

## 2010 Legislation Affecting Criminal Law and Procedure

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1. **[S.L. 2010-5](#) (S 140): Felony trespassing at safe house by person subject to domestic violence protective order.** Effective for offenses committed on or after December 1, 2010, adds G.S. 50B-4.1(g1) to make it a Class H felony for a person: (1) who is subject to a valid protective order under G.S. Ch. 50B; (2) to enter property operated as a safe house or haven for victims of domestic violence; (3) where a person protected by the order is residing. Provides that a violation occurs regardless of whether the person protected by the order is then present on the property. Also adds G.S. 1-620, effective June 7, 2010, to limit the liability of domestic violence shelters and people associated with such shelters for damages in a tort action as a result of harm caused on the shelter's premises by a person who is not associated with the shelter.
2. **[S.L. 2010-16](#) (S 254): Increased penalty for malicious abuse, torture or killing of animal ("Susie's Law").** Effective for offenses committed on or after December 1, 2010, amends G.S. 14-360(a1) to increase the punishment from a Class A1 misdemeanor to Class H felony for maliciously killing an animal by intentionally depriving the animal of necessary sustenance; and amends G.S. 14-360(b) to increase the punishment from a Class I to Class H felony for maliciously torturing, mutilating, maiming, beating, disfiguring, poisoning, or killing an animal.
3. **[S.L. 2010-22](#) (S 992): Pyrotechnic operator's license.** Makes several changes to licensing requirements for pyrotechnic operators, contained in G.S. Chapter 58, Article 82A. Effective October 1, 2010, amends G.S. 14-410(a1) to permit a pyrotechnics display by a person who is properly licensed under the revised licensing requirements.
4. **[S.L. 2010-31](#) (S 897): Budget. Cost increases.** Amends G.S. 7A-304(a) to increase criminal district court costs from \$95.50 to \$105.50 and failure to appear fee from \$25 to \$50, effective for costs assessed or collected on or after October 1, 2010. (Note change to effective date in S.L. 2010-123, below.) Effective July 1, 2010, amends G.S. 7A-314(d) and 7A-343 to authorize AOC to adopt rules for compensation of experts acting on behalf of the court or prosecutorial offices. (Rules would not apply to defendants' experts.) Effective for fees assessed or collected on or after October 1, 2010, amends G.S. 7A-455.1 to increase attorney appointment fee in criminal cases from \$50 to \$60. Amends G.S. 15A-1343 (probation), 15A-1368.4 (post-release supervision), and 15A-1374 (parole) to increase the monthly supervision fee from \$30 to \$40; applies to people placed on supervision prior to, on, or after October 1, 2010, which appears to mean that the increases apply to fees accruing for such people on or after October 1, 2010. Amends G.S. 143B-262.4 to increase the community service fee from \$225 to \$250, effective for fees assessed or collected on or after October 1, 2010. (Note change to effective date in S.L. 2010-123, below.) *Elimination of Class 3 misdemeanors.* States that "[i]t is the intent of the General Assembly that there be only three misdemeanor punishment levels: Class A1, Class 1, and Class 2." Directs the North Carolina Sentencing and Policy Advisory Commission, in consultation with the Conference of District Attorneys, the Office of Indigent

Defense Services, and the UNC School of Government, to review all Class 3 misdemeanor offenses and make recommendations to the 2011 General Assembly for reclassifying each Class 3 misdemeanor as an infraction or Class 2 misdemeanor. Also authorizes Commission to consider other misdemeanor offenses for reclassification as infractions. *Other changes.* Directs the Department of Correction to develop a plan for a pilot program on privatization of probation.

