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PUBLIC/HOUSE BILLS

H 564 (2017-2018) **REVISE IVC LAWS TO IMPROVE BEHAVIORAL HEALTH**. Filed Apr 4 2017, *AN ACT REVISING THE LAWS PERTAINING TO INVOLUNTARY COMMITMENT IN ORDER TO IMPROVE THE DELIVERY OF BEHAVIORAL HEALTH SERVICES IN NORTH CAROLINA*.

Amends GS 122C-3 (containing definitions for the Mental Health, Developmental Disabilities, and Substance Abuse Act of 1985). Adds and defines the terms commitment examiner; incapable; and outpatient treatment physician or center. Amends the definitions for legally responsible adult and local management entity, which is now defined as an area authority (was, area authority, county program, or consolidated human services agency). Deletes the term program director.

Amends GS 122C-4, providing that, in GS Chapter 122C, whenever the phrase 'client or the legally responsible person' is used, and the client is an incapable adult who has not been adjudicated incompetent under GS Chapter 35A, the duty or right involved must be exercised by a health care agent named pursuant to a valid health care power of attorney if one exists, or by the client as expressed in a valid advance instruction for mental health treatment, not by the client. Establishes that if no health care power of attorney or advance instruction for mental health treatment exists, the legally responsible person for an incapable adult has not been adjudicated incompetent under GS Chapter 35A must be one of the persons listed in subdivisions (3) through (7) of GS 90-21.13(c), selected based on the priority indicated in those subdivisions. The persons listed in GS 90-21.13(c), subdivisions (3) through (7), in order of priority, include: (1) an attorney-in-fact, with powers to make health care decisions for the patient, appointed by the patient pursuant to Article 1 or Article 2 of GS Chapter 32A, to the extent of the authority granted; (2) the patient's spouse; (3) a majority of the patient's reasonably available parents and children who are at least 18 years of age; (4) a majority of the patient's reasonably available siblings who are at least 18 years of age; and (5) an individual who has an established relationship with the patient, who is acting in good faith on behalf of the patient, and who can reliably convey the patient's wishes. Makes organizational changes. Makes conforming changes to the statute's title and existing language, making the language gender neutral.

Amends GS 122C-53 (concerning exceptions to client confidentiality), allowing a facility to disclose the fact of admission or discharge of a client and the time and location of the admission or discharge to the client's next of kin whenever the responsible professional determines that the disclosure is in the best interest of the client (currently, does not expressly permit the disclosure of the time and location information). Makes language gender neutral in subsections (a), (c), (d), (e), (f), and (g). Makes clarifying and technical changes to subsection (f).

Amends GS 122C-54, permitting the disclosure of confidential client information when disclosure is ordered by a court of competent jurisdiction, or for purposes of filing a petition for involuntary commitment or for the adjudication of incompetency and appointment of a guardian or interim guardian. Modifies subsection (c) to specify that the certified copies of written exam results required to be furnished by the facility to the client's counsel, the attorney representing the State's interest, and the court, includes examinations by physicians and other medical and court records (currently, only examinations by physicians and records) in the cases of clients voluntarily admitted or involuntarily committed and facing district court hearings or hearings under Article 5 of the Chapter (Procedure for Admission and Discharge of Clients). Adds provision to require the client's counsel to have access to any medical or court records the client's counsel deems relevant to the court proceeding, and establishes that the client's counsel is not required to obtain the client's consent in order to access any medical or court records of the client. Deletes the provision establishing that the court with jurisdiction over the matter is to determine the relevance of confidential information for which disclosure is sought in a particular case. Amends subsection (d) to provide that an individual who is or has been a respondent in a proceeding pursuant to Article 5 be provided the court records of the proceeding upon submitting a written request to the clerk of superior court in the county in which the proceeding is pending. Directs the clerk to take reasonable and appropriate measures to verify the identity of the individual making the request. Directs the respondent's legally responsible person to exercise the respondent's right to access the court records if the respondent is a minor or an incompetent adult at the time of the request. Makes conforming changes to clarify that the respondent in an Article 5 proceeding is not required to file a

written motion for disclosure of confidential information under the existing provisions in subsection (d). Makes language gender neutral in subsections (a1), (d), (e), and (g).

Makes organizational changes to GS 122C-55, concerning the disclosure of a client's confidential information pertaining to care and treatment. Modifies the definition provided for *facility* and *area facility* so that they now refer to an area authority. Makes conforming changes throughout.

Amends GS 122C-115.4 (Functions of local management entities) to add the primary function of community crises services planning in accordance with GS 112C-202.2, enacted below.

Modifies GS 122C-117(a)(14), requiring an area authority to maintain a 24-hour, seven day a week crisis response service and adopt community crisis services plan in accordance with GS 112C-202.2, enacted below.

Enacts GS 112C-202.2. Requires every LME/MCO (local management entity/managed care organization) to adopt a community crisis services plan to facilitate the implementation of Parts 7 (Involuntary Commitment of Mentally Ill, Facilities for Mentally Ill) and 8 (Involuntary Commitment of Substance Abusers, Facilities for Substance Abusers) of Article 5 within its catchment area. Directs that the community crises services plan is to be comprised of separate plans, known as local area crises services plans or local plans, for each of the local areas or regions within the catchment area that the LME/MCO identifies as an appropriate local planning area. Provides that consideration should be given to the available resources and interested stakeholders within a particular geographic area or region of the catchment area. Permits each LME/MCO to determine the number and geographic boundaries of the local planning areas within its catchment area. Details requirements of each local area crisis services plan, including plans for the transportation and custody of respondents, as well as training for law enforcement personnel and other designated persons who will provide transportation and custody of involuntary commitment respondents. Directs law enforcement agencies, acute care hospitals, magistrates or clerks of court, area facilities with identified commitment examiners, the LME/MCO, and other relevant community partners or stakeholders to participate in the development of the local area crisis services plans. Permits adopted plans to address any matters necessary to facilitate the custody, transportation, examination, and treatment of respondents to commitment proceedings under Parts 7 and 8 of Article 5.

Renames GS 122C-206 as Transfers of clients between 24-hour facilities; transfer of clients from 24-hour facilities to acute care hospitals (currently, does not include transfers to acute care hospitals). Modifies subsection (a) to require the responsible professional at the original facility to notify the next of kin of the time and location of the transfer of a client if consent to share information is granted by the client or if disclosure of the information is permitted under GS 122C-53(b) as amended. Amends subsection (b) to include the respondent's counsel to the persons the responsible professional at the original facility is required to provide reasonable notice to of the reasoning for the transfer before transferring a respondent held for a district court hearing or a committed respondent from one 24-hour facility to another. Requires the responsible professional at the original facility to notify the respondent's counsel that the transfer is complete no later than 24 hours after the transfer. Requires the responsible professional to notify the next of kin that the transfer is complete within 24 hours of the transfer if consent is granted by the respondent or disclosure of the information is permitted under GS 122C-53(b) as amended. Further, requires the responsible professional at the original facility to notify the client's legally responsible person, no later than 24 hours after the transfer, that the transfer is complete and the location of the transfer if the respondent is a minor, an incompetent adult, or an individual with a health care power of attorney who is deemed incapable. Makes conforming changes to subsection (c) concerning consultation and notification requirements pertaining to minors and incompetent adults transferred from one 24-hour facility to another. Modifies subsection (d) to specify that the transfer from one 24-hour facility to another authorized for minors or incompetent adults includes those admitted pursuant to Part 5 of Article 5 (Voluntary Admissions, Discharges, Minors and Adults, Facilities for Individuals with Developmental Disabilities) and incapable adults admitted pursuant to Part 2A of Article 5 (enacted below, Voluntary Admissions; Discharges; Incapable Adults; Facilities for Individuals with Mental Illness and Substance Use Disorder).

Amends subsection (c1) of GS 122C-206 to provide for custody orders for transportation of a client from one 24-hour facility to another, or to an acute care hospital pursuant to subsection (e), which authorizes transfer for emergency medical treatment, emergency medical evaluation, or emergency surgery without notice to or consent from the client. Amends subsection (e) to require the responsible profession to notify the next of kin or legally responsible person of the client of the time and location of the transfer within a reasonable period of time. Makes conforming changes to subsection (e).

Adds new subsection (f1) to GS 122C-206, requiring a client that is transferred from a 24-hour facility to an acute care hospital solely for medical reasons to be returned to the original facility as soon as the next client space becomes available at the original facility after completion of the client's medical care. Requires the original facility to accept the return of the client. Authorizes the

client to be released if the responsible professionals at both facilities concur that discharge of a client who is not subject to GS 122C-266(b) (concerning respondents charged with a violent crime) is appropriate. Establishes that a custody order remains valid throughout the period of time necessary to complete the client's medical care and transport the client between the 24-hour facility and the acute care hospital in the case that, at the time of the transfer, the client is being held under a custody order pending a second commitment examination or a district court hearing under involuntary commitment proceedings. Provides that the requirement for a timely hearing under GS 122C-268(a) applies. Mandates that any decision to terminate the proceedings because the respondent no longer meets the criteria for commitment or because a timely hearing cannot be held pursuant to GS 122C-268(a) must be documented and reported to the clerk of superior court in accordance with GS 122C-266(c). Makes clarifying change to subsection (f), providing for the return of a client that is transferred from one 24-hour facility to another facility solely for medical reasons.

Modifies GS 122C-210.1 (Immunity from liability) to now provide that no facility, including an area facility, a facility licensed under the Chapter, an acute care hospital, a general hospital, or an area authority, LME, or LME/MCO, or any of its officials, staff, or employees, or any physician or other individual who is responsible for the custody, transportation, examination, management, supervision, treatment, or release of a client and who takes reasonable measures in good faith under the authority of Article 5 and is not grossly negligent, is civilly or criminally liable, personally or otherwise, for actions arising from these responsibilities or for actions of the client. Provides that this immunity is in addition to any other legal immunity from liability to which these facilities, agencies, or individuals may be entitled and applies to actions performed in connection with, or arising out of, the custody, transportation, examination, admission, or commitment of any individual pursuant to Article 5.

Amends GS 122C-210.3 to permit a custody order entered by the clerk or magistrate pursuant to GS Chapter 122C to be delivered to the law enforcement officer or other person designated by a county or city's governing body under GS 122C-251(g) by electronic or facsimile transmission.

Amends GS 122C-211 (Admissions). Authorizes the written application for voluntary evaluation or admission to a facility to be signed by an individual's legally responsible person. Establishes that information provided in an advance instruction for mental health treatment by the client or the client's legally responsible person must be reviewed in the described evaluation. Eliminates subsection (e), pertaining to the admission of individuals from a single portal area to an area or State 24-hour facility, and subsection (f1) pertaining to the admission of an incapable individual in need of treatment for a mental illness to a facility pursuant to an advance instruction for mental health treatment or pursuant to the authority of a health care agent named in a valid health care power of attorney. Makes language gender neutral in subsection (a).

Amends GS 122C-212 (Discharges), eliminating subsection (c) pertaining to the discharge of an individual from a single portal area who was voluntarily admitted to an area or State 24-hour facility. Makes conforming changes. Makes language gender neutral in subsections (a) and (b).

Enacts new Part 2A in Article 5 of GS Chapter 122C, providing for voluntary admissions and discharges of incapable adults, and facilities for individuals with mental illness and substance use disorder.

New GS 122C-213 permits an individual in need of treatment for a mental illness and who is incapable, as defined in GS 122C-3 and GS 122C-72, to be admitted to and treated in a facility pursuant to an advance instruction for mental health treatment executed in accordance with part 2 of Article 3 of GS Chapter 122C or pursuant to the authority of a health care agent named in a valid health care power of attorney executed in accordance with Article 3 of GS Chapter 32A. Clarifies that GS 122C-211 applies to admissions of incapable adults under new Part 2A, except as otherwise provided in this Part. Allows an individual making an advance instruction for mental health treatment to grant or withhold consent for mental health treatment, including the use of psychotropic medication, electroconvulsive treatment, and admission to and retention in a 24-hour facility for mental illness. Requires an attending physician or other mental health treatment provider to act in accordance with an advance instruction for mental health treatment upon a determination that the individual making the advance instruction is incapable, in which case, the provisions of Part 2 of Article 3 of the Chapter apply. Establishes that when a health care power of attorney authorizes a health care agent pursuant to GS 32A-19 to make mental health treatment decisions for an incapable individual, the health care agent must act for the individual in applying for admission and consenting to treatment at a facility, consistent with the extent and limitations of authority granted in the health care power of attorney for as long as the individual remains incapable. Prohibits a 24-hour facility from holding an individual who is determined to be incapable at the time of admission and who is admitted pursuant to an advance instruction for mental health treatment for more than 15 days, except as provided in GS 122C-211(b). However, provides that an individual who regains sufficient understanding and capacity to make and communicate mental health

treatment decisions can elect to continue his or her admission and treatment pursuant to the individual's informed consent in accordance with GS 122C-211.

