2015 Legislation Affecting Criminal Law and Procedure

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Below are summaries of 2015 legislation affecting criminal law and procedure. To obtain the text of the legislation, click on the link provided below or go to the North Carolina General Assembly's website, www.ncleg.net. (Once there, click on "Session Laws" on the right side of the page and then "2015-2016 Session" under "Browse Session Laws.") Be careful to note the effective date of each piece of legislation.

1. **S.L. 2015-5 (S 78): State correctional officers may carry concealed weapon when off-duty.** This session law adds a new subdivision (7) to G.S. 14-269(b), effective December 1, 2015, to provide that a state correctional officer may carry a concealed weapon when off-duty as long as the officer is not carrying the weapon while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the officer's body. If the concealed weapon is a handgun, the officer must meet the firearms training standards of the Division of Adult Correction of the Department of Public Safety.

2. **S.L. 2015-16 (H 91): Study misuse of handicapped windshield placards.** The Division of Motor Vehicles is required to study ways to decrease the misuse of handicapped windshield placards. The study must include the cost, feasibility, and advisability of (1) requiring the inclusion of more personal identifying information on the placard, including the handicapped person's picture; (2) linking the placard to the handicapped person's driver's license or identification card; and (3) linking the placard to a license plate. The DMV must report its findings and recommendations to the Joint Legislative Transportation Oversight Committee by January 15, 2016.

3. **S.L. 2015-18 (H 601): Allow lawful sale of deer skins.** Amended G.S. 113-291.3(b), effective for deer lawfully taken on or after October 1, 2015, allows the skin of deer lawfully taken by hunting to be possessed, transported, bought, or sold, subject to tagging and reporting requirements and any season limits set by the Wildlife Resources Commission.

4. **S.L. 2015-25 (H 79): Clarify contempt remedy for violation of civil no-contact order.** Amended G.S. 50C-10 provides that a knowing violation of a civil no-contact order (which involves stalking or nonconsensual sexual conduct) is punishable by civil or criminal contempt under Chapter 5A of the General Statutes. The current statute simply states that a violation is punishable as contempt of court. This session law is effective for orders entered on or after October 1, 2015.

5. **S.L. 2015-26 (H 102): Authorize law enforcement officers and others to operate utility vehicles on certain public highways; include refuse, solid waste, or recycling vehicles to move-over law.** This session law amends G.S. 20-171.23 (motorized all-terrain vehicle may be operated by law enforcement officers and others on certain highways) and G.S. 20-171.24 (motorized all-terrain vehicle may be operated by city and county employees on certain highways) to add as an authorized vehicle a "utility vehicle" as defined in G.S. 20-4.01(48c), which is a motor vehicle designed for off-road use and used for general maintenance, security, agricultural, or horticultural purposes. G.S. 20-171.24 is also amended to make the statute applicable statewide; the current statute is limited to specified towns, cities, and counties. These provisions are effective May 21, 2015.

   The session law also amends G.S. 20-157(f), commonly known as the move-over law that is applicable when there is an emergency vehicle parked or standing within 12 feet of the roadway and giving a warning signal, to include a vehicle that is being used for collection of refuse, solid waste, or

recycling. This amendment is effective for offenses committed on or after October 1, 2015.

6. **S.L. 2015-31 (S 90): Motor vehicles must have at least one brake light on each side of rear of vehicle.** Amended G.S. 20-129(g) and G.S. 20-129.1, effective for offenses committed on or after October 1, 2015, make clear that motor vehicles must be equipped with stop lamps, commonly known as brake lights, one on each side of the rear of the vehicle (however, a motorcycle only needs one stop lamp). This session law effectively overrules *State v. Heien*, 214 N.C. App. 515 (2011), which ruled that G.S. 20-129(g) only requires one stop lamp.

   S.L. 2015-241 (H 97) makes clear that, effective for offenses committed on or after October 1, 2015, a motor vehicle manufactured after December 31, 1955, and on or before December 31, 1970, must be equipped with a stop lamp in the rear of the vehicle.

7. **S.L. 2015-29 (H 434): No medical recertification for renewal of removable windshield handicapped placard if totally and permanently disabled.** Amended G.S. 20-37.6(c1), effective July 1, 2016, provides that medical recertification is not required for renewals of removable windshield handicapped placards if the person is certified as totally and permanently disabled.

8. **S.L. 2015-32 (H 659), as amended by S.L. 2015-264 (S 119): Add types of prior convictions for Class H felony offense of possessing pseudoephedrine.** Amended G.S. 90-95(d1)(1)c. adds the types of prior convictions to support the Class H felony offense of possession of pseudoephedrine to include possession with intent to sell or deliver methamphetamine, trafficking methamphetamine, and possession of an immediate precursor chemical (current law only includes prior convictions of possession or manufacture of methamphetamine). Additional precursor chemicals are added to the list set out in G.S. 90-95(d2). The Joint Legislative Oversight Committee on Justice and Public Safety is authorized to study the current state and federal law regarding the authority of state agencies to schedule controlled substances without legislative action and the procedure to schedule or reschedule. This session law is effective December 1, 2015, and applies to offenses committed on or after that date.

9. **S.L. 2015-36 (S 445): New provisions to protect clients of facilities providing care, treatment, habilitation, or rehabilitation of people with mental illness, developmental disabilities, or substance abuse disorders.** Amended G.S. 122C-66(a) increases from a Class 1 misdemeanor to a Class A1 misdemeanor when an employee or volunteer at a facility knowingly causes pain or injury to a client other than as a part of a generally accepted medical or therapeutic procedure. New G.S. 122C-66(a1) provides that an employee or volunteer at a facility who borrows or takes personal property from a client commits a Class 1 misdemeanor. Amended G.S. 122C-66(b) increases the punishment from a Class 3 misdemeanor to a Class 1 misdemeanor when an employee or volunteer at a facility witnesses or knows of a violation of subsections (a) or (a1) of G.S. 122C-66 or an accidental injury to a client and fails to report it to authorized personnel designated by the facility. New G.S. 122C-66(b1) provides that an employee or volunteer at a facility who witnesses a client become a victim of a violation of Article 7A (rape and other sex offenses) or Article 26 (offenses against public morality and decency) of Chapter 14 must report the violation within 24 hours to the county department of social services, the district attorney, or local law enforcement agency. A failure to report is a Class A1 misdemeanor. All of these provisions are effective for offenses committed on or after December 1, 2015.

10. **S.L. 2015-40 (H 224): Provisions concerning conditional discharge and deferred prosecution.** This session law revises G.S. 15A-150(a), effective for conditional discharges granted on or after

December 1, 2015, to add a new subdivision (a)(6) to require the clerk of superior court to file with the Administrative Office of the Courts (AOC), as soon as practicable after each court term, the names of people granted a dismissal on completion of a conditional discharge under G.S. 14-50.29, 14-204, 14-313(f), 15A-1341(a4), 90-96, or 90-113.14. The substantive change is adding to G.S. 15A-150(a) the citations to G.S. 14-313(f) (conditional discharge for offenses involving youth access to tobacco products) and G.S. 15A-1341(a4) (conditional discharge for certain Class H and I felonies and misdemeanors), because the other statutory provisions are currently listed in G.S. 15A-150(a)(2), (a)(3), and (a)(5), but are moved to new subdivision (a)(6). Amended G.S. 15A-1342(a1), effective July 1, 2015, clarifies that a court may order the Community Corrections Section to supervise an offender's compliance with the terms of any conditional discharge or deferred prosecution agreement (current law is limited to a discharge or agreement entered into under G.S. 15A-1341(a1), (a3), or (a4)). Amended G.S. 15A-151(a)(4), effective July 1, 2015, includes an expunction under G.S. 15A-145.6 (expunction for certain prostitution convictions) to the AOC's authority to disclose certain expunctions to state and local law enforcement agencies for employment purposes.

11. **S.L. 2015-41 (H 295): Division of Juvenile Justice may determine whether it is appropriate to release certain information about escaped delinquent juvenile.** Amended G.S. 7B-3102(a), effective May 29, 2015, provides that the Division of Juvenile Justice, Department of Public Safety, may release, if appropriate (currently law is mandatory), a statement about an escaped juvenile delinquent to the public concerning the Division's level of concern about the juvenile's threat to himself or herself or others. The determination whether to release this information must be made by the Division's Deputy Commissioner or his or her designee.

12. **S.L. 2015-43 (H 82): Court may authorize officer, when executing a nonsecure custody order alleging abuse, neglect, and dependency, to enter private property and make a forcible entry.** Amended G.S. 7B-504 allows a court—if it finds based on a petition alleging abuse, neglect, or dependency or the petitioner's testimony that a less intrusive remedy is unavailable—may authorize a law enforcement officer to enter private property to take physical custody of the juvenile. If required by exigent circumstances, the court may authorize an officer to make a forcible entry at any hour. This session law is effective for orders issued on or after June 2, 2015.

13. **S.L. 2015-44 (H 113): Increase criminal punishment for sex offenses committed against a student by school personnel other than teacher and others.** Amended G.S. 14-27.7(b) (school personnel, other than teacher, school administrator, student teacher, school safety officer, or coach, who is less than four years older than student victim, commits vaginal intercourse with student), recodified later as G.S. 14-27.32(b) by S.L. 2015-181, increases the punishment from a Class A1 misdemeanor to a Class I felony. This provision is effective for offenses committed on or after December 1, 2015. [Note: Although this punishment change was not carried forward in the statutory language in new G.S. 14-27.32(b), as recodified by S.L. 2015-181, it still became law based on the provisions of G.S. 120-20.1(b1).]

    Amended G.S. 14-202.4(b) (school personnel, other than teacher, school administrator, student teacher, school safety officer, or coach, who is less than four years older than student victim, takes indecent liberties with student) increases the punishment from a Class A1 misdemeanor to a Class I felony. Amended G.S. 14-202.4(d) provides that the definition of "school personnel" includes those employed by a nonpublic, charter, or regional school. This provision is effective for offenses committed on or after December 1, 2015.

    Amended G.S. 14-208.15 (sex offender registration), effective December 1, 2015, provides that on request of an institution of higher education, the sheriff of the county in which the institution is

located must provide registry information for any registrant who has stated he or she is a student or employee or expects to become one. Sets out additional provisions about a report of information from the registry.

14. **S.L. 2015-47 (H 294): Criminal offense to provide a cell phone to delinquent juvenile in custody of Department of Public Safety.** Amended G.S. 14-258.1, effective for offenses committed on or after December 1, 2015, provides that it is a Class H felony knowingly to give or sell a cell phone or other wireless communications device to a delinquent juvenile in the custody of the Division of Juvenile Justice of the Department of Public Safety. It makes clear that the offense applies to a juvenile confined in a youth development center or detention facility and also applies when the juvenile is transported to or from confinement.

15. **S.L. 2015-48 (H 570): Duty to identify outstanding arrest warrants.** Amended G.S. 15A-301.1 provides that when a person is taken into custody, the custodial law enforcement agency must attempt to identify all outstanding warrants and notify appropriate law enforcement agencies of the person's location. The same duty is imposed on a court before entering any court order in a criminal case. Newly-enacted G.S. 148-10.5 requires the Division of Adult Correction of the Department of Public Safety to work with law enforcement, district attorneys' offices, and courts to develop a process at intake and before release to identify all outstanding warrants for an inmate and to resolve them while he or she is in custody, if feasible. The inmate must be notified of the outstanding warrant and any right to counsel. This session law is effective October 1, 2015.

16. **S.L. 2015-49 (H 595): Former or current military police officers under certain circumstances may be certified as law enforcement officers without completing training course.** Newly-enacted G.S. 17C-10.1 provides that for law enforcement certification, former or current military police officers under certain circumstances are not required to complete an accredited Criminal Justice Education and Training Standards Commission training course. Amended G.S. 17C-3 adds three additional members to the Commission: (1) Director of State Bureau of Investigation; (2) Commander of State Highway Patrol; and (3) juvenile justice officer employed by the Juvenile Justice Section, to be appointed by the Governor. This session law is effective on June 3, 2015.

17. **S.L. 2015-50 (H 405): Civil action for damages when person exceeds scope of authorized access to property.** Newly-enacted G.S. 99A-2, effective for acts committed on or after January 1, 2016, provides that a person who intentionally accesses nonpublic areas of another's premises and engages in an act exceeding the person's authority to enter those areas is liable to the owner or operator of the premises for any damages sustained. A court may award one or more of the following remedies: (1) equitable relief; (2) compensatory damages as otherwise allowed by state or federal law; (3) costs and fees, including reasonable attorneys' fees; and (4) exemplary damages as otherwise allowed by state or federal law in the amount of $5,000.00 for each day or a portion of a day that a violation occurs. The session law provides that it does not apply to any governmental agency or law enforcement officer engaged in a lawful investigation of the premises or the owner or operator of the premises. It also provides that its provisions do not diminish the protections provided to employees under Article 21 (retaliatory employment discrimination) of Chapter 95 and Article 14 (protection for reporting improper government activities) of Chapter 126 of the General Statutes.

18. **S.L. 2015-58 (H 879): Various juvenile delinquency law changes.** This session law, effective for offenses committed on or after December 1, 2015, makes various changes to juvenile delinquency

law.

Custodial interrogation age change. Current G.S. 7B-2101(b) provides that when a juvenile is less than 14 years old, an in-custody admission or confession resulting from interrogation may not be admitted into evidence unless it was made in the presence of the juvenile's parent, guardian, custodian, or attorney. The session law amends this statute to make it applicable to a juvenile who is less than 16 years old.

Adjudicatory hearing. Amended G.S. 7B-2202 (probable cause hearing) and 7B-2203 (transfer hearing) provides that the adjudicatory hearing for a misdemeanor after finding no probable cause for a felony or for an offense after the court does not transfer the offense to superior court, respectively, shall be a separate hearing, and the court may continue this hearing for good cause.

Suppression motion made before adjudicatory hearing. New G.S. 7B-2408.5 provides that a motion to suppress evidence made before the adjudicatory hearing must be in writing and a copy of the motion must be served on the State. The remainder of the statute is substantially identical to G.S. 15A-977 (motion to suppress in superior court; procedure), with the following additional provisions. An order denying a suppression motion may be reviewed upon an appeal of a final order of the court in the juvenile matter. The provisions of G.S. 15A-974 (statutory exclusionary rule) are applicable to G.S. 7B-2408.5.

Preliminary inquiry by juvenile court counselor. Amended G.S. 7B-1701 provides that if a complaint against a juvenile has not been previously received, as determined by the juvenile court counselor, the counselor must make reasonable efforts to meet with the juvenile and his or her parent, guardian, or custodian if the offense is divertible.

