

## 2018 Legislation Affecting Criminal Law and Procedure

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Below are summaries of 2018 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.gov](http://www.ncleg.gov). Be careful to note the effective date of each piece of legislation.

1. **[S.L. 2018-5 \(S 99\): Appropriations Act \(as amended by S.L. 2018-97 \(S 335\) and S.L. 2018-114 \(H 374\)](#)**). The act enacts various provisions related to criminal law and procedure, effective July 1, 2018 unless otherwise indicated.

*Criminal record checks.* Under new G.S. 143B-935.1, the Department of Public Safety may provide a criminal record check to the Division of Social Services or Division of Medical Assistance of the Department of Health and Human Services or a county agency for applicants for employment, current employees, contractual employees or applicants, and employees of contractors who are permitted to access federal tax information. Under new G.S. 143B-968, the Department of Public Safety may provide a criminal record check to the Office of State Human Resources for any prospective temporary employee of a State agency or department if a criminal record check is a requirement for employment by the agency or department with which the individual would be temporarily assigned.

*Criminal Justice Fellows Program.* New Article 2 of G.S. Chapter 17C establishes the North Carolina Criminal Justice Fellows Program providing forgivable loans for applied associate degrees in criminal justice and related fields of study as preparation for a criminal justice profession. The Division of Criminal Justice Education and Training Standards of the Department of Justice must report to the General Assembly by April 1, 2019, regarding implementation of the program.

*Office of Indigent Defense Services (IDS).* Section 18A of the Appropriations Act requires IDS to report on a workload formula for public defender offices by December 1, 2018; establishes a new public defender office in District 29A (McDowell and Rutherford counties) and expands the public defender office in District 3B to include Craven and Pamlico counties in addition to Carteret County; allows the chief district court judge of a county selected to participate in the flat-fee pilot project to request to withdraw the county from the project; and requires IDS to report on indigency standards by October 1, 2018.

*Judicial Department.* Section 18B of the Appropriations Act amends G.S. 7A-304 to require the Administrative Office of the Courts (AOC) to report by October 1, 2018, and annually thereafter, on the implementation of the notice of waiver of costs to directly affected government entities; requires the North Carolina Sentencing and Policy Advisory Commission (Sentencing Commission) to study the most effective setting to house and provide treatment services for driving while impaired aggravated level one and level one offenders and report by February 1, 2019; requires the Sentencing Commission to develop

projections of available bed space in the Statewide Misdemeanant Confinement Program and report by February 15, 2019 and annually thereafter and requires the Sentencing Commission to study the feasibility of developing a five-year population projection, with the report due by February 15, 2019; and transfers the North Carolina Human Trafficking Commission from the Department of Justice to the AOC. The Appropriations Act also makes changes to the allocation of superior court judges and assistant district attorneys, effective January 1, 2019. ([S.L. 2018-121](#) (H 717), not summarized in this paper, modifies superior court, district court, and prosecutorial districts, effective on the dates indicated in that act.)

2. [S.L. 2018-13](#) (S 486): **Criminal record checks for state and county boards of elections; unlawful retention of information.** Effective June 20, 2018, the act adds G.S. 163A-7 and G.S. 163A-778 to require a criminal history record check of current and prospective employees of the State Board of Elections and Ethics Enforcement and county boards of elections, current and prospective county directors of elections, and employees and agents of current and prospective contractors. The statutes state that a single conviction constitutes just cause for not selecting the person for employment or dismissing the person from employment but a conviction does not automatically bar employment.

Effective December 1, 2018, the act adds G.S. 163A-1388(a)(16) to make it a Class 2 misdemeanor for any person who is not an elections official or who is not otherwise authorized by law “to retain a registrant’s signature, full or partial Social Security number, date of birth, or the identity of the public agency at which the registrant registered under G.S. 163A-884, any electronic mail address submitted under Part 2 of Article 17 of this Chapter, or drivers license number from any form described in G.S. 163-862 after submission of the form to the county board of elections or elections official.”

3. [S.L. 2018-31](#) (H 325): **Arson laws.** Effective for offenses committed on or after December 1, 2018, the act adds G.S. 14-67.2 to make it a Class D felony, unless the conduct is covered under another provision of law providing greater punishment, for a person to:
  - during the commission of a felony
  - knowingly damage any dwelling, structure, building, or conveyance referenced in Article 15 (Arson and Other Burnings) of G.S. Chapter 14
  - by means of fire or explosive
  - that results in damages of \$10,000 or more.