New GS 122C-214 provides for the discharge of individuals determined to be incapable. Directs the responsible professional to unconditionally discharge an individual admitted to a facility pursuant to new Part 2A at any time it is determined that the individual is no longer mentally ill or in need of treatment at the facility. Allows for an individual who has been voluntarily admitted to a facility under new Part 2A and who is no longer deemed incapable to be discharged upon the individual's own request. Requires the individual's discharge request to be in writing. Authorizes a facility to hold an individual who has been voluntarily admitted to a 24-hour facility pursuant to new Part 2A for up to 72 hours after the individual submits a written request for discharge, but requires the facility to release the individual upon the expiration of 72 hours following submission of the written request for discharge unless the responsible professional obtains an order under Part 7 or 8 of Article 5 to hold the client. Allows a health care agent named in a valid health care power of attorney to submit on behalf of an individual admitted to a facility under this Part a written request to have the individual discharged from the facility, provided (1) the individual remains incapable at the time of the request and (2) the request is consistent with the authority expressed in the health care power of attorney. Again, authorizes the facility to hold an individual for up to 72 hours after a health care agent submits a written request for the individual's discharge, but requires the facility to release the individual upon the expiration of 72 hours following submission of the written request for discharge unless the responsible professional obtains an order under Part 7 or 8 of Article 5 to hold the client. Requires the facility to discharge an individual if, in the opinion of a physician or eligible psychologist, an individual admitted to a facility under this Part regains sufficient understanding and capacity to make and communicate mental health treatment decisions while in treatment, and the individual refuses to sign an authorization for continued treatment within 72 hours after regaining decisional capacity, unless the responsible professional obtains an order under Part 7 or 8 of Article 5 to hold the client. In any case in which an order is issued authorizing the involuntary commitment of an individual admitted to a facility under this Part, the facility's further treatment and holding of the individual is required to be in accordance with Part 7 or 8 of Article 5, whichever is applicable.

Amends GS 122C-221(a) to require the application for admission of a minor that is mentally ill or a substance abuser in need of treatment to have the admission application in writing and signed by the legally responsible person.

Amends GS 122C-224(c) to add a requirement that the facility provide the clerk of court in the county where the facility is located with a copy of the legally responsible person's written application for admission of the minor and the facility's written evaluation of the minor, both of which are required under GS 122C-211(a).

Enacts GS 122C-230 to specify that Part 4 of Article 5 applies to adults who are adjudicated incompetent by a court of competent jurisdiction, and does not apply to adults who are deemed incapable but who have not been adjudicated incompetent.

Amends GS 122C-232 (Judicial determination) to add two new subsections. New subsection (a1) requires the facility to provide the incompetent adult and the legally responsible person with written information describing the procedures for court review of the admission and the procedures for discharge prior to admission. new subsection (a2) requires the facility to notify the clerk of court of the county in which the facility is located that the incompetent adult has been admitted and that a hearing for concurrence in the admission is scheduled, within 24 hours after admission. Also requires the facility to notify the clerk of the name and address of the legally responsible person and the responsible professional, and provide a copy of the legally responsible person's written application for evaluation or admission of the incompetent adult and the facility's evaluation of the incompetent adult. Amends subsection (b) to require the court to set the length of the authorized admission for a period not to exceed 90 days if the court concurs with the voluntary admission of the incompetent adult as specified. Makes technical changes to subsection (a). Makes language in subsection (d) gender neutral.

Renames GS 122C-251, Custody and Transportation. Makes clarifying change to subsection (a). Adds to subsection (b) to require transportation between counties under the involuntary commitment proceedings of Article 5 for a first examination at a location described in GS 122C-236(a) and GS 122C-238(a) to be provided by the county where the respondent is taken into custody. Amends subsection (e) to prohibit a law enforcement officer taking custody or providing transportation from using force to restrain the respondent unless it appears necessary to protect the officer, the respondent, or others (currently, permits reasonable force to restrain if necessary to protect the officer, the respondent, or others). Directs the officer to use the least restrictive and most reasonable restraint under the circumstances and afford the respondent as much dignity as the circumstances permit, taking into consideration the age, medical condition, special needs, and behavior of the respondent. Further, to the extent feasible, the officer's application of force or restraint must avoid aggravating or worsening the respondent's preexisting injuries or medical conditions. Additionally, to the extent feasible, the officer must consult a parent, caretaker, or other legally responsible

person prior to restraining a minor. Requires the law enforcement officer to record on the return of service portion of the custody order the type of mechanical restraint used on a respondent, if any, when taking the respondent into custody or transporting the respondent. Clarifies that the limitations and conditions in subsection (e) on the use of force and restraint do not apply to acute care hospitals or general hospitals and their employees or contractors when the use of force and restraint by these entities and persons is governed by rules for accreditation adopted by accrediting bodies that review these entities and persons for compliance with the accreditation rules.

Amends subsection (g) of GS 122C-251 to now provide that the governing body of a city, county, or LME/MCO can adopt a plan for the custody or transportation of respondents in involuntary commitment proceedings under Article 5. Authorizes the plan to designate law enforcement officers, volunteers, or other public or private agency personnel to provide all or parts of the custody and transportation required by involuntary commitment proceedings, including taking a respondent into custody as ordered by a clerk of superior court or magistrate. Requires persons designated to be trained in accordance with GS 122C-202.2(a)(3), as enacted. Directs affected law enforcement agencies, acute care hospitals, magistrates, clerks of superior court, area facilities, other affected agencies to participate in the planning. Mandates any person or agency designated by a city, county, or LME/MCO to provide all or parts of the custody and transportation required by involuntary commitment proceedings to provide the custody and transportation and follow the procedures in Article 5. Clarifies that references to a law enforcement officer in Article 5 apply to the designated person or agency. Prohibits a person from being designated without the consent of (1) the person or (2) the agency that employs the person or contracts for the person's services. Establishes that counties and cities retain the responsibilities set forth in the Article, except as otherwise described in a plan developed and adopted pursuant subsection (g). Makes conforming and clarifying changes to subsections (c) and (h). Makes further technical and clarifying changes. Makes language gender neutral in subsections (e) and (f).

Amends GS 122C-253 (Fees under commitment order) to add that Parts 6, 7, and 8 of Article 5 do not require a commitment examiner to accept a respondent as a client either before or after commitment. Makes conforming change concerning the expense of treatment by a commitment examiner.

Amend GS 122C-255 (Report required) to refer to each 24-hour facility instead of each 24-hour residential facility. Makes technical change.

Modifies the terminology in GS 122C-261 to provide that the affidavit and petition to the clerk or magistrate is for issuance, and the clerk or magistrate's subsequent issuance upon reasonable grounds, of an order to take the respondent into custody for examination by a commitment examiner (currently, examination by a physician or eligible psychologist). The act defines *commitment examiner* as a physician, eligible psychologist, or any health professional or mental health professional certified to perform the first examination for involuntary commitment. Makes conforming changes throughout Article 5 to refer to examination by a commitment examiner. Modifies the provisions that apply when the affiant is a commitment examiner, set out in subsection (d), including allowing for the clerk to deliver the affidavit through electronic transmission. Adds an immunity provision, providing that no commitment examiner, area facility, acute care hospital, general hospital, or other site of first examination, or its officials, staff, employees, or other individuals responsible for the custody, examination, detention, management, supervision, treatment, or release of an individual examined for commitment, and who follows accepted professional judgment, standards, and practice, can be held liable in any civil or criminal action for taking reasonable measures to temporarily detain an individual for the period of time necessary to complete a commitment examination, submit an affidavit to the magistrate or clerk of court, and await the issuance of a custody order as authorized by subsection (d) of the statute, as long as the commitment examiner has a reasonable and good-faith belief that detention pending the examination and issuance of a custody order is necessary to protect the individual or others from bodily harm or life endangerment. Adds that when the individual is temporarily detained under the circumstances described in new subdivision (8), the examiner must certify in the affidavit delivered to the clerk or magistrate in accordance with subdivision (d)(1) the reason the individual requires temporary detention pending the issuance of a custody order. Eliminates subsection (f), pertaining to a petition for examination filed for an individual who is a resident of a single portal area.

Modifies GS 122C-262 (Special emergency procedure for individuals needs immediate hospitalization) as follows. Allows anyone, including a law enforcement officer, who has knowledge of an individual who is subject to inpatient commitment according to the criteria of GS 122C-263(d)(2) (currently, GS 122C-261(a)) and who requires immediate hospitalization to prevent harm to self or others, to transport the individual directly to an area facility or other place, including a State facility for the mentally ill, for examination by a commitment examiner in accordance with GS 122C-263(c). Establishes that upon examination by the commitment examiner, if the individual meets the inpatient commitment criteria specified in GS 122C-263(d)(2), which concerns involuntary commitment based on a commitment examiner's findings that a respondent is mentally ill or dangerous to

self, and requires immediate hospitalization to prevent harm to self or others, the commitment examiner must so certify in writing before any official authorized to administer oaths. Establishes that if a 24-hour facility is not immediately available or appropriate to the respondent's medical condition, the respondent can be temporarily detained under appropriate supervision in accordance with GS 122C-263(d)(2) and released in accordance with GS 122C-263(d)(2). Adds new subsection (f), to provide that if, upon examination of a respondent presented in accordance with subsection (a), the commitment examiner finds that the individual meets the criteria for inpatient commitment specified in GS 122C-263(d)(2) but does not require immediate hospitalization to prevent harm to self or others, the commitment examiner can petition the clerk or magistrate in accordance with GS 122C-261(d) for an order to take the individual into custody for transport to a 24-hour facility described in GS 122C-252. Further, provides that if the commitment examiner recommends inpatient commitment and the clerk or magistrate finds probable cause to believe that the respondent meets the criteria for inpatient commitment, the clerk or magistrate is required to issue an order for transport to or custody at a 24-hour facility described in GS 122C-252, provided that if a 24-hour facility is not immediately available or appropriate to the respondent's medical condition, the respondent can be temporarily detained under appropriate supervision in accordance with GS 122C-263(d)(2) and released in accordance with GS 122C-263(d)(2). Adds new subsection (g) to establish that the statute applies exclusively to an individual who is transported to an examination by a commitment examiner in accordance with subsection (a).

Renames GS 122C-263, Duties of law enforcement officers; first examination. Amends subsection (a) to require a law enforcement officer or the individual designated by the clerk or magistrate in GS 122C-125(g) to provide transportation, without unnecessary delay after assuming custody, to take the respondent to an area facility identified by the LME/MCO in the community crisis services plan adopted pursuant to GS 122C-202.2 for examination by a commitment examiner. Provides for instances when there is no area facility identified in the plan, when the commitment examiner is not immediately available, or when no identified facility or acute care hospital is available.

Adds new subsections (a1) and (a2), setting forth requirements of identified area facilities to perform a medical screening examination as described, and allowing for the responsible professional at an area facility or other site of first examination to direct transport of the respondent to an identified acute care hospital for emergency medical treatment, emergency medical evaluation, emergency surgery, or other medical treatment that the site of first examination is unable to provide.

Amends subsection (d), setting out the determinations the commitment examiner must make after the conclusion of the examination. Amends subdivision (2) to specify that the law enforcement officer or other designated person must take the respondent to a 24-hour facility pending a district court hearing without unnecessary delay and no later than six hours after the commitment examiner's finding and recommendation, and request for transportation. Additionally, authorizes a commitment examiner to initiate a new involuntary commitment proceeding prior to the expiration of the seven-day period after the issuance of the custody order, so long as the respondent continues to meet applicable criteria.

Deletes the provisions of subdivision (f) to now require that when an outpatient commitment is recommended, the commitment examiner, if different from the proposed outpatient treatment physician or center, must contact the LME/MCO that serves the county where the respondent resides or the LME/MCO that coordinated services for the respondent to inform the LME/MCO that the respondent is being recommended for outpatient commitment. Sets out requirement of the LME/MCO. Additionally requires the commitment examiner to give the respondent a written notice of the contact information of the proposed outpatient treatment physician or center, and direct the respondent to appear at the address at a specified date and time. Directs the commitment examiner to notify the designated outpatient treatment physician or center and send a copy of the notice, and the examination report, to the physician or center.

Makes conforming and clarifying changes to the statute.

Renames GS 122C-263.1 as Secretary's authority to certify commitment examiners; training of certified commitment examiners performing first examinations; LME/MCO responsibilities. Removes language providing for the Secretary of Health and Human Services to waive the requirements of first examinations by a physician or eligible psychologist upon request of an LME as described.

States that physicians and eligible psychologists are qualified to perform commitment examinations required under GS 122C-263(c) and GS 122C-283(c). Authorizes the Secretary of the Department of Health and Human Services to individually certify other health, mental health, and substance abuse professional whose scope of practice includes diagnosing and documenting psychiatric or substance use disorders and conducting mental status examinations to determine capacity to give informed consent for treatment, to perform the first commitment examinations required by GS 122C-261 through GS 122C-263 and GS 122-281 through GS 122C-283.