Prosecutor make take voluntary dismissal or dismissal with leave. Amended G.S. 7B-2404 provides that a prosecutor may take a voluntary dismissal of allegations in a juvenile petition with or without leave either orally in court or by filing a written dismissal with the clerk. The statute sets out the duty to notify various people of the dismissal. If the prosecutor takes a dismissal with leave because the juvenile failed to appear in court, the prosecutor may refile the petition if the juvenile is apprehended or apprehension is imminent.

What constitutes prior adjudication for delinquency history levels. Amended G.S. 7B-2507 (delinquency history levels) provides that a prior adjudication is an adjudication of an offense that occurs before the adjudication of the offense before the court.

Extension of probation. Amended G.S. 7B-2510(c) provides that before the expiration of an order of probation, the court may extend the term for an additional period of one year, after *notice* and a hearing (current law requires a hearing but not notice). At the court's discretion, the hearing to determine to extend probation may occur after the expiration of a probation order at the next regularly scheduled court date or if the juvenile fails to appear in court. Amended G.S. 7B-2510(e) (new disposition authorized after probation violation) to provide that the court may order either (1) a new disposition at the next higher level on the disposition chart or (2) a term of confinement in a secure juvenile detention facility for up to twice the term authorized by G.S. 7B-2508, but not both as allowed under the current statute.

Dispositional order and dispositional alternatives. Amended G.S. 7B-2512 requires the court to include information when issuing a dispositional order, either orally in court or in writing, about the expunction of juvenile records as provided for in G.S. 7B-3200 that are applicable to the order (in effect, informing the juvenile about expunction when issuing the dispositional order). Amended G.S. 7B-2506(12) and (20), involving dispositional alternatives, make clear that the court determines the timing and imposition (underlined words added) of the confinement set out in the statute.

Secure custody changes. Amended G.S. 7B-1903 provides that as long as the juvenile remains in secure custody, further hearings on continued secure custody must be held at intervals of no more than 10 calendar days, but may be waived for no more than 30 calendar days only with the consent

of the juvenile through the juvenile's counsel. The order for continued secure custody must be in writing with appropriate findings of fact. The statute is also amended to provide that if the court finds there is a need for an evaluation of a juvenile for medical or psychiatric treatment under subsection (b) of the statute and the juvenile is under 10 years old and does not have a pending delinquency charge, the law enforcement officer of other authorized person assuming custody of the juvenile may not use physical restraints during the transport of the juvenile to the designated place set out in the order, unless in the officer's or other authorized person's discretion the restraints are reasonably necessary for safety reasons.

19. **S.L. 2015-62 (H 465): Miscellaneous changes-1.** This session law, called the "Women and Children's Protection Act of 2015," makes various criminal and civil changes, although not all of the civil changes will be summarized here.

Statutory rape or sexual offense changes. G.S. 14-27.7A (statutory rape or sexual offense) currently applies to a victim who is 13, 14, or 15 years old. This session law, effective for offenses committed on or after December 1, 2015, changes the age of the victim in both subsections (a) and (b) to a victim who is 15 years old or younger. It also adds a proviso to the Class C felony in subsection (b) that the offense applies unless the conduct is covered under some other provision of law providing greater punishment. [Note: G.S. 14-27.7A was later recodified in S.L. 2015-181.]

Chapters 50B (domestic violence protective orders) and 50C (civil no-contact orders) changes. New G.S. 7A-343.6, effective June 5, 2015, authorizes the Administrative Office of the Courts (AOC) to develop a program in district court for electronic filing in Chapters 50B and 50C cases. To implement the program, each chief district court judge must draft local rules and submit them to the AOC for approval. The local rules must permit the clerk of superior court to accept electronically-filed complaints requesting domestic violence protective orders under Chapter 50B or civil no-contact orders under Chapter 50C that are transmitted from a domestic violence program as defined in G.S. 8-53.12. The authorization for local rules shall be superseded by the promulgation of uniform state rules by the North Carolina Supreme Court.

The following changes are effective for documents filed and hearings held on or after December 1, 2015. Amended G.S. 50B-2 provides that all documents filed, issued, registered, or served in an action under Chapter 50B concerning an ex parte, emergency, or permanent domestic violence protective orders may be filed electronically. Hearings held to consider ex parte relief under G.S. 50B-2(c) may be held via video conference, but hearings held to consider emergency or permanent relief under G.S. 50B-2(a) or (b) shall not be held via video conference. Similar changes are made to Chapter 50C's provisions.

New non-capital sentencing aggravating factor. Amended G.S. 15A-1340.16(d) adds a new non-capital sentencing aggravating factor, applicable to offenses committed on or after December 1, 2015, when the defendant committed an offense and knew or reasonably should have known that a person under 18 who was not involved in the commission of the offense was in a position to see or to hear the offense.

Expand definition of "in the presence of a minor" in assault offense. Amended G.S. 14-33(d) (assault on person with whom defendant has personal relationship), applicable to offenses committed on or after December 1, 2015, expands the definition of "in the presence of a minor" to include a minor who was in the position to hear as well as to see the assault.

Expand domestic violence cases subject to special bail and pretrial release conditions under G.S. 15A-534.1. Amended G.S. 15A-534.1 (domestic violence cases subject to special bail and pretrial release conditions), applicable to offenses committed on or after December 1, 2015, makes subject to the statute a situation in which the victim of the enumerated crimes is a person with whom the defendant is or has been in a dating relationship as defined in G.S. 50B-1(b)(6).

Expand applicability of offense involving sex offender unlawfully on premises. Amended G.S. 14-208.18(c)(1), applicable to offenses committed on or after December 1, 2015, expands the applicability of the crime involving a sex offender unlawfully on certain premises involving minors, to a person required to register as a sex offender for any federal offense or offense committed in another state, which if committed in North Carolina, is substantially similar to an offense in Article 7A (rape and other sex offenses) of Chapter 14.

Various changes to abortion provisions. Various amendments relating to abortions are made to G.S. 14-45.1 (when abortion is not unlawful), G.S. 90-21.82 (informed consent to abortion), and G.S. 90-21.86 (procedure when medical emergency requires abortion), but they will not be summarized here.

20. **S.L. 2015-66 (H 222): Elected North Carolina Supreme Court justices subject to retention election.** New Article 1A of Chapter 7A of the General Statutes, effective June 11, 2015, provides that a justice of the North Carolina Supreme Court who was elected to that office by the voters who desires to continue in office shall be subject to approval by the voters in a retention election at the general election immediately preceding the expiration of the expired term. Approval is by a majority of the votes cast.

21. **S.L. 2015-71 (H 352): Standard of proof changed in civil lawsuit against 911 operators.** New G.S. 99E-56, effective for a cause of action arising on or after June 11, 2015, provides that in a civil action arising from any act or omission by the defendant in performing any lawful and prescribed actions concerning the defendant's assigned duties as a 911 or public safety telecommunicator or dispatcher, the plaintiff's burden of proof shall be by clear and convincing evidence (the typical burden of proof is preponderance of evidence, which is a lesser burden than clear and convincing evidence).

22. **S.L. 2015-72 (H 552): New criminal offense of graffiti vandalism.** New G.S. 14-127.1 creates the new offense of graffiti vandalism, which is defined as the unlawful writing or scribbling on, painting, defacing, etc., the walls of (1) any real property, public or private; (2) any public building or facility as defined in G.S. 14-132; or (3) any statue or monument situated in any public place. A person convicted of this offense is guilty of a Class 1 misdemeanor and shall be fined a minimum of $500 and, if community or intermediate punishment is imposed, shall be required to perform 24 hours of community service. It is a Class H felony if the defendant commits graffiti vandalism and has two or more prior graffiti vandalism convictions, if the current violation was committed after the second conviction, and the violation resulting in the second conviction was committed after the first conviction. Amended G.S. 14-132 (disorderly conduct and injuries to public buildings and facilities) adds a proviso in subsection (d) that it is a Class 2 misdemeanor unless the conduct is covered under some other provision of law providing greater punishment. This session law is effective for offenses committed on or after December 1, 2015.

23. **S.L. 2015-73 (H 574): State wildlife laws are not applicable to opossums between December 29 and January 2.** This session law, effective June 11, 2015, provides that state or local statutes, rules, regulations, or ordinances related to the capture, captivity, treatment, or release of wildlife do not apply to the Virginia opossum between December 29 of each year and January 2 of each subsequent year.

24. **S.L. 2015-74 (H 691): Felony to assault member of North Carolina National Guard discharging official duties.** New G.S. 14-34.7(a1) provides that unless covered under another provision of law

providing greater punishment, it is a Class F felony to assault a member of the North Carolina National Guard (NCNG) while he or she is discharging or attempting to discharge official duties and inflict serious bodily injury. Amended G.S. 14-34.7(c) provides that it is a Class I felony to assault a NCNG member while he or she is discharging or attempting to discharge official duties and inflict physical injury.

This session law also deleted "inflicting serious injury" from the title of G.S. 14-34.7, upon which *State v. Crawford,* 167 N.C. App. 777 (2005), relied in ruling that the State need only prove serious injury instead of the more difficult burden of proving serious bodily injury. This legislative change casts doubt on the continuing application of the *Crawford* ruling, and the State may now be required to prove serious bodily injury instead of serious injury in subsections (a), (a1), and (b) of G.S. 14-34.7.

Amended G.S. 14-34.5 provides that it is a Class E felony to assault with a firearm a NCNG member while he or she is performing duties.

This session law applies to offenses committed on or after December 1, 2015.

25. **S.L. 2015-87 (S 83): Amendments to false lien filing law involving property of public officer or employee.** This session law, effective for filings on or after October 1, 2015, adds a new subsection (b1) to G.S. 14-118.6 (filing false lien or encumbrance against public officer or employee's property) to provide when a lien or encumbrance (hereafter, lien) as described in subsection (a) is presented to the clerk of superior court for filing and the clerk has a reasonable suspicion that it is false, the clerk may refuse to file the lien. Neither the clerk nor the clerk's staff are liable for filing or refusing to file a lien. The clerk must not file, index, or docket the document against the property of a public officer or employee until that document is approved for filing by any judge of the judicial district having subject matter jurisdiction. The procedure for judicial review and court orders are set out in this new subsection.

26. **S.L. 2015-89 (S 161): North Carolina Supreme Court may hold sessions in Morganton.** Amended G.S. 7A-10(a), effective June 19, 2015, authorizes the North Carolina Supreme Court to hold sessions not more than twice annually in the City of Morganton, and unless a more suitable site is identified, the court must meet in the Old Burke County Courthouse.

27. **S.L. 2015-91 (S 60): Establishing permanent civil no-contact order against sex offender on behalf of crime victim.** This session law adds new Chapter 50D to the General Statutes to authorize a civil action in district court to obtain a permanent civil no-contact order against a person who committed a sex offense, defined as any criminal offense that requires sex offender registration under Article 27A of Chapter 14. The permanent no-contact order is a permanent injunction for the lifetime of the offender that prohibits any contact by the offender with the victim of the sex offense for which the offender has been convicted. The civil action may be brought by the victim or an adult residing in the state on behalf of a minor victim or an incompetent adult for a sex offense that occurred in the state. This new law sets out the required court findings before issuing the permanent no-contact order and types of relief that the court may grant, all related to no contact with the victim. A victim may file a motion for contempt for a violation of the order. A person who knowingly violates a court order is guilty of a Class A1 misdemeanor. A law enforcement officer must arrest a person, with or with a warrant or other process, if the officer has probable cause that the person knowingly has violated a non-contact order. The Administrative Office of the Courts must develop forms to implement the processes established by this new law, including amending the Rules of Recordkeeping to require the clerk of superior court to retain the records of an action filed under the law. The provisions described above are effective October 1, 2015.

Amended G.S. 14-50.43(d), effective June 19, 2015, (court order involving criminal street gangs) provides that a court order, which expires one year after entry, may be extended by the court for good cause established by the plaintiff after a hearing.

28. **S.L. 2015-94 (S 154): Amendments to immunity provisions for drug-related and alcohol-related overdoses.** The session law is effective for offenses committed on or after August 1, 2015. Amended G.S. 90-96.2 (drug-related overdose treatment; limited immunity) provides that a person may not be prosecuted for certain drug offenses (no offense changes from current law) if all of the following exist: (1) the person sought medical assistance for another person experiencing a drug-related overdose by contacting 911, a law enforcement officer, or emergency medical services personnel; (2) the person acted in good faith when seeking medical assistance and reasonably believed that he or she was the first to call for assistance; (3) the person provided his or her own name to 911 or to an officer on arrival; (4) the person did not seek medical assistance during the course of the execution of an arrest warrant or search warrant, or other lawful search; and (5) the evidence for prosecution of the offense was obtained as a result of the person seeking medical assistance for the drug-related overdose. Immunity also is extended to the overdose victim if all but (3), above, are satisfied. A person is not subject to arrest or revocation of pretrial release, probation, parole, or post-release if the arrest or revocation is based on the offense for which the person has immunity from prosecution. A law enforcement officer is not subject to civil liability when he or she in good faith arrests or charges a person later determined to be entitled to immunity under the statute. Amended G.S. 18B-302.2 (alcohol-related overdose treatment; limited immunity) makes similar changes as described above. Amended G.S. 90-106.2 provides that a pharmacist: (1) may dispense an opioid antagonist to a person with an opiate-related overdose pursuant to a prescription issued under the conditions set out in subsection (b) of the statute; and (2) is immune from civil or criminal liability for an authorized action.

29. **S.L. 2015-97 (H 560): Felony to assault hospital personnel and healthcare providers.** Amended G.S. 14-34.6(a)(3), effective for offenses committed on or after December 1, 2015, provides that it is a Class I felony to assault and cause physical injury to hospital personnel and licensed healthcare providers who are providing or attempting to provide health care services to a patient in a hospital. The current statute describes the victims as "emergency department personnel: physicians, physician assistants, nurses, and licensed nurse practitioners."

