

**Legislation of Interest to Judicial Officials
Superior Court Judges Conference
June 12, 2003**

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Note: Items that do not have a session law number have been ratified, but have not yet become law.

Criminal

- 1. S.L. 2003-14 (S 2). Medical review of driver licensee/out-of-state doctors.**
Amends GS 20-9(g) to permit physician licensed in any state in US to conduct exam on driver subject to medical review process and to submit recommendation to Division of Motor Vehicles as to licensee's fitness to drive. Effective April 10, 2003.
- 2. S.L. 2003-15 (S 440). Order for arrest after failure to appear for citation.**
Amends GS 15A-302 and -305 to authorize use of order for arrest when person cited to appear for a misdemeanor (law formerly required previous finding of probable cause by judicial official before OFA could be issued). Effective April 10, 2003.
- 3. S.L. 2003-95 (S 449). Qualifications of persons withdrawing blood in DWI cases.** Amends GS 20-139.1(c) to provide that that testimony about the qualifications of the person withdrawing blood under implied consent statute may be offered by affidavit and that is sufficient to constitute prima facie evidence regarding the person's qualifications. Effective Dec. 1, 2003.
- 4. S.L. 2003-110 (H 510). Speedometer offense lesser offense of speeding.**
Effective Dec. 1, 2003.
- 5. S.L. 2003-104 (S 619). CVR blood affidavit sent to clerk.** Amends GS 20-16.5 to direct chemical analyst who examines blood in case under the DWI immediate, civil revocation statute to send affidavit indicating results to both the clerk of court and the charging officer, and allows clerk to act directly on the affidavit without waiting for the charging officer to present the affidavit. Effective May 31, 2003.
- 6. S. L. 2003-98 (S 555). School safety officer indecent liberties.** Amends GS 14-27.7 and 14-202.4 to include school safety officer among those who commit the felonies established by those statutes (statutory rape or indecent liberties with student in elementary or secondary school), regardless of difference in age. Other school personnel must be at least four years older than student. Felony is Class G for intercourse and Class I for indecent liberties. Defines school safety officer to include school resource officer or person in similar job. Effective Dec. 1, 2003 for offenses committed on and after that date.
- 7. S.L. 2003159 (H 42). Penalties for unauthorized sound and video recordings.**
Amends GS 14-327 to rewrite penalty section for making unauthorized recordings to make it a Class I felony to make 100 or more unauthorized articles (the tangible medium on which sounds are recorded) in any 180 day period, or to have third or more conviction for an offense that involves 26 or more recordings. Amends GS 14-433 to make it clear that crime does not apply to web casting. Effective Dec. 1, 2003.

8. **S.L. 2003-67 (S 326). Felony to engage in SUTA dumping.** Make it a felony to engage in state employment tax dumping (setting up dummy corporations to avoid having to pay unemployment tax). Effective Dec. 1, 2003.
9. **S. L. 2003137 (H 358). Accident limits for insurance points.** Amends GS 58-36-75 to raise dollar amounts of accidents for purposes of applying motor vehicle insurance points and surcharges. Major accident is one involving bodily injury or over \$3,000 (was, \$2,500); intermediate \$1,800-3,000 (was, \$1,500-2,500) and minor is under \$1,800 (was \$1,500). Effective for accidents on or after Jan. 1, 2004.
10. **S.L. 2003-141 (H 352). DART pre-screening required.** Amends GS 15A-1343 to add new subsection (b3) to require court to order screening of person ordered to participate in DART residential program. If screening indicates chemical dependency, the person must be assessed and the DART treatment program must be based on that assessment. Assessment may be conducted before or after probation condition ordered, but must be completed before enrolling in the program. Repeals GS 15A-1351 (h) which allowed judge to make recommendation about substance abuse treatment in order of commitment to prison. Amends GS 143B-262.1(h) to delete court recommendation as one of the factors determining priority for admission to DART. Effective Dec. 1, 2003 for offenses committed on after that date.
11. **S.L. 2003-151 (S 93). Special probation sentences.** Amends GS 15A-1344(e) and –1351(a) to remove six-month limit on sentences of special probation. Effect is that sentences to special probation may be for up to one-fourth the maximum sentence imposed, even if that is more than six months. Retains requirement that special probation may only be imposed in grid square that authorizes an intermediate punishment.. Effective Dec. 1, 2003 for offenses committed on and after that date.
12. **S.L. 2003- (S 33). Concealed weapon permit reciprocity.** Adds new GS 114-415.24 making any out-of-state permit to carry concealed weapon issued by another state valid in NC if that state honors NC permits. Directs Attorney General to survey states to determine which states meet the standard and to make registry available to law enforcement agencies. Effective 60 days after .
13. **S.L. 2003-192 (S 877). Illegal child care felonies.** Rewrites GS 110-103 making it a Class I felony for person to willfully operate a child care facility without a current license or to violate the article of that chapter that regulates child care operations for three or more children for more than four consecutive hours for two consecutive days. Makes it a Class H felony to cause serious injury to a child while violating the article or to commit a misdemeanor under that article if the person has a prior misdemeanor conviction under the article. Exempts from criminal prosecution violations of the advertising and posting requirements and the “drop-in” care regulations. Effective Dec. 1, 2003 for offenses committed on and after that date.
14. **S.L. 2003-181 (H 304). Stalking-supervised probation.** Amends GS 14-277.3 to require person sentenced to for misdemeanor stalking and who is sentenced to community punishment to be placed on supervised probation. Effective Dec. 1, 2003 for offenses committed on and after that date.

