

**Legislative Summary—2002 Session**  
**Superior Court Judges**  
**October 7, 2002**

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Institute of Government

**Criminal**

1. **S.L. 2002-64 (H 1583) Electronic Criminal Process.** This law directs the AOC to create an electronic repository for criminal process allowing for the creation and filing of criminal process in electronic form. The electronic repository must allow for the tracking of criminal process, remote access to criminal process, and the printing of electronic criminal process on paper. Although all of the provisions in this law become effective January 1, 2003, the provisions regarding the electronic repository cannot be implemented until the AOC puts such a repository in place. Currently, no such system exists. Once the repository is in place, any criminal process may be created, signed, issued, and filed in electronic form and retained in the electronic repository. Also, any criminal process that was first created in paper form may be filed in electronic form and entered in the repository. When electronic criminal process from the repository is printed in paper form, it will have the same effect as the original. Thus, it will be possible to validly serve a person with a printed copy of any electronic criminal process from the repository. The rules regarding service of a printed copy of electronic process in the repository are: (1) service must occur within 24 hours after the process was printed; (2) the date, time and place of service must be entered in the electronic repository; (3) if service is not made within 24 hours, that fact must be recorded in the electronic repository and the paper copies must be destroyed (although the process may be reprinted at a later time). Three other significant provisions of this law are not contingent on the creation of an electronic repository. First, the new law defines an “original” document to include signed paper forms printed through facsimile machines. Thus, when the law becomes effective, defendants validly may be served with faxed copies of any criminal process. Note that the law defines the term “document” to include criminal process and other papers. Search warrants are expressly excluded from that definition. Second, the law defines a signature to mean any symbol executed with the intent to authenticate a document. It provides that a document may be signed “by the use of any manual, mechanical or electronic means that causes the individual’s signature to appear in or on the document.” Thus, the law clarifies that so long as criminal process contains a printed “signature,” that is sufficient and the magistrate need not hand sign the process. Third, the law contains a provision dealing with the recall of criminal process that has not been served on a defendant, other than a citation. Under this provision, a warrant or criminal summons must be recalled by the judicial official who issued it when that official determines that there was no probable cause supporting its issuance. It also provides that any criminal process other than a warrant or criminal summons may be recalled for good cause. Good cause includes, for example, the fact that the process has been served on the defendant, that the charges have been dropped, or that the wrong person was named. The disposition of all charges on which the process is based automatically recalls that process. Also, the law provides for a means to recall paper and electronic criminal process. Effective January 1, 2003 and applies to all acts done on and after that date.

2. **S.L. 2002-77 (H 622) Firearm Regulation.** This law pertains to civil suits against gun manufacturers and others. It provides that only the State can sue firearms or ammunition marketers, manufacturers, distributors, dealers, sellers or trade associations on behalf of government units for harm resulting from the lawful design, marketing, manufacture, distribution, sale or transfer of firearms or ammunition to the public. Political subdivisions or local governments can sue these entities for breach of contract or warranty or for defect of materials or workmanship relating to firearms or ammunition that they have purchased. The law also provides that the lawful design, marketing, manufacture, distribution, sale or transfer of firearms or ammunition to the public is not an unreasonably dangerous activity and does not constitute a nuisance per se. Finally, it provides that the lawful design, marketing, manufacture, distribution, sale or transfer of firearms or ammunition to the public is not a proximate cause of injuries arising from the unlawful use of firearms and ammunition. Effective August 15, 2002 and applies to any action pending or filed on or after that date.
3. **S.L. 2002-25 (H 1488) Extend Sunset on Open Container Law.** This law extends the expiration of the provision in G.S. 20-138.7 governing transportation of open containers of alcoholic beverages from September 30, 2002 to September 30, 2006. Effective July 22, 2002.
4. **S.L. 2002-73 (H 1546) Occupancy Limits for Vehicles Driven by Level 2 Drivers with Limited Provisional Licenses.** This law provides that when a driver with a level 2 restriction is driving without the supervising driver, he or she can have no more than one passenger under 21 in the vehicle. The limit does not apply to passengers who are members of the license holder's immediate family or who share a primary residence with the license holder. However, if a member of the license holder's family or household who is younger than 21 is in the vehicle, no other passengers under 21 who are not members of the license holder's immediate family or household may be in the vehicle. A violation of this restriction is an infraction. The law also addresses certain collateral consequences of a violation (insurance points, etc.). Effective December 1, 2002 and applies to limited provisional licenses issued on or after that date.
5. **S.L. 2002-98 (S 1144). Defining and Authorizing Use of Personal Assistive Mobility Devices.** Amends G.S. 20-4.01, adding the following definition for Electric Personal Assistive Mobility Devices: a self-balancing non-tandem two-wheeled device, designed to transport one person, with a propulsion system that limits the maximum speed of the device to 15 miles per hour or less. Such devices are excluded from the definition of "vehicle" in G.S. 20-4.01(49) and from the requirement of registration and certificate of title. The law provides that such devices may be used on public highways with speed limits of 25 miles per hour or less, sidewalks, and bicycle paths. Persons operating such devices shall yield the right-of-way to pedestrians and other human-powered devices. Persons operating such devices shall have all rights and duties of a pedestrian. The law provides for municipal regulation of the time, place and manner of the use of such devices, but prohibits banning their use. Effective August 29, 2002.
6. **S.L. 2002-119 (H1276). Close Incest Loophole.** Prior to enactment of this law, individuals who were convicted of sexually assaulting their own children were punished less severely than individuals who sexually assaulted other children. This law eliminates this "loophole." It repeals G.S. 14-179 (incest between uncle and aunt and nephew and aunt) and amends G.S. 14-178 (incest between certain near relatives) as follows: (1) G.S. 14-178 is now entitled "Incest"; (2) a person commits incest if the person engages in carnal intercourse with the person's grandparent or grandchild, parent, child, stepchild or legally adopted child, brother