30. **S.L. 2015-98 (H 909): Various changes to Alcohol Beverage Control Commission laws.** This session law makes various ABC law changes. (1) The sale of antique spirituous liquor is authorized and regulated, effective on the adoption (no later than September 1, 2015) of temporary rules by the ABC Commission. (2) Amended G.S.18B-102, effective June 19, 2015, makes it a Class 1 misdemeanor when a person manufactures, sells, transports, consumes, possesses, etc., powdered alcohol, which is defined in amended G.S. 18B-101. (3) Effective June 19, 2015, the Eastern Band of Cherokee Indians tribal alcoholic beverage control commission is authorized to issue wine shipper permits and commercial ABC permits, and it is made clear that the commission maintains the exclusive authority to issue certain permits. (4) Distillery permit holders are authorized to sell spirituous liquor distilled on premises to visitors of the distillery for consumption off the premises, effective on the adoption (no later than October 1, 2015) of temporary rules by the ABC Commission. (5) Effective June 19, 2015, certain ABC permittees are allowed to sell cider in certain containers for consumption off the permitted premises and technical changes are made to the laws concerning the sale of malt beverages in growlers. (6) Effective June 19, 2015, alternating proprietorships for breweries are authorized. (7) Effective June 19, 2015, the holder of a brewery

permit is allowed to sell malt beverages to a nonresident wholesaler if the malt beverages are shipped from the brewery to licensed wholesalers. (8) Effective June 19, 2015, the ABC Commission is authorized to issue guest room cabinet permits to certain 18-hole golf courses.

31. **S.L. 2015-105 (S 212): Retired law enforcement officer's qualifications for concealed handgun permit.** Amended G.S. 14-415.12A, effective October 1, 2015, provides that a person applying for a concealed handgun permit who is a qualified retired law enforcement officer and has met the standards for handgun qualification for active officers within the last 12 months satisfies the requirement that an applicant successfully complete an approved firearms safety and training course.

32. **S.L. 2015-108 (S 621): Division of Motor Vehicles may send vehicle registration renewal notification by e-mail to owner.** Amended G.S. 20-66(a) provides that upon receiving written consent from the vehicle owner, the Division of Motor Vehicles may send the required notice of renewal of a vehicle registration electronically to an e-mail address provided by the owner. A similar provision is added to G.S. 105-330.5(b) so the Property Tax Division of the Department of Revenue or a third-party contractor may send by e-mail a copy of the combined tax and registration notice for a registered classified motor vehicle. This session law is effective January 1, 2016.

33. **S.L. 2015-123 (S 578): Transfer of abuse and neglect investigations in child care facilities to Division of Child Development and Early Education in Department of Health and Human Services.** This session law, effective January 1, 2016, transfers investigations of child abuse and neglect occurring in a child care facility from a county social services department to the Department of Health and Human Services (hereafter, Department), Division of Child Development and Early Education. New G.S. 110-105.3 describes the investigative authority as applicable to instances of child maltreatment in child care facilities. Child maltreatment is defined as any act or series of acts of commission or omission by a caregiver that results in harm, potential for harm, or threat of harm to a child, including physical, sexual, and psychological abuse, failure to provide for the physical, emotional, or medical well-being of a child, and failure to properly supervise children that results in exposure to potentially harmful environments. The statute sets out in detail the investigative duties and responsibilities of the Department and others, including requiring the Department to contact law enforcement when the report alleges maltreatment that would be considered misdemeanor or felony child abuse. The Department may also request the assistance of local law enforcement or a county department of social services. New G.S. 110-105.4 requires that any person who has cause to suspect that a child in a child care facility had been maltreated or has died as the result of maltreatment in a child care facility, must report the maltreatment to the Department (and not the county department of social services), and specifies the content of the report and that it may be made orally, by telephone, or in writing. The Department must notify the State Bureau of Investigation within 24 hours or on the next workday on receiving a report of maltreatment involving sexual abuse of a child in a child care facility or of suspecting sexual abuse occurred there when assessing a report based on different maltreatment grounds. New G.S. 110-105.5 requires the Department to establish and maintain a Child Maltreatment Registry containing the names of all caregivers who have been confirmed by the Department of having maltreated a child in a child care facility. New G.S. 110-105.6 sets out penalties for child maltreatment in child care facilities, including (1) that child maltreatment is a violation of Article 7 of G.S. Chapter 110, licensure standards, and licensure laws; (2) various departmental administrative actions, including summary suspension, revocation of a facility's child care license, and placement on the Child Maltreatment Registry; and (3) unannounced visits by the Department to determine whether corrective action by the facility has

occurred.

34. **S.L. 2015-124 (H 55): North Carolina State University included in law permitting fireworks.** Amended G.S. 14-410(a1)(3) and 14-413, effective Jun 29, 2015, permit fireworks on lands or buildings in Wake County owned by The University of North Carolina or North Carolina State University.

35. **S.L. 2015-125 (H 148): Moped owners must have insurance.** Various provisions of G.S. Chapters 20 and 58 are amended, effective for offenses committed on or after July 1, 2016 (note the year in this date) as follows: They provide that in order to register a moped, a person must have proof of financial responsibility for the operation of the moped, which requires proof of a person's ability to respond to damages for liability in the same amounts required for operators of other types of motor vehicles. Because the financial responsibility requirement is tied to the registration requirement, liability insurance covering the operation of the moped is only required if the moped is to be operated on a street or highway. The Rate Bureau does not promulgate rates for liability insurance or theft and physical damage insurance on mopeds. Instead rates are regulated through Article 40 of Chapter 58. Moped liability insurance or theft and physical damage insurance may, however, be added as an endorsement to a liability and physical damage policy issued for another type of motor vehicle. In addition, liability insurance on mopeds cannot be ceded to the reinsurance facility.

    Amended G.S. 20-286(10), effective July 1, 2015, clarifies that the sale and manufacture of mopeds is not subject to the motor vehicle dealers and manufacturers licensing law. Amended G.S. 20-53.4, effective July 1, 2015, provides that a moped owner is not required to apply for, and the Division of Motor Vehicles is not required to issue, a certificate of title.

36. **S.L. 2015-135 (S 423): Application for limited learner's permit and provisional driver's license by minor in legal custody of social services department.** Amended G.S. 20-11(i), effective October 1, 2015, adds to the list of people other than the applicant who may sign an application for a limited learner's permit or provisional driver's license by a person under 18 years old, with respect to a minor in the legal custody of a county social services department, to include a guardian ad litem and the director of the department, among others.

37. **S.L. 2015-141 (S 286): Electronic cigarettes, cigars, etc., regulated.** New G.S. 14-401.18A, effective for offenses committed on or after December 1, 2015, makes it a Class A1 misdemeanor for any person, firm, or corporation to sell, offer for sale, or introduce into commerce in North Carolina (1) an e-liquid container unless the container has child-resistant packaging; and (2) an e-liquid container for an e-liquid product containing nicotine unless the packaging states the product contains nicotine. The statute defines "child-resistant packaging," "e-liquid" (liquid product, whether or not containing nicotine, intended to be vaporized and inhaled as vapor product), "e-liquid container" (container of e-liquid but term excludes container holding liquid intended for use in vapor product if container is pre-filled and sealed by manufacturer and not intended to be opened by consumer), and "vapor product" (term includes e-cigarette, e-cigar, e-cigarillo, and e-pipe). A violator of these provisions is liable in damages to any person injured as a result of the violation.

38. **S.L. 2015-144 (H 640): Wildlife law changes.** This session law makes several changes affecting wildlife laws, but this summary will focus on just two of them. Amended G.S. 113-276.3(d), effective October 1, 2015, adds a third or subsequent conviction of G.S. 14-159.6(a) (trespass on posted property to hunt, fish, or trap without written permission) to the list of offenses for which there is a two-year license or permit suspension. Current G.S. 103-2 prohibits hunting on Sunday except in

defense of one's property and under other limited exceptions. Amended G.S. 103-2, effective October 1, 2015, adds a provision to provide that a landowner or member of the landowner's family, or any person with the landowner's permission, may hunt with firearms on Sunday on the landowner's property, except for the following Sunday limitations (1) hunting between 9:30 a.m. and 12:30 p.m.is prohibited, except on controlled hunting preserves; (2) hunting of migratory birds is prohibited; (3) using a firearm to take deer that are run or chased by dogs is prohibited; (4) hunting within 500 yards of a place of worship or accessory structure or within 500 yards of a residence not owned by the landowner is prohibited; and (5) hunting in a county with a population greater than 700,000 people is prohibited. A violation of G.S. 103-2 remains a Class 3 misdemeanor. Amended G.S. 153A-129 allows a county to adopt an ordinance (with certain required provisions) prohibiting hunting on Sunday as allowed under G.S. 103-2, but the ordinance cannot take effect until October 1, 2017.

39. **S.L. 2015-145 (H 255): Building code enforcement changes.** This session law, effective October 1, 2015, makes many changes concerning the North Carolina Building Code, but only a few will be summarized here. Amended G.S. 153A-352 (county) and 160A-412 (city) require that (1) inspections be done "in a timely manner" (quoted words added); and (2) inspectors must conduct all inspections requested by the permit holder for each scheduled inspection visit when performing inspections as required by the state building code. For each requested inspection, the inspector must inform the permit holder when the work inspected is incomplete or otherwise fails to meet the requirements of the state residential code for one- and two-family dwellings. Amended G.S. 153A-356 (county) and 160A-416 (city), which currently make it a Class 1 misdemeanor when an inspector willfully fails to perform duties, provides that it is not a violation when the county or city, its inspection department, and inspectors accept a signed written document of compliance with the state building code or residential code for one- and two-family dwellings from a licensed architect or engineer under new G.S. 153A-352(c) or new 160A-412(c).

40. **S.L. 2015-150 (H 273): DWI changes concerning deferred prosecution and conditional discharge, expungement, and sentencing hearing when withdrawal of trial de novo appeal.** Amended G.S. 15A-1341(a), effective for an order placing a person on probation on or after December 1, 2015, provides that if the person is being placed on probation for a conviction of impaired driving under G.S. 20-138.1, subsections (a1) and (a4) (deferred prosecution and conditional discharge, respectively, for a person charged with a Class H or I felony or a misdemeanor), and subsections (a2) and (a5) (deferred prosecution and conditional discharge for drug treatment program), do not apply and the person is ineligible for deferred prosecution and conditional discharge under these provisions.

    Amended G.S. 15A-145 (expunction of misdemeanor conviction for first offender under 18), G.S. 15A-145.4 (expunction of nonviolent felony conviction for first offender under 18), and G.S. 15A-145.5 (expunction of certain nonviolent misdemeanor or felony convictions without age limitation), prohibit an expunction for any offense involving impaired driving as defined in G.S. 20-4.01(24a). These changes are effective for petitions filed or pending on or after December 1, 2015.

    Amended G.S. 20-38.7 (appeal to superior court after conviction of impaired driving and other implied consent offenses), effective for appeals filed on or after December 1, 2015, deletes the provision that required the consent of a prosecutor and superior court judge to remand a case to district court, thus making remand on this issue subject to G.S. 15A-1431 and the consent provision set out in (3), below. It also provides that when an appeal is withdrawn or a case is remanded, the district court must hold a new sentencing hearing and consider any new convictions unless one of the following conditions is met: (1) if the appeal is withdrawn under G.S. 15A-1431(c) (within 10

days of entry of district court judgment), the prosecutor has certified in writing to the clerk that there are no new sentencing factors; (2) if the appeal is withdrawn and remanded under G.S. 15A-1431(g) (before calendaring of case for trial de novo), the prosecutor has certified in writing to the clerk that there are no new sentencing factors; (3) if the appeal is withdrawn and remanded under G.S. 15A-1341(h) (after calendaring of case for trial de novo), the prosecutor has certified in writing to the clerk that he or she consents to the withdrawal and remand and that there are no new sentencing factors.

41. **S.L. 2015-152 (H 39): Criminal penalty when illegal operation of amusement device causes serious injury or death.** This session law makes several changes to laws concerning an "amusement device" (defined in G.S. 95-111.3), including increasing the civil penalties set out in G.S. 95-111.13, but this summary focuses on one criminal provision. Amended G.S. 95-113.13, effective for a violation occurring on or after December 1, 2015, provides that a person who willfully violates any provision of Article 14B of Chapter 95 of the General Statutes, which includes the illegal operation of an amusement device, and the violation causes serious injury to or death of any person is guilty of a Class E felony, which must include a fine.

42. **S.L. 2015-154 (H 766): Hemp extract exemption modified.** This session law makes several changes to the law permitting the use of hemp extract as an alternative treatment for intractable epilepsy, but this summary focuses on one criminally-related provision. Amended G.S. 90-94.1, effective for offenses committed on or after August 1, 2015, modifies the permissible amount of hemp extract as (1) composed of less than nine-tenths of one percent (current law, three-tenths of one percent) tetrahydrocannabinol by weight, and (2) composed of at least five percent (current law, ten percent) cannabidol by weight.

43. **S.L. 2015-162 (H 341): Various drugs added to Chapter 90 controlled substances lists.** This session law, effective for offenses committed on or after December 1, 2015, adds various drugs to Schedules I, V, and VI in G.S. 90-89, 90-90, and 90-94, respectively. The descriptions of the added drugs are too lengthy and numerous to be listed in this summary, except to note that multiple "NBOMe Compounds" are added to Schedule I.

44. **S.L. 2015-163 (H 6): Autocycle defined and regulated.** This session law, effective October 1, 2015, regulates autocycles under various provisions of Chapter 20 of the General Statutes. Amended G.S. 20-4.01(27) defines an "autocycle" as a three-wheeled motorcycle that has a steering wheel, pedals, seat safety belts for each occupant, antilock brakes, air bag protection, completely enclosed seating that does not require the operator to straddle or sit astride, and is otherwise manufactured to comply with federal safety requirements for motorcycles.

45. **S.L. 2015-165 (H 350): DMV to restore driver's license of person adjudicated to be restored to competency.** New G.S. 20-17.1A, effective October 1, 2015, provides that if otherwise eligible for a driver's license under G.S. 20-7 and other statutes, the Division of Motor Vehicles must restore the driver's license of a person adjudicated to be restored to competency under G.S. 35A-1130 when it receives notice from the clerk of the court in which the adjudication was made.

46. **S.L. 2015-173 (H 59): Amendments to statutes admitting reports of forensic and chemical analysis and remote testimony; no reporting provided for ex parte or emergency hearings before judge under General Statutes Chapters 50B and 50C.** Effective for notices of intent to introduce a statement or report provided by the State on or after July 31, 2015, this session law amends G.S. 8-

58.20(f) and (g) (forensic analysis report, affidavit, and statement admissible), G.S. 15A-1225.3(b) (remote testimony by forensic analyst permitted), G.S. 20-139.1(c1) (report of chemical analysis of blood or urine admissible), G.S. 20-139.1(c3) (establishing chain of custody of tested or analyzed blood or urine without calling unnecessary witnesses), G.S. 20-139.1(c5) (remote testimony permitted by analyst about results of chemical analysis of blood or urine), G.S. 90-95(g) (report of drug analysis admissible), and G.S. 90-95(g1) (establishing chain of custody of analyzed drug evidence without calling unnecessary witnesses), to provide if the defendant's attorney or a defendant, if unrepresented, fails to file a written objection as provided in these statutes, then "the objection shall be deemed waived and" the specified report, affidavit, statement, or remote testimony must be admitted into evidence (quoted language is added to each statute). Amended G.S. 7A-198 (reporting of civil trials) provides that reporting will not be provided in ex parte or emergency hearings before a judge under General Statutes Chapter 50B (domestic violence protective orders) and Chapter 50C (civil no-contact orders), effective for hearings conducted on or after July 31, 2015.