The statute states that aiding and abetting the offense is likewise a Class D felony.

The act also amends G.S. 14-69.3, which has made it a Class E felony to commit a felony under Article 15 of G.S. Chapter 14 causing serious bodily injury to a firefighter or emergency medical technician. The amended statute adds law enforcement officers and fire investigators to the coverage of the statute. The act also amends the caption of the statute to clarify that it applies to offenses resulting in serious bodily injury, not serious injury (the statute itself has required serious bodily injury).

4. **[S.L. 2018-33 \(S 630\): Involuntary commitment.](#)** As part of a larger act making several changes to North Carolina involuntary commitment laws, the act adds G.S. 122C-55(c1), effective October 1, 2019. The new subsection allows a mental health facility (as defined in G.S. 122C-3(14)) to provide confidential information to a sheriff on request about a client of the facility who is confined in the county's jail if the county jail medical unit has determined that the inmate needs to be treated for mental illness, developmental disabilities, or substance abuse. The new provision likewise allows a sheriff to provide confidential information to a facility if the inmate is seeking treatment from the requesting facility or has been involuntarily committed. The client's consent is not required in either instance.
5. **[S.L. 2018-36 \(S 124\): Disposal of hemp oil.](#)** Effective December 1, 2018, the act adds G.S. 90-94.1(d) to require anyone who possesses or uses hemp extract to dispose of residual oil at a secure collection box managed by a law enforcement agency. The subsection states that no criminal penalty attaches to a violation.
6. **[S.L. 2018-40 \(S 168\): Miscellaneous court system changes.](#)** The act amends several statutes related to the courts, including the following related to criminal courts.

G.S. 7A-498.3, which describes the responsibilities of the Office of Indigent Defense Services (IDS), is amended to require IDS to develop a model appointment plan, with minimum qualification standards for appointed counsel, by July 1, 2019. Judicial districts may request modifications to the model plan; however, if a judicial district has not adopted a plan with IDS's approved qualification standards by January 2, 2021, the IDS model plan becomes effective in that district.

Effective for arrest warrants issued on or after October 1, 2018, the act modifies G.S. 7A-304(b)(3), which describes the process for issuing an arrest warrant. That subdivision was modified in 2017 to require citizens seeking criminal process to put the facts supporting probable cause in a written affidavit. The act removes the written affidavit requirement; however, the amended subsection states that if the finding of probable cause is based solely on evidence provided by a person who is not a law enforcement officer, the issuing judicial official must issue a criminal summons instead of an arrest warrant except in specified circumstances. For a further discussion of this change, see Jeff Welty, [Easy Come, Easy Go: Legislature Removes Affidavit Requirement for Citizen-Initiated Criminal Process](#), N.C. Crim. L. Blog (July 9, 2018). The act also repeals subdivision G.S. 15A-304(b)(2), added in 2017 to specify circumstances in which the issuing official must issue a criminal summons instead of an arrest warrant, and restores the language previously in effect directing the issuing official to consider certain circumstances in deciding whether to issue a warrant or summons. The repealed subdivision included, among other provisions, that the fact that the offense charged is a felony is not itself grounds for issuance of an arrest warrant.
7. **[S.L. 2018-44 \(S 616\): Controlled substance changes.](#)** As part of a larger act dealing with heroin and opioids, the act makes the following changes, effective for offenses committed on or after December 1, 2018, unless otherwise indicated.

