



## 2013 LEGISLATION OF INTEREST TO COURT OFFICIALS

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Each ratified act discussed here is identified by its chapter number in the session laws and the number of the original bill. When an act creates new sections in the North Carolina General Statutes (hereinafter G.S.), the section number is given; however, the codifier of statutes may change that number later. Copies of bills may be viewed on the General Assembly's website at <http://www.ncleg.net>.

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#### Criminal Law & Procedure

1. **S.L. 2013-3 (H 66): Captivity licenses and permits.** Effective March 6, 2013, the act: (1) amends G.S. 113-274(c)(1b) to authorize the Wildlife Resources Commission to issue a temporary permit to possess wild animals and birds for scientific, exhibition, or other purposes; (2) exempts from Article 1 (Civil Remedy for Protection of Animals) of G.S. Chapter 19A the taking and holding in captivity of a wild animal by a licensed sportsman for use or display in an annual, seasonal, or cultural event, as long as the animal is captured from the wild and returned to the wild at or near the area where it was captured; and (3) amends G.S. 19A-2 to provide that the venue for any action shall be only in the superior court in the county where a violation is alleged to have occurred.

2. **[S.L. 2013-6 \(H 19\)](#): Disorderly conduct at a funeral.** Effective for offenses committed on or after December 1, 2013, the act amends G.S. 14-288.4(a)(8), the disorderly conduct offense at a funeral or memorial service. The impermissible conduct will apply within two hours (now, one hour) preceding, during, or after the funeral or memorial service, and will be prohibited within 500 feet (now, 300 feet) of the ceremonial site, location of the funeral or memorial service, or the family's processional route. A violation of this subdivision is increased from a Class 2 misdemeanor to a Class 1 misdemeanor for a first offense, from a Class 1 misdemeanor to a Class I felony for a second offense, and from a Class I felony to a Class H felony for a third or subsequent offense.
  
3. **[S.L. 2013-18 \(S 45\)](#): Capacity to proceed amendments.** Effective for offenses committed on or after December 1, 2013, the act makes the following changes concerning a defendant's capacity to proceed: (1) amends G.S. 15A-1002(b)(1), which will be re-codified as G.S. 15A-1002(b)(1a) (and the introductory paragraph in current G.S. 15A-1002(b) will be re-codified as G.S. 15A-1002(b)(1)), to make clear that the court at a hearing after a local examination may call the appointed examining expert with or without the request of the State or the defendant; (2) amends G.S. 15A-1002(b)(2) to limit an examination at a State facility to a defendant charged with a felony (previously also allowed for a misdemeanor after a local examination); (3) adds new G.S. 15A-1002(b)(4) to provide that a judge who orders a state or local examination must release specified confidential information to the examiner after providing the defendant with reasonable notice and an opportunity to be heard and then determining that the information is relevant and necessary for the hearing and unavailable from any other source; records must be withheld from public inspection; (4) amends G.S. 15A-1002(b1) to require findings of fact in a court order on capacity to proceed and to provide that the State and the defendant may stipulate that the defendant is capable of proceeding—but they cannot stipulate that the defendant lacks the capacity to proceed; (5) adds new G.S. 15A-1002(b2) to specify when examiner reports must be completed and provided to the court, with provisions for extensions of time for good cause; (6) amends G.S. 15A-1004(c) (defendant found incapable of proceeding and placed in facility after involuntary civil commitment) to require the court to order the defendant to be examined to determine whether he or she has the capacity to proceed before released from custody; (7) amends G.S. 15A-1006 (return of defendant for trial when determined by institution or individual having custody of defendant that he or she has gained capacity to proceed) to include written notice of that fact to clerk, district attorney, defendant's attorney, and sheriff; (8) amends G.S. 15A-1007 (supplemental hearings) to set time limit for district attorney to calendar hearing and, if court determines that the defendant has gained the capacity to proceed, specifies standards for calendaring case for trial and continuances; (9) substantially revises G.S. 15A-1008 (dismissal of charges) and repeals G.S. 15A-1009 (dismissal with leave) to specify the circumstances when dismissed charges can or cannot be refiled; (10) amends G.S. 122C-54(b) (mental examination of criminal defendant as ordered under G.S. 15A-1002) to require that the report must contain a treatment recommendation,

if any, and an opinion whether there is a likelihood that the defendant will gain the capacity to proceed; and (11) adds new G.S. 122C-278 to provide that whenever a respondent had been committed to either inpatient or outpatient treatment after being found to be incapable of proceeding and referred by a court for civil commitment proceedings, he or she shall not be discharged from a hospital or institution or an outpatient commitment case terminated until the respondent had been examined for capacity to proceed and a report filed with the clerk of court under G.S. 15A-1002.

Effective April 3, 2013, requires Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services by December 1, 2013, to adopt (1) rules to require forensic evaluators appointed under G.S. 15A-1002(b) to meet specified requirements (training to be credentialed as certified forensic evaluator and attend continuing education seminars); and (2) guidelines for treatment of those who are involuntarily committed after a determination of incapacity to proceed.

4. **[S.L. 2013-23 \(S 20\)](#): Limited immunity for certain drug-related and alcohol-related offenses.**

Effective April 9, 2013, the act provides limited immunity as follows:

**Drug-related overdose treatment.** Adds new G.S. 90-96.2 to provide that a person acting in good faith who seeks medical assistance for an individual experiencing a “drug-related overdose” (defined in the act) shall not be prosecuted for: (1) misdemeanor possession of a controlled substance under G.S. 90-95(a)(3), (2) a felony violation of G.S. 90-95(a)(3) for possessing less than one gram of cocaine or heroin, or (3) misdemeanor possession of drug paraphernalia under G.S. 90-113.22, if the evidence for prosecution of these offenses was obtained as a result of the person seeking medical assistance for the drug-related overdose. Also provides that a person who experiences a drug-related overdose and is in need of medical assistance shall not be prosecuted for the same offenses set out above if the evidence for prosecution of these offenses was obtained as a result of the drug-related overdose and the need for medical assistance. Provides that the immunity set out above does not bar the admissibility of any evidence obtained in connection with the investigation and prosecution of other crimes committed by the person who otherwise qualifies for the immunity.

**Treating overdose with opioid antagonist.** Adds new G.S. 90-106.2 to provide that a “practitioner” (defined in G.S. 90-87(22) to include doctor, dentist, etc.) acting in good faith and exercising reasonable care may directly or by standing order prescribe an “opioid antagonist” (defined as naloxone hydrochloride) to (1) a person at risk of experiencing an opiate-related overdose, or (2) a family member, friend, or other person in a position to assist such a person. Provides that as an indicator of the practitioner’s good faith, the practitioner before prescribing the opioid may require a written communication with specified information from the recipient of the prescription. Sets out the standard for administering the opioid by the person who receives it. Provides immunity from civil and criminal liability for actions authorized by this new law for (1) a practitioner who prescribes the opioid, and (2) the person who administers the opioid.

**Person under 21 possessing or consuming alcoholic beverages.** Adds new G.S. 18B-302.2 to provide that a person under the age of 21 shall not be prosecuted for a violation of G.S. 18B-302 for the possession or consumption of alcoholic beverages if law enforcement, including campus police, became aware of a person's possession or consumption of alcohol solely because he or she was seeking medical assistance for another individual, and the person (1) acted in good faith, on a reasonable belief that he or she was the first to call for assistance, (2) used his or her own name when contacting authorities, and (3) remained with the individual needing medical assistance until help arrived.

5. **[S.L. 2013-24 \(S 33\)](#): Occupational licensing board's denial of applicant with criminal record.**

Effective for applications for licenses issued by occupational licensing boards submitted on or after July 1, 2013, the act adds new G.S. 93B-8.1 to provide, unless the law governing a board is otherwise, it shall not automatically deny a license based on an applicant's criminal history. If the board may deny a license based on the applicant's conviction of a crime or commission of a crime involving fraud or moral turpitude, and the applicant's verified record shows one or more convictions, the board may deny the license if it finds the denial is warranted after considering the following factors: (1) level and seriousness of the crime; (2) date of the crime; (3) applicant's age at the time of the crime; (4) circumstances of the crime, if known; (5) nexus between the criminal conduct and applicant's prospective duties; (6) applicant's prison, jail, probation, rehabilitation, and employment records since the crime was committed; (7) applicant's later commission of a crime; and (8) affidavits or other written documents, including character references. Provides that board may deny a license if the applicant refuses to consent to a criminal history record check or the use of fingerprints or other identifying information required by North Carolina or national repositories of criminal histories. The act does not apply to the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission.

6. **[S.L. 2013-28 \(S 123\)](#): Sex offender residency restrictions.**

Effective April 16, 2013, the act clarifies the applicability of G.S. 14-208.16, which prohibits a registered sex offender from knowingly residing within 1,000 feet of a school or child care center. The act amends G.S. 14-208.16(a) to provide that the residency prohibition applies to any registrant who did not establish his or her residence before August 16, 2006, by purchasing or leasing it before that date or by residing with an immediately family member who did so. The introductory language to the bill states that the new language was added to correct law enforcement officials' mistaken belief that the residency restriction did not apply to a registrant if he or she resided with an immediate family member who had established residence before August 16, 2006—even if the registrant himself or herself did not move in with the family member until after that date. The act also amends [S.L. 2006-247](#), replacing references in that legislation to the date that the residency restriction would become law with "August 16, 2006," the specific date on which that portion of the legislation in fact became law.

7. **[S.L. 2013-33 \(S 122\)](#): Add human trafficking conviction to list that requires sex offender registration.** Effective for offenses committed on or after December 1, 2013, the act amends G.S. 14-208.6(5) (definition of “sexually violent offense”) to include a conviction of human trafficking under G.S. 14-43.11 if the offense was committed against (1) a minor less than 18 years old, or (2) any person with the intent that the person be held in sexual servitude. The convicted defendant would be required to register as a sex offender.
  
8. **[S.L. 2013-35 \(H 75\)](#): Increase punishments for various felony child abuse offenses; enter child abuse finding on judgment.** Effective for offenses committed on or after December 1, 2013, the act amends G.S. 14-318.4 to increase punishments for various felony child abuse offenses as follows: (1) from a Class E to a Class D felony for serious physical injury under subsection (a); (2) from a Class E to a Class D felony for an act of prostitution under subsection (a1); (3) from a Class E to a Class D felony for a sexual act under subsection (a2); (4) from a Class C to a Class B2 felony for serious bodily injury or impairment of mental or emotion function under subsection (a3); and (5) from a Class H to a Class G felony for a willful act or grossly negligent omission showing reckless disregard for human life under subsection (a5). Effective for judgments entered on or after December 1, 2013, the act amends G.S. 15A-1382.1 to provide that when a defendant is found guilty of (1) an offense involving child abuse, or (2) an offense involving assault or any of the acts defined in G.S. 50B-1(a) (acts of domestic violence) and the offense was committed against a minor, the judge must indicate on the judgment form that the case involved child abuse. The clerk of court must ensure that the official record of the defendant’s conviction includes the court’s determination, so that any inquiry will reveal that the offense involved child abuse.
  
9. **[S.L. 2013-41 \(H 388\)](#): Docketing judgments for attorneys’ fees for partially indigent defendants.** G.S. 7A-455 provides that if an indigent person is financially able to pay a portion of the value of legal services rendered by assigned counsel, the public defender, or the appellate defender, and other necessary expenses, the court must order the partially indigent person to pay that portion to the clerk of superior court for transmission to the State treasury. The act, effective May 2, 2013, (1) amends G.S. 7A-455(c), which provides that a judgment must be docketed on the later of (i) the date the conviction becomes final if the indigent person is not ordered as a probation condition to pay for the costs of counsel, or (ii) the date on which the indigent’s person probation is terminated, revoked, “or expires” (act adds quoted language); and (2) amends G.S. 7A-455(d) to require specified attorneys and guardian ad litem to make “reasonable efforts” (act adds quoted language) to obtain the social security number of the person against whom a judgment is entered, and adds to the required certification in the application for services rendered by them that the social security number cannot be obtained with reasonable efforts.
  
10. **[S.L. 2013-42](#): Name change requirements.** Amends G.S. 101-2(d) to allow an application for changing the name of a minor child to be filed without the consent of both living parents for three reasons, including that a parent may file an application on behalf of the minor without

the consent of the other parent who has been convicted of a: (a) felony or misdemeanor child abuse; (b) indecent liberties with a minor under G.S. 14-202.1; (c) rape or any other sexual offense under Article 7A of G.S. Chapter 14; (d) incest under G.S. 14-78; or (e) assault, communicating a threat, or any other crime of violence. Amends G.S. 101-5(a)(2) to require that a state or national criminal history record check for an application of a person who wants to change his or her name be conducted within 90 days of the date of the application by the SBI, FBI, or a Channeler approved by the FBI, but this requirement does not apply to a name change application for a minor less than 16 years old. Amends G.S. 101-5(e)(1) to provide that if the name change is not a public record under G.S. 101-2(c) (applicant is a participant in address confidentiality under G.S. Chapter 15C or is a victim of domestic violence, sexual offense, or stalking), the clerk must notify the State Registrar, but the State Registrar must not notify the register of deeds in the applicant's county of birth or the registration office of the state of birth. Effective for applications for name changes filed on or after October 1, 2013.

11. **[S.L. 2013-47 \(S 117\)](#): Murder under G.S. 14-17 includes when child who is born alive but dies from injuries inflicted before child's birth.** Effective for offenses committed on or after December 1, 2013, the act amends G.S. 14-17 to provide that it shall constitute murder when a child is born alive but dies as a result of injuries inflicted before the child was born alive (the act essentially codifies existing common law). Provides that prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and statutes and the common law that would be applicable but for this act shall remain applicable to offenses not described in the act, whether the offense is charged due to a child being born alive and who dies or who is born alive with injuries resulting from injuries inflicted before being born alive. Also provides that the act shall not be construed to apply to an unintentional act or omission committed by the child's birth mother during the pregnancy that culminated in the child's birth.

12. **[S.L. 2013-52 \(H 149\)](#): Criminalizing failure to report missing child or child victim and other acts.** Effective for offenses committed on or after December 1, 2013, the act creates various offenses that criminalize the failure to report a missing child or child victim and other acts.

**Failing to report disappearance of child to law enforcement.** Adds new G.S. 14-318.5 to provide that a parent or any other person providing care to or supervision of a child who knowingly or wantonly fails to report the disappearance of a child under 16 years old to law enforcement commits a Class I felony. A person who reasonably suspects the disappearance of a child under 16 years old and reasonably suspects the child may be in danger must report those suspicions to law enforcement within a reasonable time; a violation of this duty to report is a Class 1 misdemeanor. The term "disappearance of a child" means that the parent or other person providing supervision of a child does not know the location of the child and has not had contact with the child for a 24-hour period. Provides that if a child is absent from school, a teacher is not required to report the child's absence to law

enforcement under this statute if the teacher complies with the reporting provisions under Article 26 of G.S. Chapter 115C.

**“Grossly negligent omission” in felony child abuse offenses.** Amends G.S. 14-318.4 (felony child abuse offenses) to provide that “grossly negligent omission,” a term used in some of the offenses, includes the failure to report a child as missing to law enforcement under G.S. 14-318.5.

**Child care facility report of missing child.** Amends G.S. 110-102.1(a), which requires child care facility operators and staff to immediately report a missing child to law enforcement, (1) to change the age of the child from under 18 years old to under 16 years old, and (2) to make clear that the duty to report in this statute exists notwithstanding the provisions of G.S. 14-318.5.

**Failing to notify law enforcement of death of child or secretly burying child.** Adds new subsection (a1) to G.S. 14-401.22 to provide that a person who, with the intent to conceal the death of a child under 16 years old, fails to notify a law enforcement authority of the death or secretly buries or otherwise secretly disposes of a dead child’s body commits a Class H felony. Also provides that a person who violates subsection (a1), knowing or having reason to know the body or human remains are of a person who did not die of natural causes, commits a Class D felony.

**Amendments to offense of false reports to law enforcement agencies or officers.** Amends G.S. 14-225 (false reports to law enforcement agencies or officers) to make the Class 2 misdemeanor offense apply to any false, deliberately misleading or unfounded report (underlined word added). Provides that a violation of the statute is a Class H felony if the false, deliberately misleading, or unfounded report relates to a law enforcement investigation involving the disappearance of a child under 16 years old as provided in G.S. 14-318.5 (see summary of this new statute above) or a child victim of a Class A, B1, B2, or C felony offense.

**Criminal offenses created for failing to report abuse, neglect, etc.** Amends G.S. 7B-301 (duty to report abuse, neglect, dependency, or death due to maltreatment) to provide that a person or institution who knowingly or wantonly fails to report the case of a juvenile as required by the statute, or who knowingly or wantonly prevents another person from making a required report, commits a Class 1 misdemeanor. Also provides that a director of social services who receives a report of sexual abuse of a juvenile in a child care facility and who knowingly fails to notify the State Bureau of Investigation of the report commits a Class 1 misdemeanor.

13. **[S.L. 2013-53 \(S 91\): Expunctions and applications for employment and admission to educational institutions.](#)** Effective May 17, 2013, this act amends G.S. 15A-145.4 (expunction of records for first offenders under 18 years old at time of commission of nonviolent felony) and G.S. 15A-145.5 (expunction of certain misdemeanors and felonies; no age limitation) to provide that a person whose administrative action has been vacated by an occupational licensing board pursuant to an expunction under these statutes may then

reapply for licensure and must satisfy the board's then current education and preliminary licensing requirements to obtain licensure.

Effective December 1, 2013, this act adds new G.S. 15A-153 with the following provisions. Subsection (b) protects against prosecutions for perjury or false statements for failing to acknowledge specified expunged information except as provided in subsection (e). Subsection (c) prohibits an employer or educational institution from requiring in an application for employment or admission, interview, or otherwise, that an applicant provide information about an arrest, criminal charge, or criminal conviction that has been expunged. This provision does not apply to any state or local law enforcement agency authorized under G.S. 15A-151 to obtain confidential information for employment purposes. Subsection (d) requires a state or local government that requests disclosure of information from an applicant for employment about an arrest, criminal charge, or criminal conviction to first advise the applicant that state law allows the applicant to not refer to an arrest, charge, or conviction that has been expunged. An application shall not be denied solely because of the applicant's refusal or failure to disclose expunged information. Subsection (e) provides that the provisions of subsection (d) do not apply to an applicant or licensee seeking or holding any certification issued by the Criminal Justice Education and Training Standards Commission or the Sheriffs Education and Training Standards Commission; it specifically requires a person pursuing certification to disclose felony convictions expunged under G.S. 15A-145.4 and all convictions expunged under G.S. 15A-145.5. Subsection (f) provides for civil penalties for employer violations of subsection (c), effective for violations that occur on or after December 1, 2013. Provides that G.S. 15A-153 shall not be construed to create a private cause of action against any employer or its agents or employees, educational institutions or their agents or employees, or state or local government agencies, officials, or employees.

14. **[S.L. 2013-70 \(H 456\)](#) and [S.L. 2013-270 \(S 288\)](#): **Domestic violence review teams authorized in three additional counties.** The legislature in 2009 enacted S.L. 2009-52, applicable to Mecklenburg County only, that authorized the establishment of a multidisciplinary Domestic Violence Fatality Prevention and Protection Review Team to identify and review domestic violence-related deaths, including homicides and suicides, and facilitate communication among the various agencies and organizations involved in domestic violence cases. S.L. 2013-70, effective June 11, 2013, amends S.L. 2009-52 to authorize the establishment of review teams in Alamance and Pitt counties, and makes other changes. S.L. 2013-270, effective July 18, 2013, amends S.L. 2013-70 to add Wake County to its provisions.**
15. **[S.L. 2013-76 \(H 829\)](#): **Authorize certain ABC permittees to sell malt beverages in specified containers for consumption off the permitted premises.** This act amends G.S. 18B-1001, effective June 12, 2013, to authorize the Alcoholic Beverage Control Commission to allow the retail sale of malt beverages in a cleaned, sanitized, resealable container (known as a growler) that is filled or refilled and sealed for consumption off the premises, by on-premises malt beverage permittees, off-premises malt beverage permittees, and wine shop**



permittees. The commission must adopt rules concerning the sanitation of growlers by January 1, 2014.

16. **[S.L. 2013-83 \(H 610\)](#): Expand number of stadiums and ballparks where malt beverages may be sold during professional sporting events by a retail permittee.** This act amends G.S. 18B-1009, effective June 12, 2013, to specify that Chapter 18B of the General Statutes does not prohibit the sale for consumption during professional sporting events of malt beverages by a retail permittee under specified circumstances in the seating areas of stadiums, ballparks, and other similar public places with a seating capacity of 3,000 or more (the prior version of this statute required a seating capacity of 60,000 or more and in a municipality with a population greater than 450,000). It requires the ABC Commission to adopt rules for the suspension of alcohol sales in the latter portion of professional sporting events to protect public safety.
17. **[S.L. 2013-88 \(S 634\)](#): Increase penalties for interfering with gas, water, or electric meters or lines.** This act, effective for offenses committed on or after December 1, 2013, amends G.S. 14-151 (interfering with gas, electric, and water meters or lines) to increase the punishment from a Class 2 misdemeanor to a Class 1 misdemeanor. It makes a second or subsequent violation a Class H felony. A violation that results in “significant property damage” or “public endangerment” (these terms are not defined) is a Class F felony. A violation that results in the death of another is a Class D felony unless the conduct is covered under some other provision providing greater punishment. Makes clear that water meters and connections are covered by the statute. Incorporates in substantial part the provisions of G.S. 14-151.1 into G.S. 14-151 and repeals G.S. 14-151.1.
18. **[S.L. 2013-89 \(S 210\)](#): Chief district court judge may appoint chief magistrate.** This act amends G.S. 7A-146, effective June 12, 2013, to authorize a chief district court judge to appoint a full-time magistrate in a county to serve as chief magistrate for that county for an indefinite term and at the judge’s pleasure.
19. **[S.L. 2013-90 \(S 252\)](#): Punishment increased for employee of registrant or practitioner who embezzles controlled substances.** This act, effective for offenses committed on or after December 1, 2013, amends G.S. 90-108(b) to increase the punishment from a Class I to a Class G felony for an intentional violation of G.S. 90-108(a)(14), which involves the embezzlement of controlled substances by an employee of a registrant or practitioner (doctor, dentist, pharmacy, etc.).
20. **[S.L. 2013-95 \(H 25\)](#): Felony to break or enter building with intent to terrorize or injure occupant.** This act amends G.S. 14-54, effective for offenses committed on or after December 1, 2013, to add new subsection (a1) to provide that it is a Class H felony when a person breaks or enters a building with the intent to terrorize or injure an occupant.

21. **[S.L. 2013-97 \(H 142\)](#): Public access to certain information maintained by campus police agencies of private, nonprofit institutions of higher education.** This act, effective June 12, 2013, adds new G.S. 74G-5.1 to provide that books, papers, documents, records of criminal investigations or of criminal intelligence information, or other records maintained by a campus policy agency affiliated with a private, nonprofit institution of higher education are not public records under G.S. 132-1. However, it also provides that certain information must be allowed to be inspected, subject to federal legal provisions. This information is similar to that listed under G.S. 132-1.4(c) for public law enforcement agencies, with the addition of the daily log of crimes reported to the agency that is maintained pursuant to specified federal law and regulations.
  
22. **[S.L. 2013-101 \(H 361\)](#): Technical and clarifying changes to Justice Reinvestment Act of 2011.** This act, effective for offenses committed on or after October 1, 2013, corrects three errors in the listing of maximum sentences in the chart of Class B1 through E felonies that appears in G.S. 15A-1340.17(e). Effective June 12, 2013, it makes technical and clarifying changes to the Justice Reinvestment Act of 2011, including the provisions in G.S. 15A-1344(d2) that confinement in response to probation violations must be 90 consecutive days (underlined word added by the act). For a more detailed discussion of this session law, see Jamie Markham, *More Justice Reinvestment Clarifications Become Law*, North Carolina Criminal Law (UNC School of Government, June 26, 2013), <http://nccriminallaw.sog.unc.edu/?p=4330>.
  