Details seven qualifications of applicants and requirements of applicants and the Department that must be met for the Secretary to certify an individual as a commitment examiner, including requiring the Department of Health and Human Services (Department) to determine that the applicant possesses the professional licensure, registration, or certification to qualify the applicant as a professional whose scope of practice includes diagnosing and documenting psychiatric or substance use disorders and conducting mental status examinations to determine capacity to give informed consent. Specifies that the other health professionals that can be certified by the Secretary upon request and meeting all of the described qualifications, are (1) a licensed clinical social worker, a master's level nurse practitioner, a licensed professional counselor, or a physician's assistant for certification to conduct the first examinations described in GS 122C-263(c) and GS 122C-283(c); and (2) a master's level licensed clinical addictions specialist to conduct the first examination described in GS 122C-283(c). Provides that certifications can be renewed every three years upon completion of a refresher training program approved by the Department. Further requires the Department to submit, no less than annually, a list of certified first commitment examiners to the Chief District Court Judge of each judicial district in NC and maintain a current list of certified first commitment examiners on its website.

Directs the Department to expand its standardized certification training program to include refresher training for all certified providers performing initial examinations pursuant to subsection the statute, as amended.

Makes clarifying change to GS 122C-264 (Duties of clerk of superior court and the district attorney).

Makes language gender neutral in GS 122C-265 (Outpatient commitment; examination and treatment pending hearing).

Amends GS 122C-266(a)(2) to require a physician who finds that the respondent meets the criteria for outpatient commitment under GS 122C-263(d)(1) to contact the LME/MCO that serves the county in which the respondent resides or that coordinated services for the respondent to inform the LME/MCO that the respondent is being recommended for outpatient commitment. Details requirements for the LME/MCO to determine if the respondent is eligible for services through the LME/MCO and if so, identify and schedule an appointment with a proposed outpatient treatment physician or center and provide information to the commitment examiner as described.

Amends GS 122C-268 (Inpatient commitment; district court hearing) to provide that if a respondent temporarily detained under GS 122C-263(d)(2) is subject to a series of successive custody orders issued pursuant to GS 122C-263(d)(2), the hearing is required to be held within 10 days after the day that the respondent is taken into custody under the most recent custody order. Permits a hearing to be held by audio or video transmission between the treatment facility and a courtroom in a manner that allows: (1) the judge and the respondent to see and hear each other and (2) the respondent to communicate fully and confidentially with the respondent's counsel during the proceeding. Requires the chief district court judge to submit to AOC the procedures and type of equipment being used for approval prior to any hearing held by audio or video transmission. Allows the respondent to object to an audio or video hearing through counsel. Requires hearings to be held in a manner that complies with any applicable federal and State laws governing the confidentiality and security of confidential information, regardless of the manner and location of the hearings. Makes clarifying and technical changes.

Amends GS 122C-271 (Disposition) to require a court that finds a respondent does not meet the criteria for commitment, and has been released pending the district court hearing, to give notice of discharge to the proposed outpatient physician or center. Requires a court to make findings of fact as to the availability of outpatient treatment prior to ordering any outpatient commitment under this statute. Provides requirements for the content of the order, and for to whom copies of the order must be sent. Makes a conforming change. Requires a 24-hour facility where a respondent has been held pending the district court hearing to identify for the court an outpatient treatment physician or center that meets listed criteria, prior to the court ordering any outpatient commitment. Requires any LME/MCO of which the respondent is a client to participate in a respondent's discharge planning, prior to a court's ordering any outpatient commitment. Provides requirements for the contents of the order, and for to whom copies of the order must be sent. Deletes current provisions authorizing a court to order the respondent to continue to be held at a 24-hour facility for up to 72 hours.

Amends GS 133C-276(c) to require rehearings to be held in accordance with GS 122C-268(g).

Amends GS 122C-281 (Affidavit and petition before clerk or magistrate; custody order). Requires commitment examiner, who is an affiant regarding a substance abuser under this statute, who examined the respondent to file their affidavit and examination findings with the clerk of court as under GS 122C-261(d)(1). Provides that the clerk or magistrate's order to take the respondent into custody in that situation is to a law enforcement officer or other person under GS 122C-251(g). Provides for the order to require a hearing as under GS 122C-284(a). Protects commitment examiners and accompanying facilities and staff who follow accepted professional judgment, standards, and practice, from civil or criminal liability for taking reasonable measures, on

reasonable and good faith belief of danger of bodily harm or life endangerment, to temporarily detain an individual for the time necessary to complete a commitment examination, submit an affidavit, and await issuance of a custody order. Provides a requirement for the content of an affidavit in that case. Makes technical and conforming changes, including amendments for gender-neutral language.

Amends GS 122C-282 (Special emergency procedure for violent individuals). Makes technical and conforming changes, including amendments for gender-neutral language.

Amends GS 122C-283. Provides a priority list for law enforcement officers, or persons designated to provide transportation under the crisis plan, with an individual in custody under GS 122C-251(g) of locations to which the officer must take the respondent, with each subsequent entry being selected if prior entries are unavailable, as follows: (1) the area facility identified by the LME/MCO in the crisis services plan, (2) any other area facility or an acute care hospital as identified and provided in the LME/MCO's community crisis services plan, or (3) any commitment examiner available in a private hospital, clinic, or general hospital. Authorizes temporary detention in an area facility or hospital while waiting for a commitment examiner to become available. Requires an area facility identified by the LME/MCO as a site for conducting first examinations under this statute to be able to conduct the examination by a licensed physician or other identified licensed individual. Authorizes face-to-face or telemedicine examination. Authorizes responsible professionals to transfer the respondent to an acute care hospital for medical treatment that the facility cannot provide, and requires the original facility to accept the returned respondent upon completion of the treatment, unless the respondent no longer meets the criteria for commitment. Provides for temporary detention under GS 122C-263(d)(2) in the event that a commitment examiner recommends commitment, but a 24-hour facility is not available. Makes conforming changes to the caption. Makes technical and conforming changes, including amendments for gender-neutral language.

Amends GS 122C-284 (Duties of clerk of superior court). Makes technical and conforming changes, including amendments for gender-neutral language.

Amends GS 122C-285 (Commitment; second examination and treatment pending hearing) to require findings of the physician or qualified professional, and the facts upon which they are based, to be made in writing in all cases, and a copy of the findings to be sent to the clerk of superior court. Makes technical and conforming changes, including amendments for gender-neutral language.

Amends GS 122C-286 (Commitment; district court hearing). Provides that the hearing for a respondent temporarily detained under a series of successive custody orders under GS 122C-263(d)(2) must be held within 10 days after the respondent is taken into custody under the most recent custody order. Authorizes a respondent to waive their presence at the hearing via writing. Requires hearings for respondents in 24-hour facilities to comply with GS 122C-268(g). Makes technical and conforming changes, including amendments for gender-neutral language.

Amends GS 122C-287 (Disposition). Makes technical and conforming changes, including amendments for gender-neutral language.

Amends GS 122C-290 (Duties for follow-up on commitment order). Makes conforming changes.

Amends GS 122C-291 (Supplemental hearings). Makes conforming changes.

Amends GS 122C-292 (Rehearings). Makes technical and conforming changes, including amendments for gender-neutral language.

Amends GS 122C-293 (Release by area authority or physician). Makes technical and conforming changes, including amendments for gender-neutral language.

Amends GS 122C-294 (Local plan). Provides that the local plan should be in accordance with GS 122C-202.2, and should be developed with other, not-listed parties as necessary to facilitate implementation.

Directs LME/MCOs to submit to the Department of Health and Human Services a copy of its current community crisis services plans by the earlier of 12 months after the date the Department receives notification that the federal Centers for Medicaid and Medicare has approved all necessary waivers and State Plan amendments for Medicaid and NC Health Choice transformation under SL 2015-245, as amended, or six months prior to the date the Department actually initiates capitated contracts with Prepaid Health Plans for the delivery of Medicaid and NC Health Choice services. Directs the Department to alert the LME/MCO of the occurrence of these conditions. Effective when the bill becomes law.

Except as otherwise indicated, effective December 1, 2017, and applies to proceedings initiated on or after that date.

[View summary](#)

[Health and Human Services, Mental Health](#)

H 609 (2017-2018) [AMEND VARIOUS INNOCENCE COMMISSION STATUTES](#). Filed Apr 5 2017, *AN ACT TO CLARIFY THE DUTIES OF THE DIRECTOR OF THE INNOCENCE COMMISSION AND TO ENSURE ALL LANGUAGE AND TERMINOLOGY IS CONSISTENT WITHIN THE ARTICLE.*

Identical to [S 667](#), filed 4/4/17.

Amends GS 15A-1417 and GS 15A-1418 to delete the provisions authorizing referral to the North Carolina Innocence Inquiry Commission (Commission) upon a motion for appropriate relief.

Amends GS 15A-1460 to include the Director of the Commission's designee in the definition of director.

Amends GS 15A-1463 to delete the provision requiring the sheriff on the Commission to hold office at the time of his or her appointment to the Commission. Deletes the provision requiring the Commission to have its first meeting by January 31, 2007. Requires the Commission to give public notice of its meetings, and provide an opportunity for public comment on Commission operations and rules at each of its meetings.

Amends GS 15A-1465 to require the Director to prepare reports as requested by the Commission or Administrative Office of the Courts (was, prepare reports outlining investigations and recommendations to the trial court).

Amends GS 15A-1466 to assign the duties listed in that statute to the Director (currently, to the Commission). Removes the duty to conduct inquiries into claims of factual innocence, and amends the duty to coordinate the investigation of cases to give priority to cases in which the convicted person is currently incarcerated solely for the crime for which the convicted person claims factual innocence. Makes a conforming change.

Amends GS 15A-1467 to authorize the Director (was, Commission) to use discretion to informally screen and dismiss a case summarily. Requires the Director to provide counsel that refers a case to the Commission with a case disposition memorandum when the case is closed prior to formal inquiry. Requires the Director (was, Commission) to give the victim in a case being reviewed by the Commission notice of the victim's right to present views and concerns throughout the investigation. Requires the Director (was, Commission) to notify co-defendants of the investigation. Grants the Director (was, Commission) with the discretion to end an inquiry upon deciding that the convicted person is uncooperative. Makes technical, clarifying, and conforming changes.

Amends GS 15A-1468. Deletes the requirements for victim notification and that a victim notify the Commission of intent to attend within 10 days of a proceeding. Requires the Commission to deliberate in a closed meeting, and participate in a public vote. Deletes the provision requiring Commission records for conclusions of insufficient evidence of factual innocence to remain confidential. Requires the Director to provide a copy of case files for formal inquiry cases which are not presented to the Commission to the district attorney and defense counsel upon completion of formal inquiry. Requires the Director to provide a copy of the case file for cases presented to the full commission after formal inquiry, and the uncertified and certified transcripts of the Commission's proceedings, to the district attorney and the defense counsel. Makes technical and conforming changes.

Amends GS 15A-1469 to authorize the senior judge of the three-judge panel to find good cause shown to encumber the Commission case file with a protective order. Requires the clerk of court to give reasonable notice to victims before consent hearings (currently, all hearings require 30 days' written notice). Makes technical and conforming changes.

Amends GS 15A-1471 to require the Commission to obtain written consent of the claimant to consume biological material in the process of DNA testing. Applies the current evidence custody requirements to all parties involved in the testing and transmission process.

Amends GS 143-318.18 to delete the Commission from the list of bodies to which GS Chapter 143, Article 33C (Meetings of Public Bodies), does not apply.

H 632 (2017-2018) **AMEND MITIGATION SERVICES LAW**. Filed Apr 6 2017, *AN ACT TO AMEND LAWS RELATED TO THE PROVISION OF MITIGATION SERVICES.*

Section 1

Amends GS 143-214.9, concerning the purposes of the Division of Mitigation Services (Division) of the Department of Environmental Quality, to add a new purpose for the Division to prioritize cost-effective approaches to compliance with mitigation requirements that maximize the remaining productive uses of public and private lands consistent with the other purposes listed in the statute. Makes technical conforming change.

Amends GS 143-214.12 (Division of Mitigation Services; Ecosystem Restoration Fund) to limit the expenditure of funds from the Ecosystem Restoration Fund (Fund) to purposes directly contributing to the acquisition, perpetual maintenance, enhancement, restoration, or creation of wetlands, streams, and riparian areas (currently, does not include streams) in accordance with the basinwide plan as described in GS 143-214.10.