- Sections 2, 3, and 6 correct the names of certain substances in the controlled substance schedules. Section 4 amends G.S. 90-90(2) to add fentanyl immediate precursor chemical, 4-anilino-N-phenethyl-4-piperidine (ANPP), and section 5 amends G.S. 90-95(d2) to add N-phenethyl-4-piperidinone (NPP). Section 7 amends the trafficking statutes by revising G.S. 90-95(h)(3d) to delete MDPV and add substituted cathinones, repealing G.S. 90-95(h)(3e) on mephedrone, and amending G.S. 90-95(h)(4) to cover opioids as well as opium and opiates.
- Section 9 amends G.S. 90-108(a)(14), which makes it an offense for an employee of a registrant or practitioner to unlawfully divert a controlled substance, to add registrants and participants; and adds G.S. 90-108(a)(15) to make it a Class G felony under G.S. 90-108(b)(2) for a person who is not a registrant or practitioner or an employee of a registrant or practitioner to divert a controlled substance. New G.S. 90-108(b)(3) makes it a Class E felony if a person violates subdivision (14) or (15) and intentionally diverts any controlled substance by means of dilution or substitution as those terms are defined in the new provision.
- Section 11 adds 90-113.74(k) creating three new offenses involving individuals authorized to access data in the controlled substances reporting system. A person who is convicted of any of the new offenses is permanently barred from accessing the controlled substances reporting system.
  - A person who knowingly and intentionally accesses prescription information in the controlled substances reporting system for an unauthorized purpose is guilty of a Class I felony.
  - A person who knowingly and intentionally discloses or disseminates prescription information from the system for an unauthorized purpose is guilty of a Class I felony.
  - A person who willfully and maliciously obtains, discloses, or disseminates prescription information for an unauthorized purpose and with the intent to use the information for commercial advantage or personal gain or maliciously harm any person is guilty of a Class H felony.
- Several sections of the act address certified diversion investigators and certified diversion supervisors, new law enforcement positions addressing the diversion of controlled substances from legitimate channels. Effective July 1, 2019, new G.S. 90-107.1 authorizes such investigators to obtain pharmacy records in connection with an active investigation and establishes procedures for such requests; and new G.S. 90-113.74(i) authorizes the Department of Health and Human Services to release data in the controlled substance reporting system to such investigators under the conditions in that subsection. Effective June 22, 2018, new G.S. 90-113.74E requires the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission to develop standards

and training for diversion investigators and supervisors. Amended G.S. 17C-6(a) and G.S. 17E-4(a) elaborates on the standards and training.

8. **S.L. 2018-47 (S 768): People first language; changes to definition of mental incapacity for sexual assaults.** The act amends numerous statutes in two basic respects: (1) by eliminating outdated terminology describing people with a disability, for example by substituting intellectual disability for mental retardation and disability for handicap and (2) by referring to a person with a disability, mental illness, or other condition as a person with such a condition instead of defining the person by that condition, for example, as a disabled or mentally ill person. For the statutes related to criminal cases, the changes are effective for hearings or trials commenced on or after December 1, 2018, or offenses committed on or after December 1, 2018, depending on the particular statute amended.

Section 4(a) of the act also amends the definition of “mentally incapacitated” in G.S. 14-27.20, the definitions section for rape and other sexual offenses, to specify that a poisonous or controlled substance provided to a victim without his or her knowledge or consent may render the victim mentally incapacitated. This change applies to offenses committed on or after December 1, 2018.

9. **S.L. 2018-49 (H 156): Medicaid.** Effective June 22, 2018, the act adds Article 93, Prepaid Health Plan Licensing Act, in G.S. Chapter 58 regarding prepaid health plans, defined as a commercial plan or provider-led entity holding a license under the article for the purposes of operating a capitated contract for the delivery of services under the North Carolina Medicaid and NC Health Choice programs. A violation of the article and other provisions of Chapter 58 is a Class 1 misdemeanor under G.S. 58-93-80(b).
10. **S.L. 2018-61 (H 1076): Alamance/Guilford boundary.** Effective July 1, 2018, the act recognizes the revised boundary line between Alamance and Guilford counties as described in a 2008 survey by the North Carolina Geodetic Survey. The act states that no cause of action pending on July 1, 2018, including criminal actions, in areas affected by the 2008 survey are abated, that such actions shall continue in the appropriate adjoining county, and that lack of jurisdiction is not a defense.
11. **S.L. 2018-66 (H 744): Trespass on lands of Eastern Band of Cherokee Indians.** Effective for offenses committed on or after December 1, 2018, the act amends G.S. 14-159.12(a) to add to the places covered by first-degree trespass lands of the Eastern Band of Cherokee Indians after the person has been excluded by a resolution passed by the Eastern Band of Cherokee Indian Tribal Council. The act amends G.S. 14-159.12(f) to provide that a second or subsequent violation on such lands is a Class I felony, with a mandatory fine of \$1,000 per violation.
12. **S.L. 2018-67 (H 969): Prisoner offenses.** Effective for offenses committed on or after December 1, 2018, the act adds a new definitions section, G.S. 14-254.5, in Article 33 (Prison Breach and Prisoners) in G.S. Chapter 14. An employee is defined as any person

hired or contracted to work for the State or a local government. A prisoner is defined as any person in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, any law enforcement officer, or any local confinement facility as defined in G.S. 153A-217 or G.S. 153A-230.1, whether pending trial, appellate review, or presentence diagnostic evaluation.