or sister of whole or half blood, or uncle, aunt, nephew or niece; (3) punishments are increased as follows: (a) a person is guilty of a Class B1 felony if the person commits incest against a child under 13 years old and the person is at least 12 years old and is at least 4 years older than the child when the incest occurs *or* the person commits incest against a child who is 13, 14, or 15 years old and the person is at least 6 years older than the child when the incest occurred; (b) a person is guilty of a Class C felony if the person commits incest against a child who is 13, 14, or 15 and the person is more than 4 but less than 6 years older than the child when the incest occurred; and (c) in all other cases of incest, the parties are guilty of a Class F felony; (4) the law adds a new provision stating that no child under the age of 16 liable for incest if the other person is at least 4 years older when the incest occurs. Effective December 1, 2002, and applies to offenses committed on or after that date.

7. **S.L. 2002-106 (S 1218). Revenue Laws Enforcement Enhancements.** Previously, the punishment for aiding and assisting the filing of false tax documents was classified as an H felony. Under this new law, if the person who commits the offense is: (1) an income tax return preparer and the amount of taxes fraudulently evaded on returns filed in one year is \$100,000 or more, the person is guilty of a Class C felony; (2) an income tax return preparer and the amount of taxes fraudulently evaded on returns filed in one year is less than \$100,000, the person is guilty of a Class F felony; (3) not an income tax return preparer, the person is guilty of a Class H felony. Although certain exceptions apply, an income tax return preparer is defined as any person who prepares for compensation, or who employs one or more persons to prepare for compensation any tax return or refund claim. The law also provides that a person who receives money from a taxpayer with the understanding that the money is to be remitted to the Secretary for application to the taxpayer's tax liability and who willfully fails to remit the funds, is guilty of a Class F felony. Finally, the law adds an exception to G.S. 105-259(b), the provision prohibiting an officer, employee or agent of the State from disclosing tax information acquired during employment. The new exception allows for disclosures to law enforcement agencies of information concerning the commission of an offense discovered by the Department during a criminal investigation of the taxpayer. The disclosure exception is effective September 6, 2002. The other provisions become effective December 1, 2002 and apply to actions committed on or after that date.
8. **S.L. 2002-147 (H 1638) Sex offender changes.** Amends GS 14-208.6 to add definition for the terms "employed," institution of higher education" and "student." Amends GS 14-208.7 (b) to require a sex offender to indicate whether he or she is a student or plans to enroll as a student within a year of registering; or is employed or expects to be employed at an institution of higher education within a year of registration. Students or those employed at institutions of higher education who are required to register as sex offenders must notify the sheriff of the county in which the person is registered within 10 days of any change in the persons enrollment or employment status. Failure to provide the notification is a Class F felony. Effective Oct. 9, 2002.
9. **S.L. 2002-183 (S 910). Defraud drug or alcohol screening tests.** Adds new GS 14-401.20 to make it a crime to sell or otherwise distribute urine to defraud a drug or alcohol test, or to substitute or spike a sample to be used to defraud such a test, or to use, possess or sell adulterating substance that is intended to be used to defraud test. First violation is class 1 misdemeanor, second or subsequent is class I felony. Effective Dec. 1, 2002.
10. **S.L. 2002-106 (S 1218). Revenue Laws Enforcement Enhancements.** Previously, the punishment for aiding and assisting the filing of false tax documents was classified as an H felony. Under this new law, if the person who commits the offense is: (1) an income tax

