g) of
46 this section.

47 ...

48 (f) This section ~~shall apply~~ applies to a person arrested for violating any one of the
49 following offenses in Chapter 14 of the General Statutes:

50 ...

(4) G.S. 14-28, Malicious castration; G.S. 14-29, Castration or other maiming without malice aforethought; G.S. 14-30, Malicious maiming; G.S. 14-30.1, Malicious throwing of corrosive acid or alkali; G.S. 14-31, Maliciously assaulting in a secret manner; G.S. 14-32, Felonious assault with deadly weapon with intent to kill or inflicting serious injury; G.S. 14-32.1(e), Aggravated assault or assault and battery on ~~handicapped person; an individual with a disability;~~ G.S. 14-32.2(a) when punishable pursuant to G.S. 14-32.2(b)(1), Patient abuse and neglect, intentional conduct proximately causes death; G.S. 14-32.3(a), Domestic abuse of disabled or elder adults resulting in injury; G.S. 14-32.4, Assault inflicting serious bodily injury or injury by strangulation; G.S. 14-33.2, Habitual misdemeanor assault; G.S. 14-34.1, Discharging certain barreled weapons or a firearm into occupied property; G.S. 14-34.2, Assault with a firearm or other deadly weapon upon governmental officers or employees, company police officers, or campus police officers; G.S. 14-34.4, Adulterated or misbranded food, drugs, etc.; intent to cause serious injury or death; intent to extort; G.S. 14-34.5, Assault with a firearm on a law enforcement, probation, or parole officer or on a person employed at a State or local detention facility; G.S. 14-34.6, Assault or affray on a firefighter, an emergency medical technician, medical responder, emergency department nurse, or emergency department physician; G.S. 14-34.7, Assault inflicting serious injury on a law enforcement, probation, or parole officer or on a person employed at a State or local detention facility; G.S. 14-34.9, Discharging a firearm from within an enclosure; and G.S. 14-34.10, Discharge firearm within enclosure to incite fear.

...
(g) This section ~~shall also apply~~ also applies to a person arrested for attempting, solicitation of another to commit, conspiracy to commit, or aiding and abetting another to commit, any of the violations included in subsection (f) of this section.

...
(j) Prior to June 1, 2012, within 30 days of the receipt of the form required by subsection (i) of this section or the occurrence of one of the events in sub-subdivision a., b., or c. of subdivision (1) of subsection (h) of this section; and on or after June 1, 2012, within 30 days of the occurrence of one of the events in subdivision (1) of subsection (h) of this section, the prosecuting district attorney shall determine if a DNA sample was taken pursuant to this section, and if so, ~~shall~~ shall do all of the following:

- (1) Verify and indicate the facts of the qualifying event on a verification form promulgated by the Administrative Office of the Courts.
- (2) Include the last known address of the defendant, as reflected in the court files, on the verification form.
- (3) Sign the verification form or, if the defendant was acquitted or the charges were dismissed by the court, obtain the signature of a judge.
- (4) Transmit the verification form to the Crime Laboratory.

(k) Within 90 days of receipt of the verification form, the Crime Laboratory ~~shall~~ shall do all of the following:

- (1) Determine whether the requirement of subdivision (2) of subsection (h) of this section has been met.
- (2) If the requirement has been met, remove the defendant's DNA record and samples as required by subsection (h) of this section.
- (3) Mail to the defendant, at the address specified in the verification form, a notice doing either of the following:

- a. Documenting expunction of the DNA record and destruction of the DNA sample.
- b. Notifying the defendant that the DNA record and sample do not qualify for expunction pursuant to subsection (h) of this section.

...."

SECTION 4.(o) G.S. 15A-266.4 reads as rewritten:

"§ 15A-266.4. DNA sample required for DNA analysis upon conviction or finding of not guilty by reason of insanity.

...

(b) Crimes covered by this Article include all of the following:

- (1) All felonies.
- (2) G.S. 14-32.1 – Assaults on ~~handicapped persons~~ individuals with a disability.
- (3) Former G.S. 14-277.3 – Stalking.
- (4) Repealed by Session Laws 2010-94, s. 5, effective February 1, 2011.
- (5) All offenses described in G.S. 15A-266.3A."

SECTION 5. G.S. 15A-2000 reads as rewritten:

"§ 15A-2000. Sentence of death or life imprisonment for capital felonies; further proceedings to determine sentence.

(a) Separate Proceedings on Issue of Penalty. –

- (1) Except as provided in G.S. 15A-2004, upon conviction or adjudication of guilt of a defendant of a capital felony in which the State has given notice of its intent to seek the death penalty, the court shall conduct a separate sentencing proceeding to determine whether the defendant should be sentenced to death or life imprisonment. A capital felony is one which may be punishable by death.
- (2) The proceeding shall be conducted by the trial judge before the trial jury as soon as practicable after the guilty verdict is returned. If prior to the time that the trial jury begins its deliberations on the issue of penalty, any juror dies, becomes incapacitated or disqualified, or is discharged for any reason, an alternate juror shall become a part of the jury and serve in all respects as those selected on the regular trial panel. An alternate juror shall become a part of the jury in the order in which ~~he~~ the alternate juror was selected. If the trial jury is unable to reconvene for a hearing on the issue of penalty after having determined the guilt of the accused, the trial judge shall impanel a new jury to determine the issue of the punishment. If the defendant pleads guilty, the sentencing proceeding shall be conducted before a jury impaneled for that purpose. A jury selected for the purpose of determining punishment in a capital case shall be selected in the same manner as juries are selected for the trial of capital cases.

...

(b) Sentence Recommendation by the Jury. – Instructions determined by the trial judge to be warranted by the evidence shall be given by the court in its charge to the jury prior to its deliberation in determining sentence. The court shall give appropriate instructions in those cases in which evidence of the defendant's ~~mental retardation~~ intellectual disability requires the consideration by the jury of the provisions of G.S. 15A-2005. In all cases in which the death penalty may be authorized, the judge shall include in ~~his~~ the judge's instructions to the jury that it must consider any aggravating circumstance or circumstances or mitigating circumstance or circumstances from the lists provided in subsections (e) and (f) of this section which may be supported by the evidence, and shall furnish to the jury a written list of issues relating to such aggravating or mitigating circumstance or circumstances.

1 After hearing the evidence, argument of counsel, and instructions of the court, the jury shall
2 deliberate and render a sentence recommendation to the court, based upon all of the following
3 matters:

- 4 (1) Whether any sufficient aggravating circumstance or circumstances as
5 enumerated in subsection (e) ~~exist~~; of this section exist.
6 (2) Whether any sufficient mitigating circumstance or circumstances as
7 enumerated in subsection ~~(f)~~, (f) of this section, which outweigh the
8 aggravating circumstance or circumstances found, ~~exist~~; and exist.
9 (3) Based on these considerations, whether the defendant should be sentenced to
10 death or to imprisonment in the State's prison for life.