5. [S.L. 2010-49](#) (H 1307): **Constitutional amendment to bar convicted felon as sheriff.** Places on the November 2010 general election ballot a proposed constitutional amendment prohibiting a convicted felon from being eligible to serve as a sheriff whether or not the person's citizenship rights have been restored. If approved by the voters, effective with the certification of the election returns.
6. [S.L. 2010-67](#) (S 887): **Recycling of computer equipment and televisions.** Adds a new part 2H to G.S. Chapter 130A containing recycling requirements for discarded computer equipment and televisions, applicable to manufacturers, retailers, and discarded equipment collectors. Provides in new G.S. 130A-309.139 that the requirements are enforceable as provided in Part 2 of Article 1 of G.S. Chapter 130A, which in addition to various civil and administrative remedies makes a violation a misdemeanor under G.S. 130A-25. Effective August 1, 2010, except for certain requirements with later effective dates, identified in the act.
7. [S.L. 2010-93](#) (H 1703): **Study of criminal record checks for adult day care and health services programs.** Effective July 11, 2010, directs the Division of Aging and Adult Services of the Department of Health and Human Services to study the issue of requiring criminal history record checks for owners, operators, volunteers, and prospective owners, operators, and volunteers in adult day care programs and adult day health services program. Requires submission of report to the North Carolina Commission on Aging by November 1, 2010.
8. [S.L. 2010-94](#) (H 1403): **DNA samples at time of arrest.** This bill amends the DNA collection statutes to provide that on arrest for certain offenses, a defendant must provide a DNA sample. The sample is to be a cheek swab. It adds a new G.S. 15A-502A to require that the sample be obtained at the time of arrest, and it amends the pretrial release statutes (G.S. 15A-534(a)) to provide that if a defendant is required to provide fingerprints or a DNA sample and has refused to do so, the pretrial release must include a condition requiring that the person arrested provide the sample or prints. *Procedure.* The procedure to collect the sample and the list of offenses for which samples are required at time of arrest are in a new G.S. 15A-266.3A. That statute requires law enforcement officers to obtain the sample from a person who is arrested. The officer must complete a form to be provided by SBI containing the details of the sampling process, and the form must be in the "case file" and be available to the prosecutor. The officer also must provide a form to the person arrested notifying him or her of the procedures to have the sample removed from the DNA database and the records of the sample expunged. The sample must be expunged if the prosecutor dismisses the charge, the person is acquitted, the person is convicted of a lesser-included misdemeanor not covered by the DNA sampling law, no charge is filed within any applicable statute of limitations, or three years pass from the date of the arrest without a conviction or an active prosecution. Until June

1, 2012, the person arrested must petition the prosecutor to request expunction if no charges are filed or three years pass with no action in the case. After June 1, 2012, the prosecutor is responsible for seeking expunction without a request from the person arrested. If there is a dismissal, acquittal, or conviction of a lesser-included offense, the prosecutor must initiate steps to expunge the sample. The court is not involved except to sign verification forms if the person is acquitted or the charge is dismissed. The person arrested may file a motion to compel the prosecutor to act or to contest a prosecutor's decision not to act. Any identification, warrant, probable cause to arrest, or arrest based on a DNA match that occurs after the statutory period for expunction is invalid and inadmissible in the prosecution of the person for any criminal offense. The offenses covered by the new arrest sampling provisions are murder, homicide, rape and sex offenses, specified assaults (G.S. 14-32, 14-32.4(a), 14-32.4, 14-32.5, 14-32.6, and 14-32.7), kidnappings or human trafficking offenses, burglary offenses, arson, armed robbery, sex offenses requiring registration, cyberstalking, and stalking, as well as attempts, solicitations, or aiding and abetting any of the covered offenses. The bill also expands the uses for which the DNA database may be used to include forensic casework, analysis of unidentified persons, and missing persons. Effective Feb. 1, 2011.

For a discussion of the fee imposed to support the SBI DNA lab, see the discussion of S.L. 2010-147, below.