return preparer and the amount of taxes fraudulently evaded on returns filed in one year is \$100,000 or more, the person is guilty of a Class C felony; (2) an income tax return preparer and the amount of taxes fraudulently evaded on returns filed in one year is less than \$100,000, the person is guilty of a Class F felony; (3) not an income tax return preparer, the person is guilty of a Class H felony. Although certain exceptions apply, an income tax return preparer is defined as any person who prepares for compensation, or who employs one or more persons to prepare for compensation any tax return or refund claim. The law also provides that a person who receives money from a taxpayer with the understanding that the money is to be remitted to the Secretary for application to the taxpayer's tax liability and who willfully fails to remit the funds, is guilty of a Class F felony. Finally, the law adds an exception to G.S. 105-259(b), the provision prohibiting an officer, employee or agent of the State from disclosing tax information acquired during employment. The new exception allows for disclosures to law enforcement agencies of information concerning the commission of an offense discovered by the Department during a criminal investigation of the taxpayer. The disclosure exception is effective September 6, 2002. The other provisions become effective December 1, 2002 and apply to actions committed on or after that date

11. **S.L. 2002-157 (H 1501) Unlawful Access to Government Computers.** Creates new sections in Chapter 14, Article 60 (Computer-Related Crime) of the General Statutes. New GS 14-454.1 makes it a Class F felony to willfully access or cause to be accessed any government computer for the purpose of: (1) devising or executing any fraudulent scheme, or (2) obtaining property or services by false pretenses, representations, or promises. It is a Class H felony to willfully and without authorization access or cause to be accessed any government computer for any purpose other than those set forth above. It is a Class 1 misdemeanor to willfully and without authorization access or cause to be accessed any educational testing material or academic or vocational testing scores or grades that are in a government computer. The phrase "access or cause to be accessed" includes introducing, directly or indirectly, a computer program (including a self-replicating or self-propagating computer program) into a computer, computer program, computer system, or computer network. "Government computer" means any computer, computer program, computer system, computer network, or any part thereof, that is owned, operated, or used by any State or local governmental entity." Amends GS 14-455 (damaging computers, computer programs, computer systems, computer networks, and resources), adding a new subsection making it a Class F felony to willfully and without authorization alter, damage, or destroy a government computer. Adds a new GS 14-456.1 making it a Class H felony to willfully and without authorization deny or cause the denial of government computer services. "Government computer service" means any service provided or performed by a government computer. This new provision expressly applies to a denial of services effectuated by introducing, directly or indirectly, a computer program (including a self-replicating or self-propagating computer program) into a computer, computer program, computer system, or computer network. Creates a new GS 14-453.1 providing that Article 60 does not apply to or prohibit: (1) any terms or conditions in a contract or license related to a computer, computer network, software, computer system, database, or telecommunication device; or (2) any software or hardware designed to allow a computer, computer network, software, computer system, database, information, or telecommunication service to operate in the ordinary course of a lawful business or that is designed to allow an owner or authorized holder of information to protect data, information, or rights in it. A new jurisdictional provision in GS 14-453.2 provides that any offense under Article 60 committed by the use of electronic communication may be deemed to have been committed where the electronic communication was originally sent or where it was originally received in this State. Effective December 1, 2002 and applies to offenses committed on or after that date.