23. **[S.L. 2013-105 \(H 532\)](#): Operating ambulance, other EMS vehicle, firefighting vehicle, or law enforcement vehicle after consuming alcohol.** This act, effective for offenses committed on or after December 1, 2013, amends G.S. 20-138.2B to prohibit operating an ambulance, other emergency medical services vehicle, firefighting vehicle, or law enforcement vehicle on a highway or public vehicular area after consuming alcohol or while alcohol remains in the person's body. Provides that the statute does not apply to law enforcement officers acting in the course of, and within the scope of, their official duties.
  
24. **[S.L. 2013-109 \(H 813\)](#): Definition of banned synthetic cannabinoids expanded.** This act, effective for offenses committed on or after July 1, 2013, amends G.S. 90-94(3) to expand the definition of synthetic cannabinoids that are illegal to manufacture, possess, sell, deliver, etc. See the specific wording of the revised definition in the act, which includes tetramethylcyclopropanoylindoles. Contains a savings clause for prosecutions of offenses committed before the act's effective date.
  
25. **[S.L. 2013-114 \(H 533\)](#): Authorize company police officers in three counties who are employed by a facility to use reasonable force to keep respondent in facility where doctor or psychologist will conduct examination under involuntary commitment process.** Effective June 18, 2013, this local act amends G.S. 122C-251, applicable only to Ashe, Cumberland, and Wilkes counties, to authorize company police officers employed by a

facility to use, after the transporting law enforcement officer has left the facility, appropriate and reasonable force to keep a respondent at the facility and, if pursuant to a continuous and immediate pursuit, to return the respondent to the facility, where a doctor or psychologist will conduct pursuant to a court order an examination under the involuntary commitment process under G.S. 122C-261(d), 122C-263(a), or 122C-263(d)(2).

26. **S.L. 2013-123 (H 24): Amendments to regular probation condition that defendant attend and complete domestic violence abuser treatment program.** Effective for defendants placed on supervised or unsupervised probation on or after December 1, 2013, this act amends G.S. 15A-1343(b)(12) (regular condition of probation that defendant attend and complete domestic violence abuser treatment program). For supervised probation, the probation officer must forward a copy of the judgment to the treatment program, the program must notify the probation officer if the defendant fails to participate or is discharged for violating the program or its rules, and the probation officer must file a violation report and notify the district attorney. For unsupervised probation, the defendant must notify the district attorney and treatment program of his or her choice of program if the program has not previously been selected, the district attorney must forward a copy of the judgment to the treatment program, and if the defendant fails to participate or is discharged for violating the program or its rules, the program must notify the district attorney. The act, effective June 19, 2013, changes the effective date of Section 2 (which amended G.S. 15A-1382.1), S.L. 2012-39, to make the section apply to judgments entered on or after December 1, 2012 (which effectively means that active sentence judgments since December 1, 2012, must indicate whether the offense involved domestic violence).
27. **S.L. 2013-124 (H 29): Enhanced punishments for certain pseudoephedrine and methamphetamine offenses.** This act is effective for offenses committed on or after December 1, 2013. Amended G.S. 90-95(d1) provides that unauthorized possession of a pseudoephedrine product is a Class H felony if the person has a prior conviction for possession or manufacture of methamphetamine. Amended G.S. 15A-1340.16D provides that if a person is convicted of manufacture of methamphetamine under G.S. 90-95(b)(1a) and a minor under 18 years old or a disabled adult resided on the property used for manufacturing methamphetamine, or was present at the location where methamphetamine was being manufactured, the minimum term to which the defendant is sentenced for that felony is increased by 24 months; if both a minor and a disabled or elder adult resided there or was present at the location, the minimum sentence is increased by 48 months. It sets out the calculation of the maximum sentence and that the punishments are cumulative as specified in the act. The act specifies how an indictment must allege the enhanced sentencing factors.
28. **S.L. 2013-133 (H 611): Expunge suspensions and revocations on driving record of limited permittee or provisional licensee under certain circumstances.** Effective for reinstatements occurring on or after December 1, 2013, this act amends G.S. 20-13.2(c1) to provide that if

the Division of Motor Vehicles restores a permit or license that was revoked due to ineligibility for a driving eligibility certificate under G.S. 20-11(n)(1), the DMV must expunge any record of revocation or suspension from the person's driving record. However, an expungement is not allowed if the person has had a prior expungement.

29. **[S.L. 2013-139 \(H 762\)](#): Amend procedural requirements concerning bail bonds.** This act, effective December 1, 2013, amends the definition of "bail bond" in G.S. 15A-531(4) to provide that a bail bond signed by a surety as defined in G.S. 15A-531(8)a. (an insurance company, when a bail bond is executed by a bail agent on its behalf) and G.S. 15A-531(8)b. (a professional bondsman, when a bail bond is executed by the bondsman or a runner on his or her behalf) is considered the same as a cash deposit for all purposes. Under prior law, only a bail bond signed by a bail agent for an insurance company was considered the same as a cash deposit. The act makes other procedural changes, which involve service of paperwork.
30. **[S.L. 2013-144 \(S 124\)](#): Class F felony to discharge firearm within building or other enclosure with intent to incite fear.** This act, effective for offenses committed on or after December 1, 2013, adds new G.S. 14-34.10 to provide, unless covered under some other law providing greater punishment, that a person commits a Class F felony when the person willfully and wantonly discharges or attempts to discharge a firearm within any occupied building, structure, motor vehicle, or other conveyance, etc., with the intent to incite fear in another.
31. **[S.L. 2013-147 \(H 850\)](#): No charge if person informs officer of presence of hypodermic needle before search.** This act, effective for offenses committed on or after December 1, 2013, amends G.S. 90-113.22 (possession of drug paraphernalia) to provide that an officer, before searching a person or the person's premises or vehicle, may ask if the person possesses a hypodermic needle or other sharp object that may cut or puncture the officer or whether such an object is on the premises or in the vehicle. If the person informs the officer of the presence of such an object before the search, the person may not be charged with or prosecuted for possession of drug paraphernalia. The exemption from charge and prosecution does not apply to any other drug paraphernalia found during the search.
32. **[S.L. 2013-148 \(H 879\)](#): Person who serves full term as grand juror is not required to serve again as grand juror or juror for six years.** This act, effective January 1, 2014, amends G.S. 15A-622 and makes conforming changes to G.S. 9-3 and 9-7 to provide that a person who serves a full term as a grand juror is not required to serve again as a grand juror or juror for six years.
33. **[S.L. 2013-152 \(S 222\)](#): Revisions to North Carolina Controlled Substances Reporting System Act.** This act revises various provisions of Article 5E of Chapter 90 of the General Statutes, the North Carolina Controlled Substances Reporting System Act. Effective June 19, 2013, the act revises G.S. 90-113.74(c)(5) to require the Department of Health and Human Resources

to release data in the reporting system to a sheriff, police chief, or their designated deputy or police investigator who is assigned to investigate the diversion and illegal use of prescription medication or pharmaceutical products identified as Schedule II through V controlled substances and who is engaged in a bona fide specific investigation concerning the enforcement of laws governing licit drugs pursuant to a lawful court order specifically issued for that purpose.

34. **[S.L. 2013-154 \(S 306\)](#): Repeal of North Carolina Racial Justice Act and other changes concerning capital punishment.** This act, effective June 19, 2013, repeals the North Carolina Racial Justice Act (Article 101 of G.S. Chapter 15A) and makes other changes relating to capital punishment.

**North Carolina Racial Justice Act.** The Racial Justice Act, enacted in 2009, provided a procedure for a defendant to prove that race was a significant factor in decisions to seek or to impose a death sentence. If a court made such a finding, it was required to order that a death sentence not be sought or imposed or that a death sentence already imposed be vacated and the defendant be resentenced to life imprisonment without the possibility of parole.

This act provides that the repeal is retroactive (other than for a defendant already resentenced, see below) and applies to any motion for appropriate relief filed before the act's effective date, noted above. The act states that all such motions are void. The repeal does not apply to a court order that resentenced a defendant to life imprisonment without parole before the effective date, if the order is affirmed on appellate review and becomes a final order. However, the repeal is applicable if the order is vacated on appellate review.

**Health care professional's assistance with execution.** The act adds new G.S. 15-188.1 to provide that any assistance with an execution by any licensed health care professional, including, but not limited to, physicians, nurses, and pharmacists, shall not be a cause for any disciplinary or corrective measures by any board, commission, etc., that regulates the practice of health care professionals. The statute states that the infliction of the punishment of death by administration of required lethal substances shall not be construed to be the practice of medicine. Conforming changes are made to statutes regulating particular health professionals.

**Time for execution.** The act amends G.S. 15-194 to provide that the Attorney General of North Carolina must provide written notification to the Secretary of the Department of Public Safety of the occurrence of events (termination of certain court proceedings, failure to file motions, etc.) set out in the statute not more than 90 days from that occurrence. The Secretary must immediately schedule a date for execution not less than 15 days or more than 120 days from the date of receiving notification from the Attorney General. The Attorney General must submit a written report to the Joint Legislative Oversight Committee on Justice and Public Safety by April 1, 2014, and thereafter annually on October 1 on the status of all pending post-conviction capital cases. The chairs of this committee may modify these dates.

**Manner of execution and people designated to execute death sentence.** The act amends G.S. 15-188 to provide that the mode of execution is the administration of an intravenous injection of a substance or substances in a lethal quantity sufficient to cause death and until the person is dead, and that procedure shall be determined by Secretary of the Department of Public Safety, who must ensure compliance with federal and state constitutions (the prior version of the statute described the substance as a lethal quantity of an ultrashort acting barbiturate in combination with a chemical paralytic agent until the person was dead).

The act amends G.S. 15-190 to require the warden to report to the Joint Legislative Oversight Committee on Justice and Public Safety by April 1, 2014, and thereafter annually on October 1 on the status of the people required to be named and designated by the warden to execute death sentences. The report must confirm that the required people are properly trained and ready to serve as an execution team. The chairs of this committee may modify the reporting dates set out above.

35. **[S.L. 2013-155 \(S 387\)](#): Changes involving Commissioner of Agriculture and department's law enforcement functions.** This act, effective July 1, 2013, makes several changes. Amended G.S. 143-166.8 (motor vehicle laws applicable to state parks and forests road system) to authorize the Commissioner of Agriculture to establish a lower speed limit than 25 miles per hour in the state forests road system as specified in the statute. The Commissioner may by rule establish parking areas and provide for the removal of illegally parked motor vehicles in the state forests road system. The statute previously vested the preceding powers with the Secretary of Environment and Natural Resources. Amended G.S. 106-65 provides that the Commissioner of Agriculture has the right of entry on the premises of any place where entry is necessary to enforce the provisions of Article 4H (bedding) of G.S. Chapter 106 or the rules adopted by the Board of Agriculture. If consent for entry is not obtained, an administrative inspection warrant must be obtained under G.S. 15-27.2.
36. **[S.L. 2013-158 \(S 443\)](#): Disposition of firearms amendments.** This act amends several statutes involving the disposition of firearms, effective September 1, 2013, and applicable to any firearm found or received by a local law enforcement agency on or after that date and to any judicial order for the disposition of any firearm on or after that date. Amended G.S. 15-11.1(b1)(3), 15-11.2(e), and 14-269.1(4) make clear that a firearm is to be destroyed under these provisions if the firearm does not have a legible, unique identification number or is unsafe for use because of wear, damage, age, or modification. Amended G.S. 15-11.2 deletes the authority of a person who found a firearm and turned it over to a law enforcement agency to claim the firearm if it remains unclaimed by a person who may be entitled to it. Amended G.S. 15-11.2(d) transfers the authority to dispose of an unclaimed firearm from a judge to the head of the law enforcement agency and makes several changes concerning how the firearm may be disposed of, including the sale at a public auction to people licensed as firearms collectors, dealers, importers, or manufacturers.

37. **[S.L. 2013-164 \(S 528\)](#): Clarify oath of petit jurors.** This act, applicable to oaths taken on or after October 1, 2013, amends G.S. 9-14 to require jurors to take (1) the oath required by Section 7 of Article VI of the Constitution of North Carolina, by swearing or affirming to support the Constitution of the United States and the Constitution and laws of North Carolina, and (2) the oath required by G.S. 11-11.
38. **[S.L. 2013-165 \(S 530\)](#): Prohibit distribution to minor of tobacco-derived products and vapor products.** This act, effective for offenses committed on or after August 1, 2013, amends G.S. 14-313 to prohibit the distribution of tobacco-derived products and vapor products to minors. It amends the definition of “tobacco product” to include tobacco-derived product, vapor product, or components of a vapor product, and it adds definitions of “tobacco-derived product” (noncombustible product derived from tobacco that contains nicotine and is intended for human consumption) and “vapor product” (noncombustible product that includes an electronic cigarette, cigar, cigarillo, and pipe). The act requires a person who engages in distributing tobacco products through the Internet or other remote sales methods to perform an age verification through an independent, third-party age verification service as specified in the act. The act also makes clear that the sale of cigarette wrapping papers is included in the offense requiring proof of age.
39. **[S.L. 2013-166 \(S 539\)](#): County jury commission may obtain date of birth information from election board; no public access to dates of birth of prospective jurors.** This act, effective June 19, 2013, amends G.S. 163-82.10B to allow a county jury commission to obtain the dates of birth of registered voters from the board of elections to prepare the master jury list in its county. Amended G.S. 9-4(b) provides that public access to juror information is limited to the alphabetized list of the names, and dates of birth of prospective jurors (as well as addresses) are confidential and not subject to disclosure without a court order.
40. **[S.L. 2013-167 \(S 542\)](#): Long-term care facilities must require applicants for employment and certain employees to submit to testing for controlled substances.** This act, effective October 1, 2013, adds new G.S. 131D-45 (adult care homes) and G.S. 131E-114.4 (nursing homes) to provide that an offer for employment to an applicant is conditioned on the applicant’s consent to an examination and screening for controlled substances. It also authorizes these employers to require random examination and screening for controlled substances as a condition of continued employment, as well as requiring examination and screening when the employer has reasonable grounds to believe an employee is an abuser of controlled substances.
41. **[S.L. 2013-169 \(S 583\)](#): New and revised definitions for statutes regulating secondary metals recyclers.** This act, effective June 19, 2013, amends definitions in G.S. 66-420 involving the regulation of sales and purchases of metal as follows: (1) revises the definition of “card cash system” to mean a system of payment that provides payment in cash or in a form other than cash and when providing payment in the form of cash (i) captures a

photograph of the seller when the payment is received, and (ii) uses an automated cash dispenser, including but not limited to an automated teller machine; and (2) adds a definition of “copper” to include nonferrous metals, including but not limited to copper wire, copper clad steel wire, copper pipe, bars, sheeting, tubing, and pipe fittings, and insulated copper wire; but it does not include brass and bronze alloys, lead nickel, zinc, or items not containing a significant quantity of copper.

42. **[S.L. 2013-170 \(S 584\)](#): Amendment to filing false lien statute.** This act, effective for offenses committed on or after December 1, 2013, amends G.S. 14-118.6 (filing false lien or encumbrance against real or personal property of public officer or employer on account of performance of official duties) to include an immediate family member of the public officer or employee, defined as a spouse or child.

43. **[S.L. 2013-171 \(S 630\)](#): Amendments to laws concerning disposition of blood and urine samples, admissibility of reports after notice and demand, and expunction of DNA samples taken after arrest.** This act adds new subsection (h) (disposition of blood and urine evidence involving implied consent offenses) to G.S. 20-139.1, effective June 19, 2013, to provide that any blood or urine sample subject to chemical analysis for the presence of alcohol, a controlled substance, etc., may be destroyed by the analyzing agency 12 months after the case is filed or is concluded in the trial court and not appealed, whichever is later, without notice to the parties. However, if a motion to preserve the evidence has been filed by either party, the evidence must remain in the custody of the analyzing agency or the agency that collected the sample until the entry of a court order concerning its disposition.

Effective for proceedings held on or after December 1, 2013, the act amends various statutes allowing the admissibility of a laboratory report, affidavit, or statement to clarify that they “shall” (prior law used “may”) be admissible without the necessity of testimony if the defendant or attorney fails to file a written objection. These statutes are: G.S. 8-58.20(f) (forensic evidence); G.S. 8-58.20(g) (chain of custody); G.S. 20-139.1(c1) (chemical analysis of blood or urine); G.S. 20-139.1(c3) (chain of custody); G.S. 20-139.1(e1) (chemical analyst’s affidavit in district court); G.S. 90-95(g) (chemical analysis for controlled substance); and G.S. 90-95(g1) (chain of custody).

Effective for verification forms received by the SBI on or after December 1, 2013, the act amends G.S. 15A-266.3A(k) (DNA sample after arrest for certain offenses) to provide that the SBI must, within 90 days (prior law, 30 days) of receipt of a verification form, comply with the duties set out in the statute concerning the possible expunction of the defendant’s DNA record and samples.

44. **[S.L. 2013-190 \(S 8\)](#): Fine increased for unauthorized parking in private parking lots in certain counties and cities.** This act amends G.S. 20-219.2 (which applies only to specified counties and cities; see G.S. 20-219.2(c)) to increase the fine for unauthorized parking in private parking lots and other violations of the statute from not more than \$100.00 to not



less than \$150.00. The act is effective for violations committed on or after December 1, 2013.

45. **[S.L. 2013-191 \(S 25\)](#)**: **Military members on active duty outside North Carolina considered residents for hunting, fishing, etc., licenses.** This act, effective July 1, 2013, amends G.S. 113-130(4) to provide that military members on active duty outside North Carolina are considered North Carolina residents for the purpose of obtaining hunting, fishing, trapping, and special activity licenses.
46. **[S.L. 2013-194 \(S 285\)](#)**: **Requirements changed for laboratories providing chemical analyses for blood or urine under G.S. 20-139.1.** Effective June 26, 2013, this act amends G.S. 20-139.1 (chemical analyses for implied consent offenses, such as DWI) to repeal the requirement in subsection (c2) that a laboratory providing chemical analyses of blood or urine under G.S. 20-139.1 be accredited by an accrediting body that requires conformance to forensic specific requirements and that is a signatory to a specified international laboratory agreement. The act also provides that a laboratory approved for chemical analysis by the Department of Health and Human Services includes any hospital laboratory approved by the department pursuant to a program resulting from a specified federal law. Amended G.S. 8-58.20 makes clear that its provisions do not apply to chemical analyses under G.S. 20-139.1. [Note: Although a later session law, Session Law 2013-338 (S 200), purported to delay the accrediting requirement for a laboratory providing chemical analyses of blood or urine under G.S. 20-139.1, this later session law had no legal effect because Session Law 2013-194 (S 285) had already repealed the accrediting requirement and had amended G.S. 8-58.20 to make clear that its provisions do not apply to chemical analyses under G.S. 20-139.1.]
47. **[S.L. 2013-195 \(S 461\)](#)**: **Allow third-party commercial driver's license skills testing.** This act amends G.S. 20-137.13, effective July 1, 2013, to require the Division of Motor Vehicles to allow a third party to administer a skills test for driving a commercial motor vehicle any day of the week. The act also amends G.S. 20-7(f)(5) to allow the DMV to issue an applicant a temporary driving certificate valid for 60 days (current law is 20 days) for a commercial driver's license.
48. **[S.L. 2013-196 \(S 494\)](#)**: **Authorize community service as a discretionary condition of post-release supervision and amend voting procedures of Post-Release Supervision and Parole Commission.** This act amends G.S. 15A-1368.4(c) (conditions of post-release supervision), effective June 26, 2013, to authorize the Post-Release Supervision and Parole Commission to impose a condition of community service on a supervisee who was a Class F through Class I felon and has failed to fully satisfy an order for restitution, reparation, or costs imposed as part of the sentence. However, the commission may not impose this condition if it determines that the supervisee has the financial resources to satisfy the order. Effective for actions taken by the commission on or after June 26, 2013, the act amends G.S. 143B-721(d)

to provide that a three-member panel of the commission may set the terms and conditions for post-release supervision under G.S. 15A-1368.4 and may decide questions of violations, including issuance of warrants. If there is a tie vote by the full commission, the chair shall break the tie with an additional vote.

49. **[S.L. 2013-198 \(H 219\)](#): Substitute “child born out of wedlock” for “illegitimate” child and “bastardy” in criminal and civil statutes.** This act, effective June 26, 2013, amends criminal and civil statutes to remove references to “illegitimate” child and “bastardy” and replace them with “child born out of wedlock.”
  
50. **[S.L. 2013-201 \(H 322\)](#): Division of Motor Vehicles may waive skills test for commercial driver’s license for retired or discharged military members under certain circumstances.** This act, effective June 26, 2013, amends G.S. 20-37.13(c1) to allow the Division of Motor Vehicles to waive the skills test for a commercial driver’s license for a retired or discharged member of an active or reserve component of the military if the member meets the conditions set out in new G.S. 20-37.13(c1)(3)c.
  
51. **[S.L. 2013-203 \(H 891\)](#): District attorney authorized to petition court to freeze assets of defendant charged with exploitation of elder or disabled adult.** This act, effective for offenses committed on or after October 1, 2013, amends G.S. 14-112.2 to provide if a defendant is charged with exploitation of an elder or disabled adult that involves funds, assets, or property valued more than \$5,000, the district attorney may file a petition in the pending criminal case to freeze the assets in the amount of 150 percent of their alleged value for use as restitution to the victim. The standard of proof to support the petition is by clear and convincing evidence. New G.S. 14-112.3 sets out the procedure for filing the petition. It also provides that in any proceeding to release the assets filed by a motion of the defendant or other person claiming an interest in the assets, the State must prove that the defendant is about to, intends to, and did divest himself or herself of the assets in a manner that would make the defendant insolvent for restitution. A court must vacate the order to freeze assets if the criminal charge is voluntarily dismissed or the defendant is found not guilty.
  
52. **[S.L. 2013-205 \(H 333\)](#): Amendments to sex offender statutes involving registration and residency.** This act, effective June 26, 2013, amends G.S. 14-208.11(a)(1) (sex offender’s failure to register) to include within the offense of willfully failing to register, the failure to register with the sheriff in the county designated by the defendant under G.S. 14-208.8 as his or her expected county of residence. Amended G.S. 14-208.11 effectively provides that a defendant arrested for violating the statute must be prosecuted in the prosecutorial district that includes the sheriff’s office in the county where the defendant failed to register. If the arrest is made outside the prosecutorial district, the defendant must be transferred to the custody of the sheriff of the county where the defendant failed to register.

