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Criminal Law and Procedure

As in most sessions, the 1999 General Assembly made numerous changes to the state's criminal laws. The changes were of a more technical nature than in previous sessions, however. Offenses were created and revised, punishments raised, and procedures modified, but few major initiatives were enacted. Perhaps the most groundbreaking legislation this session involved limiting prosecutors' authority over the criminal calendar, discussed further below and in Chapter 6 (Courts and Civil Procedure). The General Assembly also toughened the laws concerning offenses at schools, controlled substances, and impaired driving. This last area as well other changes to the state's motor vehicle laws are discussed in Chapter 18 (Motor Vehicles). Readers interested in issues related to sentencing and corrections should refer to Chapter 22 (Sentencing, Corrections, Prisons, and Jails).

Assaults and Threats

School Personnel and Volunteers. Under G.S. 14-33(c)(5), assaults on school bus personnel have been treated as a more serious class of offense, a Class A1 misdemeanor, than comparable assaults on other persons. Effective for offenses committed on or after December 1, 1999, S.L. 1999-105 (S 637) repeals this section and replaces it with G.S. 14-33(c)(6), which makes it a Class A1 misdemeanor to assault *any* elementary or secondary school employee, volunteer, or independent contractor performing the duties of a school employee. For this greater punishment to apply, the assault must occur either during the discharge of the person's duties or as a result of the discharge of those duties. The term *duties* is defined as activities on school property, activities during a school-authorized event or the accompanying of students to or from such an event, and activities relating to school transportation.

Court Officers. Two little-used statutes—G.S. 14-16.6 and -16.7—have provided for enhanced penalties for assaults and threats against executive or legislative officers. Effective for offenses committed on or after December 1, 1999, S.L. 1999-398 (H 478) expands these statutes

to cover court officers as well. A *court officer* is defined under new G.S. 14-16.10 as a magistrate, superior court clerk, acting clerk, assistant or deputy clerk, judge, justice, district attorney or assistant district attorney, public defender or assistant defender, court reporter, or juvenile court counselor.

As amended, G.S. 14-16.6 includes the following assault offenses:

- assault on an executive, legislative, or court officer, a Class I felony;
- a violent attack upon such an officer's residence, office, temporary accommodation, or means of transport in a manner likely to endanger the officer, also a Class I felony;
- assault or violent attack (as defined above) with a deadly weapon, a Class F felony; and
- assault or violent attack (as defined above) inflicting serious bodily injury, a Class F felony.

As amended, G.S. 14-16.7 includes the following threat offenses:

- threatening to inflict serious bodily injury or kill an executive, legislative, or court officer, a Class I felony;
- depositing a letter or writing containing a threat to inflict serious bodily injury or kill such an officer, a Class I felony.

G.S. 114-15(a) is also amended to authorize the State Bureau of Investigation to investigate alleged assaults or threats against court officers as well as those against executive or legislative officers.

Child Abuse. G.S. 14-318.4 has provided that a parent or other person caring for a child under age sixteen is guilty of felony child abuse, a Class E felony, if the parent or caregiver inflicts serious physical injury on the child. Effective for offenses committed on or after December 1, 1999, S.L. 1999-451 (H 160) amends this statute to provide that a parent or caregiver who inflicts serious bodily injury on a child under age sixteen is guilty of a Class C felony. *Serious bodily injury* is defined as bodily injury that creates a substantial risk of death, causes serious permanent disfigurement, or results in other specified consequences involving great harm. This change continues a recent legislative trend of distinguishing between offenses involving serious injury and those involving serious bodily injury. Compare, for example, G.S. 14-33(c)(1), which makes assault inflicting serious injury a Class A1 misdemeanor, with G.S. 14-32.4, which makes assault inflicting serious bodily injury a Class F felony.

Laser Devices. Effective for offenses committed on or after December 1, 1999, S.L. 1999-401 (S 348) enacts a new statute, G.S. 14-34.8, making it unlawful to intentionally point a laser device at a law enforcement officer, or at the head or face of any other person, while the device is emitting a laser beam. The statute bears the caption "Criminal use of a laser device," but a violation is an infraction only, a noncriminal violation of law punishable by a penalty of \$100 under G.S. 14-3.1. The new statute provides that it does not prohibit a law enforcement officer, health care professional, or other authorized person from using a laser device in the performance of the person's official duties. Nor does it apply to laser tag, paintball guns, or similar games or devices using light emitting diode (LED) technology.

Threats Concerning Child, Dependent, Sibling, or Spouse. Effective for offenses committed on or after December 1, 1999, S.L. 1999-262 (S 956) revises two statutes concerning threats. Amended G.S. 14-196(a)(2), which has dealt with telephone calls threatening bodily harm, makes it a Class 2 misdemeanor to make such threats by either telephone *or* e-mail. The amended statute also provides that it is a Class 2 misdemeanor to threaten to physically injure a person's child, sibling, spouse, or dependent. G.S. 14-277.1, the general statute on communicating threats, is likewise revised to provide that threatening to physically injure a person *or* that person's child, sibling, spouse, or dependent is a Class 1 misdemeanor.

Patient Abuse and Neglect. Effective for offenses committed on or after December 1, 1999, S.L. 1999-334 (S 10), Section 3.15, amends G.S. 14-32.2 to add a misdemeanor version of the offense of patient abuse and neglect. Previously all of the offenses under this statute were felonies involving abuse resulting in death or serious injury. New G.S. 14-32.2(b)(4) provides that it is a Class A1 misdemeanor to physically abuse a patient if the conduct is willful or culpably negligent,

results in bodily injury, and is part of a pattern of conduct. The act also adds a definition of *abuse* for all offenses under the statute, providing that it means the willful or culpably negligent infliction of physical injury or violation of any law designed for the health, welfare, or comfort of patients.

Controlled Substances, Alcohol, and Cigarettes

Possession of Amphetamine or Methamphetamine. G.S. 90-95(d)(2), which governs the punishment for possession of a Schedule II through IV controlled substance, provides that possession of any amount of cocaine or PCP is a Class I felony. Possession of any other Schedule II through IV substance has been a Class 1 misdemeanor if the amount possessed is less than a certain threshold—for most substances, 100 dosage units. Effective for offenses committed on or after December 1, 1999, S.L. 1999-370 (S 888), Section 1, significantly enlarges the possession offenses that constitute felonies by providing that possession of any amount of amphetamine or methamphetamine, both Schedule II controlled substances, is a Class I felony.