9. **S.L. 2010-96 (S 1165): Community service fee technical corrections.** Amends G.S. 143B-262.4 to provide that fee paid by parolees required to perform community service is to be paid to the clerk of court for the county in which the person was convicted and not in the county where the person was released on parole. Effective July 20, 2010.
10. **S.L. 2010-97 (S 1242): Immigration prisoner status technical correction.** Amends G.S. 162-62 to provide that if jailer cannot determine if person arrested for felony or impaired driving is a legal resident of the U.S., jailer is to contact Immigration and Customs Enforcement Office of the Department of Homeland Security instead of the Division of Criminal Information of the State Bureau of Investigation. Effective July, 20, 2010.
11. **S.L. 2010-103 (H 80): Electronic sweepstakes.** Adds G.S. 14-306.4 making it unlawful for a person: (1) to operate or place into operation; (2) an electronic machine; (3) either to (a) conduct a sweepstakes through the use of an entertaining display, including the entry process or the reveal of a prize or (b) promote a sweepstakes that is conducted through the use of an entertaining display, including the entry process or the reveal of a prize. Contains lengthy definitions in G.S. 14-306.4(a), including of "electronic machine or device," "entry," "entertaining display," and "prize." Makes a violation a Class 1 misdemeanor for the first offense, a Class H felony for a second offense, and a Class G felony for a third or subsequent offense. Provides that each violation is a separate offense. Exempts activities lawfully conducted on Indian lands. Amends G.S. 14-298 (seizure of illegal gaming items) to cover electronic machines or devices using an entertaining display in violation of new G.S. 14-306.4; and amends G.S. 14-306.1A(b) (definition of video gaming machine) to cover any video game not dependent on skill or dexterity that is played while revealing a prize as the result of an entry into a sweepstakes. Also amends G.S. 14-306(a) and 14-306.1A(b) to expand the definition of

slot and video gaming machines to include additional forms of payment, such as use of a prepaid card. Effective for offenses committed on or after December 1, 2010.

12. **[S.L. 2010-104](#) (H 859): Retired probation officers exempt from weapons safety course.** Amends G.S. 14-415.10 to exempt retired probation and parole officers from the weapons safety course generally required to obtain a permit to carry a concealed weapon. To qualify, officer must be retired under state retirement system, have been eligible to carry a handgun in performance of his or her duties, and never had a disciplinary violation that would have affected the right to carry a handgun on the job. Effective December 1, 2010, and retroactively applicable to any currently retired officers.
13. **[S.L. 2010-106](#) (H 1762): Domestic violence training for district court judges and magistrates.** Effective July 20, 2010, requests that the North Carolina Supreme Court establish minimum education and training standards for district court judges handling civil and criminal domestic violence cases. Also encourages the UNC School of Government to provide education and training opportunities for district court judges and magistrates handling such cases.
14. **[S.L. 2010-107](#) (H 1115): Electronic notification to the media of parole of person serving life sentence.** Effective July 20, 2010, amends 15A-1371(b)(3) to allow the Post-Release Supervision and Parole Commission to notify the media electronically, rather than by mail, when it is considering parole of a person serving a life sentence. (This provision does not apply to people who received a life sentence for an offense committed on or after October 1, 1994; they are not eligible for parole.)
15. **[S.L. 2010-108](#) (H 1260): Modifications to ban on possession of firearm by convicted felon.** Amends various statutes, described below, to allow people convicted of certain felonies to apply for restoration of the right to possess firearms and to create an exception from firearms restrictions for certain white collar criminal convictions. Provides that changes become effective February 1, 2011, and apply to offenses committed on or after that date. Also directs North Carolina Attorney General, effective July 20, 2010, to request the U.S. Department of Justice and other federal agencies to review these changes and determine whether a person who qualifies under them may purchase and possess a firearm under federal firearms restrictions.

New G.S. 14-415.4 contains the new restoration procedures. The new statute gives the responsibility for hearing restoration petitions to the district court in the district where the person resides. New G.S. 14-415.4(i) states that restoration does not constitute an expunction or pardon, and G.S. 14-415.4(l) states that the knowing and willful submission of false information is a Class 1 misdemeanor and permanently bars restoration of firearm rights.

