

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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PROPOSED SENATE COMMITTEE SUBSTITUTE H250-CSCE-41 [v.6]
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Short Title: Med Exam/ IDS/ Ignition Interlock Changes.

(Public)

Sponsors:

Referred to:

March 2, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE REVISIONS PERTAINING TO DEATH INVESTIGATIONS UNDER
3 THE JURISDICTION OF THE OFFICE OF THE CHIEF MEDICAL EXAMINER,
4 MODIFY THE INDIGENT DEFENSE SERVICES COMMISSION, AND TO PROVIDE
5 THAT A PERSON SUBJECT TO AN IGNITION INTERLOCK SYSTEM
6 REQUIREMENT SHALL HAVE THE PERSON'S PERIOD OF COMPLIANCE WITH
7 THE REQUIREMENT EXTENDED IF THE PERSON COMMITS AN IGNITION
8 INTERLOCK SYSTEM VIOLATION DURING THE NINETY-DAY PERIOD
9 IMMEDIATELY PRECEDING THE DATE THE PERSON'S INITIAL PERIOD OF
10 COMPLIANCE IS TO END.

11 The General Assembly of North Carolina enacts:

12 **REVISIONS PERTAINING TO DEATH INVESTIGATIONS UNDER THE**
13 **JURISDICTION OF THE OFFICE OF THE CHIEF MEDICAL EXAMINER**

14 **SECTION 1.(a)** G.S. 130A-382(b) reads as rewritten:

15 "(b) County medical examiners shall complete continuing education training as directed
16 by the Office of the Chief Medical Examiner and based upon established and published
17 guidelines for conducting death investigations. The continuing education training shall include
18 training regarding (i) sudden unexpected death in ~~epilepsy-epilepsy~~ and (ii) requirements for
19 compliance with the duties prescribed by G.S. 130A-385 and G.S. 130A-389. The Office of the
20 Chief Medical Examiner shall annually update and publish these guidelines on its Internet Web
21 site. Newly appointed county medical examiners shall complete mandatory orientation training
22 as directed by the Office of the Chief Medical Examiner within 90 days ~~of~~ after their
23 appointment."

24 **SECTION 1.(b)** G.S. 130A-385 reads as rewritten:

25 "**§ 130A-385. Duties of medical examiner upon receipt of notice; reports; copies.**

26 (a) Upon receipt of a notification under G.S. 130A-383, the medical examiner shall take
27 charge of the body, make inquiries regarding the cause and manner of death, reduce the findings
28 to writing and promptly make a full report to the Chief Medical Examiner on forms prescribed
29 for that purpose.

30 The Chief Medical Examiner or the county medical examiner ~~is authorized to~~ may (i) inspect
31 and copy the medical records of the decedent whose death is under ~~investigation~~ investigation,
32 (ii) collect the decedent's personal possessions associated with the death, including clothing on
33 the decedent's body, and (iii) collect tissue and blood samples, cultures, medical images, X-rays,
34 and other medical information obtained through the use of medical equipment. In addition, in an
35 investigation conducted pursuant to this Article, the Chief Medical Examiner or the county



1 ~~medical examiner is authorized to~~ may, for the purpose of carrying out the duties imposed under
 2 this Article, seek an administrative search warrant pursuant to G.S. 15-27.2 authorizing the Chief
 3 Medical Examiner or the county medical examiner to inspect all other physical evidence and
 4 documents which that may be relevant to determining the cause and manner of death of the person
 5 whose death is under investigation, including decedent's personal possessions associated with the
 6 death, clothing, weapons, tissue and blood samples, cultures, medical equipment, X-rays and
 7 other medical images. The Chief Medical Examiner or county medical examiner is further
 8 authorized to seek an administrative search warrant pursuant to G.S. 15-27.2 for the purpose of
 9 carrying out the duties imposed under this Article. investigation. In addition to the requirements
 10 of G.S. 15-27.2, no administrative search warrant shall be issued pursuant to this section unless
 11 the Chief Medical Examiner or county medical examiner submits an affidavit from the office of
 12 the district attorney in the district in which death occurred stating that the death in question is not
 13 under criminal investigation.