Drug Trafficking. Two separate acts deal with drug trafficking. Effective for offenses committed on or after December 1, 1999, S.L. 1999-165 (S 920), Section 4, creates the offense of trafficking in MDA/MDMA, which stand for methylenedioxyamphetamine and methylenedioxy-methamphetamine. Under new G.S. 90-95(h)(4b) the following punishments apply to trafficking in these substances:

- If the amount is from 100–499 dosage units or from 28–199 grams of these substances, the person is guilty of a Class C drug-trafficking felony and must be fined at least \$50,000.
- If the amount is from 500–999 dosage units or from 200–399 grams of these substances, the person is guilty of a Class B drug-trafficking felony and must be fined at least \$75,000.
- If the amount is 1,000 or more dosage units or 400 grams or more, the person is guilty of a Class D drug-trafficking felony and must be fined at least \$250,000.

S.L. 1999-370, Section 1, deals with trafficking in amphetamine and methamphetamine. Effective for offenses committed on or after December 1, 1999, G.S. 90-95(h)(3a), which covered trafficking in amphetamine, is repealed, and both amphetamine and methamphetamine are subject to amended G.S. 90-95(h)(3b). This change has two effects. First, under amended subsection (3b) the same threshold amounts for trafficking, expressed in grams, apply to both amphetamine and methamphetamine. Previously the threshold amounts for amphetamine were expressed in dosage units. Second, the offense class for each level of trafficking is raised by one class. For example, trafficking in 400 or more grams of amphetamine or methamphetamine, formerly a Class D felony, is raised to a Class C felony.

Restitution for Drug Manufacturing Offenses. Effective for offenses committed on or after December 1, 1999, S.L. 1999-370, Section 2, amends G.S. 90-95.3 to provide that the court must require a person convicted of a manufacturing offense to make restitution to law enforcement agencies for the cost of cleaning up a clandestine laboratory.

Controlled Substance and Precursor Chemical Schedules. Effective for offenses committed on or after June 8, 1999, S.L. 1999-165, Sections 1–3, makes the following changes to the controlled substance schedules:

- 4-bromo-2, 5-dimethoxyphenethylamine is added to G.S. 90-89(3) (hallucinogenic substances).
- salutaridin, caffeine, phenylephrine, and pseudoephedrine are added to G.S. 90-92(a)(3) (stimulants, a form of Schedule IV controlled substance); and
- butorphanol is added to G.S. 90-92(a)(4) (other Schedule IV controlled substances).

Effective for offenses committed on or after December 1, 1999, S.L. 1999-370, Sections 1 and 3, makes the following changes to the controlled substance and precursor chemical schedules:

- ketamine is added to G.S. 90-91 (Schedule III controlled substances); and
- anhydrous ammonia, iodine, lithium, red phosphorous, and sodium are added to G.S. 90-95(d2) (precursor chemicals).

Alcohol Sales to Underage Persons. Effective for offenses committed on or after December 1, 1999, S.L. 1999-433 (S 120) imposes mandatory fines and community service for violations of G.S. 18B-302(a), which prohibits selling alcohol to a person under age twenty-one, and G.S. 18B-302(c)(2), which prohibits a person over twenty-one from aiding or abetting the purchase or possession of alcohol by an underage person. Both offenses remain Class 1 misdemeanors. But, under new G.S. 18B-302A, the court must make the following a part of any sentence if it does not impose a term of active imprisonment:

- for a violation of G.S. 18B-302(a), at least a \$250 fine and 25 hours of community service
 - for a violation of G.S. 18B-302(c) (2), at least a \$500 fine and 50 hours of community service
- if the violation occurs within four years of a previous conviction for this offense.

Alcohol Violations by Underage Persons. Effective for offenses committed on or after December 1, 1999, S.L. 1999-406 (H 1135), Section 7, amends G.S. 18B-302(i) to make the purchase or possession of beer or wine by a nineteen- or twenty-year-old a Class 3 misdemeanor. Previously this offense was an infraction only. In addition Section 8 of the act amends G.S. 15A-145 to allow a person to expunge a misdemeanor conviction for possession of beer or wine in violation of G.S. 18B-302(b)(1) if the person was under the age of twenty-one and had not previously been convicted of any felony or misdemeanor other than a traffic violation.

Cigarette Sales. Effective for offenses committed on or after December 1, 1999, S.L. 1999-333 (H 74), Section 5, makes it a Class A1 misdemeanor for a person to sell or hold for sale packages of cigarettes that meet one or more of the descriptions in new G.S. 14-400.18. For example, the new statute prohibits the sale of packages of cigarettes that do not contain the labels, warnings, and other information required by federal law. A violation of the new statute is also an unfair trade practice, and the packages of cigarettes may be seized as contraband under the procedure for seizure of non-tax-paid cigarettes. Under new G.S. 105-113.4B and amended G.S. 105-164.29(d), a seller's license also may be revoked.

Explosives and Firearms

New and Amended Offenses

Bomb Threats. Effective for offenses committed on or after September 1, 1999, S.L. 1999-257 (H 517) raises the punishment for making a false bomb threat concerning a *public building*, which is defined in new G.S. 14-69.1(c) as

- educational property (owned by a public or private school);
- a hospital;
- a building housing only state, federal, or local government offices; and
- state, federal, or local government offices within any building.

A first conviction for a false bomb threat concerning a public building is the same class of offense as a conviction concerning other structures—that is, a Class H felony. A second conviction concerning a public building, however, is a Class G felony. New G.S. 14-69.1(d) also provides that the court may order a person convicted of making a false bomb threat, whether the threat concerns a public building or another structure, to pay restitution for disruption of normal

activities on the premises. The act makes the same changes—concerning both offense class and restitution—to G.S. 14-69.2, which deals with perpetrating a hoax by use of a false bomb.

Possession of Explosives on School Property. G.S. 14-269.2 has prohibited the possession of firearms and explosives on school property, making most such offenses Class I felonies. Effective for offenses committed on or after September 1, 1999, S.L. 1999-257 increases from a Class I to a Class G felony the offense of possessing or carrying a dynamite cartridge, bomb, grenade, mine, or other powerful explosive on educational property. This provision, contained in new G.S. 14-269.2(b1), also applies to possession of explosives at curricular or extracurricular activities sponsored by a school off school property (but only for offenses committed on or after December 1, 1999). The act likewise raises from a Class I to a Class G felony the offense of aiding a *minor* (a person under age eighteen) to possess or carry an explosive on educational property; however, that provision, which appears in new G.S. 14-269.2(c1), makes no reference to curricular or extracurricular activities off school property.