Subsection (a1) of GS 143-214.12 permits the Department of Environmental Quality (Department) to distribute funds from the Fund directly to a federal or State agency, a local government, or a private, nonprofit conservation organization to acquire, manage, and maintain real property or an interest in real property. Modifies subsection (a1) to allow a recipient of funds under subsection (a1) that acquires a conservation easement or interest in real property appurtenant to a restoration project delivered to the Division of Mitigation Services to transfer the conservation easement or interest in real property to a federal or State agency, a local government, or a private, nonprofit conservation organization approved by the Division. Deletes previous language that required a recipient of funds under subsection (a1) to grant a conservation easement in real property or interest in real property acquired with the funds to the Department in a form acceptable by the Department. Authorizes the Department to convey real property or an interest in real property that has been acquired under the Division of Mitigation Services to a federal or State agency, a local government, or a private, nonprofit conservation organization approved by the Division (currently not required to be approved by the Division) to acquire, manage, and maintain real property or an interest in real property for the purposes set out in subsection (a). Establishes that when a grantee of real property or an interest in real property under subsection (a) grants a conservation easement in the real property or interest in real property to a federal or State agency, a local government, or a private, nonprofit conservation organization approved by the Division, the grant must be made in a form that is acceptable to the Department.

Section 2

Enacts GS 143-214.7D, permitting land within a riparian buffer required to be maintained under a State or local permit or other regulatory approval, in which neither the State or its subdivisions holds any property interest, to be used by a property owner to satisfy any other development-related regulatory requirements based on property size except as otherwise required by federal law. Provides that the development-related regulatory requirements include but are not limited to, stormwater best management practices, residential density, and nonresidential intensity calculations and yields, tree conservation purposes, open space or conservation area requirements, setbacks, perimeter buffers, and lot area requirements.

Section 3

Directs the Division to revise its mitigation services programs to focus its efforts on the preservation, enhancement, and restoration of ecological functions rather than on the spatial proximity of mitigation projects. Directs the Environment Management Commission, with the assistance of the Division, to review and revise the nutrient offset fee for the Jordan Lake Watershed to establish fees for the different sub-watersheds within the Jordan Lake Watershed that reflect the actual costs of performing the mitigation in the sub-watersheds. Also directs the Division to calculate wetland mitigation fees by multiplying the relevant rates by the number of credits being purchased and to calculate stream mitigation fees by multiplying the relevant rates by the number of whole credits being purchased. Requires the Environmental Management Commission to amend its rules consistent with these provisions.

Section 4

Directs the Department of Transportation (DOT) to annually report by February 1 to the Environmental Review Commission regarding implementation of the 2016 Memorandum of Understanding between the Department and DOT establishing procedures for the provision of compensatory mitigation by the Division to offset impacts to waters and wetlands from DOT's activities. Details the required components of the report. Expires March 1, 2020.

Section 5

Directs the Division to review and revise its bidding and contracting procedures for procurement of mitigation services. Requires the procedures to include: (1) bonding or other financial surety required for the construction of a mitigation project to reflect only the minimum amount necessary to secure State funds provided through a contract between the Division and a private mitigation provider; and (2) post-construction bonding periods and amounts to reflect the minimum length of time necessary to determine with a reasonable degree of certainty project success and the reasonably determined level of financial risk to the State from total or partial failure of the mitigation project. Directs the Division to report to the Environmental Review Commission regarding this required review and revision by December 1, 2017. Sets out required content of the report.

Section 6

Directs the Department of Administration to develop an inventory of all State-owned properties, determine which State-owned properties would be appropriate for compensatory mitigation to satisfy the compensatory mitigation required of State agencies, and determine whether the stewardship and maintenance of certain State-owned properties would be more efficiently and effectively administered by private nonprofit organizations such as conservation land trusts. Requires other State agencies, specifically DOT and the Department of Environmental Quality, to assist the Department of Administration in the implementation of this provision. Directs the Department of Administration to submit the results of implementing this provision to the Joint Legislative Commission on Governmental Operations and the Environmental Review Commission no later than February 1, 2017.

Intro. by Torbett, Lewis, McGrady.

[STUDY, GS 143](#)

[View summary](#)

[Environment, Environment/Natural Resources, Government, State Agencies, Department of Environmental Quality \(formerly DENR\), Department of Transportation](#)

H 633 (2017-2018) [SMALL BUSINESS RETIREMENT PROGRAM](#). Filed Apr 6 2017, *AN ACT TO CREATE THE VOLUNTARY SMALL BUSINESS RETIREMENT ACCOUNTS PROGRAM*.

Enacts new Part 2L, North Carolina Volunteer Small Business Retirement Accounts Program (Program) in Article 10 of GS Chapter 143B. Requires that the Article be liberally construed so as to provide a tax-qualified retirement program for participating employers and participating employees. Defines *participating employee* as an individual who is employed in this State by a small nongovernmental employer, has chosen to have contributions made to an account in the Program, and has at least \$1 in an account in the Program. Defines participating employer as small nongovernmental employer in the State that elects to participate in the Program.

Establishes the Program as part of the Department of Commerce and requires the six member North Carolina Voluntary Employee Retirement Accounts Board (Board) to create the Program to provide a cost-effective group retirement option for small nongovernmental employers and employees of small nongovernmental employers. Sets out provisions governing the Board, including the appointment of members (who serve staggered four-year terms) and the designation of a chair. Requires that the Board develop standards and requirements for the Program's operations that are consistent with Article 10 and applicable federal law, including five specified procedures.

Requires the Board to contract with providers to provide specified services, including options for accounts and investment products under the program, and management of money being deposited in an investment product.

Allows the Board to receive grants, gifts, or other money to cover the cost of administering the Program, and requires the Board to develop incentives for Program participation.

Requires the Department of Commerce to include a list of participating employers on the Department's website.

Requires the Board to report annually, beginning on June 30, 2018, on specified Program information to the Governor and the Joint Legislative Commission on Governmental Operations.

Specifies that information held by the Board or any entity contracting with the Board that is specific to a participating employee, as delineated in the act, is confidential and not a public record.

Requires the Board to contract with a provider to develop educational information for the public.

Allows a small nongovernmental employer in this State to participate in the Program if, as of January 1, 2018, the small nongovernmental employer does not offer an active retirement program for its employees before electing to participate in the Program. Requires participating employers to comply with all Program requirements, and allows a participating employer to elect to discontinue participation in accordance with Program requirements. Specifies that no small nongovernmental employer is required to participate.

Sets out employee annual notification requirements for small nongovernmental employers participating in the Program. Requires that the Board establish the information required to be provided in the annual notifications, and at least one method a small nongovernmental employer may use to comply with the participation requirements.

Effective October 1, 2017.

Intro. by Hardister, Ross, Goodman, R. Moore.

GS 143B

[View summary](#)

Business and Commerce, Employment and Retirement

H 651 (2017-2018) [STATE PENSION/RET. HEALTH BEN. FUND SOLVENCY](#). Filed Apr 6 2017, *AN ACT TO ESTABLISH THE UNFUNDED LIABILITY SOLVENCY RESERVE*.

Enacts new GS 143C-4-8 establishing the Unfunded Liability Solvency Reserve (Reserve), an employee benefits trust, in the General Fund. Specifies that the Reserve will receive the following funds: (1) any amounts appropriated by the General Assembly and (2) 25% of the unreserved fund balance of the current fiscal year, not otherwise designated, must be placed in the Reserve the next fiscal year.

Limits the use of funds in the Reserve to transfers to the (1) Health Benefit Fund or (2) the Retirement System for the purpose of reducing the unfunded liabilities of those two funds. Requires that funds in the Reserve be appropriated by the end of the next fiscal year after the funds entered the Reserve. Prohibits transfers from the Reserve to the Health Benefit Fund and the Retirement System from supplanting employer contributions otherwise designated for the Health Benefit Fund or Retirement System.

Allows transfers from the Reserve only upon the following conditions: (1) the portion of the State's employer contribution rate provided to the Health Benefit Fund is not less than the cost of the premiums for the retirees served by the Retiree Health Benefit Fund in the most recent plan year; (2) the portion of the State's employer contribution rate provided to the Retirement System in effect at the time of the transfer is equal to or greater than the rate certified under GS 135-8 as necessary by the Board of Trustees of the Retirement System; (3) transfers from the Reserves must not be used to pay the cost of benefit enhancements commencing after July 1, 2017.

Requires that on the first day of each fiscal year, the total balance of the Reserve as of the last day of the preceding fiscal year be used to appropriate an additional employer contribution to the Health Benefit Trust and the Retirement System, with the additional contribution to be calculated as specified in the act.

The following changes are made only if H7 (LRC/Strengthen Savings Reserve) becomes law.

Amends GS 142-15.4 by adding that if, and to the extent that, the balance of the Savings Reserve is at or above the recommended Savings Reserve balance developed, whenever general obligation bonds issued or incurred by the State are refinanced, then: (1) the General Assembly must not reduce the funds appropriated for serving the refinanced debt during the fiscal biennium in which the refinancing occurs; (2) the State Controller must, in conjunction with the State Treasurer, periodically transfer the savings resulting from the refinancing of the debt to the Unfunded Liability Solvency Reserve during the fiscal biennium in which the refinancing occurs; and (3) in the fiscal biennium immediately following the refinancing, the Director of the Budget must adjust the amount of debt service funded in the base budget so that it aligns with the actual debt service needs.

Amends GS 142-96 by adding that if, and to the extent that, the balance of the Savings Reserve is at or above the recommended Savings Reserve balance, whenever special indebtedness issued or incurred by the State is refinanced, then: (1) the General Assembly must not reduce the funds appropriated for serving the refinanced debt during the fiscal biennium in which the refinancing occurs; (2) the State Controller must, in conjunction with the State Treasurer, periodically transfer the savings resulting from the refinancing of the debt to the Unfunded Liability Solvency Reserve during the fiscal biennium in which the refinancing occurs; and (3) in the fiscal biennium immediately following the refinancing, the Director of the Budget must adjust the amount of debt service funded in the base budget so that it aligns with the actual debt service needs.

Amends GS 143C-4-2 by adding the following: if, and to the extent that, the balance of the Savings Reserve is at or above the recommended Savings Reserve balance as of the last day of the fiscal year, the Current Operations Appropriations Act for the succeeding fiscal year must include a transfer to the Unfunded Liability Solvency Reserve of 15% of the succeeding fiscal year's estimated growth in State tax revenues deposited in the General Fund. Also sets out transfers that must be made when the balance of the Savings Reserve is below the recommended Savings Reserve balance as of the last day of the fiscal year, before the transfer of 15% of the succeeding fiscal year's estimated growth in State tax revenues that are deposited in the General Fund.

Amends new GS 143C-4-8(c) by making a conforming change, adding that the Reserve will also receive funds transferred under GS 142-15.5 (appears to intend GS 142-15.4), GS 142-96, and GS 143C-4-2.

Effective July 1, 2017.

Intro. by Dollar, Lambeth, McNeill, Ross.

GS 142, GS 143C

[View summary](#)

Employment and Retirement, Government, State Government, State Personnel

H 653 (2017-2018) [REPORT/CAR ACCIDENT CAUSED BY SEIZURE OR COMA](#). Filed Apr 6 2017, *AN ACT TO REQUIRE ACCIDENT REPORTS TO INCLUDE INFORMATION AS TO WHETHER AN ACCIDENT WAS CAUSED BY A DRIVER SUFFERING AN EPILEPTIC SEIZURE OR DIABETIC COMA AND TO REQUIRE THE DIVISION OF MOTOR VEHICLES TO EVALUATE WHETHER THE DRIVER CAN SAFELY OPERATE A MOTOR VEHICLE AFTER RECEIVING THE REPORT.*

Amends GS 20-166.1 (Reports and investigations required in event of an accident). Requires a person submitting a report under this statute to report when a crash was caused as the result of a driver suffering a seizure or diabetic coma, including the name of the driver. Directs the DMV to evaluate whether that driver's medical condition affects the driver's ability to safely operate a motor vehicle, and to suspend the drivers license pending completion of the evaluation, and to restore or cancel the license upon the completion of the evaluation, depending on the outcome. A driver may appeal a canceled license under GS 20-9(g). Provides that reports under this statute by law enforcement officers and medical examiners are public records, and that other reports under this statute are not public records.

Effective October 1, 2017, and applies to accidents occurring on or after that date.

Intro. by Dobson, Dollar, Torbett.

GS 20

[View summary](#)

Courts/Judiciary, Motor Vehicle, Government, Public Safety, Health and Human Services, Health

H 655 (2017-2018) [ELECTION EQUIPMENT/GRANTS TO COUNTIES](#). Filed Apr 6 2017, *AN ACT TO ESTABLISH A MATCHING GRANT PROGRAM TO ASSIST COUNTY BOARDS OF ELECTIONS TO REPLACE OUTDATED ELECTIONS EQUIPMENT.*

Appropriates \$50 million to the State Board of Elections (Board) to establish a matching grant program to assist county boards of elections with costs of replacing outdated voting equipment.

Requires the Board to offer matching grants of up to \$500,000 to each county to purchase voting equipment that complies with the requirements of federal law and GS Chapter 163 of the General Statutes. Requires that the county spend an amount equal to

the grant on voting equipment that complies with the requirements of federal law and GS Chapter 163, including hardware and software and counts any amounts spent by the county on or after January 1, 2016, toward the county match.

Effective July 1, 2017.

Intro. by Lewis.