14 Nothing in this subsection shall be construed as allowing the Chief Medical Examiner or any
 15 county medical examiner to conduct an investigation pursuant to this Article without first
 16 complying with any applicable provisions of the Fourth Amendment to the United States
 17 Constitution or Section 20 of Article I of the North Carolina Constitution relating to unreasonable
 18 searches and seizures.

19 The Chief Medical Examiner shall provide directions as to the nature, character and extent
 20 of an investigation and appropriate forms for the required reports. The facilities of the central and
 21 district offices and their staff services shall be available to the medical examiners and designated
 22 pathologists in their investigations.

23 (a1) The Office of the Chief Medical Examiner shall conduct comprehensive toxicology
 24 screening in all child death cases that fall under the jurisdiction of the medical examiner pursuant
 25 to G.S. 130A-383 or G.S. 130A-384.

26 (b) The medical examiner shall complete a certificate of death, stating the name of the
 27 disease ~~which in his opinion that,~~ in the opinion of the medical examiner, caused death. If the
 28 death was from external causes, the medical examiner shall state on the certificate of death the
 29 means of death, and whether, in the medical examiner's opinion, the manner of death was
 30 accident, suicide, homicide, execution by the State, or undetermined. The medical examiner shall
 31 also furnish any information as may be required by the State Registrar of Vital Statistics in order
 32 to properly classify the death.

33 (c) The Chief Medical Examiner ~~shall have authority to~~ may amend a ~~medical examiner~~
 34 ~~death certificate.~~ certificate of death completed by a medical examiner pursuant to subsection (b)
 35 of this section.

36 (d) ~~A~~ The medical examiner shall provide a complete copy of the report of the medical
 37 examiner investigation may be forwarded file to the appropriate district attorney.

38"

39 **SECTION 1.(c)** G.S. 130A-389(a) reads as rewritten:

40 "(a) The Chief Medical Examiner or a competent pathologist designated by the Chief
 41 Medical Examiner shall perform an autopsy or other study in each of the following cases:

- 42 (1) If, in the opinion of the medical examiner investigating the case or of the Chief
 43 Medical Examiner, it is advisable and in the public interest that an autopsy or
 44 other study be made.
- 45 (2) If an autopsy or other study is requested by the district attorney of the county
 46 or by any superior court judge.
- 47 (3) ~~In~~ Notwithstanding subdivision (2) of this subsection, in any case in which the
 48 district attorney of the county asserts to the Chief Medical Examiner or the
 49 medical examiner of the county in which the body was located that there is
 50 probable cause to believe that a violation of G.S. 14-18.4 has occurred, a
 51 complete autopsy shall be performed. The district attorney has at least 72

1 weekday hours after pronouncement of death by a person authorized under
2 this Part to express the opinion that death has occurred to make the assertion
3 required by this subdivision. The district attorney is not required to assert to
4 the Chief Medical Examiner the facts supporting probable cause to believe
5 that a violation of G.S. 14-18.4 has occurred.

6 A complete autopsy report of findings and interpretations, prepared on forms designated for
7 the purpose, shall be submitted promptly to the Chief Medical Examiner. Subject to the
8 limitations of G.S. 132-1.4(a) relating to records of criminal investigations and G.S. 130A-389.1
9 relating to photographs and video or audio recordings of an autopsy, a copy of the report shall be
10 furnished to any person upon request.