53. **[S.L. 2013-209 \(H 597\)](#): Official shield for bail bondsmen and runners.** This act, effective June 26, 2013, amends G.S. 58-71-40 to authorize a licensee (bail bondsmen and runners) while engaged in official duties to possess and display a shield designed as specified in the act. A shield deviating from the design requirements is unauthorized and its possession is a violation of the statute (which would be a Class 1 misdemeanor under G.S. 58-71-185).
54. **[S.L. 2013-210 \(H 641\)](#): Judge given discretion under certain circumstances whether to impose deferment and probation for first drug offense under G.S. 90-96(a).** G.S. 90-96(a) provides that a court for a first offense of certain drug offenses must, without entering a judgment of guilty and with the defendant's consent, defer proceedings and place the defendant on probation with a later discharge of the defendant and dismissal of the charge if the defendant complies with its terms and conditions. This act, effective for offenses committed on or after December 1, 2013, removes the requirement of deferment and probation if the court determines with a written finding and the district attorney's agreement that a conditional discharge for the defendant is inappropriate for factors related to the offense.
55. **[S.L. 2013-225 \(H 343\)](#): Change in default priority order in which monetary obligations imposed in criminal and infraction judgments must be satisfied.** Section 6 of this act, effective June 30, 2013 (which effectively means Monday, July 1, 2013), changes the default priority order under G.S. 7A-304(d) in which monetary obligations imposed in criminal and infraction judgments must be satisfied. The Administrative Office of the Courts has issued a memorandum on this complex provision, which is available at [http://nccourts.org/Courts/Trial/Documents/court\\_costs\\_memo-interim\\_criminal-2013.pdf](http://nccourts.org/Courts/Trial/Documents/court_costs_memo-interim_criminal-2013.pdf), and readers interested in this subject should consult the memorandum.
56. **[S.L. 2013-229 \(S 264\)](#): Nuisance law amendments.** Article 1 of G.S. Chapter 19 authorizes the Attorney General, district attorney, local government, or private citizen to bring a civil action to abate nuisances involving buildings and places used for illegal sales of drugs, obscenity, or alcohol, prostitution, etc. This act, effective for nuisance actions filed on or after July 3, 2013, amends G.S. 19-1 to: (1) state that the activity sought to be abated need not be the sole purpose of the building for it to constitute a nuisance; and (2) provide that a nuisance action may not be brought against a place or business that is subject to regulation under G.S. Chapter 18B (regulation of alcoholic beverages) when the basis for the action is a violation of the laws and regulations of the chapter concerning the possession or sale of alcoholic beverages.
57. **[S.L. 2013-230 \(S 377\)](#): Allow governor to temporarily suspend routine weight inspections of trucks during emergency.** This act, effective July 3, 2013, amends G.S. 166A-19.70 to authorize the governor to direct the Department of Public Safety to temporarily suspend under G.S. 20-118.1 the weighing of vehicles to transport livestock, poultry, or crops from designated counties in an emergency area or if there exists an imminent threat of severe

economic loss of livestock, poultry, or widespread or severe damage to crops ready to be harvested. The act states that it does not permit the operation of a vehicle when a law enforcement officer has probable cause to believe the vehicle is creating an imminent hazard to public safety.

58. **[S.L. 2013-231 \(S 568\)](#): Allow restricted driver's license for person using bioptic telescopic lenses.** The act, effective July 3, 2013, amends G.S. 20-7 to authorize a person using bioptic telescopic lenses to obtain a regular Class C driver's license if the person satisfies specified conditions. The person is permitted to operate a motor vehicle only during the period beginning one-half hour after sunrise and ending one-half hour before sunset. However, the act allows operation between one-half hour before sunset and ending one-half hour after sunrise under certain circumstances.
59. **[S.L. 2013-233 \(S 712\)](#): Allow homebound to apply for special photo identification card without personal appearance.** This act, effective July 1, 2014, provides if a person has a doctor's letter certifying that a severe disability causes the person to be homebound, the Division of Motor Vehicles must adopt rules allowing an application for or a renewal of a special photo identification card under G.S. 20-37.7 without a personal appearance. Amended G.S. 20-37.7(c) requires that the card must include a color photo of the card holder.
60. **[S.L. 2013-237 \(H 209\)](#): Consent domestic violence protective order may be entered without factual findings and legal conclusions if parties agree.** This act, effective for orders entered on or after October 1, 2013, amends G.S. 50B-3 to provide that a consent domestic violence protective order may be entered without findings of fact and conclusions of law if the parties agree in writing to do so. The order will be valid and enforceable the same as an order entered with factual findings and legal conclusions.
61. **[S.L. 2013-241 \(H 626\)](#): Notice to law enforcement agency of certain information about vehicles that have been towed.** This act, applicable to violations committed on or after December 1, 2013, adds new G.S. 20-219.20 to provide that when a vehicle is towed at the request of a person other than the vehicle owner or operator, the tower must provide—before moving the vehicle—specified information (vehicle description, place from which towed and where it will be stored, contact information for owner to retrieve vehicle) to the local law enforcement agency by telephoning the agency. Notification may be provided within 30 minutes of moving the vehicle if the vehicle is impeding the flow of traffic or otherwise jeopardizing the public welfare so immediate towing is necessary. This statute does not apply when a vehicle is towed at a law enforcement officer's direction or from a private lot where signs are posted under G.S. 20-219.2(a). A violation of this statute is an infraction with a penalty of not more than \$100.00.

62. **[S.L. 2013-243 \(H 656\)](#): Revision of laws involving seizure, forfeiture, and sale of motor vehicles used in commission of felony eluding arrest.** This act, effective for offenses committed on or after December 1, 2013, repeals the current provisions in G.S. 20-141.5(g) through (j) concerning the seizure, forfeiture, and sale of a motor vehicle driven by the defendant while committing felony eluding arrest under G.S. 20-141.5(b) or (b1). It amends G.S. 20-28.2 (definitions and forfeiture order), 20-28.3 (seizure, impoundment, and forfeiture), 20-28.4(a) (release of seized motor vehicle at trial's conclusion), 20-28.8 (reports to be sent to DMV), and 20-54.1 (forfeiture of right of registration of all motor vehicles registered in convicted defendant's name) currently applicable to the seizure, forfeiture, and sale of motor vehicles involved with impaired driving offenses, to include felony eluding arrest, and the procedures are made substantially similar to those for impaired driving, except for pretrial release of the motor vehicle to the defendant owner under G.S. 20-28.3(e2). Amended G.S. 20-28.3(l) provides that if the underlying offense is felony eluding arrest and the defendant's conviction is for misdemeanor eluding arrest, whether or not the reduced charge is by plea agreement, the defendant must be ordered to pay as restitution to the county school board, motor vehicle owner, or the lienholder the cost paid or owed for the towing and storage of the motor vehicle.
63. **[S.L. 2013-244 \(H 784\)](#): Worthless check amendments.** This act, effective for offenses committed on or after December 1, 2013, amends G.S. 14-107(a) and (b) (worthless check offenses) to make these offenses applicable when the defendant had previously presented the check or draft for the payment of money or its equivalent. Amended G.S. 14-107.1 (prima facie evidence in worthless check cases) provides that the reason for dishonor may be indicated with terms that include, but are not limited to: "insufficient funds," "no account," "account closed," "NSF," "uncollected," "unable to locate," "stale dated," "postdated," "endorsement irregular," "signature irregular," "nonnegotiable," "altered," "unable to process," "refer to maker," "duplicate presentment," "forgery," "noncompliant," or "UCD noncompliant." The act makes similar changes to G.S. 6-21.3 (civil remedies for returned check).
64. **[S.L. 2013-274 \(H 982\)](#): Medicaid subrogation crime amended.** This act, among other changes to G.S. 108A-57 (Medicaid subrogation statute), amends the Class 1 misdemeanor in subsection (b) for a person seeking or having obtained assistance under Medicaid for himself, herself, or another to willfully fail to disclose to the county social services department or its attorney and to the Department (underlined words added; "Department" means the Department of Health and Human Services) the identity of any person or organization against whom the recipient of assistance has a right to recovery. The act is effective July 18, 2013, and applies to (1) Medicaid claims that arise on or after that date, and (2) Medicaid claims arising before that date for which the Department has not been paid in full.

65. **[S.L. 2013-275 \(H 783\)](#): Pyrotechnic exhibition law amendments.** The act, effective July 18, 2013, makes various amendments to statutes (G.S. 14-410, 14-413, 58-82A-3, and 58-82A-25) governing the exhibition of pyrotechnics. Among them are amendments to G.S. 14-410 to allow pyrotechnics to be exhibited, manufactured, etc.: (1) as a special effect by a production company for a motion picture production if the motion picture set is closed to the public or is separated from the public by a minimum of 500 feet; or (2) for pyrotechnic or proximate audience display instruction consisting of classroom and practical skills training approved by the Office of State Fire Marshal.
66. **[S.L. 2013-276 \(H 137\)](#): Reward money increased that Governor may offer to apprehend fugitive or provide information leading to arrest and conviction.** This act, effective July 18, 2013, amends G.S. 15-53 and G.S. 15-53.1 to increase from \$10,000 to \$100,000 the amount of a reward the Governor may offer and pay to a person who apprehends a fugitive or provides information leading to the arrest and conviction of a person.
67. **[S.L. 2013-277 \(H 161\)](#): Mandatory retirement age for magistrates.** This act, effective January 1, 2015, and applicable to people whose terms of office as magistrates begin on or after that date, amends G.S. 7A-170 to provide that a magistrate may not continue in office beyond the last day of the month in which the magistrate reaches the mandatory retirement age for justices and judges as specified in G.S. 7A-4.20 (last day of month in which justice or judge attains his or her seventy-second birthday).
68. **[S.L. 2013-283 \(H 296\)](#): Hunting, trapping, and fishing license fees increased.** This act makes several changes to the wildlife laws, including increasing fees for many hunting, trapping, and fishing licenses, effective August 1, 2014. Effective January 1, 2015, these statutory fees will remain at the levels existing on that date until the rules required to be adopted become effective. The act requires the Wildlife Resources Commission to adopt rules to establish fees for hunting, trapping, fishing, and activity licenses issued and administered by the commission. It provides that a rule to increase fees above January 1, 2015, levels may not increase a fee in excess of the average increase in the Consumer Price Index for All Urban Consumers over the preceding five years. The statutory fees for these licenses will expire when the commission's rules are adopted.
69. **[S.L. 2013-284 \(H 327\)](#): New aggravating factor in non-capital sentencing involving defendant who is firefighter or rescue squad worker.** This act makes many changes to the Firefighters' and Rescue Squad Workers' Pension Fund. It also adds new G.S. 15A-1340.16(d)(9a), effective for offenses committed on or after December 1, 2013, to make it a statutory aggravating factor in non-capital sentencing that the defendant is a firefighter or rescue squad worker, and the offense is directly related to service as a firefighter or rescue squad worker.

70. **[S.L. 2013-286 \(H 345\)](#): Increase punishment for misuse of 911 system.** This act makes the punishment for all violations of G.S. 14-111.4 (misuse of 911 system) a Class 1 misdemeanor, effective for offenses committed on or after December 1, 2013. The current statute provides that a violation is a Class 3 misdemeanor, but certain aggravated acts constitute a Class 1 misdemeanor.
71. **[S.L. 2013-288 \(H 358\)](#): Offenses involving state retirement systems.** This act creates and amends offenses involving the various state retirement systems in G.S. Chapters 135, 128, and 120. It creates new G.S. 135-111.1 to make the fraudulent receipt of a decedent's Disability Income Plan allowance a Class 1 misdemeanor and deletes references in G.S. 135-18.11 to the plan or a disability benefit. It amends statutes in each retirement system that involve the fraudulent receipt of a decedent's retirement allowance to make the Class 1 misdemeanor violation apply to fraudulently receiving money as a result of a beneficiary's death as well as a retiree's death. The act is effective for offenses committed on or after December 1, 2013.
72. **[S.L. 2013-293 \(H 428\)](#): Stopped school bus law changes.** This act, effective for offenses committed on or after December 1, 2013, makes several changes involving the stopped school bus violations under G.S. 20-217. It retains the punishment as a Class 1 misdemeanor but requires the payment of a minimum \$500 fine. It also requires a minimum \$1,250 fine for the Class I felony offense when the defendant also strikes a person, and a minimum \$2,500 fine for the Class H felony offense when striking a person results in that person's death. It establishes various driver's license revocations for committing the misdemeanor and felony violations in G.S. 20-217. It provides that a person whose driver's license is revoked for a violation is also disqualified under G.S. 20-17.4 from driving a commercial motor vehicle for the time period in which the license remains revoked. The defendant's failure to pay fine or costs imposed for a violation will result in the Division of Motor Vehicles withholding the registration renewal of a motor vehicle registered in the defendant's name. The act states that the General Assembly encourages local school boards to use the proceeds of any fines collected for violations of G.S. 20-217 to purchase automated camera and video recording systems to install on school buses to help detect and prosecute violators.
73. **[S.L. 2013-298 \(S 316\)](#): Pretrial release amendments.** This act, effective for proceedings to determine pretrial release conditions occurring on or after December 1, 2013, makes several changes to pretrial release provisions. It adds new G.S. 15A-533(f) to provide that there is a rebuttable presumption that no condition of release will reasonably assure the appearance of the defendant as required and the community's safety if a judicial official finds there is reasonable cause to believe that the defendant committed a felony or Class A1 misdemeanor involving the illegal use, possession, or discharge of a firearm, and the official also finds (1) the offense was committed while the defendant was on pretrial release for another felony or Class A1 misdemeanor involving the illegal use, possession, or discharge of

a firearm, or (2) the defendant has previously been convicted of a felony or Class A1 misdemeanor involving the illegal use, possession, or discharge of a firearm and not more than five years have elapsed since the date of conviction or the defendant's release for the offense, whichever is later. A defendant considered for bond under this provision may only be released by a district or superior court judge, and the judge must find there is a reasonable assurance that the person will appear for trial and release does not pose an unreasonable risk of harm to the community. The act amends G.S. 15A-534(d1) to raise from \$500 to \$1,000 the minimum amount of the secured bond under the subsection if no bond had yet been required for the charges. The act adds new G.S. 15A-534(d3) to provide that when pretrial release conditions are being determined for a defendant who is charged with an offense and the defendant is currently on pretrial release for a prior offense, the judicial official must require a secured appearance bond in an amount at least double the amount of the most recent prior secured or unsecured bond for the charges or, if no bond has yet been required for the charges, in the amount of \$1,000.

74. **[S.L. 2013-300 \(S 399\)](#): Proposed constitutional amendment to allow waiver of jury trial in non-capital trial with consent of judge.** The act proposes a constitutional amendment to be submitted to the voters at the statewide general election to be held on November 4, 2014. If the majority of the votes cast are in favor of the amendment, it would become effective December 1, 2014, and apply to criminal offenses arraigned in superior court on or after that date. The amendment would revise Section 24 (right of jury trial in criminal cases), Article I of the North Carolina Constitution to allow a defendant in a non-capital trial in superior court to waive jury trial in writing or on the record and with the consent of the trial judge, subject to procedures prescribed by the General Assembly. The act amends G.S. 15A-1201 (if amendment is approved), effective on the same date and in the same manner as the constitutional amendment, to conform it to the language of the constitutional amendment with the additional provision that the waiver of jury trial must be made knowingly and voluntarily.
75. **[S.L. 2013-301 \(S 465\)](#): Felony offense to sell, purchase, install, possess, etc., an automated sales suppression device.** This act, effective for offenses committed on or after December 1, 2013, adds a new G.S. 14-118.7 to prohibit the sale, purchase, installation, possession, etc., of an automated sale suppression device, zapper, or phantom-ware. A violation is a Class H felony with a minimum \$10,000 fine. An "automated sales suppression device or zapper" is defined as a software program that falsifies the electronic records of electronic cash registers and other point-of-sale systems, including transaction data and reports. "Phantom-ware" is defined as a hidden programming option embedded in the operating system of an electronic cash register or hardwired into the electronic cash register that can be used to create a second set of records or may eliminate or manipulate transaction records, which may or may not be preserved in digital formats, to represent the true or manipulated record of transactions in the electronic cash register. Any person who violates this statute is liable for all taxes, fees, penalties, and interest due to the State as the result of the use of these



devices and must forfeit to the State as an additional penalty all profits associated with the sale or use of the devices.

76. **[S.L. 2013-303 \(H 450\)](#): Bail procedure established when confinement is imposed as punishment for criminal contempt and notice of appeal has been given.** This act, applicable to confinement imposed for criminal contempt on or after December 1, 2013, amends G.S. 5A-17 to provide that a person found in criminal contempt who has given notice of appeal may be retained in custody for not more than 24 hours from the time of imposition of confinement without a bail determination being made by a judicial official (district court judge if confinement imposed by clerk or magistrate, superior court judge if confinement imposed by district court judge; superior court judge other than the superior court judge that imposed confinement). If the designated judicial official has not acted within 24 hours, any judicial official must act to hold the bail hearing.
77. **[S.L. 2013-308 \(H 635\)](#): Allow court clerk or magistrate to issue by fax or email transmission an involuntary commitment custody order to 24-hour facility when respondent is located there.** This act, effective October 1, 2013, amends G.S. 122C-261(d) to provide if the affiant is a physician or psychologist at a 24-hour facility who recommends inpatient commitment, the respondent is physically present there, and the clerk or magistrate finds probable cause to believe that the respondent meets the criteria for inpatient commitment, then the clerk of magistrate may issue an order by fax or a scanned order by email to the physician, psychologist, or “designee” (defined as on-site police security personnel at the 24-hour facility) to take the respondent into custody and proceed according to G.S. 122C-266 (inpatient commitment). The revised statute specifies notice to the respondent, signing the custody order, returning the order, and the required training that must be completed by physicians, psychologists, and designees before the fax or email procedure may be used with a particular physician, psychologist, or designee.
78. **[S.L. 2013-312 \(H 828\)](#) Criminal history checks of applicants for licensure as physical therapists and assistants.** This act, effective October 1, 2013, amends various aspects of the physical therapy practice act, including adding the requirement that applicants for licensure as physical therapists and physical therapy assistants must consent to a criminal history check. Refusal to consent is a ground to deny licensure. The act also adds new G.S. 114-19.33 to allow the Department of Justice to provide the Board of Physical Therapy Examiners with a criminal history record of applicants for licensure from state and national repositories.
79. **[S.L. 2013-323 \(H 26\)](#), amended by [S.L. 2013-410 \(H 92\)](#): Chop shop activity law amendments.** This act, effective for offenses committed on or after December 1, 2013, amends G.S. 14-72.7 (chop shop activity) (1) to increase the punishment from a Class H felony to a Class G felony, and (2) to add “reasonable grounds to believe” as an alternative to “knows” or “knowing” in proving the offenses set out in subsection (a) of the statute. The

act amends G.S. 20-62.1 (purchase of vehicles for purposes of scrap or parts only), effective for reports and transactions occurring on or after December 1, 2013, and for offenses committed on or after that date, to increase the punishment set out in subsection (c) from a Class 1 misdemeanor to a Class I felony with a mandatory minimum \$1,000 fine (current law provides for a Class 1 misdemeanor for a first offense and a Class I felony for a second or subsequent offense). Amended G.S. 20-62.1(a)(1) requires that the record of a purchase must be maintained on a form, or in a format, as approved by the Division of Motor Vehicles (DMV) (underlined words added) and makes other changes. New G.S. 20-62.1(a)(1a) requires a purchaser to verify with the DMV whether or not the motor vehicle has been reported stolen. New G.S. 20-62.1(a1) requires, within 72 hours of each day's close of business, a secondary metals recycler or salvage yard purchasing a motor vehicle under subsection (a) to submit specified information to the National Motor Vehicle Title Information System (NMVTIS) or report the required information to a third-party consolidator as long as the consolidator reports the information to NMVTIS. New G.S. 20-62.1(b1) provides that the information obtained by the DMV under the statute shall be made available only to law enforcement agencies and is not a public record under G.S. 132-1.

80. **S.L. 2013-337 (S 140): Exploitation of disabled or older adult amendments.** This act amends G.S. 14-112.2, effective for offenses committed on or after December 1, 2013. It replaces the definition of "elder adult" (person 60 years older or older unable to provide for specified services) with "older adult" (person 65 years old or older) and substitutes "older adult" for "elder adult" throughout the statute. It amends G.S. 14-112.2(c) to insert the introductory language as "unlawful for a person to knowingly, by deception or intimidation . . ." in place of "unlawful for a person, who knows or reasonably should know that an elder adult or disabled adult lacks the capacity to consent . . . ."

The act makes the following changes, effective December 1, 2013: (1) amended G.S. 53B-4 (access to financial records) includes within its provisions a subpoena delivered to a financial institution by a county social services director or law enforcement agency investigating a credible report of financial exploitation of a disabled or older adult; (2) amended G.S. 108A-14 requires a county social services director to receive and evaluate reports of financial exploitation of disabled adults and to investigate credible reports of financial exploitation; (3) new Article 6A of G.S. Chapter 108A imposes a duty on a financial institution under certain circumstances to report information that a disabled or older adult is the victim or target of financial exploitation and authorizes a law enforcement agency or county social services department to obtain a subpoena directing a financial institution to provide financial records of a customer who is a disabled or older adult.

81. **S.L. 2013-338 (S 200): Extend time for local forensic science labs to obtain accreditation.** This act, effective July 23, 2013, amends the effective date of sections 7 and 8 of S.L. 2011-19 to effectively delay for local forensic science laboratories until July 1, 2016, the requirement that a forensic analysis under G.S. 8-58.20 must be performed by a laboratory

accredited by a specified accrediting body. [Note: Although this act also purports to delay the accrediting requirement for a chemical analysis of blood or urine under G.S. 20-139.1(c2), Session Law 2013-194 (S 285) had already repealed the accrediting requirement for that chemical analysis and additionally had made clear that G.S. 8-58.20 did not apply to an analysis under G.S. 20-139.1(c2). Thus, Session Law 2013-338 only applies to a forensic analysis under G.S. 8-58.20 and does not apply to an analysis under G.S. 20-139.1(c2).]

82. **[S.L. 2013-341 \(S 407\)](#): DMV to implement statewide electronic lien system.** This act, effective July 23, 2013, adds new G.S. 20-58.4A to require the Division of Motor Vehicles no later than July 1, 2014, to implement a statewide electronic lien system to process the notification, release, and maintenance of security interests and certificate of title data where a lien is notated, through electronic means instead of paper documents otherwise required by G.S. Chapter 20.
83. **[S.L. 2013-345 \(S 455\)](#): Increase penalties for violation of seed law.** This act, effective for violations committed on or after December 1, 2013, amends G.S. 106-277.24 to change the punishment for the Class 3 misdemeanor of violating a provision of Article 31 (agricultural and vegetable seeds) of G.S. Chapter 106 by increasing the fine from not more than \$500 to a fine of not more than \$10,000. Provides that the fine shall not apply to a retailer concerning a transaction when the seed sold by a retailer was acquired by the retailer in a sealed container or package, or the retailer did not have reasonable knowledge that the seed sold was in violation of the Article. In determining the amount of the fine, the court must consider the retail value of the seed sold in violation of the law, and in cases involving the unlawful sale of seed protected under federal law, the court must order the payment of restitution to any injured party for any losses incurred as a result of the unlawful sale.
84. **[S.L. 2013-346 \(S 488\)](#): Criminal record check authorized for applicant for license renewal as nursing home administrator.** This act, effective July 23, 2013, amends various provisions of the Nursing Home Administrator Act. It amends G.S. 90-288.01(b) to authorize the State Board of Examiners for Nursing Home Administrators to require in its discretion a criminal history record check of an applicant for license renewal as a nursing home administrator.
85. **[S.L. 2013-348 \(S 659\)](#): Amendments of impaired driving and open container laws to conform with federal funding requirements.** This act is effective for offenses committed on or after October 1, 2013.

**Background of this session law.** Federal law requires that a portion of federal highway funds that would otherwise be apportioned to a state be reserved from a state that has not enacted both a repeat intoxicated driver law and an open container law. 23 U.S.C. Sections 154(c)(2), 164(b)(2). Such laws must require, among other consequences, that an individual convicted of a second or subsequent offense for driving while impaired install an ignition interlock system on each motor vehicle he or she owns or operates. They also must require that a person convicted of a second impaired driving offense be required to perform at least

30 days of community service or be imprisoned for at least five days. A person convicted of a third or subsequent impaired driving offense must be required to perform at least sixty days of community service or serve at least ten days of imprisonment. Open container laws must prohibit the possession of any open alcoholic beverage container or the consumption of any alcoholic beverage in the passenger area of any motor vehicle (as that term is defined by federal law). S.L. 2013-348 amends several provisions of Chapter 20 to satisfy these minimum requirements.