11 The sentence recommendation must be agreed upon by a unanimous vote of the 12 jurors.
12 Upon delivery of the sentence recommendation by the foreman of the jury, the jury shall be
13 individually polled to establish whether each juror concurs and agrees to the sentence
14 recommendation returned.

15 If the jury cannot, within a reasonable time, unanimously agree to its sentence
16 recommendation, the judge shall impose a sentence of life imprisonment; ~~provided, however,~~
17 ~~that the imprisonment.~~ The judge shall in no instance impose the death penalty when the jury
18 cannot agree unanimously to its sentence recommendation.

19 (c) Findings in Support of Sentence of Death. – When the jury recommends a sentence
20 of death, the foreman of the jury shall sign a writing on behalf of the jury ~~which writing shall~~
21 ~~show that shows all of the following:~~

- 22 (1) The statutory aggravating circumstance or circumstances which the jury finds
23 beyond a reasonable ~~doubt~~; and doubt.
24 (2) That the statutory aggravating circumstance or circumstances found by the
25 jury are sufficiently substantial to call for the imposition of the death ~~penalty~~;
26 ~~and penalty~~.
27 (3) That the mitigating circumstance or circumstances are insufficient to outweigh
28 the aggravating circumstance or circumstances found.

29 (d) Review of Judgment and Sentence. –

- 30 ...
31 (2) The sentence of death shall be overturned and a sentence of life imprisonment
32 imposed in lieu thereof by the Supreme Court upon a finding that the record
33 does not support the jury's findings of any aggravating circumstance or
34 circumstances upon which the sentencing court based its sentence of death, or
35 upon a finding that the sentence of death was imposed under the influence of
36 passion, prejudice, or any other arbitrary factor, or upon a finding that the
37 sentence of death is excessive or disproportionate to the penalty imposed in
38 similar cases, considering both the crime and the defendant. The Supreme
39 Court may suspend consideration of death penalty cases until such time as the
40 court determines it is prepared to make the comparisons required under ~~the~~
41 ~~provisions of this section~~.

42 ...

43 (e) Aggravating Circumstances. – Aggravating circumstances which may be considered
44 ~~shall be~~ are limited to the following:

45 ...

46 (f) Mitigating Circumstances. – Mitigating circumstances which may be considered ~~shall~~
47 ~~include, but not be~~ are not limited to, the following:

48 ...

- 49 (4) The defendant was an accomplice in or accessory to the capital felony
50 committed by another person and ~~his~~ the defendant's participation was
51 relatively minor.

- (5) The defendant acted under duress or under the domination of another person.
- (6) The capacity of the defendant to appreciate the criminality of ~~his~~the defendant's conduct or to conform ~~his~~that conduct to the requirements of law was impaired.
- (7) The age of the defendant at the time of the crime.
- (8) The defendant aided in the apprehension of another capital felon or testified truthfully on behalf of the prosecution in another prosecution of a felony.
- (9) Any other circumstance arising from the evidence which the jury deems to have mitigating value."

SECTION 6.(a) G.S. 58-32-10 reads as rewritten:

"§ 58-32-10. Powers and duties of Commission.

The Commission may acquire from an insurance company or insurance companies a group plan of professional liability insurance covering the law-enforcement officers and/or public officers and employees of any political subdivision of the State. The Commission ~~shall have~~has full authority to negotiate with insurance companies submitting bids or proposals and shall award its group plan master contract on the basis of the company or companies found by it to offer maximum coverage at the most reasonable premium. The Commission ~~is authorized to~~may enter into a master policy contract of ~~such any term as that~~ it finds to be in the best interests of the law-enforcement officers and/or public officers and employees of the political subdivisions of the State, not to exceed five years. The Commission, in negotiating for ~~such the~~ contract, is not authorized to pledge or offer the credit of the State of North Carolina. The insurance premiums shall be paid by the political subdivisions whose employees are covered by the professional liability insurance. Any political subdivision may elect coverage for any or all of its employees on a departmental basis; ~~provided all basis~~. All employees in a department must be covered if coverage is elected for that department. Nothing ~~contained herein shall be construed to require in this section requires~~ any political subdivision to participate in any group plan of professional liability insurance.

The Commission may, in its discretion, employ professional and clerical staff whose salaries shall be as established by the State Human Resources Commission.

~~Should~~If the Commission ~~determine~~determines that reasonable coverage is not available at a reasonable cost, the Commission may undertake ~~such any~~ studies and inquiries into the situation and alternatives, including ~~self insurance~~self-insurance and ~~State administered~~State-administered funds, ~~as that~~ the Commission deems appropriate. The Commission shall then bring before the General Assembly ~~such any~~ recommendations ~~as that~~ it deems appropriate.

The Commission may acquire information regarding loss ratios, loss factors, loss ~~experience~~experience, and other such facts and figures from any agency or company issuing professional liability insurance covering public officers, ~~employees~~employees, or law-enforcement officers ~~in the State of North Carolina~~in this State. This information ~~shall not be deemed~~is not a public record within the meaning of Chapter 132 of the General Statutes where it names the company divulging ~~such the~~ information, but the Commission may make public ~~such the~~ information to show aggregate statistics in respect to the experience of the State as a whole. The information shall be provided to the Commission upon its written demand and shall be submitted to the Commission by ~~such the~~ company or companies upon sworn affidavit. If any agency or company ~~shall fail~~fails or ~~refuse~~refuses to supply ~~such the~~ information to the Commission within a reasonable time following receipt of the demand, the Commission may apply to the Superior Court sitting in Wake County for appropriate orders to enforce the demand.

For purposes of this section, the term "political subdivision" includes any county, city, town, incorporated village, sanitary district, metropolitan water district, county water and sewer district, water and sewer authority, hospital authority, parking authority, local ABC ~~boards~~board, special airport district, airport authority, soil and water conservation district created pursuant to G.S. 139-5, fire district, volunteer or paid fire department, rescue ~~squads~~squad, city or county

1 parks and recreation ~~commissions, commission,~~ area mental health ~~boards, board,~~ area mental
2 health, ~~mental retardation developmental disabilities,~~ and substance abuse authority as described
3 in G.S. 122C-117, domiciliary home community advisory ~~committees, committee,~~ county ~~and or~~
4 district ~~boards board~~ of health, nursing home advisory ~~committees, committee,~~ county ~~boards~~
5 ~~board~~ of social services, local school administrative ~~units, unit,~~ local ~~boards board~~ of education,
6 community ~~colleges, college,~~ and all other persons, bodies, or agencies authorized or regulated
7 by Chapters 108A, 115C, 115D, 118, 122C, 130A, 131A, 131D, 131E, 153A, 160A, and 160B
8 of the General Statutes."