47. **S.L. 2015-176 (S 192): Electronic or fax transmission of certain orders; other changes.** Effective August 5, 2015, amended G.S. 50B-3 (domestic violence protective orders), G.S. 50C-9 (civil no-contact orders), and new G.S. 122C-210.3 (involving involuntary commitment orders) provide that law enforcement agencies must accept receipt of copies of an order issued by the court clerk by electronic or fax transmission for service on a defendant. Effective August 5, 2015, amended G.S. 122C-251(d) states "[t]o the extent feasible" (quoted words added) a city or county must provide a driver or attendant who is the same sex as the respondent to transport the respondent for an involuntary commitment matter. Within 60 days of the session law becoming effective (August 5, 2015), the Administrative Office of the Courts must solicit input from court clerks concerning the use of the term "costs" rather than "court costs" on the motor vehicle citation form, and must make changes as appropriate based on their input, but this provision does not require the replacement of citation forms until the printing of new forms is otherwise necessary.

48. **S.L. 2015-180 (H 446): Bail bondsmen amendments.** Among the changes made in this session law: (1) effective for applications for bondsman licenses filed on or after August 5, 2015, amended G.S. 58-71-50(b) raises the minimum age from 18 to 21 years old to apply as a bail bondsman or runner; and (2) effective August 5, 2015, amended G.S. 58-71-200 requires the Administrative Office of the Courts (AOC) to allow professional bondsmen, surety bondsmen, and runners with access to the AOC's real-time civil information systems (current law is limited to access to its criminal information systems).

49. **S.L. 2015-181 (H 383): Reorganize, rename, and renumber various rape and sexual offenses.** This session law reorganizes, renames, and renumbers various rape and sexual offenses, and makes conforming changes throughout the General Statutes, effective for offenses committed on or after December 1, 2015. It also contains a savings clause to permit prosecutions committed under prior laws. Only some of the many changes are included in this summary.

    The provisions of current G.S. 14-27.2 (first-degree rape) are split into new G.S. 14-27.21 (first-degree forcible rape) and G.S. 14-27.24 (first-degree statutory rape). Current G.S. 14-27.3 (second-degree rape) is recodified as G.S. 14-27.22 and renamed second-degree forcible rape.

    Current G.S. 14-27.2A (rape of a child; adult offender) is recodified as G.S. 14-27.23 and renamed statutory rape of a child by an adult. Current G.S. 14-27.7A (statutory rape or sexual offense of person who is 13, 14, or 15 years old) is recodified as G.S. 14-27.25 and renamed statutory rape of person who is 15 years of age or younger. The changes to the elements of this offense that were

made earlier in the 2015 session in S.L. 2015-62 are reflected in the new statute, and the sexual offense elements in prior G.S. 14-27.7A are recodified in new G.S. 14-27.30, which is renamed statutory sexual offense of person who is 15 years of age or younger.

Similar changes are made with the forcible and statutory sexual offense statutes as were made with the forcible and statutory rape statutes, described above.

The new codifications of rape, sexual offense, and related statutes are as follows: G.S. 14-27.20 (definitions); G.S. 20-27.21 (first-degree forcible rape); G.S. 14-27.22 (second-degree forcible rape); G.S. 14-27.23 (statutory rape of child by adult); G.S. 14-27.24 (first-degree statutory rape); G.S. 14-27.25 (statutory rape of person 15 years of age or younger); G.S. 14-27.26 (first-degree forcible sexual offense); G.S. 14-27.27 (second-degree forcible sexual offense); G.S. 14-27.28 (statutory sexual offense with child by adult); G.S. 14-27.29 (first-degree statutory sexual offense); G.S. 14-27.30 (statutory sexual offense with person 15 years of age or younger); G.S. 14-27.31 (sexual activity by substitute parent or custodian); G.S. 14-27.32 (sexual activity with student); G.S. 14-27.33 (sexual battery); G.S. 14-27.34 (no defense victim is spouse of person committing act); G.S. 14-27.35 (no presumption as to incapacity); and G.S. 14-27.36 (evidence required in prosecutions under this Article).

The two distinct offenses in current G.S. 14-27.7 (intercourse and sexual offenses with certain victims) are separated into two new statutes and renamed: G.S. 14-27.31 (sexual activity by a substitute parent or custodian) and G.S. 14-27.32 (sexual activity with a student). [Note: Although the punishment change in S.L. 2015-44 from a Class A1 misdemeanor to a Class I felony was not carried forward in statutory language in new G.S. 14-27.32, it still became law based on the provisions of G.S. 120-20.1(b1).]

50. **S.L. 2015-182 (H 397): Disposition of seized assets when person convicted of exploitation of older adult or disabled.** Current G.S. 14-112.2 and 14-112.3 allow a district attorney to apply to a court before trial to freeze or seize the assets of a defendant who may divesting himself or herself of assets that could be seized if the defendant is convicted of G.S. 14-14-112.2 (exploitation of an older adult or disabled adult). This session law, effective for offenses committed on or after October 1, 2015, specifies in detail (1) the contents and procedure involved with a court order to freeze or seize assets; and (2) how the seized assets must be handled to satisfy an order of restitution. Amended G.S. 7A-308 provides that the court fees set out in subdivision (a)(11) (concerning recording or docketing document) do not apply when the service is performed or documents are filed under G.S. 14-112.3.

51. **S.L. 2015-183 (H 134): Minor who solicits as a prostitute is immune from prosecution of solicitation of prostitution.** Amended G.S. 14-205.1, effective for violations occurring on or after August 5, 2015, provides that a minor (person under 18 years old) who solicits as a prostitute is immune from prosecution of solicitation of prostitution under this statute. Instead, the person must be taken into temporary protective custody as an undisciplined juvenile under Article 19 of Chapter 7B of the General Statutes. A law enforcement officer who takes the minor into custody must immediately report an allegation of a violation of G.S. 14-43.11 (human trafficking) and G.S. 14-43.13 (sexual servitude) to the county social services director in the county where the minor resides or is found, who must initiate an investigation into child abuse or child neglect within 24 hours.

52. **S.L. 2015-185 (H 229): Limited privilege may include driving to and from place of religious worship.** Amended G.S. 20-179.3, effective for limited driving privileges issued on or after October 1, 2015, allows driving to and from a place of religious worship.

53. **S.L. 2015-186 (H 529), as amended by S.L. 2015-264 (S 119): Punishments and revocations changed for driving while license revoked and other Chapter 20 changes.** [Note: For a more complete discussion of these two session laws in blog posts from which this summary is excerpted, see Shea Denning, *Technical Corrections Act Clarifies New DWLR Law*, North Carolina Criminal Law Blog (UNC School of Government, October 6, 2015), http://nccriminallaw.sog.unc.edu/technical-corrections-act-clarifies-new-dwlr-law/, and Shea Denning, *General Assembly Approves Relief from the Endless Loop of License Revocation,* North Carolina Criminal Law Blog (UNC School of Government, August 3, 2015), http://nccriminallaw.sog.unc.edu/general-assembly-approves-relief-from-the-endless-loop-of-license-revocation/.] This session law is effective for offenses occurring on or after December 1, 2015. There also is a savings clause for prosecutions of offenses occurring before that date.

Driving while license revoked convictions and revocations. Two types of driving while license revoked (hereafter, DWLR) currently codified in G.S. 20-28(a) are assigned to their own subsections. DWLR for impaired driving, a Class 1 misdemeanor, is codified in amended G.S. 20-28(a1). DWLR generally, a Class 3 misdemeanor, remains in G.S. 20-28(a). The punishment for driving without reclaiming a driver's license, punished as a Class 3 misdemeanor, is recodified in amended G.S. 20-28(a2) and people who are eligible for the reduced punishment under the circumstances set out in this subsection include those convicted under G.S. 20-28(a) *or* (a1). Driving after notification or failure to appear, a Class 1 misdemeanor, is recodified in new G.S. 20-28(a3).

A person convicted of DWLR under G.S. 20-28(a) will no longer be subject to a mandatory additional period of license revocation. A person convicted of violating G.S. 20-28(a1) or (a3) still will be subject to the same automatic revocation periods. A person punished for driving without a reclaimed license under G.S. 20-28(a2) is not subject to an automatic additional revocation period that exists under current law.

A person's license also is subject to automatic revocation under current G.S. 20-28.1 if the person is convicted of a motor vehicle moving offense that was committed while the person's license was revoked. These session laws amend G.S. 20-28.1(a) to provide that a violation of G.S. 20-7(a) (no operator's license), 20-24.1 (failure to appear or pay fine, penalty, or costs for motor vehicle offense), or G.S. 20-28(a) or (a2) shall not be considered a motor vehicle moving offense unless the offense occurred in a commercial motor vehicle or the person held a commercial driver's license at the time of the offense.

Ignition interlock amendment. Amended G.S. 20-17.8(f) provides that a person subject to an ignition interlock restriction who violates the restriction commits the offense of DWLR for impaired driving under G.S. 20-28(a1) and is subject to the punishment and license revocation as provided in that subsection.

DWI sentencing change. Amended G.S. 20-179(c)(2) changes the description of the DWI grossly aggravating factor as driving while one's driver's license was revoked pursuant to G.S. 20-28(a1). Thus, driving while one's license is revoked for impaired driving or violating an ignition interlock restriction both are included in this grossly aggravating factor.

54. **S.L. 2015-188 (S 345): Limit time motor vehicle can be impounded after collision.** New G.S. 20-166.3, effective for motor vehicles impounded on or after August 1, 2015, provides that a motor vehicle that is towed and stored at a law enforcement agency's direction after a collision may be held for evidence for not more than 20 days without a court order. Without such an order, the vehicle must be released to the vehicle owner, insurer, or lien holder on payment of the towing and storage fees. This new statute does not apply to a motor vehicle seized as a result of a violation of law or abandoned by the owner.

55. **S.L. 2015-190 (S 182): Automatic license plate reader systems regulated.** New Article 3D of Chapter 20 of the General Statutes, effective December 1, 2015, requires state and local law enforcement agencies using an automatic license plate reader system to adopt a written policy governing its use before the system is operational, and requires the policy to address nine issues set out in new G.S. 20-183.23. Captured plate data obtained by the system, operated by or on behalf of a law enforcement agency for law enforcement purposes, must not be preserved for more than 90 days after the date the data is captured, unless there is a preservation request complying with new G.S. 20-183.24(c) or a state or federal search warrant is issued. Captured plate data is confidential and not a public record. Data must not be disclosed except to a federal, state, or local law enforcement agency for a legitimate law enforcement or public safety purpose pursuant to a written request from a requesting agency.

56. **S.L. 2015-191 (S 183): Eliminate confinement in response to violation for misdemeanants sentenced under Structured Sentencing Act.** This session law is effective for a defendant placed on probation on or after December 1, 2015. Amended G.S. 15A-1344(d2), exempts a misdemeanant placed on probation under the Structured Sentencing Act (SSA) from the provision allowing a court, in response to a probation violation other than the commission of new criminal offense or absconding, to impose a period of confinement in response to violation (CRV) of up to 90 consecutive days. For those misdemeanants, the court may, under the amended law, impose a two- or three-day term of confinement under G.S. 15A-1343(a1)(3) in response to a technical violation (a violation other than commission of a crime or absconding) of probation. The court may not revoke probation for an affected misdemeanant until he or she has received two periods of short-term confinement, imposed either by a judge or by a probation officer through delegated authority.

    For an extensive discussion of this session law, see Jamie Markham, *No More CRV for Structured Sentencing Misdemeanants*, North Carolina Criminal Law Blog (UNC School of Government, August 13, 2015), http://nccriminallaw.sog.unc.edu/no-more-crv-for-structured-sentencing-misdemeanants/.

57. **S.L. 2015-195 (H 562): Various firearm law amendments.** This lengthy session law, which has varying effective dates, makes multiple changes to firearm laws. It also contains a savings clause for prosecutions of offenses committed before the effective dates. Not all of its provisions are summarized here.

    Carrying concealed weapon, weapon on educational property, or weapon on State Capitol. All of the following changes are effective for offenses committed on or after July 1, 2015.

    The session law adds the following people to the exemptions from the offense of carrying a concealed weapon under G.S. 14-269: (1) a district attorney may carry a concealed weapon while in the courtroom; (2) a person employed by the Department of Public Safety who has been designated in writing by the secretary of the department, possesses written proof of the designation, has a concealed weapon handgun permit or a permit considered valid under G.S. 14-415.24 (reciprocity), and there is no drug or alcohol consumption or drug or alcohol remaining in the person's body; and (3) an administrative law judge who has a concealed handgun permit or a permit considered valid under G.S. 14-415.24 (reciprocity), and there is no drug or alcohol consumption or drug or alcohol remaining in the person's body.

    The session law exempts from the offense in G.S. 14-269.4 (weapons on certain State property and in courthouses) a person who possesses in the State Capitol Building or on its grounds an ordinary pocket knife in a closed position.

    Amended G.S. 14-269.2(k) (exemption for the offense of weapons on educational property when person has concealed handgun permit or exempt from obtaining a permit) adds to the exemption

(1) a person who has a handgun concealed on the person and the person remains in the locked vehicle and only unlocks the vehicle to allow entrance or exit of another person, or (2) the person is within a locked vehicle and removes the handgun from concealment only for the time reasonably necessary to move the handgun (i) from concealment on the person to a closed compartment or container within the vehicle, or (ii) from within a closed compartment or container within the vehicle to concealment on the person. New G.S. 14-269.2(l) adds an affirmative defense to offenses in subsections (b) and (f) that the person was authorized to have a concealed weapon in a locked vehicle under subsection (k) (see above) and removed the handgun from the vehicle only in response to a situation in which a deadly weapon is justified.