12. **S.L.2002-175 (H1100) Counterfeiting Negotiable Instruments.** Previously, GS 14-119(a) prohibited only counterfeiting of instruments. This bill amends GS 14-119(a) to cover possession of counterfeit instruments as well. Amended 14-119(a) provides that it is a Class I felony to forge or counterfeit any instrument or possess any counterfeit instrument, with the intent to injure or defraud any person, financial institution, or governmental unit. In amended subsection (b), this bill creates a Class G felony for transporting or possessing 5 or more counterfeit instruments with the intent to injure or defraud any person, financial institution, or governmental unit. New subsection (c) defines the terms counterfeit, financial institution, governmental unit, and instrument. Adds a new subsection to GS 14-113.9(a) providing that a person is guilty of financial transaction card theft when he or she, with intent to defraud (i) uses a scanning device to access, read, obtain, memorize, or store information encoded on another person's financial transaction card or (ii) receives the encoded information from another person's financial transaction card. The term scanning device is defined in a new subsection in GS 14-113.8. Amends GS 14-113.20(a) (financial identity fraud) to provide that a person is guilty of financial identify fraud when he or she knowingly obtains, possesses, or uses personal identifying information of another person person, living or dead. Expands the criminal intent in this subsection to include the intent to fraudulently represent that the person is the other person for the purposes of making financial or credit transactions in the other person's name, to obtain anything of value, benefit, or advantage, or for the purpose of avoiding legal consequences. Amends GS 14-113.20(b) to include the following additional information within the term "identifying information:" biometric data, fingerprints, passwords, and parent's legal surname prior to marriage. Creates a new GS 14-113.20A, entitled: Trafficking in Stolen Identities. This section makes it unlawful to sell, transfer or purchase the identifying information of another person with the intent to commit financial identity fraud, or to assist another person in committing financial identity fraud. Violation is a felony, punishable as provided in G.S. 14-113.22(a1). Amends GS 14-113.22, the provision on punishment for violations by Article 19C. Adds a new section to General Statutes Article 43, Chapter 1 allowing a person whose property or person is injured by reason of an act made unlawful in Article 19C to sue to civil damages. Effective December 1, 2002 and applies to offenses committed on or after that date.
13. **S.L. 2002-166 (H1641) Offender Supervision Compact/Transfer.** Section 1 of this bill adopts the provisions of the revised Interstate Compact for the Supervision of Adult Offenders. Establishes advisory committee to advise DOC on matters related to compact; one of eleven members is to be a superior court judge appointed by the Chief Justice. Allows Post-Release Supervision Comm'n to direct that sentence imposed by NC courts to be served in other states or federal prisons concurrently with sentences in effect in that jurisdiction. This provision becomes effective when it becomes law. Section 2 repeals Article 4A in Chapter 148 of the General Statutes (Out-of-State Parolee Supervision), effective one year after the effective date of section 1. Provides for NC to participate in the International Prisoner Transfer Program, administered by the US Department of Justice, effective January 1, 2003.
14. **S.L. 2002-179 (H1508). Public Health Bioterrorism Preparedness.** Adds a new Article 22 to Chapter 130A of the General Statutes entitled: A Terrorist Incident Using Nuclear, Biological, or Chemical Agents. Gives the State Health Director broad authority to respond to a suspected terrorist attack, including among other things, authority to limit the movement of contaminated persons or animals and limit access to certain areas. Any person substantially affected by a restriction on movement or access or by a quarantine or isolation may institute an action in superior court to review the limitation. The person is entitled to counsel and if the person is indigent, he is or she is entitled to appointed counsel. Amends GS 15A-401(b) to

allow law enforcement officers to detain a person arrested for violating an order limiting freedom of movement or access in an area designated by the State or local health director. The person may be detained in such area until the initial appearance. Creates a new 15A-534.5 providing that if a judicial official conducting an initial appearance finds by clear and convincing evidence that a person arrested for violating an order limiting freedom of movement or access poses a threat to the health and safety of others, the judicial official shall deny pretrial release and shall order the person to be confined in an area or facility designated by the judicial official. Such pretrial confinement terminates when a judicial official determines that the confined person does not pose a threat to the health and safety of others. These determinations shall be made only after the State Health Director or local health director has made recommendations to the court. Effective October 1, 2002.