**Ignition interlock.** The act amends G.S. 20-17.8 (restoration of a license after certain driving while impaired convictions; ignition interlock) in subsection (c1) to provide that the Commissioner of Motor Vehicles must not issue a license to a person subject to the statute until presented with proof of the installation of an ignition interlock system in all registered vehicles owned by the person. Formerly, a person was not required to install ignition interlock on a vehicle he or she owned if DMV determined that another member of the person's family relied on the vehicle and the vehicle was not in the possession of the person subject to the ignition interlock requirement. This exception applied, for example, when the college-age child of a parent convicted of impaired driving and subject to ignition interlock drove a vehicle owned by the parent while residing in a different location from the parent. Amendments to G.S. 20-17.8(c1) require that DMV determine a waiver of the ignition interlock requirement under the family-member exception on a case-by-case basis following an assessment of financial hardship to the person subject to the restriction.

Amendments also require the Commissioner to cancel the driver's license of a person subject to the statute if he or she registers a motor vehicle he or she owns without an installed ignition interlock system or removes a system from a motor vehicle he or she owns, other than when changing ignition interlock providers or selling the vehicle. The act deletes the last sentence of G.S. 20-17.8(f), which required a court, on finding that the aforementioned family-member exception to ignition interlock applied, to find the person not guilty of driving while license revoked for violating the conditions under G.S. 20-17.8(c1). It also amends G.S. 20-17.8(l) to provide that the medical exception to ignition interlock applies only to people required to have ignition interlock based on an alcohol concentration of 0.15 or more and not to people required to have ignition interlock because of a prior conviction or an Aggravated Level One impaired driving sentence.

**Punishment.** The act amends G.S. 20-179(h) (level two punishment for various DWI convictions) to provide that if the defendant is subject to level two punishment based on grossly aggravating factors in G.S. 20-179(c)(1) (prior conviction) or (c)(2) (driving while license revoked), the prior DWI conviction occurred within five years before the date of the offense for which the defendant is being sentenced, and the judge suspends all active terms of imprisonment and imposes abstention from alcohol as verified by a continuous alcohol monitoring system, then the judge must also impose as a special probation condition that the defendant must complete 240 hours of community service.

**Community service parole.** The act amends G.S. 15A-1371(h) to provide that prisoners serving sentences for impaired driving are eligible for community service parole *after serving the minimum sentence required by G.S. 20-179* (italicized words added).

Requirement (4) in setting out community service parole eligibility is amended so it reads that the prisoner 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* (italicized words added).

**Definition of “motor vehicle” in transporting open container of alcoholic beverages.**

The act revises the definition of “motor vehicle” for the offense of transporting an open container of alcoholic beverages (G.S. 20-138.7) so it means any vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways and includes mopeds. The current definition includes only those motor vehicles that North Carolina law requires to be registered, whether the motor vehicle is registered in North Carolina or another jurisdiction.

School of Government faculty member Shea Denning contributed to the major portion of the summary of S.L. 2013-348 (S 659).

86. [S.L. 2013-349 \(S 344\)](#): **Issuing titles for vintage cars.** This act, effective July 23, 2013, amends G.S. 20-53(e) (title application for out-of-state vehicle that is 35 model years old or older) to provide that if an inspection and verification is not conducted by the License and Theft Bureau of the Division of Motor Vehicles within 15 days after receiving a request and the inspector does not have probable cause to believe that the ownership document or public vehicle identification number presented does not match the vehicle, the vehicle is considered to have satisfied all inspection and verification requirements and title must issue to the owner within 15 days thereafter. If an inspection and verification is timely performed and the vehicle passes the inspection and verification, title must issue within 15 days of the date of the inspection.
87. [S.L. 2013-360 \(S 402\)](#): **2013 Appropriations Act, as amended by S.L. 2013-363 (H 112), S.L. 2013-380 (H 936), and S.L. 2013-385 (S 182).** The 2013 Appropriations Act, as amended by S.L. 2013-363 (H 112), S.L. 2013-380 (H 936), and S.L. 2013-385 (S 182), addresses several financial, legal, and organizational matters for law enforcement, the court system, and corrections. Below is a brief rundown. All references are to S.L. 2013-360 and sections within it unless otherwise noted. The act is effective July 1, 2013, except as otherwise noted. The discussion generally does not review the appropriation decreases and increases and personnel changes made by the General Assembly. For a breakdown of these changes, see [Justice and Public Safety, Section I, of the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets for Senate Bill 402 \(July 21, 2013\)](#). For changes in court costs, see the Administrative Office of the Courts memoranda posted at <http://www.nccourts.org/Courts/Trial/Costs/>.

**Unmanned government aircraft prohibited until July 1, 2015, unless approved by state official.** Section 7.16 provides that no state or local governmental entity or officer may procure or operate an unmanned aircraft system or disclose personal information about any person acquired through operating such a system unless the State Chief Information Officer (SCIO) approves an exception specifically granting disclosure, use, or purchase. If the SCIO

determines there is a requirement for an unmanned aircraft system for use by state or local agencies, planning may begin for its possible development, implementation, and operation. If the SCIO decides to plan for a system program, a proposal covering issues set out in the section must be provided by March 1, 2014, to specified legislative committees and the Fiscal Research Division.

**Volunteer school safety resource officer program.** Section 8.45, effective December 1, 2013, authorizes sheriffs (new G.S. 162-26) and chiefs of police (new G.S. 160A-288.4) to establish a volunteer school safety resource officer program to provide nonsalaried special deputies or law enforcement officers to serve in public schools. A volunteer must have prior experience as either (i) a sworn law enforcement officer, or (ii) a military police officer with a minimum of two years' service. The statutes specify training requirements. The volunteer has the power of arrest while performing official duties. Amended G.S. 14-269.2(g) exempts the volunteer from the prohibition in the section against possessing specified weapons on a campus or other educational property.

**DSS study on reporting child abuse.** Section 12C.7 requires the Division of Social Services (DSS) of the Department of Health and Human Services to study the policies and procedures for reporting child abuse. DSS must review specified topics, including reports of child abuse in child care facilities, how reports of child abuse are received, the number of inaccurate reports DSS annually receives, the number of children DSS has placed in child protective services pursuant to a report, etc. DSS must report the results of its study and any recommendations to the Joint Legislative Committee on Health and Human Services and the Fiscal Division by April 1, 2014.

**Inmate and probationer matters.** Section 16.11 provides that the Post-Release Supervision and Parole Commission, with the assistance of the North Carolina Sentencing and Policy Advisory Commission, must analyze the amount of time each inmate who is eligible for parole on or after July 1, 2014, has served compared to the time served by offenders under the Structured Sentencing Act for comparable crimes and must determine whether the inmate has served more time in custody than the inmate would have served had he or she received the maximum sentence under structured sentencing. The commission must reinstate the parole review process for each inmate who has served more time than the inmate would have under structured sentencing. The post-release commission must report to specified legislative committees by April 1, 2014, which must include the number of parole-eligible inmates reconsidered under this section and the number who were actually paroled.

**HIV testing of inmates** (section 16C.15). New G.S. 148-19.2, effective July 1, 2013, provides that any person sentenced to imprisonment and committed to the Division of Adult Correction must be tested to determine whether the person is HIV positive. Each inmate who has not previously tested positive must also be tested not less than once every four years from the date of the inmate's initial testing, and also before the inmate's release from custody except if the inmate has been tested within the prior year. All inmates in custody on July 1, 2013, who have not been previously tested must be tested by October 1, 2013.

**Electronic monitoring fees** (section 16C.16). Amended G.S. 15A-1343(c2), applicable to people placed on house arrest with electronic monitoring as a probation condition on or after September 1, 2013, adds a daily fee for electronic monitoring that reflects the actual cost of providing the monitoring. The daily fees must be remitted to the Department of Public Safety to cover its costs to provide the monitoring. A \$90 one-time fee for the monitoring device and the daily fee are made applicable to subsection (a1) (community and intermediate probation conditions), and the daily fee is added to subsection (b1) (special probation conditions), which already required the \$90 one-time fee for the device. Amended G.S. 15A-1368.4(e)(13), effective July 1, 2013, provides that a post-release supervisee must pay a \$90 one-time fee for electronic monitoring and a daily fee that reflects the actual cost of providing the monitoring. For more detailed information about these provisions, see the AOC memoranda at the website address provided at the beginning of this session law's summary. Note: This summary reflects additional changes made by Section 6.7, Session Law 2013-363 (H 112).

**North Carolina State Crime Laboratory.** Section 17.3 provides that the laboratory, in conjunction with the School of Government and the Conference of District Attorneys, must develop a training curriculum for district attorneys to include instruction on fundamentals of laboratory forensic science disciplines, the lab's electronic information system, and its case management guidelines. Section 17.6 transfers the laboratory and the DNA Database and Databank from the State Bureau of Investigation for relocation elsewhere within the Department of Justice, as determined by the Attorney General. Section 17.6 amends G.S. 132-1.4(b)(1), which defines "records of criminal investigations" in the public records law, to include within the definition any records, worksheets, reports, or analyses prepared or conducted by the state crime laboratory at the request of any public law enforcement agency in connection with a criminal investigation.

**Office of Indigent Defense Services.** Section 18A.2 provides that the office may use up to \$2.15 million in appropriated funds during the 2013-2015 biennium to expand existing offices, create new public defender offices, to establish regional public defender programs, or to create positions within existing public defender programs to handle cases in adjacent counties or districts. Section 18A.4 requires the office to issue a request for proposals from private law firms or not-for-profit legal representation organizations for the provision of all classes of legal cases for indigent clients in all judicial districts. Section 18A.5, effective August 1, 2013, amends G.S. 7A-498.7(b) to change the authority to appoint public defenders from the Commission on Indigent Defense Services to the senior resident superior court judge in a particular district. Section 18A.6 amends G.S. 7A-498.7 to provide that when a public defender determines in a case that a conflict of interest exists in the office, the public defender whenever practical may request the appointment of an assistant public defender from another public defender office in the region, rather than obtaining private assigned counsel.

**Conference of District Attorneys funds for local toxicology analyses in DWI cases.** Section 18B.4 provides that of the funds appropriated to the Judicial Department, \$500,000 is allocated to the conference to allow district attorneys to obtain toxicology analyses from

local hospitals for defendants charged with DWI whose conduct did not result in serious injury or death.

**Minutes maintained by clerk of superior court to record convening and adjournment of district court as well as superior court.** Section 18B.8, effective January 1, 2014, amends G.S. 7A-109(a1) to require the clerk of superior court to record the date and time of each convening, recess, and adjournment of court in both district and superior court. This provision effectively adds district court to the duties the clerk has already been performing in superior court.

**General punishment changes for Class 3 misdemeanors.** Section 18B.13 amends G.S. 15A-1340.23, effective for offenses committed on or after December 1, 2013, to revise the misdemeanor sentencing Prior Conviction Levels for Level II from “1-15 days C/I” to “1-15 days C if one to three prior convictions” and “1-15 days C/I if four prior convictions.” It also provides that unless otherwise provided for a specific offense, the judgment for a person convicted of a Class 3 misdemeanor who has no more than three prior convictions shall consist only of a fine. Although it is not clear whether the provision in G.S. 15A-1340.21(d) (multiple prior convictions obtained in one court week count as only one prior conviction to determine the prior conviction level), applies to the new provision mentioned in the prior sentence (fine only for Class 3 misdemeanor when no more than three prior convictions), it would appear the better interpretation is that it does. The new provision is located in the same statute as the table of prior convictions levels, to which G.S. 15A-1340.21(d) clearly applies, and the likely legislative intent is to apply it to the new fine-only provision, particularly because the legislature intended to significantly reduce the number of indigent defendants who qualify for appointed counsel. (Note: The effective date of these changes is noted above as offenses committed on or after December 1, 2013. The actual language is “becomes effective December 1, 2013,” which could mean the changes apply to pending cases on December 1, 2013, as well as offenses committed on or after December 1, 2013. However, the immediate sentence after this language provides a savings clause for prosecutions “for offenses committed before the effective date,” which clearly shows that the legislature intended for the decreased punishment provisions to apply only to offenses committed on or after December 1, 2013.)

**Offenses reclassified to Class 3 misdemeanors or infractions.** Sections 18B.14 and 18B.15, effective for offenses committed on or after December 1, 2013, reclassified certain Class 1 or Class 2 misdemeanors to Class 3 misdemeanors or misdemeanors to infractions. The reclassified Class 3 misdemeanors and infractions are listed below.

*Class 3 misdemeanors*

- G.S. 14-106 (obtaining property for worthless check)
- G.S. 14-107(d)(1) (simple worthless check)
- G.S. 14-167 (failure to return hired property)
- G.S. 14-168.1 (conversion by bailee, lessee, etc.)
- G.S. 14-168.4(a) (failure to return rental property)



G.S. 20-28(a) (driving while license revoked) except it remains a Class 1 misdemeanor if the driver's license was originally revoked for an impaired driving revocation  
G.S. 20-35(a1) (failure to obtain driver's license before driving motor vehicle, 20-7(a))  
G.S. 20-35(a1) (failure to comply with driver's license restrictions, 20-7(e))  
G.S. 20-35(a1) (permitting person's motor vehicle to be operated by unlicensed person, 20-34)  
G.S. 20-111(1) (driving vehicle on highway, or knowingly permit person's vehicle to be driven on highway, when vehicle is not registered with DMV or does not display current registration plate)  
G.S. 20-111(2) (display, possess, etc., registration card, title certificate, or registration plate knowing it to be fictitious or to have been canceled, revoked, etc., or willfully display expired license or registration plate on vehicle knowing it to be expired)  
G.S. 20-127(d)(1) (applying tinting to vehicle's window that does not meet window tinting restrictions)  
G.S. 20-127(d)(2) (driving a vehicle on a highway or public vehicular area that has window not meeting window tinting restrictions)  
G.S. 20-141(j1) (speeding either more than 15 m.p.h. or more than speed limit or over 80 m.p.h.)  
G.S. 20-313(a) (registered motor vehicle owner operating or permitting vehicle to be operated without insurance)

#### *Infractions*

G.S. 20-35(a2) (failing to possess valid license while driving motor vehicle, 20-7(a))  
G.S. 20-35(a2) (operating motor vehicle with expired license, 20-7(f))  
G.S. 20-35(a2) (failing to notify DMV of address change for driver's license, 20-7.1)  
G.S. 75A-6.1(c) (violation of rule governing navigational lighting adopted by Wildlife Resources Commission)  
G.S. 75A-13.1 (violations concerning skin and scuba divers)  
G.S. 75A-13.3(c3) (vessel livery that fails to provide basic safety instruction)  
G.S. 75A-17(f) (no-wake speed violation)  
G.S. 75A-18(a) (violation of Article 1, G.S. Ch. 75A, except as otherwise provided)  
G.S. 20-176(a1) (failing to carry registration card in vehicle, 20-57(c))  
G.S. 20-176(a1) (failing to sign vehicle registration card, 20-57(c))  
G.S. 20-176(a1) (failing to notify DMV of address change for vehicle registration card, 20-67)  
G.S. 113-135(a) (fishing without a license under G.S. 113-174.1(a) and G.S. 113-270.1B(a))

**Expunction fees.** Section 18B.16, applicable to petitions for expunctions filed on or after September 1, 2013, amends G.S. 15A-145 (expunctions of records for first offenders under 18 for misdemeanor conviction), G.S. 15A-145.1 (expunction of records for first offenders under 18 for gang offenses), G.S. 15A-145.2 (expunction of records for first offenders under 21 for drug offenses), G.S. 15A-145.3 (expunction of records for first offenders under 21 for

toxic vapors offenses), and G.S. 15A-145.4 (expunctions of records for first offenders under 18 for nonviolent felony), to set or to increase the fee for filing a petition to \$175. The expunction petition fee of \$175 also applies to G.S. 15A-146 (expunction of records for not guilty or dismissed charge), but only for an expunction petition for a charge that was dismissed due to compliance with a deferred prosecution agreement. The clerk of superior court must remit \$122.50 of each fee to the Department of Justice (DOJ) for its costs and \$52.50 of each fee to the Administrative Office of the Courts (AOC) for its costs. The DOJ and AOC must jointly report to a specified legislative committee by September 1 of each year concerning expunctions, the report to include the number and types of expunctions granted during the reporting fiscal year and other specified matters. For more detailed information about these provisions, see the AOC memoranda at the website address provided at the beginning of this session law's summary.

**New court costs for expert witnesses providing testimony about chemical or forensic analysis at trial.** Section 18B.19, effective for fees assessed or collected on or after August 1, 2013, adds new G.S. 7A-304(a)(11) (expert witness employed by State Crime Laboratory) and 7A-304(a)(12) (expert witness employed by crime laboratory operated by local government or governments) to require a district or superior court judge, upon conviction of a defendant, to require the defendant to pay \$600 to be remitted to the Department of Justice or local government unit, respectively, in a case in which the expert witness testified about a completed chemical analysis under G.S. 20-139.1 or a forensic analysis under G.S. 8-58.20. This fee is in addition to any costs assessed under G.S. 7A-304(a)(7) or (8). For more detailed information about these provisions, see the AOC memoranda at the website address provided at the beginning of this session law's summary.

**Superior and district court districts reorganized.** Section 18B.22 amends G.S. 7A-41(a) (superior court districts) to add Anson and Richmond counties and one additional judgeship to district 16A (which will now consist of Anson, Richmond, Scotland, and Hoke counties), removes Anson and Richmond counties and one judgeship from district 20A (which will now consist of Stanly County only), and switches district 19D (Moore County) from the fifth to the fourth judicial division. The section specifies how judgeships are filled and elections in the 2016 general election.

Amended G.S. 7A-133(a) (district court districts) combines districts 6A and 6B into a single district 6 and the combined number of judgeships for the new district is reduced from six to four. Anson and Richmond counties are added to district 16A (which also includes Scotland and Hoke counties) and the number of judgeships are increased from three to six for the revised district. Anson and Richmond counties are removed from district 20A and the number of judgeships for the revised district (which will now consist of Stanly County only) is reduced from four to two. One judgeship is added to district 21 (Forsyth County). The section specifies how judgeships are filled and at which general election.

**District attorneys and prosecutorial districts reorganized.** Section 18.22 amends G.S. 7A-60 (district attorneys and prosecutorial districts) to combine prosecutorial districts 6A and 6B into district 6 with a district attorney and ten assistant district attorneys. It creates a new prosecutorial district 16C, composed of Anson and Richmond counties and with a

district attorney and six assistant district attorneys. Anson and Richmond counties are removed from prosecutorial district 20A, which will now consist of Stanly County only, with a district attorney and the number of assistant district attorneys for this district is reduced from eleven to five. The section specifies how the district attorney positions are filled at the 2014 general election.

88. **S.L. 2013-363 (H 112): 2013 Appropriations Act amendments.** This act's pertinent amendments to the 2013 Appropriations Act are included in the summary of the appropriations act, above.
89. **S.L. 2013-366 (S 353): Abortion law amendment and motor vehicle law amendment.** This act includes several provisions concerning abortions and an unrelated provision involving motor vehicle law. Amended G.S. 14-45.1 (when abortion not unlawful), effective August 28, 2013, includes a nurse and other health care provider to a provision that allows a doctor on moral, ethical, or religious grounds to refuse to perform or participate in medical procedures that result in an abortion. Amended G.S. 20-154 (unsafe movement), effective for violations committed on or after October 1, 2013, provides that a person violating subsection (a) that results in a crash causing property damage in excess of \$5,000 or serious bodily injury to a motorcycle operator or passenger commits an infraction and must be assessed a fine not less than \$750. The violation is treated as a failure to yield the right-of-way to a motorcycle for assessing points under G.S. 20-16(c). A judge may also order a driver's license suspension for not more than 30 days, with the option of granting a limited driving privilege.
90. **S.L. 2013-368 (S 683): Amendments to human trafficking and prostitution offenses, Fair Sentencing Act parole, Structured Sentencing Act aggravating factors, and related matters.**
- Parole eligibility for Fair Sentencing Act sentences.** This act amends G.S. 15A-1371(a) (parole eligibility) , effective July 29, 2013, to provide that a prisoner sentenced under the Fair Sentencing Act for a Class D through Class J felony, who meets the criteria established under the statute, is eligible for parole consideration after completing service of at least 20 years imprisonment less any credit allowed under applicable state law.
- Effective date for provisions discussed below.** The provisions discussed below are effective for offenses committed on or after October 1, 2013, and provide a savings clause for prosecutions of offenses committed before that date.
- Human trafficking and related offenses.** The act amends G.S. 14-43.11 (human trafficking), G.S. 14-43.12 (involuntary servitude), and G.S. 14-43.13 (sexual servitude) to (i) provide an alternative mental element to "knowingly" in proving these offenses by showing the defendant acted "in reckless disregard of the consequences," and (ii) provide that mistake of age or consent of the minor is not a defense.
- Repealed statutes.** The act repeals G.S. 14-190.18 (promoting prostitution of minor), 14-190.19 (participating in prostitution of minor), 14-204.1 (loitering for purpose of engaging in

prostitution), 14-205 (venue for prostitution prosecution), 14-207 (degrees of guilt of prostitution), and 14-208 (punishment for prostitution offenses).

**Prostitution offenses.** Amended G.S. 14-203 adds several new and revised definitions, including the definition of “prostitution” as the performance of, offer of, or agreement to perform vaginal intercourse, any sexual act or sexual contact as defined in G.S. 14-27.1, for the purpose of sexual arousal or gratification for any money or other consideration. Amended G.S. 14-204 provides that prostitution is a Class 1 misdemeanor, authorizes conditional discharge for a first offender, and provides immunity for a minor (a person under 18), who instead must be treated as an undisciplined juvenile as set out in the statute. New G.S. 14-205.1 (solicitation of prostitution) is a Class 1 misdemeanor for a first offense, a Class H felony for a second or subsequent offense, a Class G felony for a person 18 or older who willfully solicits a minor, and a Class E felony for a person who willfully solicits a person who is severely or profoundly mentally disabled. The act also adds new G.S. 14-205.2 (patronizing a prostitute) and new G.S. 14-205.3 (promoting prostitution). New G.S. 14-205.4 (probation conditions) authorizes a court to order a convicted defendant to be examined for sexually transmitted diseases, and it also provides that a female convicted of any of these prostitution offenses and placed on probation must be under the care or charge of a female probation officer.

**Electronic surveillance amendments.** Amended G.S. 15A-290(c) (offenses for which electronic surveillance is authorized) adds the offenses of G.S. 14-43.11 (human trafficking), 14-43.12 (involuntary servitude), 14-43.13 (sexual servitude), 14-205.2(c) and (d) (patronizing prostitute who is minor or mentally disabled person), and 14-205.3(b) (promoting prostitution of minor or mentally disabled person).

**Deferred prosecution; motion for appropriate relief.** Amended G.S. 15A-1341 (deferred prosecution) provides that a defendant whose prosecution is deferred under G.S. 14-204(c) (minor charged with prostitution) may be placed on probation (but note that G.S. 14-204(c) provides immunity from prosecution). Amended G.S. 15A-1415(b) (motion for appropriate relief may be made more than ten days after entry of judgment) adds a defendant who seeks to have a conviction vacated who was convicted of a first offense under G.S. 14-204 that was not dismissed under G.S. 14-204(b) and the defendant’s participation in the offense was as a victim of human trafficking, sexual servitude, or the federal trafficking victims protection law. See also new G.S. 15A-1416.1, which provides the substantive grounds for the motion for appropriate relief.

**Expunction of conviction.** New G.S. 15A-145.6 provides an expunction for a defendant convicted of a prostitution offense who was a victim of human trafficking, sexual servitude, or a severe form of trafficking under the federal trafficking victims protection law, and satisfies other specified conditions.

**Crime victim compensation, restitution, and related matters.** Amended G.S. 15B-2 includes a person as a claimant under the Crime Victims Compensation Act who was convicted of a first offense under G.S. 14-204 and whose participation in the offense was the result of having been a victim of human trafficking, sexual servitude, or a severe form of trafficking under the federal trafficking victims protection law. New G.S. 14-43.20: (i)

mandates specified restitution to a victim of human trafficking, involuntary servitude, or sexual servitude, (ii) authorizes the Department of Health and Human Services to provide or fund emergency services and assistance to a victim, (iii) requires the Attorney General, a district attorney, or a law enforcement officer, to certify to federal authorities that a victim is willing to cooperate with an investigation so the victim, if eligible, may qualify for an immigrant visa and access to federal benefits, but cooperation is not required of a victim who is under 18 years old, and (iv) provides that a defendant who commits a violation of G.S. 14-43.11 (human trafficking), G.S. 14-43.12 (involuntary servitude), and G.S. 14-43.13 (sexual servitude) is subject to the property forfeiture provisions under G.S. 14-2.3.