Fireworks are not covered by these new subsections of G.S. 14-269.2. But the act revises G.S. 14-269.2(d) and (e) by adding fireworks to the list of items prohibited on educational property. Previously the list included only weapons or things capable of being used as weapons. Effective for offenses committed on or after September 1, 1999, it is a Class 1 misdemeanor to possess or carry, or aid a minor to possess or carry, fireworks on educational property unless for an authorized purpose.

Firearms on School Property. Effective for offenses committed on or after December 1, 1999, S.L. 1999-211 (S 1096) expands the prohibition on firearms on school property. First, G.S. 14-269.2(b) is revised to make it a Class I felony to possess or carry a firearm on educational property and at curricular or extracurricular activities sponsored by a school off school property.

Second, G.S. 14-269.2(f), which in limited circumstances makes it a Class 1 misdemeanor instead of a felony to have a firearm on educational property, is narrowed further. Under the revised section a person is guilty of the lower class of offense only if (1) the person is neither a student nor an employee at the school and (2) the firearm is unloaded, is in a locked firearm rack or locked container, and is inside a motor vehicle. The principal effect of the revisions is to make the unauthorized possession of a firearm by an employee while on school property or at a school-sponsored event a Class I felony.

New G.S. 14-269.2(h) is also added to clarify that a person is not guilty of possession of a weapon on school grounds or at a school-sponsored activity if he or she takes or receives the weapon from another person, or finds the weapon, and then delivers the weapon, directly or indirectly, to law enforcement.

Bullet-Proof Vests. Effective for offenses committed on or after December 1, 1999, S.L. 1999-263 (S 1011) requires an enhanced sentence if a person commits a felony while wearing or having in his or her immediate possession a bullet-proof vest. New G.S. 15A-1340.16C provides that in such circumstances the person is guilty of a felony one class higher than the underlying felony for which the person was convicted. The enhancement does not apply if evidence that the person possessed a bullet-proof vest is needed to prove an element of the underlying felony.¹ Nor does it apply to law enforcement officers.

The statute apparently leaves to the sentencing judge the determination of whether the bullet-proof vest enhancement applies. A recent United States Supreme Court decision raises serious questions, however, about treating such an enhancement as a sentencing matter rather than as an offense element. In *Jones v. United States*, 526 U.S. 227, 119 S. Ct. 1215 (1999), the Court

1. A similar exception applies to the sentencing enhancement in G.S. 15A-1340.16A for use of a firearm in the commission of a Class A through E felony. For a discussion of cases interpreting that exception, see John Rubin & Ben F. Loeb, Jr., *Punishments for North Carolina Crimes and Motor Vehicle Offenses* (Chapel Hill, N.C.: Institute of Government, The University of North Carolina, 1999), pp. 11–12; and Robert L. Farb, Appellate Cases: Structured Sentencing Act and Firearm Enhancement (last modified Sept. 1999) <<http://ncinfo.iog.unc.edu/programs/crimlaw/faculty.htm>>. The discussion that follows concerning *Jones v. United States* may also bear on the procedures for imposing the firearm enhancement.

considered a federal statute authorizing a sentence of up to fifteen years for carjacking, up to twenty-five years for carjacking resulting in serious injury, and any number of years up to life for carjacking resulting in death. The Court concluded that Congress intended to create three separate offenses—one for each level of punishment. Thus to obtain one of the greater punishments, the prosecution had to charge all of the elements of the offense, including serious injury or death, and had to prove those elements beyond a reasonable doubt. The Court rejected the government’s argument that the judge could impose the enhanced punishments upon finding serious injury or death by a preponderance of the evidence. The Court noted that such an interpretation of the statute raised serious constitutional concerns, stating: “[U]nder the Due Process Clause of the Fifth Amendment and the notice and jury trial guarantees of the Sixth Amendment, any fact (other than prior conviction) that increases the maximum penalty for a crime must be charged in an indictment, submitted to a jury, and proven beyond a reasonable doubt.” 526 U.S. 227, ___, 119 S. Ct. 1215, 1224 n.6. The Court ultimately did not address the constitutionality of the statute, however, basing its decision on its interpretation of congressional intent.

If wearing a bullet-proof vest during commission of a felony is considered an offense element—and under the reasoning of *Jones* it may well be—then it too would have to be charged by indictment, submitted to a jury, and proven beyond a reasonable doubt. An enhanced sentence could not be imposed merely upon a finding by a judge at sentencing.

Collateral Consequences

Several acts impose consequences beyond the potential criminal sentence for offenses involving explosives and firearms, particularly for offenses involving schools. The laws affecting offenses involving schools are discussed in more detail in Chapter 9 (Elementary and Secondary Education).

License Consequences of Offenses Involving Explosives. Effective for offenses committed on or after September 1, 1999,² S.L. 1999-257 requires the Division of Motor Vehicles (DMV) to revoke a person’s driver’s license if he or she is convicted of one of a number of offenses involving explosives. The listed convictions, set forth in new G.S. 20-17(a)(15), include offenses concerning educational property as well as general offenses involving explosives. The offenses are malicious use of an explosive to damage property [G.S. 14-49(b) and (b1)], making a false report concerning an explosive in a public building [G.S. 14-69.1(c)], perpetrating a hoax concerning an explosive in a public building [G.S. 14-69.2(c)], possessing an explosive on educational property [G.S. 14-269.2(b1)], and aiding a minor to possess an explosive on educational property [G.S. 14-269.2(c1)]. The revocation lasts one year [pursuant to G.S. 20-19(f)].

New G.S. 20-13.2(c2) likewise requires DMV, upon learning of a conviction of one of the above offenses, to revoke the permit or license of a person under age eighteen. The revocation lasts one year [pursuant to G.S. 20-13.2(d)]. This revocation differs from the loss of license eligibility imposed for certain acts by students, discussed below under “Offenses Concerning Schools.”

Imposition of license consequences for conduct unrelated to driving or motor vehicles continues a recent legislative trend. For example, G.S. 110-142.2, enacted in 1997, allows courts to revoke a person’s driver’s, hunting, fishing, occupational, and professional licenses if he or she fails to make court-ordered child support payments. G.S. 143B-475.1(f), enacted in 1998, authorizes courts to revoke a person’s driver’s license for a willful failure to perform community service, regardless of whether the offense involves motor vehicles. These provisions are intended to induce compliance with unmet obligations. Once a person meets his or her obligations, either in

2. The act actually states that the license consequences apply to “causes of action” arising on or after that date. In using this language, the drafters apparently mistook the sections on license consequences for another section of the act involving civil liability (discussed further below).

the child support or community service arena, the license revocation ends.³ In contrast, the revocation required is for a fixed period and is imposed automatically on conviction of one of the specified offenses.