15. **S.L. 200-159 (S 1217) Technical corrections.** Amends GS 7A-273 to allow chief district judges conference to put violations of GS 7A-399(c1) (littering infraction offense) on the various waiver lists (these charges are not waivable until the conference actually adds them to the waiver lists.) Amends GS 14-27.1, -27.3, -27.5 and GS 15-144.1, -144.2 substitute “mentally disabled” in those sections where “mentally defective” now appears; effective Dec. 1, 2002. Amends GS 20-28(a1) to make the time limits in that section (which provides for special punishment for certain driving while license revoked charges involving CVR revocations under GS 20-16.5) to make the time limits consistent with the minimum periods of revocation under GS 20-16.5.

## Civil

1. **S.L. 2001-28 (H 1513). Clarify rolling upset bids for judicial/execution sales.** Amends G.S. 1-339.25(a) and –339.64(a) to remove the provision that the rights of the parties becomes fixed if an upset bid was not filed within 10 days following a sale, resale or prior upset bid. Since judicial and execution sales, unlike foreclosures, must be confirmed that provision conflicted with the long-standing law that the rights of the parties are not fixed until confirmation by the clerk.
2. **S.L. 2002-112 (S 1154). Planned community liens for failure to pay dues.** Amends G.S. 47F-1-102 to clarify the applicability of the chapter to planned communities created before January 1, 1999. Provisions for assessments for common expenses and liens for assessments apply to all planned communities created in NC before January 1, 1999 without any action by the planned community. [Provides that a claim of lien is filed with clerk and then enforced by procedure for foreclosure under power of sale.]
3. **S.L. 2002-105 (H 1534). Domestic Violence Comm’n to draw rules for abuser treatment programs.** Grants rule-making authority to Domestic Violence Comm’n instead of Dep’t of Administration for abuser treatment programs that persons against whom domestic violence protective orders are entered or defendants on probation for domestic violence offenses may be ordered by the court to attend.
4. **S.L. 2001-171 (H 1402) Address confidentiality for domestic violence, sexual offense, and stalking victims.** Enacts new G.S. 15C-1 through –16.1 to establish a confidentiality of address program for victims of domestic violence, sexual offense, or stalking who relocate to prevent potential assailants from finding person through public records.

Attorney General designates a substitute address for a person who registers in the program and acts as an agent for the program participant for purposes of service of process and receiving and forwarding first-class mail or certified or registered mail. Person who wishes to register for the program must submit an application that includes specified items listed in the statute. Upon receipt of a properly completed application, the Attorney General certifies the applicant as a program participant. Application is good for four years unless participant withdraws earlier. The program participant can then use the AG's substitute address on any state agency documents. Sets out special procedure for Boards of Election, for local taxing units, and for school units. Provides that program participant's actual address and telephone number maintained by an agency of NC (state or local) is not a public record. Prohibits disclosure of that information and makes knowing violation a Class 1 misdemeanor "and assessed a fine not to exceed \$2,500." Amends G.S. 1A-1, Rule 6 to provide that whenever a person participating in the Address Confidentiality Program has a legal right to act within a prescribed period of 10 days or less after the service of a notice or other paper upon the program participant, and the notice or paper is served upon the program participant by mail, five days shall be added to the prescribed time period. Effective Jan. 1, 2003.

5. **S.L. 2001-159 (S 1217). Technical corrections bill.**
  - a. Corrects error made in 2001 legislation to amend G.S. 28A-13-3 to provide that if a special proceeding has been brought to sale, lease or mortgage the property, the personal representative may petition for custody and control of the property as part of the sale, lease proceeding and to amend G.S. 28A-15-1 to provide that if a personal representative has instituted a special proceeding for custody and control, he may seek sale, lease or mortgage of the property in that proceeding.
  - b. Amends G.S. 48-2-601 to provide that if an issue of act, an equitable defense or a request for equitable relief is raised before the clerk in an adoption, the clerk shall transfer the proceeding to district court under G.S. 1-301.2.
  - c. Amends G.S. 7B-3000(g) to provide that it is the AOC not Dep't of Juvenile Justice and Delinquency Prevention that may adopt rules for the destruction of juvenile's court records.

## **Estates and Special Proceedings**

1. **S.L. 2002-62 (H 1538). Escheat funds held for unlocated devisees.** Amends G.S. 28A-22-9 to shorten the time a clerk must hold funds for known but unlocated heirs or devisees deposited by personal representative before escheating to state from five years to one year after the final accounting.