**Definition of “abused juveniles.”** Amended G.S. 7B-101(1) adds the following offenses to the definition of “abused juveniles”: G.S. 14-205.3(b) (promoting prostitution of minor or mentally disabled person), G.S. 14-43.11 (human trafficking), G.S. 14-43.12 (involuntary servitude), and G.S. 14-43.13 (sexual servitude).

**Sex offender registration law amendment.** Amended G.S. 14-208.6(5) adds the following offenses to the definition of “sexually violent offense” in the sex offender registration law: G.S. 14-205.2(c) and (d) (patronizing prostitute who is minor or mentally disabled person), and G.S. 205.3(b) (promoting prostitution of minor or mentally disabled person).

**Investigative grand jury.** Amended G.S. 15A-622 authorizes an investigative grand jury for the offenses of G.S. 14-43.11 (human trafficking), G.S. 14-43.12 (involuntary servitude), G.S. 14-43.13 (sexual servitude).

**N.C. Human Trafficking Commission.** Amended G.S. 143A-55.10 (North Carolina Human Trafficking Commission) modifies the membership and terms of the commission, deletes the December 31, 2014, termination date of the commission, and provides that from the funds available to the Department of Justice, the Attorney General must allocate monies to fund the commission’s work.

**New Structured Sentencing Act aggravating factors.** The act adds the following Structured Sentencing Act aggravating factors to G.S. 15A-1340.16(d): (1) the offense is a violation of G.S. 14-43.11 (human trafficking), G.S. 14-43.12 (involuntary servitude), or G.S. 14-43.13 (sexual servitude) and involved multiple victims, and (2) the offense is a violation of the same statutes and the victim suffered serious injury as a result of the offense.

91. **[S.L. 2013-369 \(H 937\)](#): Firearm law amendments.** This act makes many changes to firearm laws, with varying effective dates as indicated below.

**Armed habitual felon.** Effective for offenses committed on or after October 1, 2013, new Article 3D (G.S. 14-7.35 through 14-7.41), G.S. Chapter 14, creates the status of armed habitual felon that occurs if a defendant has been convicted (including guilty and no contest pleas) of a firearm-related felony offense in any court in the United States. A “firearm-related felony” is defined as a felony committed in which the person used or displayed a firearm while committing a felony. If a defendant is convicted of a second firearm-related felony that was committed after the conviction of the first firearm-related felony, and is found to be an armed habitual felon, then the defendant is punished for the second firearm-

related felony as a Class C felon with a minimum sentence of not less than 120 months imprisonment. The procedures for charging and trying the principal (second) felony and the status of armed habitual felon are similar to the current law concerning habitual felon. (Note: Some statutes in Article 3D contain terms that are inconsistent with the definition of “firearm-related felony” and thus they should be treated as surplusage and disregarded. The term “threatened” use or display of a firearm appears in G.S. 14-7.36, the term “threatening” the use or display of a firearm appears in G.S. 14-7.40(b), and the term “deadly weapon” appears in G.S. 14-7.40(b). All of these terms are inconsistent with the definition of “firearm-related felony” and the legislative intent to focus on a felony in which the person used or displayed a firearm while committing a felony.)

**Enhanced sentence for using firearm or deadly weapon.** Effective for offenses committed on or after October 1, 2013, amended G.S. 15A-1340.16A (enhanced sentence when defendant used, displayed, etc., firearm or deadly weapon) is broadened to include all felonies instead of just Class A through E felonies. If the felony conviction is for a Class A through E felony, the minimum term of imprisonment must be increased by 72 months (current law, 60 months), if a Class F or G felony, increased by 36 months, if a Class H or I felony, increased by 12 months.

**Judgment to indicate if felony conviction involved use or display of firearm.** Effective for judgments for felony convictions entered on or after October 1, 2013, new G.S. 15A-1382.2 requires that if a sentencing judge determines that the defendant used or displayed a firearm while committing a felony, the judge must include that fact when entering the judgment.

**Expanded places where concealed handgun permit holders may possess handguns.** The following changes are effective for offenses committed on or after October 1, 2013. New G.S. 14-269(a2) (carrying concealed weapon) allows a person with a concealed handgun permit, reciprocity for out-of-state permit, or a law enforcement federal exemption recognized under G.S. 14-415.25, to possess a handgun if it is in a closed compartment or container in the person’s locked vehicle that is in a parking lot owned or leased by state government. New G.S. 14-269.2(i) (weapon on educational property) allows a person with a concealed handgun permit or exempt from needing a permit, if he or she is an employee of a UNC institution or community college, or private college that has not prohibited possession of a handgun under this provision, to possess a handgun in the employee’s detached single-family residence on the campus or in a closed compartment or container in the person’s locked vehicle that is in a parking lot of the institution where the employee is employed and resides (also allows a person without a permit to possess a handgun in the employee’s residence or vehicle under limited circumstances). New G.S. 14-269.2(j) allows possession of a handgun by an employee of a public or nonpublic school under similar circumstances as in G.S. 14-269.2(i). New G.S. 14-269.2(k) allows a person with a permit or exempt from needing a permit to have a handgun in a closed compartment or container within the person’s locked vehicle or in a locked container securely affixed to the person’s vehicle. Amended G.S. 14-269.3 (carrying weapon into assemblies and establishments where alcoholic beverages are sold and consumed) to exempt from its

prohibitions a person with a concealed handgun permit, reciprocity for out-of-state permit, or a law enforcement federal exemption recognized under G.S. 14-415.25, but not if the possessor or controller of the premises posts a conspicuous notice prohibiting a concealed handgun. Amended G.S. 14-269.4 (6) (exemption from prohibition of weapons in courthouse and certain state property) adds a person with a law enforcement federal exemption recognized under G.S. 14-415.25 who has a firearm in a closed compartment or container in the person's locked vehicle or in a locked container securely affixed to the person's vehicle. Amended G.S. 14-277.2 (weapons at parades prohibited) exempts a person with a concealed handgun permit, reciprocity for out-of-state permit, or a law enforcement federal exemption recognized under G.S. 14-415.25, unless a person possessing or controlling the premises prohibits carrying a concealed handgun.

**Prohibiting child under 12 from possessing dangerous firearm.** Amended G.S. 14-316 (unlawful for child under 12 to possess dangerous firearm except with parent or guardian's permission), effective for offenses committed on or after October 1, 2013, applies the statute's prohibition to any person (not just a parent, guardian, etc.), prohibits "access to" as well as possession of a firearm, and permits access to or possession with the permission of the child's parent or guardian.

**Limitation on local ordinances prohibiting carrying concealed weapon.** Amended G.S. 14-415.23, effective for offenses committed on or after October 1, 2013, deletes a local government's authority to prohibit the legal carrying of concealed handguns on playgrounds, greenways, and biking or walking paths, and clarifies the extent of its authority to prohibit them at certain recreational facilities such as athletic fields and swimming pools.

**Mental commitment and other weapon bars.** The following changes are effective October 1, 2013. Amended G.S. 122C-54(d1) requires the clerk of superior court to cause a record of various determinations or findings to be transmitted to the National Instant Criminal Background Check System (NICS) within 48 hours (excluding weekends or holidays) after receiving notice of them: specified involuntary commitments, not guilty of by reason of insanity, incompetent to proceed to trial, etc. Amended G.S. 122C-54.1 (restoration process to remove mental commitment bar) makes various changes, including the standard that the petitioner must prove: he or she will not be likely to act in a manner dangerous to public safety and the granting of relief would not be contrary to the public interest.

**Permits issued by sheriff and other related matters.** Amended G.S. 14-415.17, effective October 1, 2013, makes confidential and not a public record under G.S. 132-1 the list of concealed handgun permit holders and the information collected by the sheriff to process an application. This information is available to local enforcement agencies on request, and the State Bureau of Investigation must make the information available to officers and clerks of court on a statewide system. Amended G.S. 14-415.18, effective October 1, 2013, requires the sheriff to revoke a concealed handgun permit of a permittee who is adjudicated guilty of or receives a PJC for a crime that would have disqualified the permittee from initially receiving a permit. Amended G.S. 14-406, effective October 1, 2013, makes dealer records confidential and not a public record, but they must be made available on request of law enforcement agencies. Amended G.S. 14-404 (issuance or refusal of pistol permit),

effective October 1, 2013, requires a sheriff to keep a list of all permit denials with the specific reasons for the denials. The list may not include information that would identify the denied applicant; the list is a public record. The sheriff must notify the applicant of the approval or denial of a permit within 14 days (current law, 30 days) of the date of the permit application. Effective October 1, 2013, the sheriff must revoke a pistol permit on the occurrence of an event or condition or the applicant's inability to meet a requirement after the issuance of a permit that would have originally resulted in the denial of a permit. Effective July 1, 2014, new G.S. 14-404(c1) provides that judicial findings, court orders, or other factual matters relevant to any disqualifying conditions for a pistol permit in G.S. 14-404(c) must be reported to the National Instant Criminal Background Check System (NICS) by the clerk of superior court within 48 hours (excluding weekends or holidays) after receipt of a copy of a judicial determination or finding. Amended G.S. 14-405, effective October 1, 2013, provides that pistol permit records maintained by the sheriff are confidential and not public records under G.S. 132-1, but must be made available on request of law enforcement agencies.

**Court official provisions.** Amended G.S. 14-269(b), effective for offenses committed on or after October 1, 2013, exempts from the offense of carrying a concealed weapon judges, magistrates, court clerks, and registers of deeds who have a concealed handgun permit as long as they don't have alcohol or unlawful controlled substances in their bodies; the weapon must be secured in a locked compartment when it is not on the official's person. Amended G.S. 14-415.27, effective October 1, 2013, adds judges, magistrates, and elected court clerks and registers of deeds to the provision allowing prosecutors and their investigators with concealed handgun permits to carry concealed handguns in the areas listed in G.S. 14-415.11(c).

**Punishment increased for certain concealed handgun permit offenses.** Amended G.S. 14-415.21, effective for offenses committed on or after October 1, 2013, increases from a Class 2 misdemeanor to a Class 1 misdemeanor a violation of the concealed handgun permit prohibitions in G.S. 14-415.22(c)(8) (on private premises where notice that carrying handgun is prohibited) and (c2) (while consuming alcohol or unlawful controlled substances).

**Taking wildlife with firearm with silencer.** Amended G.S. 113-291.1(c), effective for offenses committed on or after October 1, 2013, deletes the Class 1 misdemeanor for taking wildlife with a firearm equipped with a silencer.

92. **[S.L. 2013-370 \(S 18\)](#): Locksmith license offense.** This act amends several provisions involving the licensing of locksmiths. Effective for offenses committed on or after December 1, 2013, amended G.S. 74F-3 (prohibiting performance of locksmith services without a license) increases the punishment for a violation from a Class 3 to a Class 1 misdemeanor and provides that a second or subsequent offense is a Class I felony.
93. **[S.L. 2013-377 \(S 626\)](#): Authority to enter motor vehicle to save animal.** This act amends several provisions concerning animal shelters. Effective July 29, 2013, new G.S. 14-363.3 provides that an animal control officer, animal cruelty investigator, law enforcement officer,



firefighter, or rescue squad worker who has probable cause to believe that an animal is confined in a motor vehicle under conditions that are likely to cause suffering, injury, or death to the animal due to endangering conditions such as heat, cold, etc., may enter the motor vehicle by any reasonable means after making a reasonable effort to locate the owner or other person responsible for the animal. This statute does not apply to the transportation of horses, cattle, sheep, swine, poultry, or other livestock.

94. [\*\*S.L. 2013-379 \(H 675\)\*\*](#): **Maximum time period to dispense Schedule II controlled substance with written prescription.** This act amends G.S. 90-106(d), effective for acts occurring on or after October 1, 2013, to provide that a Schedule II controlled substance may not be dispensed pursuant to a written prescription more than six months after the date it was prescribed.

95. [\*\*S.L. 2013-380 \(H 936\)\*\*](#): **Wildlife law amendments.** This act adds new G.S. 113-294.1, effective July 1, 2013, to create the Wildlife Poacher Reward Fund in the Office of the State Treasurer to pay rewards to people who provide information to the Wildlife Resources Commission (hereinafter, commission) or to law enforcement authorities that results in the arrest and conviction of people who have committed criminal offenses involving the taking, injury, destruction, etc., of wildlife resources. The commission must adopt rules to administer the fund.

The following provisions are effective for offenses committed on or after December 1, 2013. (Note: Some amendments to wildlife offenses in this act are discussed in the summary of S.L. 2013-360 (S 402), above, and are not repeated here.) Amended G.S. 15A-1343(b1) (special probation condition requiring defendant to provide compensation for taking wildlife resources) authorizes the court to order the defendant to compensate an agency for any reward paid for information leading to the defendant's arrest and conviction. Amended G.S. 75A-10 provides that the punishment for the Class 2 misdemeanor of impaired boating under subsection (b1) includes a fine of not less than \$250. Amended G.S. 75A-16.2 (required boating safety education) provides that the fine for an infraction is \$50. Amended G.S. 75A-18 (penalties) provides that (1) except as otherwise provided in Chapter 75A, a person who violates a rule adopted by the commission is responsible for an infraction and must pay a \$50 fine, and (2) a person responsible for an infraction under Chapter 75A may not be assessed court costs. Amended G.S. 113-294 increases the minimum fine to \$250 in subsections (a), (d), (m), (r), and (s), and to \$500 in subsections (b) and (e). New G.S. 113-294(c3) provides that a person who unlawfully takes, possesses, etc., an elk is guilty of a Class 1 misdemeanor punishable by a fine of not less \$2,500. New G.S. 113-294(d1) provides that a person who unlawfully takes, possesses, etc., a deer from land posted under G.S. 14-159.7 without written permission of the landowner, lessee, etc. is guilty of a Class 2 misdemeanor punishable by a fine of not less \$500.

96. [\*\*S.L. 2013-385 \(H 182\)\*\*](#): **Changes to various rights to appeal and post-conviction matters.** This act's ratification clause in section 7 is not clear how it applies to each section of the

session law, so this summary makes a judgment how a court would interpret the meaning of the clause. Effective for violations committed on or after December 1, 2013, amended G.S. 15A-1115 deletes subsection (a) that provided a defendant with the right to appeal from district court to superior court for a trial de novo when the defendant denied responsibility for an infraction in district court and was found responsible. Effective for probation violations occurring on or after December 1, 2013, amended G.S. 15A-1347 provides that if a defendant waives a probation hearing in district court, a finding of a probation violation, activation of a sentence, or imposition of special probation may not be appealed to superior court. Effective for resentencing hearings held on or after December 1, 2013, amended G.S. 15A-1335 (resentencing after appellate review) provides that the statute does not apply when a defendant on direct review or collateral attack succeeds in having a guilty plea vacated. Effective for motions for appropriate relief filed on or after December 1, 2013, the act deletes G.S. 15A-1420(b2), which sets timelines for the processing in district and superior court of a motion for appropriate relief involving noncapital cases. (Note: This act's criminal punishment amendments in sections 4 through 6 to the 2013 Appropriations Act are included in the summary of the appropriations act, S.L. 2013-360 (S 402), above.)

97. **[S.L. 2013-387 \(S 321\)](#): Governor may fill district court judge vacancy without being required to appoint from local bar's nominations; payment of medical care of prisoners.** This act amends G.S. 7A-142, effective August 23, 2013, to provide that a vacancy in the office of district court judge shall be filled for the unexpired term by the appointment of the Governor. The judicial district bar must nominate five people for consideration by the Governor. (The prior version of this statute required the Governor to make the appointment from the nominations submitted by the judicial district bar.) There are other changes in the procedure for nominating candidates.

New G.S. 153A-225.2 (payment of medical care of prisoners), effective September 1, 2013, provides that counties must reimburse those providers and facilities providing "requested or emergency care" outside of the local confinement facility the lesser amount of either a rate of 70 percent of the provider's then-current prevailing charge or two times the then-current Medicaid rate for any given service. It provides that a county is not prohibited from contracting with a provider at different rates. The term "requested or emergency care" is defined to include all medically necessary and appropriate care provided to a person from the time the person presents to the provider or facility in the custody of county law enforcement officers until the time the person is safely transferred back to the care of county law enforcement officers or medically discharged to another community setting, as appropriate. Amended G.S. 153A-225(a), effective August 23, 2013, provides that a local confinement facility's plan for the provision of medical care of prisoners in the facility may utilize Medicaid coverage for inpatient hospitalization or for other Medicaid services allowable for eligible prisoners, provided the plan includes a reimbursement process that pays to the State the State portion of the costs, including the costs of the services provided and any administrative costs directly related to the services to be reimbursed, to the State's Medicaid program.

98. **[S.L. 2013-389 \(S 368\)](#): Local jail felony escape offense is expanded; pistol permit fee is changed.** This act amends G.S. 14-256 (escape from a local confinement facility), effective for offenses committed on or after December 1, 2013, to expand the Class H felony offense of escape from a local confinement facility to include a person charged with a felony who has been committed to the facility pending trial. Amended G.S. 14-404(e), effective for fees collected on or after August 1, 2013, provides that the sheriff must charge on receipt of an application for a pistol permit a fee of \$5 for each permit requested (underlined words added). The fee under the prior statute applied on issuing the permit and did not specify that the fee was for each permit.
99. **[S.L. 2013-392 \(S 470\)](#): Consumption of beer and unfortified wine prohibited on premises when permit is suspended or revoked.** This act adds subsection (a1) to G.S. 18B-300, effective for offenses committed on or after December 1, 2013, to prohibit (with a limited exception) the consumption of beer or unfortified wine on the premises of a business during the period of time that an on-premises permit issued to the business authorizing the sale and consumption of beer or unfortified wine has been suspended or revoked by the ABC commission.
100. **[S.L. 2013-403 \(H 565\)](#): Criminal history record check for real estate appraiser applicants.** This act amends G.S. 93E-1-6, effective January 1, 2014, to provide that the refusal of applicants for various licenses as real estate appraisers to consent to a criminal history record check may constitute grounds for denial of an application. The North Carolina Appraisal Board must ensure that the state and national criminal history of an applicant is checked and must provide specified information to the North Carolina Department of Justice.
101. **[S.L. 2013-404 \(H 652\)](#): Judicial discipline amendments.** This act, effective August 23, 2013, makes several changes to judicial discipline. It amends G.S. 7A-374.2 and 7A-376 to transfer from the Judicial Standards Commission to the North Carolina Supreme Court the authority to issue a public reprimand of a judge. The commission's role is changed to recommending a public reprimand to the supreme court. Amended G.S. 7A-377 provides that if after an investigation the commission concludes that disciplinary proceedings should be instituted, the notice, statement of charges, answer, and all other pleadings remain confidential (prior law provided that they were not confidential). Disciplinary hearings, commission recommendations to the supreme court, along with the record that is filed, are confidential (prior law provided that they were not confidential). After the issuance of a public reprimand, censure, suspension, or removal by the supreme court, the notice and statement of charges filed by the commission, along with the answer and all other pleadings, and the commission recommendations along with the filed record, are no longer confidential. The act repeals G.S. 7A-378, which had provided that a commission recommendation for censure, suspension, or removal of a supreme court justice must be made to and then

decided by a panel of seven judges of the North Carolina Court of Appeals (the effect of the repeal is have the decision be made by the supreme court).

102. [S.L. 2013-406 \(H 417\)](#): **Obstruction of state agency internal auditor is a misdemeanor.** This act makes several changes to internal auditing statutes applicable to large state departments and the state university system. New G.S. 143-749, effective for offenses committed on or after December 1, 2013, provides that it is a Class 2 misdemeanor when an officer, employee, or agent of a state agency willfully makes to a state agency internal auditor or designated representative any false, misleading, or unfounded report for the purpose of interfering with the performance of an audit, special review, or investigation or hinders or obstructs the state agency internal auditor or designated representative in performing their duties.
103. [S.L. 2013-407 \(H 476\)](#): **Underground utility safety act misdemeanor.** This act creates new Article 8A (Underground Utility Safety and Damage Prevention Act) of G.S. Chapter 87, and repeals Article 8. New G.S. 87-125, effective for activities occurring on or after October 1, 2014, provides that a person who falsely claims that an emergency exists requiring an excavation or demolition is guilty of a Class 3 misdemeanor.
104. [S.L. 2013-410 \(H 92\)](#): **Revised definitions of “all-terrain vehicle” and “utility vehicle.”** This act, effective August 23, 2013, revises two definitions in G.S. 20-4.01. “All-terrain vehicle or ATV” is a motorized vehicle 50 inches or less in width that is designed to travel on three or more low-pressure tires and manufactured for off-highway use, but it does not include a golf cart, utility vehicle, or a riding lawn mower. “Utility vehicle” is a motor vehicle that is (i) designed for off-road use, and (ii) used for general maintenance, security, agricultural, or horticultural purposes, but it does not include an all-terrain vehicle, golf cart, or riding lawn mower.
105. [S.L. 2013-413 \(H 74\)](#): **Child care providers’ criminal history checks; amendment to reptile investigation statute.** This act, effective August 23, 2013, adds new G.S. 110-90.2 (child care providers’ criminal history checks), to provide that the check of state and national repositories that is directed to the State Bureau of Investigation must be completed within 15 business days of the request from the Department of Health and Human Services. If the check shows the provider has no criminal history as defined by subdivision (a)(3), the department must determine the provider’s fitness within 15 calendar days of receipt of the results. If the check reveals a criminal history as defined by this subdivision, the department must make a determination within 30 business days.

Amended G.S. 14-419 (investigation of suspected violations; seizure and examination of reptiles; dispositions of reptiles) requires that the investigation must include consulting with the North Carolina Museum of Natural Sciences or the North Carolina Zoological Park to identify appropriate and safe methods to seize a reptile. Consultation is not required if there is an immediate risk to public safety. It also provides that euthanasia is authorized for a

seized reptile that is a venomous reptile, large constricting snake, or crocodilian for which antivenin is not readily available.

106. **[S.L. 2013-415 \(H 15\)](#): Law enforcement agencies added to statutes in Chapter 20 involving use of red or blue lights, inapplicable speed limits, etc.** This act, effective October 1, 2013, amends G.S. 20-125(b) (law enforcement vehicles must have special lights, sirens, or horn) to (i) make the subsection apply to vehicles owned or operated (previously, owned and operated) by the specified agencies, (ii) add vehicles of two agencies, the Division of Parks and Recreation and the North Carolina Forest Service, and (iii) add firefighting and other emergency response by the vehicle to the law enforcement purpose set out in the subsection. Amended G.S. 20-130.1 (use of red or blue lights) adds vehicles of the following agencies or entities that are allowed to use red or blue lights under specified circumstances: Division of Marine Fisheries, Division of Parks and Recreation, North Carolina Forest Service, and official members or Teams of REACT International, Inc. Amended G.S. 20-145 (when speed limit not applicable) adds the vehicles of the following agencies under specified circumstances: Division of Parks and Recreation and North Carolina Forest Service. Amended G.S. 20-156(b) (driver to yield right-of-way to law enforcement, fire department, and other vehicles using warning signal by light and siren) and amended G.S. 20-157(a) (driver of vehicle must move to right on approach of law enforcement, fire department, and other vehicles using warning signal by light and siren) add vehicles of the following agencies under specified circumstances: Division of Marine Fisheries, Division of Parks and Recreation, and North Carolina Forest Service.
107. **[S.L. 2013-417 \(H 392\)](#): Criminal record checks and sharing arrest warrant status of applicants and recipients of public assistance programs; drug screening and testing for Work First Program assistance.** This act adds new G.S. 108A-26.1 and 108A-26.2, effective October 1, 2013, to require a county social services department (1) to the extent allowed by federal and state law, to check criminal histories of applicants or recipients at the time of benefits renewal, to verify whether applicants or recipients under Part 2 (Work First Program) or Part 5 (Food and Nutrition Services) are fleeing to avoid prosecution, confinement after conviction, etc., or violation of a probation or parole condition, and (2) to not grant public assistance under Part 2 or Part 5 if the department receives information that the applicant or recipient of program assistance is subject to arrest under an outstanding arrest warrant based on violating probation or parole conditions or from a felony charge. New G.S. 114-19.34, effective October 1, 2013, requires the North Carolina Department of Justice, to the extent allowed by federal law, to provide the county social services department, on its request under G.S. 108A-26.1, with the criminal history of an applicant or recipient from state or national criminal history repositories. Amended G.S. 108A-29.1, effective August 1, 2014, requires the Department of Health and Human Services to require a drug test to screen each applicant for or recipient of Work First Program assistance whom the department reasonably suspects is engaged in the illegal use of controlled substances.