APPROP

[View summary](#)

Government, Budget/Appropriations, Elections, State Agencies, State Board of Elections, Local Government

H 656 (2017-2018) **COLLEGE OF ALBEMARLE/CONSTRUCTION FUNDS**. Filed Apr 6 2017, *AN ACT TO PROVIDE FLEXIBILITY TO THE COLLEGE OF THE ALBEMARLE IN USING STATE FUNDS TO ENTER INTO CERTAIN CONSTRUCTION PROJECTS FOR EDUCATIONAL FACILITIES WITH THE COUNTIES SERVED BY THE COMMUNITY COLLEGE.*

Contains whereas clauses.

Exempts the Board of Trustees of the College of the Albemarle from provisions in GS Chapter 115D (Community Colleges) that require a community college to be the owner of real property to expend State funds for the construction and renovation of educational facilities on the property, with regard to projects in which the the construction and renovation of educational facilities shall be on county property within the College's service area, and will be leased for at least 30 years to the Board of Trustees. Authorizes the Board of Trustees to contract for the renovation or construction of educational facilities as described.

Intro. by Steinburg.

UNCODIFIED

[View summary](#)

Education, Higher Education

H 657 (2017-2018) **IMPROVE ADULT CARE HOME REGULATION**. Filed Apr 6 2017, *AN ACT MODIFYING THE LAWS PROHIBITING ISSUANCE OF ADULT CARE HOME LICENSES DUE TO PRIOR VIOLATIONS; EXEMPTING FROM CERTIFICATE OF NEED REVIEW NEW INSTITUTIONAL HEALTH SERVICES INVOLVING THE ACQUISITION OF AN UNLICENSED ADULT CARE HOME THAT WAS PREVIOUSLY LICENSED; ESTABLISHING A PROCESS FOR ADULT CARE HOMES TO REQUEST INFORMAL DISPUTE RESOLUTION OF CERTAIN ADVERSE INSPECTION FINDINGS BY COUNTY DEPARTMENTS OF SOCIAL SERVICES PRIOR TO IMPOSITION OF A PENALTY OR ISSUANCE OF A STAR RATING CERTIFICATE BASED ON THE ADVERSE INSPECTION FINDINGS; AMENDING THE RULES PERTAINING TO MINIMUM TRAINING FOR PERSONAL CARE AIDES; ELIMINATING THE TWELVE- TO TWENTY-FOUR-MONTH PENALTY ON ADULT CARE HOME STAR RATINGS; AND DIRECTING THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO STUDY THE EFFECTIVENESS OF THE NORTH CAROLINA STAR-RATED CERTIFICATE PROGRAM FOR ADULT CARE HOMES.*

Amends GS 131D-2.4 (regarding licensure of adult care homes) to provide that a facility not currently licensed as an adult care home that was licensed as an adult care home within the preceeding 12 months is considered an existing health service facility for the purposes of GS 131E-184(a)(8), which sets out an exemption from certificate of need review.

Provides that an applicant for an adult care home may not be licensed under any of the listed circumstances for the period of time indicated. Amends the list to require the owner, principal, or affiliates of currently listed facilities with revoked or terminated licenses to have been responsible for the operation of the facility to be denied a license, and extends the time period in which that person may not be licensed from one year to five years after the date of revocation. Prohibits licensure of applicants who were the owner, principal, or affiliate of a licensable facility under currently listed Chapters (was, facilities summarily suspended or downgraded to provisional status as a result of violations under listed Chapters), responsible for the operation of the facility, that either had their license summarily revoked, until five years (was, six months) after the suspension is lifted or terminated, or that have outstanding fees, fines, and penalties. Provides that the consent of a current licensee is not required prerequisite to a change of ownership of an adult care home if the current licensee has been removed from the facility, or has abandoned the facility. Authorizes an appeal of a denial of a license.

Amends GS 131D-2.11 to require the Division of Health Service Regulation and county departments of social services to offer each adult care home an opportunity to informally resolve disputed findings from an inspection conducted by the county that results in listed types of violations. Provides that failure to timely complete informal dispute resolution does not delay the effective date of enforcement actions taken against an adult care home. Directs the county department of social services to remove incorrectly cited deficiencies successfully challenged in an informal dispute, and the Division of Health Service Regulation to rescind enforcement actions imposed as a result of the incorrectly cited deficiency. Directs the Division of Health Service Regulation to make informal dispute resolution procedures for this process, and the currently described process to informally dispute findings from inspections conducted by the Division of Health Service Regulation, available on its website. Directs the Division of Health Service Regulation and county departments of social services to establish procedures to implement these requirements within 60 days of the effective date of this act, effective when the bill becomes law.

Amends GS 131D-4.3(a) to require 80 hours of training for all personal care aides (was 75 or 40, depending on the aide's tasks). Authorizes facilities to exempt personal care aides from the 80-hour training requirement if they have been licensed as a health care professional or listed on the Nurses Aides Registry. Directs facilities to provide staff to meet the needs of the facility's residents, deleting current provisions regarding "heavy care" individuals.

Amends GS 131D-10. Directs the Division of Health Service Regulation to issue ratings to facilities based on inspections and investigations of complaints that reveal noncompliance with statutes and rules, and the facility's participation in any quality improvement programs approved by the department. Replaces the current rating system with a star-rating system, as described. Provides for informal dispute resolution of star rating issuance. Directs the Department of Health and Human Services to make facility rating and specific information regarding the basis for calculating each rating available on its website, free of charge.

Directs the Department to conduct a study of the North Carolina Star Rated Program, and to report its initial recommendations for regulatory and legislative changes to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division by February 1, 2018, and to make its final report by October 1, 2018. Effective when the bill becomes law.

Amends GS 131E-184(a)(8) to make a conforming change. Effective when the bill becomes law.

Except as otherwise provided, effective October 1, 2017.

Intro. by Burr.

[STUDY, GS 131D, GS 131E](#)

[View summary](#)

[Government, State Agencies, Department of Health and Human Services, Health and Human Services, Social Services, Adult Services](#)

H 659 (2017-2018) [FILLING VACANCIES/U.S. SENATE](#). Filed Apr 6 2017, *AN ACT TO CLARIFY THE MANNER IN WHICH VACANCIES ARE FILLED IN THE OFFICE OF UNITED STATES SENATOR*.

Amends GS 163-12 by requiring that a vacancy in the office of a US Senator who was elected as the nominee of a political party, be filled by appointment by the Governor from a list of three individuals recommended by the State executive committee of the political party with which the vacating member was affiliated when elected if that committee makes the recommendations within 30 days of the vacancy. Applies to vacancies filled on or after the date the act becomes law.

Intro. by Burr, Saine, Bert Jones, K. Hall.

[GS 163](#)

[View summary](#)

[Government, Elections](#)

H 661 (2017-2018) [INNOCENT SPOUSE TAX RELIEF](#). Filed Apr 6 2017, *AN ACT TO PROVIDE TAX RELIEF FOR INNOCENT SPOUSES*.

Enacts new GS 105-249.4 to allow the Secretary of Revenue to waive any tax liability, interest, or penalty against a taxpayer for any understatement, underpayment, or equitable relief for which the taxpayer has been granted innocent spouse relief. Effective

for taxable years beginning on or after January 1, 2017.

Intro. by Boles.

[GS 105](#)

[View summary](#)

Government, Tax

H 663 (2017-2018) [RIGHT TO REPAIR ACT](#). Filed Apr 6 2017, *AN ACT ESTABLISHING FAIR REPAIR REQUIREMENTS FOR MANUFACTURERS OF DIGITAL ELECTRONIC PRODUCTS.*

Enacts new GS Chapter 75, Article 9 (Fair Repair Requirements Act).

Defines 11 terms as they are used in the Article.

Requires manufacturers of digital electronic products (a part or machine containing a microprocessor originally manufactured for distribution and sale in the US) sold or used in NC to make diagnostic and repair information available to independent repair facilities or owners of the manufacturer's products, free of charge and in the same manner the manufacturer makes them available to its authorized repair providers. Requires those manufacturers to make service parts available for purchase. Does not require the manufacturer to sell service parts no longer available to the manufacturer or the authorized repair channel of the manufacturer.

Prohibits manufacturers that sell information to independent or third-party repair providers in a standardized format, on conditions more favorable than those under which an authorized repair provider obtains the same information, from requiring the authorized repair provider to continue to purchase that information in a proprietary format, unless the proprietary format includes information or functionality not available in the standardized format. Requires manufacturers to make diagnostic repair tools available for purchase by owners and independent repair facilities that are available to its own repair or engineering staff or authorized repair providers. Manufacturers that provide repair information to aftermarket service information publications and systems have fully satisfied their obligations under this statute. Prohibits manufacturers of digital electronic products for security-related functions from excluding information necessary to reset a security-related electronic function from information provided to owners and independent repair facilities, and authorizes provision of the information through an appropriate secure data release system.

Does not require divulging of trade secrets.

Does not affect agreements between authorized repair providers and manufacturers. Grants authorized repair providers all rights under this statute, except in the case of a dispute under an existing agreement.

Does not require manufacturers or authorized repair providers to provide an owner or independent repair provider with nondiagnostic and nonrepair information.

Requires an independent repair provider or owner to give written notice to a manufacturer of the manufacturer's alleged failure to comply with this statute, and to allow 30 days for the manufacturer to cure the failure, prior to filing a complaint in district court for the violation.

Effective October 1, 2017.

Intro. by B. Richardson.

[GS 75](#)

[View summary](#)

Business and Commerce

PUBLIC/SENATE BILLS

S 630 (2017-2018) [REVISE IVC LAWS TO IMPROVE BEHAVIORAL HEALTH](#). Filed Apr 4 2017, *AN ACT REVISING THE LAWS PERTAINING TO INVOLUNTARY COMMITMENT IN ORDER TO IMPROVE THE DELIVERY OF BEHAVIORAL HEALTH SERVICES IN NORTH CAROLINA.*

Identical to H 564, filed 4/4/17.

Amends GS 122C-3 (containing definitions for the Mental Health, Developmental Disabilities, and Substance Abuse Act of 1985). Adds and defines the terms commitment examiner; incapable; and outpatient treatment physician or center. Amends the definitions for legally responsible adult and local management entity, which is now defined as an area authority (was, area authority, county program, or consolidated human services agency). Deletes the term program director.

Amends GS 122C-4, providing that, in GS Chapter 122C, whenever the phrase 'client or the legally responsible person' is used, and the client is an incapable adult who has not been adjudicated incompetent under GS Chapter 35A, the duty or right involved must be exercised by a health care agent named pursuant to a valid health care power of attorney if one exists, or by the client as expressed in a valid advance instruction for mental health treatment, not by the client. Establishes that if no health care power of attorney or advance instruction for mental health treatment exists, the legally responsible person for an incapable adult has not been adjudicated incompetent under GS Chapter 35A must be one of the persons listed in subdivisions (3) through (7) of GS 90-21.13(c), selected based on the priority indicated in those subdivisions. The persons listed in GS 90-21.13(c), subdivisions (3) through (7), in order of priority, include: (1) an attorney-in-fact, with powers to make health care decisions for the patient, appointed by the patient pursuant to Article 1 or Article 2 of GS Chapter 32A, to the extent of the authority granted; (2) the patient's spouse; (3) a majority of the patient's reasonably available parents and children who are at least 18 years of age; (4) a majority of the patient's reasonably available siblings who are at least 18 years of age; and (5) an individual who has an established relationship with the patient, who is acting in good faith on behalf of the patient, and who can reliably convey the patient's wishes. Makes organizational changes. Makes conforming changes to the statute's title and existing language, making the language gender neutral.

Amends GS 122C-53 (concerning exceptions to client confidentiality), allowing a facility to disclose the fact of admission or discharge of a client and the time and location of the admission or discharge to the client's next of kin whenever the responsible professional determines that the disclosure is in the best interest of the client (currently, does not expressly permit the disclosure of the time and location information). Makes language gender neutral in subsections (a), (c), (d), (e), (f), and (g). Makes clarifying and technical changes to subsection (f).

Amends GS 122C-54, permitting the disclosure of confidential client information when disclosure is ordered by a court of competent jurisdiction, or for purposes of filing a petition for involuntary commitment or for the adjudication of incompetency and appointment of a guardian or interim guardian. Modifies subsection (c) to specify that the certified copies of written exam results required to be furnished by the facility to the client's counsel, the attorney representing the State's interest, and the court, includes examinations by physicians and other medical and court records (currently, only examinations by physicians and records) in the cases of clients voluntarily admitted or involuntarily committed and facing district court hearings or hearings under Article 5 of the Chapter (Procedure for Admission and Discharge of Clients). Adds provision to require the client's counsel to have access to any medical or court records the client's counsel deems relevant to the court proceeding, and establishes that the client's counsel is not required to obtain the client's consent in order to access any medical or court records of the client. Deletes the provision establishing that the court with jurisdiction over the matter is to determine the relevance of confidential information for which disclosure is sought in a particular case. Amends subsection (d) to provide that an individual who is or has been a respondent in a proceeding pursuant to Article 5 be provided the court records of the proceeding upon submitting a written request to the clerk of superior court in the county in which the proceeding is pending. Directs the clerk to take reasonable and appropriate measures to verify the identity of the individual making the request. Directs the respondent's legally responsible person to exercise the respondent's right to access the court records if the respondent is a minor or an incompetent adult at the time of the request. Makes conforming changes to clarify that the respondent in an Article 5 proceeding is not required to file a written motion for disclosure of confidential information under the existing provisions in subsection (d). Makes language gender neutral in subsections (a1), (d), (e), and (g).