15. **S.L. 2003- (H 357). Credit card numbers on receipts.** Adds new GS 14-113.24 and –113.25 to make it an infraction to include more than five digits of credit or debit card number on a receipt. Applies to machines first used after March 1, 2004, except that on March 1, 2005, all machines must meet this standard. Prohibits sales of cash registers that are not capable of being programmed to meet this standard. Punishment is fine up to \$500, except that infraction of issuing receipt may not be punished by more than \$2,000 in cumulative penalties in one calendar year, and if person shows compliance with standard within 30 days, no penalty may be assessed. Effective Mar. 1, 2004.
16. **S.L. 2003-170 (H 609). Amusement devices.** Amends GS 95-111.11 to make operation of an amusement device (like a ferris wheel or tilt-a-whirl) while impaired punishable by a civil penalty not to exceed \$1,000. Provides that if there is a violation of any statutory safety regulation that results in death, it is a Class 2 misdemeanor unless the person has previous offense, which raises the punishment to a Class 1 misdemeanor. Doesn't preclude prosecution of other degrees of homicide. Effective Dec. 1, 2003 for offenses committed on and after that date.
17. **S. L. 2003-148 (S 962). Bail bond amendments.** Adds new GS 58-71-141 to require surety bondsman to submit affidavit attesting that he or she owes no premiums or unsatisfied judgments to any previous insurer with which he or she was affiliated; affidavit submitted to Insurance Dep't. Requires any former insurer to communicate to any new insurer of any unpaid matters by surety bondsman, and if any covered items are unpaid, new insurer must terminate relationship with bondsman. Dep't to adopt rules to implement section. Effective Oct. 1, 2003.
18. **S.L. 2003-152 (H 1159). Military drivers licenses.** Amends GS 20-7 to direct DMV to establish drivers license designation that allows holder of such license (active duty military, spouses and dependents resident in NC) to renew license by mail, and specifies that such license does not expire when holder returns to NC. May be renewed up to one year before expiration date. Exempts active duty members in combat zones from eye exams. Amends GS 20-39.1 to allow confidential license plates to be issued to Department of Defense personnel engaged in undercover activity. Military license effective Jan. 1, 2004.
19. **S.L. 2003-140 (H 1048). Assault on court officer includes DSS attorneys and personnel and Guardian Ad Litem personnel.** Amends GS 14-16.10 to include cited personnel as "court officers" for purposes of Art. 5A of GS Ch. 14—"Endangering Executive, Legislative, and Court Officers." Effective Dec. 1, 2004.
20. **S.L. 2003- (S 251). Rebirthing prohibited.** Adds new 14-401.21 to prohibit use of technique known as "rebirthing" or any other technique that reenacts the birthing process in a manner that includes restraint and creates a situation in which a patient may suffer physical injury or death. First offense is Class A1 misdemeanor and subsequent offense is Class I felony. Amends GS 122C-60 to specify that rebirthing is not considered therapeutic treatment. Effective Dec. 1, 2003.