9 **SECTION 6.(b)** G.S. 62-289.3 reads as rewritten:

10 **"§ 62-289.3. Definitions.**

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

- 12 (1) "Human service agency" means any Human service agency. – Any charitable
13 or governmental agency including, but not limited to: county departments of
14 social services, area mental health, ~~mental retardation or developmental~~
15 disabilities, and substance abuse authorities, local health departments,
16 councils on aging, community action agencies, sheltered workshops, group
17 homes-homes, and State residential institutions.
- 18 (2) "Human service transportation" means motor Human service transportation. –
19 Motor vehicle transportation provided on a nonprofit basis by a human service
20 agency for the purpose of transporting clients or recipients in connection with
21 programs sponsored by the agency. "Human service transportation" shall also
22 mean-also means motor vehicle transportation provided by for-profit persons
23 under exclusive contract with a human service agency for the transportation
24 of clients or recipients, and such provider shall also qualify as a human service
25 agency for the purpose of motor vehicle registration during the term of the
26 contract. The motor vehicle may be owned, leased, borrowed, or contracted
27 for use by or from the human service agency.
- 28 (3) "Nonprofit" as Nonprofit. – As applied to human service ~~transportation~~
29 transportation, means motor vehicle transportation provided at cost.
- 30 (4) "Person" means an Person. – An individual, corporation, company,
31 association, ~~partnership-partnership,~~ or other legal entity.
- 32 (5) "Volunteer transportation" means motor Volunteer transportation. – Motor
33 vehicle transportation provided by any person under the direction,
34 sponsorship, or supervision of a human service agency. The person may
35 receive an allowance to defray the actual cost of operating the vehicle but shall
36 not receive any other compensation."

37 **SECTION 6.(c)** G.S. 143B-152.14 reads as rewritten:

38 **"§ 143B-152.14. Cooperation of State and local agencies.**

39 All agencies of the State and local government, including the Juvenile Justice Section of the
40 Division of Adult Correction and Juvenile Justice of the Department of Public Safety,
41 departments of social services, health departments, local mental health, ~~mental retardation,~~
42 ~~developmental disabilities,~~ and substance abuse authorities, court personnel, law enforcement
43 agencies, The University of North Carolina, the community college system, and cities and
44 counties, shall cooperate with the Department of Health and Human Services, and local nonprofit
45 corporations that receive grants in coordinating the program at the State level and in
46 implementing the program at the local level. The Secretary of Health and Human Services, after
47 consultation with the Superintendent of Public Instruction, shall develop a plan for ensuring the
48 cooperation of State agencies and local agencies and encouraging the cooperation of private
49 entities, especially those receiving State funds, in the coordination and implementation of the
50 program."

51 **SECTION 6.(d)** G.S. 153A-247 reads as rewritten:

1 **"§ 153A-247. Provision for public health and mental health.**

2 A county may provide for and regulate the public health pursuant to Chapter 130A of the
3 General Statutes and any other law authorizing local public health activities and may provide
4 ~~mental health[,], mental retardation, mental health, developmental disabilities,~~ and substance
5 abuse programs pursuant to Chapter 122C of the General Statutes."

6 **SECTION 7.(a)** G.S. 58-51-25 reads as rewritten:

7 **"§ 58-51-25. Policy coverage to continue as to ~~mentally retarded or physically handicapped~~**
8 **~~children; children with an intellectual or physical disability; coverage of or~~**
9 **~~dependent students on medically necessary leave of absence.~~**

10 (a) An individual or group accident and health insurance policy, hospital service plan
11 policy, or medical service plan policy that provides that coverage of a dependent child shall
12 terminate upon attainment of the limiting age for dependent children specified in the policy or
13 contract, shall also provide in substance that attainment of ~~such the~~ limiting age shall not operate
14 or terminate the coverage of ~~such the~~ child while the child is and continues to be (i) incapable of
15 self-sustaining employment by reason of ~~mental retardation or physical handicap; an intellectual~~
16 ~~or physical disability;~~ and (ii) chiefly dependent upon the policyholder or subscriber for support
17 and ~~maintenance. Provided, maintenance. The proof of such incapacity and dependency is shall~~
18 ~~be~~ furnished to the insurer, hospital service plan corporation, or medical service plan corporation
19 by the policyholder or subscriber within 31 days of the child's attainment of the limiting age and
20 subsequently as may be required by the insurer or corporation, but not more frequently than
21 annually after the child's attainment of the limiting age.

22 (b) All health benefit plans, as defined in G.S. 58-3-167, that provide that coverage of a
23 dependent child shall terminate upon a change in enrollment of the child in a postsecondary
24 educational institution shall provide for the continued eligibility of the dependent child during a
25 medically necessary leave of absence from the postsecondary educational institution in
26 accordance with all applicable requirements of Public Law 110-381, known as Michelle's Law."

27 **SECTION 7.(b)** G.S. 58-51-35 reads as rewritten:

28 **"§ 58-51-35. Insurers and others to afford coverage to ~~mentally retarded and physically~~**
29 **~~handicapped children; children with an intellectual or physical disability.~~**

30 (a) No insurance company licensed in this State pursuant to the provisions of Articles 1
31 through 64 of this Chapter and no corporation governed by the provisions of Articles 65 and 66
32 of this Chapter shall refuse to issue or deliver any individual or group accident and health
33 insurance policy ~~of or~~ hospital or medical service plan policy in this State which it is currently
34 issuing for delivery in this State and which affords benefits or coverage for minor children of the
35 applicant, by reason of ~~the physical handicap or mental retardation; an intellectual or physical~~
36 ~~disability~~ of any minor children of the applicant; nor shall any such policy issued and delivered
37 in this State carry a higher premium rate or charge or restrict or exclude coverage or benefits by
38 reason of ~~said mental retardation or physical handicap. Provided, however, such policy the~~
39 ~~intellectual or physical disability. The policy, however, may exclude benefits, otherwise payable~~
40 ~~for disability, hospitalization, or medical or other therapeutic expense directly and solely~~
41 ~~attributable to such mental retardation or such physical handicap; the intellectual or physical~~
42 ~~disability.~~

43 ...

44 (c) The provisions of this section ~~shall~~ apply to corporations governed by the provisions
45 of Articles 65 and 66 of this Chapter."