The initial prerequisite for restoration is that the person must have no more than one conviction for a “nonviolent felony,” which is defined as not including any Class A, B1, or B2 felony or any Class C through I felony that involves an assault as an essential element, possession or use of a firearm or deadly weapon as an essential or nonessential element, or other specified circumstances. Multiple nonviolent felony convictions arising out of the same event and consolidated for sentencing count as one felony. A person is ineligible for restoration for various reasons listed in the statute, including having been adjudicated guilty of or having received a prayer for judgment continued or a

suspended sentence for one or more misdemeanor crimes of violence or other listed misdemeanors. To obtain restoration, the person must have had their civil rights restored (which typically occurs automatically under G.S. 13-1 following a person's completion of all incidents of his or her sentence) for at least 20 years. The new statute also states that a person who was convicted of a nonviolent felony in another jurisdiction is eligible for restoration if his or her civil rights, including the right to possess a firearm, have been restored for at least 20 years in the other jurisdiction; this provision may inadvertently make the waiting period for restoration of firearm rights in North Carolina considerably longer for people with convictions from other jurisdictions because they may not be able to obtain restoration of their firearm rights in the other jurisdiction for some time after their citizenship rights have been restored there. New G.S. 14-415.4 establishes other criteria a person must satisfy to obtain restoration of firearm rights, such as a one-year period of residency in North Carolina. The act amends G.S. 14-415.1 (possession of firearm by a felon) to provide that a convicted felon whose firearm rights have been restored is not subject to the prohibition in that statute; similarly, the act amends G.S. 14-404(c) (handgun permits) and G.S. 14-415.12(b) (concealed handgun permits) to provide that people whose firearm rights have been restored are eligible to obtain the indicated permits if they meet the other criteria for issuance.

The act also amends the above statutes to exempt from the firearms restrictions felony convictions pertaining to antitrust violations, unfair trade practices, or restraints of trade. People convicted of these felonies do not need to apply for restoration of their firearms rights (unless convicted of other nonviolent felonies); the changes exempt them from the firearms restrictions.

16. **[S.L. 2010-122](#) (H 1717): Impact of certain convictions on contract to enforce ABC laws; minimum age standards for law enforcement.** Makes several changes to administration of alcoholic beverage control (ABC) system. Among other things, effective October 1, 2010, amends G.S. 18B-202 and 18B-501(g) to provide that, in addition to any other authorized penalty, a judge may prohibit an individual convicted of a violation of G.S. Chapter 18B or of a felony from participating in any contract to enforce the ABC laws for a local board if that individual is a designated officer of an agency that holds a contract to enforce the ABC laws for a local board. Also authorizes a judge in such a case to prohibit an individual from being designated as an officer that enforces the ABC laws under a contract with a local board for a period of not longer than three years. (For a summary of the other ABC law revisions, click [here](#).)

Effective July 21, 2010, amends G.S. 93B-9, which provides that no occupational licensing board may require than an individual be more than 18 years old to receive a license, to except certifications issued by the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission pursuant to G.S. Chapters 17C, 17E, 74E, and 74G.

17. **[S.L. 2010-123](#) (S 1202): Budget technical correction.** Amends Section 15.5(c) of S.L. 2010-31 to make it clear that the court cost increase in that bill does not apply to cases in which the criminal process was issued before the effective date of the increase, the citation is paid after the date of the increase, and the amount of costs paid is the amount listed on the citation. Also amends Section

19.4(b) of S.L. 2010-31 to make it clear that the community service fee increase applies to people ordered to perform community service on or after October 1, 2010.