11"

12 **SECTION 1.(d)** G.S.130A-389.1 reads as rewritten:

13 **"§ 130A-389.1. Photographs and video or audio recordings made pursuant to autopsy.**

14 (a) ~~Except as otherwise provided by law, any person may inspect and examine original~~
15 ~~photographs or video or audio recordings of an autopsy performed pursuant to G.S. 130A-389(a)~~
16 ~~at reasonable times and under reasonable supervision of the custodian of the photographs or~~
17 ~~recordings. Except as otherwise provided by this section, no custodian of the original recorded~~
18 images shall furnish copies of photographs or video or audio recordings of an autopsy to the
19 public. For purposes of this section, the Chief Medical Examiner shall be the custodian of all
20 autopsy photographs or video or audio recordings unless the photographs or recordings were
21 taken by or at the direction of an investigating medical examiner and the investigating medical
22 examiner retains the original photographs or recordings. If the investigating medical examiner
23 has retained the original photographs or recordings, then the investigating medical examiner is
24 the custodian of the photographs or video or audio recordings and must allow the public to inspect
25 and examine them in accordance with this subsection. recordings.

26 (b) The following public officials may obtain copies of autopsy photographs or video or
27 audio recordings for official use only. These public officials shall not disclose the photographs
28 or video or audio recordings to the public except as provided by law:

- 29 (1) The Chief Medical Examiner or a pathologist designated by the Chief Medical
30 Examiner.
- 31 (2) Investigating Medical Examiner.
- 32 ~~(3) District attorney.~~
- 33 (4) Superior court judge.
- 34 (5) Law enforcement officials conducting an investigation relating to the death.

35 A public official authorized by this subsection to obtain copies may provide a copy of the
36 photograph or videotape to another person for the sole purpose of aiding in the identification of
37 the deceased through publication of the photograph or videotape.

38"

39 **SECTION 1.(e)** G.S. 132-1.4 reads as rewritten:

40 **"§ 132-1.4. Criminal investigations; intelligence information records; Innocence Inquiry**
41 **Commission records.**

42 (a) Records of criminal investigations conducted by public law enforcement agencies,
43 records of criminal intelligence information compiled by public law enforcement agencies, and
44 records of investigations conducted by the North Carolina Innocence Inquiry Commission, are
45 not public records as defined by G.S. 132-1. Records of criminal investigations conducted by
46 public law enforcement agencies or records of criminal intelligence information may be released
47 by order of a court of competent jurisdiction.

48 (b) As used in this section:

- 49 (1) "Records of criminal investigations" means all records or any information that
50 pertains to a person or group of persons that is compiled by public law
51 enforcement agencies for the purpose of attempting to prevent or solve

violations of the law, including information derived from witnesses, laboratory tests, surveillance, investigators, confidential informants, photographs, and measurements. The term also includes ~~any~~ all of the following:

- a. Any records, worksheets, reports, or analyses prepared or conducted by the North Carolina State Crime Laboratory at the request of any public law enforcement agency in connection with a criminal investigation.
- b. Any records, worksheets, reports, photographs, tests, or analyses compiled, prepared, or conducted by the North Carolina Office of the Chief Medical Examiner, a pathologist designated by the Chief Medical Examiner, a county medical examiner appointed under G.S. 130A-382, or an investigating medical examiner in connection with a death under criminal investigation by a public law enforcement agency or during the pendency of criminal charges associated with a death.

...."

SECTION 1.(f) This section becomes effective July 1, 2024.

MODIFY INDIGENT DEFENSE SERVICES COMMISSION

SECTION 2.(a) G.S. 7A-498.4 reads as rewritten:

"§ 7A-498.4. Establishment of Commission on Indigent Defense Services.

(a) The Commission on Indigent Defense Services is created within the Office of Indigent Defense Services and shall consist of ~~439~~ members. To create an effective working group, assure continuity, and achieve staggered terms, the Commission shall be appointed as provided in this section.