Makes organizational changes to GS 122C-55, concerning the disclosure of a client's confidential information pertaining to care and treatment. Modifies the definition provided for facility and area facility so that they now refer to an area authority. Makes conforming changes throughout.

Amends GS 122C-115.4 (Functions of local management entities) to add the primary function of community crises services planning in accordance with GS 112C-202.2, enacted below.

Modifies GS 122C-117(a)(14), requiring an area authority to maintain a 24-hour, seven day a week crisis response service and adopt community crisis services plan in accordance with GS 112C-202.2, enacted below.

Enacts GS 112C-202.2. Requires every LME/MCO (local management entity/managed care organization) to adopt a community crisis services plan to facilitate the implementation of Parts 7 (Involuntary Commitment of Mentally Ill, Facilities for Mentally Ill) and 8 (Involuntary Commitment of Substance Abusers, Facilities for Substance Abusers) of Article 5 within its catchment area. Directs that the community crisis services plan is to be comprised of separate plans, known as local area crisis services plans or local plans, for each of the local areas or regions within the catchment area that the LME/MCO identifies as an appropriate local planning area. Provides that consideration should be given to the available resources and interested stakeholders within a particular geographic area or region of the catchment area. Permits each LME/MCO to determine the number and geographic boundaries of the local planning areas within its catchment area. Details requirements of each local area crisis services plan, including plans for the transportation and custody of respondents, as well as training for law enforcement personnel and other designated persons who will provide transportation and custody of involuntary commitment respondents. Directs law enforcement agencies, acute care hospitals, magistrates or clerks of court, area facilities with identified commitment examiners, the LME/MCO, and other relevant community partners or stakeholders to participate in the development of the local area crisis services plans. Permits adopted plans to address any matters necessary to facilitate the custody, transportation, examination, and treatment of respondents to commitment proceedings under Parts 7 and 8 of Article 5.

Renames GS 122C-206 as Transfers of clients between 24-hour facilities; transfer of clients from 24-hour facilities to acute care hospitals (currently, does not include transfers to acute care hospitals). Modifies subsection (a) to require the responsible professional at the original facility to notify the next of kin of the time and location of the transfer of a client if consent to share information is granted by the client or if disclosure of the information is permitted under GS 122C-53(b) as amended. Amends subsection (b) to include the respondent's counsel to the persons the responsible professional at the original facility is required to provide reasonable notice to of the reasoning for the transfer before transferring a respondent held for a district court hearing or a committed respondent from one 24-hour facility to another. Requires the responsible professional at the original facility to notify the respondent's counsel that the transfer is complete no later than 24 hours after the transfer. Requires the responsible professional to notify the next of kin that the transfer is complete within 24 hours of the transfer if consent is granted by the respondent or disclosure of the information is permitted under GS 122C-53(b) as amended. Further, requires the responsible professional at the original facility to notify the client's legally responsible person, no later than 24 hours after the transfer, that the transfer is complete and the location of the transfer if the respondent is a minor, an incompetent adult, or an individual with a health care power of attorney who is deemed incapable. Makes conforming changes to subsection (c) concerning consultation and notification requirements pertaining to minors and incompetent adults transferred from one 24-hour facility to another. Modifies subsection (d) to specify that the transfer from one 24-hour facility to another authorized for minors or incompetent adults includes those admitted pursuant to Part 5 of Article 5 (Voluntary Admissions, Discharges, Minors and Adults, Facilities for Individuals with Developmental Disabilities) and incapable adults admitted pursuant to Part 2A of Article 5 (enacted below, Voluntary Admissions; Discharges; Incapable Adults; Facilities for Individuals with Mental Illness and Substance Use Disorder).

Amends subsection (c1) of GS 122C-206 to provide for custody orders for transportation of a client from one 24-hour facility to another, or to an acute care hospital pursuant to subsection (e), which authorizes transfer for emergency medical treatment, emergency medical evaluation, or emergency surgery without notice to or consent from the client. Amends subsection (e) to require the responsible profession to notify the next of kin or legally responsible person of the client of the time and location of the transfer within a reasonable period of time. Makes conforming changes to subsection (e).

Adds new subsection (f1) to GS 122C-206, requiring a client that is transferred from a 24-hour facility to an acute care hospital solely for medical reasons to be returned to the original facility as soon as the next client space becomes available at the original facility after completion of the client's medical care. Requires the original facility to accept the return of the client. Authorizes the client to be released if the responsible professionals at both facilities concur that discharge of a client who is not subject to GS 122C-266(b) (concerning respondents charged with a violent crime) is appropriate. Establishes that a custody order remains valid throughout the period of time necessary to complete the client's medical care and transport the client between the 24-hour facility and the acute care hospital in the case that, at the time of the transfer, the client is being held under a custody order pending a second commitment examination or a district court hearing under involuntary commitment proceedings. Provides that the requirement for a timely hearing under GS 122C-268(a) applies. Mandates that any decision to terminate the proceedings because the respondent no longer meets the criteria for commitment or because a timely hearing cannot be held pursuant to GS 122C-268(a) must be documented and reported to the clerk of superior court in accordance with GS 122C-266(c). Makes clarifying change to subsection (f), providing for the return of a client that is transferred from one 24-hour facility to another facility solely for medical reasons.

Modifies GS 122C-210.1 (Immunity from liability) to now provide that no facility, including an area facility, a facility licensed under the Chapter, an acute care hospital, a general hospital, or an area authority, LME, or LME/MCO, or any of its officials, staff, or employees, or any physician or other individual who is responsible for the custody, transportation, examination, management, supervision, treatment, or release of a client and who takes reasonable measures in good faith under the authority of Article 5 and is not grossly negligent, is civilly or criminally liable, personally or otherwise, for actions arising from these responsibilities or for actions of the client. Provides that this immunity is in addition to any other legal immunity from liability to which these facilities, agencies, or individuals may be entitled and applies to actions performed in connection with, or arising out of, the custody, transportation, examination, admission, or commitment of any individual pursuant to Article 5.

Amends GS 122C-210.3 to permit a custody order entered by the clerk or magistrate pursuant to GS Chapter 122C to be delivered to the law enforcement officer or other person designated by a county or city's governing body under GS 122C-251(g) by electronic or facsimile transmission.

Amends GS 122C-211 (Admissions). Authorizes the written application for voluntary evaluation or admission to a facility to be signed by an individual's legally responsible person. Establishes that information provided in an advance instruction for mental health treatment by the client or the client's legally responsible person must be reviewed in the described evaluation. Eliminates subsection (e), pertaining to the admission of individuals from a single portal area to an area or State 24-hour facility, and subsection (f1) pertaining to the admission of an incapable individual in need of treatment for a mental illness to a facility pursuant to an advance instruction for mental health treatment or pursuant to the authority of a health care agent named in a valid health care power of attorney. Makes language gender neutral in subsection (a).

Amends GS 122C-212 (Discharges), eliminating subsection (c) pertaining to the discharge of an individual from a single portal area who was voluntarily admitted to an area or State 24-hour facility. Makes conforming changes. Makes language gender neutral in subsections (a) and (b).

Enacts new Part 2A in Article 5 of GS Chapter 122C, providing for voluntary admissions and discharges of incapable adults, and facilities for individuals with mental illness and substance use disorder.

New GS 122C-213 permits an individual in need of treatment for a mental illness and who is incapable, as defined in GS 122C-3 and GS 122C-72, to be admitted to and treated in a facility pursuant to an advance instruction for mental health treatment executed in accordance with part 2 of Article 3 of GS Chapter 122C or pursuant to the authority of a health care agent named in a valid health care power of attorney executed in accordance with Article 3 of GS Chapter 32A. Clarifies that GS 122C-211 applies to admissions of incapable adults under new Part 2A, except as otherwise provided in this Part. Allows an individual making an advance instruction for mental health treatment to grant or withhold consent for mental health treatment, including the use of psychotropic medication, electroconvulsive treatment, and admission to and retention in a 24-hour facility for mental illness. Requires an attending physician or other mental health treatment provider to act in accordance with an advance instruction for mental health treatment upon a determination that the individual making the advance instruction is incapable, in which case, the provisions of Part 2 of Article 3 of the Chapter apply. Establishes that when a health care power of attorney authorizes a health care agent pursuant to GS 32A-19 to make mental health treatment decisions for an incapable individual, the health care agent must act for the individual in applying for admission and consenting to treatment at a facility, consistent with the extent and limitations of authority granted in the health care power of attorney for as long as the individual remains incapable. Prohibits a 24-hour facility from holding an individual who is determined to be incapable at the time of admission and who is admitted pursuant to an advance instruction for mental health treatment for more than 15 days, except as provided in GS 122C-211(b). However, provides that an individual who regains sufficient understanding and capacity to make and communicate mental health treatment decisions can elect to continue his or her admission and treatment pursuant to the individual's informed consent in accordance with GS 122C-211.

New GS 122C-214 provides for the discharge of individuals determined to be incapable. Directs the responsible professional to unconditionally discharge an individual admitted to a facility pursuant to new Part 2A at any time it is determined that the individual is no longer mentally ill or in need of treatment at the facility. Allows for an individual who has been voluntarily admitted to a facility under new Part 2A and who is no longer deemed incapable to be discharged upon the individual's own request. Requires the individual's discharge request to be in writing. Authorizes a facility to hold an individual who has been voluntarily admitted to a 24-hour facility pursuant to new Part 2A for up to 72 hours after the individual submits a written request for discharge, but requires the facility to release the individual upon the expiration of 72 hours following submission of the written request for discharge unless the responsible professional obtains an order under Part 7 or 8 of Article 5 to hold the client. Allows a health care agent named in a valid health care power of attorney to submit on behalf of an individual admitted to a

facility under this Part a written request to have the individual discharged from the facility, provided (1) the individual remains incapable at the time of the request and (2) the request is consistent with the authority expressed in the health care power of attorney. Again, authorizes the facility to hold an individual for up to 72 hours after a health care agent submits a written request for the individual's discharge, but requires the facility to release the individual upon the expiration of 72 hours following submission of the written request for discharge unless the responsible professional obtains an order under Part 7 or 8 of Article 5 to hold the client. Requires the facility to discharge an individual if, in the opinion of a physician or eligible psychologist, an individual admitted to a facility under this Part regains sufficient understanding and capacity to make and communicate mental health treatment decisions while in treatment, and the individual refuses to sign an authorization for continued treatment within 72 hours after regaining decisional capacity, unless the responsible professional obtains an order under Part 7 or 8 of Article 5 to hold the client. In any case in which an order is issued authorizing the involuntary commitment of an individual admitted to a facility under this Part, the facility's further treatment and holding of the individual is required to be in accordance with Part 7 or 8 of Article 5, whichever is applicable.

Amends GS 122C-221(a) to require the application for admission of a minor that is mentally ill or a substance abuser in need of treatment to have the admission application in writing and signed by the legally responsible person.

Amends GS 122C-224(c) to add a requirement that the facility provide the clerk of court in the county where the facility is located with a copy of the legally responsible person's written application for admission of the minor and the facility's written evaluation of the minor, both of which are required under GS 122C-211(a).

Enacts GS 122C-230 to specify that Part 4 of Article 5 applies to adults who are adjudicated incompetent by a court of competent jurisdiction, and does not apply to adults who are deemed incapable but who have not been adjudicated incompetent.

Amends GS 122C-232 (Judicial determination) to add two new subsections. New subsection (a1) requires the facility to provide the incompetent adult and the legally responsible person with written information describing the procedures for court review of the admission and the procedures for discharge prior to admission. new subsection (a2) requires the facility to notify the clerk of court of the county in which the facility is located that the incompetent adult has been admitted and that a hearing for concurrence in the admission is scheduled, within 24 hours after admission. Also requires the facility to notify the clerk of the name and address of the legally responsible person and the responsible professional, and provide a copy of the legally responsible person's written application for evaluation or admission of the incompetent adult and the facility's evaluation of the incompetent adult. Amends subsection (b) to require the court to set the length of the authorized admission for a period not to exceed 90 days if the court concurs with the voluntary admission of the incompetent adult as specified. Makes technical changes to subsection (a). Makes language in subsection (d) gender neutral.