18. **S.L. 2010-127 (H 1741): Use of controlled substances for animal euthanasia.** Effective October 1, 2010, revises G.S. 90-101 to allow an animal shelter to obtain sodium pentobarbital and other approved drugs for the euthanasia of animals and to allow a person certified to perform animal euthanasia to possess and use such drugs to euthanize dogs and cats held by the shelter. Amends G.S. 19A-24(b)(7) to authorize the Board of Agriculture to adopt rules providing for the denial, suspension, or revocation of the certification of a euthanasia technician who has been convicted of or entered a plea of guilty or no contest to a felony, misdemeanor, or infraction involving animal abuse or neglect, or any offense related to animal euthanasia. Adds G.S. 19A-24(c) to allow the Department of Agriculture and Consumer Services to deny, revoke, or suspend the certification of a euthanasia technician who has been convicted of or entered a plea of guilty or no contest to a felony involving a controlled substance. Also adds G.S. 19A-24(d) requiring a person seeking or renewing certification as a euthanasia technician to consent to a criminal record check.
19. **S.L. 2010-135 (H 1812): Pretrial release in domestic violence cases.** Effective October 1, 2010 (meaning effective for pretrial release determinations on or after that date), amends G.S. 15A-534.1(a), known as the 48-hour law. Provides that in setting pretrial release conditions in domestic violence cases subject to the 48-hour law, the judge must direct a law enforcement officer or district attorney to provide a criminal history report for the defendant and that the judge must consider the report. Also provides that after setting conditions the judge must return the report to the agency that provided the report; it is not placed in the case file. Prohibits unreasonable delay in setting conditions for the purpose of reviewing the criminal history report. (These requirements also appear to apply to magistrates who set pretrial conditions under the 48-hour law because G.S. 15A-534.1(b) states that if a judge has not acted within 48 hours of arrest, the magistrate must set conditions under the provisions of G.S. 15A-534.1.)
20. **S.L. 2010-145 (H 1714): Suspension, revocation, and reissuance of marine fisheries license.** Directs Marine Fisheries Commission to adopt rules, to take effect October 1, 2012, related to the suspension, revocation, and reissuance of licenses to take resources under its jurisdiction. Amends G.S. 113-171, which allows adverse license actions based on certain convictions, to provide that licenses are subject to that section and Commission rules.
21. **S.L. 2010-147 (H1973), Fee to support SBI DNA lab.** This act deals generally with economic incentives, but Section 7.1 includes an amendment to G.S. 7A-304(a) to add a \$2 fee in felony and misdemeanor cases to support the SBI's DNA database and databank. The new fee applies to costs assessed on or after October 1, 2010, but does not apply to waiveable misdemeanor traffic or other cases in which the defendant was not required to appear in court and the citation or other process was issued before October 1, 2010.

22. [S.L. 2010-152](#) (S 900): **Studies.** Authorizes Joint Legislative Corrections, Crime Control, and Juvenile Justice Committee of the General Assembly to study the use of unsecured bonds. Extends reporting date of the Joint Select Committee on the Preservation of Biological Evidence to 2011.
23. [S.L. 2010-154](#) (S 1337): **Training of operators of underground storage tanks.** Adds Part 2D to Article 21A of G.S. Chapter 143 to require training of operators of underground storage tanks. Requires compliance with the training requirements by August 8, 2012, and thereafter as provided in the act. Provides in G.S. 143-215.94TT that the new part is enforceable as provided in G.S. 143-215.94X, which imposes criminal penalties for violations, as well as under civil enforcement statutes.
24. [S.L. 2010-156](#) (H 1824): **Trapping of coyotes.** Adds G.S. 113-291.6(h) to allow a person with a depredation permit to take coyotes with a Collarum or similar trap approved by the Wildlife Resources Commission. Also amends 113-274(c)(1a) to require the Commission to issue a depredation permit for coyotes to livestock and poultry owners on request.
25. [S.L. 2010-159](#) (H 1682): **Corporal punishment of a student with a disability.** Effective with the 2010-11 school year, adds G.S. 115C-391(a)(5) to prohibit corporal punishment of a student with a disability as defined in G.S. 115C-106.3(1) or section 504 of the federal Rehabilitation Act of 1973 if the student's parent or guardian has stated in writing that corporal punishment should not be administered. (As a consequence, corporal punishment on such a student may constitute an assault under North Carolina criminal law.)
26. [S.L. 2010-169](#) (H 961): **Ethics reform and statements of economic interest.** Judges, district attorneys, and clerks of court are judicial officers subject to the portions of G.S. Chapter 138A, the State Ethics Act, requiring the filing of statements of economic interest. The new legislation amends those reporting requirements to add additional business dealings and campaign contributions to the information that must be reported and also to require the filing of a report in the year after the official resigns or does not run for reelection. The legislation also includes provisions on mediation of public records disputes. There are various other provisions about lobbyists, gifts, higher ethical standards for state boards, etc., that are not of as much direct interest to court officials.
27. [S.L. 2010-171](#) (S 144): **Innocence Inquiry Commission amendments.** Deletes provisions sunseting Comm'n as of December 1, 2010, thereby making the Comm'n a permanent state agency. Amends G.S. 15A-1469 to authorize AOC Director to appoint a special prosecutor when the Comm'n recommendation is presented at a trial; provides that the special prosecutor may not have participated in the original trial and that the Director may not appoint a special prosecutor unless the original DA or Comm'n Chair requests it, based on alleged prosecutorial misconduct in the original trial. Amends G.S. 15A-1469 to specify that evidence introduced at original trial may be introduced at trial to consider Comm'n recommendations if the evidence is relevant. Amends G.S. 15A-1469 and other related statutes to provide that if a person is found to be innocent by three-judge panel, the person is eligible for compensation from state without first receiving a pardon (compensation is at rate of \$50,000 per year of confinement). Effective October 1, 2010.