(b) The members of the Commission shall be appointed as follows:

- (1) ~~The Chief Justice of the North Carolina Supreme Court shall appoint one member, who~~ three members, two of whom shall be an active or former member of the North Carolina judiciary, attorneys and one of whom shall be a nonattorney.
- ~~(2) The Governor shall appoint one member, who shall be a nonattorney.~~
- (3) ~~The General Assembly shall appoint one member, who shall be an attorney,~~ three members, upon the recommendation of the President Pro Tempore of the Senate, two of whom shall be attorneys and one of whom shall be a nonattorney.
- (4) ~~The General Assembly shall appoint one member, who shall be an attorney,~~ three members, upon the recommendation of the Speaker of the House of Representatives, two of whom shall be attorneys and one of whom shall be a nonattorney.
- ~~(5) The North Carolina Public Defenders Association shall appoint member, who shall be an attorney.~~
- ~~(6) The North Carolina State Bar shall appoint one member, who shall be an attorney.~~
- ~~(7) The North Carolina Bar Association shall appoint one member, who shall be an attorney.~~
- ~~(8) The North Carolina Academy of Trial Lawyers shall appoint one member, who shall be an attorney.~~
- ~~(9) The North Carolina Association of Black Lawyers shall appoint one member, who shall be an attorney.~~

- 1 ~~(10) The North Carolina Association of Women Lawyers shall appoint one~~
2 ~~member, who shall be an attorney.~~
- 3 ~~(11) The Commission shall appoint three members, who shall reside in different~~
4 ~~judicial districts from one another. One appointee shall be a nonattorney, and~~
5 ~~one appointee may be an active member of the North Carolina judiciary. One~~
6 ~~appointee shall be Native American. The initial three members satisfying this~~
7 ~~subdivision shall be appointed as provided in subsection (k) of this section.~~

8 (c) The initial terms of members appointed pursuant to subsection (b) of this section shall
9 be as follows:

10 ~~(1) The initial appointments by the Chief Justice, the Governor, and the General~~
11 ~~Assembly shall be for four years.~~

12 ~~(2) The initial appointments by the Public Defenders Association and State Bar,~~
13 ~~and one appointment by the Commission, shall be for three years.~~

14 ~~(3) The initial appointments by the Bar Association and Trial Academy, and one~~
15 ~~appointment by the Commission, shall be for two years.~~

16 ~~(4) The initial appointments by the Black Lawyers Association and Women~~
17 ~~Lawyers Association, and one appointment by the Commission, shall be for~~
18 ~~one year.~~

19 At the expiration of these initial terms, appointments shall be for four years and shall be made
20 by the appointing authorities designated in subsection (b) of this section. No person shall serve
21 more than two consecutive four-year terms plus any initial term of less than four years.

22 (d) Persons appointed to the Commission shall have significant experience in the defense
23 of criminal or other cases subject to this Article or shall have demonstrated a strong commitment
24 to quality representation in indigent defense matters. No active prosecutors or law enforcement
25 officials, or active employees of such persons, may be appointed to or serve on the Commission.
26 No active judicial officials, or active employees of such persons, may be appointed to or serve
27 on the ~~Commission, except as provided in subsection (b) of this section.~~Commission. No active
28 public defenders, active employees of public defenders, or other active employees of the Office
29 of Indigent Defense Services may be appointed to or serve on the Commission, except that
30 notwithstanding this subsection, G.S. 14-234, or any other provision of law, Commission
31 members may include part-time public defenders employed by the Office of Indigent Defense
32 Services and may include persons, or employees of persons or organizations, who provide legal
33 services subject to this Article as contractors or appointed attorneys.

34 ...

35 ~~(k) The Commission shall hold its first meeting no later than September 15, 2000. All~~
36 ~~appointments to the Commission specified in subdivisions (1) through (10) of subsection (b) of~~
37 ~~this section shall be made by the appointing authorities by September 1, 2000. The appointee of~~
38 ~~the Chief Justice shall convene the first meeting. No later than 30 days after its first meeting, the~~
39 ~~Commission shall make the appointments specified in subdivision (11) of subsection (b) of this~~
40 ~~section and shall elect its chair."~~

41 **SECTION 2.(b)** This section becomes effective October 1, 2024. Notwithstanding
42 any provision of law to the contrary, the terms of members of the Indigent Defense Services
43 Commission appointed prior to October 1, 2024, shall conclude as follows:

44 (1) For those appointed pursuant to G.S. 7A-498.4(b)(6) and (11), the terms shall
45 end October 1, 2024.