46 **SECTION 7.(c)** G.S. 58-51-40 reads as rewritten:

47 **"§ 58-51-40. Insurers and others to afford coverage for active medical treatment in**
48 **tax-supported institutions.**

49 (a) Whenever any policy of insurance governed by Articles 1 through 64 of this Chapter
50 provides for benefits for charges of hospitals or physicians, the policy shall provide for payments
51 of benefits for charges made for medical care rendered in or by duly licensed State tax-supported

institutions, including charges for medical care of cerebral palsy, other orthopedic and crippling disabilities, mental and nervous diseases or disorders, ~~mental retardation, intellectual disability,~~ alcoholism and drug or chemical dependency, and respiratory illness, on a basis no less favorable than the basis which would apply had the medical care been rendered in or by any other public or private institution or provider. The term "State tax-supported institutions" ~~shall include~~ includes community mental health centers and other health clinics which are certified as Medicaid providers.

...

(c) The restrictions and regulations of this section ~~shall do~~ not apply to any policy which is individually underwritten or provided for a specific individual and the members of ~~his~~ the individual's family as a nongroup policy but ~~shall~~ apply to any group policy of insurance governed by Articles 1 through 64 of this Chapter."

SECTION 7.(d) G.S. 58-65-2 reads as rewritten:

"§ 58-65-2. Other laws applicable to service corporations.

The following provisions of this Chapter are applicable to service corporations that are subject to this Article:

...

G.S. 58-51-17

Portability for accident and health insurance.

G.S. 58-51-25.

Policy coverage to continue as to ~~mentally retarded or physically handicapped children.~~ children with an intellectual or physical disability or dependent students on medically necessary leave of absence.

G.S. 58-51-95(h),(i),(j).

Approval by Commissioner of forms, classification and rates; hearings; exceptions."

SECTION 7.(e) G.S. 58-65-65 reads as rewritten:

"§ 58-65-65. Coverage for active medical treatment in tax-supported institutions.

(a) No hospital or medical or dental service plan, ~~contract~~ contract, or certificate governed by ~~the provisions of this Article and Article 66 of this Chapter~~ shall be delivered, issued, ~~executed~~ executed, or renewed in this State, or approved for issuance or renewal in this State ~~by the Commissioner of Insurance, after May 21, 1975, State,~~ unless such plan, contract or ~~certificate~~ it provides for the payment of benefits for charges made for medical care rendered in or by duly licensed ~~state~~ State tax-supported institutions, including charges for medical care of cerebral palsy, other orthopedic and crippling disabilities, mental and nervous diseases and disorders, mental retardation, alcoholism and drug or chemical dependency, and respiratory illness, institutions on a basis no less favorable than the basis ~~which that~~ would apply had the medical care been rendered in or by any other public or private institution or provider. The term "~~state~~" State tax-supported institutions" ~~shall include~~ includes community mental health centers and other health clinics which are certified as Medicaid providers.

(b) No plan, contract, or certificate shall exclude payment for charges of a duly licensed ~~state~~ State tax-supported institution because of its being a specialty facility for one particular type of illness nor because it does not have an operating room and related equipment for the performance of surgery, but it is not required that benefits be payable for domiciliary or custodial care, rehabilitation, training, schooling, or occupational therapy.

(c) ~~The restrictions and requirements of this~~ This section ~~shall does~~ not apply to any plan, contract, or certificate ~~which that~~ is individually underwritten or provided for a specific individual and the members of ~~his~~ the individual's family as a nongroup policy, ~~but shall apply only to those hospital service and medical service subscriber plans, contracts, or certificates delivered, issued for delivery, reissued or renewed in this State on and after July 1, 1975.~~ policy."

SECTION 7.(f) G.S. 58-67-171 reads as rewritten:

"§ 58-67-171. Other laws applicable to HMOs.

The following provisions of this Chapter are applicable to HMOs that are subject to this Article:

- ...
- G.S. 58-51-17 Portability for accident and health insurance.
- G.S. 58-51-25. Policy coverage to continue as to ~~mentally retarded or physically handicapped children~~ children with an intellectual or physical disability or dependent students on medically necessary leave of absence.
- G.S. 58-51-35. Insurers and others to afford coverage to ~~mentally retarded and physically handicapped children~~ children with an intellectual or physical disability.
- G.S. 58-51-45. Policies to be issued to any person possessing the sickle-cell trait or hemoglobin C trait."

SECTION 8. G.S. 110-20.1 reads as rewritten:

"§ 110-20.1. Exhibition of certain children prohibited.

(a) Except to the extent otherwise provided in subsection (d) of this section, it is unlawful to exhibit publicly for any purpose, or to exhibit privately for the purpose of entertainment, or solely or primarily for the satisfaction of the curiosity of any observer, any child under the age of 18 years who ~~is mentally ill or mentally retarded~~ has a mental illness or intellectual disability or who presents the appearance of having any deformity or unnatural physical formation or development, whether or not the exhibiting of the child is in return for a monetary or other consideration.

(b) It is unlawful to employ, use, have custody of, or in any way be associated with any child described in subsection (a) of this section for the purpose of an exhibition ~~forbidden therein, prohibited by subsection (a) of this section,~~ or for one who has the care, ~~custody~~ custody, or control of the child as a parent, relative, guardian, ~~employer~~ employer, or otherwise, to neglect or refuse to restrain the child from participating in the exhibition.

(c) It is unlawful to procure or arrange for, or participate in procuring or arranging for, anything made unlawful by subsections (a) and ~~(b)~~ (b) of this section.

(d) This section does not apply to the transmission of an image by television by a duly licensed television station, or to any exhibition by a federal, State, ~~county~~ county, or municipal government, or political subdivision or agency thereof, or to any exhibition by any corporation, unincorporated association, or other organization organized and operated exclusively for religious, charitable, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(e) Any violation of this Article ~~shall be~~ is a Class 3 misdemeanor. Each day during which any violation of this Article continues after notice to the violator, from any county social services director, to cease and desist from any violation of this section ~~shall constitute~~ is a separate and distinct offense. Any act or omission ~~forbidden prohibited by this Article shall,~~ Article is, with respect to each ~~child described therein~~ child, a separate and distinct offense."

SECTION 9. G.S. 115C-106.3 reads as rewritten:

"§ 115C-106.3. Definitions.

The following definitions apply in this Article:

- (1) ~~"Child with a disability"~~ "Child with a disability." – A child with at least one disability who because of that disability requires special education and related services.
- (2) ~~"Disability"~~ "Disability." – Includes intellectual disability; hearing impairment, including deafness; speech or language impairment; visual impairment, including blindness; serious emotional disturbance; orthopedic impairment; autism; traumatic brain injury; other health impairments, specific learning disability, or other disability as may be

required to be included under IDEA. For a child ages three through seven, this term also includes developmental delay.

(3) ~~"Dispute"~~ means a Dispute. – A disagreement between the parties.