The act broadens G.S. 14-258.4, which has made it a Class F felony for a prisoner to throw, emit, or cause to be used as a projectile bodily fluids at an employee, to cover that conduct with an unknown substance. The amended statute also adds a new offense of a prisoner knowingly and willfully exposing genitalia to an employee while the employee is in the performance of the employee's duties, a Class I felony. The revised statute also provides that "[s]entences imposed under this Article shall run consecutively to and shall commence at the expiration of any sentence being served by the person sentenced under this section." As written, this language appears to mean that if a person is currently serving a sentence for a violation of G.S. 14-258.4, the court must impose a consecutive sentence for any new violation of Article 33 of G.S. Chapter 14; it does not require a consecutive sentence for a violation of G.S. 14-258.4 unless the person is already serving a sentence for violating that statute. Also, under cases construing similar statutory language, if a person is sentenced at in the same proceeding for more than one violation, the court is not required to impose a consecutive sentence. *See, e.g., State v. Walston*, 193 N.C. App. 134, 141 (2008).

The act rewrites G.S. 14-258, which dealt with conveying messages and weapons to or trading with prisoners. Under the revised statute, it is a Class H felony for a person to sell, trade, convey, or provide to a prisoner (1) an article forbidden by prison rules or (2) a letter, oral message, weapon, tool, good, clothing, device, or instrument to effect an escape, or aid in an assault or insurrection. A violation involving the items in (2) is a Class F felony if an escape, assault, or insurrection occurs. The revised statute also makes it a Class H felony for a prisoner who possesses a letter, weapon, tool, good, article of clothing, device, or instrument to effect an effect an escape or aid in an assault or insurrection. This part of the statute does not require that the items be unlawfully provided to the prisoner, but such a requirement may be implied.

Effective June 25, 2018, new G.S. 14-258.7 requires by March 15 of each year a report by the Department of Public Safety to the General Assembly regarding assaults on officers in violation of Article 33, G.S. 14-34.5, and G.S. 14-34.7 by a prisoner against an employee or contractor. It also requires reports by that date by the Conference of District Attorneys and Administrative Office of the Courts regarding violations of those provisions.

Also effective June 25, 2018, amended G.S. 143B-929 authorizes the Information Sharing and Analysis Center of the State Bureau of Investigation to analyze information and, if credible, notify local law enforcement agencies about any threat of violence to the safety of any individual associated with educational property as defined in G.S. 14-269.2 or a place of worship as defined in G.S. 14-54.1.

- 13. [S.L. 2018-68](#) (H 776): Human trafficking and juveniles.** Effective October 1, 2018, the act adds G.S. 14-43.15 to require that a minor victim of a violation of G.S. 14-43.11 (human trafficking), G.S. 14-43.12 (involuntary servitude), or 14-43.13 (sexual servitude) be alleged to be abused and neglected under G.S. Chapter 7B.
- 14. [S.L. 2018-69](#) (H 379): Recodification of criminal law.** To assist the criminal law recodification working group, the act directs every state agency, board, and commission that has the power to define conduct as a crime to submit a list of crimes it has created to the General Assembly by December 1, 2018. The act likewise directs every county, city, town, and metropolitan sewage district that has enacted an ordinance for which a violation is punishable as a crime under G.S. 14-4(a) to submit such a list. The Administrative Office of the Courts must create and submit a list by February 1, 2019, of all criminal statutes that are duplicative; inconsistent with other statutes, rarely charged, fail to state a mens rea, or contain undefined terms; obsolete; or held to be unconstitutional by an appellate court.
- 15. [S.L. 2018-70](#) (H 945): Tracking of sexual assault evidence collection kits.** Effective June 25, 2018, the act adds G.S. 114-65 to establish the Statewide Sexual Assault Evidence Collection Kit Tracking System in the State Crime Lab, with the following requirements. All sexual assault evidence collection kits purchased or distributed on or after October 1, 2018, must be trackable and comply with the requirements of the system. (Amended G.S. 143B-1201 imposes the same requirement.) All medical providers, law enforcement agencies, forensic laboratories, and others having custody or use of any such kit must participate in and comply with the new system. Victims should be able to track the location of the kit and determine whether testing of the kit has been completed. Previously untested kits should be entered into the system in compliance with system protocols. Beginning October 1, 2019, the Director of the State Crime Lab must report to the General Assembly on, among other things, the number of tracking-enabled kits shipped, used, submitted for tests, and tested and efforts to track and test previously untested kits. The Secretary of the Department of Public Safety must convene a working group to make recommendations on, among other things, the testing of untested kits and testing of kits in the future; findings and recommendations of the working group are due to the General Assembly by December 1, 2018.
- 16. [S.L. 2018-72](#) (H 670): Threat of mass violence at school and religious place of worship.** Effective for offenses committed on or after December 1, 2018, the act creates two new offenses. New G.S. 14-277.6 makes it a Class H felony for a person to:
- by any means of communication
  - to any person or group of people
  - threaten to commit an act of mass violence as defined in G.S. 14-277.5
  - on educational property or at a curricular or extracurricular activity sponsored by a school as defined in G.S. 14-277.5.