1. **S.L. 2003-19 (S 784). Bonds and stays in large foreign judgments.** Amends GS 1C-1705 to require courts in NC to stay execution of foreign judgments sought to be enforced in NC if (1) judgment is stayed by court in which judgment entered, (2) appeal is pending in that court, and (3) undertaking in amount consistent with NC law is paid to the court. Amends GS 1-289 to provide that when undertaking is for judgment of \$25 million or more under any legal theory and for any kind of damages, the amount of the undertaking is \$25 million. Effective on April 22, 2003 for judgments filed or entered in this state on or after that date, regardless of the date in which the judgment was entered in another state.
2. **S. L. 2003-107 (S 630). Definition of domestic violence protective order.** Amends GS 50B-1 and various other statutes to make it clear that provisions in statute applicable to protective orders includes any order entered pursuant to parties consent as well as any order entered after a hearing. Specifies that protective order may be renewed for up to one year upon showing of good cause. Commission of act prohibited by statute not required for extension and order that has previously been extended may nonetheless be extended. Effective May 31, 2003, 2003.
3. **S.L. 2003-61 (H 952). Family law arbitration.** Amends GS 50-53 to make it clear that parties may agree to disposition other than that ordered by arbitration and court may not enforce arbitration award in that case. Effective May 20, 2003.
4. **S. L. 2003-59 (H 636). Electronic docketing of judgments.** Amends GS 1-233 to require that judgments be indexed and recorded (was, entered) and that docket entries of judgments contain the case file number and the date, hour and minute of the indexing of the judgment (in addition to the date, hour, and minute of the entry of judgment under G. S. 1A-1, Rule 58). Deletes provision requiring that in cases affecting the title to real property the clerk enter the number and page of the minute docket where the judgment is recorded. Deletes the provision that all judgments docketed during and within 10 days of the same session are deemed to have been docketed on the first day of that session. Further amends GS 1-234 to clarify that a judgment lien is effective as to third parties as of the indexing of the judgment, but that the lien of the judgment is effective for 10 years from the date of entry of the judgment under G. S. 1A-1, Rule 58. Clarifies that interest awarded "after judgment" in accordance with GS 24-5 begins accruing after the date of entry of the judgment under GS 1A-1, Rule 58. Effective Sept. 1, 2003 and applies to judgments entered, indexed and docketed on or after that date.
5. **S.L. 2003- (S 669). Animal cruelty amendments.** Amends GS 19A-1 to limit the animals covered by that chapter to all living vertebrates in classes Amphibia, Reptilia, Aves, and Mammalia, except human beings (too bad, insects). Adds new GS 19A-1.1 to list exemptions for lawful taking of animals pursuant to Wildlife Resources Comm'n rules, (although article does apply to birds exempted by Comm'n from its definition of wild birds); for biomedical research or to produce livestock, poultry or aquatic life; lawful activity to produce food for humans or animals; lawful veterinary activities; lawful destruction to protect public or animal health; and lawful sport activities. Allows district judge in civil proceeding to order transfer of ownership of animal to prevent further cruelty.

Directs General Statutes Comm'n, in conjunction with Dep't of Agriculture to study need for regulation of "puppy mills". Effective .

6. **S.L. 2003- (H 1123). Guardian Ad Litem for incompetents.** Amends GS 35A-1102 to make it clear that that statute does not limit judge's ability to appoint a guardian ad litem in civil litigation under GS 1A-1, Rule 17. Effective Dec. 1, 2003.
7. **S.L. 2003-168. (S 394). Equitable distribution claims survive death.** Amends GS 50-20(1) to specify that claim for equitable distribution, whether filed or not, survives the death of spouse if they are living apart at the time of the death. Decedent's estate laws apply to distribution of claim. Allows personal representative to settle the claim, and settlement must be filed with clerk. If decedent's estate files claim against survivor, must be filed within one year of death. If survivor files claim against estate must be filed within three months of the claim's being rejected by the personal representative. Specifies that GS 28A-19-5 and 28A-19-7 do not apply to these claims. Effective June 12, 2003.

Estates and Special Proceedings

1. **S.L. 2003-93 (S 468). Modification and termination of irrevocable trusts.** Amends GS 36A-125.4 to require court approval before trust can be modified on request of beneficiary if modification is inconsistent with the material purpose of trust. Amends GS 36A-125.11 to allow beneficiary of trust to initiate a proceeding to approve or disapprove a proposed modification to an irrevocable trust. Note: a trust cannot be modified or terminated unless the court finds the reason for termination or modification substantially outweighs the interest in accomplishing a material purpose of the trust. Effective May 30, 2003.
2. **S.L. 2003- (H 637). Revocable trust's trustees duties.** Amends GS 36A-78 to rewrite that section. Provides that settlor of trust may relieve trustee of duties, restrictions and liabilities imposed by statute; may alter the powers granted to trustee by statute; and may add duties or restrictions not added by statute. Specifies methods by which settlor may indicate this intent. Does not allow settlor to relieve trustee of statutory provisions dealing with conflicts of interest or self-dealing. Effective
3. **S.L. 2003- (H 1123). Guardianship amendments.** Amends GS 35A-1212 to explicitly authorize the clerk of superior court to order that guardianship of incompetent be limited if the clerk determines that the nature and extent of ward's capacity justifies his or her retaining some legal rights and privileges. Amends GS 35A-1107 to provide that an attorney appointed as a guardian ad litem for a respondent in an incompetency proceeding must personally visit the respondent, make an effort to determine his or her wishes, communicate those wishes to the clerk or judge, and may make recommendations that differ from the respondent's if the GAL believes they are in the respondent's best interest. Directs GAL to advocate for limited guardianship if appropriate. Effective Dec. 1, 2003.