(3a) ~~"Educational services"~~ means all Educational services. – All of the following:

a. The necessary instructional hours per week in the form and format as determined by the child's IEP team and consistent with federal and State law. The instruction shall be delivered by an appropriately qualified teacher to the extent required by federal and State law, which requires a free appropriate public education and the opportunity for a sound basic education.

b. Related services included in the child's IEP.

c. Behavior intervention services to the extent required by federal law.

(4) ~~"Free appropriate public education"~~ means special Free appropriate public education. – Special education and related services that satisfy all of the following:

a. Are provided at public expense, under public supervision and direction, and without ~~charge;~~ charge.

b. Meet the standards of the State ~~Board;~~ Board.

c. Include an appropriate preschool, elementary school, or secondary school education in the ~~State;~~ and State.

d. Are provided in conformity with an individualized education program.

(5) ~~"Hearing officers"~~ include Hearing officers. – Include administrative law judges as defined in G.S. 150B-2(1) and hearing review officers.

(5a) ~~"Homebound instruction"~~ means educational Homebound instruction. – Educational services provided to a student outside the school setting.

(6) ~~"IDEA"~~ means IDEA. – The Individuals with Disabilities Education Improvement Act, 20 U.S.C. § 1400, et seq., (2004), as amended, and federal regulations adopted under this act.

(7) ~~"IEP Team"~~ is as IEP Team. – As defined in IDEA.

(8) ~~"Individualized education program" or "IEP"~~ means a Individualized education program (IEP). – A written statement for each child with a disability that is developed, reviewed, implemented, and revised consistent with IDEA and State law.

(9) ~~"Infant or toddler with a disability"~~ is as Infant or toddler with a disability. – As defined in IDEA.

(10) ~~"Least restrictive environment"~~ means Least restrictive environment. – To the maximum extent appropriate, children with disabilities are educated with children who ~~are not disabled,~~ do not have disabilities, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(11) ~~"Local educational agency"~~ includes Local educational agency. – Includes any of the following that provides special education and related services to children with disabilities:

a. A local school administrative unit.

b. A charter school.

c. The Department of Health and Human Services.

d. The Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

- e. Repealed by Session Laws 2017-186, s. 2(yyyy), effective December 1, 2017.
- f. Any other State agency or unit of local government.
- (12) ~~"Mediation" means an~~ Mediation. – An informal process conducted by a mediator with the objective of helping parties voluntarily settle their dispute.
- (13) ~~"Mediator" means a~~ Mediator. – A neutral person who acts to encourage and facilitate a resolution of a dispute.
- (14) ~~"Parent" means:~~ Parent. – Any of the following:
- A natural, adoptive, or foster ~~parent;~~ parent.
 - A guardian, but not the State if the child is a ward of the ~~State;~~ State.
 - An individual acting in the place of a natural or adoptive parent, including a grandparent, stepparent, or other relative, and with whom the child ~~lives;~~ lives.
 - An individual who is legally responsible for the child's ~~welfare;~~ or welfare.
 - A surrogate if one is appointed under G.S. 115C-109.2.
- (15) ~~"Party" or "Parties" means the~~ Party or parties. – The local educational agency or the parents, or both.
- (16) ~~"Petition" means a~~ Petition. – A request for a due process hearing as provided for under IDEA.
- (17) ~~"Preschool child with a disability" means a~~ Preschool child with a disability. – A child with one or more disabilities who meets all of the following criteria:
- Has reached his or her third birthday and whose parents have requested services from the public schools.
 - Is not eligible to enroll in public kindergarten.
 - Because of the disability, needs special education and related services in order to prepare the child to benefit from the educational programs provided by the public schools, beginning with kindergarten.
- (18) ~~"Related services" is as~~ Related services. – As defined in IDEA.
- (18a) ~~"Residence" or "reside" means the~~ Residence. – The place where a child with a disability is entitled to be enrolled in a North Carolina public school under G.S. 115C-366 except for the age requirements of that section. This definition ~~shall does not~~ apply to children with disabilities who were (i) enrolled in a particular local school administrative unit on the last day of school for the 2006-2007 school year, or (ii) enrolled in and attending a school in a particular local school administrative unit on August 1, 2007, for the 2007-2008 school year for as long as they live within and are continuously enrolled in that local school administrative unit. "Reside" means to have a residence as defined in this subdivision.
- (19) ~~"Rules" includes~~ Rules. – Includes rules, policies, and procedures. Rules as defined in G.S. 150B-2(8a) shall be adopted in accordance with Article 2A of Chapter 150B of the General Statutes.
- (20) ~~"Special education" means specially~~ Special education. – Specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability. The term includes instruction in physical education and instruction conducted in a classroom, the home, a hospital or institution, and other settings."

SECTION 10.(a) G.S. 130A-399 reads as rewritten:

"§ 130A-399. Postmortem examination of inmates of certain public institutions.

Upon the death of any inmate of an institution maintained by the State, or a city, ~~county~~ county, or other political subdivision of the State, for the care of ~~the sick, mentally ill or mentally~~

1 ~~retarded~~, individuals with a sickness, mental illness, or intellectual disability, the administrator
2 of the institution in which the death occurs is ~~empowered to~~ may authorize a postmortem
3 examination of the deceased person. The examination shall be of a scope and nature necessary
4 to promote knowledge of the human organism and its disorders."

5 **SECTION 10.(b)** G.S. 130A-415 reads as rewritten:

6 "**§ 130A-415. Unclaimed bodies; bodies claimed by the Lifeguardianship Council of the**
7 ~~**Association for Retarded Citizens of North Carolina; The Arc of North Carolina,**~~
8 **Inc.; disposition.**

9 (a) Any person, including officers, ~~employees-employees,~~ and agents of the State or of
10 any unit of local government in the State, undertakers doing business within the State, hospitals,
11 nursing ~~homes-homes,~~ or other institutions, having physical possession of a dead body shall make
12 reasonable efforts to contact relatives of the deceased or other persons who may wish to claim
13 the body for final disposition. If the body remains unclaimed for final disposition for 10 days,
14 the person having possession shall notify the Commission of Anatomy. Upon request of the
15 Commission of Anatomy, the person having possession shall deliver the dead body to the
16 Commission of Anatomy at a time and place specified by the Commission of Anatomy or shall
17 permit the Commission of Anatomy to take and remove the body.

18 (b) All dead bodies not claimed for final disposition within 10 days of the decedent's
19 death may be received and delivered by the Commission of Anatomy pursuant to the authority
20 contained in G.S. 130A-33.30 and this Part and in accordance with the rules of the Commission
21 of Anatomy. Upon receipt of a body by the Commission of Anatomy all interests in and rights to
22 the unclaimed dead body shall vest in the Commission of Anatomy. The recipient to which the
23 Commission of Anatomy delivers the body shall pay all expenses for the embalming and delivery
24 of the ~~body, and for~~ body and the reasonable expenses arising from efforts to notify relatives or
25 others.