## **General**

1. **S.L. 2002-182 (H1313) Interpreter licensing.** Adds new chapter creating interpreter and licensure act regulating licensing of interpreters and transliterators for deaf and hard of hearing persons. Amends GS 8B-1 to provide that for court purposes, qualified interpreter is person licensed under Chapter 90D of the General Statutes, but if judicial official finds that a licensed interpreter is not available, an unlicensed interpreter may be

called and used as a qualified interpreter if the interpreter's actual qualifications have otherwise been determined to be adequate for the present need.

2. **S.L. 2002-126 (S 1115), Budget Bill.** The budget provisions pertaining to the court system include the following:

**Appellate Courts.**

- Supreme Court Editorial Assistant position: This vacant position is eliminated.
- Supreme Court Marshal position: Eliminated effective 1 January 2003.
- Emergency COA Judges: Use of Emergency Judges at the COA is prohibited.
- Appellate library expenses: Reduced to eliminate duplication of resources between the Supreme Court and the COA.
- Appellate Court printing receipts: Creates a new "Appellate Courts Printing and Computer Operations Fund" to contain proceeds from the printing of appellate records and briefs. The Appellate Courts may use monies in this Fund for their print shop operations needs, including personnel, maintenance and capital costs.

**Judges**

- Rotation of SCJs: No rotation of SCJs during the FY 2002-2003.
- Emergency Judge payment fund: Reduced by 80%. Recurring cut.
- Judges Training conferences: Reduced from 3 to 2. If feasible, the conferences must be held at a State facility utilizing State employees as trainers.

**Clerks**

- Assistant and Deputy Clerks pay plan: Funded.
- Clerk training conferences: Reduced from 2 to 1. If feasible, the conference must be held at a State facility utilizing State employees as trainers.

**District Attorneys**

- Victim-Witness/Legal Assistant positions: 3 positions eliminated.
- DA training conferences: Reduced from 2 to 1. If feasible, the conference must be held at a State facility utilizing State employees as trainers.

**Public Defenders/Indigent Defense**

- Sentencing Services program transfer: This program is transferred from the AOC to the Office of Indigent Defense Services (IDS) retroactive to 1 July 2002. The AOC must continue to provide "general administrative support" to the program.
- Sentencing Services program redesign: Program funding reduced by 33% "to reflect a narrower focus." Recurring cut. Of the 26 positions currently authorized for the program, only 4 may be used as administrative positions. The other 22 positions must be directly involved in the preparation of sentencing plans. In providing services under the program, IDS may use these State positions in combination with local government and non-profit resources.
- Assistant Public Defender position: One position eliminated.
- Mecklenburg PD Office expansion: Effective 1 October 2002, IDS may use existing funds to add up to 10 attorney positions and up to 5 support positions in the Mecklenburg PD Office.
- Forsyth PD Office establishment: IDS may use existing funds to establish a PD Office in Forsyth County, including the PD position, 13 attorney positions and 7 support positions.
- Funding for assigned counsel: The funds used for the payment of assigned counsel are increased by \$525,000 on a recurring basis. There is also a one-time appropriation to IDS of \$4,950,000 to assist in reducing the current attorney fee backlog.

**Magistrates**

- Magistrate positions: AOC must select five magistrate positions for elimination. Cuts to take effect 1 January 2003. In addition, magistrate positions that are currently vacant or



that become vacant prior to 31 December 2002 must remain vacant until 1 January 2003. (Smaller counties are exempt from these provisions.)

- Magistrate pay plan: Funded.

#### **Court Reporting**

- Court reporter position: One vacant position eliminated.
- Video courtroom: Of the funds made available by this position cut, the court system may use up to \$45,000 to purchase an audiovisual recording system for use in District 13.