New G.S. 14-277.7 makes it a Class H felony for a person to:

- by any means of communication
- to any person or group of people
- threaten to commit an act of mass violence as defined in G.S. 14-277.5
- at a place of worship as defined in the new statute.

New G.S. 14-277.8 creates a discharge and dismissal procedure for a person who violates G.S. 14-277.5 or the two new statutes if the person was under 20 at the time of the offense and has not prior convictions other than for a traffic violation; and new G.S. 15A-145.7 creates a procedure for expunging the discharge and dismissal. For a discussion of these procedures, see Jamie Markham, [\*Another New Conditional Discharge: Threats and False Reports of Mass Violence\*](#), N.C. Crim. L. Blog (July 12, 2018).

New G.S. 15A-534.7 requires that pretrial release conditions be determined by a judge in the first 48 hours after arrest of a person for a violation of either of the two new statutes. If the judge determines that immediate release of the person will pose a danger of injury to people and that the execution of an appearance bond will not reasonably assure that injury will not occur, the judge may retain the defendant in custody for a reasonable period of time while determining the conditions of pretrial release. The statute recognizes that the judge may impose stay-away conditions in addition to a secured bond. If a judge has not acted within 48 hours, a magistrate has the authority to set conditions as provided in G.S. 15A-534.7.

**17. [S.L. 2018-75 \(S 162\): Human trafficking.](#)** The act makes several changes to statutes related to human trafficking, with effective dates as indicated below.

- Amended G.S. 14-43.10 defines “victim” for purposes of Article 10A (Human Trafficking) of G.S. Ch. 14 as a person subjected to the practices set forth in G.S. 14-43.11, G.S. 14-43.12, or G.S. 14-43.13. Effective June 15, 2018.
- New G.S. 14-43.15 makes it an affirmative defense to a prosecution under Article 10A that the person charged with the offense was a victim at the time of the offense and was coerced or deceived into committing the offense as a direct result of the person’s status as a victim. Effective December 1, 2018.
- New G.S. 14-43.16 makes confidential the name, address, and other information that reasonably could be expected to lead directly to the identity of any victim, alleged victim, or immediate family member (as defined in the statute) of a victim. The statute provides some exceptions, such as use in a law enforcement investigation or criminal prosecution. Presumably, the term “criminal prosecution” includes providing information to the defense in discovery. A knowing violation of the confidentiality requirement is a Class 3 misdemeanor. Effective December 1, 2018.
- Amended G.S. 14-43.20 allows the judge to order as part of restitution any costs reasonably certain to be incurred by or on behalf of the victim for medical care,



psychological treatment, temporary housing, transportation, funeral services, and any other services designed to assist a victim recover from any injuries or loss resulting from an offense committed under G.S. 14-43.11, G.S. 14-43.12, or G.S. 14-43.13. This change is effective for offenses committed on or after December 1, 2018. The amended statute also provides that if a judge finds that the victim to whom restitution is due is unavailable to claim the restitution award, the judge is to order that the restitution be paid to the clerk of superior court in the county in which the conviction for the offense occurred. If the victim does not claim the restitution award within two years, the clerk is to remit the restitution proceeds to the Crime Victims Compensation Fund under G.S. 15B-23. Effective for restitution orders entered on or after December 1, 2018.