26 ...

27 (e) Due caution shall be taken to shield the unclaimed body from public view.

28 (f) Notwithstanding ~~anything contained in~~ this section, an unclaimed body ~~shall~~ does not
29 mean a dead body for which the deceased has made a gift pursuant to Part 3A of this Article.

30 (g) Nothing in this Part ~~shall require-requires~~ the officers, ~~employees-employees,~~ or
31 agents of a county to notify the Commission of Anatomy regarding the bodies of minors who
32 were in the custody of the county at the time of death and whose final disposition will be arranged
33 by the county. In the absence of notification, the expenses of the final disposition shall be a charge
34 upon the county having custody.

35 (h) ~~The provisions of this Part shall~~ This Part does not apply to bodies within the
36 jurisdiction of the medical examiner under G.S. 130A-383 or G.S. 130A-384.

37 (i) In addition to the other duties of the Commission of Anatomy, when the Commission
38 of Anatomy is notified by the Lifeguardianship Council of ~~the Association of Retarded Citizens~~
39 ~~of North Carolina, Inc.,~~ The Arc of North Carolina, Inc., that the Council intends to claim a body,
40 the Commission shall release the body to the Council. The Lifeguardianship Council shall notify
41 the Commission of Anatomy within 24 hours after death of its intent to claim a body for burial
42 or other humane and caring disposition."

43 **SECTION 11.** G.S. 143-282 reads as rewritten:

44 "**§ 143-282. Duties of Commission; recommendations.**

45 This Commission shall study the problems relating to the care of the aged with ~~especial~~
46 special reference to those failing mentally and shall inquire into the methods of meeting and
47 handling this problem in other states. It shall make a similar study of the problem of the care of
48 ~~the feeble-minded, individuals with an intellectual disability,~~ with ~~especial-special~~ special attention to ~~the~~
49 those requiring custodial ~~care of intellectually handicapped persons not teachable or trainable.~~
50 care. It shall make a study of the problems relating to the care of ~~the physically handicapped~~
51 individuals with a physical disability with a special reference to those whose physical handicap

1 disability renders them incapable of self-support and shall inquire into the methods of meeting
2 and handling this problem in other states.

3 It shall make recommendations to the Governor offering plans for dealing with the problem
4 of the care needed for this group, and means of clarification of the responsibility of the State and
5 respective counties."

6 **SECTION 12.** G.S. 159-40 reads as rewritten:

7 **"§ 159-40. Special regulations pertaining to nonprofit corporations receiving public funds.**

8 (a) If a city or county grants or appropriates one thousand dollars (\$1,000) or more in any
9 fiscal year to a nonprofit corporation or organization, the city or county may require that the
10 nonprofit corporation or organization have an audit performed for the fiscal year in which the
11 funds are received and may require that the nonprofit corporation or organization file a copy of
12 the audit report with the city or county.

13 (b) Any nonprofit corporation or organization which receives one thousand dollars
14 (\$1,000) or more in State funds shall, at the request of the State Auditor, submit to an audit by
15 the office of the State Auditor for the fiscal year in which ~~such the~~ funds were received.

16 (c) Every nonprofit corporation or organization which has an audit performed pursuant
17 to this section shall file a copy of the audit report with the office of the State Auditor.

18 (d) ~~The provisions of this section shall~~ This section does not apply to ~~sheltered workshops~~
19 ~~or to Adult Development Activity Programs or to private residential facilities for the mentally~~
20 ~~retarded and developmentally disabled or to Developmental Day Care Centers or to any the~~
21 following:

22 (1) Sheltered workshops.

23 (2) Adult development activity programs.

24 (3) Private residential facilities for individuals with an intellectual or
25 developmental disability.

26 (4) Developmental day care centers.

27 (5) Any nonprofit corporation or organization whose sole use of public funds is
28 to provide hospital services or operate as a volunteer fire department, rescue
29 squad, or ambulance squad, or which operates as a junior college, college
30 college, or university duly accredited by the southern regional accrediting
31 association.

32 (e) Repealed by Session Laws 1979, c. 905."

33 **SECTION 13.** G.S. 168-21 reads as rewritten:

34 **"§ 168-21. Definitions.**

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

36 (1) ~~"Family care home" means a Family care home. – A home with support and~~
37 ~~supervisory personnel that provides room and board, personal care care, and~~
38 ~~habilitation services in a family environment for not more than six resident~~
39 ~~persons with disabilities.~~

40 (2) ~~"Person with disabilities" means a Person with disabilities. – A person with a~~
41 ~~temporary or permanent physical, emotional, or mental disability including~~
42 ~~but not limited to mental retardation, an intellectual disability, cerebral palsy,~~
43 ~~epilepsy, autism, hearing and sight impairments, emotional disturbances and~~
44 ~~orthopedic impairments but not including mentally ill persons who are~~
45 ~~dangerous to others as defined in G.S. 122C-3(11)b."~~

46 **SECTION 14.** G.S. 168A-3 reads as rewritten:

47 **"§ 168A-3. Definitions.**

48 ~~As used in this Chapter, unless the context otherwise requires:~~ The following definitions apply
49 in this Chapter:

50 (1) ~~"Covered governmental entity" means any Covered governmental entity. –~~
51 Any State department, institution, agency, or any political subdivision of the

State or any person that contracts with a State department, institution, agency, or political subdivision of the State for the delivery of public services, including, but not limited to, education, health, social services, recreation, and rehabilitation.

(1a) ~~"Disabling condition" means any~~ Disabling condition. – Any condition or characteristic that renders a person a person with a disability.

(1b) ~~"Discriminatory practice" means any~~ Discriminatory practice. – Any practice prohibited by this Chapter.

(2) ~~"Employer" means any~~ Employer. – Any person employing 15 or more full-time employees within the State, but excluding a person whose only employees are hired to work as domestic or farm workers at that person's home or farm.

(3) ~~"Employment agency" means a~~ Employment agency. – A person regularly undertaking with or without compensation to procure for employees opportunities to work for an employer and includes an agent of such a person.

(4) Recodified as G.S. 168A-3(7a).

(4a) ~~"Information technology" has the same meaning as~~ Information technology. – As defined in G.S. 143B-1320. The term also specifically includes information transaction machines.

(5) Recodified as G.S. 168A-3(1).

(6) ~~"Labor organization" means an~~ Labor organization. – An organization of any kind, an agency or employee representation committee, a group association, or a plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment.

(7) ~~"Person" includes any~~ Person. – Any individual, partnership, association, corporation, labor organization, legal representative, trustee, receiver, and the State and its departments, agencies, and political subdivisions.