If ever challenged, such revocations may be measured by various constitutional standards. See generally, *Schwartz v. Board of Bar Examiners*, 353 U.S. 232 (1957) (under the Due Process Clause, particular disqualification must bear rational connection to person's fitness to perform function involved); *State v. Oliver*, 343 N.C. 202, 470 S.E.2d 16 (1996) (discussing potential applicability of Double Jeopardy Clause to license revocations); Stevens H. Clarke, *Law of Sentencing, Probation, and Parole in North Carolina*, 2d ed. (Chapel Hill, N.C.: Institute of Government, The University of North Carolina, 1997), pp. 18–19 (discussing state constitutional limits on punishments).

Civil Liability for Offenses Involving Firearms or Explosives. S.L. 1999-257 provides that a party is liable for the civil damages for the same length of time (up to \$50,000) in which he or she possesses a firearm or explosive at a school-sponsored activity, whether on or off school property. New G.S. 115C-391(d3), enacted by S.L. 1999-257, requires a one-year suspension of any student who makes a false bomb threat or perpetrates a hoax by use of a false bomb in connection with educational property or a school-sponsored activity (again, subject to modification on a case-by-case basis).

Offenses Concerning Schools

Several acts discussed earlier (under the headings “Assaults and Threats” and “Explosives and Firearms”) deal with schools. In addition to that legislation, the following also concern schools.

Indecent Liberties and Sexual Offenses with a Student. North Carolina has had two statutes on the taking of indecent liberties with a child. One, G.S. 14-202.1, prohibits acts of a sexual nature when (1) the perpetrator is sixteen years of age or more, (2) the victim is under the age of sixteen, and (3) the perpetrator is at least five years older than the victim. The other, G.S. 14-202.2, prohibits similar acts when (1) both the perpetrator and the victim are under the age of sixteen and (2) the perpetrator is at least three years older than the victim.

Effective for offenses committed on or after December 1, 1999, S.L. 1999-300 (S 742) creates another set of indecent liberties offenses, applicable to acts of a sexual nature by school personnel with a student at a public or private elementary or secondary school. The definition of indecent liberties is essentially the same as the definition in G.S. 14-202.1 and -202.2, except it does not cover acts of vaginal intercourse or sexual acts as defined in G.S. 14-27.1 (for example, oral sex). But another new set of sexual offenses, also created by S.L. 1999-300, covers such acts with elementary or secondary school students. For all of these new offenses, the conduct must have occurred during or after the time the defendant and the victim were at the same school but before the victim ceases to be a student.

3. This session, in S.L. 1999-293 (H 302), the General Assembly amended G.S. 110-142.2 to require the court to revoke a person's licenses if he or she is found in civil or criminal contempt for failing to pay court-ordered child support for a third or subsequent time. The revocation still may be stayed, however, if the court imposes a repayment plan meeting certain conditions, and the revocation ends when the person is no longer delinquent in his or her child support payments. For a further discussion of these provisions, see Chapter 4 (Children and Families).

The new offenses are as follows:

- A teacher, school administrator, student teacher, or coach is guilty of a Class I
- ~~Other school employees and administrators without clear school sponsorship are~~ ~~also subject to G.S. 14-202.4(b) for such offenses.~~ ~~Such offenses are also a Class I felony if the act is a vaginal intercourse with a student or a sexual act defined in G.S. 14-27.7(b). However, if the school employee or volunteer is four or more years older than the student, the indecent liberties offense is a Class I felony and the offense involving intercourse or a sexual act is a Class G felony. See G.S. 14-202.4(a), -27.7(b). If the age difference is less than four years, both offenses are Class A1 misdemeanors. See G.S. 14-202.4(b) to 14-27.7(b).~~

The act states that a person who engages in the above conduct is guilty of the level of offense specified unless the conduct is covered by another law providing for greater punishment. See G.S. 14-202.4(a), -27.7(b). Thus a school employee could be convicted of statutory rape, a Class B1 felony, for having vaginal intercourse with a student if the ages of the employee and student meet the requirements for that offense. But the employee could not be convicted of both statutory rape and one of the offenses described above.

Eligibility for Driver's License. In 1997 the General Assembly amended G.S. 20-11 by providing that persons under age eighteen seeking a learner's permit or provisional driver's license must have a "driving eligibility certificate" or a high school diploma or its equivalent. Ordinarily, to qualify for a driving eligibility certificate, a minor must be enrolled in high school and be making progress toward a high school diploma.

S.L. 1999-243 (S 57) adds another requirement for issuance of a driving eligibility certificate. New G.S. 20-11(n1), captioned as "Lose Control; Lose License," enumerates the following conduct as grounds for a school's denial of a driving eligibility certificate to a student:

- possession or sale of an alcoholic beverage or illegal controlled substance on
- ~~school property resulting in disciplinary action as defined in G.S. 20-11(d) (disciplinary~~ ~~action as defined in G.S. 14-27.7(d) for that is, a one-year suspension) or that significantly~~ ~~resulted in a disciplinary action if the conduct had occurred in a public school; and~~
- physical assault on a teacher or other school personnel on school property resulting in disciplinary action as defined in G.S. 20-11(n1)c (discussed under (1), above).

The disqualification applies only if the conduct occurs after the student turns fourteen years of age or, if the student has not yet turned fourteen, after July 1 of the school year in which the student enrolls in eighth grade. Upon receiving notice from a school that a person is not eligible for a driving eligibility certificate, DMV must revoke the person's permit or license. The length of ineligibility and revocation depend upon the factors described in G.S. 20-11(n1)(3) and (4) and G.S. 20-13.2(c1). The act applies to acts committed on or after July 1, 2000. For a further discussion of these provisions, see Chapter 9 (Elementary and Secondary Education).

Fraud and Property Offenses

Frauds

Financial Identity Fraud. Effective for offenses committed on or after December 1, 1999, S.L. 1999-449 (H 1279) creates the crime of financial identity fraud in new Article 19C, G.S. 14-113.20 through -113.23. A person is guilty of this offense if he or she

- knowingly obtains, possesses, or uses
- personal identifying information of another person, such as a Social Security, driver's license, or credit card number,
- without the consent of the other person
- with the intent to fraudulently represent that the person is the other person

- for the purpose of making financial or credit transactions in the other person's name or for the purpose of avoiding legal consequences.

The offense is ordinarily a Class H felony. It is a Class G felony if the victim, that is, the person whose personal identifying information is fraudulently used, is arrested, detained, or convicted as a result of the offense.