#### **Programs**

- Guardian Ad Litem: One GAL Regional Administrator position is eliminated.
- Family Court: Family Court non-personnel expenses are reduced by \$100,000. Recurring cut.
- Arbitration: Collection on account cases will be excluded from this program effective 1 October 2002, allowing a recurring reduction in funding for the program. All current full-time positions are reduced to .75-time positions. A half-time position in District 27A is eliminated.
- Drug Treatment Court: The program administrator position is eliminated. (This was an AOC position.) Overall funding is reduced on a recurring basis to reflect a greater use of outside sources for case management tasks. Specifically, State funds may not be used to fund case management positions "when those services can be reasonably provided . . . by other existing resources" such as the DHHS Treatment Alternatives to Street Crime program.
- Community Mediation Centers: Funding for the centers is reduced by 16% for the FY 2002-2003. (Note: These are not court-operated programs. Except for the Mecklenburg program, which is an agency of local government, these are independent nonprofit corporations.)

#### **General**

- Salary reserve funds: Salary reserve funds are reduced by \$1,000,000. Recurring cut.
- Out-of-State travel using State funds: There is a prohibition on out-of-State travel using Judicial Branch funds during the FY 2002-2003 (except for travel necessary for prosecutorial tasks).
- Contractual services funds: The funds budgeted for contractual services are reduced by \$500,000. Recurring cut.
- Grant matching funds: The \$350,000 amount currently used by the court system for matching federal grants is eliminated. Recurring cut. The Judicial Branch must use up to \$875,000 of existing funds to provide the necessary matching amounts for federal grants. The Judicial Branch must use proceeds from the Court Information Technology Fund to cover matching requirements for existing criminal justice information system grants.
- Software maintenance funds: Funds for software maintenance are reduced by \$274,495. Recurring cut.
- Rent funds: Funds for rent expenses are reduced by \$19,500. Recurring cut.
- Postage funds: Funds for postage are reduced by \$16,900. Recurring cut.
- Registration fee funds: Funds for registration fees are reduced by \$17,246. This is a recurring cut.
- AOC public information staff: The PIO position is eliminated.
- AOC information technology positions: Three positions are eliminated --one Special Projects Coordinator and two Business System Analyst positions. (Two of these positions are currently vacant.)
- Sentencing Commission position: A vacant Research Associate position is eliminated.

- Cable and telephone costs in Dare County: One-time funding is provided in the amount of \$100,000 to cover telephone and data line costs for a new court facility in Dare County.
- Additional ten days of annual leave: Persons who are full-time State employees on 30 September 2002 will receive a one-time allocation of an additional 10 days of vacation leave. These additional 10 days are not subject to the normal rules that convert vacation time to sick time once a certain hourly total is reached. Part-time employees will receive a pro-rated number of additional vacation days.

#### **Fees and Costs**

- Domestic violence costs elimination: Effective 1 October 2002, "no court costs shall be assessed for the filing, issuance, registration, or service of a protective order or petition for a protective order or witness subpoena."
- Civil fee increases: The General Court of Justice fee for civil cases will increase effective 1 October 2002.
- Criminal fee increases: Community service fees related to parole, DWI and deferred prosecution will increase effective 1 October 2002. Supervision fees for supervised probation, post-release supervision and parole will increase effective 1 October 2002. The General Court of Justice fees for criminal cases will also increase effective 1 October 2002.
- New seat belt costs: Effective 1 October 2002, a reduced court costs amount of \$50.00 will be charged for adult seat belt violations. (Currently, no costs are assessed in these cases.)
- New expunction fee: A new \$65.00 application fee will be charged for expunction requests under 15A-145 (first offenders under age 18) and 90-96 (minor drug offenses).
- Bad check program fee increase: Effective 1 October 2002, the fee for defendants desiring to participate in the bad check collection program will increase from \$50.00 to \$60.00.
- New assigned counsel appointment fee: Effective 1 December 2002, when the court determines that a criminal defendant is entitled to appointed counsel, the defendant must pay to the clerk a \$50.00 attorney appointment fee. \$45.00 of the fee will be allocated to the Indigent Persons' Attorney Fee Fund. The remaining \$5.00 will be allocated to the Court Information Technology Fund. If the defendant pays the \$50.00 fee before the final disposition of the action at the trial level, then the \$50.00 will be credited against the amount that the defendant owes for the legal services he or she received. (So, if the court determines that the defendant received legal services valued at \$300.00, the defendant would owe only \$250.00.) If the defendant does not pay the \$50.00 fee before the final disposition of the action at the trial level, the \$50.00 is added to the amount that the defendant owes for the legal services he or she received. (So, if the court determines that the defendant received legal services valued at \$300.00, the defendant would owe \$350.00.) The inability or refusal of the defendant to pay the fee will not be grounds for denying appointed counsel to the defendant, for the withdrawal of appointed counsel, or for holding the defendant in contempt. Even if the defendant is acquitted, the \$50.00 fee is still required.
- Revised SBI fee: A new fee will apply in criminal cases where, as part of the investigation leading to the defendant's conviction, the SBI lab performed a DNA analysis, tested bodily fluids of the defendant for alcohol or controlled substances, or analyzed a controlled substance. In such a case, the court must order the defendant to pay \$300, which will be remitted to the Department of Justice for the support of the SBI lab. This requirement takes effect 1 October 2002. Because of this new provision, the SBI lab