(7a) ~~"Person with a disability" means any~~ Person with a disability. – Any person who (i) has a physical or mental impairment which substantially limits one or more major life activities; (ii) has a record of such an impairment; or (iii) is regarded as having such an impairment. As used in this subdivision, the term: The following definitions apply in this subdivision:

a. ~~"Physical or mental impairment" means (i) any~~ Physical or mental impairment. – Any of the following:

1. Any physiological disorder or abnormal condition, cosmetic disfigurement, or anatomical loss, caused by bodily injury, birth defect—defect, or illness, affecting a body system, including, but not limited to, neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or (ii) any mental disorder, such as mental retardation, organic brain syndrome, mental illness, specific learning disabilities, and other developmental disabilities, but (iii) endocrine.

2. Any mental or psychological disorder such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disability.

"Physical or mental impairment" excludes (A)-(i) sexual preferences; (B)-(ii) active alcoholism or drug addiction or abuse; and (C)-(iii) any

disorder, ~~condition~~ condition, or disfigurement which is temporary in nature, lasting six months or fewer, and leaving no residual impairment. A disorder, condition, or disfigurement that is episodic or in remission is a physical or mental impairment if it would substantially limit a major life activity when active.

- b. ~~"Major life activities" means functions.~~ Major life activities. – Functions, including, but not limited to, caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, eating, sleeping, lifting, bending, standing, breathing, learning, reading, concentrating, thinking, communicating, and working. A major life activity also includes the operation of a major bodily function, including, but not limited to, functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.
- c. ~~"Has a record of such an impairment" means has~~ Has a record of such an impairment. – Has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits major life activities.
- d. ~~"Is regarded as having an impairment" means (i) has~~ Is regarded as having an impairment. – Any of the following:
1. Has a physical or mental impairment that does not substantially limit major life activities but that is treated as constituting such a limitation; ~~(ii) has limitation.~~
 2. Has a physical or mental impairment that substantially limits major life activities because of the attitudes of ~~others; or (iii) has others.~~
 3. Has none of the impairments defined in ~~paragraph~~ sub-subdivision a. of this subdivision but is treated as having such an impairment.

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures, such as (i) medication, medical supplies, equipment, or appliances, low-vision devices, which do not include ordinary eyeglasses or contact lenses, prosthetics, including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies; (ii) use of assistive technology; (iii) reasonable accommodations or auxiliary aids or services; or (iv) learned behavioral or adaptive neurological modifications.

- (8) ~~"Place of public accommodations" includes.~~ Place of public accommodations. – Includes, but is not limited to, any place, facility, store, other establishment, hotel, or motel, which supplies goods or services on the premises to the public or which solicits or accepts the patronage or trade of any person.
- (9) ~~"Qualified person with a disability" means:~~ Qualified person with a disability. – All of the following:
- a. With regard to employment, a person with a disability who can satisfactorily perform the duties of the job in question, with or without reasonable accommodation, (i) provided that the person with a disability shall not be held to standards of performance different from other employees similarly employed, and (ii) further provided that the disabling condition does not create an unreasonable risk to the safety

- 1 or health of the person with a disability, other employees, the
2 employer's customers, or the ~~public~~; public.
- 3 b. With regard to places of public accommodation a person with a
4 disability who can benefit from the goods or services provided by the
5 place of public ~~accommodation~~; and accommodation.
- 6 c. With regard to public services and public transportation a person with
7 a disability who meets prerequisites for participation that are
8 uniformly applied to all participants, such as income or residence, and
9 that do not have the effect of discriminating against persons with a
10 disability.
- 11 (10) ~~"Reasonable accommodations" means:~~ Reasonable accommodations. – All of
12 the following:
- 13 a. With regard to employment, making reasonable physical changes in
14 the workplace, including, but not limited to, making facilities
15 accessible, modifying equipment and providing mechanical aids to
16 assist in operating equipment, or making reasonable changes in the
17 duties of the job in question that would accommodate the known
18 disabling conditions of the person with a disability seeking the job in
19 question by enabling him or her to satisfactorily perform the duties of
20 that ~~job~~; ~~provided that "reasonable job. "Reasonable accommodation"~~
21 ~~does not require that an employer;~~ employer do any of the following:
- 22 1. Hire one or more employees, other than the person with a
23 disability, for the purpose, in whole or in part, of enabling the
24 person with a disability to be ~~employed~~; or employed.
- 25 2. Reassign duties of the job in question to other employees
26 without assigning to the employee with a disability duties that
27 would compensate for those ~~reassigned~~; or reassigned.
- 28 3. Reassign duties of the job in question to one or more other
29 employees where ~~such the~~ reassignment would increase the
30 skill, ~~effort~~ effort, or responsibility required of ~~such the~~ other
31 employee or employees from that required prior to the change
32 in ~~duties~~; or duties.
- 33 4. Alter, modify, ~~change~~ change, or deviate from bona fide
34 seniority policies or ~~practices~~; or practices.
- 35 5. Provide accommodations of a personal nature, including, but
36 not limited to, eyeglasses, hearing aids, or prostheses, except
37 under the same terms and conditions as such items are provided
38 to the employer's employees ~~generally~~; or generally.
- 39 6. Repealed by Session Laws 2002-163, s. 2, effective January 1,
40 2003.
- 41 7. Make any changes that would impose on the employer an
42 undue hardship.
- 43 b. With regard to a place of public accommodations and a covered
44 governmental entity, making reasonable efforts to accommodate the
45 disabling conditions of a person with a disability, including, but not
46 limited to, making facilities accessible to and usable by persons with
47 a disability, redesigning equipment, providing auxiliary aids and
48 services needed to make aurally and visually delivered materials
49 available, as needed, to individuals with hearing or sight impairments,
50 providing mechanical aids or other assistance, or using alternative
51 accessible ~~locations~~; ~~provided that reasonable~~ locations. Reasonable

1 accommodations ~~does do~~ not require efforts which would impose an
2 undue hardship on the entity involved.

- 3 (11) ~~"Undue hardship" means a~~ Undue hardship. – A significant difficulty or
4 expense. The following factors shall be considered in determining whether an
5 accommodation would impose an undue hardship:

6"

7 **SECTION 15.** This act does not affect the coverage, eligibility, rights,
8 responsibilities, or provision of State or federal services or benefits for individuals who have
9 been diagnosed with mental retardation and whose diagnosis has not been changed to a diagnosis
10 of intellectual disability.

11 **SECTION 16.** Sections 1 and 2 become effective October 1, 2018, and apply to
12 proceedings commenced on or after that date. Sections 3 and 5 become effective December 1,
13 2018, and apply to hearings or trials commenced on or after that date. Sections 4 and 8 become
14 effective December 1, 2018, and apply to offenses committed on or after that date. The remainder
15 of this act is effective when it becomes law.