The new statutes also provide for civil remedies. The victim may bring a civil suit for damages of up to \$5,000 or three times the amount of actual damages, whichever is greater, for each incident. The victim also may seek injunctive relief. In such actions the court may award reasonable attorneys' fees to the prevailing party.

Child Care Subsidy Fraud. Effective for offenses committed on or after December 1, 1999, S.L. 1999-279 (H 304) creates the crime of fraudulent misrepresentation concerning child care subsidies. Under new G.S. 110-107 a person is guilty of this offense if he or she,

- with the intent to deceive,
- makes a false statement regarding a material fact or fails to disclose a material fact, and
- as result of the false statement or omission, that person obtains, attempts to obtain, or continues to receive a child care subsidy.

The offense is a Class I felony if the amount of the child care subsidy is more than \$1,000 and a Class 1 misdemeanor if the amount is \$1,000 or less. As an incentive for counties to investigate child care fraud, new G.S. 110-108 provides that local purchasing agencies retain the amount of fraud and overpayment claims that they collect.

Insurance Fraud. Effective for offenses committed on or after October 1, 1999, S.L. 1999-294 (S 594), Section 3, broadens the definition of insurer for purposes of insurance fraud offenses under G.S. 58-2-161. The revised definition, in G.S. 58-2-161(a)(1), includes those types of insurers listed in that section and those entities covered by the general definition of insurer in G.S. 58-1-5(3).

Worthless Checks

Worthless Check Prosecutions. G.S. 14-107(d)(1) has governed worthless check offenses involving amounts of \$100 or less; G.S. 14-107(d)(2) has governed worthless check offenses involving amounts of \$100 to \$2,000. The two subsections, however, have provided for identical penalties. Thus writing a worthless check of \$2,000 or less is ordinarily a Class 2 misdemeanor. Effective for offenses committed on or after December 1, 1999, S.L. 1999-408 (H 328) eliminates this redundancy by repealing subsection (d)(2) and incorporating the deleted portions into subsection (d)(1). The penalties for writing a worthless check of \$2,000 or less remain unchanged.

The act also revises G.S. 14-107(d)(4) to clarify the elements of the offense of writing a worthless check on a closed account. A person is guilty of this offense, a Class 1 misdemeanor, by writing a check on an account that has been closed by the drawer *or* that the drawer knows to have been closed by the bank or depository.

Collection of Worthless Checks without Prosecution. In 1997 and 1998 the General Assembly authorized pilot programs in Columbus, Durham, Rockingham, and Wake Counties for collection of worthless checks without criminal prosecution. The authority for the pilots was to expire June 30, 1999. Effective that date, S.L. 1999-237 (H 168), Section 17.7, continues the programs indefinitely and also authorizes similar programs in Brunswick, Bladen, New Hanover, and Pender counties.

To participate in the program, the "check passer" must meet the criteria established by the local district attorney and must pay a fee of \$50. A participating check passer may not be prosecuted if he or she makes restitution to the "check taker" for the amount of the check, any service charges imposed by a bank on the check taker for processing the check, and any processing fees imposed by the check taker under G.S. 25-3-506.

Other Property Offenses

Larceny of Ginseng. Effective for offenses committed on or after December 1, 1999, S.L. 1999-107 (S 769) revises G.S. 14-79 concerning larceny of ginseng, a Class H felony, by eliminating the requirements that the ginseng must have been in a bed and that the land on which the bed is located must have been surrounded by a lawful fence.

Computer Trespass. Effective for offenses committed on or after December 1, 1999, S.L. 1999-212 (S 288) creates the offense of computer trespass. The caption of the legislation states that it makes unlawful the sending of unsolicited bulk commercial e-mail, but it actually encompasses at least six different kinds of conduct, not all of which necessarily involve e-mail.

New G.S. 14-458 makes it unlawful for any person to use a computer or computer network without authority and with the intent to do one of six things—for example, altering or erasing computer data, programs, or software or making an unauthorized copy of those materials. Only one of the six prohibited acts specifically concerns e-mail—in essence, falsely identifying unsolicited bulk commercial e-mail with the intent to deceive the recipient. The General Assembly’s concern over this type of e-mail is also expressed, however, in its definition of the term “without authority,” an element of all the offense variations. A person acts *without authority* when he or she either does not have the right to use someone’s computer *or* uses a computer, computer network, or computer services of an e-mail service provider to transmit unsolicited bulk commercial e-mail in violation of the service provider’s rules.

A violation of the new statute is a Class 3 misdemeanor if there is no property damage, a Class 1 misdemeanor if there is property damage of less than \$2,500, and a Class I felony if there is property damage of \$2,500 or more. A person injured by a violation also may sue for damages pursuant to new G.S. 1-539.2A.

Domestic Violence

S.L. 1999-23 (S 197), which implements recommendations of the Governor’s Task Force on Domestic Violence, makes several changes to the laws concerning domestic violence. The changes primarily concern the authority of law enforcement officers to enforce out-of-state protective orders and to make warrantless arrests for misdemeanors involving domestic violence and violations of domestic violence protective orders. These changes are discussed in Chapter 4 (Children and Families) and Chapter 6 (Courts and Civil Procedure).

The act also creates a new offense involving false misrepresentations regarding domestic violence protective orders. Effective for offenses committed on or after December 1, 1999, new G.S. 50B-4.2 provides that a person is guilty of a Class 2 misdemeanor if he or she

- knowingly makes a false statement
- to a law enforcement agency or officer

- that a domestic violence protective order entered by the courts of this state or another state or Indian tribe
- remains in effect.

Capital Cases

Only one act addresses capital cases, and it has a limited impact. First, S.L. 1999-358 (S 365) amends G.S. 15-194 to provide that the Secretary of Correction, rather than the warden at Central Prison in Raleigh, is responsible for setting execution dates (after receiving proper notice to do so) and for notifying interested parties of such dates. The act also provides that the execution date must be from thirty to sixty days, rather than from thirty to forty-five days, after the Secretary receives notice to schedule the date.

Second, the act states that it shall be the policy of the Department of Correction to prohibit death row inmates from contacting surviving family members of a victim without the written consent of those family members. The act states that the term “contact” includes arranging for a third party to forward communications from the inmate to the family members.

Miscellaneous Offenses

Cruelty to Animals. S.L. 1999-209 (S 249), Section 8, clarifies the definition of *animal* for purposes of the offense of cruelty to animals. As amended G.S. 14-360(c) provides that the term includes living vertebrates in the classes Amphibia, Reptilia, Aves, and Mammalia only. In other words, fish are not covered (although frogs, which are in the Amphibia class, are covered). The amended section also states that the statute does not bar lawful activities concerning aquatic species or activities conducted for the primary purpose of providing food.