**28. [S.L. 2010-174](#) (H 726): Expunction changes; effective date change for sex offender registration.**

Makes several, largely technical, changes to North Carolina expunction procedures, reconciling conflicts and fixing technical errors in two expunction bills enacted in 2009, [S.L. 2009-510](#) (S 262) and [S.L. 2009-577](#) (H 1329). The discussion below summarizes H 726 and S.L. 2009-510, which although enacted in 2009 is effective October 1, 2010. For a summary of S.L. 2009-577, which took effect December 1, 2009, see John Rubin, [Expunction Guide: Types, Requirements, and Impact of 2009 Legislation](#), ADMINISTRATION OF JUSTICE BULLETIN No. 2009/10 (UNC School of Government, Dec. 2009).

Effective for expunction petitions filed on or after October 1, 2010, H 726 makes the following changes:

- G.S. 14-50.30 (certain gang offenses), 90-96 (certain drug offenses), and 90-113.14 (certain toxic vapor offenses) are revised to eliminate extraneous language resulting from a drafting oversight in the 2009 expunction bills.
- G.S. 15A-145(a) (convictions for first offenders under a certain age), 15A-145(d1) (certain larceny convictions), 15A-145.1 (certain gang offenses), 15A-145.2 (certain drug offenses), and 15A-145.3 (certain toxic vapor offenses) are revised to require, as part of a petition for expunction, an application for a criminal record check by the North Carolina Department of Justice instead of affidavits by the clerk and law enforcement; the revised statutes also require a search of the confidential record of prior expunctions maintained by the Administrative Office of the Courts.
- Several statutes are amended to make clear that, on the court's granting of an expunction petition, the case information is to be expunged from the records of other government agencies, including the Department of Correction, the Division of Motor Vehicles (except as described below), and any other State or local government agencies identified by the petitioner as having records to be expunged.
- G.S. 15A-145(d1) (certain larceny convictions) is amended to clarify that the look-back period is 15 years to obtain an expunction (rather than 10 or 15 years as under the previous version of the statute).