Renames GS 122C-251, Custody and Transportation. Makes clarifying change to subsection (a). Adds to subsection (b) to require transportation between counties under the involuntary commitment proceedings of Article 5 for a first examination at a location described in GS 122C-236(a) and GS 122C-238(a) to be provided by the county where the respondent is taken into custody. Amends subsection (e) to prohibit a law enforcement officer taking custody or providing transportation from using force to restrain the respondent unless it appears necessary to protect the officer, the respondent, or others (currently, permits reasonable force to restrain if necessary to protect the officer, the respondent, or others). Directs the officer to use the least restrictive and most reasonable restraint under the circumstances and afford the respondent as much dignity as the circumstances permit, taking into consideration the age, medical condition, special needs, and behavior of the respondent. Further, to the extent feasible, the officer's application of force or restraint must avoid aggravating or worsening the respondent's preexisting injuries or medical conditions. Additionally, to the extent feasible, the officer must consult a parent, caretaker, or other legally responsible person prior to restraining a minor. Requires the law enforcement officer to record on the return of service portion of the custody order the type of mechanical restraint used on a respondent, if any, when taking the respondent into custody or transporting the respondent. Clarifies that the limitations and conditions in subsection (e) on the use of force and restraint do not apply to acute care hospitals or general hospitals and their employees or contractors when the use of force and restraint by these entities and persons is governed by rules for accreditation adopted by accrediting bodies that review these entities and persons for compliance with the accreditation rules.

Amends subsection (g) of GS 122C-251 to now provide that the governing body of a city, county, or LME/MCO can adopt a plan for the custody or transportation of respondents in involuntary commitment proceedings under Article 5. Authorizes the plan to designate law enforcement officers, volunteers, or other public or private agency personnel to provide all or parts of the custody and transportation required by involuntary commitment proceedings, including taking a respondent into custody as ordered by a clerk of superior court or magistrate. Requires persons designated to be trained in accordance with GS 122C-

202.2(a)(3), as enacted. Directs affected law enforcement agencies, acute care hospitals, magistrates, clerks of superior court, area facilities, other affected agencies to participate in the planning. Mandates any person or agency designated by a city, county, or LME/MCO to provide all or parts of the custody and transportation required by involuntary commitment proceedings to provide the custody and transportation and follow the procedures in Article 5. Clarifies that references to a law enforcement officer in Article 5 apply to the designated person or agency. Prohibits a person from being designated without the consent of (1) the person or (2) the agency that employs the person or contracts for the person's services. Establishes that counties and cities retain the responsibilities set forth in the Article, except as otherwise described in a plan developed and adopted pursuant subsection (g). Makes conforming and clarifying changes to subsections (c) and (h). Makes further technical and clarifying changes. Makes language gender neutral in subsections (e) and (f).

Amends GS 122C-253 (Fees under commitment order) to add that Parts 6, 7, and 8 of Article 5 do not require a commitment examiner to accept a respondent as a client either before or after commitment. Makes conforming change concerning the expense of treatment by a commitment examiner.

Amend GS 122C-255 (Report required) to refer to each 24-hour facility instead of each 24-hour residential facility. Makes technical change.

Modifies the terminology in GS 122C-261 to provide that the affidavit and petition to the clerk or magistrate is for issuance, and the clerk or magistrate's subsequent issuance upon reasonable grounds, of an order to take the respondent into custody for examination by a commitment examiner (currently, examination by a physician or eligible psychologist). The act defines commitment examiner as a physician, eligible psychologist, or any health professional or mental health professional certified to perform the first examination for involuntary commitment. Makes conforming changes throughout Article 5 to refer to examination by a commitment examiner. Modifies the provisions that apply when the affiant is a commitment examiner, set out in subsection (d), including allowing for the clerk to deliver the affidavit through electronic transmission. Adds an immunity provision, providing that no commitment examiner, area facility, acute care hospital, general hospital, or other site of first examination, or its officials, staff, employees, or other individuals responsible for the custody, examination, detention, management, supervision, treatment, or release of an individual examined for commitment, and who follows accepted professional judgment, standards, and practice, can be held liable in any civil or criminal action for taking reasonable measures to temporarily detain an individual for the period of time necessary to complete a commitment examination, submit an affidavit to the magistrate or clerk of court, and await the issuance of a custody order as authorized by subsection (d) of the statute, as long as the commitment examiner has a reasonable and good-faith belief that detention pending the examination and issuance of a custody order is necessary to protect the individual or others from bodily harm or life endangerment. Adds that when the individual is temporarily detained under the circumstances described in new subdivision (8), the examiner must certify in the affidavit delivered to the clerk or magistrate in accordance with subdivision (d)(1) the reason the individual requires temporary detention pending the issuance of a custody order. Eliminates subsection (f), pertaining to a petition for examination filed for an individual who is a resident of a single portal area.

Modifies GS 122C-262 (Special emergency procedure for individuals needs immediate hospitalization) as follows. Allows anyone, including a law enforcement officer, who has knowledge of an individual who is subject to inpatient commitment according to the criteria of GS 122C-263(d)(2) (currently, GS 122C-261(a)) and who requires immediate hospitalization to prevent harm to self or others, to transport the individual directly to an area facility or other place, including a State facility for the mentally ill, for examination by a commitment examiner in accordance with GS 122C-263(c). Establishes that upon examination by the commitment examiner, if the individual meets the inpatient commitment criteria specified in GS 122C-263(d)(2), which concerns involuntary commitment based on a commitment examiner's findings that a respondent is mentally ill or dangerous to self, and requires immediate hospitalization to prevent harm to self or others, the commitment examiner must so certify in writing before any official authorized to administer oaths. Establishes that if a 24-hour facility is not immediately available or appropriate to the respondent's medical condition, the respondent can be temporarily detained under appropriate supervision in accordance with GS 122C-263(d)(2) and released in accordance with GS 122C-263(d)(2). Adds new subsection (f), to provide that if, upon examination of a respondent presented in accordance with subsection (a), the commitment examiner finds that the individual meets the criteria for inpatient commitment specified in GS 122C-263(d)(2) but does not require immediate hospitalization to prevent harm to self or others, the commitment examiner can petition the clerk or magistrate in accordance with GS 122C-261(d) for an order to take the individual into custody for transport to a 24-hour facility described in GS 122C-252. Further, provides that if the commitment examiner recommends inpatient commitment and the clerk or magistrate finds probable cause to believe that the respondent meets the criteria for inpatient commitment, the clerk or magistrate is required to issue an order for transport to or custody at a 24-hour facility described in GS 122C-252, provided that if a 24-hour facility is not immediately available or

appropriate to the respondent's medical condition, the respondent can be temporarily detained under appropriate supervision in accordance with GS 122C-263(d)(2) and released in accordance with GS 122C-263(d)(2). Adds new subsection (g) to establish that the statute applies exclusively to an individual who is transported to an examination by a commitment examiner in accordance with subsection (a).

Renames GS 122C-263, Duties of law enforcement officers; first examination. Amends subsection (a) to require a law enforcement officer or the individual designated by the clerk or magistrate in GS 122C-125(g) to provide transportation, without unnecessary delay after assuming custody, to take the respondent to an area facility identified by the LME/MCO in the community crisis services plan adopted pursuant to GS 122C-202.2 for examination by a commitment examiner. Provides for instances when there is no area facility identified in the plan, when the commitment examiner is not immediately available, or when no identified facility or acute care hospital is available.

Adds new subsections (a1) and (a2), setting forth requirements of identified area facilities to perform a medical screening examination as described, and allowing for the responsible professional at an area facility or other site of first examination to direct transport of the respondent to an identified acute care hospital for emergency medical treatment, emergency medical evaluation, emergency surgery, or other medical treatment that the site of first examination is unable to provide.

Amends subsection (d), setting out the determinations the commitment examiner must make after the conclusion of the examination. Amends subdivision (2) to specify that the law enforcement officer or other designated person must take the respondent to a 24-hour facility pending a district court hearing without unnecessary delay and no later than six hours after the commitment examiner's finding and recommendation, and request for transportation. Additionally, authorizes a commitment examiner to initiate a new involuntary commitment proceeding prior to the expiration of the seven-day period after the issuance of the custody order, so long as the respondent continues to meet applicable criteria.

Deletes the provisions of subdivision (f) to now require that when an outpatient commitment is recommended, the commitment examiner, if different from the proposed outpatient treatment physician or center, must contact the LME/MCO that serves the county where the respondent resides or the LME/MCO that coordinated services for the respondent to inform the LME/MCO that the respondent is being recommended for outpatient commitment. Sets out requirement of the LME/MCO. Additionally requires the commitment examiner to give the respondent a written notice of the contact information of the proposed outpatient treatment physician or center, and direct the respondent to appear at the address at a specified date and time. Directs the commitment examiner to notify the designated outpatient treatment physician or center and send a copy of the notice, and the examination report, to the physician or center.

Makes conforming and clarifying changes to the statute.

Renames GS 122C-263.1 as Secretary's authority to certify commitment examiners; training of certified commitment examiners performing first examinations; LME/MCO responsibilities. Removes language providing for the Secretary of Health and Human Services to waive the requirements of first examinations by a physician or eligible psychologist upon request of an LME as described.

States that physicians and eligible psychologists are qualified to perform commitment examinations required under GS 122C-263(c) and GS 122C-283(c). Authorizes the Secretary of the Department of Health and Human Services to individually certify other health, mental health, and substance abuse professional whose scope of practice includes diagnosing and documenting psychiatric or substance use disorders and conducting mental status examinations to determine capacity to give informed consent for treatment, to perform the first commitment examinations required by GS 122C-261 through GS 122C-263 and GS 122-281 through GS 122C-283.

Details seven qualifications of applicants and requirements of applicants and the Department that must be met for the Secretary to certify an individual as a commitment examiner, including requiring the Department of Health and Human Services (Department) to determine that the applicant possesses the professional licensure, registration, or certification to qualify the applicant as a professional whose scope of practice includes diagnosing and documenting psychiatric or substance use disorders and conducting mental status examinations to determine capacity to give informed consent. Specifies that the other health professionals that can be certified by the Secretary upon request and meeting all of the described qualifications, are (1) a licensed clinical social worker, a master's level nurse practitioner, a licensed professional counselor, or a physician's assistant for certification to conduct the first examinations described in GS 122C-263(c) and GS 122C-283(c); and (2) a master's level licensed clinical addictions specialist to conduct the first examination described in GS 122C-283(c). Provides that certifications can be renewed every three years upon completion of a refresher training program approved by the Department. Further requires

the Department to submit, no less than annually, a list of certified first commitment examiners to the Chief District Court Judge of each judicial district in NC and maintain a current list of certified first commitment examiners on its website.

Directs the Department to expand its standardized certification training program to include refresher training for all certified providers performing initial examinations pursuant to subsection the statute, as amended.

Makes clarifying change to GS 122C-264 (Duties of clerk of superior court and the district attorney).

Makes language gender neutral in GS 122C-265 (Outpatient commitment; examination and treatment pending hearing).

Amends GS 122C-266(a)(2) to require a physician who finds that the respondent meets the criteria for outpatient commitment under GS 122C-263(d)(1) to contact the LME/MCO that serves the county in which the respondent resides or that coordinated services for the respondent to inform the LME/MCO that the respondent is being recommended for outpatient commitment. Details requirements for the LME/MCO to determine if the respondent is eligible for services through the LME/MCO and if so, identify and schedule an appointment with a proposed outpatient treatment physician or center and provide information to the commitment examiner as described.

Amends GS 122C-268 (Inpatient commitment; district court hearing) to provide that if a respondent temporarily detained under GS 122C-263(d)(2) is subject to a series of successive custody orders issued pursuant to GS 122C-263(d)(2), the hearing is required to be held within 10 days after the day that the respondent is taken into custody under the most recent custody order. Permits a hearing to be held by audio or video transmission between the treatment facility and a courtroom in a manner that allows: (1) the judge and the respondent to see and hear each other and (2) the respondent to communicate fully and confidentially with the respondent's counsel during the proceeding. Requires the chief district court judge to submit to AOC the procedures and type of equipment being used for approval prior to any hearing held by audio or video transmission. Allows the respondent to object to an audio or video hearing through counsel. Requires hearings to be held in a manner that complies with any applicable federal and State laws governing the confidentiality and security of confidential information, regardless of the manner and location of the hearings. Makes clarifying and technical changes.

Amends GS 122C-271 (Disposition) to require a court that finds a respondent does not meet the criteria for commitment, and has been released pending the district court hearing, to give notice of discharge to the proposed outpatient physician or center. Requires a court to make findings of fact as to the availability of outpatient treatment prior to ordering any outpatient commitment under this statute. Provides requirements for the content of the order, and for to whom copies of the order must be sent. Makes a conforming change. Requires a 24-hour facility where a respondent has been held pending the district court hearing to identify for the court an outpatient treatment physician or center that meets listed criteria, prior to the court ordering any outpatient commitment. Requires any LME/MCO of which the respondent is a client to participate in a respondent's discharge planning, prior to a court's ordering any outpatient commitment. Provides requirements for the contents of the order, and for to whom copies of the order must be sent. Deletes current provisions authorizing a court to order the respondent to continue to be held at a 24-hour facility for up to 72 hours.