- Amended G.S. 7B-101 includes in the definition of “abused juvenile” any juvenile less than 18 years of age who is a victim of an offense under G.S. 14-43.11, G.S. 14-43.12, or G.S. 14-43.13, regardless of the relationship between the victim and the perpetrator. Effective December 1, 2018.
- Amended Rule 412 of the North Carolina Rules of Evidence applies the “rape shield” provisions of the rule to trials involving charges of sexual servitude under G.S. 14-43.13 in addition to the previously-listed offenses. Effective for trials held on or after December 1, 2018.
- Amended G.S. 114-70 adds three ex-officio members to the North Carolina Human Trafficking Commission, appointed by the Director of the Administrative Office of the Courts, President of the Conference of Superior Court Judges, and President of the District Court Judges. The act directs the Commission, in consultation with the Conference of District Attorneys, to study the appropriate level of sentencing for offenses under Article 10A and the effects of expanding eligibility for post-conviction relief to human trafficking victims. The report is due to the General Assembly by February 1, 2019. Effective June 25, 2018.

**18. [S.L. 2018-78 \(H 529\): Funeral laws.](#)** Effective October 1, 2018, the act adds G.S. 90-210.25(c)(14) to authorize the North Carolina Board of Funeral Service to suspend, revoke, or refuse to issue or renew a permit to transport or remove a dead human body, place the permittee on a term of probation, or impose a civil penalty up to \$5,000 if, among other reasons, the permittee has been convicted of a felony or of a crime involving fraud or moral turpitude. Effective December 1, 2018, the act adds G.S. 90-210.25(f)(2) to make it a Class 2 misdemeanor to knowingly and willfully abuse or mutilate a dead human body in the person’s custody.

**19. [S.L. 2018-79 \(H 774\): Certificates of relief.](#)** Effective for petitions filed on or after December 1, 2018, the act modifies the eligibility criteria in G.S. 15A-173.2 for obtaining a certificate of relief . It expands eligibility by allowing a person to obtain a certificate of relief if he or she has three or fewer prior Class H or I felony convictions as well as any prior misdemeanor convictions. If the felony convictions occurred during the same session of court, the

convictions count as a single conviction. The act contracts eligibility by making a person ineligible if convicted of a Class G (or higher class) felony. Amended G.S. 15A-173.2 requires a \$50 filing fee unless the person is indigent, directs the District Attorney to provide the person's criminal history to the court, provides that a certificate of relief is automatically revoked if the person is subsequently convicted of a felony or misdemeanor other than a traffic violation (also reflected in amended G.S. 15A-173.4), and requires the person to notify any employer, landlord, or other party who has relied on a certificate of relief of any conviction, modification, or revocation within ten days. For a further discussion, see John Rubin, [Expanded Forgiveness of a Criminal Conviction](#), N.C. Crim. L. Blog (July 3, 2018).

20. **[S.L. 2018-84 \(H 977\)](#): Forfeiture of retirement benefits.** G.S. 135-18.10 prohibits the Teachers' and State Employees' Retirement System from paying any retirement benefits or allowances, except for a return of member contributions plus interest, to any member convicted of a felony specified in that section if the offense was committed while the person was serving as an elected government official and the conduct was directly related to the person's service as an elected official. G.S. 128-38.4 imposes the same prohibition for retirement benefits and allowances from the North Carolina Local Governmental Employees' Retirement System. Effective for offenses committed on or after June 25, 2018, the act amends both statutes to specify additional felonies resulting in forfeiture. The act also amends G.S. 161-50.4 and G.S. 161-50.5 to terminate the pension benefits of a county register of deeds on forfeiture of retirement benefits under G.S. 128-38.4 or G.S. 128-38.4A (forfeiture of retirement benefits for certain felonies related to employment or holding office), effective for any forfeiture occurring on or after June 25, 2018.
21. **[S.L. 2018-87 \(H 388\)](#): Mutual assistance between law-enforcement agencies and to State law-enforcement agencies.** Effective June 25, 2018, the act amends G.S. 160A-288 and G.S. 160A-288.2 to allow the head of a law-enforcement agency to provide assistance on request to another law-enforcement agency or a State law-enforcement agency unless prohibited or limited by a city or county ordinance (was, rules, policies, or guidelines adopted by city or county).
22. **[S.L. 2018-91 \(H 357\)](#): Dietetics/Nutrition Practice Act.** The act adds G.S. 90-357.6 to require applicants for a license as a licensed dietitian/nutritionist to consent to a criminal history check. The new statute states that one or more convictions does not automatically bar issuance of a license; the licensing board, the North Carolina Board of Dietetics/Nutrition, must consider several factors listed in the statute. The licensing board also may request a criminal history record check of applicants returning to active status. The act adds G.S. 143B-966 authorizing the Department of Public Safety to provide a criminal history check to the board.
23. **[S.L. 2018-98 \(S 561\)](#): Authority to prosecute tax violations.** Effective for offenses committed on or after December 1, 2018, the act amends G.S. 105-236(b) to provide that

for a criminal violation of a tax law the District Attorney of the county where the charged offense occurred has sole jurisdiction to prosecute; however, the Attorney General has concurrent jurisdiction if the District Attorney requests in writing that the Attorney General prosecute.