Firearms at State Fair regulated. New G.S. 106-503.2, effective August 5, 2015, provides that the Commissioner of Agriculture is authorized to prohibit the carrying of firearms on the State Fairgrounds during the State Fair, with exemptions for a person (1) with a concealed handgun permit or exempt from obtaining a permit and keeping a weapon in the person's locked vehicle as specified in the statute; and (2) exempted officers under G.S. 14-269(1), (2), (3), (4), or (5).

Concealed handgun permit changes. Amended G.S. 14-415.12(b) (mandatory ground to deny concealed handgun permit), applicable to permit applications submitted on or after July 1, 2015, revises the offenses listed in subdivision (b)(8) and adds the following grounds: (1) adjudicated guilty of or received PJC or suspended sentence for misdemeanor crimes of violence under G.S. 14-33(c)(1) (assault inflicting serious injury or with deadly weapon), 14-33(c)(2) (assault on female), 14-33(c)(3) (assault on child), 14-33(d) (assault on person with personal relationship), 14-277.3A (stalking), 14-318.2 (child abuse), 14-134.3 (domestic criminal trespass), 50B-4.1 (violation of domestic violence protection order), or former 14-277.3 (stalking); (2) prohibited from possessing firearm under federal law for conviction of misdemeanor crime of domestic violence; and (3) adjudicated guilty of or received PJC or suspended sentence for assault on officer and others.

Amended G.S. 14-415.13(a), effective for applications submitted on or after October 1, 2015, requires that the sheriff must provide the application form for a concealed handgun permit electronically, and the sheriff must not request employment information, character affidavits, additional background checks, photographs, or other information unless specifically permitted by Article 54B of Chapter 14, which contains the concealed handgun permit provisions.

Amended G.S. 14-415.12(a), effective August 5, 2105, permits a person to apply for a concealed handgun permit who has been lawfully admitted for permanent residence under federal law.

Amended G.S. 14-415.15(a), effective for applications submitted on or after October 1, 2015, requires a sheriff to make a request for any records concerning the mental health or capacity of an applicant for a concealed handgun permit with 10 days of the receipt of items listed in G.S. 14-415.13 (application for permit).

Amended G.S. 14-415.23 (statewide uniformity for state and local government regulations of legally carrying concealed handgun), effective August 5, 2015, provides that a person adversely affected by any ordinance or regulation promulgated or caused to be enforced by an local government unit in violation of this statute may bring an action for declaratory and injunctive relief and for actual damages arising from the violation. A court must award the prevailing party in such an action reasonable attorneys' fees and court costs as authorized by law.

Amended G.S. 14-415.27 (expanded concealed handgun permit scope for certain public officials), effective for offenses committed on or after July 1, 2015, adds an administrative law judge and a person employed by the Department of Public Safety who has been designated in writing by the secretary of the department and possesses written proof of the designation.

Amended G.S. 14-415.21, effective for offenses committed on or after December 1, 2015, reduces the punishment for a person who has a concealed handgun permit and carries it in violation of G.S. 14-415.11(c)(8) (unauthorized to carry handgun on private premises when notice that

concealed handgun is prohibited by sign or statement by person in charge) from a Class 1 misdemeanor to an infraction with a maximum $500 fine.

Moral character modification for applicant for pistol permit; other changes. Amended G.S. 14-404 (pistol permit application), applicable for permits issued on or after December 1, 2015: (1) adds a provision that for determining an applicant's good moral character to receive a pistol permit, the sheriff shall only consider an applicant's conduct and criminal history for the five-year period immediately preceding the date of the application; and (2) requires that an application must be on a form created by the State Bureau of Investigation in consultation with the N.C. Sheriff's Association, and specifies the information that the applicant is required to submit.

Reporting of certain disqualifiers to National Instant Criminal Background Check System (NICS). New G.S. 14-409.43 (reporting to NICS), effective January 1, 2016, essentially replaces provisions of repealed G.S. 122C-54(d1) and G.S. 14-404(c1), with some additional changes. G.S. 122C-54.1 (restoration process to remove mental commitment bar) is recodified as G.S. 14-409.42. The Administrative Office of the Courts must use the sum of up to $20,000 available to it for the 2014-2015 fiscal year from the Court Information Technology Fund to comply with the changes in G.S. 14-409.43 applicable to the AOC and provide all historical records specified in the session law to the NCIS by May 31, 2019.

New fingerprint and related duties for law enforcement agencies. Amended G.S. 15A-502, effective October 1, 2015, imposes new fingerprint and related duties on law enforcement agencies.

New G.S. 15A-502(a2) requires an arresting law enforcement agency to fingerprint a person charged with the following misdemeanors and forward the fingerprints to the SBI: G.S. 14-134.3 (domestic criminal trespass), G.S. 15A-1382.1 (offenses involving domestic violence); G.S. 50B-4.1 (violation of domestic violence protection order); G.S. 20-138.1 (impaired driving); G.S. 20-138.2 (commercial impaired driving); G.S. 20-138.2A (operating commercial vehicle after consuming alcohol); G.S. 20-138.2B (operating various specialized vehicles after consuming alcohol); and G.S. 90-95(a)(3) (possessing controlled substance). For a discussion of this statute, see Jeff Welty, *Must Officers Now Arrest, Rather Than Cite, for Misdemeanor Marijuana Possession?,* North Carolina Criminal Law Blog (UNC School of Government, October 7, 2015), http://nccriminallaw.sog.unc.edu/must-officers-now-arrest-rather-than-cite-for-misdemeanor-marijuana-possession/.

New G.S. 15A-502(a3) requires an arresting law enforcement agency to cause a person charged with a crime to provide to the magistrate as much as possible of eight categories of information about the arrestee. Among them are: (1) name including first, last, middle, maiden, and nickname or alias; (2) social security number, and (3) relationship to the alleged victim and whether it is a "personal relationship" as defined by G.S. 50B-1(b).

New G.S. 15A-502(a4) requires an arresting law enforcement agency to cause a person charged with a misdemeanor assault, stalking, or communicating a threat and held under G.S. 15A-534.1 to be fingerprinted so the fingerprints can be forwarded to the SBI.

New G.S. 15A-502(a5) requires a magistrate to enter into the court information system all information about the arrestee provided by the arresting law enforcement agency.

(Note: G.S. 15A-502(a2) and (a4) were later amended in S.L. 2015-267 (H 735), and the summary above reflects those amendments.)

Statewide uniformity of local regulation of firearms. Amended G.S. 14-409.40(b) adds taxation, manufacture, and transportation to the statute's prohibition of county or municipal ordinances regulating firearms, ammunition, dealers in firearms, etc. New G.S. 14-409.40(h) provides that a person adversely affected by any ordinance in violation of the statute may bring an action for declaratory and injunctive relief and for actual damages arising from the violation. A court must award the prevailing party in the action reasonable attorneys' fees and court costs as authorized by

law. All of these provisions are effective for ordinance violations occurring on or after December 1, 2015.

Chief law enforcement officer's certification when required by federal law concerning firearm. New G.S. 14-409.41, effective July 1, 2015, provides that when a chief law enforcement officer's certification is required by federal law or regulation to transfer or make a firearm, the officer must, with 15 days of receipt of a request for certification, provide the certification if the applicant is not prohibited by state or federal law from receiving or possessing the firearm and is not subject to a proceeding that could result in a prohibition. An applicant whose request for certification is denied may appeal the decision to the district court of the district in which the request was made.

Provision concerning restoration of state firearm rights and its effect on restoring federal firearm rights. For an extensive analysis of this provision, located in section 6 of this session law, see John Rubin, *Restoring State Firearm Rights as a Condition for Restoring Federal Firearm Rights,* North Carolina Criminal Law Blog (UNC School of Government, September 14, 2015), http://nccriminallaw.sog.unc.edu/restoring-state-firearm-rights-as-a-condition-for-restoring-federal-firearm-rights/.

58. **S.L. 2015-198 (H 774): Death sentence execution procedures changed.** This session law is effective on August 5, 2015. Amended G.S. 15-190(a) allows a medical professional other than a physician (physician assistant, nurse practitioner, registered nurse, emergency medical technician, etc.) to monitor the injection of the required lethal substances and certify the fact of the execution. If a physician is not present at the execution, then a physician must be present on the premises and available to examine the body after the execution and pronounce the prisoner dead. Amended G.S. 150B-1 exempts execution procedures from contested case and rulemaking provisions of the Administrative Procedure Act. Amended G.S. 15-187 deletes the reference to a specific drug (ultrashort acting barbiturate) to be used during an execution. Amended G.S. 132-1.2 removes from the public records law the revelation of the name, address, etc., of any person or entity that manufactures, compounds, dispenses, etc., drugs or supplies obtained for an execution.

59. **S.L. 2015-201 (S 374): No joint enforcement agreement with National Marine Fisheries Service; study of future joint agreement authorized.** Amended G.S. 113-224, effective August 5, 2015, deletes the authority of the Fisheries Director to enter into an agreement with the National Marine Fisheries Service to allow Division of Marine Fisheries inspectors to accept delegation of law enforcement powers over matters within the jurisdiction of the Service. The Division of Marine Fisheries must conduct a 12-month study of the impacts, costs, and benefits of a joint enforcement agreement and whether authorization to enter into an agreement should be reenacted. The Division must submit its report to the Environmental Review Commission no later than October 15, 2016.

60. **S.L. 2015-202 (S 233): Automatic expunction of records when charge against person is dismissed based on identity theft or mistaken identity.** Amended G.S. 15A-147, effective for charges brought on or after December 1, 2015, provides that if a person is charged with a crime or infraction as a result of another person using the identifying information of the named person or mistaken identity, and the charge is dismissed, the prosecutor or other judicial officer who ordered the dismissal must provide notice to the court of the dismissal, and the court must order the expunction of all official records containing any entries concerning the person's apprehension, charge, or trial.

61. **S.L. 2015-210 (H 284): No fine for civil contempt; jury excuse for attending out-of-state postsecondary school.** Amended G.S. 5A-21 (civil contempt), effective for civil contempt orders entered on or after October 1, 2015, provides that a person found in civil contempt is not subject to

the imposition of a fine. This amendment effectively overrules the ruling in *Tyll v. Berry*, ___ N.C. App. ___, 758 S.E.2d 411 (2014), that a trial court has discretion to impose a fine for civil contempt.

Amended G.S. 9-6 and 9-6.1, effective for excusal requests from jury service made on or after August 11, 2015, provides that a prospective juror who is summoned for jury service for a court session when the juror is taking classes or exams as a full-time student at an out-of-state postsecondary education institution, must be excused from jury service on his or her request. The Administrative Office of the Courts (AOC), in consultation with the N.C. Conference of Clerks of Superior Court, must study excusals from jury service, including all of the current exemptions and examine whether an excuse should be granted for out-of-state work assignments. The AOC must report its findings and any recommendations to the Joint Legislative Oversight Committee on Justice and Public Safety and the General Assembly at the beginning of the 2016 legislative session.

62. **S.L. 2015-211 (H 814): Medical examiner appointments and training program.** Amended G.S. 130A-382, effective January 1, 2016: (1) requires the Chief Medical Examiner (CME) to appoint two or more county medical examiners for each county (current law, one or more); (2) requires county medical examiners to complete continuing education training as directed by the Office of the Chief Medical Examiner, with newly-appointed examiners completing mandatory orientation training within 90 days of their appointment, and the continuing education must include training concerning sudden unexpected death in epilepsy; and (3) the CME may revoke a county medical examiner's appointment for failure to adequately perform the duties of the office after providing the examiner with written notice of the basis for the revocation and an opportunity to respond.

63. **S.L. 2015-212 (H 566): Procedures established for show-up identifications, including application of procedures to law enforcement officers as eyewitnesses.** Amended G.S. 15A-284.52, effective for eyewitness identifications and show-ups conducted on or December 1, 2015, defines a "show-up" as a procedure in which an eyewitness, including a law enforcement officer, is presented with a single live suspect to determine whether the eyewitness is able to identify the perpetrator of a crime. It requires all officers who conduct a show-up to meet all of the following requirements:

(1) a show-up may only be conducted when a suspect matching the perpetrator's description is located in close proximity in time and place to the crime, or there is a reasonable belief that the perpetrator has changed his or her appearance in a close time to the crime, and only if there are circumstances that require the immediate display of a suspect to an eyewitness;

(2) a show-up may only be performed using a live suspect and may not be conducted with a photograph; and

(3) investigators must photograph a suspect at the time and place of the show-up to preserve a record of the suspect's appearance when the show-up procedure was conducted.

The session law also requires the N.C. Criminal Justice Education and Training Standards Commission to develop a policy concerning standard procedures to conduct show-ups, which will apply to all law enforcement agencies beginning August 1, 2016, and must address all of the following, in addition to the new statutory provisions: (1) standard instructions for an eyewitness; (2) confidence statements by the eyewitness, including information concerning the eyewitness's vision, the circumstances of the events witnessed, and communications with other eyewitnesses, if any; (3) training of officers on how to conduct show-ups; and (4) any other matters the commission considers appropriate.

64. **S.L. 2015-215 (H 371): National Guard member's exemption from concealed weapon law; civil liability for terrorist act.** New G.S. 14-269(b)(3a), effective August 18, 2015, exempts from the law prohibiting carrying a concealed weapon a member of the N.C. National Guard who has been

designated in writing by the Adjutant General and has a concealed handgun permit and is discharging official duties, and the member does not carry a concealed weapon while consuming alcohol or an unlawful controlled substance or while alcohol or unlawful controlled substance remains in the member's body. Current G.S. 14-269(b)(3) exempts officers and soldiers of the National Guard when called into actual service.

New G.S. 14-10.1(e), effective for acts committed on or after October 1, 2015, provides that any person whose property or person is injured by a violation of G.S. 14-10.1 (terrorism) may sue and recover treble damages, costs, and attorneys' fees under new G.S. 1-539.2D, which also is enacted by this session law.

65. **S.L. 2015-218 (H 184): Time limitation on confidentiality of public records, exemptions.** New G.S. 132-11, effective August 18, 2015 and applicable to a public record in existence on or created after that date, provides that all restrictions on access to public records expire 100 years after the creation of the record. However, the statute does not apply to various records, including any record that (1) is ordered to be sealed by any state or federal court, except as provided by that court; (2) is prohibited from being disclosed under federal law, rule, or regulation; and (3) is a record of a juvenile, probationer, parolee, post-releasee, or prison inmate, including medical and mental health records.