Tax Violations. S.L. 1999-415 (H 1476) extends from three to six years the statute of limitations for violations of G.S. 105-236(8) (willful failure to collect, withhold, or pay over tax) and G.S. 105-236(9) (willful failure to file return, supply information, or pay tax). These changes apply to prosecutions brought on or after December 1, 1999, if the previous three-year statute of limitations has not expired before that date.

Personal Watercraft Safety. Effective for acts committed on or after December 1, 1999, S.L. 1999-447 (H 1209) makes several changes to the laws concerning use of personal watercraft, also known as “jet skis.” G.S. 75A-13.2, the previous statewide law on personal watercraft, is repealed. G.S. 75A-13.3, which previously applied only to certain waters, is expanded to apply to the entire state and to impose some restrictions on use of personal watercraft. For example, the amended statute prohibits a person under age sixteen from operating a personal watercraft except under specified conditions. However, it allows a person under age sixteen but twelve years of age or older to operate a personal watercraft if he or she has a boater safety certification card issued by the Wildlife Resources Commission or has proof of completion of a boating safety course. (The amended statute allows units of local government to impose stricter rules.)

A violation of G.S. 75A-13.3 remains a Class 3 misdemeanor in most instances, punishable by a fine only (up to \$250) under G.S. 75A-18. New G.S. 75A-18(c1) provides that a boat livery that fails to carry the required liability insurance is guilty of a Class 2 misdemeanor, also punishable by a fine only (up to \$1,000).

Littering. Effective for offenses committed on or after December 1, 1999, S.L. 1999-454 (H 222) provides minimum and maximum fines for littering offenses as follows:

- For a first violation of G.S. 14-399(c) (littering in an amount up to 15 pounds and
 - For a violation of G.S. 14-399(c) (littering in an amount up to 15 pounds and
- not for three years, the fine is from \$500 to \$2,000.

For a violation of G.S. 14-399(e) (littering in an amount exceeding 500 pounds or for a commercial purpose or of a hazardous waste), the court must impose one or more of the conditions stated in that section—for example, removing the litter or rendering it harmless. Previously these conditions were discretionary.

Vacation Rentals. New Chapter 42A of the General Statutes, enacted by S.L. 1999-420 (S 974), regulates the rental of residential property for vacation, leisure, or recreational purposes. Among other things, the new chapter allows landlords, and real estate brokers as agents of landlords, to use an expedited eviction procedure in limited circumstances. New G.S. 42A-27 states that a landlord or broker may use the expedited procedure only when he or she has a good faith belief that grounds exist for its use; otherwise, the landlord or broker is guilty of a Class 1 misdemeanor (and an unfair trade practice under G.S. 75-1.1). The act applies to rental agreements entered into on or after January 1, 2000.

Civil and Criminal Contempt. S.L. 1999-361 (S 170) deals primarily with civil contempt and is discussed in Chapter 6 (Courts and Civil Procedure). But the act also makes minor changes to the rules on criminal contempt. G.S. 5A-12(d) and -21(c) have provided that a person may be held in civil and criminal contempt for the same conduct but that the total period of imprisonment may not exceed that authorized for the version of contempt carrying the greater period of imprisonment. Effective for proceedings for contempt held on or after December 1, 1999, the act amends those statutes to state simply that a person may not be held in civil and criminal contempt for the same conduct.

Designation of Offense Classes. With the implementation of structured sentencing in 1994, most offenses were assigned offense classes, however, some were overlooked. Effective for offenses committed on or after December 1, 1999, S.L. 1999-408 assigns the following classes to the indicated offenses:

- acting as an officer before qualifying as such, a Class 1 misdemeanor (G.S. 14-229);
- failing to adequately care for animals, a Class 3 misdemeanor (G.S. 19A-35);
- first violation of livestock dealer rules, a Class 3 misdemeanor; second or subsequent violation, a Class 2 misdemeanor (G.S. 106-418.14);
- violating meat inspection rules, a Class 2 misdemeanor; violating such rules with the intent to defraud or distributing or attempting to distribute an adulterated article, a Class H felony [G.S. 106-549.35(a)];
- violating poultry inspection rules, a Class 1 misdemeanor; violating such rules with the intent to defraud or distributing or attempting to distribute an adulterated product, a Class H felony [(G.S. 106-549.59(a)];
- assaulting or resisting a person who is engaged in the performance of official duties under the Poultry Products Inspection Act, a Class 2 misdemeanor; committing such an act with a deadly or dangerous weapon, a Class A1 misdemeanor [G.S. 106-549.59(c)];
- violating provisions relating to disposal of dead poultry, a Class 1 misdemeanor (G.S. 106-549.71);
- violating provisions relating to biological residues in animals, a Class 2 misdemeanor (G.S. 106-549.88); and
- violating provisions relating to endangered wildlife, a Class 1 misdemeanor [G.S. 113-337(b)].

Criminal Procedure

Criminal Calendaring. Two acts deal with criminal procedure (other than law enforcement procedures, discussed further below). One, dealing with the calendaring of criminal cases, represents a potentially significant departure from previous practice. Unique among the fifty states, North Carolina has allowed prosecutors control over the calendaring of felony cases—that is, they have had the power to decide when a felony goes to trial. Effective January 1, 2000, S.L. 1999-428 (S 292) introduces various devices that constrain this authority. Prosecutors still have

some control over the calendar in the sense that they initially propose the trial date and prepare a list of the cases scheduled for trial. But the act involves judges in the scheduling of trials and provides defense counsel with considerably more input into and notice of trial dates. For example, although prosecutors may propose a trial date, the court may set a different date if the defendant objects. Further, the trial date may be no sooner than thirty days from the hearing (called the final administrative setting) at which the trial date is proposed. The details of this act are discussed further in Chapter 6 (Courts and Civil Procedure).

Waiver List. Under G.S. 7A-148(a) and -273(2) magistrates may accept guilty pleas or admissions of responsibility by mail for misdemeanors and infractions on the “waiver list”—a list prepared each year by the chief district court judges of the state. In those cases, the defendant need not appear in person if he or she pays the required fine and signs a form admitting to the offense and waiving the right to a trial. S.L. 1999-80 (H 870) amends G.S. 7A-273 to allow magistrates to accept such waivers for a narrow, additional set of offenses, namely, misdemeanors involving violation of a county ordinance regulating the use of dune or beach buggies at the beach.