- 24. [S.L. 2018-100 \(H 500\): Raffles.](#)** Effective October 1, 2018, the act amends G.S. 14-309.6, a section within the part on bingo and raffles, to define nonprofit organization as an organization recognized as tax-exempt by the North Carolina Department of Revenue and as any bona fide branch, chapter, or affiliate. Amended G.S. 14-309.15 allows any regional or county chapter of a nonprofit organization to conduct a raffle independently of its parent organization, increases the number of raffles that a nonprofit organization may hold from two to four per year, and increases the prize that a nonprofit organization may offer from \$125,000 to \$250,000. Amended G.S. 18B-308 allows the sale and consumption of alcohol at a raffle; the prohibition remains in effect for bingo. Effective December 1, 2018, new G.S. 18B-903A authorizes the reissuance of a limited special occasion permit or a special one-time permit to a nonprofit organization as provided in that section and, effective for offenses on or after that date, makes it a Class 1 misdemeanor to knowingly make a false statement in an application for reissuance of the permit.
- 25. [S.L. 2018-105 \(H 1080\): Release of police disciplinary information.](#)** G.S. 160A-168 makes a city employee's personnel record confidential except in specified circumstances. To facilitate citizen review, the statute has authorized the city manager and chief of police to release disciplinary charges against a police officer to the Human Relations Commission Complaint Subcommittee in the City of Greensboro and to the person aggrieved by an officer's actions or the person's survivor. Effective June 26, 2018, the act amends the statute to authorize release to the Criminal Justice Advisory Commission and its subcommittee, the Police Community Review Board, and to authorize those entities as well as the city manager and police chief to release the information to the aggrieved person or survivor. The act applies to the City of Greensboro only.
- 26. [S.L. 2018-110 \(H 551\): Victims rights constitutional amendment.](#)** The act directs placement on the November 2018 ballot in North Carolina the following question, which voters may vote for or against: "Constitutional amendment to strengthen protections for victims of crime; to establish certain absolute basic rights for victims; and to ensure the enforcement of these rights." The act provides additional detail about the changes to the current section on victims rights in the state constitution, Art. I, Sec. 37. If approved, the amended section would apply to victims of acts of delinquency by juveniles as well as victims of crimes by adults and would require that victims be treated with dignity and respect by the criminal justice system. If the crime or act of delinquency is against a person or is a felony property crime, the amended section would revise the rights previously enumerated in the section. The revised rights include the right to reasonable, accurate, and timely notice of court proceedings (was, informed); the right on request to be present at court proceedings; the

right to be reasonably heard at any court proceeding involving the plea, conviction, adjudication, sentencing, or release of the accused (was, sentencing); and the right to received restitution in a reasonably timely manner when ordered by the court. The amended section includes a section on enforcement of these rights. It requires the General Assembly to adopt laws establishing procedures for victims to exercise these rights, including the right to make a motion to the court to enforce the rights, to be represented by counsel but not have counsel provided by the State, and the right of a family member, guardian, or custodian to exercise the rights on behalf of a victim who is a minor, incapacitated, or deceased. As under the current section, a defendant has no ground for relief for a violation of these rights. The revised section provides further that a victim has no right to “(i) to appeal any decision made in a criminal or juvenile proceeding; (ii) to challenge any verdict, sentence, or adjudication; (iii) to participate as a party in any proceeding; or (iv) to obtain confidential juvenile records.” For a further discussion of the act, see Shea Denning, [Marsy’s Law Is on the Ballot; Voters Will Decide Whether it Goes on the Books](#), N.C. Crim. L. Blog (July 25, 2018).