108. [S.L. 2013-418 \(H 786\)](#): **Require Department of Public Safety to study problem of illegal immigration.** This act, effective September 4, 2013, includes within its provisions a requirement that the North Carolina Department of Public Safety conduct a study, in conjunction with specified agencies, industries, and others, of the potential impact on public safety, the state economy, and illegal immigration of adopting any or all of the following: (1) increase penalties for crimes concerning the possession, manufacture, or sale of false driver's licenses and other identification documents; (2) create a rebuttable presumption against the pretrial release of undocumented aliens who commit serious crimes; (3) require a secured appearance bond as a condition of pretrial release for undocumented aliens who have committed serious crimes; (4) require undocumented alien prisoners to reimburse the state for the cost of their incarceration after conviction of a crime; (5) establish reasonable suspicion to guide law enforcement officers in conducting immigration status checks when conducting a lawful stop, detention, or arrest; (6) prohibit the use of consular documents as a valid means of establishing a person's identity by a judicial official, law enforcement officer, or other state official; (7) implement a process for undocumented aliens to obtain a temporary driving privilege; and (8) adopt measures that have been adopted in other states to combat illegal immigration. The department must report its findings and recommendations to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety no later than March 1, 2014.

## Motor Vehicle Law

1. [S.L. 2013-23 \(S 20\)](#): **Limited immunity for certain drug-related and alcohol-related offenses.** See Criminal Law, above.
2. [S.L. 2013-87 \(S 603\)](#): **Issuance of registration plates and registration and title documents by DMV offices.** This act, effective July 1, 2013, amends G.S. 20-63(h) to except registration plates and registration and title documents issued by Division of Motor Vehicles (DMV) offices in Wake, Cumberland and Mecklenburg Counties (was, “from the Charlotte, Fort Bragg and Raleigh offices of the Division”) from the requirement that such items be issued through commission contracts entered into by DMV.
3. [S.L. 2013-105 \(H 532\)](#): **Operating ambulance, other EMS vehicle, firefighting vehicle, or law enforcement vehicle after consuming alcohol.** See Criminal Law, above.
4. [S.L. 2013-171 \(S 630\)](#): **Amendments to laws concerning disposition of blood and urine samples, admissibility of reports after notice and demand, and expunction of DNA samples taken after arrest.** See Criminal Law, above.
5. [S.L. 2013-183 \(H 817\)](#): **High-occupancy toll lanes and tolls.** Effective July 1, 2013, this act enacts new G.S. 136-89.199, which permits the North Carolina Turnpike Authority to designate one or more lanes of any highway as high-occupancy toll (HOT) or other type of managed lanes so long as the designation does not reduce the number of existing general purpose lanes. The Authority must specify the high-occupancy requirement or other conditions for using such lanes, which may include restricting vehicle types, access controls, or the payment of tolls for vehicles that do not meet the high-occupancy requirement or conditions for use.

Effective July 1, 2013, the act amends various provisions governing the billing of tolls. New G.S. 136-89.212(c) provides that if a person establishes that a motor vehicle was in the care, custody, and control of another person by submitting a sworn affidavit pursuant to G.S. 136-89.212(b), the other person is liable for the toll and the Authority may send a bill to collect and enforce the toll. The act makes corresponding amendments to the billing procedures prescribed in G.S. 136-89.214 and provides that the processing fee may not exceed “the costs of collecting the unpaid toll” (was “the costs of identifying the owner of a motor vehicle that is subject to an unpaid toll and billing the owner for the unpaid toll”). The act also eliminates the provision stating that the fee is a receipt of the Authority that must be applied to these costs.

Amendments to G.S. 136-89.213(a) permit the Authority to share confidential information that identifies motor vehicles and their owners with a private entity with which it has entered into a partnership agreement and to assign its authority to “fix, revise, charge, retain, enforce, and collect tolls and fees” to such a private entity. Amended G.S. 136-89.213(b) eliminates the requirement that the Authority operate a facility that accepts cash

payment in the immediate vicinity of a Turnpike project using an open road tolling system and instead permits the Authority to provide an alternate means for cash payment.

6. [S.L. 2013-190 \(S 8\)](#): **Fine increased for unauthorized parking in private parking lots in certain counties and cities.** See Criminal Law, above.
7. [S.L. 2013-194 \(S 285\)](#): **Requirements changed for laboratories providing chemical analyses for blood or urine under G.S. 20-139.1.** See Criminal Law, above.
8. [S.L. 2013-195 \(S 461\)](#): **Allow third-party commercial driver's license skills testing.** See Criminal Law, above.
9. [S.L. 2013-201 \(H 322\)](#): **Division of Motor Vehicles may waive skills test for commercial driver's license for retired or discharged military members under certain circumstances.** See Criminal Law, above.
10. [S.L. 2013-231 \(S 568\)](#): **Allow restricted driver's license for person using bioptic telescopic lenses.** See Criminal Law, above.
11. [S.L. 2013-233 \(S 712\)](#): **Allow homebound to apply for special photo identification card without personal appearance.** See Criminal Law, above.
12. [S.L. 2013-289 \(H 362\)](#): **Highway Patrol requirements.** This act, effective July 18, 2013, enacts new G.S. 20-185(a) to require that an applicant for employment as a State Trooper be at least 21 years old and not more than 39 years old as of the first day of patrol school. Highway Patrol enforcement personnel hired on or after July 1, 2013 must retire by the end of the month in which their 62<sup>nd</sup> birthday falls. Amendments to G.S. 20-196.3 add the Commissioner of the Law Enforcement Division to the list of persons who may hold a supervisory position over a sworn member of the Highway Patrol.
13. [S.L. 2013-293 \(H 428\)](#): **Stopped school bus law changes.** See Criminal Law, above.
14. [S.L. 2013-323 \(H 26\)](#): **Chop shop activity law amendments, as amended by [S.L. 2013-410 \(H 92\)](#).** See Criminal Law, above.
15. [S.L. 2013-341 \(S 407\)](#): **DMV to implement statewide electronic lien system.** See Criminal Law, above.
16. [S.L. 2013-348 \(S 659\)](#): **Amendments of impaired driving and open container laws to conform to federal funding requirements.** See Criminal Law, above.
17. [S.L. 2013-349 \(S 344\)](#): **Issuing titles for vintage cars.** See Criminal Law, above.



18. [S.L. 2013-360 \(S 402\)](#): **2013 Appropriations Act, as amended by [S.L. 2013-363 \(H 112\)](#) , [S.L. 2013-380 \(H 936\)](#), and [S.L. 2013-385 \(S 182\)](#). Offenses reclassified to Class 3 misdemeanors or infractions. See Criminal Law, above.**
19. [S.L. 2013-366 \(S 353\)](#): **Abortion law amendment and motor vehicle law amendment.** See Criminal Law, above.
20. [S.L. 2013-372 \(S 305\)](#): **License Plate Agent Advisory Committee created.** This act enacts new G.S. 20-63.02, effective July 29, 2013, establishing the License Plate Agent (LPA) Advisory Committee, to consist of DMV employees and six people appointed by the North Carolina Association of Motor Vehicle Registration Contractors. DMV and the LPA Advisory Committee “are directed to work together to ensure excellent and efficient customer service with respect to vehicle titling and registration services provided through commission contracts awarded under G.S. 20-63.” DMV and the LPA Advisory Committee must review the standard operating procedures applicable to commission contractors to determine if changes are needed and must recommend to the General Assembly in 2014 a process by which DMV is required to give notice of proposed changes and receive comments on proposed changes before they are implemented. The act also directs the Revenue Laws Study Committee to study the per transaction compensation amounts and to report its findings to the General Assembly in the 2014 session.

Effective July 1, 2013, the act also amends requirements for per transaction compensation by designating certain transactions related to the combined motor vehicle registration renewal and property tax collection system as separate transactions.
21. [S.L. 2013-376 \(S 571\)](#): **Special license plates.** This act, effective July 29, 2013, amends G.S. 20-79.4(b), 20-79.7, 20-81.12, and 20-63 to authorize DMV to issue various special registration plates and to amend provisions governing the issuance of existing special plates. Amendments to G.S. 20-79.43(a3) require that the standardized format for special license plates allow for the name of the State and the license plate number to be reflective and to contrast with the background so that the plate easily may be read by the human eye and by cameras used for tolling and speed enforcement.
22. [S.L. 2013-381 \(H 589\)](#): **Driver’s license changes related to voter identification law.** Effective January 1, 2014, the act amends G.S. 20-37.7(d) to provide that the fee for obtaining a special identification card does not apply to a resident of the State who (1) is registered to vote in North Carolina and does not have photo identification acceptable under new G.S. 163-166.13 (establishing photo identification requirement for voting in person) or (2) is appearing before DMV for the purpose of registering to vote and does not have other photo identification acceptable under G.S. 163-166.13. An applicant seeking to qualify under either provision must sign a declaration stating that he or she meets the applicable requirements. The declaration must “prominently include” the penalty under G.S. 163-275(13) for falsely

making the declaration. The act amends G.S. 163-175(13) to incorporate an express reference to declarations made under G.S. 20-37.7(d)(6). Violations of G.S. 163-275 are Class I felonies.

23. [S.L. 2013-410 \(H 92\)](#): Revised definitions of “all-terrain vehicle” and “utility vehicle” in **G.S. Chapter 20**. See Criminal Law, above.
24. [S.L. 2013-415 \(H 15\)](#): Law enforcement agencies added to statutes in **Chapter 20** involving use of red or blue lights, inapplicable speed limits, etc. See Criminal Law, above.

## Civil, Estates & Special Proceedings

1. **[S.L. 2013-42 \(S 369\)](#): Name changes for minors; other name change amendments.**  
Amends G.S. 101-2(d) to specify that an application for name change of a minor may be filed by the minor's parent or parents, a guardian appointed under G.S. Chapter 35A, or a guardian ad litem appointed under Rule of Civil Procedure 17. Also provides for applications without the consent of both parents in the following scenarios: (1) a minor age 16 or older may apply with the consent of the custodial parent who has supported the minor without obtaining the other parent's consent if the clerk is satisfied that the other parent has abandoned the minor; (2) a parent may apply without the other parent's consent if the other parent has abandoned the child; and (3) a parent may apply without the other parent's consent if the parent has been convicted of any of five specified crimes against the minor or the minor's sibling(s). Proof of conviction is to be presented to the clerk at the time of filing.

Also amends G.S. 101-5(a) to specify that the criminal history check required in a name change application is to have been conducted within 90 days of the name change application date by the SBI, FBI, or an FBI-approved Channeler. Clarifies that this criminal history check requirement does not apply to applications for the name change of a minor under 16. Finally, amends G.S. 101-5(e)(1) to provide that clerks shall notify the State Registrar of non-public record name changes, but the State Registrar shall not notify the county register of deeds in the applicant's county of birth or the registration office of the state of birth. Effective October 1, 2013 and applicable to name change applications filed on or after that date.

2. **[S.L. 2013-81 \(H 32\)](#): Year's allowance for surviving spouse.** Amends G.S. 30-15 to increase to \$30,000 the allowance for one year of support of a surviving spouse (was \$20,000). Makes conforming amendment to G.S. 30-29. Effective January 1, 2014 and applies to estates of persons dying on or after that date.

3. **[S.L. 2013-91 \(S 279\)](#): Limited personal representatives; elective share; attorney fees to year's allowance petitioner; out-of-state wills.**

**Limited personal representative.** Amends G.S. 28A-29-1 to expand the situations in which a limited personal representative may be appointed to provide notice to creditors without administration of an estate. Provides that such appointments are available when: (i) the decedent dies testate or intestate leaving no personal property subject to probate and no real property devised to the personal representative; (ii) the decedent's estate is being administered by collection by affidavit pursuant to G.S. Chapter 28A, Article 25; (iii) the decedent's estate is being administered by summary administration pursuant to G.S. Chapter 28A, Article 28; (iv) a decedent's estate consists solely of a motor vehicle that can be transferred as authorized by G.S. 20-77(b); or (v) a decedent has left assets that may be treated as assets of an estate for limited purposes as described in G.S. 28A-15-10 (non-probate estates to pay claims), and no application or petition for appointment of a personal

representative is pending or has been granted in North Carolina. Also amends the application requirements in G.S. 28A-29-2(a) to reflect these newly-expanded categories. Effective June 12, 2013.

**Elective share.** Amends G.S. 30-3.1(a) to provide new parameters for determining the share of Total Net Assets to calculate a surviving spouse's elective share. Provides that the applicable share of Total Net Assets is as follows: If the surviving spouse was married to the decedent for (1) less than five years, 15% of Total Net Assets; (2) at least five years but less than 10 years, 25% of the Total Net Assets; (3) at least 10 years but less than 15 years, 33% of the Total Net Assets; and (4) 15 years or more, 50% of the Total Net Assets. Eliminates G.S. 30-3.1(b), which reduced by half an elective share for certain second and successive spouses. Effective October 1, 2013 and applies to estates of decedents dying on or after that date.

**Attorney fees on year's allowance.** Amends G.S. 30-31 to provide that attorney fees and costs awarded to a petitioner for a year's allowance under G.S. 6-21 shall be paid as an administrative expense of the estate. Effective June 12, 2013.

**Self-proving wills.** Alters the language in G.S. 31-11.6 for making a will self-proving. The statute now provides that the language must be "in the following [statutory] form, or in a similar form showing the same intent" (was, "in substantially the following [statutory] form." Also creates G.S. 31-11.6(d) and (e), which add two categories of wills deemed self-proved in North Carolina: any will executed in another state and shown to the clerk to have been self-proved under the laws of that state; and military testamentary instruments executed in accordance with 10 U.S.C. 1044d. Effective June 12, 2013.

**Out-of-state wills.** Amends G.S. 31-46 to expand the categories of valid wills in North Carolina beyond those that meet the requirements of North Carolina law either at the time of its execution or the time of testator's death. Provides that a will is also valid if (i) its execution complies with the law of the place where it is executed at the time of execution; (ii) its execution complies with the law of the place where the testator is domiciled at the time of execution or at the time of death; or (iii) it is a military testamentary instrument executed in accordance with 10 U.S.C. 1044d. Makes conforming changes to G.S. 28A-2A-17. Effective June 12, 2013.

4. **[S.L. 2013-104 \(H 407\): Attorney fees in foreclosure proceedings.](#)** Creates new G.S. 45-21.31(a1) authorizing the clerk of superior court in the county of a foreclosure sale, in his or her discretion, to allow a reasonable attorney fee to an attorney serving as trustee where that attorney, on the trustee's behalf, renders services as counsel that are: (1) different from the services normally performed by a trustee; and (2) of a type that would reasonably justify retention of legal counsel by a non-lawyer trustee. The fee is presumed reasonable if it complies with G.S. 6-21.2 (1) and (2), but the clerk may also deem a lower or higher fee reasonable. This fee is in addition to the trustee's normal allowed compensation and, pursuant to revised G.S. 45-21.31(a), is considered part of the expenses of the sale for purposes of disposition of proceeds. Effective June 12, 2013. Note: This granting of authority to the clerk is in apparent response to a holding in *In re Vogler Realty*, 365 N.C.

389, 722 S.E.2d 459 (2012). For general information regarding attorney fee determinations in G.S. 6-21.2, see [Ann M. Anderson, "Attorney Fee Provisions in North Carolina Contracts," Administration of Justice Bulletin 2011/02 UNC School of Government \(Sept. 2011\).](#)

5. **[S.L. 2013-159 \(S 452\): Attorney fees in small-verdict cases.](#)** Increases to \$25,000 the ceiling on "damages recovered" for attorney fee award eligibility in civil cases covered by G.S. 6-21.1 (was \$20,000). Effective August 1, 2013 and applies to actions filed on or after that date.
  
6. **[S.L. 2013-198 \(H 219\): References to children born out of wedlock; inheritance by and year's allowance to certain children born out of wedlock.](#)** Removes references throughout the General Statutes to children born to unmarried parents as "illegitimate" and replaces them with the phrase "born out of wedlock." Effective June 19, 2013.  
Also amends G.S. 29-19 and G.S. 30-17 to allow a child born out of wedlock to inherit from and receive a year's allowance from the estate of a father who died before or within one year of the birth of the child if paternity is established by DNA testing. Effective June 19, 2013 and applies to estates of persons dying on or after that date.
  
7. **[S.L. 2013-202 \(H 331\): Condominium and planned community association liens.](#)** Rewrites G.S. 47C-3-116 and G.S. 47F-3-116 regarding the procedure for filing and enforcing claims of lien on real property securing sums due to condominium and planned community associations. Effective October 1, 2013. Also creates G.S. 47C-3-116.1 and G.S. 47F-3-116.1 to provide that non-judicial foreclosure proceedings commenced by these associations prior to October 1, 2013, and all related sales and transfers of real property pursuant to Chapters 47C and 47F or the relevant declarations are valid unless an action is commenced to set aside the foreclosure by the latter of October 1, 2013 or one year after the date of sale.  
Note: Other lien-related legislation from this session included various changes to Chapter 44A as follows:
  - **[S.L. 2013-16 \(H 180\): Mechanics liens technical, clarifying, and procedural changes.](#)** Effective April 1, 2013 and applies as set forth in Section 8.
  - **[S.L. 2013-17 \(S 84\): Cancellation of aircraft lien by surety bond.](#)** Effective March 28, 2013 and applies as set forth in Section 2.
  - **[S.L. 2013-117 \(H 88\): Changes regarding lien agents.](#)** Effective June 22, 2013 and applies as set forth in Section 7.
  - **[S.L. 2013-239 \(H 243\): Notice and sale changes for self-storage personal property lien holders.](#)** Effective October 1, 2013.
  
8. **[S.L. 2013-204 \(H 332\): Effect of conveyance of deed of trust by joint tenant with right of survivorship.](#)** Section 1.11 amends G.S. 41-2 to provide that upon conveyance of a deed of trust to secure a loan by any or all joint tenants who hold property in joint tenancy with right of survivorship, the joint tenancy is *not* deemed severed, and upon satisfaction of the

deed of trust, legal title to the property shall revert to the grantors as joint tenants with right of survivorship in the respective shares as owned by the respective grantors at the time of the deed of trust's execution, unless a contrary intent is stated. Effective June 26, 2013.

9. **[S.L. 2013-229 \(S 264\): Nuisance abatement.](#)** Amends G.S. 19-1 to specify that an activity to be abated need not be the sole purpose for which a building is operated in order for it to constitute a nuisance under G.S. Chapter 19. Also specifies that no abatement action may be brought under Chapter 19 against a Chapter 18B regulated business where the basis of the action is a violation of Chapter 18B regulations regarding possession or sale of alcoholic beverages. Effective July 3, 2013 and applies to nuisance actions filed on or after that date.
  
10. **[S.L. 2013-258 \(H 543\): Guardianships by corporations and individual providers of mental health, disability, and substance abuse service.](#)** Amends G.S. 35A-1213(c) to provide that a corporation shall not be appointed guardian for any individual for whom it provides mental health, developmental disability, or substance abuse services for compensation as part of a contract or arrangement with an LME, including an LME approved to operate the 1915(b)/(c) Medicaid waiver.

G.S. 35A-1213(f) lists individuals who may serve as guardian to a ward even though those individuals contract with (or are employed by contractors with) LMEs to provide mental health, developmental disability, or substance abuse services to the ward. This act amends that statute to add certain licensed family foster care providers; certain licensed therapeutic foster care providers; and biologically unrelated individuals who were serving as uncompensated guardians on March 1, 2013. Effective July 10, 2013.
  
11. **[S.L. 2013-274 \(H 982\): Modify Medicaid subrogation statute.](#)** In response to *Wos v. E.M.A.*, 133 S.Ct. 1391 (U.S. 2013), amends G.S. 108A-57 to create a judicial proceeding in which a medical assistance beneficiary may dispute North Carolina's statutory presumptions regarding what amount of a beneficiary's recovery against a third party represents compensation for medical assistance payments (Medicaid). Effective July 18, 2013, and applies (i) to Medicaid claims arising on or after that date and (ii) to Medicaid claims arising prior to that date for which DHHS has not been paid in full.
  
12. **[S.L. 2013-378 \(H 399\): Status of DHHS in estates; notice to DHHS.](#)** Amends the definition of "estate" in G.S. 108A-70.5(b)(2) (part of the Medicaid Estate Recovery Plan) to specify that DHHS has all rights available to estate creditors, including the right to qualify as an estate personal representative or collector. Also amends G.S. 28A-14-1(b) to require personal representatives of estates of "medical assistance" recipients (as defined in G.S. 108A-70.5(b)(1)) to send a creditor's notice to DHHS, Division of Medical Assistance, if the decedent was receiving medical assistance at the time of death. Also amends G.S. 28A-19-6(a) to make DHHS a sixth-class creditor for purposes of determining the order of claims in an estate (behind other sixth-class creditors with previously-docketed judgments). Finally,

amends G.S. 36C-8-818 to require a trustee of a revocable trust established by a medical assistance recipient to notify DHHS of the recipient's death within 90 days of death, if the trustee knew of the medical assistance. Provides an exception for trustees of certain preneed funeral trusts. Effective October 1, 2013.

13. [S.L. 2013-412 \(H 293\)](#): **Modification of foreclosure proceeding.** Eliminates G.S. 45-21.16B, a provision that provided for suspension of foreclosure proceedings for 60 days upon certain notifications by the Commissioner of Banks. Effective August 23, 2013.

## Landlord-Tenant Law & Consumer Finance

1. **[S.L. 2013-162 \(S 489\)](#): Amendments to the Consumer Finance Act.** These amendments increase the permissible interest rate on loans of \$15,000 or less made by finance companies. In addition, the new law allows lenders subject to the Consumer Finance Act to charge late fees and deferral fees, and specifies that a payment by the debtor is allocated to these fees first, then to outstanding interest, and finally to principal. The act sets out additional requirements for lenders when the debtor is a military service member. Became effective July 1, 2013.
2. **[S.L. 2013-334 \(H 802\)](#): Shortening the time involved for a landlord to evict a tenant.** This act carves out several exceptions for summary ejectment actions from the general law governing small claims procedure. First, the magistrate's authority to continue summary ejectment cases is limited to five days or until the next session of small claims court, whichever is longer. Second, the magistrate's ability to reserve judgment pursuant to G.S. 7A-222(a) is limited in actions for summary ejectment to a maximum of five business days (ten days for other small claims cases) and is permitted only in "complex" cases. If all parties agree, the magistrate is not required to observe these new rules about continuances and reserving judgment.

The act makes additional changes in the rules governing appeal to district court for trial de novo. First, the 20-day period available to pay costs of appeal has been reduced to 10 days in summary ejectment actions. Second, the act allows the district court judge to dismiss the appeal upon a showing by the plaintiff that the defendant has failed to participate in the case. The new law provides a detailed list of actions constituting participation by defendant sufficient to defeat plaintiff's motion to dismiss. The new law also amends several portions of statutory law governing post-judgment events related to eviction. First, the time sheriff has to evict a tenant has been reduced from seven to five days of receiving the paperwork beginning the process. After the landlord has received possession of the rental property, the tenant has seven (was, ten) days to retrieve any personal property left on the premises; the landlord is free to dispose of unretrieved property thereafter.