Juvenile

1. **S.L. 2003-53 (H 950). Judge’s control over placements in youth development centers.** Amends GS 7B-2513 to explicitly require district court approval before Department of Juvenile Justice may assign juvenile committed to its custody to program outside its development centers only with approval of court committing the juvenile. Allows court to approve placement without hearing; juvenile may request hearing, and if requested, it must be held. Effective Oct. 1, 2003 for dispositions on and after that date.
2. **S. L. 2003-62 (H 126). Hearsay evidence in juvenile disposition hearings.** Amends various sections of GS Ch. 7B to allow hearsay and any other evidence the court finds to be relevant, reliable, and necessary to determine the proper disposition of a juvenile. Effective May 20, 2003.
3. **S.L. 2003-171 (H 925). County’s right to appeal juvenile “pay orders.”** Amends GS 7B-2604 to authorize county to appeal any order in delinquency or undisciplined cases that orders it to pay for medical or psychological treatment of juvenile or parent. Effective Oct. 1, 2003, for petitions for appeal filed on or after that date.
4. **S.L. 2003-140 (H 1048). Juvenile rules, omnibus amendments.** Amends GS 7B-808 to allow chief district judge to adopt local rules or make administrative order to address the sharing of juvenile predisposition reports, including an order that prohibits disclosure of the report to the juvenile. Rules or order may not prohibit party entitled by law to receive information from receiving it, or allow disclosure to public of any confidential information. Adds new GS 7B-408 to require clerk to provide copies to guardian ad litem of any petition alleging that juvenile is abused or neglected, as well as any notice of hearing. Amends various other sections dealing with guardian ad litem appointments Effective June 4, 2003.

General

1. **S.L. 2003-4 (H 382). District judge marriage authority.** Amends GS 51-1 to allow district judges to conduct marriages between March 27, 2003 and March 31, 2003.
2. **S. L. 2003-116 (S 539). Pro hac vice motions.** Amends GS 84-4.1 to require motions by out-of-state attorneys to appear in specified case to include a complete history of any disciplinary actions involving the attorney and any revocations of previous *pro hac vice* admissions. Motion must be signed by the applicant. Effective Oct. 1, 2003.
3. **S.L. 2003-56 (H 461). Delay interpreter licensure changes.** Delays until 1 Jan. 2004 the effective date of changes to sign language interpreter statute enacted in 2002. Delayed changes include changes to GS Ch. 8B that require courts to only appoint sign language interpreters licensed by new Interpreter and Transliterator Licensing Board. Effective May 202, 2003.
4. **S.L. 2003-101 (H 689). Evidence Rule 103 amended.** Amends GS 8C-1, Rule 103(a) to specify that once court makes a definitive ruling on the record admitting or excluding evidence, either at or before trial, party need not renew objection or offer of proof to preserve claim of error on appeal. Effective Oct. 1, 2003 for ruling made on or after that date

5. **S.L. 2003-180 (S 692). Public records/open meetings exemption for terrorism activity.** Amends GS 132-1 to exempt from definition of public records any plans to prevent or respond to terrorist activity, to the extent such records set forth vulnerability and risk assessments, potential targets, specific tactics, or specific security or emergency procedures, the disclosure of which would jeopardize the safety of governmental personnel or the general public or the security of any governmental facility, building, structure, or information storage system. Amends GS 143B-318.11 to exempt from open meetings act any meeting conducted to discuss antiterrorism plans. Effective June 12, 2003.
6. **S.L. 22003- (H 842). Jury list revisions.** As part of Help America Vote Act, amends GS 20-43.4 to require Commissioner of Motor Vehicles, when providing lists of drivers resident in a county to the jury commissioners, to include registered voters living in the county. Comm'r must eliminate duplicate names and indicate which persons are only registered to vote and which ones are only licensed to drive (or who are suspended from driving). Specifies that list is confidential and not subject to public records law. Amends GS 9-2 to require jury commission to use the list provided by the DMV; it may add other sources of names, but that entire list must be merged with the list from DMV and duplicates must be removed from the list. The names for the list must be selected randomly. Deletes authority for jury commission to use samples from separate lists in preparing master list. Effective Jan. 1, 2004.