- restitution fee in 90-95.3(b) is repealed. (Note: Upon a finding of "just cause," the court may reduce or waive the \$300 fee.)
- New dispute resolution fee: If the court or the DA refers a criminal charge to a community mediation center, and if the case is resolved through this mediation, the defendant must pay a \$60.00 dispute resolution fee to the clerk prior to the dismissal of the action. This new requirement takes effect 1 November 2002.
  - Magistrate fee increases: Effective 1 October 2002, the fees charged by magistrates under 7A-309 will increase. These services include, among others, solemnizing a marriage and hearing a petition for a year's allowance.
  - Clerk fee increases: Effective 1 October 2002, the various fees charged by clerks under 7A-308 will increase. These include, among others, the fees for foreclosures, providing copies of court records and performing criminal record checks.
3. **S.L. 2000-158 (S 1054). Appellate judges nonpartisan, public financing.** Adds new Article 22D to GS chapter 163 to provide for public financing of appellate judge races, beginning in 2004. Limits campaign contributions in those races to \$1000 per person, except for family members who may give \$2000. Also makes appellate races nonpartisan beginning in 2004. Campaign financing article provides that candidate seeking public funding must raise specified amount of money (at least 30, but not more than 60 times the filing fee, and money must come from at least 350 registered voters; must be at least \$10 and can't be more than \$500). If candidate raises requisite amount is entitled to amount equal to 125 times filing fee for court of appeals contested elections and 175 times for supreme court elections. If opponent(s) elect not to participate and spend specified amount of money, entitles candidate using public funds to "rescue funds". Allows candidate to raise up to \$10,000 to organize and obtain funds to seek public funding. Creates advisory board to advise State Board of Elections in administering program. Direct State Board to publish Judicial Voter Guide for appellate elections that contains information about all candidates. Allows taxpayers to designate \$3 of their tax liability to go the campaign fund, and specifies that attorneys must be given an opportunity when they pay their privilege license tax to contribute \$50 to the fund. Various sections effective in January or July of 2003 (tax designation, for example), and primary provisions effective with 2004 election.
  4. **S.L. 2002-115 (H 1581). Judges to perform marriages for limited time.** Authorizes superior court judges to perform marriages between Nov. 25 and Dec. 1, 2002 and district court judges to perform marriages between Sept. 19 and Sept. 22, 2002.
  5. **S.L. 2001-135 (H 1187). Further court fee changes.** Increases certain estate fees as follows: Taking a deposition from \$5 to \$10; docketing and indexing a will probated in another county—first page from \$1 to \$6; hearing petition for year's allowance, in cases not assigned to a magistrate, from \$4 to \$8. Effective Oct. 1, 2002.
  6. **S.L. 2001-159 (S 1217). Technical corrections bill.** Amends G.S. 7A-39.3 to increase the daily pay for emergency appellate judges from \$100 to \$300 to conform it to the pay for emergency superior and district court judges.
  7. **S.L. 2001-180 (S 98). Studies Act.** Authorizes following studies that may have an impact on the court system:
    - a. Directs General Statutes Study Comm'n to study personal representatives' authority to take possession of and dispose of real property of an estate without

an order of the courts. Authorizes Comm'n to study whether NC should allow a method for the distribution of property coming to an estate after the estate is closed without the necessity of reopening the estate.

- b. Creates a House Select Study Committee on Video Gaming Machines (11 House members and 4 public members) and directs it to study, among other things, the regulation of those machines, problems associated with them, and the potential impact on the casino operations of the Eastern Band of Cherokee Indians if the machines were banned.