Evidence

Privileges. The General Assembly created two evidentiary privileges this session. S.L. 1999-267 (S 1009) enacts a new statute, G.S. 8-53.9, establishing a qualified privilege against disclosure of any information, documents, and other items obtained or prepared by a journalist while acting in that capacity. A person seeking to compel a journalist to reveal such information may overcome the privilege if he or she establishes that the information is relevant and material to the legal proceeding, cannot be obtained from an alternate source, and is essential to the person’s claim or defense. An order requiring disclosure may be issued only after notice to the journalist and a hearing and must be supported by specific findings. The new statute also states that the privilege does not protect information, documents, or other items obtained as the result of the journalist’s eyewitness observations of criminal or tortious conduct, including any visual or audio recording of the observed conduct.

S.L. 1999-374 (S 995) creates a second new statute, G.S. 8-53.10, protecting from disclosure communications by law enforcement employees and their immediate families to police peer counselors during counseling. Disclosure of privileged communications is permissible if the employee authorizes disclosure or a judge of the court in which the case is pending finds that disclosure is necessary to a proper administration of justice. The new statute also identifies certain circumstances in which the privilege does not apply—for example, if the communication concerns a violation of criminal law. The new statute states that the privilege is not grounds for failing to report child abuse or neglect or the need of a disabled adult for protective services; nor is the privilege grounds for excluding evidence concerning those matters in any judicial proceeding related to such a report.

Impeachment by Prior Conviction. Rule 609(a) of the North Carolina Rules of Evidence has provided that, for purposes of impeaching a witness—that is, attacking his or her credibility—evidence of a prior conviction of a crime punishable by more than sixty days confinement is admissible. S.L. 1999-79 (H 818) modifies Evidence Rule 609(a) to allow impeachment by a conviction of any felony or any Class A1, Class 1, or Class 2 misdemeanor; the language requiring a minimum term of confinement is deleted.

This change has one, possibly two effects. First, by including Class 2 misdemeanors, the rule expands the offenses that may be used for impeachment purposes. Since implementation of structured sentencing in 1994, offenses classified as Class 2 misdemeanors have not been a proper subject of impeachment under Rule 609 because they are punishable by up to but not more than sixty days confinement.

Second, the revised rule may bar impeachment by misdemeanor offenses that are not subject to structured sentencing, the main one being misdemeanor impaired driving under G.S. 20-138.1. The punishment for this offense may include confinement of more than sixty days. But in light of

the rule's revised language, which makes offense classification and not length of confinement the criterion for impeachment by a prior conviction, the rule may be interpreted as barring use of these offenses for impeachment purposes.⁴

The act is silent about convictions of misdemeanors committed before the effective date of structured sentencing, which also have no classification. For purposes of determining a person's sentence under structured sentencing, a prior conviction is classified according to its classification at the time the current offense was committed. This principle may potentially apply to the use of prior convictions for impeachment purposes.

Admissibility of Records Stored on CD-ROM. Generally photographic reproductions of records are as admissible in legal proceedings as the originals of the records. S.L. 1999-131 (S 1021), as amended by S.L. 1999-456 (H 162), Section 47, revises several statutes to clarify that records stored on permanent, computer-readable media, such as CD-ROM, are admissible if not subject to erasure or alteration. The affected statutes are G.S. 8-45.1 (business records), G.S. 8-45.3 (Department of Revenue records), G.S. 8-34 (official writings), G.S. 153A-436 (county records), and G.S. 160A-490 (city records).

Law Enforcement

Traffic Law Enforcement Statistics. Concerned about possible racial profiling in the stopping of vehicles—that is, the stopping of vehicles based on the race or ethnicity of the drivers or passengers—the General Assembly passed legislation requiring the Department of Justice to collect information on traffic stops made by state law enforcement officers, such as the North Carolina State Highway Patrol. Effective for law enforcement actions occurring on or after January 1, 2000, S.L. 1999-26 (S 76) amends G.S. 114-10 to require the Division of Criminal Statistics of the Department of Justice to keep fourteen different categories of information on traffic stops, including among other things the number of drivers stopped for routine traffic enforcement; the race, age, and sex of the drivers stopped; the alleged traffic violations that led to the stops; whether or not searches were instituted; and whether the officers used force against the drivers or passengers. This information also must be collected in connection with vehicle stops at impaired-driving checkpoints and other roadblocks conducted by state law enforcement officers if the stops result in warnings, searches, seizures, arrests, or certain other listed actions.

The act does not specify the persons entitled to obtain the information collected. Generally, however, unless a specific statutory exception exists, records maintained by state and local government agencies are public records.

Tracing of Firearms. S.L. 1999-225 (H 1192) requires the Division of Criminal Statistics to collect data to trace firearms seized, forfeited, found, or otherwise in the possession of any law enforcement agency that are believed to have been used in the commission of a crime.

Arrest on Private Premises. G.S. 15A-401(e)(1) has provided that officers seeking to enter private premises or a vehicle to arrest a person must have in their possession a warrant or order for arrest (unless the officers are authorized to enter without a warrant). S.L. 1999-399 (H 685) modifies this statute to allow an officer who is in possession of a copy of a warrant or arrest order to enter such areas if the original warrant or order is in the possession of a law enforcement agency in the county where the officer is employed and the officer verifies that the warrant is current and valid.

4. G.S. 14-3(a) contains a default provision, based on length of imprisonment, for misdemeanors that do not have a specific classification under structured sentencing. Thus under G.S. 14-3(a), an offense is considered a Class 1 misdemeanor if the maximum punishment is more than six months imprisonment, a Class 2 misdemeanor if the maximum punishment is more than thirty days but not more than six months imprisonment, and a Class 3 misdemeanor if the maximum punishment is thirty days imprisonment or less or a fine. This provision may be inapplicable to misdemeanor impaired driving, however, because G.S. 15A-1340.10 expressly excludes that offense from the operation of structured sentencing.

No changes were made to the rules on service of arrest warrants. Consequently, under G.S. 15A-301, it appears that officers still must serve the original or a certified copy of the warrant on the defendant after he or she is arrested. The authority of officers to make arrests in public places is also not affected. Under G.S. 15A-401(a)(2) an officer who knows that an arrest warrant has been issued may arrest a person in a public place whether or not the officer has the warrant (original or copy) in his or her possession. The warrant must thereafter be properly served on the person arrested.