Finally, the act requires the Administrative Office of the Courts to develop written information for parties to a summary ejectment action addressing the procedure and timeline for these cases.

The new law becomes effective on September 1, 2013.



## Juvenile Law

### Child Welfare

1. **[S.L. 2013-35 \(H 75\)](#): Increase punishments for felony child abuse; enter child abuse finding on judgment.** See Criminal Law, above.
2. **[S.L. 2013-42 \(S 369\)](#): Name changes for minors.** See Civil, Estates & Special Proceedings, above.
3. **[S.L. 2013-47 \(S 117\)](#): Murder when child is born alive but dies from injuries inflicted before birth.** Known as “Lily’s Law,” this act rewrites G.S. 14-17, which defines murder in the first and second degree, to provide that murder occurs when a child is born alive but dies as a result of injuries that were inflicted before the child was born. The degree of murder is determined under existing law. The act is effective December 1, 2013, and applies to offenses committed on or after that date. Uncodified provisions in the act specify that
  1. the act does not abate or affect prosecutions for offenses committed before the effective date, and that existing statutes and common law remain applicable to those prosecutions;
  2. existing statutes and common law remain applicable to offenses that are not described in the act; and
  3. the act does not apply to an unintentional act or omission by the child’s birth mother during pregnancy.
4. **[S.L. 2013-52 \(H 149\)](#): Duty to report a child’s disappearance.** Known as “Caylee’s Law,” a new criminal law (G.S. 14-318.5) creates a duty to report to law enforcement the disappearance of a child under the age of sixteen. For a full explanation of this law, which applies to offenses committed on or after December 1, 2013, see Criminal Law, above.
5. **[S.L. 2013-52 \(H 149\)](#): Penalty for failing to report child abuse, neglect, dependency, or death due to maltreatment.** Every state has a law that requires the reporting of child abuse and other forms of child maltreatment. North Carolina’s reporting law imposes that duty on anyone who has cause to suspect that a child is abused, neglected, or dependent, or that a child has died as the result of maltreatment. The reports must be made to county departments of social services. North Carolina has been in a very small minority of states that provide no statutory sanction for violating this duty to report.

S.L. 2013-52 rewrites the reporting law, G.S. 7B-301, to make it a Class 1 misdemeanor for any person to knowingly or wantonly fail to make a report, or knowingly or wantonly prevent another person from making a report, when a report is required. It also makes it a Class 1 misdemeanor for a county social services director to knowingly fail to notify the State Bureau of Investigation when the director receives a report of sexual abuse of a child in a child care facility.

6. **S.L. 2013-111 (H 68): Gaston County Foster Care Ombudsman Pilot.** This act, which is effective June 13, 2013, and expires July 1, 2015, applies only to Gaston County. It requires the board of county commissioners in that county to establish qualifications for and select a foster care ombudsman. This person must have experience in child welfare and state laws and policies governing children in foster care, and must remain objective and impartial in carrying out his or her duties. The ombudsman is to serve at the discretion and under the direction and supervision of the board of commissioners.

The act specifies the duties of the ombudsman, which include

- participate as a party on behalf of the foster parents in review and permanency planning hearings;
- determine the facts, the juvenile's needs, and available resources;
- when appropriate, facilitate the settlement of disputed issues;
- explore options with the court at the dispositional hearing;
- report to the court when the juvenile's needs are not being met;
- protect and promote the juvenile's best interests as seen by the foster family;
- refer to the social services director and law enforcement any cause to suspect that any juvenile is abused, neglected, or dependent;
- be a resource and advocate for foster parents;
- make periodic reports to the social services director about foster care placements in the county, and make recommendations about a placement or future placements;
- compile data for the board of commissioners;
- provide information about the role, duties, and functions of foster parents and the ombudsman, and the rights of children in foster care; and
- carry out any other duties deemed appropriate by the board of commissioners.

The act authorizes the ombudsman to obtain any information or reports, even if confidential, that he or she believes are relevant to the case.

7. **S.L. 2013-129 (H350): Court Improvement Project (CIP) Bill - Changes to Juvenile Code.**

Effective for all actions filed or pending on or after October 1, 2013, S.L. 2013-129 makes various changes to G.S. Chapter 7B, the Juvenile Code.

- **Parties.** Section 9 of the act adds new G.S. 7B-401.1, which specifically identifies the parties in abuse, neglect, and dependency proceedings as the petitioner (the social services director or authorized representative); the parents, unless a specific exception applies; the child's legal guardian, if serving as guardian when the petition is filed; the child's custodian, if custodian when the petition is filed; the child's caretaker, if the petition includes allegations relating to the caretaker, the caretaker has assumed the status and obligations of a parent, or the court orders that the caretaker be a party; and the juvenile. Section 1 of the act amends G.S. 7B-101(8) to limit the definition of custodian to a person or agency with legal custody of a juvenile. If custody is the permanent plan for the child, a custodian appointed by the court automatically

- becomes a party. Section 16 of the act rewrites G.S. 7B-600 to provide that when guardianship is the permanent plan, a guardian appointed by the court becomes a party. The court may order that a guardian, custodian, or caretaker be removed as a party if the court finds that person's legal rights will not be affected by the action and that his or her continuation as a party is not necessary to meet the juvenile's needs. The court may allow intervention by a person who is not the juvenile's parent, guardian, custodian, or caretaker only when intervention is sought by someone with standing to file a motion for termination of parental rights under G.S. 7B-1103(b) or by another social services department with an interest in the proceeding. The court may, however, consolidate a juvenile proceeding and a civil action or claim for custody, as provided by G.S. 7B-200.
- **Pre-Adjudication Hearing.** Section 18 of the act, in new G.S. 7B-800.1, requires the court to conduct a "pre-adjudication hearing," which can address issues involving the appointment of counsel, identification of parties, paternity, missing parents, procedural requirements or deficiencies, stipulations, and any other issue that can be addressed as a preliminary matter. The hearing may be combined with another pre-adjudication hearing or conducted pursuant to local rules.
  - **Visitation.** Section 24 of the act creates G.S. 7B-905.1, which replaces and expands on provisions in G.S. 7B-905(c) that address visitation procedures and requirements when an order removes custody of a juvenile from a parent, guardian, or custodian or places the child outside of the home. Visitation must be in the best interests of the juvenile and consistent with the juvenile's health and safety, and the court may specify conditions under which visitation will be suspended. A visitation plan must specify minimum frequency and length of visits and whether the visits must be supervised. Unless the court orders otherwise, the director of the department of social services has discretion to determine the specific details of the visit, such as location, who will supervise, and needed changes in the schedule. The director may temporarily suspend all or part of the visitation plan and must file a motion for review upon doing so. Any party has the right to file a motion for review of a visitation plan. The court may order the parties to participate in mediation if a program established pursuant to G.S. 7A-494 is available. Provisions in G.S. 50-13.1 (d) through (f) relating to child custody mediation apply, but the mediated agreement may not allow the parties to consent to a change in custody.
  - **Review and Permanency Planning Hearings.** Sections 25 and 26 of the act repeal G.S. 7B-906 and 7B-907, which address review and permanency planning hearings, and incorporate many of the same provisions into new G.S. 7B-906.1, which addresses both types of hearing. All review hearings held after the initial permanency planning hearing are designated as subsequent permanency planning hearings. The court's inquiry at each hearing must include whether the child can be placed with a parent within the next six months, making clear that reunification refers to placement with either parent, not just the parent from whose custody the child was removed. In addition, section 1 of the act adds new G.S. 7B-101(18b), defining "return home or reunification" as placement of

the child in the home of either parent or in the home of a guardian or custodian from whose home the child was removed by court order.

- **Responsible Individuals List.** Sections 3 through 6 of the act rewrite G.S. 7B-311(b)(2), -320, -323, and -324 relating to Responsible Individuals List notification and procedures. Responsible individual issues may be raised only by a petition for judicial review filed by the named individual, not by an allegation in an abuse, neglect, or dependency petition. After making diligent efforts to notify an individual of the director's determination that the individual is a responsible individual, restricted delivery is no longer required for notification by registered or certified mail, return receipt requested. If the director cannot show that the individual received actual notice, the individual cannot be placed on the list until an ex parte hearing is held and the court finds that the director made diligent efforts to find the individual. The time within which a hearing on a petition for judicial review must be scheduled is increased from 15 to 45 days. The court may stay the judicial review proceeding if the individual seeking judicial review is named in a juvenile court case or is a defendant in a criminal court case arising from the same incident. The court cannot consolidate the judicial review proceeding with the juvenile court case.
- **Pre-adjudication venue.** Section 7 of the act rewrites G.S. 7B-400 to provide that (1) a child's absence from the home pursuant to a voluntary protection plan does not change the place of proper venue if a petition is filed subsequently; (2) a director who conducts an assessment in another county because of a conflict of interest may file a resulting petition in either county; and (3) for good cause the court may grant a pre-adjudication change of venue, but the venue change does not affect the identity of the petitioner.
- **Service by publication.** Section 7 of the act rewrites G.S. 7B-407 to delete the requirement for authorization by the court before serving a party by publication.
- **Nonsecure custody and nonrelative kin.** Sections 13 and 14 of the act rewrite G.S. 7B-505 and 7B-506 with respect to where a child in nonsecure custody is placed. It authorizes the court to consider placement with nonrelative kin, defined as someone who has a substantial relationship with the child and, in the case of a child who is a member of a State-recognized Indian tribe [G.S. 143B-407(a)], any member of that tribe or a federally recognized tribe, regardless of whether a substantial relationship exists. It authorizes the court to order social services to notify the State-recognized tribe of the need for nonsecure custody placement. At every hearing on the need for continued nonsecure custody the court must inquire about efforts to identify and notify relatives as potential resources for placement or support.
- **Attorney and guardian ad litem (GAL) for parent.** Sections 17 and 32 rewrite G.S. 7B-602 and 7B-1101.1 to repeal language regarding the appointment of a guardian ad litem for a respondent parent due to "diminished capacity" and refer exclusively to appointment of a guardian ad litem for a respondent parent who is "incompetent." This means there will no longer be a GAL of assistance for respondent parents, and instead only a GAL of substitution may be appointed under Rule 17 for respondent parents who

are incompetent. Both sections also provide that a parent who qualifies for appointed counsel may proceed without counsel only after the court examines the parent and makes findings sufficient to show that the waiver is knowing and voluntary. The examination must be on the record.

- **Continuances.** Section 19 rewrites G.S. 7B-803 to provide that resolution of a pending criminal charge arising from the same occurrence as the juvenile petition may not be the sole basis for granting a continuance.
  - **Civil custody.** Section 29 rewrites G.S. 7B-911 to require the court to determine whether jurisdiction of the juvenile proceeding should be terminated and a civil custody order entered upon placing custody of the juvenile with a parent or other appropriate person.
  - **Appeal.** Section 31 rewrites G.S. 7B-1001 to provide that notice to preserve the right to appeal an order ceasing reunification efforts must be in writing and given within 30 days after the order is entered and served. It requires that all notices of appeal be signed by both the appealing party and counsel, if any, codifying a requirement in Appellate Rule 3.1(a).
  - **Notice of termination action.** Section 33 rewrites G.S. 7B-1106 to require that in termination of parental rights proceedings service of copies of all pleadings and other documents be made on the respondent's attorney pursuant to G.S. 1A-1, Rule 5, if that attorney has not been relieved of his or her obligation after being appointed pursuant to G.S. 7B-602.
  - **Termination of putative father's rights.** Section 35 rewrites G.S. 7B-1111(a)(5), which states the ground for terminating the rights of a putative father, to specify a variety of ways a father of a child born out of wedlock may establish paternity prior to the filing of a petition or motion to terminate parental rights.
  - **Selection of adoptive parents.** Section 36 rewrites G.S. 7B-1112.1 to require an agency making the selection of adoptive parents to consider any current placement provider who wants to adopt the child. It requires social services to notify foster parents of the selection of prospective adoptive parents. A foster parent who wanted to be but was not selected has 10 days after the notification to file a motion for a court hearing. Social services must include with the notification a copy of a form for making such a motion.
8. **[S.L. 2013-225 \(H 343\): Counties and municipalities to advance court fees.](#)** Section 5 rewrites G.S. 7A-317 to provide that counties and municipalities are required to pay all costs and fees due to the court at the time of filing, authorize the clerk of superior court to allow the county or municipality to pay costs and fees within 45 days of the date of the filing in lieu of paying them at the time of filing, and require the clerk of superior court to withhold all facilities fees due to a county or municipality when the county or municipality does not pay costs and fees due to the court within 90 days of the date of filing any action. It also repeals the exception for child support, child abuse and other actions filed by a county department of social services. These changes apply to actions filed and amounts assessed

or collected on or after June 30, 2013. **NOTE:** Historically, the courts do not charge court fees for abuse, neglect, and dependency actions.

9. **S.L. 2013-236 (H 147): Review of agency plan for placement.** This law became effective on July 3, 2013. Section 1 of the act rewrites G.S. 7B-909 to require a review hearing within 6 months after a juvenile is relinquished for adoption if the juvenile has not become the subject of an adoption decree. The law also provides that when a consent or relinquishment is necessary for adoption but cannot be obtained and further steps to terminate parental rights are not being taken, on motion by the agency with custody and after notice to the parent who has relinquished the child, the court may void that parent's relinquishment. The relinquishing parent has a right to be heard. **NOTE:** Section 28 of S.L. 2013-129 also amended G.S. 7B-909. However, that section was repealed by S.L. 2013-410, Section 27.

Section 12 of the act makes a conforming amendment to the adoption law, rewriting G.S. 48-3-707 to authorize the court, in a proceeding under G.S. 7B-909 (Review of agency's plan for placement), to void a relinquishment on motion of the agency with custody if the court finds that

1. the agency is unable to obtain another consent or relinquishment that is necessary for an adoption and
2. no further steps are being taken to terminate the rights of the parent from whom consent or relinquishment has not been obtained.

10. **S.L. 2013-236 (H 147): Adoption Law Changes.** S.L. 2013-236 makes various changes to the adoption laws, Chapter 48 of the General Statutes, effective July 3, 2013.

**Death of stepparent petitioner.** G.S. 48-2-204 provides for the completion of an adoption in the name of both petitioning spouses when one spouse dies after the petition is filed but before completion of the adoption. Section 2 of S.L. 2013-236 amends the statute to add a similar provision for stepparent adoptions. If a petitioning stepparent dies before the adoption is complete, the adoption may be completed in the petitioner's name, but only if the court gives notice to anyone who executed a consent to the adoption, giving that person notice of the death and notice that he or she may request a hearing on the adoption within 15 days after receiving the notice.

**Failure to respond to notice.** Section 3 of the act rewrites G.S. 48-2-207(a) to make clear that if a person whose consent to adoption is required by G.S. 48-3-601 is served with notice of the adoption and fails to respond, on motion of the petitioner the court must order that the person's consent to the adoption is not required.

**Documents petitioner must file.** In G.S. 48-2-305, which lists the things an adoption petitioner must file, section 5 of S.L. 2013-236 makes the following changes:

- Adds a provision that documents that are required to be filed and are not available when the petition is filed must be filed as they become available. Otherwise, documents must be filed when the petition is filed.

- Clarifies the requirement that a certificate of service required by G.S. 48-3-307(c) be filed if the person who placed the child for adoption executes a consent before receiving a copy of the preplacement assessment.
- Adds a requirement to file a certified copy of any judgment of conviction for first or second degree rape or rape of a child by an adult offender, resulting in the conception of the child, to establish that a person's consent to adoption is not required.

**Notice and consent.** Section 7 of the act amends G.S. 48-3-603(a)(9) to provide that consent is not required from a man who has been convicted of rape of a child by an adult (adding that offense to first and second degree rape) resulting in the conception of the child. Section 6 of the act rewrites G.S. 48-2-401(c)(3) to provide that notice need not be given to a man whose consent is not required because of his conviction of first or second degree rape or rape of a child by an adult offender, resulting in the conception of the child.

**Copy of consent or relinquishment.** Section 8 rewrites G.S. 48-3-605(c) to require that a person before whom a consent is signed and acknowledged certify that to the best of his or her knowledge the person giving consent was given an original or copy of his or her fully executed consent. Section 10 rewrites G.S. 48-3-702 to require a person before whom a relinquishment is signed and acknowledged to make certifications comparable to those made when a consent is signed.

11. **[S.L. 2013-326 \(H 510\): Bill of Rights for Children in Foster Care.](#)** Effective July 23, 2013, this session law rewrites G.S. 131D-10.1 to set forth a Foster Care Children's Bill of Rights – a list of eleven things the State promotes on behalf of children in foster care. These include a safe foster home, priority for sibling placement, communication with siblings, communication with the case worker, school stability and participation in extracurricular activities, identification of and notice to relatives to allow for participation in the child's placement, communication with parents regarding needed immunizations, and transition planning for those phasing out of foster care. A violation of the statute does not create a cause of action against the state, the Department of Health and Human Services, or anyone providing foster care services.
12. **[S.L. 2013-360 \(S 402\): Budget Act.](#)** Subpart XII.C addresses the Division of Social Services. The following sections impact child welfare.
  - SECTION 12C.2 addresses the Intensive Family Preservation Services (IFPS) Program referred to in G.S. 143B-150 including performance based measures for funding.
  - SECTION 12C.4 directs the Division to design a Guardianship Assistance Program and authorizes the use of foster care funds to reimburse legal guardians for room and board when a child is in a permanent family placement, is eligible for legal guardianship, and otherwise is unlikely to receive permanency. Reimbursements are at the same rate as foster care room and board, as set forth in G.S. 108A-49.1. No additional expenses may be incurred beyond the funds budgeted for foster care.

- SECTION 12C.5 expands funding for the educational needs of foster youth aging out of the system who attend public institutions of higher education in North Carolina and for special needs children adopted from foster care after age 12, in the amount of two hundred thousand dollars (\$200,000) for the 2013-2014 fiscal year and four hundred thousand dollars (\$400,000) for the 2014-2015 fiscal year.
- SECTION 12C.7 requires the Division of Social Services to study the policies and procedures in place for reporting child abuse, lists specific factors to be studied, and requires a report of the results and any recommendations to the Joint Legislative Committee on Health and Human Services and the Fiscal Research Division no later than April 1, 2014.
- SECTION 12C.10 allocates funding for the Adoption Promotion Fund, which is the new name of the “Special Children Adoption Fund.”
- SECTION 12C.10(e) rewrites G.S. 131D-10.9A to create a Permanency Innovation Initiative Oversight Committee of the General Assembly. This Committee shall consist of 11 members serving staggered 3-year terms with initial Committee members to be appointed on or after July 1, 2013. The Committee is directed to collect and analyze data to gauge the success of the permanency initiative, identify short- and long-term cost savings in the provision of foster care, and recommend other policies and services that may positively impact permanency and well-being outcomes. A report and recommendations to the General Assembly are required by September 15 of each year. The act also rewrites G.S. 131D-10.9B to create a Permanency Innovation Initiative Fund to support a demonstration project with services provided by Children's Home Society of North Carolina. The project is subject to the availability of funds.

13. **S.L. 2013-378 (H 399): Cease Reunification.** Section 1 of this law amends G.S. 7B-507(b)(4), effective October 1, 2013, to authorize the court to order that reasonable efforts to reunify are not required or may cease if the court makes written findings that a court of competent jurisdiction has determined that a parent has committed sexual abuse against the juvenile or another child of that parent or that the parent is required to register as a sex offender.

*Undisciplined and Delinquent Juveniles*

14. **S.L. 2013-18 (S 45): Capacity to Proceed.** G.S. 7B-2401 makes some of the criminal procedures relating to capacity to proceed (G.S. 15A-1001, -1002, and -1003) applicable to juveniles. S.L. 2013-18 rewrites G.S. 15A-1002 to

- make clear that any expert appointed under the section may be called to testify by the court, with or without the request of a party;
- limit to felony cases a court’s authority to order a defendant [juvenile] to a state facility for observation and treatment for up to 60 days to determine capacity to proceed;
- require a court that orders an examination under the section to order the release of relevant confidential information to the examiner, after providing the defendant [juvenile] with notice and an opportunity to be heard and determining that the



information is relevant and necessary to the hearing of the matter and unavailable from any other source;

- require that an order determining a defendant's [juvenile's] capacity to proceed contain findings of fact;
- allow parties to stipulate that a defendant [juvenile] is capable of proceeding but not that a defendant [juvenile] lacks the capacity to proceed; and
- specify the time within which reports must be provided to the court and authorize the court to grant extensions of time not exceeding a total of 120 days.

In addition, the act amends G.S. 122C-54(b) to require a facility's report made pursuant to G.S. 15A-1002 to contain a treatment recommendation, if any, and permit it to contain any opinion as to whether the defendant [juvenile] is likely to gain the capacity to proceed. It adds new G.S. 122C-278 requiring that when a respondent [juvenile] has been committed to inpatient or outpatient treatment after having been found incapable of proceeding and referred for civil commitment proceedings, the respondent shall not be discharged or the commitment case terminated until the respondent [juvenile] has been examined for capacity to proceed and a report is filed with the clerk of court pursuant to G.S. 15A-1002.

The act makes changes to other sections of Article 56 (Incapacity to Proceed) of G.S. Chapter 15A, but those sections are not incorporated into the Juvenile Code by G.S. 7B-2401.

Uncodified provisions in the act require the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services, by December 1, 2013,

- to adopt rules establishing training and continuing education requirements for forensic evaluators appointed pursuant to G.S. 15A-1002(b), and
- to adopt guidelines for treatment of individuals who are involuntarily committed following a determination of incapacity to proceed.

The statutory amendments become effective December 1, 2013, and apply to offenses committed on or after that date.

15. **[S.L. 2013-129 \(H 350\): Review Hearings when Juveniles are in DSS Custody.](#)** S.L. 2013-129 makes numerous changes to Subchapter I of G.S. Chapter 7B, based on changes proposed by the Court Improvement Project. The current review and permanency planning hearing statutes, G.S. 7B-906 and 7B-907, are repealed, and a new section, G.S. 7B-906.1, covers both kinds of hearings. As a result, conforming amendments are made to both G.S. 7B-2503(1)c and G.S. 7B-2506(1)c, to provide that if a minor is placed in DSS custody pursuant to a disposition order in an undisciplined or delinquency case, the placement must be reviewed in accordance with G.S. 7B-906.1 (rather than G.S. 7B-906 or 7B-907). The statutory amendments become effective October 1, 2013, and apply to actions filed or pending on or after that date.

16. **[S.L. 2013-360 \(S 402\): Volunteer School Safety Resource Officer Program.](#)** Section 8.45(b) of the 2013 Budget Act creates new G.S. 162-26 and G.S. 160A-288.4 to authorize sheriffs

and chiefs of police (respectively) to establish a volunteer school safety resource officer (SSRO) program to provide nonsalaried special deputies or law enforcement officers to serve as SSROs in public schools. A volunteer SSRO must have at least two years of experience as either (i) a sworn law enforcement officer, or (ii) a military police officer. Volunteer SSROs must also receive training on the social and cognitive development of school-age children and meet any other criteria established by the sheriff or chief of police. Additional training requirements are specified in the statutes. Volunteer SSROs have the power of arrest and work under the direction and supervision of the sheriff or chief of police. In addition, Section 8.45(b):

- amends G.S. 14-269.2(a) by adding a new subdivision [G.S. 14-269.2(a)(3a)] to provide a definition for the term “Volunteer school safety resource officer”;
- amends G.S. 14-269.2(g) by adding a new subdivision [G.S. 14-269.2(g)(7)], which exempts volunteer SSROs from the prohibition in the statute against possessing weapons on educational property;
- amends G.S. 115C-47 by adding a new subdivision [G.S. 115C-47(61)], which imposes a duty upon local boards of education to provide a safe school environment. To carry out this duty, local boards of education may enter into agreements with sheriffs and chiefs of police to provide security at schools by assigning volunteer SSROs, who meet the criteria set out in G.S. 162-26 and G.S. 160A-288.4, as appropriate; and
- amends G.S. 160A-282(c) to clarify that volunteer SSROs, selected by the sheriff under G.S. 162-26, are not entitled to benefits under the North Carolina Workers’ Compensation Act.