46 (2) For those appointed pursuant G.S. 7A-498.4(b)(8), (9), and (10), the terms
47 shall end with the appointment of members pursuant to G.S. 7A-498.4(b)(1).

48 (3) For those appointed pursuant G.S. 7A-498.4(b)(3), (5), and (7), the terms shall
49 end with the appointment of members pursuant to G.S. 7A-498.4(b)(3).

50 (4) For those appointed pursuant G.S. 7A-498.4(b)(1), (2), and (4), the terms shall
51 end with the appointment of members pursuant to G.S. 7A-498.4(b)(4).

1
2 **IGNITION INTERLOCK CHANGES**

3 **SECTION 3.(a)** G.S. 20-179.3 reads as rewritten:

4 **"§ 20-179.3. Limited driving privilege.**

5 ...

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

9 (1) A restriction that the applicant may operate only a designated motor vehicle.

10 (2) A requirement that the designated motor vehicle be equipped with a
11 functioning ignition interlock system of a type approved by the
12 Commissioner, which is set to prohibit driving with an alcohol concentration
13 of greater than 0.02. The Commissioner shall not unreasonably withhold
14 approval of an ignition interlock system and shall consult with the Division of
15 Purchase and Contract in the Department of Administration to ensure that
16 potential vendors are not discriminated against.

17 (3) A requirement that the applicant personally activate the ignition interlock
18 system before driving the motor vehicle.

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

25 ...

26 (j) Effect of Violation of Restriction. – ~~A-Except as otherwise provided in subsection (j2)~~
27 of this section, a person holding a limited driving privilege who violates any of its restrictions
28 commits the offense of driving while license is revoked for impaired driving under
29 G.S. 20-28(a1) and is subject to punishment and license revocation as provided in that section. If
30 a law-enforcement officer has reasonable grounds to believe that the person holding a limited
31 driving privilege has consumed alcohol while driving or has driven while the person has
32 remaining in the person's body any alcohol previously consumed, the suspected offense of
33 driving while license is revoked is an alcohol-related offense subject to the implied-consent
34 provisions of G.S. 20-16.2. If a person holding a limited driving privilege is charged with driving
35 while license revoked by violating a restriction contained in the limited driving privilege, and a
36 judicial official determines that there is probable cause for the charge, the limited driving
37 privilege is suspended pending the resolution of the case, and the judicial official must require
38 the person to surrender the limited driving privilege. The judicial official must also notify the
39 person that the person is not entitled to drive until the case is resolved.

40 Notwithstanding any other provision of law, an alcohol screening test may be administered
41 to a driver suspected of violating this section, and the results of an alcohol screening test or the
42 driver's refusal to submit may be used by a law enforcement officer, a court, or an administrative
43 agency in determining if alcohol was present in the driver's body. No alcohol screening tests are
44 valid under this section unless the device used is one approved by the Department of Health and
45 Human Services, and the screening test is conducted in accordance with the applicable
46 regulations of the Department as to the manner of its use.

47 ...

48 (j2) Effect of Ignition Interlock System Violation During Final 90-Day Period. –
49 Notwithstanding subsection (j) of this section, a person holding a limited driving privilege,
50 including the restriction set forth in subsection (g5) of this section who commits an ignition
51 interlock system violation during the 90-day period immediately preceding the date on which the

1 person's compliance with subsection (g5) of this section is to end shall have the period of
2 compliance with subsection (g5) of this section extended for an additional period of 90 days or
3 until the person has been violation-free for such extended period. For purposes of this subsection,
4 the term "ignition interlock system violation" means any of the following:

- 5 (1) A violation of any of the restrictions set forth in subsection (g5) of this section.
- 6 (2) A violation of G.S. 20-17.8A.
- 7 (3) A violation of any of the rules established by the Division for use of an ignition
8 interlock system on a designated motor vehicle.