- 27. [S.L. 2018-113 \(S 711\): Mutual assistance for international equestrian event.](#)** As part of a larger agricultural bill, the act adds G.S. 153A-212.5 to authorize law enforcement agencies to enter into intergovernmental law enforcement mutual aid agreements with out-of-state law enforcement agencies and officers to aid in enforcing the laws of North Carolina within the jurisdiction of the requesting law enforcement agency for maintaining security and safety for an international equestrian event. This part of act because effective June 27, 2018, and expires October 1, 2018.
- 28. [S.L. 2018-116 \(S 808\): Domestic violence fatality review team.](#)** Effective June 28, 2018, the act amends previous session laws by adding Buncombe County to the counties previously authorized to establish a domestic fatality review team (Alamance, Mecklenburg, Pitt, and Wake).
- 29. [S.L. 2018-120 \(H 382\): Set aside of bail bond forfeiture; surplus lines insurance.](#)** As part of a larger act recommended by the North Carolina Department of Insurance, amended G.S. 15A-544.5(b)(7) requires that the forfeiture of a bail bond be set aside if the defendant was incarcerated in a local, state, or federal detention center, jail, or prison anywhere with the United States at the time of the failure to appear “or any time between the failure to appear and the final judgment date.” The quoted language is new and applies to hearings on or after October 1, 2018. The other requirements for a set aside under this subdivision remain the same, including that notice be given to the district attorney for the county in which the charges are pending within the time frames described in the subdivision.
- Effective for offenses committed on or after June 28, 2018, the act amends 58-21-105(a) to make it a Class 1 misdemeanor for any surplus lines licensee in this State to represent or aid a nonadmitted domestic surplus lines insurer in violation of Article 21 of G.S. Chapter 58.

- 30. [H 131](#): Additional grounds for set aside of bail bond forfeiture.** This bill was passed by the General Assembly but did not become law because the Governor vetoed the bill and the General Assembly did not override the veto. The bill would have amended G.S. 15A-544.8 to allow the court to grant relief from a final judgment of forfeiture if circumstances, rather than extraordinary circumstances, existed that warrant relief. As part of the change, the bill would have deleted language expressly limiting relief to the grounds specified in that statute. The bill also would have amended G.S. 15A-544.5 to add as an additional ground for setting aside a bond forfeiture that the defendant was in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety or the Federal Bureau of Prisons within the borders of North Carolina at any time between the failure to appear and the final judgment of forfeiture.
- 31. [S.L. 2018-144 \(S 824\)](#): Photographic identification to vote.** Effective December 19, 2018, the act adds G.S. 163A-1389(19) to make it a Class I felony to counterfeit, sell, lend to, or knowingly permit the use of, by one not entitled to it, a form of photo identification required in new G.S. 163A-1145.1 for voting. New G.S. 163A-1145.2 requires university and college officials to report any misuse of student identification equipment to law enforcement if new G.S. 163A-1389(19) is potentially violated, and new G.S. 163-1145.3 imposes a similar requirement for state and local officials for any misuse of employee identification equipment. The act also adds G.S. 163A-741(o1) to require the State Board of Elections to include in all forms that the false or fraudulent completion of a declaration (regarding, for example, inability to obtain photo identification) is a Class I felony.
- 32. [S.L. 2018-145 \(S 469\)](#): Technical corrections.** Effective December 27, 2018, the act makes the following technical and clarifying changes:
- The act amends [S.L. 2018-75 \(S 162\)](#), enacted earlier in the 2018 session, to clarify that the provisions about affirmative defenses in new G.S. 14-43.16, victim confidentiality requirements in new G.S. 14-43.17, and restitution in revised G.S. 14-43.20(b) apply to offenses committed on or after December 1, 2018. It also repeals section 5 of S.L. 2018-75, which revised the definition of abused juvenile in G.S. 7B-101; the repeal does not affect [S.L. 2018-68 \(H 776\)](#), which revised the definition of abused juvenile to include a minor victim of human trafficking under G.S. 14-43.15. The act also amends G.S. 14-43.17 to provide that the confidentiality requirements do not apply to records that have been made part of the court file in the custody of the General Court of Justice.
- The act amends G.S. 20-7(b2) to allow the Division of Motor Vehicles to disclose applicants' social security numbers to the Judicial Department for the purpose of administering the criminal and motor vehicle laws.
- The act amends G.S. 15A-173.2(f) to require the Administrative Office of the Courts to include a statement on the petition and order for a certificate of relief form (was, forms recording the criminal judgment) that a certificate of relief is automatically revoked for a subsequent conviction of a felony or misdemeanor other than a traffic violation.

**33. [S.L. 2018-146](#) (H 1029): Confidential investigation of campaign finance violations.** Section 4.11 of the act amends various statutes to authorize the State Ethics Commission to issue confidential recommendations to the State Board of Elections regarding the appropriateness of criminal referrals of campaign finance violations. The section applies to referrals of violations made on or after January 31, 2019, by the State Board of Elections to prosecuting authorities.