66. **S.L. 2015-225 (S 699): Law enforcement officer's personal information protected from disclosure.** G.S. 153A-98 (privacy of county employee personnel records) and G.S. 160A-168 (privacy of city employee personnel records), are identically amended to provide that even if considered part of an employee's personnel file, the following information of a sworn law enforcement officer shall not be disclosed to an employee or any other person, unless disclosed under G.S. 132-1.4 (criminal investigative records released by court order) or G.S. 132-1.10 (limited release of social security numbers and other personal identifying information), or for the personal safety of the officer or any other person residing in the same residence: (1) information that might identify the residence of the officer; (2) emergency contact information, or (3) any identifying information defined in G.S. 14-113.20 (identity theft). Amended G.S. 132-1.7 (sensitive pubic security information) provides that public records shall not include mobile telephone numbers issued by a local, county, or state government to: (1) a sworn law enforcement officer or nonsworn employee of a public law enforcement agency; (2) a fire department employee; and (3) an employee whose duties include responding to an emergency. This session law is effective October 1, 2015.

67. **S.L. 2015-228 (S 675): Limit frequency of required parole review of inmates convicted of sexually violent offenses committed before October 1, 1994.** This session law amends repealed G.S. 15A-1371(b), which is still applicable to sentences imposed for offenses committed before October 1, 1994 (the Structured Sentencing Act became effective for offenses committed on or after that date), to provide that the Parole Commission (now, the Post-Release Supervision and Parole Commission) must review cases when the prisoner was convicted of a sexually violent offense as defined in G.S. 14-208.6(5), and in its discretion give consideration of parole every second year instead of every year. This session law is effective for parole reviews conducted on or after October 1, 2015.

68. **S.L. 2015-229 (S 185): Clarify credit for time served.** Amended G.S. 15-196.1 provides that credit against a sentence for confinement in correctional, mental, or other institutions applies as a result of the charge that culminated in the sentence "or the incident from which the charge arose" (quoted language is added). The proviso in the statute is rewritten so that credit does not include any time that a defendant has spent in custody as a result of a pending charge while serving a

sentence imposed for another offense (the current statute bars credit for any time that is credited on the term of a previously imposed sentence to which the defendant is subject). This session law is effective December 1, 2015. For a detailed discussion of this session law, see Jamie Markham, *New Jail Credit Rules Signed into Law,* North Carolina Criminal Law Blog (UNC School of Government, August 27, 2015), http://nccriminallaw.sog.unc.edu/new-jail-credit-rules-signed-into-law/.

69. **S.L. 2015-231 (H 268): Highway obstruction quick clearance requirements amended.** Amended G.S. 20-161(f), which permits the immediate removal from the state highway system of wrecked, abandoned, burned, etc., vehicles interfering with regular traffic flow, requires before doing so the concurrence of the Department of Transportation and an investigating law enforcement officer (the session law adds the concurrence of the officer). This provision in this session law is effective August 25, 2015, and applies to any obstruction to traffic arising on or after 12:01 a.m. of the day following that date.

70. **S.L. 2015-232 (S 446): Changes to regulation of unmanned aircraft systems (drones).** This session law, effective August 25, 2015, makes changes to the regulation of unmanned aircraft systems, commonly known as drones. Provisions in the 2013 and 2014 appropriation acts are amended to provide that until December 15, 2015, the State Chief Information Officer (CIO) has the authority to approve or disapprove (1) the procurement or operation of an unmanned aircraft system (UAS) by agents or agencies of the State or a political subdivision, and (2) the disclosure of personal information about any person acquired through the operation of an UAS by these agents or agencies. The agents or agencies who receive CIO approval may procure or operate an UAS before implementation of the knowledge test required by G.S. 63-95. In addition to receiving CIO approval, agents or agencies who submit a request on or after the date of implementation of the knowledge test required by G.S. 63-95 are also subject to the provisions of the statute. Amended G.S. 63-95(b) provides that the Division of Aviation (hereafter, Division) must develop a knowledge test for operating an UAS (current law requires a knowledge and skills test). The test must ensure that the UAS operator is knowledgeable about State statutes and regulations concerning UAS operation.

    Amended G.S. 63-96: (1) changes from "license" to "permit" what is required to commercially operate an UAS; (2) reduces the minimum age for a permit from 18 years old to 17 years old; (3) requires the Division to administer a program that complies with all applicable federal regulations; and (4) provides that the Division rules for designating a geographic area for operating an UAS must not be more restrictive that those of the Federal Aviation Administration (FAA). Before implementing the knowledge test required by G.S. 63-96, any person authorized by the FAA to commercially operate an UAS is not in violation of the statute if the person applies for a permit for commercial operation within 60 days of the full implementation of the permitting process and is issued a state commercial permit "in due course."

71. **S.L. 2015-241 (H 97): 2015 Appropriations Act, amended by S.L. 2015-264 (S 119).** This session law makes base budget appropriations for current operations and other changes. Unless otherwise noted, the provisions are effective July 1, 2015. The section numbers and pages of the session law are noted to facilitate locating the provisions.

    New Department of Information Technology. New Article 14 of General Statutes Chapter 143B creates the Department of Information Technology, headed by the State Chief Information Officer (CIO), who is appointed by the Governor. Unless specifically provided by law, the provisions concerning this department do not apply to the Judicial Department, although it may elect to participate in this new department's programs, services, etc. Included in this new department are the Criminal Justice Information Network and the North Carolina 911 Board. New G.S. 143B-1325

provides that in Part II of Article 14 the unauthorized use of public purchase or contract procedures for private benefit is a Class 1 misdemeanor. New G.S. 143B-1326 provides that the financial interest of specified department executives or managers in certain contracts or any department employee who receives a financial benefit in return for an awarded contract is guilty of a Class F felony. Sections 7A.1-7A.6 (pages 28-67).

School safety exercises and other safety issues. Amended G.S. 115C-105.49 provides that at least once annually (current law, at least every two years) each local school unit must require each school to hold (current law, is encouraged to hold) a school-wide tabletop exercise and drill based on the procedures documented in its School Risk Management Plan. The drill must include a practice school lockdown due to an intruder on school grounds. Schools are strongly encouraged to include law enforcement agencies and emergency management agencies in their tabletop exercises and drills. The Department of Public Safety (DPS) and the Center for Safer Schools (CSS) must provide guidance and recommendations to local school units on the multiple hazards to plan and respond to, including intruders. Amended G.S. 115C-105.51 requires DPS and CSS, in collaboration with the Department of Public Instruction (DPI), to implement and maintain an anonymous safety tip line to receive anonymous student information on internal or external risks to the school population, school buildings, and school-related activities. DPS and CSS, in collaboration with DPI and the NC 911 Board, must implement and maintain a statewide panic alarm system to launch real-time 911 messaging to public safety answering points of internal and external risks to the school population, school buildings, and school-related activities. Theses statutory changes apply beginning with the 2015-2016 school year. Section 8.26 (pages 76-81).

Medical examiner fees increased. Amended G.S. 130A-389 provides that if the death or fatal injury occurred outside the county in which the deceased resided, the State must pay the entire medical examiner autopsy fee of $2,800. If within the county of residence, the county must pay $1,750 and the State pays $1,050. Current law provides for a $1,250 fee to be paid by the State, except if the deceased is a resident of the county where the death or fatal injury occurred, the county must pay the fee. For filing an autopsy report, the fee is increased from $100 to $200, with the State paying the fee unless the deceased is a resident of the county in which the death or fatal injury occurred, then the county pays the fee. These provision are effective for fees imposed for autopsies performed on or after October 1, 2015, and reports filed on or after that date. Sections 12E.5 and 12E.6 (pages 161-62).

Sensitive public security information not public record. Amended G.S. 132-1.7 provides that the following are not public records: specific security information or detailed plans, patterns, or practices (1) associated with prison operations, and (2) to prevent or respond to criminal, gang, or organized illegal activity. Section 16A.5 (page 301).

Organizational changes within Department of Public Safety. Amended G.S. 143B-915 provides that the State Bureau of Investigation (SBVI) is administratively located in the Department of Public Safety (DPS) (current law states within the Division of Law Enforcement of DPS). New G.S. 143B-929 provides that the SBI shall operate and manage the Information Sharing and Analysis Center, which shall be under the sole direction and control of the SBI Director. Amended G.S. 143B-911 provides that the State Capitol Police is located within the State Highway Patrol (current law states within the Division of Law Enforcement of DPS). Section 16A.7 (pages 301-302).

Grants for body-worn video cameras for law enforcement. The sum of $2,500,000 is appropriated in both the 2015-2016 and 2016-2017 fiscal years to the Department of Public Safety to provide matching grants to local and county law enforcement agencies to purchase body-worn video cameras, subject to the following requirements: (1) the maximum grant amount is $100,000; (2) agencies must provide two dollars of local funds for every dollar of grant funds received; and (3) agencies must have appropriate policies and procedures governing the operation of the cameras

and storage of camera images. Section 16A.8 (page 303).

Report on gang prevention recommendations. New G.S. 20-196.5 requires the State Highway Patrol, in conjunction with the State Bureau of Investigation and Governor's Crime Commission, to develop recommendations concerning the establishment of priorities and needed improvements concerning gang prevention and report the recommendations to specified legislative committees on or before March 1 of each year. This session law repeals a similar provision in G.S. 143B-1101(b) that places the responsibility solely on the Governor's Crime Commission. Section 16B.3 (page 304).

Reimburse counties for convicted inmates, parolees, and post-release supervisees, awaiting transfer to state prison system. The Department of Public Safety may use funds available to the department for the 2015-2017 biennium to pay $40.00 per day as reimbursement to counties for the cost of housing convicted inmates, parolees, and post-release supervisees awaiting transfer to the state prison system under G.S. 148-29. Section 16C.1 (page 307).

Annual report on safekeepers; collection of delinquent reimbursements. New G.S. 143B-707.4 requires the Department of Public Safety (DPS) by October 1 of each year to report on various subjects to specified legislative committee chairs on county prisoners housed in the state prison system under safekeeping orders issued pursuant to G.S. 162-39. Among the subjects are: (1) the amount paid by counties for housing and extraordinary medical care of safekeepers, and (2) a list of counties in arrears for safekeeper payments owed to DPS at the end of the fiscal year. Amended G.S. 148-10.4 provides on notification from the Division of Adult Correction that an amount owed by a county for safekeeper reimbursements is more than 120 days overdue, the N.C. Sheriffs' Association must withhold funds from any reimbursements due to a county and transmit those funds to the Division until that overdue safekeeper reimbursement is satisfied. Sections 16C-11 and 16C-12 (page 310).

Parole eligibility report. New G.S. 143B-721.1 requires that each fiscal year the Post-Release Supervision and Parole Commission, with the assistance of the Sentencing and Policy Advisory Commission and the Department of Public Safety, analyze the amount of time each inmate who is eligible for parole on or before July 1 of the prior fiscal year has served compared to the time served by the offenders under the Structured Sentencing Act (SSA) for comparable crimes. The Commission must determine if the person has served more time in custody than the person would have served if sentenced to the "maximum sentence" (calculation set out in the statute) under the SSA. The Commission must reinitiate the parole review process for each offender who has served more time than the person would have served under the SSA, as provided in this statute. Section 16C.14 (pages 311-12).

Collecting DNA sample after felony arrest for additional felonies. Effective for arrests occurring on or after December 1, 2015, amended G.S. 15A-266.3A(f) includes many additional felonies for which a DNA sample must be collected for analysis after arrest. Some of the common additional felonies include: assault by strangulation (G.S. 14-32.4); habitual misdemeanor assault (G.S. 14-33.2); discharging barreled weapon or firearm into occupied property (G.S. 14-34.1); common law robbery punished under G.S. 14-87.1; malicious conduct by prisoner (G.S. 14-258.4); child abuse inflicting serious injury (G.S. 14-318.4(a)); child abuse inflicting serious bodily injury (G.S. 14-318.4(a3)); cruelty to animals by malicious killing (14-360(a1)); and cruelty to animals by malicious torture(G.S. 14-360(b)). Section 17.3 (pages 314-15).

The Joint Legislative Oversight Committee on Justice and Public Safety must study extending the collection of DNA samples to people arrested for any felony and report its findings and recommendations to the 2016 legislative session.

Annual report on criminal court cost waivers. New G.S. 7A-350 requires the Administrative Office of the Courts to maintain records of all cases in which a judge makes a finding of just cause to grant a waiver of criminal court costs under G.S. 7A-304(a) and report the waivers to specified

legislative committees by February 1 of each year. The report must aggregate the waivers by the district in which the waivers were granted and by the name of each judge granting the waivers. Section 18A.3 (page 316).

Conference of District Attorneys may use grant funds for toxicology analyses other than from hospitals. A 2013 session law (S.L. 2013-360) required that of the funds appropriated to the Judicial Department, a specified sum be allocated to the Conference of District Attorneys so district attorneys could obtain toxicology analyses from local hospital hospitals concerning DWI suspects whose conduct did not result in serious injury or death. This session law amends the 2013 session law to allow district attorneys to obtain toxicology analyses from providers other than hospitals. Section 18B.4 (page 316).

Conference of District Attorneys must report dismissals based on delay in lab analyses. When a criminal case is dismissed as a direct result of a delay in the analysis of evidence by the State Crime Laboratory, the district attorney for that district must report the dismissal to the Conference of District Attorneys. The Conference must compile these reports and submit them quarterly beginning October 30, 2015, to specified legislative committee chairs. Section 18A.9 (page 317).

Criminal court costs changed. Amended G.S. 7A-304(a) changes the allocation of criminal court costs as follows: (1) deletes G.S. 7A-304(a)(2b), which provides $18.00 to the Statewide Misdemeanor Confinement Fund; (2) increases the amount in G.S. 7A-304(a)(4) from $129.50 to $147.50 for support of the General Court of Justice; and (3) changes the distribution of $50.00 in G.S. 7A-304(a)(4b) from the Statewide Misdemeanor Confinement Fund to the State Treasurer for additional support to the General Court of Justice. Section 18A.11 (pages 317-18).

Note: A separate budgetary provision appropriates $22.5 million each year to support the Statewide Misdemeanor Confinement Fund.

Innocence Inquiry Commission audit and transfer. Amended G.S. 15A-1462 requires the Administrative Office of the Courts (AOC) to conduct an annual audit of the Innocence Inquiry Commission and transfers the commission to the AOC for administrative purposes. Section 18A-16 (page 318).

Office of Indigent Defense Services audit, transfer, and budget. Amended G.S. 7A-498.2 requires the Administrative Office of the Courts (AOC) to conduct an annual audit of the budget of the Office of Indigent Defense Services, transfers the office to the AOC, provides that the office's budget will be part of the AOC's budget, and allows the AOC Director to modify the office's budget and to use funds appropriated to the office without the approval of the office or the Commission on Indigent Defense Services. Section 18A-17 (page 318).