Effective October 1, 2010, S.L. 2009-510, in conjunction with H 726, make the following changes:

- New G.S. 15A-150 requires that the clerk of court in each county file with the AOC the names of people granted a discharge or expunction and notify other government agencies of the order. The new statute requires such agencies to expunge their records. (New G.S. 15A-151(c) exempts DMV from this requirement if expressly prohibited by the indicated federal laws.) G.S. 15A-150 directs an arresting agency that receives an expunction order to notify the State Bureau of Investigation, which must forward the order to the Federal Bureau of Investigation. It also directs a state agency that receives an expunction order to notify any private entity with which it has a licensing agreement for bulk extracts of data from the agency's criminal record database, to delete the record in question.
- New G.S. 15A-151 requires the AOC to maintain a confidential file containing the names of the people for whom it has received a notice of expunction under G.S. 15A-150. This file is exempt from the expunction requirement in new G.S. 15A-150. The information in the file may be



disclosed only as provided in new G.S. 15A-151: that is, to a judge to ascertain whether a person charged with an offense has previously received a discharge or expunction; to a person requesting confirmation of the person's own discharge or expunction under new G.S. 15A-152; or to a court in response to a subpoena or court order in a civil action under new G.S. 15A-152.

- New G.S. 15A-152 requires private entities that hold themselves out as being in the business of compiling and disseminating criminal history record information to destroy and not disseminate information for which it has received notice to delete the information. The new statute imposes civil liability for a violation by a private entity and allows a person prior to filing suit against a private entity to obtain from the AOC proof that the person was the subject of an expunction order as well as proof that notice was sent to private entities.

With regard to sex offender registration, H 726 modifies the effective date in Section 19 of [S.L. 2006-247](#) (H 1896), which amended G.S. 14-208.6(4)b. to provide that a "reportable conviction" includes "a final conviction in another state of an offense that requires registration under the sex offender registration statutes of that state." The 2006 legislation made this change applicable to offenses committed and to individuals who move into North Carolina on or after December 1, 2006. H 726 amends the effective-date language to make the change applicable to offenses committed and to individuals who move into North Carolina "prior to," as well as on or after, December 1, 2006. H 726 also states, however, that the effective-date change "becomes effective October 1, 2010, and applies to any person required to register as a sex offender under Article 27A of Chapter 14 of the General Statutes, any person serving an active sentence or on supervised probation, parole, or post-release supervision, for any offense, on or after that date, and any person convicted of a felony offense on or after that date."

- 29. [S.L. 2010-185](#) (S 675): Remuneration for referrals, purchases, or leases leading to Medicaid payments.** Effective for offenses committed on or after December 1, 2010, revises G.S. 108A-63 to create the following two types of Medicaid offenses involving kickbacks, bribes, or rebates. New G.S. 108A-63(g) makes it unlawful to: (1) knowingly and willfully; (2) solicit or receive any remuneration; (3) in return for (a) referring an individual to a person for the furnishing of any item or service for which a Medicaid payment may be made or (b) purchasing, leasing, ordering, or arranging for any good, facility, service, or item for which a Medicaid payment may be made. New G.S. 108A-63(h) makes it unlawful to (1) knowingly and willfully; (2) offer or pay any remuneration; (3) to induce a person to (a) refer an individual to a person for the furnishing of any item or service for which a Medicaid payment may be made or (b) purchase, lease, order, or arrange for any good, facility, service, or item for which a Medicaid payment may be made. Makes a violation a Class I felony under G.S. 108A-63(c). Creates exceptions in G.S. 108A-63(i), including for contracts between the state and a public or private agency where part of the agency's responsibility is referral of a person to a provider.
- 30. [S.L. 2010-193](#) (H 1412): National Guard courts-martial revisions.** Revises the portions of G.S. Chapter 127A concerning courts-martial for the National Guard, with changes primarily affecting procedure within the National Guard. Among other changes, effective for offenses committed on or after December 1, 2010, amends G.S. 127A-54 to provide that a person may be arrested and

confined in a local jail pending the court martial, that the person is entitled to pretrial release as if charged with a violation of a state criminal law, and that a person who does not obtain release from confinement is to be transferred to the custody of the Wake County Sheriff and confined in the Wake County confinement facility pending trial. Also provides that a person sentenced by a military court to confinement is to be transferred to the Department of Correction.