Amends GS 133C-276(c) to require rehearings to be held in accordance with GS 122C-268(g).

Amends GS 122C-281 (Affidavit and petition before clerk or magistrate; custody order). Requires commitment examiner, who is an affiant regarding a substance abuser under this statute, who examined the respondent to file their affidavit and examination findings with the clerk of court as under GS 122C-261(d)(1). Provides that the clerk or magistrate's order to take the respondent into custody in that situation is to a law enforcement officer or other person under GS 122C-251(g). Provides for the order to require a hearing as under GS 122C-284(a). Protects commitment examiners and accompanying facilities and staff who follow accepted professional judgment, standards, and practice, from civil or criminal liability for taking reasonable measures, on reasonable and good faith belief of danger of bodily harm or life endangerment, to temporarily detain an individual for the time necessary to complete a commitment examination, submit an affidavit, and await issuance of a custody order. Provides a requirement for the content of an affidavit in that case. Makes technical and conforming changes, including amendments for gender-neutral language.

Amends GS 122C-282 (Special emergency procedure for violent individuals). Makes technical and conforming changes, including amendments for gender-neutral language.

Amends GS 122C-283. Provides a priority list for law enforcement officers, or persons designated to provide transportation under the crisis plan, with an individual in custody under GS 122C-251(g) of locations to which the officer must take the respondent, with each subsequent entry being selected if prior entries are unavailable, as follows: (1) the area facility identified by

the LME/MCO in the crisis services plan, (2) any other area facility or an acute care hospital as identified and provided in the LME/MCO's community crisis services plan, or (3) any commitment examiner available in a private hospital, clinic, or general hospital. Authorizes temporary detention in an area facility or hospital while waiting for a commitment examiner to become available. Requires an area facility identified by the LME/MCO as a site for conducting first examinations under this statute to be able to conduct the examination by a licensed physician or other identified licensed individual. Authorizes face-to-face or telemedicine examination. Authorizes responsible professionals to transfer the respondent to an acute care hospital for medical treatment that the facility cannot provide, and requires the original facility to accept the returned respondent upon completion of the treatment, unless the respondent no longer meets the criteria for commitment. Provides for temporary detention under GS 122C-263(d)(2) in the event that a commitment examiner recommends commitment, but a 24-hour facility is not available. Makes conforming changes to the caption. Makes technical and conforming changes, including amendments for gender-neutral language.

Amends GS 122C-284 (Duties of clerk of superior court). Makes technical and conforming changes, including amendments for gender-neutral language.

Amends GS 122C-285 (Commitment; second examination and treatment pending hearing) to require findings of the physician or qualified professional, and the facts upon which they are based, to be made in writing in all cases, and a copy of the findings to be sent to the clerk of superior court. Makes technical and conforming changes, including amendments for gender-neutral language.

Amends GS 122C-286 (Commitment; district court hearing). Provides that the hearing for a respondent temporarily detained under a series of successive custody orders under GS 122C-263(d)(2) must be held within 10 days after the respondent is taken into custody under the most recent custody order. Authorizes a respondent to waive their presence at the hearing via writing. Requires hearings for respondents in 24-hour facilities to comply with GS 122C-268(g). Makes technical and conforming changes, including amendments for gender-neutral language.

Amends GS 122C-287 (Disposition). Makes technical and conforming changes, including amendments for gender-neutral language.

Amends GS 122C-290 (Duties for follow-up on commitment order). Makes conforming changes.

Amends GS 122C-291 (Supplemental hearings). Makes conforming changes.

Amends GS 122C-292 (Rehearings). Makes technical and conforming changes, including amendments for gender-neutral language.

Amends GS 122C-293 (Release by area authority or physician). Makes technical and conforming changes, including amendments for gender-neutral language.

Amends GS 122C-294 (Local plan). Provides that the local plan should be in accordance with GS 122C-202.2, and should be developed with other, not-listed parties as necessary to facilitate implementation.

Directs LME/MCOs to submit to the Department of Health and Human Services a copy of its current community crisis services plans by the earlier of 12 months after the date the Department receives notification that the federal Centers for Medicaid and Medicare has approved all necessary waivers and State Plan amendments for Medicaid and NC Health Choice transformation under SL 2015-245, as amended, or six months prior to the date the Department actually initiates capitated contracts with Prepaid Health Plans for the delivery of Medicaid and NC Health Choice services. Directs the Department to alert the LME/MCO of the occurrence of these conditions. Effective when the bill becomes law.

Except as otherwise indicated, effective December 1, 2017, and applies to proceedings initiated on or after that date.

Intro. by Hise, Krawiec, Randleman.

[GS 122C](#)

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[Health and Human Services, Mental Health](#)

Enacts new GS 143C-4-8 establishing the Unfunded Liability Solvency Reserve (Reserve), an employee benefits trust, in the General Fund. Specifies that the Reserve will receive the following funds: (1) any amounts appropriated by the General Assembly; (2) funds that are appropriated on the last day of each fiscal year according to the following formula: a. if the General Fund tax-supported debt service is less than 4% of the most recent Debt Affordability Advisory Committee (DAAC) Revenues, then an appropriation shall be made equal to the difference between 4% of DAAC Revenues and the actual General Fund tax-supported debt service; b. if the General Fund tax-supported debt service is greater than or equal to 4% of the most recent DAAC Revenues, then no appropriation shall be made for that fiscal year; and (3) 25% of the unreserved fund balance of the current fiscal year not otherwise designated must be placed in the Reserve the next fiscal year. Defines DAAC revenues as General Fund tax revenues, including individual income tax, corporate income tax, sales and use tax, franchise tax, insurance tax, beverage tax, tobacco products tax, other taxes, investment income, and miscellaneous revenues, as calculated in the DAAC study report issued pursuant to GS 142-101(e).

Limits the use of funds in the Reserve to transfers to the (1) Health Benefit Fund or (2) the Retirement System for the purpose of reducing the unfunded liabilities of those two funds. Requires that funds in the Reserve be appropriated by the end of the next fiscal year after the funds entered the Reserve. Prohibits transfers from the Reserve to the Health Benefit Fund and the Retirement System from supplanting employer contributions otherwise designated for the Health Benefit Fund or Retirement System. Allows transfers from the Reserve only upon the following conditions: (1) the portion of the State's employer contribution rate provided to the Health Benefit Fund is not less than the cost of the premiums for the retirees served by the Retiree Health Benefit Fund in the most recent plan year; (2) the portion of the State's employer contribution rate provided to the Retirement System in effect at the time of the transfer is equal to or greater than the rate certified under GS 135-8 as necessary by the Board of Trustees of the Retirement System; (3) transfers from the Reserves must not be used to pay the cost of benefit enhancements commencing after July 1, 2017.

Requires that on the first day of each fiscal year, the total balance of the Reserve as of the last day of the preceding fiscal year be used to appropriate an additional employer contribution to the Health Benefit Trust and the Retirement System, with the additional contribution to be calculated as specified in the act.

The following changes are made only if H7 (LRC/Strengthen Savings Reserve) becomes law.

Amends GS 142-15.4 by adding that if, and to the extent that, the balance of the Savings Reserve is at or above the recommended Savings Reserve balance developed, whenever general obligation bonds issued or incurred by the State are refinanced, then: (1) the General Assembly must not reduce the funds appropriated for serving the refinanced debt during the fiscal biennium in which the refinancing occurs; (2) the State Controller must, in conjunction with the State Treasurer, periodically transfer the savings resulting from the refinancing of the debt to the Unfunded Liability Solvency Reserve during the fiscal biennium in which the refinancing occurs; and (3) in the fiscal biennium immediately following the refinancing, the Director of the Budget must adjust the amount of debt service funded in the base budget so that it aligns with the actual debt service needs.

Amends GS 142-96 by adding that if, and to the extent that, the balance of the Savings Reserve is at or above the recommended Savings Reserve balance, whenever special indebtedness issued or incurred by the State is refinanced, then: (1) the General Assembly must not reduce the funds appropriated for serving the refinanced debt during the fiscal biennium in which the refinancing occurs; (2) the State Controller must, in conjunction with the State Treasurer, periodically transfer the savings resulting from the refinancing of the debt to the Unfunded Liability Solvency Reserve during the fiscal biennium in which the refinancing occurs; and (3) in the fiscal biennium immediately following the refinancing, the Director of the Budget must adjust the amount of debt service funded in the base budget so that it aligns with the actual debt service needs.

Amends GS 143C-4-2 by adding the following: if, and to the extent that, the balance of the Savings Reserve is at or above the recommended Savings Reserve balance as of the last day of the fiscal year, the Current Operations Appropriations Act for the succeeding fiscal year must include a transfer to the Unfunded Liability Solvency Reserve of 15% of the succeeding fiscal year's estimated growth in State tax revenues deposited in the General Fund. Also sets out transfers that must be made when the balance of the Savings Reserve is below the recommended Savings Reserve balance as of the last day of the fiscal year, before the transfer of 15% of the succeeding fiscal year's estimated growth in State tax revenues deposited in the General Fund.

Amends new GS 143C-4-8(c) by making a conforming change, adding that the Reserve will also receive funds transferred under GS 142-15.5 (appears to intend GS 142-15.4), GS 142-96, and GS 143C-4-2.

Effective July 1, 2017.

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**Employment and Retirement, Government, State
Government, State Personnel**

S 667 (2017-2018) **AMEND VARIOUS INNOCENCE COMMISSION STATUTES**. Filed Apr 4 2017, *AN ACT TO CLARIFY THE DUTIES OF THE DIRECTOR OF THE INNOCENCE COMMISSION AND TO ENSURE ALL LANGUAGE AND TERMINOLOGY IS CONSISTENT WITHIN THE ARTICLE.*

Amends GS 15A-1417 and GS 15A-1418 to delete the provisions authorizing referral to the North Carolina Innocence Inquiry Commission (Commission) upon a motion for appropriate relief.

Amends GS 15A-1460 to include the Director of the Commission's designee in the definition of *director*.

Amends GS 15A-1463 to delete the provision requiring the sheriff on the Commission to hold office at the time of his or her appointment to the Commission. Deletes the provision requiring the Commission to have its first meeting by January 31, 2007. Requires the Commission to give public notice of its meetings, and provide an opportunity for public comment on Commission operations and rules at each of its meetings.

Amends GS 15A-1465 to require the Director to prepare reports as requested by the Commission or Administrative Office of the Courts (was, prepare reports outlining investigations and recommendations to the trial court).

Amends GS 15A-1466 to assign the duties listed in that statute to the Director (currently, to the Commission). Removes the duty to conduct inquiries into claims of factual innocence, and amends the duty to coordinate the investigation of cases to give priority to cases in which the convicted person is currently incarcerated solely for the crime for which the convicted person claims factual innocence. Makes a conforming change.

Amends GS 15A-1467 to authorize the Director (was, Commission) to use discretion to informally screen and dismiss a case summarily. Requires the Director to provide counsel that refers a case to the Commission with a case disposition memorandum when the case is closed prior to formal inquiry. Requires the Director (was, Commission) to give the victim in a case being reviewed by the Commission notice of the victim's right to present views and concerns throughout the investigation. Requires the Director (was, Commission) to notify co-defendants of the investigation. Grants the Director (was, Commission) with the discretion to end an inquiry upon deciding that the convicted person is uncooperative. Makes technical, clarifying, and conforming changes.

Amends GS 15A-1468. Deletes the requirements for victim notification and that a victim notify the Commission of intent to attend within 10 days of a proceeding. Requires the Commission to deliberate in a closed meeting, and participate in a public vote. Deletes the provision requiring Commission records for conclusions of insufficient evidence of factual innocence to remain confidential. Requires the Director to provide a copy of case files for formal inquiry cases which are not presented to the Commission to the district attorney and defense counsel upon completion of formal inquiry. Requires the Director to provide a copy of the case file for cases presented to the full commission after formal inquiry, and the uncertified and certified transcripts of the Commission's proceedings, to the district attorney and the defense counsel. Makes technical and conforming changes.

Amends GS 15A-1469 to authorize the senior judge of the three-judge panel to find good cause shown to encumber the Commission case file with a protective order. Requires the clerk of court to give reasonable notice to victims before consent hearings (currently, all hearings require 30 days' written notice). Makes technical and conforming changes.

Amends GS 15A-1471 to require the Commission to obtain written consent of the claimant to consume biological material in the process of DNA testing. Applies the current evidence custody requirements to all parties involved in the testing and transmission process.

Amends GS 143-318.18 to delete the Commission from the list of bodies to which GS Chapter 143, Article 33C (Meetings of Public Bodies), does not apply.

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**Courts/Judiciary, Court System, Criminal Justice, Corrections
(Sentencing/Probation), Criminal Law and Procedure**

ACTIONS ON BILLS

No public actions on bills

No local actions on bills

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