Legislative study of Office of Indigent Defense Services and Innocence Inquiry Commission. The Joint Legislative Oversight Committee on Justice and Public Safety must study: (1) the Office of Indigent Defense Services and determine whether changes should be made in the ways in which appropriated funds are used to provide legal assistance and representation to indigents; and (2) the Innocence Inquiry Commission and determine whether changes should be made in the way in which the Commission investigates and determines credible claims of factual innocence made by criminal defendants. The Committee must report its findings and recommendations, including any proposed legislation, to the 2016 legislative session. Section 18A.18 (page 319).

Three special superior court judgeships abolished; designation of judge as business court judge. Amended G.S. 7A-45.1 abolishes three special superior court judgeships at each current judge's retirement, resignation, end of term, etc., and the Chief Justice is requested to designate a special judgeship created by subsection (a9) as a business court judge. The Chief Justice is also requested, under the justice's authority under G.S. 7A-45.3 to designate business court judges, to maintain at least five business court judgeships from among the authorized special superior court judgeships. Section 18A.19 (pages 319-20).

E-courts information technology initiative. The Administrative Office of the Courts must establish a strategic plan for the design and implementation of its e-Courts information technology initiative by February 1, 2016. This initiative, when fully implemented, will provide for the automation of all court processes, including electronic filing, retrieval, and processing of documents. There are several other provisions concerning this initiative in this section. Section 18A.21 (pages 320-21).

Study efficiency of establishing automated kiosks in local confinement facilities for defense attorneys representing indigent defendants. The Administrative Office of the Courts, in conjunction with the Office of Indigent Defense Services and the N.C. Sheriffs' Association, must study and determine whether savings can be realized by the establishment of fully automated kiosks in local confinement facilities to allow defense attorneys representing indigent defendants to consult remotely with their clients. The AOC must report its findings and recommendations, including at least two potential pilot sites, to specified legislative committee chairs by February 1, 2016. Section 18B.4 (page 323).

Study fee schedules used by Office of Indigent Defense Services. The Joint Legislative Oversight Committee on Justice and Public Safety must study the creation and implementation of fee schedules to be used by the Office of Indigent Defense Services to compensate private assigned counsel representing indigent defendants. The committee must include its findings and recommendations in its report when the General Assembly reconvenes in 2016. Section 18B.5 (page 323).

DWI towing, storing, and selling changes. Amended G.S. 20-28.3(d) (custody of motor vehicle when seized under DWI forfeiture law) substitutes the State Surplus Property Agency (Agency) of the Department of Administration in place of the Department of Public Instruction concerning constructive possession of a seized vehicle when it is delivered to a location designated by the Agency. Amended G.S. 20-28.5 adds provisions for the sale of a forfeited motor vehicle when it is in the possession or constructive possession of the Agency. Section 27.3 (pages 344-47).

New ground for Division of Motor Vehicles to refuse registration or certificate of title. This session law makes various changes to G.S. 20-311 concerning the Division of Motor Vehicles (DMV) actions when it receives notice of a lapse in financial responsibility. In addition, amended G.S. 20-54, effective for lapses occurring on or after January 1, 2016, requires the DMV to refuse registration or issuance of a certificate of title when the owner of the vehicle has failed to pay any penalty or fee imposed by G.S. 20-311. Section 29.31 (pages 375-77).

Modification of S.L. 2015-31 concerning stop lamps in older motor vehicles. Earlier in this session, S.L. 2015-31 amended G.S. 20-129(g) and G.S. 20-129.1, effective for offenses committed on or after October 1, 2015, to make clear that motor vehicles must be equipped with stop lamps, commonly known as brake lights, one on each side of the rear of the vehicle (however, a motorcycle only needs one stop lamp). This session law makes clear that, effective for offenses committed on or after October 1, 2015, a motor vehicle manufactured after December 31, 1955, and on or before December 31, 1970, must be equipped with a stop lamp in the rear of the vehicle.

72. S.L. 2015-247 (H 173): Miscellaneous changes-2. This session law makes various criminal law changes, effective September 23, 2015, unless otherwise noted in a summary below.

Extend time to avoid court costs for failure to pay fine, penalty, or costs. Amended G.S. 7A-304(a)(6) requires the payment of $50 in court costs when a defendant fails to pay a fine, penalty, or costs within 40 days of the date specified in the court's judgment. Current law sets 20 as the number of days.

Amended G.S. 20-24.2(a)(2) requires the court to report to the Division of Motor Vehicles the name of a defendant charged with a Chapter 20 offense who fails to pay a fine, penalty, or costs

within 40 days of the date specified in the court's judgment. Current law sets 20 as the number of days.

These changes are effective December 1, 2015, except that a failure to pay after 20 days occurring before the effective date of the session law (September 23, 2015) is not abated or affected by this session law and the statutes that would be applicable but for this session law remain applicable to that failure to pay.

Administrative Office of Courts to report certain remand orders from superior court. The Administrative Office of the Courts, in consultation with the Conference of Clerks of Superior Court, must make any necessary information system modifications and maintain records of all cases in which a defendant withdraws an appeal for trial de novo in superior court and the judge has remanded the case to district court and must report these remanded to specified legislative chairs by February 1 of each year. The report must (1) include the total number of remanded cases and also the total number of these remanded cases in which the court remitted costs; and (2) aggregate these totals by district and by the name of each judge ordering a remand.

Designated magistrate may accept waiver of counsel and need not be licensed attorney; magistrates not prohibited from accepting guilty plea to offense of intoxicated and disruptive in public. Amended G.S. 7A-146(11) allows a chief district court judge to designate certain magistrates to appoint counsel and accept waivers of counsel (current law does not allow acceptance of waiver of counsel) and removes the requirement that the designation was limited to magistrates who are licensed attorneys. Amended G.S. 14-444 (intoxicated and disruptive in public) removes the prohibition against a magistrate's accepting a guilty plea and entering judgment for this offense.

Probation supervision continues when defendant appeals activation of probationary sentence. Amended G.S. 15A-1347 provides that if a defendant appeals an activation of a sentence as a result of a finding of a probation violation by the district or superior court, probation supervision continues under the same conditions until the termination date of the supervision period or disposition of the appeal, whichever occurs first. For a discussion of this provision, see Jamie Markham, *Revoked, But Still on Probation?*," North Carolina Criminal Law Blog (UNC School of Government, October 1, 2015), http://nccriminallaw.sog.unc.edu/revoked-but-still-on-probation/.

Changes involving prohibition of death penalty when defendant has intellectual disability. Amended G.S. 15A-2005 prohibits a death sentence for a defendant who has an "intellectual disability" (this session law replaces the term "mentally retarded" with "intellectual disability"). Amended G.S. 15A-2005(a)(2) provides that an intelligence quotient of 70 is approximate, and a higher score resulting from the application of the standard error of measurement to an intelligence quotient of 70 shall not preclude a defendant from being able to present additional evidence of intellectual disability, including testimony concerning adaptive deficits. Also, the subdivision provides that accepted clinical standards for diagnosing significant limitations in intellectual functioning and adaptive behavior must be applied in the determination of intellectual disability. These legislative changes were made in response to United States Supreme Court rulings in *Hall v. Florida*, 134 S. Ct. 1986 (2014), and *Brumfield v. Cain*, 135 S. Ct. 2269 (2015).

Notification of expunction and other information by electronic or facsimile transmission. Amended G.S. 15A-150 provides that the Director of the Administrative Office of the Courts may enter into an agreement with any of the State agencies listed in subsection (b) (Division of Motor Vehicles, Division of Adult Correction, Department of Public Safety, etc.) for electronic or facsimile transmission of any information that must be provided under the statute (expunction and conditional discharges under various statutes).

Doubling of bond is permissive rather than mandatory. Amended G.S. 15A-534(d3), effective for conditions of pretrial release imposed on or after October 1, 2015, provides that when conditions of pretrial release are being determined for a defendant who is charged with an offense and the

defendant is currently on pretrial release for a prior offense, the judicial official may require (current law states "shall require") the execution of a secured bond in an amount at least double the amount of the most recent prior secured or unsecured bond for the charges or, if no bond has yet been required for the charges, at least $1,000.

Preservation of biological evidence. G.S. 15A-268 provides that a custodial agency must preserve physical evidence that is reasonably likely to contain biological evidence collected in the course of a criminal investigation or prosecution. Amended G.S. 15A-268(a5) provides that a duty to preserve may not be waived knowingly and voluntarily by a defendant without a court hearing, "which may include any other hearing associated with the disposition of the case" (quoted words added by this session law). Amended G.S. 15A-268(a6) provides that despite the retention requirements for biological evidence set out in the subsection, at any time after collection of evidence and before or at the time of disposition of the case at the trial court level, if the evidence collected as part of the criminal investigation is of a size, bulk, or physical character to render retention impracticable or should be returned to its rightful owner, the State may petition the court for retention of samples of the biological evidence instead of the actual physical evidence. The subsection sets out the court procedures. These changes are effective October 1, 2015.

Rule 803(6) is amended to allow certification by the custodian of a business record to show authenticity of a record in lieu of testimony. Amended Rule 803(6) (hearsay exception for records of regularly conducted activity), effective October 1, 2015, allows the custodian of a business record by affidavit or document under seal made by the custodian or witness, to show the authenticity of the record in lieu of testimony. Authentication of evidence by affidavit must be confined to records of nonparties, and the proponent of that evidence must give advance notice to all other parties of the intent to offer the evidence with authentication by affidavit.

73. S.L. 2015-250 (H 792): New offense of disclosure of private images; extension of indecent exposure law to person willfully exposing private parts in private premises. This session law is effective for offenses or acts committed on or after December 1, 2015.

Disclosure of private images offense. New G.S. 14-190.5A creates the offense of disclosure of private images. A person commits this offense if all of the following exist:

(1) the person knowingly discloses an "image" (defined as photo, film, video, recording, digital, or other reproduction) of another person with the intent to coerce, harass, intimidate, demean, humiliate, or cause financial loss to the depicted person, or cause others to do so;

(2) the depicted person is identifiable from the disclosed image itself or information offered in connection with the image;

(3) the depicted person's "intimate parts" (defined as genitals, pubic area, anus, or nipple of female over age of 12) are exposed or the depicted person is engaged in "sexual conduct" (defined as vaginal, anal, or oral intercourse; masturbation, excretory functions, or lewd exhibition of uncovered genitals; an act or condition that depicts torture, physical restraint by being fettered or bound, etc.) in the disclosed image;

(4) the person discloses the image without the affirmative consent of the depicted person; and

(5) the person discloses the image under circumstances such that the person knew or should have known that the depicted person has a "reasonable expectation of privacy" (defined as when a depicted person has consented to the disclosure of an image within the context of a personal relationship as defined in G.S. 50B-1(b) and the depicted person reasonably believes the disclosure will not go beyond that relationship).

The punishment for this offense is as follows: (1) Class H felony if person is 18 years old or older at the time of the offense; (2) Class 1 misdemeanor for a first offense by a person under 18 at the time of the offense; and (3) Class H felony for a second or subsequent offense by a person under 18

at the time of the offense. The offense is not applicable to (1) images involving voluntary exposure in public or commercial settings; (2) disclosures made in the public interest, including reporting of unlawful conduct or the lawful and common practices of law enforcement, criminal reporting, medical treatment, scientific or educational activities, etc.; and (3) providers of an interactive computer service for images provided by another person. A civil action is authorized for a violation of the statute with specified damages, and the action must be brought within one year after the initial discovery of the disclosure, but in any event must be brought no more than seven years from the most recent disclosure of the private image.

The Joint Legislative Oversight Committee on Justice and Public Safety must study the issue of improper disclosure of images of people superimposed onto other images exposing intimate parts or depicting sexual conduct. The study must include whether any existing crimes or civil actions currently apply and whether this new offense should be amended to include superimposed images. The committee must report its findings and any recommendations by April 1, 2016.

New indecent exposure offenses. Amended G.S. 14-190.9 creates three new offenses. Unless the conduct is prohibited by another law providing greater punishment (1) a person who willfully exposes his or her private parts in the presence of anyone other than a consenting adult on the private premises of another or so near thereto to be seen from the private premises for the purpose of arousing or gratifying sexual desire is guilty of a Class 2 misdemeanor; (2) a person located in a private place who willfully exposes his or her private parts with the knowing intent to be seen by a person in a public place is guilty of a Class 2 misdemeanor; and (3) a person at least 18 years old who willfully exposes his or her private parts in a private residence of which the person is not a resident and in the presence of any other person less than 16 years old who is a resident of that private residence is guilty of a Class 2 misdemeanor.

74. **S.L. 2015-261 (H 730): Create next generation 911 reserve fund and other changes.** Effective January 1, 2016, various statutes in Chapter 62A of the General Statutes are amended to create a next generation reserve fund to implement next generation 911, require public safety answering points (PSAPS) to implement next generation 911, authorize the 911 Board to establish purchasing agreements for statewide procurement, allow the PSAP grant account to be used for expenses to enhance 911 service, and amend the limitation of liability for the 911 system. The next generation 911 system is defined as an IP-enabled emergency communications system using Internet Protocol or any other available technology to enable the user of a communications service to reach an appropriate PSAP by sending the digits 911 via dialing, text, or short message service (SMS) or any technological means.

75. **S.L. 2015-263 (S 513): Wildlife and marine fisheries officers' search and seizure authority modified; other criminal law changes.** Amended G.S. 113-136(k), effective for offenses committed on or after December 1, 2015, provides that it is unlawful to refuse to allow wildlife law enforcement officers, marine fisheries inspectors, and other law enforcement officers to inspect weapons and equipment (this session law deletes fish and wildlife) if the officer reasonably believes them to be possessed incident to an activity which the officers and inspectors have enforcement jurisdiction, and the officer has reasonable suspicion that a violation has been committed (this session law adds the reasonable suspicion requirement)—except an officer may inspect a shotgun to confirm whether it is plugged or unplugged without reasonable suspicion that a violation has been committed. It is unlawful to refuse to allow wildlife law enforcement officers, marine fisheries inspectors, and other law enforcement officers to inspect fish or wildlife to ensure compliance with bag and size limits. Except as authorized by G.S. 113-137 (search on arrest; seizure and confiscation of property; disposition of confiscated property), nothing in G.S. 113-136 authorizes the officers and inspectors

described above to inspect, in the absence of a person in apparent control of the item to be inspected: (1) weapons; (2) equipment, except for equipment left unattended in the normal operation of the equipment, including traps, trot lines, crab pots, and fox pens; (3) fish; and (4) wildlife. The Wildlife Resources Commission must report to the Joint Legislative Oversight Committee on Justice and Public Safety by March 1, 2016, and annually thereafter, on the number of complaints received against Commission law enforcement officers, the subject matter of the complaints, and the geographic areas in which the complaints were filed.