Committee Bill Action Sheet

Date: 9/13/2018

Committee: Judiciary I

Chair: Rep Ted Davis

Bill #: 5768

PCS: _____

Motion made before the committee by: No objection

Rep. Sen Barringer explained the bill.

Discussion on the Bill YES or NO

Rep Jean Farmer-Butterfield motioned for:

☒ Favorable Report

_____ Adoption

_____ Unfavorable Report

_____ Unfavorable to original bill, fav to PCS

_____ No vote

Amendments: : _____

If Senate Bill who is floor manager: Rep Ted Davis

Serial referral to: _____

Speakers:

Handouts:





HOUSE BILL 1087: Asheville/Body-Worn Cameras.

2017-2018 General Assembly

Committee:	House Judiciary 1. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	June 13, 2018
Introduced by:	Reps. Fisher, Ager, B. Turner	Prepared by:	Jennifer H. Bedford
Analysis of:	First Edition		Staff Attorney

OVERVIEW: *House Bill 1087 would create a local modification for Asheville allowing law enforcement to disclose or release a recording captured by a body-worn camera to the Asheville City Council.*

CURRENT LAW and BILL ANALYSIS: G.S. 132-1.4A authorizes a law enforcement agency that has custody of a recording from a body-worn camera to disclose or release the recording for training, administrative, or other law enforcement purposes.

Section 1 of House Bill 1087 would create a purpose for a law enforcement agency to disclose or release a recording to the Asheville City Council.

Section 2 of House Bill 1087 would amend the closed sessions' statute to allow the Asheville City Council to exclude the public, and maintain confidentiality in order to disclose a body-worn camera recording to members of the Council.

Section 3 of House Bill 1087 makes this act a local bill, impacting only the City of Asheville.

EFFECTIVE DATE: This act would be effective when it becomes law.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 1087

Short Title: Asheville/Body-Worn Cameras.

(Local)

Sponsors: Representatives Fisher, Ager, and B. Turner (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I, if favorable, Rules, Calendar, and Operations of the House

June 7, 2018

A BILL TO BE ENTITLED

AN ACT AMENDING THE BODY-WORN CAMERA LAW TO ALLOW THE CITY OF
ASHEVILLE TO DISCLOSE LAW ENFORCEMENT RECORDINGS TO THE
ASHEVILLE CITY COUNCIL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 132-1.4A(h) reads as rewritten:

"(h) Release of Recordings; Law Enforcement Purposes. – Notwithstanding the requirements of subsections (c), (f), and (g) of this section, a custodial law enforcement agency shall disclose or release a recording to a district attorney (i) for review of potential criminal charges, (ii) in order to comply with discovery requirements in a criminal prosecution, (iii) for use in criminal proceedings in district court, or (iv) any other law enforcement purpose, and may disclose or release a recording for any of the following purposes:

...

(4) Disclose a recording, in a closed session, to the city council. In advance of the disclosure, council members shall execute a confidentiality statement agreeing to maintain the confidentiality of the recording prior to viewing the recording. Recording images may be released publicly only upon court order."

SECTION 2. G.S. 143-318.11(a) reads as rewritten:

"(a) Permitted Purposes. – It is the policy of this State that closed sessions shall be held only when required to permit a public body to act in the public interest as permitted in this section. A public body may hold a closed session and exclude the public only when a closed session is required:

...

(11) For the city council to view a recording regulated pursuant to G.S. 132-1.4A."

SECTION 3. This act applies to the City of Asheville only.

SECTION 4. This act is effective when it becomes law.



★ H 1 0 8 7 - V - 1 ★





NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1087

H1087-ATT-86 [v.1]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 1 of 1

Amends Title [NO]
First Edition

Date _____, 2018

Representative _____

- 1 moves to amend the bill on page 1, line 17, by rewriting the line to read:
2 "recording. Before disclosing or releasing a recording that may contain
3 sensitive information or images to the city council, the custodial
4 enforcement agency may seek review by a judicial official. Recording
5 images may be released publicly only upon court order.""

SIGNED _____

Amendment Sponsor

SIGNED _____

Committee Chair if Senate Committee Amendment

ADOPTED _____

FAILED _____

TABLED _____



* H 1 0 8 7 - A T T - 8 6 - V - 1 *

Committee Bill Action Sheet

Date: 9/13/2018

Committee: Judiciary I

Chair: Rep Ted Davis

Bill #: H1087

PCS: _____

Motion made before the committee by: No objection

Rep. Fisher explained the bill.

Discussion on the Bill YES or NO

Rep _____ motioned for:

_____ Favorable Report

_____ Adoption

_____ Unfavorable Report

_____ Unfavorable to original bill, fav to PCS

_____ No vote

Amendments: : _____

If Senate Bill who is floor manager: _____

Serial referral to: Rules

Speakers:

Handouts:



**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

**JUDICIARY I COMMITTEE REPORT
Representative Ted Davis, Jr., Chair**

FAVORABLE

HB 379 (SCS#1)

Recodification Working Group.

Draft Number: None
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: Riddell

SB 768 (CS#1)

People First Language 2018.

Draft Number: None
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: Davis

TOTAL REPORTED: 2



★ C M R 7 7 9 - V - 1 ★



VISITOR REGISTRATION SHEET

House Committee on Judiciary I

6/13/2018

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mary Lee	NC Advocates for Justice Raleigh NC
Maggie Pollard	STUDENT
Rachel Hammond	Duke Energy
Susan Vicks	Duke Energy
Perry Bell	SOG
Phil Tester	NC Court of Appeals
Suzanna Bising	ACLU-NC
Peter Bolac	NC State Bar
Liz Halder	Smith Anderson
Sheree Vedicke	NC Alliance of YMCAs
Sarah Lissner	YMCA of the Triangle


Jen Royall


NCFPC



VISITOR REGISTRATION SHEET

House Committee on Judiciary I

6/13/2018

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Chris Mulvey	intern for NCGA
John Madler	NC Sentencing Commission
Meghan Boyd Ward	NC Sentencing Commission
Gary Hooker Jr.	NCHFA
Danielle Heymann	Intern for NCGA
John Midgette	NCPBA
Nick Billman	WM
Davis Culton	Intern for Lt. Governor
Becki Gray	GLJ
Floyd Lewis	GSC
David Unwin	GSC



VISITOR REGISTRATION SHEET

House Committee on Judiciary I

6/13/2018

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Mason Leonard

Page

Anna Joshi

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Andrew Cahn

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Savannah-Grace
Jones

Page

Isaac Williams

Page



Esther Manheimer
Mayor of Asheville

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