Warrantless Arrests. G.S. 15A-401(b) has provided that in certain circumstances an officer may arrest a person without a warrant for a misdemeanor committed out of the officer's presence. S.L. 1999-23 expands this authority to cover additional misdemeanors involving acts of domestic violence. These changes are part of the recommendations of the Governor's Task Force on Domestic Violence, discussed in Chapter 6 (Courts and Civil Procedure).

Community College Law Enforcement Agencies. S.L. 1999-68 (H 477) adds new G.S. 115D-21.1, authorizing community colleges to establish campus law enforcement agencies and to employ campus police officers. These officers have the same powers as campus officers at constituent institutions of The University of North Carolina (authorized under G.S. 116-40.5). The territorial jurisdiction of such officers extends to property owned by or leased to the college employing them and to public roads running through or adjoining the property. A community college also is authorized to enter into joint agreements with municipalities and counties to extend the law enforcement authority of campus officers into those areas.

McGruff House Volunteers. Effective June 25, 1999, S.L. 1999-214 (S 1068) amends G.S. 114-19.9 to allow local law enforcement agencies to obtain criminal record checks of volunteers for the McGruff House Program in their communities and of persons eighteen years of age or older who live in a volunteer's household. The criminal record check may be conducted only with the consent of the person whose record is to be checked. Refusal to give consent is considered a withdrawal of the application to be a volunteer, and information obtained by the local law enforcement agency must be kept confidential.

Victims' Rights

The 1999 session produced two acts dealing with victims' rights. One, S.L. 1999-269 (H 290), changes the procedures for awarding compensation to crime victims and is discussed in Chapter 22 (Sentencing, Corrections, Prisons, and Jails).

The other, S.L. 1999-169 (H 975), deals with the Crime Victims' Rights Act, enacted in 1998. G.S. 15A-839 and -840 provide that the Crime Victims' Rights Act does not create any claim for damages against the state or any county or municipality; further, the failure to provide a right or service under the Crime Victims' Rights Act may not be used by a defendant or a victim as a ground for relief in any criminal or civil case, although a victim may bring a suit for a writ of mandamus to compel compliance with the act's requirements. These statutes are amended to clarify that they also bar claims concerning the adequacy of services provided through the Statewide Automated Victim Assistance and Notification System (SAVAN), a computerized system for keeping victims informed of developments in their cases.

Collateral Consequences

This section discusses legislation concerning the collateral consequences of a criminal conviction—that is, those legal consequences that flow from a conviction but are not necessarily imposed by the court at the time of sentencing in the criminal case. [Some collateral consequences are discussed above under “Explosives and Firearms” and “Offenses Concerning Schools.” Legislation concerning sentencing is discussed in Chapter 22 (Sentencing, Corrections, Prisons, and Jails).]

Sex Offender Registration. Effective for offenses committed on or after December 1, 1999, S.L. 1999-363 (S 331) modifies the sex offender registration laws. Under those laws, a person with a “reportable conviction” as defined in G.S. 14-208.6(4), which covers certain sex offenses and offenses against minors, must register with the sheriff of the county in which the person resides. The act amends that statute to include within the definition of *reportable conviction* solicitation and conspiracy to commit the listed offenses and aiding and abetting any of the listed offenses.⁵ Previously the definition covered only completed offenses and attempts. The amended statute also provides that a final conviction of aiding and abetting is to be treated as a reportable conviction only if the sentencing court finds that registration of the person would further the purposes of the registration laws.

The act makes similar changes to the juvenile sex offender registration laws. Those laws provide that a court may require a juvenile to register if adjudicated delinquent of certain offenses (first- or second-degree rape, first- or second-degree sex offense, or attempted rape or sex offense). Effective for offenses committed on or after December 1, 1999, the act expands the list of offenses potentially requiring registration by including conspiracy, solicitation, and aiding and abetting as well as completed or attempted offenses.

Forfeiture of Succession Rights of Slayer. S.L. 1999-296 (S 176) modifies the laws dealing with the succession rights of “slayers,” which bar a person convicted of a willful and unlawful killing of another person from acquiring any property from that person’s estate. The amendments to G.S. 31A-4 do not change this general rule, but they modify the succession rights of others, such as children of slayers. The act applies to the estates of persons who die on or after October 1, 1999.

Local Bills

As in past sessions, the General Assembly enacted several criminal laws affecting only parts of the state.

Photographic Images of Traffic Violations. In 1997 the General Assembly authorized the city of Charlotte to enforce violations of G.S. 20-158—essentially failures to stop at intersections—by use of traffic control photographic systems. The 1997 act provided that the owner of the vehicle was responsible for a violation detected by a photographic system unless he or she could furnish evidence that the vehicle was in the care, custody, or control of another person at the time of the violation. A violation detected by these means was designated as a noncriminal violation of law, punishable by a civil penalty of \$50.

This session the General Assembly extended this power to the following additional areas: the cities of Fayetteville, Greensboro, High Point, Rocky Mount, and Wilmington and the towns of Cornelius, Huntersville, and Matthews. To take advantage of this law, the municipality must adopt an ordinance authorizing use of a traffic control photographic system. The amended law also requires that warning signs be posted no more than 300 feet from the location of a photographic system and provides that a violation detected by such a system may not result in any insurance points. The changes appear in S.L. 1999-17 (H 50) and S.L. 1999-181 (H 426), as amended by S.L. 1999-456, Section 48, which have various effective dates.

Electronic Collars. Effective for offenses committed on or after December 1, 1999, S.L. 1999-51 (H 371) extends to several additional counties the crime of unlawfully removing or destroying an electronic dog collar, a Class 3 misdemeanor for a first conviction and a Class 2 misdemeanor for a second or subsequent conviction. The additional counties are Brunswick, Buncombe, Cherokee, Clay, Columbus, Davidson, Graham, Madison, Mecklenburg, Mitchell,

5. The act also expands the definition of “offense against a minor.” Previously a conviction for an offense against a minor was subject to the registration laws only if the person committing the offense was not the minor’s parent or legal custodian. Under the revised definition, the term continues to exclude acts committed by a parent but not acts committed by a legal custodian.

New Hanover, and Yancey. The act brings to thirty-five the number of counties covered by the law (contained in G.S. 14-401.17).

Fraudulent Ambulance Request. Effective for offenses committed on or after December 1, 1999, S.L. 1999-64 (S 652) extends to Durham County the crime of obtaining ambulance services without intending to pay for them, a Class 2 misdemeanor, and the crime of making unneeded ambulance requests, a Class 3 misdemeanor. The Class 2 misdemeanor, described in G.S. 14-111.2, will now apply to forty-two counties, and the Class 3 misdemeanor, described in G.S. 14-111.3, will now apply to nineteen counties.

John Rubin