Amended G.S. 20-171.22, effective for offenses committed on or after September 30, 2015, provides that a person may operate an all-terrain vehicle or utility vehicle on a public street or highway while engaged in farming operations.

Amended G.S. 14-140.1 (certain fires to be guarded by watchman), effective for offenses committed on or after September 30, 2015, changes the punishment for a violation of this statute from a Class 3 misdemeanor with a minimum $10 fine to an infraction with a maximum penalty of $50.

76. S.L. 2015-264 (S 119): Miscellaneous changes-3. The various criminal law changes in this summary are effective October 1, 2015.

Amended G.S. 14-269 (carrying concealed weapon) changes the spelling of the weapon, "shurikin," to "shuriken."

Amended G.S. 15A-150(b) (notification of expunctions) removes the Division of Adult Correction of the Department of Public Safety from the list of agencies to whom notice of expunctions are sent (but note that the Department of Public Safety remains on the list).

Amendments to G.S. 20-28(a2) (driving without reclaiming license) and G.S. 20-179(c) (DWI grossly aggravating factors) are discussed in the summary of S.L. 2015-186 (H 529), enacted earlier in this session. For a discussion of these amendments, see Shea Denning, *Technical Corrections Act Clarifies New DWLR Law*, North Carolina Criminal Law Blog (UNC School of Government, October 6, 2015), http://nccriminallaw.sog.unc.edu/technical-corrections-act-clarifies-new-dwlr-law/.

Amended G.S. 20-28.9(a), as previously amended by section 27.3(d) of S.L. 2015-241, deletes the provision that allowed the State Surplus Agency to enter into contracts for some regions of the state while performing the work of towing, storing, processing, maintaining, and selling motor vehicles seized pursuant to G.S. 20-28.3 itself in other regions of the state.

77. S.L. 2015-265 (H 297): Prohibit sale of unborn child's remains resulting from abortion or miscarriage. New G.S. 14-46.1, applicable to offenses committed on or after October 1, 2015, provides that it is a Class I felony when a person sells the remains of an unborn child resulting from an abortion or a miscarriage or any aborted or miscarried material. The offense does not apply to a payment for incineration, burial, cremation, etc.

78. S.L. 2015-267 (H 735): Changes to S.L. 2015-195 and S.L. 2015-241 concerning fingerprinting and State Capitol Police. Effective October 1, 2015, S.L. 2015-195 is amended to delete in G.S. 15A-502(a2) and (a4) that fingerprinting is for the purpose of "reporting . . . offenses to the National Criminal Instant Background Check System (NCIS)." S.L. 2015-241 is amended, effective July 1, 2015, to provide that the chief, special officers, and employees of the State Capitol Police Section of the State Highway Patrol (SHP) are not considered SHP members.

79. S.L. 2015-268 (H 259): State Capitol Police relocation is clarified. A new section is added to the Appropriations Act, S.L. 2015-241, effective July 1, 2015, to clarify that the relocation of the State Capitol Police within the State Highway Patrol does not affect the subject matter or territorial

jurisdiction of its officers.

80. **S.L. 2015-270 (S 370): Application for certificate of title, registration plate, registration card, etc., may be submitted with electronic signature to Division of Motor Vehicles.** Amended G.S. 20-52, effective August 1, 2016 (note the year in this date), provides that unless otherwise prohibited by federal law, an application for a certificate of title, registration plate, registration card, and any other document required by the Division of Motor Vehicles (DMV) to be submitted with the application and requiring a signature may be submitted to the DMV with an electronic signature in accordance with Article 40 of Chapter 66 of the General Statutes. Amended G.S. 20-58.4 (release of security interest), effective December 1, 2015, requires that electronic notice of the release of the security interest to the DMV must be sent through the electronic lien release system established under G.S. 20-58.4A.

81. **S.L. 2015-276 (H 924): Miscellaneous changes-4.** Amended G.S. 20-139.1(b5), effective for offenses committed on or after December 1, 2015, makes clear that an officer who requests a person to provide a blood sample, in addition to or in lieu of a breath test, for a violation of G.S. 20-141.4 (felony and misdemeanor death by vehicle), must do so "at any relevant time after the driving" (quoted language added).

    Amended G.S. 20-130.1 (using red or blue lights on vehicles prohibited), effective for offenses committed on or after December 1, 2015, removes the requirement that a red or blue light be "forward facing" (quoted language is deleted from the statute).

    Amended G.S. 15A-298 (SBI administrative subpoena authority), effective for offenses committed on or after October 20, 2015, removes the requirement that the State Bureau of Investigation must issue rules in order to issue administrative subpoenas to a communications common carrier or electronic communications service.

82. **S.L. 2015-282 (S 238): Cyberstalking includes installing electronic tracking device without consent to track person's location.** Amended G.S. 14-196.3 (cyberstalking, a Class 2 misdemeanor), effective for offenses committed on or after December 1, 2015, prohibits the knowing installation of an electronic tracking device without consent to track a person's location. There are eleven exceptions, including a law enforcement officer's performance of official duties.

83. **S.L. 2015-284 (H 712): Needle and hypodermic syringe disposal pilot program; drug paraphernalia law change.** The State Bureau of Investigation (SBI) no later than December 1, 2015, and in consultation with the North Carolina Harm Reduction Coalition, must establish and implement a used needle and hypodermic syringe disposal pilot program. The pilot program must offer the free disposal of used needles and hypodermic syringes to reduce the spread of HIV, AIDS, viral hepatitis, and other blood borne diseases through needle stick injuries resulting from physical contact with improperly discarded used needles and syringes. The SBI must select two counties in which to operate the pilot program but may select up to four counties. No later than one year after implementing the pilot program, the SBI must report its results to specified legislative chairs as set out in the session law.

    Amended G.S. 90-113.22 (possession of drug paraphernalia), effective December 1, 2015, bars a charge or prosecution when there are residual amounts of a controlled substance contained in a needle or sharp object if there is a hypodermic needle or other sharp object on the person or the person's premises or vehicle if, pursuant to a law enforcement officer's request, the person alerts the officer of that fact before a search.

84. S.L. 2015-286 (H 765): Miscellaneous changes-5. The various criminal law changes in this summary are effective October 22, 2015, unless otherwise noted.

G.S. 14-197 (using profane or indecent language on public highways) and G.S. 14-401.8 (refusing to relinquish party telephone line in emergency) are repealed.

Amended G.S. 14-56 (breaking or entering motor vehicle, boats, etc.), effective for offenses committed on or after December 1, 2015, provides that it is not a violation of this statute when a person breaks or enters a motor vehicle, boat, etc., to provide assistance to a person inside under certain circumstances such as a person needing first aid or emergency health care treatment, and new G.S. 1-539.27, effective for causes of action arising on or after December 1, 2015, provides immunity from civil liability for damages to the motor vehicle, boat, etc., while doing so—absent gross negligence, intentional wrongdoing, etc.

Amended 20-171.15 (age restrictions for operating all-terrain vehicle) deletes subsection (b) (concerning person under 12 years old) and revises subsection (c) to provide that it is unlawful when a parent or legal guardian of a person under 16 years old knowingly permits that person to operate an all-terrain vehicle in violation of the age restriction warning label affixed by the manufacturer as required by the applicable American National Standards Institute/Specialty Vehicle Institute of America design standard (the current statute simply provides that the vehicle has an engine capacity greater than 90 cubic centimeter displacement). A similar change is made to G.S. 20-171.17 (prohibited acts by sellers).

G.S. 14-360 prohibits cruelty to animals. Subdivision (c)(1) provides that the statute does not apply to the lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission (Commission), except the statute does apply to those birds exempted by the Commission from its definition of "wild birds." This session law adds "other than pigeons" after "birds." A similar change is made to G.S. 19A-1.1 (exemptions to civil remedy for protection of animals).

New G.S. 114-8.7 requires the Attorney General to establish a hotline to receive reports of allegations of animal cruelty or violations of the Animal Welfare Act (Article 3 of Chapter 19A of the General Statutes) against animals under private ownership, by means including telephone, electronic mail, and an Internet website. When allegations involving animal cruelty are received, they must be referred to the appropriate local animal control authority where the violations are alleged to have occurred. Allegations involving the Animal Welfare Act must be referred to the Department of Agriculture and Consumer Services. The changes set out in this paragraph are effective March 1, 2016.

85. S.L. 2015-287: H 850: Eastern Band of Cherokee Indians law enforcement functions. New Article 2 of Chapter 1E of the General Statutes authorizes the Eastern Band of Cherokee Indians to establish a police department, a tribal alcohol law enforcement division, a natural resources law enforcement agency, and a probation and parole agency. Amended G.S. 1E-1 provides that a limited driving privilege signed and issued by a judge or justice of the Cherokee Trial Courts under the applicable provisions of Chapter 20 of the General Statutes and filed in its clerk's office shall be valid and given full faith and credit as specified in G.S. 1E-1(a) (North Carolina state courts must give full faith and credit to a judgment, decree, or order signed and filed in the Cherokee Tribal Courts as specified in the subsection). This session law is effective October 23, 2015.

86. S.L. 2015-289 (H 215): Procedures for criminal defendant to waive right to jury trial. Amended G.S. 15A-1201, effective for criminal defendants waiving their right to a jury trial on or after October 1, 2015, makes the following changes.

When a defendant waives the right to a jury trial, the waiver includes the determination of DWI

sentencing factors under G.S. 20-179 and aggravating factors under the Structured Sentencing Act as provided in G.S. 15A-1340.16(a1) and (a3).

A defendant must give notice of intent to waive a jury trial by one of three ways: (1) a stipulation, which may be conditioned on each party's consent to the trial judge, signed by both the State and the defendant and served on counsel for any co-defendants; (2) filing a written notice of intent to waive a jury trial and serving it on the State and counsel for any co-defendants within the earliest of (i) ten working days after arraignment, (ii) ten working days after service of a calendar setting, or (iii) ten working days after the setting of a definite trial date; or (3) giving notice of intent to waive a jury trial on the record in open court by the earlier of (i) the time of arraignment, or (ii) the calling of the calendar. If a motion for joinder of co-defendants is allowed, there must be a jury trial unless all defendants waive the right to a jury trial or the court in its discretion severs the case.

When a defendant gives notice of waiver of a jury trial, the State must schedule the matter to be heard to determine in open court whether the judge agrees to hear the case without a jury. The determination must be made by the judge who will preside over the trial. The judge must do the all of the following: (1) personally address the defendant and determine whether the defendant fully understands and appreciates the consequences of the defendant's decision to waive a jury trial; (2) determine whether the State objects to the waiver and, if so, why; and (3) consider the arguments presented by the State and defendant concerning the waiver of jury trial.

Once the defendant's waiver of a jury trial has been made and consented to by the trial judge, the defendant may revoke the waiver one time as of right within ten business days of the defendant's initial notice to waive a jury trial if the defendant (i) does so in open court with the State present, or (ii) in writing to both the State and judge. In all other circumstances, the defendant only may revoke the waiver when the trial judge finds the revocation would not cause unreasonable hardship or delay to the State. Once a revocation is granted, the decision is final and binding.

When a defendant who has waived the right to jury trial makes a suppression motion under Article 53 of Chapter 15A, the court must make written findings of fact and conclusions of law.

87. **S.L. 2015-292 (H 8): Court of Appeals elections require party designation.** Amended G.S. 163-323, applicable to elections held on or after October 29, 2015, requires a candidate for judge of the North Carolina Court of Appeals when filing notice of candidacy to indicate the political party with which that candidate is affiliated or any unaffiliated status. The party designation or unaffiliated status must be included on the ballot.

88. **S.L. 2015-290 (H 327): Definition modified involving offense of impersonating firemen or emergency medical services personnel.** Amended G.S. 14-276.1 (impersonating firemen or emergency medical services personnel), effective October 29, 2015, modifies the definition of emergency medical services personnel so it includes an emergency medical responder, emergency medical technician, advanced emergency medical technician, paramedic, or other member of a rescue squad or other emergency medical organization.

89. **S.L. 2015-294 (H 318), as amended by S.L. 2015-264 (S 119): Consulate, embassy, and other documents not acceptable as identification.** New G.S. 15A-306 provides that the following documents are not acceptable in determining a person's actual identity or residency by a justice, judge, clerk, magistrate, law enforcement officer, or other government official: (1) a matricula consular or other similar document, other than a valid passport, issued by a consulate or embassy of another country; and (2) an identity document issued or created by any other person, organization, county, city, or other local authority, except if expressly authorized by the General Assembly—however, a law enforcement officer may use the documents described in (2) above to assist in

determining the identity or residency of a person when they are the only documents providing an indication of identity or residency available to the officer then. (Note: The law enforcement officer provision discussed in the prior sentence was added by S.L. 2015-264 (S 119).) Any local government policy or ordinance that contradicts this statute is repealed. This session law also removes similar documents for use under G.S. 20-7(b4) (proof of residency for driver's license), G.S. 58-2-164(c) (verify insurance applicant's address), and G.S. 108A-55.3 (verify state residency for medical assistance). These provisions are effective for contracts entered into on or after October 1, 2015, except the amendment to G.S. 58-2-164(c) is effective for insurance policies entered into on or after January 1, 2016.

New G.S. 153A-145.5 (county ordinance) and G.S. 160A-499.4 (city ordinance) prohibit a locality (1) from adopting a sanctuary ordinance that limits or restricts the enforcement of federal immigration laws to less than the full extent permitted by federal law, and (2) concerning information about citizenship or immigration status, lawful or unlawful, of any person, a locality cannot (i) prohibit law enforcement from gathering such information, (ii) direct law enforcement not to gather such information, or (iii) prohibit communication of such information to federal law enforcement. These new statutes are effective October 29, 2015.

90. **S.L. 2015-299: Marijuana definition does not include lawfully-produced industrial hemp.** Amended G.S. 90-87(16) provides in the definition of "marijuana" that the term does not include industrial hemp when it is produced and used in compliance with rules issued by the Board of Agriculture (Board) on recommendation of the North Carolina Industrial Hemp Commission. This provision becomes effective on the first day of the month following the adoption of permanent rules by the Board and applies to acts involving the production, possession, or use of industrial hemp occurring on or after that date.