The statutory amendments become effective December 1, 2013.

17. **S.L. 2013-360 (S 402): Pilot Program to Raise High School Dropout Age in Catawba County.**

Section 8.49(a) of the 2013 Budget Act authorizes both the Hickory Public Schools and Newton-Conover City Schools to establish and implement a pilot program to increase the high school dropout age from 16 to 18. The act authorizes each local school system to use available funds to implement the pilot program, including (i) hiring up to three additional teachers, (ii) funding additional student-related costs, such as transportation and technology, and (iii) operating a night school program for at-risk students. The act also requires the local school systems to partner with Catawba Valley Community College in administering the pilot program, to the extent possible. On or before January 1, 2016, the local school systems, in collaboration with the State Board of Education, must submit a report to specified legislative committees on the effectiveness of the pilot program.

18. **S.L. 2013-360 (S 402): Annual Evaluation of Community Programs, Juvenile Crime Prevention Council (JCPC) Grants, and Youth Development Centers (YDCs).** Section 16D of the Budget Act creates new annual evaluation and reporting requirements for the Department of Public Safety (DPS) on community programs, group homes, and YDCs as follows:

- new G.S. 143B-810 requires DPS to submit an annual report on YDC population, staffing, and capacity in the preceding fiscal year;
- new G.S. 143B-811 requires DPS to conduct an annual evaluation of community programs and multipurpose group homes and report these results to specified legislative committees;
- new G.S. 143B-822 requires DPS to electronically report each month to the Fiscal Research Division regarding the average daily population of juvenile detention centers and the monthly summary of the Committed Youth Report; and
- new G.S. 143B-852 requires DPS to submit an annual report listing the recipients of JCPC grants, along with additional information enumerated in the statute.

19. **S.L. 2013-368 (S 683): Minors Immune from Prosecution for Prostitution.** S.L. 2013-368 makes numerous changes to the human trafficking and prostitution statutes. Amended G.S. 14-203 adds several new and revised definitions, which apply to Article 27 (“Prostitution”), including the definition of “Minor” in G.S. 14-203(2) as any person less than 18 years of age. Amended G.S. 14-204 adds a new subdivision [G.S. 14-204(c)], which prohibits prosecuting minors for prostitution. Instead, minors suspected of prostitution must be treated as undisciplined juveniles and taken into protective custody, pursuant to Article 19 of Chapter 7B. Any law enforcement officer who takes a minor into custody under this section must immediately report to DSS pursuant to G.S. 7B-301 an allegation of human trafficking [G.S. 14-43.11] and involuntary servitude [G.S. 14-43.13]. DSS then is required to initiate an investigation into abuse or neglect within 24 hours, pursuant to G.S. 7B-302. The statutory amendments become effective October 1, 2013, and apply to offenses committed on or after that date.

## Family Law

1. **[S.L. 2013-27 \(H 139\)](#): Adopting the Uniform Deployed Parents Custody and Visitation Act; G.S. 50A-350 through 376.** Effective October 1, 2013, but does not affect validity of any temporary custody order entered before that date. *Repeals G.S. 50-13.7A*, the existing statute dealing with custody cases wherein one or both parents is subject to military deployment and replaces it with new Uniform Act, creating new Article 3 of Chapter 50A. In addition to adopting the Uniform Act, the session law amends G.S. 50-13.2 to add new section (f) to state that “[i]n a proceeding for custody of a minor child of a service member, a court may not consider a parent’s past deployment or possible future deployment as the only basis in determining the best interest of the child. The court may consider any significant impact on the best interest of the child regarding the parent’s past or possible future deployment.”

The new Uniform Act provides that a deploying parent must provide notice of pending deployment to the other parent no later than 7 days after receiving notice of the deployment, unless circumstances of the service prohibit deploying parent from doing so. As soon as reasonably possible after receiving notice of deployment, both parents are required to share with the other their plan for fulfilling that parent’s share of custodial responsibility during deployment. The act allows the parties to enter into temporary custodial agreements to provide for custodial responsibilities during deployment. If a court has entered a custody order relating to the parties, the temporary agreement must be filed in the court action. The agreement is enforceable but terminates following the return of the parent from deployment. The Act allows agreements to delegate caretaking responsibilities to nonparents and specifies that the parties cannot modify court ordered child support obligations by the agreement.

The Act also provides for an expedited court proceeding to address deployment in situations where parties are unable to reach a voluntary agreement. Trial court is authorized to enter temporary orders only; permanent custody orders may not be entered in the absence of a deployed parent without the consent of the deployed parent. In these temporary orders, the court may address custody during deployment and is specifically authorized to grant “caretaking authority” to nonparents. Authority granted to nonparents is limited to only that which is authorized to the deploying parent under an existing custody order or, if there is no custody order, is limited to the amount of time the deploying parent “habitually cared for the minor child” before deployment. A court entering a temporary deployment order also may enter a temporary order for child support.

2. **[S.L. 2013-42 \(S 369\)](#): Name Change for Minor Child.** The act amends provisions of G.S. 101-2 to allow the name of a minor child to be changed upon the consent of only one parent when the other parent has been convicted of committing one of the listed criminal offenses against the child or a sibling of the child. Applies to applications for name changes filed on or after October 1, 2013.

3. [\*\*S.L. 2013-93 \(H 114\): Social Security Numbers in Divorce Complaints and Judgments.\*\*](#) The act amends G.S. 50-8 to delete requirement that the social security numbers of the parties be included in complaints for absolute divorce and judgments of absolute divorce. Effective June 5, 2013.
4. [\*\*S.L. 2013-103 \(H 384\): Changes to Equitable Distribution Law.\*\*](#) The act amends G.S. 50-20(b) to provide that there is a presumption that all real property creating a tenancy by the entirety during the marriage and before the date of separation is marital property. The presumption can be rebutted by the greater weight of the evidence. Also amends the definition of divisible debt found in G.S. 50-20(b)(4) to provide that only passive increases and passive decreases in marital debt after the date of separation is divisible debt. The act is effective October 1, 2013.
5. [\*\*S.L. 2013-140 \(H 763\): Waiver of Alimony.\*\*](#) The act amends G.S. 52-10 to provide that a waiver of alimony, postseparation support, or spousal support made in a properly executed separation agreement will remain valid even after a reconciliation of the parties, as long as the waiver is clearly stated in the contract. The amendment was effective June 13, 2013.
6. [\*\*S.L. 2013-198 \(H 219\): Children Born Out of Wedlock.\*\*](#) The act amends numerous provisions in the General Statutes to remove the terms “illegitimate” and “bastard” when used in reference to children born out of wedlock. The act also amends G.S. Chapter 29 to allow a child born out of wedlock to inherit from a person who died before or within one year of the birth of the child if paternity is established by DNA testing. Amendments were effective June 19, 2003.
7. [\*\*S.L. 2013-236 \(H 147\): Adoption Law Changes.\*\*](#) The act amends provisions in G.S. Chapter 7B and G.S. Chapter 48 to allow a court to void a relinquishment for adoption signed by one parent when the parental rights of the second parent are not terminated if the court determines it is in the child’s best interest to void the relinquishment. The amendments also allow a proceeding for a step-parent adoption to continue following the death of the petitioning step-parent. The amendments were effective June 24, 2013.
8. [\*\*S.L. 2013-237 \(H 209\): Domestic Violence Protective Orders.\*\*](#) The act amends G.S. 50B-3 to provide that a domestic violence protective order entered without findings of fact is valid if the order is entered upon the consent of the parties and the parties agree in writing that no findings of fact are required. The amendment applies to consent orders entered on or after October 1, 2013.
9. [\*\*S.L. 2013-303 \(H 450\): Bail in Criminal Contempt cases.\*\*](#) Starting December 1, 2013, G.S. 5A-17 is amended to say that when criminal contempt includes confinement and the defendant appeals there must be a bail hearing within 24 hours. The hearing is to be before a district judge if the contempt is imposed by a clerk or magistrate; a superior court judge if imposed by a district judge; and a different superior court judge if the contempt is imposed by a

superior court judge. If the right judge is not available by the 24-hour deadline, the bail hearing may be conducted by any judicial official.

10. **[S.L. 2013-304 \(H 462\)](#): Fees for Supervised Visitation Centers.** For services provided on or after July 1, 2013, the act allows the Administrative Office of the Courts to charge \$50 (was \$30) per hour to persons receiving services from a supervised visitation and exchange center through a family court program.
11. **[S.L. 2013-390 \(S 409\)](#): Attorney fees in civil domestic violence orders and in civil no-contact orders.** Amends provisions in G.S. Chapter 50B to clarify that no costs or attorney fees can be assessed for the filing, issuance, registration, or service of a domestic violence protective order, except as provided in Rule 11 of the Rules of Civil Procedure, and amends G.S. Chapter 50C to allow the award of attorney fees as part of a civil no-contact order. The act also amends Chapter 50C to provide that when an ex parte temporary no-contact order is entered by the court, a hearing must be held within 10 days of the filing of the request for temporary relief and to provide that when a request for ex parte relief is denied, the trial on the request for a permanent no-contact order must be held within 30 days of the denial of the request for ex parte relief. The amendments apply to actions filed on or after October 1, 2013.
12. **[S.L. 2013-411 \(H 122\)](#): Interlocutory appeals in domestic cases.** The act adds a new G.S. 50-19.1 and amends G.S. 7A-27 to provide a right to appeal to the Court of Appeals a district court's adjudication of divorce, child custody, child support, alimony or equitable distribution notwithstanding other pending claims in the same action. The appeal does not affect the trial court's jurisdiction over the remaining claims. The amendments became effective August 23, 2013.
13. **[S.L. 2013-416 \(H 522\)](#): Restricting the application of foreign law in domestic cases.** The act adds a new Article 7A to G.S. Chapter 1 to prohibit the application of foreign law in cases under Chapter 50 (Divorce and Alimony) and 50A (Uniform Child-Custody Jurisdiction and Enforcement Act) when doing so would violate a fundamental right of a person under the federal or state constitution. It also requires denial of a motion to transfer a proceeding to a foreign venue when doing so would have the same effect. The act applies to agreements and contracts entered on or after September 1, 2013.

## Judicial Authority & Administration

1. [S.L. 2013-41 \(H 388\)](#): **Attorney's fees for partially indigent defendant.** Current G.S. 7A-455 authorizes the entry of judgment for partial payment of the cost of assigned counsel or a public defender for representing a defendant who is indigent but is able to pay part of those expenses. This act clarifies that the judgment may be entered not only when the defendant's probation is terminated or revoked but also when it expires. It also allows the lawyer who represented the defendant to certify that the lawyer was unable to get the person's social security number after reasonable effort.
2. [S.L. 2013-89 \(S 210\)](#): **Appointment of chief magistrate.** This act authorizes, but does not require, the chief district judge to appoint a chief magistrate to assist with scheduling and assignments of magistrates in that magistrate's county. The chief magistrate is to serve at the chief district judge's pleasure.
3. [S.L. 2013-127 \(H 278\)](#): **Mediation of disputes in homeowners associations.** Enacted is a new G.S. 7A-38.3F providing for voluntary mediation of disputes related to condominiums and home owners associations under G.S. Chapters 47C and 47F, other than disputes about failure to pay dues, fines or assessments. The new statute includes standard provisions on mediation, including tolling of any statute of limitations during the mediation. Either party may decline mediation. If the parties mediate but do not settle, and a lawsuit then is filed, no further mediation is required. The homeowners or condominium association is required to notify members each year of the mediation option for disputes. The act applies to disputes arising on or after July 1, 2013.
4. [S.L. 2013-141 \(H 765\)](#): **Jury instructions in school budget disputes.** The act rewrites G.S. 115C-431(c) concerning the findings to be made in litigation between a school board and county commissioners over the level of local school funding. As rewritten, the statute requires the judge or jury to consider the educational goals and policies of both the state and local school board and the financial resources and fiscal policies of the county and school board.
5. [S.L. 2013-148 \(H 879\)](#): **Limiting grand juror service.** The act amends G.S. 9-3 and -7 and G.S. 15A-622 to provide that a person is excused from jury service of any type for six years after serving a full term as a grand juror. Effective January 1, 2014.
6. [S.L. 2013-159 \(S 452\)](#): **Court and small claim jurisdictional amounts; small claims arbitration.** Starting with actions filed on or after August 1, 2013, the act raises the jurisdictional amount for small claims from \$5,000 to \$10,000 and resets the dividing line between district court and superior court at \$25,000 rather than \$10,000. It also rewrites G.S. 7A-37.1 to extend nonbinding arbitration to all actions not exceeding \$25,000, including small claims, unless waived by all parties [but see [S.L. 2013-225](#) below for further

amendment to this section]. Included is language encouraging the award of all costs and attorney's fees against the appellant for all stages of the proceeding when a small claim arbitration is appealed and upheld. [It appears that this new language does not by itself authorize the award of attorney's fee but only encourages the award when authorized by a separate statute based on the nature of the small claim action.] Finally, the act amends G.S. 6-21.1(a) on the award of attorney's fees when the insurance company defendant unreasonably refuses to pay the claim, the damages exceed the defendant's highest offer, and the damages are not more than \$25,000 (was \$20,000).

7. **[S.L. 2013-164 \(S 528\)](#): Jurors' oath.** The act rewrites G.S. 9-14 to specify that all jurors are required to take the oath specified in Article VI, § 7 of the Constitution for public office holders as well as the oath required by G.S. 11-11. It applies to oaths taken on or after October 1, 2013.
8. **[S.L. 2013-166 \(S 539\)](#): Jurors' birthdate information.** G.S. 163-82.10B is revised to say that an elections board may provide a voter's birthdate when requested by a county jury commission for preparation of the master jury list, and G.S. 9-4(b) is amended to specify that jurors' birthdates remain confidential unless ordered disclosed by the court.
9. **[S.L. 2013-225 \(H 343\)](#): Arbitration cap and court fees.** Most of this act concerns court fees which will not be summarized here. Please consult the memoranda and charts prepared by the AOC for information about changes in court fees. The act also amends G.S. 7A-37.1(c), as previously rewritten by S.L. 2013-159 [see above], to specify that the rules on nonbinding arbitration apply to all civil actions in district court; the previous version said that the rules apply to all actions up to \$25,000 regardless of the court.
10. **[S.L. 2013-277 \(H 161\)](#): Mandatory retirement age applies to magistrates.** Starting January 1, 2015, and applicable to individuals whose terms begin on or after that date, G.S. 7A-170 is amended to provide that the mandatory retirement age of 72 in G.S. 7A-4.20 applies to magistrates as well as judges.
11. **[S.L. 2013-300 \(S 399\)](#): Constitutional amendment on waiver of jury trials.** The act proposes an amendment to Article I, § 24 of the Constitution, to be voted upon at the November 2014 general election, to allow the defendant to waive the right to a jury trial in all criminal cases other than death penalty cases, with the consent of the trial judge. If the amendment is approved, it and implementing amendments to G.S. 15A-1201 take effect December 1, 2014, and apply to cases arraigned on or after that date.
12. **[S.L. 2013-303 \(H 450\)](#): Bail in criminal contempt cases.** Starting December 1, 2013, G.S. 5A-17 is amended to say that when criminal contempt includes confinement and the defendant appeals there must be a bail hearing within 24 hours. The hearing is to be before a district judge if the contempt is imposed by a clerk or magistrate; a superior court judge if imposed



by a district judge; and a different superior court judge if the contempt is imposed by a superior court judge. If the right judge is not available by the 24-hour deadline, the bail hearing may be conducted by any judicial official.

13. **[S.L. 2013-314 \(H 614\)](#): Mediation and attorney's fees in farm nuisance disputes.** Among other changes, this act amends G.S. 106-701 to allow the award of attorney's fees in nuisance actions against agricultural or forestry operations. Fees may be awarded to the agricultural or forestry defendant when the court finds that the lawsuit was frivolous or malicious; and fees may be awarded to the plaintiff when the court finds that the operation was a nuisance and that the defendant wrongly asserted that the action was frivolous or malicious. Also amended is G.S. 7A-38.3 to specify that the filing of a request for prelitigation mediation does not constitute the commencement of an action.
  
14. **[S.L. 2013-360 \(S 402\)](#): Appropriations act; consolidation of judicial districts; various directives to AOC; repeal public funding of judicial campaigns.** Along with the \$4 million cut in AOC operating funds which are not supposed to affect local court personnel; the funding of 22 new magistrate positions; and increased funding for interpreters, expert witnesses, and jury fees; the budget act also includes these provisions:
  - Starting in 2015 Anson and Richmond counties are moved from present superior and district court district 20A to district 16A to be with Scotland and Hoke counties. District 20A will consist of Stanly County only. The superior court judge residing in Richmond moves to the new district with no change in term. The district judges residing in Anson and Richmond move to the new district and three additional judges are to be elected for the district in 2014. Anson and Richmond also are moved out of prosecutorial district 20A (leaving only Stanly) to be a new prosecutorial district 16C. New district attorneys are to be elected for both districts in 2014. See §§ 18B.22.(a)–(q) of the act.
  - Starting in 2015 District court, but not superior court, districts 6A (Halifax) and 6B (Northampton, Bertie and Hertford) are consolidated into district 6 with the total number of district judges reduced from 6 to 4, those 4 being the judges residing in Halifax and Northampton counties. Prosecutorial districts 6A and 6B likewise are consolidated with a new district attorney to be elected in 2014. See §§ 18B-22.(f)-(q) of the act.
  - Starting in 2015 an additional district judge is added to district 21 (Forsyth), to be elected in 2014. See §§ 18B.22.(f) and (i) of the act.
  - The AOC is to provide \$500,000 to the Conference of District Attorneys to establish a grant fund for DAs to obtain toxicology analyses from local hospitals in drunk driving cases not resulting in death or serious injury. See § 18B.4 of the act.
  - The AOC is to oversee family court programs to assure the use of best practices, with a report to the legislature by March 2014. See § 18B.6 of the act.

- The AOC is to study the formula for allocation of magistrates, in consultation with the National Center for State Courts, with a report to the legislature by February 2014. See § 18B.7 of the act.
- G.S. 7A-109(a1) is amended to specify that, starting in 2014, the clerk is to record the opening and closing of each session both district and superior court. The data is to be reported each month to the National Center for State Courts and the legislature. See §§ 18B.8.(a) and (b) of the act.
- The AOC and the Office of Indigent Services are to spend specified amounts to for a component of the criminal case information system to be available to public defenders by February 2015. See § 18B.10 of the act.
- Effective August 1, 2013, the public defender is to be appointed by the senior resident superior court judge for the district, rather than by the Commission on Indigent Defense Services. The selection still is to come from nominations by the local bar. See § 18A.5 of the act.
- The court system is to develop a system for accepting payment of court costs by credit card in counties that currently do not do so. Five pilot counties are to be chosen for implementation by 2014, with implementation in remaining counties by 2015. See § 18B.11 of the act.
- The AOC, in consultation with the National Center for State Courts, is to study the use of court reporters and their compensation, with a report to the legislature by February 2014. Additionally, the AOC is to set rates for payments to court reporters in 2013-15 so that the AOC and Office of Indigent Defense Services pay no more than half the per-page transcript rate paid in fiscal 2011-13. The new rate is to apply to transcripts requested on or after September 1, 2013 (as provided in separate [S.L. 2013-363](#) (H 112), § 6.3). See §§ 18B.21 and .21A of the act.
- Public funding of appellate judicial campaigns is repealed and the \$50 surcharge on lawyers is eliminated. Moneys remaining in the fund are to be used by the State Board of Elections to publish the voters' guide to judicial candidates until those funds are exhausted, at which time the voters' guide will be discontinued. See §§ 21.1(a), (b), (h)-(m) of the act. The same provisions are included in [S.L. 2013-381](#) (H 589), summarized below, as well.

Other parts of the budget bill change some misdemeanor sentences, alter court costs and expunction fees and require reports on expunctions. For information about court costs, please see the memoranda and charts prepared by the AOC. For provisions concerning sentences and expunctions, please see the "Criminal Law" section of this summary.

15. [S.L. 2013-369](#) (H 937): **Concealed weapons and other firearm regulations.** This act is summarized in the "Criminal Law" portion of this summary. It includes provisions concerning the possession of firearms in courthouses and by judicial officials.
16. [S.L. 2013-381](#) (H 589): **Repeal public funding of judicial campaigns, end instant run-offs for judicial vacancies.** The act makes numerous changes in the election law, including adding

requirements for voter identification and eliminating straight-ticket voting. Two changes affect the judiciary in particular. The first is the elimination of public funding of appellate judicial campaigns. Those provisions are the same as in [S.L. 2013-360](#), the budget bill, summarized above. Public funding is eliminated; the \$50 surcharge on lawyers is repealed; and moneys left in the fund are to be used to continue to publish the voters' guide to judicial candidates until the money runs out, at which time the guide will be discontinued. The other change affecting the courts is an amendment to G.S. 163-329(b1) to repeal the instant run-off provisions when a superior court or appellate vacancy occurs less than 64 days before the date of the second primary and an election to fill the vacancy is held on the same day as the general election. In those situations the winner will be determined by a plurality vote rather than voters ranking their first, second and third preference.

17. [S.L. 2013-387 \(S 321\)](#): **District court vacancies.** In addition to other matters unrelated to the judiciary, the act rewrites G.S. 7A-142 to eliminate the requirement that the governor fill a district court vacancy from one of three names nominated by the district bar. The local bar is to nominate five candidates for the vacancy, but the governor is not bound to choose from those names.
18. [S.L. 2013-393 \(S 473\)](#): **Standing of legislative officers to defend acts.** In addition to several provisions unrelated to the courts, the act enacts a new G.S. 1-72.2 providing that the speaker of the House and the president pro tem of the Senate, when acting jointly, may intervene on behalf of the legislature in any action challenging a state statute or part of the constitution. The new section says the determination of standing is to be according to "Rule 29 of the Rules of Civil Procedure." Rule 29 actually is about stipulations concerning discovery; the reference most likely was meant to be Rule 24.
19. [S.L. 2013-404 \(H 652\)](#): **Judicial discipline.** The act (1) removes the Judicial Standard Commission's authority to issue public reprimands, providing instead that as with other disciplinary actions the commission may only recommend a reprimand to the Supreme Court; (2) provides that complaints and records of commission proceedings remain confidential unless the Supreme Court imposes discipline, rather than becoming public upon the commission's determination that a disciplinary proceeding should be initiated; and (3) repeals G.S. 7A-378 which provided that disciplinary matters involving supreme court justices were to be heard by the court of appeals.
20. [S.L. 2013-411 \(H 122\)](#): **Interlocutory appeals in domestic cases.** The act adds a new G.S. 50-19.1 and amends G.S. 7A-27 to provide a right to appeal to the Court of Appeals a district court's adjudication of divorce, child custody, child support, alimony or equitable distribution notwithstanding other pending claims in the same action. The appeal does not affect the trial court's jurisdiction over the remaining claims.

21. [S.L. 2013-416 \(H 522\)](#): **Restricting the application of foreign law in domestic cases.** The act adds a new Article 7A to G.S. Chapter 1 to prohibit the application of foreign law in cases under Chapter 50 (Divorce and Alimony) and 50A (Uniform Child-Custody Jurisdiction and Enforcement Act) when doing so would violate a fundamental right of a person under the federal or state constitution. It also requires denial of a motion to transfer a proceeding to a foreign venue when doing so would have the same effect. The act applies to agreements and contracts entered on or after September 1, 2013.

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