9"

10 **SECTION 3.(b)** G.S. 20-17.8 reads as rewritten:

11 **"§ 20-17.8. Restoration of a license after certain driving while impaired convictions;**
12 **ignition interlock.**

13 ...

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

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

28 (c) Length of Requirement. – ~~The~~ Except as otherwise provided in subsection (g1) of this
29 section, the requirements of subsection (b) shall remain in effect for one of the following:

- 30 (1) One year from the date of restoration if the original revocation period was one
31 year.
- 32 (2) Three years from the date of restoration if the original revocation period was
33 four years.
- 34 (3) Seven years from the date of restoration if the original revocation was a
35 permanent revocation.

36 ...

37 (f) Effect of Violation of Restriction. – ~~A~~ Except as otherwise provided in subsection
38 (g1) of this section, a person subject to this section who violates any of the restrictions of this
39 section commits the offense of driving while license revoked for impaired driving under
40 G.S. 20-28(a1) and is subject to punishment and license revocation as provided in that section. If
41 a law enforcement officer has reasonable grounds to believe that a person subject to this section
42 has consumed alcohol while driving or has driven while he has remaining in his body any alcohol
43 previously consumed, the suspected offense of driving while license is revoked is an
44 alcohol-related offense subject to the implied-consent provisions of G.S. 20-16.2. If a person
45 subject to this section is charged with driving while license revoked by violating a condition of
46 subsection (b) of this section, and a judicial official determines that there is probable cause for
47 the charge, the person's license is suspended pending the resolution of the case, and the judicial
48 official must require the person to surrender the license. The judicial official must also notify the
49 person that he is not entitled to drive until his case is resolved. An alcohol concentration report
50 from the ignition interlock system shall not be admissible as evidence of driving while license
51 revoked, nor shall it be admissible in an administrative revocation proceeding as provided in

1 subsection (g) of this section, unless the person operated a vehicle when the ignition interlock
2 system indicated an alcohol concentration in violation of the restriction placed upon the person
3 by subdivision (b)(3) of this section.

4 (g) Effect of Violation of Restriction When Driving While License Revoked Not
5 Charged. – ~~A~~ Except as otherwise provided in subsection (g1) of this section, a person subject to
6 this section who violates any of the restrictions of this section, but is not charged or convicted of
7 driving while license revoked pursuant to G.S. 20-28(a), shall have the person's license revoked
8 by the Division for a period of one year.

9 (g1) Effect of Ignition Interlock System Violation During Final 90-Day Period. –
10 Notwithstanding subsections (f) or (g) of this section, a person subject to this section who
11 commits an ignition interlock system violation during the 90-day period immediately preceding
12 the date on which the person's length of requirement set forth in subsection (c) of this section is
13 to end shall have the period of compliance with subsection (b) of this section extended for an
14 additional period of 90 days or until the person has been violation-free for such extended period.
15 For purposes of this subsection, the term "ignition interlock system violation" means any of the
16 following:

- 17 (1) A violation of any of the restrictions set forth in subsection (b) of this section.
- 18 (2) A violation of G.S. 20-17.8A.
- 19 (3) A violation of any of the rules established by the Division for use of an ignition
20 interlock system on a designated motor vehicle.

21"

22 **SECTION 3.(c)** Prosecutions for offenses committed before the effective date of this
23 act are not abated or affected by this act, and the statutes that would be applicable but for this act
24 remain applicable to those prosecutions.

25 **SECTION 3.(d)** Section 3.(a) becomes effective July 1, 2024, and applies to limited
26 driving privileges issued on or after that date. Section 3.(b) becomes effective July 1, 2024, and
27 applies to drivers licenses revoked on or after that date. Section 3.(c) becomes effective July 1,
28 2024.

30 **EFFECTIVE DATE**

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